SENATE JUDICIARY COMMITTEE

U.S. SENATE

WASHINGTON, D.C.

INTERVIEW OF: DANA J. BOENTE

MONDAY, JUNE 22, 2020

WASHINGTON, D.C.

The interview in this matter was held at the Dirksen Senate Office Building, Room SD-226, commencing at 10:00 a.m.
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Arthur Radford Baker, Senior Investigative Counsel (Majority)
Heather Sawyer, Staff Director & Chief Counsel (Minority)
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PROCEDINGS

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

EXAMINATION

BY MR. SOMERS:

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

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

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

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

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

Ms. Zdeb: Sara Zdeb, senior counsel with the
committee's minority staff. We're also expecting Heather Sawyer, who is Senator Feinstein's staff director and chief counsel.

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

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

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

BY MR. SOMERS:

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

Our questioning will proceed in rounds. The majority will ask questions for the first hour, and then the minority will have an opportunity to ask questions for an equal period of time. We will go back and forth in this manner until there are no more questions and the interview is over.
Typically we take a short break at the end of each hour of questions, but let us know if you would like to take a break prior to that.

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

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

Do you understand that?

A. Yes, sir.

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

If you have any questions or if you do not understand one of our questions, please let us know. If you honestly don't know the answer to a question or do not remember it, it is best not to guess. Please give us your best recollection; and it is okay to tell us if you learned
the information through someone else. If there are things you don't know or can't remember, just say so, and please inform us who, to the best of your knowledge, might be able to provide a more complete answer to the question.

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

Do you understand that?

A. Yes, sir.

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

A. Yes, sir.

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

Do you understand this?

A. Yes, sir.

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

A. No, sir.

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

That is the end of my preamble. We will now
begin our first round of questioning. It is about 10:08.

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

A. Yes, sir.

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

A. I did not.

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

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

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

A. Yes, sir.

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

A. Technically, probably not for the entire period. It's a little bit more nuanced. I don't think that the Attorney General recused himself. I don't have a
precise date for you, sir, but I believe it was the end of February or sometime in March. So technically he would have been the Attorney General.

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

Q. It wasn't immediate, to your recollection.
A. Yes, sir.

Q. And what was, I guess, either covered by his recusal -- or what was your responsibility as the Acting Attorney General for Crossfire Hurricane?
A. As the Acting Attorney General, I would have been responsible, for the Department, for anything the Attorney General would have done with the Crossfire Hurricane investigation.

Q. Did it cover Russia more broadly than that, or was it simply limited to Crossfire Hurricane; do you recall?
A. Well, I'm not sure how much more broadly the Department had with matters concerning Russian attempts at influencing the election at that time. I just don't know if there were other matters concerning Russia that he would not have been recused from.

Q. In your career, approximately how many FISA applications have you worked on?
A. It's a hard question. I always tell people it's a little different, because when you say "worked on them," I was an Assistant U.S. Attorney for many years, and you're a consumer of FISA information. So you receive the collections and things like that, but you don't actually work on the applications.

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

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

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

A. Yes.

Q. -- second Carter Page renewal?

A. Yes.

Q. As --

A. There was a ten-day period from the time Mrs. Yates left the Department until Attorney General Sessions
was confirmed. I think I was the only one at that time who had the ability to sign the FISA. So I signed all the applications in that ten-day gap. Then there were occasions when Attorney General Sessions was gone, and I would sign the applications during that period.

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

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

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

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

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

A. Yes, sir.
Q. Did you pay more attention to the new applications than the -- pay attention is my word.

A. Yeah.

Q. -- than to the renewals?

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

Q. You're saying you were reviewing things?

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

Q. On the summary, was there also -- when you say what was new, was it renewals of the summary page that, say, we collected -- is it all the information collected under this FISA, or is there a breakdown of what's new since the last renewal?
A. Well, I want to make sure we're not talking about two different things. One would just be numerics, and the other would be a narrative body, which might explain something that was specifically of interest to the investigative agency or the attorneys. Am I not helping you?

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

A. Yes, sir.

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

A. Yes, sir.

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

A. Well, that certainly could be the case. Just generically, on a FISA collection, you could have collected from the first application and not the second. Typically, that is not what happened. Typically what happens is you don't get collection early, and then you start to get collection.
Q. What other types of things are on the summary page?

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

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

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

BY MR. BAKER:

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

A. Yes.

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

A. Yes, sir.

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

A. No, sir.

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

A. There's a very extensive review process.
Q. And a lot of back and forth to clarify things long before it gets up to you in an acting capacity as the AG?
A. Yes, sir.

BY MR. SOMERS:
Q. Who briefed you on the FISAs?
A. Normally, it would have been Stu Evans and Tashina Gauhar. That does not mean there might not have been others, but they would have been the primary individuals.

Q. Was it the same people in that ten-day window when you were the Acting Attorney General for everything and the window when you were acting Deputy Attorney General?
A. Yes, sir.

BY MR. BAKER:
Q. As part of their briefing, would they highlight things they thought maybe you need to look at, and maybe offer opinions on things that you might need clarification on before you even go into it?
A. In some applications, certainly.

BY MR. SOMERS:
Q. Are you familiar with the Woods Procedures?
A. I am.
I: I just want to clarify an administrative thing, because you may have said it and I just missed it. We are in an unclassified setting today, right?

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

BY MR. SOMERS:

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

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

Q. At FBI?

A. Yes, sir.

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

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

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

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

Q. Have you ever looked at a Woods file?

A. I beg your pardon?

Q. Have you ever reviewed a Woods file?

A. I have not.
Q. You have not.

BY MR. BAKER:

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

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

BY MR. SOMERS:

Q. You mean while over at DOJ?

A. No, sir.

Q. Oh.

A. While I was General Counsel.

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

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

BY MR. BAKER:

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

A. Well, it's certainly an FBI document. It is my understanding that those documents are available to the
Office of Intelligence attorneys on request. And, indeed, that happens.

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

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

BY MR. SOMERS:

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

A. Certainly.

Q. What's a sensitive investigative matter?

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

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

A. Not that many.

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

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

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

    BY MR. BAKER:

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

    A. Yes.

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

    A. Yes, sir.

    BY MR. SOMERS:

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

    A. I don't think so. But it's difficult to
imagine that it was not.

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

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

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

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

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

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

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

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

Q. Is the FBI still running investigations out of headquarters? Or instead of saying Headquarter Special.
Not that they have anything active. I guess I'm wondering what the policy is as to whether FBI can still do a Headquarters Special.

