

COMMITTEE ON THE JUDICIARY,  
U.S. HOUSE OF REPRESENTATIVES,  
WASHINGTON, D.C.

INTERVIEW OF: JOHN GIACALONE

Thursday, June 21, 2018

Washington, D.C.

The interview in the above matter was held in Room 2226,  
Rayburn House Office Building, commencing at 10:07 a.m.

Mr. Somers. Good morning. This is a transcribed interview of John Giacalone, the former Executive Assistant Director of the Federal Bureau of Investigation's National Security Branch.

Chairman Goodlatte and Chairman Gowdy requested this interview as part of a joint investigation by the House Committee on the Judiciary and the House Committee on Oversight and Government Reform to conduct oversight into the Department of Justice's investigation of former Secretary Clinton's handling of classified information and related matters.

Would the witness please state his name, the last position he held at the FBI, and his current employer and job title for the record?

Mr. Giacalone. John Giacalone. Last job with the Bureau was the Executive Assistant Director of the National Security Branch. I am currently a vice president of global safety and security and business continuity at the Hilton Hotels.

Mr. Somers. On behalf of the chairman, I want to thank you for appearing here today, and we appreciate your willingness to appear voluntarily.

My name is Zachary Somers, and I am the majority general counsel for the Judiciary Committee.

I will now ask everyone else here in the room to introduce themselves for the record, starting to my right with Art Baker, who will be leading our questioning today.

Mr. Baker. I am Arthur Baker, investigative counsel for the

House Judiciary Committee majority staff.

Mr. Parmiter. And I am Robert Parmiter. I am chief counsel for crime and terrorism for House Judiciary majority.

Mr. Breitenbach. Ryan Breitenbach, senior counsel, House majority, Judiciary.

Mr. Castor. Steve Castor. I am with Mr. Gowdy's staff for the Committee on Oversight and Government Reform majority staff.

Mr. Koren. Michael Koren, professional staff for Mr. Gowdy's staff, majority, Oversight Committee.

Mr. Buddharaju. I am Anudeep Buddharaju, House Oversight, Mr. Gowdy's staff.

Mr. Brebbia. Sean Brebbia, senior counsel, Oversight, Mr. Gowdy's staff.

Ms. Hariharan. Arya Hariharan, Judiciary Committee minority staff.

Ms. Kim. Janet Kim, Oversight Committee minority staff.

Ms. Shen. Valerie Shen, Oversight Committee minority staff.

Ms. Sachsman Grooms. Susanne Sachsman Grooms, Oversight Committee minority.

Mr. Morgan. I'm Matt Morgan, Judiciary Committee minority staff.

Ms. Adamn. Marta Adamn, Oversight Committee minority staff.

Mr. Castor. It's like a wedding. We've got all the minority staff on that side; we've got all the majority staff on this side, for now.

██████████. ██████████, special agent with FBI.

Ms. Husband. Shelley Husband, Judiciary Committee majority.

Mr. Somers. The Federal Rules of Civil Procedure do not apply in this setting, but there are some guidelines that we follow that I will go over.

Our questioning will proceed in rounds. The majority will ask questions for the first hour, and then the minority will have the opportunity to ask questions for an equal period of time if they so choose. We will go back and forth in this manner until there are no more questions and the interview is over.

As I noted earlier, Mr. Giacalone is appearing today voluntarily. Accordingly, we anticipate that our questions will receive complete responses. To the extent that Mr. Giacalone declines to answer our questions or if counsel instructs him not to answer, we will consider whether a subpoena is necessary.

Typically, we take a short break at the end of each hour of questioning, but if you would like to take a break apart from that, just let us know. We will also take a break for lunch at the appropriate point in time.

As you can see, there is an official reporter here today taking down everything we say to make sure we have a clear written record. We ask that you give verbal responses to all of our questions.

Do you understand that?

Mr. Giacalone. Yes, I understand.

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Mr. Somers. So that the reporter can take down a clear record, we will do our best to limit the number of Members and staff directing questions to you during any given hour to just those Members and staff whose turn it is. It is important that we don't talk over one another or interrupt each other if we can help it.

Both committees encourage witnesses who appear for transcribed interviews to freely consult with counsel if they so choose. And you are appearing today with counsel.

Could counsel please state her name and current position for the record?

██████████. ██████████. I am the Acting Deputy General Counsel for the Litigation Branch in the FBI's Office of the General Counsel.

Mr. Somers. Thank you.

We want you to answer our questions in the most complete and truthful manner possible, so we will take our time. If you have any questions or if you do not understand one of our questions, please let us know.

If you honestly don't know the answer to a question or do not remember it, it is best not to guess. Please give us your best recollection. And it is okay to tell us if you learned the information from someone else; just indicate how you came to know the information.

If there are things you don't know or can't remember, just

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say so, and please inform us who, to the best of your knowledge, might be able to provide us a more complete answer to the question.

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

Mr. Giacalone. Yes, I do.

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

Mr. Giacalone. Yes, I do.

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

Mr. Giacalone. Yes, I do.

Mr. Somers. Is there any reason you are unable to provide truthful answers to our questions today?

Mr. Giacalone. No.

Mr. Somers. Finally, I'd like to note that, as the chairman of the Judiciary Committee stated at the outset of our first transcribed interview in this investigation, the content of what we discuss here today is confidential.

Chairman Goodlatte and Chairman Gowdy ask that you do not speak about what we discuss today in this interview to anyone not present here in the room today to preserve the integrity of our investigation.

This confidentiality rule applies to everyone present in the room today.

That is the end of my preamble. Do you have any questions before we begin?

Mr. Giacalone. Nope.

Mr. Somers. All right. The time is now 10:14, and I am going to turn it over to Mr. Baker to begin the first round of questioning.

#### EXAMINATION

BY MR. BAKER:

Q First of all, Mr. Giacalone, I know from your bio and from other information that I have, you have had a very long and distinguished career at the FBI. Your experiences, your investigation, your management goes across a very broad variety of programs. And before we get started into any of the real purpose that we're here for today, I want to thank you for that service. Those experiences are going to be very valuable as this joint committee investigation proceeds.

As our general counsel indicated, you have voluntarily appeared here today. I understand not only are you here voluntarily, you are here and forfeiting the opportunity to participate in a barbecue and crab feast on the beachfront of your current employer.

A That is true.

Q Okay.

You left the FBI in February 2016. That would be before a lot of the matters of this investigation that have gotten a lot of media attention actually happened. This would be before certain press releases; this would be before certain letters to Congress.

Your role -- and I'm going to back up in just a second to go through exactly what your title and what all that meant. But your role in this particular investigation, Midyear Exam, was really at its genesis back in July 2015, sort of on the front end of things. Is that correct?

A That's correct.

Q Okay.

So, once you had agreed to come in here today, did you do anything to prepare for today's interview?

A I did have a prep session at the FBI that lasted about an hour.

Q And when did you have that?

A Last Monday or Tuesday.

Q So that was at the FBI?

A Correct.

Q And whom did you meet with?

A [REDACTED] and her staff.

Q Okay. Did you meet with anybody else while you were there?

A I had lunch with Pete Strzok.

Q Okay. Anybody else?



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A No. That's it.

Q Okay.

Was this the only time in a -- when you retire from the FBI, it's my understanding that, you know, you turn your equipment in, you surrender your badge, you surrender your gun, they walk you to the door, and they literally throw you out on the street. You cannot get back into the building again without going through some escort procedure. Is that correct?

A No, that's not correct. I have access to the building. I'm a green badger. So the executive staff -- there's a few folks in the executive staff that have nonpaid contractor status, so I have a green badge. I have access to the building.

Q So a nonpaid contractor status, what exactly is that?

A It's a green badge. I couldn't explain it any more than that.

Q Do all executives get that?

A No, not all executives, but at the senior levels, if you want to maintain your clearances and you want to have access to the building, they make that available.

Q So, with the green badge, you're pretty much able to come and go from FBI headquarters?

A I could, yes.

Q Do you apply for this green badge status?

A I requested it when I left.

Q Okay. Is that the same thing as a special government

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employee where -- I mean, are you still bound by rules and regulations about having to have your clearances and need to know and --

A Same rules and regulations apply.

Q But do you know if you are categorized as a special government employee?

A That I don't know.

Q And --

A I maintain a Top Secret clearance still --

Q Okay.

A -- that the FBI holds. So I'm bound by all the rules of classification rules.

Q So, when your clearance -- even though you're off the rolls as a retiree, when your clearance expires or needs to be reupped at 5 years, the Bureau take cares of that?

A The Bureau does the 5-year reinvestigation.

Q At what level is the cutoff to get this green badge status?

A Oh, I don't know. I was, you know, EAD, so I don't know if anybody below an EAD can get it. I think Sean Joyce had one for a little while as a deputy director. Only a few folks have the ability to get the access, I think.

Q So let me rephrase my original question. The rank-and-file FBI employee who retires, my scenario would be correct for them. They basically surrender their equipment, they

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go through a debriefing, they're escorted out the door, and if they choose to return to the Hoover building for any reason, they have to go through a process where they have a physical escort that accompanies them through the building.

A Correct.

Q Okay.

Where are you currently employed? We talked about the nice event today you're not participating in.

A Hilton Worldwide.

Q And your role there?

A I'm the vice president of the global safety and security and business continuity operations.

Q Okay. When did you retire from the FBI? We said it was around February 16.

A February 28th, the last day of the month, 2016.

Q Okay. The FBI and a majority, if not all, of Federal law enforcement positions and some others have a mandatory retirement age of 57 years old. With some exception, you can extend beyond that, but, by and large, at 57 years old, as a special agent of the FBI, you are, by law, mandatorily retired. Were you mandatorily retired?

A No. I was 50 years old and 10 months.

Q So you had 6 or 7 years still to go.

A Six years and a month.

Q And did you retire for any particular reason or time

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to -- what was your reason for retiring?

A So I had done 25 years of service -- near 25 years of service. I think I was a month or 2 short of that. And I had the age. I had three kids that were either in college or on the way to college. I was making \$180,000 a year. The tuition bill is \$120,000 a year. And I had the opportunity to increase any salary so that I could pay my bills and put food on the table. That's why I left.

Q Okay.

You had indicated you were an EAD. In the course of this investigation and in other attempts at congressional oversight, we hear different ranks and different things. And most people, I think the general public is more familiar with the general FBI position of special agent. But not everyone at the FBI is a special agent, and not all executives at the FBI are special agents.

It's my understanding, I believe you were both. You were a special agent and an EAD. What is an EAD?

A The Executive Assistant Director is -- well, in my role, had the responsibility over the entire National Security Branch. So I had responsibility over all counterterrorism operations, all counterintelligence operations, all weapons of mass destruction operations globally. So that was what that EAD position was responsible for.

Q In the hierarchy at the FBI, at the very top of the

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pyramid is the Director -- Director of the FBI. Below that is the Deputy Director. I believe below that is an associate deputy director. Is there anything below that before EAD? Where is EAD in that hierarchy?

A EAD is right below the Associate Deputy Director.

Q So, to be in the EAD, or when you are an EAD, you're a pretty high, significant ranking person in the FBI.

A Correct.

Q Okay.

You indicated some of the national security programs that your particular EAD spot had supervisory oversight of. What was your investigative specialty, for lack of a better word, in the national security program, as you were coming up? I know you have some criminal background that we'll talk about, but you also, at some point in your career, transited or shifted towards national security. What was your specialty under the national security umbrella?

A Counterterrorism operations.

Q Okay. So counterintelligence wasn't necessarily your specialty, as far as actually working the cases on the street.

A Correct.

Q You assumed and learned about counterintelligence matters as you advanced through the supervisory ranks and landed at EAD.

A Correct.

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Q Okay.

In the early part of your career, you did criminal work?

A Yes.

Q And could you elaborate on what you did?

A I worked organized crime, La Cosa Nostra, the Lucchese family in New York City.

Q Okay. Would it be fair to say that, not necessarily the investigative techniques that are used -- I mean, interviews are interviews, sources are sources. Is there a difference in managing cases if they're on the national security side of the house, you're using some techniques that aren't available on the criminal side, as opposed to managing cases on the criminal side?

A There's some different nuances, but, overall, the move from organized crime to counterterrorism was pretty easy -- was a pretty easy shift, right, because you're looking at enterprises in both operations, you know, taking apart the enterprises. In organized crime, it was a family; in counterterrorism, they were cells. So very similar, structure-wise. And the goal was always to take out the top folks, and then the bottom would follow.

So the processes were very similar. You used some different tools. You obviously used FISA on the national security side, title 3 on the criminal side. But you still employed informants, you still did a lot of the same investigative techniques. The interviews that you would do in criminal work you would also do in counterterrorism work.

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Q Would it be fair to say that, in the post-9/11 world, the FBI made a calculated, concentrated effort to shift somewhat from criminal investigations and become more of an intelligence-driven national security agency?

A They moved thousands of folks into, you know, the national security branches post-9/11. I initially started by moving into the intelligence world. I ran an intelligence squad in Philadelphia for a year before I moved over to the Joint Terrorism Task Force in Philadelphia. Then I stayed in Philadelphia as a JTTF supervisor for about 4-1/2, 5 years, with a little break to go to Baghdad in 2005. And I also got a master's degree in national security from the U.S. Naval War College in 2006 into '07.

Q Okay.

I want to back up just a minute. When you began your climb through the FBI ranks, ultimately landing at EAD, not only are you assessed to get at that level and move up to that level based on knowledge you have of different types of investigations -- organized crime, terrorism, whatever -- you also did a career development program of some sort.

You've moved around a lot and been in different field offices, to ultimately land at EAD. Is that correct?

A Yeah. I could tell you exactly the number of spots, right?

So New York City, I was a case agent for 9 years and change.

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Then I went to headquarters as a supervisor, so New York to Washington. Did a year on inspection staff while I was in Washington after I did 2 years in La Cosa Nostra desk.

Then I went to Philadelphia, where I opened up the first intelligence squad in Philadelphia, and then moved over to the Joint Terrorism Task Force. Did, like I said earlier, time in Baghdad in 2005; the War College, 2006 into '07. Left Philadelphia 2008-'09 timeframe, went to Pittsburgh as an ASAC. The family remained in Philadelphia while I was in Pittsburgh.

Then went to Washington, where I led the Domestic Terrorism Operations Section. Moved the family from Philadelphia then back to D.C., because I told my wife we'd be there for a while. In 7 months, I got tapped on the shoulder asking me if I could go to New York City. An unhappy wife said, "You can go to New York City by yourself."

So I went to New York City. I ran counterterrorism operations in New York City for 2 years, the largest Joint Terrorism Task Force in the country. You know, 500-plus agents, detectives, analysts participated in that operation. We did a lot of great things in New York.

And then, trying to get back to my family, a little over 2 years later, I went back as the DAD of Ops Branch 2 in the International Terrorism Operations Section, where I again was responsible for DT, the terrorism-use-of-the-internet groups.

Did that for several months before being promoted to the

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Assistant Director of Counterterrorism Operations, where I ran all counterterrorism operations for about a year. And then I was promoted to the Executive Assistant Director of National Security. So I did that till I left.

That covers the 25 years. So a bunch of different spots in the 25-year timeframe.

Q So you've worked a lot, not just with FBI agents and FBI personnel. You've worked a lot, it seems, with detectives and law enforcement officials and officers from other Federal and State and local agencies. Is that correct?

A Just about my whole career, right? It's all about partnership. You know, I recognized early on that you couldn't get anything done by yourself, that you needed to have partners to help you get the job done, which is why I was always operating in a task force environment.

Even when I didn't have the opportunity to sit with multiple agencies, where we had -- I was on the Organized Crime Task Force in New York City. I brought in IRS, I brought in the Department of Labor so that we could really bring the full force of the government and the local law enforcement authorities to bear and really do a job on a number of different cases that we did in organized crime, targeting the Lucchese family.

So we had great successes working labor racketeering at JFK International Airport with the air freight industry, I had great successes taking down organized-crime control of the garment

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center in New York City, all because we worked in close partnership with other agencies.

Q So would it be fair to say you know how to staff an investigation and you know how to conduct an investigation?

A I've done both.

Q So you feel competent in conducting, overseeing a large investigation.

A Yes.

Q You will know when an investigation is being done correctly or incorrectly and what shortfalls an investigation may have. Is that correct?

A Correct.

Q And you would know, if an investigation was deficient, what steps would need to be taken to get that investigation back on track for being conducted within the norms of a valid investigation.

A Yes.

Q You indicated, when you were ticking off the multitude of assignments that you've had, I believe sometime in 2008 you did some sort of -- well, actually, there were two things you mentioned that interested me. You had done an assignment in 2008, I believe, relating to a project called the DI0G.

Hold that thought for a minute, because I think you also said you had done some time on an inspection staff. What is the inspection staff, and what is the purpose of an assignment there?

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What is their role in the Bureau, and what is your role in that assignment?

A So, back in -- I think it was 2002 timeframe, in order to become an ASAC, you had to get a certain number of field inspections complete so that you could put together your package. The field inspections -- the inspection staff really inspected the entire Bureau. I participated in -- the majority of my inspections were field office inspections. I also did two legat inspections, but they also inspect headquarters units, as well, and sections and programs, right? But my experience was pulling apart field offices.

