

EXECUTIVE SESSION

COMMITTEE ON THE JUDICIARY

JOINT W/

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, D.C.

INTERVIEW OF: ANDREW McCABE

Thursday, December 21, 2017

Washington, D.C.

The interview in the above matter was held in Room 2141, Rayburn House Office Building, commencing at 10:54 a.m.

COMMITTEE SENSITIVE

Chairman Goodlatte. This is a transcribed interview of Andrew McCabe. Chairman Gowdy and I requested this interview. 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.

So, Mr. McCabe, would you please state your name and position at the FBI for the record?

Mr. McCabe. Yes, sir. My name is Andrew McCabe, and I am the deputy director of the FBI.

Voice. The microphone.

Mr. McCabe. Sorry. Is that better?

Chairman Goodlatte. Yeah, that's good.

Mr. McCabe. My name is Andrew McCabe, and I am the deputy director of the FBI.

Chairman Goodlatte. I want to thank you for appearing here today, and we appreciate your willingness to testify voluntarily.

I'm Bob Goodlatte, chairman of the Committee on the Judiciary, and I'm joined today by several members of the Judiciary and Oversight and Government Reform Committees and by counsel for those committees. And I will now ask everyone else from the committees who is here in the room to introduce themselves as well, starting with members of the committees.

Chairman Gowdy. Trey Gowdy.

Mr. Buck. Ken Buck.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Ratcliffe. John Ratcliffe.

Mr. Meadows. Mark Meadows.

Ms. Jackson Lee. Sheila Jackson Lee.

[Inaudible.]

Mr. Cicilline. David Cicilline.

Mr. Connolly. Gerry Connolly.

Mr. Cummings. Elijah Cummings.

[Inaudible.]

Chairman Goodlatte. All right.

Okay. Now, at this table -- before I ask the other people to introduce themselves -- at this table, we're to have three members of the majority from each committee, three members of the minority from each committee.

So if you have more than six, take a seat, you're welcome to stay, take a seat, but only six at a time, and allow the gentleman from Ohio, Mr. Jordan, to have a seat at the table.

So I'm still thinking I have more than six Democrats at the table.

[Inaudible.]

Chairman Goodlatte. No. The issue is that -- you're welcome to stay, but you sit in the audience because that's -- that's what the rules are for this.

Mr. Cicilline. What rules?

Chairman Goodlatte. The rules that the chairman of the two committees have established, that there will be six members at the table.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Cicilline. Okay.

Mr. Nadler. We can switch them around?

Chairman Goodlatte. That's right. You can switch out at any time.

Mr. Cummings. This is very important. So do what the chairman asks.

Chairman Goodlatte. I thank you for that.

Mr. Cummings. Sure.

Chairman Goodlatte. Okay. Okay. So this is important. You can have up to six people ask questions. Other people can jump in during a questioner's 30 minutes, but we're not going to have more than six 30-minute sessions for either side.

On our side, we're going to rotate between the two chairmen asking questions. Other members will interrupt us if they want to follow a line of question. You can do the same thing. You can do it with six people, you can do it with two people, however you want, but --

Mr. Cummings. What about staff?

Chairman Goodlatte. Staff will have to ask questions through the members.

Mr. Cummings. That's not acceptable. We want to use our 30 minutes, period, the way we want to use them. I've never heard of this. In other words, we want to -- we want staff -- we prepared for this. We've been up all night preparing for this. We got 48 hours notice, and we want our staff to be involved in this.

Chairman Goodlatte. Well, they can be involved in it.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Cummings. No. No. No. Not this stuff about going through. Now, come on.

Chairman Goodlatte. So if you want a staff member to ask questions, then you'll vacate a seat, let them sit there, and ask with questions. And members can ask questions through them, but only the six members that you designate.

Mr. Cummings. Okay. Wait a minute. So a staff person cannot ask Mr. McCabe a question.

Chairman Goodlatte. Let's go off the record.

Mr. Cummings. Yeah. Sure.

[Discussion off the record.]

Chairman Goodlatte. So let's ask those people who are here who are not Members of Congress to identify themselves. We'll go back on the record for that purpose.

Mr. Cummings. We're back on the record now?

Chairman Goodlatte. Yes. All right. We'll start over here with Brandon. We'll work our way around the room.

Mr. Ritchie. Branden Ritchie.

Ms. Husband. Shelley Husband, Judiciary Committee staff.

Mr. Castor. Steve Castor with the Oversight Committee.

Mr. Davis. Carlton Davis, Mr. Gowdy.

Mr. Somers. Zach Somers with the Judiciary Committee.

Mr. Parmiter. Robert Parmiter, Judiciary Committee.

Mr. Breitenbach. Ryan Breitenbach, Judiciary Committee.

Chairman Goodlatte. Back row here.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Rapallo. David Rapallo, Oversight Committee.

Ms. Kim. Janet Kim, Oversight Committee.

Ms. Shen. Valerie Shen, Oversight Committee.

[Additional staff introductions were inaudible.]

Mr. Apelbaum. Perry Apelbaum, Judiciary Committee.

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

Mr. Hiller. Aaron Hiller, Judiciary Committee.

Mr. Schools. Scott Schools, Justice Department.

Ms. Anderson. Trisha Anderson, FBI.

Mr. Brower. Greg Brower, FBI.

██████████. ██████████, special agent, director's detail.

██████████. ██████████, special agent, director's detail.

Chairman Goodlatte. Very good.

All right. The Federal Rules of Civil Procedure do not apply in this setting, but there are some guidelines that we follow that I'll go over.

Our questioning will proceed in rounds. The majority will ask questions first for 30 minutes, then the minority will have the opportunity to ask questions for an equal period of time, if they 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, Deputy Director McCabe is appearing today voluntarily. Accordingly, we anticipate that our questions will receive complete responses. To the extent that Mr. McCabe declines

COMMITTEE SENSITIVE

to answer our questions or if counsel for the Department 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, please let us know. We can also take a break for lunch at the appropriate point.

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

Do you understand?

Mr. McCabe. I do.

Chairman Goodlatte. Thank you.

So that the reporter can take down a clear record, we will try to limit questioning during each 30-minute round to one member or one committee counsel. However, we may need to deviate from that general rule at certain points.

It's also important that we don't talk over one another or interrupt each other if we can help it. And that goes for everybody present at today's interview.

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 your name and current position for the record?

Ms. Anderson. Trisha Anderson, principal deputy general counsel

for the FBI.

Chairman Goodlatte. 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. And if you honestly do not 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 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 say so, and please inform us who, to the best of your knowledge, might be able to provide a more complete answer to the question.

Mr. McCabe, 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. McCabe. Yes, I do.

Chairman Goodlatte. This also applies to questions posed by congressional staff in an interview.

Do you understand this?

Mr. McCabe. I do.

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

Do you understand this?



Mr. McCabe. I do.

Chairman Goodlatte. Is there any reason you are unable to provide truthful answer to today's questions?

Mr. McCabe. No.

Chairman Goodlatte. Finally, I'd like to note that the content of what we discuss here today is confidential. It is not a classified briefing, but it is a confidential interview, and we ask that you not speak about what we discuss in this interview to anyone not present here today to preserve the integrity of our investigation.

This confidentiality rule applies to everyone present in the room today, including members of both committees.

That is the end of my preamble.

Do you have any questions before we begin?

Mr. McCabe. I do not.

I would just like to say that there may be times in my responses, if the question you've asked me calls for a classified response, I will indicate that and indicate that I can't go into classified matters in an unclassified setting.

Chairman Goodlatte. Thank you.

And I'll remind all the members of the committee -- of the two committees, on both sides of the aisle -- that this is an investigation into matters separate and apart from what is being investigated by the House Intelligence Committee. It is not an investigation into matters being investigated by the special counsel, Mr. Mueller. And if questions are asked that go into matters that are beyond the scope of

this investigation, we will instruct the witness not to answer the question.

If the witness feels that the question is being answered that gets into the matters related to Mr. Mueller, you should advise us of that. And that is the one of the limitations set forth by the Department of Justice when they made you available as a witness.

Do you understand that?

Mr. McCabe. I do.

Chairman Goodlatte. And I'm going to assume everyone else in the room understands that.

Mr. Cummings.

Mr. Cummings. Mr. Chairman, would you explain what you mean by "confidential," because I want to make sure that we don't violate this rule. I guess this is a Judiciary rule. But I want to make sure that we don't violate it.

We're not talking about classified, but we are talking about, quote, "confidential." Would you explain that to our members so we're clear.

Chairman Goodlatte. Yes.

What happens in this room stays in this room. So if you know something from outside this room, you want to comment to somebody else, including members of the media, you can do that. But if you learn something in this room from this interview, it is confidential and cannot be shared outside of this room. And that applies to members on both sides of the aisle, and all the staff here as well.

COMMITTEE SENSITIVE

Is that clear?

Mr. Cicilline. What is the basis for that assertion, Mr. Chairman?

Chairman Goodlatte. The basis for that assertion is the basis for the Department agreeing to provide the witness to us. They requested that it be a classified interview. We said no, but it will be a confidential interview.

Mr. Connolly. Mr. Chairman, does that extend to characterizing, not the content, but the tone, tenor, nature of this session?

Chairman Goodlatte. I would --

Mr. Connolly. Does that fall within the penumbra of your idea of confidential?

Chairman Goodlatte. Well, first of all, there is a wide range here between -- you don't have to deny that you were here. You can say you were here, right? But if you go into detail about this, we will have to -- there is going to be a long series of interviews here with a number of witnesses. And if it appears that everything that is said in here appears in the news media, we will have to reduce the number of people who are participating in the process.

I don't want to do that. I would prefer to have this open and have as many members -- in fact, all members of both committees are welcome to come and sit in. But we will change that if these -- this is an investigation, and investigations are not to be like a public hearing.

Mr. Raskin. Mr. Chairman?

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Chairman Goodlatte. Yes, sir?

Mr. Raskin. Will you state publicly that this was a, quote, confidential hearing?

Chairman Goodlatte. Yes.

All right.

Oh, I'm sorry. I'm sorry. Yeah. It's an interview. It's a -- you can state it's a confidential interview.

Mr. Connolly. Mr. Chairman. Can we say this is the start of the investigation?

Chairman Goodlatte. No, the investigation started months ago, but this is the first interview.

Mr. Connolly. The investigation started months ago, but this is the first interview part of that investigation.

Chairman Goodlatte. Correct.

Mr. Johnson of Georgia. When you say this is the first, this is the first interview of the investigation that began months ago, the scope of the particular investigation that this fits within, what is it?

Chairman Goodlatte. Well, it's based upon a statement that Mr. Gowdy and I made back in October, so roughly 2 months ago, where we outlined the matters to be investigated by this joint effort.

Mr. Cummings. I have one last question so we don't waste each other's time. You said that this is not about Russia. And you said that if questions go outside of whatever it is we're looking into, that you would say -- tell the witness he didn't have to testify.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Tell us what this is about so that we will all know what our limits are. Other than that, we're like -- I mean, this is -- I mean, we're just on a wild goose chase. What's going on?

Chairman Goodlatte. All right. This is about matters related to the Department of Justice's investigation into the decisions made by the Department during the 2016 and earlier investigation into the former Secretary of State and Democratic Presidential candidate's email matters and related matters.

So, for example, the FBI's decision to publicly announce the investigation into Secretary Clinton's handling of classified information but not to publicly announce the investigation into campaign associates of then-candidate Donald Trump. The FBI's decision to notify Congress by formal letter of the status of the investigation, both in October and November of 2016. The FBI's decision to appropriate full decisionmaking in respect to charging or not charging Secretary Clinton to the FBI rather than the Department of Justice. And the FBI's timeline in respect to those charging decisions.

Mr. Cummings. And is it okay -- going back to the confidentiality rule -- when I talk to the press, which I will, is it okay to say that it was limited to those things?

Chairman Goodlatte. Absolutely.

Mr. Cummings. Very well.

Chairman Goodlatte. Mr. Chairman, do you have anything you want to add?

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Chairman Gowdy. No, sir.

Chairman Goodlatte. All right.

Ms. Jackson Lee. Mr. Chairman, is this -- in pursuit of the original point made in Judiciary of asking for a special counsel, are we looking for a resolution to be the appointment of a special counsel on these issues?

Chairman Goodlatte. We have drawn no conclusions. That's the purpose of the investigation. As you know, I and others have called for the appointment of a special counsel to look into these matters, but that is a separate issue from actually conducting the investigation since a special counsel, as you know, has not been appointed.

Ms. Jackson Lee. So we can all come with the perspective of an open door proceeding. I guess we can determine that. But as to our distinguished guest, we're not here to put him under a microscope to already meet what we want to do, which is the appointment of special counsel. When I say "we," what --

Chairman Goodlatte. We are here to elicit facts and get to the truth.

Ms. Jackson Lee. Thank you very much.

Chairman Goodlatte. And with that, I will now turn it over to the chairman of the Oversight and Government Reform Committee, Mr. Gowdy, to begin the questions.

Chairman Gowdy. Thank you, Mr. Chairman.

Thank you, Deputy Director McCabe.

From a procedural standpoint, who's our timekeeper so I'll know

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

who to look to? And I don't want to go over my 30 minutes.

Chairman Goodlatte. The time is now 11:14.

Chairman Gowdy. All right. Hopefully I can count on to you punch me when my 30 minutes is up.

I want to start by thanking you for coming, and thank you for your service to our country.

Two days ago, you and I spent, I guess, close to 8 hours together.

Mr. McCabe. Yes, sir.

Chairman Gowdy. And so I want to kind of amplify what Chairman Goodlatte said. I'm not going to ask you a single question about what special counsel is doing. I will support an objection by Chairman Goodlatte if you're asked by anyone questions about that. I'm not going to ask you any questions about the investigation into Russia's efforts to interfere with our 2016 election cycle.

My interest in having this interview today, at least three of us used to work for the same employer you have, the Department of Justice.

2016, for whatever reason, forced the Department to make difficult decisions. There were some difficult fact patterns in 2016. And I think it is important, I think any entity, but especially the Department of Justice, it is not too much to ask, "Tell me what your thought process was as you went into this decision, the conclusion you made."

And so that's what my focus is going to be on. And I'm going to start chronologically, but that's not because I think it's most important. In fact, I don't think it -- I think something in the middle

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

is the most important. But in fairness to you, I'm going to start chronologically, because I'm going to kind of bounce around.

So I just want to make sure you understand not only what we're talking about today, but more importantly, what we're not talking about today.

You were really gracious to give us a lot of your time 2 days ago and would have stayed longer had we had more questions.

Mr. McCabe. Yes, sir.

Chairman Gowdy. And every Republican and Democrat that was in that room you made yourself available to. That is a separate investigation.

What I want to talk to you about today are other decisions -- non-special counsel-related, non-Russia-related -- that the Department found itself making or analyzing.

And quite candidly, Deputy Director McCabe, there was a time when my colleagues on the other side of the aisle had some of the same questions too. I hope they have them today. I'm confident they will. I hope they will.

But there was a time when lots of Members of Congress wanted to better understand Director Comey's decision to have the July 5th press conference. There was a time when lots of Members of Congress wanted to better understand the decision to, number one, write a letter, and make that letter public. There was a time when Democrat Members of Congress wanted to better understand the decision to publicize some investigations but not others. And I happen to think that the

COMMITTEE SENSITIVE



COMMITTEE SENSITIVE

Department of Justice and the FBI is big enough to answer even what some may suggest are tough questions.

So that's my purpose today. And I want to start chronologically, and chronologically would be the decision to open an investigation and/or matter, however you want to frame it, because that is also an issue, what to call it, the decision to open a matter or an investigation related to Secretary Clinton's email.

When was it made? Who made it? And why was it made?

Mr. McCabe. So you should first know that I was not a part of the Clinton email case at that time. So I cannot tell you why the decision was made to open the case. I was not -- I was not involved in that.

My understanding, from having been told sometime later, is that we received a referral from the intelligence community IG and that the decision flowed from that referral. But I can't give you any insight as to what people thought at that time, because I was not a part of that process.

Chairman Gowdy. Is it unusual to receive a referral from the intelligence community?

Mr. McCabe. No.

Chairman Gowdy. Is that the way other investigations have begun that you are more familiar with?

Mr. McCabe. We receive referrals from all sorts of entities, most of which go through the Department of Justice first and then are sent along to us for consideration of investigative action.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Ratcliffe. Mr. Chairman?

Chairman Gowdy. Yes?

Mr. Ratcliffe. May I ask a question?

Deputy Director, even though you were not involved in the decision or have knowledge about when it was opened, can you confirm whether or not you were the deputy director of the FBI at that time?

Mr. McCabe. I was not. I was, at that time, serving as the assistant director in charge of the Washington field office.

Mr. Ratcliffe. Thank you.

Chairman Gowdy. Who would be the witnesses that might be able to shed more light on that initial decision, accepting the fact that you were not part of it?

Mr. McCabe. So, of course, Director Comey. The deputy director at that time was Mark Giuliano. I believe the assistant director for counterintelligence was Coleman, right? Would be the assistant director of counterintelligence at that time.

Chairman Gowdy. Does the FBI have the authority to initiate an investigation even absent DOJ knowledge or approval? And when I say "DOJ," I mean main Justice. Do you have to consult with a prosecutor before you open a matter like this?

Mr. McCabe. I mean, we open investigations all the time, right? This is a particularly sensitive investigation. So -- and when we open -- and I don't -- I shouldn't speculate, but when we open an investigation that is qualified as a sensitive investigative matter, that decision has to be reported to the Department of Justice.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Chairman Gowdy. So a sensitive matter is a specific designation within either the Bureau or main Justice.

Mr. McCabe. That's correct.

Chairman Gowdy. And who makes the determination whether or not to identify something as sensitive.

Mr. McCabe. There's a series of criteria that would apply to assist in that determination. That analysis would be done likely at the division level, so by the assistant director of the respective division and his leadership team.

Chairman Gowdy. And what are the ramifications or consequences of designating something sensitive? How would it be treated differently?

Mr. McCabe. There are a few ramifications, but it requires elevated levels of approval within the headquarters division. It requires a certain level of general counsel awareness and concurrence. And then, as I've mentioned, it also requires a reporting -- there's a reporting requirement to the Department I think within 30 days of the opening of a sensitive investigative matter.

Chairman Gowdy. Do you know who within main Justice would have been part of that decisionmaking process?

Mr. McCabe. I do not.

Chairman Gowdy. You said general counsel would be part of it on the Bureau side?

Mr. McCabe. That's right.

Chairman Gowdy. Do you know who the general counsel for the

COMMITTEE SENSITIVE

Bureau would have been at that time.

Mr. McCabe. The general counsel was James Baker.

Chairman Gowdy. Again, and I don't want to ask you something you've already answered, but I'd rather do that than run the risk of not asking.

Mr. McCabe. Yes, sir.

Chairman Gowdy. Department of Justice attorneys would be -- would have been consulted given the sensitive nature, excepting that in every investigation they are not. Is that accurate?

Mr. McCabe. Under normal circumstances, for a sensitive investigative matter, the Department would be consulted. They would certainly be notified. I can't speak to how that process took place in this case because I was not a part of it.

Chairman Gowdy. In Bureau vernacular, what are the different options or alternatives on how to refer to something? Do you refer to it as an investigation? Do you refer to it as a matter? Do you refer to it as an inquiry?

What are the words that are used within the Bureau to identify what we all think of as investigations?

Mr. McCabe. Right.

We have different levels of investigation that we authorize, but they are all referred to as investigations, except the lowest level, which we typically refer to as assessments.

Chairman Gowdy. So assessment is the lowest level. And where would we go from there, going up?

COMMITTEE SENSITIVE

Mr. McCabe. Going up you would go to a preliminary investigation. And then the highest level, which is the most common, is a full field investigation.

Chairman Gowdy. Do you know where the matter related to Secretary Clinton began? Did it begin as an assessment, or was it -- did it begin as a full field investigation?

Mr. McCabe. I don't know the answer to that.

Chairman Gowdy. All right. And it's a little bit unfair of me to ask you, because you've already said you were not part of that. When did you become part of it?

Mr. McCabe. I became -- I assumed oversight responsibility for the investigation in February of 2016.

Chairman Gowdy. What was the posture of the investigation at the time you assumed oversight responsibility?

Mr. McCabe. It had been open for several months. And they were -- you know, the team had been assembled and had been working at headquarters for several months on the investigation.

Chairman Gowdy. Do you recall any members of the -- I think you used the word "team?"

Mr. McCabe. Yes.

Chairman Gowdy. Who would some of the team members be?

Mr. McCabe. At the highest levels, the team was, of course, the director. The deputy director. That was me as of February of 2016. The EAD at that time was Michael Steinbach.

The assistant director over counterintelligence was Bill

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Priestap. Bill Priestap's deputy assistant now. He wasn't a deputy assistant director then, but -- I'm not sure what his title was at that time.

But Peter Strzok was part of that team. [REDACTED] was part of that team. [REDACTED] was part of that team. James Baker was part of that team. The director's chief of staff, James Rybicki, was frequently present for meetings or discussions about issues on that investigation. Lisa Page was part of that team.

And then, you know, you could -- there may have been other people as needed.

This was kind of the leadership level that discussed and kind of tracked and made the major decisions on the investigation. There was an investigative element of agents, analysts, and other, you know, support folks, but I can't -- I can't provide the names of those folks at this time.

Chairman Gowdy. Anything unusual about the way the Bureau staffed that case as opposed to other sensitive matters, investigations?

Mr. McCabe. This was a unique investigation, and it was rather -- the normal course of business is that investigations are run and managed by our field offices. And the staffing and the direction and the supervision of investigations is typically done at the field level.

In rare circumstances, when we have a particularly sensitive case, the decision is made to essentially manage that investigation

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

from headquarters, usually with the support of a field office that provides investigators, analysts, whatever personnel you might need. That's how this investigation was run.

And I know -- I'll say it just because I know it's been a point of interest in the reports around the case. Although it is not an official terminology, in Bureau lore, dating back for long, long before I came here, typically people in the FBI would refer to those cases, those unique cases that are managed at headquarters rather than in the field, as a headquarters special. That is not an official terminology, but it is one that people in the FBI have used for many, many years.

Chairman Gowdy. And it wouldn't be indigenous to her investigation either?

Mr. McCabe. No, sir?

Chairman Gowdy. There are other investigations that were referred to that way?

Mr. McCabe. The investigation of Robert Hanssen is a good example. That investigation was -- you could refer to it as a Bureau special. It was run from headquarters by a special team of folks who were assembled because of their expertise, and it was managed out of headquarters because of its sensitivity and because of the need to keep the information about what was happening in the case limited to a very small number of people.

Chairman Gowdy. All right. You used a word that I wrote down.

Chairman Goodlatte. May I join that.

You referred to having sometimes a principal field office

COMMITTEE SENSITIVE

supporting that -- you referred to a principal field office as supporting that investigation. Did that take place with regard to this matter?

Mr. McCabe. It did.

Chairman Goodlatte. In what field office was it?

Mr. McCabe. The Washington field office.

Chairman Goodlatte. Okay. So all here in Washington.

Mr. McCabe. Yes, sir.

Chairman Goodlatte. Thank you.

Chairman Gowdy. Deputy Director, you used a word, because I wrote it down, and it was the word "unique," which I think means one of a kind. I've got to go back to my old WordPack days. But I want to give you a chance to substitute another word for unique if it fit into a smaller category of cases that were similar or if, in fact, you -- the question I asked you was about the structure of this investigation.

Mr. McCabe. Okay.

Chairman Gowdy. And you used the word "unique." And I want to be fair.

Was it unique in the truest sense of the word, or was it similar to other high profile, sensitive matters? Unusual, a small number, or truly unique?

Mr. McCabe. I think of this investigation as unique not compared to other investigations, but because of the facts that were involved. I am not familiar with another case that presented quite the same



COMMITTEE SENSITIVE

challenges and facts that we had in this one. So that's probably why I referred to it as unique.

If you're asking about running a -- managing a case in the way that I've described from headquarters, that has certainly happened before. It is a small number of cases. There may not be one at any given time. There may be one or two at any given time. It's hard to say. But it is a small population of cases that I am aware of.

Chairman Gowdy. The interaction between main Justice and Bureau agents. Is it daily? Hourly? Weekly?

What is the interaction on a case like this between the prosecutors and the line agents?

Mr. McCabe. So speaking to this case --

Chairman Gowdy. Yes, sir.

Mr. McCabe. -- the folks that were working the case from our side of the street were in very frequent, I would say daily contact with their colleagues at the Department of Justice.

Chairman Gowdy. Who were the prosecutors at main Justice that were assigned to assist in the investigation?

Mr. McCabe. So the case was handled out of the National Security Division. There were two -- I guess I'll refer to them as line attorneys, but two attorneys within the National Security Division, reported to -- their supervisor was an individual named David Laufman. Mr. Laufman reported to George Toscas.

And that was, in my understanding, kind of the official assigned -- folks who were assigned to the case. There was very limited

COMMITTEE SENSITIVE

involvement at the leadership levels in the Department of Justice in the case. I think John Carlin, who George Toscas normally reported to at that time, John Carlin was aware of the case, although I'm not sure how often he was -- he was briefed on it. The Attorney General and the deputy attorney general were not involved in the day-to-day management of the case during the period of my experience working it.

Chairman Gowdy. Anything unusual about the way that the main Justice structured, staffed this investigation as opposed to others?

Mr. McCabe. Yes. As I understand, and this was a decision that was made before I was involved in the case, but as it was explained to me, the decision had been made that the Attorney General and the deputy attorney general would not be involved in the day-to-day oversight of this case as they would in a typical, you know, significant, high-profile matter because of their -- the nature of their political positions. So they were not recused, but they were not involved. And Mr. Carlin occupied a somewhat similar status.

Chairman Gowdy. So the AG at the time would have been Ms. Lynch?

Mr. McCabe. That's correct?

Chairman Gowdy. And the deputy AG at the time would have been Ms. Yates?

Mr. McCabe. That's correct.

Chairman Gowdy. And John Carlin would have been the head of the National Security Division?

Mr. McCabe. That's right.

Chairman Gowdy. And so the person primarily responsible for any

COMMITTEE SENSITIVE

day-to-day interaction would be whoever was right below John Carlin?

Mr. McCabe. I'm sorry. Could you give me that one again?

Chairman Gowdy. The person -- if it's not Lynch and it's not Yates and it's not Carlin, who would be the most senior person at main Justice that would have day-to-day involvement?

Mr. McCabe. George Toscas?

Chairman Gowdy. Okay. You used the word "challenges," that this case created -- I think you used the word "challenges" to modify the word "facts." Challenging set of facts to investigate. In what way?

Mr. McCabe. In many ways. We don't typically find ourselves in a position of investigating someone who's in the midst of an election effort running for President. I think that's the -- certainly the first way that comes to mind.

Chairman Gowdy. So the status of the person that could be considered the object of the investigation is what distinguished it as opposed to the underlying facts.

Mr. McCabe. No, I wouldn't say that. There were many challenging aspects of the case. Let me go back to the work that we were doing.

The investigation was, as you know, an effort to determine whether classified material had traversed a personally -- a personal system, a nongovernment IT system. So from a very nuts-and-bolts kind of practical matter, our first effort is to go back and essentially try to reconstruct that system or any associated system and to determine

COMMITTEE SENSITIVE

whether classified material had been -- had been -- had crossed those systems.

All this is happening several years after those devices and those systems had been, in many cases, taken out of use, destroyed, lost, repurposed, what have you.

So from just a purely kind of forensic perspective, we had great challenges in determining what sort of systems had been used and had been exposed -- may have been exposed to this material. And then, of course, reconstructing that in the best way that we could.

The next challenge was in identifying, locating, and recovering all of the email or material that may have traversed those systems. And then, of course, analyzing that material for classified content.

And so that was enormously challenging. We're talking about -- I'm not -- I can't give you numbers -- accurate numbers here as I sit before today. We, of course, have these numbers, and I'm happy to provide them to you. But you're talking about an enormous volume of email material that had to be reviewed for classified content, much of which was not FBI content.

So then we involved -- we constructed and executed an intricate and demanding coordination process to try to identify that material that we thought was classified, to try to get that material to the entity that we thought owned it and could make the final determination as to its classified status, and to give them the time and the space to do those reviews, and, of course, receive the returns from those reviews.

So challenging to find the emails, to go through the emails, to

run the process necessary to have the owners of that material appropriately weigh in on it. So that was uniquely challenging as well.

Identifying all those individuals who may have played a role in the construction, the maintenance, the use of those systems, all of which took place years before we were aware of and involved in the investigation. Obviously went through that process as well. We interviewed many people.

Simply gaining access to people and the material we needed to take a look at was also uniquely challenging in this case in the way that our access was negotiated.

So there were many aspects of this case that made it challenging.

Chairman Gowdy. Had either you or, to your knowledge, the Bureau been involved in similar investigations given the complexities that you just outlined?

Mr. McCabe. Similar in what way?

Chairman Gowdy. Similar in the difficulties, the challenges. Similar in trying to identify whether or not classified material had been handled in a grossly negligent way.

Mr. McCabe. We do many mishandling cases, so we have experience with that. We do a lot of hard cases. Most of the work we do is challenging.

So, sure. I mean, we have certainly had cases that may have been similar in some ways.

Chairman Gowdy. I guess what I'm getting at, so I won't beat

around the bush, had her last name not been Clinton, would you have handled the investigation the same way?

Mr. McCabe. Yes, sir.

Chairman Gowdy. You went through your -- the lawyers or the legal, general counsel members that may have been part of the team, Mr. Baker, Ms. Page. Anyone else?

Mr. McCabe. Ms. Anderson.

Chairman Gowdy. Ms. Anderson.

Mr. McCabe. And I think I indicated [REDACTED] --

Chairman Gowdy. Yes, sir.

Mr. McCabe. -- is also part of that office.

Chairman Gowdy. All right. Before I digress, I think we were talking about the interaction between the Department of Justice and how it was structured. And AG Lynch and DAG Yates did not have day-to-day involvement.

Mr. McCabe. Not to my knowledge, sir.

Chairman Gowdy. Okay.

Mr. McCabe. I can't speak for any briefings or contact they may have had, you know, within their own building. But in the normal way that we interact with the Attorney General and the deputy attorney general, primarily through the morning briefings that we do with them 3 days a week, no, from my perspective, they were not involved.

Chairman Gowdy. What investigative steps require main Justice input or approval and which ones do not?

Mr. McCabe. Generally or in this case?

Chairman Gowdy. Generally.

Mr. McCabe. I mean, there's many investigative steps that require --

Chairman Gowdy. Which ones require DOJ engagement?

Ms. Anderson. This calls a little bit for a legal conclusion. You're asking for some legal conclusions from the witness. So I'm not sure he's here authoritatively to speak to those issues.

Chairman Gowdy. Well, if he doesn't know the answer, he can say he doesn't know the answer. He is a lawyer.

Ms. Anderson. Sorry. The question calls for legal conclusions with respect to our DIOG. The witness is not here to testify as a lawyer.

Chairman Gowdy. Well, if you don't know the answer, you can say you don't know the answer.

Search warrant. Do you do that on your own or do you go to an attorney to --

Mr. McCabe. No, sir. We use the U.S. attorneys predominately for search warrants.

Chairman Gowdy. Grand jury subpoena?

Mr. McCabe. Same.

Chairman Gowdy. Administrative subpoena.

Mr. McCabe. It's been much years since I did an administrative subpoena, but when I did, we were able to do those from within our building.

Chairman Gowdy. Decision to interview a witness?

Mr. McCabe. That is -- it could go either way. It depends on the case.

Chairman Gowdy. Decision to offer immunity to a witness?

Mr. McCabe. That is a Department of Justice decision.

Chairman Gowdy. Were there conversations that you were part of centering around whether and to what extent to offer immunity to witnesses?

Mr. McCabe. I can't remember a specific conversation in which we discussed immunity. I know that the -- immunity was one of those elements that I referred to earlier in terms of our access to witnesses. That was negotiated by the Department of Justice.

Chairman Gowdy. Can you elaborate on that?

Mr. Nadler. Negotiated with the Department of Justice with whom?

Mr. McCabe. With witnesses' attorneys or sometimes with the witnesses themselves.

Chairman Gowdy. Can you go into more detail on that? Can you think of anyone that immunity was offered to? And walk us through the thought process of why that was warranted or why that decision was made.

Mr. McCabe. I'm sorry. I'm happy to address -- if you tell me who you're referring to, I'm happy to address it. But --

Chairman Gowdy. Well, you might --

Mr. McCabe. I can't remember a --

Chairman Gowdy. You might be better positioned than I am to know who immunity was offered to.

Mr. McCabe. I don't know, sir, off the top of my head, who was



granted immunity and who was not.

Chairman Gowdy. Would the Bureau have been part of the decision to offer immunity?

Mr. McCabe. No, not typically?

Chairman Gowdy. Are there any instances that you can recall where the Bureau did not agree with the decision to offer immunity?

Mr. McCabe. I can recall many points of disagreement between the FBI and the Department during the investigation. There was considerable frustration at different points over the strategy that we were using to get to where we needed to go. And by that I mean by access to witnesses and access to material.

There were differences of opinion as to the best way to pursue that course, as there frequently are in big and small investigations. But that was definitely present in this one.

Chairman Gowdy. I wrote down the word "disagreement" and wrote down the word "frustrations."

Can you give the committee a sense of what disagreements may have existed between -- accepting that that happens in lots and lots of cases.

Mr. McCabe. Yes, sir.

Chairman Gowdy. There's nothing unusual about that.

Mr. McCabe. Right.

Chairman Gowdy. But we are right now focused on one.

What disagreements may have existed in this particular case?

Mr. McCabe. So there were times that we -- I shouldn't say we.

There were times that people in the FBI suggested and wanted to pursue, let's say, acquiring of evidence through legal process, rather than the Department's preferred route, which was negotiating consent to access different pieces of evidence.

Mr. Meadows. Mr. Chairman?

Chairman Gowdy. Yes?

Mr. Meadows. So you started to say "we." And obviously you recalled a particular instance, because you changed it from "we," which would mean that you were not included.

Who are you referring to in terms of that unique case?

Mr. McCabe. I'm actually not thinking of a specific case. This is a general frustration.

Mr. Meadows. You can think of no particular case, what you just answered, in terms of where that process was used.

Mr. McCabe. Okay. So I'm thinking now of our acquisition of laptops towards the end of our investigation, which was a point that we were insistent on conducting whatever exploitation we could on the laptops that were used to conduct the sort of the emails, which I can explain later if you want me to go into that.

Mr. Nadler. We can't hear you.

Mr. McCabe. I'm sorry.

Mr. Nadler. The sort of emails. You said something else.

Chairman Gowdy. He said which he was happy to explain to me later.

Mr. McCabe. Okay. So towards the end of the investigation, we

became -- we were absolutely insistent on the fact that we would not end the investigation until we acquired, or made every effort to acquire, I believe it was two laptops that were used initially by people associated with the Secretary to conduct what we referred to as the sort, which was the original separation of work emails and personal emails. We wanted to see the machines upon which that sort was conducted.

We had a hard time getting to them because there were a lot of complicated attorney-client privileges associated with it because those laptops had been used by attorneys for work they had done for different, unrelated clients. So understood that it was complicated.

And so we were constantly balancing whether we would pursue those laptops with the use of subpoenas and search warrants, or would we continue to negotiate with attorneys to try to produce those voluntarily.

Ultimately, we were able to get the laptops through a consent agreement, and we did not have to pursue a search warrant.

But at different times during the pendency of that issue, we were frustrated and wanted to pursue subpoenas and search warrants rather than continuing to negotiate with the attorneys.

Chairman Goodlatte. That's 30 minutes.

Mr. Nadler. If I could just ask one thing. So the question of the method -- the question of the methods aside on which there was a disagreement, you did, in fact, get the laptops?

Mr. McCabe. Yes, we did.

COMMITTEE SENSITIVE

Mr. Meadows. Mr. Chairman, may I make a point of order, since our time is out. It is incredibly important that we have 30 minutes per side. And I think all the committee members from Oversight will know that I am a very fair individual. Mr. Nadler perhaps doesn't know that. But for him to come in and ask questions as followups during our 30 minutes, I think you need to make sure we have a silo as a point of order.