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

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

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

BY MR. BAKER:

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

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

It's our understanding that there was a morale issue. There were a large number of EEO complaints that had been filed, and we were told that there were so many complaints coming from the General Counsel's Office regarding EEO matters that Main Justice told maybe a predecessor that settle some of these things. There's way
too many coming out of the FBI. And then, sort of along
with that, my understanding is there's something called a
climate survey that the FBI does to sort of take the
temperature, a pulse check, of the various divisions to see
if there's problems with morale and maybe retention issues
or whatnot.

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

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

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

Mr. Baker: Well, I would ask that, to the
extent that he has a thought of -- and any deliberation is
fine. I don't necessarily need to know that. But I think
as our role as an oversight entity of the FBI, and we have
a case where the Inspector General has found 17 significant
errors and there's some other allegations about misconduct
in the General Counsel's Office, I would just be curious if
there's an administrative issue or a nonlegal issue going
on over there that maybe needs to be addressed.

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

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

But, Mr. Baker, I can say that I've been a
supervisor since 2005 in various capacities at the
Department of Justice. People will frequently ask you how
morale is in the U.S. Attorney's Office. I was a U.S.
Attorney for a long time in Virginia and for almost a year
in New Orleans, and I've consistently said this to people:
If you're at the top, you're the last person to be told.
Nobody comes up and says it really sucks around here. They
just don't say that to the U.S. Attorney. So I had no indication that there was a problem.

BY MR. BAKER:

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

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

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

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

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

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

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

Q. And that's more of an FBI-wide thing, I would think. But you were never called in by the Director and said, "We've got to get morale up"?
A. No, sir.
Q. Okay.
A. No, sir.
Q. Thank you.

BY MR. SOMERS:

Q. How many attorneys are there in OGC?
A. I think there are 194 FSLs.
Q. And how many of them would have any responsibility for FISA applications or involvement in a FISA application?
A. Yeah. In a FISA application, maybe 65. It depends, when you consider the review process and everything through it. You know, they can come out of
counterintelligence or counterterrorism. So attorneys are
doing a lot of things besides FISA applications. But my
point is they don't have 60 people working on FISA
applications full time.

Q. But there's about 60 or so that could
potentially?
A. That could touch the process. It's a rough
estimate. The people sitting behind me could probably give
you a better answer. I know they aren't the witness.

Q. On a typical FISA application, how many
attorneys and general counsel would be involved in a
typical single FISA application?
A. Four or five.

Q. And would the general counsel see all FISA
applications?
A. No.

Q. When did you become aware of the Crossfire
Hurricane investigation?
A. Well, I became aware of it, I believe, in
February of '17. But I'm not entirely certain when I knew
it by name.

Q. Does that mean, did you have knowledge of it
before February of 2017 without knowing it by name you're
saying?
A. No. I think that's when I learned of it. I
don't know when I learned the actual name of Crossfire Hurricane. At the Department, we don't use code names nearly as much as they do at the Bureau.

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

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

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

A. Probably acting Deputy Attorney General.

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

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

Q. So who told you about Crossfire Hurricane?

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

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

A. Yeah. After I learned about different things,
I said, well -- as the Deputy, you always have that option in any investigation. I felt that it was important to know something about it.

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

A. Well, you're testing my memory.

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

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

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

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

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

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

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

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

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

Q. And you were told about George Papadopoulos?

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

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

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

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

A. Well, it had always been kept separate; and I think that, for whatever reason, the Bureau wanted it kept separate at that time.
Q. What about General Flynn? Were you briefed on General Flynn?

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

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

Mr. Weinsheimer: Correct.

BY MR. SOMERS:

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

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

Q. How many briefings did you receive the time you took over as Acting Attorney General to the time that Rod
Rosenstein was confirmed? How many briefings did you receive on Crossfire Hurricane?

A. Estimating?

Q. Yeah.

A. Five or six.

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

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

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

A. Yes, she would have been involved.

Q. Anyone else from Deputy Attorney General?

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

Q. How frequent were these briefings?

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

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

A. Both.

Q. -- background of the case?

A. Both.

BY MR. BAKER:

Q. Would any FBI people have ever been as part of
those briefings or this is all DOJ?

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

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

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

BY MR. SOMERS:

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

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

Q. So the FBI briefed you on that?

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

Q. Did that happen?

A. I seem to think that it did not.

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

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

BY MR. BAKER:

Q. Why would that have been something the FBI felt it needed to brief someone of your level on, that they would be opening or standing up a new unit? It seems so
A. I can't answer that question.
Q. Okay.

BY MR. SOMERS:
Q. Did you ever talk to Jim Comey about Crossfire Hurricane?
A. I discussed his testimony before SSIC.
Q. What did you discuss? This is while you were acting Deputy Attorney General?
A. Yes, sir.
Q. And what did you discuss with him?
A. Just kind of the parameters of his testimony, what he planned to testify about.
Q. Did he ask you about revealing the fact that there was an investigation?
A. We discussed that.
Q. What was your opinion on whether he should -- or could -- should or could reveal if there was an investigation?
A. Well, I certainly felt that he could. Should is a much more difficult question; but I ceded to his request to brief on it.
Q. So you did not tell him not to brief?
A. That is correct.
Q. Why did he feel he needed to, if you recall,
mention the investigation in his testimony?

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

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

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

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

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

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

A. That I can't -- my recollection -- again, three years ago. I think it was over the phone, but it could have been -- we meet with them on a regular basis to discuss national security issues. So it could have been after one of those meetings.
Q. But they were not specific. You talked a few minutes ago about briefings you received on Crossfire Hurricane. Either Comey or McCabe were in those briefings?
A. Not to my recollection. If they were, it was a one-off for some reason that I don't recall. But it was not that they regularly attended those briefings.
Q. Did you ever talk to Jim Baker about Crossfire?
A. Not that I recall.
Q. Did he directly precede you as general counsel or was there a --
A. There was an interim.
Q. Did you ever talk to Bill Priestap about Crossfire Hurricane?
A. I feel certain I did after I got to the Bureau as General Counsel. Perhaps before, but I know I did after I was at the Bureau.
Q. The same question, with Peter Strzok?
A. I don't think -- well, I didn't talk to Peter Strzok about Crossfire Hurricane after I got to the Bureau. I'm pretty solid on that.
Q. Did you talk to him while you were at DOJ or NSD or as acting?
A. There may have been, again, some contact with him. I don't believe he was part of any regular briefing, and I cannot recall anything specific Pete would have said.
Q. So other than -- you mentioned the unit chief earlier that was possibly at a prior briefing talking about standing up a unit to specifically investigate Crossfire Hurricane. Do you recall anyone from the FBI that was in your briefings while you were the acting Deputy Attorney General or --
A. I don't recall anyone. I'm not saying there wasn't. I just don't recall anyone.
Q. What was your role in Crossfire Hurricane as the acting head of NSD?
A. Much less than it had been as Deputy Attorney General. I don't have much recollection of dealing with it after I became the AAG of NSD or the acting AAG. I understand that I had a meeting on April 26. I think that was the day after Mr. Rosenstein was appointed and confirmed. I know I discussed the case with Mr. Rosenstein as kind of a handoff. I don't know whether he was at that meeting or not, but it strikes me that -- I would have thought he would have been, but I just don't know.
Q. Did you have any role of the third and final -- I want to say -- Carter Page FISA application in your role at NSD?
A. I can't help you anything more than the IG report says, which is I was given a copy of the application. But I don't recall receiving it.
Q. So you don't recall if you did anything with it?

