

1 **INTERVIEW OF STUART EVANS**

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3 **REDACTED VERSION - *CORRECTED***

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5 July 31, 2020

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8 U.S. Senate

9 Committee on the Judiciary

10 Washington, D.C.

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12 The following staff interview was commenced at
13 10:33 a.m. in the Hearing Room, SVC-217, Senate
14 Visitors Center, in classified TOP SECRET session.

15 Present: Arthur Baker, Andrew Fausett, Heather
16 Sawyer, Sara Zdeb, and Zachary Somers, Committee
17 Professional Staff Members; Patrick Findlay, [REDACTED]
18 [REDACTED], [REDACTED], and [REDACTED], Federal
19 Bureau of Investigation; Peter Hyun and Robert Walker,
20 on behalf of the witness; Mark Egan, court reporter; and
21 Stuart Evans, the witness.
22

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1 NOTE REGARDING CLASSIFICATION

2 Parts of the interview are classified TOP SECRET.

3 Two transcripts have been prepared, one redacted and
4 one classified. The redacted version has blank pages in
5 place of redacted classified material.

6 In the classified transcript, all pages containing
7 classified material have a "TOP SECRET" header and
8 footer and *all classified material is printed in italics.*

9 Classified material appears as follows: pages 122-128,
10 158-174, and 203-205.

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P R O C E E D I N G S

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2 Mr. Somers: This is a transcribed interview of
3 Stuart Evans. Chairman Graham requested this
4 interview as part of an investigation by the Senate
5 Judiciary Committee in matters related to the Justice
6 Department and the Federal Bureau of Investigation's
7 Crossfire Hurricane investigation, including the
8 application for and renewals of the Foreign Intelligence
9 Surveillance Act warrant of Carter Page.

10 Would the witness please state his name and last
11 position held at the Department of Justice, for the
12 record?

13 Mr. Evans: My name is Stuart Evans, E-V-A-N-S, and
14 my last position at Department of Justice was Deputy
15 Assistant Attorney General for Intelligence in the
16 National Security Division.

17 Mr. Somers: On behalf of Chairman Graham, I
18 want to thank you for appearing today; and we
19 appreciate your willingness to appear voluntarily.

20 My name is Zachary Somers and I'm the Majority
21 Chief Investigative Counsel for the Judiciary Committee.
22 I'll now ask everyone else who's here in the room to
23 introduce themselves for the record, except for Mr.
24 Evans' personal counsel, who we'll get to in a few
25 moments.

1 Mr. Baker: Arthur Baker, Senior Investigative
2 Counsel, Majority Staff, Senate Judiciary Committee,
3 Lindsay Graham, Chairman.

4 Ms. Zdeb: Sara Zdeb, Senior Counsel for Ranking
5 Member Feinstein.

6 Ms. Sawyer: Heather Sawyer, Chief Counsel and
7 Staff Director for Senator Feinstein.

8 Mr. Fausett: Andrew Fausett, Senior Counsel for
9 National Security, Senator Feinstein.

10 [REDACTED]: [REDACTED], Counsel for FBI Office of
11 Congressional Affairs.

12 [REDACTED]: [REDACTED], Office of Legislative
13 Affairs.

14 [REDACTED]: [REDACTED], Department of Justice,
15 Office of Legislative Affairs.

16 Mr. Findley: Patrick Findlay, Counsel for the
17 Department of Justice.

18 Mr. Somers: Thank you.

19 The Federal Rules of Civil Procedure do not apply
20 today, but there are some guidelines that we follow that
21 I'd like to go over. Our questioning will proceed in
22 rounds. The majority will ask questions in the first
23 hour and then the minority will have an opportunity to
24 ask questions for an equal period of time. We will go
25 back and forth in this manner until there are no more

1 questions and the interview is over.

2 Typically, we take a short break at the end of each
3 hour of questioning. But if you need to take a break
4 apart from that, please let us know.

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

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

15 Mr. Evans: I do.

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

19 The committee encourages witnesses who appear
20 for transcribed interviews to freely consult with counsel
21 if they so choose, and you are appearing today with
22 counsel. Would counsel please state their names for
23 the record.

24 Mr. Walker: Rob Walker with the Wiley Rein law
25 firm.

1 Mr. Hyun: Peter Hyun, Wiley.

2 Mr. Somers: We want you to answer our questions
3 in the most complete and truthful way possible, so we
4 will take our time. If you have any questions or you do
5 not understand one of our questions, please let us
6 know. If you honestly don't know the answer to a
7 question or do not remember it, it is best not to guess.
8 Please give us your best recollection, and it is okay to
9 tell us you learned the information from someone else.

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

14 You should also understand that, although this
15 interview is not under oath, you are required to answer
16 -- you are required by law to answer questions
17 truthfully. Do you understand that?

18 Mr. Evans: I do.

19 Mr. Somers: This also applies to questions posed
20 by Congressional staff in an interview. Do you
21 understand this?

22 Mr. Evans: I do.

23 Mr. Somers: Witnesses who knowingly provide
24 false testimony could be subject to criminal prosecution
25 for perjury or making false statements. Do you

1 understand this?

2 Mr. Evans: I do.

3 Mr. Somers: Is there any reason you're unable to
4 provide truthful answers to today's questions?

5 Mr. Evans: No.

6 Mr. Somers: Finally, we ask that you do not
7 discuss this interview with anyone outside of who's here
8 in the room today, in order to preserve the integrity of
9 our investigation.

10 I'll just say on the record, as I mentioned off the
11 record, we're going to begin this deposition
12 unclassified; and if we need to switch at some point to
13 the TOP SECRET level, please, obviously, let the reporter
14 know if that switch needs to be made. We'll try to do
15 our best. You guys obviously have a better idea of
16 what's classified than we do, so if you could please alert
17 the reporter to that.

18 Do you have any questions before we begin?

19 Mr. Evans: Not at this time.

20 Mr. Somers: It's now 10:40 and we will begin our
21 first round of questions.

22 Mr. Evans, have you read or reviewed the IG's
23 December 2019 report on the Carter Page FISA
24 application?

25 Mr. Evans: I have, although I have not read it in its

1 entirety recently.

2 Mr. Somers: Other than your personal attorney
3 and the attorneys here from DOJ, did you speak with
4 anyone in preparation for today's interview?

5 Mr. Evans: No, I did not.

6 Mr. Somers: For the record, where do you
7 currently work?

8 Mr. Evans: I work at a locally-based financial
9 institution in the private sector.

10 Mr. Somers: Could you please give us a brief
11 rundown of the positions you've held at the Department
12 of Justice?

13 Mr. Evans: I joined the Department of Justice in
14 roughly the fall of 2005. At the time, I was initially a
15 line attorney in what was then the Office of Intelligence
16 Policy and Review, OIPR, which was the predecessor to
17 what is now the Office of Intelligence. I served as a line
18 attorney for several years, and then took on positions
19 of Deputy Unit Chief for Counterterrorism, Unit Chief
20 for Counterterrorism, Deputy Section Chief for
21 Operations.

22 I did a brief ten-month detail to National Security
23 Council dealing with the aftermath of the Snowden
24 disclosures, then from the middle of 2014 until my
25 departure from the Department in May of 2019 served

1 as the Deputy Assistant Attorney for Intelligence over
2 the Office of Intelligence.

3 Mr. Somers: So your entire tenure at the
4 Department it sounds like was in national security-
5 related kind of work?

6 Mr. Evans: That's correct.

7 Mr. Somers: Prior to the Department, what did you
8 do?

9 Mr. Evans: Prior to the Department I worked at a
10 D.C.-based law firm for four and a half, four years
11 approximately; and then prior to that clerked for a
12 judge after law school.

13 Mr. Somers: Was your private practice related to
14 national security, too?

15 Mr. Evans: No, it was not.

16 Mr. Somers: Thank you.

17 For the entirety of the Crossfire Hurricane
18 investigation, you were the Deputy Assistant Attorney
19 General for the Office of Intelligence?

20 Mr. Evans: Yes -- well, yes, I believe that's correct.

21 Mr. Somers: And in general, what were your
22 responsibilities in that position?

23 Mr. Evans: The Office of Intelligence at that time
24 and so far as I know still does have three sections: the
25 Operations Section, the Oversight Section, and the

1 Litigation Section. Each of those sections is headed by
2 a section chief, but I was in a position above those
3 three sections with supervisory responsibility for those
4 three sections.

5 The Operations Section primarily dealt with the
6 production of FISA applications, working with the
7 intelligence community agencies. The Oversight
8 Section dealt with, as the name implies, oversight of
9 compliance-related matters arising out of either warrant
10 applications or programmatic FISA issues, such as
11 affecting 702 authority.

12 The Litigation Section dealt with issues regarding
13 the use of FISA information in criminal or other legal
14 proceedings and coordination with various prosecutors
15 or other attorneys in government with respect to these.

16 Mr. Somers: With regards to the Oversight Section,
17 could they, for instance, provide a layer of oversight of
18 something like the Carter Page FISA application, where
19 there were potential errors?

20 Mr. Evans: I think the short answer is yes and no.
21 The way the Oversight Section worked is they had
22 various programmatic oversight responsibilities, such
23 as for the FBI's use of FISA, conducting on-site reviews
24 for minimization, how information collected was
25 minimized, whether it was in conformity with the rules,

1 or doing accuracy reviews of applications.

2 Those items were decided within the Oversight
3 Section primarily in terms of their general
4 programmatic authorities. There were other matters
5 that could percolate up organically from specific cases
6 that the Operations Section might become aware of
7 first, and then they would bring that to the Oversight
8 Section for the Oversight Section's involvement in
9 resolving that.

10 So the answer is potentially yes, but it just depends
11 on how matters kind of came up and were brought to
12 their attention.

13 Mr. Somers: But let's say there was, just
14 hypothetically, no IG report or investigation that was
15 launched in 2018. Could you have said, "Hey"? Could
16 you have filed a Rule 13A letter at that point in time?
17 Could you have said, "Hey, Oversight Section, I see
18 some problems with this Carter Page FISA application"?
19 Could you have assigned that as an oversight task?

20 Mr. Evans: Potentially. I would say the general
21 practice when material misstatements or omissions
22 necessitating a Rule 13A letter came up in the general
23 course of practice, those were typically handled by the
24 Operations Section.

25 There's another provision of the FISA Court's rules,

1 Rule 13B, that deals with compliance incidents, and
2 those were more typically handled by the Operations
3 Section. So I recall -- I can't remember whether it was
4 classified or not, but -- the IG report may have
5 mentioned a potential Rule 13B letter as well, and if it
6 did that would have been handled by the Oversight
7 Section because that would have been an issue of
8 noncompliance with that particular rule.

9 Mr. Somers: You don't recall -- well, I guess a FISA
10 application is not considered litigation that would be in
11 the Litigation Section?

12 Mr. Evans: That's right. The Litigation Section was
13 more the use in criminal proceedings in district court of
14 the fruits of FISA's, either as part of a case in chief or
15 for discovery or other purposes, or the use in
16 occasionally a civil case or something of that nature by
17 the Department where a FISA could be implicated. It
18 was litigation outside the FISC.

19 Mr. Somers: Approximately how many FISAs have
20 you worked on in your career?

21 Mr. Evans: Probably in the hundreds somewhere,
22 between ones I worked on personally and ones in an
23 oversight capacity -- "Oversight" is not the correct word,
24 but ones in a managerial capacity I had the opportunity
25 to review or read -- I'd say in the hundreds somewhere.

1 But I couldn't be more precise.

2 Mr. Somers: That you worked on in a variety of
3 different roles at the Department. That you worked on
4 as a line attorney?

5 Mr. Evans: As a line attorney, in multiple
6 supervisory levels as well.

7 Mr. Baker: What kind of training -- I'm just curious.
8 When you enter on duty at the Department, it would
9 seem to me national security law is a little bit different
10 than a lot of types of law you might encounter in
11 private practice. What kind of training just generally do
12 you get as you enter on duty as a line attorney and then
13 start your way up through the National Security
14 Division?

15 Mr. Evans: I would say it's typically rare, because
16 of the classified nature of FISA, that new attorneys we
17 hire have any experience with FISA itself. Some may
18 have national security experience from other areas, but
19 very few have FISA experience itself. So we had to
20 development within the Office of Intelligence a training
21 program internally for new attorneys, including being
22 assigned a mentor and a variety of training sessions
23 presented to you by more senior attorneys and
24 managers in the office during your first couple of
25 months to learn all the various aspects of the FISA

1 statute and the process associated with it.

2 Mr. Baker: So would it be a while before a new hire
3 would actually do anything on a real FISA? Or would it
4 depend?

5 Mr. Evans: I would say that a new attorney is
6 assigned a new FISA relatively soon after arrival, but the
7 first several that you work on are going to be in more
8 close partnership with their mentor and using that first
9 FISA as a kind of training mechanism, in a sense.
10 Usually the practice of managers was to assign
11 relatively straightforward FISAs to newer attorneys,
12 such as a FISA that's been renewed several times and
13 was judged to have a relatively straightforward, simple
14 fact pattern, so that you're not throwing a new attorney
15 into something complex or unusual right out of the
16 gate.

17 Mr. Baker: What else would qualify as a more
18 straightforward FISA?

19 Mr. Evans: I'll try to avoid classification issues here
20 for a minute.

21 Mr. Findlay: It could be tough for him -- it could be
22 tough for him to get into particular examples without
23 getting into classified real quick. So I thought that
24 maybe we'd save that.

25 Mr. Evans: I can keep it at a very high level.

1 Mr. Findlay: It would just be more complicated
2 issues.

3 Mr. Evans: I would say two things. One, some
4 FISAs may have more complicated fact patterns than
5 others; and also, if you look at the statute itself -- and
6 I'll just stick to the statute without getting into specifics
7 here -- the statute breaks out different types of agents
8 of foreign powers, and some of the definitions are more
9 straightforward than others and don't require
10 particularly detailed factual averments. Others,
11 because of the nature of what the allegations and
12 probable cause would require, have a more complex
13 factual burden.

14 So sometimes just the nature of who the party was
15 could make some things simpler than others.

16 Mr. Baker: Just at a very high level, would it be fair
17 to say that the FISAs we're going to talk about here
18 today would not be that straightforward variety you're
19 talking about?

20 Mr. Evans: I would agree with that.

21 Mr. Baker: Thank you.

22 Mr. Somers: So in your position as the Deputy
23 Assistant, do all FISAs -- they all go through you in
24 some manner?

25 Mr. Evans: No, they do not.

1 Mr. Somers: So either the DAG or the Attorney
2 General needs to sign off on FISAs. Could the Assistant
3 Attorney General for NSD sign off on a FISA?

4 Mr. Evans: Yes, they could. Let me break your
5 question out a bit and give you kind of a more fulsome
6 answer. Before we get to who can sign them, the
7 second part of your question, on the first part, in terms
8 of the drafting process, the way I would describe it is
9 like this. At the time period back in 2016 or so I would
10 say there were somewhere between 12 to 1500 FISA
11 applications a year across the various FISA authorities.

12 As you've seen, it was a little bit like a pyramid,
13 with all of them at the bottom and some, based on a
14 variety of factors, may be more complex for a variety of
15 reasons and kind of move up that pyramid. So every
16 FISA would have a line attorney assigned to it, and
17 every FISA would be reviewed by at least a deputy unit
18 chief within the Operations Section.

19 Once they get progressively more complicated for
20 one reason or another, they may kind of move up the
21 pyramid and get additional levels of review. So in terms
22 of my review and participation, I would say there were
23 probably fewer than 25 to the year, maybe somewhere
24 around 25 a year, rough estimate, that would get
25 elevated to me for that kind of review process.

1 So that gives you a sense of some of total universe
2 that was out there. I only had a small portion of them
3 that were getting elevated to me.

4 In terms of the signature process, the statute, the
5 FISA statute, specifies that there are three officials in
6 the Department of Justice who have ultimate approval
7 for signing off on a FISA to be submitted to the court.
8 That is the Attorney General, the Deputy Attorney
9 General, or the Assistant Attorney General for National
10 Security.

11 The general practice at that time was that the
12 Assistant Attorney General for National Security was the
13 primary signer for all FISAs, unless that person was
14 unavailable.

15 The other thing I would note is that people, other
16 than the Attorney General, people in acting capacities
17 are not statutorily authorized to sign FISAs. So an
18 Acting Assistant Attorney General was not authorized
19 to sign FISAs. So during periods of time when we only
20 had an Acting Assistant Attorney General, then the
21 Deputy Attorney General would be the primary signer of
22 FISAs for the Department.

23 88Mr. Somers: Do all FISAs go through the Office
24 of Intelligence?

25 Mr. Evans: As far as I'm aware, yes.

1 Mr. Somers: Some FISAs -- why would you review --
2 you said you reviewed about 20 or so a year. What's
3 special about those 20 or so FISAs?

4 Mr. Evans: It could vary. I would say some
5 element of sensitivity. It could be a novel legal theory
6 that's being used. It could be a novel technology that's
7 being used to facilitate the collection. It could be a
8 combination of those things. It could be a sensitivity
9 associated with the target. It could be a question from
10 the folks down the pyramid who are reviewing it about
11 wanting my judgment on any of those elements or
12 whether, if it's a case for probable cause, that they've
13 already drafted, where they believe probable cause is a
14 close call, for instance, and they want my views on it.
15 So it could be any of those developments typically, and
16 usually would be a mix across those.

17 Mr. Somers: Do you know if there were
18 investigations that were designated as sensitive
19 investigative matters that had FISAs that you did not
20 review? I guess what I'm asking, did you review all
21 FISAs in cases that were designated as SIMs by the FBI?

22 Mr. Evans: I'm not sure I would necessarily know
23 the answer to that. Whether the underlying
24 investigation is designated as a SIM wouldn't have been
25 something that typically would have gotten flagged.

1 Typically, it's kind of an internal designation in terms of
2 how they designate the case and typically wouldn't be
3 relevant to how the FISA proceeds necessarily. So I'm
4 not sure I would know if there would be a correlation
5 between whether investigation was designated as a SIM
6 or not.

7 I can tell you that as a general matter I think my
8 team was pretty good about flagging cases for me that
9 they thought had some kind of sensitivity associated
10 with them, although it wouldn't necessarily be in the
11 process. It could be once the application was done and
12 drafted, but right before it was finalized, sort of thing.

13 Mr. Somers: What is the signer, whether it's the
14 head of NSD or the Deputy Attorney General or the
15 Attorney General, what are they given in terms --
16 obviously, they're given the FISA application itself. I'm
17 guessing, with 1500 of them, they're not reading 1500
18 FISA applications. So what are they given?

19 Mr. Evans: The typical process for the vast
20 majority of FISAs is that there is a signing session that
21 takes place with that signer, whoever it is. The signing
22 session, depending on what the volume of FISAs on a
23 particular week is, can be daily timing sessions or
24 sometimes just a few times a week. It depends on what
25 the weekly volume would be.

1 At those signing sessions, the signer is given a
2 copy of the application. The whole application is
3 presented to them, along with a cover sheet that
4 summarizes the key elements of probable cause for the
5 application. Then there is also a briefer from the
6 National Security Division who is usually there, and a
7 supervisor who is also there, to orally brief the facts
8 along with the written summary and take any questions
9 that the signing official may have.

10 For applications that might warrant further
11 discussion or attention or are less routine, sometimes
12 those would be sent to the -- if the DAG or the AG was
13 the signing official, sometimes those might have been
14 sent to the staff for those officials in advance, to give
15 them an opportunity to read it and ask any questions, if
16 they wanted to, in advance.

17 Similarly, when the Assistant Attorney General for
18 National Security was signing FISAs, because we had
19 close connectivity and proximity, we might flag
20 something in advance of the actual signing session if
21 there was a need for discussion about it.

22 Mr. Somers: And for these 20 or so FISAs that
23 came through you every year, were you involved in that
24 signing session with -- were you typically -- not every
25 time. But were you typically involved in those

1 discussions with either the head of NSD or higher?

2 Mr. Evans: I would say typically I'd -- yes, I would
3 say typically, as a general matter, yes.

4 Mr. Somers: Were you -- specifically on Crossfire
5 Hurricane, were you involved in a particular signing?
6 I'm sure there was lots of discussion about that one,
7 but was there a particular briefing that would fit this
8 category of a signing meeting, that you were involved
9 in for the Crossfire Hurricane or Carter Page FISA
10 applications?

11 Mr. Evans: Yes. There were four applications and
12 my recollection is for the first two of them I believe I
13 was at the signing sessions. For the second two of
14 them, I do not believe I was at the signing sessions,
15 although I would note for the first two, to be present --
16 in this case, the Deputy Attorney General had been
17 given the application to read beforehand. The signing
18 session didn't involve particularly a robust discussion
19 because, unlike the routine scenario I presented where
20 perhaps the signers learned of the matter for the first
21 time during the signing session, that was not the case
22 for this one; and so it was a relatively brief discussion.

23 Mr. Somers: Is the goal of the signing session that
24 when that concludes that application is actually signed
25 off on? If that is the goal, is there occasion where

1 there's questions that come up that the briefer who's
2 present can't adequately address to the satisfaction of
3 the signer and it doesn't result in it being signed at the
4 session?

5 Mr. Evans: I think -- I'll take your questions one by
6 one, but I think the answer to both of them is yes. So
7 yes, the goal of the briefing is to satisfy the signer so
8 that the application is signed during the course of that
9 briefing. Yes, upon occasion it happened that the
10 signer either had questions or, based on the briefing,
11 just wants to hold onto the application and read it and
12 give it a more thorough review. It's not particularly
13 common, but it can happen.

14 So, getting back to my point earlier of potentially
15 flagging unusual things in advance, part of that is to
16 avoid those sorts of questions or that sort of delay. It's
17 entirely appropriate within the signer's prerogative to
18 ask those questions and have that back-and-forth. So
19 the process for anything that in our judgment might
20 lead to that, we'd try to confront that in advance of
21 showing up for the signing, so that you could deal with
22 those questions in advance.

23 Mr. Baker: Would FBI personnel ever be at one of
24 the signing sessions to give more hands-on or more
25 involvement with what's being presented? Or the

1 briefer is the one that answers the questions of the
2 signer?

3 Mr. Evans: Typically not. I would say almost
4 exclusively it was the National Security Division
5 personnel. I think it's possible that within my -- let me
6 think how long I was with the Department. Within my
7 tenure at the Department working on FISAs, it's
8 possible that there may have been one or two occasions
9 where there was some question that came up, very
10 infrequently, the Department said the FBI could come as
11 well, but very, very infrequent. And I'm not even sure
12 that it -- it feel that it may have happened once or twice,
13 but I'm not 100 percent sure about that.

14 Mr. Baker: At the time this application makes its
15 way to the signing session, has the FISC gotten a copy
16 of it, so they too can kind of get in front of the curve
17 and have their counsels prepare their version of a
18 briefing, rather than it land cold?

19 Mr. Evans: I think the answer is yes and no. It
20 depends a little bit on timing. The FISC rules, their
21 court rules, specify that, except for matters that are
22 time-sensitive or they unofficially give the government
23 permission to do so, the general practice is to try to file
24 what's called a "read copy" or an advance copy of the
25 application with the court, ideally seven days before it

1 would be entertained by a judge.

2 That time period gives the court staff time to read
3 it, time to pass back any feedback to the government,
4 including potentially from the judge, time to have the
5 government adjust the application if needed before a
6 final. It almost depended case by case when you got
7 that feedback during that period and if you got that
8 feedback before you happened to be ready to take the
9 application to the DOJ signing official.

10 I'll just explain a little bit further. Let's say you
11 have a very, very routine application where in the
12 National Security Division's judgment, there's not likely
13 to be significant questions from the court. If that
14 application comes back from the FBI ready to be taken
15 to the approving official on day two, day three of that
16 signing period, we might just take it and have the
17 signer sign it, even though we haven't yet heard back
18 from the court, because in our judgment there's very
19 little chance you're going to get the feedback.

20 Mr. Baker: Would the court give you a heads-up?
21 As they're going through this read copy, would they
22 give you a heads-up before anything official happens
23 over at the Department?

24 Mr. Evans: They would give us a heads-up. I guess
25 what I'm trying to articulate is whether that heads-up

1 happens before or after the case had been signed by
2 the DOJ signing official just varied case by case. It
3 depended on where things were in the signing process.

4 Mr. Baker: Did I understand you to say that some
5 of that feedback, for lack of a better term, coming from
6 the FISA Court could actually be coming from one of the
7 judges?

8 Mr. Evans: In fact, the vast majority of the time the
9 judge would read the case based off of that read copy
10 and pass back feedback from that. So typically you
11 would know the judge's reaction before the final
12 version is filed. Whether that happened or not before
13 we had gone to the Deputy Attorney General or the
14 Assistant Attorney General, that would vary case by
15 case.

16 Mr. Baker: If there is feedback coming from the
17 FISC that would result in the signing at the Department
18 being slowed down or whatever, is that an occasion
19 where there'd be a lot of back and forth maybe between
20 the Department and the FBI to bolster whatever the
21 issue is that the FISC has flagged? Maybe tighten down
22 probable cause or doing something else?

23 It just seems to me in this whole FISA process
24 there's a lot more back-and-forth at a whole bunch of
25 different levels. It looks like the application goes in a

1 couple of different directions at the same time. You've
2 got this read copy to the court. It just sounds like, as
3 opposed to the criminal side of doing various
4 techniques, there's a constant back and forth between
5 FBI and the Department at different levels.

6 It seems like there's an official at one rank in the
7 Department, that has a counterpart in the Bureau, and
8 there's a system, whether it's formal or it just evolved,
9 where a lot of stuff that needs to be bolstered based on
10 feedback you're getting from the FISC happens pretty
11 regularly, pretty quickly.

12 Mr. Evans: It does, and I would say the feedback
13 from the FISC really spanned the entire gamut of things
14 you could get feedback on. It could range from typos
15 to questions for clarifications on wording, to
16 substantive concerns about probable cause or facilities
17 to use or anything else along those lines.

18 The other point I would note process-wise is that
19 the FISC is staffed by -- I don't know the current
20 number, but somewhere in the five to seven range of
21 permanent legal advisers to the judges, who read all
22 these applications before going to the judges. Unlike a
23 regular district court, those are not fresh out of law
24 school and undergoing clerkship. These are people
25 usually well advanced in their career and this is their

1 permanent, permanent job, as opposed to a rotational
2 job.

3 So many of these legal advisers themselves had 10
4 to 15 years of experience with reading FISA applications
5 and providing feedback on them.

6 Mr. Baker: Thank you very much.

7 Mr. Somers: Does it ever happen that the read
8 copy is sent over to the FISC and the signing official
9 says "No, I'm not signing that FISA application"?

