INTERVIEW OF:

Trisha Anderson

OSC ATTORNEY:
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RE: OSC HA-17-0515

DATE OF INTERVIEW:
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PROCEEDINGS

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

This is an interview of Trisha Anderson in the investigation of OSC complaint # HA-17-0515. I'm Erica Hamrick an attorney at the U.S. Office of Special Counsel. Also present with me today here is OSC attorney Ana Galindo-Marrone. As I said before we went on the record, OSC is investigating allegations that FBI Director James Comey violated the Hatch Act when he made public announcements concerning the FBI's investigation into former Secretary Hillary Clinton's use of a personal email server. Ms. Anderson has been identified as a witness in this investigation. Ms. Anderson do you have any questions at this time?

Anderson: I do not but as I mentioned before we went on the record. My ability to refresh my recollection has been somewhat limited. I have not been able to access any documents from the relevant time period other than those that have been identified to me and so all of my answers will be to the best of my recollection as it stands today.

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

Anderson: That is correct.

Hamrick: I’m going to read you the oath; do you solemnly swear
or affirm under penalty of perjury that the information you are about

to provide is true, accurate and complete to the best of your

knowledge and belief?

Anderson: I do.

Hamrick: I know that you said that your ability to review
documents was limited; did you review any documents to prepare
for today’s testimony?

Anderson: I was sent the Bates stamped documents that I understand
were produced to you all that include the four Bates ranges that you
identified in your email but nothing else.

Hamrick: Did you speak with anybody to prepare for today’s

interview?

Anderson: Yes, I did. I spoke with [Jay Maclin] and

00:46:39.

Hamrick: What in general did you discuss with them?

Anderson:

Hamrick: Did you speak with anybody? Sorry, go ahead.

Anderson: That’s in general terms what we talked about.
Hamrick: Ok and did you speak with anybody else?

Anderson: No, I did not.

Hamrick: I’m going to ask a few background questions. Can you identify what your current position is at the FBI?

Anderson: I’m Principal Deputy General Counsel. I oversee the national security and cyber law branch of the Office of General Counsel.

Hamrick: How long have you been in that position?


Hamrick: What type of appointment do you have? Are you a general schedule employee or an SES?

Anderson: I’m an SES appointee. In the FBI, I’m at a Deputy Assistant Director level.

Hamrick: Is that non-career?

Anderson: No, it’s career.

Hamrick: Career SES ok.

Anderson: Yes, mm-hmm.

Hamrick: Are you a supervisor?

Anderson: Yes I am.

Hamrick: How many people do you supervise?
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.
Hamrick: Who was the

Anderson: In other words, I was not, I wasn’t the day-to-day lawyer providing support to the investigation but as important or significant decision points needed to be made, I would be brought in and was involved.

Hamrick: What is the name of the attorney who was providing that day-to-day legal support?

Anderson: [Redacted] name is [Redacted].

Hamrick: And in your supervisory role did you participate in meetings related to the investigation?

Anderson: Yes I did.

Hamrick: How often?

Anderson: It is hard to say. It’s hard to say. There probably were some sort of meetings; I guess it depends on what you characterize as a meeting. I talked regularly with my employee who was more closely involved. But in terms of formal meetings, there was no set schedule so it probably varied over the course of the investigation. There may have been times when there were meetings that occurred as often as on a weekly or even more frequent basis.

Hamrick: So we understand with respect to the investigation
there was a team called the mid-year team. Were you
Anderson: Mid-year exam.

Hamrick: Mid-year exam. Were you part of the mid-year exam
team?
Anderson: I guess I wouldn’t consider myself to have been part of the
investigative team it wouldn’t be consistent with my role as a
supervisor. I was more involved at the FBI executive level.

Hamrick: Do you know the names of the individuals who were
on that mid-year exam team?
Anderson: I do not know all their names, I can tell you the people,
the two officials from the counter intelligence division who principally
supervised the team and managed the team. And that is [redacted].
His last name is [redacted]. And [redacted], [redacted].

Hamrick: They were in supervisory roles?
Anderson: That is correct. It was not often that I had contact with the
agents and analyst below that level.

Hamrick: Ok, what about an individual named, is it Priestap?
Anderson: That is right. Bill is the head of the counter intelligence
division and [redacted] and [redacted] both report to him. I wouldn’t consider him
to have been a part of the investigative team because he again is
sort of operating at the executive level and report up to him as significant matters arise but from a day-to-day investigative standpoint, I would have considered them to have been the managers of the investigation.

Hamrick: In your role, were you involved at all in decision making with respect to the investigation?

Anderson: I was advising on various decision points in the investigation. But you know as a lawyer you know we wouldn’t, it would not typically be the case unless there was a legal question that arose that we would dictate the outcome of a decision.

Hamrick: Ok so your role was in providing the legal advice?

Anderson: That is correct.

Hamrick: Would legal research be involved in that role as well?

Anderson: Um, my employee, not by me, typically would have done the legal research directly.

Hamrick: Ok. And at some point did you become aware that the individuals working on this mid-year exam investigation had made a recommendation about the case? About the outcome of the case?

Anderson: Um, so I would say that there wasn’t a specific point in
time where there was a um, they came to the executives and said, we have a recommendation, its more that we had been, we knew what was going on in the investigation where it was headed so there isn’t sort of a crisp point in time where that, to say there was a clear recommendation that surfaced.

Hamrick: When you say, sorry go-ahead.

Anderson: It was obvious to all of us who had been deeply; who had been briefed frequently on the investigation and knew what was happening where it was headed.

Hamrick: When you talk about us and kind of, we knew what was going on. Whom specifically are you talking about?

Anderson: So I would say, so at the executive level you know the precise contours of the group did change a little bit over time but um, I mean I’m sort of referring to the group that met most regularly with the Director which would include um, usually the EAD for the national security branch, which at the time was Mike Steinbach. Sometimes it would also include the Associate Deputy Director, Dave Bowdich, our Deputy Director Andy McCabe, and then Bill Priestap who is the head of the counter intelligence division, Jim Baker on the legal side, the General Counsel, myself,
Hamrick: And in terms of these individuals meeting would that also include Director Comey?

Anderson: Yes.

Hamrick: And his Chief of Staff?

Anderson: That is correct. Like I said not you know not every single meeting or discussion included exactly the same configuration of people but that is the group that would be invited to the meetings. They would attend if they were available.

Hamrick: So when you say it was obvious to us, to this kind of a group of executives you know what the outcome was going to be, I guess what was obvious about it?

Anderson: Well, I mean maybe obvious is probably not the word I should have used but we were briefed regularly on the investigative results and so if therefore wasn’t, there wasn’t sort of a clear, I can’t give you a date or a clear moment in time or a precise meeting in which there was a recommendation formulated. It was a recommendation that emerged over time. And you know the recommendation or the conclusions are those that were outlined in
the July 5th statement with respect to the criminal violations at issue.

Or criminal statutes at issue.

Galindo-Marrone: I have two quick questions. The first is when you were identifying those individuals at the executive level that met more regularly to discuss the investigation after Mike Steinbach you mentioned someone by the name of Dave, I missed the last name.

Anderson: Bowdich

Galindo-Marrone: Bowdich and who is he again?

Anderson: He is our Associate Deputy Director so the number three in command at the FBI.

Galindo-Marrone: My other question; I understand what you are saying that there wasn’t like a formal meeting at one point where a formal recommendation was made concerning the Clinton server and for short I’m just going to call it the Clinton personal server investigation if you don’t mind, but it’s a recommendation that you said emerged over time because you all were being briefed regularly and you could see where this was going. Is that the typical process, like in an investigation of this type. Meaning do you all have a formal process where the investigative team would write a memo recommending what the disposition of a case is or is it less formal
and its just regular briefings until a recommendation emerges?

Anderson: Um, well this investigation um there is almost no parallel or
equivalent example that I think you can draw upon so I think this
investigation was unique in many ways. With respect to our
investigations generally I think our practices don’t in terms of our
procedures don’t fall into a single precise model in terms of exactly
you know how we document our thinking and how we make
recommendations to DOJ but again I’m not the kind of person who is
involved in the day-to-day work of an investigation. This was an
unusual one and therefore required and involved a much greater
degree of executive involvement than is typical.

Galindo-Marrone: So let me just explore that answer a little bit.

So might there be some investigations where a written
recommendation is made to DOJ? Sometimes?

Anderson: So I’m probably not the, I’m not the best source of
authority on that given that I’m not involved in the day-to-day work
of most investigations. I, I’m sure, I don’t want to guess but I am
speculating a little bit here to say that it probably have been some
cases where a written recommendation has been provided to DOJ
but other circumstances I think would be more common where there
would be dialogue with DOJ. Or it could be the case that we might you know even review their prosecution memo and sort of you know engage in a dialogue in that way.

Galindo-Marrone: Got it but in this case there was no such memo which whether you call it a prosecution memo or a memo showing the reasons why not to go forward with prosecution there was no such memo in this case? The Clinton server case.

Anderson: No there was no memo from the FBI to the DOJ making a recommendation.

Galindo-Marrone: Ok.

Hamrick: So moving along to the first public statement on the case or Director Comey’s first statement the July 5, 2016 statement. When did you first learn that Director Comey was planning to make some kind of public statement about the outcome of the Clinton email investigation?

Anderson: The idea, I’m not entirely sure exactly when the idea of the public statement um first emerged. Um it was, I just, I can’t put a precise timeframe on it um but the idea that the Director might make a public statement was something that had been discussed in a very brief or fleeting way for some time in the investigation. And then I
believe it was in early May of 2016 that the Director himself wrote a
draft of that statement and so that is when the possibility of the
statement and our discussions about doing such a statement
became a little bit more concrete.

Hamrick: Who originally in some of these earlier conversations
who originally came up with the idea or started floating around the
idea?

Anderson: I, I don’t know for sure um I don’t remember exactly you
know who made the first suggestion but I believe and the Director
himself would be the best authority on this. I believe the idea was the
Director’s.

Hamrick: So when you found out in early May that there was,
that the Director had written a draft of what the statement might
look like, how did you learn about that?

Anderson: Jim Baker gave me a hard copy of it.

Hamrick: What was his purpose in giving you the copy?

Anderson: He asked me to take a look at it and just start thinking
about you know the wisdom of doing such a statement um the
content of a potential statement and any other reactions that I
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.
Hamrick: What is typical?

Anderson: But it is like I said, what was already somewhat unusual was the fact that the investigation had been publicly confirmed and so we were from that standpoint it was already somewhat unusual. The subject herself I believe had confirmed it and so you know one of the considerations why we don’t speak publicly about our investigations is out of fairness to the subject particularly in a case where there is no indictment or prosecution but here was a case where everybody knew that the FBI was investigating the former Secretary herself had talked publicly about the fact that we were investigating, the DOJ had confirmed that we were investigating early into it and then ultimately the FBI, the Director did confirm it as well so it was just already an unusual posture and we to close the investigation without a prosecution without explaining our reasons I believe the director felt that the credibility of our institution would come under such a significant degree of fire that it would be um not something that we could withstand and he talked at great length in many different forums about the importance of the credibility of the FBI given our role in prosecutions and how it is an 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
draft evolve into the actual statement that was made on July 5.

Anderson: Yeah, so in that timeframe there were frequent meetings with the Director. I don’t know precisely how frequent. Perhaps in some instances occurring on a weekly basis and those meetings would typically proceed in sort of two parts. The first part would involve an update on the investigation, usually given by [redacted] and [redacted] and then the second part of the discussion would typically turn to the idea of the public statement and perhaps not in every meeting, but to the extent we talked about it that is sort of how we structured the meetings. And then it was sort of in that timeframe, maybe June. I’m not really quite sure that there were more drafts that were circulated you know by email.

Hamrick: And the meetings to discuss the public statement; these are the same group of executives that you identified earlier that would be at these meetings?

Anderson: That’s right and the focus typically we’d spend the first half of the meeting or more talking about the investigation itself and then in the second half turn to other steps that included the possibility of a public statement.

Hamrick: Did you ever provide your advice or input about the
public statement?

Anderson: I'm sure I did.

Hamrick: And what was that?

Anderson: Um, it would be hard to sum up and I'm not sure I could remember every single comment that I made about the public statement. Um, I was convinced at the time that it was the right thing to do and I probably expressed that point of view in meetings with the Director.

Hamrick: Was there anyone at those meetings who did not think it was the right thing to do?

Anderson: Um, I don't remember precisely I think we all thought it was a hard decision. It certainly wasn't um; it certainly wasn't the only conclusion that somebody could reach. I don't remember there being any strongly held views against doing the statement, that particular statement. But as for you know people expressing dissenting views at various points along the way um there might have been I'm not really quite sure.

Hamrick: Were you ever asked to provide advice from a legal perspective in terms of the legality of making such a statement?

Anderson: I was not, there were a couple of issues that we did
consider and by we, I mean collectively OGC so for instance

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
so it was not, there was not a lot of time in those meetings devoted to discussion of the memo.

Hamrick: Did anyone write kind of a memo or analysis or anything in regard to that memo and how the Director's statement wouldn't violate the policy?

Anderson: I'm not aware of any memo. On the DOJ memo.

Hamrick: Do you have a question?

Galindo-Marrone: Real quick so you mentioned the DOJ, I'm going to call it the policy memo concerning overt steps or actions leading up to an election. Did any, it seems like there wasn't anything in writing analyzing that issue.

Anderson: That's right.

Galindo-Marrone: But there was some obvious discussion about it at least some consideration given to it. Would part of that consideration have also included the Hatch Act, did that come up in any conversations?

Anderson: I don't believe so directly I mean the um, the DOJ memo obviously talks about the Hatch Act and even the first part of the memo you know closely dovetails with the Hatch Act but I don't 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
course of our many discussions about it.

Hamrick: Was the appointment of a special counsel ever discussed?

Anderson: Yes it was. We were asked to consider, I mean there were numerous congressional letters that were asking for the appointment of a special counsel.

Hamrick: Can you describe what those discussions were like?

Anderson: Uh, I don’t have a great memory of exactly what was discussed and with whom except that I just remember that we did talk about it at various points in time of whether the Director should or should not make a recommendation to the Attorney General that was the appointed

Hamrick: Was anyone in favor of doing that?

Anderson: Um, I don’t remember.

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

Anderson: I presume so but I don’t remember any specifics. I don’t recall and one thing I just want to clarity, I don’t recall that we ever discussed in that large, that group of people that I named, in that 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?
Anderson: I wouldn't say it, it was probably not super explicitly discussed but um you know it was really clear um especially in the weeks leading up to the statement um that at least the public perception would be that the Attorney General herself was not maintaining an appropriate degree of independence with respect to the decision making in this investigation and I'm referring to, I mean I think there were concerns even preceding this but um you know the incident that was extensively reported in the media involving the Attorney General's meeting with former President Clinton on the airplane tarmac.

Hamrick: And you said there were concerns even before that incident what were some of the other concerns?

Anderson: Well the Department of Justice you know compared to the FBI is um you know run much more heavily by political appointees, people who are beholden to the President, the FBI by tradition and by just by virtue of the composition of our executive core is much more apolitical and independent, the only political appointee is the director and his term set by statute is 10 years in part as a reflection of that tradition of independence and so in terms of thinking about 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
into consideration nor should we for any reason. We were trying to
do um you know the one thing I do recall being a sense of was in
terms of the timing um that we wanted to get out of the way of the
election as much as possible and I’m speaking with respect to the
July statement right now so in other words we wanted to wrap it up
quickly um because we wanted the bureau to have no part in any
way to the extent that was possible and so you know my sense from
the meetings that we had was that we were trying to wrap things up
as quickly as possible and just get out of the way of the political
cycle. Get the FBI out of the equation, proved not to be possible but,
later on, but um that didn’t factor into the thinking in terms of timing it
was more sort of let’s step out of the way, let’s not be a factor.

Hamrick: Did you yourself at the time did you think that the July
5th statement could have an impact or have an effect on the
election?

Anderson: I couldn’t say one way or another. I’m not an expert in
that and I didn’t know.

Hamrick: Ana, do you have some questions?

Galindo-Marrone: So I wanted to go back to some of the
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
issue that may have raised concerns for the FBI and in particular Director Comey about then Attorney General Lynch?

Anderson: Um, let me just add to what you included in your question which was as I mentioned you know DOJ is managed at the top by way more political appointees than the FBI so just by virtue of its structure and composition um you know um that we are viewed as more independent which you know I think appropriately viewed as more independent that the Department of Justice um there wasn’t anything that gave us substantive concerns or at least gave me substantive concerns about her impartiality but there was something that we um and I’m not going to be able to talk about this very extensively on an

Extensively on an
Galindo-Marrone: .................................................................

Anderson: .................................................................

Galindo-Marrone: .................................................................

Anderson: Correct.

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

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

Anderson: If we could, I'd appreciate the opportunity for a two-minute break.

Hamrick: Absolutely I'm going to stop the recorder right now. It's 2:25 p.m.

Hamrick: The recorder is back on 2:27pm. We are going to shift to October 2016, that timeframe and at some point in October you learned that there had been some new evidence discovered related to the Clinton email investigation?
Anderson: That is correct.

Hamrick: When did you learn of that new evidence?

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

Hamrick: How did you learn about it?

Anderson: Um, my employee told me. But at that point, its precise relevance to the investigation of the Clinton email server was unclear and unknown.

Hamrick: So can you tell us the progression of how it came from hearing about it from to kind of understanding that there may be some relevance to the Clinton investigation?

Anderson: My understanding was that the team that was involved in the underlying investigation in which this new evidence surfaced was um to the extent permitted consistent with their search warrant was trying to do some preliminary work to um determine what if any materials were on the device that might bear on our investigation and that work unfolded over the course of a couple of weeks. And there was a specific moment in time in later, in late October um when they had um, they knew more at that point about what was on the device and um brought it to executive level attention.
Hamrick: So when it was brought to the executive level, what were you all told about it?

Anderson: Um, so um, I’m not going to remember the precise details exactly but um and we obviously this is all subject to the non-disclosure agreement because none of this has ever been publicly confirmed.

Hamrick: Of course.

Anderson: But the my understanding was that we had a, in connection with the investigation of Anthony Weiner um in an unrelated matter, the FBI had taken possession of one or more of his, one of his laptops at least there may have been other media that they seized and that on that device they had identified emails of Huma Abedin uh that included correspondence between her and the former Secretary.

Hamrick: Why was that significant?

Anderson: It was significant for, well it was potentially significant I guess for a couple of reasons. Um, there had been a, in the course of our investigation of the email server you know we never recovered what we believed to be the entire body of the emails that were sent 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
the search warrant as it existed for purposes of the Weiner investigation. We had no search warrant at that point in time for purposes of the Clinton email server investigation so he was briefed on what we knew at that point in time and then we had a discussion about what we should do going forward that did include a discussion about you know whether we should seek a search warrant, how we should proceed to seek to obtain the evidence.

Hamrick: Ultimately, it was decided to get the search warrant?

Anderson: Yes, that is correct and I believe in that same meeting we did talk about and there may have been multiple meetings that day I’m not sure um in the course of those discussions we did talk about whether we needed to publicly disclose the fact that we were, we had, you know the Director had told Congress and had announced publicly that we had completed our investigation and if we were to seek a search warrant that would seem to be in contradiction with a statement that we had concluded our investigation um it was seeking a search warrant is a very significant overt, in some cases overt investigative step. And so we were in that same briefing about what we knew about material I believe we did talk about whether a 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
significant consideration was the fact that um, you know seeking a
search warrant is not consistent with the completion or closure of an
investigation and that this amounted, it wasn't technically a re-
opening we had never we cannot administratively close an
investigation until we have disposed of the evidence at issue and
provided reasons that may not happen for quite some time in this
particular case um but the investigation you know he had
characterized it as being completed and so the concern was that by
not saying something we would be, it was tantamount to concealing
it, the fact that we were re-opening or seeking new investigative
steps in a matter that he had characterized as completed so there
was the congressional aspect of it um but also the prior public
statement that it would leave a misleading impression with respect to
the you know what the public knew about it as well.