And then, based on your experiences, they usually put the criminal guys to look at the criminal programs, the counterintelligence guys look at the counterintelligence programs, cyber, cyber, et cetera, et cetera. So it was really to pull apart field offices to see if their programs were running effectively and efficiently.

So I did that for 12 months, and I think I completed 13 inspections, because I got called on doing a special at some point after I was done with my year. So I did about 13, I think, field inspections.

Q Okay.

You touched on it briefly; so when you're inspecting a field office or an FBI entity, elaborate a little bit on just exactly what that is. You talked about pulling it apart. Elaborate on

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that a little bit. What is it you were doing?

A So, the level I was at, we were looking at investigative programs. So you go in and look at the organized crime drug program of a field office, and you would look to see if they had the right goals and objectives in place, if those goals and objectives were measurable and achievable, what kind of work they did in support of those goals and objectives, what type of source coverage they had to effectively go after the target -- you know, things of that nature.

Q Okay. When you conclude an inspection at a field office, what kind of rating, summary rating, does a field office get? What does the field office want to get when the inspectors are leaving town?

A Well, they want to be seen as being run effectively and efficiently.

Q Okay. So, not only do you know how to staff and conduct investigations as a street agent, a brick agent, you know how to go in and reverse-engineer another case that someone else has done or a program that someone else has done and see what deficiencies they may have or see what efficiencies they may have.

A It's all part of the educational process as I went through my career.

Q Okay. So, when you get to the top or near the top of this FBI pyramid as an EAD, would it be fair to say you've pretty much seen and done everything there is to do in the Bureau? You

know how to work -- there's always something you haven't seen, but --

A Yeah, correct.

Q -- you know how to work a case and you know how to look at a case and assess it for whether it's being run properly. Is that fair?

A I knew investigations.

Q Okay.

We talked a moment ago, and I had you hold the thought, of an assignment you had in 2008 relating to a project that -- I'll just call it the DIOG. Could you elaborate on what that was?

A Gosh, I can't remember what we used to call the rules and regs, but --

Q Probably the attorney general guidelines.

A No, no, it wasn't the guidelines. It was the internal --

Q Oh. MIOG and MAYOP?

A Yeah, MIOG and MAYOP, there you go. Thanks. The MIOG and MAYOP were these massive documents that were all over the place and, in some cases, you know, repetitive guidance on different things.

So the job of that group was to put together a domestic investigative operations guideline that would be a one-stop shop for investigators, analysts, supervisors, et cetera.

So we pulled a lot of information from the old MIOG and MAYOP

and put it in one place. We cleaned up the language, we got rid of the things that were unnecessary, and we tried to lay out a streamlined manual, one place that an agent and analyst could go to see what the rules and regulations were for a particular situation.

Q So an FBI investigation, something generated by the FBI, would be governed by rules, regulations in this DIOG.

A Yes.

Q And the DIOG stood for Domestic --

A Investigations and Operations Guidelines.

Q Okay. So it was really an effort at consolidating a bunch of different places an investigator would have to go --

A Basically.

Q -- to find out if they were in compliance.

A Correct.

Q So, in addition to you being an inspector and knowing how to look at and assess efficiencies and deficiencies in other people's cases and programs, and in addition to being able to staff investigations and conduct the street part of an investigation, you have a pretty good handle on, really from the beginning of this DIOG project, what rules and regulations existed at the FBI to keep an investigation, quote/unquote, "in compliance."

A Yes.

Q Okay.

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Back to your EAD position, who was in the position before you were promoted? Who did you replace?

A Andrew McCabe.

Q So Andrew McCabe was the EAD of the national security program before he was promoted?

A Yes.

Q Okay. And who was promoted to EAD-national security when you retired?

A Michael Steinbach.

Q Okay.

During your tenure as EAD, who was the Assistant Director of the Counterintelligence Division?

A [REDACTED] Coleman and Bill Priestap.

Q We talked in general terms about what an EAD does and how --

A Let me -- Randy Coleman, not [REDACTED] Coleman. Randy Coleman. He'd be mad at me if I screwed up his name.

Q Okay. Thank you for that.

What was your role as an EAD as it pertains to the Midyear Exam investigation? What was your role in that?

A So I think I received -- initially, I received the referral from the IG. McCullough, I believe, his name was. So I saw to it that Randy Coleman and his team opened an investigation so that we could begin to look at what we had, right?

So the referral was predication enough to initiate the

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investigation. We set up a meeting with the Director, I don't remember if it was that night or the following morning, to just bring to his attention that we got the referral and we were going to open the investigation.

And then post-conversation with the Director -- and, at that time -- I think this is important -- I told the Director, this is one of those situations that was a no-win situation, right? You were going to open this case up and you were going to upset the U.S. Government, right? You're going to upset the Democrats for opening up a case on the Democratic candidate. You're going to upset the Republicans if you couldn't prove that she, in fact, you know, was guilty of what was being alleged.

Q "She" being who?

A Ms. Clinton, Secretary Clinton.

So fully recognized right at the gate that it was a political bombshell, but we -- we're an apolitical organization, right?

So I had the referral, we were going to open up the case, and we were going to wait to put together a team, and we were going to conduct a thorough, down-the-middle investigation, which is what we did.

Q Okay. So you just indicated that, you know, it was going to be stood up as a thorough investigation, and that's what happened.

A While I was there, absolutely. And I would assume after I left it continued in that vein.



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Q Was there ever a discussion -- and I think you're uniquely suited to answer this based on your broad program experience. Was there a discussion how -- how did this become a counterintelligence matter versus a public corruption matter on the criminal side? Was there a discussion about that? Or how did it land where it landed?

A I don't know that there was ever a discussion saying that it should've been a public corruption investigation. It was because we looked at it as a spillage of classified information that it fell within the counterintelligence realm.

Q Okay. So the facts that came to you from the inspector general of the IC, just the facts lent itself to have the program or the violations, whatever, that the Counterintelligence Division would normally work.

A Correct. Classified information on an unclassified system would be a counterintelligence operation.

Q Okay.

Just out of curiosity, how does a case -- we can be specific about Midyear Exam. How does a case get a code name? How is a name generated for it?

A Gosh, I don't -- I don't even know.

Q Is there any special meaning behind "Midyear Exam"? It's my understanding it's just a randomly generated computer process.

A That's what I thought too. I thought it was just sort

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of plucked off --

Q Okay.

A -- a computer system, but I'm not sure. I never really cared what they were called, right? A case was a case. You had your targets, and you conducted your investigation.

Q Okay.

You mentioned earlier, when you were going through some of your experiences, you mentioned something about a special. You were called away, or you worked a special. What is a "special"?

A Did I say that? A special would just be something that would be not -- you know, a little out of the ordinary. Right? So it could be almost anything. It could be the DIOG piece that was different from my normal day of running a squad. It could be even going to Iraq for, you know, 3 or 4 months, you know, like I did in 2005. It was something I considered something outside of my normal job responsibilities.

Q Is there ever an occasion where the assignment of the name "special" isn't just because it's unique to what you normally do, but the case itself, because of its sensitivity or the way it's funded, is there ever a status assigned to a particular case, it's a headquarters special?

A I've heard it before. I mean, I don't know if there's anything fancy that makes a case more special than another case.

Q Okay. Okay.

How was the team assembled? You get this referral; there's a

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decision made, how it's going to be classified, what division is going to get it. Obviously, a pretty resource-intensive investigation. How was the team decided?

A Well, counterintelligence -- it was a counterintelligence investigation. I relied on Randy Coleman to put the team together. So I gave Randy that assignment, and he put the team together to attack the issues based on his expertise and the expertise of the team.

Q I mean, to the best of your knowledge, did headquarters have sufficient personnel to work the case from headquarters? Were resources brought in from other field offices?

A My understanding -- I recall resources being brought in from, I think it was Washington field office.

Q Okay. Do you have any idea how many resources?

A The group was, I believe, bigger than a dozen or so folks. I don't have an exact number. I don't recall.

Q Okay.

To the best of your knowledge, once the team was assembled and the case started, you know, actually being worked, did resource needs be identified as something specific that they needed? They needed more resources? I would assume it would evolve to needing more, but I don't know.

A I'm not certain, but I do believe that we did enhance the resources at some point or another.

Q Okay.

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To the best of your knowledge, were any other field offices drawn from for personnel?

A I can't recall that.

Q Okay.

Do you remember any of the names of the people that were sort of at the top of the managers, of the decisionmakers for the team?

A Obviously, Randy. Randy was the key decisionmaker. Sandy Kable, I think, who acted for Randy from time to time, briefed me a few times. Pete Strzok, obviously. [REDACTED] -- I think it's [REDACTED] -- was the analyst. Those are the names I recall.

Q Okay.

Because of the sensitivity of the matter -- I mean, you indicated you knew it was going to be a sensitive matter right from the get-go. And I think any type -- I mean, correct me if I'm wrong. Would it be fair to say that any case involving political figures, public figures, are sensitive?

A Because of the impact.

Q Okay. Was there any evaluation or assessment before this team was assembled of whether particular team members may have political beliefs that were sort of above and beyond just a private citizen going to a voting booth and having a particular opinion about a party?

A So, in my career, I don't ever remember ever asking an agent who was working an investigation what political party he or

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she was from or, you know, who they voted for any of that. So I wouldn't think that we would do that in this investigation either.

Like I said earlier, the FBI is an apolitical organization. People within the organization, though, I'm sure, have leanings either to one party or another. But when you are conducting an investigation, you put that on the side and you conduct the investigation.

And that's what I viewed while I was there. That's the way I've always operated in my 25-year career. It doesn't matter, you know, political party, it doesn't matter, you know, race, it doesn't matter creed. None of those things matter, right? What matters is right and wrong. And you are a witness to the truth, and you try to find out what is right or wrong.

Q Would any consultation with the Office of Integrity and Compliance be had if someone is either, themselves, politically active from a donor standpoint or spouse is active in donating to a political cause? Is there any of that that goes on?

A The same thing, right? Like, the answer is the same as I previously stated. You know, down the middle, apolitical, while you're conducting the investigation.

If you cut an FBI agent, he's still going to bleed, right? So people are going to have feelings. But, at the end of the day, when you're conducting an investigation, that's all put to the side and you go straight ahead at the target.

And if you can prove the case, you know, you then move to the

next level. And if you can't prove the case, you close it out, and you move on to the next target. But there's no politics involved while you're conducting the investigation.

And, as a result of that, there was never any need, in my 25-year career, to find out, like, what party somebody belonged to before, you know, I assigned him or her a case.

Q So how were the people that ultimately ended up on the Midyear team -- was there just a solicitation, "Hey, we need to staff this?" Did people apply? Were they hand-selected?

A No, no. So, like I said, Randy put the team together. I believe he hand-selected most of those folks. You'd have to ask him, you know, specifically how he went about putting that group together.

But those were folks that were experienced in dealing with that type of investigation, right, knew how to deal with and handle classified information, you know, knew how to address spillage issues and were, you know, experts in those areas.

So he didn't just randomly put out a canvas. You know, he picked people.

Q And did he pick Peter Strzok?

A I believe he did.

Q Okay. You know Mr. Strzok.

A Yes, I do.

Q Your relationship with Mr. Strzok -- personal, professional, both?

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A The first time I've seen Pete since I retired was last Monday or Tuesday. But he was an expert in conducting those types of investigations.

Q And he is considered as an expert in the Bureau and the intelligence community?

A Yeah. I mean, he's done those types of cases before. He did a great job while I was there conducting the investigation. I got, I think, weekly briefings from Pete and [REDACTED] about the progress of the case. I got a brief every day from either Randy or Randy's acting, who was Sandy Kable, while the investigation was being conducted. And, you know, those guys did, you know, a yeoman's work of making sure that we uncovered every stone that we could uncover while I was there.

BY MR. SOMERS:

Q When you had lunch with Mr. Strzok recently, did the subject of the inspector general's investigation come up?

A Yes.

Q And what was discussed about the inspector general's investigation?

A You know, to be honest with you, I was disappointed in some of the things that I had, you know, read in the news, and that's basically it. I told Pete: Listen, Pete, I'm disappointed. Right? I mean, he's entitled to his opinion like I'm entitled to my opinion, but, at the end of the day, I was more upset about the affair than, I think, you know, anything else.

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Q And, I mean, you had discussed a few minutes ago, you know, you're supposed to be straight down the line, politics aren't supposed to come into play. Obviously, you had no -- if you had knowledge of some of the things you've read about the IG report and Mr. Strzok and how he appeared in the IG report, would that be a reason you might remove someone from an investigation?

A I think you'd have no choice. I mean, I think that's what you saw with the Mueller investigation.

Now, that being said, there was no indication that he exhibited any bias while he was conducting the investigation while he was working for me. He went 110 miles an hour. We were always looking for new ways to uncover information and evidence.

So I had no indication that he even would politically lean the way, I guess, some of these text messages show that he leaned. At no point in time during my management of the case did he exhibit anything that would provide any slight indication of some of those things that were, you know, posted and put out in the media.

Q And you had no knowledge of the affair?

A No. Which I think occurred after I left.

Q Yeah. And, sort of, the same question on that. Knowledge of an affair like that in the Counterintelligence Division, would that be grounds for removing someone from an investigation?

A I believe -- because Page is an American, right? So

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probably not. If she was a Chinese spy, it would be a little different.

Q Well, is an affair, is that a concern in terms of a security clearance for someone?

Mr. Baker. For the purposes of blackmail, I assume.

BY MR. SOMERS:

Q Yeah. Well, for any purpose.

A I guess blackmail is a potential issue. I don't know that this particular affair, though, the way -- I don't know. Like, I couldn't -- I couldn't weigh in.

I wouldn't remove a guy from a squad or from a case because he was having an affair with somebody. Right? I might counsel that guy because, you know, it has serious consequences on your personal life, right, and your family life that could potentially impact your professional life.

But, you know, people are big boys and big girls, right? I mean, I'm not the affair police. So I don't know that I would have -- how I would have reacted to that. I definitely would have counseled him, though.

BY MR. BAKER:

Q But isn't that behavior something that a hostile intelligence service would see as a vulnerability and try to exploit, especially if the person that's participating in that --

A We're seeing it exploited now, right? I mean, so yeah. I mean, it's -- but for the same reason why it hasn't had any kind

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of impact on his behavior as far as -- that I witnessed, conducting the investigation, I mean, I don't know how it -- you're asking me to predict something I can't predict.

Q But just as a general principle, someone who -- I mean, I think an FBI employee, in general, but specifically an FBI employee, an FBI agent who is involved in counterintelligence -- I believe he, you know, had done some work in counterespionage --

A This is also 2017, right? This isn't, like, 1940, where if you were married more than one time you couldn't get elected President, right? We have Presidents that get elected now --

Q No, I understand that.

A -- that are married multiple times.

Q But from the standpoint of a hostile intelligence service that wants to make inroads into a government agency to exploit whatever files or knowledge they need to exploit, wouldn't the fact of an extramarital affair that your wife doesn't know about be an opportunity --

A It could be an opportunity, yeah. And it also could be an opportunity for him to come clean with his wife the first time somebody brought it up. Right?

So, like I said, this is a different time and age. This isn't a puritan society. And, unfortunately, these things happen more frequently than they probably should, right? And, as a result of that, it's stuff that people are more comfortable confessing to, admitting to, and, you know, moving on from.

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So, you know, there's a lot of things that are different today than they were in the '40s and '50s, you know, where the Russians would use every single potential inroad, you know, to gain access.

I mean, if you ever saw the movie "Good Shepherd" on how the CIA was started, there was illicit relationships there too. It didn't screw that guy up any, right? He put together a pretty good organization and targeted Russians pretty vigorously, you know, over his long career.

So, I mean, could it happen? Yeah, it could happen. Unlikely, though.

Q You had indicated earlier that, with your green badge status, when your clearances start to expire or whatever, the Bureau will, you know, facilitate the reupping of them. What exactly happens when a clearance is reupped and someone in that --

A There has to be -- there has to be a value, right? The Bureau has to get value out of providing you with a clearance. So, you know, if I am considered to still maintain that value either with the access I have to different parts of the world, different sources of information, they will move forward and provide me a clearance, right? If I have no value, then they won't move forward with my clearance.

If I could add value because of my experiences, you know, in dealing with the organization, to provide guidance on something that might be of a classified nature, where they can call me in,

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then they will up my clearance. If I can't provide that guidance, then they won't provide me with a clearance, right?

So it depends upon what I can do in return for the organization. And I think, you know, you went through it pretty eloquently. I've done a lot of different things over the 25 years. They can call me in if they need me to speak to a group of SACs, and I'm happy to come in and speak to a group of SACs. They can bring me in to help out with the public-private partnership piece that they've been working on, and I'd be happy to come in and do that, right?

And all those things require that I have access, and that's why, I think, we continue with our relationship.

Q For a rank-and-file employee, someone still on the rolls, how often are they --

A I don't know. But there are rank-and-file employees that still maintain security clearances. Whether the FBI holds them or DHS holds them, I don't know, but --

Q But when you hold a clearance, you do get periodically investigated is what I'm getting at.

A Every 5 years.

Q So I guess what I'm curious about, wouldn't an affair or any kind of financial difficulty, all the big-ticket items for vulnerability, wouldn't that be looked at or discovered?

A So finances are definitely looked at. You do a financial disclosure every year.

