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INTERVIEW OF:

Trisha Anderson

OSC ATTORNEY:
Erica Hamrick
Ana Galindo-Marrone

RE: OSC HA-17-0515

DATE OF INTERVIEW:
Monday May 1, 2017

U.S. Office of Special Counsel
1730 M St., NW, Suite 218
Washington, DC 20036
202-254-3600

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

2 Hamrick: Today is Monday May 1, 2017 and the time is 1:36 pm.
3 This is an interview of Trisha Anderson in the investigation of OSC
4 complaint # HA-17-0515. I'm Erica Hamrick an attorney at the U.S.
5 Office of Special Counsel. Also present with me today here is OSC
6 attorney Ana Galindo-Marrone. As I said before we went on the
7 record, OSC is investigating allegations that FBI Director James
8 Comey violated the Hatch Act when he made public
9 announcements concerning the FBI's investigation into former
10 Secretary Hillary Clinton's use of a personal email server. Ms.
11 Anderson has been identified as a witness in this investigation. Ms.
12 Anderson do you have any questions at this time?
13 Anderson: I do not but as I mentioned before we went on the record.
14 My ability to refresh my recollection has been somewhat limited. I
15 have not been able to access any documents from the relevant time
16 period other than those that have been identified to me and so all of
17 my answers will be to the best of my recollection as it stands today.
18 Hamrick: Ok and you are aware that you are being recorded?
19 Anderson: That is correct.
20 Hamrick: I'm going to read you the oath; do you solemnly swear

1 or affirm under penalty of perjury that the information you are about
2 to provide is true, accurate and complete to the best of your
3 knowledge and belief?
4 Anderson: I do.
5 Hamrick: I know that you said that your ability to review
6 documents was limited; did you review any documents to prepare
7 for today's testimony?
8 Anderson: I was sent the Bates stamped documents that I understand
9 were produced to you all that include the four Bates ranges that you
10 identified in your email but nothing else.
11 Hamrick: Did you speak with anybody to prepare for today's
12 interview?
13 Anderson: Yes, I did I spoke with [Jay Maclin] and
14 00:46:39.
15 Hamrick: What in general did you discuss with them?
16 Anderson: b5
17
18
19 Hamrick: Did you speak with anybody? Sorry, go ahead.
20 Anderson: That's in general terms what we talked about.

1 Hamrick: Ok and did you speak with anybody else?

2 Anderson: No, I did not.

3 Hamrick: I'm going to ask a few background questions. Can

4 you identify what your current position is at the FBI?

5 Anderson: I'm Principal Deputy General Counsel. I oversee the

6 national security and cyber law branch of the Office of General

7 Counsel.

8 Hamrick: How long have you been in that position?

9 Anderson: Since June of 2014. I'm sorry, 2015.

10 Hamrick: What type of appointment do you have? Are you a

11 general schedule employee or an SES?

12 Anderson: I'm an SES appointee. In the FBI, I'm at a Deputy Assistant

13 Director level.

14 Hamrick: Is that non-career?

15 Anderson: No, it's career.

16 Hamrick: Career SES ok.

17 Anderson: Yes, mm-hmm.

18 Hamrick: Are you a supervisor?

19 Anderson: Yes I am.

20 Hamrick: How many people do you supervise?

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1 Anderson:

2 Hamrick: Are they all within your branch?

3 Anderson: Yes, so it's to be precise and that includes both

4 attorneys and support staff.

5 Hamrick: What kind of generally, big picture are your job

6 duties?

7 Anderson: Both providing legal advice to FBI executives but also

8 managing and supervising my branch, which provides legal advice

9 to, principally to the counter-terrorism division of the FBI, the counter-

10 intelligence division and the cyber division are the three main

11 components that we advise.

12 Hamrick: Did you have any role in the underlying investigation

13 here in terms of the FBI's investigation into former Secretary Clinton's

14 use of a personal email server?

15 Anderson: Yes, I did at a supervisory level.

16 Hamrick: What was your role in the supervisory level?

17 Anderson: I supervised principally an attorney who was the day-to-

18 day legal support to the investigation. And that included sort of

19 weighing in on and advising on significant investigative questions

20 that arose.

1 Hamrick: Who was the

2 Anderson: In other words, I was not, I wasn't the day-to-day lawyer

3 providing support to the investigation but as important or significant

4 decision points needed to be made, I would be brought in and was

5 involved.

6 Hamrick: What is the name of the attorney who was providing

7 that day-to-day legal support?

8 Anderson: [redacted] name is [redacted]. [redacted]

9 Hamrick: And in your supervisory role did you participate in

10 meetings related to the investigation?

11 Anderson: Yes I did.

12 Hamrick: How often?

13 Anderson: It is hard to say. It's hard to say. There probably were

14 some sort of meetings; I guess it depends on what you characterize

15 as a meeting. I talked regularly with my employee who was more

16 closely involved. But in terms of formal meetings, there was no set

17 schedule so it probably varied over the course of the investigation.

18 There may have been times when there were meetings that

19 occurred as often as on a weekly or even more frequent basis.

20 Hamrick: So we understand with respect to the investigation

1 there was a team called the mid-year team. Were you

2 Anderson: Mid-year exam.

3 Hamrick: Mid-year exam. Were you part of the mid-year exam

4 team?

5 Anderson: I guess I wouldn't consider myself to have been part of the

6 investigative team it wouldn't be consistent with my role as a

7 supervisor. I was more involved at the FBI executive level.

8 Hamrick: Do you know the names of the individuals who were

9 on that mid-year exam team?

10 Anderson: I do not know all their names, I can tell you the people,

11 the two officials from the counter intelligence division who principally

12 supervised the team and managed the team. And that is [redacted].

13 His last name is [redacted]. And [redacted]. [redacted].

14 Hamrick: They were in supervisory roles?

15 Anderson: That is correct. It was not often that I had contact with the

16 agents and analyst below that level.

17 Hamrick: Ok, what about an individual named, is it Priestap?

18 Anderson: That is right. Bill is the head of the counter intelligence

19 division and [redacted] and [redacted] both report to him. I wouldn't consider him

20 to have been a part of the investigative team because he again is

1 sort of operating at the executive level and [redacted] and [redacted] report up to
2 him as significant matters arise but from a day-to-day investigative
3 standpoint, I would have considered them to have been the
4 managers of the investigation.
5 Hamrick: In your role, were you involved at all in decision
6 making with respect to the investigation?
7 Anderson: I was advising on various decision points in the
8 investigation. But you know as a lawyer you know we wouldn't, it
9 would not typically be the case unless there was a legal question
10 that arose that we would dictate the outcome of a decision.
11 Hamrick: Ok so your role was in providing the legal advice?
12 Anderson: That is correct.
13 Hamrick: Would legal research be involved in that role as well?
14 Anderson: Um, my employee, not by me, typically would have done
15 the legal research directly.
16 Hamrick: Ok. And at some point did you become aware that
17 the individuals working on this mid-year exam investigation had
18 made a recommendation about the case? About the outcome of
19 the case.
20 Anderson: Um, so I would say that there wasn't a specific point in

1 time where there was a um, they came to the executives and said,
2 we have a recommendation, its more that we had been, we knew
3 what was going on in the investigation where it was headed so there
4 isn't sort of a crisp point in time where that, to say there was a clear
5 recommendation that surfaced.
6 Hamrick: When you say, sorry go-ahead.
7 Anderson: It was obvious to all of us who had been deeply; who had
8 been briefed frequently on the investigation and knew what was
9 happening where it was headed.
10 Hamrick: When you talk about us and kind of, we knew what
11 was going on. Whom specifically are you talking about?
12 Anderson: So I would say, so at the executive level you know the
13 precise contours of the group did change a little bit over time but
14 um, I mean I'm sort of referring to the group that met most regularly
15 with the Director which would include um, usually the EAD for the
16 national security branch, which at the time was Mike Steinbach.
17 Sometimes it would also include the Associate Deputy Director, Dave
18 Bowdich, our Deputy Director Andy McCabe, and then Bill Priestap
19 who is the head of the counter intelligence division,
20 Jim Baker on the legal side, the General Counsel, myself,

1 [redacted]

2 [redacted].

3 Hamrick: And in terms of these individuals meeting would that

4 also include Director Comey?

5 Anderson: Yes.

6 Hamrick: And his Chief of Staff?

7 Anderson: That is correct. Like I said not you know not every single

8 meeting or discussion included exactly the same configuration of

9 people but that is the group that would be invited to the meetings.

10 They would attend if they were available.

11 Hamrick: So when you say it was obvious to us, to this kind of a

12 group of executives you know what the outcome was going to be, I

13 guess what was obvious about it?

14 Anderson: Well, I mean maybe obvious is probably not the word I

15 should have used but we were briefed regularly on the investigative

16 results and so it therefore wasn't, there wasn't sort of a clear, I can't

17 give you a date or a clear moment in time or a precise meeting in

18 which there was a recommendation formulated. It was a

19 recommendation that emerged over time. And you know the

20 recommendation or the conclusions are those that were outlined in

1 the July 5th statement with respect to the criminal violations at issue.
2 Or criminal statutes at issue.
3 Galindo-Marrone: I have two quick questions. The first is when
4 you were identifying those individuals at the executive level that met
5 more regularly to discuss the investigation after Mike Steinbach you
6 mentioned someone by the name of Dave, I missed the last name.
7 Anderson: Bowdich
8 Galindo-Marrone: Bowdich and who is he again?
9 Anderson: He is our Associate Deputy Director so the number three in
10 command at the FBI.
11 Galindo-Marrone: My other question; I understand what you are
12 saying that there wasn't like a formal meeting at one point where a
13 formal recommendation was made concerning the Clinton server
14 and for short I'm just going to call it the Clinton personal server
15 investigation if you don't mind, but it's a recommendation that you
16 said emerged over time because you all were being briefed
17 regularly and you could see where this was going. Is that the typical
18 process, like in an investigation of this type. Meaning do you all have
19 a formal process where the investigative team would write a memo
20 recommending what the disposition of a case is or is it less formal

1 and its just regular briefings until a recommendation emerges?
2 Anderson: Um, well this investigation um there is almost no parallel or
3 equivalent example that I think you can draw upon so I think this
4 investigation was unique in many ways. With respect to our
5 investigations generally I think our practices don't in terms of our
6 procedures don't fall into a single precise model in terms of exactly
7 you know how we document our thinking and how we make
8 recommendations to DOJ but again I'm not the kind of person who is
9 involved in the day-to-day work of an investigation. This was an
10 unusual one and therefore required and involved a much greater
11 degree of executive involvement than is typical.
12 Galindo-Marrone: So let me just explore that answer a little bit.
13 So might there be some investigations where a written
14 recommendation is made to DOJ? Sometimes?
15 Anderson: So I'm probably not the, I'm not the best source of
16 authority on that given that I'm not involved in the day-to-day work
17 of most investigations. I, I'm sure, I don't want to guess but I am
18 speculating a little bit here to say that it probably have been some
19 cases where a written recommendation has been provided to DOJ
20 but other circumstances I think would be more common where there

1 would be dialogue with DOJ. Or it could be the case that we might
2 you know even review their prosecution memo and sort of you know
3 engage in a dialogue in that way.
4 Galindo-Marrone: Got it but in this case there was no such
5 memo which whether you call it a prosecution memo or a memo
6 showing the reasons why not to go forward with prosecution there
7 was no such memo in this case? The Clinton server case.
8 Anderson: No there was no memo from the FBI to the DOJ making a
9 recommendation.
10 Galindo-Marrone: Ok.
11 Hamrick: So moving along to the first public statement on the
12 case or Director Comey's first statement the July 5, 2016 statement.
13 When did you first learn that Director Comey was planning to make
14 some kind of public statement about the outcome of the Clinton
15 email investigation?
16 Anderson: The idea, I'm not entirely sure exactly when the idea of
17 the public statement um first emerged. Um it was, I just, I can't put a
18 precise timeframe on it um but the idea that the Director might make
19 a public statement was something that had been discussed in a very
20 brief or fleeting way for some time in the investigation. And then I

1 believe it was in early May of 2016 that the Director himself wrote a
2 draft of that statement and so that is when the possibility of the
3 statement and our discussions about doing such a statement
4 became a little bit more concrete.
5 Hamrick: Who originally in some of these earlier conversations
6 who originally came up with the idea or started floating around the
7 idea?
8 Anderson: I, I don't know for sure um I don't remember exactly you
9 know who made the first suggestion but I believe and the Director
10 himself would be the best authority on this. I believe the idea was the
11 Director's.
12 Hamrick: So when you found out in early May that there was,
13 that the Director had written a draft of what the statement might
14 look like, how did you learn about that?
15 Anderson: Jim Baker gave me a hard copy of it.
16 Hamrick: What was his purpose in giving you the copy?
17 Anderson: He asked me to take a look at it and just start thinking
18 about you know the wisdom of doing such a statement um the
19 content of a potential statement and any other reactions that I
20 might have to the draft.

1 Hamrick: So what happened next with respect to the draft?
2 Anderson: I don't know for sure um, I don't know. There were many
3 iterations, at some point there were many iterations of the draft that
4 circulated but I would say there was a few weeks if not a month that
5 went by before those drafts were circulated.
6 Hamrick: So after Mr. Baker asked you to take a look at it and
7 you know take a look at it for content and consider the wisdom of
8 making a statement did you then meet with Mr. Baker about your
9 thoughts?
10 Anderson: I don't recall if we talked about it in advance of any
11 meetings with the Director directly, we may have had, Jim and I may
12 have spoken briefly about it in his office but I don't recall precisely.
13 Hamrick: Did you ever put your thoughts down in writing?
14 Anderson: No, not on that draft.
15 Hamrick: At that point in time I guess what was your
16 understanding of why Director Comey was planning to do this, to
17 make this public statement?
18 Anderson: I don't know that uh I can sort of pinpoint a particular
19 rationale at particular points in time I mean I think kind of generally
20 speaking my understanding you know was that this was, as I

1 mentioned before an investigation without parallel in terms of its
2 importance to the national interest and um in terms of laying out our
3 it was also an investigation that was publicly known unlike some of
4 our other investigations that we typically wouldn't either confirm or
5 deny the existence of. And so given that um my understanding was
6 that the Director believed that it was important to the um, and that he
7 sort of owed it to the American people to lay out our conclusion in a
8 manner that would allow people to understand how we did our work
9 and why we concluded what we concluded. That it was essential to
10 the credibility of our institutions for people to have that
11 understanding.
12 Hamrick: And in terms of making such a public statement is that
13 standard protocol with respect to the end of an investigation and
14 announcing the outcome?
15 Anderson: I'm sorry part of you, you cut out a little bit, you repeat
16 your question?
17 Hamrick: Sure, making a public statement about you know the
18 results of an investigation is that standard protocol for FBI
19 investigations?
20 Anderson: No, I'm sure it's not without precedent but it is not typical.

1 Hamrick: What is typical?

2 Anderson: But it is like I said, what was already somewhat unusual
3 was the fact that the investigation had been publicly confirmed and
4 so we were from that standpoint it was already somewhat unusual.
5 The subject herself I believe had confirmed it and so you know one
6 of the considerations why we don't speak publicly about our
7 investigations is out of fairness to the subject particularly in a case
8 where there is no indictment or prosecution but here was a case
9 where everybody knew that the FBI was investigating the former
10 Secretary herself had talked publicly about the fact that we were
11 investigating, the DOJ had confirmed that we were investigating
12 early into it and then ultimately the FBI, the Director did confirm it as
13 well so it was just already an unusual posture and were we to close
14 the investigation without a prosecution without explaining our
15 reasons I believe the director felt that the credibility of our institution
16 would come under such a significant degree of fire that it would be
17 um not something that we could withstand and he talked at great
18 length in many different forums about the importance of the
19 credibility of the FBI given our role in prosecutions and how it is an
20 important almost it's a resource you can't rebuild your credibility

once it's been lost, so it was very important to us from that institutional perspective, that people understand that we didn't just um you know reach a political conclusion in the investigation.

Hamrick: So what typically would have been the protocol in a case that didn't have the same kind of unusual circumstances here where the FBI's investigation didn't result in the FBI's determination in any criminal wrongdoing; what typically would have happened?

Anderson: Well again, I can't you know there isn't a single as I mentioned before in one of my answer there isn't a model or single process that every investigation follows but often what happens, you know there is a prosecution memo that DOJ will write and that will be the document that either memorializes DOJ's conclusions that you know in consultation with the FBI they've decided that there is no prosecution that should go forward. Often no public announcement will be made in a context in which nobody you know where there is no public confirmation or disclosure of the investigation in the first place then obviously, if the result is the opposite if there is prosecution, you know an indictment or complaint will proceed.

Hamrick: Going back to the draft that the Director put together in early May; were there meetings to discuss the draft, how did this

1 draft evolve into the actual statement that was made on July 5.
2 Anderson: Yeah, so in that timeframe there were frequent meetings
3 with the Director. I don't know precisely how frequent. Perhaps in
4 some instances occurring on a weekly basis and those meetings
5 would typically proceed in sort of two parts. The first part would
6 involve an update on the investigation, usually given by
7 and and then the second part of the discussion would
8 typically turn to the idea of the public statement and perhaps not in
9 every meeting, but to the extent we talked about it that is sort of how
10 we structured the meetings. And then it was sort of in that timeframe,
11 maybe June. I'm not really quite sure that there were more drafts that
12 were circulated you know by email.
13 Hamrick: And the meetings to discuss the public statement;
14 these are the same group of executives that you identified earlier
15 that would be at these meetings?
16 Anderson: That's right and the focus typically we'd spend the first
17 half of the meeting or more talking about the investigation itself and
18 then in the second half turn to other steps that included the possibility
19 of a public statement.
20 Hamrick: Did you ever provide your advice or input about the

1 public statement?

2 Anderson: I'm sure I did.

3 Hamrick: And what was that?

4 Anderson: Um, it would be hard to sum up and I'm not sure I could

5 remember every single comment that I made about the public

6 statement. Um, I was convinced at the time that it was the right thing

7 to do and I probably expressed that point of view in meetings with

8 the Director.

9 Hamrick: Was there anyone at those meetings who did not think

10 it was the right thing to do?

11 Anderson: Um, I don't remember precisely I think we all thought it

12 was a hard decision. It certainly wasn't um; it certainly wasn't the

13 only conclusion that somebody could reach. I don't remember there

14 being any strongly held views against doing the statement, that

15 particular statement. But as for you know people expressing

16 dissenting views at various points along the way um there might

17 have been I'm not really quite sure.

18 Hamrick: Were you ever asked to provide advice from a legal

19 perspective in terms of the legality of making such a statement?

20 Anderson: I was not, there were a couple of issues that we did

consider and by we, I mean collectively OGC so for instance [redacted].

Hamrick: What memo was that?

Anderson: I don't know the precise title or date but it's in among the Bates stamped documents that were produced to you all that asked just kind of in a, obviously the document speaks for itself but asks DOJ employees to think carefully about investigative, overt investigative steps um in close proximity to an election.

Hamrick: So was there a discussion specifically around that particular memo and policy?

Anderson: Um, there may have been a couple of passing remarks made in meetings but we didn't have an extensive, um as a large group there was not really an extensive discussion of it, we looked at in and [redacted]

1 [redacted] so it was not, there was not a lot of time in those
2 meetings devoted to discussion of the memo.
3 Hamrick: Did anyone write kind of a memo or analysis or
4 anything in regard to that memo and how the Director's statement
5 wouldn't violate the policy?
6 Anderson: I'm not aware of any memo. On the DOJ memo.
7 Hamrick: Do you have a question?
8 Galindo-Marrone: Real quick so you mentioned the DOJ, I'm
9 going to call it the policy memo concerning overt steps or actions
10 leading up to an election. Did any, it seems like there wasn't
11 anything in writing analyzing that issue.
12 Anderson: That's right.
13 Galindo-Marrone: But there was some obvious discussion about
14 it at least some consideration given to it. Would part of that
15 consideration have also included the Hatch Act, did that come up in
16 any conversations?
17 Anderson: I don't believe so directly I mean the um, the DOJ memo
18 obviously talks about the Hatch Act and even the first part of the
19 memo you know closely dovetails with the Hatch Act but I don't
20 recall there being discussions specifically of the Hatch Act in any of

1 the meetings. I think partly because we, you know we were also
2 incredibly interested in trying to be apolitical about the whole thing I
3 mean doing our work you know as the Director said in his statement
4 in an honest, competent, thorough way without any regard to you
5 know what impact our actions might have in the outside world.
6 Hamrick: So at the point in time when different drafts are going
7 back and forth of this statement. At that point in time was it still an
8 idea that the public statement was going to be made or had it been
9 solidified that this was definitely going to happen it was just a matter
10 of how it was going to read?
11 Anderson: Um, it's kind of hard to say I don't really remember um, I
12 mean I think uh my sense is that you know if anybody had felt very
13 strongly at the last minute you know even up until the last minute that
14 it shouldn't be done that the Director would have you know happily
15 entertained discussions um you know and but I don't, I guess I really
16 don't recall.
17 Hamrick: Were other options discussed in terms of different ways
18 to wrap up this investigation aside from making a public statement?
19 Anderson: I don't remember precise alternative options that were
20 discussed but I believe there were other options discussed in the

1 course of our many discussions about it.

2 Hamrick: Was the appointment of a special counsel ever

3 discussed?

4 Anderson: Yes it was. We were asked to consider, I mean there were

5 numerous congressional letters that were asking for the appointment

6 of a special counsel.

7 Hamrick: Can you describe what those discussions were like?

8 Anderson: Uh, I don't have a great memory of exactly what was

9 discussed and with whom except that I just remember that we did

10 talk about it at various points in time of whether the Director should or

11 should not make a recommendation to the Attorney General that

12 was the appointed

13 Hamrick: Was anyone in favor of doing that?

14 Anderson: Um, I don't remember.

15 Hamrick: What about reasons for not doing that, were those

16 discussed?

17 Anderson: I presume so but I don't remember any specifics. I don't

18 recall and one thing I just want to clarify, I don't recall that we ever

19 discussed in that large, that group of people that I named, in that

20 large group seeing the idea of a special counsel being um, or the

1 Director himself could not have appointed a special counsel but he
2 would have, he could have recommended the attorney general that
3 [when] the appointed um, I don't recall in those big group meetings
4 talking about the issue but there may have been other smaller
5 meetings that occurred on the issue and I don't remember the
6 precise details of who was in favor and on what basis or whether
7 there was any um you know views against it that sort of thing.
8 Hamrick: What about the idea of not making a public statement
9 but just per standard you know somewhat standard procedure just
10 send the recommendation over to DOJ and let them deal with it, was
11 that option discussed at all?
12 Anderson: I'm sure it was discussed at some point um, not probably
13 not in exactly the way that you've formulated it um but the idea of
14 um you know staying quiet and letting DOJ decide what to do or not
15 do with it um that was probably discussed at some point.
16 Hamrick: Was there any concern expressed by the Director in
17 going that route?
18 Anderson: Um, yeah there were a lot of concerns um and uh you
19 know concerns I mean I think those concerns escalated over time.
20 Hamrick: Can you describe that a little bit for us?

1 Anderson: I wouldn't say it, it was probably not super explicitly
2 discussed but um you know it was really clear um especially in the
3 weeks leading up to the statement um that at least the public
4 perception would be that the Attorney General herself was not
5 maintaining an appropriate degree of independence with respect to
6 the decision making in this investigation and I'm referring to, I mean I
7 think there were concerns even preceding this but um you know the
8 incident that was extensively reported in the media involving the
9 Attorney General's meeting with former President Clinton on the
10 airplane tarmac.
11 Hamrick: And you said there were concerns even before that
12 incident what were some of the other concerns?
13 Anderson: Well the Department of Justice you know compared to the
14 FBI is um you know run much more heavily by political appointees,
15 people who are beholden to the President, the FBI by tradition and
16 by just by virtue of the composition of our executive core is much
17 more apolitical and independent, the only political appointee is the
18 director and his term set by statute is 10 years in part as a reflection
19 of that tradition of independence and so in terms of thinking about
20 who might um you know as I said the facts of the investigation had

already been publicly confirmed and in terms of thinking through who might describe the conclusion announce them to describe them in some fashion you know the FBI Director is more as a practical matter more independent and you know would be perceived as more independent than the Attorney General and so then layering on you know the public reporting about that meeting that occurred with the former president and Attorney General Lynch, it just only further solidifies um the perception, the idea that the public would perceive her to be less independent than the FBI Director.

Hamrick: Did Director Comey ever express you know in addition to kind of the perception that the attorney general might not be impartial um any actual concern that he had about her impartiality?

Anderson: No. I don't recall. I, my recollection is that um it really was about; it really was a matter more of perception than of reality. I don't believe anybody, first of all the Attorney General herself, we don't really quite know how much detail she was briefed on the investigation but she didn't have any, she didn't have direct contact with us or with the investigative team on the matter as to what DOJ was briefing her on and keeping her in the loop on you know we

didn't really know for sure but there was never, there was never a feeling that, I don't think, I certainly didn't have the feeling, you know you'd have to speak to others in terms of what their feelings were but I certainly didn't have the feeling that there was any sort of improper influence that she was directing down the chain of command.

Hamrick: When you were discussing or the group was discussing the idea of the public statement, was the potential impact on the presidential election considered or discussed at all?

Anderson: Um, no not in the, not um, not in the sense that we were, I mean we didn't know, we didn't know what the, we're not; I mean it was discussed in the sense that um, we didn't think it was appropriate for us to take it into consideration. We recognized that we are, we are simply not competent to even know what that impact might be, in other words we are FBI you know we are the FBI the bureau of investigations, we are not the bureau of policy or uh political analysis or election predictions and so it really was not our business um you know because it was outside our competence, outside our jurisdiction outside you know our authority to even consider that and so it was, my recollection is that it was discussed only in so far as you know we recognize that we couldn't take that

1 into consideration nor should we for any reason. We were trying to
2 do um you know the one thing I do recall being a sense of was in
3 terms of the timing um that we wanted to get out of the way of the
4 election as much as possible and I'm speaking with respect to the
5 July statement right now so in other words we wanted to wrap it up
6 quickly um because we wanted the bureau to have no part in any
7 way to the extent that was possible and so you know my sense from
8 the meetings that we had was that we were trying to wrap things up
9 as quickly as possible and just get out of the way of the political
10 cycle. Get the FBI out of the equation, proved not to be possible but,
11 later on, but um that didn't factor into the thinking in terms of timing it
12 was more sort of let's step out of the way, lets' not be a factor.
13 Hamrick: Did you yourself at the time did you think that the July
14 5th statement could have an impact or have an effect on the
15 election?
16 Anderson: I couldn't say one way or another. I'm not an expert in
17 that and I didn't know.
18 Hamrick: Ana, do you have some questions?
19 Galindo-Marrone: So I wanted to go back to some of the
20 concerns that you mentioned may have been present concerning

former Attorney General Lynch's impartiality or not. So there is the plane incident, which as you said was publicized, but are you aware of an earlier incident in the fall of 2015 where Director Comey was given some instruction by Attorney General Lynch to describe the investigation not as a criminal investigation but something else like a matter when talking to the press?

Anderson: Um, I don't, no I was not aware of any explicit conversation between the Attorney General and the Director, we did know that there was a desire by DOJ that it not be referred to as a criminal investigation publicly because there were some jokes made about it that we were the, you know they were asking us to be the Federal Bureau of Matters in fact I think at one point they called it a security review.

Galindo-Marrone: And how did you become aware of that?

Anderson: I don't recall precisely but I was never, I don't believe I ever heard about or was ever told about any conversation directly between the Attorney General and the director about the issue.

Galindo-Marrone: So outside of the plane incident and this, this um idea that the FBI should refer to the investigation as a matter or a security review versus a criminal investigation was there any other

1 issue that may have raised concerns for the FBI and in particular
2 Director Comey about then Attorney General Lynch?
3 Anderson: Um, let me just add to what you included in your question
4 which was as I mentioned you know DOJ is managed at the top by
5 way more political appointees than the FBI so just by virtue of its
6 structure and composition um you know um that we are viewed as
7 more independent which you know I think appropriately viewed as
8 more independent that the Department of Justice um there wasn't
9 anything that gave us substantive concerns or at least gave me
10 substantive concerns about her impartiality but there was something
11 that we um and I'm not going to be able to talk about this very
12 extensively on an
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5 **Galindo-Marrone:**

6 **?**

7 **Anderson:** **.**

8 **Galindo-Marrone:**

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10 **Anderson: Correct.**

11 **Galindo-Marrone: I don't have any other questions.**

12 **Hamrick: Ok so let's jump forward through the summer of 2016.**

13 **Anderson: If we could, I'd appreciate the opportunity for a two-**

14 **minute break.**

15 **Hamrick: Absolutely I'm going to stop the recorder right now. Its**

16 **2:25 p.m.**

17 **Hamrick: The recorder is back on 2:27pm. We are going to shift**

18 **to October 2016, that timeframe and at some point in October you**

19 **learned that there had been some new evidence discovered related**

20 **to the Clinton email investigation?**

1 Anderson: That is correct.

2 Hamrick: When did you learn of that new evidence?

3 Anderson: It was sometime in October, I don't remember the precise

4 date.

5 Hamrick: How did you learn about it?

6 Anderson: Um, my employee [redacted] told me. But at that point,

7 its precise relevance to the investigation of the Clinton email server

8 was unclear and unknown.

9 Hamrick: So can you tell us the progression of how it came from

10 hearing about it from [redacted] to kind of understanding that there may

11 be some relevance to the Clinton investigation?

12 Anderson: My understanding was that the team that was involved in

13 the underlying investigation in which this new evidence surfaced was

14 um to the extent permitted consistent with their search warrant was

15 trying to do some preliminary work to um determine what if any

16 materials were on the device that might bear on our investigation

17 and that that work unfolded over the course of a couple of weeks.

18 And there was a specific moment in time in later, in late October um

19 when they had um, they knew more at that point about what was on

20 the device and um brought it to executive level attention.

1 Hamrick: So when it was brought to the executive level, what
2 were you all told about it?
3 Anderson: Um, so um, I'm not going to remember the precise details
4 exactly but um and we obviously this is all subject to the non-
5 disclosure agreement because none of this has ever been publicly
6 confirmed.
7 Hamrick: Of course.
8 Anderson: But the my understanding was that we had a, in
9 connection with the investigation of Anthony Weiner um in an
10 unrelated matter, the FBI had taken possession of one or more of his,
11 one of his laptops at least there may have been other media that
12 they seized and that on that device they had identified emails of
13 Huma Abedin uh that included correspondence between her and
14 the former Secretary.
15 Hamrick: Why was that significant?
16 Anderson: It was significant for, well it was potentially significant I
17 guess for a couple of reasons. Um, there had been a, in the course of
18 our investigation of the email server you know we never recovered
19 what we believed to be the entire body of the emails that were sent
20 through the private server for one um and so there was a specific

1 period of time that was actually very close to the point in time in
2 which the server likely would have been set up that we never
3 recovered any of the emails from the former Secretary's Blackberry
4 and so there was presented the possibility from this new source um
5 that it potentially could contain some of those emails and then I
6 guess the second aspect of it was given who Huma Abedin was and
7 her closeness to the former Secretary that if there was anybody with
8 whom she had ever spoken um or you know corresponded by email
9 about the setup of the server that its possible it would have been
10 Huma.

