

**OVERSIGHT OF THE FBI AND DOJ ACTIONS  
IN ADVANCE OF THE 2016 ELECTION**

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**JOINT HEARING**

BEFORE THE

**COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM  
HOUSE OF REPRESENTATIVES**

AND THE

**COMMITTEE ON THE JUDICIARY**

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

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# CONTENTS

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Hearing held on June 19, 2018 .....	Page 1
WITNESSES	
The Honorable Michael E. Horowitz, Inspector General, U.S. Department of Justice	
Oral Statement .....	11
Written Statement .....	14



## OVERSIGHT OF THE FBI AND DOJ ACTIONS IN ADVANCE OF THE 2016 ELECTION

Tuesday, June 19, 2018

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM, JOINT  
WITH THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The committees met, pursuant to call, at 10:03 a.m., in Room HVC-210, Capitol Visitor Center, Hon. Trey Gowdy [chairman of the Committee on Oversight and Government Reform] presiding.

Present from the Committee on Oversight and Government Reform: Representatives Gowdy, Issa, Jordan, Amash, Gosar, DesJarlais, Foxx, Massie, Meadows, DeSantis, Walker, Hice, Russell, Grothman, Palmer, Comer, Mitchell, Gianforte, Cummings, Maloney, Norton, Clay, Connolly, Lawrence, Watson Coleman, Krishnamoorthi, Raskin, Plaskett, and Sarbanes.

Present from the Committee on the Judiciary: Goodlatte, Chabot, King, Gohmert, Poe, Ratcliffe, Roby, Gaetz, Johnson of Louisiana, Biggs, Rutherford, Handel, Rothfus, Nadler, Jackson Lee, Cohen, Johnson of Georgia, Deutch, Bass, Jeffries, Cicilline, Swalwell, and Schneider.

Chairman GOWDY. Good morning. The Committee on Oversight and Government Reform and the Committee on Judiciary will come to order. Without objection, the presiding member is authorized to declare a recess at any time.

I am pleased, as I know my colleagues are, to see so much interest in today's hearing. As a reminder to our guests, the Rules of the House of Representatives prohibit any disruption or manifestation of approval or disapproval of the proceedings, such as shouting. Disrupting the proceedings is a violation of D.C. law and the House Rules, and it will not be tolerated, and this will be your only warning.

Welcome, Inspector General Horowitz.

Mr. NADLER. Mr. Chairman.

Chairman GOWDY. Yes.

Mr. NADLER. Mr. Chairman, before we hear from the Inspector General, I feel compelled to say something about a topic that is a more immediate priority.

We have all seen the pictures of immigrant children ripped apart from their parents at the border. These children are not animals. They are not bargaining chips. They are not leverage to help President Trump build his wall. They are children who have been forcibly removed from their parents in our name. Every day that they

are separated from their parents is a day we do irreparable harm to their health and well-being.

The United States should be better than this. We should not put children in cages. The minute this hearing adjourns, sooner if we can——

Chairman GOODLATTE. Mr. Chairman, regular order.

Mr. NADLER. —I hope our committees can work together to end this cruel practice without delay.

Thank you, Mr. Chairman.

Chairman GOWDY. The gentleman from Virginia has requested regular order. The gentleman from New York has been given more time than would have been afforded the other side had we pulled something like that.

So with that, we will welcome you, Mr. Horowitz, for what I think is a hearing on your inspector general report and to decisions made and not made in 2016.

We will be in recess until the Capitol Police restore order.

[Recess.]

Chairman GOWDY. The committee will come to order.

Inspector General Horowitz, just for your knowledge, the chairs and ranking members will give opening statements, then you will be introduced and recognized for your opening statement.

What we're doing today does not happen everywhere. We are taking institutions with long and distinguished histories, institutions we need, institutions we rely upon, and we're applying scrutiny, review, and inspection. We're testing, we're probing, we're challenging, we're even criticizing.

And we're doing this because we need these institutions to be above reproach. We need them to be respected and trusted. We need them to be above bias, taint, and prejudice. We need these institutions to be fair, just, evenhanded, proportional, and wholly immune from the vagaries of politics.

That's what we expect and demand and need from the Department of Justice and the FBI, and those expectations should be consistently exacting, because the power we give prosecutors and law enforcement is an awesome power.

The power to prosecute, the power to charge, the power to indict is the power to impact reputations. It is the power to deprive people of their liberty. It is the power in some instances to even try to take the very life of a citizen. And we give police and prosecutors tremendous powers, and with those powers comes a corresponding expectation of fairness and just dealing.

This inspector general's report should conjure anger, disappointment, and sadness in everyone who reads it. This IG report lays bare the bias, the animus, the prejudging of facts by senior FBI agents and senior attorneys. And attempts to minimize and mitigate this bias are so antithetical to what we want and deserve in our law enforcement officers, and it is dangerous to the broader community.

I have seen media efforts, and I have seen efforts from some, not all, but some of my Democrat colleagues to shift the burden of bias unto those impacted by that bias, that it is somehow the responsibility of those affected by bias to show how that bias negatively impacted them.



What a dangerous shifting of the burden. It is not the public's job to prove the bias shown by the FBI did not influence decision-making. It is the FBI's job to prove to the public that this manifest bias was not outcome determinative.

And bias and fairness cannot coexist. That is why no lawyer seated up here today would ever allow a biased juror to sit on his or her jury and no citizen would ever allow a biased police officer or judge to work on any matter of any significance.

There is a presumption that bias is bad, and that is a presumption we should accept in nearly every single facet of life.

As we read this report, we're reminded of Jim Comey's decision to hold the July 5 press conference and appropriate the charging decision away from the prosecutors. We see Jim Comey drafting an exoneration memo before important witnesses, like the target, were even interviewed.

Ironically, this inspector general has been accused of softening or watering down his report when the reality is it was Jim Comey who softened and watered down his press release announcing no charges against Secretary Clinton.

We see Jim Comey and Jim Comey alone deciding which DOJ policies to follow and which to ignore. We see Jim Comey and Jim Comey alone deciding whether there is sufficient evidence to support each and every element of an offense. We see Jim Comey and Jim Comey alone deciding whether to send a letter to Congress in the throes of a looming election.

Now, his justification for this is that he did not have confidence in the objectivity of Attorney General Loretta Lynch. Whether it was her asking him to refer to this case as a "matter" rather than an "investigation," or her meeting with Bill Clinton while Hillary Clinton was under investigation, or the matter he has alluded to but claims he cannot discuss publicly, clearly Jim Comey had lost confidence in the DOJ to handle a case in a way worthy of public trust.

But that leads us to the one thing we did not see Jim Comey do, which was take any steps to spur the appointment of special counsel in the Hillary Clinton investigation.

When he lost confidence in the Trump Justice Department he memorialized private conversations, he leaked them, and he admitted he did so to spur the appointment of special counsel because he didn't trust the career prosecutors at the Department of Justice.

When he lost confidence in the Obama Justice Department he didn't make special memos. He didn't share them with his law professor friends. He didn't leak the information. He didn't lift a finger to get a special prosecutor. Instead, he appointed himself FBI Director, Attorney General, special counsel, lead investigator, and the general arbiter of what is good and right in the world according to him.

And one of the last times I spoke with Director Comey was in a committee hearing. We had a pointed exchange on what I thought was the FBI making decisions based in part on politics. And he, in his typically sanctimonious way, told me he disagreed. He said, the men and women of the FBI do not, quote, "give a hoot about politics."

Unfortunately, and I use that word intentionally, unfortunately, he was dead wrong. There were agents and attorneys at the FBI who gave a lot more than a hoot about politics.

There's Andy McCabe, the former deputy director and acting director of the FBI, an agency which investigates and charges others for making false statements, himself accused of making false statements and showing a lack of candor.

I think I recall, perhaps someone can correct me, but I think I recall some of my Democrat colleagues falling over themselves to offer a job to Andy McCabe when he was let go for making false statements and for a lack of candor, but those same colleagues apparently weren't hiring, they didn't have any openings when others in a related investigation, called Russia, were charged with the same offense.

There were FBI agents and attorneys who decided to prejudge the outcome of the Hillary Clinton case before the investigation ended. I want you to let that sink in for a second. They prejudged the outcome of the Hillary Clinton investigation before the investigation ended, and these exact same FBI agents and attorneys prejudged the outcome of the Russia investigation before it even began.

If prejudging the outcome of an investigation before it ends and prejudging the outcome of an investigation before it begins is not evidence of outcome-determinative bias, for the life of me I don't know what would be. That is textbook bias. It is quite literally the definition of bias, allowing something other than the facts to determine your decision.

These agents were calling her President before she was even interviewed. They were calling for the end of the Trump campaign before the investigation even began. They were calling for impeachment simply because he happened to be elected. That is bias.

And with all due respect, it is the FBI's job, not mine, to prove that bias can ever be harmless, because I don't agree, I think bias is always harmful.

So we'll spend today on the small in number but significant in leadership group of DOJ and FBI officials, officials who had leadership and supervisory roles in the Clinton and Russia investigations and who failed to meet the basic expectations of fundamental fairness.

But there are tens of thousands of FBI agents and DOJ employees who do meet our exacting expectations, and we will not be calling their names today, unfortunately, because we don't do IG investigations on agents and prosecutors who do their jobs with character and professionalism.

To those agents and prosecutors who do the right thing the right way and for the right reasons, we'll get through this. It will be tough and it will be difficult, but we will emerge on the other side with a stronger FBI and a stronger Department of Justice because we have to. We cannot have a justice system that bases decisions on anything other than facts.

To our fellow citizens watching at home, be unrelenting in your expectations of our justice system. Never lower those expectations. Respect for the rule of law is the thread that holds the tapestry of

this country together, and it depends upon you having confidence in those you empower to enforce the law.

And importantly, do not ever accept the notion that those victimized or impacted or negatively treated because of bias or prejudice have any burden of proving harm. Bias is intrinsically harmful. It is the making up of your mind based on anything other than the facts.

We use a blindfolded woman holding a set of scales to symbolize what we want in a justice system. And there is nothing more antithetical to justice than lowering that blindfold and making up your mind based on who is standing in front of you. That is not who we are. That is not what we should ever become.

There's a saying in the courtroom: May justice be done though the heavens fall. You won't hear that saying in politics. You're more likely to hear: Let's win at all costs, the heavens be damned.

We can survive with politicians we don't trust. We can't survive with a justice system we don't trust.

With that, I would recognize the gentleman from Maryland.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

When we look back to the Presidential campaign in 2016 there's one extremely troubling image we all remember very well. That is the image of Donald Trump and other Republicans chanting: Lock her up, lock her up, lock her up. They were talking about Hillary Clinton using personal emails, and they demanded over and over again that she be jailed.

But the Justice Department had already investigated. They had interviewed witnesses, reviewed documents, analyzed the law, and examined past charging decisions. At the conclusion of its investigation, the Department disagreed with the Republicans. They did not charge Hillary Clinton with any crime at all. And the entire DOJ and FBI team on the investigation agreed with that conclusion.

Of course, the Republicans refused to accept that conclusion. They wanted Hillary Clinton to be guilty. So they attacked the investigation. They said there must have been collusion with Hillary Clinton. They called emergency hearings over and over and over again. They insisted on reviewing documents and reinterviewing witnesses. And they demanded that the inspector general conduct his own independent investigation of the FBI.

Last week the inspector general issued his report, but it finds the same thing. It says, and I quote: "We found no evidence that the conclusions by Department prosecutors were affected by bias or other improper considerations." The report goes on, and I quote: "Rather, we determined that they were based on the prosecutor's assessments of the facts, the law, and past Department practice," end of quote.

So the Republicans were wrong again. All their howling about "lock her up" was bogus. It was baseless. It was unsubstantiated. And now we have another report saying so. But again and again the Republicans refuse to accept this conclusion. They still want Hillary Clinton to be guilty even today.

Now they're going after the investigation of the investigation. They're going after the inspector general's report issued last week. They want to rereview documents the inspector general already re-

viewed and reinterview witnesses the inspector general already interviewed.

Some Republicans even want to investigate whether anyone tampered with the inspector general's report or watered it down. They simply refuse to accept the inspector general's findings. The Republicans point to some individual expressions of bias, and these are facts the inspector general already reviewed.

Instead, the Republicans are now tripling down, threatening to impeach Rod Rosenstein and Christopher Wray for somehow obstructing their efforts to get to the bottom of all of this.

They had a big meeting on Friday, by the way, Friday night, with Speaker Paul Ryan. No Democrats were invited, of course. But this weekend Chairman Gowdy described some of it during a press conference, press appearance.

Apparently, after reading the inspector general's conclusions, House Republicans all decided that, and I quote: "The House of Representatives is going to use its full arsenal of constitutional weapons to gain compliance," end of quote, with their never-ending demands regarding Hillary Clinton.

At this point I think it is crystal clear that the only answer Republicans will accept is that Hillary Clinton must be guilty. They will keep going on and going until they get that answer, even if the facts will never support it, and even if multiple independent reviews come to exactly the opposite conclusion.