Chairman Gowdy. I think what Mr. Nadler is going to allow is for you to ask two followups on any question he asked, and then we're going to be even, and then we won't do it anymore.

Mr. Nadler. And those were just clarifying questions.

Chairman Gowdy. My 30 minutes is. The gentleman from North Carolina's point is well taken. My 30 minutes is up.

Do you need to break, Deputy Director?

Mr. McCabe. No, sir. I'm good.

Mr. Connolly. Mr. Chairman, just -- I don't disagree with Mr. Meadow's point. However, it is sometimes very hard to hear. And permit us once in a while to ask for something to be repeated, because it's very hard to hear.

Chairman Gowdy. I hadn't shut you down yet.

Chairman Goodlatte. We're going to try to turn the volume up. We're also going to remind everybody to speak into the microphones.

Mr. Cummings. Deputy Director McCabe, I want to thank you for more than two decades of service to our country and for appearing before us today at such short notice. I note that Chairman Gowdy mentioned

COMMITTEE SENSITIVE

that you spent quite a bit of time with the Intelligence Committee, and we thank you.

Mr. McCabe. Thank you, sir.

Mr. Cummings. You are a career public servant.

Mr. McCabe. That's correct.

Mr. Cummings. You have had a highly distinguished career in law enforcement. And you have occupied some of the most important roles at the Bureau, fighting terrorism and ensuring that those who commit heinous crimes are held accountable. Is that right?

Mr. McCabe. That's correct, sir.

Mr. Cummings. I think it's important that our Members understand what you have done during your career and what you do now to protect our country and every single person sitting at this table and the more than 300 million Americans that we represent.

When did you first join the Bureau?

Mr. McCabe. I joined the FBI on July 7th, 1996.

Mr. Cummings. And why did you decide to join the FBI?

Mr. McCabe. I became fascinated with the FBI when I was in law school. I spent the summer between my second and third year in law school working for free at the Department of Justice.

Mr. Cummings. Free?

Mr. McCabe. I was a volunteer intern in the criminal fraud section, and I spent a lot of time poring over the work of FBI agents, reading 302s, that sort of thing. And I became just hooked on the idea of joining this organization.

COMMITTEE SENSITIVE

Mr. Cummings. I understand that you started your career as a special agent in New York investigating organized crime.

What were you doing on September 11th, 2001?

Mr. McCabe. So I was doing that. I was still an agent on Eurasian organized crime squad in New York. I was also an operator on the New York field office's SWAT team.

And so when the attack took place, we assumed, as members of the team, that we would be dispatched to go out and conduct arrests and search warrants and the sort of work that we do. Unfortunately, that call never came.

So we spent the next month reestablishing and protecting our command post in a garage on the corner of 26th Street and the West Side Highway, because, of course, our building was off limits. It had been contaminated by the fallout from the towers.

Mr. Cummings. You were promoted to the FBI's national headquarters in 2006, and in 2008 became the special agent in charge of the Washington field office's counterterrorism division. Is that right?

Mr. McCabe. I was actually the assistant special agent in charge of the CT division, the counterterrorism division in the Washington field office. But, yes, sir.

Mr. Cummings. Why did you shift your focus from organized crime to counterterrorism?

Mr. McCabe. I was ready for a new challenge. I had had a great experience doing nothing but criminal work in the New York field office

COMMITTEE SENSITIVE

other than, of course, my involvement in the investigation of the attacks on 9/11.

I think, like many people, I was drawn to the counterterrorist fight as having gone through that experience of the 9/11 attacks in New York City. I knew it was time for me and my career to come to do my tour at headquarters, and I thought no better place to do that than, really, on the terrorism, as we called it at the time, the front lines in the International Terrorism Operation Section 1, or ITOS 1, as it's referred to within the Bureau.

Mr. Cummings. In 2010, you were tapped to become the first director of the FBI's High-Value Interrogation Group.

What does that group do?

Mr. McCabe. So that group was called for in a Presidential order signed by President Obama, and it was essentially in response to the many challenges and problems that we had had -- I say "we," I mean the entire government and intelligence community -- in conducting the interrogations of high-value terrorist subjects.

And so the intent behind High-Value Interrogation Group, or the HIG, as we referred to it, was to build an interagency capability, combined of FBI and two intelligence community partners primarily, to conduct interrogations of high-value subjects wherever they were detained around the world in a lawful and effective manner.

Mr. Cummings. And who were some of the detainees questioned by the group under your leadership?

Mr. McCabe. The first appointment of the HIG team was to

interrogate Mutallab, the Christmas Day bomber, of course tried to take down a Northwest Airlines flight on Christmas Day in 2009, if I have my years correct. And then we conducted probably about two dozen additional deployments in my term as director of the HIG.

Mr. Cummings. So I've been told that you then held two of the most important jobs in the FBI, Assistant Director of the Counterterrorism Division, and Executive Assistant Director of the National Security Branch.

Mr. McCabe. That is correct.

Mr. Cummings. What were your responsibilities in those roles?

Mr. McCabe. So as assistant director of the counterterrorism division, I was responsible for all of our CT efforts. So a budget of about \$120 million a year, about [REDACTED] agents around the country, and, of course, around the globe and our legat offices, and a considerable force here at headquarters. We have primary, as you know, investigative responsibility for international and domestic terrorism. And we spend a lot of time focused on that work, trying to keep America safe.

Mr. Cummings. What was your involvement in the investigation of the 2013 Boston Marathon bombing?

Mr. McCabe. So I oversaw that investigation from headquarters as the Assistant Director of the Counterterrorism Division.

Mr. Cummings. Does that mean you were in charge of it?

Mr. McCabe. Yes, sir.

Mr. Cummings. And what was your involvement in the arrest and



interrogation of Khatallah?

Mr. McCabe. So Mr. Khatallah was one of the few people that we have been able to hold responsible for the attack on our special mission facility in Benghazi, Libya. I oversaw the development of that operation and the very significant and complicated partnership relationships that enabled us to bring Mr. Khatallah to Justice.

Mr. Cummings. Was that a difficult case?

Mr. McCabe. Yes, sir, it was.

Mr. Cummings. In 2014, you then served as the Assistant Director in Charge of the FBI's Washington field office, the Bureau's second-largest field office. Can you tell us about what your role was at the helm of the D.C. office, and what your proudest accomplishments were there?

Mr. McCabe. One of the best jobs I've ever had. It's an outstanding opportunity to represent and oversee the efforts of [REDACTED] employees assigned to the Washington field office. The Washington field office is responsible for all FBI matters in the District of Columbia and in northern Virginia. And as the ADIC, you -- the assistant director in charge -- you oversee all of those programs. So, once again, kind of took me back a little bit to my criminal roots, but still had a lot of involvement in our national security work.

The Washington field office has -- although it is the second largest field office, it has an incredibly diverse and important national security mission, particularly on the counterintelligence side, as a result of the large and diverse population of diplomats and

intelligence officers here in the Nation's capital.

Mr. Cummings. You've dedicated your life to law enforcement. Is that right?

Mr. McCabe. I've been happy to do so, sir.

Mr. Cummings. And why is that? What's the driving force there?

Mr. McCabe. There is no greater mission than the one that has been given to the Federal Bureau of Investigation. I explained this to my folks many, many times last summer as I served as the Acting Director for a short period of time. We have a workforce of 36,500 people around the globe, 12,000 of whom carry guns every day to defend themselves and the people of this Nation. We do some incredibly important work, and we do it professionally, competently, and independently, every day around the globe. It has been -- it has been the honor and privilege of my life to do that work.

Mr. Cummings. You became the Deputy Director of the FBI in 2016, a position that you continue to serve in. I guess that's an important job, too.

Mr. McCabe. It is, sir.

Mr. Cummings. Can you explain what your role and responsibilities are in your current position --

Mr. McCabe. Yes, sir.

Mr. Cummings. And give us a sense of how you serve our country on a day-to-day basis in that position?

Mr. McCabe. I am responsible for all of the FBI's investigative operations and intelligence collection operations worldwide.

COMMITTEE SENSITIVE

I am the highest ranking agent in the FBI, and, ultimately, I am responsible for the welfare, the safety, and the work product of all 36,500 people I just mentioned.

Mr. Cummings. So can you explain what it means to you on a personal level to serve as the number two guy?

Mr. McCabe. It is a -- it has been a privilege and an opportunity that I never, ever imagined I would have. I came into this organization over 21 years ago. I didn't know a single FBI employee. I was just attracted to the mission. I had incredible respect for this place and the men and women that do this work. And I have spent every one of those days trying to do it as well and as intensely as I possibly can. And to have concluded my experience in this organization to serve as Deputy Director has just been beyond my wildest dreams and hopes for what I would do at the FBI.

Mr. Cummings. On that note, I understand that you have been personally under attack by some who have questioned your integrity.

Mr. McCabe. Yes, sir.

Mr. Cummings. And whether you let your personal political views, or the personal political views of your wife, cloud your judgment in your role at the FBI.

Mr. McCabe. Yes, sir.

Mr. Cummings. I want to ask you about that, because I'm very concerned about it. You know, I'm sitting here, I'm listening to you, and I'm so glad that you are where you are.

Mr. McCabe. Thank you, sir.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Cummings. In your long and distinguished career at the FBI, have you ever let your personal political views, whatever they might be, influence you in any way with regard to your actions as an FBI agent?

Mr. McCabe. No, sir.

Mr. Cummings. Did you ever let the fact that your wife ran for State Senate, or anything that occurred related to her campaign, influence or impact, in any way, your official actions as an FBI agent?

Mr. McCabe. No, sir.

Mr. Cummings. What is your reaction to those personal attacks against you, and, more broadly, against the FBI as an institution?

Mr. McCabe. Well, you have given me a lot to unpack there.

Mr. Cummings. Let me tell you something. I'm concerned about the tearing down of the reputation of the FBI, and it is painful.

Mr. McCabe. Yep.

Mr. Cummings. Because I think it's an attack on our very democracy. That's my feeling. But I'm just wondering what -- I mean, how the men and women, these men and women who go out every day and give their blood, their sweat, their tears, wondering if they're going to come home, I mean, I'm just wondering how you and how they are affected.

Mr. McCabe. Yeah. So if I could speak just for a minute about my personal experience over the last year. And I'll tell you it has been enormously challenging. My wife is a wonderful, brilliant, caring physician who was drawn to take a run at public life because she was committed to trying to expand health insurance coverage for

COMMITTEE SENSITIVE

the people of the State of Virginia. That was the one and only thing that raised her interest in running for office when she was approached with the possibility of doing so.

And having started with that noble intention, to have gone through what she and my children have experienced over the last year has been -- it has been devastating.

Mr. Cummings. What have they gone through? Because I want to -- I really want to know.

Mr. McCabe. Well, I'm sure you're familiar with --

Mr. Cummings. Just give me a general idea.

Mr. McCabe. Yeah, the constant reiteration of the lies and accusations about things that she allegedly did, or I allegedly did, in support of her campaign, despite the fact that we've consistently tried to tell folks the truth about what happened, has been very, very frustrating.

Mr. Cummings. How old are your children?

Mr. McCabe. I have a 15-year-old and a 13-year-old. They're old enough to know.

Mr. Cummings. All right. I'm going to turn it over to Mr. Nadler, but let me say this before he says what he has to say. I genuinely thank you, from the depths of my heart, for your service. We need more people like you in government. We really do. And I just wanted to thank you.

Did you want to say something?

Mr. McCabe. Sir, I just want to say, despite everything, I have

absolutely no regrets. This is the greatest institution on Earth. The men and women of the FBI do great work every single day in ways that many people will never know. It is an honor to continuously be associated with this organization and those people, and I wouldn't do anything differently in any way.

Mr. Cummings. Thank you very much.

Mr. Connolly. Mr. Chairman, just briefly.

I just want to respond to what your last observation --

Mr. Krishnamoorthi. You got to speak into the mic.

Mr. Connolly. I'm sorry. I wanted to respond to what you just said. First of all, I represent Virginia at this table and I still believe public service is an honorable calling, not something to be condemned. And it is terrible that we've arrived at this point in our polity that in order to win an argument, or try to win an argument, we engage in personal destruction of somebody's good name.

It couldn't be clearer you're an honorable human being, and you've served your country and the FBI honorably. And I just want to assure you there are many of us who will fight for your honor, and will resist any attempt to try to besmirch your good name.

Mr. McCabe. Thank you, sir.

Mr. Nadler. Thank you. Let me just second that and say one of the problems of our politics today is the casting of unwarranted aspersions on the good name and reputation of people, especially government employees, doing a well-motivated and fair job.

Mr. McCabe. Thank you, sir.

Mr. Nadler. Now, Mr. McCabe, earlier, Mr. Gowdy indicated that he hoped that some of his Democratic colleagues would ask questions about the disparate treatment of Hillary Clinton and Donald Trump by the FBI. I am happy to oblige. In September of last year, at an oversight hearing in this room, I asked Director Comey directly, quote: "The FBI acknowledged in public statements and testimony that it was investigating Secretary Clinton's use of a private email server while the investigation was still ongoing. Is there a different standard for Secretary Clinton and Donald Trump? He responded: No. Our standard is we do not confirm or deny the existence of investigations. There is an exception for that when there is a need for the public to be reassured when it is obvious, given our activities, public activities, that the investigation is ongoing," unquote. Mr. McCabe, were you involved in the decision to make public the fact that the FBI was investigating Secretary Clinton.

Mr. McCabe. No, sir.

Mr. Nadler. And do you agree that the public actions of the FBI regarding Secretary Clinton as she was campaigning for President had a potential impact on her ability to get elected?

Mr. McCabe. It's not really my place, sir, to speculate on anyone's prospects for election.

Mr. Nadler. No, not her prospects for election, but that the FBI's actions might have affected it.

Ms. Anderson. The question -- I'm sorry, the question calls for him to speculate about something that's outside the scope of --

Mr. Nadler. Okay. When Director Comey made public statements regarding the investigation of Secretary Clinton, was the purpose ever to impact the outcome of the election?

Mr. McCabe. No, sir.

Mr. Nadler. Did Director Comey try to avoid having an impact on the election? And what steps, if any, did he take for that purpose?

Mr. McCabe. We -- I've got to stop using the word "we." I was aware, and the people that I worked with were aware, of the Justice Department guidelines that specify that we don't take overt investigative activity in the period near to an election. So we talked about things like that frequently. I think Director Comey was very interested in us completing our work in a period of time that would be far enough before the election took place so that we could take whatever steps we needed to take, and do it in a way that would not impact the election.

Mr. Nadler. So the announcement by the FBI, I think by Director Comey, of the investigation, and of the reopening of the investigation, 9 days, or 11 days, before the election, were violations of those guidelines?

Mr. McCabe. So to be clear, sir, I was not involved in the decision to reopen or --

Mr. Nadler. I didn't ask you that. I said, was Director Comey's announcing publicly 11 days before the election a violation of those guidelines.

Mr. McCabe. I was not a participant in any discussions around



that decision.

Mr. Nadler. So you can't answer that?

Mr. McCabe. I can't answer it.

Mr. Nadler. Okay. After the election in March of this year, Director Comey disclosed in public testimony that the FBI had begun an investigation into, quote, "possible coordination between Russians and the Trump campaign," close quote. We understand that that investigation actually began before the election, in July of last year. Is that accurate?

Mr. McCabe. I'm not sure if I can answer that question in this setting because it may call for a classified response.

Mr. Nadler. As to when the investigation began?

Mr. McCabe. That's correct.

Mr. Nadler. Okay. Were you aware of the investigation before the election?

Mr. McCabe. Yes.

Mr. Nadler. Was Peter Strzok aware of the investigation before the election?

Mr. McCabe. And by investigation you're referring to the one that Director Comey described in his testimony?

Mr. Nadler. Yes.

Mr. McCabe. Yes.

Mr. Nadler. Was Lisa Page aware of it?

Mr. McCabe. Yes.

Mr. Nadler. Was the chief of staff, Rybicki -- if that's how you

pronounce it -- aware of it?

Mr. McCabe. Yes.

Mr. Nadler. But no news of that investigation regarding President Trump's campaign leaked out to the press. Are you aware of any leaks before the election?

Mr. McCabe. Of that investigation?

Mr. Nadler. Yes.

Mr. McCabe. I am not.

Mr. Nadler. Okay. Why did the FBI decide not to disclose that the FBI was investigating this issue related to the Trump campaign before the election?

Mr. McCabe. Why did we -- why did we decide not to?

Mr. Nadler. Yes.

Mr. McCabe. I'm not sure that it was a matter that came up for decision. I think it was consistent with our existing policy, which is to never confirm or deny the existence of an investigation with the exception of those special circumstances that Director Comey testified to.

Mr. Nadler. With the exception of the Clinton investigation.

If the FBI had disclosed before the election that it was investigating possible coordination between the Russians and the Trump campaign, would that have potentially had a negative impact on the President's ability -- on the candidate Trump's ability to get elected?

Mr. McCabe. I don't want to speculate on that, sir.

Mr. Nadler. Can't speculate.

Did FBI officials discuss whether to make this investigation publicly known?

Mr. McCabe. I don't believe we ever considered making it publicly known. Not in my presence.

Mr. Nadler. Okay. Why did the FBI decide not to make the fact of this investigation public? Because it was --

Mr. McCabe. Well, as I've said, we never decided not to. That's the default, right? We don't make investigations public unless one of the exceptions apply, which clearly they -- Director Comey decided that they did in the Clinton case.

Mr. Nadler. Which may answer my next question. But I may ask you to be more specific then.

Mr. McCabe. Okay.

Mr. Nadler. Why would DOJ policy on elections counsel against investigative steps letting the public know that the Russian interests were attempting to infiltrate the Trump campaign, yet not block a highly public press conference about an investigation into Hillary Clinton?

Mr. McCabe. I'm sorry. Can you give me the front end of that again?

Mr. Nadler. Why would DOJ policy --

Mr. McCabe. Yes.

Mr. Nadler. -- counsel against investigative steps letting the public know that Russian interests were attempting to infiltrate the Trump campaign, yet not block a highly public press conference about an investigation into Hillary Clinton?

Mr. McCabe. Yeah. I'm not sure I can -- I'm here to interpret DOJ policy for you. My general understanding is that DOJ policy is intended to preclude any activity that can impact an election.

Mr. Nadler. Okay. Director Comey announced by press conference that the FBI would not recommend charges against Secretary Clinton.

Mr. McCabe. That's right.

Mr. Nadler. Were you part of discussions about whether Director Comey should make that announcement publicly?

Mr. McCabe. Yes.

Mr. Nadler. When was the decision made to do it as a press conference?

Mr. McCabe. Not too long before the press conference.

Mr. Nadler. Okay. What were the reasons that Director Comey ultimately chose to make that announcement publicly?

Mr. McCabe. So, to the best of my knowledge, and also without going into classified matters, Director Comey was greatly concerned about how we would make -- just exactly how that process would take place. We discussed, over the course of many weeks, essentially, what does the end look like for this investigation. Not just what are we seeing in the evidence that we're collecting -- I mean, that was a constant topic of conversation amongst the team. We'd meet at least once a week to get a status update in terms of, what had the email exploitation told us, what had we heard back from our partners around the USIC, what were we getting from our interviews. And, ultimately, we would query the investigators and the investigative leadership over

the team to say, where are we? What are you seeing in terms of what evidence do we have of intentional mishandling of documents? And week, after week, after week the answer was we don't have much.

So as that's progressing, we start thinking, okay, what does the end of this investigation look like? It's either going to look like we recommend and the Department chooses to pursue a charge, in which case, that's something we're very familiar with. That's what most investigations look like at the end. Although, in this case there was the possibility that we wouldn't be in a position to recommend to the Department that they pursue a charge. And how would that best be communicated. And Director Comey felt that, for several reasons, that the Department was not in a good position to be able to communicate that in a credible and effective way, in light of all of the intense interest across the country in, where were we, and what was our result going to be.

Mr. Nadler. And that's why he decided to make the announcement publicly?

Mr. McCabe. It is. He decided that, essentially, the Department was not in a position to be able to do that --

Mr. Nadler. He had --

Mr. McCabe. -- for a variety of reasons. And so he felt the best way to do it was the way he did.

Mr. Nadler. I got it. Thank you.

The documents produced by the DOJ show that Director Comey began drafting a public statement for a press conference on May 2nd. The

tarmac meeting between Attorney General Lynch and former President Bill Clinton, which Director Comey says weighed significantly in his decision to call a press conference, did not occur until June 30th, nearly 60 days later. Why did Director Comey prepare a public statement so far in advance of any apparent reason to make a public recommendation?

Mr. McCabe. I think Director Comey, as I just mentioned, was thinking about what does the end look like. And if the end is some sort of a statement, what would he say. It is not uncommon to think through these things, to draft language, to go through a process to understand collaboratively, with the team, if we had to draw a conclusion, what would that look like, how would we say it, what sort of things would we include in that statement. It was a very iterative process.

Mr. Nadler. Thank you.

On July 19, 2016, senior FBI officials gave a high-level counterintelligence briefing to the Trump campaign. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

Mr. McCabe. Not that I'm aware of.

Mr. Nadler. During this meeting, did the Trump campaign disclose that in June, a month previously, senior campaign officials, including

COMMITTEE SENSITIVE

Donald Trump Jr. and Jared Kushner, had met with a Russian lawyer at Trump Tower in response to an email that the Russian Government hoped to help the Trump campaign?

Mr. Schools. Congressman, those are investigative details related to an ongoing investigation that we understood was outside the scope.

Mr. Nadler. No. It's with respect -- the Russian inquiry is outside the scope of this inquiry. But the contacts of the Department of Justice, among other things -- is not. Among other things, the committee is investigating the circumstances surrounding the FBI's decision to publicly announce the investigation into former Secretary Clinton's handling of classified information but not to publicly announce the investigation into campaign associates of then-candidate Donald Trump. This goes to that question, not to whether Russia colluded or whether the Trump people colluded. That is outside the scope. We are not --

Mr. Schools. Respectfully, Deputy Director McCabe has confirmed that the FBI had an investigation ongoing. People were aware of it at that time. Having confirmed that, that seems to be the relevant data point.

Mr. Nadler. No. [REDACTED]. That question would be within the scope of this inquiry I would think.

Chairman Goodlatte. I would agree with the gentleman from New York. It's an appropriate question.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. McCabe. Can you repeat the question?

Mr. Nadler. Yeah. During this meeting -- well, I asked you a question, and I think you answered. [REDACTED]

[REDACTED] I think you said no.

Mr. McCabe. I'm not aware of any.

Mr. Nadler. Okay. During this meeting -- you're not aware of any. During this meeting, did the Trump campaign disclose that in June of 2016, senior campaign officials, including Donald Trump Jr. and Jared Kushner, had met with a Russian lawyer at Trump Tower in response to an email that the Russian Government hoped to help the Trump campaign. Did they reveal it to you?

Mr. McCabe. That would call for a response about a development in an ongoing counterintelligence investigation which would be classified. So I cannot answer that question in this setting.

Mr. Nadler. Okay. And that -- I assume that the next question will be the same. Did the fact that the Trump campaign chose not to disclose this information -- assuming you had said no -- during the meeting with FBI officials that concern you? You can't answer that, obviously.

Mr. McCabe. Again, for the same reason, I can't answer in this setting.

Mr. Nadler. When the did the FBI learn that the Trump campaign had failed -- well, okay. Let me ask you a different question. My next two questions are subject to the same problem.

COMMITTEE SENSITIVE



My last question, really, is, allegations have been made that the FBI investigation is tainted by the fact that Mr. Strzok was -- and various other people, including yourself, are sympathetic to Democrats or to one political faction. Is it proper for the FBI to vet FBI agents for hiring, or to vet FBI agents for inclusion in a specific investigation, according to their private political persuasions?

Mr. McCabe. We do not do that, and I do not believe it would be proper for us to do that.

Mr. Nadler. So that if it turned out that in a given investigation, people were -- there were more Democrats than Republicans, this would not be known to you, and if it were known to you, you couldn't act on it?

Mr. McCabe. I have never known that in my 21 years of conducting and supervising investigations. That is not something that we discuss.

Chairman Goodlatte. The time is up. The 30 minutes are up. Let's take a 5-minute recess and we'll reconvene.

Mr. Nadler. Thank you.

[Recess.]

Chairman Goodlatte. All right. It's now 12:29, and we'll go back on the record.

Mr. Jordan. Would you care if I --

Chairman Goodlatte. Yeah. Go ahead.

Chairman Gowdy. Turn the microphone over in front of you, Jimmy.

Mr. Jordan. So, Mr. McCabe, you had said that you -- you viewed

this as a unique investigation. You gave us a list of folks at the FBI who were part of this unique team. I think the term you used, the jargon at the FBI, or the language at the FBI, is headquarters special. Who made the determination that this would be a headquarter-special type of investigation? Was that ultimately Mr. Comey's decision? Or how was that decision made?

Mr. McCabe. There is no such decision. It's not a -- it's not an official designation. It's not a significant -- not a significant term. It's just merely a way that people within the FBI talk about things that are -- would describe, refer to a case that's managed out of headquarters.

Mr. Jordan. So a case that gets managed out of headquarters, how that is decided, whether it's a headquarters managed case or the field office managed case, is that completely subjective, or are there objective elements you go through to make that determination?

Mr. McCabe. I don't know how they made that determination in this case. It's not -- I don't believe there's a -- there's a specific policy for that, if that's what you're asking.

Mr. Jordan. And is there a specific policy for who gets put on a unique investigation or headquarters special type of investigation?

Mr. McCabe. I don't believe so.

Mr. Jordan. No elements, just sort of ad hoc?

Mr. McCabe. Well, I don't -- there is certainly policies that determine which programs are responsible for which investigations. And so, this would clearly have been within the counterintelligence

program. And so by that designation, you then kind of define some of the people that are going to be working that issue.

Mr. Jordan. Got it.

Mr. McCabe. It's more of a -- kind of an organic process.

Mr. Jordan. You mentioned this is unique, but there have been others. You mentioned I think, specifically, the Hanssen investigation. Was that team, to your knowledge, put together the same way? Was it sort of subjective, people in that area put together? Or was there some elements to determine who, in fact, made that team?

Mr. McCabe. I don't know the answer to that.

Mr. Jordan. Last question I have, Mr. Chairman.

So to have this type of investigation run out of the headquarters and not out of the field office, who ultimately makes that decision? Would that be Director Comey?

Mr. McCabe. No. It would likely be the Assistant Director with the -- in consultation with the EAD, and the Deputy Director, and ultimately, the Director. But it wouldn't be a decision that would have to come to him for approval, if that's what you're asking.

Mr. Jordan. It would have to?

Mr. McCabe. I don't believe it would. But he would, undoubtedly, be involved in the discussion around that.

Mr. Jordan. Okay.

Mr. McCabe. Or at least be made aware of it.

Mr. Jordan. Thank you, Mr. Chairman.

Chairman Goodlatte. Thank you.

Mr. McCabe, did you ever have any discussions with anyone about the political ramifications of charging Secretary Clinton with a crime?

Mr. McCabe. The political ramifications of charging her with a crime?

Chairman Goodlatte. The political ramifications.

Mr. McCabe. I don't believe so.

Chairman Goodlatte. Never? I mean, we've seen a lot of texts and emails that have been released by other people where there's a lot of political discussion going on amongst different folks. But you never had any discussions with anyone regarding the political ramifications with charging the former Secretary of State and then-presidential-candidate Hillary Clinton with a crime?

Mr. McCabe. I mean, we were acutely aware of the fact that she was running for President, and that conducting an investigation in that environment was challenging. But we did not discuss the political ramifications on Hillary Clinton or anyone else.

Chairman Goodlatte. You never talked about whether if we did something, it would have this ramification, if we didn't do something, it would have this ramification?

Mr. McCabe. No, sir.

Chairman Goodlatte. Have you ever had any communications discussing whether it is wise to charge or not charge an individual, based on political considerations, rather than the facts, the evidence, and the law?

Mr. McCabe. I can't imagine making a decision like that

along -- the way you described in the first part of your question.

Chairman Goodlatte. Okay. Are you aware of such conversations or discussions taking place at the FBI during the Clinton investigation, even if you were not involved?

Mr. McCabe. Could you describe the conversations that you're referring to again?

Chairman Goodlatte. I'm talking about conversations where the political ramifications, political considerations, for charging or not charging somebody took place?

Mr. McCabe. Okay. And am I aware of those conversations taking place?

Chairman Goodlatte. Yes.

Mr. McCabe. No, sir.

Chairman Goodlatte. Are you aware of any pressure from the Department of Justice or any other high-ranking Obama administration officials to arrive at a particular result in the Clinton investigation?

Mr. McCabe. No, sir.

Chairman Goodlatte. When did the FBI make the decision not to charge Secretary Clinton, before or after interviewing her?

Mr. McCabe. After, sir.

[McCabe Exhibit No. 1

Was marked for identification.]

Chairman Goodlatte. I call your attention to Department of Justice production Bates number SJC-140, which we are marking as

Majority Exhibit 1. This document indicates that on May 2nd, 2016, Director Comey emailed a draft of his eventual Clinton investigation statement to you, to Jim Rybicki, and to Jim Baker. The penultimate paragraph of the May 2 draft reads as follows: Accordingly, although the Department of Justice makes final decisions on matters such as this, I am completing the investigation by expressing to Justice my view that no charges are appropriate in this case.

Can you see that in the document?

Mr. McCabe. Yes, sir.

Chairman Goodlatte. This paragraph is virtually identical to what Director Comey eventually said more than 2 months later on July 25, 2016, in recommending no charges against Secretary Clinton. It seems to confirm that the FBI, including the Director, had made up its mind not to charge Secretary Clinton before interviewing her. Does it not?

Mr. McCabe. It may seem that way reading it now. But I know that Director Comey had not made up his mind at that time.

Chairman Goodlatte. Why would that be written?

Mr. McCabe. I think Director Comey was working through what that conclusion would look like, and how he would articulate that conclusion if that's, in fact, where we ended up.

Chairman Goodlatte. Did he have a separate one that had exactly the opposite conclusion that he had ready to go too?

Mr. McCabe. No, sir. If we recommended charges, that's a far more conventional result, and I don't believe we would have been in

the same position, thinking that a public statement would have been necessary.

Chairman Goodlatte. I don't see anything even-handed here, though, where it says, well, I haven't made up my mind yet, I've got this version if I make up my mind this way, and this version if I a make up my mind this way. Instead, we have one version, and that version is to not charge. You don't think that reflects that the decision had already been made?

Mr. McCabe. I know that the decision had not been made at that time.

Chairman Goodlatte. This paragraph is -- if not, doesn't it show that the Director had decided, at least as early as May 2, a full 2 months before interviewing Secretary Clinton, the subject of the investigation, not to recommend charges against her? If he hadn't made the decision, he's making some kind of decision if he writes it down like that.

Mr. McCabe. No, sir. I think it reflects that Director Comey thought that that was a possibility at that time.

Mr. Meadows. Mr. Chairman.

Chairman Goodlatte. Yes.

Mr. Meadows. So is this common practice, in normal investigations of every type, to do a memo 2 months ahead of time to lay out what you're going to say with a conclusion? So let's take it outside of this particular person. How many other times does that happen?

COMMITTEE SENSITIVE

Mr. McCabe. No, sir, it's not common.

Mr. Meadows. So this is a unique situation where he did it this one time?

Mr. McCabe. This is the only time I am aware of, sir.

Mr. Meadows. Okay. Yield back.

Chairman Goodlatte. So in exhibit 1, the last full paragraph on the second page, it says: "All told, we found XXX emails that were not among those produced to the State Department last year. Of those, we assess that XXX possibly contained classified information at the time they were sent or received, and so we sent them to other government agencies for classified determination. To date, agencies have concluded that XXX of those were classified at the time they were sent or received, XXX at the secret level, and XXXX at the confidential level. There were no additional top secret emails found. Finally, none of those we found have since been, quote, up-classified. How could he write all of that without having already come to the conclusion that he was not going to indict former Secretary Clinton?"

Mr. McCabe. Well, sir, you're asking me to speculate on what he was thinking when he wrote this draft. I don't think I can do that. I think that -- I do know that these were numbers that we were tracking very closely throughout the investigation. So every --

Chairman Goodlatte. Let me ask you this --

Mr. McCabe. -- every week we would get updated on the numbers that he did not include in this paragraph. And so that was a constantly shifting --

COMMITTEE SENSITIVE



COMMITTEE SENSITIVE

Chairman Goodlatte. Well, I've got that. But before he even knew what those numbers were, he had written a statement that said we're not indicting. Why would he do that?

Mr. McCabe. As I said, sir, I think Director Comey was working through what that conclusion would look like were we to end up there at the conclusion of the investigation.

Chairman Goodlatte. Two months before the investigation --

Mr. McCabe. That's right, sir.

Chairman Goodlatte. -- before she had even been interviewed.

Mr. McCabe. That's right, sir.

Mr. Meadows. Mr. Chairman.

Chairman Goodlatte. Yes, sir.

Mr. Meadows. So if we had made up our mind that you were guilty 2 months before coming here of some wrongdoing, would you find that to be adequate? If I had a document that was prepared that suggested that Andrew McCabe was guilty of something 2 months ahead of time, would you find that suspicious?

Mr. McCabe. That's a hypothetical that I'm probably not in a good position to weigh in on. I'd be surprised at the fact that you were considering my guilt or innocence.

Mr. Meadows. Do you find why the uniqueness of that particular document that the chairman is just talking about, the fact that it is the only time that you're aware of, and you're a career employee of the FBI -- stellar career, by Mr. Cummings -- wouldn't you find that it is so unique that we would only find one example that you can recall,

COMMITTEE SENSITIVE

in this particular case, where this happened?

Mr. McCabe. Where --

Mr. Meadows. Is this case so unique that you would have a prepared document 2 months ahead of interviewing the witness? Is that normal protocol within the FBI?

Mr. McCabe. It is not normal protocol within the FBI to release a statement about a case --

Mr. Meadows. That's not the question I asked, Mr. McCabe.

Mr. McCabe. -- we believed we were going to --

Mr. Meadows. Is it normal protocol -- is it normal protocol to draft a letter by the FBI 2 months before you interviewed the witness to draw a conclusion? Is that normal protocol?

Mr. McCabe. I have not seen that before, sir.

Mr. Meadows. So your answer is no, it's not normal protocol?

Mr. McCabe. I'm not aware of that protocol. I've never seen that. I haven't been through an experience like this in the pendency of my career. So, no, I've never seen that before.

Mr. Meadows. I yield back.

Chairman Gowdy. Deputy McCabe, let me see if we can approach it from another direction. When was Secretary Clinton interviewed?

Mr. McCabe. July -- I'm not sure of the exact date. But it was shortly -- a few days before the statement, before Director Comey made a statement on the 5th.

Chairman Gowdy. So July 5, the statement was made to -- July 3, was that the when the interview took place?

COMMITTEE SENSITIVE

Mr. McCabe. It sounds right, but I can't confirm that. We can. I just don't have.

Chairman Gowdy. July 2. So July the 5th was what day of the week? Do you recall?

Mr. McCabe. I believe that was a Monday, to the best of my recollection.

Chairman Gowdy. All right. I guess what I'm trying to get at is that long list --

Mr. McCabe. It was the day -- I'm sorry. It was the day after the holiday weekend. So it was either a Monday or a Tuesday.

Chairman Gowdy. Right. It was a Monday or a Tuesday. So you got a holiday on July the 4th and maybe a weekend on the 3rd.

Mr. McCabe. Again, best of my recollection, Secretary Clinton was interviewed on the Saturday of that weekend.

Chairman Gowdy. Right, Saturday. And I think the press conference was Tuesday. So we've got Saturday. Then we got Sunday. Then we got Monday, which may have been a holiday. And then we've got Tuesday. That long list that you gave me of people who were part of this investigation, where did y'all meet to discuss her interview and what you got out of that interview before you made the charging decision.

Mr. McCabe. I discussed the results of the interview with members of the team over the phone. And I know that other members of the team met, I think, on Sunday. But I was not a part of that meeting.

Chairman Gowdy. Why would you not have been a part of that

COMMITTEE SENSITIVE

meeting?

Mr. McCabe. I don't recall.