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I just went through a reinvestigation. I don't remember them ever asking me a question about having an affair. They ask you if you're married. They don't ask you if you're married and if you have a girlfriend or boyfriend, right?

So I don't remember, you know, that ever coming up in my reinvestigation. I could've not been paying attention to it because I'm married 25 years and I'm afraid to death of my wife, but, you know, I don't recall ever seeing that.

Q Okay. But an onboard employee, I think, would be polygraphed as part of the 5-year reup.

A Everybody gets polygraphed. I got polygraphed as well.

Q And there's no question asked about, even just general, is there anything that you think you could be exploited by?

I'm just curious how that behavior is missed by -- I mean, I understand what you're saying about being or not being morality police and it's a new age and a new era. But there's a considerable amount of money spent on maintaining clearances and investigating folks to make sure that they are, you know, still suitable, and, apparently, these behaviors are not being caught?

A So all right, all right. If we were to fire everybody having an extramarital affair, right, in the U.S. Government, we'd have a lot of empty offices, right? So I don't know how else I can answer that question.

Q I understand that, but that is not just any -- and not to look down on -- just any government employee. This is, in your

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words, the number-one expert in counterintelligence matters, who also finds himself in the middle of two -- although we're focused today on one -- of the biggest cases in the FBI's history that also had somehow or another gotten derailed to bring a bunch of discredit to the Bureau.

Did you ever hear a saying in your early tenure in the FBI, "Don't embarrass the Bureau"? Did you ever hear at Quantico, "Don't embarrass the Bureau"?

A Yes.

Q You mentioned you had lunch with Mr. Strzok. And I believe you were aware, through media reports or maybe skimming the IG report, where we are today on what did and didn't happen. Would you say the Bureau has been embarrassed?

A Yes.

Q Okay.

You had indicated you had a lot of folks reporting up to you on a fairly regular basis, it sounded like, on Midyear. Who did you brief and how often?

A There was a briefing cycle. Right? So every day, at the end of the day, I was briefed by my entire team, right? So the weapons of mass destruction guy would tell me what's going on in weapons of mass destruction; counterterrorism; counterintelligence. I had intel for a little while, and then intel spun off to its own branch.

And then I would go, in turn, brief the Deputy Director. And

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if it was something specifically important, sometimes the Deputy Director would take me in to chat with the Director.

That was a daily occurrence.

Now, with regard to Midyear, I kept -- because we were keeping Midyear quiet, right, and we didn't want leaks. We conducted those regular briefings. And then Randy would stay behind, and he would give me the daily summary of the events of what happened with Midyear. We'd go through them. I would take it and then go brief Deputy Director Giuliano. Occasionally, I would brief the Director as well. But, for the most part, it was Randy to me, to the Deputy.

Q And during your time at the Bureau while Midyear was going on, before your retirement -- correct me if I'm wrong -- it doesn't sound like you saw or had any undue influence from up the chain of command to do anything different. It sounds like this was run like a normal investigation, from what you said.

A Correct. You know, I've had a lot of experience doing investigations, and I ran my investigations, and nobody ever said do this or do that. I guess I never screwed anything up, right, so nobody ever had to say, you know, do this or do that, provide me, you know, day-in, day-out guidance.

I had never had any undue influence from anyone in my entire career, right, from the time I was case agent working cases. It was a little different then, right, where a supervisor would provide guidance as you were learning how to do certain things.

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But, you know, for the most part, when I was managing cases, I never had anybody say you should've done this or you should've done that. I ran the cases the way I saw that I needed to run them, and were pretty successful.

Q And, in this particular case, it would be the same thing. You ran it the way you saw fit, and there was nothing unusual about what you were told to do or what was being reported up to you.

A Like I said, I wasn't told to do anything, right? I told the Deputy Director and the Director that we were going to open a case based on the referral. Then I instructed Randy to put together a team and begin the investigation, and then we began the investigation.

Q You had indicated earlier when you talked briefly about your education, you have an advanced degree from a war college. You're not a lawyer?

A Correct.

Q Okay. Do you recall --

A Is that good or bad?

Q All depends on what side you have -- what side you're on and what you have hanging on your wall.

A Yeah. I'm not a lawyer.

Q I think this would have happened during your tenure. We're trying to get a handle on when the earliest discussions about what charges, if any charges, what possible charges or



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violations might have happened or should be investigated.

You indicated a spillage, it lands in the Counterintelligence Division --

A I don't remember the U.S. code, the specific U.S. codes, or when those discussions, you know, took place.

Initially, we were looking to get the full server and start pulling it apart, right? We knew that we had, I think, 30,000 or so emails to review. So the team was focused on reviewing those 30,000 emails to see what, if any, classified information was on the system.

And we knew from Inspector General McCullough that there were a number that he had identified. So we, obviously, you know, had those. But we wanted to pull apart everything to see what else was there.

And I think there was another 30,000 or so that were removed. So we tried to figure out ways to access those 30,000 through other agencies that she might have been communicating with to see if they had a copy of them. Because I think there was a -- BleachBit or something that was used to wipe out those 30,000 or so emails. So we looked for other ways to get those.

We looked to get tablets and computers from the State Department, to check with the State Department systems to see what they had.

We wanted to first try to capture the full universe of areas where this touched and then pull it apart to see what kind of

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classified information we had or other communications that went to show intent.

Q Okay.

I want to back up in a minute, but you hit on a key word, "intent." There's been a lot of discussion about some of the statutes that could have, should have, been looked at, been charged. So it sounds like there were discussions. And I assume the General Counsel's Office of the FBI were in some of these discussions. And I assume --

A During my tenure, no discussions about charging, right, because we were investigating. We were trying to see what we actually had and what statutes could have possibly lined up with what we had.

Q Okay.

A But we didn't talk about charging anybody --

Q Okay.

A -- on my part.

Q But you looked at statutes to sort of align the investigative strategy.

A Yeah. Well, you always have to have, like, some idea as to what you're looking at, right, so that you can then sort of work towards the elements of those crimes to build the case.

Q Sure.

So what statutes did you think, based on what you -- I mean, it sounds like you had an awful lot of devices, servers and

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handheld devices, maybe all over the place. It sounds to me like it might have been very difficult in the very beginning of your investigation really to get a handle on where everything was and everyplace you had to go. Is that fair?

A Yeah, that's fair. I mean, we also recognized that, you know, we didn't want to impact the Presidential election, right? So we wanted to make sure we got through it, through all the information that we had and, you know, got it done in a reasonable amount of time, which is why we had a large team, you know, looking at things.

But, yeah, there was a lot of information. You know, the server was pretty big. It took a long time for the guys to get through it. Like I said earlier, I mean, these guys really did work their tails off trying to dig into all the information, all the devices that we had.

We had some, I think, BlackBerrys that somebody took a hammer to. We tried to, you know, see if some of the technical guys could put it back together again so that we could extract data from that.

I mean, everything that these guys could have done, you know, we looked to do, to try and get this investigation, like I said earlier, as thoroughly looked at as possible.

Q And in that early stage where you're assessing all the devices and servers and whatnot, do you feel there was an adequate number of devices that were recovered to do forensic exams?

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A Yeah, for what we were trying to accomplish, yes.

Q Okay.

And what was the early goal of the case? Describe what you were trying to accomplish when -- you get this referral --

A We were trying to identify classified information on a system.

Q Okay. So charging ideas came way later, but you were looking at charges to sort of guide what actions and things to look at. Do you remember the statutes or anything?

A Like I said earlier, I don't remember the statutes.

Q Okay.

And this may have happened after your tenure. Do you ever remember some private entity, a private entity, privately funded, that took it upon themselves to go looking on the, quote/unquote, "dark web" for documents from any of the Clinton servers that may have ended up somewhere and actually found one on a foreign server? Does that ring a bell?

A No.

Q Okay.

Do you know or do you have a sense, based on your investigation, what the State Department's security policies on use of personal devices -- I mean, were they strict on their personnel security in that regard? Were they not so strict and this was not just a one-off where Secretary Clinton was using nonofficial devices?

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A Well, she used a private server for a long time, so obviously they weren't strict, right? I can't comment any further than that, though. I mean, I don't know what their policies are.

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[11:05 a.m.]

Mr. Somers. At the point you were involved in the investigations, was there any discussion or why, why was she using a private server? Was there any conclusion on that?

Mr. Giacalone. That's what we were trying to figure out. We were trying to figure out what the reason was, if there was any, you know, criminal intent as to as to why she was using the server: Was it to avoid handing information, you know, over at the end of her time as Secretary? Was she doing something that she wasn't supposed to be doing? That's what we were trying to find out, and why was the big question that we needed to answer. And while I was there, we didn't really find any kind of smoking gun why as to why she was doing it. There were a number of classified documents that we did discover, but at the end of the day, you know, we didn't have the answer to the why.

Mr. Somers. And you mentioned like a BlackBerry that was smashed; I don't know if it was multiple or just one. Any conclusion there as to why that occurred?

Mr. Giacalone. No. I mean, why does one smash a BlackBerry with a hammer? If you find out the answer, you let me know.

BY MR. BAKER:

Q Are you aware of any best cyber practices where hard drives on desktops are smashed as the best way to dispose of a device?

A No, that's not the best way to dispose of a device. I

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mean, I'm not a cyber guy, but you can still extract data from a smashed device. Right? So what's the best way to do it? I couldn't really tell you. I mean, I think some of the techniques that they have now with the bleaching and -- I don't know, maybe melt it would probably be a better way to do it, but smashing it with a hammer or trying to physically destroy it, you can still extract a certain amount of data off of those things. I mean, these guys are pretty amazing what they can do with some of the technology that's available today. So I wouldn't think that's the best way to do it, but like I'm not an expert in that area.

Q Could you describe some of the investigative techniques -- once you got this referral, you surveyed the lay of the land at what you needed to go seek and find to really find out where documents may have been transmitted, where they may have landed. What type of investigative techniques were used by the FBI to --

A So you had, you know, a team of technical experts to try to pull that server apart, right, and to try and extract as much information off of it as you could to try and piece together the 30,000 or so that emails that we didn't have. So, early on, it was largely technical. It was largely, you know, teams reading the emails that we had to try and determine what kind of classified information we had on the servers. It was -- then it was, you know, the basic investigative techniques. We were trying to get some witnesses, so where the server was, you know,

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originally housed, you know, talking to some of those folks to try and, you know, figure out like again intent and the whys and the wherefores. So combination of technical and logical would be the basic investigative steps that we took, you know, early on.

Q Subpoenas, search warrants?

A We did subpoenas. We didn't serve any search warrants under my watch. We had drafted a search warrant. We were dealing with a cooperating subject and their attorneys through Justice. Every Thursday, I believe, I sat down with the entire group, the investigators and DOJ, and we found out what we needed, you know, what we needed, what we had asked for, what we hadn't gotten, and then made sure because of my premeeting with my team that I put Justice on the spot and got the things that we needed that they weren't getting maybe the quickest service on.

I had no issues or problems holding people's feet to the fire to make sure we got what we needed to conduct the investigation. And overall, I could say, you know, we got things in a fairly timely manner, right? Had we done a search warrant to grab the server, we might have taken more than we actually needed, right, which would have taken us longer to get through stuff that we really didn't even need to be looking at. Getting the server from the subject through her attorney -- it took us three iterations I think to get the whole server, but we didn't lose any time. We went through what we got when we got it before we got the whole thing and got through the review of the server in a fairly



reasonable amount of time.

So, as far as the overall setup, we didn't really waste any time, we didn't lose too much time, and we used the tools that we had available, which grand jury we had. We had -- we could have written and served a search warrant if we needed to.

Q So you did have grand jury?

A Yes.

Mr. Somers. It has been confirmed in an inspector general report.

██████████. Let's not go into the grand jury.

Mr. Giacalone. Was in it a report?

BY MR. BAKER:

Q That's all I wanted to know. There was use of that technique?

A So, if that's out there, I don't want to get in trouble. That's 6(e) protected.

Q That's all I wanted to go down with that anyway. I'm going to jump forward. I certainly reserve the right to go back in another panel.

You have been around the building many times with your experiences in and out. You have been to different field offices. Have you ever seen, heard of, been asked to become a member of, heard rumor about anything called a secret society?

A No.

Q Is there a Society of Former Special Agents?

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A Yes.

Q What is that?

A That is retired special agents that, you know, they get together at different parts of the country, different briefings from time to time. They have lunch, a couple beers. They try to raise money for worthy causes. It is not secret, though. I mean, you could probably find it online.

Q So that is not the secret society that's been alluded to?

A There's no secret society that I'm aware of. I mean, I did half my life in the organization, and, you know, from street level to, you know running a major branch, never heard of it until I read about it in the paper, I don't know, a couple months ago. It is laughable.

Q What was the Society of Former Special Agents' response to some of the things relating to the investigation?

A I think, early on, it was largely inappropriate, right, because you have a bunch of folks that you see on TV making comments about things they have absolutely no idea about, right. So, like my experience ended with the investigation February 28. I'm not going to comment on something that happened in July. I have no idea what the decisionmakers had to make those decisions, right, so how can I -- how can I Monday morning quarterback that? So some of these guys, I think, really embarrassed themselves and did a disservice to the organization by commenting on things they

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have absolutely no idea of whys and wherefores. So it is disappointing.

I have been retired for, you know, 2 years and, I don't know, 4 or 5 months. I have no need to be on television, right. I have no need to, you know, have my ego stroked, which is the only thing I can think of as why some of these guys are doing what they're doing, but I'm not going to comment on something I have absolutely no idea what's going on.

At some point, I think they put together a brief for retired folks to help bring people up to speed so they wouldn't embarrass themselves by saying stupid things on television. I can't remember exactly when that was, but I know I participated in the phone call, I think, where I think it was Pete Strzok delivered sort of a soup-to-nuts as to, you know, what they had found and what they had done at different stages of the investigation.

Q Okay. I think that pretty much wraps the first hour.

Mr. Somers. We can go off the record now and take a short break.

[Recess.]

BY MS. KIM:

Q We're back on the record. The time is 11:25. Mr. Giacalone. My name is Janet Kim I am a counsel for Ranking Member Elijah Cummings of the House Oversight Committee. Together with my colleagues Arya and Valerie here today, I will be asking you some questions about your involvement in the Midyear

investigation.

A Okay.

Q As a general matter, before we start, I want to know if you have read the inspector general's report?

A All 500 pages, no.

Q Are you generally familiar with its conclusions?

A From what I have seen in the news. I did read the executive summary.

Q And I assume you were provided the parts about you before publication. Is that correct?

A Well, I asked for them.

Q And do you generally agree with the report's findings that there was no evidence of political bias in the investigative steps that DOJ and FBI took?

A That's consistent with my experience while I was running the investigation.

Q Great. Thank you. I would like to jump back in time to the initiation of the Midyear investigation.

I understand that you were present for the ICIG's referral to the FBI. Is that correct?

A Correct.

Q Can you describe the type of files or work product that were forwarded as part of that referral?

A No, I can't.

Q Is that because there were no files or work product

forwarded?

A Nothing went to me directly, right. So I wouldn't have even seen that.

Q I understand the ICIG or ICIG investigators briefed the FBI in person. Were you present at that briefing?

A I spoke to McCullough a couple times. I don't know if I was present during a formal briefing. If I was, I don't recall.

Q Do you recall a meeting where you and Mr. Strzok were present with Mr. McCullough?

A I don't recall that. I mean, I'm not saying it didn't happen; I just don't recall. I went to thousands of meetings.

Q Sure. So then, stepping back, talking about that referral generally, did you take the ICIG's referral seriously?

A Of course.

Q And typically, when the FBI receives a referral from an IG's office, does the FBI conduct its own independent investigation of those allegations?

A In my experience, yes.

Q Does the FBI ever investigate matters in tandem with the referring IG's office?

A That I don't know. That -- "in tandem," do you mean with him as a partner during the investigation? No --

Q That's correct.

A No, he was separate from our investigation.

Q There's been some questioning around the various

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designations that went with the Midyear exam. I'll try to go through these one by one. What does it mean for an investigation to be designated as a sensitive investigative matter?

A It had some elements into it that made it so, usually political-type investigations or investigations that deal with public officials are sensitive.

Q Was the Midyear exam a sensitive investigative matter?

A I believe it was.

Q And is that because Secretary Clinton is a political figure?

A Well, yes, it was going to impact potentially the Presidential election. So we took it very serious, which is why we wanted to keep things quiet and to a small group.

Q Does the SIM designation affect in any way the investigative steps that the team is empowered to take?

A No. Depending upon what type of investigation it is, and a SIM is usually going to be a full investigation. You have access to all the tools that you need to conduct that type of investigation.

Q Thank you. I believe you already spoke about the designation, the unofficial designation, perhaps, of, quote, a headquarters special. Can you explain to me what a headquarters special is?

A Like I told like -- like I offered earlier, I mean, it just has something that makes it different from that

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day-in-and-day-out investigation, right. I think what Art was referring to earlier, though, was different assignments that were considered specials, right, so when I did the DIOG piece that was on a special -- separate from my normal day-in-and-day-out duties. When I went to Iraq, that was different from my normal day-in-and-day-out duties. As far as the investigation meaning special, I mean, it was a sensitive matter, right, but --

Q But that didn't limit your investigative tools or steps in any way?

A No, it didn't limit the tools in any way.