Hamrick: So what was decided then in terms of what to do
about the making some kind of statement?

Anderson: I'm sorry I think you cut off?

Hamrick: Oh, can you hear me now?

Anderson: Yeah, can you repeat your question?

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
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
protective of the FBI as an institution.

Hamrick: So was the concern that this letter would have an impact on the election was that discussed during any of these meetings?

Anderson: Well it was certainly discussed that the FBI would be perceived to be having an effect on the outcome we didn’t, again we sort of, I recall this idea you know that we were not experts on that issue by far you know whether it was true whether that perception would have any merit or not I mean we had no way of knowing one way or another. We weren’t competent, it’s not our job, it’s not our place, our role to even assess what that might possibly be but yes we were concerned that there would be a perception whichever way we went um whether we disclosed the fact of the new material you know we were going to be perceived to be impacting the outcome or whether we didn’t if we had as I think the Director said; perhaps in his email to the troops it was, you know it wasn’t a choice it was a choice between two acts. It was speak or conceal and if the FBI had concealed that fact um, you know the perception would have been that we had been influencing the outcome of the election in the other directions so yeah we were
concerned about that, that impact, long-term impact on the
credibility of the FBI in either scenario.

Hamrick: Were any other options discussed? Rather than
sending a letter to Congress, was there a discussion about not
notifying Congress at all?

Anderson: Yes.

Hamrick: Was that ever really considered as an option or was it
dismissed immediately?

Anderson: No it was not dismissed immediately because I think we
you know we also knew that there were no you know and we you
know we did send up the letter privately to the Hill we didn’t post it
on our website and we didn’t publicize it, we didn’t leak it to the
media you know I don’t believe anybody did um but we, we had an
expectation that there was no way you know there were no
measures that we could take that would allow us to disclose that
information to the Hill without also that information becoming public
just based on our collective understanding of the way things work up
on the Hill.

Hamrick: What about waiting until some of the emails had been
reviewed before notifying Congress to see whether they are what
you thought they might be, was that discussed at all to kind of hold off until you see what you really have?

Anderson: Yeah that was it kind of goes to that materiality point that I mentioned. You know without having acquired the evidence have we crossed a materiality threshold such that we needed to notify Congress or the public or is just simply the fact of seeking a search warrant sufficient so yes there was extensive discussion about that.

Hamrick: Was there any concern expressed with um you know if a search warrant was sought that that would somehow be leaked and it would come out?

Anderson: Yes.

Hamrick: What was that concern exactly? Did you hear that, were you cut off?

Anderson: Yes, I’m sorry my answer was yes.

Hamrick: Ok and what

Anderson: We were concerned even though we were going to seek the search warrant, we were going to seek it under seal um that the reality was that it would be publicly known.

Hamrick: Let me ask you to take a look at one of the documents. I think it may be the one, it’s an email and the Bates
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 James Rybicki to 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?
Anderson: Um, is consistent with um the outcome of the discussions to that point that we were planning to um make the disclosure in a communication to Congress and the draft just simply wasn’t as I recall, um I don’t recall a first draft being written um in that, framed in that precise way.

Hamrick: I see. At some point and this touches on what you were talking about earlier with respect to the perception that the FBI would have some kind of impact on the election. Was there ever a comment made during one of the meetings about how the notification to Congress might hurt Hillary Clinton and help Donald Trump in the elections.

Anderson: You mean substantively?

Hamrick: Yes.

Anderson: In other words like anybody saying is this actually you know we are concerned because this will help Hillary or will hurt her and help Donald Trump?

Hamrick: Yes.

Anderson: No, I don’t recall there being any comments to that effect.

Hamrick: Did you believe that sending this notification to Congress would impact the election?
Anderson: I was worried that it would um and this goes back to what I was saying a little bit earlier. I was worried that it would and I recognized that that was not something that we should be taking into account and so those were my private concerns and I did not share that point of view in the meeting.

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

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

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

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

Hamrick: In the email that we just looked at the, on the second page of the email it talks about, attachment incorporates Jim Baker’s comments; it does not address Trisha’s from her recent email. I don’t think we ever received that email in the document production that
was done in response to our request. Do you know if that email still exists or if it was produced?

Anderson: I have no idea, as I said I couldn't personally do a search of my emails from that time period so I don't know sitting here today whether the email still exists or um whether it was produced or could be produced or anything to that effect.

Hamrick: So let me just ask a follow up. Typically, so this would have been an email I suspect from October 27, 2016, right?

Anderson: Mm-hmm.

Hamrick: What is your process you talked about archived emails, how does it work at the FBI is it every three months I know different agencies have different procedures for archiving. What would normally be archived in terms of your emails?

Anderson: The archiving isn’t automatic but we have a certain limited capacity especially on the unclassified side in terms of how large the inbox can be and so you get notifications on that side when you are getting close to the limit and if you reach the limit you can’t send or receive any email so it’s up to the individual user to take action to archive your email to make sure that your size limit or size of your inbox is maintained below that limit so you can continue
to send and receive emails.

Hamrick: And this type of email where it seems like you were giving your comments about some action that the Director was going to take; is this an email that you would normally archive?

Anderson: Yeah you don’t, I don’t pick or choose the, you just archive the whole inbox.

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

Hamrick: Ok.

Anderson: And just so, you know the individual users at the FBI don’t have any involvement in pulling emails for production. It all happens behind the scenes and so I had no involvement in the searches of
any emails or review or production or anything like that.

Galindo-Marrone: Let me circle back to one thing. To recap when you were describing the different considerations in play for the concerning the October 28 congressional letter I think you mentioned and I want to make sure I understood you correctly that I think you said with respect to that letter the one that went out October 28 to Congress the FBI did not leak that letter or make a public statement concerning that letter, right?

Anderson: I don’t believe, I mean, I’m not aware of anybody at the FBI who leaked it or um made any public statements about it, we sent the letter up to the Hill.

Galindo-Marrone: But I think you also said that, but the expectation would this be fair to say of you all that were in the room making this decision was that even though on your end no one was going to be leaking this that the likelihood would be that once the Hill got this letter it would go public?

Anderson: Yeah that was, we, the reality was that I think we no matter what steps we took no matter what caveats we put on the letter no matter what conversations even people might try to have with congressional leaders that there was no way the letter wouldn’t
become public um we had no option to preserve its confidentiality just simply with respect to the Hill it just simply wasn’t realistic even if that was our desired outcome.

Galindo-Marrone: And did I understand you correctly that there was a similar view with respect to the search warrant, that the belief was even if you all had not sent the letter to Congress that the search warrant would become public as well?

Anderson: Um, I think yeah we, I mean, probably with a less, a lower degree of certainty but we certainly knew that was a possibility.

Galindo-Marrone: Ok.

Anderson: And if I could just clarify one thing.

Galindo-Marrone: Sure.

Anderson: You asked me whether anyone or whether I was concerned about substantively impacting the outcome of the election and I said that I was worried about that and I characterized my concerns as being private concerns. I wanted to underscore that you know I recognize the distinction between my own you know private concerns as a private citizen as a member of the electorate and my you know the concerns that were legitimate for me to take 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.
Hamrick: What was his reasoning for why he wanted to do that?

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

Hamrick: Did you have any reaction to his desire to send this email out?

Anderson: Uh no not in this particular case. To me the substance of the email dovetails entirely with our actual in our letter to the Hill and you know it struck me as highly consistent with what we had discussed in the meeting so no I didn’t have any concerns with it.

Hamrick: And you said the Director communicates frequently with the FBI staff, does he usually send these kind of emails about the FBI’s investigations?

Anderson: No but going back to something I said at the very beginning of the interview this was an investigation that was without parallel or precedent.
Hamrick: So there’s, in the second paragraph of the Director’s email he talks about ordinarily we don’t tell Congress about on-going investigations and he says I also think it would be misleading to the American people were we not to supplement the record. What is your understanding of what he means by that?

Anderson: I think simply it’s a reference or I would read this to be a reference back to the July statement that we had, he had sort of made significant statements in two forums to the effect that the FBI had completed the investigation and one was in his congressional testimony the other was in the July statement and so you know just as we would, it would be misleading by omission given his prior statement that we completed the investigation not to supplement the record that we are taking additional investigative steps.

Hamrick: What about that next sentence where he references the fact that you are in the middle of an election season. What is your understanding of that statement? Or what he is trying to convey?

Anderson: Are you talking about the last sentence?

Hamrick: Right, “in trying to strike that balance in a brief letter
and in the middle of an election season there is significant risk of
being misunderstood but I wanted you to hear it directly from me.”

Anderson: Well obviously you would need to speak to the Director to
know precisely what his intended meaning was but I read that as a
reference back to the concerns that we had discussed in the
meeting about the perceptions of the FBI um being misunderstood as
seeking to influence the election one way or another.

Hamrick: Ok, so then the final notification to Congress came on
November 6th. I guess at some point in time you learned that the
team had quickly reviewed the newly discovered emails and that
that review was finished, right?

Anderson: That is correct, we were at that point having daily if not
more frequently than daily phone calls about the status of the
investigative step, the email review.

Hamrick: What were you told about the results of the review?

Anderson: Um, I’m not going to remember all the precise details
exactly of what we were told. Um, so there are others who could
speak to that but um my understanding was that we uh did not
uncover any, we didn’t uncover the emails from that period of time
that I had mentioned earlier where we didn’t have any, we had not
previously uncovered those emails so we didn’t fill that gap that we
didn’t identify any emails between Huma and the former Secretary
concerning the setup of the server um but that there were, we did
identify a number of classified emails um most or all of which we had
previously seen I think ultimately we didn’t, they didn’t entirely
overlap with the um, I just don’t remember precisely. I don’t think
they totally overlapped with what we had previously seen in terms of
the classified emails that had gone through the server but they
largely overlapped with the ones we had previously seen. But then
there were a couple of other um, uh there were, there was one other
thing that struck us all and I’m a little bit curious which was um we
saw there was some evidence of I believe it was a classified email
having been forwarded by Huma or from Huma’s account to
Anthony Weiner and that was among the evidentiary conclusions
that or among the evidence that was identified.

Hamrick: Was there a meeting with the executives that you
identified earlier to kind of discuss what to do now at this point?
Anderson: Um, yes I can’t remember exactly you know the precise
configuration of meetings or conference calls but yes there was
discussion about what to do next although I think it was fairly brief
because I think at that point we had, I'm trying to remember exactly but I think we had already talked over the course of the week about needing to do another disclosure to Congress.

Hamrick: Who had raised that idea?

Anderson: I don't recall.

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

Anderson: I would say that was the predominate consideration.

Hamrick: What were the reasons for notifying Congress?
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.
Hamrick: Was in terms of any kind of legal review of the
decision to send the letter, was the Hatch Act ever discussed or
considered?

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

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

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

Hamrick: Ok, I’m going to stop the recorder at 3:18. It’s 3:19
p.m. so we are going to shift gears in terms of questioning. We are
going to ask you a couple questions about other FBI investigations.
We know now that there was an investigation

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

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

Hamrick: Right, so I’m not asking any specifics about the investigation or what was going in July. I want to know whether there was any discussion or if anyone raised the issue of whether the fact that the FBI has this investigation should be made public, 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
mentioned in connection with, I just don’t remember and I don’t recall there being any such discussions.

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

Anderson: Yeah well certainly, I can sort of, I mean I can speak from my own perspective and you know certainly um in terms of why you know why the two things can be differentiated. As I mentioned at an earlier point in the interview the Clinton email investigation was you know it was publicly confirmed you know even before the FBI did anything to confirm the facts of the investigation I believe the former Secretary herself acknowledged it
insofar as she knew about it. DOJ confirmed it you know they backpedaled a little bit after that and then we did eventually publicly confirm it so it was the fact that we were investigating her use of the private email server was unclassified it was publicly known and by the time we talked about anything publicly it was a completed at that point in time investigation. We did not talk about any of our investigative steps along the way prior to July 5th. The investigation was confirmed and we said nothing more about it until we had completed our work. On the other hand, the matter that the Director confirmed in his congressional testimony until he confirmed it and he did so in a very limited way, he did not disclose very much at all about the investigation. To that point it was a classified fact it was not publicly confirmed and it remains on-going and so consistent with that idea that it is an on-going you know we have not, the FBI to date has not talked publicly about its investigative steps, about who the subjects are, about the scope, the contours, et cetera. And so I think they are two, the similarity between the two matters in terms of parallel of you know you drew a parallel that 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 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.
Anderson: I wanted to supplement my prior answer with one other factor.

Hamrick: Sure.

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

The Clinton email investigation that would not be characterized or would it be?

Anderson: You cut off could you repeat?

Galindo-Marrone: Would the Clinton email investigation be considered or something different?

Anderson: 

Galindo-Marrone: Then

Anderson: Even if it yeah.

Galindo-Marrone: I see.
Anderson: [Redacted].

Galindo-Marrone: Ok

Hamrick: So going back to the [Redacted], 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 [Redacted] matter but again you know my understanding is [Redacted].

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

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

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

Anderson: Same answer, absolutely not, if there had been an option that we had identified that would have allowed us to avoid the perception that we were affecting the outcome of the election. He would have been all in favor of it. We all would have been in 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.
INTERVIEW

OF

JAMES RYBICKI

OSC Complaint No. HA-17-0515

Conducted by Erica Hamrick

Tuesday, May 9, 2017

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

Office of Special Counsel Headquarters

1730 M Street NW, #218

Washington, D.C.
APPEARANCES

Erica Hamrick, Esq.
U.S. Office of Special Counsel

Anna Galindo-Marrone, Esq.
U.S. Office of Special Counsel
PROCEEDINGS

MS. HAMRICK: Today is Tuesday, May 9th, 2017, and the time is about -- just about 9 a.m. This is an interview of James Rybicki.

And I'm saying your last name correctly?


MS. HAMRICK: Okay. In the investigation of OCS Complaint Number HA-17-0515. I'm Erica Hamrick, an attorney at the U.S. Office of Special Counsel. Also present with me is OSC attorney Ana Galindo-Marrone.

As I said before we went on the record, OSC is investigating allegations that FBI Director James Comey violated the Hatch Act when he made public announcements concerning the FBI's investigation into Secretary -- former Secretary Hillary Clinton's use of a personal email server.

Mr. Rybicki has been identified as a witness in this investigation.

Mr. Rybicki, do you have any questions at that time?

THE WITNESS: I do not.
MS. HAMRICK: And you're aware that you're being recorded?

THE WITNESS: Yes.

MS. HANRICK: If you could raise your right hand for the oath. Do you solemnly swear or affirm under penalty of perjury that the information you're about to provide is true, accurate and complete to the best of your knowledge and belief?

THE WITNESS: Yes.

JAMES RYBICKI

having been sworn by the notary public, was examined and testified as follows:

EXAMINATION BY U.S. OFFICE OF SPECIAL COUNSEL

BY MS. HAMRICK:

Q  Before we get started, did you review any documents to prepare for your testimony today?

A  I did. I reviewed the -- the letters that were sent in October and November, the email -- a couple of emails that the Director had sent, as well as the statement from July as well. I also reviewed his statement of last month before the -- I'm forgetting
what committee it was off the top of my head -- where
he talked about the investigation into Russian
influence of the election; and then I've reviewed
materials as they've come through for document
processing to turn over to both the OIG and Office of
Special Counsel.

Q Okay. And did you speak with anyone to
prepare for today's interview?
A I did.

Q Who did you speak with?
A I spoke to Jay Macklin and Carol Shea from the
Department of Justice Executive Office, U.S. Attorneys,
specifically to prepare for this interview. I've
spoken to the Director of the fact of the interview. I
think I probably mentioned to others that it was
happening, but I don't recall specifics.

Q Okay.
A Yeah.

Q So just to get a little bit of background
information, what is your current position?
A Sure. I'm the Director's chief of staff,
so -- and also the chief of staff of the FBI. I sit in
the Director's office to support the activities of the Director.

Q  How long have you been in this position?
A  I took over in May of 2015. Previous to that I served on detail from the Department of Justice as the deputy chief of staff here, and I did that from November 2013.

Q  And do you have a career SES appointment?
A  I do. Yes. It's -- the Bureau has a special SES authority.

Q  Okay.
A  We don't go through the normal OPM, so I don't know exactly what you call it, but it is SES.

Q  Okay.
A  But it's not political.

Q  Okay. And is Director Comey your direct supervisor?
A  He is.

Q  Are you a supervisor?
A  I am.

Q  How many employees do you supervise?
A  That number just changed because we just
absorbed a new unit. I directly supervise -- sorry,
I'll double check -- five people. And then in our --
so the Director is -- or I'm sorry, the Director's
office then has a section underneath of it that
includes the Director's protective detail, a writing
unit, a bunch of folks like that. So probably in the
order of □ or so folks in the Director's office
proper.

Q And what kind of generally -- and I know there
are probably numerous, but kind of general overview of
what your job duties are.

A Sure. The main thing is providing advice and
counsel to the Director. I'm with him most times
throughout the day. I tend not to sit in on all the
meetings with him, but try to keep the other trains
running, you know, during that time. But that's --
that's -- I would say that's the bulk of it, just
providing general advice to him and supporting the
other executives on the corridor as well.

Q And did you have a role in the, kind of the
underlying matter here, the investigation into former
Secretary Clinton's email server?
A Yes, but not on the investigative side, merely as sort of an advisor with the Director as he was briefed on it.

Q Did you participate in meetings with the Director?

A Yes.

Q What about, like, decision points, decision-making points, were you involved in those meetings to discuss decisions to be made?

A Yes.

Q Can you describe a little bit kind of what -- what your role would be when it came time to make, you know, a decision with respect to the investigation?

A Sure. I mean, ultimately the way -- so in my role as chief of staff, I -- we bifurcate it a little bit. I don't get involved in operational decisions. Our chain of command is such that that all rises through the Deputy Director, who's the senior-most agent in the Bureau, and he handles the operational side.

So as we work with -- just so it's illustrative, you know, when we work with, say, the Department of
Justice, if a question comes in, if it deals with operational, it goes to the Deputy Director. If it goes to policy, you know, things of that nature, it tends to come over to me. That's how we sort of split the world in the advice, you know, to the -- to the Director.

Now, that being said, right -- like I said, I was in a lot of these, almost all of these meetings on -- you know, so I'm -- I'm involved in investigative stuff, you know, that might come up with the Director, but usually as just sort of another set of ears for him as he's being briefed. But the sort of operational chain comes through the Deputy Director.

Q And so we understand that with respect to this investigation in particular, there was kind of a core group of executive-level staff who would meet regularly with the Director.

A Correct.

Q So you would be part of that kind of core group?

A Yes.

Q Can you identify some of the other individuals
who kind of are at that executive level who --

A Sure.

Q -- would meet regularly?

A Yeah. Absolutely. Yeah. And it -- and I should say, so my involvement -- you know, I -- you know, primarily it started when I became chief of staff. So that sort of May 2015 time period.

And so -- right. So what we would call the core team would be the Deputy Director, and that spanned to during this time, so Mark Giuliano, and now Andy McCabe, the -- the Associate Deputy Director, Dave Bowdich was involved, the EAD's Executive Assistant Director for National Security, that also spanned too during this time, so John Jakolone [phonetic] and Mike Steinbach.

Then there was the, what I would say would be the counterintelligence, so the counterintelligence division leadership. So that would have been Bill Priestap.

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

Bill Priestap, the lead agent, Pete Strzok, the lead analyst, Jon Moffa; and that would be sort of
the -- on the operational side.

Then you had the lawyers. You had Jim Baker,

Trisha Anderson, [redacted] You had [redacted] from the Deputy Director’s office, and myself. I think that would be the core -- the core team. There might be folks that came in on the periphery right here and there, but that -- I would say that constituted the core team.

Q And were they -- were all of those executive-level staff, were they also part of kind of the mid-year exam team or was that something separate?

A I would say you -- you would consider it separate, I think. So there was a whole separate team under the counterintelligence operational side, so under the Pete and John, right, working the actual case, and then these were the folks that would come up to brief and then to -- for decision points.