Republicans in Congress are only willing to use their full arsenal of constitutional weapons to attack Hillary Clinton or protect Donald Trump. Neither the Oversight Committee nor the Judiciary Committee has issued a single subpoena to investigate President Donald Trump on any other topic related to his administration, including the key moral and ethical issue of the day, which is the President's new policy to separate children from their families.

And so I ask the question, and it is a simple question: Are we really going to sit here, 70 Members of the Congress of the United States of America, in 2018 and have a hearing that just repeats the hearings the Senate had yesterday on Hillary Clinton's emails?

We sent letter after letter, letter after letter asking these committees to investigate the Trump administration's policy, which is now resulting in child internment camps—that's what I said, child internment camps—but we have gotten no response.

Look, even if you believe people entered our country illegally, even if you believe they have no valid asylum claims in their own country, even if you believe immigration should be halted entirely, we all should be able to agree that in the United States of America we will not intentionally separate children from their parents. We will not do that. We are better than that. We are so much better. We should be able to agree that we will not keep kids in child internment camps indefinitely and hidden away from public view. What country is that?

This is the United States of America. We now have reports that parents are being deported, but the Trump administration is keeping their children here, 2018 in America.

We do not need legislation. This is a policy—and understand this—this was a policy invented, implemented, and executed by President Donald Trump.

And so in conclusion, Mr. Chairman, we need you. Those children need you. And I'm talking directly to my Republican colleagues. We need you to stand up to President Trump. We need you to join us in telling him that we reject this mean policy. We need you to tell him to abandon this policy. We need you to remind him that this is the United States of America and it is a great country. And we need you to stand up for those children.

And with that, Mr. Chairman, I yield back.

Chairman GOWDY. The gentleman from Maryland yields back.

The gentleman from Virginia is recognized.

Chairman GOODLATTE. We are here to shed light on decisions that have terribly tarnished the reputation of our chief law enforcement institutions and undermine Americans' confidence in their justice system. Today we will examine irregularities and improprieties in the FBI and DOJ's handling of two of the most sensitive investigations in the history of our country, and it all began with Hillary Clinton's mishandling of classified emails.

The IG's report has spawned more questions and more theories about the FBI and DOJ's handling of the Clinton investigation. It confirms that Mrs. Clinton did, in fact, receive special treatment from the Obama Justice Department and FBI during their investigation.

The American people often get tired of political infighting in Washington, D.C., so I want to ask a simple question: Why should Americans care about what we are talking about here today?

I propose this answer: Because our constitution guarantees equality under the law. Americans expect that those with power and influence will not receive special treatment.

But as the IG report describes, DOJ and FBI did not treat Mrs. Clinton like any other criminal suspect and did not follow standard investigative procedures in exonerating her.

The IG found many issues with this particular investigation, as well as serious institutional issues, and while only telling half the story. We are still awaiting conclusions with respect to the allegations of surveillance abuse inside the FBI. The IG identified various corrective actions, including recommending five additional FBI employees for further review and possible disciplinary consideration.

In a nutshell, the IG report details unusual actions taken by law enforcement officials who were sworn to uphold the Constitution impartially and fairly. They failed in that duty.

Again, why should Americans care? The Department of Justice and the FBI are not mentioned in the U.S. Constitution. Who is mentioned in the Constitution? The President and Congress. Yet a handful of individuals in these law enforcement institutions placed the constitutional institution of the Presidency under attack during a heated election and mocked Congress' legitimate constitutionally mandated oversight.

Equality under the law is a core American value. Our laws are to be administered and enforced with impartiality. The IG report confirms that this was not the case in the Clinton investigation.

To quote from the report concerning certain individuals assigned to the investigation: "We found that the conduct of these five FBI employees brought discredit to themselves, sowed doubt about the

FBI's handling of the Midyear investigation, and impacted the reputation of the FBI...Moreover, the damage caused by their actions extends far beyond the scope of the Midyear investigation and goes to the heart of the FBI's reputation for neutral factfinding and political independence," end quote.

I am only repeating what the IG found: Improprieties by the FBI and DOJ caused such far-reaching damage going to the heart of what is expected from agencies whose responsibility was to remain fair administrators of justice.

This hearing and the IG's report underscore the importance of the ongoing joint investigation by the House Judiciary Committee and the House Oversight Committee into decisions made by the DOJ and FBI in 2016. To date, the committees have interviewed several key witnesses and reviewed tens of thousands of documents.

While we appreciate the IG and his staff for a very detailed investigation, it is critical for the public to also hear what was not included in the report due to the IG's refusal to question, quote, "whether a particular decision by the FBI and DOJ was the most effective choice," end quote.

Here is what has been observed by these committees:

Questionable interpretation by DOJ and FBI of the law surrounding mishandling of classified information;

Foreign actors obtained access to some of Mrs. Clinton's emails, including at least one email classified secret;

Director Comey appeared to have predetermined the exoneration of Mrs. Clinton at least 2 months before the investigation concluded;

The Department of Justice determined any charge of gross negligence was off the table, reading an intent standard into the law that does not exist;

Grotesque statements against then-candidate Donald Trump were made by top FBI officials, and they went so far as to say: We'll stop Trump from becoming President;

Indiscretions involving Mr. Strzok and Ms. Page were not handled appropriately at the time the FBI management learned of them, resulting in their continued assignment as key players on the Clinton investigation and the Mueller Russia investigation;

Mr. McCabe appears to have not been forthright with Congress during an interview conducted by the committees concerning his knowledge of meetings and actions taken by Mr. McCabe and his team;

The FBI's top counterintelligence official was unaware of possible evidence indicating Mrs. Clinton's private email server had been penetrated by a foreign adversary and unaware of relevant legal process obtained during the investigation;

Documents show significant criticism of Mr. Comey expressed by multiple current and former FBI agents;

The FBI intentionally obscured the fact President Obama had communicated with Mrs. Clinton's private email address by editing Mr. Comey's final press statement, replacing "the President" with the euphemism "senior government official";

Finally, top FBI officials, including Mr. McCabe and Mr. Priestap, through their wives had close ties to Democrat and Clin-

ton-affiliated entities and should have seemingly been recused from the Clinton investigation.

Public confidence in the impartiality of our law enforcement system is critical to ensure all are treated equally under the law. Fallout from the Clinton investigation, however, gives the impression those with money and influence are given lighter treatment than the so-called common person.

Short-term damage to the FBI and DOJ's reputations is apparent. However, the IG and Congress' investigations will help to understand why certain deficiencies occurred during one of the most high-profile investigations in this Nation's history.

This hearing is a crucial step toward repairing law enforcement's reputation as an impartial fact-finder and seeker of truth, and I look forward to the inspector general's testimony today.

Chairman GOWDY. The gentleman from Virginia yields back.

The gentleman from New York is recognized.

Mr. NADLER. Thank you, Mr. Chairman.

And thank you, Inspector General Horowitz, for being here today.

In the days since you released your report, Mr. Inspector General, I have been struck by the total disconnect between the Republican party line and your actual findings. The report does not find, as President Trump continues to complain, that the FBI, quote, plotted against his election.

The report also does not totally exonerate the President on the Russian matter no matter how you read it. It does not give any reason to conclude, as the President's increasingly untethered attorney Rudy Giuliani argues, that, quote, Mueller should be suspended and honest people should be brought in, unquote, or that the Attorney General should violate his recusal and end the special counsel's investigation altogether.

Nor does it suggest, as Chairman Goodlatte and Chairman Gowdy insist, that Hillary Clinton received special treatment from the FBI.

The key findings in the report are quite simple. The inspector general, quote, "found no evidence that the conclusions by the prosecutors were affected by bias or other improper considerations; rather, we determined that they were based on the prosecutor's assessment of the facts, the law, and past Department practice," close quote. That sums up everything we're talking about.

The report criticizes the FBI and its former leadership, but virtually every action criticized ultimately harmed the candidacy of Secretary Clinton and inured to the benefit of the candidacy of Donald Trump.

And the report has nothing whatsoever to say about the ongoing work of the special counsel. President Trump, Rudy Giuliani, and some of my Republican colleagues are desperate to make that leap. Who wouldn't be in their position, with 23 indictments and the President's campaign manager in jail? But their argument is based on innuendo and not on the facts and certainly not on this report.

Now, I am not shy about my criticism of the former FBI Director. When James Comey testified before the Judiciary Committee last year I told him that he was wrong to have applied a double standard to the Presidential campaigns, speaking publicly and at length

about the Clinton investigation but refusing even to acknowledge the existence of the investigation into the Trump campaign.

I also told Mr. Comey that he was wrong to have criticized Secretary Clinton after announcing that he would not charge her with a crime, not because of the content of the criticism, but because issuing that statement was simply not his job, as the report finds.

It is also wrong, as well as against Department of Justice guidelines, for the investigative agency to criticize the subject of an investigation for uncharged conduct. It was totally unnecessary and wrong.

The inspector general's report describes both of these failings in detail. The report's analysis of Mr. Comey's July 5 statement reads in pertinent part, quote: "In our criminal justice system the investigative and prosecutive functions are intentionally kept separate as a check on the government's power to bring criminal charges." The report concludes that Mr. Comey's statement assumed an authority that did not belong to the office of the Director of the FBI.

I am grateful for this important analysis, Mr. Horowitz. Unfortunately, sir, your key finding that the decision not to charge Secretary Clinton was based on an assessment of the facts, the law, and past Department practice and not on bias or improper consideration is now subject to the treatment that President Trump and some of my Republican colleagues will give it. "I mean, there was total bias," the President argued on the White House lawn just last week.

What are we to make of this disconnect between what the report says and what the President and his allies say it says? Why is it that no matter how many times we litigate this question House Republicans can think of nothing better to do than to endlessly investigate Hillary Clinton for the same conduct?

Why is it that after half a dozen investigations found no wrongdoing at Benghazi the majority spent millions of dollars on their own Benghazi Select Committee? And when that body found no wrongdoing either, why is it that the majority moved on to legitimize conspiracy theories about the Clinton Foundation and Uranium One?

Why is it that after the Department of Justice and the FBI concluded it should not charge Secretary Clinton with a crime, rather than accepting the conclusion, as we would in most criminal cases, the Judiciary and Oversight majorities launched an investigation into the Department of Justice and the FBI?

Why is it that after you released this report, Mr. Horowitz, some of my colleagues seriously suggested that we open an investigation into your investigation of the investigation?

Why is it that here and now, in June of 2018, we are still talking about Hillary Clinton's emails at all?

I suspect it has something to do with the way Republicans have squandered their opportunity to govern and the consequences of abdicating that responsibility.

House Republicans have done little or nothing to secure our next election from foreign attack; or to push back against the Attorney General's unprecedented refusal to defend in court the key protections of the Affordable Care Act; or to address an immigration crisis with anything other than a cruel and reactionary policy pro-



posal that will never become law and with persecuting children at the border.

They don't even make credible arguments about Hillary Clinton's emails. I suspect that if the majority were actually motivated by the sensitivity of classified information in the Clinton case they would have also said something by now about the highly sensitive Israeli operation revealed to Russian officials by President Trump; or about the way the President handles classified documents at Mar-a-Lago; or about the confidential human source whose identity was exposed recently while our colleagues tried to force the deputy attorney general to reveal his identity; or about the totally inappropriate, if not outright unlawful, dangling of pardons by the President and his attorney to those accused of participating in a conspiracy against the United States.

No, too many of my Republican colleagues instead seem stuck in a perpetual Trump campaign rally, shouting "lock her up" with the rest of the crowd, hoping that the public won't notice how little they have accomplished with their time in the majority.

I look forward to your testimony today, Mr. Inspector General. I hope our conversation can be the beginning of the end of this long preoccupation with Secretary Clinton. We have so many more important things to do.

I yield back.

Chairman GOWDY. The gentleman from New York yields back.

We are pleased to introduce our witness today, the Honorable Michael Horowitz, inspector general for the Department of Justice.

Welcome to you, Mr. Horowitz.

Pursuant to committee rules, all witnesses will be sworn in before they testify, so I would ask you to do what you just did. Stand up, raise your right hand.

Do you solemnly swear or affirm the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?

May the record reflect the witness answered in the affirmative.

Mr. Horowitz, you are recognized for your opening statement.

**STATEMENT OF MICHAEL HOROWITZ, INSPECTOR GENERAL,  
U.S. DEPARTMENT OF JUSTICE**

Mr. HOROWITZ. Thank you, Chairmen Gowdy and Goodlatte, and thank you, Ranking Members Cummings and Nadler, and members of the committee. Thank you for inviting me to testify today regarding the report we released last week.

Our 500-page-plus report provides a thorough, comprehensive, and objective recitation of the facts related to the Department's and the FBI's handling of the Clinton email investigation. It was the product of 17 months of investigative work by a dedicated OIG team that reviewed well over 1.2 million documents and interviewed more than 100 witnesses, many on multiple occasions.

The review team followed the evidence wherever it led, and through their efforts we identified the inappropriate texts and instant messages discussed in the report.