A. No, sir.

Q. The IG report mentions on page 73 that you had concerns that the Crossfire Hurricane investigation lacked cohesion. Do you recall those concerns?

A. Yes, sir.

Q. And what were they? Or what --

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

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

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

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

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

Q. Do you mean lack of cohesion at the FBI, or do
you mean lack of cohesion at the Department generally?

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

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

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

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

A. Yes, sir.

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

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

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

Q. You don't recall which U.S. Attorney's Office
1 was working on Carter Page?

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

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

A. Northern District of Illinois is my understanding.

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

A. (Nodding head.)

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

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

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

A. I didn't get the sense that there was.
Q. So as far as the Department was concerned, the top was kind of the individual U.S. Attorney's Offices?
   A. Yes, sir.

Q. So it wasn't somebody at NSD that had visibility on these four investigations?
   A. Not that I recall.

BY MR. BAKER:
Q. I want to go back. Just a couple minutes ago you had indicated conversations that you had had at some time or another with Mr. Comey, Mr. McCabe, Mr. Priestap, and Strzok, not all together, but at different times.
   You, I think without question, have had a very long and distinguished career at the Department of Justice in a lot of different capacities, a lot of high-level capacities. And when I read some of your concerns that were articulated in the IG report and some of the things you say, you seem very able to look -- when we talked about FISAs earlier, to look at things that need to be looked at, maybe not get into the weeds on things you don't need to look at.

I'm curious, did you have a relationship with Mr. Comey before he was the director, when he was in other capacities at the Department?
   A. I've known Mr. Comey since he was an Assistant U.S. Attorney in Richmond, Virginia in 2001.
Q. And working with him, is that something that you have confidence in his abilities, or you did?

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

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

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

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

Q. It does. So did any of these people -- I get the impression that -- I understand that you didn't
necessarily work directly with Mr. Comey prior. But if you did have conversations with any of these individuals, were any of them people that you wanted other people in the room with you while you were talking to them or with them on the phone? Or these are people that you felt were competent individuals and you had no reason to question their abilities?

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

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

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

Q. Okay.

A. So that might have left people concerned.

Q. Thank you.

BY MR. SOMERS:

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

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

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

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

    A. [name redacted], while I was there.

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

    A. Well, he was actually working on the investigation for a time with an attorney in the U.S. Attorney's Office in Virginia. But it was a brief time, because by the time we started it up, I had left my role as the acting Deputy Attorney General and then shortly thereafter there became a special counsel.
Q. And this is a separate chain that he's on. As you said, he was assigned to Crossfire Hurricane. And then if they needed a FISA renewal, NSD's role in a FISA renewal?

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

Q. And he was permanently at NSD?

A. Yes, sir.

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

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

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

Q. It says proceedings.

A. Well, I would have thought maybe a lot of process. You know, not a lot of subpoenas, not a lot of 2703(d) orders, preservation letters, email search warrants, things like that, is what -- I've actually read that. I always thought it said process. But it could be --
Q. Well --
A. No, no. I'm not questioning what it says as we sit here today and I don't --
Q. Your impression is fine, either way.
Mr. Baker: It says process?
Mr. Somers: It says process.
Mr. Baker: I'm sorry, I must have copied it wrong.

BY MR. BAKER:
Q. So you would have expected to see more criminal process in a --
A. In a robust investigation, yes.
Q. Against whom? Do you recall? The four targets or --
A. Well, in any investigation, as I said, you know, preservation letters to internet service providers. I'm just going about the normal things you would expect to see in an investigation. An email search warrant, you know, search warrants for travel records. The various things that you would look for in any kind of counterintelligence investigation.
Q. Do you recall --
A. Financial records, for instance, if you're concerned about payments.
Q. For all four individuals?
A. It was a general sense that there had not been -- it had not been very robust.

Q. Did you raise this concern with anyone?

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

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

A. I don't recall.

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

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

BY MR. BAKER:

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

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

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

A. Yes, sir.
Q. At a much more fundamental level.

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

BY MR. SOMERS:

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

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

Q. Do you recall --

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

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

A. I would think so.

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

A. I do not.
Q. We're running a little low on time. According to the IG report, you provided Rod Rosenstein with the first briefing you received a day or two after being sworn in.

Do you recall what that briefing consisted of?

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

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

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

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

A. I don't recall if there were about Crossfire Hurricane. I'm not saying that there weren't discussions, but it was not on a regular basis something that was scheduled. I have known Rod for probably getting close to
20 years. So we could have had what I would describe as a sidebar conversation, but I don't recall that we were meeting on a regular basis on those as we were leak investigations.

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

(Recess.)

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

EXAMINATION

BY MR. CHARLET:

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

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

The report detailed the results of a two-year investigation into the same topics we're discussing today. According to the report, the IG examined more than one million documents and interviewed more than 100 witnesses, including Christopher Steele and numerous current and former government employees.
1. Did you cooperate with the OIG investigation?
   
   A. I did.

2. Q. Thank you. Were you interviewed as part of that investigation?
   
   A. I was.

3. Q. Once? More than once?
   
   A. Just once.

4. Q. Okay. For approximately how long?
   
   A. I would estimate somewhere between three and four hours.

5. Q. Did you provide complete and truthful answers to the questions OIG asked during the course of the interview?
   
   A. To the best of my ability.

6. Q. Did you or did the Justice Department provide OIG with documents related to your involvement with the Crossfire Hurricane investigation?
   