Chairman Gowdy. Was that a meeting to decide whether or not to make a charging decision?

Mr. McCabe. We were all focused on the results of the interview. The results of the interview, as I recall, were not significant. Essentially, we didn't -- we didn't gather anything in the interview that substantially changed our perception that we -- or changed -- spoke to the issue of intent.

Mr. Meadows. Mr. Chairman.

Chairman Gowdy. Yes.

Mr. Meadows. So let me make -- I'm confused. So Director Comey took all this time to draft a document to be well prepared, 2 months ahead of time, interviews the key witness on a Saturday, and your whole team did not get together to actually come up with the results before you had a press conference? How do you reconcile the two of those?

Mr. McCabe. As I have said, I recall participating in a conference call with several members of the team on Saturday, immediately after the interview. I did not participate in a meeting.

Mr. Meadows. Do you not find that -- if we're being so prepared, that 2 months ahead of time, that all of a sudden now what we're going to do is we're going to have a telephone on the most critical, unique investigation that we've had, and we're going to go ahead and spell that on a Tuesday. Would you not think that the whole team would get together and review that?

COMMITTEE SENSITIVE

Mr. McCabe. Sir, all I can tell you is I didn't.

Mr. Meadows. I yield back.

Chairman Gowdy. There are two decisions that I'm really interested in. One is the decision that we've been referencing, which is whether or not it met the statutory elements. The other decision I'm interested in was Director Comey's decision to appropriate the decision away from the Department of Justice. When was that decision made? When was the decision made that the Bureau would handle the announcement of the decision and not the Department of Justice?

Mr. McCabe. Director Comey -- I'm sorry. What was that?

Mr. Brower. I'm sorry. I'm unclear. Excuse me, Mr. Gowdy. What decision? The recommendation decision?

Chairman Gowdy. No. The decision to appropriate the decision away from the Department of Justice. You and I have discussed it is an unusual fact pattern for the Bureau to announce charging decisions. That's typically done by the prosecutor. It wasn't done in this case. At some point, Director Comey made the decision that he was going to have a press conference and announce the decision on charging. When was the decision to take it away from the Department of Justice made?

Mr. McCabe. I don't know the exact -- I can't give you an exact date when Director Comey decided to make a public statement rather than just conferring his recommendation to the Department privately. I don't know the exact date of that. It was something that he began discussing with a -- with a group of us a few weeks before he made the statement.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Chairman Gowdy. But it had to be before May, or there would be no need to draft what's a pretty unusual press statement.

Mr. McCabe. I don't believe that Director Comey had made the decision to go forward with the statement at the time he made the draft. I think Director Comey --

Chairman Gowdy. A lot of time --

Mr. McCabe. -- was examining it as a possibility. It was something he was considering. But if you're asking me when he decided to go forward with the statement, rather than a communication to the Department, I don't know the date of that.

Chairman Gowdy. Deputy Director, it's not just a decision. It's an unprecedented decision. I cannot think of another fact pattern where a SAC appropriated the charging decision to himself and excluded the Assistant United States Attorney or the United States Attorney. So it's not unusual, it's unprecedented. So that's a lot of effort to be put into something that you haven't decided to do yet.

Mr. McCabe. Is that a question?

Chairman Gowdy. Sure.

Mr. McCabe. Well, I don't -- I don't know that I agree with your premise that Director Comey appropriated the decision to charge from the Department of Justice. Director Comey made the decision to make public his recommendation to the Department that we did not collect the evidence necessary to support a charge.

Chairman Gowdy. You and I both know that those are distinctions that don't make a difference. When the head of the world's premier

COMMITTEE SENSITIVE

law enforcement agency tells the world, we don't have sufficient evidence on an indispensable element of the offense, there is no way to go forward. There is no prosecutor good enough to win that case, when the head of the investigatory entity has already concluded we don't have an essential element. So his press conference was the decision. And I want to know when he made the decision to have the press conference.

Mr. McCabe. I would say in the days -- as I said before, in the days immediately preceding the press conference.

Chairman Gowdy. Well, then why were you drafting a memo in May?

Mr. McCabe. I was not drafting a memo in May. Director Comey drafted and shared a memo in May. The best I can tell you, sir, is to my understanding, from my perception, at that time, Director Comey was working through, in his own way, what that conclusion would look like if that's where we ended up at the end of the case.

Mr. Ratcliffe. Mr. Chairman.

Chairman Gowdy. Yes.

Mr. Ratcliffe. Deputy Director, you just said that you believed that Director Comey made that decision in the days before the press conference was actually held. That's entirely consistent with what Attorney General Lynch testified under oath. She said she took herself out of any decision-making following the June 30th tarmac meeting. To her words, she said she cast a shadow of a doubt on the integrity of the Department of Justice. Likewise, Director Comey gave sworn testimony before various congressional committees that said that

tarmac meeting led heavily into his decision to hold the press conference and to appropriate this decision. All of that lines up.

What it doesn't line up with is his own memo of May the 2nd, where he says, more than a month before that, "If I decided to do an FBI-only press event," how do you reconcile that? How do you reconcile this with the sworn testimony, under oath, of then-Director Comey, Attorney General Lynch, and yourself?

Mr. McCabe. Sir, all I can do is point you to Director Comey's language in which he says, I've been trying to imagine what it would look like if I decided to do an FBI-only press event. And my understanding is that at that time, that's what he was doing.

Mr. Ratcliffe. You received this memo on the 2nd. And then you just testified under oath he made that decision a few days before. He testified under oath that he did as well. So did the Attorney General. It's inconsistent with that. Your own testimony today is inconsistent with it.

Mr. McCabe. I don't believe that the memo indicates that he had made the decision to go forward with the press event at the time he drafted the memo. I think the memo says, as I interpret it, that he was thinking through what that would look like and what he would say, but he hadn't made the final decision to do it.

Mr. Ratcliffe. Okay. So it sounds like you can't reconcile that.

Can you reconcile --

Mr. McCabe. That's what I said. But --



Mr. Ratcliffe. Can you reconcile for me how the language in this memo, the very specific language about Hillary Clinton not acting intentionally but only acting carelessly, or being careless with respect to the handling of classified information, and that she didn't intend to harm our national security, the language in here, in this May 2nd memo, is exactly the same language that President Obama used publicly a month before, on April the 10th?

Mr. McCabe. I'm not aware of that.

Mr. Ratcliffe. Can you reconcile that, how he would have used that exact same language publicly?

Mr. McCabe. I can't explain to you why Director Comey chose to use the language he did.

Chairman Goodlatte. Let me follow up on this. So your testimony is that this was all just speculation on the Director's part, that this would be one alternative, not just the decision, but also that it be an FBI-only decision?

Mr. McCabe. I think what I have said, sir, is that at this time, he was exploring this. As I read the document and recollect our exchanges, he was exploring this as an option. I don't believe he had made the final decision to do this at that time.

Chairman Goodlatte. Well, I guess the final decision isn't final until you get there. But all of this took place before Secretary Clinton was interviewed, correct?

Mr. McCabe. That's correct.

Chairman Goodlatte. Let me ask you this: How many other

COMMITTEE SENSITIVE

witnesses were interviewed by the Bureau after this memo was written?

Mr. McCabe. I don't know the answer to that, sir.

Chairman Goodlatte. Was it more than 10?

Mr. McCabe. I don't know. I wouldn't want to speculate. We can certainly find that out. I just don't know.

Chairman Goodlatte. More than 20?

Mr. McCabe. I don't know, sir.

Chairman Goodlatte. I do know. It's more than 20, in fact. Why would the Secretary do that with more than 20 witnesses ahead and the subject of the investigation?

Mr. McCabe. Why would the Secretary do that?

Chairman Goodlatte. Why would the Director do that?

Mr. McCabe. As I've said, sir, I think I've been pretty clear about my understanding of what Director Comey was trying to do with the memo.

Chairman Goodlatte. And I guess in answer to my earlier question, let me ask you again, to your knowledge, was there an alternate draft statement recommending that Secretary Clinton be charged?

Mr. McCabe. Not to my knowledge, sir.

Chairman Goodlatte. Did you edit this statement before it was finalized?

Mr. McCabe. I did not.

Chairman Goodlatte. Did you comment on it?

Mr. McCabe. I'm sure I was present when we discussed it, but I

COMMITTEE SENSITIVE

don't remember specific comments that I made.

Chairman Goodlatte. Did you or anyone else see a problem with drawing a conclusion about the investigation before interviewing the subject of the investigation and nearly two dozen other witnesses?

Mr. McCabe. We had many, many discussions about every aspect of the case. I don't remember discussing that specifically, but it's possible.

Chairman Goodlatte. Well, leaving aside the fact that the statement by the FBI was, as Mr. Gowdy says, unprecedented, are you familiar with any other criminal investigation where before two dozen witnesses were interviewed, and the subject of the investigation was interviewed, that you were sitting around talking about how you would say that the Secretary is not going to be indicted, or that the subject of the investigation is not going to be indicted?

Mr. McCabe. I think it's fairly common for investigators to discuss where they think they are in a case and to assess the evidence that they've collected at that point, wherever that point might be when they have that discussion. So I think that is fairly common. As I've said --

Chairman Goodlatte. But it's not common to get all the way to the conclusion or the remarks that would be used in the conclusion at that point.

Mr. McCabe. Again, I don't -- I think I've been clear that I do not believe that Director Comey had made a decision about the conclusion of the case during the draft of the memo.

Chairman Goodlatte. Well, then who included that paragraph about no charges are appropriate? Was that the Director or was that somebody else?

Mr. McCabe. All I know, sir, is the -- the draft that the Director circulated. I assume that's his product.

Chairman Goodlatte. The paragraph that reads: "Accordingly, although the Department of Justice makes final decisions on matters such as this, I am completing the investigation by expressing to Justice my view that no charges are appropriate in this case."

Mr. McCabe. That's the draft that was --

Chairman Goodlatte. That was done by --

Mr. McCabe. -- sent to me by Director Comey.

Chairman Goodlatte. Sent to you by Director Comey.

Mr. McCabe. Yes.

[Majority Exhibit No. 2

Was marked for identification.]

Chairman Goodlatte. I called your attention to Department of Justice production Exhibit Bates number SJC-5, which we're marking as Majority Exhibit 2. This document shows that on May 6, 2016, you emailed a draft to Director Comey's statement to four individuals, William Priestap, Peter Strzok, [REDACTED], and an individual whose name is redacted. Your email states that the Director asked you to share this with those four, but not any further. Who is the fourth person with whom you shared that draft?

Mr. McCabe. I don't know, sir. But it is our practice to redact

the names of individuals who are not SES-level employees of the FBI in these sort of productions.

Chairman Goodlatte. And who would have done that redaction?

Mr. McCabe. I don't know. I mean, I'm not sure where this one came from.

Chairman Goodlatte. It's an unclassified document. I mean, I don't see any reason why that name would not be shared. It's a pretty high-level --

Mr. McCabe. As I've just stated, sir, that's just a -- as I understand it, our Bureau policy is we redact the names of non-SES-level persons.

Mr. Meadows. Mr. Chairman.

Let me be clear, we don't abide by your Bureau policy. And so let me be further clear. If it was so important to share with only a handful of people, then it is critically important we know who the other person is. And so do you have any reason, other than Department policy, to not share that information with this group? Because you can't have it both ways, Mr. McCabe.

Mr. McCabe. I'm sorry?

Mr. Meadows. You can't have it both ways. You can't say that they're so important to actually opine on the valid reason unless it's a classified individual that we need to go into a classified setting to understand.

Mr. McCabe. Sir, I don't know -- I don't know whose name is underneath the redaction. I can simply tell you our normal process

is to redact the names of people who are not SES-level officials. If you would like to know who that person is, I am happy to take that request back, discuss it with the General Counsel, and we'll get you an answer.

Mr. Ratcliffe. Chairman.

Chairman Goodlatte. Go ahead.

Mr. Ratcliffe. Deputy Director, I hope you understand why we want to find out the folks that were involved in --

Mr. McCabe. I do.

Mr. Ratcliffe. -- making these edits. Because, clearly, based on this you were being asked to edit what would be the final product from May the 2nd, Comey's first email on this. My question is -- I'm not calling for a legal conclusion here. The statute very clearly -- and, in fact, this May 2 email says, "violation of Federal statute makes it a felony to mishandle classified information either intentionally or in a grossly negligent way." But you have repeatedly said we weren't finding evidence of intent. At what point were you told that intent was the element that you were focusing on, and grossly negligent wasn't going to be enough for the team to then begin editing to that point?

Chairman Goodlatte. Before we get into that whole subject, our time is just about up. I want to ask one more question related to this redaction, if I may. After the redaction, it has OGC.

Mr. McCabe. Yes, sir.

Chairman Goodlatte. So that's the Office of General Counsel?

Mr. McCabe. That's right.

Chairman Goodlatte. So would that have been Lisa Page?

Mr. McCabe. I don't know who it is. It is possible it could be. That's certainly possible, but I don't want to confirm for you --

Chairman Goodlatte. You don't know or you don't recall?

Mr. McCabe. I don't recall. I don't know as I sit here today.

Chairman Goodlatte. Because you prepared this document.

Mr. McCabe. That's right, sir, on May 6, 2016.

Chairman Goodlatte. Got it. Okay. So you will take back to the Department our request that we find out whose name is on --

Mr. McCabe. Yes, sir.

Chairman Goodlatte. -- the redacted thing.

Our time has expired.

Mr. Johnson of Georgia. Thank you for your appearance today, sir. In your opinion, was the final statement of Director Comey that was given on July 5th factually accurate?

Mr. McCabe. Yes, sir.

Mr. Johnson of Georgia. Let me ask you about deposition exhibit no. 1. The outline of what Director Comey would say on July 5 is pretty much incorporated in this document. Is that correct?

Mr. McCabe. It is substantially similar to what he actually said on the 5th.

Mr. Johnson of Georgia. What percentage of the emails that the FBI secured from Clinton, what percentage of those emails had been reviewed prior to May 2, 2016?

Mr. McCabe. Sir, I can't give you a specific percentage. But

I can tell you it's the vast majority.

Mr. Johnson of Georgia. And so it was already known at that time what those emails would be classified as, either top secret, secret, whatever?

Mr. McCabe. Yes, sir. With the very small exception of if we were still engaged in discussion with one partner about one or two emails. I mean, the numbers were changing in very, very small ways. There was some flexibility, but it was not substantial.

Mr. Johnson of Georgia. So the email investigation had pretty much been wrapped up as of May 2. Is that correct?

Mr. McCabe. The majority of the emails we looked at had already been looked at by that point.

Mr. Johnson of Georgia. Can you explain to us why were DOJ officials not copied on the email that is Deposition Exhibit 1?

Mr. McCabe. Sir, I don't know why Director Comey didn't include anyone from the Department on that email.

Mr. Johnson of Georgia. You had already testified today that senior officials of DOJ were not involved in the day-to-day aspects of the investigation, correct?

Mr. McCabe. That's correct, sir.

Mr. Johnson of Georgia. And there were some lower-level DOJ officials who were involved.

Mr. McCabe. That's right.

Mr. Johnson of Georgia. And why was it that the higher level DOJ officials were not involved in the day-to-day investigation?



Mr. McCabe. My understanding, sir -- and I was not there when this decision was made -- but it was later explained to me that they had decided at the outset of the case that the Attorney General, and the DAG, and Mr. Carlin, because of the nature of their political positions, would not be involved in a day-to-day way on the case.

Mr. Johnson of Georgia. All right. Did you have any concerns at all with the content of deposition exhibit No. 1? Did you then and do you now?

Mr. McCabe. With the content of what he said in the email?

Mr. Johnson of Georgia. I'm sorry. The final -- the statement that Director Comey made on July 5th.

Mr. McCabe. Yes, sir.

Mr. Johnson of Georgia. Did you have any problems with its content then or now?

Mr. McCabe. No, sir.

Mr. Johnson of Georgia. Did anyone on the team express any concern or disagreement with respect to the content of that July 5th statement by Director Comey?

Mr. McCabe. Sir, we had many, many conversations about this case. We met almost on a daily basis, every couple days, certainly. We were constantly getting updated on everything from the email exploitation to what was happening in the interviews, everything else.

And we kept a very close watch over our understanding of what the case looked like and the quality of the evidence and the fact that we didn't have the, quote/unquote, smoking gun that would show intent in

a way that would have made us think differently about the case.

I can't sit here and tell you that over the course of those probably daily conversations leading up to his statement, that people didn't have conflicting views and offer alternative thoughts about it. They may have.

But by the time Director Comey went forward with his statement, I can tell you that there was complete consensus across the team about how we looked at the case, how we understood the quality of the evidence in the case, the fact that we did not believe it was appropriate to pursue charges.

Our recommendation to the Department would be that we did not think there was appropriate charges to pursue. That was the broad consensus of all the folks on the team.

So when Director Comey made that statement on the 5th, the team was fully aware of it, and I'm not aware of any disagreements with it.

Mr. Johnson of Georgia. Now, with respect to Secretary Clinton's interview on July 2nd, did it provide the FBI with any new or significant relevant information about the investigation?

Mr. McCabe. No, sir, it did not. It confirmed much of what we had learned about the Secretary during the course of the investigation. She confirmed her practices and habits with technology, with use of email, her really fairly -- I don't to characterize. She's not an IT person, if you understand what I'm saying.

And, no, she didn't -- she didn't change -- she didn't say anything in the course of that interview that changed our understanding

of her and her involvement in the use of the email system.

Mr. Johnson of Georgia. And if she had said anything that would have provided you with new or significant information, it would have changed the July 5th statement by Director Comey. Is that true or false?

Mr. McCabe. That's true, sir.

Had she said something, we would have considered what she said and been completely open to any possible path forward.

Mr. Johnson of Georgia. So how long was that interview with Hillary Clinton, by the way?

Mr. McCabe. I don't know the answer to that, sir. I don't recall.

Mr. Johnson of Georgia. All right. Did you feel that a telephone conference call after the Hillary Clinton investigation -- or, excuse me, the Hillary Clinton interview -- was the telephone consultation that you were a part of, did you feel that that was sufficient in terms of a discussion of what occurred during that interview?

Mr. McCabe. I did, sir. I felt the team very clearly articulated to me their position, their observations, and conveyed the thoughts of the Department attorneys who were present for the interview, both the results of the interview and what they thought of those results, which was that they did not come across anything significant that -- I'm sorry, am I not speaking loud enough?

Mr. Johnson of Georgia. Did you think at that time that the

discussion on the telephone conference about what was learned during the Hillary Clinton interview established a need for a more formal meeting with the team?

Mr. McCabe. No, sir.

Mr. Johnson of Georgia. I'll yield to my colleagues.

Ms. Jayapal. Director McCabe, I want to say thank you very much for your exemplary and distinguished service.

Mr. McCabe. Thank you.

Ms. Jayapal. And I think we'll come back to this. But your passion for the work you do and for the protection of our country is truly remarkable.

Mr. McCabe. Thank you.

Ms. Jayapal. And I'm glad you are where you are.

Mr. McCabe. Thank you.

Ms. Jayapal. I want to continue on this line of questioning.

This memo, deposition exhibit No. 1, is addressed to you and two other people.

Mr. McCabe. Yes.

Ms. Jayapal. Could you tell us who those two other people are for the record so that everybody understands?

Mr. McCabe. Yes. One is James Baker, who is the general counsel of the FBI, and one is James Rybicki, who is the Director's chief of staff.

Ms. Jayapal. Would you say that these three individuals, yourself included, are at the highest levels of the FBI in terms of

consultation to the Director?

Mr. McCabe. Yes.

Ms. Jayapal. And, Mr. McCabe, is it -- was it unusual for him to consult with his top level teams about very difficult matters that he was facing?

Mr. McCabe. No. No. That was very typical. Director Comey is a very collaborative leader and somebody who relied on the kind of give-and-take of ideas and difference of opinions. So he -- that was his practice.

Ms. Jayapal. So were you surprised to get this memo from him in terms of, you know, his questioning to the people that he trusted the most, at the highest levels of the FBI, including his legal counsel, about a very difficult investigation that the FBI was conducting?

In your words, you used "unique" earlier. I think you were trying to say that the conditions surrounding the investigation with a Presidential candidate was unique. Did it occur to you as unusual in any way, unprecedented in any way?

Mr. McCabe. The fact that he would discuss an issue like this, in a case like this, with the small group of people, was typical. That didn't surprise me.

I don't know that I expected to receive a draft of a statement on the day that I received this. But, nevertheless, Director Comey, as I stated, relied on -- you know, frequently relied on myself, Mr. Baker, Mr. Rybicki, and others when he was still working on and thinking about his path forward on any number of challenging issues.

Ms. Jayapal. And you have said that this memo was really about that, thinking about his path forward. And I direct you to deposition 2, page 2. And you say -- this is your response as you forwarded the email on to four individuals -- you said, "The Director composed the below strawman in an effort to compose what a 'final' statement might look like. This was really more of an exercise for him to get his thoughts on the matter in order and not any kind of a decision about venue, strategy, product, et cetera."

So let me ask you, Director McCabe, again, do you stand by what you said in that email?

Mr. McCabe. I do, yes.

Ms. Jayapal. Was there a decision that had been made at that moment and then somehow Director Comey delayed it by 2 months, or was he just testing out his thinking around a very difficult case, one that involved a Presidential candidate at the time?

Mr. McCabe. Yes. If I could explain.

As I said earlier today, we spent a lot of time discussing -- thinking about and discussing that issue of, what does the end of this case look like?

There's essentially two alternatives. One of them is very traditional. That didn't require a draft statement or a lot of thought. If we were in a position to go to the Department and say, "We believe that" -- "Here's the evidence we've collected, we believe it supports the following charges," and we proceed towards prosecution, there is no public statement about that. The indictment, the

affidavits, those things stand on their own. So you didn't need to think through what the end looked like if the decision had been to pursue charges.

On the other hand, a highly unusual, unique set of facts that we found ourselves, the Director felt, in light of the fact that the existence of the case was already public, the world was essentially focused on it, constantly speculating on what were we doing, when would we end it, what would the decision be, how would they hear about it, he felt the need to think through, if that's where we end up, how do I do that? Who best to make the statement? What would the statement say? How are we thinking about the case right now?

Ms. Jayapal. And let me ask you, because, you know, certainly people on both sides of the aisle have felt different ways about Director Comey at various times, but let me ask you if you think it is an asset for a Director to, in very difficult situations, consult with people that he trusts, a small team, so that he is sure that he is getting the best amount of information about a particular issue. Is that, in your opinion, a good quality for a Director to have?

Mr. McCabe. I think it's a good quality for any leader to have.

Ms. Jayapal. And do you do that --

Mr. McCabe. I do.

Ms. Jayapal. -- Mr. McCabe?

Mr. McCabe. I do.

Ms. Jayapal. With your top deputies in decisions that are very, very tough?

Mr. McCabe. Yes.

Ms. Jayapal. So, Mr. McCabe, do you think that there's anything in these two deposition items that is worthy of note in any way, shape, or form?

Mr. McCabe. Not to me. I mean, I -- you know, I -- as I said, I -- look, I understand that the announcement in July on this case was something that was -- has been described by Mr. Gowdy as unprecedented. It was -- it was not normal course of business for us. But we were far from normal business at that moment.

And I understand that people have very strong and very different opinions about whether or not we should have conducted our business that way. And that's, as I said, perfectly reasonable, perfectly understandable.

Ms. Jayapal. Do you think it was also unprecedented that the FBI was, in fact, investigating both Presidential candidates at the same time?

Mr. McCabe. I am not aware of that ever happening before.

Ms. Jayapal. And do you think it is -- do you think it's unprecedented that Director Comey made an announcement 11 days before the election about the reopening of an investigation into Hillary Clinton's emails and then, just a few days after that, ended up saying, actually, we've gone through the emails, and there was nothing there?

You can disagree or agree, but I'm just asking you about whether you think that was unprecedented, that 11 days before an election he would choose to comment on an open investigation into a Presidential



candidate.

Mr. McCabe. Again, I can't speak to what he thought around that decision because I was not a part of that decision. But I am not aware of any Director ever having been stuck in quite a similar situation or handling it a similar way.

Ms. Jayapal. Thank you.

And I will yield to my colleague.

Mr. Krishnamoorthi. Thank you very much. And thank you for your service to our country.

Mr. McCabe. Thank you.

Mr. Krishnamoorthi. First of all, did you harbor any bias in the handling of the investigation into Hillary Clinton's emails?

Mr. McCabe. Absolutely not, sir.

Mr. Krishnamoorthi. Do you believe that Secretary -- Director Comey harbored any bias in this particular investigation?

Mr. McCabe. No, sir.

Mr. Krishnamoorthi. Are you aware of anybody who harbored any political bias at the FBI in investigating Hillary Clinton's emails?

Mr. McCabe. I was not aware of any political bias during the course of that investigation in any way whatsoever.

Mr. Krishnamoorthi. Have you seen any evidence in your 21 years at the FBI of anybody harboring political bias in their investigation of any subject matter at the FBI?

Mr. McCabe. The short answer, sir, is no. I am aware of the work

of the inspector general right now on two people who were formerly members of this team and part of the special counsel's team. I'm not going to weigh in on that investigation.

But putting that, the inspector general's work aside, no, sir, I am not aware of political bias playing a role in FBI decisionmaking.

Mr. Krishnamoorthi. What is -- if you did see evidence of any political bias, what would you do in that situation?

Mr. McCabe. I mean, as the supervisor, a leader of people who you suspected of having a political bias that could in any way taint the investigation they were involved in, you would remove those people from the investigation.

Mr. Krishnamoorthi. So there's a self-correcting mechanism within the FBI to remove taint of political bias in the investigation of any subject matter that comes before the FBI. Isn't that right?

Mr. McCabe. That is correct.

Mr. Krishnamoorthi. And what would you say to the charge that the FBI and this investigation of Hillary Clinton's emails are infected with bias, as one of my colleagues charged the other day?

Mr. McCabe. It is not correct, sir.

Mr. Krishnamoorthi. What would you say to the charge that you are corrupt and that the management of the FBI is corrupt in the investigation of Hillary Clinton's emails?

Mr. McCabe. That is absolutely incorrect and offensive.

Mr. Krishnamoorthi. What would you say to the charge that the FBI had lost confidence in Director Comey before he was fired by the

President?

Mr. McCabe. That is not true, sir.

Mr. Krishnamoorthi. Thank you, sir. Thank you for your service to our country and your honesty in answering these questions.

Mr. McCabe. Thank you, sir.

Mr. Raskin. Mr. McCabe, I want to also issue my thanks for your honorable service to our country. And you bring me back to my days as an assistant attorney general working with law enforcement officers who have your kind of dedication and commitment to the rule of law.

I want to ask, have you done political corruption investigations in the course of your career?

Mr. McCabe. I have overseen political corruption investigations. I was never the case agent investigator on a political corruption case.

Mr. Raskin. Okay. And those are sensitive investigations. Would you agree?

Mr. McCabe. They are.

Mr. Raskin. The targets of them will be either Democrats or Republicans or independents. They'll have some kind of political affiliation.

Do you assign agents in a case like that based on the political party registration or affiliation of the agent?

Mr. McCabe. No, sir. We don't ask the political party or affiliation of our agents.

Mr. Raskin. Okay. And so that would be considered an

illegitimate thing to do, to assign Democrats to just investigate a Republican or Republicans to investigate a Democrat. You don't look into that?

Mr. McCabe. No, sir, not at all.

Mr. Raskin. Okay. There's been much made of these text messages that were sent by an agent named Peter Strzok --

Mr. McCabe. Yes, sir.

Mr. Raskin. -- if I'm pronouncing it correctly.

Mr. McCabe. You are.

Mr. Raskin. We had a, you know, a whole hearing that was pretty much taken over by that discussion. And there's been much in the news about Mr. Strzok, who seems to have disliked politicians across the board. He called Bernie Sanders an idiot. He called Donald Trump an idiot. He had harsh words for the former Governor of my State, Martin O'Malley.

Were you involved in the decision to remove Peter Strzok from the special counsel investigation?

Mr. McCabe. Yes.

Mr. Raskin. And how did it come to the attention of his superiors that these text messages existed?

Mr. McCabe. On July 27th of this year, as I was serving as acting director, I was contacted by the attorney -- I'm sorry -- the inspector general's office at the Department. They asked me -- they said they had a very important matter for me to review and they needed me to come across the street and talk to them that day, which was unusual.

COMMITTEE SENSITIVE

Mr. Raskin. You learned of it on July 27th?

Mr. McCabe. I did.

Mr. Raskin. And then at what point was he removed from the investigation and reassigned?

Mr. McCabe. I made the decision to remove him from the investigation that evening.

Mr. Raskin. That very day you decided to remove him?

Mr. McCabe. I came back from my meeting with the inspector general. I met with a very small group of my fellow leaders. We discussed Peter's reassignment, and we discussed where we would place him.

Mr. McCabe. Okay. Now, just to take the devil advocate's position, someone might have said, well, he expressed very vigorous criticism and opinions of Governor O'Malley, of Bernie Sanders, of Donald Trump, other people. Why was he not entitled to those private opinions expressed in the texts? Could he have made the argument that it didn't affect his public performance?

Mr. McCabe. He certainly could and he certainly may. What I knew at that point was that the inspector general was investigating Mr. Strzok and Ms. Page for potential political bias. And simply the existence of that investigation I felt was -- could place in jeopardy the work of the special counsel's team, and I did not -- I could not possibly take that risk.

Mr. Raskin. Did you think it created the appearance of potential bias on the part of someone working on the team?

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. McCabe. It could possibly, potentially, on what -- depending on what the inspector general concluded at the end of his investigation.

So during the pendency of that investigation, I made the decision that Peter should not be involved in the work of the --

Mr. Raskin. And finally, did he in any way contaminate the entire investigation with bias because of those private texts that he sent to his --

Mr. McCabe. Not in any way that I am aware of, sir.

Mr. Raskin. Thank you very much.

I turn it over to Mr. Cicilline.

Mr. Cicilline. I want to begin, Mr. McCabe, by thanking you not only for your extraordinary service to our country, but for being here today. And I think many of us regret profoundly that you are being subjected to this set of questions and want to just reaffirm our strong confidence in the FBI and the integrity of the agency.

I want to just begin, there seems lot of discussion about the memorandum that Director Comey prepared. Based on my reading of it, it was some -- in an ongoing effort to sort of organize his thoughts and begin to think about the conclusion of the investigation. Is that a fair way to characterize it?

Mr. McCabe. I think it is.

Mr. Cicilline. And that is not -- that idea of sort of beginning to write down your thoughts as a way to help organize, both organize the evidence you've already collected, determine whether or not there's

COMMITTEE SENSITIVE

holes in the evidence that you need to address, or if you haven't sort of thought things through in their full context, it's not an unusual exercise for an investigator, is it?

Mr. McCabe. No. And, in fact, it's a fairly common exercise for a prosecutor, which Director Comey is a prosecutor by trade, not an investigator. And typically they will draft what's known as a prosecution memo.

Mr. Cicilline. And sometimes that prosecution memo is generated and then shared with others for their kind of reaction to it, for them to identify things they think are well done in it or questions they have. Is that --

Mr. McCabe. I would assume so, yes.

Mr. Cicilline. Okay. And there's -- in fact, that kind of process of being thoughtful and deliberative and beginning to think about how you would organize your thoughts coming as you're approaching the end of an investigation is something I would expect that you would encourage investigators to do.

Mr. McCabe. Yes, sir.

Mr. Cicilline. And why is that?

Mr. McCabe. I expect my investigators to know where they are in a case. I receive updates on investigations all the time, hundreds of different investigations. And in those investigations, the investigators and their supervisors tell me, What do we have? Where do we think we are? What do we have so far? And where are we going?

Mr. Cicilline. Okay. So this excitement from some of my

Republican colleagues about the fact that this kind of outline of his thinking was done in May and a final decision wasn't articulated until July, do you attach any significance to that other than a cause for some excitement from some political partisans?

Mr. McCabe. I don't want to speculate on others' excitement.

Mr. Cicilline. I'm sorry. I've done it. I'll withdraw that question.

Mr. McCabe. Yes, sir.

Mr. Cicilline. Not fair.

Mr. McCabe, was there any effort at the FBI to stop Donald Trump from being elected President of the United States?

Mr. McCabe. No, sir.

Mr. Cicilline. Is there any effort at the FBI currently to launch a coup against the President of the United States?

Mr. McCabe. No, sir.

Mr. Cicilline. And do you agree with the intelligence community's assessment of Russia's interference in the 2016 election?

Mr. McCabe. I do.

Chairman Goodlatte. I want to caution against getting too far into this issue of --

Mr. Cicilline. Yeah.

And one final question -- let me first yield to Mr. Raskin.

Mr. Raskin. You've come under attack in a way that you've described as having devastating consequences for you and your family.

Are you allowed publicly to respond to that under the rules of



the FBI?

Mr. McCabe. No, sir.

Mr. Raskin. So you can't have a press conference to say that there are a bunch of falsehoods that are being uttered about you or your family.

Mr. McCabe. That's not how we do our business, sir.

Mr. Krishnamoorthi. So are there a bunch of falsehoods being uttered about you?

Mr. McCabe. Yes, sir.

Mr. Krishnamoorthi. I thought so.

Mr. Cicilline. Could you speak, Mr. McCabe, a little bit more about that.

We are seeing -- we've seen it in this committee, we've seen it on television -- what appears to be an intentional campaign to undermine the work of the FBI, the professionalism of the men and women who risk their lives to keep our country safe, and even the Department of Justice.

Would you talk a little bit about what the impact of that is on the agency and the danger you think it poses -- if you think it poses any danger -- to the rule of law in this country?

Mr. McCabe. You've asked quite a lot there.

First, as I have said before, the men and women of the FBI remain committed to the most righteous mission on earth, and that is protecting Americans wherever they are, in whatever they do, and upholding the Constitution.

COMMITTEE SENSITIVE

I have no doubt that the men and women of the FBI will remain committed to and continue to execute that mission in an effective and professional and independent way.

So that's what we do. That's our job. No matter what anyone says or how -- what directions the winds blow around us, we will stay focused on that mission and continue doing that job.

Mr. Krishnamoorthi. How important is morale of the FBI to its effectiveness in -- as an organization?

Mr. McCabe. Morale is important everywhere.

Mr. Krishnamoorthi. And how have the recent charges against you and the FBI affected morale?

Mr. McCabe. FBI employees don't like to be the center of attention. FBI employees don't like it when they see themselves, their colleagues, or their organization discussed in inflammatory or controversial ways about anything -- about the Clinton case, about any of the allegations that are currently making their way through the media.

So that is a -- can be a distracting and disruptive thing. But nevertheless, because of their dedication and their commitment to what we do, they stay focused on the job we have to get done.

Mr. Krishnamoorthi. Do the allegations against you and the FBI enhance the FBI's ability and effectiveness as an organization?

Mr. McCabe. That's a hard question for me to answer, sir.

We will get this job done. As I said to the Senate Intelligence Committee months ago, nothing will stop the men and women of the FBI

COMMITTEE SENSITIVE

from doing the right thing. That applies to me as much as it does to all of my 36,500 colleagues.

Mr. Johnson of Georgia. Did Director Comey have authority from DOJ to conduct his July 5th press conference and announce the findings of the FBI investigation?

Mr. McCabe. He did not.

Mr. Johnson of Georgia. Why was that?

Mr. McCabe. Director Comey made the decision to make that statement without clearing it with the Department of Justice first.

Mr. Krishnamoorthi. And that was because they were politically affiliated with Hillary Clinton, correct?

Mr. McCabe. Director Comey did not want anyone to be able to say that the Department in any way affected how we felt about the case and how we assessed the case. He very much wanted that statement to stand as the FBI's perspective on what we did and what we learned. And that would, of course, be the foundation of our recommendation to the Department of Justice.

Mr. Raskin. There was a moment, Mr. McCabe, when the FBI was truly politicized under J. Edgar Hoover, when there were attempts to disrupt the civil rights movement, Dr. King, the COINTEL program.

What was learned from that period of its history that informs what's taking place today?

Mr. McCabe. Well, I'll just say that we, like every organization, have made mistakes. And I'd like to think -- I do believe that we've learned from those mistakes.