11 Hamrick: So in terms of meeting to discuss this new evidence
12 are we talking about the same executives that you identified earlier
13 in the interview?

14 Anderson: Yeah I believe so.

15 Hamrick: What did the members of that meeting discuss in terms
16 of what to do with this evidence?

17 Anderson: So we were sort of like the structure of the earlier meetings
18 um we met I believe it was on October 27th and the Director was
19 briefed on what we knew about the material that was on the Weiner
20 laptop at that point in time and that was all under the constraints of

1 the search warrant as it existed for purposes of the Weiner
2 investigation. We had no search warrant at that point in time for
3 purposes of the Clinton email server investigation so he was briefed
4 on what we knew at that point in time and then we had a discussion
5 about what we should do going forward that did include a discussion
6 about you know whether we should seek a search warrant, how we
7 should proceed to seek to obtain the evidence.
8 Hamrick: Ultimately, it was decided to get the search warrant?
9 Anderson: Yes, that is correct and I believe in that same meeting we
10 did talk about and there may have been multiple meetings that day
11 I'm not sure um in the course of those discussions we did talk about
12 whether we needed to publicly disclose the fact that we were, we
13 had, you know the Director had told Congress and had announced
14 publicly that we had completed our investigation and if we were to
15 seek a search warrant that would seem to be in contradiction with a
16 statement that we had concluded our investigation um it was
17 seeking a search warrant is a very significant overt, in some cases
18 overt investigative step. And so we were in that same briefing about
19 what we knew about material I believe we did talk about whether a
20 public disclosure or supplementation of the record on that point

needed to be made.

Hamrick: Was there a discussion about when the search warrant should be sought?

Anderson: I don't remember if there was anything explicit except um the sense was that we needed to seek one urgently if you know after we decided that was the appropriate next step that we couldn't sit and wait on it.

Hamrick: What was the urgency?

Anderson: That given the significance of the matter um, uh, that we had to proceed quickly. It was just too, too explosive for us to sit on.

Hamrick: Was there any disagreement with that course of action?

Anderson: No, I don't recall there being any disagreement that we needed to proceed immediately to seek the search warrant. I mean we had to do it in combination with DOJ obviously and the meeting did not include any DOJ personnel um so it was clear agreement that we needed to ask DOJ to seek the search warrant for us.

Hamrick: Was there any discussion about waiting until after the election to get the search warrant?

Anderson: I, I don't, on the point about whether we should seek, we

1 should wait to seek the search warrant, I don't think there was. I
2 mean that, I think from our perspective we would you know um, we
3 had to, we had to do what was appropriate for the investigation and
4 it would not have been you know we would have been um delaying
5 um because of electoral considerations um an investigative step
6 and that's just not what we would have done.
7 Hamrick: So you said in the meetings discussing the new
8 evidence and getting the search warrant there was also discussion
9 about whether or not some kind of public statement needed to be
10 made. Who
11 Anderson: Yeah that is my recollection.
12 Hamrick: Who first raised that as an issue?
13 Anderson: I don't remember.
14 Hamrick: So what was discussed with respect to the public
15 statement?
16 Anderson: First and foremost I think it was the congressional
17 testimony the Director had given previously so obviously in falling
18 closely on the heels of his July 5th statement he gave very extensive
19 testimony publicly on the Hill um in which he described the
20 investigation as having been completed or closed and the most

1 significant consideration was the fact that um, you know seeking a
2 search warrant is not consistent with the completion or closure of an
3 investigation and that this amounted, it wasn't technically a re-
4 opening we had never we cannot administratively close an
5 investigation until we have disposed of the evidence at issue and
6 provided reasons that may not happen for quite some time in this
7 particular case um but the investigation you know he had
8 characterized it as being completed and so the concern was that by
9 not saying something we would be, it was tantamount to concealing
10 it, the fact that we were re-opening or seeking new investigative
11 steps in a matter that he had characterized as completed so there
12 was the congressional aspect of it um but also the prior public
13 statement that it would leave a misleading impression with respect to
14 the you know what the public knew about it as well.
15 Hamrick: So what was decided then in terms of what to do
16 about the making some kind of statement?
17 Anderson: I'm sorry I think you cut off?
18 Hamrick: Oh, can you hear me now?
19 Anderson: Yeah, can you repeat your question?
20 Hamrick: What was decided with respect to the public

1 statement what was going to be the course of action?

2 Anderson: Let me be clear I mean we did a congressional letter um

3 that was sent only to the Congress because we thought about

4 different vehicles whether the Director should make another public

5 statement whether he should do a press conference um and

6 because of that predominate consideration of the Director's

7 congressional testimony that he, that the investigation was

8 completed we concluded the appropriate vehicle was a letter to the

9 Congress.

10 Hamrick: Did anyone feel strongly that there should be some

11 kind of press conference or something like that?

12 Anderson: I don't recall. I don't believe so. I think that we were the

13 extent that people believed that a statement was appropriate or

14 some sort of supplementation of the record was appropriate, um I

15 think people largely thought that the congressional letter was the

16 best vehicle for it.

17 Hamrick: So was there disagreement about making any kind of

18 statement period, whether public or a letter to Congress?

19 Anderson: Yes there was. There were uh significantly conflicting

20 viewpoints on that issue. It was a very, very difficult decision.

1 **Hamrick: What were some of the opposing arguments for**
2 **sending the letter to Congress that were expressed?**
3 **Anderson: Yeah um, well uh the viewpoint that we would be, there**
4 **was an obvious concern that the FBI would be perceived to be um**
5 **involved in or influencing the outcome of the election there was, I'll**
6 **just speak, I can speak most authoritatively to my own concerns and**
7 **questions and**
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1 [redacted]

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3 [redacted]

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7 [redacted]

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9 [redacted]

10 [redacted]

11 [redacted]

12 [redacted]

13 [redacted]

14 [redacted]

15 [redacted]

16 [redacted]

17 [redacted]

18 [redacted].

19 **Hamrick: You said ultimately you were persuaded that this was**

20 **the right course of action?**

1 Anderson: I think so. I think so it was really hard for me. Um I mean I
2 think the morning of the, I knew the Director was going to send the
3 letter out to the Hill um I wasn't sure he was doing the right thing and
4 um but it depends on what you use as your metric for the right thing
5 to do. I think I was worried about it for the wrong reasons. You know I
6 was worried that we would impact the election and I recognize that
7 was not something that we could take into account.
8 Hamrick: I'm going to circle back to that in a minute but was
9 there anyone in those discussions who ultimately was not persuaded
10 and who still at the end of the day felt like it was the wrong thing to
11 do?
12 Anderson: I don't know. I don't know and you know it was such a
13 hard call I'm not sure you know I'm having a hard time sort of
14 necessarily um you know even putting a pin point on whether I was
15 totally convinced at that point in time that it was the right thing to do
16 or whether I mean I probably say in fairness I probably still had
17 reservations about it, it was such a hard decision you know there
18 were many views expressed in even the morning of that letter in a
19 meeting that we had with the Director and he ultimately made the
20 decision to do it that it was of two horrible options it was best

1 protective of the FBI as an institution.

2 Hamrick: So was the concern that this letter would have an

3 impact on the election was that discussed during any of these

4 meetings?

5 Anderson: Well it was certainly discussed that the FBI would be

6 perceived to be having an effect on the outcome we didn't, again

7 we sort of, I recall this idea you know that we were not experts on

8 that issue by far you know whether it was true whether that

9 perception would have any merit or not I mean we had no way of

10 knowing one way or another. We weren't competent, it's not our job,

11 it's not our place, our role to even assess what that might possibly be

12 but yes we were concerned that there would be a perception

13 whichever way we went um whether we disclosed the fact of the

14 new material you know we were going to be perceived to be

15 impacting the outcome or whether we didn't if we had as I think the

16 Director said; perhaps in his email to the troops it was, you know it

17 wasn't a choice it was a choice between two acts. It was speak or

18 conceal and if the FBI had concealed that fact um, you know the

19 perception would have been that we had been influencing the

20 outcome of the election in the other directions so yeah we were

1 concerned about that, that impact, long-term impact on the
2 credibility of the FBI in either scenario.
3 Hamrick: Were any other options discussed? Rather than
4 sending a letter to Congress, was there a discussion about not
5 notifying Congress at all?
6 Anderson: Yes.
7 Hamrick: Was that ever really considered as an option or was it
8 dismissed immediately?
9 Anderson: No it was not dismissed immediately because I think we
10 you know we also knew that there were no you know and we you
11 know we did send up the letter privately to the Hill we didn't post it
12 on our website and we didn't publicize it, we didn't leak it to the
13 media you know I don't believe anybody did um but we, we had an
14 expectation that there was no way you know there were no
15 measures that we could take that would allow us to disclose that
16 information to the Hill without also that information becoming public
17 just based on our collective understanding of the way things work up
18 on the Hill.
19 Hamrick: What about waiting until some of the emails had been
20 reviewed before notifying Congress to see whether they are what

1 you thought they might be, was that discussed at all to kind of hold
2 off until you see what you really have?
3 Anderson: Yeah that was it kind of goes to that materiality point that I
4 mentioned. You know without having acquired the evidence have
5 we crossed a materiality threshold such that we needed to notify
6 Congress or the public or is just simply the fact of seeking a search
7 warrant sufficient so yes there was extensive discussion about that.
8 Hamrick: Was there any concern expressed with um you know if
9 a search warrant was sought that that would somehow be leaked
10 and it would come out?
11 Anderson: Yes.
12 Hamrick: What was that concern exactly? Did you hear that,
13 were you cut off?
14 Anderson: Yes, I'm sorry my answer was yes.
15 Hamrick: Ok and what
16 Anderson: We were concerned even though we were going to seek
17 the search warrant, we were going to seek it under seal um that the
18 reality was that it would be publicly known.
19 Hamrick: Let me ask you to take a look at one of the
20 documents. I think it may be the one, it's an email and the Bates

1 stamp is OSC HA-17-0515, FBI 001577.

2 Anderson: I'll let you know as soon as I've got it up. The last four 1577

3 you said?

4 Hamrick: Yes.

5 Anderson: Ok.

6 Hamrick: This is an email, the top email is dated October 27,

7 2016 from James Rybicki to James Comey. If you'll go down there is

8 some back and forth with drafts and in the email from [redacted] to

9 the group, the one that is 5 o'clock p.m. she says; All, I've attached a

10 new draft in which we attempt to address Trisha's comments. I'm

11 assuming she is talking about your comments?

12 Anderson: Yeah.

13 Hamrick: And do you recall what those comments were?

14 Anderson: Um, I'm not sure um precisely which comments that is a

15 reference to I think at some point um I had commented on an earlier

16 draft that we needed to, that it needed to that it needed to be styled

17 more closely as a disclosure to Congress consistent with

18 conversations, the discussions that had occurred earlier in the day.

19 Hamrick: When you say stylistically boars a disclosure to

20 Congress what exactly do you mean by that?

1 Anderson: Um, is consistent with um the outcome of the discussions
2 to that point that we were planning to um make the disclosure in a
3 communication to Congress and the draft just simply wasn't as I
4 recall, um I don't recall a first draft being written um in that, framed in
5 that precise way.
6 Hamrick: I see. At some point and this touches on what you
7 were talking about earlier with respect to the perception that the FBI
8 would have some kind of impact on the election. Was there ever a
9 comment made during one of the meetings about how the
10 notification to Congress might hurt Hillary Clinton and help Donald
11 Trump in the elections.
12 Anderson: You mean substantively?
13 Hamrick: Yes.
14 Anderson: In other words like anybody saying is this actually you
15 know we are concerned because this will help Hillary or will hurt her
16 and help Donald Trump?
17 Hamrick: Yes.
18 Anderson: No, I don't recall there being any comments to that effect.
19 Hamrick: Did you believe that sending this notification to
20 Congress would impact the election?

1 Anderson: I was worried that it would um and this goes back to what
2 I was saying a little bit earlier. I was worried that it would and I
3 recognized that that was not something that we should be taking into
4 account and so those were my private concerns and I did not share
5 that point of view in the meeting.

6 Hamrick: With respect to the notification was there a legal
7 review done to make sure there weren't any concerns legally with
8 sending this notification to Congress?

9 Anderson: Um, I mean I don't know exactly what you mean, there
10 was no sort of formal legal review however if Jim Baker or [redacted] and I
11 had identified any legal issues we most certainly would have
12 ensured that they were addressed but we did not, none of us
13 identified any, I don't recall identifying any legal issue that we
14 thought about.

15 Hamrick: Was the Hatch Act ever considered as a potential
16 legal issue?

17 Anderson: [redacted]
18 [redacted]
19 [redacted]
20 [redacted]

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11 Hamrick: Do you think that the decision to notify Congress

12 about this new evidence; do you think that that ran counter to that

13 DOJ policy about taking steps so close to an election?

14 Anderson: No, I don't believe so.

15 Hamrick: Why not?

16 Anderson: We had, I guess for two principle reasons one we

17 collectively as a group and the Director personally we had no intent

18 to influence the outcome of the election we were not taking steps for

19 purposes of influencing the outcome one way or another so that is

20 point number one and then point number two was that even if we

1 didn't intend any impact but there was one you know that we, that
2 was going to happen regardless of whether we wanted it to or not
3 that there was no way that we could avoid it. Whether we disclosed
4 or didn't disclose that either of those two steps could theoretically
5 have an impact on the election we didn't know whether it would or
6 wouldn't you know as I said we recognize that we are not you know
7 our job is investigating criminal matters not predicting um the
8 influence of events on the outcome of elections but we um there was
9 no path clearly available to us that we believed would completely
10 insulate us or completely insulate the FBI from any potential
11 allegation or appearance of involvement in the election. Had we
12 you know if we disclosed the perception could be that we were
13 trying to help Trump and if we didn't disclose we would be accused
14 of having concealed the fact in order to help Hillary Clinton and so
15 there was no path available to us that would not be perceived to
16 have an impact on the election.

17 Hamrick: In the email that we just looked at the, on the second
18 page of the email it talks about, attachment incorporates Jim Baker's
19 comments; it does not address Trisha's from her recent email. I don't
20 think we ever received that email in the document production that

1 was done in response to our request. Do you know if that email still
2 exists or if it was produced?
3 Anderson: I have no idea, as I said I couldn't personally do a search
4 of my emails from that time period so I don't know sitting here today
5 whether the email still exists or um whether it was produced or could
6 be produced or anything to that effect.
7 Hamrick: So let me just ask a follow up. Typically, so this would
8 have been an email I suspect from October 27, 2016, right?
9 Anderson: Mm-hmm.
10 Hamrick: What is your process you talked about archived
11 emails, how does it work at the FBI is it every three months I know
12 different agencies have different procedures for archiving. What
13 would normally be archived in terms of your emails?
14 Anderson: The archiving isn't automatic but we have a certain
15 limited capacity especially on the unclassified side in terms of how
16 large the inbox can be and so you get notifications on that side
17 when you are getting close to the limit and if you reach the limit you
18 can't send or receive any email so it's up to the individual user to
19 take action to archive your email to make sure that your size limit or
20 size of your inbox is maintained below that limit so you can continue

1 to send and receive emails.

2 Hamrick: And this type of email where it seems like you were
3 giving your comments about some action that the Director was
4 going to take; is this an email that you would normally archive?
5 Anderson: Yeah you don't, I don't pick or choose the, you just
6 archive the whole inbox.

7 Hamrick: Oh so you just archive so
8 Anderson: Yeah, so it I mean so there's something you can do in
9 outlook to archive your messages but I'm not sure the user even has
10 the capability you just archive based on date range so and I you
11 know it was certainly not be my, I do not delete my emails other than
12 meeting cancellation notices and things like that or a notification
13 that somebody has read an email things like that that don't need to
14 be preserved, I don't delete any substantive emails whether they be
15 sent by me or to me and so I, my expectation would be that
16 anything that was on my system would be archived.

17 Hamrick: Ok.
18 Anderson: And just so, you know the individual users at the FBI don't
19 have any involvement in pulling emails for production. It all happens
20 behind the scenes and so I had no involvement in the searches of

1 any emails or review or production or anything like that.

2 Galindo-Marrone: Let me circle back to one thing. To recap
3 when you were describing the different considerations in play for the
4 concerning the October 28 congressional letter I think you
5 mentioned and I want to make sure I understood you correctly that I
6 think you said with respect to that letter the one that went out
7 October 28 to Congress the FBI did not leak that letter or make a
8 public statement concerning that letter, right?
9 Anderson: I don't believe, I mean, I'm not aware of anybody at the
10 FBI who leaked it or um made any public statements about it, we
11 sent the letter up to the Hill.

12 Galindo-Marrone: But I think you also said that, but the
13 expectation would this be fair to say of you all that were in the room
14 making this decision was that even though on your end no one was
15 going to be leaking this that the likelihood would be that once the
16 Hill got this letter it would go public?
17 Anderson: Yeah that was, we, the reality was that I think we no
18 matter what steps we took no matter what caveats we put on the
19 letter no matter what conversations even people might try to have
20 with congressional leaders that there was no way the letter wouldn't

1 become public um we had no option to preserve its confidentiality
2 just simply with respect to the Hill it just simply wasn't realistic even if
3 that was our desired outcome.
4 Galindo-Marrone: And did I understand you correctly that there
5 was a similar view with respect to the search warrant, that the belief
6 was even if you all had not sent the letter to Congress that the search
7 warrant would become public as well?
8 Anderson: Um, I think yeah we, I mean, probably with a less, a lower
9 degree of certainty but we certainly knew that was a possibility.
10 Galindo-Marrone: Ok.
11 Anderson: And if I could just clarify one thing.
12 Galindo-Marrone: Sure.
13 Anderson: You asked me whether anyone or whether I was
14 concerned about substantively impacting the outcome of the
15 election and I said that I was worried about that and I characterized
16 my concerns as being private concerns. I wanted to underscore that
17 you know I recognize the distinction between my own you know
18 private concerns as a private citizen as a member of the electorate
19 and my you know the concerns that were legitimate for me to take
20 into consideration as an official of the FBI so I did not in any fashion

express those concerns those private concerns in the course of the meetings with the Director.

Hamrick: Ok. So after or around the same time the notification to Congress went up Director Comey also sent an email to I guess all FBI employees and in case you need to refresh it is Bates stamp document that ends 1127. And it was sent Friday October 28 2016 3:08 p.m. Do you know what email I am talking about?

Anderson: Yeah, sorry let me just pull it up here.

Hamrick: Sure. Sure.

Anderson: Ok yes.

Hamrick: Were you involved at all in drafting or editing this email?

Anderson: Not drafting but I believe that a draft was circulated to the same group that I've referenced previously for any edits.

Hamrick: Do you recall if you had any edits to it?

Anderson: Um, I don't recall for certain but I don't believe I did.

Hamrick: Prior to seeing the email, did you know that the Director was planning on emailing all the FBI employees, prior to seeing the draft?

Anderson: Yeah, I think he did mention it in the meeting.

1 Hamrick: What was his reasoning for why he wanted to do that?
2 Anderson: Um, you know I, it would be hard for me to say for
3 certain you know it was not the focus of our conversations um the
4 Director is, as you may know has um he um he does communicate
5 frequently with the FBI population as a whole and given the
6 significance of what he was doing it was no surprise to me that he
7 wanted to do something like this.

8 Hamrick: Did you have any reaction to his desire to send this
9 email out?
10 Anderson: Uh no not in this particular case. To me the substance of
11 the email dovetails entirely with our actual in our letter to the Hill
12 and you know it struck me as highly consistent with what we had
13 discussed in the meeting so no I didn't have any concerns with it.

14 Hamrick: And you said the Director communicates frequently
15 with the FBI staff, does he usually send these kind of emails about the
16 FBI's investigations?
17 Anderson: No but going back to something I said at the very
18 beginning of the interview this was an investigation that was without
19 parallel or precedent.

1 Hamrick: So there's, in the second paragraph of the Director's
2 email he talks about ordinarily we don't tell Congress about on-
3 going investigations and he says I also think it would be misleading
4 to the American people were we not to supplement the record. What
5 is your understanding of what he means by that?
6 Anderson: I think simply it's a reference or I would read this to be a
7 reference back to the July statement that we had, he had sort of
8 made significant statements in two forums to the effect that the FBI
9 had completed the investigation and one was in his congressional
10 testimony the other was in the July statement and so you know just
11 as we would, it would be misleading by omission given his prior
12 statement that we completed the investigation not to supplement
13 the record that we are taking additional investigative steps.

14 Hamrick: What about that next sentence where he references
15 the fact that you are in the middle of an election season. What is
16 your understanding of that statement? Or what he is trying to
17 convey?
18 Anderson: Are you talking about the last sentence?

19 Hamrick: Right, "in trying to strike that balance in a brief letter

1 and in the middle of an election season there is significant risk of
2 being misunderstood but I wanted you to hear it directly from me."
3 Anderson: Well obviously you would need to speak to the Director to
4 know precisely what his intended meaning was but I read that as a
5 reference back to the concerns that we had discussed in the
6 meeting about the perceptions of the FBI um being misunderstood as
7 seeking to influence the election one way or another.
8 Hamrick: Ok, so then the final notification to Congress came on
9 November 6th. I guess at some point in time you learned that the
10 team had quickly reviewed the newly discovered emails and that
11 that review was finished, right?
12 Anderson: That is correct, we were at that point having daily if not
13 more frequently than daily phone calls about the status of the
14 investigative step, the email review.
15 Hamrick: What were you told about the results of the review?
16 Anderson: Um, I'm not going to remember all the precise details
17 exactly of what we were told. Um, so there are others who could
18 speak to that but um my understanding was that we uh did not
19 uncover any, we didn't uncover the emails from that period of time
20 that I had mentioned earlier where we didn't have any, we had not

1 previously uncovered those emails so we didn't fill that gap that we
2 didn't identify any emails between Huma and the former Secretary
3 concerning the setup of the server um but that there were, we did
4 identify a number of classified emails um most or all of which we had
5 previously seen I think ultimately we didn't, they didn't entirely
6 overlap with the um, I just don't remember precisely. I don't think
7 they totally overlapped with what we had previously seen in terms of
8 the classified emails that had gone through the server but they
9 largely overlapped with the ones we had previously seen. But then
10 there were a couple of other um, uh there were, there was one other
11 thing that struck us all and I'm a little bit curious which was um we
12 saw there was some evidence of I believe it was a classified email
13 having been forwarded by Huma or from Huma's account to
14 Anthony Weiner and that was among the evidentiary conclusions
15 that or among the evidence that was identified.
16 Hamrick: Was there a meeting with the executives that you
17 identified earlier to kind of discuss what to do now at this point?
18 Anderson: Um, yes I can't remember exactly you know the precise
19 configuration of meetings or conference calls but yes there was
20 discussion about what to do next although I think it was fairly brief

1 because I think at that point we had, I'm trying to remember
2 exactly but I think we had already talked over the course of the
3 week about needing to do another disclosure to Congress.

4 Hamrick: Who had raised that idea?

5 Anderson: I don't recall.

6 Anderson: So what specifically was discussed with respect to an
7 additional disclosure to Congress?

8 Anderson: [redacted] b5
9 [redacted] I would say that was
10 the predominate consideration.

11 Hamrick: What were the reasons for notifying Congress?

12 Anderson: [redacted]
13 [redacted]
14 [redacted]
15 [redacted]
16 [redacted]
17 [redacted]

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3 Hamrick: Did anyone disagree with sending this additional

4 notification to Congress?

5 Anderson: I don't believe so. I don't recall, in contrast with the

6 October 28th letter I don't recall there being any significant

7 disagreement that this was the right thing to do once we had

8 completed or substantially completed the review of the new

9 emails.

10 Hamrick: So you agreed with that decision?

11 Anderson: I did.

12 Hamrick: What about Mike Steinbach, did he agree?

13 Anderson: I don't recall. I don't remember, I don't remember any

14 body expressing any significant disagreement but I don't recall any

15 particular statements made by Mike Steinbach.

16 Hamrick: During the discussions about sending this additional

17 notification, was there any conversation about any potential

18 impact on the election?

1 Anderson: I don't recall any new or separate conversation about
2 that issue. I think we had fully hashed out and this is just to the best
3 of my memory the whole you know this time period there were a lot
4 of meetings, a lot of discussions and it is hard to remember
5 precisely which and over a very compressed period of time over a
6 week or so, sorry I just got another call coming in and it distracted
7 me. I'm sorry so there were a lot of meetings a lot of discussions
8 over a very compressed time period and it is hard to remember
9 exactly what was said in connection with the October 28 letter
10 versus the November 6 but we had, my feeling at this point in time
11 is that we had really fully hashed through in connection with the
12 October 28th letter the idea that the FBI would be perceived
13 whichever course of action it took as having impacted the
14 outcome of the election that because we had fully hashed through
15 that in connection with the October 28th letter I don't remember
16 there being any new significant extensive discussion about the
17 issue in connection with the subsequent letter.

1 Hamrick: Was in terms of any kind of legal review of the
2 decision to send the letter, was the Hatch Act ever discussed or
3 considered?

4 Anderson: I mean no, no other than what I've already mentioned in
5 terms of the review of the DOJ policy which um I can't remember
6 whether it happened in connection with the July 5th statement or
7 the October 28th letter and no it just uh no it was not something that
8 we explicitly considered in connection with the November letter.

9 Hamrick: Are you doing ok do you need to take a break
10 because we are at a natural pause point so do you need to take a
11 little break or are you good to go?

12 Anderson: I will take you up on that. I'm going to put you on mute
13 for a minute or two and I'll be right back.

14 Hamrick: Ok, I'm going to stop the recorder at 3:18. It's 3:19
15 p.m. so we are going to shift gears in terms of questioning. We are
16 going to ask you a couple questions about other FBI investigations.
17 We know now that there was an investigation [redacted]
18 [redacted] concerning individuals associated with the Trump

1 campaign and the Russian government and whether there was any
2 coordination between the campaign and Russia's efforts to interfere
3 with the 2016 presidential election and this obviously wasn't
4 publicly confirmed by Director Comey until March of this year but
5 during all of this that is going on with the public statements
6 concerning the Clinton email investigation and then the October 28
7 notification to Congress, was there ever any discussion with Director
8 Comey about making this other investigation public prior to the
9 election, this investigation involving Russia and potential ties to the
10 Trump campaign? I know that was a long-winded question.

11 Anderson: Yeah, um, I guess I'm pausing because of um, I'm
12 thinking, I guess in terms of like the scope of your inquiry um you
13 know and I guess this, uh anyhow could you rephrase the question?

14 Hamrick: Right, so I'm not asking any specifics about the
15 investigation or what was going in July. I want to know whether
16 there was any discussion or if anyone raised the issue of whether
17 the fact that the FBI has this investigation should be made public,
18 going back to the 2016 timeframe when all this stuff with the Clinton

email investigation is being wrapped up was there any discussion about you know well should this investigation be public?

Anderson: I'm not aware of any such discussions.

Hamrick: Were you at all involved in your role there, were you involved in I don't want to ask a question I can't ask. If there had been those types of discussions would you have been involved in them or was that separate from your role there?

Anderson: Um, well I can't say for certain that if there were any such discussions that I would have been involved but the uh, it would have been within my supervisory responsibilities to supervise the same attorney in connection with work on the Russia related investigation.

Hamrick: Ok and to your knowledge, it was never raised that potentially we should be making the fact that there is this investigation public as well?

Anderson: Um, certainly not raised by us. I guess I'm trying to think about whether, I certainly and I don't recall it ever being

1 mentioned in connection with, I just don't remember and I don't
2 recall there being any such discussions.

3 Hamrick: So what we are trying to ponder and maybe you can
4 just give us some thoughts on this. You know there was this pretty
5 high profile investigation involving one of the presidential
6 candidates that you know the FBI spoke very publicly about on
7 several occasions, well publicly and then notification to Congress.
8 At the same time knowing that it had another significant
9 investigation involving the other presidential candidate and why
10 the two were treated differently when they both involved
11 presidential candidates in the months leading up to the 2016
12 election.

13 Anderson: Yeah well certainly, I can sort of, I mean I can speak
14 from my own perspective and you know certainly um in terms of
15 why you know why the two things can be differentiated. As I
16 mentioned at an earlier point in the interview the Clinton email
17 investigation was you know it was publicly confirmed you know
18 even before the FBI did anything to confirm the facts of the
19 investigation I believe the former Secretary herself acknowledged it

1 insofar as she knew about it. DOJ confirmed it you know they
2 backpedaled a little bit after that and then we did eventually
3 publicly confirm it so it was the fact that we were investigating her
4 use of the private email server was unclassified it was publicly
5 known and by the time we talked about anything publicly it was a
6 completed at that point in time investigation. We did not talk about
7 any of our investigative steps along the way prior to July 5th. The
8 investigation was confirmed and we said nothing more about it until
9 we had completed our work. On the other hand, the matter that the
10 Director confirmed in his congressional testimony until he confirmed
11 it and he did so in a very limited way, he did not disclose very
12 much at all about the investigation. To that point it was a classified
13 fact it was not publicly confirmed and it remains on-going and so
14 consistent with that idea that it is an on-going [redacted]
15 [redacted] you know we have not, the
16 FBI to date has not talked publicly about its investigative steps,
17 about who the subjects are, about the scope, the contours, et
18 cetera. And so I think they are two, the similarity between the two
19 matters in terms of parallel of you know you drew a parallel that
20 they were both concerning presidential candidates um, I think that

is not even necessarily an accurate characterization but to the extent there is that similarity it stops there.

Hamrick: Ok.

Anderson: At least that is the way I would think about it.

Hamrick: {Ana do you have any follow up questions on that} I'm just going to put you on pause for one second ok Ms. Anderson?

Anderson: Yes.

Hamrick: So let me ask you a similar question with respect to the investigation involving the [redacted] you know, what are your thoughts in terms of why that was treated differently than the investigation involving the former Secretary's emails in terms of the public announcement about it, the confirmation about it and what have you.

Anderson: Well if I could just back up.

Hamrick: Sure.

1 **Anderson: I wanted to supplement my prior answer with one other**

2 **factor**

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10 **Hamrick: Sure.**

11 **Anderson:**

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1 Galindo-Marrone: And I have a follow up on that and

2

3 . The Clinton email

4 investigation that would not be characterized

5 or would it be?

6 Anderson: You cut off could you repeat?

7 Galindo-Marrone: Would the Clinton email investigation be

8 considered or something

9 different?

10 Anderson:

11

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14 .

15 Galindo-Marrone: Then

16 Anderson: Even if it yeah.

17 Galindo-Marrone: I see.

18 ?

Anderson: .

Galindo-Marrone: Ok

Hamrick: So going back to the ; and the fact that the same kind of public statements about that investigation were not made as with the Clinton email investigation; can you provide some context for us in terms of why they would have been handled differently?