Q What about the decision to designate this investigation with an unknown subjects or unsub designation, are you familiar with that?

A I guess it is just to figure out who was fully involved in the actual investigation, right. So we knew that the Secretary was going to be one of the individuals, but I guess it was unsub to see if there was anybody in addition.

Q I'll represent to you that the IG report states that the unsub designation is common but also that Randall Coleman and James Comey were both surprised when interviewed by the IG to learn it was an unsub investigation?

A I'm surprised, as well. That's why, I mean, I didn't recall that it was an unsub but like I said, though, to try and determine, you know, who else was potentially involved I guess which is why it is normally common.

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Q James Comey actually took the step of calling Secretary Clinton the subject of this investigation in the book that he published. Would you agree with that assessment?

A Yes. She was the subject of the referral, and, you know, she was the one that the referral had accused of having classified information on the system. So I always thought of her as the subject.

Q And would the designation of unsub change any substantive decisions about the investigative steps that the FBI took in this case?

A Absolutely not. Like I said, you know, being surprised, I always thought that she was the named subject of the investigation, so it wouldn't change anything.

Q So it is correct that the FBI in your experience treated this investigation like Hillary Clinton was the subject of the investigation?

A Yes.

Q Did you have any involvement in briefing the senior DOJ leadership about the Midyear investigation?

A Did I have any --

Q Involvement in briefing the senior leadership at the DOJ?

A So we met with the Attorney General and the staff every Monday, Wednesday, and Friday, right. If we specifically briefed this case it would have been after one of those meetings. I had



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no regular briefing schedule with them. George Toscas was my counterpart over in Justice. The way I understood it was George was keeping his chain involved, and I kept my chain involved.

Q I want to clarify. The regular meetings that you discussed with AG staff, those were regular meetings that you participated in as EAD of the National Security Branch generally about your work on the National Security Branch?

A Yes. It had nothing to do with this case.

Q In your experience, did any political appointee at the Department of Justice issue orders on the conduct of the Midyear investigation?

A Issue orders on the conduct of the investigation? So, I mean, I think Carlin at one point said that George Toscas was going to be, you know, the lead for Justice, and that's the way we ran, right. So, when we needed to have a meeting, George represented Justice, George and his team, and like I said, every Thursday, we had the Department over to make sure that the investigative team was getting everything that they needed.

Q So you didn't have any experience where a political appointee like John Carlin, Sally Yates, or Loretta Lynch ever intervened or attempted to intervene in the way that the investigation was conducted?

A I don't know what their involvement was.

Q The inspector general's report concluded that Peter Strzok was, quote, not the sole decisionmaker for any of the

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specific Midyear investigative decisions that the report reviewed. Is that consistent with your experience on the Midyear investigation?

A Yeah, he wouldn't have been the sole decisionmaker on anything, right. So the chain of command when I was there was me, Randy, and then the Deputy Assistant Director, who at the time I think was Sandy and then, you know, Pete and Pete's role with the investigation. So he wouldn't have made any decision that would have impacted anything without counseling us.

Q Thank you.

A He shouldn't have at least.

Q When did you first understand that evidence of Secretary Clinton's intent would be important to the charging decision?

A Probably from the beginning.

Q Is it safe to say that you were looking for evidence of intent early on in the investigation?

A We were looking for classified information on the system, and of course, you know, like I said, I don't remember the specific U.S. Code, but intent would have been an important thing for us to uncover. So you weren't going to look for one without looking for the other. You look for them simultaneously.

Q I want to take you back to a specific point in time that the IG report discusses in the investigation. By September 2015, do you remember if the team had reviewed the classified information in Secretary Clinton's emails and interviewed some

individuals familiar with why that information was in those emails?

A I don't remember September '15, September 2015, so it would have been a couple months, you know, after we opened the case. We could have been done with a review of a lot of information, and we could have been looking to, you know, pinpoint some folks for interview.

Q I'm going read you a section from page 165 of the IG report. If you would like that copy, I have copies. Is that something that you want?

A I can listen to you.

Q You can listen to me. All right. So I'll try to read quickly: As early as September 2015, FBI and Department officials realized that they were unlikely to find evidence of intent. Prosecutor 2 stated that within a month of first obtaining criminal process, they had seen no evidence of intent. This prosecutor told the OIG that the team realized that the case likely would lead to a declination after they had reviewed the classified information in former Secretary Clinton's emails and heard the explanations for including that information in unclassified emails. Prosecutor 2 said that there were a number of other investigative steps they needed to take to complete their due diligence, but by September 2015, they knew that they would need a, quote, game changer, unquote, to be able to prove intent.

Is that quote generally consistent with your recollection?

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A Yes. So that would have been referring to a time where we had the review of the emails complete. But like Prosecutor 2 said, there was still a number of other steps that we had to take before we, you know, had any kind of -- were close to any kind of conclusion as to the direction.

Q So it is correct, though, that as early as September 2015, you understood that the ability to charge Secretary Clinton with an offense would depend on the existence of evidence of intent?

A Yes.

Q The next paragraph on that page -- and, again, I'll read to you -- states, quote: Notes obtained by the OIG from a meeting between Toscas and then EAD John Giacalone on December 4, 2015, confirmed that the lack of intent was the subject of ongoing discussions. According to the notes, Giacalone asked the team, quote, still, and in brackets do not, end bracket, have much on the intent side, right, question mark, unquote. The notes show that the team members present at the meeting agreed with him.

A So, again, that would have been based on the email review, right, because there was still a lot of interviews that still had to occur, so you wouldn't have been able to make a determination as to whether or not you have unturned every stone to make the determination of intent. So, based on what we had at the time, that discussion would have referred to whatever was completed up to that date.

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Q So that's an accurate characterization of your memory of that meeting?

A Yes, based on probably the completed review of the emails.

Q Now the last paragraph -- the last sentence in that paragraph reads, quote: Giacalone, who retired from the FBI in February 2016, said that there were, quote, no smoking guns, unquote, showing intent when he left.

Is that an accurate characterization?

A Again, based on what we had completed at that point in time during the investigation, that's accurate.

Q Now, by February 2016, how long had the FBI been -- had been investigating the Midyear investigation?

A So when was the case opened?

Q July 2016.

A You do the math; you got about 8 months.

Q Yup. So 8 months, and your team had found no smoking gun evidence of Secretary Clinton's intent?

A But, again, though, based on what they reviewed at the time. So I think the large majority of the interviews had not been completed at that point in time, and that was going to be a big piece of it, right? I mean, we have also -- you know, you also had to I think Secretary Clinton was going to agree to an interview, as well, right, so there was still a lot that needed to be done, but based and the review of the emails, there was no

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smoking gun.

Q Had the team interviewed individuals 8 months into the investigation?

A There was a few that I don't know if we actually were able to do them or we attempted to do them that were connected with the server.

Q And is it safe to say that if there were any interviews done, those interviews had not revealed any, quote, smoking gun evidence of Secretary Clinton's intent?

A If it was done at the point in time during those conversations, it would have been reflected in those conversations.

Q There's an April 22, 2017, New York Times article that you were quoted in. It is entitled "Comey Tried to Shield the FBI from Politics. Then He Shaped an Election." Are you familiar with this article?

A Okay.

Q You are?

A Who is the article written by?

Q The New York Times?

A The New York Times? So I tried to largely stay out of the media my entire retired life, effectively being able to do that in most cases. If the FBI asked me to participate in an interview with a news media company, I did. So you would have to refresh my recollection. I think two or three times I spoke to

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folks on behalf of the FBI.

Q Sure. I'm happy to refresh your recollection.

Ms. Kim. I'm going to introduce the following document as exhibit 1. It is the April 22, 2017, New York Times article entitled "Comey Tried to Shield the FBI from Politics. Then He Shaped an Election."

[Giacalone Exhibit No. 1

Was marked for identification.]

BY MS. KIM:

Q It is a long article. So I'll just direct you to your quote. It is on the fourth page. The pages are not numbered, but it is on the fourth page. Your quote is under the header, "Missing Emails," near the bottom?

A Okay.

Q It reads, quote: Despite moments of tension between leaders of the FBI and the Justice Department, agents and prosecutors working on the case made progress. Quote, The investigative team did a thorough job, unquote, Mr. Giacalone said. Quote, They left no stone unturned.

A I think I said that also here today, all right, in the earlier interview.

Q So The New York Times quoted you accurately?

A Yes.

Q And did you believe that the investigative team did a thorough job?

A Absolutely.

Ms. Hariharan. You mentioned a few times that the FBI has asked you to speak on their behalf after you retired. Do you remember what are some of the other times?

Mr. Giacalone. It was obviously this article, and I think the Time Magazine did something, and it might have been a third or fourth time that I don't remember. Infrequent, though.

Ms. Kim. While we're on this kick of reviewing news articles, I would like to introduce another news article. This is exhibit 2, will be an October 26, 2016 news article.

[Giacalone Exhibit No. 2

Was marked for identification.]

Mr. Giacalone. Okay.

BY MS. KIM:

Q Are you familiar with this article?

A Okay. Yes, I am.

Q For the record, I want to state that the article is from October 26, 2016. The title of the article is "The FBI's Sideways Handling of Hillary." The publication is The Washington Times. So I will represent to you that this is an article alleging that your reason for retiring was through dissatisfaction with the Midyear exam case.

A So this actually has been plagiarized from an online article that was done around the same time, right, and I think I ended up on FOX News, as well, as a result of all this, where they



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alleged that I left because I didn't like the way -- I was disgruntled, and I didn't like the way the investigation was handled, which I also explained, I think, earlier from a question that Art asked, I retired from the FBI -- first of all, I loved every minute I spent in the FBI. I had one bad day in 25 years, and that was 9/11, and I think it was a bad day for a lot of people. So there's no way I left because I was sideways or because I was disgruntled. It was purely right time for me, 25 years in, right opportunity, great opportunity to work for a great company, and an opportunity to put my kids through college, so I never spoke to anybody that wrote the internet article. I don't know who they used to source this thing, but this has been regurgitated by I guess not only The Washington Times, but I see by Judge Napolitano down here. He dug this up a couple times. So I guess on slow news days, he digs that up, and he floats it out there.

Q I'm going to read from the second page to you. I want to read the core allegation of this article. Quote: 6 months later, the senior FBI agent in charge of that investigation resigned from the case and retired from the FBI because he felt the case was going, quote, sideways. That's law enforcement jargon for, quote, nowhere by design, unquote.

Did you feel that the Midyear exam case was going sideways or nowhere by design?

A No, and I think the definition that they provide of

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sideways is just a definition of sideways, all right? I don't think it has got anything to do with law enforcement.

Q Do you remember making comments to the effect that the Midyear investigation was going sideways?

A No.

Q The article also alleges that part of the reason you felt the investigation was going sideways was because the FBI was not using compulsory process in concert with the Federal grand jury.

A Which is not true.

Q That's not true. I would like to go through the inspector general's conclusions about the compulsory process of the investigation. I don't think there's any need to go in depth, but you're familiar with the use of compulsory evidence in the Midyear investigation. Is that correct?

A Yes.

Q And do you have any reason to doubt that the Inspector General was correct in describing the use of compulsory process in the Midyear investigation?

A No reason to believe that, no.

Q Thank you.

Ms. Kim. Actually, could we introduce -- I would like to introduce the following document as exhibit 3. It is the inspector general's report chapter 5, sections 3 and 4.

[Giacalone Exhibit No. 3

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Was marked for identification.]

BY MS. KIM:

Q If you turn to the page numbered page 84 --

A Okay.

Q At the bottom of the page, there's a paragraph that starts: There were points in the investigation where the debate about the use of consent versus compulsory process was particularly pronounced.

Would you like to take a moment to read that section?

A Okay.

Q I'll have you read up to the next page, the place where that paragraph ends.

A Okay.

Q So, on the page numbered 85 at the top of the page, before the paragraph ends, the report reads: Strzok told us that, by the time he wrote this email, he was, quote, aggravated by the limitations, unquote, that the prosecutors were placing on the FBI's ability to obtain evidence and felt that, quote, if you add up this delta over a bunch of decisions, all of a sudden, it becomes substantive, unquote.

Is this sentiment from Peter Strzok consistent with your working with him? Was he a pretty aggressive investigator?

A Yes, Pete was -- like I said, Pete was a great investigator. This took place after I left. I left in February. This is March 2016. So, like I explained earlier, you know, we

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had a cooperating subject. So we were going through Justice to get certain things, and to limit the frustrations that Pete may have had or others may have had that were conducting the investigations, I did have a meeting with Justice every Thursday, I believe it was Thursday, where I met with my team in advance and asked them what the needs were, what were they asking for that they weren't getting, and ensured that they got it, right. So whether or not that practice continued after I left, I don't know.

Q In general, when you would discuss with DOJ prosecutors the different ways to obtain the evidence, were any differences in opinion between the FBI and the DOJ based on legitimate legal arguments?

A Listen, as an investigator, you always want it yesterday, right. And as an attorney, they were okay with you getting it today or tomorrow. So there's always differences, you know, with regard to that. However, we didn't get anything while I was there that slowed us down to the point where, you know, it was going to disrupt or hamper the investigation that was ever brought to my attention at least.

Q In your experience, did any senior political leaders at DOJ, so Loretta Lynch, Sally Yates, Sally Yates' PADAG Matt Axelrod or AG John Carlin intervene in the DOJ and the FBI's decisions to seek or not seek compulsory process?

A No. I mean, I dealt with Toscas.

BY MS. SHEN:

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Q Mr. Giacalone, you said that George Toscas was your counterpart at the Department of Justice. Is that right?

A Yes.

Q And what was your experience working with him? He was a career professional. Is that correct?

A I liked George. I mean, we were on some of the same ends of a lot of arguments and some different ends of a lot of arguments. And, you know, George's responsibility as the gatekeeper for whether or not cases got charged, and like I said, I was an agent, right; I wanted my cases charged. So, you know, we had -- we had a good relationship based on, you know, the back and forth that we had throughout the years. So George is professional, very bright guy, and he had great hair.

Q Did you ever have an indication while working with him that he would conduct his job in a manner that was unprofessional or with bad judgment or with an indication of bias?

A George?

Q Yes.

A No.

Ms. Shen. Thank you.

BY MS. KIM:

Q I would like to turn back to 85, sorry, where we left off.

A Okay. You're not going to make me read 500 pages, are you?

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Q Perhaps I will. So, at the top of the paragraph, after you left off, the first sentence reads, quote: Despite this debate, the agents, analysts, prosecutors, and supervisors on the Midyear team generally told us that, aside from devices that had been destroyed or that could not be located, they ultimately obtained and reviewed all of the devices necessary to complete the investigation.

I know you had retired when the Clinton investigation was completed, but is this consistent with your experience on the case?

A Yes, that's consistent with my experience.

Q I would like to zoom out a little bit, Mr. Giacalone.

In your career at the FBI, have you ever let your personal political views influence in any way your official actions?

A No.

Q And have you ever witnessed any investigative personnel at the FBI letting their personal political views influence in any way their official actions?

A Not in my 25 years.

Q I'm sure you have read and heard about the text messages exchanged between Peter Strzok and Lisa Page?

A Yes.

Q Are you personally aware of any instances where Peter Strzok made a professional judgment or took an official action due to his personal political views?

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A No.

Q And are you personally aware of any instances where Peter Strzok made a professional judgment or took an action in the Clinton investigation due to his personal political views?

A No.

Q Did you have any interaction with FBI attorney Lisa Page?

A Yes.

Q And are you aware of any instances where Lisa Page made a professional judgment or took an official action due to her personal political views?

A No.

Q Are you aware of any instances where Lisa Page took a professional action -- excuse me, made a professional judgment or took an official action in the Clinton investigation due to her political views?

A So she had no role in the Clinton investigation when I was there.

Q Do you have any reason to believe that the vast majority of FBI agents are Democrats or are biased in favor of Democrats?

A I have no idea. I have never asked an agent or an analyst or any employee what their political affiliations are or were.

Q And when the FBI staffs a politically sensitive investigation, you said the FBI does not consider the personal

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political persuasion of its agents in making staffing decisions. Is that correct?

A Correct.

Q In fact, it is explicitly forbidden for the FBI to ask about political affiliations for staffing decisions. Is that correct?

A I would think that is correct. It sounds like it should be correct if it is not.

Q And in your general experience, do FBI agents know not to let political bias interfere with their political work?

A Any kind of bias.

Q And once more, in your time at the FBI and in your time working with the Justice Department, have you ever seen evidence of anybody applying political bias in their investigation of any subject matter?

A No.

Q I will represent to you that James Comey, Rod Rosenstein, and Robert Mueller are all Republicans. They are all senior appointees, political appointees of Republican Presidents. Is there any reason to believe that James Comey's political affiliation affected the way that he investigated Secretary Clinton's email server?

A No.

Q Do you have any reason to believe that Rod Rosenstein's political affiliation will prevent a thorough and fair



investigation of the Russia Trump investigation?

A Listen, I don't know Rod Rosenstein. I think I spoke to him on the phone one time, so I can't really -- I don't know, you know, anything about him.

Q Did you work at the FBI while Robert Mueller was FBI Director?

A Yes.

Q Do you have any reason to believe that Robert Mueller's political affiliation will prevent a thorough and fair investigation of the Trump campaign's ties with Russia?

A No.