Additionally, the OIG's painstaking forensic examinations recovered thousands of text messages that otherwise would have been lost or been undisclosed.

As detailed in our report, we found that the inappropriate political messages that we uncovered cast a cloud over the Midyear investigation, sowed doubt about the credibility of the FBI's handling of it, and impacted the reputation of the FBI.

We found the implication that senior FBI employees would be willing to take official action to impact a Presidential candidate's electoral prospects to be deeply troubling and antithetical to the core values of the FBI and the Justice Department.

With regard to the decision to close the investigation without prosecution, we found no evidence that the conclusions by the prosecutors were the result of improper considerations, including political bias, but rather were exercises of those prosecutors' prosecutorial discretion—an exercise of their prosecutorial discretion—based on their assessment of the facts, the law, and past Department practice.

Our review also included a fact-based, detailed assessment of certain specific investigative and prosecutorial decisions that were the subject of controversy. It was necessary to select particular investigative decisions because it would not have been possible to recreate and analyze every decision made in a year-long investigation.

In examining these decisions, the question we considered was not whether a particular decision was the most effective choice, but rather whether the documentary and testimonial evidence indicated the decision was based on improper considerations, including political bias.

This approach is consistent with the OIG's handling of such questions in past reviews when assessing discretionary judgment calls and recognizes and respects the institutional oversight role of the OIG.

Our report provides a comprehensive assessment of these decisions and of the Midyear investigation and details the factual evidence so that the public, Congress, and other stakeholders can conduct their own assessment of them.

Within this framework as to the specific investigative and prosecutive decisions we reviewed, we did not find documentary or testimonial evidence that improper considerations, including political bias, directly affected those specific investigative decisions in part because the decisions were made by the Midyear team—by the larger Midyear team or by the prosecutors.

This determination by the OIG does not mean that we necessarily endorse those decisions; or concluded they were the most effective among the options considered; or that our findings should or can be extrapolated to cover other decisions made during the course of the investigation by the FBI employees who sent those inappropriate text messages.

Conversely, we found the FBI's explanations for its failures to take immediate action after discovering the Weiner laptop in September 2016 to be unpersuasive, and we did not have confidence that the decision of Deputy Assistant Director Strzok to prioritize the Russia investigation over following up on the Weiner laptop was free from bias in light of his text messages.

We also found that in key moments then-FBI Director Comey clearly departed from FBI and Department norms and his decisions

negatively impacted the perception of the FBI and the Department as fair administrators of justice.

Director Comey concealed from the Attorney General and the deputy attorney general his intention to make a unilateral announcement in July 2016 about the reasons for his recommendation not to prosecute former Secretary Clinton. His July 5 statement included inappropriate commentary about uncharged conduct, announced his views on what a, quote/unquote, reasonable prosecutor would do, and served to confuse rather than clarify public understanding of his recommendation or what the prosecutors had assessed in terms of the evidence.

In late October he again acted without adequately consulting Department leadership and contrary to important Department norms when he sent a letter to Congress announcing renewed investigative activities—activity—days before the election.

There are many lessons to be learned from the Department's and the FBI's handling of the Clinton email investigation, but among the most important is the need to respect the institution's hierarchy and structure and to follow established policies, procedures, and norms, even in the highest profile and most challenging investigations. No rule, policy, or practice is perfect, of course, but at the same time neither is any individual's ability to make judgments under pressure or in what may seem like unique circumstances.

When leaders and officials adhere to bedrock principles and values the public has greater confidence in the fairness and rightness of their decisions and those institutions' leaders better protect the interests of Federal law enforcement and the dedicated professionals who serve us all.

By contrast, the public's trust is negatively impacted when law enforcement officials make statements reflecting bias, when leaders abandon institutional norms and the organizational hierarchy in favor of their own ad hoc judgments, and when the leadership of the Department of Justice and the FBI are unable to speak directly with one another for the good of the institutions.

Our report makes nine recommendations, most of which can be tied together to a common theme: that the FBI and the Justice Department remain true to their foundational principles and values in all of their work.

That concludes my prepared statement. I would be pleased to answer any questions the committee may have.

[Prepared statement of Mr. Mr. Horowitz follows:]



Office of the Inspector General  
United States Department of Justice

Statement of Michael E. Horowitz  
Inspector General, U.S. Department of Justice

*before the*

U.S. House of Representatives  
Committees on Oversight and Government Reform and  
the Judiciary

*concerning*

"Oversight of the FBI and DOJ Actions in Advance of the 2016 Election"

June 19, 2018

Chairmen, Ranking Members, and Members of the Committees:

Thank you for inviting me to testify at today's hearing to examine the Office of the Inspector General's (OIG) findings in our "Review of Various Actions by the Federal Bureau of Investigation and Department of Justice in Advance of the 2016 Election." The report reviews various actions by the Federal Bureau of Investigation (FBI) and Department of Justice (Department) in connection with the investigation into the use of a private email server by former Secretary of State Hillary Clinton (named the Midyear investigation by the FBI). The report can be found on the OIG's website at the following link:  
<https://www.justice.gov/file/1071991/download>.

The 500-plus page report was the product of 17 months of investigative work by a dedicated OIG team that reviewed well over 1.2 million documents, including over 100,000 text and instant messages, and interviewed more than 100 witnesses, many on multiple occasions. Our report provides a thorough, comprehensive, and objective recitation of the facts related to the Department's handling of the Midyear investigation. The review team followed the evidence wherever it led, and it was through their efforts that we identified the inappropriate text and instant messages discussed in the report. Additionally, as a result of the OIG's painstaking forensic examinations, we recovered thousands of text messages that otherwise would have been lost or undisclosed. We completed our report when we were satisfied that we had pursued all reasonable investigative leads and finished our detailed forensic examinations. As a result of this approach, our report includes, for example, text messages that we recovered just last month, which were significant to our findings. It also includes an analysis of the FBI's decision not to request access in May 2016 to certain classified information, a decision that we did not learn of until the later stages of our review.

As detailed in our report, we found that the inappropriate political messages cast a cloud over the Midyear investigation, sowed doubt about the credibility of the FBI's handling of it, and impacted the reputation of the FBI. Moreover, we found the implication that senior FBI employees would be willing to take official action to impact a presidential candidate's electoral prospects to be deeply troubling and antithetical to the core values of the FBI and the Department of Justice.

Our review also included a fact-based, detailed assessment of certain specific investigative and prosecutorial decisions that were the subject of controversy. It was necessary to select particular investigative decisions for focused attention because it would not have been possible to recreate and analyze every decision made in a year-long investigation. In examining the decisions we selected for review, the question we considered was not whether a particular decision was the ideal or most effective choice, but rather, whether the documentary and testimonial evidence indicated that the decision was based on improper considerations, including political bias. This approach is consistent with the OIG's handling of such questions in past reviews with respect to assessing discretionary judgment calls, and recognizes and respects the institutional oversight role of the OIG. Our report provides a comprehensive assessment of these decisions and of the Midyear

investigation, and details the factual evidence, so that the public, Congress, and other stakeholders can conduct their own assessment of them.

Within this framework, as to the specific investigative and prosecutorial decisions we reviewed, we did not find documentary or testimonial evidence that improper considerations, including political bias, directly affected those specific investigative decisions, in part because the decisions were made by the larger Midyear team or the prosecutors. This determination by the OIG does not mean that we necessarily endorse the decisions or conclude they were the most effective among the options considered, or that our finding should or can be extrapolated to cover other decisions made during the course of the investigation by FBI employees who sent inappropriate political messages. With regard to the decision to close the investigation without prosecution, we found no evidence that the conclusions by the prosecutors were the result of improper considerations, including political bias, but rather were based on the prosecutors' assessment of the facts, the law, and past Department practice.

Conversely, we found that the FBI's explanations for its failure to take immediate action after discovering the Weiner laptop in October 2016 to be unpersuasive, and we did not have confidence that the decision of Deputy Assistant Director Peter Strzok to prioritize the Russia investigation over following up on the Weiner laptop was free from bias.

We also found that, in key moments, then FBI Director James Comey clearly departed from FBI and Department norms, and his decisions negatively impacted the perception of the FBI and the Department as fair administrators of justice. Director Comey concealed from the Attorney General and the Deputy Attorney General his intention to make a unilateral announcement in July about the reasons for his recommendation not to prosecute former Secretary Clinton. His July 5 statement included inappropriate commentary about uncharged conduct, announced his views on what a "reasonable prosecutor" would do, and served to confuse rather than clarify public understanding of his recommendation. In late October, he again acted without adequately consulting Department leadership – and contrary to important Department norms – when he sent a letter to Congress announcing renewed investigative activity days before the election.

There are many lessons to be learned from the Department's and the FBI's handling of the Midyear investigation. But among the most important is the need to respect the institution's hierarchy and structure, and to follow established policies, procedures, and norms even in the highest-profile and most challenging investigations. No rule, policy, or practice is perfect, of course. But at the same time, neither is any individual's ability to make judgments under pressure or in what may seem like unique circumstances. When leaders and officials adhere to their bedrock principles and values, the public has greater confidence in the fairness and rightness of their decisions, and those institutions' leaders better protect the interests of federal law enforcement and the dedicated professionals who serve us all. By contrast, the public's trust is negatively impacted when law enforcement officials make statements reflecting bias, when leaders abandon institutional norms

and the organizational hierarchy in favor of their own ad hoc judgments, and when leadership of the Department and the FBI are unable to speak directly with one another for the good of the institutions. Our report makes nine recommendations to assist the FBI and the Department in addressing these issues, most of which can be tied together through a common theme – that the FBI and the Department remain true to their foundational principles and values in all of their work.

\* \* \* \*

The following summary is mostly taken from the Executive Summary of the OIG report.

### **Conduct of the Midyear Investigation**

The FBI and Department referred to the investigation of Secretary Clinton’s emails as “Midyear Exam” or “Midyear.” The Midyear investigation was opened by the FBI in July 2015 based on a referral from the Office of the Intelligence Community Inspector General (IC IG). The investigation was staffed by prosecutors from the Department’s National Security Division (NSD) and the U.S. Attorney’s Office for the Eastern District of Virginia (EDVA), and agents and analysts selected primarily from the FBI’s Washington Field Office to work at FBI Headquarters.

The Midyear investigation focused on whether Clinton intended to transmit classified information on unclassified systems, knew that information included in unmarked emails was classified, or later became aware that information was classified and failed to report it. The Midyear team employed an investigative strategy that included three primary lines of inquiry: collection and examination of emails that traversed Clinton’s servers and other relevant evidence, interviews of relevant witnesses, and analysis of whether classified information was compromised by hostile cyber intrusions.

As described in Chapter Five of our report, we selected for examination particular investigative decisions that were the subject of public or internal controversy. These included the following:

- The preference for consent over compulsory process to obtain evidence;
- Decisions not to obtain or seek to review certain evidence, such as the personal devices used by former Secretary Clinton’s senior aides;
- The use of voluntary witness interviews;
- Decisions to enter into “letter use” or “Queen for a Day” immunity agreements with three witnesses;

- The use of consent agreements and “act of production” immunity to obtain the laptops used by Clinton’s attorneys (Cheryl Mills and Heather Samuelson) to “cull” her personal and work-related emails; and
- The handling of Clinton’s interview on July 2, 2016.

With regard to these investigative decisions, we found, as detailed in Chapter Five, that the Midyear team:

- Sought to obtain evidence whenever possible through consent but also used compulsory process, including grand jury subpoenas, search warrants, and 2703(d) orders (court orders for non-content email information) to obtain various evidence. We found that the prosecutors provided justifications for the preference for consent that were supported by Department and FBI policy and practice;
- Conducted voluntary witness interviews to obtain testimony, including from Clinton and her senior aides, and did not require any witnesses to testify before the grand jury. We found that one of the reasons for not using the grand jury for testimony involved concerns about exposing grand jurors to classified information;
- Did not seek to obtain every device, including those of Clinton’s senior aides, or the contents of every email account through which a classified email may have traversed. We found that the reasons for not doing so were based on limitations the Midyear team imposed on the investigation’s scope, the desire to complete the investigation well before the election, and the belief that the foregone evidence was likely of limited value. We further found that those reasons were, in part, in tension with Comey’s response in October 2016 to the discovery of Clinton emails on the laptop of Anthony Weiner, the husband of Clinton’s former Deputy Chief of Staff and personal assistant, Huma Abedin;
- Considered but did not seek permission from the Department to review certain highly classified materials that may have included information potentially relevant to the Midyear investigation. The classified appendix to this report describes in more detail the highly classified information, its potential relevance to the Midyear investigation, the FBI’s reasons for not seeking access to it, and our analysis;
- Granted letter use immunity and/or “Queen for a Day” immunity to three witnesses in exchange for their testimony after considering, as provided for in Department policy, the value of the witness’s testimony, the witness’s relative culpability, and the possibility of a successful prosecution;
- Used consent agreements and “act of production” immunity to obtain the culling laptops used by Mills and Samuelson, in part to avoid the uncertainty and delays of a potential motion to quash any subpoenas or search warrants.