   A. I did.

7. Q. Did OIG ever complain that it needed more information from you?
   
   A. They did not.

8. Q. Did OIG ever complain that they didn't get the documents they needed related to your involvement?
   
   A. They did not.

9. Q. Did you have the opportunity to review the OIG
A. Yes. I reviewed the OIG report.

Q. Did you provide any comments on the draft?

A. I believe I did provide a comment.

Q. Can you please characterize those comments.

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

Q. I see.

A. So my apologies.

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

A. Certainly.

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

A. I did not. Not that I recall.

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

We believe the allegations were investigated and answered by the Inspector General, but I'm going to ask you a series of questions about them because we continue to hear these allegations from people who do not have
firsthand knowledge or evidence about what happened during Crossfire Hurricane.

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

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

A. It did not.

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

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

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

A. I do not.

Q. It has been alleged that the FBI purposefully used the power of the federal government to wage a political war against a presidential candidate they despised. Do you have any evidence that the FBI agents purposefully used that power to wage a political war?
A. I do not have anything other than what Mr. Horowitz has.

Q. Do you have any evidence that the FBI was attempting a coup against President Trump?
A. I do not.

Q. Do you have any evidence that the Crossfire Hurricane investigation was a hoax or a witch hunt intended to hurt Trump politically?
A. I do not.

Q. Was your goal to hurt Trump politically?
A. It was not.

Q. If not, what was your goal?
A. To determine if there was a maligned foreign power -- Russians -- had attempted to interfere in the election.

Q. Do you have any evidence that Crossfire Hurricane was part of a deep state effort to take down President Trump?
A. I do not have anything like that.

Q. There have also been allegations that the purpose of the Crossfire Hurricane investigation was to change or nullify the results of the 2016 election. Do you have any evidence that the goal of Crossfire Hurricane was to change or nullify the 2016 election?
A. I do not.
Q. There have also been allegations that Crossfire Hurricane was composed of people who hated Trump and who had an agenda to destroy him before he was elected and after he was elected. You were appointed by Trump to be Acting Attorney General after Trump fired Sally Yates for refusing to defend the travel ban.

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

A. It did not.

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

A. Did not.

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

A. It did not.

Q. Do you have any evidence that an agenda to destroy the President has impacted any decisions by Director Wray specifically?
A. I am not aware of any such information.

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

A. I did not.

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

A. I do not.

Q. Thank you.

BY MS. ZDEB:

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

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

A. They do not.

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

A. It would be harmful to national security, because many times the goal is just to find out what the
foreign power knows or what they're trying to find out, and various other things that really are completely unrelated to criminal investigations.

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

A. They do not.

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

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

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

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

A. It does not.
Q. I would like to ask you a couple of questions about that period of time when you were acting -- or the two periods of time during which you were acting AG, first in general and then second for purposes of Crossfire Hurricane.

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

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

Is that correct?

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

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

A. That's correct.

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

A. That is correct.

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

A. Yes, ma'am.

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

A. That is correct.

Q. You spoke a little bit before the break about the transition between yourself and Mr. Rosenstein when he
was sworn in as acting Deputy Attorney General in April of 2017. At some point before that transition when you handed off the case to Mr. Rosenstein -- and you had spoken a bit before about discussions with Director Comey. At some point during this time, when you were still acting AG for purposes of Crossfire Hurricane, Director Comey made you aware that the President had asked him to, quote, "lift the cloud of the Russia investigation," and that this direct contact from the President had made him uncomfortable; is that correct?

A. That's correct.

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

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

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

A. I'm not certain I can distinguish the content between the two as I sit here. But they were both calls
Mr. Comey had received from the President: It was a pending investigation, and it made him feel a little uncomfortable.

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

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

A. I would agree with that.

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

A. I think so.

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

Could you speak to why maintaining public
confidence in the Russia investigation was important?

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

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

Q. Of course, at a certain point, as we've discussed, Mr. Rosenstein was sworn in as Deputy Attorney General. At some point shortly after he became Deputy Attorney General, Director Comey testified before our committee; and in a similar way as you described him doing before the Senate Intelligence Committee, he confirmed to our committee the existence of an investigation, but he declined to answer further questions about the specifics of that investigation or to rule out that specific people were being investigated. Of course, about a week after that, Director Comey was fired by the President.
When Mr. Rosenstein appointed Robert Mueller as Special Counsel the following week, he said, quote, "Based on the unique circumstances, the public interest requires me to place this investigation under the authority of a person who exercises a degree of independence from the normal chain of command." He also said that a special counsel is necessary in order for the American people to have full confidence in the outcome of the Russia investigation.

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

A. Not that I recall.

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

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

BY MS. SAWYER:

Q. I just had a couple questions.

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

Does that sound right?

A. That was my understanding.

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

A. Yes, ma'am.

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

A. There is not.

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

A. Yes, ma'am.

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

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

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

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

A. Yes.

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

A. I think so.

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

A. Yes, it would.

Q. In what ways?

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

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

A. That is frequently the case in counterintelligence investigations.

Q. And if one person who potentially is assisting is a campaign manager and has access to internal campaign
strategy and internal campaign data, might you possibly want to know their connections with Russian individuals?

A. Taking your hypothetical as correct, yes.

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

Are you familiar with Mr. Kilimnik?

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

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

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

Q. So you briefed Congress?

A. This has been my only briefing of Congress.

Q. I'm sorry, today?

A. Today is my only briefing.

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

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

A. I think my answer might kind of get into classified information.
Q. Fair enough. What is your understanding of Mr. Manafort, when he was campaign manager, of his interactions with Mr. Kilimnik?

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

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

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

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

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

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

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

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

A. Yeah.

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

A. I'm a little uncertain. I seem to recall that
gentleman's name was mentioned, but I'm uncertain.

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

A. Yes.

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

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

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

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

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

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

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

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

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

The second meeting was a briefing of the separate Manafort investigation, I recall that pretty specifically, as to whether he wanted to bring it into his
umbrella, but I did not understand what his umbrella was.
The first meeting in the JCC was just more generally where
the investigation was. I would note that I was not the
primary briefer in either case.

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

Q. And that was the separate investigation?
A. That was the separate. Yeah, that was the one
concerning the separate prior investigation of
Mr. Manafort, whether the special counsel would assume
responsibility for that investigation.

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

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

A. I do not remember that.

Q. Do you remember whether there's any sense that
there actually was matters that he should be looking at,
and even just a general sense of what that included?

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

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

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

Q. And I think we a little while ago were asking you about witting assistance, and whether or not witting assistance can exist without there being -- and I think
you've now indicated -- criminal conspiracy to commit a
crime, and you've indicated that that was true. Is that
correct?

A. Yes.

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

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

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

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

A. Well -- and in the case of computer intrusions
by foreign powers -- which, unfortunately, attempted
computer intrusions by foreign powers are not necessarily
rare. We investigate those frequently for both criminal purposes and counterintelligence purposes.