Anderson: Um, I can only speak from my own personal perspective. I know very little and have had no involvement in the matter but again you know my understanding is So that's really all I know and all I can say on that.

Hamrick: So I just have three wrap up questions and then if there is anything that you want to add you certainly may so do you

1 believe that Director Comey intended to have an effect on the
2 presidential election when he made his July 5th statement about the
3 results of the Clinton email investigation?

4 Anderson: Absolutely not. Everything I mean he, everything I've
5 heard him say, everything I know about him is just so consistent
6 with the idea that we do our work in an apolitical way, we are not,
7 we are professional investigators, we are to do our work without
8 regard to um the politics of how you know of what might result from
9 our work.

10 Hamrick: Same question with respect to the October 28th
11 notification to Congress. Do you believe Director Comey intended
12 to have an impact on the presidential election?

13 Anderson: Same answer, absolutely not, if there had been an
14 option that we had identified that would have allowed us to avoid
15 the perception that we were affecting the outcome of the election.
16 He would have been all in favor of it. We all would have been in
17 favor of it but we saw no such alternative available to us.

1 Hamrick: What about the November 6 notification to
2 Congress? Do you believe he intended; Director Comey intended
3 to have an impact on the presidential election by sending that
4 letter?

5 Anderson: Absolutely not. Same answer.

6 Hamrick: Ok is there anything that you want add or that we
7 didn't cover that you think is relevant to our investigation?

8 Anderson: Um, I can't think of anything at the moment.

9 Hamrick: Ok, Ana do you have any?

10 Galindo-Marrone: I do not.

11 Hamrick: All right, I'm going to turn off the recorder it is 3:33
12 p.m.

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2 INTERVIEW

3 OF

4 JAMES RYBICKI

5

6 OSC Complaint No. HA-17-0515

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8

9

10 Conducted by Erica Hamrick

11 Tuesday, May 9, 2017

12 9:00 a.m. - 11:17 a.m.

13

14

15 Office of Special Counsel Headquarters

16 1730 M Street NW, #218

17 Washington, D.C.

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1 A P P E A R A N C E S

2

3 Erica Hamrick, Esq.

4 U.S. Office of Special Counsel

5

6 Anna Galindo-Marrone, Esq.

7 U.S. Office of Special Counsel

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

2 MS. HAMRICK: Today is Tuesday, May 9th, 2017,

3 and the time is about -- just about 9 a.m. This

4 is an interview of James Rybicki.

5 And I'm saying your last name correctly?

6 THE WITNESS: Yes. Correct.

7 MS. HAMRICK: Okay. In the investigation of

8 OCS Complaint Number HA-17-0515. I'm Erica

9 Hamrick, an attorney at the U.S. Office of Special

10 Counsel. Also present with me is OSC attorney Ana

11 Galindo-Marrone.

12 As I said before we went on the record, OSC is

13 investigating allegations that FBI Director James

14 Comey violated the Hatch Act when he made public

15 announcements concerning the FBI's investigation

16 into Secretary -- former Secretary Hillary

17 Clinton's use of a personal email server.

18 Mr. Rybicki has been identified as a witness in

19 this investigation.

20 Mr. Rybicki, do you have any questions at that

21 time?

22 THE WITNESS: I do not.

1 MS. HAMRICK: And you're aware that you're
2 being recorded?
3 THE WITNESS: Yes.
4 MS. HANRICK: If you could raise your right
5 hand for the oath. Do you solemnly swear or
6 affirm under penalty of perjury that the
7 information you're about to provide is true,
8 accurate and complete to the best of your
9 knowledge and belief?
10 THE WITNESS: Yes.
11 JAMES RYBICKI
12 having been sworn by the notary public, was examined
13 and testified as follows:
14 EXAMINATION BY U.S. OFFICE OF SPECIAL COUNSEL
15 BY MS. HAMRICK:
16 Q Before we get started, did you review any
17 documents to prepare for your testimony today?
18 A I did. I reviewed the -- the letters that
19 were sent in October and November, the email -- a
20 couple of emails that the Director had sent, as well as
21 the statement from July as well. I also reviewed his
22 statement of last month before the -- I'm forgetting

1 what committee it was off the top of my head -- where
2 he talked about the investigation into Russian
3 influence of the election; and then I've reviewed
4 materials as they've come through for document
5 processing to turn over to both the OIG and Office of
6 Special Counsel.
7 Q Okay. And did you speak with anyone to
8 prepare for today's interview?
9 A I did.
10 Q Who did you speak with?
11 A I spoke to Jay Macklin and Carol Shea from the
12 Department of Justice Executive Office, U.S. Attorneys,
13 specifically to prepare for this interview. I've
14 spoken to the Director of the fact of the interview. I
15 think I probably mentioned to others that it was
16 happening, but I don't recall specifics.
17 Q Okay.
18 A Yeah.
19 Q So just to get a little bit of background
20 information, what is your current position?
21 A Sure. I'm the Director's chief of staff,
22 so -- and also the chief of staff of the FBI. I sit in

1 the Director's office to support the activities of the
2 Director.
3 Q How long have you been in this position?
4 A I took over in May of 2015. Previous to that
5 I served on detail from the Department of Justice as
6 the deputy chief of staff here, and I did that from
7 November 2013.
8 Q And do you have a career SES appointment?
9 A I do. Yes. It's -- the Bureau has a special
10 SES authority.
11 Q Okay.
12 A We don't go through the normal OPM, so I don't
13 know exactly what you call it, but it is SES.
14 Q Okay.
15 A But it's not political.
16 Q Okay. And is Director Comey your direct
17 supervisor?
18 A He is.
19 Q Are you a supervisor?
20 A I am.
21 Q How many employees do you supervise?
22 A That number just changed because we just

1 absorbed a new unit. I directly supervise -- sorry,
2 I'll double check -- five people. And then in our --
3 so the Director is -- or I'm sorry, the Director's
4 office then has a section underneath of it that
5 includes the Director's protective detail, a writing
6 unit, a bunch of folks like that. So probably in the
7 order of [redacted] or so folks in the Director's office b7E
8 proper.
9 Q And what kind of generally -- and I know there
10 are probably numerous, but kind of general overview of
11 what your job duties are.
12 A Sure. The main thing is providing advice and
13 counsel to the Director. I'm with him most times
14 throughout the day. I tend not to sit in on all the
15 meetings with him, but try to keep the other trains
16 running, you know, during that time. But that's --
17 that's -- I would say that's the bulk of it, just
18 providing general advice to him and supporting the
19 other executives on the corridor as well.
20 Q And did you have a role in the, kind of the
21 underlying matter here, the investigation into former
22 Secretary Clinton's email server?

1 A Yes, but not on the investigative side, merely
2 as sort of an advisor with the Director as he was
3 briefed on it.
4 Q Did you participate in meetings with the
5 Director?
6 A Yes.
7 Q What about, like, decision points, decision-
8 making points, were you involved in those meetings to
9 discuss decisions to be made?
10 A Yes.
11 Q Can you describe a little bit kind of what --
12 what your role would be when it came time to make, you
13 know, a decision with respect to the investigation?
14 A Sure. I mean, ultimately the way -- so in my
15 role as chief of staff, I -- we bifurcate it a little
16 bit. I don't get involved in operational decisions.
17 Our chain of command is such that that all rises
18 through the Deputy Director, who's the senior-most
19 agent in the Bureau, and he handles the operational
20 side.
21 So as we work with -- just so it's illustrative,
22 you know, when we work with, say, the Department of

1 Justice, if a question comes in, if it deals with
2 operational, it goes to the Deputy Director. If it
3 goes to policy, you know, things of that nature, it
4 tends to come over to me. That's how we sort of split
5 the world in the advice, you know, to the -- to the
6 Director.
7 Now, that being said, right -- like I said, I was
8 in a lot of these, almost all of these meetings on --
9 you know, so I'm -- I'm involved in investigative
10 stuff, you know, that might come up with the Director,
11 but usually as just sort of another set of ears for him
12 as he's being briefed. But the sort of operational
13 chain comes through the Deputy Director.
14 Q And so we understand that with respect to this
15 investigation in particular, there was kind of a core
16 group of executive-level staff who would meet regularly
17 with the Director.
18 A Correct.
19 Q So you would be part of that kind of core
20 group?
21 A Yes.
22 Q Can you identify some of the other individuals

1 who kind of are at that executive level who --

2 A Sure.

3 Q -- would meet regularly?

4 A Yeah. Absolutely. Yeah. And it -- and I

5 should say, so my involvement -- you know, I -- you

6 know, primarily it started when I became chief of

7 staff. So that sort of May 2015 time period.

8 And so -- right. So what we would call the core

9 team would be the Deputy Director, and that spanned to

10 during this time, so Mark Giuliano, and now Andy

11 McCabe, the -- the Associate Deputy Director, Dave

12 Bowdich was involved, the EAD's Executive Assistant

13 Director for National Security, that also spanned too

14 during this time, so John Jakolone [phonetic] and Mike

15 Steinbach.

16 Then there was the, what I would say would be the

17 counterintelligence, so the counterintelligence

18 division leadership. So that would have been Bill

19 Priestap.

20 Am I speaking too fast? Are you -- okay.

21 Bill Priestap, the lead agent, Pete Strzok, the

22 lead analyst, Jon Moffa; and that would be sort of

1 the -- on the operational side.

2 Then you had the lawyers. You had Jim Baker,

3 Trisha Anderson, [redacted] You had [redacted] from b6 b7C

4 the Deputy Director's office, and myself. I think that

5 would be the core -- the core team. There might be

6 folks that came in on the periphery right here and

7 there, but that -- I would say that constituted the

8 core team.

9 Q And were they -- were all of those executive-

10 level staff, were they also part of kind of the mid-

11 year exam team or was that something separate?

12 A I would say you -- you would consider it

13 separate, I think. So there was a whole separate team

14 under the counterintelligence operational side, so

15 under the Pete and John, right, working the actual

16 case, and then these were the folks that would come up

17 to brief and then to -- for decision points.

18 And the briefing cadence, as I recall, went for

19 the Director, I don't know about the Deputy or others,

20 was about once a month, you know, from the onset

21 through, I want to say spring. I don't have a great

22 time. Then it went to about every two weeks briefing,

1 and then it became about a week as it -- as things got
2 closer and closer.
3 Q And this is spring of 2016?
4 A Spring of 2016, yes. Yeah.
5 Q And so at some point the team, the actual
6 investigative team, did they make a recommendation
7 about the findings of the investigation?
8 A Yes. I would say it was both -- I would say
9 it was ongoing, so as they briefed him on sort of the
10 progress and what they were doing, there was sort of,
11 not recommendations, but just a sense of where things
12 were going all along and then a recommendation at the
13 end as well.
14 Q And when was that actual recommendation made?
15 A I don't have a specific date in my head.
16 Again, through the spring and into that July
17 announcement, it became clear as to what they were
18 finding and who they were interviewing, and that as we
19 were sort of contemplating that, and so I don't recall
20 a specific date where, you know, where a recommendation
21 came down. I do recall after Secretary Clinton was
22 interviewed, that was a -- I believe that was a

1 Saturday. Let's see, the 5th was a Tuesday, holiday
2 was the 4th. I believe it was Saturday. It was that
3 weekend. After her interview -- I'm almost positive it
4 was a Saturday -- after her interview, a conference
5 call was convened amongst that team, I believe it was
6 most of those, if not all of those participants, where
7 it was -- I'm talking about the announcement at that
8 point, where it was decided that this is what would go
9 forward.
10 And I should add, you know, it was also known
11 through our team, we knew what the recommendations of
12 the Department of Justice were as well. So, you know,
13 it sometimes gets confusing between sort of our team
14 and then DOJ, you know, the mid-year team generally,
15 and then the Department of Justice prosecutors and
16 folks working on it. They -- they also -- DOJ also was
17 talking to our folks at sort of the Pete and the John
18 level as well, so we knew their -- where they were
19 thinking about the case sort of throughout. Does that
20 make sense?
21 Q It does.
22 A In other words, so when the Director made his

1 announcement on July 5th, we knew that that would not
2 be surprising to the prosecutors, that that's where
3 they were headed as well.
4 Q So let me back up for a second. At what point
5 were the DOJ prosecutors kind of pulled into the
6 conversations about the outcome of the investigation?
7 A I would say -- so I want to be careful. I'm
8 going -- there were -- I was talking about the outcome
9 of the investigation and then how to describe it,
10 right? I just want to make sure I'm --
11 Q Well, let's talk about both.
12 A Sure.
13 Q Let's first talk about the outcome of the
14 investigation. When -- you know, when were they first
15 told, you know, or, I guess, brought -- like I said,
16 brought into the conversation about the outcome of the
17 investigation?
18 A I think it was iterative throughout, you know,
19 as -- you know, again, just as we were, I think, you
20 know, they were talking back and forth about, you know,
21 what they're seeing, what they're finding as they're
22 reviewing these emails, as they're interviewing folks.

1 And so I think they were -- I think they would say it
2 was collaborative all along, right, of -- of -- you
3 know, what -- you know, what charges might be brought,
4 those kind of things.
5 Q Were -- were DOJ prosecutors part of the mid-
6 year team?
7 A Yes.
8 Q Oh, okay.
9 A Yes. Well, I -- right. Not -- so, again, we
10 had that group here, right, the mid-year team, as we
11 would call it. So if you were to ask Department of
12 Justice, I don't think they would say they were on the
13 investigative team, but they were -- I mean, it's as if
14 there was a mid-year team and a mid-year team there
15 working, you know, hand in glove on all of these
16 things.
17 And that would have been at the NSD George
18 Toscas -- I don't know if -- George Toscas is the head
19 of -- he's the DAAG for counterterrorism and
20 counterespionage, and he is the counterespionage
21 section under him.
22 MS. GALINDO-MARRONE: And he's a DOJ?

1 THE WITNESS: He's a DOJ, correct.

2 MS. GALINDO-MARRONE: And so he would have

3 been their mid-year team?

4 THE WITNESS: Yes.

5 MS. GALINDO-MARRONE: Part of their mid-year

6 team collaborating, working side by side with the

7 FBI folks that were part of the mid-year team on

8 this side?

9 THE WITNESS: Exactly. He would probably

10 be -- the levels don't quite match up. He would

11 be just one tick above Pete and John, right? So

12 David Laufman was the head of the counterespionage

13 section. He would probably be the equivalent of

14 the Pete and John, if you were to sort of try to

15 marry up the levels on the two sides.

16 Q So was there anyone from DOJ present during

17 the meetings of like the executive-level staff, like

18 those kind of regular meetings?

19 A No.

20 Q Okay. So we kind of -- so we kind of

21 separated in terms of DOJ. We talked about outcome of

22 the investigation, then -- well, I guess before --

1 before we get to their involvement with the statement
2 or -- how did -- how did the statement -- I guess the
3 idea of the statement come about?
4 A Sure. We're talking about July 5th, correct?
5 Q Yes. I'm sorry. July 5th.
6 A The -- so in the -- sometime in the spring --
7 again, I don't remember exactly when, I -- early spring
8 I would say, the Director emailed a couple of folks --
9 I can't remember exactly; I know I was on there,
10 probably the Deputy Director, not the full, what I'll
11 call the briefing group, but a subset of that -- to
12 say, you know, again knowing sort of where -- knowing
13 the direction the investigation is headed, right, what
14 would be the most forward-leaning thing we could do,
15 right, information that we could put out about it.
16 And -- and, you know, by that -- you know, so
17 that -- and he sent a draft around of, you know,
18 what - what it might look like. From there, that went
19 back to the team, right, sort of we talked about that.
20 Okay. So what is the -- knowing, you know, if I back
21 up, it might be a little disjointed, but hopefully it
22 goes to the same answer, right?

1 As he described it, right, his -- he had three
2 main goals in terms of talking about the investigation,
3 to make sure that the sort of integrity of the
4 investigation was, you know, was protected. That would
5 have been, you know, number one, the FBI, right? To
6 make sure that people knew that the FBI did exactly
7 what we should have done in the appropriate way, right,
8 as we would in any investigation.
9 The second, the Department of Justice were at
10 large. That people need to have confidence that the
11 decisions made by the Department of Justice in this
12 case were done, again, according to how they should be
13 and the way that's expected.
14 And then three, the system of justice sort of were
15 at large, right? That people have confidence in our
16 justice system, that it's applied fairly and equally.
17 Right?
18 And so that's what I mean by lean forward. How
19 can he -- you know, how can he communicate -- again,
20 this is not -- it's still ongoing, so it wasn't
21 contemplated putting anything out at that point, but at
22 the end, right, what does this look like and -- and

1 with whom, right? Because at that point, you know, it
2 could have been the AG going out alone describing this,
3 it could have been the Director going out alone
4 describing it, it could have been the two of them
5 together. You know, it could have been any
6 combination. But just what would a -- what would
7 information about this look like.
8 So that was the early spring.
9 Q Yeah. And I think we've seen maybe that email
10 where he sent it out, it was early May of 2016; does
11 that sound about right?
12 A That sounds right. That -- quite honestly,
13 that strikes me as a little late, but may --
14 Q Okay.
15 A -- but again, I definitely remember spring. I
16 had in my head like the April timeframe, but May
17 doesn't seem out of the -- out of the realm.
18 Q Well, let me ask, before -- before he sent out
19 this draft that he had written, had -- had the group,
20 the briefing group, had you discussed the idea of doing
21 something like this or was this kind of the first time
22 you've heard about it?

1 A I don't know the answer to that sitting here.
2 I -- you know, that group, we would frequently --
3 right, we would have the update, right, where we would
4 talk about it and the, you know, we would talk about
5 just hard issues like this. I don't remember if this
6 came up before he sent that email or not.
7 Q What about just between you and the Director,
8 had you talked about it before he sent around the
9 draft?
10 A I don't recall sitting here. We certainly
11 had -- certainly after he sent it I know we talked
12 about it. I -- I just don't recall if we talked about
13 it before.
14 Q And so at that point in time, whether it was
15 April or early May, the team hadn't yet interviewed
16 Secretary Clinton --
17 A Correct.
18 Q -- but was there -- I guess, based on what
19 you're saying, it sounds like there was an idea of
20 where the outcome of the investigation was going to go?
21 A Sure. There was a -- right, there was --
22 based on -- there were two things going on, the review

1 of the documents that they were finding, right, and we
2 were getting constant updates of how many -- how many
3 they were finding, how many might be classified, what
4 we were doing with them to deconflict. And then you
5 had interviews going on at the same time, and what were
6 people -- you know, what were people saying. And
7 between those two, right, it starts to funnel up,
8 right, of, okay, we see, you know, what a case might
9 look like, that kind of thing.
10 Q Was there any -- was there any desire to have
11 the investigation and all of this wrapped up prior to
12 the party conventions that summer?
13 A No. There was -- so the Director has always
14 said, right, we need to do it well and timely, but
15 always well first, right? And so I would say, right,
16 there was -- we certainly -- you know, you're aware of
17 everything out there, right, and you're -- you're --
18 people are on all sides are saying, you know, wrap this
19 up. I think it moved -- according to how it moved, I
20 think there was -- I remember talking about it, you
21 know, we don't want this to drag on for years, right,
22 so to the extent that we can, right, move it, you know,

1 expeditiously, move it quickly, right, get it done, we
2 should, but not at the expense of doing it well.
3 Right? We would always do it well first.
4 Q So --
5 MS. HAMRICK: Do you have a question?
6 MS. GALINDO-MARRONE: I do.
7 MS. HAMRICK: Go ahead.
8 MS. GALINDO-MARRONE: So I want to go back a
9 little bit --
10 THE WITNESS: Sure.
11 MS. GALINDO-MARRONE: -- just to clarify a
12 couple of things.
13 THE WITNESS: Yep.
14 MS. GALINDO-MARRONE: So going back to when
15 you were discussing the recommendation -- it seems
16 like you were being briefed initially about once a
17 month, the executive team.
18 THE WITNESS: Yep.
19 MS. GALINDO-MARRONE: And then as it got into
20 the spring of 2016, it seemed that it moved to
21 once a week.
22 THE WITNESS: Yeah, biweekly --

1 MS. GALINDO-MARRONE: About.

2 THE WITNESS: -- and then once a week, yep,

3 exactly.

4 MS. GALINDO-MARRONE: It seems that at some

5 point, if I understood what you were saying, a

6 final recommendation was made. It seems like it's

7 sort of intuitive. As the investigation is

8 progressing and you're being briefed, it seems

9 like this executive team sees where it's going.

10 But it seemed from your testimony that at some

11 point there's a final recommendation. Was there?

12 THE WITNESS: I think that's right. I mean,

13 I -- again, I struggle sitting here. I don't

14 think --

15 MS. GALINDO-MARRONE: Sure.

16 THE WITNESS: -- I can't think of a date where

17 we said, okay, you know.

18 MS. GALINDO-MARRONE: Okay.

19 THE WITNESS: But you're absolutely right. So

20 as it -- as it works its way up, you know, I

21 definitely remember -- so as we decided, right,

22 and we can do whatever order you want to get into.

1 MS. GALINDO-MARRONE: Sure.

2 THE WITNESS: Sort of events that led up to

3 why to do it July 5th --

4 MS. GALINDO-MARRONE: We'll go there in a

5 little bit.

6 THE WITNESS: -- right? But as we -- as it

7 led up to that time, there was definitely a sense

8 of, okay, we know now for sure, right? We started

9 -- you know, for instance, the Director would pull

10 together a chart of how many times that particular

11 statute was used and, you know, what legal

12 elements are required for it. And, you know,

13 there was -- so this was all sort of on iterative,

14 right?

15 MS. GALINDO-MARRONE: Okay.

16 THE WITNESS: Going on, we're talking through

17 it as interviews are happening. And then, right,

18 at some point we said, okay, we will -- and this

19 was before the Secretary Clinton interview,

20 whether it was a week before or whether it was --

21 I just -- I don't have it clear --

22 MS. GALINDO-MARRONE: Okay.

1 THE WITNESS: -- in my head, but I distinctly
2 remember conversations that, you know, okay, so we
3 will do this press conference on July 5th unless
4 Secretary Clinton -- [redacted] b5
5 [redacted]
6 -- in that interview. So that's why the sort
7 of call on that Saturday becomes important after
8 the interview. It was that sort of final check
9 of, okay, team, what did the interview -- right,
10 you know, what did the interview yield. They
11 talked about what the interview yielded. Is
12 everybody of the same mind that we can still have
13 -- we still have the same conclusion and we still
14 want to announce it in the same way. And there
15 was that sort of check.
16 MS. GALINDO-MARRONE: So let me break this
17 down a little bit.
18 THE WITNESS: Yep.
19 MS. GALINDO-MARRONE: Just -- so you believe
20 there may have been some sort of final
21 recommendation --
22 THE WITNESS: Yes.

1 MS. GALINDO-MARRONE: -- some time, it seems
2 like very late June or very early July, right?
3 THE WITNESS: I think that's fair, yep.
4 MS. GALINDO-MARRONE: Would this have been
5 oral or in writing?
6 THE WITNESS: That would have been oral to my
7 knowledge.
8 MS. GALINDO-MARRONE: And who would have been
9 making that recommendation?
10 THE WITNESS: So that would have been the team
11 coming out, right?
12 MS. GALINDO-MARRONE: The mid-year team?
13 THE WITNESS: The -- right. The execu --
14 well, correct. So it would have been the actual
15 mid-year team, the worker sort of level, the line
16 level, right? Making it to their executives,
17 right? That would then brief the Director.
18 MS. GALINDO-MARRONE: Okay.
19 THE WITNESS: Exactly.
20 MS. GALINDO-MARRONE: And so it sounds like
21 after Hillary Clinton's interview on July 2nd
22 there was this conference call that was convened.

1 And I just wanted to get a little bit better
2 understanding of that conference call, like who
3 convened it, who was on it --
4 THE WITNESS: Yep.
5 MS. GALINDO-MARRONE: -- and what was the
6 purpose of that call.
7 THE WITNESS: Absolutely. So it was -- I
8 can't remember who actually convened it. I might
9 have gotten the number. I would say probably me.
10 MS. GALINDO-MARRONE: Okay.
11 THE WITNESS: I just don't -- yeah --
12 MS. GALINDO-MARRONE: Okay.
13 THE WITNESS: -- it's likely it was me that
14 would set up the number and, you know, that kind
15 of thing.
16 MS. GALINDO-MARRONE: But who requested it?
17 Let's say, what would have prompted you to set up
18 that conference call?
19 THE WITNESS: I believe it was the Director
20 who said after, right, we'll have -- the interview
21 will happen that morning and then we will
22 reconvene the team, the briefing team.

1 MS. GALINDO-MARRONE: Okay.

2 THE WITNESS: And so it was -- to my

3 knowledge, it was everybody on that briefing team

4 at the time. Everybody --

5 MS. GALINDO-MARRONE: And when you mean

6 briefing team, it's the execu -- I just want to

7 make sure --

8 THE WITNESS: The executives. No, yeah,

9 absolutely.

10 MS. GALINDO-MARRONE: -- the executive --

11 THE WITNESS: The executive --

12 MS. GALINDO-MARRONE: -- team?

13 THE WITNESS: Yeah. Yeah.

14 MS. GALINDO-MARRONE: Okay. Is this briefing

15 team?

16 THE WITNESS: Exactly.

17 MS. GALINDO-MARRONE: Okay. Got it.

18 THE WITNESS: I'll call them that for now.

19 And so executive team meaning --

20 MS. GALINDO-MARRONE: Yes.

21 THE WITNESS: -- the people in that room, mid-

22 year team being the line level --

1 MS. GALINDO-MARRONE: Yes.

2 THE WITNESS: Okay. I'll make sure -- yep.

3 MS. GALINDO-MARRONE: And so you believe the

4 Director prompted you to set up this conference

5 call --

6 THE WITNESS: Correct.

7 MS. GALINDO-MARRONE: -- and who's -- who's on

8 this conference call?

9 THE WITNESS: So I would say it was everybody

10 on the executive team --

11 MS. GALINDO-MARRONE: The executive --

12 THE WITNESS: -- I can't think of anybody that

13 was missing from there. There is an off chance

14 that they were, but -- but it would have been --

15 MS. GALINDO-MARRONE: And is there anybody

16 from the mid-year team?

17 THE WITNESS: Not to my knowledge.

18 MS. GALINDO-MARRONE: Okay. So at some point,

19 I guess before this conference call, the mid-year

20 team has already communicated --

21 THE WITNESS: Correct.

22 MS. GALINDO-MARRONE: -- to -- at the

1 executive level their findings from the interview?
2 THE WITNESS: That's right. And, you know --
3 MS. GALINDO-MARRONE: Okay.
4 THE WITNESS: -- I should say, you know, so --
5 so John and Pete, I would consider them part of
6 both teams, right? They're both part of the mid-
7 year team --
8 MS. GALINDO-MARRONE: Yes.
9 THE WITNESS: -- and the executive team, so
10 that's the bridge, right?
11 MS. GALINDO-MARRONE: Okay.
12 THE WITNESS: And sort of the chain of command
13 goes up from the line level through John and Pete
14 to our AD --
15 MS. GALINDO-MARRONE: Yes.
16 THE WITNESS: -- or counterintelligence, Bill
17 Priestap. Did I mention him in that list earlier?
18 MS. GALINDO-MARRONE: Mm-hmm.
19 THE WITNESS: Okay. I just want to make sure.
20 To the EAD, to the Deputy, that's sort of the
21 chain of command.
22 MS. GALINDO-MARRONE: Okay.

1 THE WITNESS: So that -- that -- right, that
2 would all be -- so that -- Bill and John -- I'm
3 sorry, Pete and John would be the bridge between
4 the mid-year team and the executive team --
5 MS. GALINDO-MARRONE: Okay.
6 THE WITNESS: -- on there with
7 recommendations.
8 MS. GALINDO-MARRONE: And is there anybody
9 from DOJ on this conference call?
10 THE WITNESS: Not to my knowledge.
11 MS. GALINDO-MARRONE: Not to --
12 THE WITNESS: No. In fact, I know there was
13 not.
14 MS. GALINDO-MARRONE: Okay.
15 THE WITNESS: Yeah.
16 MS. GALINDO-MARRONE: And what, again, was the
17 purpose of the conference call?
18 THE WITNESS: So the purpose was to -- to talk
19 about the interview that had happened to see what
20 -- what it yielded, what discussion -- you know,
21 and again, [redacted]
22 [redacted] b5

1 [redacted] we would proceed as follows, you b5
2 know, with -- with the press conference that would
3 take place on July 5th.
4 MS. GALINDO-MARRONE: Okay. Okay.
5 THE WITNESS: Yeah. And I should say, you
6 know, at some point, right, the question was
7 asked, you know, about the recommenda -- so at the
8 executive briefing, asking about what the mid-year
9 team, the actual folks thought, and I can't
10 remember -- to say -- you know, so it was
11 basically unanimous that this is the course, sort
12 of recommendation as to charging or not charging
13 Secretary Clinton.
14 Now, whether they went around and polled
15 everybody, I don't think they did, right, but
16 nobody -- I know that they asked is there anybody
17 that has reservations about this, and nobody --
18 MS. GALINDO-MARRONE: And this is as to the
19 executive team as well as the mid-year team?
20 THE WITNESS: So this is -- I'm -- I was
21 relaying the mid-year team --
22 MS. GALINDO-MARRONE: Mid-year, got it.

1 THE WITNESS: Yeah.

2 MS. GALINDO-MARRONE: It was -- it was -- it

3 was, generally speaking, unanimous --

4 THE WITNESS: Correct.

5 MS. GALINDO-MARRONE: -- was the sense that --

6 THE WITNESS: Exactly.

7 MS. GALINDO-MARRONE: -- the executive team

8 had.

9 THE WITNESS: Correct.

10 MS. GALINDO-MARRONE: Okay.

11 THE WITNESS: That we took -- yes. Exactly.

12 MS. GALINDO-MARRONE: And then I just have --

13 and then I'll pass it back to you.

14 MS. HAMRICK: No. You're fine.

15 MS. GALINDO-MARRONE: When you were talking

16 about the email from the Director sometime in the

17 spring of 2016 about -- and that he emailed the

18 subset of the executive group --

19 THE WITNESS: Yep.

20 MS. GALINDO-MARRONE: -- about what would be

21 the most forward-leaning thing that, you know, we

22 could do, the FBI could do, seeing where this was

1 going. You then described -- because I was going
2 to ask what this forward-leaning thing language
3 means and you described the Director's goals, the
4 integrity of the FBI, confidence in DOJ big
5 picture and confidence in the justice system. And
6 as part of that explanation, you -- you seemed to
7 also say that part of this discussion was if there
8 was going to be a statement, who would deliver it.
9 Was it the Director, the Attorney General or the
10 Director and the Attorney General together.
11 THE WITNESS: Correct.
12 MS. GALINDO-MARRONE: So I just wanted to
13 confirm my understanding of that statement. So
14 when this discussion is happening, right, about
15 the statement and who's going -- if there's going
16 to be a statement, what it should say and who's
17 going to deliver it, in the initial discussions
18 there is consideration for the Attorney General
19 also being part of that?
20 THE WITNESS: Yes.
21 MS. GALINDO-MARRONE: Okay.
22 THE WITNESS: Yes. I mean, I don't -- as I

1 sit here, I can't remember a specific conversation
2 where it -- but it was -- at that point it was we
3 don't -- that would be the normal course, right,
4 the --
5 MS. GALINDO-MARRONE: Sure.
6 THE WITNESS: -- Attorney General going out,
7 right? So when I say the Attorney General doing
8 it, I would say that would be shorthand for what's
9 the normal thing --
10 MS. GALINDO-MARRONE: That we would --
11 THE WITNESS: -- that might be done, right?
12 MS. GALINDO-MARRONE: Okay.
13 THE WITNESS: You know, and so there may have
14 been discussions where we actually said the
15 Attorney General. I just -- I just remember at
16 that time, in describing that email, him saying,
17 look, just all options are on the table. We don't
18 know --
19 MS. GALINDO-MARRONE: Okay.
20 THE WITNESS: -- we don't know where -- what
21 the announcement will look like, right? We need
22 to start thinking about that.