We understand the importance of maintaining our independence from the political process. We only have one political position in the entire organization, and that is the Director. And that is just one kind of overt representation of the importance of maintaining an organization of independent professionals.

Mr. Cicilline. Can I follow up? One final question?

Chairman Goodlatte. Thirty minutes are up. We're going to recess for lunch. We'll return after the series of votes, which is coming up fairly soon.

[Recess.]

[2:42 p.m.]

Chairman Gowdy. Welcome back, Deputy Director McCabe.

When you and I were last talking, my notes reflect -- I have the words "challenges" and "frustrations." And I think we had begun to get into, perhaps, some of those. And I think there was an acknowledgment by you that there are challenges and frustrations in every investigation, particularly between prosecutors and agents. There's nothing unusual about that.

Mr. McCabe. That's correct.

Chairman Gowdy. But I want to flesh out, if we can, whether or not there were any unique challenges with respect to this investigation.

In May of 2015, where would you have been within the Bureau?

Mr. McCabe. May of 2015, I was ADIC of the Washington field office.

Chairman Gowdy. Would you --

Mr. McCabe. I'm sorry. Assistant director in charge of the Washington field office.

Chairman Gowdy. All right. If there were a meeting called by State Department Under Secretary Patrick Kennedy with White House Counsel, CIA, FBI, DOD, ODNI, and NSC regarding the release of Secretary Clinton's emails, would you have been part of that meeting?

Mr. McCabe. No, sir.

Chairman Gowdy. Were you ever asked by Under Secretary Kennedy that the FBI classification determination be changed?

COMMITTEE SENSITIVE

Mr. McCabe. I was not, no.

Chairman Gowdy. Do you know whether anyone else was?

Mr. McCabe. I do not.

Chairman Gowdy. Who is [REDACTED]?

Mr. McCabe. [REDACTED] is a -- now a former FBI agent. At that time, in May of 2015, he was still with the Bureau.

Chairman Gowdy. Do you have any knowledge of whether, in May or June of 2015, Under Secretary Kennedy called [REDACTED] [REDACTED] to ask for assistance in changing the classification of email?

Mr. McCabe. I learned of an exchange. I don't know where [REDACTED] was at the time or whether it was in person or a phone call. But I learned about an exchange they had had about that much later. I did not know about it at the time.

Chairman Gowdy. What did you learn about it?

Mr. McCabe. So that came to my attention, I think, after the case was -- had been closed and we were going through documents that would be turned over in the FOIA process. And somebody brought to my attention that there was a 302 involving -- I'm not sure even at this point who the 302 -- I don't know who was interviewed in the 302, but the 302 dealt with an issue that had occurred between Mr. Kelly and [REDACTED].

Chairman Gowdy. I would defer to your expertise on classification and who determines classification. It would be greater than my own. But why would the State Department ask the FBI to change a classification? Would that be a document that the FBI had

COMMITTEE SENSITIVE

classified?

Mr. McCabe. I'm not going to speculate as to what they were asking. My understanding of the process is that the owner of the information is responsible for its classification. And potential declassification or what happens to that, that decision always comes back to the original classifier, which would be the owner of that information. So if it was FBI information, it would be our responsibility.

Chairman Gowdy. In any of your capacities with the Bureau, did you ever ask another agency to change a classification?

Mr. McCabe. No, sir, I have not.

Chairman Gowdy. In any of your capacities at the FBI, were you ever asked by someone to change a classification?

Mr. McCabe. I have not been asked to change a classification.

Chairman Gowdy. Who is Michael Steinbach?

Mr. McCabe. Michael Steinbach is a former FBI agent. Before he retired, he was serving as the executive assistant director of the National Security Branch.

Mr. Gowdy. Were you aware, in May of 2015, that Under Secretary Patrick Kennedy called Michael Steinbach and asked one more time that the classification be changed?

Mr. McCabe. I was not aware of that in May of 2015.

Chairman Gowdy. Were you subsequently made aware of it.

Mr. McCabe. I think the -- this entire situation came to my attention only in the context of being notified that a 302 relative

COMMITTEE SENSITIVE

to these exchanges was going to be released in the FOIA process. So it was much -- so that would have been the end of 2016 likely.

Chairman Gowdy. At some point, did you recuse yourself from the investigation in Secretary Clinton's email, or were you recused.

Mr. McCabe. I recused myself from the investigation, that's correct, the first week of November of 2016.

Chairman Gowdy. Would these 302s have been brought to your attention before or after that.

Mr. McCabe. Likely before.

Chairman Gowdy. Director Comey made reference to a conversation he had with then Attorney General Lynch where he was asked to refer to something as a matter as opposed to an investigation. Are you familiar with that testimony.

Mr. McCabe. Yes, I'm generally familiar with that testimony. And Director Comey related that to me sometime after that -- that exchange occurred.

Chairman Gowdy. Were you present for that conversation.

Mr. McCabe. I was not.

Chairman Gowdy. How soon after the conversation was it relayed to you.

Mr. McCabe. I don't know, because I don't know when that actually took place. My belief is that it was somehow -- it was an issue that they discussed around the time that they were considering the public acknowledgment of the case.

Chairman Gowdy. And when was the case publicly acknowledged.

COMMITTEE SENSITIVE



COMMITTEE SENSITIVE

Mr. McCabe. I can't tell you for sure, sir. That happened before I came back to headquarters and certainly before I started working on the case.

Chairman Gowdy. The decision to publicly acknowledge or not publicly acknowledge an investigation, is that FBI policy or DOJ policy.

Mr. McCabe. There is both FBI policy and DOJ policy that would impact that decision.

Chairman Gowdy. As a Bureau agent, would you have to secure the permission of Main Justice before you made an investigation public.

Mr. McCabe. Yes.

Chairman Gowdy. In this case, who at Main Justice did Director Comey talk to before making the existence in the investigation public.

Mr. McCabe. It is my understanding that he discussed the issue with the Attorney General.

Chairman Gowdy. Is it your understanding that that was about the same time he was asked to refer to it as a matter and not an investigation.

Mr. McCabe. That's my belief, yes.

Chairman Gowdy. Did he say anything about the conversation he had with Attorney General Lynch, were they in one accord that it should be made publicly available.

Mr. McCabe. I'm sorry?

Chairman Gowdy. Existence of the investigation, were they in one accord? Did they agree.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. McCabe. I don't know. We didn't discuss that specifically. Director Comey never mentioned to me that he disagreed with that aspect of the decision.

Chairman Gowdy. What did he say, with as much particularity as you can recall, about the conversation with Attorney General Lynch.

Mr. McCabe. He just noted that he thought it was peculiar that she was, you know, insistent that we not refer to it as an investigation but, rather, refer to it as a matter.

Chairman Gowdy. If I have already asked you this today, forgive me. I can't remember what I asked you 2 days ago and what I asked you today. So, if it is today, just correct me. Does the FBI have a designation as a matter.

Mr. McCabe. No, sir.

Chairman Gowdy. What are the different designations that the Bureau uses.

Mr. McCabe. So we have full field investigations, preliminary investigations, and then we have a range of assessments that are lower level, a lesser degree of investigative activity that we can -- is authorized at the assessment level.

Chairman Gowdy. So there is no designation of, quote, a "matter" within the Bureau lexicon.

Mr. McCabe. No, sir. We are the Federal Bureau of Investigations.

Chairman Gowdy. Do you know whether Director Comey memorialized his conversation with Attorney General Lynch in any way, other than

COMMITTEE SENSITIVE

sharing it with you.

Mr. McCabe. I'm not aware of any other way that he memorialized it.

Chairman Gowdy. And to the best of your recollection what -- orient me from a time standpoint. You became the deputy director in February of 2016.

Mr. McCabe. That's correct.

Chairman Gowdy. The press conference Director Comey had was on July the 5th.

Mr. McCabe. Yes, sir.

Chairman Gowdy. The tarmac incident was in late June of 2016.

Mr. McCabe. Yeah, I think maybe the Thursday before. If the announcement was on a Tuesday, I think the tarmac was the Thursday before the end of that week previous.

Chairman Gowdy. To the best of your recollection, when did this conversation between Director Comey and Attorney General Lynch take place.

Mr. McCabe. About the investigation?

Chairman Gowdy. Versus matter.

Mr. McCabe. I don't know, sir. I wasn't there for the conversation. I only heard what Director Comey related to me some time later. My assumption is that that conversation took place before I was involved in the case.

Chairman Gowdy. So it was your assumption that it predated February.

COMMITTEE SENSITIVE

Mr. McCabe. That is my assumption today, yes.

Chairman Gowdy. Okay.

Mr. McCabe. I think the case had been made public before I was ever involved in it.

Chairman Gowdy. If I understood your testimony correctly, one of the reasons this case may have been a little peculiar was the lack of involvement of the Attorney General and the Deputy Attorney General.

Mr. McCabe. Yes, sir.

Chairman Gowdy. So this is at least one interaction between the Director of the FBI and the Attorney General. Do you know what the calls or the impetus for that interaction was, given what you said earlier that there was an uncharacteristically low level of interaction? Do you know why he went to talk to her.

Mr. McCabe. Why he went to talk to her about --

Chairman Gowdy. Whatever they went to talk about.

Mr. McCabe. That led to the conversation about call it a matter, not an investigation? I do not know. My assumption is that that exchange took place in a conversation that they had regarding the process or the decision to make a public acknowledgment of the case. It would have -- would have happened contemporaneous with that decision and that public acknowledgment.

Chairman Gowdy. If the Attorney General disagreed with a decision to make the existence of an investigation public does the Director of the FBI have the power to do so anyway.

Mr. McCabe. No, I believe the Attorney General would overrule

COMMITTEE SENSITIVE

the Director in that case.

Chairman Gowdy. So, to the extent that the existence of the investigation or matter was made public, we can assume from that that Attorney General Lynch did not object to it.

Mr. McCabe. That's my assumption.

Chairman Gowdy. All right. Did you ever have any -- if these were not your words, correct me, I wrote down "challenges," "frustrations," and I wrote down the word "friction." Did you ever have any challenges, frustration, or friction with respect to interviewing the witnesses you wanted to interview.

Mr. McCabe. We ultimately interviewed the witnesses we wanted to interview. During the course of that part of the investigation there were periodically issues about when those interviews would take place, about who would attend those interviews. And those sorts of issues were frequently the cause of maybe the subjects of disagreements between us at the FBI and our colleagues at the Department.

Chairman Gowdy. For those --

Mr. McCabe. And I use those only as two examples. There may have been other friction points, as well.

Chairman Gowdy. For those who don't know, you can -- how does the Bureau ask people to sit or stand for an interview? What is the process by which you seek to talk to someone.

Mr. McCabe. Well, we can speak to people in the course of an investigation, and we can ask them if they'll talk to us, and many do. If people aren't willing to talk to us, then we can compel their

participation in that process we get a subpoena.

Chairman Gowdy. Would that be a grand jury subpoena.

Mr. McCabe. That's right.

Chairman Gowdy. And that requires the approval of Main Justice lawyers, or can the Bureau do that -- Bureau agents do that themselves.

Mr. McCabe. No, the Bureau cannot do that. It requires an attorney from the Department of Justice, which is typically an Assistant U.S. Attorney, as happens most often in the many cases we work out of our field offices. In this case, it was lawyers at the Department of Justice.

Chairman Gowdy. When witnesses appear before the grand jury, can counsel appear alongside them.

Mr. McCabe. I think they can, right? Yeah -- no.

Chairman Gowdy. At least one of your lawyers did not like that question, so you might want to consult with them.

Mr. McCabe. Either they don't like my response or the fact that I gave one at all. It is my recollection from my appearances in front of the grand jury, which were many years ago, that witnesses were allowed to bring attorneys to the grand jury but that they would not actually go inside.

Chairman Gowdy. In your experience with a grand jury investigation, did multiple witnesses appear simultaneously before the grand jury.

Mr. McCabe. No, sir.

Chairman Gowdy. In your experience with the grand jury

investigations, were witnesses able to designate family or friends to attend the grand jury proceeding.

Mr. McCabe. No, sir.

Chairman Gowdy. Is it your recollection that it is the witness, it is a prosecutor from the United States Attorney's Office or Main Justice, and it is the members of the grand jury.

Mr. McCabe. That's right.

Chairman Gowdy. Maybe a court reporter.

Mr. McCabe. Yes, sir.

Chairman Gowdy. So, if you had the option of compelling witnesses to come, first option, I get it, voluntary interview. You always have the option of at least trying to compel someone to come. In this case, it appears as if there was a lot of negotiation about the parameters around these, quote, "voluntary interviews." Was that normal course for Bureau investigations or was this different.

Mr. McCabe. I don't know that I can compare it to normal Bureau investigations. I'm not sure what those are. This certainly was not one. This was the approach and the strategy that the Department of Justice chose to pursue in this case.

Chairman Gowdy. And did the Bureau agents agree with that approach.

Mr. McCabe. Many times we did not.

Chairman Gowdy. And that's what I'm getting at is, when were those times? When were the times when you thought, why are we doing this as opposed to using a compulsory piece of paper to secure the

testimony.

Mr. McCabe. Sir, the best -- really the only example I can give you in detail was the issue that involved me personally, which was access to the laptops towards the conclusion of the investigation. I had a personal role in that so I can walk you through what my observations were.

You would be better served talking to witnesses who were more closely involved in the day-to-day staffing of those interviews and the scheduling of those interviews. They could provide to you many other examples, I'm sure, but I was not day-to-day involved in that kind of back and forth over the scheduling of interviews.

Chairman Gowdy. All right. Tell me about the one you can.

Mr. McCabe. Okay. So we had made the decision that we -- it was essential to us to at least attempt to exploit, to the best of our ability, whatever emails or remnants of emails that might be left on the laptops that were used initially to sort Secretary Clinton's email, which I think took place in response to maybe one of the initial congressional requests for documents early on, prior to my involvement in the case.

We embarked upon a long and somewhat torturous process of negotiating with the defense attorneys involved access to those laptops. There were several points during that ongoing negotiation that took place over the course of a few weeks in which we wanted to move forward more quickly and just serve subpoenas and possibly search warrants on the defendants to gain access to those computers.



COMMITTEE SENSITIVE

The Department of Justice felt like we would -- if we went down that course -- well, I won't try to suppose their reasoning. They thought it was better that we pursue those things through consent of --

Chairman Gowdy. Because of attorney/client privilege issues.

Mr. McCabe. There were a lot of issues complicating our access to those computers. They felt -- it is my belief that the Department felt if we pursued compulsory process, we would spend a lot of time litigating the process issues, rather than -- and they thought we could more quickly get access to the computers through negotiating their, you know, consent -- turning them over through consent.

Chairman Gowdy. Was there any disagreement between the agents and the prosecutors as to whether or not probable cause existed for you to access those computers.

Mr. McCabe. We felt that we had probable cause. I can't speak for the Department. I'm not aware of a difference of opinion on that, but --

Chairman Gowdy. Whose computers were they.

Mr. McCabe. This was the computers used by Heather Samuelson. Do I have that correct? And Heather Mills.

Chairman Gowdy. Cheryl Mills.

Mr. McCabe. I'm sorry, Cheryl Mills, during the sorting process.

Chairman Gowdy. To the best of your recollection, is that the same Cheryl Mills who served as chief of staff for Secretary Clinton when she was at the State Department.

Mr. McCabe. To the best of my recollection it is.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Chairman Gowdy. Were you able eventually to interview everyone you wanted to interview.

Mr. McCabe. Yes, sir.

Chairman Gowdy. You have been a Bureau agent for how long.

Mr. McCabe. A little over 21 years.

Chairman Gowdy. When you were starting out, did you conduct witness interviews? Did you interview bank tellers? Did you do all that when you were starting off.

Mr. McCabe. Yes.

Chairman Gowdy. Was it your practice to interview people in groups or interview people individually.

Mr. McCabe. It is typical you interview people individually.

Chairman Gowdy. Why is that.

Mr. McCabe. Keep witnesses from hearing each other's version of events, things of that nature, keep people focused.

Chairman Gowdy. It could be suggestive if you interviewed all the witnesses to a bank robbery at the same time. It might, might prompt an objection from defense counsel at some point. Has it been your experience that the Bureau allows fact witnesses -- other fact witnesses to sit in on witness interviews.

Mr. McCabe. That's not the typical case, sir. I'm sure it happens here and there, but it is not common.

Chairman Gowdy. How many times did it happen in your career.

Mr. McCabe. I couldn't give you an answer to that.

Chairman Gowdy. You could if it were zero. Can you think of a

COMMITTEE SENSITIVE

time other than this investigation where fact witnesses --

Mr. McCabe. I have done a lot of interviews, sir. I can't sit here and tell you that, in every single one of them, there wasn't a person in or near the interview who couldn't potentially have become a fact witness later. I would like to say zero, but I can't confidently give you that number today.

Chairman Gowdy. Why would you interview someone in the presence of a fact witness if you had an alternative.

Mr. McCabe. I think if you had an alternative, you wouldn't.

Chairman Gowdy. Well, you always have the grand jury. That's an alternative, right.

Mr. McCabe. It can be, yes.

Chairman Gowdy. It might be the only alternative.

Mr. McCabe. It may not be if you're interviewing a witness who is not subject to the jurisdiction of the grand jury, then that's not -- in that case, it would not be an option.

Chairman Gowdy. I guess what we're trying to understand is whether or not the interviews of the witnesses in this case, whether it's Huma Abedin, whether it is -- did you interview Heather Samuelson.

Mr. McCabe. She was interviewed, yes. I didn't interview her.

Chairman Gowdy. Secretary Clinton's interview it appears as if Cheryl Mills was present for that interview.

Mr. McCabe. I think that's right.

Chairman Gowdy. Did you consider Cheryl Mills to also be a fact witness.

Mr. McCabe. She had been interviewed before as a witness.

Chairman Gowdy. What was the thought process in allowing fact witnesses to sit in on another fact witness' interview.

Mr. McCabe. I can tell you that we did not control the attendance of attorneys or individuals at those interviews. This was a topic that caused us some frustration, not just in that interview and in others. We had several conversations with the Department over the size and scope and identity of the individuals who would be permitted to attend, but ultimately, these were consensually agreed-to voluntary interviews, and we didn't control who was in the room at the time.

Chairman Gowdy. Well, I want to try to be as open-minded as I can in trying to guess what the Department of Justice might gain from having multiple fact witnesses in a single interview. So I understand there are negotiations back and forth. What would either Main Justice or the Bureau gain from having multiple fact witnesses in another fact witness' interview.

Mr. McCabe. Well, I can't speak for what the Department of Justice thought about it or what they would gain, but from the FBI's perspective, it was not something that we would have sought out.

Chairman Gowdy. Did you voice your disagreement with the decision.

Mr. McCabe. I don't remember taking a personal role in whether or not Ms. Mills attended the interview. I just know that our team was engaged in a fairly heated back and forth with folks at the Department over who would attend interviews generally, but I don't

remember weighing in on the subject of Ms. Mills.

Chairman Gowdy. Who in particular on your team do you remember being the most animated.

Mr. McCabe. I remember Pete Strzok being animated about it and possibly Bill Priestap. They would have been much more involved in the day-to-day issue than I would have been.

Chairman Gowdy. Were you able to interview the witnesses in the order in which you wanted to interview them.

Mr. McCabe. I don't remember us having a problem with the order that the interviews were conducted.

Chairman Gowdy. Were you able to access all of the information you felt you needed to be able to conduct the investigation.

Mr. McCabe. We were.

Chairman Gowdy. Were you part of any decisions on whether or not to grant immunity to witnesses.

Mr. McCabe. I was not.

Chairman Gowdy. Did your team bring any of those concerns to you, make you aware of them.

Mr. McCabe. They did not. They did not.

Chairman Gowdy. Did you discover any evidence that had been spoliated, deleted, whether wittingly or unwittingly during the course of your investigation.

Mr. McCabe. We did.

Chairman Gowdy. And what evidence was that, and how were you able to determine that it had been deleted.

Mr. McCabe. We spent a great deal of time and effort trying to reconstruct emails that would previously have been held on different devices and servers, trying to reconstruct emails from the remnants of those emails and the part of the servers that they referred to as slack space, so this was a common theme in the investigation. I can't sit here and tell you exactly which device at which time, but there are better witnesses to provide that information to you.

Chairman Gowdy. I want to go back to before July 5th.

Mr. McCabe. Okay.

Chairman Gowdy. All right. So we know when the press conference was held, and we have at least some idea from the emails as to when there was a discussion of what to be said. We will litigate that later on. We'll have more conversations, but that's not where I'm headed with this. The tarmac was in late June.

Mr. McCabe. Yes.

Chairman Gowdy. The conversation with Attorney General Lynch may have predated you in February.

Mr. McCabe. Yes.

Chairman Gowdy. Were there other reasons, whether you can discuss them in this environment or not, that led Director Comey to make the decision to appropriate the charging decision away from the Department of Justice.

Mr. McCabe. Well, first, as I mentioned to you earlier, I don't know that I agree with your use of the term "appropriate the decision." We can --

COMMITTEE SENSITIVE

Chairman Gowdy. Your objection --

Mr. McCabe. We can argue about that later.

Chairman Gowdy. Your objection is noted.

Mr. McCabe. I know that there were a number of factors that Director Comey was considering as he thought about that decision, some of which we discussed the other evening that I cannot discuss with you here in this setting, others we have talked about a little bit. The different relationship that we had with leadership at the Justice Department or I should say the different way -- the way they were not traditionally involved in the oversight and decisionmaking on this case presented a challenge to us and an acknowledgment on some level of the fact that they were -- you know, the political nature of their positions raised a question about their ability to make decisions on the case, and so that was strange ground for us to be in.

There was the exchange between the Director and the Attorney General on not referring to it publicly as an investigation. That's something that the Director factored into his consideration, as well. There was the somewhat infamous exchange between the Attorney General and former President Clinton on the tarmac in Phoenix, so there were a number of things that caused him to doubt the ability or credibility of the Justice Department in presenting the results of the investigation.

Chairman Gowdy. Does -- is there or has there ever been a contemporaneous collection of that conversation on the tarmac.

Mr. McCabe. A contemporaneous collection.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Chairman Gowdy. Was there ever a transcript, an audio, anything other than the witnesses' memories that you have ever had access to or heard about that captured the essence of that tarmac conversation.

Mr. McCabe. No, sir, not to my knowledge.

Chairman Gowdy. So the folklore on the internet that there is a transcript, there is an audio recording of that, you're not familiar with it.

Mr. McCabe. Absolutely not.

Chairman Gowdy. Would you be familiar with it.

Mr. McCabe. I -- if there were a recording made under FBI authorities, it is possible, possibly even likely that I would be aware of it, but I can't sit here and speculate as to how a recording might have been made. I mean, I'm not aware of a recording having been made, so I really can't speculate beyond that.

Chairman Gowdy. Well, part of what we have to do is debunk myths, too.

Mr. McCabe. Yes, sir.

Chairman Gowdy. That's why I'm asking you. You would be in a unique position maybe to know.

Mr. Meadows. Is the AG's -- is the AG's plane vehicle monitored, to your knowledge?

Mr. McCabe. Not to my knowledge, no, sir.

Chairman Gowdy. Thirty minutes is up.

Ms. Jayapal. Thank you for sticking with us. It is a long session. At the beginning, Mr. Gowdy asked if there was anything

COMMITTEE SENSITIVE



unusual about the Justice staffing, and I believe that you said that the Attorney General and the Deputy Attorney General made a decision to not be involved in the day-to-day I don't know if it is oversight or notification.

Can you just restate what you said, that this was an unusual decision for them to make?

Mr. McCabe. Yes. And just to be clear, that decision was made before I came back to headquarters and was involved in the case, so I was informed of it later, I was not present for it. It was an unusual position for us to be in to be investigating a high profile sensitive kind of notable case and to not have the involvement or the oversight of the Attorney General and the Deputy Attorney General.

Ms. Jayapal. And why do you think they made that decision? I think you have stated it, but I would like -- there have been a lot of questions so I want to go back and restate for the record.

Mr. McCabe. It is my understanding that they wanted to -- because of the political nature of their positions, they didn't want to take a role in the decisionmaking on the case, and they were leaving it to the professionals, the career professionals, in the Department of Justice.

Ms. Jayapal. And do you think that that was appropriate action for them to take?

Mr. McCabe. Yeah, I don't want to speculate on what they should have done and didn't do, and so I can just tell you what they did do and the impact it had on our case.

COMMITTEE SENSITIVE

Ms. Jayapal. Earlier I think there was a line of questioning, and you said something about there are a number of things that led Comey to doubt the credibility of the Attorney General or the leadership of the Justice Department in kind of being involved, and I guess what I was trying to get at is, given that they felt that these were political appointments and political positions, that perhaps they were trying to do the thing that they felt would be best for the American people, which is to leave the investigation to the professionals.

Do you remember that Attorney General Lynch said that she would accept the recommendations from the FBI and career prosecutors in the Clinton email case?

Mr. McCabe. I do.

Ms. Jayapal. And did she do that?

Mr. McCabe. She did. We -- I don't know if it was the day of or the day after Director Comey's announcement on the 5th, we traveled over to the Department and met with the Attorney General, the Deputy Attorney General, all the attorneys and folks who had been involved in the case.

Sorry, I thought I heard a dog.

And we basically presented how we thought about it, but most of the -- honestly most of the meeting was the line attorneys who had handled the investigation, presented to the Attorney General their view of the evidence and the law and the recommendation that no charges be pursued.

Ms. Jayapal. And she did not in that meeting indicate anything

COMMITTEE SENSITIVE

that said she was trying to take over those recommendations or interfere in any way?

Mr. McCabe. Not at all. Not at all. She accepted the recommendation of the career prosecutors.

Ms. Jayapal. I want to go back to some of the early questions that Mr. Cummings had asked you about the FBI.

Mr. McCabe. Okay.

Ms. Jayapal. And he asked you about the impact of some of the undermining of the FBI and some of the comments that have been made about the FBI, and I actually wanted to read a few of the comments that have been made by Republican members of this committee and just give you a chance to respond: "The text messages prove what we all suspected. High-ranking FBI officials involved in the Clinton investigation were personally invested in the outcome of the election and clearly let their strong political opinions cloud their professional judgement."

Do you believe that the FBI's professional judgment in any of the decisions that have been made were clouded by political bias?

Mr. McCabe. No, ma'am. In my experience overseeing the case, working with the leadership team involved in the case, I never observed or saw anyone's personal, political, political opinions impact their decisionmaking or their work product.

Ms. Jayapal. Thank you. Here's another one: "If you have an individual who actually had a desire to have an outcome in a political race and they decided to use the Department of Justice to investigate

COMMITTEE SENSITIVE

their political opponents, I think that is one of the worst crimes that has occurred in the history of the United States when it comes to politics." I could argue that that could be applied to different situations, but even actually talking about this investigation, do you believe that this was an attempt to somehow turn the election or create some sort of a political witch hunt into Donald Trump?

Mr. McCabe. I know that it was not that.

Ms. Jayapal. Thank you. Let me read you one more: The President of the United States, as the chairman mentioned, recently expressed the opinion that the FBI's reputation was in tatters. Do you think that the FBI is in tatters?

Mr. McCabe. I do not.

Ms. Jayapal. Here's another one: But you are taking an FBI Department that was weakened by Mueller's time. He got rid of thousands and thousands of years of experience, I came to believe, because he wanted younger people that were more yes-men, and so he got rid of the people that could have advised him against some of the poor decisions he made.

Do you believe you're a yes-man?

Mr. McCabe. No.

Ms. Jayapal. And do you believe that Mr. Mueller -- that is a very good answer for that question -- do you believe that Mr. Mueller got rid of thousands and thousands of people that somehow were yes-men -- or were not yes-men, so that he could hire yes men?

Mr. McCabe. I am not aware of that.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Ms. Jayapal. Here's another one: "Unfortunately the last 2 years have not been good years for the Bureau, and they have not been good years for the Department." Would you like to tell us, Director McCabe, some of the good things the FBI has done in the last couple of years?

Mr. McCabe. Ma'am, we do great things every day all around the world. We recover children who have been kidnapped from their families. We arrest drug dealers. We put pedophiles in jail. We sometimes have to arrest politicians for engaging in corrupt behavior. We collect intelligence in ways that most people will never, thank God, know about. We do all that to protect the American people and uphold the Constitution, and we will continue doing all that work.

Ms. Jayapal. I thank you for that. You spoke very movingly about the effect that some of this had had on your family, your children, and I thank you for sharing that.

Can you talk a little bit about what these kinds of comments and the undermining of the FBI has had on the work of the employees of the FBI or the morale of the FBI?

Mr. McCabe. Ma'am, I don't want to speculate as to guessing how people individually react to comments they hear in the media. I can tell you, as I have already today, the commitment that the men and women have, the men and women of the FBI have, to our mission is remarkable, and that commitment will not -- will not diminish. It will not fail, and that is the thing that enables us to achieve our mission every day in a million different ways. It is the job of the leadership of the

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

FBI -- it has been my responsibility, but it is the responsibility of other leaders, as well -- to try to keep our workforce focused on that mission and not distracted by what they hear in the news or what may be happening politically or otherwise in society but to stay focused on that important work that we do.

We spend a lot of time talking to our folks, traveling around, visiting field offices, constantly messaging, trying to provide engaged, proactive leadership to ensure that they do exactly that.

Ms. Jayapal. And if the FBI was crippled or undermined what would be the effect on the United States national security?

Mr. McCabe. This nation needs a strong, effective, and independent FBI. It is my profound belief that that is what they currently have.

Ms. Jayapal. Thank you. I have one more line of questioning, and then I'm going to turn it over to my colleague, Mr. Lieu.

Are you familiar with Director Comey's testimony before the Senate Intelligence Committee on June 8th, 2017?

Mr. McCabe. Generally.

Ms. Jayapal. And did you generally find that his descriptions of events in those written and oral testimony were consistent with the contemporaneous descriptions that he shared with you at the time of the events?

Mr. McCabe. Yes, ma'am.

Ms. Jayapal. And do you believe that Director Comey accurately shared with the Senate his memory of these interactions with the

COMMITTEE SENSITIVE

President to the best of his recollection?

Mr. McCabe. I mean, what he shared is consistent with what he shared with me.

Ms. Jayapal. So I would like to discuss a document that we can label interview exhibit, and it is the statement for the record to the Senate Select Committee on Intelligence of James Comey on June 8th, 2017. Are you familiar with this document?

Mr. McCabe. If I can take one second, please.

[McCabe Exhibit No. 3

Was marked for identification.]

Ms. Jayapal. Sure. I go ahead.

Ms. Anderson. The document at least suggests that the line of questioning is going to be beyond the scope of what we agreed to produce Mr. McCabe to testify to today, so if you would like to clarify.

Ms. Jayapal. And feel free if you can't -- if it feels like it is going beyond the scope, I assume you are going to let me know that that is the case.

So, on page 2 -- it describes the first meeting -- the first meeting that Director Comey described in this document takes place on January 6th. It was the first meeting with President-elect Trump at Trump Tower, and it was at this meeting that Director Comey first informed President-elect Trump about the allegations in the Fusion GPS dossier, and on page 2 of the statement he wrote that "prior to the January 6th meeting, I discussed with the FBI's leadership team whether I should be prepared to assure President-elect Trump" --

Mr. Meadows. Let me just -- point of order. This is a document from SSCI. It goes beyond the scope of what we agreed to cover, so I would just ask if you could look at the questions that are within the scope because this is certainly beyond the scope of what we have all agreed to. Okay?

Ms. Jayapal. Okay. Even just the questions about whether you are aware of part of the leadership team?

Mr. Meadows. I think the context of what it is, is beyond the scope.

Ms. Jayapal. All right. I'll turn it over to -- I'll yield time to my colleague. Thank you.

Mr. Lieu. Thank you. Thank you, Mr. McCabe, for your dedicated service to our Nation.

Mr. McCabe. Thank you, sir.

Mr. Lieu. Earlier, FBI Director Christopher Wray testified before this committee and said: No one is above the law. You would agree with that statement, right?

Mr. McCabe. Absolutely.

Mr. Lieu. All right. The issue of political contributions has come up. So, as you know, political contributions are a matter of open record.

Mr. McCabe. Yes, sir.

Mr. Lieu. And we looked at the political contributions of FBI Director Christopher Wray. He has made over \$39,000 in political contributions exclusively to Republicans. I trust he can continue to



do a fair and impartial job. Do you?

Mr. McCabe. I have always found Director Wray to be fair and impartial.

Mr. Lieu. We looked at the political contributions of Associate Attorney General Rachel Brand. She has made over \$37,000 in contributions exclusively to Republicans. I trust she can do a fair and impartial job. I don't demean or try to cast aspersions on her for exercising her First Amendment rights. Do you agree Rachel Brand can do a fair and impartial job?

Mr. McCabe. I have no reason to doubt her fairness or impartiality.

Mr. Lieu. Attorney General Jeff Sessions has made multiple contributions to the Republican Party in Alabama. I believe, when it comes to a criminal investigation, he can assess the facts fairly. Do you believe Attorney General Sessions, when it comes to criminal investigations, can assess the facts fairly?

Mr. McCabe. I do.

Mr. Lieu. Okay. In the FBI, you don't say someone can't investigate a person because they exercise their First Amendment right to make political contributions, correct?

Mr. McCabe. We do not.

Mr. Lieu. When FBI agents go after people in investigations they also don't care the political party of the person they're investigating, correct?

Mr. McCabe. We do not.

COMMITTEE SENSITIVE

Mr. Lieu. Okay. Earlier, the issue of the tarmac incident was brought up. You don't know what was said there?

Mr. McCabe. I do not.

Mr. Lieu. Had Bill Clinton said something about the investigation of Hillary Clinton, that would be highly inappropriate, correct?

Mr. McCabe. Yes.

Mr. Lieu. To the Attorney General.

Mr. McCabe. Yes.

Mr. Lieu. Because we shouldn't be talking to Department of Justice officials about ongoing investigations and trying to influence them. Isn't that right?

Mr. McCabe. That's right.

Mr. Lieu. So, when the President of the United States talks to FBI Director Comey about Michael Flynn, that would be highly inappropriate, correct? Okay. You don't have to answer that. I didn't realize it was out of scope. I'm not sure what the scope is, but that's fine. I'll go on.

Earlier, it was brought up that there may have been some fact witnesses in some of the interviews of the Hillary Clinton investigation. I just wanted to understand it is because these were voluntary interviews so you had to negotiate with the other side who would be in the room. Isn't that right?

Mr. McCabe. It is correct that they were all voluntary interviews that happened because we were able to negotiate an agreement

COMMITTEE SENSITIVE

that got us to the interview. I can't sit here and tell you exactly which -- what aspects of the interview were included in the agreement or not because that took place by others, but, yes, there was an entirely voluntary appearance. It was -- they, the interviews were conducted because the witness and the witnesses' attorneys and whoever else were involved ultimately agreed to move forward with it.

Mr. Lieu. Great. Thank you. I'll yield to my colleague Mr. Raskin.

Mr. Raskin. Thank you very much.

Mr. McCabe, it was reported in February 2017 that White House Chief of Staff Reince Priebus asked Director Comey and asked you to, quote, "publicly knock down media reports about communications between Donald Trump's associates and Russians known to U.S. intelligence during the 2016 Presidential campaign."

Mr. Meadows. Again, it is beyond the scope.

Mr. Raskin. Okay. All right. Well, then, if that's beyond the scope, I'm going to stick then --

Mr. Meadows. You're not a constitutional lawyer, but you know that's beyond the scope.

Mr. Raskin. I guess I never saw a written definition of what the scope was, but all right. Clearly, the scope is one that's been defined by a series of statements that have been made in this committee over the last few weeks, so I am going to quote those and try to get your response to it.

Representative Matt Gaetz, who is with us today, stated: "I'm

proud to be joined by my fellow conservatives in the House to call for an investigation into the FBI's procedures that allowed Hillary Clinton to receive special treatment. We'll also investigate the unprecedented bias against President Trump that exists when we allow people who hate the President to participate in the investigations against him. Each day, we learn more information that reflects the double standard that unfortunately seems to be pervasive at the FBI."

