INTerview of Stuart Evans

REDAcTED VERSION - CoRRECTED

July 31, 2020

U.S. Senate
Committee on the Judiciary
Washington, D.C.

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

Present: Arthur Baker, Andrew Fausett, Heather
Sawyer, Sara Zdeb, and Zachary Somers, Committee
Professional Staff Members; Patrick Findlay, [REDACTED]
[FEDERAL AGENCY], and [REDACTED], Federal
Bureau of Investigation; Peter Hyun and Robert Walker,
on behalf of the witness; Mark Egan, court reporter; and
Stuart Evans, the witness.
NOTE REGARDING CLASSIFICATION

Parts of the interview are classified TOP SECRET.

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

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

Classified material appears as follows: pages 122-128, 158-174, and 203-205.
Mr. Somers: This is a transcribed interview of Stuart Evans. Chairman Graham requested this interview as part of an investigation by the Senate Judiciary Committee in matters related to the Justice Department and the Federal Bureau of Investigation's Crossfire Hurricane investigation, including the application for and renewals of the Foreign Intelligence Surveillance Act warrant of Carter Page.

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

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

Mr. Somers: 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 and I'm the Majority Chief Investigative Counsel for the Judiciary Committee. I'll now ask everyone else who's here in the room to introduce themselves for the record, except for Mr. Evans' personal counsel, who we'll get to in a few moments.
Mr. Baker: Arthur Baker, Senior Investigative Counsel, Majority Staff, Senate Judiciary Committee, Lindsay Graham, Chairman.

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

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

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

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

Mr. Somers: Thank you.

The Federal Rules of Civil Procedure do not apply today, but there are some guidelines that we follow that I'd like to go over. Our questioning will proceed in rounds. The majority will ask questions in 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 questioning. But if you need to take a break apart from that, please let us know.

As I noted earlier, you are appearing here today 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. You understand that?

Mr. Evans: I do.

Mr. Somers: So 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.

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

Mr. Walker: Rob Walker with the Wiley Rein law firm.
Mr. Hyun: Peter Hyun, Wiley.

Mr. Somers: We want you to answer our questions in the most complete and truthful way possible, so we will take our time. If you have any questions or 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 you learned the information from 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 to answer -- you are required by law to answer questions truthfully. Do you understand that?

Mr. Evans: I do.

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

Mr. Evans: I do.

Mr. Somers: Witnesses who knowingly provide false testimony could be subject to criminal prosecution for perjury or making false statements. Do you
I understand this?

Mr. Evans: I do.

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

Mr. Evans: No.

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

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

Do you have any questions before we begin?

Mr. Evans: Not at this time.

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

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

Mr. Evans: I have, although I have not read it in its
Mr. Somers: Other than your personal attorney and the attorneys here from DOJ, did you speak with anyone in preparation for today's interview?

Mr. Evans: No, I did not.

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

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

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

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

I did a brief ten-month detail to National Security Council dealing with the aftermath of the Snowden disclosures, then from the middle of 2014 until my departure from the Department in May of 2019 served
as the Deputy Assistant Attorney for Intelligence over
the Office of Intelligence.

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

Mr. Evans: That's correct.

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

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

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

Mr. Evans: No, it was not.

Mr. Somers: Thank you.

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

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

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

Mr. Evans: The Office of Intelligence at that time
and so far as I know still does have three sections: the
Operations Section, the Oversight Section, and the
Litigation Section. Each of those sections is headed by a section chief, but I was in a position above those three sections with supervisory responsibility for those three sections.

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

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

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

Mr. Evans: I think the short answer is yes and no. The way the Oversight Section worked is they had various programmatic oversight responsibilities, such as for the FBI's use of FISA, conducting on-site reviews for minimization, how information collected was minimized, whether it was in conformity with the rules,
or doing accuracy reviews of applications. Those items were decided within the Oversight Section primarily in terms of their general programmatic authorities. There were other matters that could percolate up organically from specific cases that the Operations Section might become aware of first, and then they would bring that to the Oversight Section for the Oversight Section's involvement in resolving that.

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

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

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

There's another provision of the FISA Court's rules,
Rule 13B, that deals with compliance incidents, and those were more typically handled by the Operations Section. So I recall -- I can't remember whether it was classified or not, but -- the IG report may have mentioned a potential Rule 13B letter as well, and if it did that would have been handled by the Oversight Section because that would have been an issue of noncompliance with that particular rule.

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

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

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

Mr. Evans: Probably in the hundreds somewhere, between ones I worked on personally and ones in an oversight capacity -- "Oversight" is not the correct word, but ones in a managerial capacity I had the opportunity to review or read -- I'd say in the hundreds somewhere.
But I couldn’t be more precise.

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

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

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

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

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

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

Mr. Baker: What else would quality as a more straightforward FISA?

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

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

Mr. Evans: I can keep it at a very high level.
Mr. Findlay: It would just be more complicated issues.

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

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

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

Mr. Evans: I would agree with that.

Mr. Baker: Thank you.

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

Mr. Evans: No, they do not.
Mr. Somers: So either the DAG or the Attorney General needs to sign off on FISAs. Could the Assistant Attorney General for NSD sign off on a FISA?

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

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

Once they get progressively more complicated for one reason or another, they may kind of move up the pyramid and get additional levels of review. So in terms of my review and participation, I would say there were probably fewer than 25 to the year, maybe somewhere around 25 a year, rough estimate, that would get elevated to me for that kind of review process.
So that gives you a sense of some of total universe that was out there. I only had a small portion of them that were getting elevated to me.

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

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

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

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

Mr. Evans: As far as I'm aware, yes.
Mr. Somers: Some FISAs -- why would you review -- you said you reviewed about 20 or so a year. What's special about those 20 or so FISAs?

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

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

Mr. Evans: I'm not sure I would necessarily know the answer to that. Whether the underlying investigation is designated as a SIM wouldn't have been something that typically would have gotten flagged.
Typically, it's kind of an internal designation in terms of how they designate the case and typically wouldn't be relevant to how the FISA proceeds necessarily. So I'm not sure I would know if there would be a correlation between whether investigation was designated as a SIM or not.

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

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

Mr. Evans: The typical process for the vast majority of FISAs is that there is a signing session that takes place with that signer, whoever it is. The signing session, depending on what the volume of FISAs on a particular week is, can be daily timing sessions or sometimes just a few times a week. It depends on what the weekly volume would be.
At those signing sessions, the signer is given a copy of the application. The whole application is presented to them, along with a cover sheet that summarizes the key elements of probable cause for the application. Then there is also a briefer from the National Security Division who is usually there, and a supervisor who is also there, to orally brief the facts along with the written summary and take any questions that the signing official may have.

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

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

Mr. Somers: And for these 20 or so FISAs that came through you every year, were you involved in that signing session with -- were you typically -- not every time. But were you typically involved in those
discussions with either the head of NSD or higher?

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

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

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

Mr. Somers: Is the goal of the signing session that when that concludes that application is actually signed off on? If that is the goal, is there occasion where
there's questions that come up that the briefer who's present can't adequately address to the satisfaction of the signer and it doesn't result in it being signed at the session?

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

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

Mr. Baker: Would FBI personnel ever be at one of the signing sessions to give more hands-on or more involvement with what's being presented? Or the
briefer is the one that answers the questions of the
signer?

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

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

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

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

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

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

Mr. Evans: They would give us a heads-up. I guess what I'm trying to articulate is whether that heads-up
happens before or after the case had been signed by the DOJ signing official just varied case by case. It depended on where things were in the signing process.

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

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

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

It just seems to me in this whole FISA process there's a lot more back-and-forth at a whole bunch of different levels. It looks like the application goes in a
couple of different directions at the same time. You've
got this read copy to the court. It just sounds like, as
opposed to the criminal side of doing various
techniques, there's a constant back and forth between
FBI and the Department at different levels.

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

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

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

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

Mr. Baker: Thank you very much.

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

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

Let's say we had one that's close to the line, and we thought maybe the judge will disagree with this. We may have waited to present that to the Assistant Attorney General or the Deputy Attorney General until we had the reaction from the judge, and that way we're able to go to the signing official and say: "Ma'am, the government believes there's probable cause here, but we can tell you the judge has read it and the judge isn't persuaded and wants to have a hearing on it."
So if there were ones where we in advance thought there might be an issue from the judge, we would have the ability to wait for the judge's feedback before presenting that to the signing official. That's how it ordinarily worked, and there certainly have been occasions where things were signed by the signing official and then subsequently we got feedback that the judge would have questions, and we would just deal with that accordingly.

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

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

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

Mr. Somers: We've asked you a lot about what
goes on above NSD or just at the top of NSD and above. What I'm trying to understand is what goes on between FBI and the line attorney in NSD that's assigned. I guess the way to ask the question would be: What do you get from FBI? What's the product look like when it comes over to the line attorney in NSD?

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

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

Whenever it meets that highest level of approval, that form then gets sent over to NSD, the Office of Intelligence, and it will be assigned to an attorney to work on.
I'll pause there for a second. I would say the quality of that initial form, like with anything else, varies greatly depending on the agent and how they put it together and how they thought about it. So once it's assigned here to an attorney within OI, the OI attorney will read it and begin an iterative back-and-forth with the case agent typically, sometimes the headquarters agent as well, but typically the case agent, and work on fleshing out some information in that form and keeping that information and putting it, from that form, into a format that is the ultimate working application that would go to the court.

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

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

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

Mr. Somers: And are those -- I think in the Carter Page FISA application, for instance, there was a heads-
up given, basically: Hey, we may seek FISA coverage. Is that atypical or typical?

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

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

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

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

Mr. Somers: Based on your experience?

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

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

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

Mr. Evans: I had worked with her at various points
over the years. I don't know how you could
characterize her one way or the other, other than to
say, I think the types of FISAs she worked on tended to
be more complex counterintelligence matters, whereas
generally in my experience, I think as I just alluded to,
the General Counsel's Office tended to be a little more closely involved than others.

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

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

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

But generally, yes, my impression was on the counterintelligence side there were a number of
attorneys who stayed for quite a while.

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

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

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

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

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

Mr. Evans: In terms of the request itself, that's certainly my understanding. I don't recall the particular levels, but I think, unless my recollection is -- that for initiation of these, it might have to go up to the special
agent in charge for approval to request initiation, or
someone relatively senior.

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

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

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

So for instance, again, in earlier eras of FISA I think
it was much more common for judges to have hearings.
I think that has become less common in this era. And the court also now has much better connectivity in terms of secure phones and things like that than it did a generation ago.

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

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

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

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

Mr. Evans: Let me break your question into two parts. One, I believe it's problematic to have misstatements in FISAs, particularly if they are material.
And to the extent that is a misstatement, that's not one that I would consider acceptable.

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

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

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

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

So I would say if that language wasn't specific here to what this SSA was doing or not, that's probably just gets to the question about needing to have that
language rephrased to more accurately reflect what the role of the SSA generally is.

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

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

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

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

Mr. Evans: My understanding is that it's the former, what you described. It is supposed to be a headquarters supervisory special agent who is in a unit with some kind of programmatic responsibility for that case. So for instance, if you have a case targeting a U.S. person who is believed to be an agent of Country 1,
responsibility for espionage investigations regarding Country 1 and potential U.S. persons.

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

Mr. Baker: Okay, thank you.

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

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

As an example -- this example, as the IG report indicated, is not relevant to this particular FISA, but it's an example. If we submitted a FISA where the judge indicated he was prepared to deny it and write an opinion denying it, the FISC court staff might call me personally just to make sure I was aware as the head of the office, even though they would also relay that back to the lower level that was working on it. That would
be one example. Mr. Somers: So even though it wasn't one of the 20 or so FISAs you actually looked at, you might still be the one to get the call?