And the briefing cadence, as I recall, went for the Director, I don't know about the Deputy or others, was about once a month, you know, from the onset through, I want to say spring. I don't have a great time. Then it went to about every two weeks briefing,
and then it became about a week as it -- as things got
closer and closer.

Q And this is spring of 2016?

A Spring of 2016, yes. Yeah.

Q And so at some point the team, the actual
investigative team, did they make a recommendation
about the findings of the investigation?

A Yes. I would say it was both -- I would say
it was ongoing, so as they briefed him on sort of the
progress and what they were doing, there was sort of,
not recommendations, but just a sense of where things
were going all along and then a recommendation at the
end as well.

Q And when was that actual recommendation made?

A I don't have a specific date in my head.

Again, through the spring and into that July
announcement, it became clear as to what they were
finding and who they were interviewing, and that as we
were sort of contemplating that, and so I don't recall
a specific date where, you know, where a recommendation
came down. I do recall after Secretary Clinton was
interviewed, that was a -- I believe that was a
Saturday. Let's see, the 5th was a Tuesday, holiday was the 4th. I believe it was Saturday. It was that weekend. After her interview -- I'm almost positive it was a Saturday -- after her interview, a conference call was convened amongst that team, I believe it was most of those, if not all of those participants, where it was -- I'm talking about the announcement at that point, where it was decided that this is what would go forward.

And I should add, you know, it was also known through our team, we knew what the recommendations of the Department of Justice were as well. So, you know, it sometimes gets confusing between sort of our team and then DOJ, you know, the mid-year team generally, and then the Department of Justice prosecutors and folks working on it. They -- they also -- DOJ also was talking to our folks at sort of the Pete and the John level as well, so we knew their -- where they were thinking about the case sort of throughout. Does that make sense?

Q It does.

A In other words, so when the Director made his
announcement on July 5th, we knew that that would not
be surprising to the prosecutors, that that's where
they were headed as well.

Q So let me back up for a second. At what point
were the DOJ prosecutors kind of pulled into the
conversations about the outcome of the investigation?

A I would say -- so I want to be careful. I'm
going -- there were -- I was talking about the outcome
of the investigation and then how to describe it,
right? I just want to make sure I'm --

Q Well, let's talk about both.

A Sure.

Q Let's first talk about the outcome of the
investigation. When -- you know, when were they first
told, you know, or, I guess, brought -- like I said,
brought into the conversation about the outcome of the
investigation?

A I think it was iterative throughout, you know,
as -- you know, again, just as we were, I think, you
know, they were talking back and forth about, you know,
what they're seeing, what they're finding as they're
reviewing these emails, as they're interviewing folks.
And so I think they were -- I think they would say it was collaborative all along, right, of -- of -- you know, what -- you know, what charges might be brought, those kind of things.

Q Were -- were DOJ prosecutors part of the mid-year team?

A Yes.

Q Oh, okay.

A Yes. Well, I -- right. Not -- so, again, we had that group here, right, the mid-year team, as we would call it. So if you were to ask Department of Justice, I don't think they would say they were on the investigative team, but they were -- I mean, it's as if there was a mid-year team and a mid-year team there working, you know, hand in glove on all of these things.

And that would have been at the NSD George Toscas -- I don't know if -- George Toscas is the head of -- he's the DAAG for counterterrorism and counterespionage, and he is the counterespionage section under him.

MS. GALINDO-MARRONE: And he's a DOJ?
THE WITNESS: He's a DOJ, correct.

MS. GALINDO-MARRONE: And so he would have been their mid-year team?

THE WITNESS: Yes.

MS. GALINDO-MARRONE: Part of their mid-year team collaborating, working side by side with the FBI folks that were part of the mid-year team on this side?

THE WITNESS: Exactly. He would probably be -- the levels don't quite match up. He would be just one tick above Pete and John, right? So David Laufman was the head of the counterespionage section. He would probably be the equivalent of the Pete and John, if you were to sort of try to marry up the levels on the two sides.

Q So was there anyone from DOJ present during the meetings of like the executive-level staff, like those kind of regular meetings?

A No.

Q Okay. So we kind of -- so we kind of separated in terms of DOJ. We talked about outcome of the investigation, then -- well, I guess before --
before we get to their involvement with the statement
or -- how did -- how did the statement -- I guess the
idea of the statement come about?

A  Sure. We're talking about July 5th, correct?
Q  Yes. I'm sorry. July 5th.

A  The -- so in the -- sometime in the spring --
again, I don't remember exactly when, I -- early spring
I would say, the Director emailed a couple of folks --
I can't remember exactly; I know I was on there,
probably the Deputy Director, not the full, what I'll
call the briefing group, but a subset of that -- to
say, you know, again knowing sort of where -- knowing
the direction the investigation is headed, right, what
would be the most forward-leaning thing we could do,
right, information that we could put out about it.

And -- and, you know, by that -- you know, so
that -- and he sent a draft around of, you know,
what -- what it might look like. From there, that went
back to the team, right, sort of we talked about that.
Okay. So what is the -- knowing, you know, if I back
up, it might be a little disjointed, but hopefully it
goes to the same answer, right?
As he described it, right, his -- he had three main goals in terms of talking about the investigation, to make sure that the sort of integrity of the investigation was, you know, was protected. That would have been, you know, number one, the FBI, right? To make sure that people knew that the FBI did exactly what we should have done in the appropriate way, right, as we would in any investigation.

The second, the Department of Justice were at large. That people need to have confidence that the decisions made by the Department of Justice in this case were done, again, according to how they should be and the way that's expected.

And then three, the system of justice sort of were at large, right? That people have confidence in our justice system, that it's applied fairly and equally. Right?

And so that's what I mean by lean forward. How can he -- you know, how can he communicate -- again, this is not -- it's still ongoing, so it wasn't contemplated putting anything out at that point, but at the end, right, what does this look like and -- and
with whom, right? Because at that point, you know, it
could have been the AG going out alone describing this,
it could have been the Director going out alone
describing it, it could have been the two of them
together. You know, it could have been any
combination. But just what would a -- what would
information about this look like.

So that was the early spring.

Q Yeah. And I think we've seen maybe that email
where he sent it out, it was early May of 2016; does
that sound about right?

A That sounds right. That -- quite honestly,
that strikes me as a little late, but may --

Q Okay.

A -- but again, I definitely remember spring. I
had in my head like the April timeframe, but May
doesn't seem out of the -- out of the realm.

Q Well, let me ask, before -- before he sent out
this draft that he had written, had -- had the group,
the briefing group, had you discussed the idea of doing
something like this or was this kind of the first time
you've heard about it?
A I don't know the answer to that sitting here.

I -- you know, that group, we would frequently --

right, we would have the update, right, where we would
talk about it and the, you know, we would talk about
just hard issues like this. I don't remember if this
came up before he sent that email or not.

Q What about just between you and the Director,
had you talked about it before he sent around the
draft?

A I don't recall sitting here. We certainly
had -- certainly after he sent it I know we talked
about it. I -- I just don't recall if we talked about
it before.

Q And so at that point in time, whether it was
April or early May, the team hadn't yet interviewed
Secretary Clinton --

A Correct.

Q -- but was there -- I guess, based on what
you're saying, it sounds like there was an idea of
where the outcome of the investigation was going to go?

A Sure. There was a -- right, there was --
based on -- there were two things going on, the review
of the documents that they were finding, right, and we were getting constant updates of how many -- how many they were finding, how many might be classified, what we were doing with them to deconflict. And then you had interviews going on at the same time, and what were people -- you know, what were people saying. And between those two, right, it starts to funnel up, right, of, okay, we see, you know, what a case might look like, that kind of thing.

Q Was there any -- was there any desire to have the investigation and all of this wrapped up prior to the party conventions that summer?

A No. There was -- so the Director has always said, right, we need to do it well and timely, but always well first, right? And so I would say, right, there was -- we certainly -- you know, you're aware of everything out there, right, and you're -- you're -- people are on all sides are saying, you know, wrap this up. I think it moved -- according to how it moved, I think there was -- I remember talking about it, you know, we don't want this to drag on for years, right, so to the extent that we can, right, move it, you know,
expeditiously, move it quickly, right, get it done, we
should, but not at the expense of doing it well.
Right? We would always do it well first.

Q So --

MS. HAMRICK: Do you have a question?

MS. GALINDO-MARRONE: I do.

MS. HAMRICK: Go ahead.

MS. GALINDO-MARRONE: So I want to go back a
little bit --

THE WITNESS: Sure.

MS. GALINDO-MARRONE: -- just to clarify a
couple of things.


MS. GALINDO-MARRONE: So going back to when
you were discussing the recommendation -- it seems
like you were being briefed initially about once a
month, the executive team.


MS. GALINDO-MARRONE: And then as it got into
the spring of 2016, it seemed that it moved to
once a week.

THE WITNESS: Yeah, biweekly --
MS. GALINDO-MARRONE: About.

THE WITNESS: -- and then once a week, yep, exactly.

MS. GALINDO-MARRONE: It seems that at some point, if I understood what you were saying, a final recommendation was made. It seems like it's sort of intuitive. As the investigation is progressing and you're being briefed, it seems like this executive team sees where it's going. But it seemed from your testimony that at some point there's a final recommendation. Was there?

THE WITNESS: I think that's right. I mean, I -- again, I struggle sitting here. I don't think --

MS. GALINDO-MARRONE: Sure.

THE WITNESS: -- I can't think of a date where we said, okay, you know.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: But you're absolutely right. So as it -- as it works its way up, you know, I definitely remember -- so as we decided, right, and we can do whatever order you want to get into.
MS. GALINDO-MARRONE: Sure.

THE WITNESS: Sort of events that led up to why to do it July 5th --

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

THE WITNESS: -- right? But as we -- as it led up to that time, there was definitely a sense of, okay, we know now for sure, right? We started -- you know, for instance, the Director would pull together a chart of how many times that particular statute was used and, you know, what legal elements are required for it. And, you know, there was -- so this was all sort of on iterative, right?

MS. GALINDO-MARRONE: Okay.

THE WITNESS: Going on, we're talking through it as interviews are happening. And then, right, at some point we said, okay, we will -- and this was before the Secretary Clinton interview, whether it was a week before or whether it was -- I just -- I don't have it clear --

MS. GALINDO-MARRONE: Okay.
THE WITNESS: -- in my head, but I distinctly remember conversations that, you know, okay, so we will do this press conference on July 5th unless Secretary Clinton --

-- in that interview. So that's why the sort of call on that Saturday becomes important after the interview. It was that sort of final check of, okay, team, what did the interview -- right, you know, what did the interview yield. They talked about what the interview yielded. Is everybody of the same mind that we can still have -- we still have the same conclusion and we still want to announce it in the same way. And there was that sort of check.

MS. GALINDO-MARRONE: So let me break this down a little bit.


MS. GALINDO-MARRONE: Just -- so you believe there may have been some sort of final recommendation --

THE WITNESS: Yes.
MS. GALINDO-MARRONE: -- some time, it seems like very late June or very early July, right?

THE WITNESS: I think that's fair, yep.

MS. GALINDO-MARRONE: Would this have been oral or in writing?

THE WITNESS: That would have been oral to my knowledge.

MS. GALINDO-MARRONE: And who would have been making that recommendation?

THE WITNESS: So that would have been the team coming out, right?

MS. GALINDO-MARRONE: The mid-year team?

THE WITNESS: The -- right. The execu -- well, correct. So it would have been the actual mid-year team, the worker sort of level, the line level, right? Making it to their executives, right? That would then brief the Director.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: Exactly.

MS. GALINDO-MARRONE: And so it sounds like after Hillary Clinton's interview on July 2nd there was this conference call that was convened.
And I just wanted to get a little bit better understanding of that conference call, like who convened it, who was on it --


MS. GALINDO-MARRONE: -- and what was the purpose of that call.

THE WITNESS: Absolutely. So it was -- I can't remember who actually convened it. I might have gotten the number. I would say probably me.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: I just don't -- yeah --

MS. GALINDO-MARRONE: Okay.

THE WITNESS: -- it's likely it was me that would set up the number and, you know, that kind of thing.

MS. GALINDO-MARRONE: But who requested it? Let's say, what would have prompted you to set up that conference call?

THE WITNESS: I believe it was the Director who said after, right, we'll have -- the interview will happen that morning and then we will reconvene the team, the briefing team.
MS. GALINDO-MARRONE: Okay.

THE WITNESS: And so it was -- to my knowledge, it was everybody on that briefing team at the time. Everybody --

MS. GALINDO-MARRONE: And when you mean briefing team, it's the execu -- I just want to make sure --

THE WITNESS: The executives. No, yeah, absolutely.

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

THE WITNESS: The executive --

MS. GALINDO-MARRONE: -- team?


MS. GALINDO-MARRONE: Okay. Is this briefing team?

THE WITNESS: Exactly.

MS. GALINDO-MARRONE: Okay. Got it.

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

And so executive team meaning --

MS. GALINDO-MARRONE: Yes.

THE WITNESS: -- the people in that room, mid-year team being the line level --
MS. GALINDO-MARRONE: Yes.

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

MS. GALINDO-MARRONE: And so you believe the Director prompted you to set up this conference call --

THE WITNESS: Correct.

MS. GALINDO-MARRONE: -- and who's -- who's on this conference call?

THE WITNESS: So I would say it was everybody on the executive team --

MS. GALINDO-MARRONE: The executive --

THE WITNESS: -- I can't think of anybody that was missing from there. There is an off chance that they were, but -- but it would have been --

MS. GALINDO-MARRONE: And is there anybody from the mid-year team?

THE WITNESS: Not to my knowledge.

MS. GALINDO-MARRONE: Okay. So at some point, I guess before this conference call, the mid-year team has already communicated --

THE WITNESS: Correct.

MS. GALINDO-MARRONE: -- to -- at the
executive level their findings from the interview?

THE WITNESS: That's right. And, you know --

MS. GALINDO-MARRONE: Okay.

THE WITNESS: -- I should say, you know, so --

so John and Pete, I would consider them part of

both teams, right? They're both part of the mid-

year team --

MS. GALINDO-MARRONE: Yes.

THE WITNESS: -- and the executive team, so

that's the bridge, right?

MS. GALINDO-MARRONE: Okay.

THE WITNESS: And sort of the chain of command
goes up from the line level through John and Pete
to our AD --

MS. GALINDO-MARRONE: Yes.

THE WITNESS: -- or counterintelligence, Bill
Priestap. Did I mention him in that list earlier?

MS. GALINDO-MARRONE: Mm-hmm.

THE WITNESS: Okay. I just want to make sure.

To the EAD, to the Deputy, that's sort of the
chain of command.

MS. GALINDO-MARRONE: Okay.
THE WITNESS: So that -- that -- right, that would all be -- so that -- Bill and John -- I'm sorry, Pete and John would be the bridge between the mid-year team and the executive team --

MS. GALINDO-MARRONE: Okay.

THE WITNESS: -- on there with recommendations.

MS. GALINDO-MARRONE: And is there anybody from DOJ on this conference call?

THE WITNESS: Not to my knowledge.

MS. GALINDO-MARRONE: Not to --

THE WITNESS: No. In fact, I know there was not.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: Yeah.

MS. GALINDO-MARRONE: And what, again, was the purpose of the conference call?

THE WITNESS: So the purpose was to -- to talk about the interview that had happened to see what -- what it yielded, what discussion -- you know, and again,
we would proceed as follows, you know, with -- with the press conference that would take place on July 5th.

MS. GALINDO-MARRONE: Okay. Okay.

THE WITNESS: Yeah. And I should say, you know, at some point, right, the question was asked, you know, about the recommenda -- so at the executive briefing, asking about what the mid-year team, the actual folks thought, and I can't remember -- to say -- you know, so it was basically unanimous that this is the course, sort of recommendation as to charging or not charging Secretary Clinton.

Now, whether they went around and polled everybody, I don't think they did, right, but nobody -- I know that they asked is there anybody that has reservations about this, and nobody --

MS. GALINDO-MARRONE: And this is as to the executive team as well as the mid-year team?

THE WITNESS: So this is -- I'm -- I was relaying the mid-year team --

MS. GALINDO-MARRONE: Mid-year, got it.
THE WITNESS: Yeah.

MS. GALINDO-MARRONE: It was -- it was -- it was, generally speaking, unanimous --

THE WITNESS: Correct.

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

THE WITNESS: Exactly.

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

THE WITNESS: Correct.

MS. GALINDO-MARRONE: Okay.

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

MS. GALINDO-MARRONE: And then I just have -- and then I'll pass it back to you.

MS. HAMRICK: No. You're fine.

MS. GALINDO-MARRONE: When you were talking about the email from the Director sometime in the spring of 2016 about -- and that he emailed the subset of the executive group --


MS. GALINDO-MARRONE: -- about what would be the most forward-leaning thing that, you know, we could do, the FBI could do, seeing where this was
going. You then described -- because I was going
to ask what this forward-leaning thing language
means and you described the Director's goals, the
integrity of the FBI, confidence in DOJ big
picture and confidence in the justice system. And
as part of that explanation, you -- you seemed to
also say that part of this discussion was if there
was going to be a statement, who would deliver it.
Was it the Director, the Attorney General or the
Director and the Attorney General together.

THE WITNESS: Correct.

MS. GALINDO-MARRONE: So I just wanted to
confirm my understanding of that statement. So
when this discussion is happening, right, about
the statement and who's going -- if there's going
to be a statement, what it should say and who's
going to deliver it, in the initial discussions
there is consideration for the Attorney General
also being part of that?

THE WITNESS: Yes.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: Yes. I mean, I don't -- as I
sit here, I can't remember a specific conversation
where it -- but it was -- at that point it was we
don't -- that would be the normal course, right,
the --

MS. GALINDO-MARRONE: Sure.

THE WITNESS: -- Attorney General going out,
right? So when I say the Attorney General doing
it, I would say that would be shorthand for what's
the normal thing --

MS. GALINDO-MARRONE: That we would --

THE WITNESS: -- that might be done, right?

MS. GALINDO-MARRONE: Okay.

THE WITNESS: You know, and so there may have
been discussions where we actually said the
Attorney General. I just -- I just remember at
that time, in describing that email, him saying,
look, just all options are on the table. We don't
know --

MS. GALINDO-MARRONE: Okay.

THE WITNESS: -- we don't know where -- what
the announcement will look like, right? We need
to start thinking about that.
MS. GALINDO-MARRONE: Okay.

Q And so -- so let's talk about the -- I guess the beginnings of this -- this idea of this public statement.

A Sure.

Q To your knowledge, was the -- was the original idea of doing some kind of public statement, was it Director Comey's idea?

A Yes.

Q Do you know if anyone, you know, suggested it to him or did he come up on it -- come up with it all on his own?

A I don't. I mean, I know he -- I remember him -- I remember him bringing the idea forth. This group, you know, if I could describe it a little bit, the executive group, I mean it was a very -- it became a group that became very comfortable sharing their -- honestly sharing ideas at the table. And so I described it a little bit of, you know, there was always the briefing, right, the substantive briefing and then a discussion of any issues that are happening, right? And so it became a great council, you know,
that people together were bringing up ideas, right?
And so that's why -- if I hesitate at all, that's the
only reason I say, because a lot of ideas were being
batted around, right? And there were people making
suggestions and talking about them, you know, and, you
know, that became especially important as we went to
the October/November timeframe, which I'm sure we'll
talk about.

Q  Mm-hmm.

A  You know, so I just preview that as, you know,
that -- that's very much how it worked, right? So if
an idea came out, then it's a team that became very
comfortable with saying, well, no, I wouldn't do that
for these reasons, right? That kind of thing.

Q  Okay.

A  So did I answer the question?

Q  You did.

A  Okay.

Q  So we've gotten the sense that the idea of the
FBI Director, you know, making a public statement about
a case where there are going to be no charges
recommended, that that's not -- that's not standard
operating procedure. Would that -- is that a fair --

A Right. So he -- right. He generally does not
come out and talk about cases that we haven't charged,
you know.

Q So let me ask you, so before we get more into
that, can you kind of walk us through, like, what the
typical protocol is. If it's a case where the FBI has
investigated, the FBI is not -- doesn't see that there
are any criminal charges to be had --

A Sure.