So let me start with this: Do you agree with Representative Gaetz' statement that Hillary Clinton received special treatment?

Mr. McCabe. I do not.

Mr. Raskin. Do you agree with his characterization that the FBI investigation has been compromised by unprecedented bias against President Trump?

Mr. McCabe. No. As I have said --

Chairman Gowdy. I don't know how he can answer that because we're not discussing the investigation of President Trump.

Ms. Jayapal. Wait a second.

Mr. Raskin. I understood it to be about whether the investigation was somehow infected with bias.

Mr. Cicilline. Will you yield for a moment?

Mr. Raskin. Yes.

Mr. Cicilline. Actually, it says, in your very communication -- this is, again, a communication from Mr. Gowdy and Mr. Goodlatte purporting to describe the investigation -- says: "Among other things, the committees are investigating the

circumstances surrounding the FBI's decision to publicly announce the investigation into former Secretary Hillary Clinton's handling of classified information but not to publicly announce the investigation into campaign associates of then candidate Donald Trump, the FBI's decision to notify Congress by letter of the status of the investigation both in October and November of 2016, and the FBI's decision to appropriate from DOJ the decisionmaking authority with respect to charging or not charging the former Secretary, and the FBI's time limit with respect to this charging decision."

So, in that paragraph, you reference, in fact, the failure to publicly announce the investigation into the campaign associates of then candidate Donald Trump, and it seems to me that, in that context, questions surrounding that are appropriate and within the scope of this investigation, unless that was just a, you know --

Chairman Gowdy. It is absolutely appropriate to ask about the DOJ, FBI policy about whether to make an investigation public. In fact, we have done that, also. That is fair game. But issues factcentric to the Russia investigation, and what he just said, and, number two, that's not what we're doing.

Mr. Raskin. Okay. Let me repeat the question because we may be differing as to what I was asking.

Do you believe that the decisions made about this investigation were infected by an unprecedented bias against President Trump?

Mr. McCabe. Absolutely not.

Mr. Raskin. Do you believe that there is a, quote, "pervasive

double standard" at the FBI that has governed decisionmaking as to this investigation?

Mr. McCabe. There is no double standard at the FBI.

Mr. Raskin. Okay. It has also been stated by our esteemed colleague, Representative Jordan, that if everyone was dismissed from the Mueller team who was anti-Trump, you wouldn't have anybody left. Assuming that's a serious statement, do you agree with Representative Jordan's statement that the FBI team working on the special counsel investigation are all anti-Trump?

Chairman Gowdy. First of all, I want to assiduously avoid any conversation about Mueller's probe. And I don't think there's any setting to discuss that, so the Mueller probe, first of all, was 2017. This is 2016, and it relates to Russia.

Mr. Raskin. Okay. Okay. Fair enough. Fair enough. Well, let's go back then. A year before that. Was the decisionmaking that too took place and the various things you were being asked about infected with anti-Trump bias?

Mr. McCabe. The decisionmaking in the Clinton investigation? No, sir, or any --

Mr. Raskin. Or I'll put it more broadly because I think the Chairman Gowdy's point is well put. Are your decisions about any criminal investigations infected with partisan bias or animus?

Mr. McCabe. No, sir, and if I could expand on that just for a minute and particularly in the context of this case, which I think is a good example: FBI agents or FBI personnel are not in a position to

be making individualized politically biased decisions on their cases and particularly not in this case, which, as I have tried to describe today, was run very closely with a small team of the senior most leadership in the FBI.

So the decisionmaking was conducted in a collaborative environment that was discussed repeatedly day after day and constant updates, constant meetings, constant briefings on what had happened, so there wasn't room for an individual who was politically biased to start making decisions on their own and impacting the direction of the investigation. It would not have happened. It could not have happened without being seen and perceived by myself and the other leaders involved.

Mr. Raskin. Okay. I have got one final question for you, and I for one feel very sorry that we have dragged you through this process given everything that we have learned today, but I want to ask you this: As someone who has spent his life committed to the rule of law, to the Department of Justice, what do you think it does to the rule of law when public officials so politicize the public's understanding of the rule of law that we attack prosecutors or investigators simply because we don't like some of the results of a public investigation?

Mr. McCabe. Sir, respectfully, I'll comment on what's important to the work of the FBI. And our ability to interact with the public, to receive information from the public, to conduct the investigative work that we are authorized to do depends in large part on our reputation for integrity, for independence, for professionalism and competence,

so anything that cuts against that reputation is damaging to the FBI, damaging to the work we do, and damaging to our ability to protect this Nation.

Mr. Raskin. Thank you very much.

Mr. Johnson of Georgia. Thank you. Mr. McCabe, last week, we received a batch of text messages between Peter Strzok and Lisa Page. There was one text that was issued or that was dated August 8th of 2015, which states, quote: "I want to believe the path you threw out for consideration in Andy's office that there's no way he gets elected, but I'm afraid we can't take that risk. It is like an insurance policy in the unlikely event you die before you're 40," end quote. That's a text message from Strzok to Page. Are you familiar with that text message.

Mr. McCabe. I am only familiar with that text message because it has been -- it has been brought to my attention in this process and through the media.

Mr. Johnson of Georgia. Do you know the identity of the "Andy" who is mentioned in that text message?

Mr. McCabe. I do not.

Mr. Johnson of Georgia. Were there any other Andys who were working on this email investigation employed by the FBI or DOJ?

Mr. McCabe. I mean, not at my level and not that I'm aware of, sir, but I can't vouch for how many Andys we have.

Mr. Johnson of Georgia. Thank you. Thank you. I yield back.

Ms. Jayapal. I have a couple more questions. You mentioned that



the FBI agents and the DOJ's career prosecutors had some disagreements at times during the Clinton investigation.

Mr. McCabe. Yes.

Ms. Jayapal. Regarding process issues, such as whether to issue a grand jury subpoena or negotiate for consensual access to the computers or what counsel were permitted to represent Secretary Clinton. Is that correct?

Mr. McCabe. Yes. I don't know that we -- I don't know that we conflicted on what counsel was able to represent Secretary Clinton.

Ms. Jayapal. Oh, okay. I'll take that out. I thought I heard that, but I'll take that out. And so, in those discussions with career Department of Justice counsel over the process issues in the investigations, were the discussions based on substantive disagreements?

Mr. McCabe. I would say the discussions were based on strategic disagreements, differences of opinion about which path to take. We all knew where we needed to get to, and there were differences of opinion as to the path we should take.

Ms. Jayapal. And so you said that Department attorneys did not want to litigate the issue regarding attorney/client privilege, thought it would be faster to negotiate a resolution to get access to the computers. Is that correct?

Mr. McCabe. That's correct.

Ms. Jayapal. And you ended up in the end getting access to all the computers that you wanted, the two laptops?

COMMITTEE SENSITIVE

Mr. McCabe. Yes.

Ms. Jayapal. Correct?

Mr. McCabe. Yes, we did.

Ms. Jayapal. And did you end up getting access to all the witnesses that you wanted to question?

Mr. McCabe. We did.

Ms. Jayapal. And did you ever think that those disagreements were based on improper political bias on behalf of the career Department of Justice counsel?

Mr. McCabe. I did not.

Ms. Jayapal. Mr. McCabe, the most senior person you listed at the DOJ in the day-to-day work of the Clinton investigation was George Toscas. Is that right?

Mr. McCabe. That's correct.

Ms. Jayapal. And is George Toscas a career attorney?

Mr. McCabe. He is.

Ms. Jayapal. So, in other words, he does not -- he is not there because of any political appointment?

Mr. McCabe. No, ma'am.

Ms. Jayapal. And how long has he been there as a career attorney?

Mr. McCabe. A very long time.

Ms. Jayapal. A very long time. So lots of experience --

Mr. McCabe. Yes.

Ms. Jayapal. -- in the FBI.

Mr. McCabe. Yes.

COMMITTEE SENSITIVE

Ms. Jayapal. So, just going back to political bias, there are political affiliations of FBI agents. They're allowed to have those personal political affiliations. Is that correct?

Mr. McCabe. Of course, yes.

Ms. Jayapal. And you're aware of news reports that have quoted over the years FBI as Trumpland unfavorable opinions of Secretary Clinton as the anti-Christ, I mean, there are a lot of opinions that seem to leak out into the public, some lambasting President Trump, some lambasting Secretary Clinton.

Mr. McCabe. We are full of opinions, and sometimes they leak out.

Ms. Jayapal. Very right. And Robert Mueller, Rod Rosenstein, James Comey, all Republicans?

Mr. McCabe. That's what I have been told.

Ms. Jayapal. We have, too. And so what's the standard for FBI agents to ensure political bias does not affect their professional work? How do you deal with that?

Mr. McCabe. I mean, FBI agents know based on their training and experience that that's not part of their job. That's not what we do. We go out, we conduct investigations. We find the truth. We mitigate threats.

Ms. Jayapal. And you don't ask about political affiliations?

Mr. McCabe. We don't ask each other about our political affiliation, and we don't allow those issues to get in the way of the work that we do.

Ms. Jayapal. And when you put together a team of investigators,

do you think about, "Oh, I need a couple of Republicans, and I need a couple of Democrats"? Is that ever part of your thinking?

Mr. McCabe. No, ma'am. We don't think that way.

Ms. Jayapal. And when you have a team, is there any one individual that could bring their political bias to such a strong force that they would actually impact the direction of a decision that's made in an investigation?

Mr. McCabe. I have never seen that happen. In my opinion, it would be highly unlikely. There are layers of approval and oversight and leadership that are involved, particularly in large, complicated investigations, and that would be -- that would seem to me to be a very hard thing to do.

Ms. Jayapal. So let me ask you one more time: Did you think there was political bias that somehow influenced the Clinton investigation in your opinion?

Mr. McCabe. I did not think that during the investigation. I do not think that now. I never had any reason to suspect that any of the members of that team were being motivated or impacting their work based on their political position.

Ms. Jayapal. Thank you. I'm going yield to Mr. Cicilline.

Mr. Cicilline. May I just ask, did you -- a decision was made at the FBI not to publicly announce the investigation of Trump associates in connection with Russian collusion and interfering in our Presidential election, correct?

Mr. McCabe. No. I wouldn't characterize it as a decision made

not to publicize the case because we don't publicly acknowledge cases. That's kind of the default rule.

Mr. Cicilline. I mean, you made a public statement about the conclusion of the Clinton investigation.

Mr. McCabe. We did. And that was an exception to normal practice.

Mr. Cicilline. So, while there was an ongoing investigation of associates of the Trump campaign by the FBI, that was not shared with the American people before the election as a matter of practice, not as a result of an express decision. Is that right?

Mr. McCabe. That's my understanding, yes. That's my recollection, although -- hold on. Can I have that 1 second?

Mr. Cicilline. Sure.

Mr. McCabe. Okay. I'm sorry.

Mr. Cicilline. And --

Mr. McCabe. We did ultimately reveal that the Director revealed that in his testimony here on the Hill, but not until much later.

Mr. Cicilline. That there was an ongoing criminal investigation?

Mr. McCabe. That's correct.

Mr. Cicilline. That's all I have.

Ms. Jackson Lee. May I have -- I understand that we may be out of town -- not out of town. That might be a happy thing, but I'm going to make one comment and lead off in the next session, but I want to get this back on the record. Next time I speak, I'm going to speak

COMMITTEE SENSITIVE

about your service, and so please forgive me for not doing that now.

Mr. McCabe. Okay.

Ms. Jackson Lee. I'm going to read this again: I want to believe that the path you throughout for consideration in Andy's office and there's -- that there's no way he gets elected, but I'm afraid we can't take that risk. It is like an insurance policy in the unlikely event you die before you're 40.

That's a text that was issued on August 8th, 2015, at 10:29. Here is the question: There have been outside political suggestions that this insurance policy reference is evidence of some nefarious plot. Two questions. In your experience and service to the Nation, have you run upon the normal standard for the highest law enforcement officer of the Nation to be involved in nefarious plots, and was there a nefarious plot against this Presidential candidate who became President of the United States?

Mr. McCabe. I have not seen that across the course of my career. I am not aware of any plot targeting either political candidate during the 2016 election, and I can also tell you that I don't have any idea what those two individuals were referring to in that text.

Ms. Jackson Lee. I will yield back and pursue this when we start up again for the Democrats. Thank you very much.

Chairman Gowdy. We're back on the record. Deputy Director McCabe, you were asked a question at the end that the question assumed the existence of a criminal investigation into Trump campaign or associates. I believe the question used the word "criminal." Would

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

you like in any way to change the answer that you provided.

Mr. McCabe. Yes. I was referring in the answer to the announcement that Director Comey made during his testimony, which revealed the existence of a counterintelligence investigation, not a criminal investigation.

Chairman Gowdy. All right. Thank you. I want to make one observation. Then my colleague is going to handle the rest of it. Reasonable minds are free to disagree about whether or not this is a productive use of your time. It wasn't anybody on this side of the table that was cross-examining FBI agents for a living before they got to Congress. Some of us aren't Johnny-come-latelys to appreciating and respecting the work of law enforcement, and it sure as hell wasn't any Republicans that asked for Jim Comey to be prosecuted for a Hatch Act violation about this time last year. So we are free to disagree over whether or not this is a productive use of your time and whether or not these are areas in which Congress ought to be inquiring. I happen to think the Department of Justice and the FBI are big enough to withstand even tough questions and their work can withstand scrutiny. I have said from day one difficult fact patterns make for tough conclusions, but that doesn't mean the conclusions should not be analyzed. So I just want the record to be really, really clear: Not a single damn one of us made a living cross-examining FBI agents before we got to Congress. Some of the folks who are now in love with the FBI did.

Chairman Gowdy. You'll have 30 minutes. You'll have 30

COMMITTEE SENSITIVE

minutes, and you can spend your 30 minutes however you want to.

Mr. Buck. Good afternoon, Mr. McCabe.

Mr. McCabe. Good afternoon.

Mr. Buck. Thank you for being here. I wanted to go back on some of the questions that Chairman Gowdy has asked you. I want to talk about the Director's office and the personnel in the Director's office, if I can.

Mr. McCabe. Okay.

Mr. Buck. Can you describe that for me? I'm assuming that there is a chief of staff in the Director's office.

Mr. McCabe. There is.

Mr. Buck. During this timeframe, who was that chief of staff?

Mr. McCabe. James Rybicki, R-y-b-i-c-k-i.

Mr. Buck. And approximately how many employees were there in the Director's office?

Mr. McCabe. That's a tough question to answer, because there are different kind of units and groups that work that may come administratively under the Director's office. But I assume --

Mr. Buck. I'm not trying to catch you in a -- in a tough question here. What I'm trying to figure out is the different functions.

Mr. McCabe. Yep.

Mr. Buck. In my office, I have a scheduler.

Mr. McCabe. Sure.

Mr. Buck. I'm assuming the Director has a scheduler.

Mr. McCabe. He does. He has an administrative assistant, or



COMMITTEE SENSITIVE

secretary, that handles the scheduling duty. He, of course, has his chief of staff, who I've noted to you.

Mr. Buck. And who was the administrative assistant during that timeframe?

Mr. McCabe. [REDACTED].

Mr. Buck. Is that [REDACTED]?

Mr. McCabe. Yes, sir.

Mr. Buck. Okay. And, again, who else would have worked on a daily basis with the Director in his office? And I'm, again, not --

Mr. McCabe. Right. Right.

Mr. Buck. -- outside groups, but --

Mr. Buck. Me? You can't hear me?

Ms. Jackson Lee. Yes.

Mr. Buck. I can hear me.

Mr. Cicilline. -- insisting on it.

Mr. Buck. It's not important. Don't worry about it. Go back to sleep.

Mr. McCabe. He has a deputy chief of staff.

Mr. Buck. Okay. And who was that during this timeframe?

Mr. McCabe. [REDACTED]. And then there's, you know, a number of other, like, security detail personnel, administrative personnel, things like that. But then the Director works very closely with myself, the Deputy Director. I have a special assistant who's kind of like a chief of staff. I could keep going and going.

Mr. Buck. I appreciate that. So one of the things I'm trying

COMMITTEE SENSITIVE

to understand is if the Director was going to make a trip to a field office --

Mr. McCabe. Yes.

Mr. Buck. -- what would be the process for arranging that trip? Certainly security has got to be notified.

Mr. McCabe. Yep.

Mr. Buck. And there has to be transportation for that trip.

Mr. McCabe. Yes.

Mr. Buck. Who arranges those things?

Mr. McCabe. His chief of staff really begins that process. He may delegate some of those responsibilities out to lower-level staffers. But he's the person who really has visibility over the Director's schedule. He would -- you know, if the Director was traveling -- this is just an example. If the Director was traveling to New York to make a speech, he might reach out to the head of the New York office and say, we're in town, should we plan a visit to the field office while we're there, that sort of thing.

Mr. Buck. And who would handle press if the Director made a trip to New York?

Mr. McCabe. All the press issues would be handled by the national press office, which is currently, and at the time, was under the leadership of Michael Kortan, K-o-r-t-a-n.

Mr. Buck. K-a-o-r-c-a-n?

Mr. McCabe. K-o-r-t as in Thomas -a-n as in Nancy.

Mr. Buck. Okay. Thank you.

I want to talk a little bit about the process that your team was going through in analyzing this case. What was the statute that you were contemplating in this case?

Mr. McCabe. Well, the case was predicated on the allegation that -- that classified material may have been -- you know, may have traversed an unclassified system. So it was essentially a mishandling inquiry, but that could go in many different directions.

Mr. Buck. Sure. But at one point in time, the Director held a news conference and said no reasonable prosecutor would prosecute this case. What statute would no reasonable prosecutor prosecute?

Mr. McCabe. The mishandling, mishandling classified information.

Mr. Buck. You wouldn't happen to know off the top of your head --

Mr. McCabe. I don't.

Mr. Buck. -- I'm guessing Title 18.

Mr. McCabe. Yes. I couldn't tell you the cite. I don't remember.

Mr. Buck. What were the elements of that crime?

Mr. McCabe. The intentional dissemination of classified material on an unclassified network, or to a person not authorized to --

Mr. Buck. So --

Mr. McCabe. -- different --

Mr. Buck. So I think we can agree that Secretary Clinton received, and always contemplated receiving classified information.

Mr. McCabe. I don't follow.

COMMITTEE SENSITIVE

Mr. Buck. You what?

Mr. McCabe. I'm not sure I understand the question. You're asking me to say what Secretary Clinton expected to do?

Mr. Buck. Did Secretary Clinton receive classified information as Secretary of State?

Mr. McCabe. In her position, absolutely, she would typically receive classified information.

Mr. Buck. And was there any doubt about the fact that she had received seven streams, or whatever the number was, of classified material, classified at top secret or otherwise?

Mr. McCabe. Are you referring to the -- the emails that we found that were classified that had -- that had been on the system?

Mr. Buck. Yes.

Mr. McCabe. Is there a debate as to whether or not they were on that system?

Mr. Buck. And whether she had received those, whether she was -- whether they were being sent to her system.

Mr. McCabe. No, sir, not that I'm aware of.

Mr. Buck. Okay. And was there any question about the fact that her personal system was not a secured system?

Mr. McCabe. No, sir.

Mr. Buck. There is no doubt about that?

Mr. McCabe. That's correct.

Mr. Buck. Okay. So the question then is, the question that the FBI was investigating then, was the intent?

COMMITTEE SENSITIVE

Mr. McCabe. That's correct. That was the -- maybe the key issue that we were looking at.

Mr. Buck. Right. So did she have the intent to receive classified information on an unsecured server?

Mr. McCabe. Yes, sir. I mean, that's my -- right.

Mr. Buck. I mean, that's ultimately the question.

Mr. McCabe. That's what we were looking at, right.

Mr. Brower. I want to make sure the answer is clear.

Mr. McCabe. So, to be clear, that's what we were looking into.

Mr. Buck. Okay. And you have been with the FBI for how many years?

Mr. McCabe. Twenty-one.

Mr. Buck. And you have received training throughout most of those years?

Mr. McCabe. Yes.

Mr. Buck. And you have 21 years of experience in criminal matters. How would you determine intent in a criminal case?

Mr. McCabe. Many different ways.

Mr. Buck. Give us some examples.

Mr. McCabe. The things that people say, the things that people admit to, the documents or other pieces of evidence that would indicate what they were thinking or their intention at a time in the past. All kinds of ways.

Mr. Buck. Would destruction of evidence be one indicia of intent?

Mr. McCabe. It could be, depending on the facts.

Mr. Buck. Would a false statement about the case be -- you just mentioned a confession. But a false statement about the facts of the case, could that be an indicia of intent?

Mr. McCabe. You're calling on me to speculate about a hypothetical, which I'm not comfortable doing.

Mr. Buck. Have you ever been involved in a prosecution or investigation of a case where a witness gave you a false statement, and you believed that that false statement was an indicia of intent?

Mr. McCabe. I mean, that's a pretty big category. I've certainly been involved in cases where witnesses have not told the truth, and people have many, many different reasons for not telling the truth. It might be indicative of their intent to mislead. But without more facts, I couldn't --

Mr. Buck. Okay. Well, let me give you a fact. The statement by Secretary Clinton that she had turned over all of her emails, did that turn out to be true?

Mr. McCabe. Yeah, I'm not -- I'm not familiar with that statement specifically, sir.

Mr. Buck. You're not familiar with that statement?

Mr. McCabe. Yeah.

Mr. Buck. Okay.

Mr. McCabe. That's right.

Mr. Buck. Did Secretary Clinton, in fact, turn over all of her emails when she was first requested to turn over her emails to your

investigation?

Mr. McCabe. I don't know if I can answer that, sir. I don't have the -- I don't have the details of exactly what we asked her for initially and what she gave us. I know we spent a lot of time trying to collect emails that were not turned over to us, but which we were trying to essentially restore from devices and systems that had been used in the past.

Mr. Buck. Is that your answer? I don't know after you conferred whether you wanted to --

Mr. McCabe. No, I'm good.

Mr. Buck. So are you familiar with the term false exculpatory statements?

Mr. McCabe. Yes.

Mr. Buck. And did you find that Secretary Clinton made any false exculpatory statements?

Mr. McCabe. I'm not aware of any that we could prove were false exculpatory statements.

Mr. Buck. Are you aware of any that you investigated as being false exculpatory statements?

Mr. McCabe. I mean, we investigated the entire matter to include interviewing Secretary Clinton. And we considered the statements she made in that interview very carefully. I'm not aware of us investigating the Secretary for making a false exculpatory statement in the course of that interview.

Mr. Buck. Either during the interview or during the timeframe

of your investigation in public statements?

Mr. McCabe. That's correct.

Mr. Buck. I want to talk a little bit about your relationship with Director Comey. You were called in, not just on this case, but on many cases, to give Director Comey advice on matters. Were you not?

Mr. McCabe. We worked very closely together.

Mr. Buck. And did you ever consider your relationship with Director Comey to be one of attorney and client?

Mr. McCabe. No.

Mr. Buck. Okay. When it came to the work of Cheryl Mills with Secretary Clinton, did, at any point in time, Cheryl Mills assert an attorney-client privilege during your interviews or agents' interviews with Cheryl Mills?

Mr. McCabe. I'm not aware of that, sir.

Mr. Buck. So you are unaware of any assertion of attorney-client privilege by either Secretary Clinton regarding Cheryl Mills, or Cheryl Mills regarding Secretary Clinton?

Mr. McCabe. That's right.

Mr. Buck. You have mentioned on a number of occasions in your questioning that you have -- that you were frustrated with some of the avenues that you were going down, either in your relationship with the Department of Justice, or in other areas. The ability to investigate this criminal intent, is that an area of frustration? Or was that an area of frustration?

Mr. McCabe. No, sir. I wouldn't cite that as an area generally.



That was kind of the -- one of the central points of what we were doing across the scope of the investigation. Points of, as I refer to them, friction points or points of frustration, typically came up over kind of strategic decisions. I don't want to say logistical, because that makes it sound not important, but more of the nuts and bolts of what's the next step forward, are we going to go this way or are we going to go that way? Are we going to pursue compulsory process? Or are we going to talk to try and get people to show up places voluntarily? That sort of thing.

Mr. Buck. So in my past, and in talking to other prosecutors and special agents, certainly trying to figure out what is in someone's mind at the time they take an action is a challenge.

Mr. McCabe. It is.

Mr. Buck. And that is the essence of intent. And to try to figure out just what state of mind Secretary Clinton had when she received classified material on an unsecured server had to be an area that was a preoccupation of this investigation.

Mr. McCabe. Yes, sir.

Mr. Buck. And did you -- what would it have taken for you to draw a conclusion that Secretary Clinton had the criminal intent necessary to prosecute a case?

Mr. McCabe. Well, sir, I think it would have required not just an understanding, or an idea, about what her intent was, but actual evidence in which we could prove what her intent was at a particular time.

COMMITTEE SENSITIVE

Mr. Buck. So if she had come in on that Saturday in her interview and said, I really screwed up, I -- I --

Mr. McCabe. I'm sorry. Go ahead.

Mr. Buck. If she had made a statement in that interview on Saturday that indicated that she knew that she was receiving classified material, that she was receiving it on an unsecured server, and that she did this knowingly and intentionally, would that have convinced you, or would that have caused you pause, at least, in your deliberations?

Mr. McCabe. Sir, I don't want to speculate on things that the Secretary might have done had she done them differently. I will say that we went into that interview open to the fact that we might learn something in the course of that interview that changed our current assessment of what that case looked like, and what the potential for prosecution looked like, which going into that interview, had been the same as it had for many, many months, which was not particularly strong.

I mean, as you know, I'm sure, in no investigation that I've ever been involved in do we wait until the absolute last interview is done to say, okay, let's start thinking about, what do we have. I mean, we met on this case almost daily. We had comprehensive briefings on the status of the case at least once a week. But, in reality, we met, as issues came up, much more frequently than that. And in each one of these we would develop an understanding of what we had seen of the evidence so far. And that picture was consistent over the last several months of the investigation. The assessment of the investigators and

COMMITTEE SENSITIVE

the analysts who were looking at this stuff, who were going through the mails, reconstructing these servers, was consistent over the course of that period.

So, yes, we had an understanding of what the case looked like. But as we went into all of those interviews, to include the Secretary's, we did it with open eyes, open ears, and an open mind as to what we might get. If we got anything significant -- if we got something that changed the way that we thought about the case, we were open to that.

Mr. Buck. And you were open at the time that you -- by the way, I'm not sure that I interviewed many targets, or that the agents had an opportunity to interview many targets. So this was somewhat unusual. And what was the label that you placed on Secretary Clinton? I don't want to use the term target if she was a subject.

Mr. McCabe. She was a subject.

Mr. Buck. Okay.

Mr. McCabe. And we do subject interviews fairly frequently.

Mr. Buck. Okay. I take it you were prepared, then, at the time of Secretary Clinton's interview, to follow up on any leads that you may have received from Secretary Clinton's interview.

Mr. McCabe. Of course. And were there any leads that she gave you?

Mr. McCabe. No, sir. Not that I remember.

Mr. Jordan. Thank you.

Director, do you go by any other -- do you go by Andrew, Andy, Drew, any other nickname or --

COMMITTEE SENSITIVE

Mr. McCabe. Not Drew. I'm Andrew or Andy.

Mr. Jordan. Andrew or Andy.

Okay. I think earlier today when the minority party was questioning, you indicated on July 27th of this summer, you were contacted by Mr. Horowitz, the Inspector General, about an issue that you needed to -- needed to be dealt with promptly.

Mr. McCabe. That's correct.

Mr. Jordan. Peter Strzok.

And you had that meeting, and I think you indicated earlier today that you made the decision to remove Peter Strzok from the special counsel's team.

Mr. McCabe. I discussed it with my -- with a few other -- a small number of leaders, and I instructed Bill Priestap to contact the special counsel's office and tell them that we felt we needed to move Peter off the team.

Mr. Jordan. Did anyone instruct you to remove Peter Strzok from the special counsel's team?

Mr. McCabe. No, sir.

Mr. Jordan. You made that decision?

Mr. McCabe. That's right. Well, we made it in concert with the special counsel's office.

Mr. Jordan. Okay. And why was he removed?

Mr. McCabe. He was removed because -- understanding what the IG was looking into, we felt that even the possibility of the appearance of bias could potentially undermine the work of the special counsel's

COMMITTEE SENSITIVE

team, and I didn't want to take that chance.

Mr. Jordan. Just last round of questioning from the minority party, you said political opinions don't affect your work product. So that's where I'm having trouble, is, if political opinions don't affect work product, why did you feel it was necessary to remove Peter Strzok from the team?

Mr. McCabe. I've never observed political opinions by Peter Strzok or anyone else affecting their work product.

Mr. Jordan. But, nevertheless, you decided to remove him from the team?

Mr. McCabe. I did.

Mr. Jordan. And that was, again, you said in consultation -- Mr. Rosenstein just testified in front of this committee last week, and he said the decision to remove Mr. Strzok from the case was made by Director Mueller based upon the circumstances known to him. So was it you or was it Director Mueller?

Mr. McCabe. As I said, I instructed Bill Priestap to reach out to the special counsel's team and let them know what we wanted to do. And, ultimately -- I can't speak to the process that they were going through. I think they became aware of the email at the same time, or the text messages at the same time.

Mr. Jordan. Yeah.

Mr. McCabe. But I can tell you what we were thinking in the FBI Building.

Mr. Jordan. Did you weigh in on the front end? In other words,

COMMITTEE SENSITIVE

did you decide on the front end that Mr. Strzok should be a part of the special counsel team? Or was that solely done by Mr. Mueller?

Mr. McCabe. Mr. Mueller was definite -- should -- am I supposed to go down this road?

Excuse me one second.

Mr. Jordan. Mr. McCabe, I didn't plan to bring it up. The minority party raised it. You indicated you fired him. We saw -- it rang a bell with us that that was contrary to what Mr. Rosenstein testified to just last week. That's why I'm bringing it up. And it seems to me if you're making a decision on the back end to kick someone off because of what's been reported as political bias, even though you've indicated that political opinions don't affect work product, I kind of want to know what happened on the front end, and who decided he was going to be on the team in the first place?

Mr. Schools. That's, I think, our assessment is outside the scope, outside the investigation, assignment of personnel to the investigation.

Mr. Jordan. Okay. Earlier, Mr. McCabe, with Chairman Gowdy, you were talking about some of the difficulties you felt that you had in witnesses who were there. You even referenced Mr. Strzok objecting to folks being in the room when you, I think, conducted the interview of Secretary Clinton. Who at DOJ was making those decisions that -- in that example, for instance, that other people could be there for the questioning of Secretary Clinton? What was the person at Justice Department who was in charge of saying, Here's the immunity deals we're

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

doing, here's who is going to be in the room, making those decisions?

Mr. McCabe. My understanding is George Toscas.

Mr. Jordan. George Toscas?

Mr. McCabe. Yep.

Mr. Jordan. Okay. Last thing to, one other -- and I know Mr. Ratcliffe is anxiously awaiting.

Oh, do you think the Washington field office could have handled this investigation? You said it was a headquarters special type of investigation. But do you think they're competent enough? I mean, you ran that agency. Could they have handled the investigation there?

Mr. McCabe. I don't want to go back and speculate on how that decision was made at headquarters, which I was not a part of. But I have great confidence in the program at the Washington field office.

Mr. Jordan. And I think there's an email that you sent to the Washington field office indicating that it wouldn't be handled there, but would, instead, be handled at the headquarters?

Mr. McCabe. There may be. I would have to look at the email.

Mr. Jordan. Forgive me, if you would, Mr. Ratcliffe. I want to find --

Sent an email notifying the Washington field office that the Clinton investigation would be handled as a headquarter special. Did anyone tell you to send that notice to the Washington field office?

Mr. McCabe. Again, I'd have to take a look at the email to try to remember what was behind it.

Mr. Jordan. Okay.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Ratcliffe. Deputy Director, I want to make sure that I'm catching all the different things that made this case unique. We talked about this, and, you know, a lot of us, as Chairman Gowdy mentioned, have had prior experience with some of these matters. And I will tell you I also find them unique. But it seems like a long list that we've been talking about. I want to make sure I've captured them all.

You talked about one of the things being the change of classifications, or the requests for change of classifications, referring to this as a matter instead of an investigation, the lack of the Attorney General or the Deputy Attorney General being involved in a case of this nature.

You talked about frustration with the Department of Justice not wanting to use the compulsory process with regard to interviewing witnesses. Talking about multiple witnesses being present for grand jury proceedings.

And let me ask you one question. Was a grand jury ever convened?

Mr. Schools. We can't talk about grand jury proceedings.

Mr. Ratcliffe. Well, you're right. You can't talk about grand jury proceedings, 6(c) would prevent that. But you can talk about whether or not one existed?

Mr. Schools. I don't think that's appropriate.

Mr. Ratcliffe. Okay. Unusual, though, in a case like this.

Talked about immunity agreements. One thing that had been out there, at least was reported, was that the FBI was barred from asking

COMMITTEE SENSITIVE



COMMITTEE SENSITIVE

Cheryl Mills questions that went to the heart of the email investigation. Specifically, I think you made reference to about the process by which Secretary Clinton decided which of her 60,000 emails to surrender to the Department, which would be withheld. Was there some frustration about that?

Mr. McCabe. I'm not aware of that.

Mr. Ratcliffe. Okay. Were there key areas of inquiry, to your mind, that were cut off where the FBI was not allowed to go?

Mr. McCabe. Not that I'm aware of.

Mr. Ratcliffe. Okay. Was there some agreement regarding the destruction of evidence after the FBI had it?

Mr. McCabe. I have a general recollection that that was one of the items that was discussed with the attorneys in the course of negotiating access to evidence.

Mr. Ratcliffe. Okay. And would that be typical? I haven't seen it, the reason I'm asking.

Mr. McCabe. I'm sorry. Hold on. Can I ask her a question?

Mr. Ratcliffe. Sure.

Mr. McCabe. I'm not aware -- I'm not aware of that happening.

Mr. Ratcliffe. Okay. One of the things that was mentioned was immunity agreements. And I know you said you didn't recall a whole bunch of specific information about that. But do you remember one for a guy named [REDACTED].

Mr. McCabe. I remember [REDACTED].

Mr. Ratcliffe. Okay. And he was the Platte River Network. He

COMMITTEE SENSITIVE

was the one that used BleachBit, and was the one that former Director Comey testified lied to the FBI before getting the immunity agreement. Do you remember any discussion about that?

Mr. McCabe. Generally.

Mr. Ratcliffe. And that would be unusual.

Mr. McCabe. I don't think that would be unusual.

Mr. Ratcliffe. It wouldn't be unusual for someone to lie to the FBI, and get an immunity agreement?

Mr. McCabe. No.

Mr. Ratcliffe. Okay. The reason it seemed unusual, as you know, recently folks that have lied to the FBI have gotten 18 U.S.C. 1001 charges brought against them. That's what we would bring when I was at the Justice Department. I don't ever recall rewarding someone for lying to the FBI with an immunity agreement. But you're saying that's not unusual?

Mr. McCabe. I'm saying that the use of immunity agreements to obtain the testimony of a witness is not unusual.

Mr. Ratcliffe. Okay. Did that immunity agreement lead to any useful information that resulted in prosecution?

Mr. McCabe. I don't remember, sir.

Mr. Ratcliffe. Well, did any of the immunity agreements lead to the useful information that lead to the prosecution of any individuals?

Mr. McCabe. I'd have to go back and look at the 302's of the individuals from those interviews and, I have not done that.

Mr. Ratcliffe. So it's possible that there are people that have

COMMITTEE SENSITIVE

been charged in connection with this matter?

Mr. McCabe. I'm sorry, I'm not following you.

Mr. Ratcliffe. I'm asking whether, in connection with this, the immunity agreements, whether it yielded information that led to charges being brought in connection with the Hillary Clinton email investigation.

Mr. McCabe. I'm sorry. I thought you said whether they led to information being generated. Charges, no. No, sir.

Mr. Ratcliffe. Okay. Anyway, it's a very long list, a lot of unusual, unique things.

You know, I guess the FBI, as I recall it, being sort of an -- aggressively trying to make a case. Can you see why, in light of all of these things, many of which have been in the public view, there are folks that think that maybe the FBI or the Department of Justice was trying not to make a case here?