We found that these decisions were occurring at a time when Comey and the Midyear team had already concluded that there was likely no prosecutable case and believed it was unlikely the culling laptops would change the outcome of the investigation;

- Asked Clinton what appeared to be appropriate questions and made use of documents to challenge Clinton's testimony and assess her credibility during her interview. We found that, by the date of her interview, the Midyear team and Comey had concluded that the evidence did not support criminal charges (absent a confession or false statement by Clinton during the interview), and that the interview had little effect on the outcome of the investigation; and
- Allowed Mills and Samuelson to attend the Clinton interview as Clinton's counsel, even though they also were fact witnesses, because the Midyear team determined that the only way to exclude them was to subpoena Clinton to testify before the grand jury, an option that we found was not seriously considered. We found no persuasive evidence that Mills's or Samuelson's presence influenced Clinton's interview. Nevertheless, we found the decision to allow them to attend the interview was inconsistent with typical investigative strategy.

For each of these decisions, we analyzed whether there was evidence of improper considerations, including bias, and also whether the justifications offered for the decision were a pretext for improper, but unstated, considerations.

The question we considered was not whether a particular investigative decision was the ideal choice or one that could have been handled more effectively, but whether the circumstances surrounding the decision indicated that it was based on considerations other than the merits of the investigation. If a choice made by the investigative team was among two or more reasonable alternatives, we did not find that it was improper even if we believed that an alternative decision would have been more effective.

Thus, a determination by the OIG that a decision was not unreasonable does not mean that the OIG has endorsed the decision or concluded that the decision was the most effective among the options considered. We took this approach because our role as an OIG is not to second-guess valid discretionary judgments made during the course of an investigation, and this approach is consistent with the OIG's handling of such questions in past reviews.

In undertaking our analysis, our task was made significantly more difficult because of text and instant messages exchanged on FBI devices and systems by five FBI employees involved in the Midyear investigation. These messages reflected political opinions in support of former Secretary Clinton and against her then political opponent, Donald Trump. Some of these text messages and instant messages mixed political commentary with discussions about the Midyear investigation, and raised concerns that political bias may have impacted investigative decisions.

In particular, we were concerned about text messages exchanged by FBI Deputy Assistant Director Peter Strzok and Lisa Page, Special Counsel to the Deputy Director, that potentially indicated or created the appearance that investigative decisions were impacted by bias or improper considerations. As we describe in Chapter Twelve of our report, most of the text messages raising such questions pertained to the Russia investigation, which was not a part of this review. Nonetheless, the suggestion in certain Russia-related text messages in August 2016 that Strzok might be willing to take official action to impact presidential candidate Trump's electoral prospects caused us to question the earlier Midyear investigative decisions in which Strzok was involved, and whether he took specific actions in the Midyear investigation based on his political views. As we describe in Chapter Five of our report, we found that Strzok was not the sole decisionmaker for any of the specific Midyear investigative decisions we examined in that chapter. We further found evidence that in some instances Strzok and Page advocated for more aggressive investigative measures in the Midyear investigation, such as the use of grand jury subpoenas and search warrants to obtain evidence.

There were clearly tensions and disagreements in a number of important areas between Midyear agents and prosecutors. However, we did not find documentary or testimonial evidence that improper considerations, including political bias, directly affected the specific investigative decisions we reviewed in Chapter Five, or that the justifications offered for these decisions were pretextual.

Nonetheless, these messages cast a cloud over the FBI's handling of the Midyear investigation and the investigation's credibility. But our review did not find evidence to connect the political views expressed in these messages to the specific investigative decisions that we reviewed; rather, consistent with the analytic approach described above, we found that these specific decisions were the result of discretionary judgments made during the course of an investigation by the Midyear agents and prosecutors and that these judgment calls were not unreasonable. The broader impact of these text and instant messages, including on such matters as the public perception of the FBI and the Midyear investigation, are discussed in Chapter Twelve of our report.

#### **Comey's Public Statement on July 5, 2016**

##### *"Endgame" Discussions*

As we describe in Chapter Six of the report, by the Spring of 2016, Comey and the Midyear team had determined that, absent an unexpected development, evidence to support a criminal prosecution of Clinton was lacking. Midyear team members told us that they based this assessment on a lack of evidence showing intent to place classified information on the server, or knowledge that the information was classified. We describe the factors that the Department took into account in its decision to decline prosecution in Chapter Seven of our report and below.

Comey told the OIG that as he began to realize the investigation was likely to result in a declination, he began to think of ways to credibly announce its closing. Comey engaged then DAG Yates in discussions in April 2016 about the “endgame” for the Midyear investigation. Comey said that he encouraged Yates to consider the most transparent options for announcing a declination. Yates told the OIG that, as a result of her discussions with Comey, she thought the Department and FBI would jointly announce any declination.

Comey said he also told Yates that the closer they got to the political conventions, the more likely he would be to insist that a special counsel be appointed, because he did not believe the Department could credibly announce the closing of the investigation once Clinton was the Democratic Party nominee. However, we did not find evidence that Comey ever seriously considered requesting a special counsel; instead, he used the reference to a special counsel as an effort to induce the Department to move more quickly to obtain the Mills and Samuelson culling laptops and to complete the investigation.

Although Comey engaged with the Department in these “endgame” discussions, he told us that he was concerned that involvement by then AG Loretta Lynch in a declination announcement would result in “corrosive doubt” about whether the decision was objective and impartial because Lynch was appointed by a President from the same political party as Clinton. Comey cited other factors to us that he said caused him to be concerned by early May 2016 that Lynch could not credibly participate in announcing a declination:

- An alleged instruction from Lynch at a meeting in September 2015 to call the Midyear investigation a “matter” in statements to the media and Congress, which we describe in Chapter Four of our report;
- Statements made by then President Barack Obama about the Midyear investigation, which also are discussed in Chapter Four; and
- Concerns that certain classified information mentioning Lynch would leak, which we describe in Chapter Six and in the classified appendix.

As we discuss below and in Chapter Six of our report, the meeting between Lynch and former President Clinton on June 27, 2016 also played a role in Comey’s decision to deliver a unilateral statement.

Comey did not raise any of these concerns with Lynch or Yates. Rather, unbeknownst to them, Comey began considering the possibility of an FBI-only public statement in late April and early May 2016. Comey told the OIG that a separate public statement was warranted by the “500-year flood” in which the FBI found itself, and that he weighed the need to preserve the credibility and integrity of the Department and the FBI, and the need to protect “a sense of justice more broadly in the country—that things are fair not fixed, and they’re done independently.”

### *Comey's Draft Statement*

Comey's initial draft statement, which he shared with FBI senior leadership on May 2, criticized Clinton's handling of classified information as "grossly negligent," but concluded that "no reasonable prosecutor" would bring a case based on the facts developed in the Midyear investigation. Over the course of the next 2 months, Comey's draft statement underwent various language changes, including the following:

- The description of Clinton's handling of classified information was changed from "grossly negligent" to "extremely careless;"
- A statement that the sheer volume of information classified as Secret supported an inference of gross negligence was removed and replaced with a statement that the classified information they discovered was "especially concerning because all of these emails were housed on servers not supported by full-time staff";
- A statement that the FBI assessed that it was "reasonably likely" that hostile actors gained access to Clinton's private email server was changed to "possible." The statement also acknowledged that the FBI investigation and its forensic analysis did not find evidence that Clinton's email server systems were compromised; and
- A paragraph summarizing the factors that led the FBI to assess that it was possible that hostile actors accessed Clinton's server was added, and at one point referenced Clinton's use of her private email for an exchange with then President Obama while in the territory of a foreign adversary. This reference later was changed to "another senior government official," and ultimately was omitted.

Each version of the statement criticized Clinton's handling of classified information. Comey told us that he included criticism of former Secretary Clinton's uncharged conduct because "unusual transparency...was necessary for an unprecedented situation," and that such transparency "was the best chance we had of having the American people have confidence that the justice system works[.]"

Other witnesses told the OIG that Comey included this criticism to avoid creating the appearance that the FBI was "letting [Clinton] off the hook," as well as to "messag[e]" the decision to the FBI workforce to emphasize that employees would be disciplined for similar conduct and to distinguish the Clinton investigation from the cases of other public figures who had been prosecuted for mishandling violations.

### *The Tarmac Meeting and Impact on Comey's Statement*

On June 27, 2016, Lynch met with former President Clinton on Lynch's plane, which was parked on the tarmac at a Phoenix airport. This meeting was unplanned,

and Lynch's staff told the OIG they received no notice that former President Clinton planned to board Lynch's plane. Both Lynch and former President Clinton told the OIG that they did not discuss the Midyear investigation or any other Department investigation during their conversation. Chapter Six of our report describes their testimony about the substance of their discussion.

Lynch told the OIG that she became increasingly concerned as the meeting "went on and on," and stated "that it was just too long a conversation to have had." Following this meeting, Lynch obtained an ethics opinion from the Departmental Ethics Office that she was not required to recuse herself from the Midyear investigation, and she decided not to voluntarily recuse herself either. In making this decision, Lynch told the OIG that stepping aside would create a misimpression that she and former President Clinton had discussed inappropriate topics, or that her role in the Midyear investigation somehow was greater than it was.

On July 1, during an interview with a reporter, Lynch stated that she was not recusing from the Midyear investigation, but that she "fully expect[ed]" to accept the recommendation of the career agents and prosecutors who conducted the investigation, "as is the common process." Then, in a follow up question, Lynch said "I'll be briefed on [the findings] and I will be accepting their recommendations." Lynch's statements created considerable public confusion about the status of her continuing involvement in the Midyear investigation.

Although we found no evidence that Lynch and former President Clinton discussed the Midyear investigation or engaged in other inappropriate discussion during their tarmac meeting, we also found that Lynch's failure to recognize the appearance problem created by former President Clinton's visit and to take action to cut the visit short was an error in judgment. We further concluded that her efforts to respond to the meeting by explaining what her role would be in the investigation going forward created public confusion and did not adequately address the situation.

Comey told the OIG that he was "90 percent there, like highly likely" to make a separate public statement prior to the tarmac meeting, but that the tarmac meeting "tipped the scales" toward making his mind up to go forward with his own public statement.

#### *Comey's Decision Not to Tell Department Leadership*

Comey acknowledged that he made a conscious decision not to tell Department leadership about his plans to make a separate statement because he was concerned that they would instruct him not to do it. He also acknowledged that he made this decision when he first conceived of the idea to do the statement, even as he continued to engage the Department in discussions about the "endgame" for the investigation.

Comey admitted that he concealed his intentions from the Department until the morning of his press conference on July 5, and instructed his staff to do the

same, to make it impracticable for Department leadership to prevent him from delivering his statement. We found that it was extraordinary and insubordinate for Comey to do so, and we found none of his reasons to be a persuasive basis for deviating from well-established Department policies in a way intentionally designed to avoid supervision by Department leadership over his actions.

On the morning of July 5, 2016, Comey contacted Lynch and Yates about his plans to make a public statement, but did so only after the FBI had notified the press—in fact, the Department first learned about Comey’s press conference from a media inquiry, rather than from the FBI. When Comey did call Lynch that morning, he told her that he was not going to inform her about the substance of his planned press statement.

While Lynch asked Comey what the subject matter of the statement was going to be (Comey told her in response it would be about the Midyear investigation), she did not ask him to tell her what he intended to say about the Midyear investigation. We found that Lynch, having decided not to recuse herself, retained authority over both the final prosecution decision and the Department’s management of the Midyear investigation. As such, we believe she should have instructed Comey to tell her what he intended to say beforehand, and should have discussed it with Comey.

Comey’s public statement announced that the FBI had completed its Midyear investigation, criticized Clinton and her senior aides as “extremely careless” in their handling of classified information, stated that the FBI was recommending that the Department decline prosecution of Clinton, and asserted that “no reasonable prosecutor” would prosecute Clinton based on the facts developed by the FBI during its investigation. We determined that Comey’s decision to make this statement was the result of his belief that only he had the ability to credibly and authoritatively convey the rationale for the decision to not seek charges against Clinton, and that he needed to hold the press conference to protect the FBI and the Department from the extraordinary harm that he believed would have resulted had he failed to do so. While we found no evidence that Comey’s statement was the result of bias or an effort to influence the election, we did not find his justifications for issuing the statement to be reasonable or persuasive.

We concluded that Comey’s unilateral announcement was inconsistent with Department policy and violated long-standing Department practice and protocol by, among other things, criticizing Clinton’s uncharged conduct. We also found that Comey usurped the authority of the Attorney General, and inadequately and incompletely described the legal position of Department prosecutors.