1 MS. GALINDO-MARRONE: Okay.

2 Q And so -- so let's talk about the -- I guess

3 the beginnings of this -- this idea of this public

4 statement.

5 A Sure.

6 Q To your knowledge, was the -- was the original

7 idea of doing some kind of public statement, was it

8 Director Comey's idea?

9 A Yes.

10 Q Do you know if anyone, you know, suggested it

11 to him or did he come up on it -- come up with it all

12 on his own?

13 A I don't. I mean, I know he -- I remember

14 him -- I remember him bringing the idea forth. This

15 group, you know, if I could describe it a little bit,

16 the executive group, I mean it was a very -- it became

17 a group that became very comfortable sharing their --

18 honestly sharing ideas at the table. And so I

19 described it a little bit of, you know, there was

20 always the briefing, right, the substantive briefing

21 and then a discussion of any issues that are happening,

22 right? And so it became a great council, you know,

1 that people together were bringing up ideas, right?
2 And so that's why -- if I hesitate at all, that's the
3 only reason I say, because a lot of ideas were being
4 batted around, right? And there were people making
5 suggestions and talking about them, you know, and, you
6 know, that became especially important as we went to
7 the October/November timeframe, which I'm sure we'll
8 talk about.
9 Q Mm-hmm.
10 A You know, so I just preview that as, you know,
11 that -- that's very much how it worked, right? So if
12 an idea came out, then it's a team that became very
13 comfortable with saying, well, no, I wouldn't do that
14 for these reasons, right? That kind of thing.
15 Q Okay.
16 A So did I answer the question?
17 Q You did.
18 A Okay.
19 Q So we've gotten the sense that the idea of the
20 FBI Director, you know, making a public statement about
21 a case where there are going to be no charges
22 recommended, that that's not -- that's not standard

1 operating procedure. Would that -- is that a fair --
2 A Right. So he -- right. He generally does not
3 come out and talk about cases that we haven't charged,
4 you know.
5 Q So let me ask you, so before we get more into
6 that, can you kind of walk us through, like, what the
7 typical protocol is. If it's a case where the FBI has
8 investigated, the FBI is not -- doesn't see that there
9 are any criminal charges to be had --
10 A Sure.
11 Q -- what typically would then happen?
12 A Yeah. I guess it's -- I mean it varies so
13 much, I would say, right? You know, the typical would
14 be, right, we work an investigation -- and, again, you
15 know, I can't overemphasize these, because I think it
16 gets lost a little bit in the public. When we're
17 working an investigation, we are working very, very
18 closely with the Department of Justice, right? And so
19 whether that's a U.S. Attorney's Office or whether it's
20 a main Justice component like the National Security
21 Division or Criminal Division, right, decisions are --
22 and discussions are happening constantly between the

1 two, right?

2 And so that's -- I think that causes some

3 confusion even with this investigation. It's like,

4 well, what does it -- you know, as even reporters were

5 asking, well, what does the end look like on this

6 and -- and the question of, well, do you -- do you, you

7 know, type up a report and give it to him, right? You

8 know, it's very much like I describe where it's

9 iterative and, you know, the prosecutors are knowing

10 what the investigators are doing and they're talking

11 about it, right?

12 And so it would be too hard to generalize, you

13 know, what a -- what a particular case would look like.

14 I'm trying to think of like a notable case that might

15 help inform that, but I really can't off the top of my

16 head.

17 But, right, generally if we investigate something

18 and the Department of Justice agrees, and then it's

19 usually just, you know, nothing after that.

20 Q So is -- I mean, does -- does the FBI

21 typically make some kind of recommendation to the

22 Department of Justice?

1 A Sure. I think -- and, you know, that goes to
2 the iterative part, right? I mean, it's less formal, I
3 think, than folks know. It could be written.
4 Absolutely. You know, it could be that we want to
5 bring charges and the Department of Justice doesn't.
6 I've definitely known that to happen, right, where
7 we -- and we get a declination memo from a U.S.
8 Attorney's Office or something like that, right?
9 So it could be a lot of different things. It
10 could be a written recommendation, although I can't say
11 I've honestly put eyes on one of those, but I could
12 easily see it happening. Most -- most of the time,
13 like I said, it's -- the two sides are working together
14 so closely, they know and we would orally brief them,
15 right? That kind of thing.
16 You know, and the more -- you know, the more
17 complex the case, it could go up to higher levels,
18 right? It could get appealed too. You know, so if one
19 U.S. Attorney Office declines it, it could be brought
20 to another U.S. Attorney's Office. It could be brought
21 up sort of through the Departments of the Deputy
22 Attorney General. So there's just a lot of avenues

1 that you could go.

2 Q And so -- and you used that word

3 "declination." The declination is something that

4 DOJ --

5 A Correct.

6 Q -- would do, not the FBI, right?

7 A That's right. Correct.

8 Q So -- okay. So then let's go back to this

9 particular case, unless --

10 MS. HAMRICK: Did you have any questions about

11 that?

12 MS. GALINDO-MARRONE: No.

13 MS. HAMRICK: Okay.

14 Q So -- so going back to the July 5th statement.

15 So the Director sends out this draft, you know,

16 potential statement. I guess, what -- what happens in

17 the meantime? As the investigation's wrapping up, are

18 you discussing making the public statement, are you

19 discussing other options? Like what's going on in

20 these -- these executive-level meetings?

21 A Yeah. Sure. Right. At some point, like I

22 said, you know, they're, you know, sort of -- you know,

1 you get the update and then you sort of talk about next
2 steps. You know, and when that started to become more
3 serious discussions, right, I can't -- I don't have a
4 great picture sitting here, right, definitely. So the
5 Director sends out that email, right, there's some
6 discussion, but, you know, it would be -- definitely be
7 closer to the timeframe, you know, where we actually
8 start, okay, if this is the course we're going to go,
9 right, refining the script and things like that, right?
10 So -- so, right, that's happening as the -- as the
11 funnel sort of is happening, you know, we're getting a
12 better handle on the emails, more interviews are
13 happening, right, leading up to the final interview,
14 which would be with Secretary Clinton. You know,
15 that's all happening at one time, right? And these are
16 discussions are ongoing through that. And it would be,
17 you know, sort of the team discussion.
18 Q And so at what point -- at what point is DOJ
19 brought into the discussions about the public
20 statement? Because I think you mentioned earlier, you
21 know, we talked about kind of the operational side and
22 then the public.

1 A Yep.

2 Q So when -- how -- how early on is DOJ brought

3 into that conversation?

4 A So they were not aware that we were -- that we

5 were going to do the July 5th statement until he called

6 the Attorney General that morning. So the -- there was

7 definite -- so just naturally, because the prosecutors

8 are -- they're doing the same thing we are, right?

9 They see it -- they see it winding up and they're

10 asking our mid-year team, you know, okay, so what's the

11 end look like, right? So those conversations are

12 happening.

13 The Director met with the Deputy Attorney General.

14 He meets with her -- this was Deputy Attorney General

15 Yates. He met with her monthly. And I recall at the

16 end of one of those meetings them sort of discussing

17 sort of generally, right, you know, the -- where the

18 case is headed, right? But they didn't discuss sort of

19 the end, like what would happen.

20 So July 5th the Department of Justice did not know

21 that we were going to -- that we had a statement, that

22 did not review a statement and they didn't know it was

1 happening until that morning.

2 Q And what about the -- what about the career

3 prosecutors who were kind of involved along the way?

4 Did they have any idea that the Director was

5 considering making this public statement?

6 A No, it did not.

7 Q So were other options discussed?

8 A Yes.

9 Q So what were some of the other options that

10 were considered?

11 A Again, I think, you know, I think it goes back

12 to what I was talking about earlier, sort of the, you

13 know, say nothing, right? You know, defer -- you know,

14 send -- send our recommendation over to the Department

15 of Justice, right? Let -- let the Department of

16 Justice handle it. The -- I can easily see those being

17 discussed.

18 I can't -- I can't think of any other

19 specifically, but we -- yeah, we definitely discussed a

20 number of ways to -- of doing this.

21 Q So I guess maybe -- maybe before I ask you why

22 those options weren't chosen --

1 A Sure.

2 Q -- I guess, what is -- what is your kind of

3 understanding of why the Director decided to make the

4 statement that he did on July 5th?

5 A Sure. So I think -- number one, it goes back

6 to the sort of -- those three things I talked about,

7 right? You know, insuring the credibility of the

8 investigation, and that happens sort of in my mind, in

9 his mind, on that three levels, right? The credibility

10 of what the Bureau did, the credibility of what the

11 Department of Justice did, of which we're a part,

12 right? And then people's trust of the justice system

13 generally.

14 There were a number of things that occurred

15 throughout the investigation, which would -- could

16 potentially call into question any number of those

17 three things, right? And so I think the Director would

18 speak to number one, right, just off the bat there was

19 a lot of discussion with the Department of Justice

20 specifically telling us not to call it an

21 investigation, to call it a matter.

22 I think this was actually in a news story recently

1 I saw.

2 The -- so it was -- could have been perceived as

3 an effort to minimize the investigation, right? We

4 don't do anything other than investigate; that's what

5 the FBI does.

6 MS. GALINDO-MARRONE: Can I interrupt you for

7 a moment?

8 THE WITNESS: Certainly.

9 MS. GALINDO-MARRONE: So you're talking about

10 the -- the -- in terms of the instruction to call

11 it a matter and not an investigation.

12 THE WITNESS: Correct.

13 MS. GALINDO-MARRONE: This -- this happened in

14 the fall of 2015 or are we talking about --

15 THE WITNESS: Yes. Very early on.

16 MS. GALINDO-MARRONE: And is this a meeting

17 where Director Comey is with the Attorney General?

18 THE WITNESS: Yes.

19 MS. GALINDO-MARRONE: Is there anyone else

20 present? Were you present at that meeting?

21 THE WITNESS: I was, yeah.

22 MS. GALINDO-MARRONE: You were present?

1 THE WITNESS: Yes. There was -- I'm sorry, I
2 didn't mean to interrupt.
3 MS. GALINDO-MARRONE: No, no, that's okay.
4 And so what exactly was -- so the instruction came
5 from the Attorney General?
6 THE WITNESS: Correct.
7 MS. GALINDO-MARRONE: And what was that
8 instruction again?
9 THE WITNESS: It was -- so the -- both the
10 Director -- the Director I believe was going to
11 testify, as was the Attorney General. I think
12 that was the impetus for the meeting. They were
13 both going to have public appearances I believe on
14 the Hill. I'm almost positive both were on the
15 Hill. But they -- that was the purpose of the
16 meeting, they were both going to be on -- right --
17 be asked about this and we wanted to know what to
18 say about it.
19 And at that meeting the Attorney General,
20 after discussion, and there were many folks in the
21 room. I was there. There were I'm sure -- I'm
22 sure there were others from FBI, I just can't

1 remember, including the Deputy Director. Folks
2 from the National Security Division across the
3 street. And the direction from the Attorney
4 General was, you know, if asked, to call this a
5 matter instead of investigation.
6 MS. GALINDO-MARRONE: So I didn't mean to
7 interrupt. So you were giving other reasons. So
8 the first reason why the Director decided on the
9 July 5th statement was this incident in the fall
10 of 2015 where the Attorney General instructs the
11 Director --
12 THE WITNESS: That's right.
13 MS. GALINDO-MARRONE: -- to not call the
14 investigation and investigation, instead matter.
15 THE WITNESS: That's right.
16 MS. GALINDO-MARRONE: So what else led
17 Director Comey to his decision?
18 THE WITNESS: Sure. And I think that -- so
19 that sort of puts it in the mindset of, you know,
20 this could possibly be minimized, right? Now,
21 again, and there's so many external factors,
22 right, meaning like the swirl of the campaigns and

1 all that, that we just -- you know, again, the
2 concern was to protect the integrity of the
3 investigation, right? And so those things were
4 external, right, but it -- but it naturally comes
5 in of, right, that the public might feel as the
6 outcome of the investigation. Does that make
7 sense?
8 So it's the, you know, effort to minimize.
9 The next big thing is [redacted] b5
10 [redacted] I'll do -- I mean if you
11 just give me a moment, I'll try to see if I can
12 formulate a way to talk about it.
13 So the -- I don't think I can do it in a
14 way --
15 Q Okay.
16 A -- I just knowing --
17 Q [redacted] b5
18 [redacted]
19
20 A Yes. Yeah. It was something I would, right,
21 goes to directly to sort of the second bucket that I
22 talked about, which is the credibility of the

1 [redacted] b5

2 [redacted] And I just -- I don't want to go beyond

3 there, if that's okay --

4 Q That's fine. Absolutely.

5 A -- for classified. We're certainly willing to

6 talk about it if you got the clearances and, you

7 know --

8 Q No. And our -- the Associate Special Counsel,

9 he has just obtained his appropriate clearances --

10 A Okay.

11 Q -- so I believe he will be reviewing some

12 materials related to that --

13 A Okay.

14 Q -- so that he will at least be aware of it --

15 A Got it.

16 Q -- even though we will not.

17 A Okay. It's something that we --

18 MS. GALINDO-MARRONE: That makes it all very

19 odd.

20 THE WITNESS: It's something that we

21 documented here and that the Director has briefed

22 on the Hill and so --

1 Q [redacted] b5

2 A Correct.

3 Q Yes. We're --

4 A Yes.

5 Q [redacted]

6 A

7 [redacted] -- b5

8 Q Okay.

9 A -- [redacted]

10 MS. GALINDO-MARRONE: [redacted]

11 [redacted]

12 b5

13

14 THE WITNESS: It -- right. It was --

15 MS. GALINDO-MARRONE: -- [redacted]

16 THE WITNESS: Yes. [redacted]

17 [redacted]

18 b5

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20 MS. GALINDO-MARRONE: Okay.

21 THE WITNESS: Yes. Absolutely. And then the

22 -- oh, I'm sorry.

1 Q No, no. I was just going to say, so then
2 the -- was there a third item as well?
3 A Yes. So the third thing I would point to
4 would be the meeting with former Attorney General Lynch
5 and former President Clinton on the -- on the airplane
6 that previous week. That was probably the -- if there
7 was one event that sort of set, okay, this is -- this
8 is what we need to do now, that was the final -- oh,
9 there's other that played into it, but then there's the
10 final was that meeting. And, again, it goes to, you
11 know -- and then the former Attorney General saying
12 I'll defer to the FBI's recommendation, you know, with,
13 you know, those kinds of things.
14 That sort of set into motion the final, okay, this
15 is what we need to do and how to do it.
16 Q So -- okay. So in terms of, you know, other
17 options to accomplish the Director's goals, were there
18 any other viable options to kind of -- to end this
19 investigation and still achieve the Director's goals
20 that were considered?
21 A I mean, again, I have a recollection that we
22 talked about, you know, how -- again, how it might look

1 at the end, but this was determined sort of through
2 this process to be -- to be the best, the best way of
3 doing it.
4 Q What about, was there ever a discussion of,
5 you know, recommending that a special counsel be
6 appointed?
7 A I -- I don't have a specific recollection of
8 talking about it. I know that issue has -- was
9 generally out there and I'm worried that I'm sort of
10 conflating that with discussions in there. I would
11 find it -- I would find it likely that it was discussed
12 in the group, I just don't have any specific
13 recollection of that. I could see it -- I could see it
14 being discussed, in other words.
15 Q What about -- what --
16 A Oh, I'm sorry.
17 Q No. Go ahead.
18 A But, again, I go -- that would also not be the
19 FBI's determination. I would certainly -- you know, we
20 could -- we could say it, but that's a Department of
21 Justice determination.
22 Q Right. What about -- what about the idea of,

1 you know, sending a recommendation to DOJ and letting,
2 maybe not the Attorney General, but maybe letting the
3 career prosecutors make some kind of statement; was
4 that ever discussed?
5 A I don't -- I don't recall that specifically.
6 I think -- I think one of the reasons for not including
7 anybody at any level, the Department of Justice was to
8 provide some level of protection for that credibility
9 of the Department of Justice bucket, right? Meaning
10 this is the Bureau out there saying the conclusion of
11 the investigative side of it, right? Knowing that the
12 Attorney General still has the final say, right?
13 Remember, the Attorney General didn't recuse, she just
14 said we'll defer to the recommendation of the
15 Department of Justice. So this was merely making
16 public the recomm -- a recommendation that in normal
17 course would go over, formally, informally, to the
18 Department, right? This was merely making that public,
19 if that makes sense.
20 Q Do you think if -- if -- if that were to have
21 happened, if DOJ career prosecutor, so not the Attorney
22 General, but the career staff, if they were to be the

1 ones to have made, you know, some kind of statement
2 about the end of the investigation, do you think that
3 could have achieved the same -- the goals that Director
4 Comey will hope to achieve?
5 A I don't know. I don't recall specifically
6 talking about that at the time. I could -- I could
7 see, right, the -- in the eyes of the public, the
8 Department of Justice is the Department of Justice,
9 whether it's the Attorney General or whatever level,
10 right? And so I don't know that it's a -- would be a
11 meaningful distinction aside from taking the sort of
12 political leader out of it.
13 So -- so I don't know. I don't have a firm view
14 of that.
15 Q When you were meeting to discuss, you know,
16 the idea of making the statement on July 5th, were
17 there any -- did anyone have opposing views of why
18 maybe the statement wouldn't be a good idea, some kind
19 of cons that were discussed?
20 A There were definitely -- so there was no --
21 there was more robust discussion in the fall about
22 whether to send the letters than there was about the

1 July 5th discussion. So I don't remember anything
2 specific, right? I remember it's different than what
3 we normally do, right? I remember having to think long
4 and hard about it myself, of, okay, so -- right? And
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17 Q Did anyone express concern about the -- the
18 amount of detail that was in the statement and whether
19 that would -- is too much?
20 A Sure. Yeah, we definitely went back and forth
21 of, yeah, how much -- how much detail to provide.
22 Q Do you know why ultimately the Director

1 decided to keep the amount of detail in that he did?

2 A I think it was, you know, the team went back

3 and forth, you know, many drafts, many, you know, line

4 by line looking through that and that's ultimately

5 where we landed, you know, that -- you know, again,

6 everybody feeling comfortable with that -- with that

7 document.

8 Q So you mentioned --

9 b5

10 A Mm-hmm.

11 Q So was there some kind of legal review of the

12 statement before it was made?

13 A Yes.

14 Q And who would have been responsible for that?

15 A So we had the lawyer -- so our lawyers were in

16 every discussion from the general -- you know, the

17 general counsel almost I would say was at every

18 meeting, right? But we always had a lawyer in there,

19 either Jim Baker or Trisha Anderson or

20 Then we had come in. She is -- I don't know b5 b6 b7C

21 her exact title in OGC, but she is basically the

22

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5 Q Do you know whether the Hatch Act was ever
6 considered with respect to the public statement?
7 A I don't recall specifically talking about the
8 Hatch Act, especially in July. We'll talk about
9 October, right? It was in -- the Hatch Act is
10 mentioned in the election year sensitivities memo
11 that --
12 Q Right.
13 A -- I mean that we talked about in July, but I
14 don't remember a specific instance in talking about the
15 Hatch Act. And, again, it's kind of line -- it's kind
16 of like the fall because we weren't, in our view, doing
17 anything for purposes of the campaign or the election,
18 right? This was about the case that -- I don't recall
19 anything coming up about it.
20 Q So you mentioned the election year
21 sensitivities memo.
22 A Mm-hmm.

1 Q This is -- I think this is the memo you're
2 referring to. Just for the record, this is the
3 document with the Bate stamp that ends FBI 000012.
4 Is this the memo that you're referring to?
5 A Yes.
6 Q So --
7 A Now, I should say the -- I think it was 2016.
8 So I don't recall reviewing this for the July
9 announcement. I definitely reviewed it for the October
10 announcement --
11 Q Okay.
12 A [redacted] b5 Per OIP
13 [redacted] -- and the only reason
14 I'm -- I just want to make sure on the dates. He
15 didn't have a copy of it -- I'll jump forward, but I'm
16 sure we can go back.
17 I had asked him for -- this is October -- for any
18 policies that would sort of govern this. [redacted] b5 Per OIP
19 [redacted] -- this
20 is Matt Axelrod in the Office of the Deputy Attorney
21 General. He didn't have a copy of it with him, but he
22 said if you Google it, you know, it will come up. [redacted]

1 [redacted] b5 Per OIP

2 Q Okay.

3 [redacted] b5 Per OIP

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7 Q And so was this memo considered at all in the

8 legal review surrounding the July 5th statement?

9 A I don't recall reviewing this prior to the

10 July announcement. I don't -- I don't know if it -- I

11 don't know if the lawyers reviewed it as part of that

12 review. We were -- we were most interested in the

13 [redacted] but I don't know other -- I don't know b5

14 what else they considered.

15 Q In the discussions about making this July 5th

16 statement, was the potential impact on the presidential

17 election considered?

18 A For July 5th, I don't believe so. I mean it

19 was definitely discussed in October because of --

20 because of how close it was. I don't recall any

21 specific discussions about the election or its impact

22 in July. You know, again, not -- you know, not being

1 naïve, we knew we were operating, right, in this sort
2 of campaigning environment that was happening outside
3 of the walls here, but I don't -- I don't recall any
4 discussions where we talked about, you know, the impact
5 that this might have on a specific campaign.
6 Q Did you believe it would have an impact on the
7 election, you personally?
8 A I don't -- I don't think I considered it at
9 the time, especially as to July. It was -- yeah, I
10 don't -- I don't -- to me it was -- no matter how it
11 was announced, right, this was the ending of the
12 investigation and the timing was what it was. And so
13 whether it -- you know, it would just be -- again,
14 going back to the do it well and do it timely, this was
15 just the end, no matter who announced it, and that --
16 that was the -- you know, that was the end.
17 MS. HAMRICK: Do you have any questions before
18 I move on?
19 MS. GALINDO-MARRONE: Yeah. So I just want to
20 go back. I think that you had earlier said that
21 the DOJ did not know that the Director was going
22 to make the public statement until the morning of

1 July 5th.

2 THE WITNESS: Correct.

3 MS. GALINDO-MARRONE: How was DOJ informed?

4 THE WITNESS: The Director called. We had --

5 I think probably in the documents that you all

6 might have seen we had a checklist for what to do

7 that morning. And the Director called the

8 Attorney General as well as the Deputy Attorney

9 General.

10 MS. GALINDO-MARRONE: So was it one call and

11 they were all --

12 THE WITNESS: Two calls.

13 MS. GALINDO-MARRONE: Two separate calls?

14 THE WITNESS: Yeah. We had some -- there were

15 connection issues, you know, best laid government

16 plans. It was hard getting in touch with

17 everybody. There were two calls.

18 MS. GALINDO-MARRONE: And who else was on the

19 call besides Director Comey and the DAG or the

20 Attorney General?

21 THE WITNESS: That is it. My recollection is

22 that the Director made them both from my office

1 because of the way we had to connect them. So I -
2 - I believe -- I'm having trouble remembering the
3 DAG call, but the AG call I definitely remember.
4 MS. GALINDO-MARRONE: Okay.
5 THE WITNESS: And he told -- he told her what
6 he was about to do and said something to the
7 effect of "I hope you understand why I'm doing it
8 this way." She attempted to ask one follow-up
9 question. I don't recall what that was. And he
10 said, "I'm sorry, I can't answer that."
11 MS. GALINDO-MARRONE: So you were on the call?
12 THE WITNESS: I was not on the phone --
13 MS. GALINDO-MARRONE: But you could hear what
14 the Director was saying?
15 THE WITNESS: Correct.
16 MS. GALINDO-MARRONE: Okay.
17 THE WITNESS: Yeah.
18 MS. GALINDO-MARRONE: Would you have been
19 present for the call with the Deputy Attorney
20 General as well?
21 THE WITNESS: I think that's right. Yeah, and
22 here's why I hesitate. We're even going back

1 putting this all back together with the Director.
2 We -- we were all struggling to remember the DAG
3 call for some reason, not because there -- there
4 was this weird -- the call through the Justice
5 Command Center, the message got garbled and so the
6 Deputy Attorney General thought that I was
7 calling, Jim Rybicki, instead of Jim Comey was
8 calling for -- you know, I don't -- I don't call
9 the DAG. So she had her staff call me back and it
10 got -- and so we were trouble just remembering,
11 okay, when did actually the Director and the DAG
12 speak.
13 MS. GALINDO-MARRONE: I see.
14 THE WITNESS: But, you know, we consider the
15 AG to be the -- that's the notification to DOJ.
16 MS. GALINDO-MARRONE: Okay. And did Director
17 Comey, when he spoke to the Attorney General, who
18 I believe is his boss, right --
19 THE WITNESS: Right. He --
20 MS. GALINDO-MARRONE: -- in the chain of
21 command?
22 THE WITNESS: -- he reports directly to the

1 Deputy Attorney General.

2 MS. GALINDO-MARRONE: Oh, okay.

3 THE WITNESS: Yeah, that's how the -- the

4 department org chart works.

5 MS. GALINDO-MARRONE: Did either of them, the

6 DAG or the Attorney General, instruct him not to

7 make the public statement?

8 THE WITNESS: No.

9 MS. GALINDO-MARRONE: Okay. And then I wanted

10 to go back to the meeting that I believe you were

11 present back in the fall of 2015 when the Attorney

12 General instructed Comey --

13 THE WITNESS: Yes.

14 MS. GALINDO-MARRONE: -- to call -- not to

15 call the investigation an investigation, but a

16 matter.

17 THE WITNESS: Yes.

18 MS. GALINDO-MARRONE: Any other FBI cases

19 where a similar instruction was given by the

20 Attorney General to not call an investigation an

21 investigation?

22 THE WITNESS: Not at that time -- not at that

1 meeting and not to my knowledge.

2 MS. GALINDO-MARRONE: Okay. And what did you

3 think of that instruction?

4 THE WITNESS: I thought it was -- I thought it

5 was odd. I thought it was, again, you know,

6 remember here we were dealing with a public

7 referral from the ICIG, right, so this was an

8 investigation that, you know, while we hadn't

9 acknowledged it, people knew it was happening. I

10 believe Secretary Clinton acknowledges it herself,

11 right? So we were in this weird space, and I

12 remember talking to the director over here of, you

13 know, it's just -- you will -- you, the

14 Department, will -- the FBI, will all lose

15 credibility if you go up to the Hill and say, you

16 know, we're not doing this, right? It just -- it

17 -- it -- at some point, right, it doesn't make

18 sense. And the -- the DOJ media guidelines,

19 right, contemplate various situations where you

20 can talk about -- can talk about pending matters,

21 right, if, you know, there's a, you know,

22 pertinent -- serious -- I don't -- I don't know

1 all of them verbatim, but, you know, if there's a
2 serious public safety, you know, there's a
3 murderer on the loose, you can talk about it. For
4 extreme public interest, right? You know, so
5 there's -- it contemplates things like that. And
6 so that was part of the process, was to go to the
7 Attorney General and say, look, we need to at
8 least acknowledge that we're doing this so as to
9 not lose credibility. And so I remember thinking
10 at the time that it was just odd that we would not
11 -- that we would not talk about it.
12 And, in fact, again, I think it was that same
13 article, which I detest leaks, but the -- I
14 remember George Toscas talking about in that
15 meeting, joking that we're -- you know, we're not
16 the Federal Bureau of Matters instead of the
17 Federal Bureau of Investigation, right? So in
18 everybody's mind it was like, hmm, this is -- you
19 know.
20 MS. GALINDO-MARRONE: And did -- did the
21 Attorney General in that meeting explain why she
22 was instructing that this thing that you were all

1 doing not be called an investigation?

2 THE WITNESS: I don't -- I don't recall

3 specifically.

4 MS. GALINDO-MARRONE: Okay. Okay.

5 Q So we're going to fast forward to October of

6 2016. I guess at some point you found out or you

7 learned that there -- there had been some new evidence

8 discovered that might be related to the Hillary Clinton

9 email investigation?

10 A Correct. So on October 27th -- so the -- on

11 the night of the 26th I was contacted by the Deputy

12 Director's Office, so the operational side of the

13 House, saying we need to -- we need to brief the

14 Director tomorrow about a -- a -- I can't remember how

15 they described it, but basically something related to

16 mid-year exam, this was called an update, which we

17 need -- we'll need his attention first thing in the

18 morning. So we set that up for the morning of the

19 27th, and the team, the executive team reassembled to

20 brief the Director on, you know, sort of what unfolded.

21 The finding of this laptop in an unrelated criminal

22 investigation.

1 Q And so what was the Director told?

2 A Sure. So he was told, we have this -- in the

3 unrelated criminal investigation, I'm only -- I just

4 can't remember what's public on that and not, so I

5 think he's talked about it, so if it seems weird, just

6 tell me and I'll -- in an unrelated criminal

7 investigation they found a laptop and in the course of

8 reviewing that laptop, they identified what could have

9 [redacted]

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20 And, again, that's a -- you know, you could say,

21 well, the rest of the emails from the original mid-year

22 didn't show anything, right, so why would this be any

1 different? In our view, [redacted]
2 [redacted]
3 [redacted] b7E
4 [redacted] And so
5 the Director -- tell me if you want -- do you want me
6 to tell the story?
7 Q Yeah. Keep going.
8 A Okay. So -- so that's what he was told was on
9 there. So there were -- there was a decision point.
10 Do you want to authorize a search warrant or more
11 artfully, do you authorize us to go to the Department
12 of Justice to seek a search warrant to preview those
13 emails, and his answer to that was yes. So that was on
14 the 27th.
15 In that same meeting he said, okay, based on what
16 I've heard, I feel an obligation to supplement
17 having -- having spoken publically and having testified
18 on the Hill, so he -- remember, he testified in July
19 before House Oversight and Government Reform and in
20 September before House Judiciary. Having testified
21 those two times, he felt an obligation to supplement
22 his testimony to there because it was no longer true.