Chairman Gowdy. You're going to answer that question, then we're out of time.

Mr. McCabe. I'm not going to speculate, sir, on how -- what the public view might have been.

Mr. Ratcliffe. Okay. My time is up. I'm just getting into the questioning. But if I can lead off the next round.

Chairman Gowdy. You can lead off and finish the next round.

Mr. Ratcliffe. Okay.

Mr. Buck. Thank you.

Mr. McCabe. Thank you.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Ms. Jackson Lee. Deputy Director, I'm going to reintroduce myself. Sheila Jackson Lee. Thank you very much for your time.

And before I start, let me -- as I said at the beginning, I noted your commitment to the values of the FBI which drove you, as a lawyer, to become a member of the FBI. And I want to bring these cases out. And I have a general question. And that is, what role the FBI -- very briefly -- in fact, I will ask a question, what role was the FBI intimately involved in these cases in solving them?

Mr. McCabe. Okay.

Ms. Jackson Lee. Timothy McVeigh, domestic terrorist who killed 168 Americans in the Oklahoma City bombing.

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. And some of these are historical. Klansmen --

Mr. Meadows. Sheila, we're trying to keep the scope -- we defined the scope of what it is. I mean, and -- and so --

Ms. Jackson Lee. I am laying a groundwork to questions that -- comments that he made about his commitment to the FBI. I'll be finished with this in just a moment.

Mr. Meadows. Well, as long as it's within the scope.

Ms. Jackson Lee. It's within the scope.

Klansmen who murdered civil rights workers Goodman, Chaney, and Schwerner.

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. Intimately involved.

The murderer who assassinated Medgar Evers.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. McCabe. Yes, ma'am, I believe so.

Ms. Jackson Lee. And the Klansmen who killed four little girls in the 16th Street Baptist Church.

Mr. McCabe. That's my understanding.

Ms. Jackson Lee. So when we speak of the role of the FBI, and your willingness to join the FBI, was it that basis of integrity and service to solving heinous crimes, for example?

Mr. McCabe. That's exactly right.

Ms. Jackson Lee. And does the work of the FBI and the men and women of the FBI continue to make you proud?

Mr. McCabe. It does, ma'am, every day.

Ms. Jackson Lee. And as the Deputy Director, do you continue to try and emphasize that to those who work for you?

Mr. McCabe. I do.

Ms. Jackson Lee. So as I pursue the line of questioning that I had earlier, and this may just be a yes or no, I asked you the question whether the insurance policy reference was nefarious, and you answered that. But now I will follow up. To your knowledge, was there any plot at the FBI against Donald Trump to prevent his election?

Mr. McCabe. No, ma'am.

Ms. Jackson Lee. Was there any plot against Donald Trump in the event of his election?

Mr. McCabe. No, ma'am.

Ms. Jackson Lee. Was there any plan or a plan to conduct a coup against President Trump?

COMMITTEE SENSITIVE

Mr. McCabe. Absolutely not.

Ms. Jackson Lee. And, of course, this was by the FBI. To your knowledge, have you known of any other actors who may wish to do that?

Mr. McCabe. I would be required to reveal that, ma'am.

Ms. Jackson Lee. Was there ever a discussion about official action to harm President Trump?

Mr. McCabe. Absolutely not.

Ms. Jackson Lee. Were you involved in any discussion that the FBI should move quickly on the Russian investigation because Mr. Trump might, in fact, win the election, even though the odds are against him, and that he might put some individuals under investigation into key positions in the administration?

Ms. Anderson. This seems to go beyond the scope.

Ms. Jackson Lee. I will yield to that interpretation because the word Russia is in there, though I think that it could be answered. But I can appreciate the comment.

Let me pursue this line of questioning that may have come about. But as I do that, let me, again, lay sort of a predicate for it. A metaphor of smoke, looking for a smoking gun. We are still looking for emails. Some would call it a witch hunt. I'd call it smoldering smoke. But I do think it's important for our members to get facts. And so the issue around the grossly negligent and -- which deals with Clinton's emails, and the question of extremely careless. When you -- when I heard you discussing this point before, you were indicating that you don't wait until the last minute to sort of surmise

how this investigation may come out.

Mr. McCabe. That's right.

Ms. Jackson Lee. So how long did the FBI previously conduct an investigation into Clinton emails, as you were getting toward that timeframe where a decision was going to be made, had this been an ongoing investigation?

Mr. McCabe. How long had the investigation been underway?

Ms. Jackson Lee. How long it had been ongoing, yes.

Mr. McCabe. As I wasn't there when they initiated the investigation, my best recollection is that we opened the case late summer, early fall of 2015.

Ms. Jackson Lee. Were you in New York?

Mr. McCabe. I was in the Washington field office.

Ms. Jackson Lee. Washington field office. Okay.

Let me just continue on. We'll take that framework. Was there an ultimate decision made at the end of such investigation?

Mr. McCabe. At the end of the Clinton email investigation --

Ms. Jackson Lee. Yep.

Mr. McCabe. -- did we make a decision?

Ms. Jackson Lee. Yes.

Mr. McCabe. We did, ma'am. The statement that Director Comey made on July 5 captured that.

Ms. Jackson Lee. And, obviously, there was a scratching out or some earlier discussions of grossly negligent and some discussions about extremely careless. Do you know when you might have come upon

the final wording of extremely careless?

Mr. McCabe. I don't know the answer to that, ma'am.

Ms. Jackson Lee. Do you know what the thinking was that went into that?

Mr. McCabe. Ma'am, all I can tell you was I'm familiar -- I know what Director Comey was thinking when he went forward with his statement in July.

Ms. Jackson Lee. And what was that?

Mr. McCabe. Exactly what he expressed in his statement on July 5.

Ms. Jackson Lee. Which was?

Mr. McCabe. Which was --

Ms. Jackson Lee. If you can recall. I know it's a recollection.

Mr. McCabe. Yeah. Which was that we're not in a position to recommend charging the Secretary.

Ms. Jackson Lee. And why did Director Comey make that statement? We all know. We've all been prosecutors or judges. We're on the Judiciary Committee.

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. We typically look to the Attorney General to do that.

Mr. McCabe. So Director Comey felt that the extremely high level of public interest in this case, the extremely high level of public interest in how we were doing this work, and what we were doing, and when and how we would conclude it, put him in a position where he felt



like he needed to -- someone needed to explain to the American people exactly what we had done and what we had found. And he did not believe that the Department of Justice was best positioned to give that explanation at that time.

Ms. Jackson Lee. This, however, I hope, would not be an ongoing impact on the Department of Justice and its integrity. Was that the statement he was trying to make?

Mr. McCabe. No, ma'am. In fact, Director Comey was acutely aware of the danger and did not want to set a precedent by doing this. But he also felt that the facts and the circumstances around this case were, as we've discussed already this morning, or this afternoon, unique and called for an uncommonly public statement.

Ms. Jackson Lee. And you came on afterwards. But was there any second-guessing around the non prosecution of, at that time, Mrs. Clinton?

Mr. McCabe. No, ma'am. The team was consistent in their assessment of the evidence in the many months leading up to July 5.

Ms. Jackson Lee. With no reference to, or no alluding to individuals in the FBI were bias one way or the other, meaning, you didn't have to run away from FBI agents that you thought were biased, let's get this done, or those who didn't want it to get done. And when I say that, the prosecution of Mrs. Clinton.

Mr. McCabe. That's right, ma'am. The team was committed to getting our work done and being in a position to have a confident understanding of what we had seen.

Ms. Jackson Lee. So no one, to your knowledge, was saying that the scoundrel got away with, I'll put in quotes, "a heinous act," and we made the wrong decision?

Mr. McCabe. No, ma'am.

Ms. Jackson Lee. You felt, or what you perceived was a thorough investigation, as it would be in any other of your investigations, you end it, you make a determination, and you are satisfied with that?

Mr. McCabe. That's right.

Ms. Jackson Lee. No one called you to alter any thinking that you might have had to prosecute Mrs. Clinton?

Mr. McCabe. No, ma'am. We, as I said, presented -- you know, went over the ground again with the Attorney General, either that day or the next day. Prosecutors chimed in with their opinion of the evidence and the prospects for prosecution, which were that there weren't any. And the Attorney General accepted that recommendation.

Ms. Jackson Lee. Forgive me --

Mr. McCabe. I should say, ma'am, that this is not -- our view of the evidence was not just our view. We were in daily contact with the Department of Justice, at many levels, even occasionally at my level, speaking to Mr. Toscas, or on some occasions with Mr. Carlin. And it was their consistent view over that period of time that we were not finding the evidence that we needed to base a charge upon.

Ms. Jackson Lee. I am very glad you, as we would say sometimes, went there. And I'm just going to ask a brief repetition --

Mr. McCabe. Sure.

COMMITTEE SENSITIVE

Ms. Jackson Lee. -- because that is crucial.

Mr. McCabe. Yes.

Ms. Jackson Lee. You indicated, and you used the term "prosecutors." Those are individuals, lawyers, that prosecute cases.

Mr. McCabe. That's correct.

Ms. Jackson Lee. And I'd like you to restate again that Mr. Comey did not walk from his office out to the place of announcement singularly. You all, during the period of investigation, meaning the FBI officers, under the FBI, were engaged with prosecutors who were looking at the same facts.

Mr. McCabe. Absolutely.

Ms. Jackson Lee. Could you repeat again, out of that, what happened.

Mr. McCabe. So that process had been going on before I was involved in the case, and it continued during the course of my involvement. We were interacting with the prosecutive team, and the Department of Justice, and the National Security division on a daily basis. Their view of the facts and the evidence that we had managed to collect mirrored ours. There was no disagreement between us about the substance of the evidence. We had our disagreements and our friction points about strategy, and process, and things like that. But we were in agreement on our assessment of the case.

Now, the Department was taken by surprise on the morning of the announcement, because Director Comey did not share, until about an hour before the announcement, with them that he was going to take that step.

COMMITTEE SENSITIVE

So they were certainly surprised by that. But the substance of the case was not -- that was not a surprise to them.

Ms. Jackson Lee. And their surprise did not compel them to speak contrary to his statement, because the non-prosecution aspect of the statement -- I think many of us were surprised -- but the non-prosecution aspects of the statement they agreed with, the lawyers, the DOJ --

Mr. McCabe. They did. The people who had actually seen the evidence, who were down in the weeds on this case, all came to the same conclusion. That is the conclusion the lawyers, and we recommended to the Attorney General and she accepted that conclusion.

Ms. Jackson Lee. Could you say in confidence that these individuals were not biased? I had that line of reasoning before. But not biased. We're not called, we're not forced, we're not afraid, intimidated in making that decision.

Mr. McCabe. I am not aware of any bias that played a role in that decision.

Ms. Jackson Lee. I have just a few more questions that I would like to pursue on the line of these emails.

Former New York Mayor Rudy Giuliani had repeatedly claimed on Fox News and other conservative outlets that active FBI agents were surprised and disappointed by Comey's announcement not to charge Hillary Clinton. Is this true as characterized in the public sphere? Are you aware of such sentiments within the FBI or your team? Is this true?

COMMITTEE SENSITIVE

Mr. McCabe. I am not aware of those sentiments within the team. But I am aware that the outcome of the case was surprising, and maybe frustrating to many people, including some of the people who work for the FBI.

Ms. Jackson Lee. Was it that -- what was their surprise?

Mr. McCabe. I think, like many people around the country, they were surprised by the result in the case and the fact that we were not recommending pursuing charges.

Ms. Jackson Lee. But in contrast to their surprise --

Mr. McCabe. These are --

Ms. Jackson Lee. The individuals investigating, lawyers and otherwise, remain solid on the fact --

Mr. McCabe. Absolutely.

Ms. Jackson Lee. -- there was nothing there there?

Mr. McCabe. Absolutely. When I say surprise, I'm talking about people who heard the Director's statement on July 5 and were frustrated with that result, not people who were engaged in the investigation or the prosecutors across the street at the Department of Justice.

Ms. Jackson Lee. And, therefore, continuing his comments, Mr. Giuliani, he said there was a revolution going on inside the FBI about the original conclusion. Are you aware of such a revolution? Do you hear concerns from agents both on and off the team expressing dissatisfaction?

Mr. McCabe. I am not aware of a revolution. As I said, there was certainly FBI personnel who were surprised and maybe frustrated

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

by that result. Director Comey spent a lot of time, in the months following his announcement, you know, in visits to field offices and interactions with retired agents' groups, and things like that, answering a lot of questions about why we had done what we had done.

Ms. Jackson Lee. Continuing that line of reasoning, Mr. Comey subsequently, in short order, or near the fall -- October surprise, subsequently had letters sent to the Congress about reopening the investigation.

Mr. McCabe. Uh-huh.

Ms. Jackson Lee. It was said by Giuliani that this was from pressure from FBI agents. Is that true?

Mr. McCabe. Not to my knowledge, ma'am, no.

Ms. Jackson Lee. Do you have any facts about the decision-making on those letters?

Mr. McCabe. I do not. I am aware of the facts that led up to the meeting in which Director Comey was briefed on and started the process to make that decision that ultimately led to the letter that you've referred to. But I was not a participant in that meeting. And shortly after that meeting, I was no longer involved in the case.

Ms. Jackson Lee. Let me jump quickly to a gentleman by the name of Mr. Kallstrom. First of all, we know that I think Mr. Strzok and Ms. Page previously on -- let me just make it general, and then I'll get to him.

Mr. McCabe. Uh-huh.

Ms. Jackson Lee. When FBI agents have personal opinions or

COMMITTEE SENSITIVE

political opinions, if it's just a general case, and they have a personal opinion, or they have a religious opinion about a case, would you make the point that, again, that is an example that their personal opinions, you have confidence, would not impact them investigating, you know, a case that's dealing with interstate abortions that may come into the criminal element, for example, and there are people who have religious beliefs on that. You have confidence that the FBI generally are taught, learned, and understand that they keep their personal opinions out of investigations?

Mr. McCabe. I am confident that FBI -- the men and women of the FBI keep their personal opinions out of their work.

Mr. Meadows. We're going to stop the clock there, Sheila. They've called votes. And so we'll resume, and certainly it's up to you how you want to resume right after that. But we're going to go ahead and take a break right now. There's about 6 minutes left.

For planning purposes, we're going to take a break. I don't see us reconvening before about 5:15. So you can take a break for everybody. So if we could do that.

Mr. Johnson of Georgia. Is this the last round?

Mr. Meadows. I think we have two more rounds.

Mr. Brower. Two more rounds.

Mr. Meadows. We'll try to so speed it up as best we can. Thank you for your patience. But 5:15 at the earliest.

[Recess.]

[5:27 p.m.]

Mr. Meadows. So we're going to go back on the record. And just so the record reflects the accuracy, there was about 14 minutes left for the minority to continue to ask questions. Their members are not here. So, in the interest of getting everybody out of here, they've agreed to let our 30-minute block go now, and then we'll pick up and let them finish up their 14 minutes, if that's okay with everybody else.

And so the gentleman from Texas, Mr. Ratcliffe.

Mr. Ratcliffe. All right.

Mr. Deputy Director, when I left off my questioning before, I kind of went through this long list of things that were unique or different about this case, challenging, frustrating, and kind of went through that. I'm not going to go through that list again.

But the reason I was going through it was, early on in Mr. Gowdy's questioning, he'd asked you a question, and you said -- his question was, had her last name not been "Clinton," would you have handled the investigation the same way, and your answer was "yes." Is that still your answer?

Mr. McCabe. Yes. I mean, I took from his question that he meant if it had been anybody other than Ms. Clinton, would we have handled it -- it's hard to imagine a fact scenario that would have been someone other -- so, theoretically, if we had been investigating a different former Secretary of State who was not Ms. Clinton, would we have approached it the same way? And, yes, I think we would have.

Mr. Ratcliffe. Okay. I appreciate that clarification.



But what I also didn't understand was, when you said that, were you talking about the FBI or were you talking about the FBI and Main Justice? Do you think the Department of Justice would have handled this investigation the same way had it not been Hillary Clinton?

Mr. McCabe. I was speaking for the FBI. I can't speak for the Department of Justice.

Mr. Ratcliffe. Okay.

I want to go back very quickly through the timeline. We've gone through the different events as they happened and the tarmac meeting, the highly unusual tarmac meeting, between Loretta Lynch, the Attorney General, and Bill Clinton. It was late June. Then July 2nd was the interview of Hillary Clinton, and July 5th was the press conference, correct?

Mr. McCabe. That sounds right.

Mr. Ratcliffe. Okay. In between that, in between the interview, you said on the interview that you were open to her changing her mind. Congressman Buck asked you some questions about that. That if her testimony had been different, you may have changed your opinions in the case, correct?

Mr. McCabe. I don't think I said we were open to her changing her mind. I think what -- or at least what I meant to say was we were open to -- we kept our minds open as to what -- whatever might happen in the interview, we would handle accordingly and react accordingly.

Mr. Ratcliffe. Was there any discussion there that, had her testimony been different than what you anticipated, that there would

been a problem, given the fact that central witnesses to proving the case against her, her lawyers, were in the room at that point?

Mr. McCabe. I don't remember discussing that.

Mr. Ratcliffe. Okay.

So, after that, you mentioned that somewhere between Secretary Clinton's interview and the press conference that there was a meeting with the Attorney General.

Mr. McCabe. There was a meeting with the Attorney General. It was either the day of Director Comey's announcement on the 5th or the day after. I don't remember.

Mr. Ratcliffe. The day of or the day after his announcement?

Mr. McCabe. That's correct.

Mr. Ratcliffe. Okay. That's what I'm trying to figure out. Was she briefed about Hillary Clinton's interview and the results of that before the press conference?

Mr. McCabe. I'm not aware of that.

Mr. Ratcliffe. Okay.

One of the things that we've talked about a lot is this May 2nd memo or email that contains Director Comey's draft opinions that later were stated during the July 5th press conference. And you've answered a number of questions today talking about the issue of intent, and I asked you a question you didn't get a chance to answer, which was: The focus had been on intent. I think you gave testimony earlier that there was no smoking-gun evidence of intent.

The statute very clearly says and the memo very clearly relates

to the fact that what the FBI was looking at was a potential violation of a Federal statute that makes it a felony to mishandle classified information either intentionally or in a grossly negligent way.

And so my question to you is, when were you advised that evidence of gross negligence was not what you were looking for, you had to find evidence of intent?

Mr. McCabe. I don't believe I was ever advised in that way.

Mr. Ratcliffe. Okay. So was the FBI looking for evidence of gross negligence?

Mr. McCabe. Of course.

Mr. Ratcliffe. Because it would satisfy the elements of the statute.

Mr. McCabe. Yeah. We were looking for any indicators of what Ms. Clinton or anybody else involved, what their state of mind would have been around those events.

Mr. Ratcliffe. Okay.

So the draft statement on May 2nd, which became the actual statement in large part on July the 5th -- and I say "in large part" because the conclusions remain the same but there were parts of it that changed. And I want to ask you about that, about anything you can recall about the discussion and the reason that parts of this draft statement were changed.

Do you have any recollection as to why this statement on May 2nd -- "There's evidence to support a conclusion that Secretary Clinton and others used the private email server in a manner that was grossly

negligent with respect to the handling of classified information" -- that was changed in the press conference and in subsequent testimony by Director Comey to be "extremely careless." Do you know why that change was made?

Mr. McCabe. I do not. I don't know if you're referring to the change suggested in the draft that's been discussed widely?

Mr. Ratcliffe. Yeah.

Mr. McCabe. I do not. I don't know who made the --

Mr. Ratcliffe. You don't remember a discussion about, well, we need to change this from "grossly negligent" to just "extremely careless" because there's a reason for that or a significance behind that?

Mr. McCabe. I don't. What I remember is having many conversations with Director Comey and the rest of the team around, as I said before, what we thought of the case, what we thought of the evidence. We had conversations about the statement, and so I remember generally how those conversations went. I don't remember the specific change of that language.

Mr. Ratcliffe. Okay.

One of the other things in the draft statement was, "The sheer volume of information that was properly classified as Secret at the time it was discussed on the email -- that is, excluding the up-classified emails -- supports an inference that the participants were grossly negligent in their handling of that information." That was changed.

COMMITTEE SENSITIVE

Mr. McCabe. Can you show me where you are?

Mr. Ratcliffe. Yeah. It's on -- have you got the document?

Mr. McCabe. I do. Is that it? Exhibit 1?

Mr. Ratcliffe. Yeah, it's marked as exhibit 1.

Mr. McCabe. Yes.

Mr. Ratcliffe. So, on the third page, under the subheading "That's what we have done. Now let me tell you what --

Mr. McCabe. Okay.

Mr. Ratcliffe. -- we found." And so the first question was in that first paragraph below that. And the next question that I've just asked you about is referring to "the sheer volume of information supports an inference that the participants were grossly negligent." Do you see that?

Mr. McCabe. I'm reading it just now, if you'll give me a second. Yes, I see it.

Mr. Ratcliffe. Director Comey testified before this committee that the volume of classified emails was not great enough to support that finding. Do you know why that was changed from this draft to what his testimony under oath was?

Mr. McCabe. I do not.

Mr. Ratcliffe. Okay.

The next page, top of the next page, in that paragraph, third line down, it says -- or the start of the fourth line down: "We do assess that hostile actors gained access to the private email accounts of individuals with whom Secretary Clinton was in regular contact from

COMMITTEE SENSITIVE

her private account. We also assess that Secretary Clinton's use of a private email domain was both known by a large number of people and readily apparent. Given that combination of factors, we assess it is reasonably likely that hostile actors gained access to Secretary Clinton's private email account."

In his subsequent statements on July the 5th at the press conference and in his sworn testimony, that was changed to say not that it was reasonably likely but that it was possible. Do you know what precipitated that change?

Mr. McCabe. I remember discussing that topic with our cyber folks to get an understanding of essentially what sort of activity we had seen, and [REDACTED]

Mr. Ratcliffe. I'm sorry.

Mr. McCabe. That's okay. I'll back up.

So our cyber folks discussed with us, to the best of my recollection, [REDACTED]  
[REDACTED].

Mr. Ratcliffe. Okay. In the course of changing all this, do you recall discussions about the difference between gross negligence and extreme carelessness?

Mr. McCabe. I do not.

Mr. Ratcliffe. Okay.

And I asked you before about [REDACTED]. You didn't seem to have much recollection other than he was a witness. And if that's the case, that's fine. I was just wondering something about the

circumstances under which he was granted immunity. That was unusual to me. That didn't make sense, as a former prosecutor. And I wondered if you have enough of a recollection to answer those questions.

Mr. McCabe. I remember generally [REDACTED]'s role in -- was it PRN? Platte River Networks?

Mr. Ratcliffe. Yeah.

Mr. McCabe. And that he had some -- to the best of my recollection, he explained that he had not taken some action that he had been ordered or hired to do until sometime later, and that was something that he was concerned about becoming exposed, or something along those lines.

Mr. Ratcliffe. Okay.

Mr. McCabe. He ultimately explained to us kind of the process that he used on the computers, which was --

Mr. Ratcliffe. And did that make sense do you? Do you have a recollection that it made sense?

Mr. McCabe. What he did?

Mr. Ratcliffe. Yeah.

Mr. McCabe. I couldn't tell you off the top of my head right now. I can't remember with clarity what he said he did.

Mr. Ratcliffe. Well, let me just, real quickly --

Mr. McCabe. If you'd like me to review the document, I'm happy to do it.

Mr. Ratcliffe. Well, let me -- so I'll just relate it, and maybe you can answer it or you can't.

COMMITTEE SENSITIVE

Mr. McCabe. Okay.

Mr. Ratcliffe. In his first interview with the FBI, he told FBI agents that he had no knowledge about the preservation order or subpoenas from Congress or from Chairman Gowdy relating to the Clinton emails.

Mr. McCabe. Okay.

Mr. Ratcliffe. Three months later, he came in and he did a 180-degree turn. He admitted, in fact, that he was aware of that, of the preservation order, and that it meant that he should not disturb the Clinton emails.

And former Director Comey testified as much and acknowledged that he had lied to the FBI. And that was the premise for which I asked, well, why would he be granted immunity, having lied to the FBI? And I gave you those questions as well.

But what hasn't made sense to me, and I've gone back and looked at this, and maybe you have a recollection, but he's the individual that used BleachBit to delete those emails. Do you recall that?

Mr. McCabe. I do.

Mr. Ratcliffe. Okay. But what the records show is that -- what he told the FBI was that he used BleachBit to destroy the email records right after being told in a March 2015 conference call with Cheryl Mills and David Kendall, Ms. Clinton's lawyers at the time, about the need to preserve the emails because of the subpoena and the preservation order.

And so that's what doesn't make any sense to me, why a contractor,

COMMITTEE SENSITIVE



being expressly told by a client to preserve the emails, would disobey the client's wishes, risk not just his job and his reputation and the reputation of his company but also risk going to prison, risk his own personal liability, without any financial motive for gain whatsoever and would do that.

Do you recall any discussion at the FBI about that set of facts and those actions by [REDACTED]?

Mr. McCabe. Not specifically, sir. As I mentioned, I remember very generally discussing the fact that [REDACTED] was someone who was important to us to know kind of technically what he had done on the system, be it the server or the laptops. I remember some discrepancy with what he told us initially and then ultimately admitted to. And I remember very generally that the reason for that was he was concerned about not having followed an earlier direction by the folks who had hired him.

Mr. Ratcliffe. Fair enough.

Mr. McCabe. That's my recollection.

Mr. Ratcliffe. I appreciate that.

Mr. McCabe. Yes, sir.

Mr. Meadows. So let me follow up a little bit with some of John's questioning. And I guess, just for the record, because there's a whole lot that gets intimated in terms of motives and where they are, there is no one who holds law enforcement in higher regard in Congress than me. I've got dear friends who truly are sheriffs, Democrat sheriffs, that I trust implicitly, that actually -- other than campaign time,

COMMITTEE SENSITIVE

we actually have lunch. We don't let any pictures be taken together, because it would hurt them more than it would hurt me. And so I want you to know that.

And so it's getting to the bottom of this, which I think is indeed a black eye at times on the Department of Justice or the FBI. And I do believe that there are people within your agency who believe things should have been done differently. And that's an informed decision.

And so I share that not to cast a large blanket across "all of the FBI feels this way." In fact, many of your agents came to me early on when President Trump put the freeze on and shared with me how that was going to actually hurt their ability to recruit new agents, and I personally went to the President to say that we needed to lift that.

And so I just want the context -- and the other part of it is campaign contributions does not necessarily make you biased. And you can follow the video from 5 years of me asking questions of witnesses. That's not one area that I believe that we should focus on, because it's not an indication of character.

I do want some clarification on several things that seem to be inconsistent. So, to follow up on what John said, you know, when we look at "extremely careless" versus "grossly negligent," tell me, from your point of view, what's the bright line? How do we go from "extremely careless" to "grossly negligent" and back and forth?

And I guess you said that you didn't have any conversations with Director Comey about that. Is that correct?

Mr. McCabe. I don't remember having a specific conversation with

COMMITTEE SENSITIVE

Director Comey.

Mr. Meadows. So who would have? Who would have? Because, obviously, he valued your opinion.

Mr. McCabe. Yep.

Mr. Meadows. You say you're his closest confidant.

Mr. McCabe. I don't know that I would say that. I'm one of his closest --

Mr. Meadows. One of his closest. So if it's not you, then who would he have had that discussion with to change that, to help me understand the bright line?

Mr. McCabe. Yeah. I mean --

Mr. Meadows. Okay. You don't know.

What would be the pool of the three or four people that he would seek advice? Is it the three or four people on the email?

Mr. McCabe. It's the people on this team. Those people who the email was shared with, those are the people you should talk to.

Mr. Meadows. All right. And, for the record, who would those be? If you were me and you were -- you're saying that you don't recall talking to him about it. Who would be the other two most likely people for me to talk to?

Mr. McCabe. And, to be clear, sir, I will tell you the names of the people who I think were among that group that discussed all sorts of these issues. We had many, many discussions. I just can't sit here years later --

Mr. Meadows. I'm talking about the drafting of a memo. You know

where I'm going with this, so --

Mr. McCabe. About this particular change in language.

Mr. Meadows. Right.

Mr. McCabe. All of these things were discussed with that group that I think I identified earlier this morning. So that would be myself, Jim Rybicki --

Mr. Meadows. But you said you didn't talk to him about the change from --

Mr. McCabe. I didn't say I didn't talk to him about it. I said I don't remember talking to him about it. I don't have a specific recollection of the Director and I discussing the difference between "grossly negligent" --

Mr. Meadows. Okay. Do you have a recollection of anybody else talking to him about that?

Mr. McCabe. About that specific change? I do not.

Mr. Meadows. All right. So what's the bright line?

Mr. McCabe. The difference between those two concepts?

Mr. Meadows. Yeah. Since you're charged with investigating, what's the bright line?

Mr. McCabe. Yeah. I don't think there's a huge difference between them.

Mr. Meadows. So if you're before the Supreme Court, you can't answer what the bright line is? Because they would ask the same question, what's the bright line between "extremely careless" and "grossly negligent"?

COMMITTEE SENSITIVE

Mr. McCabe. I don't think there's a bright line between the two.

Mr. Meadows. So it's a judgment call.

Mr. McCabe. That's correct.

Mr. Meadows. So you're saying Director Comey made a judgment call to put it in the memo, to change it.

Mr. McCabe. I think he did.

Mr. Meadows. Okay.

So you mention that you didn't talk to anybody about the "extremely careless" and "grossly negligent," but you did go and talk about the cyber side of that. So why would you talk to cyber experts about the changes there and what John just talked about and not the "extremely careless" to "grossly negligent"? Why do you recall one and not the other?

Mr. McCabe. To be clear, I did not say that I did not discuss this with Director Comey. I participated in many discussions about many things --

Mr. Meadows. So you did discuss it?

Mr. McCabe. I don't have a clear recollection of discussing --

Mr. Meadows. Okay. Do you have any recollection of discussing it?

Mr. McCabe. That edit?

Mr. Meadows. "Grossly negligent" between "extremely careless."  
Any recollection?

Mr. McCabe. I do not. I do not.

Mr. Meadows. Because you said not clear.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Ms. Anderson. I think we're covered this ground.

Mr. Meadows. Well, we haven't covered it yet. So let's go on a little bit further.

You're saying -- so why did you talk to the cyber expert on that issue within the memo and not this?

Mr. McCabe. I talked to many people about many issues during the course of this investigation.

Mr. Meadows. And you can recall those, but you can't recall this one?

Mr. McCabe. That's correct.

Mr. Meadows. Okay.

All right. So let me go on a little bit further, because I think probably the other issue that I have is we have a redaction. And it's obviously that the person redacted. It was the Office of General Counsel. According to your testimony earlier, it would probably be a rank-and-file attorney. Is that correct? That that may be part of the policy? Is that what you said?

Mr. McCabe. I'm not sure I know what redaction you're referring to.

Mr. Meadows. Okay. When we talked about the memo originally, and there was a redacted name on there --

Mr. McCabe. Oh --

Mr. Meadows. -- and you said who was --

Ms. Anderson. You're talking about Deposition Exhibit 2?

Mr. Meadows. Yeah. Yeah.

COMMITTEE SENSITIVE

So would that be somebody of your counsel's level that we would typically redact on there?

Mr. McCabe. Not of this counsel's. Of somebody beneath her level.

Mr. Meadows. Okay. I assumed that was the answer. It was a softball. So at what level would you redact it?

Mr. McCabe. I don't do these redactions. My understanding of our approach to these redactions is anybody beneath the SES level, we typically redact their names.

Mr. Meadows. All right. So let me go on a little bit further, because we talked about the -- you gave the exact testimony of where you talked about laptops and the frustration. And you gave the example of that frustration, because you were personally involved in that.

Mr. McCabe. Yes.

Mr. Meadows. You said at that particular time there were other witnesses that were frustrated with the inability to actually either gather information or compel a witness that would probably be better to talk to with that frustration level, I think was your exact quote.

Mr. McCabe. Yes.

Mr. Meadows. Who would those witnesses be?

Mr. McCabe. Bill Priestap.

Mr. Meadows. Okay. Who else?

Mr. McCabe. Peter Strzok. Probably the two best people for you to talk to on that. Possibly [REDACTED]. But Peter Strzok would have had the majority of the interaction with DOJ at that line level where

those things were happening.

Mr. Meadows. Okay. And Peter Strzok was bought in to the investigative team as lead investigator? I've read reports. I don't know if that's the case.

Mr. McCabe. Yeah. That's not really a term --

Mr. Meadows. You can't believe everything you read in the paper.

Mr. McCabe. I'm aware of that. That's not really --

Mr. Meadows. So was he the lead investigator or not?

Mr. McCabe. That's not really a term that we use. He was in a supervisory --

Mr. Meadows. Was he the go-to person, the supervisory person over the investigation?

Mr. McCabe. He was instrumental to the investigation. He was involved in --

Mr. Meadows. So what term do you use?

Mr. McCabe. Well, he came over as a temporarily deployed ASAC from the Washington field office. While on the investigation, he was promoted to a section chief. So he was responsible for a section of --

Mr. Meadows. And he was the lead investigator why? Because I thought he had counterintelligence --

Mr. McCabe. Experience.

Mr. Meadows. -- expertise.

Mr. McCabe. Yes, sir.

Mr. Meadows. That he's a Russia expert.

Mr. McCabe. He's a counterintelligence expert.



COMMITTEE SENSITIVE

Mr. Meadows. Yeah. And so the reports of him being a Russian expert are not accurate?

Mr. McCabe. I mean, he certainly knows a lot about Russia. He knows a lot about --

Mr. Meadows. So he was bought in because of that. That's why he was picked.

Mr. McCabe. He was doing counterintelligence work at the Washington field office and had a good reputation for doing that work.

Mr. Meadows. Okay.

And you mentioned just a few minutes ago that you were not aware of the Attorney General being briefed on the Hillary Rodham Clinton interview prior to Director Comey making his press statement. Is that correct?

Mr. McCabe. I was not present for that -- for a briefing --

Mr. Meadows. No, but you said you were not aware of her being briefed.

Mr. McCabe. I don't know if she was briefed or not.

Mr. Meadows. So who would know that?

Mr. McCabe. Somebody at the Department of Justice. George Toscas --

Mr. Meadows. So there's no one within the FBI -- you know, you're Director Comey's closest person.

Mr. McCabe. Yes.

Mr. Meadows. And you are not sure whether Director Comey briefed the Attorney General prior to a press conference.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. McCabe. I do not -- no. Hold on just a second.

Director Comey did have contact with the Department prior to the press conference, immediately prior, within an hour before the press conference took place. I don't know if Attorney General Lynch received a briefing of the results of the Clinton interview.

Mr. Meadows. All right. Fair enough.

So when the original investigation -- when did it conclude? The Clinton investigation. Let me be clear about it. The Clinton email investigation, when did it conclude?

Mr. McCabe. I would say with the Attorney General's acceptance of the recommendation, not --

Mr. Meadows. So sometime in July? Is that --

Mr. McCabe. Yeah, although we were --

Mr. Meadows. Of what year?

Mr. McCabe. We continued to do kind of -- the team continued to work on administrative work on the file, things of that nature, but no more investigative activity.

Mr. Meadows. Administrative work in what sense? Characterize that for me, if you could.

Mr. McCabe. So we began to receive a number of FOIA requests. We --

Mr. Meadows. Oh, so no further investigation.

Mr. McCabe. No, sir.

Mr. Meadows. All right. So no further investigation, and yet something came forward that reopened the investigation, I guess, in

COMMITTEE SENSITIVE

October, according --

Mr. McCabe. That's correct.

Mr. Meadows. And so that came from the New York field office, I guess is where the report came from?

Mr. McCabe. That's correct.

Mr. Meadows. All right. And then we closed it out a few days later after the emails were reviewed. Is that correct? So we had an investigation, it closed, we opened it back up, and it closed again within a few days.

Mr. McCabe. Yeah. That's --

Mr. Meadows. Do you know how many days?

Mr. McCabe. No, because that's at the point that I was no longer involved in the investigation.

Mr. Meadows. Well, so tell me about your recusal. When did you recuse yourself?

Mr. McCabe. That first week in November.