Q -- what typically would then happen?

A Yeah. I guess it's -- I mean it varies so
much, I would say, right? You know, the typical would
be, right, we work an investigation -- and, again, you
know, I can't overemphasize these, because I think it
gets lost a little bit in the public. When we're
working an investigation, we are working very, very
closely with the Department of Justice, right? And so
whether that's a U.S. Attorney's Office or whether it's
a main Justice component like the National Security
Division or Criminal Division, right, decisions are --
and discussions are happening constantly between the
two, right?

And so that's -- I think that causes some confusion even with this investigation. It's like, well, what does it -- you know, as even reporters were asking, well, what does the end look like on this and -- and the question of, well, do you -- do you, you know, type up a report and give it to him, right? You know, it's very much like I describe where it's iterative and, you know, the prosecutors are knowing what the investigators are doing and they're talking about it, right?

And so it would be too hard to generalize, you know, what a -- what a particular case would look like. I'm trying to think of like a notable case that might help inform that, but I really can't off the top of my head.

But, right, generally if we investigate something and the Department of Justice agrees, and then it's usually just, you know, nothing after that.

Q So is -- I mean, does -- does the FBI typically make some kind of recommendation to the Department of Justice?
Sure. I think -- and, you know, that goes to
the iterative part, right? I mean, it's less formal, I
think, than folks know. It could be written.
Absolutely. You know, it could be that we want to
bring charges and the Department of Justice doesn't.
I've definitely known that to happen, right, where
we -- and we get a declination memo from a U.S.
Attorney's Office or something like that, right?
So it could be a lot of different things. It
could be a written recommendation, although I can't say
I've honestly put eyes on one of those, but I could
easily see it happening. Most -- most of the time,
like I said, it's -- the two sides are working together
so closely, they know and we would orally brief them,
right? That kind of thing.
You know, and the more -- you know, the more
complex the case, it could go up to higher levels,
right? It could get appealed too. You know, so if one
U.S. Attorney Office declines it, it could be brought
to another U.S. Attorney's Office. It could be brought
up sort of through the Departments of the Deputy
Attorney General. So there's just a lot of avenues
that you could go.

Q And so -- and you used that word "declination." The declination is something that

DOJ --

A Correct.

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

A That's right. Correct.

Q So -- okay. So then let's go back to this particular case, unless --

MS. HAMRICK: Did you have any questions about that?

MS. GALINDO-MARRONE: No.

MS. HAMRICK: Okay.

Q So -- so going back to the July 5th statement. So the Director sends out this draft, you know, potential statement. I guess, what -- what happens in the meantime? As the investigation's wrapping up, are you discussing making the public statement, are you discussing other options? Like what's going on in these -- these executive-level meetings?

A Yeah. Sure. Right. At some point, like I said, you know, they're, you know, sort of -- you know,
you get the update and then you sort of talk about next steps. You know, and when that started to become more serious discussions, right, I can't -- I don't have a great picture sitting here, right, definitely. So the Director sends out that email, right, there's some discussion, but, you know, it would be -- definitely be closer to the timeframe, you know, where we actually start, okay, if this is the course we're going to go, right, refining the script and things like that, right?

So -- so, right, that's happening as the -- as the funnel sort of is happening, you know, we're getting a better handle on the emails, more interviews are happening, right, leading up to the final interview, which would be with Secretary Clinton. You know, that's all happening at one time, right? And these are discussions are ongoing through that. And it would be, you know, sort of the team discussion.

Q And so at what point -- at what point is DOJ brought into the discussions about the public statement? Because I think you mentioned earlier, you know, we talked about kind of the operational side and then the public.
A  Yep.
Q  So when -- how -- how early on is DOJ brought into that conversation?
A  So they were not aware that we were -- that we were going to do the July 5th statement until he called the Attorney General that morning. So the -- there was definite -- so just naturally, because the prosecutors are -- they're doing the same thing we are, right? They see it -- they see it winding up and they're asking our mid-year team, you know, okay, so what's the end look like, right? So those conversations are happening.

The Director met with the Deputy Attorney General. He meets with her -- this was Deputy Attorney General Yates. He met with her monthly. And I recall at the end of one of those meetings them sort of discussing sort of generally, right, you know, the -- where the case is headed, right? But they didn't discuss sort of the end, like what would happen.

So July 5th the Department of Justice did not know that we were going to -- that we had a statement, that did not review a statement and they didn't know it was
happening until that morning.

Q And what about the -- what about the career prosecutors who were kind of involved along the way? Did they have any idea that the Director was considering making this public statement?

A No, it did not.

Q So were other options discussed?

A Yes.

Q So what were some of the other options that were considered?

A Again, I think, you know, I think it goes back to what I was talking about earlier, sort of the, you know, say nothing, right? You know, defer -- you know, send -- send our recommendation over to the Department of Justice, right? Let -- let the Department of Justice handle it. The -- I can easily see those being discussed.

I can't -- I can't think of any other specifically, but we -- yeah, we definitely discussed a number of ways to -- of doing this.

Q So I guess maybe -- maybe before I ask you why those options weren't chosen --
A  Sure.

Q  -- I guess, what is -- what is your kind of understanding of why the Director decided to make the statement that he did on July 5th?

A  Sure. So I think -- number one, it goes back to the sort of -- those three things I talked about, right? You know, insuring the credibility of the investigation, and that happens sort of in my mind, in his mind, on that three levels, right? The credibility of what the Bureau did, the credibility of what the Department of Justice did, of which we're a part, right? And then people's trust of the justice system generally.

There were a number of things that occurred throughout the investigation, which would -- could potentially call into question any number of those three things, right? And so I think the Director would speak to number one, right, just off the bat there was a lot of discussion with the Department of Justice specifically telling us not to call it an investigation, to call it a matter.

I think this was actually in a news story recently
I saw.

The -- so it was -- could have been perceived as an effort to minimize the investigation, right? We don't do anything other than investigate; that's what the FBI does.

MS. GALINDO-MARRONE: Can I interrupt you for a moment?

THE WITNESS: Certainly.

MS. GALINDO-MARRONE: So you're talking about the -- the -- in terms of the instruction to call it a matter and not an investigation.

THE WITNESS: Correct.

MS. GALINDO-MARRONE: This -- this happened in the fall of 2015 or are we talking about --

THE WITNESS: Yes. Very early on.

MS. GALINDO-MARRONE: And is this a meeting where Director Comey is with the Attorney General?

THE WITNESS: Yes.

MS. GALINDO-MARRONE: Is there anyone else present? Were you present at that meeting?

THE WITNESS: I was, yeah.

MS. GALINDO-MARRONE: You were present?
THE WITNESS: Yes. There was -- I'm sorry, I didn't mean to interrupt.

MS. GALINDO-MARRONE: No, no, that's okay.

And so what exactly was -- so the instruction came from the Attorney General?

THE WITNESS: Correct.

MS. GALINDO-MARRONE: And what was that instruction again?

THE WITNESS: It was -- so the -- both the Director -- the Director I believe was going to testify, as was the Attorney General. I think that was the impetus for the meeting. They were both going to have public appearances I believe on the Hill. I'm almost positive both were on the Hill. But they -- that was the purpose of the meeting, they were both going to be on -- right -- be asked about this and we wanted to know what to say about it.

And at that meeting the Attorney General, after discussion, and there were many folks in the room. I was there. There were I'm sure -- I'm sure there were others from FEI, I just can't
remember, including the Deputy Director. Folks from the National Security Division across the street. And the direction from the Attorney General was, you know, if asked, to call this a matter instead of investigation.

MS. GALINDO-MARRONE: So I didn’t mean to interrupt. So you were giving other reasons. So the first reason why the Director decided on the July 5th statement was this incident in the fall of 2015 where the Attorney General instructs the Director --

THE WITNESS: That’s right.

MS. GALINDO-MARRONE: -- to not call the investigation and investigation, instead matter.

THE WITNESS: That’s right.

MS. GALINDO-MARRONE: So what else led Director Comey to his decision?

THE WITNESS: Sure. And I think that -- so that sort of puts it in the mindset of, you know, this could possibly be minimized, right? Now, again, and there’s so many external factors, right, meaning like the swirl of the campaigns and
all that, that we just -- you know, again, the
concern was to protect the integrity of the
investigation, right? And so those things were
external, right, but it -- but it naturally comes
in of, right, that the public might feel as the
outcome of the investigation. Does that make
sense?

So it's the, you know, effort to minimize.

The next big thing is

I'll do -- I mean if you
just give me a moment, I'll try to see if I can
formulate a way to talk about it.

So the -- I don't think I can do it in a
way --

Q Okay.

A -- I just knowing --

Q

A Yes. Yeah. It was something I would, right,
goes to directly to sort of the second bucket that I
talked about, which is the credibility of the
And I just -- I don't want to go beyond there, if that's okay --

Q That's fine. Absolutely.

A -- for classified. We're certainly willing to talk about it if you got the clearances and, you know --

Q No. And our -- the Associate Special Counsel, he has just obtained his appropriate clearances --

A Okay.

Q -- so I believe he will be reviewing some materials related to that --

A Okay.

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

A Got it.

Q -- even though we will not.

A Okay. It's something that we --

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

THE WITNESS: It's something that we documented here and that the Director has briefed on the Hill and so --
Q  Correct.

A  Yes.

Q  Yes. We're --

A  Yes.

---

Q  Okay.

A  --

MS. GALINDO-MARRONE:  

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

MS. GALINDO-MARRONE:  --

THE WITNESS:  Yes.

MS. GALINDO-MARRONE:  Okay.

THE WITNESS:  Yes. Absolutely. And then the -- oh, I'm sorry.
Q No, no. I was just going to say, so then the -- was there a third item as well?

A Yes. So the third thing I would point to would be the meeting with former Attorney General Lynch and former President Clinton on the -- on the airplane that previous week. That was probably the -- if there was one event that sort of set, okay, this is -- this is what we need to do now, that was the final -- oh, there's other that played into it, but then there's the final was that meeting. And, again, it goes to, you know -- and then the former Attorney General saying I'll defer to the FBI's recommendation, you know, with, you know, those kinds of things.

That sort of set into motion the final, okay, this is what we need to do and how to do it.

Q So -- okay. So in terms of, you know, other options to accomplish the Director's goals, were there any other viable options to kind of -- to end this investigation and still achieve the Director's goals that were considered?

A I mean, again, I have a recollection that we talked about, you know, how -- again, how it might look
at the end, but this was determined sort of through
this process to be -- to be the best, the best way of
doing it.

Q  What about, was there ever a discussion of,
you know, recommending that a special counsel be
appointed?

A  I -- I don't have a specific recollection of
talking about it. I know that issue has -- was
generally out there and I'm worried that I'm sort of
conflating that with discussions in there. I would
find it -- I would find it likely that it was discussed
in the group, I just don't have any specific
recollection of that. I could see it -- I could see it
being discussed, in other words.

Q  What about -- what --

A  Oh, I'm sorry.

Q  No. Go ahead.

A  But, again, I go -- that would also not be the
FBI's determination. I would certainly -- you know, we
could -- we could say it, but that's a Department of
Justice determination.

Q  Right. What about -- what about the idea of,
you know, sending a recommendation to DOJ and letting, maybe not the Attorney General, but maybe letting the career prosecutors make some kind of statement; was that ever discussed?

A I don't -- I don't recall that specifically.

I think -- I think one of the reasons for not including anybody at any level, the Department of Justice was to provide some level of protection for that credibility of the Department of Justice bucket, right? Meaning this is the Bureau out there saying the conclusion of the investigative side of it, right? Knowing that the Attorney General still has the final say, right?

Remember, the Attorney General didn't recuse, she just said we'll defer to the recommendation of the Department of Justice. So this was merely making public the recomm -- a recommendation that in normal course would go over, formally, informally, to the Department, right? This was merely making that public, if that makes sense.

Q Do you think if -- if -- if that were to have happened, if DOJ career prosecutor, so not the Attorney General, but the career staff, if they were to be the
ones to have made, you know, some kind of statement about the end of the investigation, do you think that could have achieved the same -- the goals that Director Comey will hope to achieve?

A I don't know. I don't recall specifically talking about that at the time. I could -- I could see, right, the -- in the eyes of the public, the Department of Justice is the Department of Justice, whether it's the Attorney General or whatever level, right? And so I don't know that it's a -- would be a meaningful distinction aside from taking the sort of political leader out of it.

So -- so I don't know. I don't have a firm view of that.

Q When you were meeting to discuss, you know, the idea of making the statement on July 5th, were there any -- did anyone have opposing views of why maybe the statement wouldn't be a good idea, some kind of cons that were discussed?

A There were definitely -- so there was no -- there was more robust discussion in the fall about whether to send the letters than there was about the
July 5th discussion. So I don't remember anything specific, right? I remember it's different than what we normally do, right? I remember having to think long and hard about it myself, of, okay, so -- right? And

Q Did anyone express concern about the -- the amount of detail that was in the statement and whether that would -- is too much?
A Sure. Yeah, we definitely went back and forth of, yeah, how much -- how much detail to provide.

Q Do you know why ultimately the Director
decided to keep the amount of detail in that he did?
A I think it was, you know, the team went back
and forth, you know, many drafts, many, you know, line
by line looking through that and that's ultimately
where we landed, you know, that -- you know, again,
everybody feeling comfortable with that -- with that
document.
Q So you mentioned --

A Mm-hmm.
Q So was there some kind of legal review of the
statement before it was made?
A Yes.
Q And who would have been responsible for that?
A So we had the lawyer -- so our lawyers were in
every discussion from the general -- you know, the
general counsel almost I would say was at every
meeting, right? But we always had a lawyer in there,
either Jim Baker or Trisha Anderson or
Then we had come in. She is -- I don't know
her exact title in OGC, but she is basically the


Q  Do you know whether the Hatch Act was ever considered with respect to the public statement?
A  I don't recall specifically talking about the Hatch Act, especially in July. We'll talk about October, right? It was in -- the Hatch Act is mentioned in the election year sensitivities memo that --
Q  Right.
A  -- I mean that we talked about in July, but I don't remember a specific instance in talking about the Hatch Act. And, again, it's kind of line -- it's kind of like the fall because we weren't, in our view, doing anything for purposes of the campaign or the election, right? This was about the case that -- I don't recall anything coming up about it.
Q  So you mentioned the election year sensitivities memo.
A  Mm-hmm.
Q  This is -- I think this is the memo you're referring to. Just for the record, this is the document with the Bates stamp that ends FBI 000012.

Is this the memo that you're referring to?

A  Yes.

Q  So --

A  Now, I should say the -- I think it was 2016. So I don't recall reviewing this for the July announcement. I definitely reviewed it for the October announcement --

Q  Okay.

A  -- and the only reason I'm -- I just want to make sure on the dates. He didn't have a copy of it -- I'll jump forward, but I'm sure we can go back.

I had asked him for -- this is October -- for any policies that would sort of govern this.

-- this is Matt Axelrod in the Office of the Deputy Attorney General. He didn't have a copy of it with him, but he said if you Google it, you know, it will come up.
Q  Okay.

Q  And so was this memo considered at all in the legal review surrounding the July 5th statement?

A  I don't recall reviewing this prior to the July announcement. I don't -- I don't know if it -- I don't know if the lawyers reviewed it as part of that review. We were -- we were most interested in the but I don't know other -- I don't know  what else they considered.

Q  In the discussions about making this July 5th statement, was the potential impact on the presidential election considered?

A  For July 5th, I don't believe so. I mean it was definitely discussed in October because of -- because of how close it was. I don't recall any specific discussions about the election or its impact in July. You know, again, not -- you know, not being
naïve, we knew we were operating, right, in this sort
of campaigning environment that was happening outside
of the walls here, but I don't -- I don't recall any
discussions where we talked about, you know, the impact
that this might have on a specific campaign.

Q  Did you believe it would have an impact on the
election, you personally?

A  I don't -- I don't think I considered it at
the time, especially as to July. It was -- yeah, I
don't -- I don't -- to me it was -- no matter how it
was announced, right, this was the ending of the
investigation and the timing was what it was. And so
whether it -- you know, it would just be -- again,
going back to the do it well and do it timely, this was
just the end, no matter who announced it, and that --
that was the -- you know, that was the end.

MS. HAMRICK: Do you have any questions before
I move on?

MS. GALINDO-MARRONE: Yeah. So I just want to
go back. I think that you had earlier said that
the DOJ did not know that the Director was going
to make the public statement until the morning of
July 5th.

THE WITNESS: Correct.

MS. GALINDO-MARRONE: How was DOJ informed?

THE WITNESS: The Director called. We had --

I think probably in the documents that you all

might have seen we had a checklist for what to do

that morning. And the Director called the

Attorney General as well as the Deputy Attorney

General.

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

they were all --

THE WITNESS: Two calls.

MS. GALINDO-MARRONE: Two separate calls?

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

connection issues, you know, best laid government

plans. It was hard getting in touch with

everybody. There were two calls.

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

call besides Director Comey and the DAG or the

Attorney General?

THE WITNESS: That is it. My recollection is

that the Director made them both from my office
because of the way we had to connect them. So I -- I believe -- I'm having trouble remembering the DAG call, but the AG call I definitely remember.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: And he told -- he told her what he was about to do and said something to the effect of "I hope you understand why I'm doing it this way." She attempted to ask one follow-up question. I don't recall what that was. And he said, "I'm sorry, I can't answer that."

MS. GALINDO-MARRONE: So you were on the call?

THE WITNESS: I was not on the phone --

MS. GALINDO-MARRONE: But you could hear what the Director was saying?

THE WITNESS: Correct.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: Yeah.

MS. GALINDO-MARRONE: Would you have been present for the call with the Deputy Attorney General as well?

THE WITNESS: I think that's right. Yeah, and here's why I hesitate. We're even going back
putting this all back together with the Director.

We -- we were all struggling to remember the DAG call for some reason, not because there -- there was this weird -- the call through the Justice Command Center, the message got garbled and so the Deputy Attorney General thought that I was calling, Jim Rybicki, instead of Jim Comey was calling for -- you know, I don't -- I don't call the DAG. So she had her staff call me back and it got -- and so we were trouble just remembering, okay, when did actually the Director and the DAG speak.

MS. GALINDO-MARRONE: I see.

THE WITNESS: But, you know, we consider the AG to be the -- that's the notification to DOJ.

MS. GALINDO-MARRONE: Okay. And did Director Comey, when he spoke to the Attorney General, who I believe is his boss, right --

THE WITNESS: Right. He --

MS. GALINDO-MARRONE: -- in the chain of command?

THE WITNESS: -- he reports directly to the
Deputy Attorney General.

MS. GALINDO-MARRONE: Oh, okay.

THE WITNESS: Yeah, that's how the -- the department org chart works.

MS. GALINDO-MARRONE: Did either of them, the DAG or the Attorney General, instruct him not to make the public statement?

THE WITNESS: No.

MS. GALINDO-MARRONE: Okay. And then I wanted to go back to the meeting that I believe you were present back in the fall of 2015 when the Attorney General instructed Comey --

THE WITNESS: Yes.

MS. GALINDO-MARRONE: -- to call -- not to call the investigation an investigation, but a matter.

THE WITNESS: Yes.

MS. GALINDO-MARRONE: Any other FBI cases where a similar instruction was given by the Attorney General to not call an investigation an investigation?

THE WITNESS: Not at that time -- not at that
meeting and not to my knowledge.

MS. GALINDO-MARRONE: Okay. And what did you think of that instruction?

THE WITNESS: I thought it was -- I thought it was odd. I thought it was, again, you know, remember here we were dealing with a public referral from the ICIG, right, so this was an investigation that, you know, while we hadn't acknowledged it, people knew it was happening. I believe Secretary Clinton acknowledges it herself, right? So we were in this weird space, and I remember talking to the director over here of, you know, it's just -- you will -- you, the Department, will -- the FBI, will all lose credibility if you go up to the Hill and say, you know, we're not doing this, right? It just -- it -- it -- at some point, right, it doesn't make sense. And the -- the DOJ media guidelines, right, contemplate various situations where you can talk about -- can talk about pending matters, right, if, you know, there's a, you know, pertinent -- serious -- I don't -- I don't know
all of them verbatim, but, you know, if there's a serious public safety, you know, there's a murderer on the loose, you can talk about it. For extreme public interest, right? You know, so there's -- it contemplates things like that. And so that was part of the process, was to go to the Attorney General and say, look, we need to at least acknowledge that we're doing this so as to not lose credibility. And so I remember thinking at the time that it was just odd that we would not -- that we would not talk about it.