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

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

But it really varied from individual cases to bigger matters.

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

Mr. Evans: It could vary. It could -- take as an
example a terrorism investigation, let's say, using the example I used earlier, of a really high-profile, fast-moving terrorism investigation. If something like that came up and we're going to be sending a bunch of FISAs, I might call the court with a heads-up and say: Just wanted to let you know there's this new terrorism investigation that's spinning up, it's really serious, and for your timing and scheduling purposes I wanted to give you a heads-up we expect to be submitting some FISA applications on a really tight turnaround on that; wanted to give that to you on behalf of the office. So there could be things like that that could come up.

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

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

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

Mr. Evans: I did. My recollection on Carter Page is twofold. One, at some point probably within the week or week and a half before the actual application was
filed, I remember calling the court to, as I just described would be a common practice for a terrorism investigation, to give a heads-up that there was a relatively fast-moving counterintelligence investigation where we'd be submitting an application.

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

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

I think I may have had one conversation potentially with the legal adviser on the case around the question that that person had about something that was not specific to the facts of the case. I'm trying to recall what it was. I think it was about dissemination or something about that. It was something that the legal
adviser had remembered some government policy on dissemination from five or six years or maybe even ten years before and was curious about that. So I had to look something up in our case files, and in the end it turned out to be an irrelevant issue and kind of something not applicable to the case. But that conversation did not involve the facts of the case specifically, but was on an extraneous question.

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

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

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

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

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

Mr. Evans: For me in my role as the Deputy Assistant Attorney General, I don't think there was any occasion where I would look at a Woods file. My
personal experience looking at a Woods file would have been when I was a line attorney much earlier in my career. And I believe the Woods file that I looked at was part of going out and doing on-site oversight reviews at field offices. When those reviewed happen a select number of FISAs, not all of them, were typically selected for Woods reviews, Woods file reviews. In the course of performing those roles earlier in my career, I looked at some, but not more recently.

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

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

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

Three, potential complexity or other issues that
may have come up in the drafting that caused the 
Operations folks to think that there's a reason to do an 
accuracy review.

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

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

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

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

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

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

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

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

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

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

Mr. Baker: In the course of your work at the Department or just your impression -- in my view, I know the word "expert" can be sliced and diced. In my
world, you've got expertise in this particular area of the law that's incredible. Is there a lot of confusion in your mind in the agents in the field, what is supposed to be in a Woods file?

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

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

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

   I would say over time, over the last several years, the number of material errors that were identified through Woods file reviews has generally decreased. There did continue to be a persistent number of immaterial errors, such as dates being wrong or things like that. But in terms of the vast majority of the facts
that were in the FISA being in the Woods file as well, that generally tended to be the case, at least in my last several years experience.

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

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

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

It's not the harder step of are we certain that happened --
Mr. Baker: Right.
Mr. Evans: -- or do we have corroboration.
Mr. Baker: Somebody saw it or somebody heard it.
It's not an independent investigation.
Mr. Evans: That's right. The words on the page in the FISA, are they actually reflected in the underlying documentation.
Mr. Baker: And it's for every word or sentence in the FISA that puts forth a fact. It's not just for facts that are attributed to a source. It's for any fact that's in the FISA, is that right?
Mr. Evans: That is correct. So when I was describing earlier an example of an immaterial error that we might see that might be counted, let's say for example that there were the results of a national security letter that were used to document something. Well, perhaps those results came in on January 1st, but the FISA said that the results came in on January 2nd.
Well, that's likely to be immaterial because the results are the same either way. You just had a typo on the date. So that would be the sort of thing where you go out and you do the Woods file review and you look at the results of the national security letter and you see that a date was off. So that would be the sort of thing where -- what I would term a typical example of an
immaterial error.

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

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

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

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

Mr. Baker: Thank you.

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

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

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

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

Mr. Evans: I would agree with that.

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

Mr. Evans: I would actually say -- I'm just thinking in my head if I can give an unclassified answer to that. My own answer would be I think that was typical, if not potentially even on the low side. I have seen many that have significantly more renewals than that. I'd be happy to expand on that more in a classified setting.
I would also add as a general matter -- I think I can say this as an unclassified point -- counterintelligence matters in my experience tended to be slower-moving and last longer potentially than some terrorism matters. So having more FISA renewals on the counterintelligence side compared to a terrorism investigation would not have been abnormal.

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

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

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

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

Mr. Somers: Do you recall taking any issue with any of the 17 errors, in terms that you disagreed that they were errors?
Mr. Evans: Not sitting here today, not that specifically comes to mind. But yes, I will say I felt some of them were more significant than others. But I don't think all -- I recall thinking that not all the errors they identified had the same significance or relevance. But I don't recall necessarily having any argument with any of them.

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

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

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

Mr. Baker: Sure.

Mr. Evans: But among the errors discussed in the IG report, there were some I was made aware of while I was still in the Department. So those I knew of before reading the IG report, and wasn't surprised. There were
other things in there that I think I probably wasn't aware of, was I still in the Department, would have been a surprise to me. Which ones were which, I'm not sure I recall.

Mr. Somers: I think we're out of time on this round. So we'll turn it over to the minority.
Ms. Zdeb: Can we take a five-minute break?
Mr. Somers: Oh, yes. Now is the time to take a break.

(Recess from 11:40 a.m. to 11:50 a.m.)
Ms. Zdeb: It is 11:50 and we can go back on the record.

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

You mentioned that you had at one point or another reviewed at least portions of the IG report. The report was the product of a two-year investigation. The Inspector General indicated that he reviewed close to a million documents, reviewed -- excuse me -- interviewed more than a hundred witnesses, including Christopher Steele, other former -- other non-government employees, former government employees.
I take it you've cooperated with the IG's investigation?

Mr. Evans: I did, yes.

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

Mr. Evans: I was, on multiple occasions.

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

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

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

Mr. Evans: I believe I did, yes.

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

Mr. Evans: Yes, we did.

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

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

Ms. Zdeb: Did the Inspector General's Office ever
complain that they didn't get documents that they wanted pertaining to your involvement in this?

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

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

Mr. Evans: Yes, that's correct.

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

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

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

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

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

Mr. Evans: Yes, as a general matter I would say
that's right. There might have been one or two things that I would have phrased slightly differently or put a little bit of different context around. But as a general matter I think that's correct.

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

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

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

Mr. Evans: My personal actions?

Ms. Zdeb: Correct.

Mr. Evans: No, it did not.

Ms. Zdeb: Do you personally have any evidence
that political bias impacted any of the National Security
Division's work more broadly on Crossfire Hurricane?

Mr. Evans: No, I do not.

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

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

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

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

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

Mr. Evans: To the earlier point, yes, I am; and I
would say that from my personal observations I did not
personally observe anything contemporaneously that
was contrary to that conclusion.
Ms. Zdeb: The President has repeatedly called Crossfire Hurricane a "witch hunt" and accused various members of the Crossfire Hurricane team, the Department, the Bureau more broadly, of conspiring to hurt him politically. Did you conspire with anyone to hurt the President politically?

Mr. Evans: No, I did not.

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

Mr. Evans: No, I do not.

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

Mr. Evans: No, I have not.

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

Mr. Evans: No, I do not.

Ms. Zdeb: Finally, there have been allegations that Crossfire Hurricane was composed of, quote, "people who hated Trump" and who had, quote, "an agenda to
destroy him before he was elected and after he was elected." Did you personally have an agenda to destroy Trump before and after he was elected?

Mr. Evans: No, I did not.

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

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

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

Mr. Evans: That's correct.

Ms. Zdeb: So you spoke a bit before the break just generally about the process for developing the FISA applications and the back and forth between the National Security Division and the FBI. Without getting
into any specifics that would require us to go into a
classified transcript, I just want to follow up generally
on some of those process questions.

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

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

With that said, though, with respect to Ol's
interactions with the FBI, I would put it this way.
Anyone who has worked with investigators in cases
knows that investigators, especially when it's an
important and high-profile case to them, can often become very singularly focused on the objectives of their investigation and will press very, very hard for what they believe to be the investigative steps they want to take.

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

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

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

Ms. Zdeb: Picking up on the point you were just making and turning a little bit more specifically to the
FISA context, but not too specifically: As a general matter, would you agree that the FBI's requests for FISA authority are driven by their operational needs in a given investigation?

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

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

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

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

Mr. Evans: I could probably elaborate more in a classified setting. I think at an unclassified level two things that would come to mind to me would be the nature of the allegations and the nature of the underlying conduct. I'll give you a hypothetical here. If the allegation is that there is a mole inside an
intelligence agency actively stealing classified information, that might be something where, given the nature of the allegation and the alleged conduct, the FBI might feel more time pressure and more urgency than if it was something that was part of a longer-term matter.

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

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

Mr. Evans: I would agree with that.

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

Mr. Evans: I think that -- I would say there's nothing inappropriate about them doing so. It's similar in a case of criminal conduct, where a criminal investigator may have reason that they want to expedite something and that they identify that to an AUSA
1 similarly.
2 Ms. Zdeb: So to the extent FBI expressed
3 operational time pressures or a desire to move more
4 quickly in the Carter Page situation specifically, it
5 sounds like that wouldn't have been out of the
6 ordinary?
7 Mr. Evans: I can tell you, contemporaneously at
8 the time I did not think it as anything out of the
9 ordinary. I took it as the sort of pressure that the FBI
10 places in cases of this nature.
11 Ms. Zdeb: In your experience, do decisionmakers
12 in the FISA chain of command -- and that could be
13 either within or between the FBI and the National
14 Security Division or DOJ more generally -- do those
15 decisionmakers sometimes disagree about the strategy
16 for a particular FISA application?
17 Mr. Evans: I think the vast majority of the drafting
18 and decisioning on FISAs happens at the working level
19 back and forth and there would be disagreements
20 there. Oftentimes that will resolve itself before it gets
21 up to a more senior decisionmaker, so that there isn't a
22 need for those more senior decisionmakers to disagree.
23 There may have been rare instances where senior
24 decisionmakers disagreed, but I would say that's not --
25 that was not particularly common. And I would say
generally in my experience, whether it was the FBI or other intelligence agencies using FISA, the Department as a whole -- and I would say this is across administrations that I was a part of -- the Department as a whole tended to be somewhat deferential to the investigative preferences of whichever agency it was.

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

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

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

Ms. Zdeb: Fair enough.

Ms. Sawyer: Can I get some clarification on that quickly? You did indicate that you felt as if if similar information came in from a foreign government indicating that there was -- that involved U.S. persons,
that FBI would be excoriated if it didn't actually follow up. Why a different standard for counterintelligence, that you wouldn't have been excoriated if you didn't follow up?

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

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

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

Ms. Sawyer: Do you recall at the time hearing or
being aware of then-candidate Trump at a July 26th event asking, "Russia, if you are listening, please find the missing emails from Hillary Clinton"?

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

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

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

Somebody in the meeting -- I don't believe it was me; I think it may have been one of my colleagues, but I'm not sure -- asked a question along the lines of: Well, if the underlying conduct took place in April or March, why is it just getting to the government now?
And the FBI's answer to that to us was that, because the friendly foreign government was so concerned about whether they wanted to insert themselves into the U.S. political process or not, that the decision inside of that friendly foreign government about whether to pass this information over to the U.S. had to go to the highest level of that government for approval before they passed that information over, and that that's why they waited to pass it over until that time. At least that's my recollection of what they explained to us.