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

Q. And then determining who, in terms of U.S. persons, might have been working with WikiLeaks also might have been a worthwhile endeavor?
A. It would have been within the scope of an investigation.

Q. You noted something there. You said attempted intrusions by foreign powers are not that unusual. If a U.S. candidate for office openly and publicly invites a foreign entity to hack his or her opponent, is that something that the law can or should reach?
A. I don't know if it currently "can" reach it. And I would leave the "should" to you folks.

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

For example, the fact that Russia did for the first time try to intrude on Hillary Clinton's email server five hours after then-Candidate Trump invited them to do
so, should that make a difference?

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

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

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

A. Yes, I did.

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

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

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

A. No. I had some contact with him when I was
over at the Department as the Acting Deputy. It was not extensive, but -- there were less than a handful, I would say. I certainly knew who he was.

Q.    How did you know who he was?

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

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

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

Q.    Fair enough. A little under a year.

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

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

Q.    Then one last question. There is a reference in the Mueller report, it's on page 13, and it just references that for more than the past year -- so I think
just the last year, at least the last year of the Special Counsel's investigation, the FBI and also embedded personnel at the office who did not work on the Special Counsel's investigation, but whose purpose was to review the results of the investigation and to send in writing summaries of foreign intelligence and counterintelligence information to FBI headquarters and FBI field offices.

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

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

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

Q. Did you actually review those records?

A. I did not. At least not to my knowledge. I might have gotten something on a one-off, but I had no regular reviewing of those documents.
Q. Do you know where those records now reside?
A. If -- I don't. If they came over as part of the Bureau's materials, they would be at the Information Management Division out in Winchester.

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

(Recess.)

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

EXAMINATION

BY MR. SOMERS:

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

At this time, you were already briefed on Crossfire Hurricane generally?
A. Yes, sir.

Q. Had you read a previous copy of the Carter Page FISA application? Was this the first time you were seeing the application?
A. I believe it's the first time I had seen the application.

Q. Did you read the application?
A. I did.

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

A. Yes, sir.

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

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

Q. Separate from the standard --

A. Yes, separate.

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

What did you mean by good visibility?

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

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

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

Q. The IG report indicates that, as I said, you
got the draft -- I guess a draft of the read copy I assume
is what you got on April 2nd?
   A. Yes, sir.
Q. It says, the IG report indicates that you
signed off on the read copy of the FISA being sent to the
FISA court the next day on April 3rd.
   Does that sound correct?
   A. I don't have an independent recollection of
that fact.
   Q. And I believe FISA was actually filed on the
7th or 8th of April. Do you recall, did you stop working
on that particular FISA once you gave that signoff of the
read copy to go to the court?
   A. I have no recollection one way or the other.
I'm pausing and I'm hesitating because I can't recall
whether we actually considered the Office of the Attorney
General to be a SCIF and left top secret matters out of it.
The reason I'm pausing is if I had access to
it, I might have picked it up and read it. But if I had
been taken and placed in a SCIF, in which I wouldn't have
it, then -- if that all makes sense.
   Q. Did you have any input into the application
after you read it?
   A. I don't recall that I did.
   Q. So you don't recall asking for any changes?
1 A. I don't recall that.
2 Q. Do you recall asking any questions about
3 anything in particular in the application?
4 A. Not anything in particular. But I seem to
5 recall that I had questions. I just can't recall what they
6 were.
7 Q. I think one -- I don't think you characterized
8 it as a question, but according to the IG report, it's on
9 page 216 of the IG report, Ms. Gauhar recalled that you
10 were very engaged on the issue of Steele's potential bias
11 and that you and she had multiple discussions on that
12 specific issue.
13 Would you put that in the category of questions
14 you had?
15 A. I would.
16 Q. What was your concern about this potential
17 bias?
18 A. Well, I think as Assistant U.S. Attorney and
19 someone who's presented many, many affidavits to courts, if
20 you have a witness that's got bias, things that would
21 question that witness' credibility, a record, kind of a
22 financial loss to the target or something, all those
23 things, you want to be explained so that the court
24 understands, well, this witness says X, but they may have
25 an axe to grind.
Q. Is it more than you want the court to understand? Are there duties to provide?

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

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

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

Q. What did you understand about who he was?

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

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

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

A. I don't think so. I discussed it with
Ms. Gauhar and perhaps Stuart Evans. I don't recall specifically, but he would have been another person I would have asked about.

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

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

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

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

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

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

A. Or after.

BY MR. BAKER:

Q. Do you recall either Evans or Ms. Gauhar indicating, on the topic of potential bias by Steele, that anyone at the FBI had weighed in on that and sort of
addressed or pushed back on any of the Department's concerns about bias?

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

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

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

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

Q. Okay.

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

Mr. Baker: Thank you.

BY MR. SOMERS:

Q. But you do recall Stu Evans raising with you
that he had had some concerns at one point in time about bias?

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

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

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

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

A. Yeah.

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

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

Q. You said earlier, and I think it's also in the IG report, you said you understood that Steele's reporting
was opposition research. What does that mean to you? What did that mean to you, that was opposition research?

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

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

A. I did.

Q. Did you understand that it was the DNC?

A. I think I did.

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

A. I do.

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

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

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

A. I believe so.

Q. You had mentioned --

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

Q. But Mr. Simpson was paid for -- or Fusion GPS was paid for by the DNC?
A. Whether I had that connection at that time or not, I don't know. But I did have information from the Bureau that it was opposition research. I believe it was the DNC.

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

A. Yes, sir.

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

A. I believe so.

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

A. All the timings are a little tough.

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

A. I do.

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

A. I would not characterize it as evidence.

Q. Was it a document generated by the FBI?

A. Yes.

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

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

Q. I understand.

A. Because I don't really -- I don't know if
there's some way that counsel can communicate with you afterwards in a more classified forum. It's an easy answer.

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

A. No.

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

"Steele, who now owns a foreign business/financial intelligence firm, was approached by an identified U.S. person, communicated to Steele that a U.S.-based law firm had hired the identified U.S. person to conduct research regarding Candidate One's ties to Russia. He identified the U.S. person and Steele had a longstanding business relationship. He identified the U.S. person hired Steele to conduct this research. He identified the U.S. person never advised Steele as to the motivation behind the research of Candidate One's ties to Russia. The FBI speculates that the identified U.S. person was likely looking for information that could be used to discredit Candidate One's campaign."
I believe in the IG report you found that footnote to be very clear?