And, in fact, again, I think it was that same article, which I detest leaks, but the -- I remember George Toscas talking about in that meeting, joking that we're -- you know, we're not the Federal Bureau of Matters instead of the Federal Bureau of Investigation, right? So in everybody's mind it was like, hmm, this is -- you know.

**MS. GALINDO-MARRONE:** And did -- did the Attorney General in that meeting explain why she was instructing that this thing that you were all
doing not be called an investigation?

THE WITNESS: I don't -- I don't recall specifically.

MS. GALINDO-MARRONE: Okay. Okay.

Q So we're going to fast forward to October of 2016. I guess at some point you found out or you learned that there -- there had been some new evidence discovered that might be related to the Hillary Clinton email investigation?

A Correct. So on October 27th -- so the -- on the night of the 26th I was contacted by the Deputy Director's Office, so the operational side of the House, saying we need to -- we need to brief the Director tomorrow about a -- a -- I can't remember how they described it, but basically something related to mid-year exam, this was called an update, which we need -- we'll need his attention first thing in the morning. So we set that up for the morning of the 27th, and the team, the executive team reassembled to brief the Director on, you know, sort of what unfolded. The finding of this laptop in an unrelated criminal investigation.
Q And so what was the Director told?

A Sure. So he was told, we have this -- in the unrelated criminal investigation, I'm only -- I just can't remember what's public on that and not, so I think he's talked about it, so if it seems weird, just tell me and I'll -- in an unrelated criminal investigation they found a laptop and in the course of reviewing that laptop, they identified what could have

And, again, that's a -- you know, you could say, well, the rest of the emails from the original mid-year didn't show anything, right, so why would this be any
different? In our view, the Director -- tell me if you want -- do you want me to tell the story?

Q Yeah. Keep going.

A Okay. So -- so that's what he was told was on there. So there were -- there was a decision point. Do you want to authorize a search warrant or more artfully, do you authorize us to go to the Department of Justice to seek a search warrant to preview those emails, and his answer to that was yes. So that was on the 27th.

In that same meeting he said, okay, based on what I've heard, I feel an obligation to supplement having -- having spoken publically and having testified on the Hill, so he -- remember, he testified in July before House Oversight and Government Reform and in September before House Judiciary. Having testified those two times, he felt an obligation to supplement his testimony to there because it was no longer true.
He said in July we've concluded the investigative activity. That's no longer true if we authorize a search warrant.

Q    So -- okay. So with respect to the search warrant, was there any discussion of the timing of seeking this search warrant?

A    There was. In that meeting it was represented by -- that the investigation -- the investigative team felt that it was important that we do it now. They also indicated that the Department of Justice had agreed as well.

Q    Was there any discussion about just holding off until the election is over and then get it?

A    I -- I don't recall that specifically. I do -- right, I do remember timing being discussed. No. I would -- there was -- I don't recall anybody advocating that we should hold off on the actual search warrant. There was discussion - I'm sure we'll get to this next - about whether we should hold off talking about it --

Q    Okay.

A    -- until after.
Q  Do you know why the investigative team thought that -- that the search warrant needed to be sought now, like immediately?

A  I don't know the answer to that. I don't.

Again, I remember them saying, though, that DOJ concurred and in my mind that was, okay, if DOJ concurred with that, then -- but I don't recall specifically.

Q  So going then to this obligation to supplement his testimony, so what did -- and this is -- now this is the executive staff that's discussing --

A  Correct.

Q  -- or executive team?

A  Yeah.

Q  So what -- what was discussed with respect to making some kind of supplement to his testimony?

A  Sure. So -- so once he said we have an obligation to do that, then we -- okay, so what would that look like, when would it look like, all -- all --

that was definitely all discussed, right, with people saying we're way too close to the election to say anything. You know, we -- if we do say something,
right, it should just say, you know, we're taking this step and nothing else. You know, we should say more, right? It was sort of the gamut.

    Then -- and what would that look like? Does he give another press conference? Does he, right, just again, similar to July, what -- what would such a thing look like? In the course of those discussions, Jim Baker, our General Counsel, said I think the best vehicle is a letter to the Hill.

Q    And do you know what his reasoning was for that?

A    I don't specifically. I mean I -- I think it was probably a combination of things, right? That's -- that's who you believe the obligation is to, right? Because you gave sworn testimony up there. You know, we -- again, we talked -- I can't remember all the sequence, but like, you know, And so we talked a lot about that. We talked
about if we sent the letter, right, what would -- what
would happen, right? You know, there's a chance that
it doesn't become public, but it's the Hill, right, and
there's a good chance that it does become public,
right?

And so it was I think -- I think overarching. It
was the best chance of doing this as quietly as
possible while at the same time fulfilling the
obligation to the committees.

Q So you've kind of alluded to this, but was the
expectation that once it's sent to the Hill, it's
likely going to be made public?

A Sure. I think we -- right. We did
everything, I think, that we could, right, ["
We just it just to chair and ranking of the -- of the,
I think it was four committees, our appropriators and
authorizers. And so I think it was the best chance of,
you know, fulfilling the obligation and, again, not --
not doing it public, but thinking that it may.

And, you know, to illustrate that point, we -- so
that the email that the Director sent to the workforce
about it, you know, I don't -- I can't remember if we
talked about this, right -- he frequently communicates
with the workforce, basically about big decisions. So
holidays and big decisions, those are the times he
emails the workforce. So, you know, you know, 15, 20
times a year the Director sends an email to the whole
workforce that he writes, he writes them himself.
And so this would obviously be a big decision.

What we talked about, and I can't remember if it was in
that meeting or subsequent to it, but before the letter
went out, we said, okay, we will do an email like we
normally do, but we're going to hold it and we're not
going to send it unless and until, right, if it comes
out, right?

So we said we will hold this in abeyance. You
know, so July, remember he sent the email and said I'm
walking downstairs to give this statement and put the
statement in, then he gave it. For October, we drafted
an email, had it all ready to go and said, nobody --
this will not go unless this becomes public by the
Hill. And we did not send it until after we saw it on
CNN, and then we said, okay, send it out to the
workforce. So they knew. Because it's important for the Director if the FBI -- something big is happening to the FBI that our workforce, who are all over the world, right, know what's happening.

Q So did anyone express disagreement with sending notification to Congress?

A Yes.

Q Who -- do you -- who specifically?

A I recall at times -- so two letters, I remember there was more concern about the November letter than the October letter, just generally. I don't -- and I remember Jon Moffa being very concerned about the November letter. I remember Trisha Anderson raising with the October letter, you know, should -- as we're -- as we're thinking about this, should we consider that this could help elect Donald Trump specifically. And Director saying, no, we can't -- we can't consider that -- we consider that at all. We can't consider it. It's just something that can't enter our decision-making as we -- as we, you know, figure out what we're doing here.

Q So at the point in time where the notification
goes over, was -- was everyone in agreement at that
time or was there still kind of some dissent in
that -- in that executive group that met?

A I think -- I don't know the answer to that. I
think -- so it might help if we talk about how it
evolved and then go back to that, if that's okay with
you.

Q Okay. Yeah, absolutely. Go ahead.

A Or -- or -- I can do it either way.

Q Yeah, that's fine.

A So Mr. Baker says we should send a letter to
the Hill. A lot of discussion on that, right? We then
set about to draft what that -- what that would look
like. And so a bunch of folks got together. I can't
remember who actually did the first draft. It might
have been [ ] but it was somebody on the
executive team. It might have been [ ] I just can't
remember now, did a first draft and people, you know,
iterated on that for a while.

So different from July, the Director directed me
to contact DOJ and have -- and tell them what we were
planning to do. So I called Matt Axelrod, who was the
PDAG, the Principal Associate Deputy Attorney General, who's basically the DAG. So it was DAG Yates still, her principal deputy. I called him and told him two things. One, the Director authorized FBI seeking from DOJ the search warrant.

And then I said, and the Director feels like he has an obligation to inform Congress that this happening. The initial reaction from Matt was, you know, we just don't do this. It's not -- right, it's -- we just don't do this. You know, we can't.

We had a series of phone calls that afternoon into the evening, probably overnight. At one point I called him and said, can you send me any policies that you think are on point to why we should or should not do
this. -- is it okay if I --

Q Of course. Absolutely.
And so I remember Matt actually -- so one of the things it says to do, right, is to contact the Public Integrity Section of the Criminal Division for further guidance. I remember Matt actually called them [Redacted].

Q  Do you know who he spoke with?
A I don't. I don't. I just -- as we were walking through this, it was just one of those -- it stands out in my mind that, hey, let me just call PIN, you know, they call it PIN --
And then I sort of -- I'm keeping the Director informed at the same time. So when Matt and I would speak, right, Matt -- we had this understanding, he knew I was speaking for the Director and I knew he was speaking for the Deputy Attorney General. That's the relationship that we had that if -- if we were both saying something, we knew we were speaking for our principals. And so that whole time I'm keeping the Director informed. I'm sure he's keeping the DAG and other leadership informed over there.

I remember asking Matt if either the AG or the DAG -- well, and -- I'm sorry -- at some point Matt
came back later in the day, in that day or evening saying, again, it's our strong view that this not be sent. I remember asking the -- I remember asking Matt if the AG or the DAG wanted to speak to the Director about this and he said no, didn't think it was necessary. So -- so that we're -- you know, it's being drafted. At some point the team -- I'm sorry -- the executive team, minus the Director, minus the Deputy -- I'm trying to think who else -- so probably minus those two. I remember gathering in a conference room down the hallway here and we put what was then the sort of operative statement or letter up on a screen and we just went line by line through it, and everybody talking about, you know -- you know, and it went from, I think I alluded to it earlier, just we're taking an investigative step, period, to, you know -- I'm exaggerating -- three pages of a lot of detail back, you know, back down to sort of where it got, which was essentially a one-page, you know, statement. And a lot
of discussion from the executive team, again, minus the
Director and the Deputy, of, you know, how much detail,
like what is that -- what is the appropriate level of
detail to put in there. A lot of, lot of discussion
for hours on, you know, you know, what's appropriate to
put in this letter and how to not be alarmists, right,
and not to understate it. And so that was all
considered. And then at some point we came back to the
Director with that to sort of sign off on what a final
would look like. Again, that was happening sort of
Thursday into Friday.

So back to interactions with DOJ on that.

believe I read the letter to Matt or at least the
substantial -- and I remember discussing with him and
George Toscas and others, you know, so they had spec --
they had recommendations on some things to put in. I
don't ultimately think we put them in,

Q  So let me back up for one second. You said
when you initially talked to Matt Axelrod that he --
you know, he said "we don't do this." When he was
saying "we don't do this," like what -- what
specifically was it that he was concerned about?
A I think it was -- I think it was do -- and,
you know, do something so visible close to the
election.
Q So it was the timing?
A It was the timing, yeah. I think it -- right,
I think he -- it was going to the -- yes, to the
timing.
Q What about --
A And also --
Q I'm sorry. Go ahead.
A I'm sorry. Just -- I would say probably to
some degree as well, just going back to Congress
supplementing in that way, right? Talking about --
because it went from being closed in July back to being
open. So I think it was -- a big part of it was that
as well, right?
Q And that was going to be my next question
is -- is was this a typical thing to do where an
investigation that's been wrapped up, but then you find
Some new evidence potentially, is it typical that you would let Congress know that that's occurring?

A Yeah. I think the short answer to that is no, but in a typical case you probably -- you wouldn't have testified about it, right? And so I think the obligation becomes different at that point. So I think you're absolutely right, the typical case on its own without previous testimony or public statements about it, no. But given that, right, then I think it does -- it becomes out of the -- out of the norm.

Q So is it fair to say that because the -- the ending of the investigation was made so public, that Director Comey felt the need to be public with the fact that the investigation was, in fact, not ending?

A Well, I think it was -- you know, again, we -- we didn't make it -- we didn't make the October letter public, right?

Q That's right.

A We sent it up there, and I think it was the -- it was both the testimony, right, so it was that he testified of it under oath that -- and the fact that that was public and the July public announcement, this
was out there and an investigative step was being
taken, right, that it was no longer true. So I think
that was the thing.

And, you know, the way I describe it to folks is,
you know, true, we don't normally comment at the
beginning of an investigation, right, which is what
some people think October would be, right? Okay,
you're taking a step, right? So you're here, you don't
comment on it. But the reality is we're all the way
over here at that point, right? You forget it's been
going on for a year, July happens, you're over here.
So it's not the typical opening where you're back at
the beginning.

Q So what about, you had mentioned earlier that
there wasn't -- there wasn't a discussion about the
timing so much of the search warrant, but that there
was a discussion about the timing of the notification
to Congress.

A Yep.

Q So what -- I guess, was it -- was it
considered that -- delaying the notification to
Congress?
A Well, I think -- yes. I think it was considered. I think people's view was, you know, number one, should we do it, right? Right? And then if we do it, when do we do it. You know, and do we know enough of what's there, right? Is it -- is it big enough to send, right? And what would -- you know, if other words, what would be the implication if we didn't tell Congress, right? I remember a lot of discussion about that, right? And then specifically, if the election happens, right, and then we disclose it, right? What -- what does that trigger, right? And so I remember that all being discussed.

Q Okay. So I want to kind of break down --

A Sure.

Q -- some of those. Let me ask you first, before we break those down. Was there any -- did you discuss the idea of maybe kind of looking at some of the emails first to see if there is anything new and then deciding what to do about notifying Congress?

A I think the -- I don't remember if anybody brought it up, but we couldn't. We didn't have a search warrant to view those other emails. We had a --
so the FBI had authorization to look for certain things
in the unrelated investigation, but -- but once you
determine that it's in a separate category, we didn't
have authorization to do it. So we needed a search
warrant to do that.

Q But what about getting the search warrant,
getting the emails, taking a look and then going from
there, was that at all considered?

A I don't -- I don't remember if anybody brought
it up. It was the estimation of the team, though, at
the time that this process could take months and
months. You know, so there was no -- I remember being
briefed, like this will take three to four months
because of the volume that could potentially be on
there.

Q So -- okay. So then some of the other
options. Not -- not notifying Congress. You said the
ramifications of that were discussed. What were some
of the concerns about not -- just not notifying
Congress?

A I think -- I think the general view is, the
Director's view is that not to -- there was no option
to take no action, in other words, right? Any -- even
not telling Congress was an -- was an act of
concealing, was an act of -- because of the obligation
that he felt, it was an act of -- it was an action,
right, to withhold it from them. So I know that there
was discussion about that of like, you know, you know,
could we just wait, could we do nothing? You know, but
the general view was that even doing that was doing
something. And, right, I mean he's talked about it
publically, right? He saw two doors, right? You know,
you know, one was to, you know, send the letter, one
was to conceal, right? And both were terrible, right?
And he went with the option.

Q Right.

A The other thing I -- well, actually, I don't
know if it's relevant here, but just so I make sure I
say it, right? In my view, once the Director said that
he had the obligation to do it, in my mind, right, he's
the only one that could have made that decision, right?
He's the only one with the obligation. So nobody else
could really step into his shoes, right? And as I
thought about how I should counsel him about it, I --
because he felt a personal obligation, because of
testimony under oath, right, once he has made that
decision, right, it's really -- nobody else can -- it
would be hard to move him off of that because of the
personal obligation. Does that -- does that make
sense? I know it doesn't fit here, but just it --
because he's the only one that went up and testified,
right, it -- it's specific to him, right? So I just
think it's worth noting.

Q  So what about -- what about waiting, what, are
we talking about like ten days until, 11 days? What
about waiting until after the election? Was that
discussed?

A  I don't -- again, I don't remember a specific
discussion about that. I just -- I remember folks
talking about, right, this notion of even waiting is an
action, right? Even waiting, right, is doing
something, right? That -- it just wasn't appropriate.

Q  So was the potential impact on the
presidential election discussed?

A  I think -- yes. Yes. And Trisha Anderson
brought up, you know, could this elect Donald Trump,
and the Director said we just -- it would be improper
to consider that. We have to -- we have to deal with
the facts of this case, right? And so...

Q Did you think that sending the letter to
Congress would have an effect on the election?

A I don't re -- I think the short answer is no.
Again, I go back to July, right, it -- it is -- the
facts are what the facts are, right? We're an
independent organization living in a hyper-political
world, right? And so I knew that -- you know, I'm not
naïve enough to think that we operate in a vacuum,
right? But in a sense, we have to be independent. And
it was awful, right? I remember that briefing on the
27th being like this is just terrible, right? Because
we're stuck here, right? But it is what it is, right?
And, you know, given this obligation, and, again,
taking the steps that we did to -- you know, our best
chance at fulfilling the obligation and not making a
public statement, right, I think we did it as best we
could.

MS. HAMRICK: Do you have a follow-up?

MS. GALINDO-MARRONE: Yeah. I just have a
couple. So Trisha Anderson has come up several
times as someone that raised concerns about how
the October 28 letter might affect the election or
concerns about the election. Did anyone else
raise concerns about how the letter might affect
the election?

THE WITNESS: I'm sure they did. She --
that's the only one I remember vividly, but I'm
certain that others did --

MS. GALINDO-MARRONE: Okay.

THE WITNESS: -- as part of that discussion.

MS. GALINDO-MARRONE: But you don't remember
any of the other individuals --

THE WITNESS: I don't.

MS. GALINDO-MARRONE: -- that might have?

THE WITNESS: I don't. I mean, again, it
seemed very comfortable discussing these things.
I -- I just remember her bringing it up and so I --
- I would say it's very likely others weighed in
to both pro and con on that.

MS. GALINDO-MARRONE: Sure.

THE WITNESS: But I can't remember anybody
else.

MS. GALINDO-MARRONE: Okay. And so I -- and I may have misunderstood something. When -- let me see where my notes are.

When the decision is made, you know, DOJ agrees, the search warrant is going to be issued, and this is all happening real fast, right?

October 27th and the letter is the 28th.

THE WITNESS: Correct.

MS. GALINDO-MARRONE: Did I understand you correctly, did the Director call the Attorney General to let her know that he was going to be sending some notification to Congress or did I --

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

MS. GALINDO-MARRONE: Okay.

THE WITNESS: He asked me to call --

MS. GALINDO-MARRONE: I see.

THE WITNESS: -- Matt Axelrod.

MS. GALINDO-MARRONE: So Matt -- so that's the communication, it's between you --

THE WITNESS: Correct.
MS. GALINDO-MARRONE: -- and Matt Axelrod, the Director did not speak to the Attorney General --

THE WITNESS: Correct.

MS. GALINDO-MARRONE: -- or the DAG about this?

THE WITNESS: That's correct.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: And I think I noted, right, he was willing to. In fact, I offered to, you know, should the Director and the AG and/or DAG speak, and Matt said he didn't think that was necessary.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: Which -- which led me to believe they had both been briefed and -- right -- and weren't -- weren't -- specifically were not saying don't send it.

MS. GALINDO-MARRONE: Sure.

THE WITNESS: And that's one of the things we talked about, what if the Department of Justice says -- the AG or the DAG says, do not send this letter, and they did not.

MS. GALINDO-MARRONE: Okay. But that did not
happen?

THE WITNESS: It did not happen.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: Correct.

MS. GALINDO-MARRONE: So -- so in your con -- so you had several conversations, right, during this 24-hour period with Matt?

THE WITNESS: Correct. Mm-hmm.
MS. GALINDO-MARRONE: Sure.

MS. GALINDO-MARRONE: Okay.
MS. GALINDO-MARRONE: Okay.

MS. GALINDO-MARRONE: Mm-hmm.
MS. GALINDO-MARRONE: Sure.