1 He said in July we've concluded the investigative
2 activity. That's no longer true if we authorize a
3 search warrant.
4 Q So -- okay. So with respect to the search
5 warrant, was there any discussion of the timing of
6 seeking this search warrant?
7 A There was. In that meeting it was represented
8 by -- that the investigation -- the investigative team
9 felt that it was important that we do it now. They
10 also indicated that the Department of Justice had
11 agreed as well.
12 Q Was there any discussion about just holding
13 off until the election is over and then get it?
14 A I -- I don't recall that specifically. I
15 do -- right, I do remember timing being discussed. No.
16 I would -- there was -- I don't recall anybody
17 advocating that we should hold off on the actual search
18 warrant. There was discussion - I'm sure we'll get to
19 this next - about whether we should hold off talking
20 about it --
21 Q Okay.
22 A -- until after.

1 Q Do you know why the investigative team thought
2 that -- that the search warrant needed to be sought
3 now, like immediately?
4 A I don't know the answer to that. I don't.
5 Again, I remember them saying, though, that DOJ
6 concurred and in my mind that was, okay, if DOJ
7 concurred with that, then -- but I don't recall
8 specifically.
9 Q So going then to this obligation to supplement
10 his testimony, so what did -- and this is -- now this
11 is the executive staff that's discussing --
12 A Correct.
13 Q -- or executive team?
14 A Yeah.
15 Q So what -- what was discussed with respect to
16 making some kind of supplement to his testimony?
17 A Sure. So -- so once he said we have an
18 obligation to do that, then we -- okay, so what would
19 that look like, when would it look like, all -- all --
20 that was definitely all discussed, right, with people
21 saying we're way too close to the election to say
22 anything. You know, we -- if we do say something,

1 right, it should just say, you know, we're taking this
2 step and nothing else. You know, we should say more,
3 right? It was sort of the gamut.
4 Then -- and what would that look like? Does he
5 give another press conference? Does he, right, just
6 again, similar to July, what -- what would such a thing
7 look like? In the course of those discussions, Jim
8 Baker, our General Counsel, said I think the best
9 vehicle is a letter to the Hill.
10 Q And do you know what his reasoning was for
11 that?
12 A I don't specifically. I mean I -- I think it
13 was probably a combination of things, right? That's --
14 that's who you believe the obligation is to, right?
15 Because you gave sworn testimony up there. You know,
16 we -- again, we talked -- I can't remember all the
17 sequence, but like, you know, [redacted]
18 [redacted]
19 [redacted] b5
20 [redacted]
21 [redacted]
22 And so we talked a lot about that. We talked

1 about if we sent the letter, right, what would -- what
2 would happen, right? You know, there's a chance that
3 it doesn't become public, but it's the Hill, right, and
4 there's a good chance that it does become public,
5 right?
6 And so it was I think -- I think overarching. It
7 was the best chance of doing this as quietly as
8 possible while at the same time fulfilling the
9 obligation to the committees.
10 Q So you've kind of alluded to this, but was the
11 expectation that once it's sent to the Hill, it's
12 likely going to be made public?
13 A Sure. I think we -- right. We did
14 everything, I think, that we could, right, [redacted]
15 [redacted] b5
16 We just it just to chair and ranking of the -- of the,
17 I think it was four committees, our appropriators and
18 authorizers. And so I think it was the best chance of,
19 you know, fulfilling the obligation and, again, not --
20 not doing it public, but thinking that it may.
21 And, you know, to illustrate that point, we -- so
22 that the email that the Director sent to the workforce

1 about it, you know, I don't -- I can't remember if we
2 talked about this, right -- he frequently communicates
3 with the workforce, basically about big decisions. So
4 holidays and big decisions, those are the times he
5 emails the workforce. So, you know, you know, 15, 20
6 times a year the Director sends an email to the whole
7 workforce that he writes, he writes them himself.
8 And so this would obviously be a big decision.
9 What we talked about, and I can't remember if it was in
10 that meeting or subsequent to it, but before the letter
11 went out, we said, okay, we will do an email like we
12 normally do, but we're going to hold it and we're not
13 going to send it unless and until, right, if it comes
14 out, right?
15 So we said we will hold this in abeyance. You
16 know, so July, remember he sent the email and said I'm
17 walking downstairs to give this statement and put the
18 statement in, then he gave it. For October, we drafted
19 an email, had it all ready to go and said, nobody --
20 this will not go unless this becomes public by the
21 Hill. And we did not send it until after we saw it on
22 CNN, and then we said, okay, send it out to the

1 workforce. So they knew. Because it's important for
2 the Director if the FBI -- something big is happening
3 to the FBI that our workforce, who are all over the
4 world, right, know what's happening.
5 Q So did anyone express disagreement with
6 sending notification to Congress?
7 A Yes.
8 Q Who -- do you -- who specifically?
9 A I recall at times -- so two letters, I
10 remember there was more concern about the November
11 letter than the October letter, just generally. I
12 don't -- and I remember Jon Moffa being very concerned
13 about the November letter. I remember Trisha Anderson
14 raising with the October letter, you know, should -- as
15 we're -- as we're thinking about this, should we
16 consider that this could help elect Donald Trump
17 specifically. And Director saying, no, we can't -- we
18 can't consider that -- we consider that at all. We
19 can't consider it. It's just something that can't
20 enter our decision-making as we -- as we, you know,
21 figure out what we're doing here.
22 Q So at the point in time where the notification

1 goes over, was -- was everyone in agreement at that
2 point or was there still kind of some dissent in
3 that -- in that executive group that met?
4 A I think -- I don't know the answer to that. I
5 think -- so it might help if we talk about how it
6 evolved and then go back to that, if that's okay with
7 you.
8 Q Okay. Yeah, absolutely. Go ahead.
9 A Or -- or -- I can do it either way.
10 Q Yeah, that's fine.
11 A So Mr. Baker says we should send a letter to
12 the Hill. A lot of discussion on that, right? We then
13 set about to draft what that -- what that would look
14 like. And so a bunch of folks got together. I can't
15 remember who actually did the first draft. It might
16 have been [redacted] but it was somebody on the
17 executive team. It might have been [redacted] I just can't b6 b7C
18 remember now, did a first draft and people, you know,
19 iterated on that for a while.
20 So different from July, the Director directed me
21 to contact DOJ and have -- and tell them what we were
22 planning to do. So I called Matt Axelrod, who was the

1 PDAG, the Principal Associate Deputy Attorney General,
2 who's basically the DAG. So it was DAG Yates still,
3 her principal deputy. I called him and told him two
4 things. One, the Director authorized FBI seeking from
5 DOJ the search warrant. [redacted] b5 per OIP
6 [redacted]
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10 And then I said, and the Director feels like he
11 has an obligation to inform Congress that this
12 happening. [redacted] b5 Per OIP
13 [redacted] The initial reaction
14 from Matt was, you know, we just don't do this. It's
15 not -- right, it's -- we just don't do this. You know,
16 we can't. [redacted]
17 [redacted]
18 [redacted]
19 We had a series of phone calls that afternoon into
20 the evening, probably overnight. At one point I called
21 him and said, can you send me any policies that you
22 think are on point to why we should or should not do

1 this. [redacted] b5 Per OIP

2 [redacted]

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12 [redacted] -- is it okay if I --

13 Q Of course. Absolutely.

14 [redacted] b5 per OIP

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1 b5 per OIP

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13 And so I remember Matt actually -- so one of the

14 things it says to do, right, is to contact the Public

15 Integrity Section of the Criminal Division for further

16 guidance. I remember Matt actually called them b5 per OIP

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22 Q Do you know who he spoke with?

1 A I don't. I don't. I just -- as we were
2 walking through this, it was just one of those -- it
3 stands out in my mind that, hey, let me just call PIN,
4 you know, they call it PIN --
5 b5 per OIP
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1 [redacted] b5 per OIP
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6 And then I sort of -- I'm keeping the Director
7 informed at the same time. So when Matt and I would
8 speak, right, Matt -- we had this understanding, he
9 knew I was speaking for the Director and I knew he was
10 speaking for the Deputy Attorney General. That's the
11 relationship that we had that if -- if we were both
12 saying something, we knew we were speaking for our
13 principals. And so that whole time I'm keeping the
14 Director informed. I'm sure he's keeping the DAG and
15 other leadership informed over there. [redacted] b5 per OIP
16 [redacted]
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21 I remember asking Matt if either the AG or the
22 DAG -- well, and -- I'm sorry -- at some point Matt

1 came back later in the day, in that day or evening
2 saying, again, it's our strong view that this not be
3 sent. [redacted] b5 per OIP
4 [redacted]
5 [redacted]
6 I remember asking the -- I remember asking Matt if
7 the AG or the DAG wanted to speak to the Director about
8 this and he said no, didn't think it was necessary.
9 So -- so that we're -- you know, it's being
10 drafted. At some point the team -- I'm sorry -- the
11 executive team, minus the Director, minus the Deputy --
12 I'm trying to think who else -- so probably minus those
13 two. I remember gathering in a conference room down
14 the hallway here and we put what was then the sort of
15 operative statement or letter up on a screen and we
16 just went line by line through it, and everybody
17 talking about, you know -- you know, and it went from,
18 I think I alluded to it earlier, just we're taking an
19 investigative step, period, to, you know -- I'm
20 exaggerating -- three pages of a lot of detail back,
21 you know, back down to sort of where it got, which was
22 essentially a one-page, you know, statement. And a lot

1 of discussion from the executive team, again, minus the
2 Director and the Deputy, of, you know, how much detail,
3 like what is that -- what is the appropriate level of
4 detail to put in there. A lot of, lot of discussion
5 for hours on, you know, you know, what's appropriate to
6 put in this letter and how to not be alarmists, right,
7 and not to understate it. And so that was all
8 considered. And then at some point we came back to the
9 Director with that to sort of sign off on what a final
10 would look like. Again, that was happening sort of
11 Thursday into Friday.
12 So back to interactions with DOJ on that. [redacted] b5 per OIP
13 [redacted] I
14 believe I read the letter to Matt or at least the
15 substantial -- and I remember discussing with him and
16 George Toscas and others, you know, so they had spec --
17 they had recommendations on some things to put in. I
18 don't ultimately think we put them in, [redacted]
19 [redacted]
20 [redacted]
21 Q So let me back up for one second. You said
22 when you initially talked to Matt Axelrod that he --

1 you know, he said "we don't do this." When he was
2 saying "we don't do this," like what -- what
3 specifically was it that he was concerned about?
4 A I think it was -- I think it was do -- and,
5 you know, do something so visible close to the
6 election.
7 Q So it was the timing?
8 A It was the timing, yeah. I think it -- right,
9 I think he -- it was going to the -- yes, to the
10 timing.
11 Q What about --
12 A And also --
13 Q I'm sorry. Go ahead.
14 A I'm sorry. Just -- I would say probably to
15 some degree as well, just going back to Congress
16 supplementing in that way, right? Talking about --
17 because it went from being closed in July back to being
18 open. So I think it was -- a big part of it was that
19 as well, right?
20 Q And that was going to be my next question
21 is -- is was this a typical thing to do where an
22 investigation that's been wrapped up, but then you find

1 some new evidence potentially, is it typical that you
2 would let Congress know that that's occurring?
3 A Yeah. I think the short answer to that is no,
4 but in a typical case you probably -- you wouldn't have
5 testified about it, right? And so I think the
6 obligation becomes different at that point. So I think
7 you're absolutely right, the typical case on its own
8 without previous testimony or public statements about
9 it, no. But given that, right, then I think it does --
10 it becomes out of the -- out of the norm.
11 Q So is it fair to say that because the -- the
12 ending of the investigation was made so public, that
13 Director Comey felt the need to be public with the fact
14 that the investigation was, in fact, not ending?
15 A Well, I think it was -- you know, again, we --
16 we didn't make it -- we didn't make the October letter
17 public, right?
18 Q That's right.
19 A We sent it up there, and I think it was the --
20 it was both the testimony, right, so it was that he
21 testified of it under oath that -- and the fact that
22 that was public and the July public announcement, this

1 was out there and an investigative step was being
2 taken, right, that it was no longer true. So I think
3 that was the thing.
4 And, you know, the way I describe it to folks is,
5 you know, true, we don't normally comment at the
6 beginning of an investigation, right, which is what
7 some people think October would be, right? Okay,
8 you're taking a step, right? So you're here, you don't
9 comment on it. But the reality is we're all the way
10 over here at that point, right? You forget it's been
11 going on for a year, July happens, you're over here.
12 So it's not the typical opening where you're back at
13 the beginning.
14 Q So what about, you had mentioned earlier that
15 there wasn't -- there wasn't a discussion about the
16 timing so much of the search warrant, but that there
17 was a discussion about the timing of the notification
18 to Congress.
19 A Yep.
20 Q So what -- I guess, was it -- was it
21 considered that -- delaying the notification to
22 Congress?

1 A Well, I think -- yes. I think it was
2 considered. I think people's view was, you know,
3 number one, should we do it, right? Right? And then
4 if we do it, when do we do it. You know, and do we
5 know enough of what's there, right? Is it -- is it big
6 enough to send, right? And what would -- you know, if
7 other words, what would be the implication if we didn't
8 tell Congress, right? I remember a lot of discussion
9 about that, right? And then specifically, if the
10 election happens, right, and then we disclose it,
11 right? What -- what does that trigger, right? And so
12 I remember that all being discussed.
13 Q Okay. So I want to kind of break down --
14 A Sure.
15 Q -- some of those. Let me ask you first,
16 before we break those down. Was there any -- did you
17 discuss the idea of maybe kind of looking at some of
18 the emails first to see if there is anything new and
19 then deciding what to do about notifying Congress?
20 A I think the -- I don't remember if anybody
21 brought it up, but we couldn't. We didn't have a
22 search warrant to view those other emails. We had a --

1 so the FBI had authorization to look for certain things
2 in the unrelated investigation, but -- but once you
3 determine that it's in a separate category, we didn't
4 have authorization to do it. So we needed a search
5 warrant to do that.
6 Q But what about getting the search warrant,
7 getting the emails, taking a look and then going from
8 there, was that at all considered?
9 A I don't -- I don't remember if anybody brought
10 it up. It was the estimation of the team, though, at
11 the time that this process could take months and
12 months. You know, so there was no -- I remember being
13 briefed, like this will take three to four months
14 because of the volume that could potentially be on
15 there.
16 Q So -- okay. So then some of the other
17 options. Not -- not notifying Congress. You said the
18 ramifications of that were discussed. What were some
19 of the concerns about not -- just not notifying
20 Congress?
21 A I think -- I think the general view is, the
22 Director's view is that not to -- there was no option

1 to take no action, in other words, right? Any -- even
2 not telling Congress was an -- was an act of
3 concealing, was an act of -- because of the obligation
4 that he felt, it was an act of -- it was an action,
5 right, to withhold it from them. So I know that there
6 was discussion about that of like, you know, you know,
7 could we just wait, could we do nothing? You know, but
8 the general view was that even doing that was doing
9 something. And, right, I mean he's talked about it
10 publically, right? He saw two doors, right? You know,
11 you know, one was to, you know, send the letter, one
12 was to conceal, right? And both were terrible, right?
13 And he went with the option.
14 Q Right.
15 A The other thing I -- well, actually, I don't
16 know if it's relevant here, but just so I make sure I
17 say it, right? In my view, once the Director said that
18 he had the obligation to do it, in my mind, right, he's
19 the only one that could have made that decision, right?
20 He's the only one with the obligation. So nobody else
21 could really step into his shoes, right? And as I
22 thought about how I should counsel him about it, I --

1 because he felt a personal obligation, because of
2 testimony under oath, right, once he has made that
3 decision, right, it's really -- nobody else can -- it
4 would be hard to move him off of that because of the
5 personal obligation. Does that -- does that make
6 sense? I know it doesn't fit here, but just it --
7 because he's the only one that went up and testified,
8 right, it -- it's specific to him, right? So I just
9 think it's worth noting.
10 Q So what about -- what about waiting, what, are
11 we talking about like ten days until, 11 days? What
12 about waiting until after the election? Was that
13 discussed?
14 A I don't -- again, I don't remember a specific
15 discussion about that. I just -- I remember folks
16 talking about, right, this notion of even waiting is an
17 action, right? Even waiting, right, is doing
18 something, right? That -- it just wasn't appropriate.
19 Q So was the potential impact on the
20 presidential election discussed?
21 A I think -- yes. Yes. And Trisha Anderson
22 brought up, you know, could this elect Donald Trump,

1 and the Director said we just -- it would be improper
2 to consider that. We have to -- we have to deal with
3 the facts of this case, right? And so…
4 Q Did you think that sending the letter to
5 Congress would have an effect on the election?
6 A I don't re -- I think the short answer is no.
7 Again, I go back to July, right, it -- it is -- the
8 facts are what the facts are, right? We're an
9 independent organization living in a hyper-political
10 world, right? And so I knew that -- you know, I'm not
11 naïve enough to think that we operate in a vacuum,
12 right? But in a sense, we have to be independent. And
13 it was awful, right? I remember that briefing on the
14 27th being like this is just terrible, right? Because
15 we're stuck here, right? But it is what it is, right?
16 And, you know, given this obligation, and, again,
17 taking the steps that we did to -- you know, our best
18 chance at fulfilling the obligation and not making a
19 public statement, right, I think we did it as best we
20 could.
21 MS. HAMRICK: Do you have a follow-up?
22 MS. GALINDO-MARRONE: Yeah. I just have a

1 couple. So Trisha Anderson has come up several
2 times as someone that raised concerns about how
3 the October 28 letter might affect the election or
4 concerns about the election. Did anyone else
5 raise concerns about how the letter might affect
6 the election?
7 THE WITNESS: I'm sure they did. She --
8 that's the only one I remember vividly, but I'm
9 certain that others did --
10 MS. GALINDO-MARRONE: Okay.
11 THE WITNESS: -- as part of that discussion.
12 MS. GALINDO-MARRONE: But you don't remember
13 any of the other individuals --
14 THE WITNESS: I don't.
15 MS. GALINDO-MARRONE: -- that might have?
16 THE WITNESS: I don't. I mean, again, it
17 seemed very comfortable discussing these things.
18 I -- I just remember her bringing it up and so I -
19 - I would say it's very likely others weighed in
20 to both pro and con on that.
21 MS. GALINDO-MARRONE: Sure.
22 THE WITNESS: But I can't remember anybody

1 else.

2 MS. GALINDO-MARRONE: Okay. And so I -- and I

3 may have misunderstood something. When -- let me

4 see where my notes are.

5 When the decision is made, you know, DOJ

6 agrees, the search warrant is going to be issued,

7 and this is all happening real fast, right?

8 October 27th and the letter is the 28th.

9 THE WITNESS: Correct.

10 MS. GALINDO-MARRONE: Did I understand you

11 correctly, did the Director call the Attorney

12 General to let her know that he was going to be

13 sending some notification to Congress or did I --

14 THE WITNESS: Yeah. That's not correct. So I

15 --

16 MS. GALINDO-MARRONE: Okay.

17 THE WITNESS: He asked me to call --

18 MS. GALINDO-MARRONE: I see.

19 THE WITNESS: -- Matt Axelrod.

20 MS. GALINDO-MARRONE: So Matt -- so that's the

21 communication, it's between you --

22 THE WITNESS: Correct.

1 MS. GALINDO-MARRONE: -- and Matt Axelrod, the
2 Director did not speak to the Attorney General --
3 THE WITNESS: Correct.
4 MS. GALINDO-MARRONE: -- or the DAG about
5 this?
6 THE WITNESS: That's correct.
7 MS. GALINDO-MARRONE: Okay.
8 THE WITNESS: And I think I noted, right, he
9 was willing to. In fact, I offered to, you know,
10 should the Director and the AG and/or DAG speak,
11 and Matt said he didn't think that was necessary.
12 MS. GALINDO-MARRONE: Okay.
13 THE WITNESS: Which -- which led me to believe
14 they had both been briefed and -- right -- and
15 weren't -- weren't -- specifically were not saying
16 don't send it.
17 MS. GALINDO-MARRONE: Sure.
18 THE WITNESS: And that's one of the things we
19 talked about, what if the Department of Justice
20 says -- the AG or the DAG says, do not send this
21 letter, and they did not.
22 MS. GALINDO-MARRONE: Okay. But that did not

1 happen?

2 THE WITNESS: It did not happen.

3 MS. GALINDO-MARRONE: Okay.

4 THE WITNESS: Correct.

5 MS. GALINDO-MARRONE: So -- so in your con --

6 so you had several conversations, right, during

7 this 24-hour period with Matt?

8 THE WITNESS: Correct. Mm-hmm.

9 b5 per OIP

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14 MS. GALINDO-MARRONE: Sure.

15 b5 per OIP

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19 MS. GALINDO-MARRONE: Okay.

20 b5 per OIP

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1 [redacted] b5 per OIP

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5 MS. GALINDO-MARRONE: Okay.

6 [redacted] b5 per OIP

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16 MS. GALINDO-MARRONE: Mm-hmm.

17 [redacted] b5 per OIP

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1 [redacted] b5 per OIP

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3 MS. GALINDO-MARRONE: Sure.

4 THE WITNESS: And -- oh, I'm sorry.

5 MS. GALINDO-MARRONE: No, no. No. You can go

6 ahead.

7 THE WITNESS: I was just going to add, just

8 because I don't want to forget this, [redacted] b5 per OIP

9 [redacted]

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13 MS. GALINDO-MARRONE: So this is after October

14 28 --

15 THE WITNESS: Correct.

16 MS. GALINDO-MARRONE: -- you had this

17 conversation --

18 THE WITNESS: Yeah. Just, you know, sort of -

19 -

20 MS. GALINDO-MARRONE: -- with --

21 THE WITNESS: -- and it might have actually

22 been -- I can't re -- as you can imagine, that

1 time period is compressed down to an hour for me.
2 But I can't remember if it was after October 28th
3 or after the November letter, just talking about
4 sort of, okay, what happened during this period.
5 [redacted] b5 per OIP
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8 MS. GALINDO-MARRONE: Okay.
9 [redacted] b5 per OIP
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1 [redacted] b5 per OIP

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5 MS. GALINDO-MARRONE: So Jim Baker, he's the

6 General Counsel for the FBI.

7 THE WITNESS: Yep.

8 [redacted] b5 per OIP

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16 [redacted]

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b5 per FBI and OIP
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13
14 MS. GALINDO-MARRONE: Okay. And I had another
15 question. I'm sorry.
16 Maybe that was it. Oh. I did have one more
17 question, but I don't know if this is going to
18 work with where you were going or not. Let me ask
19 it and then see where it takes us.
20 So -- so you said early in the conversation
21 about the October 28 letter, I think -- when Erica
22 asked you about whether anyone expressed concerns

1 about the election, I believe you said something
2 to the effect that, yes, and I think you named
3 Trisha Anderson, she raised concerns about the
4 October letter, but that there were more concerns
5 about the November letter.
6 THE WITNESS: Yes.
7 MS. GALINDO-MARRONE: So are you going to --
8 are we --
9 MS. HAMRICK: Yeah, I was going to move to the
10 November letter.
11 MS. GALINDO-MARRONE: Okay.
12 MS. HAMRICK: But you can ask your question.
13 We can use that as our jumping off point.
14 MS. GALINDO-MARRONE: So -- so I'm just
15 curious because it seems like there was, at least
16 from DOJ, you've only identified Trisha Anderson
17 as being one of the folks on the FBI side that had
18 concerns.
19 THE WITNESS: Sure.
20 MS. GALINDO-MARRONE: But in terms of DOJ, it
21 seems like there's concern there expressed through
22 Matt --

1 THE WITNESS: Oh, absolutely.

2 MS. GALINDO-MARRONE: -- about the October 28

3 letter. But you believe there was even more

4 concern about the November letter?

5 THE WITNESS: No. I'm sorry. When I -- when

6 I was answering that question I was only speaking

7 to the FBI concerns.

8 MS. GALINDO-MARRONE: Oh, okay. Okay.

9 THE WITNESS: Yes. Sorry if I caused

10 confusion.

11 MS. GALINDO-MARRONE: So that's to the FBI?

12 THE WITNESS: Yes.

13 MS. GALINDO-MARRONE: So -- so on the FBI

14 side, your sense of everything that you were

15 observing and the meetings that you were involved

16 in, there was more concern about the November

17 letter than the October 28th letter?

18 THE WITNESS: For the --

19 MS. GALINDO-MARRONE: Dealing with the

20 election, the concern that we're -- you know, what

21 obviously we're talking about is election

22 concerns.

1 THE WITNESS: I think it's the other way. I
2 think for the Bureau I think there was more
3 concern about the November letter.
4 MS. GALINDO-MARRONE: Okay. Yes.
5 THE WITNESS: Is that what you're saying?
6 MS. GALINDO-MARRONE: Yes. Yes.
7 THE WITNESS: I'm sorry.
8 MS. GALINDO-MARRONE: No, no. That's fine.
9 THE WITNESS: Yeah.
10 MS. GALINDO-MARRONE: About the November
11 letter, there was more concern --
12 THE WITNESS: Yes.
13 MS. GALINDO-MARRONE: -- on the FBI side --
14 THE WITNESS: I believe --
15 MS. GALINDO-MARRONE: -- about the November --
16 THE WITNESS: And, again, that's just based on
17 sort of atmospheric -- I can't point to anything,
18 it's just a feeling of, right, just my -- how I
19 perceived it.
20 MS. GALINDO-MARRONE: Okay. And you express -
21 - I think you said Jon Moffa was --
22 THE WITNESS: Mm-hmm.

1 MS. GALINDO-MARRONE: Anybody else, like Mike
2 Steinbach, was he concerned about the November
3 letter as well?
4 THE WITNESS: Mike was on the phone. Mike was
5 -- we had him piped him to the room on the phone.
6 I just can't remember if that was for the -- so we
7 did the identical thing, which is why I'm getting
8 confused --
9 MS. GALINDO-MARRONE: That's okay.
10 THE WITNESS: -- for the October and the
11 November letter we sat in the same conference
12 room, put the statements up on the screen, right,
13 did the same thing. I don't remember it's
14 possible.
15 MS. GALINDO-MARRONE: Okay.
16 THE WITNESS: For some reason, just like
17 Trisha for the October one, Moffa stands as the --
18 maybe the launching point for the discussion, so
19 that's why it sticks out to me. But you're
20 absolutely right, I think from the DOJ
21 perspective, I think there was much more concern
22 about the October letter --

1 MS. GALINDO-MARRONE: Okay.

2 THE WITNESS: -- than the November letter.

3 MS. GALINDO-MARRONE: And I remembered my

4 question. This is good that I went ahead a little

5 bit because I remember.

6 So in your -- going back to the conversations

7 with Matt. So Matt says at one point that he is

8 going to consult -- pursuant to the election year

9 sensitivities memo, he is going to consult with

10 the Public Integrity Division.

11 THE WITNESS: Correct.

12 MS. GALINDO-MARRONE: And did he ever get back

13 to you on what they said?

14 THE WITNESS: Yeah. My recollection is -- so

15 I don't think he took it as a -- it couldn't have

16 been a formal consult because we couldn't give

17 them the facts of the case. What he said was, let

18 me just call informally. He used to work in the

19 criminal division, that's my recollection, so I'm

20 sure he just knew folks. I think he said let me

21 just call and see what the factors are, what they

22 might consider.

1 MS. GALINDO-MARRONE: Mm-hmm.

2 THE WITNESS: And, again, I don't remember

3 him -- I'm sure we talked after that, I just don't

4 remember specifically. Okay, PIN said X, and I

5 wouldn't expect that it would be anything really

6 instructive without the facts, right? Because

7 there was too much out there, and I'm sure we

8 talked about it, but you just don't remember that

9 being a big thing, another thing that doesn't

10 really fit here, but in terms of did he violate

11 policies, did he violate practice and stuff like

12 that, one of the things we talk about here is,

13 okay, so the election year sensitivity memo, it

14 doesn't say don't take any action, it says what to

15 do if you need to take action, right? And in the

16 case of election crimes, it says to call PIN. We

17 were calling the Deputy Attorney General's Office,

18 we were doing well above and beyond. We're going

19 to the top to say this is what we need to do. In

20 that respect, we were fulfilling the spirit of the

21 guidance, which is, you know, unlike July where we

22 had to do something different, without talking to

1 him, for October, we're saying this is what we
2 need to do, right? We're consulting with you,
3 right? And they could have said no, I don't know
4 what would happen after that, right, where we go
5 from there, but we could have been ordered not to
6 do it, is one of the key things, I think.
7 MS. GALINDO-MARRONE: Do you think -- does he
8 need a break or --
9 MS. HAMRICK: Do you need a break?
10 THE WITNESS: I'm okay. But -- I'm mean --
11 MS. GALINDO-MARRONE: Do you need a break?
12 MS. HAMRICK: No, I don't.
13 THE WITNESS: You're welcome to stop for a
14 minute, if you --
15 MS. HAMRICK: No, we're good. We're good.
16 Q. So, actually before we get to the November 6th
17 letter, I do want to ask some questions about the
18 October 28th email that the Director sent.
19 A. Sure.
20 Q. I'm just going to give you a copy in case you
21 want to look at it.
22 A. Thank you.

1 Q. You kind of alluded already a little bit to
2 it, I think you said that, you know, the Director was
3 -- any kind of big decision point or, you know, big
4 thing going on at the FBI and holidays, he would email
5 all the staff and you've explained how this didn't go
6 out until the Director became aware that the
7 notification of congress had been reported on --
8 A. Yes.
9 Q. -- CNN?
10 A. Yep.
11 Q. A couple of things, were you at all involved
12 in drafting this email?
13 A. Yes.
14 Q. Okay.
15 A. I should say he drafts them and I would say
16 I'm involved in the editing of it.
17 Q. In the editing?
18 A. Yeah.
19 Q. Okay. Okay. So there are a couple of
20 questions in terms of the language of the email that I
21 wanted to ask about. You know, he in the -- let's see.
22 In the second paragraph, he talked about not wanting to

1 create a misleading impression. What is -- what is he
2 trying to say there about creating a misleading
3 impression? What's your understanding of what he is
4 saying?
5 A. Mm-hmm. I mean, my best read would be that he
6 said the FBI is taking -- in July taking no further
7 investigative steps. And now that we were going to --
8 in the search warrant in October, that it would -- that
9 that's no longer accurate.
10 Q. And then what about the next statement there,
11 he says, you know, in trying to strike that balance in
12 a brief letter in the middle of an election season
13 there is a significant risk of being misunderstood.
14 That reference to, you know, the middle of an election
15 season and being misunderstood, what is your
16 understanding of what the Director is trying to say
17 there?
18 A. Sure. I think that -- I think he's probably
19 alluding to what I tried to capture, which is this -- a
20 lot is happening outside of this building, right, and
21 sort of, you know, the election or with the campaigns
22 and the election, right, and so we are operating as an

1 independent institution in the middle of that. And
2 there is again, you know, it really sucked having this
3 come up on the 27th and knowing what we had to do,
4 right? And so there's a -- no matter what we do,
5 right, if we put out that one sentence that we talked
6 about if, we put out the three, four pages, it's going
7 to be potentially misunderstood. That's where I think
8 he would be what he would be speaking to there.
9 Q. Okay. So then moving on. At some point in
10 time you find out that the investigative team has
11 finished their review of all these thousands of emails?
12 A. Sure.
13 Q. When does that happen?
14 A. Yeah. So let me walk you through. So a
15 letter goes out on the 28th, that's a Friday, I
16 believe, right? Thursday, Friday. Yeah. Right. At
17 some point I would say early the next week. So there's
18 an a lot of stuff there and we're getting updates from
19 the team of this is what we're finding, there's a lot
20 of sort of technical things that have to happen, which
21 is what we saw in the original mid-year, right? A lot
22 of -- this is where I get way out of my lane in techno

1 expertise, [redacted] b7E

2 [redacted]

3

4

5

6 [redacted] There's a -- I hesitate this might be

7 classified. I want to think of a way to say it.