#### **The Department’s Declination Decision on July 6**

Following Comey’s public statement on July 5, the Midyear prosecutors finalized their recommendation that the Department decline prosecution of Clinton, her senior aides, and the senders of emails determined to contain classified information. On July 6, the Midyear prosecutors briefed Lynch, Yates, Comey,

other members of Department and FBI leadership, and FBI Midyear team members about the basis for the declination recommendation. Lynch subsequently issued a short public statement that she met with the career prosecutors and agents who conducted the investigation and "received and accepted their unanimous recommendation" that the investigation be closed without charges. We found that the prosecutors considered five federal statutes:

- 18 U.S.C. §§ 793(d) and (e) (willful mishandling of documents or information relating to the national defense);
- 18 U.S.C. § 793(f) (removal, loss, theft, abstraction, or destruction of documents or information relating to the national defense through gross negligence, or failure to report such removal, loss, theft, abstraction, or destruction);
- 18 U.S.C. § 1924 (unauthorized removal and retention of classified documents or material by government employees); and
- 18 U.S.C. § 2071 (concealment, removal, or mutilation of government records).

As described in Chapter Seven of our report, the prosecutors concluded that the evidence did not support prosecution under any of these statutes for various reasons, including that former Secretary Clinton and her senior aides lacked the intent to communicate classified information on unclassified systems. Critical to their conclusion was that the emails in question lacked proper classification markings, that the senders often refrained from using specific classified facts or terms in emails and worded emails carefully in an attempt to "talk around" classified information, that the emails were sent to other government officials in furtherance of their official duties, and that former Secretary Clinton relied on the judgment of State Department employees to properly handle classified information, among other facts.

We further found that the statute that required the most complex analysis by the prosecutors was Section 793(f)(1), the "gross negligence" provision that has been the focus of much of the criticism of the declination decision. As we describe in Chapters Two and Seven of our report, the prosecutors analyzed the legislative history of Section 793(f)(1), relevant case law, and the Department's prior interpretation of the statute. They concluded that Section 793(f)(1) likely required a state of mind that was "so gross as to almost suggest deliberate intention," criminally reckless, or "something that falls just short of being willful," as well as evidence that the individuals who sent emails containing classified information "knowingly" included or transferred such information onto unclassified systems.

The Midyear team concluded that such proof was lacking. We found that this interpretation of Section 793(f)(1) was consistent with the Department's historical approach in prior cases under different leadership, including in the 2008 decision

not to prosecute former Attorney General Alberto Gonzales for mishandling classified documents.

We analyzed the Department's declination decision according to the same analytical standard that we applied to other decisions made during the investigation. We did not substitute the OIG's judgment for the judgments made by the Department, but rather sought to determine whether the decision was based on improper considerations, including political bias. We found no evidence that the conclusions by the prosecutors were affected by bias or other improper considerations; rather, we determined that they were based on the prosecutors' assessment of the facts, the law, and past Department practice.

We therefore concluded that these were legal and policy judgments involving core prosecutorial discretion that were for the Department to make.

### **Discovery in September 2016 of Emails on the Weiner Laptop**

#### *Discovery of Emails by the FBI's New York Field Office*

In September 2016, the FBI's New York Field Office (NYO) and the U.S. Attorney's Office for the Southern District of New York (SDNY) began investigating former Congressman Anthony Weiner for his online relationship with a minor. A federal search warrant was obtained on September 26, 2016, for Weiner's iPhone, iPad, and laptop computer. The FBI obtained these devices the same day. The search warrant authorized the government to search for evidence relating to the following crimes: transmitting obscene material to a minor, sexual exploitation of children, and activities related to child pornography.

The Weiner case agent told the OIG that he began processing Weiner's devices on September 26, and that he noticed "within hours" that there were "over 300,000 emails on the laptop." He said that either that evening or the next morning, he saw at least one BlackBerry PIN message between Clinton and Abedin, as well as emails between them. He said that he recalled seeing emails associated with "about seven domains," such as yahoo.com, state.gov, clintonfoundation.org, clintonemail.com, and hillaryclinton.com. The case agent immediately notified his NYO chain of command, and the information was ultimately briefed to NYO Assistant Director in Charge (ADIC) William Sweeney on September 28.

#### *Reporting of Emails to FBI Headquarters*

As we describe in Chapter Nine of our report, Sweeney took the following steps to notify FBI Headquarters about the discovery of Midyear-related emails on the Weiner laptop:

- On September 28, during a secure video teleconference (SVTC), Sweeney reported that Weiner investigation agents had discovered 141,000 emails on Weiner's laptop that were potentially relevant to the Midyear investigation. The OIG determined that this SVTC was led by then Deputy Director Andrew



McCabe, and that approximately 39 senior FBI executives likely would have participated. Comey was not present for the SVTC.

- Sweeney said he spoke again with McCabe on the evening of September 28. Sweeney said that during this call he informed McCabe that NYO personnel had continued processing the laptop and that they had now identified 347,000 emails on the laptop.
- Sweeney said he also called two FBI Executive Assistant Directors (EAD) on September 28 and informed them that the Weiner case team had discovered emails relevant to the Midyear investigation. One of the EADs told the OIG that he then called McCabe, and that McCabe told the EAD that he was aware of the emails. The EAD told us that “[T]here was no doubt in my mind when we finished that conversation that [McCabe] understood the, the gravity of what the find was.”
- Sweeney said he also spoke to FBI Assistant Director E.W. “Bill” Priestap on September 28 and 29, 2016. Emails indicate that during their conversation on September 29, they discussed the limited scope of the Weiner search warrant (*i.e.*, the need to obtain additional legal process to review any Midyear-related email on the Weiner laptop).

#### *Initial Response of FBI Headquarters*

McCabe told the OIG that he considered the information provided by Sweeney to be “a big deal” and said he instructed Priestap to send a team to New York to review the emails on the Weiner laptop. McCabe told the OIG that he recalled talking to Comey about the issue “right around the time [McCabe] found out about it.” McCabe described it as a “fly-by,” where the Weiner laptop was “like one in a list of things that we discussed.”

Comey said that he recalled first learning about the additional emails on the Weiner laptop at some point in early October 2016, although he said it was possible this could have occurred in late September 2016. Comey told the OIG that this information “didn’t index” with him, which he attributed to the way the information was presented to him and the fact that, “I don’t know that I knew that [Weiner] was married to Huma Abedin at the time.”

Text messages of FBI Deputy Assistant Director Peter Strzok indicated that he, McCabe, and Priestap discussed the Weiner laptop on September 28. Strzok said that he had initially planned to send a team to New York to review the emails, but a conference call with NYO was scheduled instead. The conference call took place on September 29, and five members of the FBI Midyear team participated. Notes from the conference call indicate the participants discussed the presence of a large volume of emails (350,000) on the Weiner laptop and specific domain names, including clintonemail.com and state.gov. The Midyear SSA said that NYO also mentioned seeing BlackBerry domain emails on the Weiner laptop.

Additional discussions took place on October 3 and 4, 2016. However, after October 4, we found no evidence that anyone associated with the Midyear investigation, including the entire leadership team at FBI Headquarters, took any action on the Weiner laptop issue until the week of October 24, and then did so only after the Weiner case agent expressed concerns to SDNY, prompting SDNY to contact the Office of the Deputy Attorney General (ODAG) on October 21 to raise concerns about the lack of action.

*Reengagement of FBI Headquarters*

On Friday, October 21, SDNY Deputy U.S. Attorney Joon Kim contacted ODAG and was put in touch with DAAG George Toscas, the most senior career Department official involved in the Midyear investigation. Thereafter, at Toscas's request, one of the Midyear prosecutors called Strzok. This was the first conversation that the FBI had with Midyear prosecutors about the Weiner laptop.

Toscas said he asked McCabe about the Weiner laptop on Monday, October 24, after a routine meeting between FBI and Department leadership. McCabe told us that this interaction with Toscas caused him to follow up with the FBI Midyear team about the Weiner laptop and to call McCord about the issue.

On October 26, NYO, SDNY, and Midyear team members participated in a conference call. The FBI Midyear team told the OIG that they learned important new information on this call, specifically: (1) that there was a large volume of emails on the Weiner laptop, particularly the potential for a large number of @clintonemail.com emails; and (2) that the presence of Blackberry data indicated that emails from Clinton's first three months as Secretary of State could be present on the laptop. However, as we describe above and in Chapter Nine of our report, these basic facts were known to the FBI by September 29, 2016.

The FBI Midyear team briefed McCabe about the information from the conference call on the evening of October 26, 2016. McCabe told us that he felt the situation was "absolutely urgent" and proposed that the FBI Midyear team meet with Comey the following day.

On October 27 at 5:20 a.m., McCabe emailed Comey stating that the Midyear team "has come across some additional actions they believe they need to take," and recommending that they meet that day to discuss the implications "if you have any space on your calendar." Comey stated that he did not know what this email was about when he received it and did not initially recall that he had been previously notified about the Weiner laptop.

We found that, by no later than September 29, FBI executives and the FBI Midyear team had learned virtually every fact that was cited by the FBI in late October as justification for obtaining the search warrant for the Weiner laptop, including that the laptop contained:

- Over 340,000 emails, some of which were from domains associated with Clinton, including state.gov, clintonfoundation.org, clintonemail.com, and hillaryclinton.com;
- Numerous emails between Clinton and Abedin;
- An unknown number of Blackberry communications on the laptop, including one or more messages between Clinton and Abedin, indicating the possibility that the laptop contained communications from the early months of Clinton's tenure; and
- Emails dated beginning in 2007 and covering the entire period of Clinton's tenure as Secretary of State.

As we describe in Chapter Nine of our report, the explanations we were given for the FBI's failure to take immediate action on the Weiner laptop fell into four general categories:

- The FBI Midyear team was waiting for additional information about the contents of the laptop from NYO, which was not provided until late October;
- The FBI Midyear team could not review the emails without additional legal authority, such as consent or a new search warrant;
- The FBI Midyear team and senior FBI officials did not believe that the information on the laptop was likely to be significant; and
- Key members of the FBI Midyear team had been reassigned to the investigation of Russian interference in the U.S. election, which was a higher priority.

We found these explanations to be unpersuasive justifications for not acting sooner, given the FBI leadership's conclusion about the importance of the information and that the FBI Midyear team had sufficient information to take action in early October and knew at that time that it would need a new search warrant to review any Clinton-Abedin emails. Moreover, given the FBI's extensive resources, the fact that Strzok and several other FBI members of the Midyear team had been assigned to the Russia investigation, which was extremely active during this September and October time period, was not an excuse for failing to take any action during this time period on the Weiner laptop.

The FBI's failure to act in late September or early October is even less justifiable when contrasted with the attention and resources that FBI management and some members of the Midyear team dedicated to other activities in connection with the Midyear investigation during the same period. As detailed in Chapter Eight, these activities included:

- The preparation of Comey’s speech at the FBI’s SAC Conference on October 12, a speech designed to help equip SACs to “bat down” misinformation about the July 5 declination decision;
- The preparation and distribution of detailed talking points to FBI SACs in mid-October in order, again, “to equip people who are going to be talking about it anyway with the actual facts and [the FBI’s] actual perspective on [the declination]”; and
- A briefing for retired FBI agents conducted on October 21 to describe the investigative decisions made during Midyear so as to arm former employees with facts so that they, too, might counter “falsehoods and exaggerations.”

In assessing the decision to prioritize the Russia investigation over following up on the Midyear-related investigative lead discovered on the Weiner laptop, we were particularly concerned about text messages sent by Strzok and Page that potentially indicated or created the appearance that investigative decisions they made were impacted by bias or improper considerations. Most of the text messages raising such questions pertained to the Russia investigation, and the implication in some of these text messages, particularly Strzok’s August 8 text message (“we’ll stop” candidate Trump from being elected), was that Strzok might be willing to take official action to impact a presidential candidate’s electoral prospects. Under these circumstances, we did not have confidence that Strzok’s decision to prioritize the Russia investigation over following up on the Midyear-related investigative lead discovered on the Weiner laptop was free from bias.

We searched for evidence that the Weiner laptop was deliberately placed on the back-burner by others in the FBI to protect Clinton, but found no evidence in emails, text messages, instant messages, or documents that suggested an improper purpose. We also took note of the fact that numerous other FBI executives—including the approximately 39 who participated in the September 28 SVTC—were briefed on the potential existence of Midyear-related emails on the Weiner laptop. We also noted that the Russia investigation was under the supervision of Priestap—for whom we found no evidence of bias and who himself was aware of the Weiner laptop issue by September 29. However, we also did not identify a consistent or persuasive explanation for the FBI’s failure to act for almost a month after learning of potential Midyear-related emails on the Weiner laptop.

The FBI’s inaction had potentially far-reaching consequences. Comey told the OIG that, had he known about the laptop in the beginning of October and thought the email review could have been completed before the election, it may have affected his decision to notify Congress. Comey told the OIG, “I don’t know [if] it would have put us in a different place, but I would have wanted to have the opportunity.”

### **Comey's Decision to Notify Congress on October 28**

Following the briefing from the FBI Midyear team on October 27, 2016, Comey authorized the Midyear team to seek a search warrant, telling the OIG that "the volume of emails" and the presence of BlackBerry emails on the Weiner laptop were "two highly significant facts." As we describe in Chapter Thirteen of our report, McCabe joined this meeting by phone but was asked not to participate, and subsequently recused himself from the Midyear investigation on November 1, 2016.