10 Mr. Evans: I think there have been a handful of
11 occasions where that has happened. Typically -- again,
12 given that the Office of Intelligence processes FISAs on
13 a daily basis and has a pretty good sense of how things
14 are, typically if we had one -- and this is a little bit what
15 I was getting to earlier on, when do you go to the
16 signing official or not.

17 Let's say we had one that's close to the line, and
18 we thought maybe the judge will disagree with this. We
19 may have waited to present that to the Assistant
20 Attorney General or the Deputy Attorney General until
21 we had the reaction from the judge, and that way we're
22 able to go to the signing official and say: "Ma'am, the
23 government believes there's probable cause here, but
24 we can tell you the judge has read it and the judge isn't
25 persuaded and wants to have a hearing on it."

1 So if there were ones where we in advance thought
2 there might be an issue from the judge, we would have
3 the ability to wait for the judge's feedback before
4 presenting that to the signing official. That's how it
5 ordinarily worked, and there certainly have been
6 occasions where things were signed by the signing
7 official and then subsequently we got feedback that the
8 judge would have questions, and we would just deal
9 with that accordingly.

10 Mr. Somers: But there wouldn't be an actual
11 hearing until it was signed by the NSD? Or would you
12 get a hearing on a read copy?

13 Mr. Evans: No. I would say 99.9 percent of the
14 time the hearing would be once the read copy was
15 officially filed. I think there have probably been a small,
16 small handful of times where maybe a judge held a
17 hearing based off of a read copy, but usually only if
18 there was some extraordinary circumstance, like the
19 judge had a flight out of town and needed to move up a
20 hearing before we could actually get a final, the final
21 filed.

22 But that wasn't the practice. It could have occurred
23 because of timing issues, but typically the hearing
24 would be after the final was filed.

25 Mr. Somers: We've asked you a lot about what

1 goes on above NSD or just at the top of NSD and above.
2 What I'm trying to understand is what goes on between
3 FBI and the line attorney in NSD that's assigned. I
4 guess the way to ask the question would be: What do
5 you get from FBI? What's the product look like when it
6 comes over to the line attorney in NDS?

7 Mr. Evans: The FBI internally has a form. I don't
8 know the form number, but they have a form that's
9 essentially a FISA request form. If an agent decides
10 they want to do a FISA, they fill out that form. And
11 there's a lot of information that goes on that form: the
12 name of the target, the types of things they want to
13 surveil or search, the reason they believe those things
14 belong to the target; and most importantly, the agent's
15 recitation of their belief for probable cause.

16 That form gets filled out by the agent, gets
17 reviewed by multiple levels of hierarchy within the FBI,
18 and then ultimately -- and I don't recall off the top of
19 my head what the highest level of review of that form is
20 in the FBI. I think it may be a deputy chief level, but I'm
21 not sure about that.

22 Whenever it meets that highest level of approval,
23 that form then gets sent over to NSD, the Office of
24 Intelligence, and it will be assigned to an attorney to
25 work on.

1 I'll pause there for a second. I would say the
2 quality of that initial form, like with anything else,
3 varies greatly depending on the agent and how they put
4 it together and how they thought about it. So once it's
5 assigned here to an attorney within OI, the OI attorney
6 will read it and begin an iterative back-and-forth with
7 the case agent typically, sometimes the headquarters
8 agent as well, but typically the case agent, and work on
9 fleshing out some information in that form and keeping
10 that information and putting it, from that form, into a
11 format that is the ultimate working application that
12 would go to the court.

13 How much involvement there is in that process and
14 how long that takes, how much back-and-forth there is,
15 depends on a whole variety of factors, including what
16 the quality of the position was in the first place and
17 then kind of how complex and straightforward the facts
18 are.

19 Mr. Somers: So who is like the first drafter of the
20 FISA? Is that the OI attorney, I think from your
21 description?

22 Mr. Evans: I would way it's the OI, what we would
23 term as the line attorney, the OI line attorney, yes.

24 Mr. Somers: And are those -- I think in the Carter
25 Page FISA application, for instance, there was a heads-

1 up given, basically: Hey, we may seek FISA coverage. Is
2 that atypical or typical?

3 Mr. Evans: I would say that is not atypical for high-
4 profile, fast-moving investigations. So I would say that
5 is typical for high-profile, fast-moving investigations.
6 The best example I can give you of that in the terrorism
7 context: Let's say the FBI gets a tip of a potential
8 terrorist attack and they spin up a new investigation
9 into that.

10 They're likely to loop us in early in that process, so
11 that if as they get into that investigation they determine
12 that they need to seek FISA authority, that we're not
13 hearing of it for the first time and getting up to speed
14 at that point. So for things where it's kind of potentially
15 fast-moving and they want to be sure that the
16 Department has involvement or are aware of it in case
17 they need a FISA, it would not necessarily be atypical to
18 loop us in also.

19 Mr. Somers: You mentioned the OI attorney
20 obviously, and you mentioned the case agent at FBI.
21 What's the role of the General Counsel's Office at the
22 FBI with a FISA?

23 Mr. Evans: I'm not sure I can tell you what the --

24 Mr. Somers: Based on your experience?

25 Mr. Evans: Yes. I would say, based on my

1 experience, I'm not even sure, especially at that point in
2 time, it was well defined what the role of the General
3 Counsel's Office was. I would say in my experience the
4 role of the attorneys in the General Counsel's Office has
5 varied based on the type of FISA and based on who the
6 attorneys were.

7 Some attorneys in OGC were very, very hands-off
8 with their FISAs that were in their portfolio and didn't
9 have much involvement. Others were kind of more
10 hands-on. I would say the general rule of thumb in my
11 experience, things that were higher profile or more
12 sensitive were more likely to have more OGC role in.
13 Then I would also state as a general matter it was my
14 impression that attorneys within General Counsel's
15 Office on the counterintelligence side of cases tended
16 to be slightly more involved in FISAs than perhaps on
17 the terrorism side of FISAs.

18 Mr. Somers: Where would [REDACTED] fit on that
19 hands-on, hands-off in your spectrum?

20 Mr. Evans: I had worked with her at various points
21 over the years. I don't know how you could
22 characterize her one way or the other, other than to
23 say, I think the types of FISAs she worked on tended to
24 be more complex counterintelligence matters, whereas
25 generally in my experience, I think as I just alluded to,

1 the General Counsel's Office tended to be a little more
2 closely involved than others.

3 Mr. Baker: Would the national security lawyers at
4 the FBI -- you mentioned you worked with [REDACTED]
5 over the course of years. Was the tenure at the Bureau
6 in the national security law unit, was it the same cadre
7 of lawyers that stuck around for a while, people that
8 you did work with over the course of the years and you
9 had kind of a sense as to maybe if you needed to look,
10 or somebody below you needed to look, a little closer,
11 or you have a certain comfort level on certain people
12 you worked with before?

13 I guess my question is: Is that a unit over at the
14 FBI's General Counsel where people sort of hung
15 around a lot?

16 Mr. Evans: Anecdotally, my impression is that
17 folks did have long tenures there, probably more so --
18 and this is just my impression -- probably more so on
19 the counterintelligence side. I think there may be more
20 movement on the counterterrorism side. Certainly, I
21 think like all national security offices during my tenure,
22 they were doing a lot of hiring and typically constantly
23 had an influx of new folks.

24 But generally, yes, my impression was on the
25 counterintelligence side there were a number of

1 attorneys who stayed for quite a while.

2 You had mentioned earlier you made a distinction
3 between a case agent and a headquarters agent. My
4 understand is that the case agent would normally be
5 the one that's actually the investigator of the case and
6 that person, while not always, would often be assigned
7 to an FBI field office, where a lot of the investigations
8 work and the need for or the thought for the need of
9 the FISA technique would come from. Is that your
10 understanding as well?

11 Mr. Evans: That is my understanding. For
12 historical context, as long as I was doing FISAs and I
13 believe going back to the origins of FISA or at least the
14 1980s, FISA applications themselves were signed by the
15 headquarters agents with programmatic supervisory
16 responsibility for the case, even though the
17 investigation was happening in the field office by the
18 case agent.

19 My understanding is the background of that is
20 historically field offices did not have as good
21 connectivity to Washington, D.C., in terms of
22 transmission of classified information. I know when I
23 started in the early 2000s we were still secure faxing
24 things back and forth to the field offices.

25 Additionally, the FISC itself is located in

1 Washington, D.C., so if there were any hearings that
2 needed to be held those hearings -- we'd need
3 somebody local and it wasn't feasible to bring in the
4 field offices. So the historic practice for as long as I'm
5 aware of with FISA is that the case agent would work
6 the investigation and be the primary agent involved in
7 the facts of the FISA, but that it would ultimately be a
8 headquarters agent who was responsible for being the
9 affiant on the FISA based on familiarity and the
10 underlying representations of the case agent, because
11 of the need to have it centralized in D.C.

12 Mr. Baker: To the best that you know, this case
13 agent sitting out in the field and having this
14 coordination with that headquarters agent that's got
15 the programmatic supervisory responsibility, is it your
16 understanding that there's a pretty robust process in
17 the field office, that, similar to headquarters and DOJ,
18 there's different people looking at this request and the
19 investigation that supports the request before it might
20 even get to headquarters? So it's like an extra multi-
21 level review?

22 Mr. Evans: In terms of the request itself, that's
23 certainly my understanding. I don't recall the particular
24 levels, but I think, unless my recollection is -- that for
25 initiation of these, it might have to go up to the special

1 agent in charge for approval to request initiation, or
2 someone relatively senior.

3 For the actual drafting of the FISA, my recollection
4 is -- again, I'm not, as you noted, with the FBI. But my
5 recollection is that, in addition to the case agent
6 reviewing the final draft of the application to attest to
7 its accuracy, there's also some review by the
8 supervisory special agent in charge in the field office as
9 well on the application itself.

10 Mr. Somers: Thank you. Do you find anything
11 problematic with having this headquarters program
12 manager step in and be the affiant on a FISA
13 application?

14 Mr. Evans: That's a great question. I certainly
15 understand the historical origins for it and why it is that
16 way. I do think, in my personal opinion -- and I can say
17 this is something I started thinking about while I was
18 still toward the end of my tenure in the Department --
19 it's not entirely clear to me that some of the underlying
20 circumstances that I described earlier in terms of the
21 state of technology, the state of connectivity with the
22 field, the nature of hearings, things of that nature, still
23 mandate that to operate the way it is.

24 So for instance, again, in earlier eras of FISA I think
25 it was much more common for judges to have hearings.

1 I think that has become less common in this era. And
2 the court also now has much better connectivity in
3 terms of secure phones and things like that than it did
4 a generation ago.

5 So I do think there could be an opportunity to
6 revisit that, to have case agents in the field be actual
7 affiants, as opposed to headquarters agents potentially.

8 Mr. Somers: More specifically on that, do you find
9 it problematic that, for instance, like the IG found, in
10 the first paragraph of the Carter Page FISA application a
11 misstatement to the court: "This application is made by
12 (REDACTED), a supervisory special agent of the Federal
13 Bureau of Investigation whose official duties at FBI
14 Headquarters include supervision of the FBI's
15 investigation of the above-captioned target, based upon
16 information furnished as of the day (REDACTED)."

17 The IG report found that's not an accurate
18 statement because the redacted SSA is a headquarters
19 program manager who did not have any supervision
20 over the FBI's investigation.

21 Do you find it problematic to begin a FISA
22 application with a misstatement like that?

23 Mr. Evans: Let me break your question into two
24 parts. One, I believe it's problematic to have
25 misstatements in FISAs, particularly if they are material.

1 And to the extent that is a misstatement, that's not one
2 that I would consider acceptable.

3 With respect to that language in particular, I would
4 say that that language was not specific -- I don't know if
5 we can talk about whether a FISA is --

6 Mr. Somers: We can just stay general. We don't
7 have to go into Carter Page. I just brought it up as an
8 example because the IG report says that language is
9 boilerplate.

10 Mr. Evans: That's where I was going. I don't recall
11 what the IG said about that language, but that language
12 is boilerplate and was drafted and predates my tenure.
13 But my understanding is that that language was agreed
14 to at some time in the past between the FBI and DOJ to
15 describe as a general matter what the role of the
16 headquarters SSA is for all of these cases.

17 So thus, whether it's SSA A or SSA B or SSA C, that
18 language is intended to encompass -- be generic
19 enough to encompass what their role is trying to get
20 those FISAs so that you don't have to then change that
21 description for each particular application 1500 times a
22 year.

23 So I would say if that language wasn't specific here
24 to what this SSA was doing or not, that's probably just
25 gets to the question about needing to have that

1 language rephrased to more accurately reflect what the
2 role of the SSA generally is.

3 Mr. Somers: That's a long answer. Generally,
4 you'd agree it's not the best practice to start a FISA --
5 not this one, but any FISA -- with a misrepresentation of
6 who the identity of the officer making the application
7 is?

8 I was just going for a yes or no on that.

9 Mr. Evans: Yes, I generally agree with that.

10 Mr. Baker: I want to clarify just one thing. This ex
11 parte affiant at FBI Headquarters, the supervisory
12 special agent, is it your understanding that is someone
13 who was the headquarters agent on that particular
14 case, that had the back-and-forth with the field and
15 maybe back-and-forth with other FBI Headquarters
16 entities, maybe DOJ entities? Or is that affiant in a unit
17 somewhere else that is a separate unit that actually
18 goes and signs or presents the FISA?

19 Mr. Evans: My understanding is that it's the
20 former, what you described. It is supposed to be a
21 headquarters supervisory special agent who is in a unit
22 with some kind of programmatic responsibility for that
23 case. So for instance, if you have a case targeting a U.S.
24 person who is believed to be an agent of Country 1,
25 that the headquarters affiant would have headquarters

1 responsibility for espionage investigations regarding
2 Country 1 and potential U.S. persons.

3 How much that translated into the supervisory
4 responsibility of that investigation or not, I couldn't tell
5 you. I'd have to defer to the FBI. But it is presumably
6 somebody with some degree of horizontal -- somebody,
7 excuse me, with vertical involvement in the
8 investigation.

9 Mr. Baker: Okay, thank you.

10 Mr. Somers: In terms of your Deputy Assistant role
11 at Justice, typically what type of interactions would you
12 have with the FISC?

13 Mr. Evans: My interactions with the FISC could vary
14 from programmatic interactions with the FISC, on kind
15 of policy-type matters or far-ranging type matters that
16 were not individualized, to potential involvement on
17 individualized matters.

18 As an example -- this example, as the IG report
19 indicated, is not relevant to this particular FISA, but it's
20 an example. If we submitted a FISA where the judge
21 indicated he was prepared to deny it and write an
22 opinion denying it, the FISC court staff might call me
23 personally just to make sure I was aware as the head of
24 the office, even though they would also relay that back
25 to the lower level that was working on it. That would

1 be one example. Mr. Somers: So even though it
2 wasn't one of the 20 or so FISAs you actually looked at,
3 you might still be the one to get the call?

4 Mr. Evans: Potentially. And typically they would
5 call the attorney working on the FISA, but they may also
6 on many occasions call me as well just to make sure
7 that I had awareness of it in case it hadn't otherwise
8 been elevated to me. So that would be one example of
9 how I might interact with them on a routine FISA.

10 But also, on programmatic matters -- let's say FBI
11 was in the process of updating its minimization
12 procedures generically for all cases, not just for one
13 case. I might have a lot of interaction with the court
14 and the judges on a project like that, that would be
15 more far-reaching across the board.

16 But it really varied from individual cases to bigger
17 matters.

18 Mr. Somers: And what about individual cases?
19 What interaction -- you gave one example where they
20 might be turning it down. But what about for the 20 or
21 so FISAs that you're actually involved in reviewing,
22 taking a more hands-on approach than the others?
23 What would your interaction be with the FISC once a
24 read copy was sent down?

25 Mr. Evans: It could vary. It could -- take as an

1 example a terrorism investigation, let's say, using the
2 example I used earlier, of a really high-profile, fast-
3 moving terrorism investigation. If something like that
4 came up and we're going to be sending a bunch of
5 FISAs, I might call the court with a heads-up and say:
6 Just wanted to let you know there's this new terrorism
7 investigation that's spinning up, it's really serious, and
8 for your timing and scheduling purposes I wanted to
9 give you a heads-up we expect to be submitting some
10 FISA applications on a really tight turnaround on that;
11 wanted to give that to you on behalf of the office. So
12 there could be things like that that could come up.

13 Mr. Somers: Did you ever answer questions about
14 what's on the paper, the actual application?

15 Mr. Evans: Not typically, unless it would be
16 something that I happened to have particular
17 knowledge about one way or the other. Typically if
18 there was a question about the individual facts of the
19 matter, it would be the line attorney to deal with that.

20 Mr. Somers: And on the Carter Page FISA
21 application, did you have any direct contact with the
22 FISC?

23 Mr. Evans: I did. My recollection on Carter Page is
24 twofold. One, at some point probably within the week
25 or week and a half before the actual application was

1 filed, I remember calling the court to, as I just
2 described would be a common practice for a terrorism
3 investigation, to give a heads-up that there was a
4 relatively fast-moving counterintelligence investigation
5 where we'd be submitting an application.

6 I think I probably also previewed that I thought
7 there were some sensitivities associated with it. I don't
8 recall the conversation in detail. I suspect I did not get
9 into the details of it because that wouldn't have been
10 appropriate at that juncture in time, but typically to flag
11 for them that I felt there were going to be some
12 sensitivities and wanted to give them a heads-up so
13 they wouldn't be surprised when it landed on their
14 desk.

15 So there was that conversation. Then after the
16 court read the application, I believe the court's
17 feedback was -- and now I'm talking about the first, the
18 first of four -- I believe the court's feedback was passed
19 primarily to the line attorney.

20 I think I may have had one conversation potentially
21 with the legal adviser on the case around the question
22 that that person had about something that was not
23 specific to the facts of the case. I'm trying to recall
24 what it was. I think it was about dissemination or
25 something about that. It was something that the legal

1 adviser had remembered some government policy on
2 dissemination from five or six years or maybe even ten
3 years before and was curious about that. So I had to
4 look something up in our case files, and in the end it
5 turned out to be an irrelevant issue and kind of
6 something not applicable to the case. But that
7 conversation did not involve the facts of the case
8 specifically, but was on an extraneous question.

9 Mr. Somers: Then in regards to the Woods
10 procedures, are you familiar with the Woods
11 procedures?

12 Mr. Evans: I would say I'm certainly familiar with
13 the general purpose and intent of the Woods
14 procedures. I would defer to the FBI for the precise
15 aspects of how they are operating in detail. I'm
16 certainly familiar with the concept and what the
17 purpose of them was.

18 Mr. Somers: Have you ever looked at a Woods file?

19 Mr. Evans: Yes, but personally I would say it was
20 probably 2007 the last time I looked at a Woods file.

21 Mr. Somers: What would be the occasion that you
22 would look at a Woods file?

23 Mr. Evans: For me in my role as the Deputy
24 Assistant Attorney General, I don't think there was any
25 occasion where I would look at a Woods file. My

1 personal experience looking at a Woods file would have
2 been when I was a line attorney much earlier in my
3 career. And I believe the Woods file that I looked at was
4 part of going out and doing on-site oversight reviews at
5 field offices. When those reviewed happen a select
6 number of FISAs, not all of them, were typically selected
7 for Woods reviews, Woods file reviews. In the course of
8 performing those roles earlier in my career, I looked at
9 some, but not more recently.

10 Mr. Somers: And those files were randomly
11 selected for this?

12 Mr. Evans: Not randomly. I would say when on-
13 site oversight reviews happen, typically the way the
14 oversight team will do it is they would canvas the
15 Operations folks for suggestions and input from the
16 Operations folks as to which Woods files might merit
17 review. There were a variety of factors that would go
18 into thinking on that, one being does anyone think
19 there's a possibility of criminal litigation down the road,
20 in which case it would be a good idea to do an accuracy
21 review.

22 Two, is the FISA still ongoing? If there were
23 ongoing FISAs, I think that can get preference for
24 review, as opposed to one that may have expired.

25 Three, potential complexity or other issues that

1 may have come up in the drafting that caused the
2 Operations folks to think that there's a reason to do an
3 accuracy review.

4 There can be a whole variety of factors. I would
5 say it was not random, though.

6 Mr. Baker: These reviews or audits involved you
7 and I'm guessing people from the FBI, whatever the
8 team is, going out to the field and looking at these
9 files?

10 Mr. Evans: Not me, but the Office of Intelligence.
11 Typically, folks from either the Oversight Section or,
12 because the Oversight Section was smaller than the
13 Operations Section, there would often be Operations
14 Section attorneys who would go along to assist on
15 those reviews.

16 But yes, going out to field offices physically, sitting
17 down with the case agents and looking at their files.

18 Mr. Baker: And you did that as a line attorney?

19 Mr. Evans: I did on a handful of cases as a line
20 attorney, not frequently.

21 Mr. Baker: I guess my question about the
22 randomness of it: It's not a situation where an FBI field
23 office is told: Hey, we're coming out to look at some of
24 your FISA files and Woods files; why don't you pull
25 some for us, and then they pull the best of the best that

1 they know are in compliance?

2 Mr. Evans: Yes, it is not -- the FBI does not have
3 that discretion of essentially choosing which files get
4 reviewed; although, to your second point, they do
5 receive notice of that in advance. So it's not as if we
6 show up on their doorstep and say we're going to do
7 that. There was a process where they were notified in
8 advance.

9 Mr. Baker: And is there a standard protocol or a
10 cheat sheet for people that are doing the audits, so an
11 audit that is done, say, of the Detroit field office Woods
12 files, the criteria that that field office is held to or the
13 standard they're held to, would that be the same that
14 would be used in another field office, so there is a
15 standard of what's supposed to be in a Woods file?

16 Mr. Evans: I would say yes, there is a standard of
17 what's supposed to be in a Woods file. I'm not -- sitting
18 here today, I'm not sure if that's memorialized
19 anywhere or not, or if it's more just in the knowledge
20 and experience of the folks in our oversight team who
21 have been doing that for so long and know. But I'm not
22 sure if there's a document of that.

23 Mr. Baker: In the course of your work at the
24 Department or just your impression -- in my view, I
25 know the word "expert" can be sliced and diced. In my

1 world, you've got expertise in this particular area of the
2 law that's incredible. Is there a lot of confusion in your
3 mind in the agents in the field, what is supposed to be
4 in a Woods file?

5 Mr. Evans: I don't believe there's a lot of confusion
6 on that. I think it was pretty well known by this in time
7 that we're talking about what's supposed to be in a
8 Woods file.

9 Mr. Baker: Was what's supposed to be in a Woods
10 file in the Woods files that you were involved in, to the
11 best of your recollection?

12 Mr. Evans: So again, personally speaking, my
13 experience of me personally reviewing Woods files is
14 out of date. I can tell you in my supervisory
15 responsibility I was aware of the general findings of the
16 office over the last several years of going through this
17 process, and I would say my experience is that by and
18 large what was in Woods files was what was supposed
19 to be in there.

20 I would say over time, over the last several years,
21 the number of material errors that were identified
22 through Woods file reviews has generally decreased.
23 There did continue to be a persistent number of
24 immaterial errors, such as dates being wrong or things
25 like that. But in terms of the vast majority of the facts

1 that were in the FISA being in the Woods file as well,
2 that generally tended to be the case, at least in my last
3 several years experience.

4 Mr. Baker: And that's what's supposed -- at a very
5 high level, that's what's supposed to be in the Woods
6 file? If you're articulating a fact in the application or the
7 affidavit, the source or the underlying fact for that is
8 supposed to be in the Woods file?

9 Mr. Evans: The underlying documentation for that.
10 I know just from observing this has generated some
11 confusion. The way I would describe the Woods file is it
12 is intended to be a file where the documents reflecting
13 the words on the page in the FISA appear. So if the
14 FISA says "Person A was observed entering a residence
15 on January 3rd," then in the Woods file there should be
16 a log from a surveillance team or something like that
17 saying that Person A was observed entering a residence
18 on January 3rd.

19 Or if the Woods file said, as is relevant to this case,
20 "A source reported to us that Person A did X," then
21 there should be something in the Woods file saying
22 "Here's our memorialization of the source saying Person
23 A did X."

24 It's not the harder step of are we certain that
25 happened --

1 Mr. Baker: Right.

2 Mr. Evans: -- or do we have corroboration.

3 Mr. Baker: Somebody saw it or somebody heard it.
4 It's not an independent investigation.

5 Mr. Evans: That's right. The words on the page in
6 the FISA, are they actually reflected in the underlying
7 documentation.

8 Mr. Baker: And it's for every word or sentence in
9 the FISA that puts forth a fact. It's not just for facts that
10 are attributed to a source. It's for any fact that's in the
11 FISA, is that right?

12 Mr. Evans: That is correct. So when I was
13 describing earlier an example of an immaterial error
14 that we might see that might be counted, let's say for
15 example that there were the results of a national
16 security letter that were used to document something.
17 Well, perhaps those results came in on January 1st, but
18 the FISA said that the results came in on January 2nd.

19 Well, that's likely to be immaterial because the
20 results are the same either way. You just had a typo on
21 the date. So that would be the sort of thing where you
22 go out and you do the Woods file review and you look
23 at the results of the national security letter and you see
24 that a date was off. So that would be the sort of thing
25 where -- what I would term a typical example of an

1 immaterial error.

2 Mr. Baker: And that would not be a matter that the
3 FISC would be notified about, because it's so
4 immaterial?

5 Mr. Evans: Typically not. The court rules focus on
6 material errors. For immaterial errors, typically you
7 wouldn't notify the FISC of. The caveat that I would say
8 is if the case was still active and being reviewed, you
9 would correct that error, of course, in subsequent
10 renewal applications. If the case was no longer active,
11 though, you wouldn't typically go back and notify the
12 court of something that minor.

13 Mr. Baker: Could you have a large number of
14 immaterial errors that would require FISC notification
15 just of the general sloppiness of it?

16 Mr. Evans: Potentially, I would say potentially. I'm
17 not sure I could think of a case sitting here, years later,
18 off the top of my head. But I would say potentially.

19 Mr. Baker: Thank you.

20 Mr. Somers: So from that I take it there's an
21 ongoing obligation; since we're talking about FISA and
22 renewals of a FISA, there's an ongoing obligation when
23 you get a renewal to make sure something you said in
24 the first FISA is still accurate by the time you get to the
25 first, second, third, whatever renewal of the FISA?

1 Mr. Evans: I would agree with that.

2 Mr. Somers: I think, from all your last questioning,
3 I think it's fair to say that as a line attorney in OI it's not
4 typical at all as part of a FISA you're working on to look
5 at the Woods file?

6 Mr. Evans: It is certainly not a routine practice. It
7 could happen upon occasion, but again you would
8 either have to be part of the oversight team doing that
9 or have some other reason to do it. It's not a common
10 practice.