A. To me, it is. And perhaps I can help you as to why I say that. I have been a prosecutor for more than half of my life. Kind of sad, but I have been. We always anonymize victims, witnesses, coconspirators. The footnote would be much clearer and easier to understand if we used everyone's name, but by Department policy we never do that. I have thought for many years, in drafting indictments or search warrants, if I could say Witness Smith or Victim Jones because it's much easier to follow. So when we anonymize the names, as we've done in that footnote, it is not as clear as it could be as if you used the words DNC. But we don't ever do that.

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

A. I just think that's the Department policy. It's the best you can do. I would note that Judge Boasberg, in his March 4th public opinion, commented on the footnote and said, I believe, something along the lines of it was opposition research. So it appears the court understood what it was and they certainly had, if they didn't, the opportunity to ask a question. All of which may not be satisfying to your question, but I -- just
that's the system we work in. We put those things in anonymously for everyone, to protect victims, witnesses, coconspirators if they aren't indicted.

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

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

Q. That should be stronger, you say?

A. Yes, sir.

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

A. I think it could be assesses, it could be concludes. That word is not as good as it should be.

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

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

A. No. I think it factored into my decision. I hope that I made an independent conclusion and didn't rely solely on that. But it's not the same as a judge had previously rejected the affidavit.
Q. I think I kind of asked this question in our first round early on. Had it been the initial application versus a renewal, then would you have looked at it harder?

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

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

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

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

A. Yes, sir.

Q. -- in the first hour.

In the summary page, you talked about what was done with the information that has been collected through a FISA. You said that’s summarized in terms of number of hits or something like that?
A. Number of collections and number of collections reviewed --

Q. Do you recall --

A. -- I believe is what it says.

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

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

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

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

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

Do you recall what that would have been?

A. I recall a discussion with Deputy Attorney General Rosenstein about the application in general or writ large. As I said to the Inspector General, I have no
recollection of reading the third renewal, although I'm not
denying the fact that the IG still concluded that I had a

copy.

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

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

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

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

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

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

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

Q. Did Rosenstein ask you your opinion as to whether you should sign the renewal?
A. I don't recall.

Q. Do you recall any discussions, kind of what you were just saying, at this point, are we collecting any information on the Trump campaign? Do you recall any discussion whether it was worthwhile to seek this final FISA that far out from the events of 2016?
A. I don't. I don't recall. I learned, I think -- well, I know if I learned it at all, it was subsequently -- that like my application, the third renewal also had collection in it. But I'm a little less clear about that.

Q. Did you see the summary sheet?
A. I don't know that I saw anything then. Since then, I've been involved in the declassification process of
all these. So that's where my basis for the fourth would come from.

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

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

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

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

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

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

A. Not by name.

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

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

Q. The person the IG report calls the primary subsource?
A. I couldn't recall whether we used that term.

But yes.

Q. One and the same though?

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

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

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

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

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

Q. Do you recall who told you?

A. I do not.

Q. But it would have been a DOJ official?

A. I believe so.
Q. Most likely?
A. Most likely. It could have been -- like I said, I'm not saying that there was never FBI personnel there. But my recollection is it was primarily DOJ briefings.

Q. To be clear, so you're aware Steele had a primary subsource. You also became aware that the FBI located and interviewed the primary subsource?
A. Well, I certainly became aware of that later. I believe I knew it at that time.

Q. By April 3rd, when you signed?
A. I think I did. Again, three years ago, the timing of when I learned that.

Q. How about before Attorney General Rosenstein signed. Not that you would have talked to him, but were you aware by the time the final FISA application was filed?
A. See, again, I don't -- well, to that question, yes, because my briefings ended. I wasn't getting briefings by June 24th, or whatever it was, when he signed.

Q. So you were aware. As acting Deputy Attorney General, you were aware that the FBI had located and interviewed Steele's primary subsource, although you didn't call him the primary subsource?
A. Well, I don't know what I called him. During
the declassification was why I was confused by the primary
subsource time. They had located him -- again, it's all
very confusing to me because now I know when. As I sit
here today, I know precisely when they interviewed him
because I learned that in 2019.

Q. But before you left --

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

Q. -- In your position as acting Deputy Attorney

General, you're aware that they had located him?

A. I was aware they located him. I may have been

aware that they interviewed him. I don't know. I don't

know that I knew the date.

Q. So then this question is probably obvious from

your last answer. Were you aware of the results of the

interview?

A. I absolutely was not aware of the results of

the interview.

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

A. No, sir.

Q. Let's back up. Described in the IG report,

there were two memos written about the primary subsource

interview. One is a very extensive memo that outlines I

think the information. It's all shocking that the FBI knew

this derogatory information. There's also a shorter memo

that did not seem to include most of that information.
You weren't aware of the sort of positive information on the primary subsource?

A. I do not think that I was.

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

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

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

A. Yeah.

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

A. I don't recall there being any separate communication on positive or negative findings on the primary subsource.

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

A. Not without it being in there.

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

BY MR. BAKER:

Q. Based on what you know now or based on what you
knew then, in the totality of your knowledge and expertise for what you've done for all these years, do you think, what was in the Steele information, was that absolutely critical to get a FISA over the finish line? Or was there enough investigative materials unrelated to anything Steele ever said to establish probable cause for the FISAs?

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

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

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

A. I recall some information that there was a staleness issue, and that the Steele information got them over that requirement.
Q. Just for the record, when you say "a staleness issue," the issues of the information they had was old and not --

A. Was older.

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

A. In their opinion.

BY MR. SOMERS:

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

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

Q. But you had no discussions about corroboration?

A. I don't believe I did.

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

A. Oh, it's a vigorous, robust review on both sides of the street. Or it's certainly supposed to be, and that's our obligation to do that. So, yes, I presumed that had been done in this case.
Q. Although the Inspector General has a more recent report out that would question whether it happens in other cases, a Woods file is actually generated.

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

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

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

BY MR. BAKER:

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

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

A. Yes. There are two separate types of audits.
One are done by OI with OGC attorneys who go out to the field. Then there's kind of a second stream, I'll say, of accuracy reviews done by the CDCs.

Q. CDCs, for the record, is what?
A. Chief Division Counsel, who is the FBI counsel in the office.

Q. In the field office?
A. Field office. Yes, sir.

Q. So they answer in some way, shape, or form to the legal folks back at FBI headquarters?
A. Not really. They answer to the FAC, but OGC is the program manager. If that makes sense to you as a former FBI employee.

Q. Okay. So as a FISA application is moving through the field office, it at some point gets standard transmitted to FBI headquarters so that it continues?
A. Well, there's -- most of it goes to the Department of Justice.