8 Because of Ms. Abedin's -- because of the address that

9 she's communicating with, it makes a typical search

10 very complicated. So it wouldn't be the ordinary, you

11 know, search for [redacted] because of -- I b6 b7C

12 think because of another thing that might be

13 classified. I'm not sure, so I'm going to stay away

14 from it. It's okay, but it made the -- it made looking

15 for the emails that we would be concerned about very

16 difficult. And our folks -- it's called OTD,

17 Operational Technology Division at Quantico, they

18 always Bing people, they were able to create a tool to

19 make it so they could search. And so what they had to

20 do was -- I'll just give you an example. It would be

21 as if you were searching for the word "of," right, in

22 an email. There's just no way you can -- that's not a

1 meaningful search. And so the OTD folks developed a
2 tool that made it so if we were searching for "of" it
3 would get you exactly what you needed. So that's why
4 we thought it would take, or the team thought it would
5 take months and months and months because they didn't
6 think this tool -- this would work. So they start
7 their reviewing, OTD comes up with this tool that can
8 test the tool to make sure it's actually giving back
9 what they think it's yielding, actually exactly what
10 they think it's going to yield. So at some point in
11 that vehicle it becomes, you know, it's optimistic
12 that, okay, this isn't as bad, right, it's no longer
13 here, we've got it down to here. It's getting down to
14 here, right? So it becomes more manageable, right?
15 And so then again, the marching orders are still, you
16 know, do it well first, right, and then timely, right?
17 You do what you can do.
18 The -- so that would get you to like mid to late
19 week that next week, all right. At some point
20 Friday -- I don't want to give dates because I'm a
21 little foggy on them. Late week it becomes evident
22 that it might be possible for this scrub to be done

1 quickly, within days. So the mid-year team is still
2 doing their thing, they're reviewing it. They're
3 seeing emails that we had seen before. And so they're
4 not finding the six-month emails that we talked about,
5 right? They've found -- they found a lot of new
6 emails, right? So it's kind of when people say we
7 didn't find anything, that's not accurate. We did find
8 new stuff. But nothing that would change our view of
9 the original conclusion in July. That's the upshot.
10 So that's all happening. So the team is -- and
11 it's getting closer and closer, so that I believe my
12 recollection is that we met on Friday. I'm a little
13 fuzzy on that. The executive team, we definitely did a
14 call on Saturday to get an update. So, again, the
15 executive team did a conference call at the Director's
16 direction to get a status update of where we were,
17 because we were -- remember, we were within, you know,
18 a shot of getting it done. Might have had two calls
19 that Saturday. And I remember late Saturday -- late
20 Saturday night, them, the team saying, we will probably
21 be done tomorrow, that Sunday. So the Director said,
22 okay, if that's the case -- I can't remember if we did

1 a call on Sunday morning. I can't remember if we did a
2 call on Sunday morning. We did meet here at
3 headquarters on Sunday, the team said we completed --
4 we completed the review. It hasn't yielded anything
5 new. So the Director said I want to reconvene at
6 headquarters for the team to brief me on that, right,
7 on what you found. And then talk about, you know, what
8 we should do. So team assembled here, brief the
9 Director. It was, as I said, we found new emails, but
10 nothing that would change our view of the -- of July
11 and it's our recommendation that we're done with that.
12 So then it's the question of, what to do. And
13 everybody thought the appropriate thing would be to put
14 it -- again, supplement, do another letter to the Hill,
15 explaining what was found and that that was done. So
16 same process again. I think -- and so while all that
17 is going on, I'm keeping Matt Axelrod updated, so in
18 that week, into the weekend, I'm talking to him, this
19 is what we're hearing, so I'm providing constant
20 updates to DOJ. You know, this is what we're finding,
21 right? And so I just don't remember now when we
22 started drafting the second letter, whether that was

1 Saturday or Sunday -- is that critical? Or -- so we --
2 you know, we discussed, you know, how it should look
3 like, again same process again, we get in the
4 conference room, we pull it up on the screen, drafts go
5 back and forth. This time we did provide a draft to
6 DOJ. So they have -- we emailed it to them, this is
7 what we're intending to say. They weighed in. We did
8 a separate conference call with DOJ. I believe it was
9 Jim Baker, myself, and Pete Strzok on the FBI side.
10 With Matt Axelrod, Scott Skolls (phonetic), [redacted] b5 per OIP
11 [redacted]
12 [redacted]
13 [redacted]
14 [redacted]
15 [redacted]
16 [redacted]
17 [redacted]
18 [redacted]
19 [redacted]
20 [redacted]
21 Q. Do you know why?
22 A. [redacted] b5 per OIP

b5 per OIP

1 [redacted]
2
3
4

5 Q. And then what about internally here at the
6 FBI? You've alluded, as Ana was asking you about
7 earlier, there was some disagreement here about sending
8 this November 6th letter?
9 A. Mm-hmm.
10 Q. So what were the concerns expressed about not
11 wanting to send it?
12 A. Yeah. I think that the big -- again, this is
13 sort of what I attribute to Jon Moffa is that we're now
14 within a day or two of the election, and just, you
15 know, October, we said we were doing it, we didn't
16 think we would be finished, so, you know, is it
17 appropriate to send a letter and can we craft a letter
18 in such a way that it won't cause, you know, more
19 problems.
20 Q. Was his thought that you should wait until
21 after the election at that point?
22 A. I don't recall. I don't recall him saying we

1 should wait or not send it. I don't know.

2 Q. Did anyone express the view that as close as

3 you are to the election you just need to wait till

4 after the election is over?

5 A. I can't remember somebody specifically saying

6 that. I wouldn't find that unlikely. In fact, I think

7 it's likely that somebody would say, you know, should

8 we wait? Yeah. But I don't recall a specific argument

9 to that effect.

10 Q. Was the potential impact on the election

11 discussed?

12 A. We definitely talked about, right, you know,

13 again, how to craft some -- how to craft language,

14 right, that would not, you know, again, we're done, so

15 it's the view that we should send this. Which is I

16 think even ultimately Jon came around to, we need to

17 send a letter, I think then it became, again, what do

18 we say in there to operate, again, independently as we

19 are, but in the midst of all that's going on around us.

20 Q. Was that DOJ election sensitivities memo

21 discussed at all with respect to this November 6th

22 letter?

1 A. I don't recall any specific discussion of it.

2 Q. What about the Hatch Act, was it discussed at

3 all with respect to the November 6th letter?

4 A. No, not to my recollection.

5 Q. Do you know if any kind of legal review of the

6 letter was done?

7 A. Yes. Again, our -- Jim Baker, his legal team

8 was in there, I don't know if -- we might have sent it

9 back to [redacted] I can't remember. I just can't b6 b7C

10 remember on that one. But Jim Baker and the legal team

11 were in on all of the discussions and the drafting

12 sessions on all of them.

13 MS. HAMRICK: Do you have any questions about

14 November 6th?

15 MS. GALINDO-MARRONE: No.

16 Q. Okay. So just kind of shifting gears a little

17 bit now to other FBI investigations.

18 A. Sure, because we know now that the FBI has

19 an -- investigation concerning links between

20 individuals associated with Donald Trump's campaign and

21 the Russian government and potential coordination in

22 Russia's efforts to interfere with the 2016 election.

1 And, you know, Director Comey, you know, testified I
2 think in March of this year and confirmed the existence
3 of the investigation, but we know that now that was
4 going on at least as early as July of 2016.
5 In terms of not confirming the existence of that
6 investigation, as opposed to the Hillary Clinton email
7 investigation --
8 A. Mm-hmm.
9 Q. -- I guess what is your understanding of why
10 the, I'll call it the Trump/Russia investigation, why
11 that was not publicly confirmed until March of this
12 year?
13 A. Sure. In my mind I consider them totally
14 unrelated. In this way our cases operate on their own,
15 right, they all stand on their own and there is no --
16 so there certainly was no link between the Hillary
17 Clinton email investigation and the counterintelligence
18 investigation to Russian interference with the
19 election. So no link there whatsoever. Some of our
20 cases have links, right, in election fraud cases and
21 things like that, but here, definitely no link. So it
22 wouldn't even enter my mind to, if you're taking action

1 on case A, to think about case B. And, in fact, I
2 don't recall that coming up at all, right? So it
3 just -- the way cases are done, right, they're totally
4 distinct and separate to what you're doing over here to
5 appropriately have no bearing on what you're doing over
6 here in my mind. So I bring that up as just the sort
7 of foundation. And then so if you were to disregard
8 that and you were to say, okay, you know, you know, the
9 election is happening, and, you know, why wouldn't you
10 sort of balance the scales right? Again, it's --
11 Q. Right, two opposing candidates, right?
12 A. Again, I want to be careful. I'm not saying
13 that's what happened or I would everybody --
14 Q. Right.
15 A. -- think, but if you were predisposed to think
16 that, right. Even the -- so July the Director spoke
17 because the investigative activities were done, right?
18 We considered it closed for all intents and purposes,
19 in July, right? That's why he spoke. He only sent the
20 letter in October because there was another step,
21 right? And that was an occasions -- so we hadn't
22 talked about it before, or even acknowledged it, right?

1 Except, you know, until well after it had started. So
2 with the Russia, the CI investigation into Russian
3 influence, that had just started in July. It was in
4 its infancy, right? If you get to October, right, it
5 really -- at that point -- again, I want to be careful
6 what I say about it, but you -- there's really nothing
7 to say, even if you were predisposed to say something,
8 right? So to me it's -- does that answer the
9 question --
10 Q. Mm-hmm.
11 A. -- fully? Yeah. I don't even like the
12 comparison because it doesn't make sense to me of --
13 you know, they're two unrelated cases that are
14 operating independently and what you do here has
15 absolutely nothing to do with what you're doing over
16 there.
17 Q. What about, if you know, maybe not going into
18 the blow-by-blow that Director Comey went into in July
19 with respect to the Clinton email investigation, but,
20 you know, sometime prior to that, you know, both he and
21 the Attorney General had acknowledged that there is
22 this investigation. What about even just making a

1 statement like that acknowledging that, yes, there is
2 this investigation, but, you know, not saying anything
3 more about it? Why wasn't that done?
4 A. Yeah, again, every case stands on its own,
5 right? And again, you're with the with the Clinton
6 investigation, you're talking about a case that was
7 publicly referred by the ICIG and the subject, right,
8 was talking about it, right, and so a little bit
9 different. And we were further along by the time it
10 was acknowledged.
11 In the case of the Russian influence, starting in
12 July there would be nothing to say at that time,
13 right? And you -- yeah, there would be nothing to say
14 at that time. So again, you'd have to go back to where
15 I started with the two unrelated -- just because you
16 have here our job was not to again we were not trying
17 to get involved in campaigns or election at all. So it
18 would be totally inappropriate to -- just because you
19 have said something about, you know, case A, who
20 happens to be candidate A, right, to say something
21 about case B and candidate B in attempt to balance in
22 some way.

1 Q. That was going to be my next question. Did
2 that at all come up, you know, especially in October
3 when, you know, you -- the decision to notify Congress
4 about these steps that are going to be taken with
5 respect to the Clinton investigation, knowing it's
6 11 days before the election, did anyone bring up a,
7 hey, you know, we also have this case dealing with
8 these Trump associates, do we need to consider that at
9 all? Was that ever discussed?
10 A. Not to my recollection. I mean Trisha brought
11 up the one thing I mentioned about that. I don't have
12 any specific recollection, no. It's the same --
13 practically speaking, it's the same team because it
14 comes from the counterintelligence world. So it
15 wouldn't be -- everybody would have that knowledge
16 already.
17 Q. Right.
18 A. So was it said? Sitting here, I can't
19 remember it coming up.
20 Q. So we understand that at some point in October
21 of 2016 there was, I guess, a desire by the White House
22 to make some kind of public statement about Russia's

1 involvement in the presidential election and I think
2 the Director went over there and met with officials at
3 the White House to discuss making some kind of public
4 statement. Are you aware of those meetings?
5 A. I am. Yep.
6 Q. Were you present during those meetings?
7 A. I was not.
8 Q. Okay.
9 A. Yeah. These were principal level meetings --
10 Q. Okay.
11 A. -- at the White House.
12 Q. Did Director Comey brief you about the meeting
13 after the fact?
14 A. Yes.
15 Q. So what is your understanding of what was
16 being discussed at those meetings?
17 A. Sure. And, again, I want to be a little
18 careful because those meetings are classified, and so I
19 just want to be careful.
20 Q. Whatever you can share.
21 A. So let me take you back to that August. The
22 Director -- so increasing concern about potential

1 Russian meddling in our election. And there's a lot of
2 inner agency meetings happening all over the place
3 about what to do about it. Director testified on the
4 Hill. And so one idea he had, right, because in his
5 view, if the -- if the American people were inoculated
6 to the fact that Russian could meddle in the campaign
7 or the election, people would be sensitized to it such
8 that if they're seeing things out there, right, they
9 would know, okay, this could be Russian interference,
10 something like that. So he drafted and proposed [redacted] b5
11 [redacted]
12 [redacted]
13 [redacted]
14 [redacted]
15 [redacted]
16 [redacted]
17 [redacted] The Director -- so again, just being careful
18 about the substance of the meetings, the Director's
19 view was the inoculation happened through various
20 things, I think Senator Finestein, couple other members
21 came and talked about it, this was being discussed in
22 the public such that the inoculation had taken place

1 already, meaning, didn't really need to send it
2 anymore. So when the idea of doing anything else, he
3 thought the time had passed, and it would perhaps be
4 too close to the election to have an impact.
5 Q. So his position was that they should not make
6 some kind of public statement about it?
7 A. I want to be careful. Just because of the --
8 I'll tell you what he told me about the subject, which
9 was he didn't think -- how did you phrase it?
10 Q. That a public statement should be made?
11 A. Yes.
12 Q. Okay.
13 A. Correct.
14 Q. And you said he thought it was too close to
15 the election at that point?
16 A. Yes.
17 Q. And too close how, exactly?
18 A. I think just too close to have an impact.
19 Right? At that point there's no reason for -- there's
20 no reason for it at that point, again, going back to
21 the inoculation theory, right, that -- it had -- in his
22 view, it had happened, right? And so sending it at

1 that time really doesn't do anything.

2 Q. In terms of making the public aware?

3 A. In terms of making the public aware.

4 Q. Because the Hill, Congress, had started

5 talking about it or made it public, is that the

6 inoculation?

7 A. Congress had talked very -- you know, it

8 started to pick up traction in various -- you know, the

9 media was talking about it, right -- I mean -- yes.

10 Yes.

11 Q. Going back to other investigations going on,

12 we understand that there's also an FBI investigation

13 regarding the Clinton Foundation, and that this was

14 also has been going on -- I guess the question is,

15 again, why not make some public statement about this

16 investigation the Clinton Foundation investigation when

17 the Director had been so public with respect to the

18 Clinton email investigation?

19 A. So I don't know if I can comment on other

20 investigations.

21 Q. Okay.

22 A. I'm happy to -- I don't know what the rules

1 are on that. I'm happy to check with Jay if you want
2 me to. If it's -- I could.
3 Q. Here's -- we're --
4 MS. GALINDO-MARRONE: We're not trying to get
5 to any of the facts --
6 THE WITNESS: -- sure.
7 MS. GALINDO-MARRONE: -- of that
8 investigation. It's more, I think, in line with
9 the same question Erica asked about the decisions
10 that were made about whether to go public or not
11 on the Russian meddling or Russian influence case
12 versus the Clinton email, why statements were made
13 publicly about the Clinton versus the Russia
14 meddling.
15 THE WITNESS: Yeah.
16 MS. GALINDO-MARRONE: It's that same type of
17 question. Without getting into any of the facts
18 or --
19 THE WITNESS: Sure. And I think I can answer
20 in that way. Without acknowledging the existence
21 of another investigation, I think I would go back
22 to the first answer, which is every case stands on

1 its own, right, even with -- I think you can
2 extend that to even cases involving the same
3 person. I have haven't made that leap before in
4 my head, I'll say it out loud here for the --
5 every case stands on its own. Just because you do
6 something here on case A, so if case A is the
7 Secretary Clinton email investigation, right, that
8 we thought was concluded and we took a step here,
9 it does not mean that a case even involving her in
10 case B should bear any, you know -- I think, I
11 think I would --
12 MS. HAMRICK: Should not bear any...
13 THE WITNESS: It's out there independently of
14 what you did here in case A.
15 MS. HAMRICK: Do you have any questions before
16 I wrap up?
17 MS. GALINDO-MARRONE: Uh-uh.
18 Q. So do you believe that Director Comey intended
19 to have an effect on the presidential election when he
20 made his July 5th statement concerning the Clinton
21 email investigation?
22 A. No.

1 Q. Do you believe he intended to have an effect
2 on the presidential election when he sent his
3 October 28th letter to Congress?
4 A. No.
5 Q. What about when he sent the November 6th
6 letter to Congress?
7 A. No.
8 Q. Is there anything that you think we should
9 know or that you want to add before we turn the
10 recorder off?
11 A. No. I think -- I would go back to the
12 beginning, right, which is in all of this, we did
13 everything -- two things. Operating as an independent
14 investigative body, right, in the middle of a very
15 contentious election, but even beyond that, just a
16 contentious time in history is very difficult, right?
17 And so I think as decisions were presented, right, all
18 along here, I think we operated within the facts that
19 we had and within the bounds of sort of constraints we
20 were given, and in every step did made every effort to
21 minimize, whatever the public -- confusion that the
22 public may have about why we were doing certain things,

1 and always with that -- with the three sort of buckets
2 that I talked about at the beginning, making sure that
3 the public knew the FBI's investigation was done
4 confidently and thoroughly, that DOJ made appropriate
5 decisions, right, as you're thinking about charging
6 somebody and that they have faith in their criminal
7 justice system, so...
8 MS. GALINDO-MARRONE: I want to discuss
9 something with you for like a minute before we
10 wrap up the investigation. Where could I talk
11 to --
12 THE WITNESS: Certainly.
13 MS. GALINDO-MARRONE: It'll be a minute at
14 most.
15 THE WITNESS: Absolutely. Am I okay here?
16 MS. HAMRICK: I'm just going to stop the
17 recorder for one second, it's 11:15.
18 [Off the record.]
19 MS. HAMRICK: The recorder is back on. It's
20 about 11:17.
21 We are done with our questions. Anything else
22 you want to add?

1 THE WITNESS: Nothing else.

2 MS. HAMRICK: Okay. So I'm going to now

3 officially end the interview, and it's 11:17.

4 [The interview concluded at 11:17 a.m.]

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1 CERTIFICATE OF TRANSCRIBER

2 I, [redacted] do hereby certify that b6

3 this transcript was prepared from audio to the best of

4 my ability.

5

6 I am neither counsel for, related to, nor

7 employed by any of the parties to this action, nor

8 financially or otherwise interested in the outcome of

9 this action.

10

11 [redacted]

12 07/07/2017 b6

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INTERVIEW OF:

Trisha Anderson

OSC ATTORNEY:
Erica Hamrick
Ana Galindo-Marrone

RE: OSC HA-17-0515

DATE OF INTERVIEW:
Monday May 1, 2017

U.S. Office of Special Counsel
1730 M St., NW, Suite 218
Washington, DC 20036
202-254-3600

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

2 Hamrick: Today is Monday May 1, 2017 and the time is 1:36 pm.

3 This is an interview of Trisha Anderson in the investigation of OSC

4 complaint # HA-17-0515. I'm Erica Hamrick an attorney at the U.S.

5 Office of Special Counsel. Also present with me today here is OSC

6 attorney Ana Galindo-Marrone. As I said before we went on the

7 record, OSC is investigating allegations that FBI Director James

8 Comey violated the Hatch Act when he made public

9 announcements concerning the FBI's investigation into former

10 Secretary Hillary Clinton's use of a personal email server. Ms.

11 Anderson has been identified as a witness in this investigation. Ms.

12 Anderson do you have any questions at this time?

13 Anderson: I do not but as I mentioned before we went on the record.

14 My ability to refresh my recollection has been somewhat limited. I

15 have not been able to access any documents from the relevant time

16 period other than those that have been identified to me and so all of

17 my answers will be to the best of my recollection as it stands today.

18 Hamrick: Ok and you are aware that you are being recorded?

19 Anderson: That is correct.

20 Hamrick: I'm going to read you the oath; do you solemnly swear

1 or affirm under penalty of perjury that the information you are about
2 to provide is true, accurate and complete to the best of your
3 knowledge and belief?
4 Anderson: I do.
5 Hamrick: I know that you said that your ability to review
6 documents was limited; did you review any documents to prepare
7 for today's testimony?
8 Anderson: I was sent the Bates stamped documents that I understand
9 were produced to you all that include the four Bates ranges that you
10 identified in your email but nothing else.
11 Hamrick: Did you speak with anybody to prepare for today's
12 interview?
13 Anderson: Yes, I did I spoke with [Jay Maclin] and Carol [Shea]
14 00:46:39.
15 Hamrick: What in general did you discuss with them?
16 Anderson: [redacted]
17 [redacted] b5
18
19 Hamrick: Did you speak with anybody? Sorry, go ahead.
20 Anderson: That's in general terms what we talked about.

1 Hamrick: Ok and did you speak with anybody else?

2 Anderson: No, I did not.

3 Hamrick: I'm going to ask a few background questions. Can

4 you identify what your current position is at the FBI?

5 Anderson: I'm Principal Deputy General Counsel. I oversee the

6 national security and cyber law branch of the Office of General

7 Counsel.

8 Hamrick: How long have you been in that position?

9 Anderson: Since June of 2014. I'm sorry, 2015.

10 Hamrick: What type of appointment do you have? Are you a

11 general schedule employee or an SES?

12 Anderson: I'm an SES appointee. In the FBI, I'm at a Deputy Assistant

13 Director level.

14 Hamrick: Is that non-career?

15 Anderson: No, it's career.

16 Hamrick: Career SES ok.

17 Anderson: Yes, mm-hmm.

18 Hamrick: Are you a supervisor?

19 Anderson: Yes I am.

20 Hamrick: How many people do you supervise?

Anderson: [redacted]

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Hamrick: Are they all within your branch?

Anderson: Yes, so it's [redacted] to be precise and that includes both attorneys and support staff.

Hamrick: What kind of generally, big picture are your job duties?

Anderson: Both providing legal advice to FBI executives but also managing and supervising my branch, which provides legal advice to, principally to the counter-terrorism division of the FBI, the counter-intelligence division and the cyber division are the three main components that we advise.

Hamrick: Did you have any role in the underlying investigation here in terms of the FBI's investigation into former Secretary Clinton's use of a personal email server?

Anderson: Yes, I did at a supervisory level.

Hamrick: What was your role in the supervisory level?

Anderson: I supervised principally an attorney who was the day-to-day legal support to the investigation. And that included sort of weighing in on and advising on significant investigative questions that arose.

1 Hamrick: Who was the

2 Anderson: In other words, I was not, I wasn't the day-to-day lawyer

3 providing support to the investigation but as important or significant

4 decision points needed to be made, I would be brought in and was

5 involved.

6 Hamrick: What is the name of the attorney who was providing

7 that day-to-day legal support?

8 Anderson: [redacted] name is [redacted] b6 b7C

9 Hamrick: And in your supervisory role did you participate in

10 meetings related to the investigation?

11 Anderson: Yes I did.

12 Hamrick: How often?

13 Anderson: It is hard to say. It's hard to say. There probably were

14 some sort of meetings; I guess it depends on what you characterize

15 as a meeting. I talked regularly with my employee who was more

16 closely involved. But in terms of formal meetings, there was no set

17 schedule so it probably varied over the course of the investigation.

18 There may have been times when there were meetings that

19 occurred as often as on a weekly or even more frequent basis.

20 Hamrick: So we understand with respect to the investigation

1 there was a team called the mid-year team. Were you
2 Anderson: Mid-year exam.
3 Hamrick: Mid-year exam. Were you part of the mid-year exam
4 team?
5 Anderson: I guess I wouldn't consider myself to have been part of the
6 investigative team it wouldn't be consistent with my role as a
7 supervisor. I was more involved at the FBI executive level.
8 Hamrick: Do you know the names of the individuals who were
9 on that mid-year exam team?
10 Anderson: I do not know all their names, I can tell you the people,
11 the two officials from the counter intelligence division who principally
12 supervised the team and managed the team. And that is Pete Strzok.
13 His last name is STRZOK. And Jon Moffa. MOFFA.
14 Hamrick: They were in supervisory roles?
15 Anderson: That is correct. It was not often that I had contact with the
16 agents and analyst below that level.
17 Hamrick: Ok, what about an individual named, is it Priestap?
18 Anderson: That is right. Bill is the head of the counter intelligence
19 division and Pete and Jon both report to him. I wouldn't consider him
20 to have been a part of the investigative team because he again is

1 sort of operating at the executive level and Pete and Jon report up to
2 him as significant matters arise but from a day-to-day investigative
3 standpoint, I would have considered them to have been the
4 managers of the investigation.
5 Hamrick: In your role, were you involved at all in decision
6 making with respect to the investigation?
7 Anderson: I was advising on various decision points in the
8 investigation. But you know as a lawyer you know we wouldn't, it
9 would not typically be the case unless there was a legal question
10 that arose that we would dictate the outcome of a decision.
11 Hamrick: Ok so your role was in providing the legal advice?
12 Anderson: That is correct.
13 Hamrick: Would legal research be involved in that role as well?
14 Anderson: Um, my employee, not by me, typically would have done
15 the legal research directly.
16 Hamrick: Ok. And at some point did you become aware that
17 the individuals working on this mid-year exam investigation had
18 made a recommendation about the case? About the outcome of
19 the case.
20 Anderson: Um, so I would say that there wasn't a specific point in

1 time where there was a um, they came to the executives and said,
2 we have a recommendation, its more that we had been, we knew
3 what was going on in the investigation where it was headed so there
4 isn't sort of a crisp point in time where that, to say there was a clear
5 recommendation that surfaced.
6 Hamrick: When you say, sorry go-ahead.
7 Anderson: It was obvious to all of us who had been deeply; who had
8 been briefed frequently on the investigation and knew what was
9 happening where it was headed.
10 Hamrick: When you talk about us and kind of, we knew what
11 was going on. Whom specifically are you talking about?
12 Anderson: So I would say, so at the executive level you know the
13 precise contours of the group did change a little bit over time but
14 um, I mean I'm sort of referring to the group that met most regularly
15 with the Director which would include um, usually the EAD for the
16 national security branch, which at the time was Mike Steinbach.
17 Sometimes it would also include the Associate Deputy Director, Dave
18 Bowdich, our Deputy Director Andy McCabe, and then Bill Priestap
19 who is the head of the counter intelligence division, Pete Strzok, Jon
20 Moffa, Jim Baker on the legal side, the General Counsel, myself

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3 Hamrick: And in terms of these individuals meeting would that
4 also include Director Comey?
5 Anderson: Yes.
6 Hamrick: And his Chief of Staff?
7 Anderson: That is correct. Like I said not you know not every single
8 meeting or discussion included exactly the same configuration of
9 people but that is the group that would be invited to the meetings.
10 They would attend if they were available.
11 Hamrick: So when you say it was obvious to us, to this kind of a
12 group of executives you know what the outcome was going to be, I
13 guess what was obvious about it?
14 Anderson: Well, I mean maybe obvious is probably not the word I
15 should have used but we were briefed regularly on the investigative
16 results and so it therefore wasn't, there wasn't sort of a clear, I can't
17 give you a date or a clear moment in time or a precise meeting in
18 which there was a recommendation formulated. It was a
19 recommendation that emerged over time. And you know the
20 recommendation or the conclusions are those that were outlined in

1 the July 5th statement with respect to the criminal violations at issue.
2 Or criminal statutes at issue.
3 Galindo-Marrone: I have two quick questions. The first is when
4 you were identifying those individuals at the executive level that met
5 more regularly to discuss the investigation after Mike Steinbach you
6 mentioned someone by the name of Dave, I missed the last name.
7 Anderson: Bowdich
8 Galindo-Marrone: Bowdich and who is he again?
9 Anderson: He is our Associate Deputy Director so the number three in
10 command at the FBI.
11 Galindo-Marrone: My other question; I understand what you are
12 saying that there wasn't like a formal meeting at one point where a
13 formal recommendation was made concerning the Clinton server
14 and for short I'm just going to call it the Clinton personal server
15 investigation if you don't mind, but it's a recommendation that you
16 said emerged over time because you all were being briefed
17 regularly and you could see where this was going. Is that the typical
18 process, like in an investigation of this type. Meaning do you all have
19 a formal process where the investigative team would write a memo
20 recommending what the disposition of a case is or is it less formal

1 and its just regular briefings until a recommendation emerges?
2 Anderson: Um, well this investigation um there is almost no parallel or
3 equivalent example that I think you can draw upon so I think this
4 investigation was unique in many ways. With respect to our
5 investigations generally I think our practices don't in terms of our
6 procedures don't fall into a single precise model in terms of exactly
7 you know how we document our thinking and how we make
8 recommendations to DOJ but again I'm not the kind of person who is
9 involved in the day-to-day work of an investigation. This was an
10 unusual one and therefore required and involved a much greater
11 degree of executive involvement than is typical.
12 Galindo-Marrone: So let me just explore that answer a little bit.
13 So might there be some investigations where a written
14 recommendation is made to DOJ? Sometimes?
15 Anderson: So I'm probably not the, I'm not the best source of
16 authority on that given that I'm not involved in the day-to-day work
17 of most investigations. I, I'm sure, I don't want to guess but I am
18 speculating a little bit here to say that it probably have been some
19 cases where a written recommendation has been provided to DOJ
20 but other circumstances I think would be more common where there

1 would be dialogue with DOJ. Or it could be the case that we might
2 you know even review their prosecution memo and sort of you know
3 engage in a dialogue in that way.
4 Galindo-Marrone: Got it but in this case there was no such
5 memo which whether you call it a prosecution memo or a memo
6 showing the reasons why not to go forward with prosecution there
7 was no such memo in this case? The Clinton server case.
8 Anderson: No there was no memo from the FBI to the DOJ making a
9 recommendation.
10 Galindo-Marrone: Ok.
11 Hamrick: So moving along to the first public statement on the
12 case or Director Comey's first statement the July 5, 2016 statement.
13 When did you first learn that Director Comey was planning to make
14 some kind of public statement about the outcome of the Clinton
15 email investigation?
16 Anderson: The idea, I'm not entirely sure exactly when the idea of
17 the public statement um first emerged. Um it was, I just, I can't put a
18 precise timeframe on it um but the idea that the Director might make
19 a public statement was something that had been discussed in a very
20 brief or fleeting way for some time in the investigation. And then I

1 believe it was in early May of 2016 that the Director himself wrote a
2 draft of that statement and so that is when the possibility of the
3 statement and our discussions about doing such a statement
4 became a little bit more concrete.
5 Hamrick: Who originally in some of these earlier conversations
6 who originally came up with the idea or started floating around the
7 idea?
8 Anderson: I, I don't know for sure um I don't remember exactly you
9 know who made the first suggestion but I believe and the Director
10 himself would be the best authority on this. I believe the idea was the
11 Director's.
12 Hamrick: So when you found out in early May that there was,
13 that the Director had written a draft of what the statement might
14 look like, how did you learn about that?
15 Anderson: Jim Baker gave me a hard copy of it.
16 Hamrick: What was his purpose in giving you the copy?
17 Anderson: He asked me to take a look at it and just start thinking
18 about you know the wisdom of doing such a statement um the
19 content of a potential statement and any other reactions that I
20 might have to the draft.