The issue of notifying Congress of the Weiner laptop development was first raised at the October 27 briefing and, over the course of the next 24 hours, numerous additional discussions occurred within the FBI. As we describe in Chapter Ten of our report, the factors considered during those discussions included:

- Comey's belief that failure to disclose the existence of the emails would be an act of concealment;
- The belief that Comey had an obligation to update Congress because the discovery was potentially significant and made his prior testimony that the investigation was closed no longer true;
- An implicit assumption that Clinton would be elected President;
- Fear that the information would leak if the FBI failed to disclose it;
- Concern that failing to disclose would result in accusations that the FBI had "engineered a cover up" to help Clinton get elected;
- Concerns about protecting the reputation of the FBI;
- Concerns about the perceived illegitimacy of a Clinton presidency that would follow from a failure to disclose the discovery of the emails if they proved to be significant;
- Concerns about the electoral impact of any announcement; and
- The belief that the email review could not be completed before the election.

As a result of these discussions on October 27, Comey decided to notify Congress about the discovery of Midyear-related emails on the Weiner laptop. Comey told us that, although he "believe[d] very strongly that our rule should be, we don't comment on pending investigations" and that it was a "very important norm" for the Department to avoid taking actions that could impact an imminent election, he felt he had an obligation to update Congress because the email discovery was potentially very significant and it made his prior testimony no longer true.

We found no evidence that Comey's decision to send the October 28 letter was influenced by political preferences. Instead, we found that his decision was the result of several interrelated factors that were connected to his concern that failing to send the letter would harm the FBI and his ability to lead it, and his view that candidate Clinton was going to win the presidency and that she would be perceived to be an illegitimate president if the public first learned of the information after the election. Although Comey told us that he "didn't make this decision because [he] thought it would leak otherwise," several FBI officials told us that the concern about leaks played a role in the decision.

Much like with his July 5 announcement, we found that in making this decision, Comey engaged in ad hoc decisionmaking based on his personal views even if it meant rejecting longstanding Department policy or practice. We found unpersuasive Comey's explanation as to why transparency was more important than Department policy and practice with regard to the reactivated Midyear investigation while, by contrast, Department policy and practice were more important to follow with regard to the Clinton Foundation and Russia investigations.

Comey's description of his choice as being between "two doors," one labeled "speak" and one labeled "conceal," was a false dichotomy. The two doors were actually labeled "follow policy/practice" and "depart from policy/practice." Although we acknowledge that Comey faced a difficult situation with unattractive choices, in proceeding as he did, we concluded that Comey made a serious error of judgment.

#### *Department and FBI Leadership Discussions*

On October 27, Comey instructed his Chief of Staff, James Rybicki, to reach out to the Department about his plan to notify Congress. As we describe in Chapter Ten of our report, Comey told the OIG that he decided to ask Rybicki to inform the Department rather than to contact Lynch or Yates directly because he did not "want to jam them and I wanted to offer them the opportunity to think about and decide whether they wanted to be engaged on it." Rybicki and Axelrod spoke on the afternoon of October 27 and had "a series of phone calls" the rest of the day. Rybicki told Axelrod that Comey believed he had an obligation to notify Congress about the laptop in order to correct a misimpression that the Midyear investigation was closed.

Lynch, Yates, Axelrod, and their staffs had several discussions that same day as to whether Lynch or Yates should call Comey directly, but said they ultimately decided to have Axelrod communicate "the strong view that neither the DAG nor [AG] felt this letter should go out." Yates told us they were concerned that direct contact with Comey would be perceived as "strong-arming" him, and that based on her experience with Comey, he was likely to "push back hard" against input from Lynch or her, especially if accepting their input meant that he had to go back to his staff and explain that he was reversing his decision. She said that she viewed Rybicki as the person they needed to convince if they wanted to change Comey's mind. Accordingly, Axelrod informed Rybicki on October 27 of the Department's strong opposition to Comey's plan to send a letter.

Rybicki reported to Comey that the Department “recommend[ed] against” the Congressional notification and thought it was “a bad idea.” Although Comey told us that he would not have sent the letter if Lynch or Yates had told him not to do so, he said he viewed their response as only a recommendation and interpreted their lack of direct engagement as saying “basically...it’s up to you.... I honestly thought they were taking kind of a cowardly way out.” The following day, October 28, Comey sent a letter to Congress stating, in part, that “the FBI has learned of the existence of emails that appear to be pertinent to the [Midyear] investigation.”

Comey, Lynch, and Yates faced difficult choices in late October 2016. However, we found it extraordinary that Comey assessed that it was best that the FBI Director not speak directly with the Attorney General and Deputy Attorney General about how best to navigate this most important decision and mitigate the resulting harms, and that Comey’s decision resulted in the Attorney General and Deputy Attorney General concluding that it would be counterproductive to speak directly with the FBI Director. We believe that open and candid communication among leaders in the Department and its components is essential for the effective functioning of the Department.

### **Text and Instant Messages, Use of Personal Email, and Alleged Improper Disclosures of Non-Public Information**

#### *Text Messages and Instant Messages*

As we describe in Chapter Twelve, during our review we identified text messages and instant messages sent on FBI mobile devices or computer systems by five FBI employees who were assigned to the Midyear investigation. These included:

- Text messages exchanged between Strzok and Page;
- Instant messages exchanged between Agent 1, who was one of the four Midyear case agents, and Agent 5, who was a member of the filter team; and
- Instant messages sent by FBI Attorney 2, who was assigned to the Midyear investigation.

The text messages and instant messages sent by these employees included statements of hostility toward then candidate Trump and statements of support for candidate Clinton, and several appeared to mix political opinions with discussions about the Midyear investigation.

We found that the conduct of these five FBI employees brought discredit to themselves, sowed doubt about the FBI’s handling of the Midyear investigation, and impacted the reputation of the FBI. Although our review did not find documentary or testimonial evidence directly connecting the political views these employees expressed in their text messages and instant messages to the specific investigative

decisions we reviewed in Chapter Five, the conduct by these employees cast a cloud over the FBI Midyear investigation and sowed doubt the FBI's work on, and its handling of, the Midyear investigation. Moreover, the damage caused by their actions extends far beyond the scope of the Midyear investigation and goes to the heart of the FBI's reputation for neutral factfinding and political independence.

We were deeply troubled by text messages exchanged between Strzok and Page that potentially indicated or created the appearance that investigative decisions were impacted by bias or improper considerations. Most of the text messages raising such questions pertained to the Russia investigation, which was not a part of this review. Nonetheless, when one senior FBI official, Strzok, who was helping to lead the Russia investigation at the time, conveys in a text message to another senior FBI official, Page, "No. No he won't. We'll stop it" in response to her question "[Trump's] not ever going to become president, right? Right?!", it is not only indicative of a biased state of mind but, even more seriously, implies a willingness to take official action to impact the presidential candidate's electoral prospects. This is antithetical to the core values of the FBI and the Department of Justice.

We do not question that the FBI employees who sent these messages are entitled to their own political views. However, we believe using FBI devices to send the messages discussed in Chapter Twelve—particularly the messages that intermix work-related discussions with political commentary—potentially implicate provisions in the FBI's Offense Code and Penalty Guidelines. At a minimum, we found that the employees' use of FBI systems and devices to send the identified messages demonstrated extremely poor judgment and a gross lack of professionalism. We therefore refer this information to the FBI for its handling and consideration of whether the messages sent by the five employees listed above violated the FBI's Offense Code of Conduct.

#### *Use of Personal Email*

As we also describe in Chapter Twelve, we learned during the course of our review that Comey, Strzok, and Page used their personal email accounts to conduct FBI business.

We identified numerous instances in which Comey used a personal email account to conduct unclassified FBI business. We found that, given the absence of exigent circumstances and the frequency with which the use of personal email occurred, Comey's use of a personal email account for unclassified FBI business to be inconsistent with Department policy.

We found that Strzok used his personal email accounts for official government business on several occasions, including forwarding an email from his FBI account to his personal email account about the proposed search warrant the Midyear team was seeking on the Weiner laptop. This email included a draft of the search warrant affidavit, which contained information from the Weiner investigation that appears to have been under seal at the time in the Southern District of New



York and information obtained pursuant to a grand jury subpoena issued in the Eastern District of Virginia in the Midyear investigation. We refer to the FBI the issue of whether Strzok's use of personal email accounts violated FBI and Department policies.

Finally, when questioned, Page also told us she used personal email for work-related matters at times. She stated that she and Strzok sometimes used these forums for work-related discussions due to the technical limitations of FBI-issued phones. Page left the FBI on May 4, 2018.

#### *Improper Disclosure of Non-Public Information*

As we also describe in Chapter Twelve, among the issues we reviewed were allegations that Department and FBI employees improperly disclosed non-public information regarding the Midyear investigation. Although FBI policy strictly limits the employees who are authorized to speak to the media, we found that this policy appeared to be widely ignored during the period we reviewed.

We identified numerous FBI employees, at all levels of the organization and with no official reason to be in contact with the media, who were nevertheless in frequent contact with reporters. Attached to this report as Attachments E and F are two link charts that reflect the volume of communications that we identified between FBI employees and media representatives in April/May and October 2016. The OIG did not obtain information reflected in the chart by accessing records relating to any member of the media. We have profound concerns about the volume and extent of unauthorized media contacts by FBI personnel that we have uncovered during our review.

In addition, we identified instances where FBI employees improperly received benefits from reporters, including tickets to sporting events, golfing outings, drinks and meals, and admittance to nonpublic social events. We will separately report on those investigations as they are concluded, consistent with the Inspector General Act, other applicable federal statutes, and OIG policy.

The harm caused by leaks, fear of potential leaks, and a culture of unauthorized media contacts is illustrated in Chapters Ten and Eleven of our report, where we detail the fact that these issues influenced FBI officials who were advising Comey on consequential investigative decisions in October 2016. The FBI updated its media policy in November 2017, restating its strict guidelines concerning media contacts, and identifying who is required to obtain authority before engaging members of the media, and when and where to report media contact. We do not believe the problem is with the FBI's policy, which we found to be clear and unambiguous. Rather, we concluded that these leaks highlight the need to change what appears to be a cultural attitude among many in the organization.

**Recusal Issues***Former Deputy Director Andrew McCabe*

As we describe in Chapter Thirteen, in 2015, McCabe's spouse, Dr. Jill McCabe, ran for a Virginia State Senate seat. During the campaign, Dr. McCabe's campaign committee received substantial monetary and in-kind contributions, totaling \$675,288 or approximately 40 percent of the total contributions raised by Dr. McCabe for her state senate campaign, from then Governor McAuliffe's Political Action Committee (PAC) and from the Virginia Democratic Party. In addition, on June 26, 2015, Hillary Clinton was the featured speaker at a fundraiser in Virginia hosted by the Virginia Democratic Party and attended by Governor McAuliffe.

At the time his wife sought to run for state senate, McCabe was the Assistant Director in Charge of the FBI's Washington Field Office (WFO) and sought ethics advice from FBI ethics officials and attorneys. We found that FBI ethics officials and attorneys did not fully appreciate the potential significant implications to McCabe and the FBI from campaign donations to Dr. McCabe's campaign. The FBI did not implement any review of campaign donations to assess potential conflicts or appearance issues that could arise from the donations. On this issue, we believe McCabe did what he was supposed to do by notifying those responsible in the FBI for ethics issues and seeking their guidance.

After McCabe became FBI Deputy Director in February 2016, McCabe had an active role in the supervision of the Midyear investigation, and oversight of the Clinton Foundation investigation, until he recused himself from these investigations on November 1, 2016. McCabe voluntarily recused himself on November 1, at Comey's urging, as the result of an October 23 article in the Wall Street Journal identifying the substantial donations from McAuliffe's PAC and the Virginia Democratic Party to Dr. McCabe.

With respect to these investigations, we agreed with the FBI's chief ethics official that McCabe was not at any time required to recuse under the relevant authorities. However, voluntary recusal is always permissible with the approval of a supervisor or ethics official, which is what McCabe did on November 1. Had the FBI put in place a system for reviewing campaign donations to Dr. McCabe, which were public under Virginia law, the sizable donations from McAuliffe's PAC and the Virginia Democratic Party may have triggered prior consideration of the very appearance concerns raised in the October 23 WSJ article. Finally, we also found that McCabe did not fully comply with this recusal in a few instances related to the Clinton Foundation investigation.

*Former Assistant Attorney General Peter Kadzik*

In Chapter Fourteen, we found that Kadzik demonstrated poor judgment by failing to recuse himself from Clinton-related matters under federal ethics regulations prior to November 2, 2016. Kadzik did not recognize the appearance of a conflict that he created when he initiated an effort to obtain employment for his

son with the Clinton campaign while participating in Department discussions and communications about Clinton-related matters.

Kadzik also created an appearance of a conflict when he sent the Chairman of the Clinton Campaign and a longtime friend, John Podesta, the “Heads up” email that included the schedule for the release of former Secretary Clinton’s emails proposed to the court in a FOIA litigation without knowing whether the information had yet been filed and made public. His willingness to do so raised a reasonable question about his ability to act impartially on Clinton-related matters in connection with his official duties.