11 Mr. Somers: That means the accuracy of what's in
12 the FISA is really up to the FBI agent working on the
13 application?

14 Mr. Evans: I would agree with that.

15 Mr. Somers: In terms of -- another question on
16 renewals. In terms of renewals, what's a typical number
17 of renewals? Were there a lot of renewals? In Carter
18 Page's FISA application there were three of them. Is
19 that typical?

20 Mr. Evans: I would actually say -- I'm just thinking
21 in my head if I can give an unclassified answer to that.
22 My own answer would be I think that was typical, if not
23 potentially even on the low side. I have seen many that
24 have significantly more renewals than that. I'd be
25 happy to expand on that more in a classified setting.

1 I would also add as a general matter -- I think I can
2 say this as an unclassified point -- counterintelligence
3 matters in my experience tended to be slower-moving
4 and last longer potentially than some terrorism matters.
5 So having more FISA renewals on the
6 counterintelligence side compared to a terrorism
7 investigation would not have been abnormal.

8 Mr. Somers: We have just a couple minutes left
9 here.

10 I asked you to start this whether you reviewed the
11 IG's report and you said you had. Are you basically
12 familiar with the 17 significant errors and omissions
13 that the IG identified in the report?

14 Mr. Evans: I have of course read the IG report.
15 Again, I have not read it in total since when I was given
16 an opportunity by the Department to read it in draft
17 form before it was released publicly. So I think that
18 would be some time late last year. I haven't seen it
19 since then.

20 I'm certainly aware that the IG identified 17 errors.
21 I'm not sure if, sitting here today, I'm familiar with each
22 and every one of them, no.

23 Mr. Somers: Do you recall taking any issue with
24 any of the 17 errors, in terms that you disagreed that
25 they were errors?

1 Mr. Evans: Not sitting here today, not that
2 specifically comes to mind. But yes, I will say I felt
3 some of them were more significant than others. But I
4 don't think all -- I recall thinking that not all the errors
5 they identified had the same significance or relevance.
6 But I don't recall necessarily having any argument with
7 any of them.

8 Mr. Baker: Were there any you were not surprised
9 by, based on the concerns you raised earlier in the
10 process of those FISAs?

11 Mr. Evans: Were there any errors, you're saying,
12 that didn't surprise me? I think I would say there were -
13 - I wouldn't highlight my surprise back to concerns I
14 had earlier, because I think my concerns were,
15 assuming the FISA would be error-free, I still had
16 concerns.

17 I would say there were a number of the 17 errors --
18 again, I'm not going to use the term "17" because I
19 don't remember specifically among the errors the IG
20 identified.

21 Mr. Baker: Sure.

22 Mr. Evans: But among the errors discussed in the
23 IG report, there were some I was made aware of while I
24 was still in the Department. So those I knew of before
25 reading the IG report, and wasn't surprised. There were

1 other things in there that I think I probably wasn't
2 aware of, was I still in the Department, would have been
3 a surprise to me. Which ones were which, I'm not sure I
4 recall.

5 Mr. Somers: I think we're out of time on this
6 round. So we'll turn it over to the minority.

7 Ms. Zdeb: Can we take a five-minute break?

8 Mr. Somers: Oh, yes. Now is the time to take a
9 break.

10 (Recess from 11:40 a.m. to 11:50 a.m.)

11 Ms. Zdeb: It is 11:50 and we can go back on the
12 record.

13 Mr. Evans, thanks for being here. We introduced
14 ourselves earlier, but my colleagues Mr. Fausett, Ms.
15 Sawyer, and I work for Senator Feinstein. We're going
16 to follow up on a couple of the points that our
17 colleagues were asking you about earlier.

18 You mentioned that you had at one point or
19 another reviewed at least portions of the IG report. The
20 report was the product of a two-year investigation. The
21 Inspector General indicated that he reviewed close to a
22 million documents, reviewed -- excuse me -- interviewed
23 more than a hundred witnesses, including Christopher
24 Steele, other former -- other non-government
25 employees, former government employees.

1 I take it you've cooperated with the IG's
2 investigation?

3 Mr. Evans: I did, yes.

4 Ms. Zdeb: And I take it you were also interviewed
5 as part of the IG's investigation?

6 Mr. Evans: I was, on multiple occasions.

7 Ms. Zdeb: And roughly how many occasions, for
8 how long, would you say you were interviewed?

9 Mr. Evans: I believe it was roughly three occasions,
10 from the fall of 2018 through the end of my tenure in
11 the spring of 2019; and probably over ten hours or so.

12 Ms. Zdeb: Did you provide complete, truthful
13 answers when you were interviewed by the Inspector
14 General's Office?

15 Mr. Evans: I believe I did, yes.

16 Ms. Zdeb: And did you specifically or to your
17 knowledge did the Justice Department provide
18 documents to the Inspector General in connection with
19 his investigation?

20 Mr. Evans: Yes, we did.

21 Ms. Zdeb: Did the Inspector General's Office ever
22 complain or indicate that it needed more information
23 from you?

24 Mr. Evans: Not as far as I'm aware, no.

25 Ms. Zdeb: Did the Inspector General's Office ever

1 complain that they didn't get documents that they
2 wanted pertaining to your involvement in this?

3 Mr. Evans: With respect to me and the National
4 Security Division, no, not that I'm aware of.

5 Ms. Zdeb: And I think you indicated before the
6 break that you had been given an opportunity to review
7 a draft of the Inspector General's report?

8 Mr. Evans: Yes, that's correct.

9 Ms. Zdeb: Did you provide any comments after
10 reviewing the draft?

11 Mr. Evans: I did provide them some comments. I
12 would note, though, that the condition, the IG's
13 condition to me reviewing that draft, was having signed
14 a nondisclosure agreement of sorts with them. So I'm
15 not sure I could get into further what my comments
16 were. But I did provide some comments.

17 Ms. Zdeb: Fair enough. Without asking you to get
18 into specifics about the content of the comments, did
19 the final report address the comments that you had
20 provided?

21 Mr. Evans: I believe for the most part, yes.

22 Ms. Zdeb: So in other words, would it be fair to
23 say that the final report doesn't contain any errors as
24 they pertain to your involvement?

25 Mr. Evans: Yes, as a general matter I would say

1 that's right. There might have been one or two things
2 that I would have phrased slightly differently or put a
3 little bit of different context around. But as a general
4 matter I think that's correct.

5 Ms. Zdeb: As you may know, our committee has
6 held a six-hour hearing with the Inspector General last
7 December after his report was released. During that
8 hearing and since that hearing, there have been a
9 number of allegations made publicly about Crossfire
10 Hurricane as well as the Special Counsel's investigation.

11 From our perspective, many if not all of those
12 allegations were answered by the Inspector General's
13 report. But because we continue to hear them from
14 people who weren't personally involved, we wanted to
15 ask you a couple of basic questions.

16 The Inspector General found that there was no
17 documentary or testimonial evidence of political bias
18 impacting the FBI's work in Crossfire Hurricane. But we
19 have nonetheless heard allegations that there was,
20 quote, "tons of evidence of bias." Did political bias
21 impact any of your actions in Crossfire Hurricane?

22 Mr. Evans: My personal actions?

23 Ms. Zdeb: Correct.

24 Mr. Evans: No, it did not.

25 Ms. Zdeb: Do you personally have any evidence

1 that political bias impacted any of the National Security
2 Division's work more broadly on Crossfire Hurricane?

3 Mr. Evans: No, I do not.

4 Ms. Zdeb: Do you have any evidence that political
5 bias otherwise impacted the Department's actions in
6 Crossfire Hurricane?

7 Mr. Evans: The Department including the FBI or --

8 Ms. Zdeb: The Department more broadly than the
9 National Security Division.

10 Mr. Evans: No. I'm certainly aware of what was in
11 the IG report regarding statements FBI employees and
12 what-not have made through text messages and
13 otherwise. But those were not things we were aware of
14 at the time; and we had certainly -- I certainly had no
15 sense at the time that this impacted the decisionmaking
16 in any way contemporaneously.

17 Ms. Zdeb: You are also -- are you also aware that
18 the Inspector General, of course, had access to all of
19 the text messages and at the conclusion of his
20 investigation did comment that there was no evidence
21 of political bias impacting the investigation?

22 Mr. Evans: To the earlier point, yes, I am; and I
23 would say that from my personal observations I did not
24 personally observe anything contemporaneously that
25 was contrary to that conclusion.

1 Ms. Zdeb: The President has repeatedly called
2 Crossfire Hurricane a "witch hunt" and accused various
3 members of the Crossfire Hurricane team, the
4 Department, the Bureau more broadly, of conspiring to
5 hurt him politically. Did you conspire with anyone to
6 hurt the President politically?

7 Mr. Evans: No, I did not.

8 Ms. Zdeb: Do you have any evidence that Crossfire
9 Hurricane was part of a deep state effort to hurt Trump
10 politically?

11 Mr. Evans: No, I do not.

12 Ms. Zdeb: There similarly have been allegations
13 that the purpose of Crossfire Hurricane was to change
14 or nullify the result of the 2016 election. Have you ever
15 done anything in connection with Crossfire Hurricane
16 with the intent of changing or nullifying the result of
17 the 2016 election?

18 Mr. Evans: No, I have not.

19 Ms. Zdeb: Do you personally have any evidence
20 that the goal of Crossfire Hurricane was to change or
21 nullify the results of the 2016 election?

22 Mr. Evans: No, I do not.

23 Ms. Zdeb: Finally, there have been allegations that
24 Crossfire Hurricane was composed of, quote, "people
25 who hated Trump" and who had, quote, "an agenda to

1 destroy him before he was elected and after he was
2 elected." Did you personally have an agenda to destroy
3 Trump before and after he was elected?

4 Mr. Evans: No, I did not.

5 Ms. Zdeb: Do you have any evidence that the goal
6 of the Crossfire Hurricane investigation was to destroy
7 Trump before and after he was elected?

8 Mr. Evans: I just want to be clear in my answer to
9 that, relating to my earlier answer. I'm certainly now
10 aware of, from the investigation, the text messages and
11 those things along those lines. Harkening back to my
12 earlier answer, I certainly had no indication
13 contemporaneously that there was political bias by
14 anyone at the FBI that factored into any decisionmaking
15 at the time.

16 Ms. Zdeb: And you certainly have no basis to
17 dispute the Inspector General's conclusion that none of
18 the evidence he reviewed, including the text messages,
19 were an indication that political bias impacted Crossfire
20 Hurricane?

21 Mr. Evans: That's correct.

22 Ms. Zdeb: So you spoke a bit before the break just
23 generally about the process for developing the FISA
24 applications and the back and forth between the
25 National Security Division and the FBI. Without getting

1 into any specifics that would require us to go into a
2 classified transcript, I just want to follow up generally
3 on some of those process questions.

4 Again speaking generally about the relationship
5 between the FBI and the National Security Division, your
6 former colleague George Hopkis was interviewed by the
7 House, actually by Mr. Baker and Mr. Somers, a couple
8 of years ago. And he indicated then that it was, quote,
9 "pretty common" for there to be tensions between
10 investigators and prosecutors. Would you agree with
11 that?

12 Mr. Evans: I'm not sure I would state it quite as
13 strongly. To really I think put a little more context
14 here, first off, I think when Mr. Hopkis made that
15 statement I think he was probably referring to tensions
16 between Counter-Espionage Section prosecutors in
17 Main Justice and the Counterintelligence Division with
18 respect to the investigation and prosecution of cases.
19 So I don't think he was probably referring to OI and the
20 FBI, or at least that's how I would interpret that
21 comment by him.

22 With that said, though, with respect to OI's
23 interactions with the FBI, I would put it this way.
24 Anyone who has worked with investigators in cases
25 knows that investigators, especially when it's an

1 important and high-profile case to them, can often
2 become very singularly focused on the objectives of
3 their investigation and will press very, very hard for
4 what they believe to be the investigative steps they
5 want to take.

6 So I wouldn't say that generally speaking there was
7 a tense relationship between those in OI and the FBI.
8 What I would say is on important, stressful, fast-moving
9 cases, be it terrorism or investigation, it was certainly
10 not uncommon for the FBI and for agents to try to put
11 pressure to get the results they wanted from lawyers in
12 our office. I think, similarly, that's probably what Mr.
13 Hopkis was getting at.

14 Ms. Zdeb: So maybe we don't need to use the
15 word "tension," which is his word. We can just call it
16 perhaps differences of opinion on investigative tactics,
17 strategies. To the extent those sorts of things were
18 common in your experience at OI, would you agree that
19 differences of opinion or tensions, in his words, could
20 be healthy to the extent that they ultimately resulted in
21 a more considered decisionmaking process?

22 Mr. Evans: I think certainly the discussion and
23 deliberation could help. I would agree with that.

24 Ms. Zdeb: Picking up on the point you were just
25 making and turning a little bit more specifically to the

1 FISA context, but not too specifically: As a general
2 matter, would you agree that the FBI's requests for FISA
3 authority are driven by their operational needs in a
4 given investigation?

5 Mr. Evans: I would agree. That's my general
6 understanding.

7 Ms. Zdeb: And it sounds like you would also agree
8 that there are often time pressures associated with
9 those operational needs?

10 Mr. Evans: There can be. It can vary greatly based
11 on the nature of the target of the investigation. But
12 there were absolutely a number of FISAs where there
13 were time pressures associated with it for one reason or
14 another.

15 Ms. Zdeb: To the extent you can do so in an
16 unclassified way, I'm wondering if you could elaborate a
17 little bit with respect to counterintelligence
18 investigations. What sorts of general time pressures
19 might there be?

20 Mr. Evans: I could probably elaborate more in a
21 classified setting. I think at an unclassified level two
22 things that would come to mind to me would be the
23 nature of the allegations and the nature of the
24 underlying conduct. I'll give you a hypothetical here. If
25 the allegation is that there is a mole inside an

1 intelligence agency actively stealing classified
2 information, that might be something where, given the
3 nature of the allegation and the alleged conduct, the FBI
4 might feel more time pressure and more urgency than
5 if it was something that was part of a longer-term
6 matter.

7 The other thing I would say is there could be
8 operational and investigative steps the FBI might want
9 to take for one reason or another that might be related
10 to the need to, on their part, to get FISA coverage in
11 place.

12 Ms. Zdeb: So it sounds like in your experience it
13 was not uncommon for the FBI to express those time
14 pressures to the National Security Division when a FISA
15 application was undergoing that back-and-forth process
16 you described?

17 Mr. Evans: I would agree with that.

18 Ms. Zdeb: And is it valid for the FBI to express
19 those time pressures to NSD so that NSD is aware of
20 relevant operational considerations?

21 Mr. Evans: I think that -- I would say there's
22 nothing inappropriate about them doing so. It's similar
23 in a case of criminal conduct, where a criminal
24 investigator may have reason that they want to expedite
25 something and that they identify that to an AUSA

1 similarly.

2 Ms. Zdeb: So to the extent FBI expressed
3 operational time pressures or a desire to move more
4 quickly in the Carter Page situation specifically, it
5 sounds like that wouldn't have been out of the
6 ordinary?

7 Mr. Evans: I can tell you, contemporaneously at
8 the time I did not think it as anything out of the
9 ordinary. I took it as the sort of pressure that the FBI
10 places in cases of this nature.

11 Ms. Zdeb: In your experience, do decisionmakers
12 in the FISA chain of command -- and that could be
13 either within or between the FBI and the National
14 Security Division or DOJ more generally -- do those
15 decisionmakers sometimes disagree about the strategy
16 for a particular FISA application?

17 Mr. Evans: I think the vast majority of the drafting
18 and decisioning on FISAs happens at the working level
19 back and forth and there would be disagreements
20 there. Oftentimes that will resolve itself before it gets
21 up to a more senior decisionmaker, so that there isn't a
22 need for those more senior decisionmakers to disagree.

23 There may have been rare instances where senior
24 decisionmakers disagreed, but I would say that's not --
25 that was not particularly common. And I would say

1 generally in my experience, whether it was the FBI or
2 other intelligence agencies using FISA, the Department
3 as a whole -- and I would say this is across
4 administrations that I was a part of -- the Department as
5 a whole tended to be somewhat deferential to the
6 investigative preferences of whichever agency it was.

7 Ms. Zdeb: So let me maybe put a slightly finer
8 point on this term I used, which was "strategy," which
9 was a little bit vague. I guess one big picture kind of
10 fundamental strategic question is whether to seek a
11 FISA warrant or not. In your experience, were there
12 ever disagreements among people on the chain of
13 command about that threshold question?

14 Mr. Evans: From time to time, although again I
15 would say ultimately FBI preference tended to be the
16 driving factor.

17 (THERE IS A GAP OF APPROXIMATELY 20 MINUTES
18 IN THE AUDIO RECORDINGS AND IN THE TRANSCRIPT.
19 DURING THIS TIME MS. ZDEB AND MS. SAWYER WERE
20 QUESTIONING THE WITNESS.)

21 Ms. Zdeb: Fair enough.

22 Ms. Sawyer: Can I get some clarification on that
23 quickly? You did indicate that you felt as if if similar
24 information came in from a foreign government
25 indicating that there was -- that involved U.S. persons,

1 that FBI would be excoriated if it didn't actually follow
2 up. Why a different standard for counterintelligence,
3 that you wouldn't have been excoriated if you didn't
4 follow up?

5 Mr. Evans: Again, I would agree that potentially in
6 this case they may have been excoriated. She used the
7 term "obligated." I don't know if they were legally
8 compelled to open it. Had they not opened it, I could
9 certainly understand from their perspective why they
10 might have been chastized for not having done so. So
11 chastized or excoriated. I just didn't want to imply that
12 -- I don't know whether as a legal matter they had to
13 open it or not.

14 Ms. Sawyer: Do you recall at the time -- you were
15 briefed, I think it indicated, in August of 2016. Do you
16 recall what you knew at the time about Russia's efforts
17 to interfere in the election?

18 Mr. Evans: I don't think I knew much. I think I was
19 briefed after the opening of the Crossfire Hurricane
20 investigation. I think I was briefed on the overall
21 picture of what was happening. Whether I in particular
22 had any knowledge or awareness of the WikiLeaks
23 thing, I'm not sure. I certainly don't remember tracking
24 it very closely one way or the other.

25 Ms. Sawyer: Do you recall at the time hearing or

1 being aware of then- candidate Trump at a July 26th
2 event asking, "Russia, if you are listening, please find
3 the missing emails from Hillary Clinton"?

4 Mr. Evans: It's possible. But, sitting here today, I
5 don't specifically recall being aware of that statement at
6 that time.

7 Ms. Sawyer: With regard to the information that
8 was conveyed to the U.S. government by a friendly
9 foreign government at the end of July, do you recall
10 why they indicated that they had just told the United
11 States that at the end of July of 2016?

12 Mr. Evans: I do recall what the FBI's explanation
13 was to that. I had no direct conversations with the field
14 office government. I do recall that once myself and my
15 colleagues were briefed by the FBI in the opening of the
16 investigation, and the FBI indicated that this
17 information had been presented to them at the end of
18 July, but that the underlying meeting that was being
19 alleged took place, I think, some time in the spring,
20 April or March.

21 Somebody in the meeting -- I don't believe it was
22 me; I think it may have been one of my colleagues, but
23 I'm not sure -- asked a question along the lines of: Well,
24 if the underlying conduct took place in April or March,
25 why is it just getting to the government now?

1 And the FBI's answer to that to us was that,
2 because the friendly foreign government was so
3 concerned about whether they wanted to insert
4 themselves into the U.S. political process or not, that
5 the decision inside of that friendly foreign government
6 about whether to pass this information over to the U.S.
7 had to go to the highest level of that government for
8 approval before they passed that information over, and
9 that that's why they waited to pass it over until that
10 time. At least that's my recollection of what they
11 explained to us.

12 Ms. Sawyer: Do you recall any indication that part
13 of the calculus for the friendly foreign government was
14 that on July 20th WikiLeaks did release 20,000 hacked
15 emails and that they then alerted the U.S. of what they
16 had learned some months earlier, some eight days
17 later?

18 Mr. Evans: It's possible that the FBI mentioned that
19 as kind of a tipping point type thing. What I can tell
20 you is, candidly, I remember in my mind focusing more
21 on the fact of the senior level to which the information
22 had to go in the foreign government. So whether they
23 mentioned the WikiLeaks release as the tipping point or
24 not to us, I'm just not sure.

25 Ms. Sawyer: What was the significance in your

1 mind of the fact that it had to go to such a high level
2 within the friendly foreign government? Did that weigh
3 in any way on assessing reliability, credibility?

4 Mr. Evans: I think in my mind at the time it did
5 weigh in terms of assessing credibility and reliability
6 preliminarily. This was in the range of tips that the FBI
7 can get in a whole range of cases. You can go from the
8 anonymous tip to the 1-800-FBI phone line, all the way
9 down the spectrum of tips.

10 The fact that this wasn't just a random official
11 passing this information to the government, [REDACTED]
12 of a -- or at least as it was being represented to us, that
13 [REDACTED] made the decision
14 deliberately to pass this information over, knowing that
15 there could be political consequences, was something
16 that I think did at least in my mind factor in as relevant.

17 Ms. Sawyer: Now, Mr. Papadopoulos, the
18 campaign adviser who was told that Russia had, quote,
19 "thousands of emails that it could release strategically
20 to help the Trump campaign," indicated that he didn't
21 tell others because he wasn't sure whether to believe it.
22 But he never denied that he was told it. In fact, as we
23 saw, Russia did exactly what he was told Russia was
24 going to do.

25 What difference might it have made -- and I know

1 I'm asking you to speculate a little bit. If he indeed was
2 told in April 2016 that this was a possibility, that was
3 before Russia had released any emails, what difference
4 might that have made?

5 Mr. Evans: Sorry. I'm not sure I was following you
6 in terms of the hypothetical.

7 Ms. Sawyer: Well, if he had come to the FBI and
8 told them that this is what he had learned, what
9 implications might that have had?

10 Mr. Evans: If he had come to the FBI directly in the
11 spring of that year? You know, it's tough for me to
12 speculate, but I think it's possible the FBI would have
13 opened the investigation sooner. It also arguably
14 would have removed one other layer from the mix in
15 terms of people who were -- you would have then had
16 Papadopoulos going directly to the FBI with that
17 information versus an intermediary passing it through,
18 and the chance the FBI would have potentially gotten a
19 clearer picture earlier on.

20 Ms. Sawyer: It's possible, is it not, that they would
21 have asked Mr. Papadopoulos to help them, if he had
22 this connection, and find out more early on about what
23 Russia was potentially doing?

24 Mr. Evans: It's certainly possible.

25 Ms. Sawyer: From your position and your

1 experience, if going forward -- you know, there's been
2 confusion with the Attorney General just the other day
3 in front of the House Judiciary Committee hesitating
4 and saying it would depend on what kind of assistance
5 was offered, before he did say it would not be
6 appropriate for our government, anyone who's running
7 for office, to accept foreign assistance.

8 Going forward, if a campaign is advised that a
9 foreign government, be it Russia or anyone else, has
10 information that it is willing to release to help a
11 candidate, what should the campaign do with that
12 information?

13 Mr. Evans: I'm reluctant to weigh in there. I'm not
14 an election law or campaign lawyer. I'm not sure I
15 could proffer the answer to that. I can tell you, as a
16 citizen I would hope the campaign would not take a
17 foreign government up on that offer. But in terms of
18 what the legal obligations are, what a best practice for a
19 campaign would be, I think that's outside my purview.

20 Ms. Sawyer: To the extent you do have a handle
21 on the law and based on your experience, is there a
22 category in terms of what Congress should be looking
23 at where there is a gap in the law, where it is somehow
24 acceptable to accept foreign assistance to win a
25 campaign, influence a campaign, help a campaign?

1 Are there gaps that we need to fill, or is it just
2 outright against the law?

3 Mr. Evans: I don't feel I'm in a position with my
4 expertise to opine on that one way or the other. I just
5 don't know the answer to that.

6 Ms. Sawyer: From a pure counterintelligence
7 perspective, if a candidate does accept foreign
8 assistance does that present any kind of
9 counterintelligence risk for this nation?

10 Mr. Evans: I think, depending on the
11 circumstances, it potentially could, yes.

12 Ms. Sawyer: In what ways?

13 Mr. Evans: You know, I think whether it's an
14 election or not an election, I think one of the core
15 concerns in the counterintelligence environment is
16 American citizens being compromised one way or the
17 other, where a foreign government has potential
18 leverage on them.

19 To, again, take it outside of the election context, I
20 think the traditional counterintelligence environment
21 and counterintelligence concern is about, at a very
22 basic level, would be about U.S. government employees
23 with access to sensitive information, classified
24 information, key foreign policy decisionmakers, who
25 have somehow put themselves in a position or are in a

1 position where the foreign government has
2 compromising leverage or information on them that
3 could be used to blackmail them.

4 So I think whether it's an election or not an
5 election, that is a fact pattern that always raising a
6 counterintelligence concern.

7 Ms. Sawyer: So certainly it would be a concern for
8 an ordinary citizen. Would it also be a concern if it
9 were a national security adviser who had somehow
10 been compromised by a foreign government?

11 Mr. Evans: I think it would be -- I'm not going to
12 comment on specific people or specific positions. I
13 think it would be a concern for anyone who is in a
14 position where they have access to classified or
15 sensitive information in government.

16 Ms. Sawyer: Mary McCord was interviewed and her
17 302 has been publicly released, and she was
18 interviewed and specifically asked about the incoming
19 National Security Adviser, Michael Flynn. So I was
20 curious whether or not you were involved in any of the
21 conversations about Glenn Flynn.

22 Mr. Findlay: I think we're going to have to object.
23 The Flynn case is still pending and so we'd ask you not
24 to get into that.

25 Ms. Sawyer: So, just to clarify, any question about

1 Michael Flynn cannot be asked today? Well, it can be
2 asked, but you are asking -- are you directing the
3 witness not to answer the question?

4 Mr. Findlay: We'd have to hear the question. I'm
5 just telling you that anything related to the pending
6 Flynn case he can't get into. So it's conceivable you
7 could have a question that he could answer, but it
8 seems unlikely.

9 Ms. Sawyer: And when -- who made the decision --
10 well, first of all I guess I would ask, is the witness going
11 to follow that direction?

12 Mr. Findlay: Excuse me?

13 Ms. Sawyer: Is the witness going to follow the
14 direction not to answer the question? The question
15 pending right now is whether or not he was involved
16 while employed in the National Security Division in
17 conversations about Lieutenant General Flynn?

18 Mr. Walker: I think representatives of the
19 Department of Justice are here to make sure that the
20 questions put to Mr. Evans and his answers do not
21 impinge on, first of all, matters outside the scope of
22 this inquiry, or on pending investigations. So I think it's
23 more of a question for the representatives of the
24 Department of Justice. If they are making that
25 determination, I think it's not inappropriate for the

1 witness to abide by the determination of the
2 Department in that respect.