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

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

THE WITNESS: I was just going to add, just because I don't want to forget this,

MS. GALINDO-MARRONE: So this is after October 28 --

THE WITNESS: Correct.

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

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

MS. GALINDO-MARRONE: -- with --

THE WITNESS: -- and it might have actually been -- I can't re -- as you can imagine, that
time period is compressed down to an hour for me. But I can't remember if it was after October 28th or after the November letter, just talking about sort of, okay, what happened during this period.

MS. GALINDO-MARRONE: Okay.
MS. GALINDO-MARRONE: So Jim Baker, he's the General Counsel for the FBI.

MS. GALINDO-MARRONE: Okay. And I had another question. I'm sorry.

Maybe that was it. Oh. I did have one more question, but I don't know if this is going to work with where you were going or not. Let me ask it and then see where it takes us.

So -- so you said early in the conversation about the October 28 letter, I think -- when Erica asked you about whether anyone expressed concerns
about the election, I believe you said something
to the effect that, yes, and I think you named
Trisha Anderson, she raised concerns about the
October letter, but that there were more concerns
about the November letter.

THE WITNESS: Yes.

MS. GALINDO-MARRONE: So are you going to --
are we --

MS. HAMRICK: Yeah, I was going to move to the
November letter.

MS. GALINDO-MARRONE: Okay.

MS. HAMRICK: But you can ask your question.

We can use that as our jumping off point.

MS. GALINDO-MARRONE: So -- so I'm just
curious because it seems like there was, at least
from DOJ, you've only identified Trisha Anderson
as being one of the folks on the FBI side that had
contents.

THE WITNESS: Sure.

MS. GALINDO-MARRONE: But in terms of DOJ, it
seems like there's concern there expressed through
Matt --
THE WITNESS: Oh, absolutely.

MS. GALINDO-MARRONE: -- about the October 28 letter. But you believe there was even more concern about the November letter?

THE WITNESS: No. I'm sorry. When I -- when I was answering that question I was only speaking to the FBI concerns.

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

THE WITNESS: Yes. Sorry if I caused confusion.

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

THE WITNESS: Yes.

MS. GALINDO-MARRONE: So -- so on the FBI side, your sense of everything that you were observing and the meetings that you were involved in, there was more concern about the November letter than the October 28th letter?

THE WITNESS: For the --

MS. GALINDO-MARRONE: Dealing with the election, the concern that we're -- you know, what obviously we're talking about is election concerns.
THE WITNESS: I think it's the other way. I think for the Bureau I think there was more concern about the November letter.

MS. GALINDO-MARRONE: Okay. Yes.

THE WITNESS: Is that what you're saying?

MS. GALINDO-MARRONE: Yes. Yes.

THE WITNESS: I'm sorry.

MS. GALINDO-MARRONE: No, no. That's fine.

THE WITNESS: Yeah.

MS. GALINDO-MARRONE: About the November letter, there was more concern --

THE WITNESS: Yes.

MS. GALINDO-MARRONE: -- on the FBI side --

THE WITNESS: I believe --

MS. GALINDO-MARRONE: -- about the November --

THE WITNESS: And, again, that's just based on sort of atmospheric -- I can't point to anything, it's just a feeling of, right, just my -- how I perceived it.

MS. GALINDO-MARRONE: Okay. And you express -- I think you said Jon Moffa was --

THE WITNESS: Mm-hmm.
MS. GALINDO-MARRONE: Anybody else, like Mike Steinbach, was he concerned about the November letter as well?

THE WITNESS: Mike was on the phone. Mike was -- we had him piped him to the room on the phone. I just can't remember if that was for the -- so we did the identical thing, which is why I'm getting confused --

MS. GALINDO-MARRONE: That's okay.

THE WITNESS: -- for the October and the November letter we sat in the same conference room, put the statements up on the screen, right, did the same-thing. I don't remember it's possible.

MS. GALINDO-MARRONE: Okay.

THE WITNESS: For some reason, just like Trisha for the October one, Moffa stands as the -- maybe the launching point for the discussion, so that's why it sticks out to me. But you're absolutely right, I think from the DOJ perspective, I think there was much more concern about the October letter --
MS. GALINDO-MARRONE: Okay.

THE WITNESS: -- than the November letter.

MS. GALINDO-MARRONE: And I remembered my

question. This is good that I went ahead a little

bit because I remember.

So in your -- going back to the conversations

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

going to consult -- pursuant to the election year

sensitivities memo, he is going to consult with

the Public Integrity Division.

THE WITNESS: Correct.

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

to you on what they said?

THE WITNESS: Yeah. My recollection is -- so

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

been a formal consult because we couldn't give

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

me just call informally. He used to work in the

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

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

just call and see what the factors are, what they

might consider.
MS. GALINDO-MARRONE: Mm-hmm.

THE WITNESS: And, again, I don't remember him -- I'm sure we talked after that, I just don't remember specifically. Okay, PIN said X, and I wouldn't expect that it would be anything really instructive without the facts, right? Because there was too much out there, and I'm sure we talked about it, but you just don't remember that being a big thing, another thing that doesn't really fit here, but in terms of did he violate policies, did he violate practice and stuff like that, one of the things we talk about here is, okay, so the election year sensitivity memo, it doesn't say don't take any action, it says what to do if you need to take action, right? And in the case of election crimes, it says to call PIN. We were calling the Deputy Attorney General's Office, we were doing well above and beyond. We're going to the top to say this is what we need to do. In that respect, we were fulfilling the spirit of the guidance, which is, you know, unlike July where we had to do something different, without talking to
him, for October, we're saying this is what we
need to do, right? We're consulting with you,
right? And they could have said no, I don't know
what would happen after that, right, where we go
from there, but we could have been ordered not to
do it, is one of the key things, I think.

MS. GALINDO-MARRONE: Do you think -- does he
need a break or --

MS. HAMRICK: Do you need a break?

THE WITNESS: I'm okay. But -- I'm mean --

MS. GALINDO-MARRONE: Do you need a break?

MS. HAMRICK: No, I don't.

THE WITNESS: You're welcome to stop for a
minute, if you --

MS. HAMRICK: No, we're good. We're good.

Q. So, actually before we get to the November 6th
letter, I do want to ask some questions about the
October 28th email that the Director sent.

A. Sure.

Q. I'm just going to give you a copy in case you
want to look at it.

A. Thank you.
Q. You kind of alluded already a little bit to it, I think you said that, you know, the Director was -- any kind of big decision point or, you know, big thing going on at the FBI and holidays, he would email all the staff and you've explained how this didn't go out until the Director became aware that the notification of congress had been reported on --

A. Yes.

Q. -- CNN?

A. Yep.

Q. A couple of things, were you at all involved in drafting this email?

A. Yes.

Q. Okay.

A. I should say he drafts them and I would say I'm involved in the editing of it.

Q. In the editing?

A. Yeah.

Q. Okay. Okay. So there are a couple of questions in terms of the language of the email that I wanted to ask about. You know, he in the -- let's see. In the second paragraph, he talked about not wanting to
create a misleading impression. What is -- what is he
trying to say there about creating a misleading
impression? What's your understanding of what he is
saying?

A. Mm-hmm. I mean, my best read would be that he
said the FBI is taking -- in July taking no further
investigative steps. And now that we were going to --
in the search warrant in October, that it would -- that
that's no longer accurate.

Q. And then what about the next statement there,
he says, you know, in trying to strike that balance in
a brief letter in the middle of an election season
there is a significant risk of being misunderstood.
That reference to, you know, the middle of an election
season and being misunderstood, what is your
understanding of what the Director is trying to say
there?

A. Sure. I think that -- I think he's probably
alluding to what I tried to capture, which is this -- a
lot is happening outside of this building, right, and
sort of, you know, the election or with the campaigns
and the election, right, and so we are operating as an
independent institution in the middle of that. And
there is again, you know, it really sucked having this
come up on the 27th and knowing what we had to do,
right? And so there's a -- no matter what we do,
right, if we put out that one sentence that we talked
about if, we put out the three, four pages, it's going
to be potentially misunderstood. That's where I think
he would be what he would be speaking to there.

Q. Okay. So then moving on. At some point in
time you find out that the investigative team has
finished their review of all these thousands of emails?

A. Sure.

Q. When does that happen?

A. Yeah. So let me walk you through. So a
letter goes out on the 28th, that's a Friday, I
believe, right? Thursday, Friday. Yeah. Right. At
some point I would say early the next week. So there's
an a lot of stuff there and we're getting updates from
the team of this is what we're finding, there's a lot
of sort of technical things that have to happen, which
is what we saw in the original mid-year, right? A lot
of -- this is where I get way out of my lane in techno
expertise. I hesitate this might be classified. I want to think of a way to say it. Because of Ms. Abedin's -- because of the address that she's communicating with, it makes a typical search very complicated. So it wouldn't be the ordinary, you know, search for because of -- I think because of another thing that might be classified. I'm not sure, so I'm going to stay away from it. It's okay, but it made the -- it made looking for the emails that we would be concerned about very difficult. And our folks -- it's called OTD, Operational Technology Division at Quantico, they always Bing people, they were able to create a tool to make it so they could search. And so what they had to do was -- I'll just give you an example. It would be as if you were searching for the word "of," right, in an email. There's just no way you can -- that's not a
meaningful search. And so the OTD folks developed a
tool that made it so if we were searching for "of" it
would get you exactly what you needed. So that's why
we thought it would take, or the team thought it would
take months and months and months because they didn't
think this tool -- this would work. So they start
their reviewing, OTD comes up with this tool that can
test the tool to make sure it's actually giving back
what they think it's yielding, actually exactly what
they think it's going to yield. So at some point in
that vehicle it becomes, you know, it's optimistic
that, okay, this isn't as bad, right, it's no longer
here, we've got it down to here. It's getting down to
here, right? So it becomes more manageable, right?
And so then again, the marching orders are still, you
know, do it well first, right, and then timely, right?
You do what you can do.

The -- so that would get you to like mid to late
week that next week, all right. At some point
Friday -- I don't want to give dates because I'm a
little foggy on them. Late week it becomes evident
that it might be possible for this scrub to be done
quickly, within days. So the mid-year team is still
doing their thing, they're reviewing it. They're
seeing emails that we had seen before. And so they're
not finding the six-month emails that we talked about,
right? They've found -- they found a lot of new
emails, right? So it's kind of when people say we
didn't find anything, that's not accurate. We did find
new stuff. But nothing that would change our view of
the original conclusion in July. That's the upshot.

So that's all happening. So the team is -- and
it's getting closer and closer, so that I believe my
recolletion is that we met on Friday. I'm a little
fuzzy on that. The executive team, we definitely did a
call on Saturday to get an update. So, again, the
executive team did a conference call at the Director's
direction to get a status update of where we were,
because we were -- remember, we were within, you know,
a shot of getting it done. Might have had two calls
that Saturday. And I remember late Saturday -- late
Saturday night, them, the team saying, we will probably
be done tomorrow, that Sunday. So the Director said,
okay, if that's the case -- I can't remember if we did
a call on Sunday morning. I can't remember if we did a
call on Sunday morning. We did meet here at
headquarters on Sunday, the team said we completed --
we completed the review. It hasn't yielded anything
new. So the Director said I want to reconvene at
headquarters for the team to brief me on that, right,
on what you found. And then talk about, you know, what
we should do. So team assembled here, brief the
Director. It was, as I said, we found new emails, but
nothing that would change our view of the -- of July
and it's our recommendation that we're done with that.

So then it's the question of, what to do. And
everybody thought the appropriate thing would be to put
it -- again, supplement, do another letter to the Hill,
explaining what was found and that that was done. So
same process again. I think -- and so while all that
is going on, I'm keeping Matt Axelrod updated, so in
that week, into the weekend, I'm talking to him, this
is what we're hearing, so I'm providing constant
updates to DOJ. You know, this is what we're finding,
right? And so I just don't remember now when we
started drafting the second letter, whether that was
Saturday or Sunday -- is that critical? Or -- so we --
you know, we discussed, you know, how it should look
like, again same process again, we get in the
conference room, we pull it up on the screen, drafts go
back and forth. This time we did provide a draft to
DOJ. So they have -- we emailed it to them, this is
what we're intending to say. They weighed in. We did
a separate conference call with DOJ. I believe it was
Jim Baker, myself, and Pete Strzok on the FBI side.

With Matt Axelrod, Scott Skolls (phonetic),

Q. Do you know why?

A.
Q. And then what about internally here at the FBI? You've alluded, as Ana was asking you about earlier, there was some disagreement here about sending this November 6th letter?

A. Mm-hmm.

Q. So what were the concerns expressed about not wanting to send it?

A. Yeah. I think that the big -- again, this is sort of what I attribute to Jon Moffa is that we're now within a day or two of the election, and just, you know, October, we said we were doing it, we didn't think we would be finished, so, you know, is it appropriate to send a letter and can we craft a letter in such a way that it won't cause, you know, more problems.

Q. Was his thought that you should wait until after the election at that point?

A. I don't recall. I don't recall him saying we
should wait or not send it. I don't know.

Q. Did anyone express the view that as close as you are to the election you just need to wait till after the election is over?

A. I can't remember somebody specifically saying that. I wouldn't find that unlikely. In fact, I think it's likely that somebody would say, you know, should we wait? Yeah. But I don't recall a specific argument to that effect.

Q. Was the potential impact on the election discussed?

A. We definitely talked about, right, you know, again, how to craft some -- how to craft language, right, that would not, you know, again, we're done, so it's the view that we should send this. Which is I think even ultimately Jon came around to, we need to send a letter, I think then it became, again, what do we say in there to operate, again, independently as we are, but in the midst of all that's going on around us.

Q. Was that DOJ election sensitivities memo discussed at all with respect to this November 6th letter?
A. I don't recall any specific discussion of it.

Q. What about the Hatch Act, was it discussed at all with respect to the November 6th letter?

A. No, not to my recollection.

Q. Do you know if any kind of legal review of the letter was done?

A. Yes. Again, our -- Jim Baker, his legal team was in there, I don't know if -- we might have sent it back to [redacted] I can't remember. I just can't remember on that one. But Jim Baker and the legal team were in in all of the discussions and the drafting sessions on all of them.

MS. HAMRICK: Do you have any questions about November 6th?

MS. GALINDO-MARRONE: No.

Q. Okay. So just kind of shifting gears a little bit now to other FBI investigations.

A. Sure, because we know now that the FBI has an -- investigation concerning links between individuals associated with Donald Trump's campaign and the Russian government and potential coordination in Russia's efforts to interfere with the 2016 election.
And, you know, Director Comey, you know, testified I think in March of this year and confirmed the existence of the investigation, but we know that now that was going on at least as early as July of 2016.

In terms of not confirming the existence of that investigation, as opposed to the Hillary Clinton email investigation --

A. Mm-hmm.

Q. -- I guess what is your understanding of why the, I'll call it the Trump/Russia investigation, why that was not publicly confirmed until March of this year?

A. Sure. In my mind I consider them totally unrelated. In this way our cases operate on their own, right, they all stand on their own and there is no -- so there certainly was no link between the Hillary Clinton email investigation and the counterintelligence investigation to Russian interference with the election. So no link there whatsoever. Some of our cases have links, right, in election fraud cases and things like that, but here, definitely no link. So it wouldn't even enter my mind to, if you're taking action
on case A, to think about case B. And, in fact, I
don't recall that coming up at all, right? So it
just -- the way cases are done, right, they're totally
distinct and separate to what you're doing over here to
appropriately have no bearing on what you're doing over
here in my mind. So I bring that up as just the sort
of foundation. And then so if you were to disregard
that and you were to say, okay, you know, you know, the
election is happening, and, you know, why wouldn't you
sort of balance the scales right? Again, it's --
Q. Right, two opposing candidates, right?
A. Again, I want to be careful. I'm not saying
that's what happened or I would everybody --
Q. Right.
A. -- think, but if you were predisposed to think
that, right. Even the -- so July the Director spoke
because the investigative activities were done, right?
We considered it closed for all intents and purposes,
in July, right? That's why he spoke. He only sent the
letter in October because there was another step,
right? And that was an occasions -- so we hadn't
talked about it before, or even acknowledged it, right?
Except, you know, until well after it had started. So
with the Russia, the CI investigation into Russian
influence, that had just started in July. It was in
its infancy, right? If you get to October, right, it
really -- at that point -- again, I want to be careful
what I say about it, but you -- there's really nothing
to say, even if you were predisposed to say something,
right? So to me it's -- does that answer the
question --

Q. Mm-hmm.

A. -- fully? Yeah. I don't even like the
comparison because it doesn't make sense to me of --
you know, they're two unrelated cases that are
operating independently and what you do here has
absolutely nothing to do with what you're doing over
there.

Q. What about, if you know, maybe not going into
the blow-by-blow that Director Comey went into in July
with respect to the Clinton email investigation, but,
you know, sometime prior to that, you know, both he and
the Attorney General had acknowledged that there is
this investigation. What about even just making a
statement like that acknowledging that, yes, there is
this investigation, but, you know, not saying anything
more about it? Why wasn't that done?

A. Yeah, again, every case stands on its own,
right? And again, you're with the with the Clinton
investigation, you're talking about a case that was
publicly referred by the IG and the subject, right,
was talking about it, right, and so a little bit
different. And we were further along by the time it
was acknowledged.

In the case of the Russian influence, starting in
July there would be nothing to say at that time,
right? And you -- yeah, there would be nothing to say
at that time. So again, you'd have to go back to where
I started with the two unrelated -- just because you
have here our job was not to again we were not trying
to get involved in campaigns or election at all. So it
would be totally inappropriate to -- just because you
have said something about, you know, case A, who
happens to be candidate A, right, to say something
about case B and candidate B in attempt to balance in
some way.
Q. That was going to be my next question. Did that at all come up, you know, especially in October when, you know, you -- the decision to notify Congress about these steps that are going to be taken with respect to the Clinton investigation, knowing it's 11 days before the election, did anyone bring up a, hey, you know, we also have this case dealing with these Trump associates, do we need to consider that at all? Was that ever discussed?

A. Not to my recollection. I mean Trisha brought up the one thing I mentioned about that. I don't have any specific recollection, no. It's the same -- practically speaking, it's the same team because it comes from the counterintelligence world. So it wouldn't be -- everybody would have that knowledge already.

Q. Right.

A. So was it said? Sitting here, I can't remember it coming up.

Q. So we understand that at some point in October of 2016 there was, I guess, a desire by the White House to make some kind of public statement about Russia's
involvement in the presidential election and I think
the Director went over there and met with officials at
the White House to discuss making some kind of public
statement. Are you aware of those meetings?
A. I am. Yep.
Q. Were you present during those meetings?
A. I was not.
Q. Okay.
A. Yeah. These were principal level meetings --
Q. Okay.
A. -- at the White House.
Q. Did Director Comey brief you about the meeting
after the fact?
A. Yes.
Q. So what is your understanding of what was
being discussed at those meetings?
A. Sure. And, again, I want to be a little
careful because those meetings are classified, and so I
just want to be careful.
Q. Whatever you can share.
A. So let me take you back to that August. The
Director -- so increasing concern about potential
Russian meddling in our election. And there's a lot of inner agency meetings happening all over the place about what to do about it. Director testified on the Hill. And so one idea he had, right, because in his view, if the -- if the American people were inoculated to the fact that Russian could meddle in the campaign or the election, people would be sensitized to it such that if they're seeing things out there, right, they would know, okay, this could be Russian interference, something like that. So he drafted and proposed

The Director -- so again, just being careful about the substance of the meetings, the Director's view was the inoculation happened through various things, I think Senator Finestin, couple other members came and talked about it, this was being discussed in the public such that the inoculation had taken place
already, meaning, didn't really need to send it
anymore. So when the idea of doing anything else, he
thought the time had passed, and it would perhaps be
too close to the election to have an impact.

Q. So his position was that they should not make
some kind of public statement about it?
A. I want to be careful. Just because of the --
I'll tell you what he told me about the subject, which
was he didn't think -- how did you phrase it?