Additionally, although Department leadership determined that Kadzik should be recused from Clinton-related matters upon learning of his “Heads up” email to Podesta, we found that Kadzik failed to strictly adhere to this recusal. Lastly, because the government information in the “Heads up” email had in fact been released publicly, we did not find that Kadzik released non-public information or misused his official position.

#### **FBI Records Vault Twitter Announcements**

As we describe in Chapter Fifteen, on November 1, 2016, in response to multiple FOIA requests, the FBI Records Management Division (RMD) posted records to the FBI Records Vault, a page on the FBI’s public website, concerning the “William J. Clinton Foundation.” The @FBIRecordsVault Twitter account announced this posting later the same day. We concluded that these requests were processed according to RMD’s internal procedures like other similarly-sized requests, and found no evidence that the FOIA response was expedited or delayed in order to impact the 2016 presidential election. We also found no evidence that improper political considerations influenced the FBI’s use of the Twitter account to publicize the release.

#### **Conclusions and Recommendations**

The Midyear Investigation is not the first time the Department and the FBI have conducted a politically-charged investigation, and it will not be the last. To protect the institutions from allegations of abuse, political interference, and biased enforcement of the law, the Department and the FBI have developed policies and practices to guide their decisions. In the vast majority of cases, they are followed as a matter of routine. But they are most important to follow when the stakes are the highest, and when the pressures to divert from them—often based on well-founded concerns and highly fraught scenarios—are the greatest. It is in these moments—when the rationale for keeping to the ordinary course fades from view and the temptation to make an exception is greatest—that the bedrock principles and time-tested practices of the Department and the FBI can serve their highest purpose.

Our report makes nine recommendations to the Department and the FBI to assist them in addressing the issues that we identified in this review:

1. The Department and the FBI consider developing guidance that identifies the risks associated with and alternatives to permitting a witness to attend a voluntary interview of another witness (including in the witness's capacity as counsel).
2. The Department consider making explicit that, except in situations where the law requires or permits disclosure, an investigating agency cannot publicly announce its recommended charging decision prior to consulting with the Attorney General, Deputy Attorney General, U.S. Attorney, or his or her designee, and cannot proceed without the approval of one of these officials.
3. The Department and the FBI consider adopting a policy addressing the appropriateness of Department employees discussing the conduct of uncharged individuals in public statements.
4. The Department consider providing guidance to agents and prosecutors concerning the taking of overt investigative steps, indictments, public announcements, or other actions that could impact an election.
5. The Office of the Deputy Attorney General consider taking steps to improve the retention and monitoring of text messages Department-wide.
6. The FBI add a warning banner to all of the FBI's mobile phones and mobile devices in order to further notify users that they have no reasonable expectation of privacy.
7. The FBI consider (a) assessing whether it has provided adequate training to employees about the proper use of text messages and instant messages, including any related discovery obligations, and (b) providing additional guidance about the allowable uses of FBI devices for any non-governmental purpose, including guidance about the use of FBI devices for political conversations
8. The FBI consider whether (a) it is appropriately educating employees about both its media contact policy and the Department's ethics rules pertaining to the acceptance of gifts, and (b) its disciplinary provisions and penalties are sufficient to deter such improper conduct.
9. Department ethics officials consider implementing a review of campaign donations when Department employees or their spouses run for public office.

This concludes my prepared statement, and I am pleased to answer any questions the Committees may have.

Chairman GOWDY. Thank you, Mr. Inspector General.

There's a text exchange between FBI lawyer Lisa Page and FBI agent Peter Strzok from August the 8th of 2016. In that text exchange Lisa Page wrote: Trump's not ever going to become President, right, with a question mark, and then right, with a question mark and an exclamation point in case anybody reading it may have missed the point of her emphasis. Peter Strzok responded: "No. No he's not. We'll stop it."

Do I have that text exchange right?

Mr. HOROWITZ. You do.

Chairman GOWDY. Now, Lisa Page was an FBI lawyer who worked on the Clinton email investigation?

Mr. HOROWITZ. That's correct.

Chairman GOWDY. Did she also work on the Russia investigation?

Mr. HOROWITZ. She did.

Chairman GOWDY. How about the Mueller special counsel team?

Mr. HOROWITZ. She did for a period of time.

Chairman GOWDY. All right. So we're three for three on her working on the two most important Bureau investigations in 2016 and beyond.

Now, is this the same Lisa Page that Andy McCabe used to leak information to a news outlet?

Mr. HOROWITZ. She was his special counsel, and as we indicated in our earlier report, she was the individual through whom he provided that information.

Chairman GOWDY. Wasn't there also a text about an insurance policy in case Trump won and a meeting in Andy's office? She was part of that text string, too, wasn't she?

Mr. HOROWITZ. Correct. That was on August 15.

Chairman GOWDY. All right. So this August 8 text was not the only time FBI lawyer Lisa Page was able to use the text feature on her phone. This is the same Lisa Page who admonished the agent interviewing Hillary Clinton not to go into that interview loaded for bear because Clinton might be the next President. And it is the same Lisa Page who said Trump was loathsome, awful, the man cannot become President, Clinton just has to win, and that Trump should go F himself.

Now, most of those comments were before the Clinton investigation was over, and we are somehow supposed to believe that she did not prejudge the outcome of that investigation before it was over? She already had Hillary Clinton winning. I don't know how you can win if you're going to wind up getting indicted and/or plead guilty or be convicted of a felony.

So I think we understand the first half of that text pretty well. She didn't want Trump to win, and she wanted Clinton to win.

Now, for the response. Senior FBI agent Peter Strzok wrote: "No. No he's not. We'll stop it."

Now, I think this is the same Peter Strzok who worked on the Clinton email investigation. Do I have that right?

Mr. HOROWITZ. That's correct.

Chairman GOWDY. Same Peter Strzok who not only worked on the Russia investigation when it began, but was one of the lead in-

investigators at the inception of the Russia probe. Do I have the right Peter Strzok?

Mr. HOROWITZ. That's my understanding.

Chairman GOWDY. Now, is it the same Peter Strzok who was put on the Mueller special counsel team?

Mr. HOROWITZ. Yes.

Chairman GOWDY. All right. Same Peter Strzok. And this is not the only time he managed to find the text feature on his phone either. This is the same Peter Strzok who said: Trump is an idiot. Hillary should win 100 million to zero.

Now, Mr. Inspector General, that one is interesting to me because he's supposed to be investigating her for violations of the Espionage Act at the time he wrote that in March of 2016. He's supposed to be investigating her for violations of the Espionage Act, and he can't think of a single, solitary American that wouldn't vote for her for President.

I mean, can you see our skepticism? This senior FBI agent not only had her running, he had her winning 100 million to nothing.

So what if they'd found evidence sufficient to indict her? What if they had indicted her? Is this the same Peter Strzok? He wasn't part of the interview of Secretary Clinton, was he?

Mr. HOROWITZ. He was present for the interview.

Chairman GOWDY. Huh. So 4 months before that interview where he was present he's got her running and winning 100 million to zero. And it is the same Peter Strzok who wrote: The bigoted nonsense of Trump. Trump's a disaster. I have no idea how destabilizing his Presidency would be. He wrote: F Trump. Trump is an fng idiot. On the prospects of Trump winning he wrote: This is an fng terrifying.

In addition to seeming to like the F word, I think we have the same FBI agent, Lisa Page, and the same FBI agent, Peter Strzok, working on the Clinton email investigation, the Russia probe, and on Mueller's team.

So we have the right texts and we've got the right people. I want to make sure we have the chronology right.

July 5, 2016, Comey announces no charges for Secretary Clinton, right?

Mr. HOROWITZ. Correct.

Chairman GOWDY. July 28, 2016, the FBI initiates a counter-intelligence investigation into Russia and the Trump campaign, and Strzok is not only on that Russia investigatory team, he's actually leading it. So that's 3 weeks after Clinton is exonerated by Comey, Strzok is leading an investigation into Russia and possible connections with the Trump campaign. That's on the 28th of July.

Now, on the 31st of July, 3 days after the Russia investigation began, Strzok wrote: Damn this feels momentous. The other one did, too, but this was to ensure we didn't F things up. This one matters because it matters.

And if you happen to not know how important it is, he went ahead and put "MATTERS" in all caps, in case you happened to not focus on the importance of why this matters.

Now, her investigation was just to make sure they didn't F things up. This one we're 3 days into it, Inspector General Horowitz, 3 days into an investigation, but this one really matters.

I wonder what he meant by saying the purpose of the Clinton investigation was to make sure they didn't F things up, but the Russia investigation, nah, that one was different, that one really mattered. You know, it almost sounds, Inspector General Horowitz, like they were going through the motions with the Clinton investigation. But, boy, they sure were excited about the Russia one.

Then we get to August 6. This is less than 10 days after the Russia investigation begins, and Page says: You are meant to protect the country from that menace.

And then we get to August 8, 2016, less than 2 weeks after the Russia investigation even began. The lead FBI agent says he will stop Trump from becoming President. This is 2 weeks into an investigation and he's already prejudged the outcome. And we're somehow supposed to believe that that bias was not outcome determinative.

I can't think of anything more outcome determinative than my bias against this person I'm investigating with only 2 weeks' worth of investigating. I have already concluded he should not be the President of the United States.

And then we get to August 15, just over 2 weeks into the Russia investigation. Strzok says: I want to believe the path you threw out, that there's no way he gets elected, but I'm afraid we can't take that risk. It's like an insurance policy.

Mr. Inspector General, that is 2 weeks into an investigation and he is talking about taking out an insurance policy because he can't fathom the target of his investigation possibly becoming the President.

So I want to go back to the: No, no, he's not going to be President, we'll stop it. What do you think the "it" is in that phrase, "We'll stop it"?

Mr. HOROWITZ. Oh, I think it's clear from the context it's we're going to stop him from becoming President.

Chairman GOWDY. That's what I thought, too.

Now, I wonder who the "we" is in the "we'll stop it." Who do you think the "we" is.

Mr. HOROWITZ. Well, I think that's probably subject to multiple interpretations.

Chairman GOWDY. We'll see if we can go through a couple of them.

Mr. HOROWITZ. The "we" is the two of them or the broader—or a broader group beyond that.

Chairman GOWDY. I mean, it's hard to fathom a definition of "we" that doesn't include him. So we know he's part of "we." You could assume that the person he's talking with is FBI attorney who also happens to be working on the Russia investigation, she may be part of the "we."

But I wonder, Inspector General, did you find any other FBI agents or FBI attorneys who manifest any animus or bias against Trump?

Mr. HOROWITZ. We did.

Chairman GOWDY. How many?

Mr. HOROWITZ. We found three additional FBI agents, as we detail in the report.

Chairman GOWDY. And were any of them working on the Russia investigation—

Mr. HOROWITZ. Let me just correct, two agents and one attorney.

Chairman GOWDY. Two other agents, one other attorney. Were they working on either the Russia investigation or the Mueller probe?

Mr. HOROWITZ. I believe two of the three were, but I'd have to just double check on that.

Chairman GOWDY. Okay.

Now, Bob Mueller was named special counsel on May the 17th, 2017. One day later, Mr. Horowitz, 1 day later Peter Strzok is back on his phone texting some more: For me, and this case, I personally have a sense of unfinished business. I unleashed it with the Clinton email investigation. Now I need to fix it and finish it.

Fix what?

Mr. HOROWITZ. Well, there is outlined in the report what Mr. Strzok's explanation for this was. Our view—

Chairman GOWDY. Oh, I know what he says. I'm asking—I'm asking the guy who had a distinguished career in the Southern District of New York and had a distinguished career at the Department of Justice. Would you rather cross-examine Peter Strzok on that explanation or would you rather direct the examination on that explanation?

Mr. HOROWITZ. Probably cross-examine.

Chairman GOWDY. That's what I thought.

How about "finish it," when he said, I unleashed it, now I need to fix it and finish it? What do you think he meant by "finish it"?

Mr. HOROWITZ. I think in the context of the emails that occurred in August, the prior August, that you outlined, I think a reasonable explanation of it or reasonable inference of that is that he believed he would use or potentially use his official authority to take action.

Chairman GOWDY. But this is 24 hours into him being put on the Mueller probe. There's no way he possibly could have prejudged the outcome of the investigation—maybe he did. Maybe that's the outcome-determinative bias that my Democrat friends have such a hard time finding.

Inspector General Horowitz, if one of your investigators talked about Lisa Page and Peter Strzok the way they talked about Donald Trump, would you have left them on the IG investigation?

Mr. HOROWITZ. No.

Chairman GOWDY. Did you ever have an agent when you were a prosecutor with this level of bias?

Mr. HOROWITZ. You know, as I have laid out here, I thought this was completely antithetical to the core values of the Department and extremely serious.

Mr. NADLER. Can you speak up, please?

Mr. HOROWITZ. I'm sorry.

Chairman GOWDY. I heard you, but you can say it where Mr. Nadler can hear you, too.