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

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

Ms. Sawyer: What was the significance in your
mind of the fact that it had to go to such a high level within the friendly foreign government? Did that weigh in any way on assessing reliability, credibility?

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

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

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

What difference might it have made -- and I know
I'm asking you to speculate a little bit. If he indeed was told in April 2016 that this was a possibility, that was before Russia had released any emails, what difference might that have made?

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

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

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

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

Mr. Evans: It's certainly possible.

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

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

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

Ms. Sawyer: To the extent you do have a handle on the law and based on your experience, is there a category in terms of what Congress should be looking at where there is a gap in the law, where it is somehow acceptable to accept foreign assistance to win a campaign, influence a campaign, help a campaign?
Are there gaps that we need to fill, or is it just outright against the law?

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

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

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

Ms. Sawyer: In what ways?

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

To, again, take it outside of the election context, I think the traditional counterintelligence environment and counterintelligence concern is about, at a very basic level, would be about U.S. government employees with access to sensitive information, classified information, key foreign policy decisionmakers, who have somehow put themselves in a position or are in a
position where the foreign government has compromising leverage or information on them that could be used to blackmail them.

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

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

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

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

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

Ms. Sawyer: So, just to clarify, any question about
Michael Flynn cannot be asked today? Well, it can be asked, but you are asking -- are you directing the witness not to answer the question?

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

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

Mr. Findlay: Excuse me?

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

Mr. Walker: I think representatives of the Department of Justice are here to make sure that the questions put to Mr. Evans and his answers do not impinge on, first of all, matters outside the scope of this inquiry, or on pending investigations. So I think it's more of a question for the representatives of the Department of Justice. If they are making that determination, I think it's not inappropriate for the
witness to abide by the determination of the
Department in that respect.

Ms. Sawyer: So just one issue of clarification.

Crossfire Hurricane was opened on four individuals,
one of whom was Michael Flynn. I would ask my
colleagues to confirm that questions regarding Michael
Flynn are within the scope of the Chairman's Crossfire
Hurricane investigation.

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

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

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

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

Mr. Walker: I believe that the matter is an ongoing
matter. So to the extent that answering or not
answering the question is consistent or inconsistent
with the Department of Justice policy and practice,
again I would have to defer to Mr. Findlay, and that's the reason they are here. I don't think it's a matter of Mr. Evans' private counsel advising him one way or the other.

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

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

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

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

Mr. Evans: That is correct, yes.

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

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

Ms. McCord was -- for much of my tenure as the Deputy
Assistant Attorney General, she was the Principal Deputy Assistant Attorney General. And then for at least part of the Crossfire Hurricane investigation timeline, she was the Acting Assistant Attorney General of the National Security Division.

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

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

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

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

Mr. Findlay: You can answer whether you recall or
Mr. Evans: Do I recall when I first read them? Not the specific date, I don't recall, no.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Findlay: That's another area I think we're not going to be able to get into, again obviously pending;
and so he's not going to be able to get into that, either.

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

Mr. Findlay: To me. He's not going to get into. I'm not going to update you on the status. I'm not sure I know the latest status of the Durham investigation.

But he's not going to --

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

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

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

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

Ms. Sawyer: You would agree that the committee
has been told in a letter, and represented to us by the
Majority, that we have been told that it is not a problem
for us to ask questions about matters that are being
looked into by John Durham, so long as we do it after
Durham has spoken with witnesses?

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

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

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

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

Mr. Findlay: There's no double standard. You
asked him specifically -- if U.S. Attorney Durham asked
him about his background at DOJ, how long were you
there, and told since 2005 --
Ms. Sawyer: No. What I would imagine John Durham might ask him is about the Carter Page FISA application which he --

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

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

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

Ms. Sawyer: Right, which makes it all the more troubling. I have to just tell you this, because you are
telling me you don't yet know exactly what's going to come out of the Durham investigation, which is what I would hope because it is ongoing, so I would hope that you don't know.

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

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

I don't want to --

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

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

Mr. Findlay: But you did just ask him about Mr.
Ms. Sawyer: No. All I asked was had he been interviewed by John Durham. I didn't ask a single question about what John Durham asked him.

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

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

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

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

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

Ms. Sawyer: No. All I want to know is is this same witness, who's being directed not to talk to us about one case because it's a claimed ongoing matter, was actually interviewed in an ongoing matter, but is still being allowed to answer questions that the Attorney General has confirmed publicly is within John Durham's scope? He has publicly confirmed that John Durham is taking a lookback at the Carter Page FISA application.
So that was my only question. Are you also
directing him -- and I'm not trying to belabor this,
honestly. Are you saying he cannot answer today
whether or not John Durham interviewed him? That's
my only question.

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

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

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

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

Mr. Findlay: It seems clear to me. The Flynn
matter, again you're asking particular questions that are
known to be relevant in the Flynn matter, which again is very much pending. We'd ask him not to get into that. We're I think focusing on the Page FISAs, which is why he's here.

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

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

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

Ms. Sawyer: Yes, understood. And I take no issue
with your client. Your client's certainly following the guidance.

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

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

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

Mr. Walker: Thank you.

Mr. Evans: If I could just provide one point of clarification, going back to the answer I was authorized to give earlier. I would note, as I did earlier, that, while I may have been involved peripherally in some
conversations or discussions during the time period
that you asked about, I would not say that I had a major
or significant or primary role in any of those
conversations that I may have listened in on.

Ms. Sawyer: Thank you.

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

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

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

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

Ms. Sawyer: Yes, understood. I think I had
thought it was a letter. It certainly had been
represented to us that there was an understanding. So
it may not have been a letter. Maybe there were some
oral discussions that involved the Majority for the
committee and the Department. The Minority wasn't on those calls, but it was represented to us that, as my colleague had indicated, that the preference was that we not speak with witnesses until John Durham had had an opportunity to interview them.

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

Beyond that --

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

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

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

Mr. Evans, when we last finished off we were
talking about the 17 significant errors and omissions identified in the IG report. I think you maybe take some issue whether there were 17, but you understand there's a significant number of significant errors and omissions that the IG identified.

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

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

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

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

If what you're asking is, once that information were added into the application would there still have been probable cause or not, I think my answer there is I'm
just not sure. I think, as I believe I indicated to the IG, I would have needed to discuss that information with the FBI, understand what their assessment was, and then understand how their assessment impacted and didn't impact the overall application.

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

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

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

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

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

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

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

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

Mr. Baker: I want to be clear on just one thing you said a second ago about the 17 omissions or errors: In the first instance you would lean towards making the court aware of some of them for sure; as far as the second part of it, whether or not it would impact the
probable cause, whether it did or didn't impact the probable cause, there was certainly more work to be done internally at the Department and internally at the FBI.

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

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

Mr. Baker: Thank you.

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

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

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

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

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

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

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

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

Mr. Evans: My early understanding was that I
think, similar to what Ms. Zdeb was referencing earlier, that the FBI indicated to us they had received this foreign government reporting and it had opened an investigation into possible interference with the 2016 election by the Russians.

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

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

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

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

Mr. Findlay: 

Mr. Somers: 

Mr. Findlay: 

Mr. Somers: 

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

Mr. Evans: I would say I did not particularly have another role other than potential assistance on the FISA. So when the FBI initially alerted the National Security Division after they had opened the investigation, they initially -- I think it was myself and then obviously the Assistant Attorney General was
aware of it, and then my counterparts, mentioned earlier, Mr. Toscas and his team from the Counterespionage Section, who are prosecutors.

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

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

Mr. Somers: But you did take part in briefings?
Mr. Evans: We did receive briefings from them.
Mr. Somers: Well, you're saying "we." I'm asking you.
Mr. Evans: Oh, yes, I did receive briefings from them on a periodic basis that fall in terms of where they were.
Mr. Somers: How frequent?
Mr. Evans: I'd say originally, starting kind of in that August time frame, they were supposed to be on like a biweekly basis, is my recollection. I'm not sure they all happened, and I think there were probably some where I didn't attend.

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

Mr. Somers: What about after the election?

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

I wouldn't term those as kind of routine investigative updates. I think those were more like background briefings on where they had been in the
case. I don't know about all of those, but certainly for some of those I was invited as an attendee just to listen to the FBI's briefings on those.

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

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

Mr. Evans: August? So the August--

Mr. Somers: The earlier briefings.

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

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

Mr. Somers: So you and others from NSD went
over to FBI headquarters for these meetings?
Mr. Evans: In that fall of 2016 time period, yes.
Mr. Somers: Who was attending these meetings?
Mr. Evans: I think again, I attended some, but
probably not all. I think Mr. Toscas attended some. I
don't know if he attended all. I think Mr. Loffman from
the Counterespionage Section attended some that I
recall. Again, I don't know about all. Then Mr.
Loffman's deputy may have attended some.

Mr. Somers: \[
\]
Mr. Evans: It's a non-SES individual.
Mr. Somers: We're interviewing [REDACTED] next
week and he can confirm whether [REDACTED]
attended.

Mr. Findlay: No, I think we'll just leave it at Mr.
Loffman's deputy.
Mr. Somers: Is it the same deputy that was
mentioned in the IG report, that was in an interview
with the primary sub-source?
Mr. Evans: I'm not sure who was in the primary
sub-source, but, based on other -- based on my general
awareness of the Crossfire Hurricane investigation, I
think there was really one deputy under Mr. Loffman
who was involved in the investigation.

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

Mr. Somers: What about from the FBI?

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

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

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

Mr. Somers: Jim Baker?

Mr. Evans: Not that I recall.

Mr. Somers: Tricia Anderson?

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

Mr. Somers: [Redacted]?

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

Mr. Somers: [Redacted]?

Mr. Evans: I'm not sure I even know who that is.
Mr. Somers: Lisa Page? Lisa Page?
Mr. Evans: Possible.
Mr. Somers: [Redacted]?
Mr. Evans: Again, I'm not sure I know who -- I mean, I've seen the name, but I'm not sure I would know that person by sight.

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

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

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

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

Mr. Somers: But you were who she reached out to? For that conversation she reached out to you to say,
hey, there might be a FISA coming?

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

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

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

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

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

Mr. Somers: Just while we're talking about the
conversation, there's a quote in the IG report that I find kind of curious: "The OGC unit chief" -- that's -- "told Evans to get permission to brief a small group of OI attorneys into Crossfire Hurricane, including the Operations Section chief, the deputy section chief, and counterintelligence unit chief, and one line attorney."

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

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

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

Mr. Somers: So you weren't getting permission from her; you were just telling her what the facts would
be if she wanted to get a FISA?

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

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

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

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

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

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

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

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

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

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

Mr. Evans: At the time, that certainly wasn't -- at the time my sense was certainly not that it was a show in any way. I think in the fall of 2016 when we were
having those briefings, my sense was that there wasn't a ton going on. Counterintelligence investigations, as I noted earlier, are long and can take a long time, and there just didn't seem to be a lot of movement kind of week to week or every two weeks.

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

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

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

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

To the point of -- to my point earlier on those fall 2016 briefings, again I don't recall exactly what they were. My sense is that they were internal FBI team meetings and that, again, once every week or two they would let us sit in on them. So if they were having that
meeting on a more frequent basis with their team, it may have been that some of those things came up in other meetings that we just weren't at and didn't come up at the meetings we were at. I just don't know. I just know that at the small handful of them that I attended there didn't seem to be extensive discussion.

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

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

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

Mr. Baker: Thank you.