3 Ms. Sawyer: So just one issue of clarification.
4 Crossfire Hurricane was opened on four individuals,
5 one of whom was Michael Flynn. I would ask my
6 colleagues to confirm that questions regarding Michael
7 Flynn are within the scope of the Chairman's Crossfire
8 Hurricane investigation.

9 Mr. Walker: Excuse me. That was part of what I
10 was talking about.

11 Ms. Sawyer: I know, that's the first part. I just
12 want to answer that one first.

13 Mr. Somers: Yes, Michael Flynn is part of Crossfire
14 Hurricane. He had a Crossfire Hurricane investigation
15 codename, and we do believe it's within the scope of
16 the investigation.

17 Ms. Sawyer: Then your second point is the concern
18 that the Department has asked the witness not to
19 answer because it's the Department's position, as I
20 understand it, that the Flynn matter is an ongoing
21 matter. Did I articulate that correctly?

22 Mr. Walker: I believe that the matter is an ongoing
23 matter. So to the extent that answering or not
24 answering the question is consistent or inconsistent
25 with the Department of Justice policy and practice,

1 again I would have to defer to Mr. Findlay, and that's
2 the reason they are here. I don't think it's a matter of
3 Mr. Evans' private counsel advising him one way or the
4 other.

5 Mr. Somers: Could he answer the basic question
6 of whether he had knowledge or involvement in the
7 investigation of Michael Flynn? Because obviously if he
8 had no knowledge this is an academic discussion.

9 Mr. Findlay: I think that sort of highest-level
10 question would be fine, just to ascertain it. But I guess,
11 going back to the purpose and where this questioning -
12 - I was merely trying to highlight that it seemed like you
13 were going down a road to talk about the Flynn
14 investigation, not about something else related to Mr.
15 Flynn.

16 So I think that high-level question is fine, but I
17 think anything further is probably not going to be okay.

18 Ms. Sawyer: So I guess the question would be --
19 and I can even make it more specific: Mary McCord,
20 you worked with Mary McCord; is that correct?

21 Mr. Evans: That is correct, yes.

22 Ms. Sawyer: What was your relationship to Mary
23 McCord, working relationship?

24 Mr. Evans: Yes, working relationship, thank you.

25 Ms. McCord was -- for much of my tenure as the Deputy

1 Assistant Attorney General, she was the Principal
2 Deputy Assistant Attorney General. And then for at
3 least part of the Crossfire Hurricane investigation
4 timeline, she was the Acting Assistant Attorney General
5 of the National Security Division.

6 Ms. Sawyer: So Ms. McCord was interviewed. Her
7 302 has been released publicly. It's in the public
8 domain. In that 302 she indicated that she had been
9 alerted by the FBI about calls that then-Lieutenant
10 General Flynn had with the Russian Ambassador, Sergei
11 Kislyak, that occurred in December of 2016.

12 Were you in conversations with Ms. McCord or
13 others about Lieutenant General Flynn's conversations
14 with Ambassador Kislyak?

15 Mr. Evans: Keeping in mind the guidance from
16 Department counsel and his prior admonishment on
17 what I can and can't get into, I would say in the January
18 2017 and February 2017 time frame I was aware of and
19 involved to a limited extent in some of those
20 conversations. I would not say it was something I was
21 primarily or heavily involved in, though.

22 Ms. Sawyer: Do you recall when you first read the
23 transcripts of Lieutenant General Flynn's conversations
24 with Ambassador Kislyak?

25 Mr. Findlay: You can answer whether you recall or

1 not.

2 Mr. Evans: Do I recall when I first read them? Not
3 the specific date, I don't recall, no.

4 Ms. Sawyer: Was it in that time frame of January to
5 February 2017?

6 Mr. Evans: Somewhere in that general time frame,
7 yes.

8 Ms. Sawyer: Do you recall whether or not
9 Lieutenant General Flynn's identity was visible in the
10 transcripts that you read?

11 Mr. Evans: I think to answer that question would
12 probably require a more detailed answer on my part
13 about this matter and could potentially both elevate it
14 to the classified level and also get into the areas where
15 Department counsel has instructed me not to answer.
16 So I'm not sure I can answer that question.

17 Ms. Sawyer: In that transcript -- and we can get
18 you a copy if you need -- Lieutenant General Flynn --

19 Mr. Findlay: I think we're going to have to flip over
20 to the classified. I'm not sure he's going to be able to
21 answer any questions anyway, but I think we'll have to
22 flip over to the classified side now.

23 Ms. Sawyer: Can you explain that, since the
24 transcripts have been declassified, they were produced
25 to this committee, and they are on this committee's

1 website?

2 Mr. Findlay: But I assume you're not just going to
3 ask him to read the transcript. You want background
4 information about the transcript? You don't want him
5 to validate the transcripts or anything like that? If you
6 want to read it to him, I guess you can. But if you want
7 anything beyond that, we'd have to --

8 Ms. Sawyer: I do want to ask his opinion about
9 what he read in that transcript and the significance of
10 what he read in that transcript. I don't think any of that
11 is classified.

12 Mr. Findlay: And that might not be, but that could
13 relate to the pending case. So I don't think he's going
14 to be able to get into it for that reason.

15 Ms. Sawyer: On this directive that the Flynn matter
16 is an ongoing matter, pending case, when was that
17 decision made and by whom?

18 Mr. Findlay: When was the decision that the Flynn
19 matter -- I mean, it just is a pending --

20 Ms. Sawyer: When was the decision made that
21 individuals cannot talk about the Flynn case because it's
22 the Department's position that it is an ongoing matter?
23 Because Ms. Yates was questioned by other
24 committees, both HPSCI and SSCI, about the Flynn
25 matter. Those transcripts are now publicly available.

1 She talked about the Flynn case.

2 Michael Steinbach talked with this committee just
3 weeks ago about the Flynn case.

4 So when was the decision made to direct witnesses
5 that they cannot answer questions about the Flynn
6 case? Mr. Findlay: I'm not a witness here today. I
7 can tell you that that decision has been made.

8 Ms. Sawyer: I would ask you to answer, because
9 you are asking a witness before us, when the decision
10 was made and by whom?

11 Mr. Findlay: Again, I'm not going to get into it. He
12 can't talk about any cases --

13 Ms. Sawyer: Why is it that you cannot give me that
14 information? Because my members will ask that
15 question.

16 Mr. Findlay: And that's a fair question. I'm not
17 going to answer it.

18 Ms. Sawyer: Will you take it back and seek an
19 answer on behalf of the committee?

20 Mr. Findlay: Certainly. I will turn to my colleagues
21 from the Office of Legislative Affairs to do that.

22 Ms. Sawyer: Mr. Evans, were you interviewed as
23 part of the Durham investigation?

24 Mr. Findlay: That's another area I think we're not
25 going to be able to get into, again obviously pending;

1 and so he's not going to be able to get into that, either.

2 Ms. Sawyer: So the Durham investigation is a
3 pending matter, is that correct? I'm still talking to --

4 Mr. Findlay: To me. He's not going to get into.
5 I'm not going to update you on the status. I'm not sure
6 I know the latest status of the Durham investigation.
7 But he's not going to --

8 Ms. Sawyer: Is it your position here today that
9 nothing he's been asked so far is being investigated by
10 U.S. Attorney John Durham?

11 Mr. Findlay: Again, I'm not going to get into what
12 Mr. Durham is investigating.

13 Ms. Sawyer: So can you represent today that
14 nothing he's been asked relates to matters being
15 investigated by John Durham? Because I am trying to
16 understand how it is that this witness is being directed
17 not to answer a single question about the Flynn matter,
18 when he has sat here for two hours and answered
19 questions that I believe we have been told publicly, that
20 the Attorney General has confirmed publicly, are
21 currently under investigation by John Durham.

22 Mr. Findlay: Again, I'm not in a position to speak
23 to the status of the Durham investigation or give any
24 update on it.

25 Ms. Sawyer: You would agree that the committee

1 has been told in a letter, and represented to us by the
2 Majority, that we have been told that it is not a problem
3 for us to ask questions about matters that are being
4 looked into by John Durham, so long as we do it after
5 Durham has spoken with witnesses?

6 So I would also like you to explain to me why we're
7 allowed to ask witnesses questions about a matter that
8 is still being investigated and we are being told that we
9 cannot ask a witness a question about a case where the
10 defendant pled guilty twice, I think over a year ago.

11 Mr. Findlay: Again -- and let's separate those
12 things. The Flynn matter is ongoing. There is no
13 debate about that.

14 The Durham matter I believe is ongoing. What is
15 or is not in the scope of the Durham investigation I'm
16 not going to get into.

17 Ms. Sawyer: All I need you to do is represent that
18 nothing -- that he is not being allowed to answer
19 questions about the Durham investigation since it's
20 ongoing. Otherwise, I don't understand the double
21 standard.

22 Mr. Findlay: There's no double standard. You
23 asked him specifically -- if U.S. Attorney Durham asked
24 him about his background at DOJ, how long were you
25 there, and told since 2005 --

1 Ms. Sawyer: No. What I would imagine John
2 Durham might ask him is about the Carter Page FISA
3 application which he --

4 Mr. Findlay: And you might imagine that we're not
5 going to confirm or deny what Mr. Durham is looking
6 into. The Attorney General has made statements about
7 it and those will stand on their own. But you're asking
8 him specifically what his interactions have been on that
9 investigation. He's not going to get into that.

10 Ms. Sawyer: I think our time is up, but I would put
11 on the record that I have made a request, specific
12 request, and I want to ask essentially the following:
13 When the decision was made to direct witnesses not to
14 answer questions about Michael Flynn; who made that
15 decision and who was involved in that decision; why a
16 very different decision has been made with regard to
17 the apparent investigation by John Durham, which you
18 have acknowledge is ongoing --

19 Mr. Findlay: Just to be clear, it's not a different
20 decision. The Flynn is a pending criminal matter. We're
21 not going -- I'm not going to get into what Durham is
22 looking at. Certain aspects of the Flynn matter are
23 obviously very, very public.

24 Ms. Sawyer: Right, which makes it all the more
25 troubling. I have to just tell you this, because you are

1 telling me you don't yet know exactly what's going to
2 come out of the Durham investigation, which is what I
3 would hope because it is ongoing, so I would hope that
4 you don't know.

5 Mr. Findlay: I'm not telling you anything about --

6 Ms. Sawyer: So criminal indictments could come
7 out of that. We don't know. We don't know the scope.
8 We have never once been told to be careful about the
9 scope because John Durham is investigating. So I just
10 would like to understand why, when we have been sent
11 a letter saying that, there is an ongoing investigation;
12 we don't mind you asking witnesses questions, even
13 ones, apparently, that could overlap, so long as you do
14 it after John Durham gets to speak to them. So that's
15 just my third question.

16 I don't want to --

17 Mr. Findlay: There may be a misunderstanding.
18 Again, if you happen to ask questions that Mr. Durham
19 has asked Mr. Evans, I'm not objecting to that. I'm
20 objecting to you asking Mr. Evans "Did Mr. Durham ask
21 you those questions."

22 Ms. Sawyer: Right, I understand that. I just -- what
23 I'm trying to flesh out, I don't want to ask him what Mr.
24 --

25 Mr. Findlay: But you did just ask him about Mr.

1 Durham.

2 Ms. Sawyer: No. All I asked was had he been
3 interviewed by John Durham. I didn't ask a single
4 question about what John Durham asked him.

5 Mr. Findlay: And that's fair, but what was your
6 next question?

7 Ms. Sawyer: That's my only question. I don't want
8 to know what John Durham asked him. I want to know
9 if John Durham is talking to him -- talked to him.

10 Mr. Findlay: Right, because you want to know the
11 status of the Durham investigation, and that's what we
12 can't get into.

13 Ms. Sawyer: We've already been told it's ongoing.
14 You've told me that today. I don't want to know the
15 status. I would like to know --

16 Mr. Findlay: Wait a minute. You want to know the
17 particulars about the Durham investigation.

18 Ms. Sawyer: No. All I want to know is is this same
19 witness, who's being directed not to talk to us about
20 one case because it's a claimed ongoing matter, was
21 actually interviewed in an ongoing matter, but is still
22 being allowed to answer questions that the Attorney
23 General has confirmed publicly is within John Durham's
24 scope? He has publicly confirmed that John Durham is
25 taking a lookback at the Carter Page FISA application.

1 So that was my only question. Are you also
2 directing him -- and I'm not trying to belabor this,
3 honestly. Are you saying he cannot answer today
4 whether or not John Durham interviewed him? That's
5 my only question.

6 Mr. Findlay: Yes. Whether it's one question or 38
7 questions, you shouldn't get into his interactions with
8 Mr. Durham, period.

9 Ms. Sawyer: But I can get into questions that John
10 Durham may also be looking into as part of an ongoing
11 investigation?

12 Mr. Findlay: That could be fine. We're not going to
13 confirm or deny whether those are questions that Mr.
14 Durham is looking at. That's why I guess I wanted to be
15 clear. If you happen to ask him a question that Mr.
16 Durham has asked him, that question might be
17 perfectly fine out of your mouth. He won't confirm
18 whether that was a question Mr. Durham has asked him
19 or whether Mr. Durham has asked him any questions.

20 Ms. Sawyer: So why is it not the same standard
21 applied to the Flynn, to Michael Flynn? He doesn't have
22 to tell me whether or not he ever -- I just am really not
23 understanding the distinction you're trying to draw.

24 Mr. Findlay: It seems clear to me. The Flynn
25 matter, again you're asking particular questions that are

1 known to be relevant in the Flynn matter, which again is
2 very much pending. We'd ask him not to get into that.
3 We're I think focusing on the Page FISAs, which is why
4 he's here.

5 Ms. Sawyer: No. We're here because the Chairman
6 has opened an investigation into the Crossfire
7 Hurricane investigation, which includes Michael Flynn
8 without a question. My colleague confirmed that it
9 includes Michael Flynn. So a major part of the
10 investigation you are directing this witness not to
11 answer to.

12 So I've made my request. I would just simply ask
13 that I get the answer to it; and we'll just take a break.

14 Mr. Walker: Before we do, I just want to point out
15 for the record that Mr. Evans is here to answer your
16 questions, and he has not made a determination as to
17 the scope of what he is going to talk about. He is in a
18 position where he is here and does have to listen to the
19 guidance of the Department of Justice attorneys. And
20 I'm not taking a position one way or another vis a vis
21 that guidance, but just want the record to reflect that
22 Mr. Evans is here to answer questions and to be
23 cooperative, but he is in a position where he does have
24 to abide by the guidance of the Department of Justice.

25 Ms. Sawyer: Yes, understood. And I take no issue

1 with your client. Your client's certainly following the
2 guidance.

3 I think the unfortunate truth is, because of the
4 guidance that he's been given and the directives, that
5 we may need to ask him to return to answer questions
6 related to Mr. Flynn. I hope that, as he's been willing to
7 be cooperative and volunteer his time, he would do the
8 same if that becomes necessary.

9 Mr. Walker: Well, that would be unfortunate, just
10 because in these times it is a difficult procedure to do
11 that. But we'll just have to see what happens.

12 Ms. Sawyer: I don't disagree with you on that,
13 either. I would prefer if he were being allowed to
14 answer these questions just like he's being allowed to
15 answer questions that unquestionably are going to
16 prove to have been in the scope of the Durham
17 investigation. But not my decision and I don't want
18 anything in the record to reflect that we take issue with
19 your client or his ability or willingness at least to try to
20 answer our questions.

21 Mr. Walker: Thank you.

22 Mr. Evans: If I could just provide one point of
23 clarification, going back to the answer I was authorized
24 to give earlier. I would note, as I did earlier, that, while
25 I may have been involved peripherally in some

1 conversations or discussions during the time period
2 that you asked about, I would not say that I had a major
3 or significant or primary role in any of those
4 conversations that I may have listened in on.

5 Ms. Sawyer: Thank you.

6 (Recess from 12:59 p.m. to 1:18 p.m.)

7 Mr. Somers: We'll go back on the record.

8 Before we start our time, I think in the last round a
9 letter regarding the Durham investigation and how it
10 relates to witnesses that we may also want to interview
11 was mentioned. I don't think there's actually a letter
12 per se. I think there's just a general understanding
13 between the Department and the committee that U.S.
14 Attorney Durham would, at the very least, prefer that
15 we not interview any potential witnesses that he may
16 want to interview until he is done with whatever process
17 he has for those individuals.

18 But I don't think -- we have not received a letter
19 from the Department to that extent, just an oral
20 understanding.

21 Ms. Sawyer: Yes, understood. I think I had
22 thought it was a letter. It certainly had been
23 represented to us that there was an understanding. So
24 it may not have been a letter. Maybe there were some
25 oral discussions that involved the Majority for the

1 committee and the Department. The Minority wasn't on
2 those calls, but it was represented to us that, as my
3 colleague had indicated, that the preference was that
4 we not speak with witnesses until John Durham had had
5 an opportunity to interview them.

6 Mr. Walker: I appreciate that. I think that's fair.
7 Whether Durham is done with or however you would
8 characterize with Stu, I think that we wouldn't get into.
9 But I think it is safe to assume that we don't object to
10 him, based on that, appearing here. He's here,
11 obviously. So Durham did not raise an objection to Stu
12 appearing today.

13 Beyond that --

14 Ms. Sawyer: Right. But I'm not understanding you
15 to mean that you're affirming for us that he wasn't
16 interviewed. That's just there's not an objection.

17 Mr. Findlay: All I'm affirming is that there's no
18 objection to him appearing here today based on the
19 Durham investigation. What Mr. Durham has done or
20 not I'm just not at liberty to get into. I don't know a lot
21 of it and I also wouldn't be able to get into even what I
22 do know.

23 Mr. Somers: It is now 1:20 and we will start our
24 second round, the second round for the Majority.

25 Mr. Evans, when we last finished off we were

1 talking about the 17 significant errors and omissions
2 identified in the IG report. I think you maybe take some
3 issue whether there were 17, but you understand
4 there's a significant number of significant errors and
5 omissions that the IG identified.

6 Were you aware of any errors or omissions that
7 you would consider significant that weren't identified by
8 the IG, in the IG report?

9 Mr. Evans: Off the top of my head, to my best
10 recollection, I'm not aware of other errors that were not
11 addressed in the IG report one way or the other.

12 Mr. Somers: In light of the significant errors that
13 were identified in the IG report, if the decision were up
14 to you would you still have submitted the -- well, let's
15 just start with the initial Carter Page FISA application?

16 Mr. Evans: I think let me be precise in how I
17 understand your question and how I answer it. If what
18 you're asking me is if I knew that information would I
19 have supported the initial application as it is currently
20 drafted to go forward, my answer would be no because
21 I think at a minimum some of that information would
22 have needed to go in the application and be addressed.

23 If what you're asking is, once that information were
24 added into the application would there still have been
25 probable cause or not, I think my answer there is I'm

1 just not sure. I think, as I believe I indicated to the IG, I
2 would have needed to discuss that information with the
3 FBI, understand what their assessment was, and then
4 understand how their assessment impacted and didn't
5 impact the overall application.

6 So I think I just can't say in hindsight whether that
7 additional information would have been such that it
8 would have ultimately removed probable cause or not.

9 Mr. Somers: Part one is the errors should have
10 been addressed, at the very least?

11 Mr. Evans: Many of them. I'm not sure if, sitting
12 here today, I could say that every single one of those
13 17. As I alluded to before the break, I don't think they
14 were all created equal, and I don't remember precisely
15 what they all were. But at least many of them, if not all
16 of them, should have been addressed.

17 Whether having addressed them, it would have
18 taken away probable cause, I couldn't say sitting here
19 today.

20 Mr. Somers: The IG determined -- this is a quote
21 from the report; sorry I don't have the page number.
22 The IG determined that "Crossfire Hurricane team's
23 receipt of Steele's election reporting on September 19,
24 2016, played a central and essential role in the FBI's, in
25 the Department's, decision to seek the FISA order."

1 Do you agree with that conclusion of the IG, that
2 the Steele reporting, the Steele dossier, played a central
3 and essential role?

4 Mr. Evans: I would agree that the FISA application
5 as drafted had the Steele reporting as -- I'm not sure
6 what the right adjective, whether it's central or
7 important component of the application. I think I
8 would agree with that.

9 In terms of to what extent -- in terms of the first
10 part of your question, to what extent the reporting
11 itself motivated the FBI to move to get the FISA, I
12 couldn't speak to that. All I could tell you is that
13 timewise on a calendar, they had not submitted a draft
14 FISA application to us prior to having received that
15 application. But what internal discussions they may
16 have had in terms of whether they believed that moved
17 them over the line or not, I wasn't privy to those.

18 But I would agree to the other point, as I noted,
19 that the reporting did play an important part in the
20 write-up of the probable cause.

21 Mr. Baker: I want to be clear on just one thing you
22 said a second ago about the 17 omissions or errors: In
23 the first instance you would lean towards making the
24 court aware of some of them for sure; as far as the
25 second part of it, whether or not it would impact the

1 probable cause, whether it did or didn't impact the
2 probable cause, there was certainly more work to be
3 done internally at the Department and internally at the
4 FBI.

5 Mr. Evans: Correct. I believe many, if not all, of
6 those issues would have needed to be addressed
7 internally within the Department and the FBI, and then
8 ultimately, depending on the outcome of those
9 discussions, probably in the applications themselves.

10 Whether that further deliberative process would
11 have resulted in us concluding that ultimately probable
12 cause didn't exist, without having gone through those
13 discussions I just couldn't say.

14 Mr. Baker: Thank you.

15 Mr. Somers: I just want to make sure I understood
16 your last answer correctly. You can't make a call,
17 sitting here today, whether probable cause would have
18 existed or not without the Steele information? Is that
19 what you just said?

20 Mr. Evans: No. I was saying, with respect to the --
21 oh, well. Two things. I was saying that, in response to
22 Mr. Baker's question, that with respect to the 17 errors I
23 couldn't say if, after discussion and assessment from
24 the FBI, whether those errors would have all been
25 sufficient to remove probable cause or not, because we

1 didn't have the opportunity to have that dialogue at the
2 FBI, of course.

3 With respect to Steele, I think it would be a similar
4 answer. I would agree very much that the Steele
5 reporting was an important element of the FISAs.
6 Having never read what the FISAs would look like
7 without the Steele reporting, I similarly don't think I
8 could say one way or the other whether in my view it
9 would have gotten over the threshold for probable
10 cause or not.

11 Mr. Baker: And that opportunity that you didn't
12 have to discuss with the FBI is because you didn't know
13 about these at the time?

14 Mr. Evans: For the errors, that's correct.

15 Mr. Somers: I think you testified in the last round
16 that you became aware of the Crossfire Hurricane
17 investigation in early August 2016; is that correct?

18 Mr. Evans: That's correct. I believe somewhere
19 between the first and second week of August.

20 Mr. Somers: What was your understanding of what
21 the investigation was when you first -- at least in the
22 early going? Maybe not the first day you heard about it,
23 but what was your early understanding of what
24 Crossfire Hurricane was?

25 Mr. Evans: My early understanding was that I

1 think, similar to what Ms. Zdeb was referencing earlier,
2 that the FBI indicated to us they had received this
3 foreign government reporting and it had opened an
4 investigation into possible interference with the 2016
5 election by the Russians.

6 My rough understanding at the time is that they
7 had opened -- "umbrella" may not be the right word, but
8 I would term it -- kind of an umbrella investigation into
9 that allegation; and then within that they opened sub-
10 investigations into four individuals, who I think are
11 specified in the IG report, although I believe with
12 respect to two of those individuals there was some
13 form of preexisting FBI investigation into them.

14 Mr. Somers: And that's Papadopoulos, Page,
15 Manafort, and Flynn? Are those the four individuals you
16 recall?

17 Mr. Evans: I believe that's correct, yes.

18 Mr. Somers: [REDACTED]

19 [REDACTED]
20 [REDACTED] ?

21 Mr. Findlay: [REDACTED]

22 [REDACTED]
23 Mr. Somers: [REDACTED]
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Mr. Findlay:

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Mr. Somers: What was your role in Crossfire Hurricane? Obviously, the FISA, so let's leave that aside. Did you have any role other than the FISA is Crossfire Hurricane?

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Mr. Evans: I would say I did not particularly have another role other than potential assistance on the FISA. So when the FBI initially alerted the National Security Division after they had opened the investigation, they initially -- I think it was myself and then obviously the Assistant Attorney General was

1 aware of it, and then my counterparts, mentioned
2 earlier, Mr. Toscas and his team from the
3 Counterespionage Section, who are prosecutors.

4 I think collectively, at least in those early months in
5 the fall of 2016, other than the role that the Office of
6 Intelligence played in the FISA, I think our role generally
7 was just staying apprised of where the FBI was going in
8 the investigation through general briefings they were
9 providing in the event they ultimately needed legal
10 assistance, whether it be through criminal process or
11 national security legal process from us, making sure
12 that we were kind of generally aware of what they were
13 doing.

14 But in terms of having some sort of formal role of
15 telling them what they could or couldn't be doing or
16 formally being involved in the decisionmaking, I would
17 say I did not have such a role.

18 Mr. Somers: But you did take part in briefings?

19 Mr. Evans: We did receive briefings from them.

20 Mr. Somers: Well, you're saying "we." I'm asking
21 you.

22 Mr. Evans: Oh, yes, I did receive briefings from
23 them on a periodic basis that fall in terms of where they
24 were.

25 Mr. Somers: How frequent?

1 Mr. Evans: I'd say originally, starting kind of in that
2 August time frame, they were supposed to be on like a
3 biweekly basis, is my recollection. I'm not sure they all
4 happened, and I think there were probably some where
5 I didn't attend.

6 So my guess is that from August through the
7 election there were probably no more than a handful of
8 them, rough estimate maybe five or six, something like
9 that, that we attended during that fall 2016 period.

10 Mr. Somers: What about after the election?

11 Mr. Evans: After the election, I don't recall
12 attending kind of regular investigative updates, if you
13 will, from the FBI. What I recall after the election -- and
14 this is really in the early 2017 and spring 2017 period --
15 is that there was a lot of transition happening in the
16 Department, between Department leadership leaving
17 and political appointees and other folks leaving and
18 new folks coming on board; and in the kind of January,
19 February, March time frame there were a series of
20 briefings that the FBI provided to those people who
21 were new to the Department and in senior leadership
22 roles about the Crossfire Hurricane case.

23 I wouldn't term those as kind of routine
24 investigative updates. I think those were more like
25 background briefings on where they had been in the

1 case. I don't know about all of those, but certainly for
2 some of those I was invited as an attendee just to listen
3 to the FBI's briefings on those.