Q There have been many public criticisms against former FBI Director James Comey and the decisions that he made in the Clinton investigation. How long have you known James Comey?

A Since he became director, so you would have to tell me what date that was, and that would be how long I know him.

Q Sure. Did you know him while he was an Assistant U.S. Attorney in SDNY?

A No.

Q And you didn't know him while he was the U.S. attorney there either?

A No.

Q Nor when he was the Deputy Attorney General?

A Correct.

Q Based on your personal interactions with James Comey,

how would you describe his character?

A He's an above-board guy, straight, straight at you. There's no nonsense to him. Easy to talk to, honest.

Ms. Kim. Mr. Giacalone, I would like to introduce a document as exhibit 4. It is a March 31, 2016 article in Time Magazine, which I think you referenced earlier. It is entitled "Inside the FBI's Investigation of Hillary Clinton's Email."

[Giacalone Exhibit No. 4

Was marked for identification.]

BY MS. KIM:

Q Is also a long article, but thankfully you are mentioned right up in the beginning. You are described as, quote, a fireplug of a man, unquote?

A That's terrible.

Q Let's turn to the third to last line of the first paragraph. The article reads, quote: Comey was clear about one thing.

And then it quotes you, quote: He wanted to make sure it was treated the same way as all other cases, unquote, says Giacalone, who left the Bureau in February. Is that an accurate quote from you?

A Yes.

Q Was Director Comey, in fact, clear that he wanted the FBI to treat the Clinton case with the same fairness, integrity, and impartiality as the FBI treats all other cases?

A The day that we briefed him, we got the referral, and we opened the case, yup.

Q One more thing, sorry. Let's turn to the very end of the article. You're quoted again three lines from the very end of the article. The quote is, quote: Says Giacalone, quote, if the evidence is there, it is there. If it leads to something inconclusive or nothing, he's not going to recommend filing charges.

Is that an accurate quote from you?

A Yup.

Q Why did you believe that Director Comey's charging decision would accurately reflect whatever evidence the FBI found?

A Because he's a straight ahead guy, right, I mean, and, you know, if the evidence existed, he would have pushed it for prosecution.

Q The President and other -- the President and other Republicans have made extremely serious allegations that attack Director Comey's honesty and integrity. Some have even accused him of committing crimes. I would like to go some of these quotes.

On April 13, 2018, the President tweeted in two parts, quote: James Comey is a proven leaker and liar. Virtually everyone in Washington thought he should be fired for the terrible job he did until he was, in fact, fired. He leaked classified information for which he should be prosecuted. He lied to Congress under

oath. He is a weak and untruthful slimeball who was, as time has proven, a terrible Director of the FBI. His handling of the crooked Hillary Clinton case and the events surrounding it will go down as one of the worst, quote, botch jobs, unquote, of history. It was my great honor to fire James Comey.

Do you believe that James Comey is a proven liar?

A He has never lied to me.

Q Are you aware of any instances of Director Comey lying to other people?

A Not while I was there.

Q Would you have any reason to suspect that Director Comey lied to Congress under oath?

A I have no reason to believe that.

Q Would you have any reason to doubt the accuracy of Director Comey's representations of the facts from when he was FBI Director?

A No.

Q The day he was fired, White House Press Secretary Sarah Huckabee Sanders stated that Director Comey's termination had happened because, quote, most importantly, the rank and file of the FBI had lost confidence in their Director, unquote. What was your personal reaction when you learned that Director Comey was fired?

A I was disappointed.

Q Why were you disappointed?

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A Because I thought that, you know, while I was there, he had done, you know, a real nice job, and, you know, his style was different from Director Mueller's style. I mean, Director Mueller did an amazing job transforming the organization, and I thought Director Comey was equipped to take the organization to the next level.

Q Did you speak with any other FBI agents when you found out that Director Comey had been fired?

A Current agents, I don't know initially if I spoke to current agents, but I definitely spoke to retired folks, you know, when it occurred, and then probably at some point spoke to, you know, rank-and-file guys.

Q And what were their reactions?

A They were -- you know, most of the folks I spoke to were, you know, were upset because, you know, we liked Director Comey both personally and professionally, didn't have any indication that there were rank-and-file issues based on the comments that were made to me. So I don't know where the Press Secretary got that information from. You would have to ask her, but, yeah, it was a sense of disappointment.

Q On that same day that Director Comey was fired, President Trump tweeted, quote: James Comey will be replaced by someone who will do a far better job, bringing back the spirit and prestige of the FBI.

In your experience, was there some problem with the spirit

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and prestige of the FBI under Director Comey?

A Not while I was there.

Q And so do you agree with the President's assertion that there was some problem with the spirit and prestige of the FBI under Director Comey's leadership?

A I can only comment on, you know, while I was there. I think that still the men and women of the FBI are still proud, hard-working individuals. I still think the FBI is the premier global law enforcement agency. I hope that the folks that work there think the same. I spent half my life with the organization. So I still believe that to be true.

Q Thank you. Mr. Giacalone, I am not done reading tweets to you. I just want you to know.

A Thank you.

Q On December 3, 2017, the President tweeted: After years of Comey with the phony and dishonest Clinton investigation and more running the FBI, its reputation is in tatters, worst in history, but fear not; we will bring it back to greatness.

Mr. Giacalone, do you agree with the President's statement that that the FBI's statement is in, quote, tatters?

A No.

Q Do you agree that the FBI's reputation is, quote, the worst in history?

A No.

Q And based on your experience on the Midyear

investigation, do you have any reason to believe the President's characterization that the Clinton investigation was, quote, phony and dishonest?

A Absolutely not.

Q Do you think statements like this, public statements like this have an impact on the morale of rank-and-file FBI agents?

A I don't know how it could not.

Q And what kind of impact would statements like this have on the rank and file?

A A negative impact. I mean, you have somebody, you know breaking you down. How do you think it is going to make you feel?

Q That makes sense to me. Following the inspector general's report, the release of that report, President Trump stated, and I quote: I think Comey was the ring leader of the whole, you know, den of thieves. They were plotting against my election, unquote.

A I only read the executive summary. I don't know that it dealt with his election.

Q Do you have any reason to believe the FBI was plotting against his election?

A So, like I said earlier, I mean, I left in February, and at no point in time during my tenure there did the FBI plot against anyone's election. And I think I worked through a couple of them over my 25-year career. Again, nothing that I've seen or

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read would let me know that anybody exhibited any bias during any investigative activity. That's the extent of my knowledge.

Q And do you have any reason to believe the FBI is, quote, a den of thieves?

A Absolutely not.

██████████. The witness wanted a break.

Ms. Kim. Sure. We're going off the record. The time is 12:08.

[Recess.]

Ms. Kim. Mr. Giacalone, we're going to go back on the record very briefly. It is 12:11. That concludes our first round of questioning. I believe the question now is whether you would like to take a lunch break now or whether you would like to keep going. We're going off the record again to have that discussion.

[Recess.]

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[1:20 p.m.]

Mr. Baker. Let the record reflect the time is 20 minutes after 1:00 p.m. in the afternoon. We're beginning the second round of questions with the House Judiciary majority staff and Government Oversight Reform majority staff.

BY MR. BAKER:

Q Mr. Giacalone, I noticed you wore a very distinctive lapel pin here today. Could you describe what that is?

A It's the Agents Association lapel pin. I bumped into Tom O'Connor, who is the Bureau representative of the Agents Association, and he saw I didn't have a pin on, and he stuck a pin on me.

Q And that pin is designed after, it looks like, a badge of some sort?

A The FBI badge.

Q That's the FBI special agent badge?

A Yep, special agent badge.

Q What does the special agent badge have on it as a logo, the figure? What is the figure on the special agent badge?

A It's Justice, Lady Justice, with a blindfold on.

Q Okay. So you indicate she has the blindfold on, correct?

A She should, unless they got a cheap badge.

Q Okay. But under normal circumstances, Lady Justice does wear a blindfold, correct?

A Under all circumstances, I think, Lady Justice wears a blindfold, doesn't she?

Q I believe that to be correct.

A Okay.

Q But do you believe in the instance of the Midyear Examination that a blindfold was kept on at all times during the investigation and all decisions made while you were there?

A While I was there, absolutely.

Q Do you have any reason to believe decisions were made differently that would not be consistent with her blindfold being on after you were gone?

A That's correct; I'd have no reason to believe that.

Q You indicated, when the minority staff was interviewing you, that every day was a very good day in the FBI for you, you were very proud to be an FBI agent, except for 9/11.

A Correct.

Q You indicated earlier some of the behavior of some of the people that are being interviewed in the media about their role in the Midyear Exam has made you, quote, "disappointed."

A Correct.

Q I know you haven't read all of the IG report and --

A I haven't read any of the IG report except for the executive summary.

Q I'm going to read just a couple of sentences from the executive summary, so please indulge me.

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A Okay.

Q "We found that the conduct of these five FBI employees brought discredit to themselves, sowed doubt about the FBI's handling of the Midyear investigation, and impacted the reputation of the FBI. Moreover, the damage caused by their actions extends far beyond the scope of the Midyear investigation and goes to the heart of the FBI's reputation for neutral factfinding and political independence."

How does that make you feel?

A That's upsetting.

Q It's upsetting. Do you think it will be -- how long do you think it will take the FBI -- in your tenure in the FBI, the FBI's gone through many cycles, many ups and downs, many things that were actually addressed by congressional oversight, reforms made. The post-9/11 era of the FBI was made, in large part, by suggestions that came out of various congressional committees and congressional oversight.

How long do you think it will take or what do you think it will take for the FBI to get back on the track of being a neutral, factfinding law enforcement agency that the public has the confidence that they've had?

A So I think, if outside influences allow it, right, by which I mean there's not any continued negative repeat or retweets of stuff that's happened in the past, I think they could get on track relatively quickly.

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You've got 10,000-plus men and women that work day and night, sometimes, to do good and keep people of this country safe. And I think, if allowed and if those things are publicized -- and I know, like, that I've searched a couple times to look at, you know, what's happened in the organization, and you see multimillion-dollar seizures and you see multisubject arrests of gang members. These are all very positive things for the community. Unfortunately, they are buried behind FOIA requests for, you know, information that the former Deputy Director filed and things of that nature, right.

So, if the focus is -- and I think the focus always has been -- on working hard and doing good for the American people, they'll get through this as well.

Q When you took the oath of office of a FBI special agent, would I be correct in saying you inherited a very rich legacy of the agents and employees of the FBI that went before you?

A Absolutely.

Q And when you left the FBI, do you feel that you and your generation of FBI agents left that same legacy?

A Absolutely.

Q Agents that today stand at Quantico and take the oath of office, do you think they inherit the same legacy, or do they have more to prove, with this cloud hanging over the shield?

A So, listen, you're not talking about the entire agency, right? You're talking about -- I think he singled it out to five

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individuals. So, to hold an entire agency accountable for the actions of five individuals, I think, is unfair. I think it doesn't make much sense to do that. And I think, as a result, because it is limited to five individuals that the IG, you know, points out, that they should be proud of what they're inheriting as well.

I mean, so this is something that is going to have to be overcome, and I think Director Wray said they'll overcome it by keeping their heads down and working hard, which is what people, men and women of the Bureau have been doing for 100-plus years. They'll overcome this.

Q Thank you.

[Giacalone Exhibit No. 5

Was marked for identification.]

BY MR. BREBBIA:

Q Mr. Giacalone, I'm going to show you what we've marked as exhibit A.

A Okay.

Q So I've actually put some stars next to the specific text. The first one, "2016-09-08," and the time is "01:56:42, Thursday." "Inbox. Talked to John G."

Now, we understood this text to be a text from Peter Strzok to Lisa Page, and many of us assume that the John G. was you. Looking at the date and the time in that context, did you talk with Peter Strzok?

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A If this is the same time period that we all received that brief, it's possibly -- you know, quite possibly me. I don't know, when was the timeframe of that brief? Was it around this time period?

Q I'm not sure.

A Yeah, so I don't know. I talk to a lot of people, right? So an individual call, I don't remember having a conversation with Peter, unless it was around the time of that briefing where they briefed the retired agents on what was going on with regard to the investigation. It sounds about the timeframe would be in that ballpark, so it's possibly me.

Q And you believe, having seen that, you believe that what you discussed was the briefing to retired agents about the ongoing Midyear Exam?

A Listen, and you'd have to tell me, based on when that brief took place, because I don't remember the exact times, as, you know, this is going back a piece. But that would be a reason why he would've spoken with me, you know, the briefing itself.

Q Prior to seeing this text, you had no independent recollection of that conversation?

A Correct.

I'm glad to see I'm not an egomaniac.

Q We're going to turn to that next. As you can see, the texts continue.

A Okay.

Q "How's he doing? He's a decent human being."

A That's good too.

Q "And not an egomaniac."

"Mye notwithstanding, I really like him. Huge heart."

"And god, now I want to know what Andy said. Like Right Now."

A Okay, so I have no idea what that is. Because that would've been -- it sounds like a conversation that Lisa then had with Andy, which wouldn't have been -- I wouldn't have been party to that.

Q You wouldn't have been -- so you were not party of --

A No. So if you could tell me -- if you could add some context to the timeframe. I'm assuming it's around the time of that brief, would be my guess, right, and that that's why he was referring that he had a conversation with me. Because I do believe, after he got done with the brief, that I did say, hey -- I called him up and said, "Nice job on the brief," something to that effect, and we might have talked for 2 or 3 minutes.

Q "And god, now I want to know what Andy said. Like Right Now."

A Yeah, I have no idea what that is.

Q Do you believe the Andy -- is it reasonable to assume that the Andy --

A Is that Pete asking --

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Q That's Pete asking Lisa. That's Pete to Lisa.

A Yeah, so I'm assuming that's something that happened outside of any conversation I would've had with him.

Q And, in all likelihood, the "Andy" referred to there is Andrew McCabe?

A Likely.

Q Are you aware of any other Andys working the Midyear Exam?

A No.

Is this the actual exhibit? Do you need to put a sticker on this?

BY MR. PARMITER:

Q Sir, can I follow up on that just briefly? You might want to --

A Give it back to me?

Q -- wait until he's done marking it. There you go.

A All right.

Q He says, "Mye notwithstanding, I really like him. Huge heart." That's another compliment. But "Mye notwithstanding," I'm curious about that. I mean, so it seems to indicate -- would it be reasonable to say --

A "Mye notwithstanding," I don't know. Maybe she was upset that I opened it. I have no idea.

Q Well, I mean, do you recall ever having a discussion with Mr. Strzok or Ms. Page where there was a disagreement about

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something related to the Midyear Exam?

A So, like I said, when I was working -- when I was leading the investigation, Lisa Page had nothing to do with it.

Q Okay.

A So, when I became the Executive Assistant Director, she was Andy McCabe's counsel. And wanting to go in a different direction, I brought up [REDACTED] to be my counsel. So I spent maybe a couple weeks with Lisa, well before the investigation was opened, and then, you know, I had a different counsel.

Now, that being said, even having a counsel, [REDACTED] was never present during any of the briefings associated with Midyear Exam. You know, I excused everybody from the room when I got briefed on Midyear Exam. So none of my staff was briefed when I was running the investigation.

Q Okay.

And Mr. Strzok, I mean, would there be any reason for you to think that perhaps "Mye notwithstanding" refers to some sort of disagreement? It seems like, by saying that, it's almost like he's saying, the result of the case or something major involved with the case notwithstanding.

A He could've just associated me with the case, right, having been the guy that opened it. I don't know. You'd have to ask him.

Q Okay.

BY MR. BAKER:

Q While we're on the topic of texts, there's one I'd going to ask you about. I'm not going to introduce it into evidence. I just want your opinion on it.

There is a text between Mr. Strzok and Ms. Page where they are referencing you being out for a day, and one or the other -- I assume it's Ms. Page -- needs to get a hold of you or needs to see you about a temporary pass. I have an opinion about what that is. I was wondering if you might have an idea of what they're referring to.

A So the only thing I can think of -- and I don't know why Lisa was looking for me while I was out. A temporary pass is something that we would get for folks to give entry into the garage.

Like, my secretary would have handled that. I never got anybody a temporary pass. Sean Joyce had called up one time and asked if he could get into the garage, and [REDACTED], who was our administrative assistant, she, you know, figured out how to get that done.

That's the only thing I can think of, is entry into the garage to park a car.

Q Okay. Thank you.

In the last round of questioning, when the minority was questioning you, you talked a little bit about an article that was reporting on another article; it was sort of, like, totem pole. I think it goes back to Judge Napolitano or somebody reporting about

your view that maybe the investigation has gone sideways.

I have a question about that. I have in an email that was sent from FBI folks to some other FBI people -- it's the same article, in essence. But I have a question or would like your opinion on some of the notations that were made by the people sending the email.

This, I believe, comes from True Pundit, which is a website.

A That's the original source, I think, is True Pundit.

Q Okay, so True Pundit might be the original source. I believe -- let the record reflect this will be exhibit No. 6.

[Giacalone Exhibit No. 6

Was marked for identification.]

Mr. Giacalone. Yeah, so this was shown to me during the IG investigation as well.

BY MR. BAKER:

Q If you look at the second page of this -- and this is an email chain, so it's essentially the same thing. And if you look at the very bottom right corner, I'm talking about the Bates number on here JW 1494-74.