Q. That a public statement should be made?
A. Yes.

Q. Okay.
A. Correct.

Q. And you said he thought it was too close to
the election at that point?
A. Yes.

Q. And too close how, exactly?
A. I think just too close to have an impact.

Right? At that point there's no reason for -- there's
no reason for it at that point, again, going back to
the inoculation theory, right, that -- it had -- in his
view, it had happened, right? And so sending it at
that time really doesn't do anything.

Q. In terms of making the public aware?

A. In terms of making the public aware.

Q. Because the Hill, Congress, had started
talking about it or made it public, is that the

inoculation?

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

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

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

Yes.

Q. Going back to other investigations going on,

we understand that there's also an FBI investigation

regarding the Clinton Foundation, and that this was

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

again, why not make some public statement about this

investigation the Clinton Foundation investigation when

the Director had been so public with respect to the

Clinton email investigation?

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

investigations.

Q. Okay.

A. I'm happy to -- I don't know what the rules
are on that. I'm happy to check with Jay if you want me to. If it's -- I could.

Q. Here's -- we're --

MS. GALINDO-MARRONE: We're not trying to get
to any of the facts --

THE WITNESS: -- sure.

MS. GALINDO-MARRONE: -- of that

investigation. It's more, I think, in line with
the same question Erica asked about the decisions
that were made about whether to go public or not
on the Russian meddling or Russian influence case
versus the Clinton email, why statements were made
publicly about the Clinton versus the Russia
meddling.

THE WITNESS: Yeah.

MS. GALINDO-MARRONE: It's that same type of
question. Without getting into any of the facts
or --

THE WITNESS: Sure. And I think I can answer
in that way. Without acknowledging the existence
of another investigation, I think I would go back
to the first answer, which is every case stands on
its own, right, even with -- I think you can
extend that to even cases involving the same
person. I have haven't made that leap before in
my head, I'll say it out loud here for the --
every case stands on its own. Just because you do
something here on case A, so if case A is the
Secretary Clinton email investigation, right, that
we thought was concluded and we took a step here,
it does not mean that a case even involving her in
case B should bear any, you know -- I think, I
think I would --

MS. HAMRICK: Should not bear any...

THE WITNESS: It's out there independently of
what you did here in case A.

MS. HAMRICK: Do you have any questions before
I wrap up?

MS. GALINDO-MARRONE: Uh-uh.

Q. So do you believe that Director Comey intended
to have an effect on the presidential election when he
made his July 5th statement concerning the Clinton
e-mail investigation?

A. No.
Q. Do you believe he intended to have an effect on the presidential election when he sent his October 28th letter to Congress?

A. No.

Q. What about when he sent the November 6th letter to Congress?

A. No.

Q. Is there anything that you think we should know or that you want to add before we turn the recorder off?

A. No. I think -- I would go back to the beginning, right, which is in all of this, we did everything -- two things. Operating as an independent investigative body, right, in the middle of a very contentious election, but even beyond that, just a contentious time in history is very difficult, right? And so I think as decisions were presented, right, all along here, I think we operated within the facts that we had and within the bounds of sort of constraints we were given, and in every step did made every effort to minimize, whatever the public -- confusion that the public may have about why we were doing certain things,
and always with that -- with the three sort of buckets
that I talked about at the beginning, making sure that
the public knew the FBI's investigation was done
confidently and thoroughly, that DOJ made appropriate
decisions, right, as you're thinking about charging
somebody and that they have faith in their criminal
justice system, so...

MS. GALINDO-MARRONE: I want to discuss
something with you for like a minute before we
wrap up the investigation. Where could I talk
to --

THE WITNESS: Certainly.

MS. GALINDO-MARRONE: It'll be a minute at
most.

THE WITNESS: Absolutely. Am I okay here?

MS. HAMRICK: I'm just going to stop the
recorder for one second, it's 11:15.

[Off the record.]

MS. HAMRICK: The recorder is back on. It's
about 11:17.

We are done with our questions. Anything else
you want to add?
THE WITNESS: Nothing else.

MS. HAMRICK: Okay. So I'm going to now officially end the interview, and it's 11:17.

[The interview concluded at 11:17 a.m.]
CERTIFICATE OF TRANSCRIBER

I, [name] do hereby certify that this transcript was prepared from audio to the best of my ability.

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INTERVIEW OF:
Trisha Anderson

OSC ATTORNEY:
Erica Hamrick
Ana Gallindo-Marrone

RE: OSC HA-17-0515

DATE OF INTERVIEW:
Monday May 1, 2017
PROCEDINGS

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

This is an interview of Trisha Anderson in the investigation of OSC complaint # HA-17-0515. I’m Erica Hamrick an attorney at the U.S. Office of Special Counsel. Also present with me today here is OSC attorney Ana Galindo-Marrone. As I said before we went on the record, OSC is investigating allegations that FBI Director James Comey violated the Hatch Act when he made public announcements concerning the FBI’s investigation into former Secretary Hillary Clinton’s use of a personal email server. Ms. Anderson has been identified as a witness in this investigation. Ms. Anderson do you have any questions at this time?

Anderson: I do not but as I mentioned before we went on the record. My ability to refresh my recollection has been somewhat limited. I have not been able to access any documents from the relevant time period other than those that have been identified to me and so all of my answers will be to the best of my recollection as it stands today.

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

Anderson: That is correct.

Hamrick: I’m going to read you the oath; do you solemnly swear
or affirm under penalty of perjury that the information you are about
to provide is true, accurate and complete to the best of your
knowledge and belief?

Anderson: I do.

Hamrick: I know that you said that your ability to review
documents was limited; did you review any documents to prepare
for today’s testimony?

Anderson: I was sent the Bates stamped documents that I understand
were produced to you all that include the four Bates ranges that you
identified in your email but nothing else.

Hamrick: Did you speak with anybody to prepare for today’s
interview?

Anderson: Yes, I did I spoke with [Jay Maclin] and Carol [Shea]

00:46:39.

Hamrick: What in general did you discuss with them?

Anderson:

Hamrick: Did you speak with anybody? Sorry, go ahead.

Anderson: That’s in general terms what we talked about.
Hamrick: Ok and did you speak with anybody else?

Anderson: No, I did not.

Hamrick: I’m going to ask a few background questions. Can you identify what your current position is at the FBI?

Anderson: I’m Principal Deputy General Counsel. I oversee the national security and cyber law branch of the Office of General Counsel.

Hamrick: How long have you been in that position?


Hamrick: What type of appointment do you have? Are you a general schedule employee or an SES?

Anderson: I’m an SES appointee. In the FBI, I’m at a Deputy Assistant Director level.

Hamrick: Is that non-career?

Anderson: No, it’s career.

Hamrick: Career SES ok.

Anderson: Yes, mm-hmm.

Hamrick: Are you a supervisor?

Anderson: Yes I am.

Hamrick: How many people do you supervise?
Anderson:

Hamrick: Are they all within your branch?

Anderson: Yes, so it’s... 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.
Hamrick: Who was the
Anderson: In other words, I was not, I wasn’t the day-to-day lawyer providing support to the investigation but as important or significant decision points needed to be made, I would be brought in and was involved.

Hamrick: What is the name of the attorney who was providing that day-to-day legal support?
Anderson: [ ] name is [ ]

Hamrick: And in your supervisory role did you participate in meetings related to the investigation?
Anderson: Yes I did.

Hamrick: How often?
Anderson: It is hard to say. It’s hard to say. There probably were some sort of meetings; I guess it depends on what you characterize as a meeting. I talked regularly with my employee who was more closely involved. But in terms of formal meetings, there was no set schedule so it probably varied over the course of the investigation. There may have been times when there were meetings that occurred as often as on a weekly or even more frequent basis.

Hamrick: So we understand with respect to the investigation
there was a team called the mid-year team. Were you
Anderson: Mid-year exam.

Hamrick: Mid-year exam. Were you part of the mid-year exam
team?
Anderson: I guess I wouldn’t consider myself to have been part of the
investigative team it wouldn’t be consistent with my role as a
supervisor. I was more involved at the FBI executive level.

Hamrick: Do you know the names of the individuals who were
on that mid-year exam team?
Anderson: I do not know all their names, I can tell you the people,
the two officials from the counter intelligence division who principally
supervised the team and managed the team. And that is Pete Strzok.
His last name is STRZOK. And Jon Moffa. MOFFA.

Hamrick: They were in supervisory roles?
Anderson: That is correct. It was not often that I had contact with the
agents and analyst below that level.

Hamrick: Ok, what about an individual named, is it Priestap?
Anderson: That is right. Bill is the head of the counter intelligence
division and Pete and Jon both report to him. I wouldn’t consider him
to have been a part of the investigative team because he again is
sort of operating at the executive level and Pete and Jon report up to
him as significant matters arise but from a day-to-day investigative
standpoint, I would have considered them to have been the
managers of the investigation.

Hamrick: In your role, were you involved at all in decision
making with respect to the investigation?

Anderson: I was advising on various decision points in the
investigation. But you know as a lawyer you know we wouldn’t, it
would not typically be the case unless there was a legal question
that arose that we would dictate the outcome of a decision.

Hamrick: Ok so your role was in providing the legal advice?

Anderson: That is correct.

Hamrick: Would legal research be involved in that role as well?

Anderson: Um, my employee, not by me, typically would have done
the legal research directly.

Hamrick: Ok. And at some point did you become aware that
the individuals working on this mid-year exam investigation had
made a recommendation about the case? About the outcome of
the case.

Anderson: Um, so I would say that there wasn’t a specific point in
time where there was a um, they came to the executives and said,
we have a recommendation, its more that we had been, we knew
what was going on in the investigation where it was headed so there
isn’t sort of a crisp point in time where that, to say there was a clear
recommendation that surfaced.

Hamrick: When you say, sorry go-ahead.

Anderson: It was obvious to all of us who had been deeply; who had
been briefed frequently on the investigation and knew what was
happening where it was headed.

Hamrick: When you talk about us and kind of, we knew what
was going on. Whom specifically are you talking about?

Anderson: So I would say, so at the executive level you know the
precise contours of the group did change a little bit over time but
um, I mean I’m sort of referring to the group that met most regularly
with the Director which would include um, usually the EAD for the
national security branch, which at the time was Mike Steinbach.
Sometimes it would also include the Associate Deputy Director, Dave
Bowdich, our Deputy Director Andy McCabe, and then Bill Prietap
who is the head of the counter intelligence division, Pete Strzok, Jon
Moffa, Jim Baker on the legal side, the General Counsel, myself


Hamrick: And in terms of these individuals meeting would that also include Director Comey?

Anderson: Yes.

Hamrick: And his Chief of Staff?

Anderson: That is correct. Like I said not you know not every single meeting or discussion included exactly the same configuration of people but that is the group that would be invited to the meetings. They would attend if they were available.

Hamrick: So when you say it was obvious to us, to this kind of a group of executives you know what the outcome was going to be, I guess what was obvious about it?

Anderson: Well, I mean maybe obvious is probably not the word I should have used but we were briefed regularly on the investigative results and so it therefore wasn’t, there wasn’t sort of a clear, I can’t give you a date or a clear moment in time or a precise meeting in which there was a recommendation formulated. It was a recommendation that emerged over time. And you know the recommendation or the conclusions are those that were outlined in
the July 5th statement with respect to the criminal violations at issue.
Or criminal statutes at issue.

Galindo-Marrone: I have two quick questions. The first is when you were identifying those individuals at the executive level that met more regularly to discuss the investigation after Mike Steinbach you mentioned someone by the name of Dave, I missed the last name.

Anderson: Bowdich

Galindo-Marrone: Bowdich and who is he again?

Anderson: He is our Associate Deputy Director so the number three in command at the FBI.

Galindo-Marrone: My other question; I understand what you are saying that there wasn’t like a formal meeting at one point where a formal recommendation was made concerning the Clinton server and for short I’m just going to call it the Clinton personal server investigation if you don’t mind, but it’s a recommendation that you said emerged over time because you all were being briefed regularly and you could see where this was going. Is that the typical process, like in an investigation of this type. Meaning do you all have a formal process where the investigative team would write a memo recommending what the disposition of a case is or is it less formal
and its just regular briefings until a recommendation emerges?
Anderson: Um, well this investigation um there is almost no parallel or
equivalent example that I think you can draw upon so I think this
investigation was unique in many ways. With respect to our
investigations generally I think our practices don’t in terms of our
procedures don’t fall into a single precise model in terms of exactly
you know how we document our thinking and how we make
recommendations to DOJ but again I’m not the kind of person who is
involved in the day-to-day work of an investigation. This was an
unusual one and therefore required and involved a much greater
degree of executive involvement than is typical.

Galindo-Marrone: So let me just explore that answer a little bit.
So might there be some investigations where a written
recommendation is made to DOJ? Sometimes?
Anderson: So I’m probably not the, I’m not the best source of
authority on that given that I’m not involved in the day-to-day work
of most investigations. I, I’m sure, I don’t want to guess but I am
speculating a little bit here to say that it probably have been some
cases where a written recommendation has been provided to DOJ
but other circumstances I think would be more common where there
would be dialogue with DOJ. Or it could be the case that we might you know even review their prosecution memo and sort of you know engage in a dialogue in that way.

Galindo-Marrone: Got it but in this case there was no such memo which whether you call it a prosecution memo or a memo showing the reasons why not to go forward with prosecution there was no such memo in this case? The Clinton server case.

Anderson: No there was no memo from the FBI to the DOJ making a recommendation.

Galindo-Marrone: Ok.

Hamrick: So moving along to the first public statement on the case or Director Comey’s first statement the July 5, 2016 statement. When did you first learn that Director Comey was planning to make some kind of public statement about the outcome of the Clinton email investigation?

Anderson: The idea, I’m not entirely sure exactly when the idea of the public statement um first emerged. Um it was, I just, I can’t put a precise timeframe on it um but the idea that the Director might make a public statement was something that had been discussed in a very brief or fleeting way for some time in the investigation. And then I
believe it was in early May of 2016 that the Director himself wrote a draft of that statement and so that is when the possibility of the statement and our discussions about doing such a statement became a little bit more concrete.

Hamrick: Who originally in some of these earlier conversations who originally came up with the idea or started floating around the idea?

Anderson: I, I don’t know for sure um I don’t remember exactly you know who made the first suggestion but I believe and the Director himself would be the best authority on this. I believe the idea was the Director’s.

Hamrick: So when you found out in early May that there was, that the Director had written a draft of what the statement might look like, how did you learn about that?

Anderson: Jim Baker gave me a hard copy of it.

Hamrick: What was his purpose in giving you the copy?

Anderson: He asked me to take a look at it and just start thinking about you know the wisdom of doing such a statement um the content of a potential statement and any other reactions that I 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.
Hamrick: What is typical?

Anderson: But it is like I said, what was already somewhat unusual was the fact that the investigation had been publicly confirmed and so we were from that standpoint it was already somewhat unusual. The subject herself I believe had confirmed it and so you know one of the considerations why we don't speak publicly about our investigations is out of fairness to the subject particularly in a case where there is no indictment or prosecution but here was a case where everybody knew that the FBI was investigating the former Secretary herself had talked publicly about the fact that we were investigating, the DOJ had confirmed that we were investigating early into it and then ultimately the FBI, the Director did confirm it as well so it was just already an unusual posture and were we to close the investigation without a prosecution without explaining our reasons I believe the director felt that the credibility of our institution would come under such a significant degree of fire that it would be um not something that we could withstand and he talked at great length in many different forums about the importance of the credibility of the FBI given our role in prosecutions and how it is an 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
draft evolve into the actual statement that was made on July 5.

Anderson: Yeah, so in that timeframe there were frequent meetings with the Director. I don’t know precisely how frequent. Perhaps in some instances occurring on a weekly basis and those meetings would typically proceed in sort of two parts. The first part would involve an update on the investigation, usually given by Pete Strzok and Jon Moffa, and then the second part of the discussion would typically turn to the idea of the public statement and perhaps not in every meeting, but to the extent we talked about it that is sort of how we structured the meetings. And then it was sort of in that timeframe, maybe June. I’m not really quite sure that there were more drafts that were circulated you know by email.

Hamrick: And the meetings to discuss the public statement; these are the same group of executives that you identified earlier that would be at these meetings?

Anderson: That’s right and the focus typically we’d spend the first half of the meeting or more talking about the investigation itself and then in the second half turn to other steps that included the possibility of a public statement.

Hamrick: Did you ever provide your advice or input about the
public statement?

Anderson: I’m sure I did.

Hamrick: And what was that?

Anderson: Um, it would be hard to sum up and I’m not sure I could
remember every single comment that I made about the public
statement. Um, I was convinced at the time that it was the right thing
to do and I probably expressed that point of view in meetings with
the Director.

Hamrick: Was there anyone at those meetings who did not think
it was the right thing to do?

Anderson: Um, I don’t remember precisely I think we all thought it
was a hard decision. It certainly wasn’t um; it certainly wasn’t the
only conclusion that somebody could reach. I don’t remember there
being any strongly held views against doing the statement, that
particular statement. But as for you know people expressing
dissenting views at various points along the way um there might
have been I’m not really quite sure.

Hamrick: Were you ever asked to provide advice from a legal
perspective in terms of the legality of making such a statement?

Anderson: I was not, there were a couple of issues that we did
consider and by we, I mean collectively OGC so for instance

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
so it was not, there was not a lot of time in those meetings devoted to discussion of the memo.

Hamrick: Did anyone write kind of a memo or analysis or anything in regard to that memo and how the Director’s statement wouldn’t violate the policy?

Anderson: I’m not aware of any memo. On the DOJ memo.

Hamrick: Do you have a question?

Galindo-Marrone: Real quick so you mentioned the DOJ, I’m going to call it the policy memo concerning overt steps or actions leading up to an election. Did any, it seems like there wasn’t anything in writing analyzing that issue.

Anderson: That’s right.

Galindo-Marrone: But there was some obvious discussion about it at least some consideration given to it. Would part of that consideration have also included the Hatch Act, did that come up in any conversations?

Anderson: I don’t believe so directly I mean the um, the DOJ memo obviously talks about the Hatch Act and even the first part of the memo you know closely dovetails with the Hatch Act but I don’t 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
course of our many discussions about it.

Hamrick: Was the appointment of a special counsel ever discussed?

Anderson: Yes it was. We were asked to consider, I mean there were numerous congressional letters that were asking for the appointment of a special counsel.

Hamrick: Can you describe what those discussions were like?

Anderson: Uh, I don’t have a great memory of exactly what was discussed and with whom except that I just remember that we did talk about it at various points in time of whether the Director should or should not make a recommendation to the Attorney General that was the appointed

Hamrick: Was anyone in favor of doing that?

Anderson: Um, I don’t remember.

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

Anderson: I presume so but I don’t remember any specifics. I don’t recall and one thing I just want to clarify, I don’t recall that we ever discussed in that large, that group of people that I named, in that 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?
Anderson: I wouldn't say it, it was probably not super explicitly
discussed but um you know it was really clear um especially in the
weeks leading up to the statement um that at least the public
perception would be that the Attorney General herself was not
maintaining an appropriate degree of independence with respect to
the decision making in this investigation and I'm referring to, I mean I
think there were concerns even preceding this but um you know the
incident that was extensively reported in the media involving the
Attorney General's meeting with former President Clinton on the
airplane tarmac.

Hamrick: And you said there were concerns even before that
incident what were some of the other concerns?

Anderson: Well the Department of Justice you know compared to the
FBI is um you know run much more heavily by political appointees,
people who are beholden to the President, the FBI by tradition and
by just by virtue of the composition of our executive core is much
more apolitical and independent, the only political appointee is the
director and his term set by statute is 10 years in part as a reflection
of that tradition of independence and so in terms of thinking about
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
into consideration nor should we for any reason. We were trying to
do um you know the one thing I do recall being a sense of was in
terms of the timing um that we wanted to get out of the way of the
election as much as possible and I’m speaking with respect to the
July statement right now so in other words we wanted to wrap it up
quickly um because we wanted the bureau to have no part in any
way to the extent that was possible and so you know my sense from
the meetings that we had was that we were trying to wrap things up
as quickly as possible and just get out of the way of the political
cycle. Get the FBI out of the equation, proved not to be possible but,
later on, but um that didn’t factor into the thinking in terms of timing it
was more sort of let’s step out of the way, let’s not be a factor.