Mr. Somers: Just on this -- here's a quote I think you have in the IG report, page 70, that relates to this:
"However, Evans told us that his reaction to these meetings was that the investigation seemed pretty slow-moving, with not much changing week to week in terms of the updates the FBI was providing NSD."

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

Mr. Evans: Yes, I agree with that.

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

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

As things went on, there didn't seem to be a lot of movement week to week. So kind of that initial -- the initial thinking that they had articulated just seemed
like as we got into September there wasn't a lot of progress being made in terms of investigative updates, at least that were being conveyed to us. That was my impression.

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

Mr. Somers: What about investigative techniques. Dana Bente in the IG report is quoted as saying that -- this was obviously later than this time frame, but I think it would apply in this time frame as well. Bente 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 process being used.

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

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

In terms of the comment on criminal process, I'm not sure I would agree with that. I think that may have
been in part Mr. Bente's reaction, having been a career prosecutor. I think my sense, at least in the early stages of a counterintelligence investigation, it's rare for them to use criminal process, especially because the information that primarily generates a counterintelligence investigation is classified, which complicates the use of criminal process.

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

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

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

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

Mr. Somers: Was there discussion of what the goal was? What were they trying to do? I mean, you had a
FISA warrant submitted, or application, on October 21st. You've got an election on November 8th, I believe. It's a very compressed time frame. What was the discussion in any of these briefings or anything else you attended as to what was the goal of what they were trying to do?

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

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

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

With respect to your question or the subpart of
your question about the FISA, as documented in the IG report, I do think that was one of my concerns about the FISA, that I just didn't see what the point of doing a FISA at that stage of the investigation was, for a variety of reasons.

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

Mr. Evans: Could I now articulate them?

Mr. Somers: Yes.

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

My view was this was -- by the time this FISA was being seriously considered and then kind of moved forward to the court, it's mid to late October. The election is already approaching. Mr. Page at that point had already ended his relationship with the campaign.
So to me the value that this FISA would add into the investigative -- the overall investigation, was limited.

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

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

Mr. Somers: No, that's fine.

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

I had been involved in a number of matters over the years where I knew that FISA was treated differently
by Congress, by the press, by the public. So I think we
tended to be much more sensitive to, this may be legal
and there may be investigative interests in doing it, but
it's going to bring down consequence on the overall
FISA program.

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

Mr. Somers: It may have been proven correct.
Mr. Evans: I'm wearing a mask, so you can't see
my facial reaction.

Mr. Somers: What about, was there any discussion
in any of these discussions or even at NSD about doing
a defensive briefing of the Trump campaign about
Carter Page and-or George Papadopoulos?
Mr. Evans: I don't recall a specific discussion.
There may have been one, but I don't recall a specific
discussion about a defensive briefing. But it also
doesn't surprise me if there wasn't such a discussion. I
had worked with the FBI for many years on a variety of
counterintelligence investigations and I would say the
general posture the FBI took on defensive briefings is to
only do them in circumstances where they were 100
percent sure that the people they were giving a
defensive briefing on -- or maybe "100 percent";
nobody's ever 100 percent sure of anything, but where
they were extremely confident that the people they
were giving the defensive briefing on might not have
been involved in the potential alleged conduct.

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

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

Mr. Evans: I think there -- and again, I'm not an
expert on who was on the campaign or not. What I can
tell you is, thinking back to what was presented, what
the FBI was presenting to us at the time -- and I can't even state -- I am not in a position to -- I'm not stating this as fact. I'm just stating what was represented.

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

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

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

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

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

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

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

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

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

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

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

Mr. Evans: To the best of my recollection, I do not
believe I saw them before October, mid-October 2016.

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

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

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

Who'd be responsible for drafting that?

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

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

Mr. Evans: Got it. Two things --

Mr. Findlay: You don't want him to get into the particulars behind the footnote, because I think
probably just to be safe we'd want to flip to classified.

You're asking --

Mr. Somers: Yes, I'm asking -- well, first I'm asking: Is there a difference in your mind between written reports and receiving the information orally, where there's a back-and-forth between the FBI agent and the source?

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

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

That was the first part of your question. The second part of your question: Who would have been responsible? I would say, like everything else in the FISA, the FBI provided the underlying information and then our attorney or the reviewers were responsible for
taking that information and trying to make it into prose and understandable, and then going back and forth with the FBI.

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

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

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

Mr. Evans: Ultimately it's on the -- I would say it's
on the FBI. The drafting process, as I said, is an iterative one and facts gets defended and clarified in a variety of ways. So when we talked earlier in the first session about the FISA request form, that's the first transmittal of information from the FBI to OI in connection with a FISA draft.

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

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

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

Mr. Evans: They do, absolutely. In fact, the Woods
I think you have an application in front of you, but the Woods form has to get signed before the application goes to the FBI Director for signature, goes to the Attorney General, Deputy Attorney General, for signature. The Woods form gets signed before all of that.

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

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

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

Mr. Somers: What about beyond that?

Mr. Evans: Beyond that, again I would say not much. My recollection is that it was roughly the November time period when they closed him as a
source. So I don't remember personally being involved in many discussions one way or the other about him as a source after they closed him as a source in terms of what they were doing or weren't doing to verify his historical reporting.

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

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

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

Mr. Evans: Sure. Going back to Mr. Somers'
question earlier about the centrality of the Steele reporting, and I think I indicated my impression was that -- again, pick your adjective -- whether it was important or central, it was a key piece of the initial FISA draft that I read.

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

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

My question about the political bias was just me thinking in my head: Sources have all sorts of bias. It's common in criminal and national security cases. For instance, in the terrorism realm, when you're dealing with people in overseas countries who are reporting, it's not uncommon to see familial biases, poison pens trying to -- one family in a feud with another to try to get people in trouble, that kind of thing.
So I was thinking to myself: What is the possible bias that could be relevant here for this FISA that implicates political reporting. That's just what drove me in my head to try to probe a little deeper and ask that question. That's not a question I would have asked in a FISA that didn't involve a political campaign, for instance.

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

The initial answer I got back was that he was a foreign national, he Steele was a foreign national, and thus couldn't contribute to the campaign. And I felt like that was -- my initial reaction was that was -- we have a lot of lawyers in this room, but I felt like that was kind of a lawyerly answer to the question. That wasn't what I was asking. I was trying to ask a broader bias question. That's what prompted me to re-ask that question a couple of times. Then I think it was after re-asking that a couple of times that the FBI clarified to us and
provided us the information that they had at the time
about the research he was doing.

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

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

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

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

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

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

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

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

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

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

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

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

What were you -- back up one minute. There's a lot
of back and forth. You have the back and forth there in
the footnote. Did anyone ever just say to the FBI, can
you just go ask the source who hired him? Did that
request ever come from Justice to FBI?

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

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

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

Mr. Somers: Were you aware of sort of Steele's
reporting network or the way the information -- there's Steele, there's a primary sub-source, there's lots of sub-sources of the primary sub-source. Was that conveyed to you?

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

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

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

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

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

Mr. Somers: Should it have said he was Russia-
based if he in fact lived in the United States?

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

Mr. Somers: What about the fact --

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

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

Mr. Evans: I certainly would have had no objection
to describing it that way. I'm not sure that that makes a
ton of difference one way or the other. And I will say as
a general matter, again outside of the context of this
case, the FBI was incredibly sensitive overall on any FISA
about how their sources or any sources were described,
and their general approach on source descriptions was
to stay as far away from anything that could be potentially identifying of an individual.

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

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

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

Mr. Evans: Yes, that's correct.

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

Mr. Evans: I agree, yes.

Mr. Somers: So in trying to not identify a sub-source here, it could be -- well, not taking this particular FISA, but in trying to -- in some instances, I think it would be fair to say, and I'm asking if you would agree with that, in some instances in trying not to identify a source or sub-source you could get into a realm of not revealing to the court the quality of the information that the court is receiving; is that correct?
Mr. Evans: I think as a general matter that's right, and I think that's here why I pushed to make sure that footnote had more information about Steele himself. I guess my point to your question was, I just -- without giving it more thought and thinking about it, I'm not sure whether the contractor status -- I don't know whether the sub-source, whether the primary sub-source was or wasn't a contract employee of Steele.

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

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

Mr. Evans: Yes. I would say --

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

Mr. Evans: My best recollection on that is that I think actually the last two FISA applications may have made reference to the FBI having located and interviewed the primary sub-source. So, A, I think I was
aware of it from whatever the FBI put in the FISA applications describing that.

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

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

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

Mr. Evans: Not to my recollection, no.

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

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

Mr. Somers: Let's go back on the record. It's 2:45. We were talking a little bit about the primary sub-source before we broke, and I think I was rushing it a little bit, seeing my time dwindling on that hour. We were discussing that there's Steele, Steele had a primary sub-source, and the primary sub-source had his own
sub-sources.

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

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

Mr. Evans: Yes. I would say it's not as much a bright line between those two. I think it's more one and the same of, whatever the FISA -- whatever the words in the FISA state, there should be a document in the Woods file that states the same thing. So if the Woods file states that a source said X, then there would be a document in the Woods file that the source said X. If the FISA states that national security letter results
reveal that the person lives on 123 Main Street, then there should be a document in the file saying the United States letter results show the person lives at 123 Main Street.

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

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

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

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

Mr. Somers: The Federal Bureau of Investigation.
They have the responsibility to maintain the Woods file.

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

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

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

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

Mr. Evans: That's a great question. I think it may be a little bit of both. I think it is -- I think for most
field offices now it is predominantly an electronic file that gets serialized in the FBI's system. I think agents may tend to still keep it as a binder on their shelf for their own purposes. But I'm not 100 percent sure about what their internal practice is on that.

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

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

That will include everything that happened in that source meeting. It may be that the FBI agent has only gleaned one or two pieces of information relevant to the FISA and so that's all they include. They will probably put the entire 302 from that conversation in
the Woods file rather than excerpting out the one or
two sentences.

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

Mr. Baker: Thank you.

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

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

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

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

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

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

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

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

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

Mr. Somers: What if they get a better understanding of the Steele dossier -- I'm sorry -- the initial Carter Page FISA application relies on, like, Christopher Steele as the source. What if they through their investigation and locating the primary sub-source realize that Christopher Steele is not really the source; it's actually the primary sub-source that is the source.
Does that need to be accounted for?

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

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

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

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

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

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

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

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

Mr. Somers: Yes.

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

So I think it goes less to whether somebody's a source and more to how much credibility, reliability, the FBI would place on it or a judge might place on it.

Mr. Somers: What about what's conveyed to the court?

Mr. Evans: I think for us it would be trying to get the information from the FBI to convey as much information as possible. I will say as a general matter I
think the information conveyed about Steele in this FISA and about his sub-source network was more extensive than is typically conveyed in FISA's.

An example of that would be -- well, I can give you an example, but it might get into classified information, if somebody wants to come back to it. One example I can give you that's unclassified: There is, I think, a different source mentioned later in the FISA application, with a much shorter description of that source than the Steele description. So that's how it can vary based on who the source is and how the description needs to read.

Mr. Somers: But whether we agree or not on whether this was done -- we may disagree on whether it was done or not. But if you -- I'm just trying to get the differentiation. If you say "Source 1 reported that Putin said X" and that's what it says in the FISA, but really Source 1 heard from the primary sub-source, who heard from Sub-source 3, who heard from the person that that sub-source knows, who works for the person that allegedly" -- when does it become not fair to say "Source 1 reported" and not include that entire chain of how tangential this information is in the actual application?

Mr. Evans: Again, I think it's really difficult. I wish I could give you just a bright-line answer, but I think it's
really difficult to do that. Again, I can tell you in this space that the description of the multiple layers of the source network here was one of the more extensive descriptions of a source network I have seen. Can I go into classified for one minute here?