Hamrick: So what happened next with respect to the draft?

Anderson: I don't know for sure um, I don't know. There were many iterations, at some point there were many iterations of the draft that circulated but I would say there was a few weeks if not a month that went by before those drafts were circulated.

Hamrick: So after Mr. Baker asked you to take a look at it and you know take a look at it for content and consider the wisdom of making a statement did you then meet with Mr. Baker about your thoughts?

Anderson: I don't recall if we talked about it in advance of any meetings with the Director directly, we may have had, Jim and I may have spoken briefly about it in his office but I don't recall precisely.

Hamrick: Did you ever put your thoughts down in writing?

Anderson: No, not on that draft.

Hamrick: At that point in time I guess what was your understanding of why Director Comey was planning to do this, to make this public statement?

Anderson: I don't know that uh I can sort of pinpoint a particular rationale at particular points in time I mean I think kind of generally speaking my understanding you know was that this was, as I

mentioned before an investigation without parallel in terms of its importance to the national interest and um in terms of laying out our it was also an investigation that was publicly known unlike some of our other investigations that we typically wouldn't either confirm or deny the existence of. And so given that um my understanding was that the Director believed that it was important to the um, and that he sort of owed it to the American people to lay out our conclusion in a manner that would allow people to understand how we did our work and why we concluded what we concluded. That it was essential to the credibility of our institutions for people to have that understanding.

Hamrick: And in terms of making such a public statement is that standard protocol with respect to the end of an investigation and announcing the outcome?

Anderson: I'm sorry part of you, you cut out a little bit, you repeat your question?

Hamrick: Sure, making a public statement about you know the results of an investigation is that standard protocol for FBI investigations?

Anderson: No, I'm sure it's not without precedent but it is not typical.

1 Hamrick: What is typical?

2 Anderson: But it is like I said, what was already somewhat unusual
3 was the fact that the investigation had been publicly confirmed and
4 so we were from that standpoint it was already somewhat unusual.
5 The subject herself I believe had confirmed it and so you know one
6 of the considerations why we don't speak publicly about our
7 investigations is out of fairness to the subject particularly in a case
8 where there is no indictment or prosecution but here was a case
9 where everybody knew that the FBI was investigating the former
10 Secretary herself had talked publicly about the fact that we were
11 investigating, the DOJ had confirmed that we were investigating
12 early into it and then ultimately the FBI, the Director did confirm it as
13 well so it was just already an unusual posture and were we to close
14 the investigation without a prosecution without explaining our
15 reasons I believe the director felt that the credibility of our institution
16 would come under such a significant degree of fire that it would be
17 um not something that we could withstand and he talked at great
18 length in many different forums about the importance of the
19 credibility of the FBI given our role in prosecutions and how it is an
20 important almost it's a resource you can't rebuild your credibility

once it's been lost, so it was very important to us from that institutional perspective, that people understand that we didn't just um you know reach a political conclusion in the investigation.

Hamrick: So what typically would have been the protocol in a case that didn't have the same kind of unusual circumstances here where the FBI's investigation didn't result in the FBI's determination in any criminal wrongdoing; what typically would have happened?

Anderson: Well again, I can't you know there isn't a single as I mentioned before in one of my answer there isn't a model or single process that every investigation follows but often what happens, you know there is a prosecution memo that DOJ will write and that will be the document that either memorializes DOJ's conclusions that you know in consultation with the FBI they've decided that there is no prosecution that should go forward. Often no public announcement will be made in a context in which nobody you know where there is no public confirmation or disclosure of the investigation in the first place then obviously, if the result is the opposite if there is prosecution, you know an indictment or complaint will proceed.

Hamrick: Going back to the draft that the Director put together in early May; were there meetings to discuss the draft, how did this

1 draft evolve into the actual statement that was made on July 5.
2 Anderson: Yeah, so in that timeframe there were frequent meetings
3 with the Director. I don't know precisely how frequent. Perhaps in
4 some instances occurring on a weekly basis and those meetings
5 would typically proceed in sort of two parts. The first part would
6 involve an update on the investigation, usually given by Pete Strzok
7 and Jon Moffa, and then the second part of the discussion would
8 typically turn to the idea of the public statement and perhaps not in
9 every meeting, but to the extent we talked about it that is sort of how
10 we structured the meetings. And then it was sort of in that timeframe,
11 maybe June. I'm not really quite sure that there were more drafts that
12 were circulated you know by email.
13 Hamrick: And the meetings to discuss the public statement;
14 these are the same group of executives that you identified earlier
15 that would be at these meetings?
16 Anderson: That's right and the focus typically we'd spend the first
17 half of the meeting or more talking about the investigation itself and
18 then in the second half turn to other steps that included the possibility
19 of a public statement.
20 Hamrick: Did you ever provide your advice or input about the

1 public statement?

2 Anderson: I'm sure I did.

3 Hamrick: And what was that?

4 Anderson: Um, it would be hard to sum up and I'm not sure I could

5 remember every single comment that I made about the public

6 statement. Um, I was convinced at the time that it was the right thing

7 to do and I probably expressed that point of view in meetings with

8 the Director.

9 Hamrick: Was there anyone at those meetings who did not think

10 it was the right thing to do?

11 Anderson: Um, I don't remember precisely I think we all thought it

12 was a hard decision. It certainly wasn't um; it certainly wasn't the

13 only conclusion that somebody could reach. I don't remember there

14 being any strongly held views against doing the statement, that

15 particular statement. But as for you know people expressing

16 dissenting views at various points along the way um there might

17 have been I'm not really quite sure.

18 Hamrick: Were you ever asked to provide advice from a legal

19 perspective in terms of the legality of making such a statement?

20 Anderson: I was not, there were a couple of issues that we did

1 consider and by we, I mean collectively OGC so for instance [redacted]

2 [redacted]

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9 Hamrick: What memo was that?

10 Anderson: I don't know the precise title or date but it's in among the

11 Bates stamped documents that were produced to you all that asked

12 just kind of in a, obviously the document speaks for itself but asks

13 DOJ employees to think carefully about investigative, overt

14 investigative steps um in close proximity to an election.

15 Hamrick: So was there a discussion specifically around that

16 particular memo and policy?

17 Anderson: Um, there may have been a couple of passing remarks

18 made in meetings but we didn't have an extensive, um as a large

19 group there was not really an extensive discussion of it, we looked at

20 in and [redacted] b5

1 [redacted] so it was not, there was not a lot of time in those b5
2 meetings devoted to discussion of the memo.
3 Hamrick: Did anyone write kind of a memo or analysis or
4 anything in regard to that memo and how the Director's statement
5 wouldn't violate the policy?
6 Anderson: I'm not aware of any memo. On the DOJ memo.
7 Hamrick: Do you have a question?
8 Galindo-Marrone: Real quick so you mentioned the DOJ, I'm
9 going to call it the policy memo concerning overt steps or actions
10 leading up to an election. Did any, it seems like there wasn't
11 anything in writing analyzing that issue.
12 Anderson: That's right.
13 Galindo-Marrone: But there was some obvious discussion about
14 it at least some consideration given to it. Would part of that
15 consideration have also included the Hatch Act, did that come up in
16 any conversations?
17 Anderson: I don't believe so directly I mean the um, the DOJ memo
18 obviously talks about the Hatch Act and even the first part of the
19 memo you know closely dovetails with the Hatch Act but I don't
20 recall there being discussions specifically of the Hatch Act in any of

the meetings. I think partly because we, you know we were also incredibly interested in trying to be apolitical about the whole thing I mean doing our work you know as the Director said in his statement in an honest, competent, thorough way without any regard to you know what impact our actions might have in the outside world.

Hamrick: So at the point in time when different drafts are going back and forth of this statement. At that point in time was it still an idea that the public statement was going to be made or had it been solidified that this was definitely going to happen it was just a matter of how it was going to read?

Anderson: Um, it's kind of hard to say I don't really remember um, I mean I think uh my sense is that you know if anybody had felt very strongly at the last minute you know even up until the last minute that it shouldn't be done that the Director would have you know happily entertained discussions um you know and but I don't, I guess I really don't recall.

Hamrick: Were other options discussed in terms of different ways to wrap up this investigation aside from making a public statement?

Anderson: I don't remember precise alternative options that were discussed but I believe there were other options discussed in the

1 course of our many discussions about it.

2 Hamrick: Was the appointment of a special counsel ever

3 discussed?

4 Anderson: Yes it was. We were asked to consider, I mean there were

5 numerous congressional letters that were asking for the appointment

6 of a special counsel.

7 Hamrick: Can you describe what those discussions were like?

8 Anderson: Uh, I don't have a great memory of exactly what was

9 discussed and with whom except that I just remember that we did

10 talk about it at various points in time of whether the Director should or

11 should not make a recommendation to the Attorney General that

12 was the appointed

13 Hamrick: Was anyone in favor of doing that?

14 Anderson: Um, I don't remember.

15 Hamrick: What about reasons for not doing that, were those

16 discussed?

17 Anderson: I presume so but I don't remember any specifics. I don't

18 recall and one thing I just want to clarify, I don't recall that we ever

19 discussed in that large, that group of people that I named, in that

20 large group seeing the idea of a special counsel being um, or the

Director himself could not have appointed a special counsel but he would have, he could have recommended the attorney general that [when] the appointed um, I don't recall in those big group meetings talking about the issue but there may have been other smaller meetings that occurred on the issue and I don't remember the precise details of who was in favor and on what basis or whether there was any um you know views against it that sort of thing.

Hamrick: What about the idea of not making a public statement but just per standard you know somewhat standard procedure just send the recommendation over to DOJ and let them deal with it, was that option discussed at all?

Anderson: I'm sure it was discussed at some point um, not probably not in exactly the way that you've formulated it um but the idea of um you know staying quiet and letting DOJ decide what to do or not do with it um that was probably discussed at some point.

Hamrick: Was there any concern expressed by the Director in going that route?

Anderson: Um, yeah there were a lot of concerns um and uh you know concerns I mean I think those concerns escalated over time.

Hamrick: Can you describe that a little bit for us?

1 Anderson: I wouldn't say it, it was probably not super explicitly
2 discussed but um you know it was really clear um especially in the
3 weeks leading up to the statement um that at least the public
4 perception would be that the Attorney General herself was not
5 maintaining an appropriate degree of independence with respect to
6 the decision making in this investigation and I'm referring to, I mean I
7 think there were concerns even preceding this but um you know the
8 incident that was extensively reported in the media involving the
9 Attorney General's meeting with former President Clinton on the
10 airplane tarmac.
11 Hamrick: And you said there were concerns even before that
12 incident what were some of the other concerns?
13 Anderson: Well the Department of Justice you know compared to the
14 FBI is um you know run much more heavily by political appointees,
15 people who are beholden to the President, the FBI by tradition and
16 by just by virtue of the composition of our executive core is much
17 more apolitical and independent, the only political appointee is the
18 director and his term set by statute is 10 years in part as a reflection
19 of that tradition of independence and so in terms of thinking about
20 who might um you know as I said the facts of the investigation had

1 already been publicly confirmed and in terms of thinking through
2 who might describe the conclusion announce them to describe
3 them in some fashion you know the FBI Director is more as a
4 practical matter more independent and you know would be
5 perceived as more independent than the Attorney General and so
6 then layering on you know the public reporting about that meeting
7 that occurred with the former president and Attorney General Lynch,
8 it just only further solidifies um the perception, the idea that the
9 public would perceive her to be less independent than the FBI
10 Director.
11 Hamrick: Did Director Comey ever express you know in addition
12 to kind of the perception that the attorney general might not be
13 impartial um any actual concern that he had about her impartiality?
14 Anderson: No. I don't recall. I, my recollection is that um it really was
15 about; it really was a matter more of perception than of reality. I
16 don't believe anybody, first of all the Attorney General herself, we
17 don't really quite know how much detail she was briefed on the
18 investigation but she didn't have any, she didn't have direct contact
19 with us or with the investigative team on the matter as to what DOJ
20 was briefing her on and keeping her in the loop on you know we

1 didn't really know for sure but there was never, there was never a
2 feeling that, I don't think, I certainly didn't have the feeling, you know
3 you'd have to speak to others in terms of what their feelings were but
4 I certainly didn't have the feeling that there was any sort of improper
5 influence that she was directing down the chain of command.
6 Hamrick: When you were discussing or the group was discussing
7 the idea of the public statement, was the potential impact on the
8 presidential election considered or discussed at all?
9 Anderson: Um, no not in the, not um, not in the sense that we were, I
10 mean we didn't know, we didn't know what the, we're not; I mean it
11 was discussed in the sense that um, we didn't think it was
12 appropriate for us to take it into consideration. We recognized that
13 we are, we are simply not competent to even know what that impact
14 might be, in other words we are FBI you know we are the FBI the
15 bureau of investigations, we are not the bureau of policy or uh
16 political analysis or election predictions and so it really was not our
17 business um you know because it was outside our competence,
18 outside our jurisdiction outside you know our authority to even
19 consider that and so it was, my recollection is that it was discussed
20 only in so far as you know we recognize that we couldn't take that

1 into consideration nor should we for any reason. We were trying to
2 do um you know the one thing I do recall being a sense of was in
3 terms of the timing um that we wanted to get out of the way of the
4 election as much as possible and I'm speaking with respect to the
5 July statement right now so in other words we wanted to wrap it up
6 quickly um because we wanted the bureau to have no part in any
7 way to the extent that was possible and so you know my sense from
8 the meetings that we had was that we were trying to wrap things up
9 as quickly as possible and just get out of the way of the political
10 cycle. Get the FBI out of the equation, proved not to be possible but,
11 later on, but um that didn't factor into the thinking in terms of timing it
12 was more sort of let's step out of the way, lets' not be a factor.
13 Hamrick: Did you yourself at the time did you think that the July
14 5th statement could have an impact or have an effect on the
15 election?
16 Anderson: I couldn't say one way or another. I'm not an expert in
17 that and I didn't know.
18 Hamrick: Ana, do you have some questions?
19 Galindo-Marrone: So I wanted to go back to some of the
20 concerns that you mentioned may have been present concerning

1 former Attorney General Lynch's impartiality or not. So there is the
2 plane incident, which as you said was publicized, but are you aware
3 of an earlier incident in the fall of 2015 where Director Comey was
4 given some instruction by Attorney General Lynch to describe the
5 investigation not as a criminal investigation but something else like a
6 matter when talking to the press?
7 Anderson: Um, I don't, no I was not aware of any explicit
8 conversation between the Attorney General and the Director, we did
9 know that there was a desire by DOJ that it not be referred to as a
10 criminal investigation publicly because there were some jokes made
11 about it that we were the, you know they were asking us to be the
12 Federal Bureau of Matters in fact I think at one point they called it a
13 security review.
14 Galindo-Marrone: And how did you become aware of that?
15 Anderson: I don't recall precisely but I was never, I don't believe I
16 ever heard about or was ever told about any conversation directly
17 between the Attorney General and the director about the issue.
18 Galindo-Marrone: So outside of the plane incident and this, this
19 um idea that the FBI should refer to the investigation as a matter or a
20 security review versus a criminal investigation was there any other

1 issue that may have raised concerns for the FBI and in particular
2 Director Comey about then Attorney General Lynch?
3 Anderson: Um, let me just add to what you included in your question
4 which was as I mentioned you know DOJ is managed at the top by
5 way more political appointees than the FBI so just by virtue of its
6 structure and composition um you know um that we are viewed as
7 more independent which you know I think appropriately viewed as
8 more independent that the Department of Justice um there wasn't
9 anything that gave us substantive concerns or at least gave me
10 substantive concerns about her impartiality but there was something
11 that we um and I'm not going to be able to talk about this very b5
12 extensively on an
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5 Galindo-Marrone: [redacted]

6 [redacted]

7 Anderson: [redacted] b5

8 Galindo-Marrone: [redacted]

9 [redacted]

10 Anderson: Correct.

11 Galindo-Marrone: I don't have any other questions.

12 Hamrick: Ok so let's jump forward through the summer of 2016.

13 Anderson: If we could, I'd appreciate the opportunity for a two-

14 minute break.

15 Hamrick: Absolutely I'm going to stop the recorder right now. Its

16 2:25 p.m.

17 Hamrick: The recorder is back on 2:27pm. We are going to shift

18 to October 2016, that timeframe and at some point in October you

19 learned that there had been some new evidence discovered related

20 to the Clinton email investigation?

1 Anderson: That is correct.

2 Hamrick: When did you learn of that new evidence?

3 Anderson: It was sometime in October, I don't remember the precise

4 date.

5 Hamrick: How did you learn about it?

6 Anderson: Um, my employee [redacted] told me. But at that point, b6 b7C

7 its precise relevance to the investigation of the Clinton email server

8 was unclear and unknown.

9 Hamrick: So can you tell us the progression of how it came from

10 hearing about it from [redacted] to kind of understanding that there may b6 b7C

11 be some relevance to the Clinton investigation?

12 Anderson: My understanding was that the team that was involved in

13 the underlying investigation in which this new evidence surfaced was

14 um to the extent permitted consistent with their search warrant was

15 trying to do some preliminary work to um determine what if any

16 materials were on the device that might bear on our investigation

17 and that that work unfolded over the course of a couple of weeks.

18 And there was a specific moment in time in later, in late October um

19 when they had um, they knew more at that point about what was on

20 the device and um brought it to executive level attention.

1 Hamrick: So when it was brought to the executive level, what
2 were you all told about it?
3 Anderson: Um, so um, I'm not going to remember the precise details
4 exactly but um and we obviously this is all subject to the non-
5 disclosure agreement because none of this has ever been publicly
6 confirmed.
7 Hamrick: Of course.
8 Anderson: But the my understanding was that we had a, in
9 connection with the investigation of Anthony Weiner um in an
10 unrelated matter, the FBI had taken possession of one or more of his,
11 one of his laptops at least there may have been other media that
12 they seized and that on that device they had identified emails of
13 Huma Abedin uh that included correspondence between her and
14 the former Secretary.
15 Hamrick: Why was that significant?
16 Anderson: It was significant for, well it was potentially significant I
17 guess for a couple of reasons. Um, there had been a, in the course of
18 our investigation of the email server you know we never recovered
19 what we believed to be the entire body of the emails that were sent
20 through the private server for one um and so there was a specific

period of time that was actually very close to the point in time in which the server likely would have been set up that we never recovered any of the emails from the former Secretary's Blackberry and so there was presented the possibility from this new source um that it potentially could contain some of those emails and then I guess the second aspect of it was given who Huma Abedin was and her closeness to the former Secretary that if there was anybody with whom she had ever spoken um or you know corresponded by email about the setup of the server that its possible it would have been Huma.

Hamrick: So in terms of meeting to discuss this new evidence are we talking about the same executives that you identified earlier in the interview?

Anderson: Yeah I believe so.

Hamrick: What did the members of that meeting discuss in terms of what to do with this evidence?

Anderson: So we were sort of like the structure of the earlier meetings um we met I believe it was on October 27th and the Director was briefed on what we knew about the material that was on the Weiner laptop at that point in time and that was all under the constraints of

1 the search warrant as it existed for purposes of the Weiner
2 investigation. We had no search warrant at that point in time for
3 purposes of the Clinton email server investigation so he was briefed
4 on what we knew at that point in time and then we had a discussion
5 about what we should do going forward that did include a discussion
6 about you know whether we should seek a search warrant, how we
7 should proceed to seek to obtain the evidence.
8 Hamrick: Ultimately, it was decided to get the search warrant?
9 Anderson: Yes, that is correct and I believe in that same meeting we
10 did talk about and there may have been multiple meetings that day
11 I'm not sure um in the course of those discussions we did talk about
12 whether we needed to publicly disclose the fact that we were, we
13 had, you know the Director had told Congress and had announced
14 publicly that we had completed our investigation and if we were to
15 seek a search warrant that would seem to be in contradiction with a
16 statement that we had concluded our investigation um it was
17 seeking a search warrant is a very significant overt, in some cases
18 overt investigative step. And so we were in that same briefing about
19 what we knew about material I believe we did talk about whether a
20 public disclosure or supplementation of the record on that point

needed to be made.

Hamrick: Was there a discussion about when the search warrant should be sought?

Anderson: I don't remember if there was anything explicit except um the sense was that we needed to seek one urgently if you know after we decided that was the appropriate next step that we couldn't sit and wait on it.

Hamrick: What was the urgency?

Anderson: That given the significance of the matter um, uh, that we had to proceed quickly. It was just too, too explosive for us to sit on.

Hamrick: Was there any disagreement with that course of action?

Anderson: No, I don't recall there being any disagreement that we needed to proceed immediately to seek the search warrant. I mean we had to do it in combination with DOJ obviously and the meeting did not include any DOJ personnel um so it was clear agreement that we needed to ask DOJ to seek the search warrant for us.

Hamrick: Was there any discussion about waiting until after the election to get the search warrant?

Anderson: I, I don't, on the point about whether we should seek, we

should wait to seek the search warrant, I don't think there was. I mean that, I think from our perspective we would you know um, we had to, we had to do what was appropriate for the investigation and it would not have been you know we would have been um delaying um because of electoral considerations um an investigative step and that's just not what we would have done.

Hamrick: So you said in the meetings discussing the new evidence and getting the search warrant there was also discussion about whether or not some kind of public statement needed to be made. Who

Anderson: Yeah that is my recollection.

Hamrick: Who first raised that as an issue?

Anderson: I don't remember.

Hamrick: So what was discussed with respect to the public statement?

Anderson: First and foremost I think it was the congressional testimony the Director had given previously so obviously in falling closely on the heels of his July 5th statement he gave very extensive testimony publicly on the Hill um in which he described the investigation as having been completed or closed and the most

1 significant consideration was the fact that um, you know seeking a
2 search warrant is not consistent with the completion or closure of an
3 investigation and that this amounted, it wasn't technically a re-
4 opening we had never we cannot administratively close an
5 investigation until we have disposed of the evidence at issue and
6 provided reasons that may not happen for quite some time in this
7 particular case um but the investigation you know he had
8 characterized it as being completed and so the concern was that by
9 not saying something we would be, it was tantamount to concealing
10 it, the fact that we were re-opening or seeking new investigative
11 steps in a matter that he had characterized as completed so there
12 was the congressional aspect of it um but also the prior public
13 statement that it would leave a misleading impression with respect to
14 the you know what the public knew about it as well.
15 Hamrick: So what was decided then in terms of what to do
16 about the making some kind of statement?
17 Anderson: I'm sorry I think you cut off?
18 Hamrick: Oh, can you hear me now?
19 Anderson: Yeah, can you repeat your question?
20 Hamrick: What was decided with respect to the public

statement what was going to be the course of action?

Anderson: Let me be clear I mean we did a congressional letter um that was sent only to the Congress because we thought about different vehicles whether the Director should make another public statement whether he should do a press conference um and because of that predominate consideration of the Director's congressional testimony that he, that the investigation was completed we concluded the appropriate vehicle was a letter to the Congress.

Hamrick: Did anyone feel strongly that there should be some kind of press conference or something like that?

Anderson: I don't recall. I don't believe so. I think that we were the extent that people believed that a statement was appropriate or some sort of supplementation of the record was appropriate, um I think people largely thought that the congressional letter was the best vehicle for it.

Hamrick: So was there disagreement about making any kind of statement period, whether public or a letter to Congress?

Anderson: Yes there was. There were uh significantly conflicting viewpoints on that issue. It was a very, very difficult decision.

Hamrick: What were some of the opposing arguments for sending the letter to Congress that were expressed?

Anderson: Yeah um, well uh the viewpoint that we would be, there was an obvious concern that the FBI would be perceived to be um involved in or influencing the outcome of the election there was, I'll just speak, I can speak most authoritatively to my own concerns and questions and [redacted] b5

b5

Hamrick: You said ultimately you were persuaded that this was the right course of action?

Anderson: I think so. I think so it was really hard for me. Um I mean I think the morning of the, I knew the Director was going to send the letter out to the Hill um I wasn't sure he was doing the right thing and um but it depends on what you use as your metric for the right thing to do. I think I was worried about it for the wrong reasons. You know I was worried that we would impact the election and I recognize that was not something that we could take into account.

Hamrick: I'm going to circle back to that in a minute but was there anyone in those discussions who ultimately was not persuaded and who still at the end of the day felt like it was the wrong thing to do?

Anderson: I don't know. I don't know and you know it was such a hard call I'm not sure you know I'm having a hard time sort of necessarily um you know even putting a pin point on whether I was totally convinced at that point in time that it was the right thing to do or whether I mean I probably say in fairness I probably still had reservations about it, it was such a hard decision you know there were many views expressed in even the morning of that letter in a meeting that we had with the Director and he ultimately made the decision to do it that it was of two horrible options it was best

1 protective of the FBI as an institution.

2 Hamrick: So was the concern that this letter would have an

3 impact on the election was that discussed during any of these

4 meetings?

5 Anderson: Well it was certainly discussed that the FBI would be

6 perceived to be having an effect on the outcome we didn't, again

7 we sort of, I recall this idea you know that we were not experts on

8 that issue by far you know whether it was true whether that

9 perception would have any merit or not I mean we had no way of

10 knowing one way or another. We weren't competent, it's not our job,

11 it's not our place, our role to even assess what that might possibly be

12 but yes we were concerned that there would be a perception

13 whichever way we went um whether we disclosed the fact of the

14 new material you know we were going to be perceived to be

15 impacting the outcome or whether we didn't if we had as I think the

16 Director said; perhaps in his email to the troops it was, you know it

17 wasn't a choice it was a choice between two acts. It was speak or

18 conceal and if the FBI had concealed that fact um, you know the

19 perception would have been that we had been influencing the

20 outcome of the election in the other directions so yeah we were

1 concerned about that, that impact, long-term impact on the
2 credibility of the FBI in either scenario.
3 Hamrick: Were any other options discussed? Rather than
4 sending a letter to Congress, was there a discussion about not
5 notifying Congress at all?
6 Anderson: Yes.
7 Hamrick: Was that ever really considered as an option or was it
8 dismissed immediately?
9 Anderson: No it was not dismissed immediately because I think we
10 you know we also knew that there were no you know and we you
11 know we did send up the letter privately to the Hill we didn't post it
12 on our website and we didn't publicize it, we didn't leak it to the
13 media you know I don't believe anybody did um but we, we had an
14 expectation that there was no way you know there were no
15 measures that we could take that would allow us to disclose that
16 information to the Hill without also that information becoming public
17 just based on our collective understanding of the way things work up
18 on the Hill.
19 Hamrick: What about waiting until some of the emails had been
20 reviewed before notifying Congress to see whether they are what

1 you thought they might be, was that discussed at all to kind of hold
2 off until you see what you really have?
3 Anderson: Yeah that was it kind of goes to that materiality point that I
4 mentioned. You know without having acquired the evidence have
5 we crossed a materiality threshold such that we needed to notify
6 Congress or the public or is just simply the fact of seeking a search
7 warrant sufficient so yes there was extensive discussion about that.
8 Hamrick: Was there any concern expressed with um you know if
9 a search warrant was sought that that would somehow be leaked
10 and it would come out?
11 Anderson: Yes.
12 Hamrick: What was that concern exactly? Did you hear that,
13 were you cut off?
14 Anderson: Yes, I'm sorry my answer was yes.
15 Hamrick: Ok and what
16 Anderson: We were concerned even though we were going to seek
17 the search warrant, we were going to seek it under seal um that the
18 reality was that it would be publicly known.
19 Hamrick: Let me ask you to take a look at one of the
20 documents. I think it may be the one, it's an email and the Bates

stamp is OSC HA-17-0515, FBI 001577.

Anderson: I'll let you know as soon as I've got it up. The last four 1577 you said?

Hamrick: Yes.

Anderson: Ok.

Hamrick: This is an email, the top email is dated October 27, 2016 from James Rybicki to James Comey. If you'll go down there is some back and forth with drafts and in the email from [redacted] to b6 b7C the group, the one that is 5 o'clock p.m. she says; All, I've attached a new draft in which we attempt to address Trisha's comments. I'm assuming she is talking about your comments?

Anderson: Yeah.

Hamrick: And do you recall what those comments were?

Anderson: Um, I'm not sure um precisely which comments that is a reference to I think at some point um I had commented on an earlier draft that we needed to, that it needed to that it needed to be styled more closely as a disclosure to Congress consistent with conversations, the discussions that had occurred earlier in the day.

Hamrick: When you say stylistically boars a disclosure to Congress what exactly do you mean by that?

1 Anderson: Um, is consistent with um the outcome of the discussions
2 to that point that we were planning to um make the disclosure in a
3 communication to Congress and the draft just simply wasn't as I
4 recall, um I don't recall a first draft being written um in that, framed in
5 that precise way.
6 Hamrick: I see. At some point and this touches on what you
7 were talking about earlier with respect to the perception that the FBI
8 would have some kind of impact on the election. Was there ever a
9 comment made during one of the meetings about how the
10 notification to Congress might hurt Hillary Clinton and help Donald
11 Trump in the elections.
12 Anderson: You mean substantively?
13 Hamrick: Yes.
14 Anderson: In other words like anybody saying is this actually you
15 know we are concerned because this will help Hillary or will hurt her
16 and help Donald Trump?
17 Hamrick: Yes.
18 Anderson: No, I don't recall there being any comments to that effect.
19 Hamrick: Did you believe that sending this notification to
20 Congress would impact the election?

1 Anderson: I was worried that it would um and this goes back to what
2 I was saying a little bit earlier. I was worried that it would and I
3 recognized that that was not something that we should be taking into
4 account and so those were my private concerns and I did not share
5 that point of view in the meeting.

6 Hamrick: With respect to the notification was there a legal
7 review done to make sure there weren't any concerns legally with
8 sending this notification to Congress?