If you look maybe midway through, the person forwarding this, who I believe is Andrew McCabe, says, "FYI, Heavyweight source."

A Yeah.

Q Do you have any idea what that means? I mean, I assume it's referring to who they believe to be the source of the article is.

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A Yeah. So it sounds like he thinks I'm the source of the article based on it preceding what Director Comey responds to.

Q Were you the source of the article?

A No. I already said I wasn't.

Q Right. I mean, it wouldn't make sense.

A The article, I think -- the original article, I thought, actually said it never had any contact with me for comment.

Q Right. And it wouldn't make sense, what they're saying, based on testimony you've given us.

A Oh, this is all nonsense.

Q Okay. Okay.

Mr. Parmiter. So, just to be clear, sir, on this subject, would it be fair to say that, you know -- did you ever describe the investigation as going sideways, or is that totally --

Mr. Giacalone. Totally inaccurate. This is all nonsense. Almost the whole thing is nonsense. I'd have to read it again to definitively say that, but from what I recall. I didn't leave because I was disgruntled; I left because I was broke.

BY MR. BAKER:

Q Okay. Thank you.

When you were heading up Midyear as the EAD --

A Do you need this back now?

Q Please.

We talked a little bit about resources being pulled from, most likely, WFO. Do you remember any disgruntled ADICs or SACs

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complaining about giving up resources to this investigation?

A They never complained to me.

Q Okay. And you never heard any rumbling?

A No, I didn't. It doesn't mean that people weren't disgruntled. It's just that nobody ever complained to me.

Q Were there any efforts or any needs to deconflict headquarters' investigation with other field offices that maybe had similar investigations or things that touched on some of the same subjects -- namely, New York field office and Philadelphia? Or Richmond. I'm sorry.

A Deconflict?

Q To deconflict with them wanting to open cases on similar topics, possibly, as public corruption matters, some of the same people. Maybe they had received similar complaints.

A Connected to Midyear Exam?

Q Yes.

A I don't recall.

Q Okay.

When you started the actual collection or forensic examination of -- when you started collecting the devices, doing the examination, starting to assemble what was or what might have been classified email, it's my understanding --

A Let's just go back for a second. So your past question: Deconflict the Midyear Exam investigation with potential investigations in New York and Richmond?

Q Not ongoing investigations. Attempts by those offices to open investigations based on some of the same facts or some of the players, open them as 54 matters or whatever the public corruption classification is.

A Okay. No, I have no recall of that.

Q Yeah. It wouldn't be ongoing investigations. It was field offices wanting to open similar investigations, and there was some need to have somebody at headquarters deconflict so there wouldn't be duplicative investigations.

A Yeah. It could have happened. I don't remember. I mean, I know there was some foundation stuff that some field offices were taking a look at, but --

Q Okay.

A -- that was in another -- that was across the hallway from me, right, with the criminal cyber guys. So, need to know. I never asked any questions about that; they never asked me any questions about what I was doing.

Q Was there ever any of the criminal guys that -- I mean, you had indicated earlier, based on what the facts were, it resulted in it landing in the Counterintelligence Division. Were there any people, that you're aware of, in the Criminal Division that felt it should have been over there?

A Not that I was aware of.

Q Okay. As you --

Mr. Breitenbach. Excuse me. You mentioned "foundation

stuff." What are you referring to?

Mr. Giacalone. Clinton Foundation.

Mr. Breitenbach. Thank you.

BY MR. BAKER:

Q As you started ramping up the investigation and realized all the different devices involved and as you started to, you know, figure a strategy for recovering them, exploiting them forensically, finding out what documents were where, what was/what wasn't classified, how far along was that at your departure with, sort of, getting a handle on how many documents were involved?

A If we weren't quite done, we were near done with the examination of the servers. And it was thousands and thousands of things, because it wasn't just the 30,000 emails. There were fragments of emails that they were pulling off the server. So it was thousands of pieces of information that they were dealing with. I couldn't give you an exact number. I just know it was voluminous.

Q Did the number of classified emails cause you alarm or concern?

A Well, of course. I mean, you know, on an unclassified system, you don't want to see any classified emails, right? So one could be too many.

But, you know, I know that -- I think I said I got a daily update. And there were some days that they didn't find any, there were some days that they found several, there were some days they

found, you know, two or three. I couldn't tell you exactly how many, at the end of the day. I'm sure that, you know, with the records and information you have, you could tally it.

Q But it would be a lot.

A Well, what do you consider a lot? I don't know.

Q Two thousand?

A Oh, I don't know. I never heard a number, like, that big.

Q Okay.

A So, yeah, that doesn't ring a bell, 2,000.

Q You mentioned earlier "spillage" of classified information. Explain what spillage is.

A Oh, spillage would be information that was on a system and then ended up somewhere else.

Q And what happens when spillage is identified? Say, in the FBI, if something -- I assume when you're dealing with a lot of classified materials, inevitably, with no knowledge, with no intent of anything --

A You have to control the spill, right? So you have to figure out, you know, where it last was and then sort of fence it back in and bring it back in. What's out is out, right? You can't ever say, "Okay, now, forget you saw that." But you have to make sure you stop it from continuing to move further down the stream.

Q With the complicated network that was set up for



Secretary Clinton and the different devices that were used and swapped in and out, in your professional opinion, was it possible to contain the spillage?

A It made it more challenging.

Q Are you convinced that the spillage was contained and documents were 100 percent retrieved?

A I couldn't say 100 percent, no.

Q Okay.

BY MR. BREITENBACH:

Q      Sir, you mentioned one might be too many.

A Yeah, depending upon how significant it is, right? I mean, you know, not all classified information is equal. There are some things that, you know, could impact life or death -- the name of a source, for instance, that if it got out, it could put that person's life in peril.

And then there were other things that it might have been, like, an access program that's regularly discussed, unfortunately, in the media and on TV that was found in the system but was also classified.

So one is actually TS. The other might have just been Secret. But which one do you think is worse? You know, so that's what I mean by one could be too many.

Q When the numbers of classified emails escalate, so from 1 to 2 to 20 to 100 --

A Then, obviously --

Q -- in your mind, I guess, if you're putting yourself in the position of looking at elements of an offense, the more classified emails that are sent over in an unsecured server, does it indicate potential knowledge at that point that classified emails are being sent in an unsecure manner?

A So, if they were marked "Secret" and they were routinely sent, I would say yes. I --

Q What if they're pertaining to --

A Can I finish answering?

Q Sure.

A I don't remember, though, that she was actually sending things on the server that were marked, you know, "Secret/NOFORN" and then pushing them. Right?

So should she have known, based on reading information, that it was sensitive or classified? You know, your guess is as good as mine. But I think it's difficult to show intent, because this stuff was not marked, right? It wasn't like she was knowingly saying, "Oh, this is Secret, but I'm going to send it anyway." There was a question as to whether or not it was recognized by her as Secret, and we couldn't show that she knew.

Q If you are sending emails, personally, in your history pertaining to investigating counterterrorism matters, if you're sending information pertaining to, let's say, a drone program of the United States, would you have to see something marked in order to understand whether something that you might individually send

over email is classified or not?

A I mean, I knew the drone program was a classified program, right? But, that being said, it's not something that I think everybody knows, based on how that program is covered, based on the fact that you see on TV, you know, actions of said units, right? So, I mean, I think it just makes it a little more challenging.

Q Would you agree with me to say that the former Secretary of State, in her position, would know whether certain areas might be classified or not?

A You would hope.

Q So, going back to the original question, if we're considering the former Secretary of State and we learn that she sends, I believe the number is over 20 Top Secret emails -- and that was found at the time they were sent. And as Art mentioned, the 2,000 number, over 2,000 classified emails, some that were later up-classified but were eventually deemed to be classified material.

On a spectrum, I'm just trying to understand at what point, as an investigator, do you begin to consider that someone may have just made a mistake by sending something --

A Yeah, I think --

Q -- versus getting to a higher number where there's potentially even, not just simply negligence, but potential willfulness or knowledge that that information is classified?

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A Were all 20 of the Top Secret -- I don't think this is a classified setting, right?

Ms. Sachsman Grooms. We're not in a classified setting.

Mr. Giacalone. Yeah.

Mr. Breitenbach. This is all information that's been publicly reported.

Ms. Sachsman Grooms. This room is not a classified --

Mr. Breitenbach. I am fully aware. This is all information that's been publicly reported.

Mr. Giacalone. So, like, I would want to know specifically if all 20 of those emails dealt with the same topic. Do all 20 of those TS emails deal with the same subject matter?

Mr. Breitenbach. We cannot go into the subject matter, but it has been found that --

Mr. Giacalone. Because then --

Mr. Breitenbach. The number is publicly --

Mr. Giacalone. I got the number.

Mr. Breitenbach. -- available.

Mr. Giacalone. So what I'm asking is, if they're all related to X and it's 20 times X, then you would hope that somebody would see -- you know, should've recognized, maybe, that this shouldn't have gone -- and maybe it does show some willingness. But if there's a bunch of different topics, I don't know. I mean, I'd have to see them.

BY MR. BREITENBACH:

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Q Are you aware of what the definition of "Top Secret" means?

A So, as far as being a high-level classification, right, so information that needs to be protected with even greater care.

Q And in terms of the potential for --

A Yeah, for release, the damage that it does --

Q The damage to national security?

A -- is more significant. Yeah.

Q So just a single release of a Top Secret email over an unsecured server has the potential to severely damage national security.

A It could.

BY MR. PARMITER:

Q Sir, can I take a slightly different tack on this question?

A Go ahead.

Q I'm going to try avoid repeating this as much as possible.

So I want to ask you a little bit about the smoking-gun comment but just also, sort of, zero in on the fact that what we have here is not just someone sending emails that weren't marked as classified. We're talking about intent.

Does it change the analysis, in your experience as an investigator, or should it, that you had an individual occupying a Cabinet-level position who set up a server intended to transact

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all official business, and because of that -- suppose it had happened in the Hoover building. Suppose your boss, the FBI Director, had established a private or, you know, nongovernment infrastructure for the systematic conduct of FBI business. What would you say in terms of, like -- what percentage of the FBI Director's work involves access to classified material?

A Oh, I couldn't give you an exact percentage, but I know everything that I dealt with, you know, everything that I shared with him would have been classified.

Q Okay. So would you say it's routine within the Bureau?

A Yeah, I would say so.

Q Okay. So, because of that, wouldn't setting up a system, in your view, render the nonsecure transmission and storage of classified information inevitable?

A So, yeah, but you're comparing apples to oranges, right? You can't compare the State Department to the FBI. Apples and oranges. Because the State Department, unlike the work that I did on a day-in and day-out basis dealing with -- they're dealing with a whole host of other issues as well, most of them diplomatic. So their training is different, their preparation is different, their systems are different, their processes are different. And those are all things that we did, you know, uncover while we were conducting the investigation.

So, to answer your question about should she have recognized certain things as being classified, yeah, she should have, I mean,

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based on her position and based on seeing things. And I think the Director had brought that out, at one point or another, when he was delivering one of his messages.

But you can't compare the same -- like, there's no equal-type position that you can compare it to in the FBI. The Secretary of State is meeting with, you know, foreign folks on a regular basis, engaged in diplomatic activities, not necessarily counterintelligence or counterterrorism operations. So they're wired different, and they probably act different as a result.

Q I understand they're different departments, certainly. I mean, the FBI is under DOJ, and State is its own entity --

A And I'm not saying that you don't understand that. I'm just saying it's very difficult to compare, like, the Director of the FBI, who's engaged in criminal operations and counterterrorism operations and counterintelligence operations, with the Secretary of State, who maybe deals with a fraction of that as his or her overall responsibility, with the large part of their responsibility being engaging in diplomatic, you know, outreach.

Q But, certainly, as a representative of the U.S. Government in foreign affairs, as the head of the agency that includes such subagencies as the CIA, I mean, the Secretary of State is someone who also has routine access to and, you know, discussion of, handling of classified material in that role, right?

A True.

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Q So, getting back to this question of marked, if classified information isn't marked "classified" -- I think we already discussed this, but -- you would agree it's not okay to disclose it to someone who doesn't have an appropriate security clearance?

A It's not okay.

Q Right.

In your view, do you think that top government officials are held to a sort of higher standard of care in handling classified information?

A They should be.

Q Especially someone, perhaps, who's an original classification authority --

A It should.

Q -- like the Secretary of State?

A Yes.

Q Do you believe that talking around classified information is okay?

A It's not, but I do know that it does occur.

Q Okay. Are you familiar with the general facts of the case involving General Petraeus?

A Generally.

Q Okay. Do you recall whether or not the classified information that he gave to the woman who turned out to be someone he was having a relationship with was marked "classified"?

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A That I don't recall. I didn't play any role in that case. Basically, the prosecution piece was the piece that I got involved with very slightly.

Q Okay.

Can we go back to, I guess, the inspector general report? I just want to show you a brief piece of it.

A Okay.

Q I don't think we need to enter this in evidence. This is just a piece of the inspector general report.

A That's your call.

Q But I will show it to you. And I'm looking at page 165. So it'd be the -- these are double-sided, so it would be, I guess, the third page.

A Got it.

Q So this describes a meeting between you and George Toscas at -- well, I'm not sure where it was, but on December 4th of 2015. Do you recall that meeting?

A No, but --

Q Okay.

A -- you know.

Q So the report says that you had asked the prosecutorial team -- this is a quote in the report -- "still do not have much on the intent side, right?" And that the team members at the meeting agreed with him, "him" being you in this circumstance.

Do you recall what you meant by that?

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A Yeah. So anything that would show her criminal intent for setting up the server and having the classified information on it.

Q Do you remember what statute you were trying to talk about in that circumstance?

A Like I said earlier, I don't remember the statutes.

Q Okay.

So, in that same paragraph, it also says that you'd said there weren't -- there were no smoking guns showing intent when you left the Bureau.

So, based on what you just said about intent, does it mean, essentially, that, in order to be charged, Secretary Clinton would've had to have said something like -- or demonstrated "I know the information is classified, and I don't care" in order to be charged?

A That would've helped. But, listen, it's not just charging, right? It's actually charging and convicting.

Q Sure.

A So could something have been cobbled together based on the things that were collected? I don't have collection of all the facts and all the evidence, but, yeah, maybe. Right? But I don't know what your experience is in dealing with U.S. attorneys' offices. U.S. attorneys' offices want, like, a 98-percent chance of convicting whoever it is they take on, right? So if you wrote up a pros memo and you were at 40 percent or 30 percent, it's not

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enough to actually get somebody convicted, right?

So that's what the conversation was probably more focused on, coming from me. It was not so much, do we have enough to indict her, but do we have enough to convict her. Right? I mean, if you're going to throw that harpoon, you know, in the water, you want to be able to stick something with it. And, you know, at that point in the investigation, I guess, December 4th, we didn't think that we had enough on the intent side to charge her and convict her.

Q Okay.

BY MR. BREITENBACH:

Q Real quick, were you ever aware that there was an element of an offense within the Espionage Act that did not require intent?

A Not that I recall. If there was an element in that that didn't require intent, it was something I don't remember having a conversation about.

Q Do you ever recall -- I know you said [REDACTED] wasn't involved in the discussions on MYE, but Lisa Page for the General Counsel's Office was, and we're aware of others in the General Counsel's Office that did weigh in on this investigation. Do you recall anybody ever discussing a possible offense of gross negligence under the Espionage Act --

A No. In fact --

Q -- that does not require intent?

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A -- when I was involved in the investigation, I don't recall Lisa Page, general counsel or no general counsel, having any involvement in the case. In fact, I think it was limited to [REDACTED] Baker at the time, and I don't know if he had somebody else, but --

Q Jim Baker?

A Jim Baker, I'm sorry. Jim Baker. And I'm not sure if he had somebody else, you know, read in to assist him, but I don't remember ever dealing with Lisa Page during, you know, my tenure with the investigation.

Q You've just mentioned "intent" multiple times. So it seems to suggest that you had been advised by someone within the Department or the FBI, in particular the FBI General Counsel's Office, that intent was the standard that you needed to find in order to potentially bring an offense against Ms. Clinton.

A So -- and, like I said, I don't remember the statute, but the discussions that you've shown me that deal with intent, yeah, I guess intent was a big bone of contention.

Q If you were advised at the time -- because you said that most of the server had been exploited by the time you had left, that you recall. If you had been advised at the time that intent wasn't necessarily the only standard under the Espionage Act that was needed in order to potentially bring a charge against Mrs. Clinton, and you were still waiting for a smoking gun, if you had been told that the smoking gun was gross negligence, at the time

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that you left, and what you had found with regard to classified emails that had been sent over an unsecured means, would a -- based on your just commonsense, general understanding of the term "gross negligence," do you think that might be something you would have considered as recommending to the Department or to Mr. Toscas, as the main person you dealt with at the Department, as a possible charge?

A Yeah. If the team would have, you know, said, we have the evidence to show that there was gross negligence and we can use statute X, Y, Z, we would've certainly pushed it to Toscas and the team. I don't recall having that conversation with anybody, though.

Q Okay. Thank you.

BY MR. BAKER:

Q We talked earlier, briefly, about a BlackBerry device, I believe it was, that was smashed with a hammer. And you indicated, you know, to the best of your knowledge, that's not necessarily cyber protocol for destroying something to keep it from being recreated.