Hamrick: Did you yourself at the time did you think that the July
5th statement could have an impact or have an effect on the
election?

Anderson: I couldn’t say one way or another. I’m not an expert in
that and I didn’t know.

Hamrick: Ana, do you have some questions?

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

Anderson:  

Galindo-Marrone:  

Anderson: Correct.

Galindo-Marrone: I don’t have any other questions.

Hamrick: Ok so let’s jump forward through the summer of 2016.

Anderson: If we could, I’d appreciate the opportunity for a two-minute break.

Hamrick: Absolutely I’m going to stop the recorder right now. It’s 2:25 p.m.

Hamrick: The recorder is back on 2:27pm. We are going to shift to October 2016, that timeframe and at some point in October you learned that there had been some new evidence discovered related to the Clinton email investigation?
Anderson: That is correct.

Hamrick: When did you learn of that new evidence?

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

Hamrick: How did you learn about it?

Anderson: Um, my employee told me. But at that point, its precise relevance to the investigation of the Clinton email server was unclear and unknown.

Hamrick: So can you tell us the progression of how it came from hearing about it from to kind of understanding that there may be some relevance to the Clinton investigation?

Anderson: My understanding was that the team that was involved in the underlying investigation in which this new evidence surfaced was trying to do some preliminary work to determine what if any materials were on the device that might bear on our investigation and that work unfolded over the course of a couple of weeks.

And there was a specific moment in time in later, in late October um when they had um, they knew more at that point about what was on the device and um brought it to executive level attention.
Hamrick: So when it was brought to the executive level, what were you all told about it?

Anderson: Um, so um, I’m not going to remember the precise details exactly but um and we obviously this is all subject to the non-disclosure agreement because none of this has ever been publicly confirmed.

Hamrick: Of course.

Anderson: But the my understanding was that we had a, in connection with the investigation of Anthony Weiner um in an unrelated matter, the FBI had taken possession of one or more of his, one of his laptops at least there may have been other media that they seized and that on that device they had identified emails of Huma Abedin uh that included correspondence between her and the former Secretary.

Hamrick: Why was that significant?

Anderson: It was significant for, well it was potentially significant I guess for a couple of reasons. Um, there had been a, in the course of our investigation of the email server you know we never recovered what we believed to be the entire body of the emails that were sent 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
the search warrant as it existed for purposes of the Weiner investigation. We had no search warrant at that point in time for purposes of the Clinton email server investigation so he was briefed on what we knew at that point in time and then we had a discussion about what we should do going forward that did include a discussion about you know whether we should seek a search warrant, how we should proceed to seek to obtain the evidence.

Hamrick: Ultimately, it was decided to get the search warrant?
Anderson: Yes, that is correct and I believe in that same meeting we did talk about and there may have been multiple meetings that day I’m not sure um in the course of those discussions we did talk about whether we needed to publicly disclose the fact that we were, we had, you know the Director had told Congress and had announced publicly that we had completed our investigation and if we were to seek a search warrant that would seem to be in contradiction with a statement that we had concluded our investigation um it was seeking a search warrant is a very significant overt, in some cases overt investigative step. And so we were in that same briefing about what we knew about material I believe we did talk about whether a 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
significant consideration was the fact that um, you know seeking a search warrant is not consistent with the completion or closure of an investigation and that this amounted, it wasn't technically a re-opening we had never we cannot administratively close an investigation until we have disposed of the evidence at issue and provided reasons that may not happen for quite some time in this particular case um but the investigation you know he had characterized it as being completed and so the concern was that by not saying something we would be, it was tantamount to concealing it, the fact that we were re-opening or seeking new investigative steps in a matter that he had characterized as completed so there was the congressional aspect of it um but also the prior public statement that it would leave a misleading impression with respect to the you know what the public knew about it as well.

Hamrick: So what was decided then in terms of what to do about the making some kind of statement?

Anderson: I'm sorry I think you cut off?

Hamrick: Oh, can you hear me now?

Anderson: Yeah, can you repeat your question?

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
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
protective of the FBI as an institution.

Hamrick: So was the concern that this letter would have an impact on the election was that discussed during any of these meetings?

Anderson: Well it was certainly discussed that the FBI would be perceived to be having an effect on the outcome we didn’t, again we sort of, I recall this idea you know that we were not experts on that issue by far you know whether it was true whether that perception would have any merit or not I mean we had no way of knowing one way or another. We weren’t competent, it’s not our job, it’s not our place, our role to even assess what that might possibly be but yes we were concerned that there would be a perception whichever way we went um whether we disclosed the fact of the new material you know we were going to be perceived to be impacting the outcome or whether we didn’t if we had as I think the Director said; perhaps in his email to the troops it was, you know it wasn’t a choice it was a choice between two acts. It was speak or conceal and if the FBI had concealed that fact um, you know the perception would have been that we had been influencing the outcome of the election in the other directions so yeah we were
concerned about that, that impact, long-term impact on the
credibility of the FBI in either scenario.

Hamrick: Were any other options discussed? Rather than
sending a letter to Congress, was there a discussion about not
notifying Congress at all?

Anderson: Yes.

Hamrick: Was that ever really considered as an option or was it
dismissed immediately?

Anderson: No it was not dismissed immediately because I think we
you know we also knew that there were no you know and we you
know we did send up the letter privately to the Hill we didn’t post it
on our website and we didn’t publicize it, we didn’t leak it to the
media you know I don’t believe anybody did um but we, we had an
expectation that there was no way you know there were no
measures that we could take that would allow us to disclose that
information to the Hill without also that information becoming public
just based on our collective understanding of the way things work up
on the Hill.

Hamrick: What about waiting until some of the emails had been
reviewed before notifying Congress to see whether they are what
you thought they might be, was that discussed at all to kind of hold off until you see what you really have?

Anderson: Yeah that was it kind of goes to that materiality point that I mentioned. You know without having acquired the evidence have we crossed a materiality threshold such that we needed to notify Congress or the public or is just simply the fact of seeking a search warrant sufficient so yes there was extensive discussion about that.

Hamrick: Was there any concern expressed with um you know if a search warrant was sought that that would somehow be leaked and it would come out?

Anderson: Yes.

Hamrick: What was that concern exactly? Did you hear that, were you cut off?

Anderson: Yes, I'm sorry my answer was yes.

Hamrick: Ok and what

Anderson: We were concerned even though we were going to seek the search warrant, we were going to seek it under seal um that the reality was that it would be publicly known.

Hamrick: Let me ask you to take a look at one of the documents. I think it may be the one, it's an email and the Bates
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 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?
Anderson: Um, is consistent with um the outcome of the discussions to that point that we were planning to um make the disclosure in a communication to Congress and the draft just simply wasn’t as I recall, um I don’t recall a first draft being written um in that, framed in that precise way.

Hamrick: I see. At some point and this touches on what you were talking about earlier with respect to the perception that the FBI would have some kind of impact on the election. Was there ever a comment made during one of the meetings about how the notification to Congress might hurt Hillary Clinton and help Donald Trump in the elections.

Anderson: You mean substantively?

Hamrick: Yes.

Anderson: In other words like anybody saying is this actually you know we are concerned because this will help Hillary or will hurt her and help Donald Trump?

Hamrick: Yes.

Anderson: No, I don’t recall there being any comments to that effect.

Hamrick: Did you believe that sending this notification to Congress would impact the election?
Anderson: I was worried that it would um and this goes back to what I was saying a little bit earlier. I was worried that it would and I recognized that that was not something that we should be taking into account and so those were my private concerns and I did not share that point of view in the meeting.

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

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

Hamrick: Was the Hatch Act ever considered as a potential legal issue?
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
didn’t intend any impact but there was one you know that we, that
was going to happen regardless of whether we wanted it to or not
that there was no way that we could avoid it. Whether we disclosed
or didn’t disclose that either of those two steps could theoretically
have an impact on the election we didn’t know whether it would or
wouldn’t you know as I said we recognize that we are not you know
our job is investigating criminal matters not predicting um the
influence of events on the outcome of elections but we um there was
no path clearly available to us that we believed would completely
insulate us or completely insulate the FBI from any potential
allegation or appearance of involvement in the election. Had we
you know if we disclosed the perception could be that we were
trying to help Trump and if we didn’t disclose we would be accused
of having concealed the fact in order to help Hillary Clinton and so
there was no path available to us that would not be perceived to
have an impact on the election.

Hamrick: In the email that we just looked at the, on the second
page of the email it talks about, attachment incorporates Jim Baker’s
comments; it does not address Trisha’s from her recent email. I don’t
think we ever received that email in the document production that
was done in response to our request. Do you know if that email still exists or if it was produced?

Anderson: I have no idea, as I said I couldn’t personally do a search of my emails from that time period so I don’t know sitting here today whether the email still exists or um whether it was produced or could be produced or anything to that effect.

Hamrick: So let me just ask a follow up. Typically, so this would have been an email I suspect from October 27, 2016, right?

Anderson: Mm-hmm.

Hamrick: What is your process you talked about archived emails, how does it work at the FBI is it every three months I know different agencies have different procedures for archiving. What would normally be archived in terms of your emails?

Anderson: The archiving isn’t automatic but we have a certain limited capacity especially on the unclassified side in terms of how large the inbox can be and so you get notifications on that side when you are getting close to the limit and if you reach the limit you can’t send or receive any email so it’s up to the individual user to take action to archive your email to make sure that your size limit or size of your inbox is maintained below that limit so you can continue
to send and receive emails.

Hamrick: And this type of email where it seems like you were giving your comments about some action that the Director was going to take; is this an email that you would normally archive?

Anderson: Yeah you don’t, I don’t pick or choose the, you just archive the whole inbox.

Hamrick: Oh so you just archive so

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

Hamrick: Ok.

Anderson: And just so, you know the individual users at the FBI don’t have any involvement in pulling emails for production. It all happens behind the scenes and so I had no involvement in the searches of
any emails or review or production or anything like that.

Galindo-Marrone: Let me circle back to one thing. To recap when you were describing the different considerations in play for the concerning the October 28 congressional letter I think you mentioned and I want to make sure I understood you correctly that I think you said with respect to that letter the one that went out October 28 to Congress the FBI did not leak that letter or make a public statement concerning that letter, right?

Anderson: I don’t believe, I mean, I’m not aware of anybody at the FBI who leaked it or um made any public statements about it, we sent the letter up to the Hill.

Galindo-Marrone: But I think you also said that, but the expectation would this be fair to say of you all that were in the room making this decision was that even though on your end no one was going to be leaking this that the likelihood would be that once the Hill got this letter it would go public?

Anderson: Yeah that was, we, the reality was that I think we no matter what steps we took no matter what caveats we put on the letter no matter what conversations even people might try to have with congressional leaders that there was no way the letter wouldn’t
become public um we had no option to preserve its confidentiality just simply with respect to the Hill it just simply wasn’t realistic even if that was our desired outcome.

Galindo-Marrone: And did I understand you correctly that there was a similar view with respect to the search warrant, that the belief was even if you all had not sent the letter to Congress that the search warrant would become public as well?

Anderson: Um, I think yeah we, I mean, probably with a less, a lower degree of certainty but we certainly knew that was a possibility.

Galindo-Marrone: Ok.

Anderson: And if I could just clarify one thing.

Galindo-Marrone: Sure.

Anderson: You asked me whether anyone or whether I was concerned about substantively impacting the outcome of the election and I said that I was worried about that and I characterized my concerns as being private concerns. I wanted to underscore that you know I recognize the distinction between my own you know private concerns as a private citizen as a member of the electorate and my you know the concerns that were legitimate for me to take 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.
Hamrick: What was his reasoning for why he wanted to do that?

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

Hamrick: Did you have any reaction to his desire to send this email out?

Anderson: Uh no not in this particular case. To me the substance of the email dovetails entirely with our actual in our letter to the Hill and you know it struck me as highly consistent with what we had discussed in the meeting so no I didn’t have any concerns with it.

Hamrick: And you said the Director communicates frequently with the FBI staff, does he usually send these kind of emails about the FBI’s investigations?

Anderson: No but going back to something I said at the very beginning of the interview this was an investigation that was without parallel or precedent.
Hamrick: So there’s, in the second paragraph of the Director’s email he talks about ordinarily we don’t tell Congress about on-going investigations and he says I also think it would be misleading to the American people were we not to supplement the record. What is your understanding of what he means by that?

Anderson: I think simply it’s a reference or I would read this to be a reference back to the July statement that we had, he had sort of made significant statements in two forums to the effect that the FBI had completed the investigation and one was in his congressional testimony the other was in the July statement and so you know just as we would, it would be misleading by omission given his prior statement that we completed the investigation not to supplement the record that we are taking additional investigative steps.

Hamrick: What about that next sentence where he references the fact that you are in the middle of an election season. What is your understanding of that statement? Or what he is trying to convey?

Anderson: Are you talking about the last sentence?

Hamrick: Right, “in trying to strike that balance in a brief letter
and in the middle of an election season there is significant risk of being misunderstood but I wanted you to hear it directly from me.”

Anderson: Well obviously you would need to speak to the Director to know precisely what his intended meaning was but I read that as a reference back to the concerns that we had discussed in the meeting about the perceptions of the FBI um being misunderstood as seeking to influence the election one way or another.

Hamrick: Ok, so then the final notification to Congress came on November 6th. I guess at some point in time you learned that the team had quickly reviewed the newly discovered emails and that that review was finished, right?

Anderson: That is correct, we were at that point having daily if not more frequently than daily phone calls about the status of the investigative step, the email review.

Hamrick: What were you told about the results of the review?

Anderson: Um, I’m not going to remember all the precise details exactly of what we were told. Um, so there are others who could speak to that but um my understanding was that we uh did not uncover any, we didn’t uncover the emails from that period of time that I had mentioned earlier where we didn’t have any, we had not
previously uncovered those emails so we didn’t fill that gap that we
didn’t identify any emails between Huma and the former Secretary
concerning the setup of the server um but that there were, we did
identify a number of classified emails um most or all of which we had
previously seen I think ultimately we didn’t, they didn’t entirely
overlap with the um, I just don’t remember precisely. I don’t think
they totally overlapped with what we had previously seen in terms of
the classified emails that had gone through the server but they
largely overlapped with the ones we had previously seen. But then
there were a couple of other um, uh there were, there was one other
thing that struck us all and I’m a little bit curious which was um we
saw there was some evidence of I believe it was a classified email
having been forwarded by Huma or from Huma’s account to
Anthony Weiner and that was among the evidentiary conclusions
that or among the evidence that was identified.

Hamrick: Was there a meeting with the executives that you
identified earlier to kind of discuss what to do now at this point?
Anderson: Um, yes I can’t remember exactly you know the precise
configuration of meetings or conference calls but yes there was
discussion about what to do next although I think it was fairly brief
because I think at that point we had, I’m trying to remember exactly but I think we had already talked over the course of the week about needing to do another disclosure to Congress.

Hamrick: Who had raised that idea?

Anderson: I don’t recall.

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

Anderson: I would say that was the predominate consideration.

Hamrick: What were the reasons for notifying Congress?
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.
Hamrick: Was in terms of any kind of legal review of the 
decision to send the letter, was the Hatch Act ever discussed or 
considered?

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

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

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

Hamrick: Ok, I’m going to stop the recorder at 3:18. It’s 3:19 
p.m. so we are going to shift gears in terms of questioning. We are 
going to ask you a couple questions about other FBI investigations. 
We know now that there was an investigation at least as early as 
July of 2016 concerning individuals associated with the Trump
campaign and the Russian government and whether there was any
coordination between the campaign and Russia’s efforts to interfere
with the 2016 presidential election and this obviously wasn’t
publicly confirmed by Director Comey until March of this year but
during all of this that is going on with the public statements
concerning the Clinton email investigation and then the October 28
notification to Congress, was there ever any discussion with Director
Comey about making this other investigation public prior to the
election, this investigation involving Russia and potential ties to the
Trump campaign? I know that was a long-winded question.

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

Hamrick: Right, so I’m not asking any specifics about the
investigation or what was going in July. I want to know whether
there was any discussion or if anyone raised the issue of whether
the fact that the FBI has this investigation should be made public,
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 a 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
mentioned in connection with, I just don’t remember and I don’t recall there being any such discussions.

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

Anderson: Yeah well certainly, I can sort of, I mean I can speak from my own perspective and you know certainly um in terms of why you know why the two things can be differentiated. As I mentioned at an earlier point in the interview the Clinton email investigation was you know it was publicly confirmed you know even before the FBI did anything to confirm the facts of the investigation I believe the former Secretary herself acknowledged it
insofar as she knew about it. DOJ confirmed it you know they
backpedaled a little bit after that and then we did eventually
publicly confirm it so it was the fact that we were investigating her
use of the private email server was unclassified it was publicly
known and by the time we talked about anything publicly it was a
completed at that point in time investigation. We did not talk about
any of our investigative steps along the way prior to July 5th. The
investigation was confirmed and we said nothing more about it until
we had completed our work. On the other hand, the matter that the
Director confirmed in his congressional testimony until he confirmed
it and he did so in a very limited way, he did not disclose very
much at all about the investigation. To that point it was a classified
fact it was not publicly confirmed and it remains on-going and so
consistent with that idea that it is an on-going counter intelligence
classified national security investigation you know we have not, the
FBI to date has not talked publicly about its investigative steps,
about who the subjects are, about the scope, the contours, et
ce\text{-}cetera. And so I think they are two, the similarity between the two
matters in terms of parallel of you know you drew a parallel that
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 Clinton foundation, 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.
Anderson: I wanted to supplement my prior answer with one other factor with respect to why the Clinton but not the Russia investigation you know the public disclosures. I think just one thing to stress too from my own perspective with it being a counter intelligence, the Russia investigation being a counter intelligence investigation you know there with the investigation being on going the disclosure of anything about the investigation any details about it could have the potential to interfere with or undermine our ability to actually gather evidence.

Hamrick: Sure.

Anderson: You know we are talking about an investigation of a hostile foreign power who would be crazy not to take steps to defend itself against an FBI investigation to change its tactics, its measures that sort of thing and you know in contrast with the Clinton matter not only was it completed um but we had all of the physical evidence in our possession there was no possibility at the point of which we made any of these statements of any outside interference with our investigation so that is, I just wanted to elaborate a little bit on that.
Galindo-Marrone: And I have a follow up on that and you’ve used counter intelligence to describe the investigation regarding we’ll call it the Russia/Trump campaign. The Clinton email investigation that would not be characterized as a counter intelligence investigation or would it be?

Anderson: You cut off could you repeat?

Galindo-Marrone: Would the Clinton email investigation be considered also a counter intelligence investigation or something different?

Anderson: I guess technically I’m not sure how its classified in our file series that would really be the authoritative view on it but if its technically classified as a counter intelligence investigation it was handled by the counter intelligence division. The handling of classified information is just a very different type of investigation.

Galindo-Marrone: Then

Anderson: Even if it yeah.

Galindo-Marrone: I see. Then the one involving Russia and counter intelligence?
Anderson: Exactly involving the actions of a hostile foreign power.

Galindo-Marrone: Ok

Hamrick: So going back to the FBI’s investigation into the Clinton Foundation; 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 Clinton Foundation matter but again you know my understanding is its not a publicly confirmed investigation to the extent there is one its still ongoing I don’t know anything about you know its conclusions, its contours, its status, and or its you know at the end of the day whether it has any, whether it has any bearing on any matters of similar significance to the national interest. 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
believe that Director Comey intended to have an effect on the presidential election when he made his July 5th statement about the results of the Clinton email investigation?

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

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

Anderson: Same answer, absolutely not, if there had been an option that we had identified that would have allowed us to avoid the perception that we were affecting the outcome of the election. He would have been all in favor of it. We all would have been in 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.

Erca 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.

[Signature]
Enrica 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.

[Signature]

Erica Hamrick
Deputy Chief, Hatch Act Unit

[Signature]

February 23, 2017