Mr. Somers: Sure.

(At 2:55 p.m., the interview proceeded in classified TOP SECRET session.)
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(At 3:13 p.m., the interview continued in unclassified session.)

Mr. Somers: So you were aware that the FBI located and interviewed the primary sub-source. I think you testified to that earlier. Before the last Carter Page FISA -- I'm sorry to repeat a couple of these questions, but since they were in the last round I'm going to do it anyway. Before the last Carter Page renewal was filed, you weren't aware of any inconsistencies between what the primary sub-source said and what the Steele reporting said?

Mr. Evans: Yes, correct that I do not believe the FBI advised me of inconsistencies between the primary sub-source's information and Steele's information.

To the first part of your question, I think the timing was that they had at least interviewed him at least once before the last two applications, not just the last one.

Mr. Somers: I was just setting the final time frame there.

I'm just going to ask it for the record. You were not aware, I think will be your testimony, the information conveyed from the primary sub-source -- the primary sub-source was giving Steele information that was based, quote, "on conversations with friends over beer," that the primary sub-source characterized
the information he gave Steele as word of mouth and
hearsay, that the primary sub-source told the FBI the
information was intended to be taken with, quote, "a
grain of salt," that the corroboration on the information
was, quote, "zero"? Those quotes are all taken from
page 188 of the IG report. You were unaware of any of
that?

Mr. Evans: To the best of my recollection sitting
here today three-plus years later, I do not believe I was
aware of that.

Mr. Somers: Information like that, given that it was
the primary sub-source, should that have been
conveyed to the FISA Court or maybe an application
should not have been sought?

Mr. Evans: Yes. I think the way I described it to
the Inspector General, which I would stand by now, is
that at a minimum I would have expected the FBI to
share that information with us and to proactively flag
that information for us, to have a discussion about it.

And then how to proceed from that could have
been a range of things. At one end of the spectrum,
that information could have been included in a FISA
renewal with whatever caveats or assessments the FBI
wanted to place on it. At the other end of that
spectrum, it could have potentially warranted either
delaying or stopping the FISA application entirely.

Mr. Somers: But if the Steele information is essential and the primary sub-source has undercut the Steele information, at the very least, if it doesn't rise to the level of abandoning the FISA, you at least have got to go back and investigate what's going on between Steele and his primary sub-source; is that what you're saying? Not you; the FBI needs to go back and figure out what the discrepancy is, at the very least?

Mr. Evans: Yes, at the very least explain to us what they believe the discrepancy is and why they believe that there's a discrepancy. And presumably there'd be some investigation underlying that.

Mr. Somers: But if the primary sub-source if undercutting the dossier, that's got to be accounted for if he's the primary source of the information that's relied on in the FISA?

Mr. Evans: I think my answer is the same, that I believe that the information from the primary sub-source that was inconsistent with Steele's reporting needed to be accounted for by the FBI in some way.

Mr. Somers: Let me just make sure I don't have anything more on the primary sub-source.

(Pause.)

Mr. Somers: On July 12 of 2018, moving off of the
primary sub-source --

Mr. Evans: I'm sorry?

Mr. Somers: Moving off of the primary sub-source, switching topics -- I'm giving you the warning that I'm switching topics here slightly. On July 12 of 2018, NSD sent a letter to the FISC advising the court of, under Rule 13A, of the factual -- certain factual omissions in the Page FISA application that had come to NSD's attention after the applications were filed.

Did you have a hand in drafting that letter?

Mr. Evans: Yes, I did -- oh, you said the July 12, 2018?

Mr. Somers: Yes.

Mr. Evans: Yes, I did.

Mr. Somers: What was your role in the drafting of that letter?

Mr. Evans: I think when we became aware of that information earlier in 2018, I met with the team, the team within NSD and OI, discussed the information, and had them begin putting a draft letter together, and then I was involved in reviewing and editing the draft and ensuring the coordination of that draft with the FBI for their review and concurrence to file, along with others in NSD as well.

Mr. Somers: So FBI was consulted on the letter?
Mr. Evans: Yes, the FBI reviewed multiple drafts of the letter during the drafting process and ultimately concurred in the final version.

Mr. Somers: But you found that there weren't any material errors at that point? That's the general conclusion of the letter?

Ms. Sawyer: I don't believe that's accurate. I thought that letter was styled as a Rule 13A notice of material misstatement.

Mr. Somers: I'm probably misspeaking. At that point in time there was no -- there's been subsequent letters where FISA applications have been withdrawn related to Carter Page. At that point in time, with the information you had then, there was no reason to take a step like withdrawing one of the applications?

Mr. Evans: That's correct. My recollection of that letter is that the Justice Department's position in that letter was that, while there were material misstatements, those material misstatements did not --

Mr. Somers: Undercut?

Mr. Evans: While they may have undercut, but not to the point of eliminating the probable cause that existed.

Mr. Somers: Was there any discussion -- I think there were three or more, somewhere around that,
errors that were disclosed to the court in that 13A letter. Was there any discussion at DOJ or DOJ with the FBI about taking a closer look at the Carter Page FISA applications? Once you discovered these errors, did you discuss looking for further errors?

Mr. Evans: I think the short answer is both yes and no, but I have to give you a little bit of a timeline on that. So that letter -- the drafting of that letter began, as I said earlier, in 2018, and primarily focused initially on the information regarding the Bruce Orr interviews. During the course of the drafting of that letter, we learned of other information, I believe regarding statements that Papadopoulos also made to a source, that we believed were exculpatory and material and needed to be included. By the time that information came to light and was included in the draft letter, the Inspector General had already announced the investigation that they were opening into the Page FISA. So at that point I think -- I don't remember if it was a formal discussion about it or whether it was an informal discussion of, we're going to let the Inspector General's investigation at this point run its course because us doing some sort of parallel investigation while the Inspector General is investigating it doesn't make a lot of sense.
Mr. Somers: You mentioned Bruce Orr's name a second ago. Did you ever have any discussions about Crossfire Hurricane with, or anything related to Crossfire Hurricane, with Bruce Orr?

Mr. Evans: Not that I recall or I'm aware of.

Mr. Baker: Were you surprised to subsequently learn how many different places Mr. Orr popped up in the investigation, considering he was officially sitting at the time in the ODEC office?

Mr. Evans: I'm not sure I'm aware to this day of -- when you reference in your question all the places he popped up in the investigation, I'm not sure what they all are. But I can tell you I was certainly surprised to learn of his interactions with Steele and the information he was conveying back to the FBI regarding Steele.

Mr. Somers: What's the basis of that surprise? Why would you be surprised to learn that?

Mr. Evans: Given what I know now and how much the FBI was receiving from him via Steele, I would have expected the FBI to have alerted us to that information at some point contemporaneously to when it was happening.

Mr. Somers: Then once again to switch topics a little bit, we touched on this a little bit earlier, but there's the whole early October, around October 11th,
the whole -- well, for instance, Peter Strzok texted Lisa Page on October 11th. It's on page 137 of the IG's report: "Currently fighting with Stu for this FISA."

Do you recall fighting or something along those lines with Pete Strzok about the Carter Page FISA?

Mr. Evans: I recall having a fairly heated or difficult conversation with him that day.

Mr. Somers: What was the content of that conversation? What was it about?

Mr. Evans: That day, as I recall it, was -- I believe you said October 11th?

Mr. Somers: Yes.

Ms. Sawyer: I think that was the day when I had asked a series of questions about Steele to try to understand what his background was; and when, late in the day, it was finally made clear to me from the FBI that Steele was being paid to gather opposition research, and so I reached out proactively to Mr. Strzok that afternoon or evening to say I wanted to talk to him.

Knowing that the FBI was pushing to get this moved forward, I wanted to make sure I conveyed back to him directly that I now had this issue that had surfaced, that I wasn't previously aware of, and that this was going to slow down the FISA. And I wanted to make sure he heard that directly from me so that the
case agents and headquarters agents didn't report back up their chain that there had been a delay without him hearing directly from me what the basis for that delay was.

Mr. Baker: You said "heated" and "difficult." Was there yelling and screaming that made it heated? Was there yelling and screaming that made it heated?

Mr. Evans: I wouldn't say there was yelling and screaming. I would say Mr. Strzok is a fairly stern personality, and when I conveyed to him that I was annoyed that we just learned this information, that was not his impression. He seemed to be under the impression that we already knew this information. I was probably a little annoyed and said that most certainly was not the case; that's why I'm calling you; we just learned of it now.

So at the end of the day, we kind of both just agreed to go back to our respective corners; and I think the call ended with him saying something along the lines of: Fine; ask whatever questions you need to ask. Then we both went our separate ways.

Mr. Baker: Did he indicate during that call that the majority or the totality of the senior FBI leadership was on board with moving this FISA down the road?

Mr. Evans: During that call, I don't -- I can't be
certain, but I don't recall him invoking in that call leadership names. I think that call was more me flagging for him: Hey, there's a problem developed. I actually was surprised that he seemed to be aware of it already. I thought maybe it was news to him as well.

So we just kind of ended it with me saying: Well, nothing's going to happen until we get more information here.

Mr. Somers: But you weren't concerned that this was information you didn't know; you were concerned that there was information you didn't know that needed to go in the FISA, correct?

Mr. Evans: It was a little bit of both. I would say over the course of that week in drafting, that week and the following week, I would say my concerns fell into three buckets. Bucket one was wanting to make sure we got the information we needed about the source to understand potential bias.

Bucket two was making sure we could put that information in the FISA appropriately to make sure the court was apprised.

Then bucket three were ultimately my policy concerns about this. So I think at that point on that call on the 11th, it was a combination of concerns one and concerns two. This information had just come over to
me that he was being paid to get opposition research.
That generated a whole bunch of follow-on questions in
our mind: Who's paying him, what's the nature of this?

So at that point, I think I was still at the stage of:
Hey, this just landed on my desk with this new
information; I need to understand what this is all about;
we need to get to the bottom of this, ultimately driving
towards potentially including the description of it in the
FISA.

Mr. Somers: Did you ever become aware in that
time frame that he might try and go around you, to
have you overruled in some sense?

Mr. Evans: From reading the IG report, I recall that
there were other text messages internal to the FBI
where people were talking about that. Candidly, I don't
have a great recollection of that contemporaneously,
and other people saying that. It doesn't surprise me, and I think we may well have had those conversations.
I just don't now, three and a half years later, have an
independent recollection of people trying to go around
me in that way.

Mr. Somers: Did you feel pressure at the time?

Mr. Evans: I think we did feel pressure and I did
feel pressure at the time. But again, going to some of
the questions earlier, whether it was out of line with
pressure I had felt in other high-profile investigations over the years -- whether it was investigations like the Boston Marathon or other investigations. I'd been involved in a number of high-profile, pressure investigations, and there tends to be a lot of pressure in those.

So I think it was -- at least at the time, I felt the pressure was in line with what I had experienced in other high-profile investigations.

Mr. Somers: Were you nervous? Strzok told [REDACTED]: "Stu is nervous."

Mr. Evans: I would not have used the word "nervous." I think "concerned" is a better word. Again, whether it's nervous or concerned, it goes to the core point I was making earlier, of I just didn't think this -- knowing what I knew that was developing about this source and his background, I just didn't think that it was a good prudential choice for the FBI and the Department to be going down this road.

Mr. Somers: Then [REDACTED] writes to Strzok -- this is on page 137 of the IGG's report -- "Is he going to hold the FISA?," the "he" being you. Did you have the ability to hold the FISA?