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

So there are two separate streams of audits. One is done by OI, and then there's a second stream done by
CDCs. And they're somewhat random -- I would not describe
them as random in the way that a CPA firm would do an
audit -- and so the Bureau is looking into that process
right now to see how it can be improved.

Q. So when you say it's not random, like a --
A. Well, it's not random in that -- a bad choice
of words probably, Mr. Baker.

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

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

A. Yes, sir.

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

A. Correct, sir.

Q. Okay. And in your opinion, in your experience
on either side of the street, had there historically been
issues with Woods files?
A. Not that I'm aware of.

Q. Okay.

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

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

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

Q. Okay.

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

Q. Okay.

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

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

A. Well, you know in a week it's not going to matter.
Q. Fair. Does the Bureau move case agents around too much? If you've got all these files and you've had some case agent that's with the case for a while, they know what's in the files, they know what needs to be added. Somebody coming in and inheriting a very complicated FISA that they have to catch up on all that, that seems to me that would be an opportunity for stuff to fall through the cracks. I would just be interested in your opinion.

A. Probably. It's the same way with cases. When someone's promoted, they lose cases. I don't want to get way out of my lane, because I am. As the U.S. Attorney, I always liked to have my SACs for a little bit longer. One of my field offices was a WFO. Tends to be a little bit of turnover there more than other offices. So, yeah, I like the stability. But the Bureau has its own requirements. You probably know more about that than I do.

BY MR. SOMERS:

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

Did you have any role in drafting this letter?

A. We're usually able to review those and make
comments. We, OGC.

Q. FBI OGC?

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

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

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

Q. Go ahead.

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

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

A. I do recall that.
Q. And you saw it before it was sent?

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

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

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

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

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

A. Yeah.

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

A. Absolutely.

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

A. Not that I recall.

Q. Not that you recall?

A. But certainly there is that concern, and that's why -- we file a lot of -- or the Department files a lot of Rule 13 letters. But usually they're not -- just to make
sure that the court's accurate, but they're not major. You know, there might be a date wrong, there might be a time wrong, something like that. But I think they take their obligation very seriously, those who actually file those documents with the court.

BY MR. BAKER:

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

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

Q. The ultimate goal is candor to the court.

A. Absolutely. All attorneys have that duty.

BY MR. SOMERS:

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

A. No. Your duty would be the derogatory or the -- that questions your probable cause. That is -- so to answer your question, if you've got 100 facts, but you can establish probable cause with 60, there's no obligation to pile on with the other 40. But every contradictory fact, every fact that questions the credibility of a witness should be included in your application.
Q. Is that well-known to -- well, we'll start with Department attorneys?

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

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

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

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

A. Even back when I took the bar.

BY MR. BAKER:

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

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

BY MR. SOMERS:

Q. I don't know if you would know this. Do you know if attorneys inquired of the Agency? You've got a FISA application or you have a regular warrant application.
Do they inquire, hey, is there any exculpatory information? Is there anything that undercuts this? Is that a normal part of the agent's case?

A. Yeah. It's on a checklist.

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

A. For FISA, now.

Q. How about then?

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

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

A. For agents.

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

Mr. Somers: He's General Counsel of the FBI. You've had FBI agents not tell FBI attorneys about exculpatory information, which is what I'm asking about. And I'm asking whether they had a duty to tell the FBI attorneys about exculpatory information. I don't think that's in the least bit far afield.
I'm not objecting to your questions about his opinions about duty for candor. I'm objecting to the line of questioning about actions the FBI may have taken or current processes or policies that he may have been involved in as the General Counsel of the FBI.

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

BY MR. SOMERS:

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

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

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

A. For agents.

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

A. OI, Office of Investigation.

Q. OI and Justice?

A. Yes, sir.

Q. And on that form, there's stuff that would go to the duty of candor that we spoke about when we were speaking about exculpatory information?
A. I believe so.

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

A. That's exactly right.

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

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

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

A. I do not.

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

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

A lot of times on a FISA application you're
under a lot of time pressure for various different reasons. Some are quite obvious in counterterrorism cases. I don't think in this forum we can get into what makes them time sensitive in counterintelligence, but they do get quite time sensitive. So you can really slow down the process a lot.

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

Q. Did you say the Woods file resides in the Sentinel system?
A. No. Some do. Maybe there should be a requirement they should.

Q. So not all of them?
A. It's not a requirement.

Q. Do OGC attorneys have access to the Sentinel system?
A. They do.

Q. So if it happened to be an application for which a Woods file existed in the Sentinel system, they
1 could go look at it?
2     A. Yes, sir.
3 Q. Do you know whether this was filed?
4     A. I do not.
5 Q. You don't know whether it was in Sentinel?
6     A. I do not, sir. I don't think most of them are in Sentinel, but I don't know. As I sit here, I can't give you all a percentage of how many are. I think it's a little bit up to individual agents as to how well they keep records and whether they want to do that.

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

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

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

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

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

BY MR. SOMERS:

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

Mr. Somers: And just for the record, if I ask anything about General Flynn, I'm going to get an objection
from the Department. Is that correct?

Mr. Weinsheimer: That's correct.

BY MR. SOMERS:

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

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

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

A. It did not.

Q. Anything to do with counterintelligence?

A. It did not.

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

A. He did not.

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

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

Q. And that mention didn't cause you to just walk down the hall and say, Bruce, what do you know about Christopher Steele?
A. No.

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

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

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

A. No, sir.

Q. In the Crossfire Hurricane investigation, there's a quote from Deputy Attorney General Yates on 299 of the Inspector General's report. "Yates told us the Russia interference investigation in general was well-known in ODeputy Attorney General by the time Orr met with McCabe in October of 2016." That's on page 299 of the IG report. Would you agree with that, that the Crossfire Hurricane investigation was sort of well-known in the office? What I'm getting at is, Bruce Orr should have come to you and said, hey, I'm talking to this guy?

A. Well, two different answers. I don't know whether it was well-known or not well-known In ODeputy Attorney General. But Department of Justice attorneys and assistant U.S. attorneys do not deal with witnesses, so he
should have told someone. What he should have done is hand off Mr. Steele to an agent. That's what you should do.

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

Q. And he should have done that well earlier?
A. Yes. That's what you do immediately; otherwise, you become a witness, and that's the last thing in this world you want to do.

Q. Just for the record, he should have at least told you or Deputy Attorney General Yates. Were you a direct supervisor?
A. Yes, I was.

Q. Should he have told you that he had contact with Christopher Steele?
A. I think so. Again, I don't think he should have had contact with Christopher Steele in this case.