4 I would describe those generally as not particularly
5 -- it was almost like each one of those briefings was
6 kind of the same thing over and over again. I don't
7 even remember how many there were and who the
8 different attendees were, but I also don't remember a
9 ton of new or different information coming out in
10 those.

11 Mr. Somers: Who conducted these August through
12 the election briefings, who at the FBI?

13 Mr. Evans: August? So the August --

14 Mr. Somers: The earlier briefings.

15 Mr. Evans: Yes. The kind of fall 2016 briefings,
16 those were more -- to my recollection, those were more
17 internal kind of FBI meetings that the FBI
18 Counterintelligence Division leadership would have with
19 their folks. I don't know what frequency they had those
20 meetings.

21 But, as I was saying, I think on a biweekly basis
22 they invited the group of folks from NSD to come over,
23 like once a week or once every two weeks, and sit in on
24 that meeting as they were briefing their team. So those
25 weren't briefings specifically for us. Those were

1 briefings where we were able to sit in and listen.

2 Mr. Somers: So you and others from NSD went
3 over to FBI headquarters for these meetings?

4 Mr. Evans: In that fall of 2016 time period, yes.

5 Mr. Somers: Who was attending these meetings?

6 Mr. Evans: I think again, I attended some, but
7 probably not all. I think Mr. Toscas attended some. I
8 don't know if he attended all. I think Mr. Loffman from
9 the Counterespionage Section attended some that I
10 recall. Again, I don't know about all. Then Mr.
11 Loffman's deputy may have attended some.

12 Mr. Somers: [REDACTED]?

13 Mr. Evans: It's a non-SES individual.

14 Mr. Somers: We're interviewing [REDACTED] next
15 week and he can confirm whether [REDACTED]
16 attended.

17 Mr. Findlay: No, I think we'll just leave it at Mr.
18 Loffman's deputy.

19 Mr. Somers: Is it the same deputy that was
20 mentioned in the IG report, that was in an interview
21 with the primary sub-source?

22 Mr. Evans: I'm not sure who was in the primary
23 sub-source, but, based on other -- based on my general
24 awareness of the Crossfire Hurricane investigation, I
25 think there was really one deputy under Mr. Loffman

1 who was involved in the investigation.

2 Then my deputy -- I'm sorry, not my deputy. The
3 Chief of the Operations Section in OI I think attended
4 some of those briefings.

5 Mr. Somers: What about from the FBI?

6 Mr. Evans: I have no idea. I think Mr. Strzok and
7 Mr. Priestap tended to lead those, but that was their --
8 whoever on their team. I don't even know who all the
9 people were in the room. I think it was -- it appeared to
10 me to be their kind of check-in briefings with their
11 Crossfire Hurricane team that they allowed us to sit in,
12 more so than briefing.

13 Mr. Somers: So Comey and McCabe wouldn't have
14 been in these?

15 Mr. Evans: Not these in the fall of 2016.

16 Mr. Somers: Jim Baker?

17 Mr. Evans: Not that I recall.

18 Mr. Somers: Tricia Anderson?

19 Mr. Evans: Possible, but not that I recall.

20 Mr. Somers: [REDACTED]?

21 Mr. Evans: I believe she was probably in some of
22 them.

23 Mr. Somers: [REDACTED]?

24 Mr. Evans: I'm not sure I even know who that is.

25

1 Mr. Somers: Lisa Page? Lisa Page?

2 Mr. Evans: Possible.

3 Mr. Somers: [REDACTED]?

4 Mr. Evans: Again, I'm not sure I know who -- I
5 mean, I've seen the name, but I'm not sure I would
6 know that person by sight.

7 Mr. Somers: Was there anyone in particular you
8 dealt with outside of these briefings about Crossfire
9 Hurricane, from FBI?

10 Mr. Evans: I don't think so. Again, I had very little
11 direct interactions with the FBI with respect to Crossfire
12 Hurricane, and I would say the ones I had are
13 documented in the IG report.

14 Mr. Somers: So certainly Peter Strzok and [REDACTED]
15 [REDACTED] you talked to about the FISA application, for
16 instance? That's pretty well documented in the IG
17 report.

18 Mr. Evans: Mr. Strzok, yes, on one or two
19 occasions. [REDACTED], I'm actually -- other than her
20 initial outreach to us to tell us that the FBI might want
21 to pursue a FISA at some point in their investigation,
22 I'm not sure she and I had any kind of direct one-on-one
23 conversations about the FISA.

24 Mr. Somers: But you were who she reached out to?
25 For that conversation she reached out to you to say,

1 hey, there might be a FISA coming?

2 Mr. Evans: Right. So there was the initial briefing
3 in August of 2016 where the FBI initially made us aware
4 of Crossfire Hurricane and briefed us on the case. At
5 some point after that, I'd say in the next -- roughly in
6 the next week or two, [REDACTED] reached out to me to
7 say that the Crossfire Hurricane team thought it was
8 possible that they might want to consider pursuing FISA
9 in their investigation and she wanted to alert me to
10 that.

11 My response was: If the FBI does, that's your
12 choice; and I'll need to assign it to my team as I would
13 any other FISA. So I told her that I would alert our team
14 in the office and make them aware of it.

15 But in terms of -- if your question was during the
16 drafting of the FISA or if during the pendency of
17 Crossfire Hurricane, I don't remember having kind of
18 one-on-one personal conversations with things about
19 [REDACTED].

20 Mr. Somers: Do you recall whether a conversation
21 ever occurred about whether to seek a FISA on George
22 Papadopoulos?

23 Mr. Evans: I don't recall being a part of that
24 conversation, a conversation on those lines.

25 Mr. Somers: Just while we're talking about the

1 [REDACTED] conversation, there's a quote in the IG
2 report that I find kind of curious: "The OGC unit chief" -
3 - that's [REDACTED] -- "told Evans to get permission to
4 brief a small group of OI attorneys into Crossfire
5 Hurricane, including the Operations Section chief, the
6 deputy section chief, and counterintelligence unit chief,
7 and one line attorney."

8 I just found it unusual that a unit chief at FBI was
9 telling you who you could bring in to read into an
10 investigation.

11 Mr. Evans: My recollection of that, I don't think the
12 IG -- I don't remember the exact wording of the IG
13 report, but I don't think they explained the history of
14 that. So that was, as I indicated, [REDACTED] had
15 reached out to me indicating that they might pursue a
16 FISA on that.

17 And I think my reaction to her was: If the FBI
18 wants to pursue a FISA, we'll work with the FBI as we do
19 on any matter, but that's not going to be me doing a
20 FISA, so I will need to brief people in. And that would
21 typically be a section chief, the deputy section chief, the
22 unit chief, and one line attorney. Do you want me to go
23 ahead and do that? And she said: Yes, that's fine.

24 Mr. Somers: So you weren't getting permission
25 from her; you were just telling her what the facts would

1 be if she wanted to get a FISA?

2 Mr. Evans: That's right. You could say it's
3 permission to the extent of when you're dealing in the
4 national security space with information that's closely
5 held and there's a need-to-know basis, I wouldn't go
6 blabbing to anyone about the Crossfire Hurricane
7 investigation unless the FBI told me it was okay to do
8 so, because it's not my information; it's their classified
9 information.

10 So I was saying: If there's an interest in proceeding
11 with a FISA, these are the people that are going to need
12 to be aware to work on it; do you want me to go ahead
13 and let them know? And she said yes.

14 Mr. Somers: So you don't recall any discussion of
15 FISA coverage for George Papadopoulos. That you
16 testified to. What about FISA coverage for Paul
17 Manafort?

18 Mr. Findlay: We're not going to let him get into
19 who other -- whether other folks were targets of FISA
20 coverage and who those folks were, whether the
21 answer's yes or no.

22 Mr. Baker: Who would have been at the FBI your
23 equivalent rank? If you had a question about either a
24 Crossfire Hurricane FISA or any FISA that got up to your
25 office, who would you have been able to pick the phone

1 up and talk to at the Bureau?

2 Mr. Evans: I think there probably wasn't a formal
3 kind of lateral equivalent. I would say as a general
4 matter it was probably within OGC either the Deputy
5 General Counsel or the General Counsel, depending on
6 the matter and availability; and then within the
7 operational divisions, Counterterrorism,
8 Counterintelligence, I would say, again depending on
9 relationship, it would typically be either at the Deputy
10 Assistant Director or Assistant Director level.

11 Mr. Baker: And that would have been Peter Strzok
12 for the deputy?

13 Mr. Evans: For this, for this matter, yes.

14 Mr. Baker: You had said earlier that some of the
15 meetings you were going to at the Bureau seemed
16 repetitive. Is that typical of meetings you went to on
17 any counterintelligence matter, or was there any reason
18 to think that the repetitiveness was sort of a show to be
19 able to say later that, we've been briefing the
20 Department on it?

21 Was there ever a sense that there was more to tell
22 that wasn't being told?

23 Mr. Evans: At the time, that certainly wasn't -- at
24 the time my sense was certainly not that it was a show
25 in any way. I think in the fall of 2016 when we were

1 having those briefings, my sense was that there wasn't
2 a ton going on. Counterintelligence investigations, as I
3 noted earlier, are long and can take a long time, and
4 there just didn't seem to be a lot of movement kind of
5 week to week or every two weeks.

6 Then in the spring of 2017, those briefings for the
7 new folks again I think were more in the line of
8 background briefings, as opposed to investigative
9 updates. So they were just of a different nature.

10 But to your point, across all of them it just didn't
11 seem like the FBI was talking about a lot of new stuff.

12 Mr. Baker: In hindsight and with the benefit of the
13 IG report and public reporting and what-not, are there
14 things that you think should have been brought up in
15 those meetings?

16 Mr. Evans: I think there were investigative
17 developments taking place that, particularly regarding
18 source interactions and things like that, that I don't
19 recall being brought up in those meetings and I think
20 probably should have.

21 To the point of -- to my point earlier on those fall
22 2016 briefings, again I don't recall exactly what they
23 were. My sense is that they were internal FBI team
24 meetings and that, again, once every week or two they
25 would let us sit in on them. So if they were having that

1 meeting on a more frequent basis with their team, it
2 may have been that some of those things came up in
3 other meetings that we just weren't at and didn't come
4 up at the meetings we were at. I just don't know.

5 I just know that at the small handful of them that I
6 attended there didn't seem to be extensive discussion.

7 Mr. Findlay: I think to get into what any of the
8 examples are that he might have wanted, I guess we're
9 in hypotheticals here, but I think we have to flip over to
10 the classified side to be safe.

11 Mr. Baker: Just as a general principle, let's assume
12 there were things that could have or should have been
13 mentioned at the meetings you were at. Would one of
14 the reasons to maybe not mention that is a fear that
15 you or others might put the brakes on something, slow
16 down a trajectory of something that the Bureau really
17 wanted?

18 Mr. Evans: That's certainly possible. I mean, I
19 would be speculating as to why. I think it is fair to say
20 there is stuff in the IG report that it bothers me we were
21 not made aware of. In terms of why we weren't made
22 aware of it, I don't know.

23 Mr. Baker: Thank you.

24 Mr. Somers: Just on this -- here's a quote I think
25 you have in the IG report, page 70, that relates to this:

1 "However, Evans told us that his reaction to these
2 meetings was that the investigation seemed pretty
3 slow-moving, with not much changing week to week in
4 terms of the updates the FBI was providing NSD."

5 That's your characterization, it seemed pretty slow-
6 moving?

7 Mr. Evans: Yes, I agree with that.

8 Mr. Somers: So I'm trying to understand. The last
9 round, there was a discussion of a sense of urgency
10 was warranted and it seemed like the FBI was operating
11 like they were stopping a terrorist attack after the bomb
12 had gone off, they wanted to not do that. And I'm
13 trying to contrast -- I'm trying to understand that in
14 light of your comment that it seemed like the
15 investigation was pretty slow-moving.

16 Mr. Evans: I don't think they're inconsistent. I
17 think -- as I mentioned earlier, when the investigation
18 got started, I think that was the sense the FBI was
19 giving us as to how they wanted to proceed: Hey, we
20 want to try to move forward, see if we can get clarity on
21 these allegations quickly, especially given that the
22 election's approaching.

23 As things went on, there didn't seem to be a lot of
24 movement week to week. So kind of that initial -- the
25 initial thinking that they had articulated just seemed

1 like as we got into September there wasn't a lot of
2 progress being made in terms of investigative updates,
3 at least that were being conveyed to us. That was my
4 impression.

5 And I think that came across in my comment to the
6 IG, that it seemed odd to me that there wasn't more
7 investigative update being conveyed back to us.

8 Mr. Somers: What about investigative techniques.
9 Dana Bente in the IG report is quoted as saying that --
10 this was obviously later than this time frame, but I think
11 it would apply in this time frame as well. Bente said
12 that he had the impression that the investigation had
13 not been moving with a sense of urgency, an
14 impression that was based at least in part on not a lot
15 of criminal process being used.

16 Would you agree with that sort of sentiment in the
17 early goings? He had it obviously in the later goings
18 when he becomes involved.

19 Mr. Evans: I would definitely agree with the
20 sentiment -- or I think the sentiment he's trying to
21 express, of it didn't seem like things were moving
22 quickly, was the sentiment that was my reaction in the
23 fall of 2016 as well.

24 In terms of the comment on criminal process, I'm
25 not sure I would agree with that. I think that may have

1 been in part Mr. Bente's reaction, having been a career
2 prosecutor. I think my sense, at least in the early
3 stages of a counterintelligence investigation, it's rare
4 for them to use criminal process, especially because the
5 information that primarily generates a counter-
6 intelligence investigation is classified, which
7 complicates the use of criminal process.

8 By 2017, when they had other information, that
9 may have been a better criticism at that point. But the
10 overarching point of things seemed to be moving
11 slowly, I'd agree with that.

12 Mr. Somers: He was speaking of things like
13 regular warrants, pen registers, maybe national security
14 letters, things like that.

15 Mr. Evans: NSLs, national security letters, because
16 they are classified, they may well have been issuing, but
17 they don't typically tell the Department about those.
18 For criminal process, it's uncommon in my experience
19 that they use criminal process early in a
20 counterintelligence investigation.

21 So the lack of criminal process didn't surprise me.
22 But overall there just didn't seem to be a lot of
23 investigative developments they were briefing us on.

24 Mr. Somers: Was there discussion of what the goal
25 was? What were they trying to do? I mean, you had a

1 FISA warrant submitted, or application, on October
2 21st. You've got an election on November 8th, I
3 believe. It's a very compressed time frame. What was
4 the discussion in any of these briefings or anything else
5 you attended as to what was the goal of what they were
6 trying to do?

7 Mr. Evans: Again, I think in the fall of 2016 --
8 "briefings" again isn't quite the right word. It's more
9 like case updates. So there wasn't -- I don't think that I
10 recall -- those were more like team meetings. As I
11 recall, there wasn't kind of a strategy discussion really
12 in those, at least that I remember sitting here today.

13 What I do remember is kind of the early-on
14 briefings from the FBI when they opened the case were
15 similar to what I was trying to remark on earlier. I think
16 their notion was: Hey, we have this allegation; we need
17 to get to the bottom quickly and try to figure out, do
18 we think there's any there there or not, because the
19 election is approaching.

20 So I think that's how, in the early days of Crossfire
21 Hurricane, they were articulating their investigative
22 purpose. I don't recall them coming back and further
23 articulating their investigative purpose, at least to me
24 personally, in subsequent conversations.

25 With respect to your question or the subpart of

1 your question about the FISA, as documented in the IG
2 report, I do think that was one of my concerns about
3 the FISA, that I just didn't see what the point of doing a
4 FISA at that stage of the investigation was, for a variety
5 of reasons.

6 Mr. Somers: Could you articulate some of those
7 reasons? Could you articulate some of those reasons,
8 the variety of reasons, that you didn't see a point in
9 doing a FISA?

10 Mr. Evans: Could I now articulate them?

11 Mr. Somers: Yes.

12 Mr. Evans: I think the things -- I think a couple
13 things, and this gets back to I think in part my answer
14 to one of the questions earlier from the Minority side.
15 Whether the FBI opens an investigation and pursues an
16 investigation and whether that is a logical or prudent
17 things for them to do is in my mind a different kind of
18 question from what investigative tools they use. And
19 that's not just in this investigation. That's in any
20 investigation.

21 My view was this was -- by the time this FISA was
22 being seriously considered and then kind of moved
23 forward to the court, it's mid to late October. The
24 election is already approaching. Mr. Page at that point
25 had already ended his relationship with the campaign.

1 So to me the value that this FISA would add into the
2 investigative -- the overall investigation, was limited.

3 I did think as an investigative choice -- there are
4 lots of counterintelligence, counterterrorism
5 investigations. The FBI doesn't pursue FISAs in all of
6 them. They make investigative decisions based on their
7 investigative desires and needs of where they want to
8 pursue it.

9 To me here, given that I saw this as adding limited
10 value at this point in time, I did not think it was worth
11 doing, especially when weighed against -- and this gets
12 a little bit -- sorry, this is a longer answer than you
13 probably wanted.

14 Mr. Somers: No, that's fine.

15 Mr. Evans: This gets a little bit to the point earlier
16 of the difference between investigators and our office.
17 Investigators I think tend to get myopically focused,
18 and sometimes the FBI as a whole, on what they think is
19 best for the investigation they're proceeding. Our
20 office, while our jobs are to support the FBI's
21 investigation, I think our jobs are also to think more
22 broadly about what makes sense for the FISA program
23 as a whole.

24 I had been involved in a number of matters over
25 the years where I knew that FISA was treated differently

1 by Congress, by the press, by the public. So I think we
2 tended to be much more sensitive to, this may be legal
3 and there may be investigative interests in doing it, but
4 it's going to bring down consequence on the overall
5 FISA program.

6 And so when I talked about in the IG report, I was
7 talking about risk versus reward or cost-benefit, it's
8 that: Is whatever minimal gain you might get for your
9 investigation worth what damage doing something
10 politically sensitive might do to the overall FISA
11 program, which is a valuable program overall? That's
12 where my policy judgment was a different one from the
13 leadership.

14 Mr. Somers: It may have been proven correct.

15 Mr. Evans: I'm wearing a mask, so you can't see
16 my facial reaction.

17 Mr. Somers: What about, was there any discussion
18 in any of these discussions or even at NSD about doing
19 a defensive briefing of the Trump campaign about
20 Carter Page and-or George Papadopoulos?

21 Mr. Evans: I don't recall a specific discussion.
22 There may have been one, but I don't recall a specific
23 discussion about a defensive briefing. But it also
24 doesn't surprise me if there wasn't such a discussion. I
25 had worked with the FBI for many years on a variety of

1 counterintelligence investigations and I would say the
2 general posture the FBI took on defensive briefings is to
3 only do them in circumstances where they were 100
4 percent sure that the people they were giving a
5 defensive briefing on -- or maybe "100 percent";
6 nobody's ever 100 percent sure of anything, but where
7 they were extremely confident that the people they
8 were giving the defensive briefing on might not have
9 been involved in the potential alleged conduct.

10 I think because of the nature of the allegation here
11 in the beginning, which was kind of broad as to who
12 might be involved in the alleged conduct, whether there
13 was or wasn't a specific discussion about it, it doesn't
14 surprise me that the FBI didn't do one, because that was
15 totally -- that would have been consistent with their
16 past practice to only do one if they were sure they
17 could rule people out for involvement.

18 Mr. Somers: Even given the very tangential
19 connection between Carter Page and the Trump
20 campaign and George Papadopoulos and the Trump
21 campaign? These guys are not actually even on the
22 campaign.

23 Mr. Evans: I think there -- and again, I'm not an
24 expert on who was on the campaign or not. What I can
25 tell you is, thinking back to what was presented, what

1 the FBI was presenting to us at the time -- and I can't
2 even state -- I am not in a position to -- I'm not stating
3 this as fact. I'm just stating what was represented.

4 What was represented at the time was that Page,
5 Papadopoulos, and several individuals were officially
6 announced by the campaign in the spring of 2016 as
7 having been part of the campaign's foreign policy
8 advisory committee. And I think there was even either
9 a press release or a photograph or something of them
10 sitting at a meeting with, I believe, then-Senator
11 Sessions as the chair of the foreign policy wing.

12 So at that time in July/August/September, early
13 September 2016, my understanding from the FBI is that
14 they believed that those two individuals did have some
15 sort of formal role as foreign policy advisers to the
16 campaign. I don't have independent knowledge
17 otherwise as to what extent that was accurate or not.

18 Mr. Somers: Can we go classified for a minute, for
19 a few minutes.

20 (Whereupon, at 1:55 p.m., the interview proceeded
21 in TOP SECRET classified session.)
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1 (At 2:00 p.m., the interview proceeded in
2 unclassified session.)

3 Mr. Somers: Just trying to take the defensive
4 briefing, one last question on it. Within the urgency,
5 even if there was concern that someone may be part of
6 the conspiracy, alleged conspiracy, you've got an
7 election on November 8th. You've got a FISA warrant
8 being sought on October 21st. Doesn't that play into
9 the decision as well, that maybe you take the risk
10 because -- I'm just trying to -- what's the goal, what are
11 the tools at your disposal, and if the goal is to, as you
12 alluded to or at least answered a question, stopping a
13 terrorist attack after the bomb has gone off isn't a very
14 good goal, the analogy there being that the November
15 8th election is the bomb going off, you've got limited
16 tools at your disposal prior to November 8th. Does that
17 factor into whether or not to defensively brief instead of
18 or in addition to seeking a FISA?

19 Mr. Evans: Again, I don't know what conversations
20 took place inside the FBI on that, so I couldn't speak to
21 that. I certainly understand the question and the spirit
22 of it now. I do think that, thinking back to that time
23 period in a fast-moving investigation, whether it was
24 that step or other investigative steps, there might have
25 been a variety of things that people would think about

1 with hindsight that maybe they didn't focus on at the
2 time.

3 But again, I don't recall being personally part of
4 discussion or certainly in-depth ones about defensive
5 briefings, so I couldn't say either way.

6 Mr. Somers: This may be if you ever did, but when
7 did you first see any of the reports that comprise what
8 has come to be known -- is now known as "the Steele
9 dossier"? Did you ever? Did you see them, the written
10 reports?

11 Mr. Evans: To the best of my recollection, I may
12 not have seen any contemporaneously when the
13 investigation was ongoing. It's possible I might have
14 been shown one or two by folks on my team. But I'm
15 actually not even sure about that. And it's possible
16 maybe the IG showed them to me, but I'm not sure
17 about that.

18 So I think my best answer is I think in the four
19 years since then I may have seen them, a small number
20 of the reports, at some point, but I don't think it was in
21 connection with the drafting or presentation of the
22 FISAs.

23 Mr. Somers: So you don't think you saw them
24 before, for instance, October 21, 2016?

25 Mr. Evans: To the best of my recollection, I do not

1 believe I saw them before October, mid-October 2016.

2 Mr. Somers: Did you understand them to be
3 written reports, versus information that was conveyed
4 in meetings with FBI agents?

5 Mr. Evans: Yes, I do believe the impression I had
6 been given was that they were written reports.

7 Mr. Somers: Footnote 8 of the FISA, of the initial
8 Carter Page FISA application, says: "Source 1 reported
9 the information contained herein to the FBI over the
10 course of several meetings with the FBI in or about June
11 2016 through August 2016." That doesn't necessarily
12 seem to be an accurate representation and it's not the
13 terms that were -- that would imply that the information
14 was conveyed in meetings versus in written reports.

15 Who'd be responsible for drafting that?

16 Mr. Evans: Drafting? I'm sorry. Were you reading
17 Note 8?

18 Mr. Somers: I was reading from Footnote 8:
19 "Source 1 reported the information contained herein" --
20 "reported the information contained herein to the FBI
21 over the course of several meetings with the FBI from in
22 or about June 2016 through August 2016."

23 Mr. Evans: Got it. Two things --

24 Mr. Findlay: You don't want him to get into the
25 particulars behind the footnote, because I think

1 probably just to be safe we'd want to flip to classified.

2 You're asking --

3 Mr. Somers: Yes, I'm asking -- well, first I'm asking:

4 Is there a difference in your mind between written
5 reports and receiving the information orally, where
6 there's a back-and-forth between the FBI agent and the
7 source?

8 Mr. Evans: So as a general matter, yes, I would say
9 I believe there's a difference between those two forms
10 of information being conveyed. I think at the time my
11 understanding of this -- and I could be wrong, but I
12 think my understanding was that in a series of
13 meetings the source passed written information to the
14 FBI, not that the source orally conveyed information to
15 the FBI and then the FBI took notes about that.

16 I don't know whether that's -- I don't know whether
17 that's accurate or not today. But I think that was my
18 impression contemporaneously, that there was written
19 information that the source was handing over in those
20 meetings.

21 That was the first part of your question. The
22 second part of your question: Who would have been
23 responsible? I would say, like everything else in the
24 FISA, the FBI provided the underlying information and
25 then our attorney or the reviewers were responsible for

1 taking that information and trying to make it into prose
2 and understandable, and then going back and forth
3 with the FBI.

4 So our attorneys were involved in the compilation
5 of that information into the warrant application, but the
6 underlying facts would have been the responsibility of
7 the FBI.

8 Mr. Somers: Let me ask -- I'm going to ask you a
9 general question based on the specific fact pattern. So
10 I didn't happen to write out everything I wanted here, so
11 I don't have it at my disposal quickly. But what I just
12 read to you from Footnote 8 is not what the FBI told the
13 OI attorney. The FBI -- with the reference to those dates
14 of June 2016 to August 2016, what the FBI told the OI
15 attorney was just: When we received the report. It
16 didn't say anything about meetings. The OI attorney
17 then changes the wording around a little bit.

18 My question is not really specifically about that.
19 My question is, the OI attorney changes something,
20 whether it's this or something else. Who's
21 responsibility is it to go back and review the FISA? Is it
22 on the FBI to go back and review this thing and be like,
23 hey, the OI attorney screwed this up? Or is it on the OI
24 attorney? Where does that responsibility lie?

25 Mr. Evans: Ultimately it's on the -- I would say it's

1 on the FBI. The drafting process, as I said, is an
2 iterative one and facts gets defended and clarified in a
3 variety of ways. So when we talked earlier in the first
4 session about the FISA request form, that's the first
5 transmittal of information from the FBI to OI in
6 connection with a FISA draft.

7 There can then be email correspondence back and
8 forth, and then frequently there's phone conversations
9 back and forth. An example of a phone conversation
10 may be the OI attorney saying: Hey, I read your email, I
11 read your whatever; I still don't understand; you say X;
12 what do you really mean by X? And the agent will
13 clarify that, and the OI attorney may make changes to
14 the draft based on that.

15 At the end of the day, that whole draft goes back
16 to the FBI for the Woods procedure, where they are
17 supposed to document that everything in that is
18 supported by something in the Woods file. So the draft
19 -- just like in a criminal warrant, the draft gets put
20 together through that iterative back-and-forth, and at
21 the end of the day it's only the FBI that has the facts in
22 their files to verify all that.