Mr. Evans: Informally, yes. Formally, no. By statute, the only person at the end of the day who can
say yes or no to an FBI FISA request is actually the Attorney General personally. As a practical matter, in the drafting process if something was with me and I was sitting on it for a while, I at least had some informal ability to hold things for a little bit.

Ms. Zdeb: Can I just interject with a question real quick to clarify something that we spoke about at the outset in terms of the Department's policy about the identification of non-SES employees.

Mr. Findlay: He's not going to confirm or deny it. The person that majority counsel is referring to, [REDACTED], is listed in the IGG report as an OGC attorney. Stu, he's not confirming or denying that. He just said he wasn't nervous; he was concerned.

Ms. Zdeb: Right. My point is that Mr. Somers is purporting to read from page 137 of the IGG report, but that page of the IGG report does not contain a particular person's name. It just has a generic identifier. And I wanted to make that clear for the record.

Mr. Findlay: Thank you.

Mr. Somers: We can clean that up. I think Stu Evans probably knows him by his name and not by the identifier that's in the IGG report, which is why I did that. But we will not put his non-SES name in the actual
transcript.

Mr. Findlay: Part of the reason I didn't object is because the preface to the question wasn't the question. The question that Stu answered was: Can you hold it up? Stu answered that question. Why you would be asking that question is really more for your purposes than ours.

Mr. Somers: Two other quotes I'm trying to get some clarity on here. One's from the same exchange and one's from a different exchange. Strzok writes: "No, but I'm concerned about how they preload the court\the court adviser." Then there's another one where Strzok writes to [redacted], Strzok to OGC unit chief -- this is on page 138 of the IGG report -- at 7:59 p.m.: "I'm worried about what Stu whispers in court adviser's ear."

I know these aren't your, obviously, your texts, and you weren't part of these texts. But can you give me some idea of what they were -- I think I have a little bit of an idea, but give me an idea of what they're talking about?

Mr. Evans: Again, I can't speculate as to what they were talking about. And again, per the earlier conversation, I obviously won't confirm identities of the participants other than what's in the IGG report.
I can say generally, the FBI was aware that our office had a relationship with the legal advisers and, as I think I described to you in one of the earlier sessions, we would communicate with the legal advisers, including for instance giving them a heads-up that something complicated or something sensitive might be coming.

I infer from those communications they were worried that we would suggest to the court in some way that the court shouldn't sign this or that there were some grave concerns about it, or something along those lines. Candidly, that I think would have been unprofessional to do as counsel for the Department. If the Department chooses to proceed with an application, then, as lawyers representing the Department, we're bound to advocate that position.

So I don't think that would have been consistent with my recollection and practice, that we would undermine or undercut something that the Department itself chose to proceed with.

Mr. Somers: You took my next question there, on professionalism.

Now, there's another text in here, that "Apparently he's the only" -- "he" being you. I can read you the whole thing: "OGC Unit Chief to Strzok, 7:59 p.m.:
Yeah, I think so. Stu's going to think about it overnight. Not for attribution" -- this is the part I care about -- "but apparently he's the only one over there worried about it."

Were you the only one "over there" -- "there" must be NSC or maybe it's the Department -- worried, that had these concerns?

Mr. Evans: I don't think so, no. What day was that, just out of curiosity?

Mr. Somers: Later that same evening. So we're talking still October 11th.

Mr. Evans: 11th, okay. I would say no. My general impression at that point -- and at that point in time I think it was primarily the team within OI, those folks below me, who I described earlier, who'd been working on the matter. My recollection from just conversations and what-not was that everyone was aligned with me and we all generally shared the same view.

I don't know why the FBI wouldn't have been under that impression. I do know, having written FISAs myself, sometimes the closer you are to writing it and dealing with the case agents, the more you have to worry about keeping up a rapport with those folks. So it wouldn't be the first time in any of our careers where somebody blamed something solely on their boss so
that they could maintain a relationship at a working level.

But my general impression was that my team at least within OI shared my concerns. I would also add, just as a further on that, the lower-level folks in OI, their role is predominantly to work on the drafting of the application and then the advocacy before the court as the Department's lawyers. My role as the head of the office was more to focus on kind of policy and bigger picture. So to the extent a lot of my concerns were ultimately coming from the policy implications, those were ones that typically we wouldn't ask lower level folks to focus themselves on.

Mr. Somers: Were you at some point in this time frame, the 11th, 12th, instructed that FBI was moving ahead with the FISA in some manner by someone? There's email on page 141 of the IGG report that says: "Lisa Page would inform Evans of the FBI's decision to move forward with the FISA application."

I guess question one would be: Did Lisa Page ever tell you the FBI was moving forward with the FISA application? But more broadly, did someone just kind of say: Hey, we're doing this?

Mr. Evans: I have a general recollection that at some point over those ensuing days after the 11th the
FBI conveyed back to us that: Yes, we hear you, but we want to move forward anyway. I don't specifically -- I know the IGG report attributes that to Ms. Page. I don't specifically have any independent recollection today as to whether that was a conversation with Ms. Page or otherwise. But I also have no reason to doubt the IGG report in that regard.

Mr. Somers: But was there ever an instruction that, we're moving forward, you need to let this go?

Mr. Evans: I can't point -- in my memory now, almost three and a half years later, I can't point to a specific instruction. It was very clear from them that they wanted to proceed and that they had no interest in abandoning this. Whether that was an instruction or just being conveyed back of, yes, we hear you and we want to proceed anyway, I think the message back was clear.

Mr. Baker: So either then or now in hindsight, did you feel, for lack of a better term, that you were rolled? You raised these concerns, you're told, We're moving forward. Eventually it seems like everybody at the Bureau in the upper level of management signed on. Did you feel you were rolled?

Mr. Evans: I felt like they did not share my concerns, or their weighting of the concerns was
different than mine. As I think I told the IGG, I'm not sure there was a right or wrong answer at the time. I knew folks in hindsight think I was right, but at the time I could see there were both sides to it.

Again, as I alluded to earlier, our office often tended to take a more cautious approach to things that could be controversial in the FISA space, because we had to deal with FISA day in and day out, and it would not have been the first time that an intelligence agency wanted to proceed with something that I thought was an imprudent use of FISA or a bad idea.

Mr. Baker: You raised very early on -- and it's my phraseology; I may have the exact words wrong. But you did the classic cost-benefit analysis of proceeding with this and what could happen, especially considering the political nature of this. As you sit here now, which side -- was the cost worth the benefit?

Mr. Evans: I'll let outside observers ultimately opine to that. I can tell you I certainly feel that my initial calculation on that remains accurate to this day.

Mr. Baker: Thank you.

Mr. Somers: It says here at page 139 of the FISA report: "According to Evans, he raised on multiple occasions with the FBI, including Strzok, Lisa Page, and later McCabe" -- and it kind of gets into those three
buckets you were laying out. What was the discussion with McCabe?

Mr. Evans: The McCabe discussion -- towards the end of the week of the 10th, I think it's the 10th through the 14th, where we were going back and forth with the FBI to elicit information, we reached the end of that week. Again, as I think I indicated earlier, the FBI had said: This is all we have, we don't have anything else, you know everything we know.

So we had the description updated on the source, and I had a conversation at the end of that week with Ms. McCord where I said: Look, this is what it is; we've got it all in there on the source; we all think there's still probable cause even with that as explained; but I think this is a bigger policy question here. I don't think this is worth pursuing. I explained my logic.

Ms. McCord disagreed with me on that, but, in deference to my concern and my role, she indicated that she would raise it with Mr. McCabe. That was I think a Friday, and by Monday she had been unable to get hold of Mr. McCabe on this, is my recollection. So as the FISA was moving forward on that Wednesday morning of that following week, I attended a meeting, that was a regular standing meeting unrelated to this, where I thought Mr. McCabe was likely to be present.
He's someone who I had known in other capacities during his FBI career and so, given that, I felt comfortable pulling him aside and having a conversation with him at the end of that meeting where I essentially said: Hey, this Page FISA, I want to talk to you about it; here's what we know; we've got this information; this source seems like it's political opposition research; why are we doing this? The whole conversation was probably shorter than ten minutes. And he said something -- the gist of his response was: I understand what you're saying; I hear you, but we can't pull any punches and be worried about the fallout; and this is something we think we need to do from the investigative perspective; and I can't -- you're worried about what the fallout and the consequences are going to be; I can't worry about that. I just need to focus on what we need to do for the investigation, and we'll have to live with the consequences.

That was, I think, the substance of the conversation.

Mr. Somers: Just flipping through my notes here, I've got something we kind of discussed here earlier, but I've got now an actual something in the IGG report. You said, page 144 of the IGG report: "Evans told us
that sources often have, quote, 'baggage' and can have a bias, but that does not necessarily make their information unreliable, especially if the FBI has a long history of assessing the source's reporting as reliable."

So I guess you kind of have the scales there. It seems that you're assuming that the FBI has a long history of assessing Steele as reliable. Was that your understanding?

Mr. Evans: That's what they were representing to us at the time, that he was someone they had a longstanding relationship with. I think the term they often used during that week of back and forth, they described him to us as a "professional." What they meant by that term was a professional investigator, intelligence officer, like themselves. And they kept saying: Hey, he knows what he's doing; he's a professional; he's got this; we've dealt with him in the past; we really, really trust him and believe he's reliable.

That was the entire way that was being described to us about their view of him.

Mr. Somers: But I guess -- if that was not accurate -- and I think there's some information in the IGG report that they had some derogatory information on him or got it at some point in time. But anyhow, leaving that aside, but just on the scale, the baggage becomes more
important if the reliability -- is it really a scale? Like the
baggage is more important if we don't have the history
of reliability? Is that how you look at it?

Mr. Evans: I think also weighed in with importance
of the information, the centrality of the information to
the overall probable cause. I think a variety of those
factors mixed together.

(Pause.)

Mr. Somers: Did you understand in the FISA or
what they were seeking or Page's relationship, did you
understand Page to be -- and I'll read you what the FISA
says after I ask my question. Did you understand Page
to be coordinating with Russian intelligence?

Page 9 of the initial FISA application states that:
"The FBI believes that election influence efforts are
being coordinated between the RIS and Page and
possibly others." I guess the first part of that, I'd take
"RIS" to mean "Russian intelligence services"; I think
that's correct.

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

Mr. Somers: So did you understand that Page was
being alleged to be coordinating with Russian
intelligence services?

Mr. Evans: Again, I don't think I had any
independent understanding of what the FBI believed
Page was up to, other than what was in the four corners of the FISA. So to the extent there were other elements in the FISA from the Steele reporting or otherwise that get at that point, I think my knowledge of what they think Page was up to would have been limited to primarily what was in the FISA.

I just don't remember what else was in the FISA along those lines.

Mr. Somers: I think there's a couple statements that basically say that -- I think there's two along these lines in all the FISAs. I think it appears in two places, that the FBI believes that election influence efforts are being coordinated between the RIS and Page and possibly others. And I believe there's also a statement in the conclusion along those lines.

So that was your only understanding, would be what's in the FISA in terms of who he was alleged to be coordinating with?

Mr. Evans: That's my recollection, yes.

Mr. Somers: So then would it surprise you if in February of 2014 -- February 14th of 2017, that Mr. Strzok is quoted in the document that he wrote as saying "We have not seen evidence of any individuals affiliated with the Trump team in contact with IOs" -- which I will take to mean intelligence officers. "We are
unaware of 'ANY'" -- in all caps -- "Trump advisers engaging in conversations with Russian intelligence officials."