BY MR. BAKER:

Q. As a practical matter, was he ever noticed missing from his desk? He seems to be out and about doing a lot of different things, not whatever he was supposed to be doing.
A. No. I never got -- don't recall getting a
report of that, and I certainly wasn't checking on him at his desk.

BY MR. SOMERS:

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

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

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

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

I just want to say for the record I think you've pursued a very noble calling. I dealt with you on the House side and you were very helpful. You were very cooperative coming in today. You've been very helpful. I know for a fact you occupied many different positions in your long career at the Department. You did many difficult jobs very well. I thank you for coming in today, and I wish you well.

The Witness: Thank you. And it was a joke. It was just more a reference to my age than anything else.

I've been very fortunate and had a career that I loved.
1 There's no better job than being an AUSA.

2 Mr. Baker: Thank you for coming in today.

3 (Recess.)

4 Ms. Sawyer: Back on the record.

5 EXAMINATION

6 BY MS. SAWYER:

7 Q. I just want to clarify on a range of things
related to Mr. Flynn, General Flynn.

8 Ms. Sawyer: Can the witness speak to at all
the calls with Ambassador Kislyak?

9 Mr. Weinsheimer: No.

10 Ms. Sawyer: Can the witness speak today about
any discussions the witness may have been involved in while
acting Deputy Attorney General about Mr. Flynn?

11 Mr. Weinsheimer: No.

12 Ms. Sawyer: Can he speak to the issue of
whether any National Security Advisor having conversations
with the Russian ambassador and potentially misleading the
White House officials about that? Can he speak to that
generally?

13 Mr. Weinsheimer: No. Because the only
relevance would be as to Flynn.

14 Ms. Sawyer: Can he speak to assertions that
have been made that there was entrapment with regards to
Lieutenant General Flynn?
Mr. Weinsheimer: No.

Ms. Sawyer: So those are issues that I think are of importance to the committee, at least to the members on the Democratic side of the committee.

Mr. Boente, I understand that you're not able to answer those because of the ongoing matter, but it may be that we ask you to return at some point.

The Witness: I would be happy to accommodate the committee.

Ms. Sawyer: Thank you.

BY MS. SAWYER:

Q. I'm curious. We talked a lot about Carter Page and the Carter Page FISA application. I understand and I appreciate your answers.

Have you ever gone to look at the section of the Mueller report that dealt with Carter Page?

A. I have not.

Q. I'm going to give you a copy of this report and just ask you a few questions.

I'm just going to direct your attention to page 101 of Volume I. Part of what was in the FISA application that you signed was an assertion that, based on public source information, Mr. Page had been in Moscow in July of 2016 while he was working on the campaign. So I'm just going to direct your attention to page 101.
A. Yes, ma'am.

Q. So that second paragraph that says: "On July 8, 2016, while he was in Moscow, Page emailed several campaign officials and stated he would send 'a readout soon regarding some incredible insights and outreach I perceived from a few Russian legislators and senior members of the presidential administration here.'" Do you see that?

A. Yes, ma'am.

Q. Then there's a little more information, and then there's a large swath of this that is redacted as grand jury information. Have you ever seen that grand jury information?

A. I don't believe I have.

Q. Then after the redacted portion, it says the following: "The office was unable to obtain additional evidence or testimony about who Page may have met or communicated with in Moscow. Thus, Page's activities in Russia as described in his emails with the campaign were not fully explained."

Do you have any additional information that might shed light on what Mr. Page was doing in Moscow and who he was meeting with?

A. I'm not certain. I might, but I think it would probably be classified if I did.
Q. Beyond relying on the reporting from Christopher Steele in the Page FISA applications, are you aware of any other place where any of the Crossfire Hurricane investigation relied on information from Christopher Steele?

A. Excuse me? I'm not sure I understand your question.

Q. Other than what we've discussed -- and we have discussed the Carter Page FISA applications, one of which renewals you had signed or had reviewed.

Other than relying on reporting from Christopher Steele in those Page FISA applications, are you aware of any other instance where the Crossfire Hurricane investigation relied on reporting from Christopher Steele?

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

Q. So sitting here today, we can't cite you to another example where they relied on reporting from Christopher Steele?

A. I cannot. But I cannot also say that I know they didn't.

Q. Can you tell me whether or not you know where in Special Counsel Mueller's 448-page report there's any citation to the Steele dossier?

A. No. I'm not that familiar with Mr. Mueller's report.
Q. Can you identify which, if any, of 199 criminal counts filed by Special Counsel Mueller rely on any reporting from Christopher Steele?

A. I do not. I seem to recall a conversation with Mr. Mueller's staff where they said they weren't relying on Mr. Steele.

Q. Just on this broader question, you've described what Mr. Steele had and did his opposition research. And I think the natural understanding, if it was opposition research on Donald Trump, would be that it was someone who was against his candidacy.

Is that a fair assumption?

A. I think that's the case. And as I mentioned, I think Judge Boasberg indicated his understanding as well.

Q. With regard to this notion of whether it was proper in any way, shape, or form for the FBI to even look at the information that Christopher Steele brought to them, it was also given to them by a number of other people, including Senator John McCain.

Was it inherently improper for the FBI to even look at or consider Mr. Steele's information?

A. I don't think so.

Q. Why not?

A. I think that if Mr. Steele acquired information that might have counterintelligence value protecting the
United States, I think you're obligated to at least look at it.

Q. You were also asked some questions about Bruce Orr and his involvement and interactions with Christopher Steele. And what I heard you saying is that you were not aware at the time.

Have you ever spoken to Mr. Orr about those interactions directly?

A. I have not.

Q. So he hasn't explained to you the degree to which he was interacting and who initiated the interactions?

A. He has not. I have some understanding of the degree because I had the 302s.

Q. So you've reviewed his interviews, Mr. Orr's interviews?

A. To say I reviewed them might be a little bit -- I probably read them very quickly.

Q. Fair enough. Was Mr. Orr involved in any way in the decision to seek a FISA warrant on Carter Page?

A. Not to my knowledge. And I have no reason to believe that he was.

Ms. Sawyer: If you would give us a second.

Ms. Zdeb: That concludes our questioning, Mr. Boente. Thanks for being here.
It is 1:25. We can go off the record.

The Witness: Thank you.

Mr. Somers: We don't have anything else left. We just want to thank you for coming in and giving us your time of day.

The Witness: Thank you.

(Whereupon, the proceedings were adjourned at 1:25 p.m.)
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Notice Date:

Deposition Date: **June 22, 2020**

Deponent: **Dana J. Boente**

Case Name: **Senate Judiciary Committee**

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