23 Mr. Somers: And they get another look at the
24 application before it goes to the court?

25 Mr. Evans: They do, absolutely. In fact, the Woods

1 - I think you have an application in front of you, but the
2 Woods form has to get signed before the application
3 goes to the FBI Director for signature, goes to the
4 Attorney General, Deputy Attorney General, for
5 signature. The Woods form gets signed before all of
6 that.

7 I believe in this case -- and I'm not 100 percent
8 sure on the timing, but I believe in this case the Woods
9 file or the Woods form by the agent was signed before
10 the first application even went to the FISC, or the read
11 copy, precisely for that reason, that we wanted to make
12 sure the FBI was comfortable with it before we
13 proceeded with a read copy.

14 Mr. Somers: What was your understanding in this
15 time frame before the -- well, both before the first FISA
16 was submitted and then ongoing; what was your
17 understanding of what the FBI was doing to verify or
18 corroborate the Steele reporting?

19 Mr. Evans: At that time, in October of 2016, I'm
20 not sure I had a lot of further understanding one way or
21 the other as to what they were doing.

22 Mr. Somers: What about beyond that?

23 Mr. Evans: Beyond that, again I would say not
24 much. My recollection is that it was roughly the
25 November time period when they closed him as a

1 source. So I don't remember personally being involved
2 in many discussions one way or the other about him as
3 a source after they closed him as a source in terms of
4 what they were doing or weren't doing to verify his
5 historical reporting.

6 Mr. Somers: Did you have any understanding of
7 the level of corroboration? Was it like, hey, this is not
8 corroborated, this is minimally corroborated, this is
9 fully corroborated?

10 Mr. Evans: I think, going forward from the fall of
11 2016 forward, I would say my general understanding of
12 what was or wasn't corroborated from his reporting was
13 limited to the four corners of what was being put in the
14 FISA renewal applications. I don't think I was receiving -
15 - in my limited role, I don't think I was receiving
16 updates or significant developments from the FBI in
17 terms of other steps they were taking outside what was
18 being presented to me in the FISA renewal applications.

19 Mr. Baker: In the fall of 2016 you asked a question
20 of the Bureau about Steele. It was a two-part question:
21 One, was he affiliated with a campaign; and two, if he
22 had contributed to a campaign. You were not, if I
23 recall, getting an answer to both parts of that question.

24 Could you elaborate on that briefly?

25 Mr. Evans: Sure. Going back to Mr. Somers'

1 question earlier about the centrality of the Steele
2 reporting, and I think I indicated my impression was
3 that -- again, pick your adjective -- whether it was
4 important or central, it was a key piece of the initial
5 FISA draft that I read.

6 In my experience, it's not unusual to have a FISA
7 that relies heavily on source reporting, and there have
8 been -- I'll say this hypothetically. It wouldn't be -- it
9 could hypothetically be possible that you would have a
10 single-source FISA. But the more a FISA relies on a
11 particular source, the more important it is to
12 understand the source's motivations.

13 The initial draft that was presented to me on the
14 FISA had a relatively standard description of the
15 source's reliability. So, based on my read of the FISA
16 and thinking that the source was pretty important to
17 the probable cause, I wanted to ask more questions.

18 My question about the political bias was just me
19 thinking in my head: Sources have all sorts of bias. It's
20 common in criminal and national security cases. For
21 instance, in the terrorism realm, when you're dealing
22 with people in overseas countries who are reporting, it's
23 not uncommon to see familial biases, poison pens
24 trying to -- one family in a feud with another to try to
25 get people in trouble, that kind of thing.

1 So I was thinking to myself: What is the possible
2 bias that could be relevant here for this FISA that
3 implicates political reporting. That's just what drove
4 me in my head to try to probe a little deeper and ask
5 that question. That's not a question I would have asked
6 in a FISA that didn't involve a political campaign, for
7 instance.

8 In terms of my answer, in terms of the answer I
9 was given, I think the answer first -- and I should also
10 add, none of that was me asking the FBI directly. That
11 was me communicating the questions back to my team
12 and then having them ask it to the agents they were
13 dealing with, which is again standard practice. It
14 wouldn't be common for me to directly do that fact-
15 gathering.

16 The initial answer I got back was that he was a
17 foreign national, he Steele was a foreign national, and
18 thus couldn't contribute to the campaign. And I felt like
19 that was -- my initial reaction was that was -- we have a
20 lot of lawyers in this room, but I felt like that was kind
21 of a lawyerly answer to the question. That wasn't what I
22 was asking. I was trying to ask a broader bias question.

23 That's what prompted me to re-ask that question a
24 couple of times. Then I think it was after re-asking that
25 a couple of times that the FBI clarified to us and

1 provided us the information that they had at the time
2 about the research he was doing.

3 Mr. Somers: We can go back and forth about
4 whether the FBI knew this or not, but let's just say the
5 FBI did. I think there's evidence the FBI did know that
6 Steele was ultimately hired by the DNC and that they
7 knew it before the October 21st filing of the Carter
8 Page FISA application. Was that something that would
9 be important to include in terms of who Steele was?

10 Mr. Evans: Yes, but if I could just put a little clarity
11 on that answer. We did ask that question specifically at
12 some point during that back-and-forth: Do you know
13 who has hired him? And we were specifically told: No,
14 we do not know who has hired him.

15 So the footnote in the applications makes the
16 averment that the FBI doesn't know who hired him. If in
17 fact they did at the time, it would have been important
18 to include because the application was otherwise
19 stating an incorrect fact.

20 Whether at the end of the day he was hired by the
21 DNC or hired by some other unspecified party to do
22 opposition research I'm not sure makes a ton of
23 difference to probable cause. The court was clearly
24 aware and it was clearly flagged for the court from the
25 footnote that this was highly likely to be opposition

1 research, and so that duty of disclosure was made.

2 So I'm not sure whether it was the DNC or not
3 affects the probable cause determination. That said,
4 again as I noted, A, the application should have been
5 corrected if it was averring something that wasn't
6 accurate; and B, I would just say my whole approach to
7 this was I wanted to make sure we were including
8 enough information that exceeded our legal threshold
9 of disclosure, and so if in fact it was the DNC I would
10 have wanted that included in some way regardless,
11 even if it wasn't necessary for probable cause.

12 Mr. Somers: I'm just looking at Footnote 8 and I
13 could read it to you. Maybe you recall it. It's pretty
14 vague. This is "FBI speculates that the identified U.S.
15 person was likely looking for information that could be
16 used to discredit Candidate 1's campaign." I guess I'm
17 saying, it's very lawyerly, the way it's written.

18 If you just straight-up know, if you're the FBI -- I
19 don't want to get into whether they did or not. I think
20 we can say they did, someone else could say they
21 didn't. But if you did just know Steele was hired
22 ultimately by the DNC, doesn't that affect just how
23 straightforward you just make the footnote? You say:
24 We got this information from Christopher Steele, who
25 was hired by the DNC; we still think it's credible.

1 Mr. Evans: Yes.

2 Mr. Somers: But I mean, you don't lawyer it as
3 much. Is that a fair statement?

4 Mr. Evans: Yes, I agree with that. I would say the
5 only reason the footnote is the way it is -- again, we
6 specifically asked the FBI, do you know who hired
7 Steele? And their answer was: Steele has -- I think
8 Steele was working for a consulting company. "Steele
9 has never asked them who the ultimate client was."

10 So their answer back to us at that time was very
11 firm: They do not know who was paying for this
12 research. That said, we, myself and then the others on
13 our team, we felt it was very important that the court be
14 made apprised of, notwithstanding that the FBI can't
15 definitively say: Hey, it's highly likely this is opposition
16 research.

17 So whether the footnote seems lawyered or not,
18 that was our insistence that, even if the FBI can't be
19 certain about it, we've got to tell the court that's the
20 best guess here. If the FBI was in fact certain about it,
21 then absolutely it should have been more
22 straightforward.

23 Mr. Somers: Then -- I'm not disagreeing. It's the
24 information they had and they should have conveyed it.

25 What were you -- back up one minute. There's a lot

1 of back and forth. You have the back and forth there in
2 the footnote. Did anyone ever just say to the FBI, can
3 you just go ask the source who hired him? Did that
4 request ever come from Justice to FBI?

5 Mr. Evans: I'm not sure, honestly. My recollection
6 is that they had just met with him at some point within
7 the two weeks prior to the application getting to this
8 drafting stage. And I don't recall if we asked them and
9 they said, hey, we just met with him; we're reluctant to
10 go back and bother him again; or if it came up one way
11 or the other.

12 So the precise answer to your question is: I'm not
13 sure. What I do recall is a general sense from them,
14 from the FBI, being conveyed back to them of, by the
15 end of that drafting process around the end of that
16 week -- I think it was around the 13th or 14th, whatever
17 the end of that week was in October -- that what the FBI
18 was basically conveying back to us was: There is no
19 more information that we have and that we're going to
20 be able to give you; this is it; there's nothing else here.

21 I think we were kind of left with, we've tried to ask
22 these questions a million different ways over the last
23 couple days and they're telling us that there's no more
24 to be gotten here.

25 Mr. Somers: Were you aware of sort of Steele's

1 reporting network or the way the information -- there's
2 Steele, there's a primary sub-source, there's lots of sub-
3 sources of the primary sub-source. Was that conveyed
4 to you?

5 Mr. Evans: It was, yes, to the extent that it's
6 described in the FISA application. So I think the FISA
7 application describes at that level the primary sub-
8 source and then a number of lower sub-sources. I think
9 that was the level of my knowledge of it. I don't think I
10 had a deeper knowledge of the network beyond what
11 was in the FISA.

12 Mr. Somers: Did you have any knowledge of who
13 the primary sub-source was? Not -- I mean, the type of
14 person he was, not his actual name.

15 Mr. Evans: I don't believe so. I think -- I don't
16 believe so. It's possible, as 2017 wore on, that
17 something about that may have been mentioned. But I
18 certainly don't have any knowledge that sticks out in
19 my mind now that was conveyed to me about it.

20 Mr. Somers: Did you believe the primary sub-
21 source was Russia-based?

22 Mr. Evans: I know that was what was in the
23 footnote. I'm not sure I had any independent
24 knowledge one way or the other on that.

25 Mr. Somers: Should it have said he was Russia-

1 based if he in fact lived in the United States?

2 Mr. Evans: Again, ideally we strive for everything
3 to be accurate. How much that discrepancy matters
4 materially or not, I can't say. I certainly don't want
5 anything to ever be in a FISA to be inaccurate. If he was
6 U.S.-based and not Russia-based, that should have been
7 stated correctly. What that contributes to whether
8 that's material or not, I can't say sitting here today.

9 Mr. Somers: What about the fact --

10 Mr. Findlay: If we're going to go into any more
11 detail about the sub-source, we'll probably need to flip
12 to the high side just to be safe.

13 Mr. Somers: All right. Let me ask this question
14 and we can see. Should it have been disclosed to the
15 court that the primary sub-source was actually in fact a
16 contract employee of Christopher Steele or Orbis
17 Business Intelligence, versus describing him as a
18 Russia-based sub-source?

19 Mr. Evans: I certainly would have had no objection
20 to describing it that way. I'm not sure that that makes a
21 ton of difference one way or the other. And I will say as
22 a general matter, again outside of the context of this
23 case, the FBI was incredibly sensitive overall on any FISA
24 about how their sources or any sources were described,
25 and their general approach on source descriptions was

1 to stay as far away from anything that could be
2 potentially identifying of an individual.

3 So in cases where we felt the need to disclose
4 more about something that got closer to their identity,
5 it was often very much: Does this really need to go in,
6 because this gets close to identifying information?

7 That one, personally I wouldn't have had an
8 objection. I'm not sure -- I'm not sure, sitting here
9 today, it matters a ton.

10 Mr. Somers: But when you're relying -- this FISA,
11 they're relying on Steele's reliability; that's correct?

12 Mr. Evans: Yes, that's correct.

13 Mr. Somers: And so the quality of Steele's sources,
14 his sub-sources, was important in this FISA, unlike if an
15 FBI agent witnessed something and that was going in
16 the FISA, correct?

17 Mr. Evans: I agree, yes.

18 Mr. Somers: So in trying to not identify a sub-
19 source here, it could be -- well, not taking this particular
20 FISA, but in trying to -- in some instances, I think it
21 would be fair to say, and I'm asking if you would agree
22 with that, in some instances in trying not to identify a
23 source or sub-source you could get into a realm of not
24 revealing to the court the quality of the information that
25 the court is receiving; is that correct?

1 Mr. Evans: I think as a general matter that's right,
2 and I think that's here why I pushed to make sure that
3 footnote had more information about Steele himself. I
4 guess my point to your question was, I just -- without
5 giving it more thought and thinking about it, I'm not
6 sure whether the contractor status -- I don't know
7 whether the sub-source, whether the primary sub-
8 source was or wasn't a contract employee of Steele.

9 But whether that particular piece of information
10 should have gone in or not, I'm just not sure.

11 Mr. Somers: Just because you brought that up --
12 and we're out of time here -- just to ask you: Did you
13 ever become aware that the FBI had located and
14 interviewed, not while you were at the Department of
15 Justice, the primary sub-source?

16 Mr. Evans: Yes. I would say --

17 Mr. Somers: Let me rephrase the time line there.
18 Before the final Carter Page FISA application was filed in
19 2017, renewal was filed in 2017, did you ever become
20 aware that the FBI had located and interviewed Steele's
21 primary, what's called Steele's primary sub-source?

22 Mr. Evans: My best recollection on that is that I
23 think actually the last two FISA applications may have
24 made reference to the FBI having located and
25 interviewed the primary sub-source. So, A, I think I was

1 aware of it from whatever the FBI put in the FISA
2 applications describing that.

3 Then the second thing I would say is I think in
4 possibly one or more of those early 2017 background
5 briefings that I mentioned that the FBI may have made
6 some general reference to: Yeah, we've identified and
7 have been talking to the sub-source.

8 But in terms of having more substantive
9 understanding or knowledge of what the sub-source
10 was saying or not saying or those discussions, I think I
11 was limited to what was in the FISA application and
12 otherwise being aware that they had identified him.

13 Mr. Somers: So the FBI never mentioned to you
14 that the primary sub-source in any way undercut the
15 Steele reporting?

16 Mr. Evans: Not to my recollection, no.

17 Mr. Somers: I think we're out of time for this
18 round.

19 (Recess from 2:26 p.m. to 2:45 p.m.)

20 Mr. Somers: Let's go back on the record. It's 2:45.

21 We were talking a little bit about the primary sub-
22 source before we broke, and I think I was rushing it a
23 little bit, seeing my time dwindling on that hour. We
24 were discussing that there's Steele, Steele had a primary
25 sub-source, and the primary sub-source had his own

1 sub-sources.

2 I think just to back up, we discussed this a little bit
3 earlier, but in terms of the Woods procedures and in
4 terms of what goes into a FISA, as I understand it -- and
5 I'm just going to say it kind of in layman's terms as
6 someone who hasn't really done much in this area of
7 the law, and you can then correct me -- but you kind of
8 have two options as far as the Woods process goes in
9 terms of facts or allegations, however you want to
10 characterize them, in a FISA application.

11 You either have to verify all the facts or allegations
12 in a Woods binder, Woods file, verify the allegations, or,
13 if you're dealing with a confidential human source, you
14 have to verify that the application contains exactly what
15 that confidential human source told the FBI. Did I
16 generally lay that out correctly? And feel free to correct
17 me where I got it wrong.

18 Mr. Evans: Yes. I would say it's not as much a
19 bright line between those two. I think it's more one and
20 the same of, whatever the FISA -- whatever the words in
21 the FISA state, there should be a document in the
22 Woods file that states the same thing. So if the Woods
23 file states that a source said X, then there would be a
24 document in the Woods file that the source said X. If
25 the FISA states that national security letter results

1 reveal that the person lives on 123 Main Street, then
2 there should be a document in the file saying the
3 United States letter results show the person lives at 123
4 Main Street.

5 So I don't think it's a line between source
6 information or other. I think it's whatever is in the FISA,
7 there should be a document in the file that states that
8 same thing.

9 Mr. Somers: The Woods file is something you
10 obviously, I would think, have an obligation to continue
11 to update as you learn? I mean, you wouldn't
12 necessarily have to. If you learn new information, you'd
13 have to update both the Woods file and the FISA
14 application itself; is that correct? If it's -- I'm sorry.

15 If we're talking about renewals, you file your initial
16 renewal -- I'm sorry, your initial application. Some
17 months, 90 days, go by. In that 90 days you learn five
18 new things that are different, say, from what was in the
19 initial application. Do you have an obligation to put
20 those five new things both in the application and the
21 Woods file if they contradict the facts in the initial
22 application?

23 Mr. Walker: Excuse me just a second. When you
24 say "you" who do you mean?

25 Mr. Somers: The Federal Bureau of Investigation.

1 They have the responsibility to maintain the Woods file.

2 Mr. Evans: I would say the FBI's Woods file flows
3 from the FISA renewal or the FISA initiation, and so
4 there's nothing independent about the obligation of the
5 Woods file. It all flows from what's in the FISA. So if
6 you renew your FISA, you certainly have an obligation
7 when you renew your FISA to include information that's
8 material to probable cause, and that includes correcting
9 information if it changes from the prior FISA. And then
10 the Woods file has to reflect that updated version of the
11 FISA.

12 There's nothing independent about updating a
13 Woods file. It's not like if you get -- if on day 45
14 between an initiation and a renewal you get some new
15 information, that doesn't go into the Woods file. That's
16 just in the regular FBI case file. The Woods file only
17 flows from what you put in the FISA.

18 But if you update information in the FISA, which
19 you might be legally obligated to do if it's material,
20 then the Woods file should be updated accordingly.

21 Mr. Baker: If you know, is the Woods file in the
22 modern era an electronic file or is it a physical sub-file
23 that the case agent has?

24 Mr. Evans: That's a great question. I think it may
25 be a little bit of both. I think it is -- I think for most

1 field offices now it is predominantly an electronic file
2 that gets serialized in the FBI's system. I think agents
3 may tend to still keep it as a binder on their shelf for
4 their own purposes. But I'm not 100 percent sure about
5 what their internal practice is on that.

6 Mr. Baker: Would it be fair to say that what's in the
7 Woods file that supports an assertion made in the FISA
8 application, what's in the Woods file might be more
9 fulsome, in that what's going in the FISA application is
10 really building that probable cause -- The person told
11 me this -- the document in the Woods file might say:
12 The person met me at such-and-such a place and told
13 me this.

14 Mr. Evans: Well, I think the answer to your
15 question is yes, but let me state it this way. Let's say
16 that you meet with a source and you record it in an
17 electronic communication or a 302 -- not you. Let's say
18 an FBI agent meets with a source and they record the
19 results of that source meeting in an electronic
20 communication or a 302.

21 That will include everything that happened in that
22 source meeting. It may be that the FBI agent has only
23 gleaned one or two pieces of information relevant to
24 the FISA and so that's all they include. They will
25 probably put the entire 302 from that conversation in

1 the Woods file rather than excerpting out the one or
2 two sentences.

3 But again, that's up to the FBI agent as to how they
4 put the file together. But I think that answers your
5 question.

6 Mr. Baker: Thank you.

7 Mr. Somers: I think you gave an example of, if
8 someone lives at 123 Main Street you've got to have a
9 document in the Woods file that documents that. Let's
10 just say 123 Main Street, let's say it's material; the fact
11 that the person lives at 123 Main Street is material.

12 You file your initial application, the Woods file says
13 he lives at 123 Main Street. The application says he
14 lives at 123 Main Street. You're going for the renewal
15 and now you find out the guy always lived at 100 Main
16 Street. I'm assuming you have an obligation then to
17 change the FISA, the renewal application, and then
18 document that in the Woods file?

19 Mr. Evans: If it was a material fact, which it
20 potentially could be, then yes.

21 Mr. Somers: Assume it's a material fact. So for the
22 initial Page FISA application, presumably -- I've never
23 seen the Woods file -- presumably --

24 Mr. Evans: Nor have I, for the record.

25 Mr. Somers: -- presumably the Steele dossier could

1 be in the Woods file. If there's an allegation from the
2 Steele dossier and it appears in the application,
3 presumably that, what we call the "Steele dossier" -- I
4 know that's not how the FBI treated it at the time, but --
5 presumably that page or the whole document would be
6 in the Woods file?

7 Mr. Evans: My assumption would be they took --
8 that at least at a minimum, some of that actual
9 reporting shows up in the Woods file. I wouldn't know
10 whether it was individual reports or the whole thing or
11 how they did that. But presumably yes.

12 Mr. Somers: Okay. So you have that reporting.
13 But then if at a later date the FBI finds out that -- they
14 get information that undercuts what was in the initial
15 Steele dossier. They need to account for that. They've
16 got to make a decision as to whether it's material and it
17 needs to be changed; that's correct?

18 Mr. Evans: I would agree with that, yes.

19 Mr. Somers: What if they get a better
20 understanding of the Steele dossier -- I'm sorry -- the
21 initial Carter Page FISA application relies on, like,
22 Christopher Steele as the source. What if they through
23 their investigation and locating the primary sub-source
24 realize that Christopher Steele is not really the source;
25 it's actually the primary sub-source that is the source.

1 Does that need to be accounted for?

2 Mr. Evans: I don't think I can answer that in the
3 abstract. I think it would be, I think, potentially yes, but
4 it depends on how relevant, how material it is.

5 Mr. Somers: What about -- well, the reliability of
6 the confidential human source is important, is that
7 correct?

8 Mr. Evans: Generally speaking, yes, the reliability
9 of sources is important. How much the importance is
10 depends on the nature of the probable cause. If you
11 have a FISA, hypothetically speaking, that has 12
12 different human sources in it and source 12 is used for
13 one sentence that isn't particularly relevant but is in
14 there, that's different than if you have one that is
15 significantly based on one source.

16 So it really varies. It's very factual, fact-intensive.

17 Mr. Somers: What counts as a source in your
18 mind? How would you define "source"?

19 Mr. Evans: I think in the intelligence community
20 they use it very broadly. It can be technical sources,
21 human sources. They might even describe a foreign
22 government as a source to obscure and protect the
23 foreign government. I think the lay person definition is
24 a human being who gives the FBI some kind of
25 information and has some kind of formalized

1 cooperative relationship with them.

2 Mr. Somers: If the information that the source is
3 conveying to the FBI is a conversation, for instance, how
4 close would someone have to be to that conversation in
5 order to still be a source that could be used in a FISA?

6 Mr. Evans: You mean if Person 1 tells the FBI "I've
7 heard from So-and-So, who heard from So-and-So, who
8 heard from So-and-So"?

9 Mr. Somers: Yes.

10 Mr. Evans: Person 1 -- the individual, Person 1 in
11 that example, could still be a source. So it's not that
12 the person wouldn't be a source. It would just go
13 through what the underlying reliability of the
14 information is. It might be described as Person 1 heard
15 thirdhand through their general chain of social
16 relationships the following information, is different
17 than Person 1 specifically heard the information.

18 So I think it goes less to whether somebody's a
19 source and more to how much credibility, reliability, the
20 FBI would place on it or a judge might place on it.

21 Mr. Somers: What about what's conveyed to the
22 court?

23 Mr. Evans: I think for us it would be trying to get
24 the information from the FBI to convey as much
25 information as possible. I will say as a general matter I

1 think the information conveyed about Steele in this FISA
2 and about his sub-source network was more extensive
3 than is typically conveyed in FISA's.

4 An example of that would be -- well, I can give you
5 an example, but it might get into classified information,
6 if somebody wants to come back to it. One example I
7 can give you that's unclassified: There is, I think, a
8 different source mentioned later in the FISA application,
9 with a much shorter description of that source than the
10 Steele description. So that's how it can vary based on
11 who the source is and how the description needs to
12 read.

13 Mr. Somers: But whether we agree or not on
14 whether this was done -- we may disagree on whether it
15 was done or not. But if you -- I'm just trying to get the
16 differentiation. If you say "Source 1 reported that Putin
17 said X" and that's what it says in the FISA, but really
18 Source 1 heard from the primary sub-source, who heard
19 from Sub-source 3, who heard from the person that
20 that sub-source knows, who works for the person that
21 allegedly" -- when does it become not fair to say "Source
22 1 reported" and not include that entire chain of how
23 tangential this information is in the actual application?

24 Mr. Evans: Again, I think it's really difficult. I wish
25 I could give you just a bright-line answer, but I think it's

1 really difficult to do that. Again, I can tell you in this
2 space that the description of the multiple layers of the
3 source network here was one of the more extensive
4 descriptions of a source network I have seen. Can I go
5 into classified for one minute here?

6 Mr. Somers: Sure.

7 (At 2:55 p.m., the interview proceeded in classified
8 TOP SECRET session.)
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1 (At 3:13 p.m., the interview continued in
2 unclassified session.)

3 Mr. Somers: So you were aware that the FBI
4 located and interviewed the primary sub-source. I think
5 you testified to that earlier. Before the last Carter Page
6 FISA -- I'm sorry to repeat a couple of these questions,
7 but since they were in the last round I'm going to do it
8 anyway. Before the last Carter Page renewal was filed,
9 you weren't aware of any inconsistencies between what
10 the primary sub-source said and what the Steele
11 reporting said?

12 Mr. Evans: Yes, correct that I do not believe the FBI
13 advised me of inconsistencies between the primary sub-
14 source's information and Steele's information.

15 To the first part of your question, I think the timing
16 was that they had at least interviewed him at least once
17 before the last two applications, not just the last one.

18 Mr. Somers: I was just setting the final time frame
19 there.

20 I'm just going to ask it for the record. You were
21 not aware, I think will be your testimony, the
22 information conveyed from the primary sub-source --
23 the primary sub-source was giving Steele information
24 that was based, quote, "on conversations with friends
25 over beer," that the primary sub-source characterized

1 the information he gave Steele as word of mouth and
2 hearsay, that the primary sub-source told the FBI the
3 information was intended to be taken with, quote, "a
4 grain of salt," that the corroboration on the information
5 was, quote, "zero"? Those quotes are all taken from
6 page 188 of the IG report. You were unaware of any of
7 that?

8 Mr. Evans: To the best of my recollection sitting
9 here today three-plus years later, I do not believe I was
10 aware of that.

11 Mr. Somers: Information like that, given that it was
12 the primary sub-source, should that have been
13 conveyed to the FISA Court or maybe an application
14 should not have been sought?

15 Mr. Evans: Yes. I think the way I described it to
16 the Inspector General, which I would stand by now, is
17 that at a minimum I would have expected the FBI to
18 share that information with us and to proactively flag
19 that information for us, to have a discussion about it.