If the FISAs on the one hand are representing, and FISAs written after this data are representing, that the FBI believes that election influence efforts are being coordinated between the RIS and Page, does Strzok's statement undercut that statement?

Mr. Findlay: Where did that statement come from? You quoted something.

Mr. Somers: An email that was released to us last week, written by Peter Strzok on February 14th of 2017.

Mr. Evans: So a couple things. One, I don't recall ever seeing that email, so I can't speak specifically beyond what you just read to me, to the best of my recollection.

Two, I think it's interesting. I think yes and no. It potentially is relevant and potentially could have caused an update. But I think the interesting thing here to understand about probable cause and how it developed, it's not uncommon for the FBI to allege they have probable cause that something's happening or occurring and to go three, six, nine months into that investigation, and at some point if you don't see actual results materializing you reach the point of: Hey, our
initial theory, our initial probable cause of what was happening, isn't actually being borne out by what we're seeing in the investigation.

That is actually, I think I would say, how the majority of investigations the FBI does tend to resolve themselves. We have a basis to believe something is happening, but when we go look for it we don't find it.

At what point --

Mr. Somers: What does the obligation to correct arrive?

Mr. Evans: So it's interesting. At what point does that undermine your original theory? It can be really fact-intensive and I can't say. As I noted earlier, I have seen counterintelligence cases over the years that have gone on for quite a long time without corroboration until the original theory evaporated.

So if I could just give you an example, and I'll keep it hypothetical here for a minute. Let's say that you have reason to believe that somebody is a mole in an intelligence agency. You have probable cause. You get up on a FISA on them and you start surveilling them for three, six, nine months, but you find no evidence that they're taking classified information.

At some point your probable cause disappears because you had a theory and it's just not being borne
out and you can't show it. Would you probably say in those FISAs as you're going about, We still haven't seen evidence of him taking classified information, but we still believe this to be the case?

I think that's certainly one way you would describe it. But I think where you lose that probable cause entirely is really fact-based.

Sorry if that's a generic answer. But I feel like it's the best I can do.

Mr. Somers: Just one -- I'll ask it in a hypothetical. Would NSD have to be consulted if the FBI was doing an investigation and they wanted to go into [classified] for any of their targets?

Mr. Evans: No, I don't believe so, although when you say [classified] that's kind of a loose term. I would probably want to clarify what exactly you're talking about.

Mr. Somers: [classified]. They want to look into any databases [classified]. Would NSD need to be consulted or could they do that on their own?

Mr. Evans: Can we go classified just [classified]?

Mr. Somers: Yes.

(At 3:46 p.m. the interview continued in TOP)
SECRET session.)
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(At 3:50 p.m., the interview proceeded in unclassified session.)

Mr. Baker: Are you familiar with an op-ed entitled "Stu Evans' Lonely Failed Quest to Save the FBI from Itself"?

Mr. Evans: I did read that op-ed, yes.

Mr. Baker: What were your thoughts about what their conclusions and assertions were?

Mr. Evans: I would also note my microphone is flashing, so I suspect that means my battery is dying here.

I think again I don't remember the details of it. I admittedly read it pretty quickly. I thought it was a generally fairly accurate article. In terms of the conclusion, I felt as if the article raised the point that perhaps by couching my concerns more as policy or prudential concerns that gave the FBI a way around them, to get around my concerns. I think the article said something along those lines.

I didn't agree with that point because I think the way we had to approach our jobs in the Office of Intelligence, whether it was in this case or any other case, the threshold role of our office was to gather the facts from the FBI, put them in a FISA application, and make a threshold legal determination as to whether we
believed it met the statutory standard of probable cause and was legally appropriate to move forward. And that was what our office primarily looked to do in the first place.

There in many cases, whether it was this or some of the other types of sensitive matters I described earlier, would be a second follow-on policy question about whether it's a good idea or a good policy to move forward with something. I think, whether it's Ol or other elements of the Department, I think that's often how DOJ lawyers generally had to approach matters: Do we think it's legal, is there an argument that's legal to be made here; and if so, then there's a policy discussion to be had about it.

So I just felt, whether it was this matter or other matters, I felt like that was consistent with how the Department attorneys had to proceed in matters.

Mr. Baker: Okay, thank you.

Mr. Somers: That's it for this round.

(Recess from 3:50 p.m. to 3:53 p.m.)

Ms. Zdeb: It's 3:53. We can go back on the record.

We've been talking about the Steele dossier for quite a while now as it relates to the Carter Page FISA applications, and I wanted to ask a couple of questions to put the Steele dossier in its larger context.
Crossfire Hurricane was opened at the end of July 2016, July 31st, and the Inspector General determined that the Crossfire Hurricane team did not even become aware of Steele's reporting until September 19th, which is more than a month after the investigation was opened. The IG said, quote: "The Steele dossier played no role in the opening of Crossfire Hurricane."

Are you aware of any evidence that contradicts that finding?

Mr. Evans: No, I am not. The IG's conclusion on that point was consistent with my recollection.

Ms. Zdeb: The IG, as I mentioned earlier, testified before our committee last December. He was asked about the Carter Page FISA errors, the Steele dossier in relation to Special Counsel Mueller's report. He testified that the FISA errors related to Christopher Steele did not call into question, quote, "any part of the Special Counsel's report."

Are you aware of any evidence that contradicts the Inspector General's testimony that the Carter Page FISA errors did not call into question -- do not call into question any part of the Special Counsel's report?

Mr. Evans: You may be surprised by this, but I've actually not read the Special Counsel's report, and so I don't feel as if I -- I am not in possession of any
contradictory information, but I also am not really in a
position to opine one way or the other.

Ms. Zdeb: Former Deputy Attorney General Rod
Rosenstein testified before our committee last month.
He supervised the Mueller investigation. Senator
Feinstein asked him if he could identify which findings
in the Mueller report relied on information from the
Steele dossier. And Mr. Rosenstein said: "I don't
believe there is any such information."

Recognizing that you have not read the entire
thing, do you personally have any evidence that
contradicts Deputy Attorney General Rosenstein's
testimony that no findings in the 448-page Mueller
report rely on the Steele dossier?

Mr. Evans: Subject to my earlier caveat, I'm not,
sitting here today, aware of anything.

Ms. Zdeb: Mr. Rosenstein also testified that none
of the 199 criminal counts resulting from the Special
Counsel investigation relied on information obtained
from the Steele dossier. Do you have any basis to
disagree with Mr. Rosenstein, there?

Mr. Evans: Again, I would go with my earlier
caveat. I'm not sure I have a basis to agree or disagree,
but implicit in that is I don't have a basis to disagree.

Ms. Zdeb: So in other words, you don't have any
evidence or, sitting here today, reason to believe that the Special Counsel's findings or the criminal actions that he charged relied on information from the Steele dossier?

Mr. Evans: I would rely on the -- again, I have no personal reason to believe that's the case. But I would rely on the assessment of others who are closer to that.

Ms. Zdeb: Switching gears: As you know, the Inspector General recommended a number of corrective actions in response to the FISA errors that he identified. These include corrective actions like changes to the Woods forms, changes to the FISA request form, all designed to ensure that OI receives the information that it needs from the FBI in order to prepare FISA applications.

Director Wray has accepted and agreed to implement all of the Inspector General's recommended corrective actions. Do you have any reason to believe that the FBI is not taking appropriate steps in response to the IG's report?

Mr. Evans: I would say I have even less visibility to opine on that than the prior questions. I left government in May of 2019 and I think all the corrective action proposals and steps have been well since then and, while I have generally been aware of
some of the press releases or things around it, I've not been tracking it especially closely. So that's one where I just really don't feel I can opine one way or the other.

Ms. Zdeb: But certainly, sitting here today, it sounds like you are not able to offer any reason why you would not believe that the FBI is taking appropriate steps?

Mr. Evans: Yes, I certainly have no reason to believe they're not. But I also am just not familiar with what precisely they are doing.

Ms. Zdeb: Do you have any reason to believe that the corrective actions that the IG recommended and which the FBI is in the process of taking, although recognizing that you are no longer in your former position, do you have any reason to believe that those correctives, those corrective actions, will not adequately address the errors that the Inspector General identified?

Mr. Evans: Again, I'm not sure I have a view one way or the other. I read that portion of the IG report probably most recently during the drafting of it when I was given a copy to review the draft of the IG report in the fall of 2019, and honestly didn't focus that closely on the recommendations since I was already out of government.

So I don't even recall specifically what they all were
or were not. So I'm not sure I could opine as to how
effective they would or wouldn't be at this point.

Ms. Zdeb: You spoke earlier about COI's role in -- or
NSD's role more generally in conducting accuracy
reviews of FISAs. Since the IG report came out, the
Department has represented to the FISC that it will be
taking steps to expand its accuracy reviews, but also to
institute completeness reviews that look not just at
accuracy, but try to identify things that had been
omitted from FISA applications.

Do you have any reason to believe that the
Department of Justice and the National Security Division
more specifically are not taking appropriate steps in
response to the IG's findings?

Mr. Evans: I would say -- and again, I think I've
generally heard of that change. I'm not intimately
familiar with it, but I think that was a positive change
and I think probably a good development and one I
think that goes to some of the heart of the IG's
findings.

I think one of the elements in the IG report that I
think highlighted this for everyone was that the Woods
procedures are really focused, as we discussed earlier,
on documenting what's in the FISA, not documenting
what's not in the FISA. So the Woods procedures really
go to potential material misstatements more than they 
do omissions of information from the FISA, and so I 
think adding some element of review that goes to 
things that are being potentially omitted from the FISA - 
- I think the term was "completeness" -- is a good 
development and I think one that arguably gets at some 
of the core errors that the IG identified. 

Ms. Zdeb: Are there other specific corrective 
actions that you think would be warranted in light of 
the IG's findings?

Mr. Evans: These may already be things that have 
come up in various discussions or proposals by the FBI, 
because again I'm not intimately familiar with what all 
their corrective actions were. But the two things that 
had come to mind to me were:

One, I think the issue I mentioned earlier on 
whether it makes sense to have the field case agents as 
the actual affiants for the FISAs, either in lieu of or in 
addition to the headquarters agents. I do believe, if 
that is workable technically and logistically, I do believe 
there is some added accountability to having case 
agents sign an actual warrant application, as opposed 
to signing an administrative form. That might be of 
added value.

Then the other thing that came to mind to me:
With the renewal process, in an ideal scenario for a 90-day U.S. person FISA, you're looking for the FBI to hopefully submit their renewal request to OI 45 days or so before the expiration date, to allow a significant period of time for back and forth and development of the renewal application. Because 90 days is not a very long period of time and 45 days is even shorter, that is kind of a rule -- that is a period that is more honored in the breach than not, and it is pretty common, and I think it was the case in this case, that renewal requests often come over from the FBI to OI a week, week and a half, before the expiration, which really compresses the amount of time for that back and forth and development of the FISAs. And of course, with the renewal you're up against an expiring time clock, as opposed to an initiation, where maybe you have a little more time.

So finding a way inside the Department to more rigorously ensure that renewal requests come over sufficiently in advance of expiration date to allow for robust back and forth, was another thought of mine.

Ms. Zdeb: Thank you. I believe my colleague has a few additional questions.

Ms. Sawyer: Just to go back to something you had discussed with our colleague Mr. Somers, it sounded
like you were involved and kind of had requested that July 12, 2018, 13A letter to the court, and then you weren't involved in any subsequent 13A letters. You had left the Department.