Mr. Meadows. November 1st is --

Mr. McCabe. I don't know if it was the 1st or the 2nd, but it's a few days --

Mr. Meadows. Okay. And your earlier testimony said it was a voluntarily recusal. Is that correct?

Mr. McCabe. It was voluntary, but I did it at Director Comey's request.

Mr. Meadows. Okay. Why would Director Comey ask you to recuse yourself?

Mr. McCabe. Director Comey thought that it would be best for me to recuse myself from the case at that point because of the public interest or the -- I don't know if that's the right way to describe it -- because of all the interest that had been created by two Wall Street Journal articles about me that had appeared in the week or two prior.

Mr. Meadows. But your earlier testimony said that the FBI does not make decisions based on political ramifications. I mean, that was your testimony. And so --

Mr. McCabe. Yes.

Mr. Meadows. -- now you're saying that you recused yourself because of politics.

Mr. McCabe. No, sir, that is what I'm saying.

Mr. Meadows. So Director Comey asked you to recuse yourself because of politics.

Mr. McCabe. Director Comey was concerned that the focus on the allegations that the Wall Street Journal published about my wife and her run for State senate created a distraction or an appearance that he thought would be negative for the case.

I did not agree with that assessment. I did not agree with --

Mr. Meadows. So you didn't have a conflict.

Mr. McCabe. No, sir. I did not have a conflict.

Mr. Meadows. And so why would he ask you to recuse yourself after an investigation is over?

Mr. McCabe. I think Director Comey did not feel it was necessary

for me to participate in the decisions that he was making about reopening the case --

Mr. Meadows. But those decisions had already been made on --

Mr. McCabe. Am I going to have an opportunity to answer your question?

Mr. Meadows. Yes, you will. But when did the decision to open the case happen? What day?

Mr. McCabe. I don't know, sir.

Mr. Meadows. Okay.

Mr. McCabe. You mean the reopen in October?

Mr. Meadows. Right, the reopen in October.

Mr. McCabe. I was not a part of that decision.

Mr. Meadows. Okay. So it was the reopening of the case that he felt like he needed to recuse yourself then? I'm just trying to get some clarity. I mean --

Mr. McCabe. I would love to give you clarity, sir, but it's going to take a few more words than the ones you've allowed me.

Mr. Meadows. I'm from North Carolina. My humble apologies for interrupting you.

Mr. McCabe. Thank you.

On the Wednesday of the last week in October, the situation with the information coming out of New York came back to my attention. I told Director Comey we needed to convene a meeting to discuss the way forward with the potential evidence that had come to our attention out of the Anthony Weiner investigation.

COMMITTEE SENSITIVE

I set up that meeting to take place on the next day, which was a Thursday. I was traveling at the time. I called in to the meeting. And after the group assembled and I was connected to the meeting, I was quickly dropped from the call on the concern, as I was told at that time, that the meeting might go into classified matters which they didn't want discussed over an open line.

I later talked to -- I talked to Director Comey later that day. He told me, "I don't need you in this decision. I have decided what I'm going to do, and I think it would be better if you stayed out of it."

Mr. Meadows. So you were part of the decision -- because he had already made up his mind at that point. So he wanted you to recuse yourself so it looked like you weren't involved?

Mr. McCabe. No, sir. We didn't even discuss recusal until I returned to the office the following Monday. I thereafter had a series of meetings with James Baker and other people and ultimately sat down and talked to the Director. I made my argument that I did not think recusal was a good idea -- I didn't think it was necessary under the law or the facts. I didn't think it was a good idea for the case. He disagreed with me, asked me -- he said he thought that I should recuse, and I did so at his request.

Mr. Meadows. Okay. Thank you.

Mr. Chairman, I'll yield to you.

Chairman Goodlatte. We have a minute, so I think we'll just go ahead and switch. When we recessed for votes, you had, I think,

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

14 minutes remaining, and you would also have another 30 minutes following our having just taken 30 minutes. So for the next 44 minutes, you and any other member of the minority can ask questions. And we'll switch places with you.

Ms. Jackson Lee. Thank you.

I was in the middle of my questioning, so I'd like to continue.

When I first started, I gave a series of incidents that I think were major historic incidents in the United States, criminal incidents, terrorist incidents, civil rights incidents is where I think you said, yes, that the FBI was --

Chairman Goodlatte. Ms. Jackson Lee, could you talk a little bit more closely to the microphone so we can hear you back here?

Ms. Jackson Lee. Thank you.

At the beginning of my first round of questioning, I gave a series of historic events in the United States, criminal events, terrorist events, where I mentioned them with the question, was the FBI instrumental in the solving of these particular heinous acts, including some involving the civil rights era, and I think concluded with your comments this these are incidents that may have inspired you or reflect on your thoughts about the FBI.

So I'm going to do a series of questions, but I did not get a chance to finish my thought, which was to thank the FBI for its service and, in particular, thank you for the service that you've given as well.

Mr. McCabe. Thank you, ma'am.

Ms. Jackson Lee. That is the FBI that many of us know and care

COMMITTEE SENSITIVE

about.

Mr. McCabe. Thank you.

Ms. Jackson Lee. I was in the middle of the question about, we are here regarding the Clinton emails, but the underlying premise is a bias one way or the other.

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. In this instance, a bias against Mr. Trump. I had some other questions about that. So I'm going to pursue this line of questioning.

Are you familiar or have you worked with Jim Kallstrom, former head of the New York FBI field office and assistant director until 2016? Have you worked with him?

Mr. McCabe. Mr. Kallstrom was the assistant director in charge the New York city field office when I showed up as a brand-new agent in 1996. I didn't know him. We didn't work closely together. But I worked under him for that period of time.

Ms. Jackson Lee. Were you aware he stated publicly that the Clintons are a crime family?

Mr. McCabe. I was not aware of that specific statement.

Ms. Jackson Lee. Do you believe his strong feelings or apparent bias toward the Clintons would have infected the work of the New York field office in its entirety?

Mr. McCabe. I don't -- first of all, I'm not sure -- I think you said that he left in 2016. He actually, I think, left long before then.

Ms. Jackson Lee. I have here until 2016 he was assistant



director.

Mr. McCabe. Jim Kallstrom?

Ms. Jackson Lee. Former head of the NY FBI?

Mr. McCabe. Yeah, he was head the New York field office, but he left the FBI probably --

Ms. Jackson Lee. Before 2016?

Mr. McCabe. Long before 9/11.

Ms. Jackson Lee. Okay. Well, I will -- but he came -- you came in 1996.

Mr. McCabe. I did.

Ms. Jackson Lee. And you were in the field office.

Mr. McCabe. That's right. He was in there in 1996 when I was there. He retired a few years after I got there. I left in 2006. We had had many ADICs by then, so--

Ms. Jackson Lee. So let me take his comments both as an FBI agent and possibly a former FBI agent.

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. That if he had these strong feelings or apparent bias toward the Clintons, would that have infected the entire office?

Mr. McCabe. You know, you're asking me to speculate on something that I don't know happened, and I'm not comfortable with that.

Ms. Jackson Lee. Were you, by any chance, aware that Mr. Kallstrom leads a charity to which the Trump Foundation had contributed more than \$230,000?

Mr. McCabe. I was not aware of that.

Ms. Jackson Lee. Were you aware the charity's vice president is also the regional vice president for Trump Hotels in New York?

Mr. McCabe. I did not know that.

Ms. Jackson Lee. Were you aware Mr. Kallstrom himself was a single --

Mr. Meadows. Excuse me. Again, that's beyond of scope of where we are.

Ms. Sachsman Grooms. The discussions about whether there were leaks out of the New York field office is critically important to exactly the scope of this issue.

Mr. Meadows. We can certainly look at leaks, but --

Ms. Sachsman Grooms. Well, so Mr. Kallstrom is the leak. So --

Mr. Meadows. But the point of Sheila's questioning -- and we can get back and forth and debate this -- is not the source of leaks. It is to make inflammatory statements that go beyond the scope of what we're talking about.

So let's all just abide by the rules. I actually chastised Mr. Jordan for going beyond the scope as well. Let's keep this fair and balanced, okay?

Ms. Jackson Lee. Mr. Meadows, I will not accept this as a chastise. You're making a comment, and it's not chastising.

But you wearing your legal hat and my counsel being, I think, very correct, last week, one member of, I believe, the committee that you are on indicated that this gentleman should be fired. And, therefore -- I've obviously said the gentleman should not be fired in

no way, shape, form, or fashion. But the idea was that this gentleman comes with a biased perspective. Now, we're finding out today that that is zero truth.

Mr. Meadows. You mean the deputy director --

Ms. Jackson Lee. This is the gentleman that I'm speaking of.

So you have additionally -- and the inference of this particular set of investigations is the bias in the FBI leaning more toward, in this particular instance, Mrs. Clinton. This shows that, whether this director was there up until 2016, the bias in the New York office, in particular, to the present President of the United States.

So let me summarize --

Mr. Meadows. Just with the scope, let's make sure that --

Ms. Jackson Lee. I will stay in the scope --

Mr. Meadows. -- we keep within the scope, Sheila. And as a friend, I mean, I am coming in a gentle way to say let's bring it back to the track that we need to do it.

Ms. Sachsman Grooms. Just for the record, my understanding of the scope of this committee's investigation includes the investigation being conducted -- includes the topics being investigated by the inspector general.

The inspector general is specifically including in its investigation of the FBI's decisions surrounding Clinton's emails decisions related to our members, Mr. Cummings and Mr. Conyers at the time, concerns surrounding leaks that were potentially coming from the New York field office to Rudy Giuliani and how that could have impacted.

COMMITTEE SENSITIVE

And so this line of inquiry is following that and so well within the scope.

Mr. Meadows. So what timeframe? Are you talking about leaks during what timeframe?

Ms. Sachsman Grooms. So the leaks would have occurred from people within the FBI field office to Mr. Kallstrom. Mr. Kallstrom would have been outside of the FBI field office.

Chairman Goodlatte. What timeframe?

Ms. Sachsman Grooms. During the timeframe of the leaks. The leaks would be the summer of 2016. We're well within.

Chairman Goodlatte. Go ahead with the questions, and if we think you're going astray, we'll indicate.

Ms. Jackson Lee. Thank you. And thank you and Mr. Meadows for your seeking a clarification.

Mr. Kallstrom, like Mayor Giuliani, repeatedly cited exchanges with active agents about ongoing cases, including the Clinton investigation.

What is the FBI's policy on agents engaging in such contacts with outside parties or former agents specifically about ongoing cases?

Mr. McCabe. Agents are not supposed to discuss their work with people outside the organization, whether or not they're former agents.

Ms. Jackson Lee. So any actions like that certainly would have been against FBI policy, whether you're in the field office, in headquarters, or in Washington.

Mr. McCabe. That's correct.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Ms. Jackson Lee. Are you aware of any agents involved in the Clinton case communicating with Mr. Kallstrom, Mayor Giuliani, or other outside parties?

Mr. McCabe. I am not. I'm not aware of a specific agent communicating with Mr. Kallstrom or others.

Ms. Jackson Lee. Are you aware or do you recall comments made about -- well, let me continue this line of reasoning.

And so you're not aware of any agents involved in the Clinton case communicating with Mr. Kallstrom, with Mayor Giuliani, or outside parties?

Mr. McCabe. I am very familiar with the concern, a formidable concern that we had, about agents discussing this case and other matters outside the organization. There was a lot of that activity going on at this time. And so that was something that we discussed, that was a topic that I discussed with the current head and the then-head of our FBI field office in New York, Assistant Director in Charge Bill Sweeney.

Ms. Jackson Lee. So it may be a possibility that they communicated to Mr. Kallstrom or Mayor Giuliani.

Mr. McCabe. It's certainly possible, yes.

Ms. Jackson Lee. I think you recall Mayor Giuliani being on an interview or -- let me just say, do you recall Mr. Giuliani being on an interview saying, "You're going to hear something soon"?

Mr. McCabe. I remember coming across that. I don't know whether I read a report of that or saw the interview, but I remember hearing

COMMITTEE SENSITIVE

about those comments.

Ms. Jackson Lee. But it still goes against the grain of FBI agents communicating about active cases to outsiders?

Mr. McCabe. That is contrary to FBI policy.

Ms. Jackson Lee. On one specific Fox appearance, Mr. Kallstrom stated, "Who knows? Maybe the locals would have done it," referencing to law enforcement leaks during 2016 regarding Hillary Clinton -- again, he is outside. He is not an FBI agent, but stated, "Who knows? Maybe the locals would have done it," referencing to law enforcement leaks during the 2016 Hillary Clinton matter.

Did the New York office or any other field office threaten to leak information in an attempt to influence you, your team, or Director Comey's decisionmaking related to any part of the Clinton or Trump investigation? Did it trickle down to where you were, which was Washington, D.C., I guess, at that time?

Mr. McCabe. So you're asking me did the field office threaten us with leaking information?

Ms. Jackson Lee. Did the field office threaten to leak information in an attempt to influence you, your team, or Director Comey's decision related to Clinton or Trump investigations?

Mr. McCabe. Not that I'm aware of.

Ms. Jackson Lee. You don't remember that chain of activity.

Mr. McCabe. I do not.

Ms. Jackson Lee. Are you aware of any investigations into leaks related to the Clinton investigation coming from the New York field

office?

Mr. McCabe. What was the question again?

Ms. Jackson Lee. Are you aware of any investigations into leaks related to the Clinton investigation coming from the New York field office?

Mr. McCabe. To the extent that your question could call for me to confirm or deny the existence of an investigation, I cannot do so.

Ms. Jackson Lee. I understand.

Are there any investigations into leaks related to the 2016 Presidential election, such --

Mr. McCabe. Once again, I can neither confirm or deny the existence of an ongoing investigation.

Ms. Jackson Lee. Let me conclude this so I can yield to my friend from Maryland.

As I said before, the underlying premise was bias. And I may have an opportunity to reassess the questions and then address them again. But the underlying premise is bias.

You did answer that the idea of communicating by active duty FBI agents to outside entities is forbidden.

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. And so do you conclude, as we are at the end of the day, somewhat, that you still maintain that the idea of bias permeating any actions dealing with the final decision on Mrs. Clinton, whether you are biased in one way or another as an active FBI agent, that that is, one, forbidden but, two, had no impact on your ultimate

decision dealing with either filing charges against Mrs. Clinton regarding emails or not filing charges?

Mr. McCabe. I am not aware and I was not aware at that time, in July of 2016, of the personal biases of any member of that team that worked on this case impacting the decisions or the work that we did in any way.

Ms. Jackson Lee. Including your own.

Mr. McCabe. Very much including my own. I do not have political biases.

Ms. Jackson Lee. Mr. Raskin?

Mr. Raskin. Thank you so much.

Mr. McCabe, again, thank you for your endurance and your patience with us today. I just have a few clean-up questions here.

One is, I think I'd be extremely careless, if not grossly negligent, not to ask this question about an exchange you had with Representative Gowdy. The chairman invited you to clarify that, in the time before the election, the FBI's investigation of Trump campaign associates and their connections with Russia was a counterintelligence investigation and not a criminal investigation. Is that right? He asked you to clarify that.

Mr. McCabe. He asked me to clarify it. What I was trying to clarify -- I'm not sure that I did -- was that his original question was focused on the statements that Director Comey made during his testimony. And in those statements, Director Comey, for the first time, publicly acknowledged the existence of a counterintelligence



investigation.

Mr. Raskin. Well, what does it mean to have a counterintelligence investigation?

Mr. McCabe. It essentially means an investigation that is conducted by our counterintelligence agents and managed or overseen by our counterintelligence program. It is possible and oftentimes counterintelligence investigations result in criminal charges. But it's more of a reflection of who's working the issue within the FBI.

Mr. Raskin. And it is triggered by a potential national security issue?

Mr. McCabe. Yes.

Mr. Raskin. Okay.

I wanted to ask you -- just go back to the question of recusal for a moment. Is there one general DOJ standard for recusal, or is there a separate one for the FBI?

Mr. McCabe. That's a bit complicated. I don't know that there is one singular DOJ standard. There's a number of statutes and policies that impact on those sorts of decisions, and I think they apply equally to the Department and the FBI.

Mr. Raskin. Okay. And in the first instance, it's up to the prosecutor or the agent himself or herself as to whether or not to recuse? And then --

Mr. McCabe. I think, as a provisional matter, we rely on employees to determine when they have conflicts or potential conflicts or the appearance of a conflict with a matter that they have been

assigned or are involved with.

Mr. Raskin. Okay. And certainly there are cases where people recuse themselves where they don't think they have a conflict of interest, where they don't think they would be biased in terms of their work, but they are being extra sensitive to the possibility of public perception of bias. Is that right?

Mr. McCabe. That's correct.

Mr. Raskin. And you're aware of a lot of cases like that, where people recuse in that situation?

Mr. McCabe. I am aware of some, yes.

Mr. Raskin. Yeah. Okay.

And let me just ask you finally about prosecutorial discretion. Because I was listening to a lot of the questions today; it seemed that a lot of them were asking reasonable questions about the exercise of prosecutorial discretion. Certainly, a lot of people on our side of the aisle asked the same kinds of questions about Mr. Comey's decision to have the press conference about the Clinton emails and so on.

Mr. McCabe. Yes.

Mr. Raskin. And the whole idea of prosecutorial discretion suggests that there might be a range of professionally reasonable decisions that could be made at any particular juncture in an investigation. Would you agree that that's right?

Mr. McCabe. I would.

Mr. Raskin. So it's not as if there's one straight line that every prosecutor follows in every case. They're a series of judgment

calls, as people were saying before.

Mr. McCabe. Of course.

Mr. Raskin. Now I'm just asking for your opinion, for the benefit of the committee, in looking back at all of these things that have been within the scope of the discussion today.

Is it helpful for us to transform every difference over exercises of prosecutorial discretion into allegations of partisan bias or a political agenda? In other words, is that the most helpful way of thinking about prosecutorial discretion?

Mr. McCabe. I don't know that I can -- I don't know that I can say what the most helpful way of thinking about it is. I can say that, in this case, the decisions that we made were not made based on political bias. They were made in that realm that you, I think, accurately described as one where reasonable judgments could differ, but they were professional judgments, nonetheless, based on our understanding of the facts at the time.

Mr. Raskin. And the problem, of course, is that, when people are watching, they don't like the particular real or apparent implications of a particular decision. It's easy enough in a pluralistic, democratic society for people to attribute a partisan motive or a political bias to something that takes place which they think cuts the wrong way.

And certainly I remember back to Mr. Comey's famous press conference, and a lot of my Democratic friends were very upset about it and said that they thought that this was an outrageous interference

in the campaign and him stepping out of his role. And as a former State assistant attorney general, I tried, best I could, to state that there was a set of criteria that he may have been operating under that had nothing to do with a partisan agenda despite the fact that he was Republican and so on.

All right. Well, I just want to thank you for your patience today. And if you have else to respond to that?

Mr. McCabe. If I could.

Mr. Raskin. Yeah.

Mr. McCabe. Director Comey and I discussed at length the reaction of some of our own employees to the results of the decision. We were concerned about, you know, how that was rippling through the workforce, because there were people, as I've said earlier, who were frustrated.

And Director Comey would typically characterize it by saying that some people had a hard time seeing the results, the decisions in the case, in any way other than through the lens of their own personal beliefs and that sometimes colored the way people reacted to things.

But, nevertheless, it didn't change the facts upon which we based our decision and the fact that he did so in the way that he felt was best.

Mr. Raskin. Great.

Well, you've got a tough job, and I want to thank you for doing it.

And I will yield back. I don't know if Ms. Lee had any further

questions.

Ms. Jackson Lee. I do. Thank you.

I want the record to be clear that Mr. Meadows is a fine colleague, and I know that he accepts my premise that his comments were not chastising. And I thank him for bringing some issues to our attention. And I want to thank our counsel for clarifying them on the record. Certainly I want to thank my colleagues very much for the astute questions that they have had.

I want to clarify something else. As I was reading the comments of Mr. Kallstrom, I do want to indicate that they certainly were shocking to me. And for me, on the record, let me be very clear, I do not think the Clintons are a crime family. I'm saddened of the terminology. But that is just my statement on the record as I proceed in questioning.

Let me again thank you for your service. And I'm going to have a line of questioning, because you started out by indicating that when you're in public service and you have family members they get seemingly wrapped up in your commitment to public service. They have a commitment to public service, and, therefore, it is misinterpreted.

I think it's important to say thank you to a family that has two individuals that are committed to making their community better.

Mr. McCabe. Thank you.

Ms. Jackson Lee. So I do want to acknowledge that, and I want to also acknowledge, again, my appreciation for that commitment.

Mr. McCabe. Thank you, ma'am.

COMMITTEE SENSITIVE

Ms. Jackson Lee. But you told us today about damaging statements that have been about you and your alleged conflicts of interest. I'd like to discuss that issue with you in some more depth.

I'd like to introduce --

Ms. Sachsman Grooms. The following document is exhibit 4.

[McCabe Exhibit No. 4

Was marked for identification.]

Ms. Jackson Lee. -- a letter dated December 14, 2016, letter from Jason Herring, Acting Assistant Director, Office of Congressional Affairs, FBI, to Chairman Jason Chaffetz.

Have you reviewed the letter before?

Mr. McCabe. I have seen it before, ma'am, yes.

Ms. Jackson Lee. Are the factual assertions in this letter accurate?

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. When did your wife, Dr. Jill McCabe, first start considering running for a seat in the Virginia State Senate?

Mr. McCabe. She was first approached about the prospect in -- the date is February 24th, 2015.

Ms. Jackson Lee. 2015. I just want to reemphasize, 2015.

Mr. McCabe. 2015, yes.

Ms. Jackson Lee. And we were dealing with the emails in question in the year 2016.

Mr. McCabe. I was. Yes, ma'am.

Ms. Jackson Lee. At least you were.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. Because you were not dealing with them preceding that.

Mr. McCabe. No, ma'am.

Ms. Jackson Lee. So you were not dealing with that as your wife was being recruited or asked to run for office?

Mr. McCabe. That's right. She was contacted by an individual who was then the chief of staff for then, maybe still, Lieutenant Governor Ralph Northam.

Ms. Jackson Lee. Thank you.

And please, though we all know, explain the doctor that your wife is. Ph.D. or Ed.D.? What kind of doctor?

Mr. McCabe. She's an M.D. She's a pediatrician. She runs the pediatric ER at Loudoun Inova Hospital in Leesburg, Virginia.

Ms. Jackson Lee. And I imagine she has a lot of passion about her practice.

Mr. McCabe. She does, ma'am.

Ms. Jackson Lee. The letter states that you accompanied Dr. McCabe on a trip to meet with Virginia State officials the weekend of March 7th, 2015.

Mr. McCabe. That's correct.

Ms. Jackson Lee. Have you met or spoken with Terry McAuliffe since that visit on March 7th, 2015?

Mr. McCabe. No, ma'am.

Ms. Jackson Lee. The letter goes on to state that on that March

COMMITTEE SENSITIVE

11, 2015, the Wednesday after your weekend trip, you met with a lengthy list of FBI lawyers and ethics officials: the FBI's deputy designated agency ethics official -- I'm listing the persons -- the assistant director of the Office of Integrity and Compliance, the general counsel of the FBI, and a Washington field office lawyer.

Why did you meet with these individuals?

Mr. McCabe. Because I knew that if my wife chose to run for office it would raise issues that I needed to be very careful about, like the Hatch Act and things of that nature. So I wanted to get guidance from our chief ethics official and our general counsel and my field office attorney as to the best way to handle those matters professionally and responsibly.

Ms. Jackson Lee. So you didn't hesitate, didn't wait 2 months or 6 --

Mr. McCabe. No, ma'am.

Ms. Jackson Lee. -- months. You immediately engaged with these principals.

Mr. McCabe. And, in fact, on the day or two before that meeting, I met with my then-supervisor, Deputy Director Mark Giuliano, and explained the situation to him as well, and he advised that I meet with those folks.

Ms. Jackson Lee. And I'm sorry, you were in the --

Mr. McCabe. I was the assistant director in charge of the Washington field office at the time.

Ms. Jackson Lee. Washington office.



So I think I already asked what you discussed. It was just to get a framework of what you needed to do --

Mr. McCabe. Right.

Ms. Jackson Lee. -- having had those meetings, if she decided to run.

Mr. McCabe. How to handle the requirements of the Hatch Act and how to think about what actions I should potentially take with respect to the possibility of cases in the Washington field office that might provoke recusal responses.

Ms. Jackson Lee. In these meetings, did you disclose that you had accompanied your wife to meet with Governor McAuliffe and that she had the Governor's support?

Mr. McCabe. I did. But just to clarify, ma'am, we traveled to Richmond on that Saturday, March 7th, for the purpose of meeting with a different State legislator who my wife had been talking to who was trying to convince my wife to run for office. He was going to be at a meeting of other State Democratic politicians, and he said that the Governor might be at the meeting to deliver a speech.

When we got to the hotel to meet with that individual -- his name is [REDACTED] -- he informed us that the plans had changed and that the Governor did want to meet with us and would we meet with the Governor at his mansion in Richmond. And so we did that.

So we didn't go that Saturday with the intention or understanding that we would definitely be meeting with the Governor. That's just how it worked out.

Ms. Jackson Lee. And so, when you met with these individuals, you ultimately met with the Governor, not intentionally, but it just worked out that way. Were you able to discuss with these individuals ethics that your wife may have had or would have the Governor's support?

Mr. McCabe. Yeah, that was the purpose of the meeting. They were -- they were trying to find a candidate to run in the 13th District for state senate, and they were interested in having my wife do that. We went down there to talk to some folks to better understand what this all meant. We are not political people.

Ms. Jackson Lee. But when you had this discussion with the ethics lawyers, you laid everything out for them?

Mr. McCabe. I did. I laid the entire situation out for them. I explained who we had met with, what they had told us, and we discussed the whole matter.

Ms. Jackson Lee. You might have indicated that she had his support.

Mr. McCabe. Yes, absolutely, I did.

Ms. Jackson Lee. And this is -- I think what steps you took following these meetings were those meetings, the meetings with the ethics -- I don't want to lead you, but the meetings that you that you -- steps you took after those meetings were again to come back to the office and meet with these individuals.

Mr. McCabe. That's right. I met with my supervisor first, and then I met with my attorney in the field office, and then we all gathered in the ethics officer's office in headquarters on the 11th.

COMMITTEE SENSITIVE

Ms. Jackson Lee. And when did she declare -- when did Dr. McCabe declare her candidacy?

Mr. McCabe. She was probably the next day, I think the 12th. We also -- during that period of time, I also reached out for the Director of the FBI to ensure that the Director didn't have any misgivings or concerns about my wife running for office.

Ms. Jackson Lee. Did the Director have any concerns?

Mr. McCabe. He did not.

Ms. Jackson Lee. Were you involved in your wife's campaign?

Mr. McCabe. Not at all.

Ms. Jackson Lee. It sounds like your involvement was extremely limited. Were these activities approved by ethics officials if you had any involvement?

Mr. McCabe. Yes. I spoke to Pat Kelly on a number of occasions during the course of the campaign. I would ask him questions, like they wanted to include a family photograph in some sort of literature, was it permissible for me to show up and appear in a photograph? He advised me that it was, as long as my affiliation was not identified. Other things like that, we talked about. You know, he explained to me that it was permissible to wear a button or a T-shirt, but you couldn't wear those things in the office. You could have a sticker on your car, but then you couldn't park the car in the office parking lot, all the kind of day-to-day mechanics of the Hatch Act.

Ms. Jackson Lee. Did you feel, as you were getting all of these answers or making all of these inquiries, did you feel yourself becoming

COMMITTEE SENSITIVE

more biased in anything that you might be doing because you were affiliated with someone who was affiliated with or had the support of Governor McAuliffe?

Mr. McCabe. No, ma'am.

Ms. Jackson Lee. When the election for the Senate seat -- when was the election for the Senate seat?

Mr. McCabe. It was November of 2015.

Ms. Jackson Lee. And that was way before 2016?

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. And your wife's success or --

Mr. McCabe. She did not -- she lost her race, ma'am.

Ms. Jackson Lee. Between when Dr. McCabe first started considering running for the state senate seat to the day that the election occurred, did you have any oversight or supervisory role in the Clinton email investigation?

Mr. McCabe. I'm sorry. For what time period?

Ms. Jackson Lee. From the timeframe when your wife started considering --

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. -- running until that race was over --

Mr. McCabe. Yes.

Ms. Jackson Lee. -- did you have any involvement and any oversight or supervisory role in the Clinton email investigation?

Mr. McCabe. No, ma'am, none whatsoever.

Ms. Jackson Lee. So, during that timeframe, you could not have

impacted, raised questions, given your thoughts on the Clinton email investigation --

Mr. McCabe. No, ma'am.

Ms. Jackson Lee. -- at that time?

Mr. McCabe. That's correct.

Ms. Jackson Lee. And you don't recall doing that?

Mr. McCabe. I did not.

Ms. Jackson Lee. I'm asking the question.

Mr. McCabe. I did not.

Ms. Jackson Lee. During that time period, while your wife was considering running for state senate until the day that the election occurred, did you personally take any actions to influence or impact the Clinton email investigation during that timeframe?

Mr. McCabe. No, ma'am. The Washington field office contributed some personnel to the investigation. I did not make the decisions of who we would send or how many people we would send. I was aware of the fact that we had some folks working at headquarters on a headquarters special.

Ms. Jackson Lee. This is my final question.

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. It is repeating, but please allow me to make sure that we have heard it more than once. Just to be very clear: Did you or your wife ever solicit or receive any funds as a quid pro quo for any action that you might have taken running or running any quid pro quo for that -- her running, you being her husband?

COMMITTEE SENSITIVE

Mr. McCabe. No, ma'am, never.

Ms. Jackson Lee. So, finally, as I indicated, it was brought to my attention that your name was raised with firing.

Mr. McCabe. Yes, ma'am.

Ms. Jackson Lee. Do you have a commitment to the Federal Bureau of Investigation for its purpose, its mission, and its service to the Nation? You have an ongoing commitment.

Mr. McCabe. I swore an oath on July 7th, 1996, to protect and defend the Constitution of the United States and to do that through my service at the FBI. That is my commitment.

Ms. Jackson Lee. And most of us don't like to speak about ourselves. Do you see any reason in terms of the context of the questioning that we have given today -- and, obviously, it has not been completed -- that would -- your knowledge, your supervisory knowledge, your knowledge of the work that you're doing, that you would be a candidate for being fired?

Mr. McCabe. No, ma'am.

Ms. Jackson Lee. Let me thank you very much. I'm not sure if you'll see me again in the questioning series since my colleagues will start, but I do believe what has been put on the record is crucial regarding your service and the facts that we are trying to secure, which is the issue of bias or wrong decisions being made with respect to Mrs. Clinton's emails, and you have clarified them from the perspective of my questioning, and I may have another series, but I will conclude by being redundant: I do not believe you should be fired, as well.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. McCabe. Thank you, ma'am. I don't either. Thank you.

Ms. Jackson Lee. Thank you for your service.

Ms. Sachsman Grooms. Can we go off the record?

[Discussion off the record.]

Chairman Goodlatte. We do have a lot more questions on our side, so, Mr. McCabe, would you like to take a break for 5 minutes?

Mr. McCabe. No, sir, I'm good.

Chairman Goodlatte. Okay.

Mr. McCabe. Thank you.

Chairman Goodlatte. All right. Let's go back on the record.

Mr. McCabe. Sir.

Chairman Goodlatte. Mr. McCabe, did you or anyone in upper level management ever ask lower level management and agents inside the Bureau to scrub or review FISA collection that has anything to do with political candidates, including candidates in the 2016 election?

Mr. McCabe. Did I or anyone -- I'm sorry. Can you repeat that?

Chairman Goodlatte. Did you or anyone in upper level management ever ask lower level management and agents inside the Bureau to scrub or review FISA collection that has anything to do with political candidates, including candidates in the 2016 election?

Mr. McCabe. No.

Chairman Goodlatte. Are you aware whether the FBI ever provided defensive briefings to anyone connected to the 2016 election concerning threats from foreign adversaries?

Mr. Schools. How is that within the scope, Chairman?

COMMITTEE SENSITIVE

Chairman Goodlatte. It is within the scope because it relates to the investigation into Mrs. Clinton.

Ms. Anderson. I'm sorry. How is it related to the investigation of Mrs. Clinton?

Mr. Schools. It is not clear to me how that is.

Chairman Goodlatte. If you're relating to anything related to Mrs. Clinton, including a defensive briefing, it is part of this investigation.

Mr. Schools. Even if it occurred after the Clinton investigation was announced closed?

Chairman Goodlatte. Yes. Any time related to 2016 political candidates.

Mr. Brower. If I can try again, Mr. Chairman, how does a defensive briefing of Mrs. Clinton subsequent to the closing of the email investigation relate to the Clinton email investigation?

Chairman Goodlatte. Because, obviously, at one point, the Clinton email investigation was reopened. It could be reopened at any time, and therefore, I think it is very pertinent to the -- it could be reopened at any time. At any time.

Mr. McCabe. So are you asking me if we provided defensive briefings to any candidate?

Chairman Goodlatte. Yes, for the 2016 election.

Mr. Schools. Mr. Chairman, your original question may have been confined to the Clinton campaign. Is that correct?

Chairman Goodlatte. I can confine it to that.



COMMITTEE SENSITIVE

Mr. Schools. Let's do that because I think it makes it closer to within the scope.

Mr. McCabe. I'm aware that we participated in a defensive briefing for both candidates after they were designated their parties' nominees, as is the normal course of business. We did defensive briefings for the nominees and for the nominees for Vice President and also a third defensive briefing for I think the small staff of the nominee.

Chairman Goodlatte. And do you know roughly when those occurred?

Mr. McCabe. I don't remember off the top of my head. I want to say October. There would have been six different, you know, different engagements. Those briefings are actually coordinated by and scheduled by the Director of National Intelligence. The DNI's office sets the whole thing up. The FBI is given a small, you know, part of -- if it is a 2-hour briefing, we're given some small period of time, maybe 15, 20 minutes, to do a defensive briefing of the nominee.

Chairman Goodlatte. Was the code name for the Clinton investigation "midyear exam"?

Mr. McCabe. It was.

Chairman Goodlatte. Does the FBI usually give each case a code name, or is this specifically a practice with counterintelligence investigations?

Mr. McCabe. It is a fairly common practice across all the programs.

Chairman Goodlatte. Was the Clinton investigation a

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

counterintelligence investigation or a criminal investigation?

Mr. McCabe. It began as a counterintelligence investigation. It was conducted by the Counterintelligence Division.

Chairman Goodlatte. Do you have any idea why this investigation was code name "midyear exam"?

Mr. McCabe. I do not.

Mr. Somers. You said it began as a counterintelligence investigation. Did it then switch to a criminal investigation?

Mr. McCabe. No, it began and stayed in the Counterintelligence Division.

Mr. Somers. Okay.

Chairman Goodlatte. I understand that Jim Baker informed the General Counsel's Office recently that he is stepping down as general counsel. Are you aware why he has made this decision?

Mr. Schools. Mr. Chairman, I believe that is clearly beyond the scope.

Chairman Goodlatte. Does it relate to the Clinton investigation?

Mr. Schools. It is a personnel decision with the FBI. I just don't think that's -- your letter talks about the relevant components of the Clinton investigation, which is February -- the July press conference, the October letter, the November letter. Mr. Baker's status as of today has no relevance to that.

Chairman Goodlatte. Well, he certainly can answer with regard to the Clinton investigation.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. Schools. I'm not sure he knows, but it is -- that's a personnel matter that I really think is outside the scope. We have tried to be very patient here. We have been here 8-1/2 hours. We really want to be cooperative, but I think a personnel decision with respect to general counsel of the FBI was not contemplated within the scope of the parameters of the letter we got from you.

Chairman Goodlatte. Let me ask you this then, did Jim Baker ever advise you on the Clinton email investigation?

Mr. McCabe. Did he advise? Yes, he was an active participant in the meetings of the Clinton investigation.

Chairman Goodlatte. How often did you discuss the investigation?

Mr. McCabe. Very often.

Chairman Goodlatte. And did you, Director Comey, or anyone in FBI management ever consult General Counsel Baker on the language change from "grossly negligent" to "extremely careless"?