Take yourself out of your EAD role and transport yourself back a few years in your Bureau career. Go back to the organized crime days.

A Okay.

Q You're working a case -- I think you said you were Lucchese family?

A Yep.

Q You're working a case on the Lucchese family, and one of your subjects, one of the soldiers that you're after, you're looking at, all of a sudden they start smashing a BlackBerry device that you have developed an investigative interest in. Maybe they know you have the interest, maybe they don't. But there's a device you're interested in, and all of a sudden they smash it. What would you logically, based on your training, knowledge, and expertise, what would you infer might be going on?

A So, since I'm looking at organized crime people that were predisposed to commit certain crimes, I would think that there's something sideways.

Q Okay.

Mr. Parmiter. I might have a followup question about that.

Mr. Giacalone. All right. I said "sideways" for your benefit.

BY MR. BAKER:

Q Now, let's go back to the transporter and come back again to your EAD role. You have a BlackBerry being smashed. Did that mean anything, or not really?

A So I could not, in good conscience, compare Secretary Clinton to a member of an organized crime family, right? So I would think that the behavior was somewhat odd, to smash a device, but I don't know that I would draw the conclusion that what she was doing was illegal.

Q Okay.

A Whereas, with a wise guy -- and I knew quite a few of them from my almost 12 years of looking at organized crime guys -- there were very few things they did that didn't have some criminal intent. So it's a little different.

Q And maybe we landed in the wrong place on the continuum. Say we went to a white-collar investigation, and maybe it's a healthcare fraud matter and a doctor is destroying it. It would be suspicious, correct?

A Yeah. It's something that you wouldn't normally see, somebody taking a hammer to a device.

Q Okay.

You talked a little bit about spillage. Just in your opinion, if you're talking about classified documents, classified materials that someone takes out of an office place, out of their proper, secure container, vault, whatever --

A Right.

Q -- and they take them home, they take a finite number of documents home, and they put them on their refrigerator, and then you have a scenario where someone is sending a finite or an infinite amount of documents electronically, where, in my view, you don't know where they're going -- they're going here, they're being forwarded, they're on servers, they're on devices -- which would be the harder scenario to contain the spillage?

A Well, the electronic version of the spillage is always

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going to be harder, because it can keep going that extra step. Right? I mean, the documents on top of the refrigerator could also be challenging, you know, if copies are made and things of that nature. But the way copy machines are, you can sort of track that.

They're both challenging, but the electronic version of the spillage would be more challenging, because it could go further faster.

Q Okay.

Just a little while ago, you talked about the idea that maybe Secretary Clinton didn't know some of the documents were classified. Would you just explain briefly, I mean, what does a classified document look like? If someone were to put a classified document in front of me right now, what would it look like, just as far as --

A It would be marked top and bottom, to start, right? It could be Secret. It could be Top Secret. It could be Top Secret, you know, NOFORN, which means you can't share it with any foreign entities. I mean, it'd be marked so that it would be clear that it was a Secret or Top Secret document.

The information, which we talked about, is also something that, if you have seen it and been around it, you can recognize certain things are classified based on the content of the message itself. So, if you've seen enough of it, you should look at something and be able to say, that's probably not something that

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would be good to distribute on an unclassified system.

Q Okay. So, just because two people have clearances, does that make it automatically okay for person A to show person B something that they're working on that's classified, because person B has a clearance?

A No. We talked about this earlier too. It's all need to know.

Q All need to know.

A Yeah. So, if I don't have any reason to know what you're working on -- now, if it's connected to something that I'm working on, I would hope that you'd walk it over and share it with me.

But, like, the foundation stuff, I had no reason to know what was going on in the foundation stuff on the criminal side, so that wasn't shared with me. And the information that I was working on, you know, unless something was specific about the foundation that required me to move it from one area to the other -- you don't share stuff if you don't have to share stuff. Need to know.

[2:03 p.m.]

BY MR. BAKER:

Q And certain programs or certain topics might even be higher classified than just a TS; there might be even be more of a restriction.

A Correct. You are read on to those programs.

Q As far as you know, were any of those type documents involved in your forensic recovery?

A I don't recall.

Q Okay.

BY MR. BREITENBACH:

Q Going back, it stands out earlier in the first round that you mentioned you had lunch with Mr. Strzok last week.

A What was?

Q That you had lunch with Mr. Strzok last week.

A Yup.

Q How did you come about having lunch with him last week?

A So I was going to be there. I hadn't spoken to Pete since I think that conversation that we talked about earlier after the -- after the briefing that he provided. I like Pete. Pete is a good guy. Pete made a mistake on probably a number of fronts, and, you know, I felt bad for him, and I wanted to take him out for a sandwich.

Q And you told him that you earlier stated that you told him that you were disappointed in him?

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A Yes.

Q Did you elaborate with him as to why you were disappointed?

A Yes, I asked him what he was thinking about, and more focused on the extramarital affair than on the text messages, which I think are one and the same.

Q Did you discuss anything with him about this particular interview that you were having?

A No, he knew I was coming here, but I didn't talk to him about this in particular or what I should say, what I should do, no.

Q Did you discuss with him in terms of your disappointment with him anything that he might be doing to in any way rectify some of the -- I know we have discussed this earlier -- some of the perception now that he has created with respect to the FBI's reputation?

A What his next steps would be? No, I didn't.

Q In your conversation with him, do you feel that he understands the reputational harm that has come about with respect to the FBI?

A Pete's a very bright guy. I don't know how he wouldn't see the reputational damage that he's done.

Q You earlier stated that he -- that you believed he did a great job. I don't know if that -- are you referring to he did a great job during the time that he was working with you?

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A Yes. So, when he was the case lead while I was, there I mean the guy was lights out. Whenever I had a question, he knew -- you know, he was quick to respond and answer. Whenever we -- you know, we came up with something new, he made sure that it was quickly brought to my attention or Randy's attention so that we could share it with the deputy director. I mean, he worked hard, right, and I think I saw something earlier where you saw that he was -- you know, he put forth a dogged effort. One of the exhibits, you know, laid out a conversation. So, yeah, when he was -- when I was associated with the investigation and Pete, the guy worked hard, and I never saw anything that demonstrated bias like what you read in some of these texts.

Q So Now that you have seen the bias that was demonstrated by the texts, would you still say that he did a great job?

A It doesn't undo the work that he did while I was there, right. On the back end of things, it does, you know, muddy the water because it does make it more challenging to show that from beginning to end, you know, he did a fantastic job, because of some of the things that you see out in the public domain. But, again, like I said earlier, you know, FBI agents are people, too, right? You cut us; we bleed. You're going to have folks that are part of the agency that are going to have, you know different religious beliefs, different political beliefs, you know, different sexual orientations, right, and I don't -- I never cared about any of those things as long as the guys and ladies that I

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had working for me were straight down the middle and worked 110 percent, you know, to get to the bottom whatever the issue was. And Pete demonstrated that he was one of those guys when he worked for me.

Now, I don't know if he did something else afterwards that maybe, you know, indicated something else investigatively. I don't think the IG found anything that impacted the investigation, but the -- but the text messages definitely show, you know, they show a bias.

Q If you had known about the text messages while he was working for you, would you have kept him on the team?

A No, I would have removed him from the team just like, you know, Director Mueller did. You can't have that floating out there, right? I mean, so if you become aware of it, you extricate it, and, you know, you move forward with somebody else. And I think, you know, Director Mueller did the right thing. Even though, again, demonstrated by his performance, you couldn't see bias, it is clear based on the written record that, you know, he had a bias, right, and you pull that out of the equation.

BY MR. BAKER:

Q You had indicated earlier that Mr. Strzok, and I'm paraphrasing, an expert in his field, pretty well known in the counterintelligence circles, certainly sounds like, in your world, a go-to person?

A Yes, and like you also mentioned earlier, my level of

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expertise was primarily in the counterterrorism side. So on the counterintelligence side, I did rely heavily on Randy, Randy Coleman, and Randy Coleman, you know, told me that Pete is the absolute right guy for this position. Pete I think at the time was -- might have been an ASAC in WFO. I don't recall if he was a section chief in the section or an ASAC. So Randy had intimate experiences with him and said he was phenomenal. Randy was a counterintelligence expert. So I trusted, you know, Randy's judgment, and, you know, Pete came through, right. He did -- he helped set up the team, and he helped, you know, drive the investigative focus and the things that they did while I was there were, you know, demonstrated that, you know, he was the right guy for that spot.

Q If that notepad in front of you was filled with the work accomplishments, investigations, awards, accolades, everything about the FBI career of Peter Strzok, how much space, how many pages would be occupied by what we're dealing with now?

A I don't know. I couldn't even tell you half the awards I won, all right? I'm going to tell you what Peter Strzok won? I don't know.

Q But --

A Peter worked on a number of big cases. You would have to -- Randy Coleman would probably be a better guy to answer that, having directly reported to Randy on a number of those.

Q Let me rephrase that. Do you believe, because it sounds

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like from what I'm hearing, that what Mr. Strzok currently finds himself faced with or what the media is portraying is a very small portion of what he's done good for the FBI?

A Yeah, no, I think that that's accurate, right? I mean, and I think that's, from personal experience, not seeing the bias exhibited during the investigation, the findings of the IG, who looked at how many documents, a million-plus documents, interviewed 100-plus people, and he couldn't say that he identified or demonstrated bias during the investigation. The guy was a worker, right. He was a worker, Army veteran, agent for 20-plus years, I think. And until like some of this stuff surfaced, no reason to believe that he was anything outside of, you know, a top level performer.

Q So it sounds like the current situation that we were dealing with would be a very small part, a very small chapter, a page in Mr. Strzok's career.

A Page.

Q It is unusual.

A Page, that's worse than sideways.

Q Strike that. A paragraph.

A Okay. Yes, I mean, I would say so.

Q Okay.

A Based on my personal experiences.

Q And there's nothing else that you ever remember that would be similar to this because you have indicated this kind of

surprises you, shocks you, disappoints you?

A Yes, that's true.

BY MR. PARMITER:

Q Sir, in the few minutes we have remaining and because you brought it up, let me just briefly return to the subject of the quote on sideways.

A Okay.

Q And I'm, you know, if you want to look at the True Pundit article again, feel free. My question is just -- so those are quotes in that article both in that article and in The Washington Times article you were shown previously. I believe it is the Napolitano, Judge Napolitano's article.

A Yes.

Q So I guess my question is, are those quotes totally fabricated?

A So I didn't make any of those quotes, right. So there are a lot of people that have a lot of opinions, and I think we have all heard a lot of them, right. And a lot of these retired guys who have been, you know, on the circuit, you know, talking about this investigation, you know, I'm an older guy, right. They know me. They know that I'm a straight shooter. They know that I guess, you know, fireplug is another guy, but, you know, I have always been like what you see is what you get. So I don't know like where they got that stuff from. I definitely was not disgruntled. I was tired; I'll tell you that, right. So those



jobs, you start at 6 o'clock in the morning; you finish, 8, 8:30 at night. It is Monday through Sunday. You know, I would leave in the dark and get home in the dark. And I did have, you know, I did have financial obligations that I needed to meet, which, you know, we discussed earlier. It was time for me to do something different.

Q So, on the subject of, you know, frustration, so you don't recall ever telling anyone that it was sideways or whatever else?

A No.

Q You don't recall ever expressing frustration with the investigation or with DOJ?

A Any major investigations has its challenges, right. And as an investigator, you want to see things done yesterday all the time, right.

Q Okay.

A So, you know, I was one of those guys, right. I consider myself, even as an EAD, an FBI agent first, all right. So I wanted to make cases, and I wanted to help guys make cases. So did it go like at the lightning speed that I wanted it to go at? No case that I ever worked ever had. Were there challenges in dealing with the prosecutors? No case that I was involved with in 25 years did I not have challenges with the prosecutor, and that's not because I'm difficult to get along with, because I think I'm pretty easy to get along with. It is just that there's

different approaches that the U.S. Attorney's Office takes versus what the FBI takes, right. And sometimes there's a little friction during the investigative process. That's every case that I have ever run.

Did I have a good relationship with George Toscas? Absolutely. And George and I have been to battle, right. I mean, we battle for things that we both believed in and we battled for things that we thought -- he thought maybe we needed more evidence, and I'm saying we had enough, you know, evidence. Sometimes, you know, he proved that to be right; sometimes I proved that to be right. It didn't mean that I was ever going to back down because if I believe what I was doing was right and I was doing it based on what my team was sharing with me, I went straight ahead, right. So there's friction in everything, right, but at no point in time was anything ever sideways or did I get to the frustration point where I'm like, "That's it; I'm done," right. Never.

Mr. Breitenbach. Any specific friction that you recall?

Mr. Giacalone. Well, listen, little things like just getting the server initially. We were going back with the attorney, and it took three iterations before we had the full server. Now, I will tell you, though, that it was probably beneficial to us that it occurred that way because had we did what I wanted to do and serve a search warrant, we would have maybe still be looking through what we collected that day. I don't know, right.

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We got what we got when Justice was able to work it out, and at the end of the day, it worked out okay because it was almost like we were able to hit it in stages and get through it probably faster than we would have been able to get it through if we had it all at once or if we did a search warrant and instead of seizing what we actually needed, you know, maybe, because we were allowed to, took a little bit more information, and it would have taken a little more time to get through.

BY MR. PARMITER:

Q Sir, on that subject, so about, you know, your relationship with DOJ during the pendency of the investigation, do you recall when you first requested to interview Secretary Clinton?

A I don't think I was there for that.

Q Okay. There have been media reports -- now, again, you know, there may be some questions about that, but there have been media reports that you had been trying -- you at least you or your team had been trying to question Secretary Clinton since as early as 2015, December of 2015. Does that sound correct to you?

A That does not sound correct.

Q Okay. Did you ever --

A We would not have wanted to interview her unless we had a complete review of everything, right, and known exactly what we had, you know, to take that next step to move forward. So December doesn't sound right to me.

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Q Okay. Do you ever recall requesting to interview the Secretary and having trouble with DOJ?

A No. I don't recall actually ever asking DOJ to actually interview Clinton.

Q Do you ever recall having difficulty from the seventh floor in getting approval for an interview in that case?

A I was on the seventh floor.

Q Others on the seventh floor.

A No. Yes, no, because I don't recall -- I don't recall us doing a lot of interviews during the time that I managed the investigation. And like if we did do interviews, they were real low-level players that wouldn't have required jumping through any kind of hoops, right. We weren't bringing in any former Cabinet members to interview while I was there. So I don't recall any issues.

Q In testimony before our committee, the inspector general said that the subject of the investigation is often where you get some of your best evidence. Do you think that's true?

A The subject, in my experience, rarely actually will agree to an interview, but when they do, they usually think they're smarter than you are, and they make very big mistakes and provide a lot of help in the investigation. So I would say that could be true.

Mr. Parmiter. I think we're out of time.

Mr. Baker. Is there anything you would like to tell us that

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we didn't ask?

Mr. Giacalone. Yes, you guys are going to hit me again. We'll save that for the end, the coup de grace.

[Recess.]

Mr. Brebbia. We're back on.

Mr. Baker. The time is 2:28, and we're back on the record.

Mr. Brebbia. I'm showing you what has been marked as exhibit 7 and exhibit 8. And these are charts from the inspector general report. They're attachment G and attachment H respectively.

[Giacalone Exhibit Nos. 7 and 8  
Was marked for identification.]

Mr. Giacalone. Okay.

BY MR. BREBBIA:

Q The inspector general's investigation revealed that a number of employees within the FBI were contacting various reporters. So I want to ask very specifically, over the last 5 years, did you contact any reporters yourself directly?

A So did I contact them, or did I participate in conversations with reporters?

Q Let's do participate in conversations with reporters.

A So, yeah.

Q And in your interaction with the reporters, was it part of your job at the FBI to provide authorized information to the press?

A So there were a couple of instances where Mike Kortan

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actually arrange that the press came to the office, and we had authorized briefings with the press, but there were more frequently conversations where, you know, these guys are pretty good at their jobs, right, and they would get stuff that you would hope that they wouldn't have been able to get. So hanging up the phone on some of them wasn't an option. So I entertained their conversations on a number of occasions, and I'll give you some "for instances."

So, during the Boston bombings, we got flooded with phone calls from the media, right. I was SAC in New York. Obviously, the incident occurred in Boston, but there was like panic that the bombers were on their way from Boston into New York City. So having the ability to tell these people, no, the bombers aren't coming, they're still in Boston, they're not on the way to New York; I mean, those are things that are helpful, right. And that's the reason why you would want to have a relationship with the media.

There are other instances where a guy would call you up and say, "Hey, I have X or I have Y," and it was a fairly, you know, sensitive investigation, and you had to have the ability to say, "You can't run with that," and, you know, because of the damage that it will do for whatever, you know, whatever program it was going to damage. And because you had a relationship with him or her, you know, he would sit on it, right. Those are other reasons why you would want to have a relationship, you know, with the

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media.

Having regular contact with the media because you like talking to personalities, not the right reason, right.

Q Did you have the ability on your own to make an authorized disclosure of investigation information to a reporter?

A No. The Deputy Director and the Director were the only two that had that authority.

Q Would authorized disclosures to the press generally come from a specific section within the FBI?

A So you had the -- you had Mike Kortan's section that dealt with the media. So that would be one spot, and I would think the Director's Office would probably be the other.