20 And then how to proceed from that could have
21 been a range of things. At one end of the spectrum,
22 that information could have been included in a FISA
23 renewal with whatever caveats or assessments the FBI
24 wanted to place on it. At the other end of that
25 spectrum, it could have potentially warranted either

1 delaying or stopping the FISA application entirely.

2 Mr. Somers: But if the Steele information is
3 essential and the primary sub-source has undercut the
4 Steele information, at the very least, if it doesn't rise to
5 the level of abandoning the FISA, you at least have got
6 to go back and investigate what's going on between
7 Steele and his primary sub-source; is that what you're
8 saying? Not you; the FBI needs to go back and figure
9 out what the discrepancy is, at the very least?

10 Mr. Evans: Yes, at the very least explain to us what
11 they believe the discrepancy is and why they believe
12 that there's a discrepancy. And presumably there'd be
13 some investigation underlying that.

14 Mr. Somers: But if the primary sub-source if
15 undercutting the dossier, that's got to be accounted for
16 if he's the primary source of the information that's
17 relied on in the FISA?

18 Mr. Evans: I think my answer is the same, that I
19 believe that the information from the primary sub-
20 source that was inconsistent with Steele's reporting
21 needed to be accounted for by the FBI in some way.

22 Mr. Somers: Let me just make sure I don't have
23 anything more on the primary sub-source.

24 (Pause.)

25 Mr. Somers: On July 12 of 2018, moving off of the

1 primary sub-source --

2 Mr. Evans: I'm sorry?

3 Mr. Somers: Moving off of the primary sub-source,
4 switching topics -- I'm giving you the warning that I'm
5 switching topics here slightly. On July 12 of 2018, NSD
6 sent a letter to the FISC advising the court of, under
7 Rule 13A, of the factual -- certain factual omissions in
8 the Page FISA application that had come to NSD's
9 attention after the applications were filed.

10 Did you have a hand in drafting that letter?

11 Mr. Evans: Yes, I did -- oh, you said the July 12,
12 2018?

13 Mr. Somers: Yes.

14 Mr. Evans: Yes, I did.

15 Mr. Somers: What was your role in the drafting of
16 that letter?

17 Mr. Evans: I think when we became aware of that
18 information earlier in 2018, I met with the team, the
19 team within NSD and OI, discussed the information, and
20 had them begin putting a draft letter together, and then
21 I was involved in reviewing and editing the draft and
22 ensuring the coordination of that draft with the FBI for
23 their review and concurrence to file, along with others
24 in NSD as well.

25 Mr. Somers: So FBI was consulted on the letter?

1 Mr. Evans: Yes, the FBI reviewed multiple drafts of
2 the letter during the drafting process and ultimately
3 concurred in the final version.

4 Mr. Somers: But you found that there weren't any
5 material errors at that point? That's the general
6 conclusion of the letter?

7 Ms. Sawyer: I don't believe that's accurate. I
8 thought that letter was styled as a Rule 13A notice of
9 material misstatement.

10 Mr. Somers: I'm probably misspeaking. At that
11 point in time there was no -- there's been subsequent
12 letters where FISA applications have been withdrawn
13 related to Carter Page. At that point in time, with the
14 information you had then, there was no reason to take
15 a step like withdrawing one of the applications?

16 Mr. Evans: That's correct. My recollection of that
17 letter is that the Justice Department's position in that
18 letter was that, while there were material
19 misstatements, those material misstatements did not --

20 Mr. Somers: Undercut?

21 Mr. Evans: While they may have undercut, but not
22 to the point of eliminating the probable cause that
23 existed.

24 Mr. Somers: Was there any discussion -- I think
25 there were three or more, somewhere around that,

1 errors that were disclosed to the court in that 13A
2 letter. Was there any discussion at DOJ or DOJ with the
3 FBI about taking a closer look at the Carter Page FISA
4 applications? Once you discovered these errors, did
5 you discuss looking for further errors?

6 Mr. Evans: I think the short answer is both yes and
7 no, but I have to give you a little bit of a timeline on
8 that. So that letter -- the drafting of that letter began,
9 as I said earlier, in 2018, and primarily focused initially
10 on the information regarding the Bruce Orr interviews.

11 During the course of the drafting of that letter, we
12 learned of other information, I believe regarding
13 statements that Papadopoulos also made to a source,
14 that we believed were exculpatory and material and
15 needed to be included. By the time that information
16 came to light and was included in the draft letter, the
17 Inspector General had already announced the
18 investigation that they were opening into the Page FISA.
19 So at that point I think -- I don't remember if it was a
20 formal discussion about it or whether it was an informal
21 discussion of, we're going to let the Inspector General's
22 investigation at this point run its course because us
23 doing some sort of parallel investigation while the
24 Inspector General is investigating it doesn't make a lot
25 of sense.

1 Mr. Somers: You mentioned Bruce Orr's name a
2 second ago. Did you ever have any discussions about
3 Crossfire Hurricane with, or anything related to
4 Crossfire Hurricane, with Bruce Orr?

5 Mr. Evans: Not that I recall or I'm aware of.

6 Mr. Baker: Were you surprised to subsequently
7 learn how many different places Mr. Orr popped up in
8 the investigation, considering he was officially sitting at
9 the time in the ODEC office?

10 Mr. Evans: I'm not sure I'm aware to this day of --
11 when you reference in your question all the places he
12 popped up in the investigation, I'm not sure what they
13 all are. But I can tell you I was certainly surprised to
14 learn of his interactions with Steele and the information
15 he was conveying back to the FBI regarding Steele.

16 Mr. Somers: What's the basis of that surprise?
17 Why would you be surprised to learn that?

18 Mr. Evans: Given what I know now and how much
19 the FBI was receiving from him via Steele, I would have
20 expected the FBI to have alerted us to that information
21 at some point contemporaneously to when it was
22 happening.

23 Mr. Somers: Then once again to switch topics a
24 little bit, we touched on this a little bit earlier, but
25 there's the whole early October, around October 11th,

1 the whole -- well, for instance, Peter Strzok texted Lisa
2 Page on October 11th. It's on page 137 of the IG's
3 report: "Currently fighting with Stu for this FISA."

4 Do you recall fighting or something along those
5 lines with Pete Strzok about the Carter Page FISA?

6 Mr. Evans: I recall having a fairly heated or difficult
7 conversation with him that day.

8 Mr. Somers: What was the content of that
9 conversation? What was it about?

10 Mr. Evans: That day, as I recall it, was -- I believe
11 you said October 11th?

12 Mr. Somers: Yes.

13 Ms. Sawyer: I think that was the day when I had
14 asked a series of questions about Steele to try to
15 understand what his background was; and when, late in
16 the day, it was finally made clear to me from the FBI
17 that Steele was being paid to gather opposition
18 research, and so I reached out proactively to Mr. Strzok
19 that afternoon or evening to say I wanted to talk to him.

20 Knowing that the FBI was pushing to get this
21 moved forward, I wanted to make sure I conveyed back
22 to him directly that I now had this issue that had
23 surfaced, that I wasn't previously aware of, and that this
24 was going to slow down the FISA. And I wanted to
25 make sure he heard that directly from me so that the

1 case agents and headquarters agents didn't report back
2 up their chain that there had been a delay without him
3 hearing directly from me what the basis for that delay
4 was.

5 Mr. Baker: You said "heated" and "difficult." Was
6 there yelling and screaming that made it heated? Was
7 there yelling and screaming that made it heated?

8 Mr. Evans: I wouldn't say there was yelling and
9 screaming. I would say Mr. Strzok is a fairly stern
10 personality, and when I conveyed to him that I was
11 annoyed that we just learned this information, that was
12 not his impression. He seemed to be under the
13 impression that we already knew this information. I
14 was probably a little annoyed and said that most
15 certainly was not the case; that's why I'm calling you;
16 we just learned of it now.

17 So at the end of the day, we kind of both just
18 agreed to go back to our respective corners; and I think
19 the call ended with him saying something along the
20 lines of: Fine; ask whatever questions you need to ask.
21 Then we both went our separate ways.

22 Mr. Baker: Did he indicate during that call that the
23 majority or the totality of the senior FBI leadership was
24 on board with moving this FISA down the road?

25 Mr. Evans: During that call, I don't -- I can't be

1 certain, but I don't recall him invoking in that call
2 leadership names. I think that call was more me
3 flagging for him: Hey, there's a problem developed. I
4 actually was surprised that he seemed to be aware of it
5 already. I thought maybe it was news to him as well.

6 So we just kind of ended it with me saying: Well,
7 nothing's going to happen until we get more
8 information here.

9 Mr. Somers: But you weren't concerned that this
10 was information you didn't know; you were concerned
11 that there was information you didn't know that needed
12 to go in the FISA, correct?

13 Mr. Evans: It was a little bit of both. I would say
14 over the course of that week in drafting, that week and
15 the following week, I would say my concerns fell into
16 three buckets. Bucket one was wanting to make sure
17 we got the information we needed about the source to
18 understand potential bias.

19 Bucket two was making sure we could put that
20 information in the FISA appropriately to make sure the
21 court was apprised.

22 Then bucket three were ultimately my policy
23 concerns about this. So I think at that point on that call
24 on the 11th, it was a combination of concerns one and
25 concerns two. This information had just come over to

1 me that he was being paid to get opposition research.
2 That generated a whole bunch of follow-on questions in
3 our mind: Who's paying him, what's the nature of this?

4 So at that point, I think I was still at the stage of:
5 Hey, this just landed on my desk with this new
6 information; I need to understand what this is all about;
7 we need to get to the bottom of this, ultimately driving
8 towards potentially including the description of it in the
9 FISA.

10 Mr. Somers: Did you ever become aware in that
11 time frame that he might try and go around you, to
12 have you overruled in some sense?

13 Mr. Evans: From reading the IG report, I recall that
14 there were other text messages internal to the FBI
15 where people were talking about that. Candidly, I don't
16 have a great recollection of that contemporaneously,
17 and other people saying that. It doesn't surprise me,
18 and I think we may well have had those conversations.
19 I just don't now, three and a half years later, have an
20 independent recollection of people trying to go around
21 me in that way.

22 Mr. Somers: Did you feel pressure at the time?

23 Mr. Evans: I think we did feel pressure and I did
24 feel pressure at the time. But again, going to some of
25 the questions earlier, whether it was out of line with

1 pressure I had felt in other high-profile investigations
2 over the years -- whether it was investigations like the
3 Boston Marathon or other investigations. I'd been
4 involved in a number of high-profile, pressure
5 investigations, and there tends to be a lot of pressure
6 in those.

7 So I think it was -- at least at the time, I felt the
8 pressure was in line with what I had experienced in
9 other high-profile investigations.

10 Mr. Somers: Were you nervous? Strzok told [REDACTED]

11 [REDACTED]: "Stu is nervous."

12 Mr. Evans: I would not have used the word
13 "nervous." I think "concerned" is a better word. Again,
14 whether it's nervous or concerned, it goes to the core
15 point I was making earlier, of I just didn't think this --
16 knowing what I knew that was developing about this
17 source and his background, I just didn't think that it
18 was a good prudential choice for the FBI and the
19 Department to be going down this road.

20 Mr. Somers: Then [REDACTED] writes to Strzok --
21 this is on page 137 of the IGG's report -- "Is he going to
22 hold the FISA?" the "he" being you. Did you have the
23 ability to hold the FISA?

24 Mr. Evans: Informally, yes. Formally, no. By
25 statute, the only person at the end of the day who can

1 say yes or no to an FBI FISA request is actually the
2 Attorney General personally. As a practical matter, in
3 the drafting process if something was with me and I
4 was sitting on it for a while, I at least had some
5 informal ability to hold things for a little bit.

6 Ms. Zdeb: Can I just interject with a question real
7 quick to clarify something that we spoke about at the
8 outset in terms of the Department's policy about the
9 identification of non-SES employees.

10 Mr. Findlay: He's not going to confirm or deny it.
11 The person that majority counsel is referring to, [REDACTED]
12 [REDACTED], is listed in the IGG report as an OGC attorney.
13 Stu, he's not confirming or denying that. He just said
14 he wasn't nervous; he was concerned.

15 Ms. Zdeb: Right. My point is that Mr. Somers is
16 purporting to read from page 137 of the IGG report,
17 but that page of the IGG report does not contain a
18 particular person's name. It just has a generic
19 identifier. And I wanted to make that clear for the
20 record.

21 Mr. Findlay: Thank you.

22 Mr. Somers: We can clean that up. I think Stu
23 Evans probably knows him by his name and not by the
24 identifier that's in the IGG report, which is why I did
25 that. But we will not put his non-SES name in the actual

1 transcript.

2 Mr. Findlay: Part of the reason I didn't object is
3 because the preface to the question wasn't the
4 question. The question that Stu answered was: Can
5 you hold it up? Stu answered that question. Why you
6 would be asking that question is really more for your
7 purposes than ours.

8 Mr. Somers: Two other quotes I'm trying to get
9 some clarity on here. One's from the same exchange
10 and one's from a different exchange. Strzok writes:
11 "No, but I'm concerned about how they preload the
12 court\the court adviser." Then there's another one
13 where Strzok writes to [REDACTED], Strzok to OGC unit
14 chief -- this is on page 138 of the IGG report -- at 7:59
15 p.m.: "I'm worried about what Stu whispers in court
16 adviser's ear."

17 I know these aren't your, obviously, your texts, and
18 you weren't part of these texts. But can you give me
19 some idea of what they were -- I think I have a little bit
20 of an idea, but give me an idea of what they're talking
21 about?

22 Mr. Evans: Again, I can't speculate as to what they
23 were talking about. And again, per the earlier
24 conversation, I obviously won't confirm identities of the
25 participants other than what's in the IGG report.

1 I can say generally, the FBI was aware that our
2 office had a relationship with the legal advisers and, as
3 I think I described to you in one of the earlier sessions,
4 we would communicate with the legal advisers,
5 including for instance giving them a heads-up that
6 something complicated or something sensitive might
7 be coming.

8 I infer from those communications they were
9 worried that we would suggest to the court in some way
10 that the court shouldn't sign this or that there were
11 some grave concerns about it, or something along
12 those lines. Candidly, that I think would have been
13 unprofessional to do as counsel for the Department. If
14 the Department chooses to proceed with an application,
15 then, as lawyers representing the Department, we're
16 bound to advocate that position.

17 So I don't think that would have been consistent
18 with my recollection and practice, that we would
19 undermine or undercut something that the Department
20 itself chose to proceed with.

21 Mr. Somers: You took my next question there, on
22 professionalism.

23 Now, there's another text in here, that "Apparently
24 he's the only" -- "he" being you. I can read you the
25 whole thing: "OGC Unit Chief to Strzok, 7:59 p.m.:

1 Yeah, I think so. Stu's going to think about it overnight.
2 Not for attribution" -- this is the part I care about -- "but
3 apparently he's the only one over there worried about
4 it."

5 Were you the only one "over there" -- "there" must
6 be NSC or maybe it's the Department -- worried, that
7 had these concerns?

8 Mr. Evans: I don't think so, no. What day was that,
9 just out of curiosity?

10 Mr. Somers: Later that same evening. So we're
11 talking still October 11th.

12 Mr. Evans: 11th, okay. I would say no. My general
13 impression at that point -- and at that point in time I
14 think it was primarily the team within OI, those folks
15 below me, who I described earlier, who'd been working
16 on the matter. My recollection from just conversations
17 and what-not was that everyone was aligned with me
18 and we all generally shared the same view.

19 I don't know why the FBI wouldn't have been under
20 that impression. I do know, having written FISAs
21 myself, sometimes the closer you are to writing it and
22 dealing with the case agents, the more you have to
23 worry about keeping up a rapport with those folks. So
24 it wouldn't be the first time in any of our careers where
25 somebody blamed something solely on their boss so

1 that they could maintain a relationship at a working
2 level.

3 But my general impression was that my team at
4 least within OI shared my concerns. I would also add,
5 just as a further on that, the lower-level folks in OI,
6 their role is predominantly to work on the drafting of
7 the application and then the advocacy before the court
8 as the Department's lawyers. My role as the head of the
9 office was more to focus on kind of policy and bigger
10 picture. So to the extent a lot of my concerns were
11 ultimately coming from the policy implications, those
12 were ones that typically we wouldn't ask lower level
13 folks to focus themselves on.

14 Mr. Somers: Were you at some point in this time
15 frame, the 11th, 12th, instructed that FBI was moving
16 ahead with the FISA in some manner by someone?
17 There's email on page 141 of the IGG report that says:
18 "Lisa Page would inform Evans of the FBI's decision to
19 move forward with the FISA application."

20 I guess question one would be: Did Lisa Page ever
21 tell you the FBI was moving forward with the FISA
22 application? But more broadly, did someone just kind
23 of say: Hey, we're doing this?

24 Mr. Evans: I have a general recollection that at
25 some point over those ensuing days after the 11th the

1 FBI conveyed back to us that: Yes, we hear you, but we
2 want to move forward anyway. I don't specifically -- I
3 know the IGG report attributes that to Ms. Page. I don't
4 specifically have any independent recollection today as
5 to whether that was a conversation with Ms. Page or
6 otherwise. But I also have no reason to doubt the IGG
7 report in that regard.

8 Mr. Somers: But was there ever an instruction that,
9 we're moving forward, you need to let this go?

10 Mr. Evans: I can't point -- in my memory now,
11 almost three and a half years later, I can't point to a
12 specific instruction. It was very clear from them that
13 they wanted to proceed and that they had no interest in
14 abandoning this. Whether that was an instruction or
15 just being conveyed back of, yes, we hear you and we
16 want to proceed anyway, I think the message back was
17 clear.

18 Mr. Baker: So either then or now in hindsight, did
19 you feel, for lack of a better term, that you were rolled?
20 You raised these concerns, you're told, We're moving
21 forward. Eventually it seems like everybody at the
22 Bureau in the upper level of management signed on.
23 Did you feel you were rolled?

24 Mr. Evans: I felt like they did not share my
25 concerns, or their weighting of the concerns was

1 different than mine. As I think I told the IGG, I'm not
2 sure there was a right or wrong answer at the time. I
3 knew folks in hindsight think I was right, but at the
4 time I could see there were both sides to it.

5 Again, as I alluded to earlier, our office often
6 tended to take a more cautious approach to things that
7 could be controversial in the FISA space, because we
8 had to deal with FISA day in and day out, and it would
9 not have been the first time that an intelligence agency
10 wanted to proceed with something that I thought was
11 an imprudent use of FISA or a bad idea.

12 Mr. Baker: You raised very early on -- and it's my
13 phraseology; I may have the exact words wrong. But
14 you did the classic cost-benefit analysis of proceeding
15 with this and what could happen, especially considering
16 the political nature of this. As you sit here now, which
17 side -- was the cost worth the benefit?

18 Mr. Evans: I'll let outside observers ultimately
19 opine to that. I can tell you I certainly feel that my
20 initial calculation on that remains accurate to this day.

21 Mr. Baker: Thank you.

22 Mr. Somers: It says here at page 139 of the FISA
23 report: "According to Evans, he raised on multiple
24 occasions with the FBI, including Strzok, Lisa Page, and
25 later McCabe" -- and it kind of gets into those three

1 buckets you were laying out. What was the discussion
2 with McCabe?

3 Mr. Evans: The McCabe discussion -- towards the
4 end of the week of the 10th, I think it's the 10th
5 through the 14th, where we were going back and forth
6 with the FBI to elicit information, we reached the end of
7 that week. Again, as I think I indicated earlier, the FBI
8 had said: This is all we have, we don't have anything
9 else, you know everything we know.

10 So we had the description updated on the source,
11 and I had a conversation at the end of that week with
12 Ms. McCord where I said: Look, this is what it is; we've
13 got it all in there on the source; we all think there's still
14 probable cause even with that as explained; but I think
15 this is a bigger policy question here. I don't think this
16 is worth pursuing. I explained my logic.

17 Ms. McCord disagreed with me on that, but, in
18 deference to my concern and my role, she indicated
19 that she would raise it with Mr. McCabe. That was I
20 think a Friday, and by Monday she had been unable to
21 get hold of Mr. McCabe on this, is my recollection. So
22 as the FISA was moving forward on that Wednesday
23 morning of that following week, I attended a meeting,
24 that was a regular standing meeting unrelated to this,
25 where I thought Mr. McCabe was likely to be present.

1 He's someone who I had known in other capacities
2 during his FBI career and so, given that, I felt
3 comfortable pulling him aside and having a
4 conversation with him at the end of that meeting where
5 I essentially said: Hey, this Page FISA, I want to talk to
6 you about it; here's what we know; we've got this
7 information; this source seems like it's political
8 opposition research; why are we doing this?

9 The whole conversation was probably shorter than
10 ten minutes. And he said something -- the gist of his
11 response was: I understand what you're saying; I hear
12 you, but we can't pull any punches and be worried
13 about the fallout; and this is something we think we
14 need to do from the investigative perspective; and I
15 can't -- you're worried about what the fallout and the
16 consequences are going to be; I can't worry about that.
17 I just need to focus on what we need to do for the
18 investigation, and we'll have to live with the
19 consequences.

20 That was, I think, the substance of the
21 conversation.

22 Mr. Somers: Just flipping through my notes here,
23 I've got something we kind of discussed here earlier,
24 but I've got now an actual something in the IGG report.
25 You said, page 144 of the IGG report: "Evans told us

1 that sources often have, quote, 'baggage' and can have
2 a bias, but that does not necessarily make their
3 information unreliable, especially if the FBI has a long
4 history of assessing the source's reporting as reliable."

5 So I guess you kind of have the scales there. It
6 seems that you're assuming that the FBI has a long
7 history of assessing Steele as reliable. Was that your
8 understanding?

9 Mr. Evans: That's what they were representing to
10 us at the time, that he was someone they had a
11 longstanding relationship with. I think the term they
12 often used during that week of back and forth, they
13 described him to us as a "professional." What they
14 meant by that term was a professional investigator,
15 intelligence officer, like themselves. And they kept
16 saying: Hey, he knows what he's doing; he's a
17 professional; he's got this; we've dealt with him in the
18 past; we really, really trust him and believe he's reliable.

19 That was the entire way that was being described
20 to us about their view of him.

21 Mr. Somers: But I guess -- if that was not accurate -
22 - and I think there's some information in the IGG report
23 that they had some derogatory information on him or
24 got it at some point in time. But anyhow, leaving that
25 aside, but just on the scale, the baggage becomes more

1 important if the reliability -- is it really a scale? Like the
2 baggage is more important if we don't have the history
3 of reliability? Is that how you look at it?

4 Mr. Evans: I think also weighed in with importance
5 of the information, the centrality of the information to
6 the overall probable cause. I think a variety of those
7 factors mixed together.

8 (Pause.)

9 Mr. Somers: Did you understand in the FISA or
10 what they were seeking or Page's relationship, did you
11 understand Page to be -- and I'll read you what the FISA
12 says after I ask my question. Did you understand Page
13 to be coordinating with Russian intelligence?

14 Page 9 of the initial FISA application states that:
15 "The FBI believes that election influence efforts are
16 being coordinated between the RIS and Page and
17 possibly others." I guess the first part of that, I'd take
18 "RIS" to mean "Russian intelligence services"; I think
19 that's correct.

20 Mr. Evans: I believe that's correct, yes.

21 Mr. Somers: So did you understand that Page was
22 being alleged to be coordinating with Russian
23 intelligence services?

24 Mr. Evans: Again, I don't think I had any
25 independent understanding of what the FBI believed

1 Page was up to, other than what was in the four corners
2 of the FISA. So to the extent there were other elements
3 in the FISA from the Steele reporting or otherwise that
4 get at that point, I think my knowledge of what they
5 think Page was up to would have been limited to
6 primarily what was in the FISA.

7 I just don't remember what else was in the FISA
8 along those lines.

9 Mr. Somers: I think there's a couple statements
10 that basically say that -- I think there's two along these
11 lines in all the FISAs. I think it appears in two places,
12 that the FBI believes that election influence efforts are
13 being coordinated between the RIS and Page and
14 possibly others. And I believe there's also a statement
15 in the conclusion along those lines.

16 So that was your only understanding, would be
17 what's in the FISA in terms of who he was alleged to be
18 coordinating with?

19 Mr. Evans: That's my recollection, yes.

20 Mr. Somers: So then would it surprise you if in
21 February of 2014 -- February 14th of 2017, that Mr.
22 Strzok is quoted in the document that he wrote as
23 saying "We have not seen evidence of any individuals
24 affiliated with the Trump team in contact with IOs" --
25 which I will take to mean intelligence officers. "We are

1 unaware of 'ANY'" -- in all caps -- "Trump advisers
2 engaging in conversations with Russian intelligence
3 officials."

4 If the FISAs on the one hand are representing, and
5 FISAs written after this data are representing, that the
6 FBI believes that election influence efforts are being
7 coordinated between the RIS and Page, does Strzok's
8 statement undercut that statement?

9 Mr. Findlay: Where did that statement come from?
10 You quoted something.

11 Mr. Somers: An email that was released to us last
12 week, written by Peter Strzok on February 14th of 2017.

13 Mr. Evans: So a couple things. One, I don't recall
14 ever seeing that email, so I can't speak specifically
15 beyond what you just read to me, to the best of my
16 recollection.

17 Two, I think it's interesting. I think yes and no. It
18 potentially is relevant and potentially could have caused
19 an update. But I think the interesting thing here to
20 understand about probable cause and how it
21 developed, it's not uncommon for the FBI to allege they
22 have probable cause that something's happening or
23 occurring and to go three, six, nine months into that
24 investigation, and at some point if you don't see actual
25 results materializing you reach the point of: Hey, our

1 initial theory, our initial probable cause of what was
2 happening, isn't actually being borne out by what we're
3 seeing in the investigation.

4 That is actually, I think I would say, how the
5 majority of investigations the FBI does tend to resolve
6 themselves. We have a basis to believe something is
7 happening, but when we go look for it we don't find it.
8 At what point --

9 Mr. Somers: What does the obligation to correct
10 arrive?

11 Mr. Evans: So it's interesting. At what point does
12 that undermine your original theory? It can be really
13 fact-intensive and I can't say. As I noted earlier, I have
14 seen counterintelligence cases over the years that have
15 gone on for quite a long time without corroboration
16 until the original theory evaporated.

17 So if I could just give you an example, and I'll keep
18 it hypothetical here for a minute. Let's say that you
19 have reason to believe that somebody is a mole in an
20 intelligence agency. You have probable cause. You get
21 up on a FISA on them and you start surveiling them for
22 three, six, nine months, but you find no evidence that
23 they're taking classified information.

24 At some point your probable cause disappears
25 because you had a theory and it's just not being borne

1 out and you can't show it. Would you probably say in
2 those FISAs as you're going about, We still haven't seen
3 evidence of him taking classified information, but we
4 still believe this to be the case?