Mr. McCabe. I don't know if Jim was specifically consulted on that change or not. It is certainly possible. Jim was present for many of our discussions.

Chairman Goodlatte. So you do not know what his opinion of that was, or do you?

Mr. McCabe. I don't.

Chairman Goodlatte. Did Jim Baker have any opinion on drafting a conclusion of the Clinton email investigation before the investigation had concluded?

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Mr. McCabe. I don't remember Jim talking about that. Sorry?  
Oh, okay.

Chairman Goodlatte. You were assistant in charge of the Washington field office. Is that correct?

Mr. McCabe. Much happier times, I was.

Chairman Goodlatte. You answered today that the Washington field office was the lead field office on the Clinton email investigation?

Mr. McCabe. No, sir, that's not been my response. The Clinton email investigation was run and conducted from headquarters. It was not assigned to the Washington field office or any other field office.

Chairman Goodlatte. So, regardless of that, I think you testified earlier today that the Washington field office was the office that provided the support for this investigation. Is that --

Mr. McCabe. We contributed personnel in the form of what we call TDYs, temporary duty assignments. That is something that the Washington field office --

Chairman Goodlatte. They were out of the field office not from working within field office?

Mr. McCabe. That's correct. So some folks left WFO and worked out of headquarters on the team for the duration of the investigation, which is a very common occurrence at the Washington field office.

Chairman Goodlatte. In your capacity as assistant director in charge of the Washington field office, were you aware of, did you know of the Clinton email investigation before you were promoted to Deputy

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Director?

Mr. McCabe. I wasn't involved in it. I don't have a specific recollection. I certainly wasn't involved in it, made no decisions on it. Did I know it existed? I likely knew it existed when it was publicly announced. I wasn't involved day-to-day.

Chairman Goodlatte. Hang on just a minute.

Mr. Meadows. Mr. Chairman, let me ask one question from one of our other members just in the interest of time while you're looking at that.

At what point did you become aware that this investigation was a headquarters special or this term that you use internally? When did you become aware of that when you were actually in the field office --

Mr. McCabe. When I was in the field office. At some point --

Mr. Meadows. Who made you aware of that?

Mr. McCabe. At some point, I became aware of the fact that we had contributed some people to this effort and that would have --

Mr. Meadows. So who made you aware of that?

Mr. McCabe. That would have come to me from the special agent in charge of our Counterintelligence Division in the field office, and that individual was [REDACTED].

Mr. Meadows. And [REDACTED] made you aware of it for what purpose? Why did [REDACTED] make you aware of it?

Mr. McCabe. I don't remember specifically. It may have been simply because in this case in ASAC, fairly high ranking in the field office was no longer around so typically I would meet with the ASACs

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

of each of the divisions like every other week or so, and they would explain to me the significant cases. Peter Strzok was no longer there for those sorts of meetings, and it is likely that led to the exchange, but ██████ had the authority to send ██████ people to headquarters.

Mr. Meadows. Okay. And you answered this in a different way, so I want to just get a clarification. The investigation versus a matter. At what point -- I guess is there any FBI definition of what a matter is versus what an investigation is.

Mr. McCabe. No, sir. There's no such thing.

Mr. Meadows. So who would have made the recommendation, and it may have been asked and answered, but just who would have made the recommendation that we use -- refer to the investigation as a matter?

Mr. McCabe. It is my understanding, having been told about this after the fact, that Attorney General Lynch had that exchange with Director Comey, and she said that she preferred -- I don't know whether she preferred that he or that she refer to it as a matter instead of an investigation.

Mr. Meadows. And you would do that for what reason? I mean -- and, well, that's a speculation. Because your counsel was getting there. So let me ask you, can you think of any investigative reason why you would do that?

Mr. McCabe. No, sir.

Mr. Meadows. I yield back to the chairman.

Chairman Goodlatte. Thank you. Okay. Let me introduce into the record deposition exhibit No. 3, which is a letter.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Ms. Sachsman Grooms. We're on 5.

Chairman Goodlatte. Oh, you don't have your own set, and we have our own set?

Ms. Sachsman Grooms. No, we just introduced them as --

Chairman Goodlatte. So we will call this exhibit 6.

Ms. Sachsman Grooms. No, this is 5, sorry.

Chairman Goodlatte. This is exhibit 5 now.

[McCabe Exhibit No. 5

Was marked for identification.]

Mr. McCabe. We all agree.

Chairman Goodlatte. It is a letter to me from [REDACTED], dated December 12, 2017. Specifically, I want you to look at page 43 of this document. On August 15, 2016, less than 3 months before the Presidential election FBI agent Peter Strzok sent the following text message to FBI lawyer Lisa Page, quote: I want to believe the path you threw out for getting for consideration in Andy's office that there is no way he gets elected, but I'm afraid we can't take that risk. It is like an insurance policy in the unlikely event you die before you're 40.

And it continues. Do you see that?

Mr. McCabe. I do.

Chairman Goodlatte. Okay. Besides Strzok and Page, who was at the meeting in your office?

Mr. McCabe. I don't know, sir.

Chairman Goodlatte. Do you recall this meeting?

COMMITTEE SENSITIVE

Mr. McCabe. I do not.

Chairman Goodlatte. So you don't recall what was discussed in the meeting?

Mr. McCabe. I don't have any idea what they are referring to in this text. I don't remember a meeting with Pete Strzok and Lisa Page that fits the description of what they have discussed here.

Chairman Goodlatte. Is there anyone else that they could be referring to as "Andy," other than you?

Mr. McCabe. I am not aware of anyone. I don't know who they were referring to.

Chairman Goodlatte. But you don't recall a discussion that involved Peter Strzok and Lisa Page regarding this matter, which they obviously exchanged between them and neither one disputed the other about the existence of a meeting in Andy's office.

Mr. McCabe. I mean, certainly I had many, many interactions and meetings with Peter Strzok and Lisa Page. I do not remember in any meeting with the two of them discussing what he has described in this text, and it is not clear to me that I was present for this conversation between the two of them.

Chairman Goodlatte. Do you recall any conversation that you had with Lisa Page in which she threw out for consideration a path?

Mr. McCabe. I do not.

Chairman Goodlatte. Do you know what risk Peter Strzok is alluding to in that text?

Mr. McCabe. I do not.



Chairman Goodlatte. Do you know what the insurance policy that's referred to in that text?

Mr. McCabe. I do not.

Chairman Goodlatte. Have you had any conversations with Peter Strzok or Lisa Page since this document was made available to the Congress?

Mr. McCabe. No, sir.

Chairman Goodlatte. None whatsoever, not just about this but any conversation?

Mr. McCabe. Since you're talking about since December 12th?

Chairman Goodlatte. No, since it was made available to Congress, which is in the last few weeks.

Mr. McCabe. I don't believe I have spoken to either of them in the last few weeks.

Chairman Goodlatte. Okay.

Mr. Meadows. Mr. Chairman, one quick question.

Mr. McCabe. Yes, sir.

Mr. Meadows. Does your calendar typically identify the participants at meetings? I mean, on my calendar, I have normally --

Mr. McCabe. Yes, yes.

Mr. Meadows. And so can you give this committee --

Mr. McCabe. My calendar for that day?

Mr. Meadows. Well, not just for the day, but if you would just -- I think Senator Grassley is asking for a range of documents.

Mr. McCabe. I'm sure he has.

Mr. Meadows. And he has -- if we could focus on the calendar because maybe it will help us narrow who was there, other than just Lisa and Peter Strzok.

Mr. McCabe. Yes.

Mr. Meadows. That would be helpful.

Mr. Brower. Mr. Chairman, if we could have the committee send over a request form.

Mr. Meadows. Formal request.

Mr. McCabe. But I should say, sir, that I do have the same sort of notations on my calendar, but I'm also engaged in many meetings that don't end up on the calendar as people drift in and out of the office.

Mr. Meadows. You're preaching to the choir, and I get that.

Mr. McCabe. Very good. Thank you.

Chairman Goodlatte. Now I would like to direct your attention to page 47 of that same DOJ production, which we're marking as majority exhibit 6 now.

[McCabe Exhibit No. 6

Was marked for identification.]

Chairman Goodlatte. In another text message to Peter Strzok, Lisa Page wrote: Re the case, Jim Baker honks you should have it. But I'm sure Andy would defer to Bill. I won't mention.

Strzok's response, which came 2 minutes later, was completely redacted. What is this text about?

Mr. McCabe. I have no idea. "Re the case Jim Baker honks you should have it." I don't know, sir.

COMMITTEE SENSITIVE

Chairman Goodlatte. Do you know who Bill is?

Mr. McCabe. I mean, I don't know who the Bill is they're referring to here. I could start guessing, but I don't think that would be helpful.

Chairman Goodlatte. So "I'm sure Andy would defer to Bill." You have indicated you don't know of any other Andys that would be involved with this. What Bills might be involved with this?

Mr. McCabe. Bill Priestap.

Chairman Goodlatte. Bill Riestap?

Mr. McCabe. Priestap.

Chairman Goodlatte. Oh, Priestap.

Mr. McCabe. He was Peter's boss at the time.

Chairman Goodlatte. Do you know why Mr. Strzok's reply is redacted?

Mr. McCabe. I do not.

Chairman Goodlatte. And do you know what is contained in the redacted portion of that text?

Mr. McCabe. I do not, sir.

Chairman Goodlatte. We would ask -- and we'll put this in writing as well -- we would ask we be provided with the redacted portion of that text. Were the text messages sent and received on Peter Strzok's FBI-issued phone?

Mr. McCabe. That is my assumption, sir, and that is based on the fact that the IG was able to get the text messages. They were produced to him in the course of his investigation. It is my assumption that

COMMITTEE SENSITIVE

he was able to get those texts because they are collected on our FBI phones.

Chairman Goodlatte. How about Page?

Mr. McCabe. But I don't know -- I can't see the phone number, so I can't confirm that for you.

Chairman Goodlatte. All right.

Mr. McCabe. I have the same understanding with respect to Ms. Page's texts.

Chairman Goodlatte. Has the FBI's Office of Professional Responsibility received a referral on the actions of Strzok and Page?

Mr. McCabe. Not to my knowledge because the matters are under investigation by the IG, and typically the IG concludes their work, they produce a report with recommendations, and at that point, it goes to come back to FBI OPR for adjudication. That's the normal process.

Chairman Goodlatte. Are there divisions at FBI headquarters that refuse to display a photograph of Donald Trump that formerly displayed photographs of President Obama?

Mr. McCabe. Not to my knowledge, sir.

Chairman Goodlatte. How about FBI field offices?

Mr. McCabe. None that I'm aware of.

Chairman Goodlatte. All right. That's all the questions we have. Do you have more questions?

Ms. Sachsman Grooms. Yes, sir, but just a couple.

Ms. Anderson. Mr. Chairman, before we leave your line of questioning, I just wondered if we might be able to clear up your request

COMMITTEE SENSITIVE

with respect to the redactions of one of the text messages. My understanding is that the information that was redacted was redacted for two reasons. One is as indicated in our cover letter it reflects sensitive law enforcement information, and it was also irrelevant to the matter at hand. It has no relevance to the Clinton email investigation that we could discern or the Russian matter.

Chairman Goodlatte. Do you have a reason why the -- we cannot see that and conclude for ourselves that it is not relevant?

Ms. Anderson. It reflects sensitive operational equities of the FBI that are unrelated to anything that is --

Mr. Meadows. So we're going to need -- counselor, we're going to need -- one of the issues, and I will acknowledge a cooperative spirit here today, but in part of the documents that have been produced to this -- both committees the redactions have been in my characterization overzealous, and so, in doing that, what we really need is really what statute. You know, agencies typically will redact a lot more sometimes for embarrassment sometimes for sensitivity, but we need these committees need to make their own conclusions. Now we'll work with you in terms of anything that is of a sensitive nature, but at the same time, we need to be the ones making those determinations, not the agency.

Chairman Goodlatte. We can do that in a couple of manners that might help you. One would be to do it in a classified setting. Another would be to do it in an in camera setting where we examine the document but don't keep the document. So we would ask you to take that back

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

and consider that request.

Mr. Meadows. And I guess in my reviewing of the documents that you have produced today -- and we appreciate that; we know that you're working on another set of documents, and I want to acknowledge that -- is the more unredacted they can be, the less perhaps precise we need to be with some of these. I guess we have gotten full pages of redactions that quite frankly don't have footnotes or the reasons why they were redacted on some of the submissions made to date, and so, if we can work with you on that for further clarification and still understand that we want to keep the integrity of the FBI intact.

Mr. Schools. I understand that, Congressman, and I think, with respect to this document, it should be clear we're not redacting information that is embarrassing, so we'll take it back, but I can assure you Ms. Anderson and I --

Mr. Meadows. Having dealt with oversight of the Secret Service I understand that very clearly in a highly sensitive manner where there was all kinds of things in the press and The Washington Post that had one guideline and one particular narrative that was not necessarily accurate, I get that, and I guess what I'm wanting to do is work with your counsel and so forth as we can do that, and I think we all have a spirit of making sure that the truth comes out, and in doing that, we would just like to work with you a little bit more closely on that.

Ms. Sachsman Grooms. I know it has been a really long day, so thank you very much for your patience.

Mr. McCabe. Certainly.

COMMITTEE SENSITIVE

Ms. Sachsman Grooms. I just wanted to clarify a couple different things that came up earlier today. Earlier today, a couple rounds ago, Representative Rutherford listed out a list of things that he described that you had previously said were unique about the Clinton investigation. He didn't ask you a question specific to that and --

Mr. Brower. I don't think Mr. Rutherford has been here today. Are you thinking of someone else?

Ms. Sachsman Grooms. Mr. Ratcliffe. I'm sorry.

Mr. Brower. Thank you very much.

Ms. Sachsman Grooms. And I'm not sure that that list was an accurate portrayal of what you had said earlier, but regardless, I think I'm interested in you just repeating for us, can you just tell us exactly what you meant when you said that the Clinton investigation and the case had unique aspects to it?

Mr. McCabe. Sure. So there were -- I mean, every case is different, and they all have their own challenges. There were challenges associated with this investigation that I don't think it is inaccurate to think of them as being unique. The fact that we were conducting an extensive kind of forensic reconstruction of a personal email system and servers and IT systems that had been lost or no longer in service or had been moved changed, those were unique challenges. The fact that we were doing it out of headquarters in an effort to keep it to a very small, close, tight group of folks to work together to limit the possibility of, you know, information from the case leaking out in a way that would be damaging, that was unique. I mean,

headquarters-managed cases are not -- are definitely not our normal kind of -- it is not the common way of doing business, but called for under some circumstances like these. The fact that we were doing an investigation of a candidate who was currently in the middle of a very high-profile political campaign was unique and presented not challenges but sensitivities, things to be aware of in a heightened kind of media-focused environment, a media that was aware basically of our involvement in this investigation from its inception, and the case had been publicly acknowledged not long into it. So there were all kinds of factors that made this tough. There were challenging issues of attorney/client privilege attached to almost every piece of evidence we had to get our hands on. There were many, many lawyers involved in every discussion of access and interviews and things of that nature, so there were all kinds of things that made the decisions in this case tough.

Ms. Sachsman Grooms. So I understand you're saying there are things that made it challenging and difficult and that every case is different, and therefore, every case is unique. But when you described this case was unique, do you mean like one of a kind, there's none other, or are we talking about something that is distinctively different than everything else?

Mr. McCabe. I am not aware of a similar fact pattern. I have never encountered this same combination of factors where we're, you know, investigating a former Secretary of State for using a personal email service and that person is now running for President of the United



COMMITTEE SENSITIVE

States, I'm not aware of that fact pattern ever coming up again. I hope it never comes up again, so I'm hoping for unique.

Ms. Anderson. Respectfully, this is territory that Deputy Director McCabe has well covered in the 9 hours that he has been here, and so we would ask that you move on to new territory.

Ms. Sachsman Grooms. Would you describe a counterintelligence investigation into a candidate's campaign and its contacts with Russia during the time period before the election to be also a unique circumstance?

Mr. McCabe. Can you give me that again?

Ms. Sachsman Grooms. Yes. Would you describe a counterintelligence investigation into a candidate for President and his campaign's contacts with Russia as being unique?

Mr. Schools. That's outside the scope, as well.

Ms. Sachsman Grooms. It is fully inside of the scope.

Mr. Schools. I don't think it is. The scope of the letter we got indicated questions with respect to the Russian investigation pertained to whether or not the discussion you had public disclosure or not.

Ms. Sachsman Grooms. Yes, and the decision surrounding the distinctions between the FBI's treatment of Donald Trump's investigation and Hillary Clinton's investigation are centered around the disparate treatment of the two, and my question is, was that also a unique circumstance?

Mr. McCabe. Yes.

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

Ms. Sachsman Grooms. I believe you, on that same topic, right, which is the FBI's decision not to publicly announce the investigation into campaign associates of then-candidate Donald Trump and their contacts with Russia before the election, I believe that you said earlier, and just correct me if I am wrong, that that was an issue that -- the decision itself was never made to not make it public because you were following the Department policy to not speak about an open investigation. Is that right?

Mr. McCabe. Yes. It is normal practice, particularly at the initiation of something like a counterintelligence investigation, not to discuss it publicly.

Ms. Sachsman Grooms. And Director Comey, when he came in and testified before the Judiciary Committee in September of 2016, explained that that was the standard, but that there were exceptions to that, and the Hillary Clinton case met those exceptions. One of those exceptions was, and I am quoting, "There's an exception for that," quote, "when there's a need for the public to be reassured, when it is obvious, it is apparent, given our activities, public activities that the investigation is ongoing." Were you ever in a meeting or in a discussion where you thoughtfully analyzed whether those exceptions applied to the Donald Trump investigation?

Mr. McCabe. I don't remember being in a meeting that fits that description.

Ms. Sachsman Grooms. So is it fair to say that the FBI, and certainly yourself never considered whether those exceptions applied

COMMITTEE SENSITIVE

to the Donald Trump investigation?

Mr. Schools. Can I interject one thing? You are characterizing it as the Donald Trump investigation. Director Comey announced the investigation publicly in March of 2016. I am fine with you using that as shorthand for what he said the investigation was, but apart from that, I don't want to mischaracterize or --

Chairman Goodlatte. I would like you to clarify, March of 2016 or 2017?

Mr. Schools. 2017, thank you.

Ms. Sachsman Grooms. I will rephrase. I am happy to.

Mr. Schools. Thanks.

Ms. Sachsman Grooms. Is it fair to say that you, and as far as you know no one at the FBI, ever thoughtfully considered whether the investigation that was the counterintelligence investigation into then-candidate Donald Trump's campaign's contacts with Russians met the exceptions to the general rule not to make information public?

Mr. McCabe. Well, I think eventually, we had that discussion, because eventually we made that decision. And the Director sought and received the Department's authorization to make that investigation public in March of '17.

Ms. Sachsman Grooms. Is it fair to say that that consideration did not occur before the election?

Mr. McCabe. I think that's fair. Well, no. I want to be perfectly clear, we initiated -- I don't want to get too far into this, but we don't typically -- we wouldn't, under really any circumstances,

consider discussing publicly a case that we had just opened. Does that make sense?

Ms. Sachsman Grooms. Yes.

Mr. Meadows. Let's be cautious in terms of a classified setting and what would be there. To the extent that you can do it in a nonclassified setting, certainly.

Mr. McCabe. Our normal practice is to not discuss publicly the existence of a case. And there are exceptional circumstances under which you would do that. It would be very hard to justify those circumstances at the very beginning of a case, because you don't know what you have. I know there are other situations where, like, if we show up at the site of a terrorist attack, and it's perfectly obvious to the public that what we're doing, picking up evidence off the ground, we are investigating. There are times when you publicly admit, even at the beginning of a case. But in the example that you are referring to, we did not.

Ms. Sachsman Grooms. So I hear you saying, and correct me if I am wrong, that now thinking back on it, you would have decided it didn't meet the exceptions. But my question is, at the time, before the election, did you think about whether it met the exceptions?

Mr. McCabe. I am not saying that thinking back on it, it did or did not meet the exceptions. What I will say is I do not recall going through that process about the case you have referenced before the election, because it would not have been our normal practice to do so.

Ms. Sachsman Grooms. So I think it's probably fair to say that

today's questioning has been somewhat repetitive. Were some of the questions asked today and answered by you today also addressed at your previous interview with the House Permanent Select Committee on Intelligence?

Mr. Brower. Let me just object. That interview, I think as you know, was in a classified setting, and the witness is simply not going to address anything that happened in that setting.

Mr. Meadows. Yeah. I think that's well beyond the scope. I mean to suggest that you got one set of questions and compare that to what we are doing here. Obviously, what we've tried to do is ask and answer questions within the scope of what was defined. To compare it to other questions and answers that were handled in a classified setting would not be appropriate.

Ms. Sachsman Grooms. Well, certainly, none of the questions asked or answered today called for classified information. So I can't imagine that it would be classified --

Chairman Goodlatte. If you will, there were a few answers that were not answered because they were classified questions. Not many, but there were a few. And while I understand your objective here, I think the solution to that is to work through the HPSCI Committee and look at that --

Ms. Sachsman Grooms. My objective is not to find out what HPSCI asked you, or to get the answers to that. My point was just that today's interview with was somewhat repetitive of previous interviews that you have had with Congress. Is that accurate?

Chairman Goodlatte. That's definitely outside the scope.

Mr. Meadows. Again, that would have cause the witness to have to characterize what he said in a classified setting to give an opinion on that. And I think that's well beyond the scope of what is there.

Ms. Anderson. I think we have been very patient.

Ms. Sachsman Grooms. So you are refusing to answer that?

Ms. Anderson. He is not refusing to answer that.

Mr. Meadows. It's beyond the scope. And let the record reflect that.

Mr. McCabe. I have been informed that it's beyond the scope.

Chairman Goodlatte. Good answer.

Mr. Hiller. Thank you for going the distance with us, sir. I am going to try a new topic. True Pundit is a website that began publication on June 9, 2016. I know. Have you ever heard of True Pundit?

Mr. McCabe. I have.

Mr. Hiller. In the past, it has claimed to have "unique insight," that's a quote, into FBI operations. There is an article posted on June 12, 2016, 3 days after it went up, that says quote, "True Pundit has folks who work for the FBI and other agencies on staff. We are not your usual conglomerate of media has-been's or never-were's," unquote. Are you aware of any current or former employee of the FBI on staff at True Pundit?

Mr. McCabe. I am not.

[McCabe Exhibit No. 7

COMMITTEE SENSITIVE

Was marked for identification.]

Mr. Hiller. I am going to introduce Deposition Exhibit 7, please. So on October 24, 2016, True Pundit published an article contained in this email chain titled "FBI Director Lobbied Against Criminal Charges For Hillary After Clinton Insider Paid His Wife \$700,000." I am not going to ask you to comment on the veracity of this article.

Mr. McCabe. Thank you.

Mr. Hiller. But are you familiar with this article?

Mr. McCabe. I am.

Mr. Hiller. On October 24, you forwarded this article in an email to Director Comey, and in that email, you said "FYI, heavyweight source." By "heavyweight source," did you mean to say that the source cited in this article could actually be a senior official at the FBI?

Mr. McCabe. It's going to take me a minute to refresh my recollection. Okay. I see it. What was your question again?

Mr. Hiller. The question was when you said "heavyweight source," did you mean to say that the source cited in that article could actually be a senior official at the FBI?

Mr. McCabe. Honestly, I don't -- I don't remember what exact -- I may have been referring to the fact that it was a True Pundit article in a sarcastic way. I don't remember exactly what I was referring to by the characterization "heavyweight." I was concerned about the sourcing and who might be sharing these wildly inaccurate and just ridiculous claims with an online journalist. And, of course,

COMMITTEE SENSITIVE

Director Comey's response to me talked about John Giacalone, who is mentioned in the piece.

Mr. Hiller. Right. I suspected it might be sarcastic. So in Director Comey's response he says, quote, "This still reads to me like someone not involved in the investigation at all, maybe somebody who heard rumors, inaccurate, about why John left. There is no way John would say he left because of the investigation, both because he agreed with the way we were handling it, and because so many of us know he was redacted. This strikes me as lower-level folks who admire John, which is fine, because I do, telling yarns." Just breaking down that response. Do you read that response to mean that Director Comey, whether or not he believed it was a heavyweight source, whatever that comment meant, he does believe that, in fact, the source of this article is coming from within the FBI, lower-level folks who were telling yarns?

Mr. McCabe. I think what he is saying is he doesn't think it's John, right?

Mr. Hiller. Okay.

Mr. McCabe. And then he describes who it might be. It could be lower-level folks. And so that's how I take his response.

Mr. Hiller. Lower-level folks in what organization.

Mr. McCabe. Within the FBI.

Mr. Hiller. Okay.

Mr. McCabe. Of course it could have been people outside the FBI, or former FBI employees. I don't think either of us knew. I don't know as we sit here today who the source was.



COMMITTEE SENSITIVE

Mr. Hiller. Okay. Did the FBI ever conduct any investigation into leaks like these?

Mr. McCabe. We initiated many leak inquiries at that time. I don't remember off the top of my head whether or not this article was one of those. But to be clear, a leak investigation means something specific to the FBI. It's the investigation of a leak of classified information. But there are also inquiries into the unauthorized disclosure of FBI information that's not classified to the media, which is also proscribed by FBI policy. We see those things -- they are of course similar, but a little bit different.

Mr. Hiller. I see the distinction. Did you conduct any informal inquiries into the unauthorized disclosure.

Mr. McCabe. Of this article? I don't remember.

Mr. Hiller. On articles like this.

Mr. McCabe. On articles like this, yes.

Mr. Hiller. Did you refer any of those investigations or inquiries to the Department of Justice?

Mr. McCabe. Typically, we, if it's our information that we're looking into, we can initiate those cases without going to the Department of Justice first. And if it's an inquiry into whether or not an employee may have made an unauthorized disclosure of not classified, that's something typically that our internal inspection division would handle. Whereas if it's a leak of classified, that would be an investigation handled by our counterintelligence division.

Mr. Hiller. Okay. Just to step back and get a sense of the

COMMITTEE SENSITIVE

timeline around this article?

Mr. McCabe. Yes.

Mr. Hiller. On July 5th, 2016, Director Comey announced that the FBI would recommend no criminal charges against Hillary Clinton. Is that your recollection?

Mr. McCabe. On July 5th, that's right.

Mr. Hiller. Okay. On October 22nd, 2016, the New York field office of the FBI took possession of Anthony Wiener's computer from the New York Police Department. Is that correct?

Mr. McCabe. I don't know what day they took possession of it.

Mr. Hiller. Does that sound about right?

Mr. McCabe. I don't know what day the New York field office --

Mr. Hiller. It has been, in fact, widely reported that on October 2, the New York field office took possession of that computer.

Mr. McCabe. Okay.

Mr. Hiller. Was Director Comey informed that the FBI had taken possession of that computer?

Mr. McCabe. He learned of it eventually. I can't tell you when he was -- when he knew first.

Mr. Hiller. Do you think he learned about it on that day?

Ms. Anderson. You are asking what Mr. Comey knows, not what Mr. McCabe knows. So if you could rephrase your question.

Mr. Hiller. Certainly. When did you become aware that the FBI had taken possession of that computer?

Mr. McCabe. It would have been in the beginning of October.

COMMITTEE SENSITIVE

Mr. Hiller. Okay. And were you or Director Comey informed that the computer might contain additional emails that could be relevant to the Clinton investigation?

Mr. McCabe. I was.

Mr. Hiller. And when were you informed of that?

Mr. McCabe. I don't know the specific day, but it was in the beginning of October.

Mr. Hiller. In the beginning of October. Did you or Director Comey instruct the New York field office to search that computer for any additional information that might be relevant to the Clinton investigation?

Mr. McCabe. Are we still within scope?

Mr. Hiller. I believe that this is all relevant to the decision to reopen the Clinton investigation. We are well within the scope.

Mr. McCabe. Okay. Just checking. Sorry. Can you repeat the question?

Mr. Hiller. Certainly. Did you or Director Comey instruct the New York field office to search that computer for any additional information that might be relevant to the Clinton investigation?

Mr. McCabe. So I first learned of the existence of the computer and that it might have information on it relevant to the Clinton investigation in a telephone conversation with Bill Sweeney, who was and still is the ADIC of the New York field office. My best recollection is as a result of that conversation I spoke to my counterintelligence division, likely Bill Priestap, but I don't

COMMITTEE SENSITIVE

have -- I would have to check that -- and told them to get with the New York field office, figure out what do we have, and come back to me with a recommendation of a path forward. That was the first I knew of the existence of the Wiener laptop material.

Mr. Hiller. Okay. And that was in early October?

Mr. McCabe. That was in early October.

Mr. Hiller. Okay. On October 28, Director Comey wrote a letter to eight congressional committees informing us that the FBI had learned of the existence of these emails and intended to reopen the inquiry. And on October 30, the FBI finally obtained a search warrant to search that computer. Does that timeline seem about right?

Mr. McCabe. I don't have personal knowledge of those details because, as I said earlier, I was not involved in the meetings and the decisions that led to that. That's my understanding from reading open source reporting.

Mr. Hiller. Okay. On October 25 and 26, this was in advance of Director Comey's letter to the Hill --

Mr. McCabe. Yes.

Mr. Hiller. -- in a series of television interviews, former New York Mayor Rudy Giuliani suggested that the Trump campaign, quote, "has a couple of things up our sleeves that should turn things around." Do you recall him giving television interviews like that?

Mr. McCabe. Generally, yes.

Mr. Hiller. On October 28, 2016, in an interview on the Lars Larson radio program, Mayor Giuliani said he was in contact, quote,

"with a few active agents who obviously don't want to identify themselves." Do you recall him making that statement or statements like that?

Mr. McCabe. I have a general recollection of him making statements like that, but I don't -- I don't know that I have ever heard the Lars Larson program.

Mr. Hiller. I don't think I have listened to it either. On October 4th, 2016, in an appearance on FOX and Friends, Mayor Giuliani was asked if he knew about the FBI's possession of the laptop before Director Comey wrote to the Hill?

Mr. McCabe. I am sorry, what date was that?

Mr. Hiller. November 4th.

Mr. McCabe. Okay.

Mr. Hiller. He responded, quote, "Did I hear about it? You are darned right I heard about it." Do you recall him making a statement like that?

Mr. McCabe. I don't remember that.

Mr. Hiller. You said earlier that you believed it was possible that somebody inside the FBI was providing information, accurate or not, to True Pundit. Is that correct?

Mr. McCabe. It's possible, yes.

Mr. Hiller. Is it possible that sources within the FBI were also talking to Mayor Giuliani?

Mr. McCabe. It's possible, yes.

Mr. Hiller. Was Director Comey aware of those statements at the

time?

Ms. Anderson. Again, you are asking --

Mr. McCabe. I couldn't answer that. I don't know what Director Comey knew.

Mr. Hiller. Do you believe these leaks -- not leaks, these unauthorized disclosures of information, came predominantly from the same individual or same group of individuals?

Mr. McCabe. I don't know the answer to that.

Mr. Hiller. Do you believe these leaks -- these unauthorized disclosures of information came largely from the New York field office?

Ms. Anderson. Asking for more speculation. This is not a productive line of inquiry.

Mr. McCabe. I don't know. I don't know that.

Mr. Hiller. What did the New York field office do with Anthony Wiener's computer from October 2, or from whenever in early October you informed them to take those additional steps, until October 30, when they obtained a search warrant to actually go into that laptop and do forensic work?

Mr. McCabe. I don't know specifically what they did during that time. I reengaged on the issue the beginning of that last week in October. So what was the 27 -- probably 24, something like that, of October, in or around that time period, when I was asked about it by someone at the Department of Justice.

Mr. Hiller. And when you reengaged, had they, in fact, done any forensic work yet?

COMMITTEE SENSITIVE

Mr. McCabe. Not that I am aware of.

Mr. Hiller. Why not?

Mr. McCabe. I don't know. I don't know. It was essentially it came back to my attention, and I asked my team what's -- kind of what's going on with that? I need a status on this, on the matter.

Mr. Hiller. Do you believe the delay was deliberate?

Mr. McCabe. I don't have any reason to believe there was a deliberate delay.

Mr. Hiller. On October 29, 2016, the day after Director Comey wrote to the Hill, The New York Times reported that, quote, "Although Mr. Comey told Congress this summer that the Clinton investigation was complete, he believed that if word of the new emails leaked out, and it was sure to leak out, he concluded, he risked being accused of misleading Congress." Did you read that article?

Mr. McCabe. I don't remember.

Mr. Hiller. Is that account accurate?

Mr. McCabe. I was not discussing this matter with Director Comey at that time. So I can't tell you exactly what was going into his decision-making.

Mr. Hiller. Was word of the new emails sure to leak out? Was it likely?

Mr. McCabe. You are asking me to speculate. That's hard for me to do. A lot of things were leaking out. That was our perception at that time.

Mr. Hiller. Was any part of the FBI's decision to send us the

COMMITTEE SENSITIVE

October 28 letter wanting to reopen the investigation based, in part, on the threat of unauthorized disclosures of information like the ones you described in the email there?

Mr. McCabe. I can't answer that question.

Ms. Anderson. Mr. McCabe has already testified he was not involved in that decision.

Ms. Sachsman Grooms. Thank you very much.

Mr. McCabe. Sure. Thank you.

Chairman Goodlatte. Mr. McCabe, it's been 9 hours and 25 minutes since you arrived here this morning. And we thank you for being very, very generous with your time, and for answering our questions. We may have additional questions. We certainly will submit some related to the documents we discussed earlier in writing, and we may submit some to you in writing as well. We hope you will answer those promptly. And again, thank you for giving us an entire day of your life.

Mr. McCabe. Sir, I understand you have important work to do. I have tried to answer each and every one of your questions in the most complete and transparent way that I possibly can. I know that my recollections are not perfect about events that took place quite some ago in a very busy period. For that, I apologize. But it's my pleasure to try to help you with that work in any way that I can.

Chairman Goodlatte. Thank you.

Ms. Anderson. Before we conclude, I have one request for the record, which is, Chairman Goodlatte, at the beginning of the



COMMITTEE SENSITIVE

interview, you mentioned the confidentiality of the interview. Mr. McCabe, in his testimony, has identified a number of FBI personnel who have little, if any, relationship to the matter at hand, who are not SES level employees. They are on the GS scale. I am not quite sure what their pay grade is. But I would ask on behalf of the FBI that you respect the confidentiality with respect to those individuals' names.

Chairman Goodlatte. I agree with that statement, not just with regard to those names, but the testimony of Mr. McCabe was taken under confidential circumstances, and it should remain in that fashion until some discussion about disposition of this entire investigation takes place.

Mr. Meadows. And I would reiterate for the record, if you become aware or you hear of questions that have -- here is what I would ask of you, if you will let both chairmen know if you get inquiries from reporters with specificity that would indicate that there is a leak that has come from this particular confidential inquiry, if you would please let certainly the ranking members and the chairmen know so that we can hopefully adjust that, because confidentiality is a key component of this.

Mr. McCabe. Yes, sir.

Chairman Goodlatte. Thank you.

Ms. Jackson Lee. If I might add our appreciation. I heard what you said about your recollection. Thank you for cooperating with us. And for members on the Oversight and Judiciary Committee, Democratic

COMMITTEE SENSITIVE

COMMITTEE SENSITIVE

members, we thank you for appearing here. And we may have an opportunity to hear from you again, because I believe what we should be doing is not speculation, but to act on facts. And so, I thank you for giving us some foundation to begin to continue our work based on facts, and to answer questions, but most importantly, not choose to select special counsels based on bias and opinion, but based on the law, and based on the facts. So thank you for contributing to that process. Thank you for your service again.

Mr. McCabe. Thank you.

Chairman Goodlatte. I want to thank all of the Department of Justice and Federal Bureau of Investigation staff who accompany you here today as well. Thank you.

Mr. McCabe. As do I. Thank you very much.

Chairman Goodlatte. With that, the transcribed interview is concluded.

[Whereupon, at 7:29 p.m., the interview was concluded.]

COMMITTEE SENSITIVE

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.

---

Witness Name

---

Date