Q Would you be surprised to see special agents in charge having conversations with reporters?

A No, because the guys are running field offices would be the primary media interlocutors; they would be the ones that would have the primary relationship with the media folks in their regions. So that wouldn't surprise me.

Q And would those disclosures generally have been cleared above special agents in charge?

A So I didn't say anything about disclosures; I said having contact, right. So any information that they were going to disclose would have to run through the proper channels.

Q It is a distinction between having a contact with a reporter and giving a disclosure?

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A Having contact with a media rep doesn't mean you're disclosing anything, right.

Q Did you give any authorized disclosures to the media about the Midyear examination?

A No.

Q Did you discuss the investigation of the Midyear -- while you were at the FBI, did you discuss the Midyear Exam investigation with any press?

A No.

Q With any reporters?

A No.

Q Any bloggers?

A Obviously not.

Q Thank you.

BY MR. CASTOR:

Q These exhibits G and H -- these exhibits, they're introduced in the report as describing communications identified by the IG's Office between FBI employees and media representatives in April, May, and then October 2016, after you left the department.

A Okay.

Q I think the purpose for sharing this with you is to get your reaction. In your experience, was this level of communication with the media unusual?

A So --

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Q Does it surprise you?

A There's some high numbers here. Yes, that surprises me a little bit.

Q You left the FBI shortly before. I mean, was there a culture where this volume of folks could have interactions with the press?

A I mean --

Q It is one thing if it is Mr. Kortan and, you know, one other person talking to a reporter.

A Twenty-three times with a special agent, I mean, that seems like a lot.

Mr. Baker. And these were, I believe, individuals the IG specified at all ranks and levels that did not have a legitimate need to have contacts. So they would not be press office people is my understanding.

Mr. Giacalone. Yes, I mean, that seems unusual to me.

BY MR. CASTOR:

Q And surprising?

A Well, yes, because it is unusual, it would be surprising.

Q Pivoting to the referral from the IG, the ICIG, Mr. McCullough, you mentioned that you had had some communications with him when he made the referral?

A Yes, we had a couple phone conversations, a couple email communications I believe, as well.

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Q Did you have any meetings with him?

A I don't know that I have ever physically met with him. I may have met with him once. I don't recall.

Q So we understand it he came over with a fellow name [REDACTED]?

A With a what?

Q A fellow named [REDACTED], one of his staffers.

A It could be. Like I said --

Q He had already met with Strzok and an FBI official named [REDACTED] (ph)?

A I know the name. I can't picture the face.

Q And George Toscas was in the meeting, as we understand it?

A Okay.

Q And wanted to know, A, if you were aware of that meeting?

A I probably was aware of it at the time. It is not ringing any kind of bell now.

Q B, whether you were in the meeting, and I understand you were not from your testimony here?

A Like I said --

Q Best of your recollection?

A I may have met with him one time. I don't remember meeting with him physically. I couldn't tell what you he looked like.

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Q Do you have any recollection of any readouts that you received about that meeting?

A I probably would have been briefed, you know. It probably would have made it into the, you know, evening brief that they had this meeting, and this is what transpired from it.

Q And from that set of contacts between McCullough's office and the FBI, the phone calls that you had, maybe this meeting, did you ever have a sense of whether they believed foreign actors had penetrated the server?

A I'm sure that that was a concern because it was a concern of ours, as well, right. I mean, you had -- you knew you had classified information on an unclassified server. You know what her role was, right, and we talked about earlier the diplomatic mission. This is an unclassified setting, but there's a lot of value in having even some of that unclassified information, right, so it would be a pretty good target, you would think.

Q But as you sit here today, you don't specifically remember whether they had a very specific concern about a specific foreign actor getting access to the server improperly?

A I don't remember where the country of concern came from, whether it was from us or whether it was from them, but I do remember a country of concern.

Q Okay.

A Who would be a logical country of concern, and I know

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that we took some investigative action to determine if it was -- if there was an intrusion. I don't know if that part of it was complete while I was still there. I can't remember if it was complete while I was still there. I think that was ongoing after I left, as well, but, yes, that is a concern.

Q And do you have any recollection whether McCullough and his folks had any concerns?

A Yeah, I don't remember that. I'm not saying that he didn't. I'm just saying I don't remember.

Q Let me state that again. Whether McCullough and his staff had any concerns about the way the State Department handled the server?

A Handled the server or how they handled information in general?

Q In general.

A Yes, I think, in general, I think I remember having a conversation with him about the unorthodox approach that the State Department used in handling, you know, the information. Their systems were archaic. It was difficult to -- even preservation letters, right, you're trying to preserve certain information was challenging because their systems were so outdated. So, yes, there were conversations about that maybe initially with McCullough but with others, as well to include folks over at the State Department, who I think were embarrassed when they couldn't do certain things that were requested because the systems were

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such a mess.

Q And do you remember any specifics surrounding this?

A So I remember getting a lot of boxes of documentation versus, you know, getting the information electronically because of their inability to, you know capture and collect it that way. There were other things that I just don't remember.

Q Anything relating to Under Secretary of Management Mr. Kennedy?

A About --

Q Any concerns McCullough had about Patrick Kennedy that he related to you, do you remember?

A I can't remember anything that he specifically related about Kennedy.

Q Or anyone specific at the State Department?

A So you know what? There was one conversation with Kennedy, where Kennedy was trying to get something declassified, I believe, and I think that was a subject of an article, too, that Brian McCauley did an interview with the media on. There was that situation where he was trying to get something declassified, but at the time, McCauley wasn't the guy that was going to make that decision, right. That was going to be the Director, upon my recommendation, and there was no way we were going to declassify anything that McCullough had found. So if that's the conversation regarding Kennedy that I had with McCullough, that's something that, you know, I vaguely have some recollection of, you know,

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chatting with him. I think that might have been post -- that might have been postreferral. I can't remember the timeframe.

Q Do you remember anything along the lines of McCullough alleging the State Department had misled anyone about their dealings with the server?

A No, that I don't remember, right. So misled how? Like give me -- because we were never misled, right, so I don't know if the State Department put McCullough on a wild goose chase. If they did, I don't remember him sharing that with me.

Q Because it has been related to some of us the characterizations of what happened with the server as told by the State Department folks to the ICIIG folks, you know, was one thing, and then, when the ICIIG folks had an opportunity to get the server, they made different determinations?

A Did they ever get the server? I don't know --

Q They were able to obtain --

A They got emails. I don't know that they ever got the server. I think we were the first investigative agency to physically get the server. That's how I understand it. Now, I could be mistaken.

Q But were they able to extract the metadata from the server?

A No, because they never got the server, right? I think the FBI was the only agency that got the server, unless you tell me something different that I don't know. I don't know that

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McCullough -- I think McCullough got the 30,000 emails like hard copy that he reviewed. I don't know that he had any kind of electronic format. Now, he could have had the 30,000 in electronic format, but I don't think he physically had the server. If he did, I wasn't aware of that.

Q Okay.

A Because I would have just asked him for it then, right? And he could have just dropped it over at the office, as opposed to going with the Secretary's attorney and getting it the way we got it. I think if he had it, that would have been logical to just say: Okay, do me a favor. What kind of paper do you need? We'll draw it up and deliver that thing, or we'll come pick it up.

Q Going back to your lunch with Mr. Strzok last week --

A Yup.

Q You know, this story, what has happened is a remarkable destruction of his personal life, his professional life, arguably the professional life of some of the people that he works with at the FBI. How is this affecting him, from your perspective?

A So, I mean, listen, we didn't get into a lot of the inner feelings that he was experiencing in a 30-minute lunch, but you would have to ask him, right. I mean, obviously, none of it is going to make you feel good. It wouldn't make me feel good.

Q How is his state of mind, from your --

A He is still sharp. I mean, trying to stay positive.

Q And did he indicate whether he was going to cooperate,

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as requested, from the various panels that want to ask him questions?

A Yes, so I think -- I read or I heard somewhere that, you know, he wants to do that, and I think he should have the opportunity to do that, right. I mean, you know, let him tell his story.

Q Did he give you a sense of what's next for him?

A No.

Q He was still at the FBI --

A Correct.

Q -- at the time of the lunch?

A Yes, it was last week. He is still at the FBI. I just think he is not in the building, right. I don't know if he is on leave with pay or leave without pay, but he is still, I think, considered an FBI employee.

Q But you haven't spoken to him since the lunch?

A No.

Mr. Castor. That's all I have.

BY MR. BAKER:

Q You had mentioned that an SAC would have authority to discuss matters with the press in his domain clearing it with headquarters or whatever?

A Yes.

Q Are there other people in a field office that can also have authorized contact with the media?



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A Not that I know of, no.

Q Do they have media officers --

A They do.

Q -- media reps that work in conjunction the with SAC?

A Listen, they do. The larger offices did, right, so New York City had, you know, a media rep. Washington field office will have a media rep. I don't know if Nashville has a media rep; they might as well. It might be somebody who has multiple roles.

Q Okay. Would it be possible for a sophisticated foreign actor to penetrate a server and it not be detected?

A You're asking the wrong guy. I don't know the answer to that.

Q You had mentioned that sometimes classified information is talked around. Why is it talked around?

A Sometimes it is an operational need, right.

Q Necessity?

A Yeah, because you have to have the conversation with somebody in the U.K. or somebody in Australia where something is imminent, and you have to get it to that person to make decisions right away, right. And one of the ways we tried to correct that was to have folks from different countries, you know, have access to our information and have the proper authorities to view our classified information, right. And Director Clapper signed off on that program before I left, something I'm very proud of because, you know, in today's day and age -- these are Five Eye partners

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I'm talking about -- we rely on the Brits and the Canadians and the Aussies and, to a lesser degree, the Kiwis to have an open, you know, flow of information very quickly, and there were times when I was EAD that we were dealing with some very impactful counterterrorism operations that required real-time connectivity. So that would be, you know, an instance where I would say would be an opportunity to maybe talk around an issue where you have imminent attacks that you're trying to prevent.

Q Okay. You were asked a moment ago about one of the findings in the inspector general's report relating to unauthorized media contacts from FBI people at all different levels. An ancillary finding to that was that some employees -- I don't know if it is many -- but some employees were also found to be accepting gifts from reporters, to include golf outings, tickets to sporting events, drinks, meals, and access to nonpublic social events. Just your opinion on that.

A There is like a \$25 rule for gifts, I think, or something like a \$20 rule, so golf clubs and things like that probably aren't going to make that cut. So that's my opinion on that.

Q Going back to your days as an SAC, would you have had a real problem if you had employees that were doing that?

A Yes, that's a problem, right. I mean, that shouldn't be happening. What we do needs to be kept quiet, and although I firmly believe the contact with that media is important for the

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reasons I, you know, laid out, it is not -- it is not to be, you know, buddy-buddy, right. It is to use them when you need to message something, like I did when we were trying to reestablish the relationship with the NYPD, where I had an opportunity to tell a reporter there's some nice, positive things about what we were doing, you know, with the police department to build a relationship. It is to prevent panic, like we did in Boston. It is to prevent something from getting out that shouldn't be getting out. It is not to, you know, go to golf outings.

Q And I know this happened after you had retired from the FBI, but it is certainly one of the things that has generated a lot of controversy and a lot of theories around when Director Comey started formulating his press release or what he would say when he made the July -- early July release to the media about what he was doing with the investigation.

In your experience, preparing a release a couple of months in advance of the case being closed and certainly of the primary subject being interviewed, is that unusual or --

A I have never heard of it before, it happening before. In my experience, though, while I was on the seventh floor, I had not seen it, but I don't know if that's something that has occurred in the past because I have only spent, you know, one and a half out of my 25 years on the seventh floor, right, so I don't know if others have done that, as well, so I couldn't really comment.

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Q Thank you.

BY MR. BREITENBACH:

Q Earlier, you said you used to receive, while managing the case, daily summaries?

A Yes.

Q Were those written daily summaries?

A Secret code. Yes, they were typed up, yes, with big letters so I didn't have to take my glasses off like some of the things you guys showed me.

Q How long do you think you would receive -- what period?

A Every day. I got one every day.

Q For how long?

A So, if we opened the case in July, we started the process right away, right. I wanted to have a record of the progress, so every day, you know, I got one of those, and actually, we got two. One went in my binder, and one I passed to Deputy Director Juliano.

Q And who prepared those summaries?

A So the team, the investigative team. I don't know who on the team actually typed them out if it was the analyst or if it was Pete or if it was some other, you know, agent that was working the case. I don't know who typed them, but I know I got one every day.

Q Okay. Thank you.

[Recess.]

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BY MS. KIM:

Q All right. We're going to go back on the record. It is 2:52 p.m., and this is the minority side questioning again.

Mr. Giacalone, thank you so much for bearing with us. I want to go back to the referral from the ICIG. In your experience with Peter Strzok, would it have been unusual for him to have ignored a lead that the ICIG suggested in referring the case to the FBI?

A You have to give it to me one more time now.

Q Yes. Would it have been unusual in your experience working with Peter Strzok for Peter Strzok to have personally decided to ignore a lead given to the FBI in a referral from the ICIG?

A He refused to --

Q Follow a lead?

A -- follow a lead? I guess it depends upon -- like what lead are you talking about, right? So not all leads are created equal. If there was -- if he didn't follow up on a referral, that would be problematic. Whether it was, you know, some investigative guidance that was provided that, you know, maybe he chose that there was another course of action that was better, I mean that wouldn't be unusual. I would have to know specifically though what you're talking about as far as what this lead was.

Q Sure. Let me be a little more specific. So I'm going to reference testimony that a Representative gave in the hearing about the inspector general report. There has been an allegation

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made that the inspector general of the intelligence community made the referral on the Clinton case and then specifically --

A On the what case.

Q On the Clinton email case and specifically mentioned quote, anomalies in the metadata, unquote. That was mentioned in a referral to the FBI, but the FBI never followed up with the ICIG on --

A When, when was it referred?

Q Certainly. Our understanding is that that referral was made at the very beginning of the investigation?

A That there were anomalies in the metadata, and that we didn't follow up on that?

Q I think the allegation is that the FBI itself did not go back to the ICIG to communicate about what the FBI had found on the anomalies in the metadata.

A Oh, well, I didn't know that we had to report back to that team. I mean, so I can't answer that. I don't even know really what the heck you're talking about.

Q Understood. Understood. Let me take a step back.

In terms of cyber investigations, is the FBI pretty savvy in your general experience?

A Yes, there are guys that are very savvy.

Q And those were resources that would have been available to the Midyear team in tracing down leads on anomalies in metadata?

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A Yes.

Q Okay. And do you have any evidence or reason to believe that the FBI team chose to ignore any valid leads on anomalous metadata?

A I have never heard that, right, so, yes, I don't have any knowledge of any of that.

Q Excellent. Thank you.

BY MS. HARIHARAN:

Q So I just want to quickly talk about the retired agents briefing that they gave you. Is that common practice for the FBI to do that in ongoing investigations or closed investigations?

A I wouldn't say it is common. But I would say that in this situation, it was -- it was necessary, right, because you had so many folks, you know, saying so many different things on different media, you know, with different media outlets, whether they be newspaper or TV or whatever, right. So I think to sort of straighten out the record and make sure that folks had a better understanding of what really happened I think it was important.

Now, at the end of the day, I don't know that it stopped some of the continued, you know, media participation by some, but at least I think the Bureau can say that they made an attempt to let folks know why they did what they did, which I think caused some concern amongst the retired agents community.

Q Were there any folks who were on that call who then were speaking to the media that you're aware of?

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A I don't recall who was on the call to be honest with you. I know that I participated. I can't remember who else was on.

Q Shortly after the call, former Mayor Rudy Giuliani was going on TV claiming he was getting information from former and current agents and that he had a pipeline into the FBI. Are you familiar with his general comments at that time?

A I have heard that. I have heard the story.

Q To your knowledge, are you familiar with any former or current agents who were in communication with Rudy Giuliani?

A No.

Q Do you have any knowledge as to who his sources may have been?

A I don't know that he had any sources. I think because I think he retracted all of that after he said it.

Q Okay. There was another individual -- are you familiar with Jim Kallstrom?

A Yes, I am.

Q Are you aware if he was on that call?

A Like I said, I don't remember who was on the call.

Q Have you been in contact with him between 2015, 2016?

A No.

Q To your knowledge, would he have had firsthand information of the Midyear investigation?

A Absolutely not.

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Q Would you be surprised to learn that he did or that he was claiming that he did?

A No, nothing surprises me.

Q Do you have any reason to believe that he was getting information from specific FBI offices, especially the New York field office?

A Would that be surprising to me, yes, because the New York field office wouldn't have really anything to share as far as this investigation was concerned. They shouldn't have at least, right. I mean, they didn't play an active part of the investigation.

Q So you're not aware of any communications within the New York field office about disclosing information about the Clinton investigation either to Mr. Kallstrom or to the media in general or other individuals?

A I don't know what they would have had to disclose, right, so I can't really comment on that. I don't know that they would have anything.

Ms. Kim. Mr. Giacalone, thank you so much for your time today. That concludes your interview.

Mr. Giacalone. Thank you very much.

[Whereupon, at 3:00 p.m., the interview was concluded.]

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Certificate of Deponent/Interviewee

I have read the foregoing \_\_\_\_ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

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Witness Name

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Date