5 I think that's certainly one way you would describe
6 it. But I think where you lose that probable cause
7 entirely is really fact-based.

8 Sorry if that's a generic answer. But I feel like it's
9 the best I can do.

10 Mr. Somers: Just one -- I'll ask it in a hypothetical.
11 Would NSD have to be consulted if the FBI was doing an
12 investigation and they wanted to go into [REDACTED]
13 [REDACTED] for any of their targets?

14 Mr. Evans: No, I don't believe so, although when
15 you say [REDACTED] that's kind of a loose term. I
16 would probably want to clarify what exactly you're
17 talking about.

18 Mr. Somers: [REDACTED] [REDACTED]. They want to look
19 into any databases [REDACTED]. Would
20 NSD need to be consulted or could they do that on their
21 own?

22 Mr. Evans: Can we go classified just [REDACTED]
23 [REDACTED]?

24 Mr. Somers: Yes.

25 (At 3:46 p.m. the interview continued in TOP

1 SECRET session.)

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SECURITY PURPOSES**

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1 (At 3:50 p.m., the interview proceeded in
2 unclassified session.)

3 Mr. Baker: Are you familiar with an op-ed entitled
4 "Stu Evans' Lonely Failed Quest to Save the FBI from
5 Itself"?

6 Mr. Evans: I did read that op-ed, yes.

7 Mr. Baker: What were your thoughts about what
8 their conclusions and assertions were?

9 Mr. Evans: I would also note my microphone is
10 flashing, so I suspect that means my battery is dying
11 here.

12 I think again I don't remember the details of it. I
13 admittedly read it pretty quickly. I thought it was a
14 generally fairly accurate article. In terms of the
15 conclusion, I felt as if the article raised the point that
16 perhaps by couching my concerns more as policy or
17 prudential concerns that gave the FBI a way around
18 them, to get around my concerns. I think the article
19 said something along those lines.

20 I didn't agree with that point because I think the
21 way we had to approach our jobs in the Office of
22 Intelligence, whether it was in this case or any other
23 case, the threshold role of our office was to gather the
24 facts from the FBI, put them in a FISA application, and
25 make a threshold legal determination as to whether we

1 believed it met the statutory standard of probable
2 cause and was legally appropriate to move forward.
3 And that was what our office primarily looked to do in
4 the first place.

5 There in many cases, whether it was this or some
6 of the other types of sensitive matters I described
7 earlier, would be a second follow-on policy question
8 about whether it's a good idea or a good policy to move
9 forward with something. I think, whether it's OI or
10 other elements of the Department, I think that's often
11 how DOJ lawyers generally had to approach matters:
12 Do we think it's legal, is there an argument that's legal
13 to be made here; and if so, then there's a policy
14 discussion to be had about it.

15 So I just felt, whether it was this matter or other
16 matters, I felt like that was consistent with how the
17 Department attorneys had to proceed in matters.

18 Mr. Baker: Okay, thank you.

19 Mr. Somers: That's it for this round.

20 (Recess from 3:50 p.m. to 3:53 p.m.)

21 Ms. Zdeb: It's 3:53. We can go back on the record.

22 We've been talking about the Steele dossier for
23 quite a while now as it relates to the Carter Page FISA
24 applications, and I wanted to ask a couple of questions
25 to put the Steele dossier in its larger context.

1 Crossfire Hurricane was opened at the end of July
2 2016, July 31st, and the Inspector General determined
3 that the Crossfire Hurricane team did not even become
4 aware of Steele's reporting until September 19th, which
5 is more than a month after the investigation was
6 opened. The IG said, quote: "The Steele dossier played
7 no role in the opening of Crossfire Hurricane."

8 Are you aware of any evidence that contradicts that
9 finding?

10 Mr. Evans: No, I am not. The IG's conclusion on
11 that point was consistent with my recollection.

12 Ms. Zdeb: The IG, as I mentioned earlier, testified
13 before our committee last December. He was asked
14 about the Carter Page FISA errors, the Steele dossier in
15 relation to Special Counsel Mueller's report. He
16 testified that the FISA errors related to Christopher
17 Steele did not call into question, quote, "any part of the
18 Special Counsel's report."

19 Are you aware of any evidence that contradicts the
20 Inspector General's testimony that the Carter Page FISA
21 errors did not call into question -- do not call into
22 question any part of the Special Counsel's report?

23 Mr. Evans: You may be surprised by this, but I've
24 actually not read the Special Counsel's report, and so I
25 don't feel as if I -- I am not in possession of any

1 contradictory information, but I also am not really in a
2 position to opine one way or the other.

3 Ms. Zdeb: Former Deputy Attorney General Rod
4 Rosenstein testified before our committee last month.
5 He supervised the Mueller investigation. Senator
6 Feinstein asked him if he could identify which findings
7 in the Mueller report relied on information from the
8 Steele dossier. And Mr. Rosenstein said: "I don't
9 believe there is any such information."

10 Recognizing that you have not read the entire
11 thing, do you personally have any evidence that
12 contradicts Deputy Attorney General Rosenstein's
13 testimony that no findings in the 448-page Mueller
14 report rely on the Steele dossier?

15 Mr. Evans: Subject to my earlier caveat, I'm not,
16 sitting here today, aware of anything.

17 Ms. Zdeb: Mr. Rosenstein also testified that none
18 of the 199 criminal counts resulting from the Special
19 Counsel investigation relied on information obtained
20 from the Steele dossier. Do you have any basis to
21 disagree with Mr. Rosenstein, there?

22 Mr. Evans: Again, I would go with my earlier
23 caveat. I'm not sure I have a basis to agree or disagree,
24 but implicit in that is I don't have a basis to disagree.

25 Ms. Zdeb: So in other words, you don't have any

1 evidence or, sitting here today, reason to believe that
2 the Special Counsel's findings or the criminal actions
3 that he charged relied on information from the Steele
4 dossier?

5 Mr. Evans: I would rely on the -- again, I have no
6 personal reason to believe that's the case. But I would
7 rely on the assessment of others who are closer to that.

8 Ms. Zdeb: Switching gears: As you know, the
9 Inspector General recommended a number of corrective
10 actions in response to the FISA errors that he identified.
11 These include corrective actions like changes to the
12 Woods forms, changes to the FISA request form, all
13 designed to ensure that OI receives the information that
14 it needs from the FBI in order to prepare FISA
15 applications.

16 Director Wray has accepted and agreed to
17 implement all of the Inspector General's recommended
18 corrective actions. Do you have any reason to believe
19 that the FBI is not taking appropriate steps in response
20 to the IG's report?

21 Mr. Evans: I would say I have even less visibility to
22 opine on that than the prior questions. I left
23 government in May of 2019 and I think all the
24 corrective action proposals and steps have been well
25 since then and, while I have generally been aware of

1 some of the press releases or things around it, I've not
2 been tracking it especially closely. So that's one where I
3 just really don't feel I can opine one way or the other.

4 Ms. Zdeb: But certainly, sitting here today, it
5 sounds like you are not able to offer any reason why
6 you would not believe that the FBI is taking appropriate
7 steps?

8 Mr. Evans: Yes, I certainly have no reason to
9 believe they're not. But I also am just not familiar with
10 what precisely they are doing.

11 Ms. Zdeb: Do you have any reason to believe that
12 the corrective actions that the IG recommended and
13 which the FBI is in the process of taking, although
14 recognizing that you are no longer in your former
15 position, do you have any reason to believe that those
16 correctives, those corrective actions, will not adequately
17 address the errors that the Inspector General identified?

18 Mr. Evans: Again, I'm not sure I have a view one
19 way or the other. I read that portion of the IG report
20 probably most recently during the drafting of it when I
21 was given a copy to review the draft of the IG report in
22 the fall of 2019, and honestly didn't focus that closely
23 on the recommendations since I was already out of
24 government.

25 So I don't even recall specifically what they all were

1 or were not. So I'm not sure I could opine as to how
2 effective they would or wouldn't be at this point.

3 Ms. Zdeb: You spoke earlier about OI's role in -- or
4 NSD's role more generally in conducting accuracy
5 reviews of FISAs. Since the IG report came out, the
6 Department has represented to the FISC that it will be
7 taking steps to expand its accuracy reviews, but also to
8 institute completeness reviews that look not just at
9 accuracy, but try to identify things that had been
10 omitted from FISA applications.

11 Do you have any reason to believe that the
12 Department of Justice and the National Security Division
13 more specifically are not taking appropriate steps in
14 response to the IG's findings?

15 Mr. Evans: I would say -- and again, I think I've
16 generally heard of that change. I'm not intimately
17 familiar with it, but I think that was a positive change
18 and I think probably a good development and one I
19 think that goes to some of the heart of the IG's
20 findings.

21 I think one of the elements in the IG report that I
22 think highlighted this for everyone was that the Woods
23 procedures are really focused, as we discussed earlier,
24 on documenting what's in the FISA, not documenting
25 what's not in the FISA. So the Woods procedures really

1 go to potential material misstatements more than they
2 do omissions of information from the FISA, and so I
3 think adding some element of review that goes to
4 things that are being potentially omitted from the FISA -
5 - I think the term was "completeness" -- is a good
6 development and I think one that arguably gets at some
7 of the core errors that the IG identified.

8 Ms. Zdeb: Are there other specific corrective
9 actions that you think would be warranted in light of
10 the IG's findings?

11 Mr. Evans: These may already be things that have
12 come up in various discussions or proposals by the FBI,
13 because again I'm not intimately familiar with what all
14 their corrective actions were. But the two things that
15 had come to mind to me were:

16 One, I think the issue I mentioned earlier on
17 whether it makes sense to have the field case agents as
18 the actual affiants for the FISAs, either in lieu of or in
19 addition to the headquarters agents. I do believe, if
20 that is workable technically and logistically, I do believe
21 there is some added accountability to having case
22 agents sign an actual warrant application, as opposed
23 to signing an administrative form. That might be of
24 added value.

25 Then the other thing that came to mind to me:

1 With the renewal process, in an ideal scenario for a 90-
2 day U.S. person FISA, you're looking for the FBI to
3 hopefully submit their renewal request to OI 45 days or
4 so before the expiration date, to allow a significant
5 period of time for back and forth and development of
6 the renewal application. Because 90 days is not a very
7 long period of time and 45 days is even shorter, that is
8 kind of a rule -- that is a period that is more honored in
9 the breach than not, and it is pretty common, and I
10 think it was the case in this case, that renewal requests
11 often come over from the FBI to OI a week, week and a
12 half, before the expiration, which really compresses the
13 amount of time for that back and forth and
14 development of the FISAs. And of course, with the
15 renewal you're up against an expiring time clock, as
16 opposed to an initiation, where maybe you have a little
17 more time.

18 So finding a way inside the Department to more
19 rigorously ensure that renewal requests come over
20 sufficiently in advance of expiration date to allow for
21 robust back and forth, was another thought of mine.

22 Ms. Zdeb: Thank you. I believe my colleague has a
23 few additional questions.

24 Ms. Sawyer: Just to go back to something you had
25 discussed with our colleague Mr. Somers, it sounded

1 like you were involved and kind of had requested that
2 July 12, 2018, 13A letter to the court, and then you
3 weren't involved in any subsequent 13A letters. You
4 had left the Department.

5 Mr. Evans: That is correct. I believe there was --
6 and I don't have the IG report in front of me, but I
7 believe the IG report references a Rule 13B letter that
8 was filed some time in 2019 regarding what I think I
9 would describe as a kind of ministerial issue regarding
10 the handling of information. So I was involved in that
11 13B letter. But I do not believe I was involved in any
12 other 13A letters for this application.

13 Ms. Sawyer: It sounded like -- and I just want to
14 make sure I understood it correctly -- that the July 12,
15 2018, letter, there was a decision made to submit that
16 because certain errors and omissions -- and I think it's
17 described as "become aware of additional information.
18 Although some of the additional information has been
19 publicly discussed, some of it does not constitute
20 omissions subject to Rule 13A. We include it all below
21 out of an abundance of caution."

22 So this letter was meant to address errors that had
23 come to light as of that point in time?

24 Mr. Evans: Correct. That letter was meant to
25 address what NSD had become aware of as of that

1 moment in time, yes.

2 Ms. Sawyer: It sounded like you indicated that
3 there was a deliberate decision not to then undertake
4 further investigation as to whether there were other
5 omissions or facts that should be brought to the court's
6 attention because the Inspector General had opened an
7 investigation into the Carter Page FISA process?

8 Mr. Evans: That's right. If I could just expand on
9 that a little bit, getting back to what I outlined earlier,
10 OI of course isn't in possession of any information. If
11 we want to get more information or look for errors or
12 issues, we of course have to go to the FBI to do that. In
13 the drafting of this letter already, there was significant
14 back and forth with the FBI, and to do any further
15 review of the application at that point by the middle of
16 2018 would have required significant back and forth
17 with the folks at the FBI who were involved in the Carter
18 Page FISA, all of whom we fully expected were going to
19 be material witnesses in the OIG's investigation.

20 So for us to start going out and talking to those
21 people and developing facts and figuring out what they
22 knew and didn't know while the IG was about to do the
23 same thing was not going to be a feasible option at that
24 point. So we deferred to the IG at that juncture.

25 Ms. Sawyer: In fact, if you had it could have run

1 the risk that at least someone might have believed or
2 taken the position that there was some interference in
3 the Inspector General's investigation, or at least some
4 tainting of the Inspector General's investigation?

5 Mr. Evans: I think that's a potential concern, yes.
6 And I would add, once the Inspector General began
7 interviewing us, which happened in the months after
8 July, things were presented -- and by "us" I mean myself
9 and my colleagues. We were of course presented
10 things by the OIG in the interviews that concerned us in
11 terms of being factual errors. That's why at some
12 point, I believe in early 2019, we approached the court,
13 the chief judge -- the presiding judge, excuse me -- of
14 the FISA Court and informed her that through our
15 interactions with OIG we were learning of information
16 that we thought could potentially be material and could
17 potentially require further updating to the court, but
18 that for us to do that we'd have to undertake our own
19 engagement with the FBI, which we didn't want to do
20 while the OIG's investigation was ongoing.

21 She understood and wanted to ensure that we
22 didn't interfere with the integrity of the OIG
23 investigation; and we also at the same time
24 contemporaneously relayed that back to OIG so that
25 they knew we were intentionally deferring to them here.

1 Ms. Sawyer: So in your view it wouldn't have been
2 a dereliction of duty for the FBI not to at this point in
3 time, on July 12th, when you had identified some
4 errors, to go back itself and find all the other errors
5 since the IG was inspecting; and had they done it, it
6 sounds like there would have been a risk that they
7 could have been accused of having to try to do
8 something to tamper.

9 I just am trying to clarify whether or not there's any
10 criticism of the FBI for not having more quickly
11 identified errors to bring to the court's attention or to
12 decide to wait until the IG was finished.

13 Mr. Evans: It's an interesting question, actually.
14 I'm not sure I recall any discussions between NSD and
15 the FBI about how we would collectively handle new
16 information. Everything I just described to you was our
17 thinking inside of NSD. I couldn't fault the FBI if they
18 internally reached the same conclusion for the reasons
19 you identified.

20 That said, it might have been good for them to
21 communicate that to us just officially to let us know
22 that they were taking that same posture. But I just
23 don't remember discussing it with them in terms of
24 what their view and how they were going to handle it.

25 Ms. Sawyer: So you also just didn't ask them to

1 confirm?

2 Mr. Evans: We just -- in deference to the IG, for all
3 the reasons I identified, we didn't engage further with
4 the FBI after that July letter in terms of factual
5 statements in the applications.

6 Ms. Sawyer: Switching for a moment to --

7 Mr. Evans: Excuse me. At least during my tenure
8 there. I can't speak to what happened after I left.

9 Ms. Sawyer: Thank you.

10 I have just a few questions for you about sources
11 and methods generally, at least initially. In my 13 years
12 on the Hill, I have been consistently advised by the
13 Department that some of its most closely guarded
14 information are sources and methods used in
15 investigations -- counterintelligence investigations,
16 counterterrorism investigations, criminal investigations.
17 Is that accurate? And if so, why?

18 Mr. Evans: I think I would largely defer to the
19 intelligence community on that. But what I can tell you,
20 which I think is consistent with what your question was,
21 is that I have similarly heard in my tenure in
22 government, working with the intelligence community, I
23 have heard them regularly articulate that same point
24 and same area of concern.

25 When they have articulated that to me in the past,

1 it has been along the lines of either out of fear of harm
2 to the actual individual sources themselves or out of a
3 concern that identifying information or being careless
4 with information about sources could lead to future
5 sources or future governments or other partners not
6 wanting to cooperate and share information with the
7 intelligence community because they would lack
8 assurance about how it would be handled. That's how
9 I've heard them articulate that, the intelligence
10 community, articulate their concerns to me in the past.

11 Ms. Sawyer: So safety to the source, potential
12 chilling effect perhaps on the willingness of others to
13 cooperate in the future. What about a potential chilling
14 effect on the source him or herself who was
15 cooperating and then wasn't protected, their identity
16 wasn't guarded?

17 Mr. Evans: Sure. I think that would fit in as well. I
18 think in most of the discussions I can think of in my
19 experience they tended to be a little bit more at the
20 theoretical level about all human sources, as opposed
21 to specific human sources. But I can certainly see that
22 concern if it came to a specific human source.

23 Ms. Sawyer: You might agree that it might be
24 human nature that if you had thought that your identity
25 would be protected and it wasn't, you might not be

1 willing to cooperate going forward?

2 Mr. Evans: I think that's a fair characterization.

3 Ms. Sawyer: If a source has relied on sub-sources,
4 is there a risk that if a source is identified that sub-
5 source could also then be traced?

6 Mr. Evans: I think as a generic, general matter,
7 yes, I think there is that potential risk.

8 Ms. Sawyer: If sources or sub-sources are not
9 inside the United States, where we believe they might
10 be protected from hostile at least physical activities, but
11 in a hostile foreign country, is there an additional risk
12 to a source or a sub-source?

13 Mr. Evans: I think I would say in my experience
14 with the intelligence community sources located in
15 hostile foreign countries always present -- there's
16 always more risk to the source in those environments,
17 yes.

18 Ms. Sawyer: Would you consider Russia one of the
19 countries where there would be a risk that if sources or
20 sub-sources who were reporting about the Russian
21 government, about Russian intelligence -- would that be
22 one of the countries where there would be a concern?

23 Mr. Evans: I think that would be a fair conclusion.

24 Ms. Sawyer: Isn't one of the risks -- I'm curious.
25 There has been some discussion today about the fact

1 that a memorandum that memorialized an interview
2 that the FBI had with the primary sub-source was
3 declassified, some areas still redacted, and provided to
4 Congress. That document was provided to this
5 committee at 11:30. It was posted on this committee's
6 website by the close of business on the same day. And
7 within hours there were Twitter threads speculating on
8 who that primary sub-source was.

9 Isn't that one of the risks of the government, even
10 if it's trying to be careful about putting out documents
11 that talk about interviews with a source or a sub-source
12 -- isn't that the risk, that the public is going to try to
13 identify that individual?

14 Mr. Findlay: Just to be clear, Stu left government
15 well over a year ago, had nothing to do with any of this.
16 I don't know whether Stu knows the identity of the
17 source, but we certainly wouldn't want to confirm or
18 deny what was happening on Twitter. So I think it's
19 probably better to leave it.

20 Ms. Sawyer: Well, I don't believe that I asked Mr.
21 Evans to identify this particular individual. But I'm just
22 asking, is that a risk if a document that memorializes
23 an interview with a source is released publicly, even
24 with redactions, that people are going to try to figure
25 out who that person is, and they're going to have some

1 information upon which to do it? Is that hypothetically
2 a risk?

3 Mr. Evans: I want to be careful, out of respect for
4 the committee, to not opine on any of the committee's
5 actions one way or the other. So I think I would just
6 answer generically to say, setting aside any particular
7 case or even human sources, this in particular, I have
8 been involved in my tenure in a lot of declassification
9 discussions regarding classified information generally
10 and I think when declassifying information generally
11 that is always a risk for any sort of classified
12 information, that no matter how careful one is in the
13 declassification-redaction process, that potentially
14 something gets missed or, even if nothing gets missed,
15 because of the nature of redactions things can be
16 inferred that would be revealing.

17 Indeed, I know from reviewing documents, again
18 outside of the context of this case, for public release
19 and redaction, there will be times when the intelligence
20 community seeks to redact more than is potentially
21 classified, to try to avoid any inferences being drawn.

22 So that is something that, again, I would just say
23 generally is an area of concern with declassification.

24 Ms. Sawyer: In the time that you were at the
25 Justice Department, were you ever involved in review of

1 an interview with a source or a sub-source for purposes
2 of declassifying it and providing it to Congress or -- I'll
3 just say Congress.

4 Mr. Findlay: I think answering yes or no to that is
5 fine, but if the answer is yes then wherever those
6 internal deliberations were, he wouldn't be able to get
7 into.

8 Mr. Evans: Just to make sure I understand the
9 question, whether I was involved in reviewing for
10 declassification and-or production to Congress a
11 summary of a source interview, essentially?

12 Ms. Sawyer: Yes.

13 Mr. Evans: I am honestly not sure. Sitting here
14 today, I can't think of one. But I also can't tell you that
15 there weren't any. But I'm not 100 percent sure.

16 Ms. Sawyer: Given what that document would have
17 been, an actual document of an interview with the
18 source, not general intelligence collection that
19 happened to have a source in it -- it was an actual
20 interview with a source -- how careful do you think you
21 would have been about the information?

22 Mr. Evans: I think when we look at all classified
23 information for production or redaction or
24 declassification, you're always looking generally to be
25 careful with things that are of a more highly classified

1 nature. As I think we were talking about earlier, the
2 intelligence community generally views human sources
3 as higher up that spectrum of importance. So I think
4 that's something that one would have been careful with.

5 Ms. Sawyer: I think from our side of the ledger
6 over here, I think we've exhausted our questions for the
7 moment. So thank you.

8 Mr. Baker: In addition to oversight and review of
9 things that have happened in the past, this committee
10 obviously, with their jurisdiction over DOJ and FBI, make
11 changes, suggested changes to existing law, new laws,
12 whatever, you were asked by our Democratic colleagues
13 about some of the changes that the Director of the FBI,
14 Mr. Wray, suggested. Some you were familiar with,
15 some you weren't.

16 One thing you've mentioned today twice, so I think
17 it's an important change in your mind, and I want to
18 clarify that, is this idea of bringing the case agent front
19 and center as the affiant. That I think addresses a lot of
20 issues that the ex parte nature of the FISA process
21 invites problems with just because of the ex parte
22 nature.

23 I would be curious what your thoughts are on a
24 decentralized FISC, where you're actually moving the
25 court into either the various district courts or regional

1 district courts? Just your thoughts, based on your
2 knowledge and expertise? Is in the modern age, which
3 seems to be the argument that you would make for
4 bringing the case agent front and center as the affiant,
5 in the modern age is there a need for the centralized
6 nature of the FISC?

7 Mr. Evans: I think I can understand the logic
8 behind the question. My immediate answer would be
9 that I would still continue to see the reason and the
10 value of the centralized nature of the FISC. But I don't
11 just want to answer reflexively based on historical
12 practice and precedent.

13 I think it would add a whole level of complexity,
14 including how FISAs are administered. I think
15 recognizing, especially from Congress's perspective,
16 recognizing, as I alluded to earlier, that I think FISA
17 takes on a different level of concern and importance
18 than potentially the use of some criminal authorities --
19 FISA gets a level of attention in Congress that maybe
20 routine criminal authorities don't -- the administration
21 of FISA across 96 different districts raises a lot more
22 opportunity for variance.

23 If you think about it from the perspective of
24 Congressional oversight, Main Justice oversight, would
25 there be as much confidence that everyone knows

1 what's happening in 96 different districts? Can
2 Congress sit here today and say that it knows exactly
3 how Title III is being applied in every single district
4 around the country, the same way it can with FISA
5 because everything is flowing through a centralized
6 point in D.C., which then enables centralized reporting
7 to Congress on a semi-annual basis.

8 So I think it's a more complex question than just,
9 could you have judges out in districts hearing cases. I
10 think it would ripple through the entire way that the
11 FISA oversight system works.

12 So I understand the question and I'm not -- I would
13 agree it's one that maybe could be discussed. But I
14 think it is a little more complex than it might seem.

15 Mr. Baker: Thank you. I appreciate that.

16 Mr. Somers: Thank you for coming today and
17 appearing here voluntarily. We appreciate your
18 willingness to give us this amount of time.

19 That concludes the interview.

20 (Whereupon, at 4:22 p.m., the interview was
21 adjourned.)

22

23

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ERRATA

Notice Date:

Deposition Date: July 31 ,2020

Deponent: Stuart Evans (Redacted Version -- Corrected)

Case Name: Senate Judiciary Committee

Page:Line	Now Reads	Should Read
<u>59:20</u>	<u>did comment</u>	<u>did conclude</u>
<u>62:6</u>	<u>George Hopkis</u>	<u>George Toscas</u>
<u>67:12</u>	<u>on the chain of</u>	<u>in the chain of</u>
<u>79:10</u>	<u>Sergei</u>	<u>Sergey</u>
<u>187:16</u>	<u>IGG</u>	<u>IG</u>
<u>187:17</u>	<u>IGG</u>	<u>IG</u>
<u>215:2</u>	<u>13A letter</u>	<u>13(a) letter</u>
<u>215:3</u>	<u>13A letters</u>	<u>13(a) letters</u>
<u>215:21</u>	<u>Rule 13A</u>	<u>Rule 13(a)</u>
<u>221:4-5</u>	<u>that sub-source</u>	<u>that sub-sources</u>
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Page:Line	Now Reads	Should Read
P3, L14	at Department	at the Department
P14, L17	quality	quality
P16, L10	12	1200
P16, L23	25 to the	25 a
P17, L1	of total	of the total
P19, L1	an internal	an FBI internal
P.19, L5	whether investigation	whether an investigation
P19, L23	timing	signing
P.28, L14	read copy	final copy
P.30, L16	position was	submission was
P34, L2	You had	Mr Baker: You had
P36, L23	that to	that it
P.41, L1	-	New paragraph needed before "Mr Somers"
P45, L5	reviewed	reviews
P48, L6	this in	this point in
P55, L2	was I	when I
P62, L6	Hopkins	Toscaj

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Page:Line	Now Reads	Should Read
P62,L14	Hopkis	Toscas
P63,L1	opten	often
P63,L9	investigation	counterintelligence
P63,L13	Hopkis	Toscas
P.69,L13-14	field office	Foreign
P75,L5	raising	raises
P104,L8,11,18,25	Loffman	Lautman
P.49,L3	United States	NSA
P190,L6	NSC	NSD