Mr. Evans: That is correct. I believe there was -- and I don't have the IG report in front of me, but I believe the IG report references a Rule 13B letter that was filed some time in 2019 regarding what I think I would describe as a kind of ministerial issue regarding the handling of information. So I was involved in that 13B letter. But I do not believe I was involved in any other 13A letters for this application.

Ms. Sawyer: It sounded like -- and I just want to make sure I understood it correctly -- that the July 12, 2018, letter, there was a decision made to submit that because certain errors and omissions -- and I think it's described as "become aware of additional information. Although some of the additional information has been publicly discussed, some of it does not constitute omissions subject to Rule 13A. We include it all below out of an abundance of caution."

So this letter was meant to address errors that had come to light as of that point in time?

Mr. Evans: Correct. That letter was meant to address what NSD had become aware of as of that
moment in time, yes.

Ms. Sawyer: It sounded like you indicated that there was a deliberate decision not to then undertake further investigation as to whether there were other omissions or facts that should be brought to the court's attention because the Inspector General had opened an investigation into the Carter Page FISA process?

Mr. Evans: That's right. If I could just expand on that a little bit, getting back to what I outlined earlier, OI of course isn't in possession of any information. If we want to get more information or look for errors or issues, we of course have to go to the FBI to do that. In the drafting of this letter already, there was significant back and forth with the FBI, and to do any further review of the application at that point by the middle of 2018 would have required significant back and forth with the folks at the FBI who were involved in the Carter Page FISA, all of whom we fully expected were going to be material witnesses in the OIG's investigation.

So for us to start going out and talking to those people and developing facts and figuring out what they knew and didn't know while the IG was about to do the same thing was not going to be a feasible option at that point. So we deferred to the IG at that juncture.

Ms. Sawyer: In fact, if you had it could have run
the risk that at least someone might have believed or
taken the position that there was some interference in
the Inspector General's investigation, or at least some
tainting of the Inspector General's investigation?

Mr. Evans: I think that's a potential concern, yes.
And I would add, once the Inspector General began
interviewing us, which happened in the months after
July, things were presented -- and by "us" I mean myself
and my colleagues. We were of course presented
things by the OIG in the interviews that concerned us in
terms of being factual errors. That's why at some
point, I believe in early 2019, we approached the court,
the chief judge -- the presiding judge, excuse me -- of
the FISA Court and informed her that through our
interactions with OIG we were learning of information
that we thought could potentially be material and could
potentially require further updating to the court, but
that for us to do that we'd have to undertake our own
engagement with the FBI, which we didn't want to do
while the OIG's investigation was ongoing.

She understood and wanted to ensure that we
didn't interfere with the integrity of the OIG
investigation; and we also at the same time
contemporaneously relayed that back to OIG so that
they knew we were intentionally deferring to them here.
Ms. Sawyer: So in your view it wouldn't have been a dereliction of duty for the FBI not to at this point in time, on July 12th, when you had identified some errors, to go back itself and find all the other errors since the IG was inspecting; and had they done it, it sounds like there would have been a risk that they could have been accused of having to try to do something to tamper.

I just am trying to clarify whether or not there's any criticism of the FBI for not having more quickly identified errors to bring to the court's attention or to decide to wait until the IG was finished.

Mr. Evans: It's an interesting question, actually. I'm not sure I recall any discussions between NSD and the FBI about how we would collectively handle new information. Everything I just described to you was our thinking inside of NSD. I couldn't fault the FBI if they internally reached the same conclusion for the reasons you identified.

That said, it might have been good for them to communicate that to us just officially to let us know that they were taking that same posture. But I just don't remember discussing it with them in terms of what their view and how they were going to handle it.

Ms. Sawyer: So you also just didn't ask them to
confirm?

Mr. Evans: We just -- in deference to the IG, for all the reasons I identified, we didn't engage further with the FBI after that July letter in terms of factual statements in the applications.

Ms. Sawyer: Switching for a moment to --

Mr. Evans: Excuse me. At least during my tenure there. I can't speak to what happened after I left.

Ms. Sawyer: Thank you.

I have just a few questions for you about sources and methods generally, at least initially. In my 13 years on the Hill, I have been consistently advised by the Department that some of its most closely guarded information are sources and methods used in investigations -- counterintelligence investigations, counterterrorism investigations, criminal investigations. Is that accurate? And if so, why?

Mr. Evans: I think I would largely defer to the intelligence community on that. But what I can tell you, which I think is consistent with what your question was, is that I have similarly heard in my tenure in government, working with the intelligence community, I have heard them regularly articulate that same point and same area of concern.

When they have articulated that to me in the past,
it has been along the lines of either out of fear of harm to the actual individual sources themselves or out of a concern that identifying information or being careless with information about sources could lead to future sources or future governments or other partners not wanting to cooperate and share information with the intelligence community because they would lack assurance about how it would be handled. That's how I've heard them articulate that, the intelligence community, articulate their concerns to me in the past.

Ms. Sawyer: So safety to the source, potential chilling effect perhaps on the willingness of others to cooperate in the future. What about a potential chilling effect on the source him or herself who was cooperating and then wasn't protected, their identity wasn't guarded?

Mr. Evans: Sure. I think that would fit in as well. I think in most of the discussions I can think of in my experience they tended to be a little bit more at the theoretical level about all human sources, as opposed to specific human sources. But I can certainly see that concern if it came to a specific human source.

Ms. Sawyer: You might agree that it might be human nature that if you had thought that your identity would be protected and it wasn't, you might not be
willing to cooperate going forward?

Mr. Evans: I think that's a fair characterization.

Ms. Sawyer: If a source has relied on sub-sources, is there a risk that if a source is identified that sub-source could also then be traced?

Mr. Evans: I think as a generic, general matter, yes, I think there is that potential risk.

Ms. Sawyer: If sources or sub-sources are not inside the United States, where we believe they might be protected from hostile at least physical activities, but in a hostile foreign country, is there an additional risk to a source or a sub-source?

Mr. Evans: I think I would say in my experience with the intelligence community sources located in hostile foreign countries always present -- there's always more risk to the source in those environments, yes.

Ms. Sawyer: Would you consider Russia one of the countries where there would be a risk that if sources or sub-sources who were reporting about the Russian government, about Russian intelligence -- would that be one of the countries where there would be a concern?

Mr. Evans: I think that would be a fair conclusion.

Ms. Sawyer: Isn't one of the risks -- I'm curious.

There has been some discussion today about the fact
that a memorandum that memorialized an interview that the FBI had with the primary sub-source was declassified, some areas still redacted, and provided to Congress. That document was provided to this committee at 11:30. It was posted on this committee's website by the close of business on the same day. And within hours there were Twitter threads speculating on who that primary sub-source was.

Isn't that one of the risks of the government, even if it's trying to be careful about putting out documents that talk about interviews with a source or a sub-source -- isn't that the risk, that the public is going to try to identify that individual?

Mr. Findlay: Just to be clear, Stu left government well over a year ago, had nothing to do with any of this. I don't know whether Stu knows the identity of the source, but we certainly wouldn't want to confirm or deny what was happening on Twitter. So I think it's probably better to leave it.

Ms. Sawyer: Well, I don't believe that I asked Mr. Evans to identify this particular individual. But I'm just asking, is that a risk if a document that memorializes an interview with a source is released publicly, even with redactions, that people are going to try to figure out who that person is, and they're going to have some
information upon which to do it? Is that hypothetically a risk?

Mr. Evans: I want to be careful, out of respect for the committee, to not opine on any of the committee's actions one way or the other. So I think I would just answer generically to say, setting aside any particular case or even human sources, this in particular, I have been involved in my tenure in a lot of declassification discussions regarding classified information generally and I think when declassifying information generally that is always a risk for any sort of classified information, that no matter how careful one is in the declassification-redaction process, that potentially something gets missed or, even if nothing gets missed, because of the nature of redactions things can be inferred that would be revealing.

Indeed, I know from reviewing documents, again outside of the context of this case, for public release and redaction, there will be times when the intelligence community seeks to redact more than is potentially classified, to try to avoid any inferences being drawn. So that is something that, again, I would just say generally is an area of concern with declassification.

Ms. Sawyer: In the time that you were at the Justice Department, were you ever involved in review of
Mr. Findlay: I think answering yes or no to that is fine, but if the answer is yes then wherever those internal deliberations were, he wouldn't be able to get into.

Mr. Evans: Just to make sure I understand the question, whether I was involved in reviewing for declassification and-or production to Congress a summary of a source interview, essentially?

Ms. Sawyer: Yes.

Mr. Evans: I am honestly not sure. Sitting here today, I can't think of one. But I also can't tell you that there weren't any. But I'm not 100 percent sure.

Ms. Sawyer: Given what that document would have been, an actual document of an interview with the source, not general intelligence collection that happened to have a source in it -- it was an actual interview with a source -- how careful do you think you would have been about the information?

Mr. Evans: I think when we look at all classified information for production or redaction or declassification, you're always looking generally to be careful with things that are of a more highly classified
nature. As I think we were talking about earlier, the intelligence community generally views human sources as higher up that spectrum of importance. So I think that's something that one would have been careful with.

Ms. Sawyer: I think from our side of the ledger over here, I think we've exhausted our questions for the moment. So thank you.

Mr. Baker: In addition to oversight and review of things that have happened in the past, this committee obviously, with their jurisdiction over DOJ and FBI, make changes, suggested changes to existing law, new laws, whatever, you were asked by our Democratic colleagues about some of the changes that the Director of the FBI, Mr. Wray, suggested. Some you were familiar with, some you weren't.

One thing you've mentioned today twice, so I think it's an important change in your mind, and I want to clarify that, is this idea of bringing the case agent front and center as the affiant. That I think addresses a lot of issues that the ex parte nature of the FISA process invites problems with just because of the ex parte nature.

I would be curious what your thoughts are on a decentralized FISC, where you're actually moving the court into either the various district courts or regional
district courts? Just your thoughts, based on your knowledge and expertise? Is in the modern age, which seems to be the argument that you would make for bringing the case agent front and center as the affiant, in the modern age is there a need for the centralized nature of the FISC?

Mr. Evans: I think I can understand the logic behind the question. My immediate answer would be that I would still continue to see the reason and the value of the centralized nature of the FISC. But I don't just want to answer reflexively based on historical practice and precedent.

I think it would add a whole level of complexity, including how FISAs are administered. I think recognizing, especially from Congress's perspective, recognizing, as I alluded to earlier, that I think FISA takes on a different level of concern and importance than potentially the use of some criminal authorities -- FISA gets a level of attention in Congress that maybe routine criminal authorities don't -- the administration of FISA across 96 different districts raises a lot more opportunity for variance.

If you think about it from the perspective of Congressional oversight, Main Justice oversight, would there be as much confidence that everyone knows
what's happening in 96 different districts? Can Congress sit here today and say that it knows exactly how Title III is being applied in every single district around the country, the same way it can with FISA because everything is flowing through a centralized point in D.C., which then enables centralized reporting to Congress on a semi-annual basis.

So I think it's a more complex question than just, could you have judges out in districts hearing cases. I think it would ripple through the entire way that the FISA oversight system works.

So I understand the question and I'm not -- I would agree it's one that maybe could be discussed. But I think it is a little more complex than it might seem.

Mr. Baker: Thank you. I appreciate that.

Mr. Somers: Thank you for coming today and appearing here voluntarily. We appreciate your willingness to give us this amount of time.

That concludes the interview.

(Whereupon, at 4:22 p.m., the interview was adjourned.)
ERRATA
Notice Date:

Deposition Date: July 31, 2020

Deponent: Stuart Evans (Redacted Version -- Corrected)

Case Name: Senate Judiciary Committee

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