9 Anderson: Um, I mean I don't know exactly what you mean, there
10 was no sort of formal legal review however if Jim Baker or [redacted] and I b6 b7C
11 had identified any legal issues we most certainly would have
12 ensured that they were addressed but we did not, none of us
13 identified any, I don't recall identifying any legal issue that we
14 thought about.

15 Hamrick: Was the Hatch Act ever considered as a potential
16 legal issue?

17 Anderson: [redacted] b5
18 [redacted]
19 [redacted]
20 [redacted]

b5

Hamrick: Do you think that the decision to notify Congress about this new evidence; do you think that that ran counter to that DOJ policy about taking steps so close to an election?

Anderson: No, I don't believe so.

Hamrick: Why not?

Anderson: We had, I guess for two principle reasons one we collectively as a group and the Director personally we had no intent to influence the outcome of the election we were not taking steps for purposes of influencing the outcome one way or another so that is point number one and then point number two was that even if we

1 didn't intend any impact but there was one you know that we, that
2 was going to happen regardless of whether we wanted it to or not
3 that there was no way that we could avoid it. Whether we disclosed
4 or didn't disclose that either of those two steps could theoretically
5 have an impact on the election we didn't know whether it would or
6 wouldn't you know as I said we recognize that we are not you know
7 our job is investigating criminal matters not predicting um the
8 influence of events on the outcome of elections but we um there was
9 no path clearly available to us that we believed would completely
10 insulate us or completely insulate the FBI from any potential
11 allegation or appearance of involvement in the election. Had we
12 you know if we disclosed the perception could be that we were
13 trying to help Trump and if we didn't disclose we would be accused
14 of having concealed the fact in order to help Hillary Clinton and so
15 there was no path available to us that would not be perceived to
16 have an impact on the election.
17 Hamrick: In the email that we just looked at the, on the second
18 page of the email it talks about, attachment incorporates Jim Baker's
19 comments; it does not address Trisha's from her recent email. I don't
20 think we ever received that email in the document production that

1 was done in response to our request. Do you know if that email still
2 exists or if it was produced?
3 Anderson: I have no idea, as I said I couldn't personally do a search
4 of my emails from that time period so I don't know sitting here today
5 whether the email still exists or um whether it was produced or could
6 be produced or anything to that effect.
7 Hamrick: So let me just ask a follow up. Typically, so this would
8 have been an email I suspect from October 27, 2016, right?
9 Anderson: Mm-hmm.
10 Hamrick: What is your process you talked about archived
11 emails, how does it work at the FBI is it every three months I know
12 different agencies have different procedures for archiving. What
13 would normally be archived in terms of your emails?
14 Anderson: The archiving isn't automatic but we have a certain
15 limited capacity especially on the unclassified side in terms of how
16 large the inbox can be and so you get notifications on that side
17 when you are getting close to the limit and if you reach the limit you
18 can't send or receive any email so it's up to the individual user to
19 take action to archive your email to make sure that your size limit or
20 size of your inbox is maintained below that limit so you can continue

1 to send and receive emails.

2 Hamrick: And this type of email where it seems like you were
3 giving your comments about some action that the Director was
4 going to take; is this an email that you would normally archive?
5 Anderson: Yeah you don't, I don't pick or choose the, you just
6 archive the whole inbox.

7 Hamrick: Oh so you just archive so
8 Anderson: Yeah, so it I mean so there's something you can do in
9 outlook to archive your messages but I'm not sure the user even has
10 the capability you just archive based on date range so and I you
11 know it was certainly not be my, I do not delete my emails other than
12 meeting cancellation notices and things like that or a notification
13 that somebody has read an email things like that that don't need to
14 be preserved, I don't delete any substantive emails whether they be
15 sent by me or to me and so I, my expectation would be that
16 anything that was on my system would be archived.

17 Hamrick: Ok.
18 Anderson: And just so, you know the individual users at the FBI don't
19 have any involvement in pulling emails for production. It all happens
20 behind the scenes and so I had no involvement in the searches of

1 any emails or review or production or anything like that.

2 Galindo-Marrone: Let me circle back to one thing. To recap

3 when you were describing the different considerations in play for the

4 concerning the October 28 congressional letter I think you

5 mentioned and I want to make sure I understood you correctly that I

6 think you said with respect to that letter the one that went out

7 October 28 to Congress the FBI did not leak that letter or make a

8 public statement concerning that letter, right?

9 Anderson: I don't believe, I mean, I'm not aware of anybody at the

10 FBI who leaked it or um made any public statements about it, we

11 sent the letter up to the Hill.

12 Galindo-Marrone: But I think you also said that, but the

13 expectation would this be fair to say of you all that were in the room

14 making this decision was that even though on your end no one was

15 going to be leaking this that the likelihood would be that once the

16 Hill got this letter it would go public?

17 Anderson: Yeah that was, we, the reality was that I think we no

18 matter what steps we took no matter what caveats we put on the

19 letter no matter what conversations even people might try to have

20 with congressional leaders that there was no way the letter wouldn't

1 become public um we had no option to preserve its confidentiality
2 just simply with respect to the Hill it just simply wasn't realistic even if
3 that was our desired outcome.
4 Galindo-Marrone: And did I understand you correctly that there
5 was a similar view with respect to the search warrant, that the belief
6 was even if you all had not sent the letter to Congress that the search
7 warrant would become public as well?
8 Anderson: Um, I think yeah we, I mean, probably with a less, a lower
9 degree of certainty but we certainly knew that was a possibility.
10 Galindo-Marrone: Ok.
11 Anderson: And if I could just clarify one thing.
12 Galindo-Marrone: Sure.
13 Anderson: You asked me whether anyone or whether I was
14 concerned about substantively impacting the outcome of the
15 election and I said that I was worried about that and I characterized
16 my concerns as being private concerns. I wanted to underscore that
17 you know I recognize the distinction between my own you know
18 private concerns as a private citizen as a member of the electorate
19 and my you know the concerns that were legitimate for me to take
20 into consideration as an official of the FBI so I did not in any fashion

1 express those concerns those private concerns in the course of the
2 meetings with the Director.
3 Hamrick: Ok. So after or around the same time the notification
4 to Congress went up Director Comey also sent an email to I guess all
5 FBI employees and in case you need to refresh it is Bates stamp
6 document that ends 1127. And it was sent Friday October 28 2016
7 3:08 p.m. Do you know what email I am talking about?
8 Anderson: Yeah, sorry let me just pull it up here.
9 Hamrick: Sure. Sure.
10 Anderson: Ok yes.
11 Hamrick: Were you involved at all in drafting or editing this
12 email?
13 Anderson: Not drafting but I believe that a draft was circulated to the
14 same group that I've referenced previously for any edits.
15 Hamrick: Do you recall if you had any edits to it?
16 Anderson: Um, I don't recall for certain but I don't believe I did.
17 Hamrick: Prior to seeing the email, did you know that the
18 Director was planning on emailing all the FBI employees, prior to
19 seeing the draft?
20 Anderson: Yeah, I think he did mention it in the meeting.

1 Hamrick: What was his reasoning for why he wanted to do that?
2 Anderson: Um, you know I, it would be hard for me to say for
3 certain you know it was not the focus of our conversations um the
4 Director is, as you may know has um he um he does communicate
5 frequently with the FBI population as a whole and given the
6 significance of what he was doing it was no surprise to me that he
7 wanted to do something like this.

8 Hamrick: Did you have any reaction to his desire to send this
9 email out?
10 Anderson: Uh no not in this particular case. To me the substance of
11 the email dovetails entirely with our actual in our letter to the Hill
12 and you know it struck me as highly consistent with what we had
13 discussed in the meeting so no I didn't have any concerns with it.

14 Hamrick: And you said the Director communicates frequently
15 with the FBI staff, does he usually send these kind of emails about the
16 FBI's investigations?
17 Anderson: No but going back to something I said at the very
18 beginning of the interview this was an investigation that was without
19 parallel or precedent.

1 Hamrick: So there's, in the second paragraph of the Director's
2 email he talks about ordinarily we don't tell Congress about on-
3 going investigations and he says I also think it would be misleading
4 to the American people were we not to supplement the record. What
5 is your understanding of what he means by that?
6 Anderson: I think simply it's a reference or I would read this to be a
7 reference back to the July statement that we had, he had sort of
8 made significant statements in two forums to the effect that the FBI
9 had completed the investigation and one was in his congressional
10 testimony the other was in the July statement and so you know just
11 as we would, it would be misleading by omission given his prior
12 statement that we completed the investigation not to supplement
13 the record that we are taking additional investigative steps.

14 Hamrick: What about that next sentence where he references
15 the fact that you are in the middle of an election season. What is
16 your understanding of that statement? Or what he is trying to
17 convey?
18 Anderson: Are you talking about the last sentence?

19 Hamrick: Right, "in trying to strike that balance in a brief letter

1 and in the middle of an election season there is significant risk of
2 being misunderstood but I wanted you to hear it directly from me."
3 Anderson: Well obviously you would need to speak to the Director to
4 know precisely what his intended meaning was but I read that as a
5 reference back to the concerns that we had discussed in the
6 meeting about the perceptions of the FBI um being misunderstood as
7 seeking to influence the election one way or another.
8 Hamrick: Ok, so then the final notification to Congress came on
9 November 6th. I guess at some point in time you learned that the
10 team had quickly reviewed the newly discovered emails and that
11 that review was finished, right?
12 Anderson: That is correct, we were at that point having daily if not
13 more frequently than daily phone calls about the status of the
14 investigative step, the email review.
15 Hamrick: What were you told about the results of the review?
16 Anderson: Um, I'm not going to remember all the precise details
17 exactly of what we were told. Um, so there are others who could
18 speak to that but um my understanding was that we uh did not
19 uncover any, we didn't uncover the emails from that period of time
20 that I had mentioned earlier where we didn't have any, we had not

1 previously uncovered those emails so we didn't fill that gap that we
2 didn't identify any emails between Huma and the former Secretary
3 concerning the setup of the server um but that there were, we did
4 identify a number of classified emails um most or all of which we had
5 previously seen I think ultimately we didn't, they didn't entirely
6 overlap with the um, I just don't remember precisely. I don't think
7 they totally overlapped with what we had previously seen in terms of
8 the classified emails that had gone through the server but they
9 largely overlapped with the ones we had previously seen. But then
10 there were a couple of other um, uh there were, there was one other
11 thing that struck us all and I'm a little bit curious which was um we
12 saw there was some evidence of I believe it was a classified email
13 having been forwarded by Huma or from Huma's account to
14 Anthony Weiner and that was among the evidentiary conclusions
15 that or among the evidence that was identified.
16 Hamrick: Was there a meeting with the executives that you
17 identified earlier to kind of discuss what to do now at this point?
18 Anderson: Um, yes I can't remember exactly you know the precise
19 configuration of meetings or conference calls but yes there was
20 discussion about what to do next although I think it was fairly brief

1 because I think at that point we had, I'm trying to remember

2 exactly but I think we had already talked over the course of the

3 week about needing to do another disclosure to Congress.

4 Hamrick: Who had raised that idea?

5 Anderson: I don't recall.

6 Anderson: So what specifically was discussed with respect to an

7 additional disclosure to Congress?

8 Anderson: [redacted] b5

9 [redacted] I would say that was

10 the predominate consideration.

11 Hamrick: What were the reasons for notifying Congress?

12 Anderson: [redacted] b5

13 [redacted]

14

15

16

17

b5

Hamrick: Did anyone disagree with sending this additional notification to Congress?

Anderson: I don't believe so. I don't recall, in contrast with the October 28th letter I don't recall there being any significant disagreement that this was the right thing to do once we had completed or substantially completed the review of the new emails.

Hamrick: So you agreed with that decision?

Anderson: I did.

Hamrick: What about Mike Steinbach, did he agree?

Anderson: I don't recall. I don't remember, I don't remember any body expressing any significant disagreement but I don't recall any particular statements made by Mike Steinbach.

Hamrick: During the discussions about sending this additional notification, was there any conversation about any potential impact on the election?

Anderson: I don't recall any new or separate conversation about that issue. I think we had fully hashed out and this is just to the best of my memory the whole you know this time period there were a lot of meetings, a lot of discussions and it is hard to remember precisely which and over a very compressed period of time over a week or so, sorry I just got another call coming in and it distracted me. I'm sorry so there were a lot of meetings a lot of discussions over a very compressed time period and it is hard to remember exactly what was said in connection with the October 28 letter versus the November 6 but we had, my feeling at this point in time is that we had really fully hashed through in connection with the October 28th letter the idea that the FBI would be perceived whichever course of action it took as having impacted the outcome of the election that because we had fully hashed through that in connection with the October 28th letter I don't remember there being any new significant extensive discussion about the issue in connection with the subsequent letter.

1 Hamrick: Was in terms of any kind of legal review of the
2 decision to send the letter, was the Hatch Act ever discussed or
3 considered?

4 Anderson: I mean no, no other than what I've already mentioned in
5 terms of the review of the DOJ policy which um I can't remember
6 whether it happened in connection with the July 5th statement or
7 the October 28th letter and no it just uh no it was not something that
8 we explicitly considered in connection with the November letter.

9 Hamrick: Are you doing ok do you need to take a break
10 because we are at a natural pause point so do you need to take a
11 little break or are you good to go?

12 Anderson: I will take you up on that. I'm going to put you on mute
13 for a minute or two and I'll be right back.

14 Hamrick: Ok, I'm going to stop the recorder at 3:18. It's 3:19
15 p.m. so we are going to shift gears in terms of questioning. We are
16 going to ask you a couple questions about other FBI investigations.
17 We know now that there was an investigation at least as early as
18 July of 2016 concerning individuals associated with the Trump

1 campaign and the Russian government and whether there was any
2 coordination between the campaign and Russia's efforts to interfere
3 with the 2016 presidential election and this obviously wasn't
4 publicly confirmed by Director Comey until March of this year but
5 during all of this that is going on with the public statements
6 concerning the Clinton email investigation and then the October 28
7 notification to Congress, was there ever any discussion with Director
8 Comey about making this other investigation public prior to the
9 election, this investigation involving Russia and potential ties to the
10 Trump campaign? I know that was a long-winded question.

11 Anderson: Yeah, um, I guess I'm pausing because of um, I'm
12 thinking, I guess in terms of like the scope of your inquiry um you
13 know and I guess this, uh anyhow could you rephrase the question?

14 Hamrick: Right, so I'm not asking any specifics about the
15 investigation or what was going in July. I want to know whether
16 there was any discussion or if anyone raised the issue of whether
17 the fact that the FBI has this investigation should be made public,
18 going back to the 2016 timeframe when all this stuff with the Clinton

1 email investigation is being wrapped up was there any discussion
2 about you know well should this investigation be public?

3 Anderson: I'm not aware of any such discussions.

4 Hamrick: Were you at all involved in your role there, were you
5 involved in I don't want to ask a question I can't ask. If there had
6 been those types of discussions would you have been involved in
7 them or was that separate from your role there?

8 Anderson: Um, well I can't say for certain that if there were any
9 such discussions that I would have been involved but the uh, it
10 would have been within my supervisory responsibilities to supervise
11 the same attorney in connection with [redacted] work on the Russia b6 b7C
12 related investigation.

13 Hamrick: Ok and to your knowledge, it was never raised that
14 potentially we should be making the fact that there is this
15 investigation public as well?

16 Anderson: Um, certainly not raised by us. I guess I'm trying to think
17 about whether, I certainly and I don't recall it ever being

1 mentioned in connection with, I just don't remember and I don't
2 recall there being any such discussions.

3 Hamrick: So what we are trying to ponder and maybe you can
4 just give us some thoughts on this. You know there was this pretty
5 high profile investigation involving one of the presidential
6 candidates that you know the FBI spoke very publicly about on
7 several occasions, well publicly and then notification to Congress.
8 At the same time knowing that it had another significant
9 investigation involving the other presidential candidate and why
10 the two were treated differently when they both involved
11 presidential candidates in the months leading up to the 2016
12 election.

13 Anderson: Yeah well certainly, I can sort of, I mean I can speak
14 from my own perspective and you know certainly um in terms of
15 why you know why the two things can be differentiated. As I
16 mentioned at an earlier point in the interview the Clinton email
17 investigation was you know it was publicly confirmed you know
18 even before the FBI did anything to confirm the facts of the
19 investigation I believe the former Secretary herself acknowledged it

1 insofar as she knew about it. DOJ confirmed it you know they
2 backpedaled a little bit after that and then we did eventually
3 publicly confirm it so it was the fact that we were investigating her
4 use of the private email server was unclassified it was publicly
5 known and by the time we talked about anything publicly it was a
6 completed at that point in time investigation. We did not talk about
7 any of our investigative steps along the way prior to July 5th. The
8 investigation was confirmed and we said nothing more about it until
9 we had completed our work. On the other hand, the matter that the
10 Director confirmed in his congressional testimony until he confirmed
11 it and he did so in a very limited way, he did not disclose very
12 much at all about the investigation. To that point it was a classified
13 fact it was not publicly confirmed and it remains on-going and so
14 consistent with that idea that it is an on-going counter intelligence
15 classified national security investigation you know we have not, the
16 FBI to date has not talked publicly about its investigative steps,
17 about who the subjects are, about the scope, the contours, et
18 cetera. And so I think they are two, the similarity between the two
19 matters in terms of parallel of you know you drew a parallel that
20 they were both concerning presidential candidates um, I think that

1 is not even necessarily an accurate characterization but to the
2 extent there is that similarity it stops there.

3 Hamrick: Ok.

4 Anderson: At least that is the way I would think about it.

5 Hamrick: {Ana do you have any follow up questions on that}
6 I'm just going to put you on pause for one second ok Ms.
7 Anderson?

8 Anderson: Yes.

9 Hamrick: So let me ask you a similar question with respect to
10 the investigation involving the Clinton foundation, you know, what
11 are your thoughts in terms of why that was treated differently than
12 the investigation involving the former Secretary's emails in terms of
13 the public announcement about it, the confirmation about it and
14 what have you.

15 Anderson: Well if I could just back up.

16 Hamrick: Sure.

1 Anderson: I wanted to supplement my prior answer with one other
2 factor with respect to why the Clinton but not the Russia
3 investigation you know the public disclosures. I think just one thing
4 to stress too from my own perspective with it being a counter
5 intelligence, the Russia investigation being a counter intelligence
6 investigation you know there with the investigation being on going
7 the disclosure of anything about the investigation any details about
8 it could have the potential to interfere with or undermine our ability
9 to actually gather evidence.

10 Hamrick: Sure.

11 Anderson: You know we are talking about an investigation of a
12 hostile foreign power who would be crazy not to take steps to
13 defend itself against an FBI investigation to change its tactics, its
14 measures that sort of thing and you know in contrast with the
15 Clinton matter not only was it completed um but we had all of the
16 physical evidence in our possession there was no possibility at the
17 point of which we made any of these statements of any outside
18 interference with our investigation so that is, I just wanted to
19 elaborate a little bit on that.

1 Galindo-Marrone: And I have a follow up on that and you've
2 used counter intelligence to describe the investigation regarding
3 we'll call it the Russia/Trump campaign. The Clinton email
4 investigation that would not be characterized as a counter
5 intelligence investigation or would it be?

6 Anderson: You cut off could you repeat?

7 Galindo-Marrone: Would the Clinton email investigation be
8 considered also a counter intelligence investigation or something
9 different?

10 Anderson: I guess technically I'm not sure how its classified in our
11 file series that would really be the authoritative view on it but if its
12 technically classified as a counter intelligence investigation it was
13 handled by the counter intelligence division. The handling of
14 classified information is just a very different type of investigation.

15 Galindo-Marrone: Then

16 Anderson: Even if it yeah.

17 Galindo-Marrone: I see. Then the one involving Russia and
18 counter intelligence?

1 Anderson: Exactly involving the actions of a hostile foreign power.

2 Galindo-Marrone: Ok

3 Hamrick: So going back to the FBI's investigation into the
4 Clinton Foundation; and the fact that the same kind of public
5 statements about that investigation were not made as with the
6 Clinton email investigation; can you provide some context for us in
7 terms of why they would have been handled differently?

8 Anderson: Um, I can only speak from my own personal
9 perspective. I know very little and have had no involvement in the
10 Clinton Foundation matter but again you know my understanding is
11 its not a publicly confirmed investigation to the extent there is one
12 its still ongoing I don't know anything about you know its
13 conclusions, its contours, its status, and or its you know at the end of
14 the day whether it has any, whether it has any bearing on any
15 matters of similar significance to the national interest. So that's
16 really all I know and all I can say on that.

17 Hamrick: So I just have three wrap up questions and then if
18 there is anything that you want to add you certainly may so do you

1 **believe that Director Comey intended to have an effect on the**
2 **presidential election when he made his July 5th statement about the**
3 **results of the Clinton email investigation?**

4 **Anderson: Absolutely not. Everything I mean he, everything I've**
5 **heard him say, everything I know about him is just so consistent**
6 **with the idea that we do our work in an apolitical way, we are not,**
7 **we are professional investigators, we are to do our work without**
8 **regard to um the politics of how you know of what might result from**
9 **our work.**

10 **Hamrick: Same question with respect to the October 28th**
11 **notification to Congress. Do you believe Director Comey intended**
12 **to have an impact on the presidential election?**

13 **Anderson: Same answer, absolutely not, if there had been an**
14 **option that we had identified that would have allowed us to avoid**
15 **the perception that we were affecting the outcome of the election.**
16 **He would have been all in favor of it. We all would have been in**
17 **favor of it but we saw no such alternative available to us.**

Hamrick: What about the November 6 notification to Congress? Do you believe he intended; Director Comey intended to have an impact on the presidential election by sending that letter?

Anderson: Absolutely not. Same answer.

Hamrick: Ok is there anything that you want add or that we didn't cover that you think is relevant to our investigation?

Anderson: Um, I can't think of anything at the moment.

Hamrick: Ok, Ana do you have any?

Galindo-Marrone: I do not.

Hamrick: All right, I'm going to turn off the recorder it is 3:33 p.m.

Non-Disclosure Agreement
Re: U.S. Office of Special Counsel ("OSC") Complaint No. HA-17-0515

1. On behalf of OSC, I, Erica Hamrick, Deputy Chief of the Hatch Act Unit, agree to be legally bound and accept the obligations contained in this Non-Disclosure Agreement ("Agreement"). This Agreement involves the names of Federal Bureau of Investigation (FBI) employees who may have discussed with FBI Director James Comey issues relevant to his decisions to make his July 5, October 28, and November 6, 2016 announcements about the FBI's investigation of former Secretary Hillary Clinton's use of a personal email server ("FBI employee witnesses"). This Agreement extends to any names of FBI employee witnesses provided to OSC by the FBI or the Department of Justice. The purpose of this Agreement is to protect the identities of FBI employee witnesses who may be interviewed by OSC, or who are otherwise identified in FBI records provided to OSC, from unauthorized disclosure to third parties.

2. OSC shall retain custody of the names of FBI employee witnesses in its official investigative file related to the above-referenced OSC complaint ("the OSC complaint"). At the conclusion of its investigation, OSC will label relevant portions of its official investigative file so that the names of FBI employee witnesses are clearly identified as subject to this Agreement.

3. OSC will use the names of FBI employee witnesses solely for the purpose of investigating the OSC complaint and making factual and legal determinations related to the OSC complaint.

4. OSC will not duplicate or copy FBI records containing or reflecting the names of FBI employee witnesses, except for the purpose of investigating the OSC complaint (including transcribing recorded testimony).

5. OSC will not divulge the names of FBI employee witnesses to anyone outside of OSC without prior written authorization from the Department of Justice, except as described herein or required by law.

6. If OSC determines that its report in this matter, and/or any other material from its investigative file, are subject to disclosure under the Freedom of Information Act, 5 U.S.C. § 552, OSC will engage in the FOIA referral/coordination/consultation process set forth in OSC's and DOJ's FOIA regulations at 5 C.F.R. § 1820.3 and 28 C.F.R. § 16.4, respectively, to ensure that any FBI information and equities are properly addressed and protected as authorized under the FOIA.

7. If OSC determines that its report in this matter should otherwise be made public, including any disclosure to Congress, any Senator or Member of Congress, and/or any Congressional Committee, Subcommittee, or other Congressional establishment, it will redact the names of FBI employee witnesses subject to this Agreement and will allow the FBI to review a read-through version of the redacted report and any other records it intends to release to propose

additional redactions that may be necessary to protect law enforcement sensitive information before making any such disclosure.

8. Nothing in this Agreement prevents OSC from disclosing the names of FBI employee witnesses to the President of the United States, FBI Director Comey, or other officials within the Department of Justice as part of any report of OSC's findings or recommendations. However, should OSC determine that its report in this matter should be made public, or that it is subject to disclosure under the Freedom of Information Act, 5 U.S.C. § 552, OSC will redact the names of FBI employee witnesses subject to this Agreement before making any such disclosure.

On behalf of myself and OSC, I agree to the terms of this Agreement.

Erica Hamrick
Deputy Chief, Hatch Act Unit

1/17/2017

Non-Disclosure Agreement Regarding Deliberative Process Privileged Material
Re: U.S. Office of Special Counsel ("OSC") Complaint No. HA-17-0515

1. On behalf of OSC, I, Erica Hamrick, Deputy Chief, Hatch Act Unit, agree to be legally bound and accept the obligations contained in this Non-Disclosure Agreement ("Agreement"). This Agreement pertains to communications between employees of the Federal Bureau of Investigation (FBI) that the FBI has determined are protected by the deliberative process privilege. The documents are responsive to OSC's requests for records sent or received by Director James Comey or records in his possession that discuss issues relevant to his decisions to make his July 5, October 28, and November 6, 2016 communications about the FBI's investigation of former Secretary Hillary Clinton's use of a personal email server ("FBI employee witnesses"). This Agreement extends to records and testimony, including transcribed testimony or summaries thereof, provided to OSC by the FBI or other components within the Department of Justice. The purpose of this Agreement is to protect from unauthorized disclosure to third parties the information identified by FBI as deliberative process privileged material ("DPP information").

2. OSC shall retain custody of the DPP information in its official investigative file related to the above-referenced OSC complaint ("the OSC complaint"). At the conclusion of its investigation, OSC will label relevant portions of its official investigative file so that the DPP information is clearly identified as subject to this Agreement.

3. OSC will use the DPP information solely for the purpose of investigating the OSC complaint and making factual and legal determinations related to the OSC complaint.

4. OSC will not duplicate or copy FBI records containing or reflecting the DPP information, except for the purpose of investigating the OSC complaint (including transcribing recorded testimony).

5. OSC will not divulge the DPP information to anyone outside of OSC without prior written authorization from the Department of Justice, except as described herein or required by law.

6. If OSC determines that its report in this matter, and/or any other material from its investigative file, are subject to disclosure under the Freedom of Information Act, 5 U.S.C. § 552, OSC will engage in the FOIA referral/coordination/consultation process set forth in OSC's and DOJ's FOIA regulations at 5 C.F.R. § 1820.3 and 28 C.F.R. § 16.4, respectively, to ensure that any FBI information and equities are properly addressed and protected as authorized under the FOIA.

7. If OSC determines that its report in this matter should otherwise be made public, including any disclosure to Congress, any Senator or Member of Congress, and/or any Congressional Committee, Subcommittee, or other Congressional establishment, it will redact the DPP information subject to this Agreement and will allow the FBI to review a read-through version of the redacted report and any other records it intends to release to propose additional redactions that may be necessary to protect DPP information and any other law enforcement sensitive information before making any such disclosure.

8. Nothing in this Agreement prevents OSC from disclosing the DPP information to the President of the United States, FBI Director Comey, or other officials within the Department of Justice as part of any report of OSC's findings or recommendations. However, should OSC determine that its report in this matter should be made public, or that it is subject to disclosure under the Freedom of Information Act, 5 U.S.C. § 552, OSC will redact the DPP information subject to this Agreement before making any such disclosure.

On behalf of myself and OSC, I agree to the terms of this Agreement.

Erica Hamrick
Deputy Chief, Hatch Act Unit

2/15/17
February 15, 2017

Non-Disclosure Agreement Regarding Attorney Client Privileged Material
Re: U.S. Office of Special Counsel ("OSC") Complaint No. HA-17-0515

1. On behalf of OSC, I, Erica Hamrick, Deputy Chief, Hatch Act Unit, agree to be legally bound and accept the obligations contained in this Non-Disclosure Agreement ("Agreement"). This Agreement pertains to communications, oral or written, between employees of the Federal Bureau of Investigation (FBI) that the FBI has determined are protected by the attorney client privilege. The documents provided under this Agreement are responsive to OSC's requests for records sent or received by Director James Comey or records in his possession that discuss issues relevant to his decisions to make his July 5, October 28, and November 6, 2016 communications about the FBI's investigation of former Secretary Hillary Clinton's use of a personal email server. This Agreement extends to records and testimony, including transcribed testimony or summaries thereof, provided to OSC by the FBI or other components within the Department of Justice. The purpose of this Agreement is to protect from unauthorized disclosure to third parties the information identified by FBI as attorney client privileged material ("ACP information").

2. OSC shall retain custody of the ACP information in its official investigative file related to the above-referenced OSC complaint ("the OSC complaint"). At the conclusion of its investigation, OSC will label relevant portions of its official investigative file so that the ACP information is clearly identified as subject to this Agreement.

3. OSC will use the ACP information solely for the purpose of investigating the OSC complaint and making factual and legal determinations related to the OSC complaint.

4. OSC will not duplicate or copy FBI records containing or reflecting the ACP information, except for the purpose of investigating the OSC complaint (including transcribing recorded testimony).

5. OSC will not divulge the ACP information to anyone outside of OSC without prior written authorization from the Department of Justice, except as described herein.

6. If OSC determines that its report in this matter, and/or any other material from its investigative file, are subject to disclosure under the Freedom of Information Act, 5 U.S.C. § 552, OSC will engage in the FOIA referral/coordination/consultation process set forth in OSC's and DOJ's FOIA regulations at 5 C.F.R. § 1820.3 and 28 C.F.R. § 16.4, respectively, to ensure that any FBI information and equities are properly addressed and protected as authorized under the FOIA.

7. If OSC determines that its report in this matter should otherwise be made public, including any disclosure to Congress, any Senator or Member of Congress, and/or any Congressional Committee, Subcommittee, or other Congressional establishment, it will redact the ACP information subject to this Agreement and will allow the FBI to review a read-through version of the redacted report and any other records it intends to release to propose additional redactions that may be necessary to protect ACP information and any other law enforcement sensitive information before making any such disclosure.

8. Nothing in this Agreement prevents OSC from disclosing the ACP information to the President of the United States, FBI Director Comey, or other officials within the Department of Justice as part of any report of OSC's findings or recommendations. However, should OSC determine that its report in this matter should be made public, or that it is subject to disclosure under the Freedom of Information Act, 5 U.S.C. § 552, OSC will redact the ACP information subject to this Agreement before making any such disclosure.

On behalf of myself and OSC, I agree to the terms of this Agreement.

Erica Hamrick
Deputy Chief, Hatch Act Unit

2/23/17
February 23, 2017