Mr. HOROWITZ. You know, my view of this was that this was extremely serious, completely antithetical to the core values. My personal view, having been a prosecutor and worked with FBI agents, I can't imagine FBI agents suggesting even that they might use their powers to investigate, frankly, any candidate for any office.



Chairman GOWDY. I can't either.

Let me ask you this in conclusion. I think you've already—you laid out in your opening that Peter Strzok's obsession with Donald Trump and the Russia investigation may have led him to take his eyes off of the Weiner laptop and, in a notably ironic way, caused James Comey to be a little bit later in sending those letters to Congress. So that is one example of outcome-determinative bias.

But I've got to ask you, you used to be in a courtroom. You were on the side of the United States and you worked for the Department of Justice. If someone is prejudging the outcome of an investigation before it ends and someone is prejudging the outcome of an investigation before it even begins, what is more textbook bias than prejudging this investigation before it's over and this one before it begins? I am struggling to find a better example of outcome-determinative bias than that. So what am I missing?

Mr. HOROWITZ. Well, I think certainly with regard to the Russia investigation you mentioned, as you know, we are looking at that in an ongoing way.

With regard to the Clinton email investigation, I think as we lay out here and go through it, we looked at text messages, emails, documents to try and assess whether the specific decisions that we were asked to look at and then the ultimate prosecutorial decision were impacted by Strzok, Page, and the others' views.

And what we ended up finding, particularly as to the prosecutor's decision, was that that was a decision they made exercising their discretion on their view of the policy, the law, and the facts as it was found. We have laid that out, and in our view we didn't find or see evidence that the prosecutors were impacted by that bias.

But as I mentioned in my opening statement, the idea here was to put out the facts for the public, Members of Congress to see, and so the folks who want to take a look at those issues obviously can assess them themselves.

Chairman GOWDY. Well, my time is up. I hope one of my other colleagues will explore that. Because the explanation I have heard is that the failure to prosecute was predicated upon their belief that there was not sufficient evidence of intent on her behalf. And I don't know where in the hell you would go to find better evidence of intent than interviewing the person who actually was doing the intending.

And when you make up your mind that you're not going to charge someone, and you make up your mind that you need to not go in loaded for bear, and then you read the 302 and there's not a single damn question on intent, it is really hard for those of us who used to do this for a living to not conclude they'd made up their mind on intent before they even bothered to talk to the single best repository of intent evidence, which would be her.

With that, I would recognize—

Ms. NORTON. Mr. Chairman, may I make an inquiry? Mr. Chairman, in order to prepare our questions, could I have your guidance on how much time each member is to be allowed?

Chairman GOWDY. Five minutes. And Mr. Cummings can have the amount of time he thinks is necessary. The other members will have 5 minutes.

The gentleman from Maryland is recognized.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. First of all, I want to thank you, Mr. Horowitz, for your work. And I want to thank all of the IGs. We have always been, both sides of the aisle, impressed with your efforts. And to your staff, I thank you.

Mr. Horowitz, I want to focus on whether Secretary Clinton received, as some of my colleagues put it, special treatment from the FBI and the DOJ.

On the decision not to prosecute Secretary Clinton, your report found, and I quote, “We found no evidence that the conclusions by the prosecutors were affected by bias or other improper considerations. Rather, we determined that they were based on the prosecutor’s assessment of the facts, the law, and past Department practice.

We want Justice Department officials to make their decisions based on the facts, the law, and the past Department practices.”

Isn’t that correct? Is that accurate?

Mr. HOROWITZ. That’s correct.

Mr. CUMMINGS. And your report also concluded that the FBI team interpreted and applied the law to Secretary Clinton in a way that was, and I quote, “consistent with the Department’s historical approach in prior cases under different leadership, including in the 2008 decision not to prosecute former Attorney General Alberto Gonzales for mishandling classified documents. Is that correct?

Mr. HOROWITZ. That’s correct.

Mr. CUMMINGS. But Director Comey did apply a double standard to Secretary Clinton in a way that helped Donald Trump and severely hurt Secretary Clinton. Director Comey followed the Department policy and kept secret from the American people the FBI’s investigation of the Trump campaign in Russia, but repeatedly ignored Department policy and released information about Secretary Clinton.

Regarding Director Comey’s July 5, 2016 public statement about his recommendation not to charge Secretary Clinton, your review found, and I quote, “Comey’s unilateral announcement was inconsistent with Department policy and violated longstanding Department practice and protocol by, among other things, criticizing Clinton’s uncharged conduct.”

Can you explain why the Department has a policy against criticizing the uncharged conduct of an individual?

Mr. HOROWITZ. Certainly. The Department, and actually one of the things that was interesting in the report is we found that it’s a norm, it’s accepted, but there actually isn’t a policy that explicitly states that.

So that is one of our recommendations. And I would—as we talk about this issue, the reason you don’t speak about uncharged conduct—there are many—but it is fairness to the individual, if an individual isn’t going to be charged with criminal conduct or wrongdoing, you don’t speak about it. You speak in court. That’s what we’ve been trained from day one as prosecutors and anybody who has worked in the Justice Department.

Doing that publicly, not only tarnishes an individual, but raises questions of the fairness of justice and applications of various principles, as you indicated.

Indeed, as we point out here, while there isn't an explicit policy at the Department about not speaking on uncharged conduct in a case where you don't charge any criminal activity, there actually is language that prohibits Department's prosecutors from speaking about uncharged conduct of coconspirators.

And so, in other words, where there is, in fact, a charge of criminal wrongdoing and a conspiracy and some individuals in the conspiracy are charged and some individuals aren't charged—and that can happen because there's stronger evidence against some than others—Department policy says you can't speak about the uncharged individuals, even though you believe they committed a crime. And yet there is no corresponding policy, which at the time—where there are no charges, which is why we make that recommendation in this report.

Mr. CUMMINGS. I see. You also found that Director Comey's October 28, 2016 letter to Congress about Secretary Clinton, and I quote, "originated with Comey's elevation of maximal transparency as a value overriding for this case only, the principles of stay silent and take no action that the FBI has consistently applied to other cases."

Now, Mr. Horowitz, one of those investigations where Director Comey decided to follow Department policy and practice and keep silent was the Russia investigation into allegations of collusion with the Trump campaign.

Is that accurate?

Mr. HOROWITZ. It is. And I'll add it also had that policy with regard to the Clinton Foundation.

Mr. CUMMINGS. And so, say that again. Explain that, what you just said.

Mr. HOROWITZ. So there are two investigations he declined, as we lay out, here to speak about. One was the Russia investigation and one was a then-ongoing Clinton Foundation investigation.

In fact, that was the basis for the report about Deputy Director McCabe's misconduct that we released a few months ago.

Mr. CUMMINGS. So do you believe that Secretary Clinton received some favorable action?

Mr. HOROWITZ. I'm not going to sort of judge whether it was favorable to whom or what. I'll just say that it was not consistent with Department policy, practice, and it shouldn't have been done.

Mr. CUMMINGS. Now, Mr. Horowitz, President Trump and his Republican allies are trying to use your report to discredit Special Counsel Mueller's investigation. Let me read a few headlines from the press about your report, and I'm sure you've seen them. Trump allies—quote, "Trump allies seize on DOJ report as they seek to undercut Mueller's probe. Giuliani calls for DOJ to end Mueller probe after IG report." Quote, "Trump claims vindication in a report on FBI that wasn't about him." And, quote, "Republicans want to shut Mueller down over a report that isn't even about him," end of quote.

President Trump stated last Friday, and I quote, "If you read the IG report, I've been totally exonerated," end of quote.

Mr. Horowitz, my copy of your report must be missing a page, or a few pages. Did your investigation examine whether President

Trump's campaign colluded with Russia to impact the election or whether the President obstructed an FBI investigation?

Mr. HOROWITZ. Our report was focused on the Clinton email investigation. And the only place where it touches the Russia matter is with regard to the text messages and then the October decision about the Weiner laptop.

Mr. CUMMINGS. The President also said, and I quote "The Mueller investigation has been totally discredited," end of quote. I don't see that in your report anywhere. Maybe I missed it.

Does your report reach any conclusions about the validity or credibility of Special Counsel Mueller's investigation?

Mr. HOROWITZ. As we noted in the report, it relates to the Clinton email investigation, and the Russia matter was not part of this review, other than what, the exception I mentioned earlier.

Mr. CUMMINGS. Now Rudy Giuliani, President Trump's personal attorney, said, and I quote, "Tomorrow Mueller should suspend his investigation," end of quote.

Does your report recommend that the special counsel suspend his investigation?

Mr. HOROWITZ. We don't address issues with regard to the special counsel.

Mr. CUMMINGS. Mr. Giuliani also said, and I quote, "The IG report basically tells you that both prongs of the Mueller investigation are either corrupt or answered," end of quote.

Did your investigation determine that the special counsel's investigation is corrupt?

Mr. HOROWITZ. As I said, our report was concerning the Clinton email investigation.

Mr. CUMMINGS. Well, did your investigation answer the questions being considered in Special Counsel Mueller's probe?

Mr. HOROWITZ. Same answer.

Mr. CUMMINGS. The conclusion in your report states, and I quote—and I will finish with this, Mr. Chairman—"Through the collective efforts of generations of FBI employees, the FBI has developed and earned a reputation as one of the world's premier law enforcement agencies. The FBI has gained this reputation, in significant part, because of its professionalism, impartiality, non-political enforcement of the law, and adherence to detailed policies, practices, and norms."

Did you find that the FBI as an institution is corrupt, politically biased, or untrustworthy?

Mr. HOROWITZ. We didn't reach the larger question of, you know, had this broadly affected the FBI, beyond noting that, in fact, this kind of conduct undermines that credibility, impacts people's perceptions of the FBI in a way that should never have happened. And is very concerning for all the reasons, I think everybody cares about, the fair administration of justice.

Mr. CUMMINGS. And I listened very carefully to Chairman Gowdy's questions, which were excellent. And the cloud that you talked about with regard to Ms. Page and Strzok and the others that you mentioned, how do you get—the method that you used to figure out that their opinions did not have a negative impact, you know, or inappropriate impact on this investigation?

Mr. HOROWITZ. So, what we did was—

Mr. CUMMINGS. Because that is a crucial question. I mean, in fairness to all. I think it is important that that be addressed. Go ahead.

Mr. HOROWITZ. Yeah, absolutely, Congressman. I think it is very important, because as we've talked about, the language, the messages, the appearance, the implication that any law enforcement officer would be willing to use their authority to impact any election, any individual, whatever side that person is running on or running from is so antithetical to the core values of justice and the FBI.

And so the question we looked at was with the comments of the five individuals we identified here in looking at their various messages, how did those—how did those impact the specific decisions we looked at and then the prosecutor's decision, ultimately. Because, obviously, the prosecutors are the one—despite what Director Comey said publicly—were responsible for making the ultimate decision on whether to charge or not charge.

What we did was, we questioned witnesses closely, we looked for all the documentary evidence we could, we looked at the specific decisions. As to the specific decisions we outline here in the report, they were either the result of larger team decisions that were not exclusively within the domain of the individuals who had very troubling messages, or were prosecutors' decision, and not the decisions of these individuals.

And we also noted that at least for some of these decisions, the individuals are actually seeking more aggressive approaches than the prosecutors were, in some regards. So we looked at all of that evidence, and we assessed whether on that record, we could make a finding that bias turned into action by those other individuals. And we didn't believe there was evidence to reach that conclusion.

And as to the prosecutors' decision, it was the prosecutors' decision. And folks can debate and discuss, and there's clearly been a fair amount of it on whether the precedent and the current—and the assessment here on the application of the gross negligence provision was an appropriate application of that provision. But that's a decision that the prosecutors made based on their judgment, as you indicated, looking at the—

Mr. CUMMINGS. Let me ask you this: In coming to that conclusion that you just talked about, was there—because it seems like we're having an investigation of the investigation of the investigation. But so I ask you this: Your staff, the people that you work with, your IG assistants and—

Mr. HOROWITZ. Right.

Mr. CUMMINGS. —were you all solid behind what you just said, or did you have people say, Nah, you know, like a jury. Half of them—

Mr. HOROWITZ. You know the great thing about having a large team like we had working on this is, much like I've done in other reports, Fast and Furious and others, we sit in a room, sort of hash it out, exchange ideas. But I'm comfortable saying this is the conclusion of all of us in the IG.

I obviously am the one who has to, and is the one responsible for ultimately issuing this, but that was our team conclusion of it. But, you know, I hasten to add, we understand and recognize and state

explicitly on how serious the conduct was, and how it cast a cloud over the whole investigation. I don't think I can be lost either.

Mr. CUMMINGS. Thank you very much.

Thank you very much.

Chairman GOWDY. The gentleman from Maryland yields back. The gentleman from Virginia is recognized.

Chairman GOODLATTE. Mr. Horowitz, welcome. We know from the report surrounding former Deputy Director McCabe's termination that the Department of Justice at high levels sought to terminate the Clinton Foundation investigation.

We also know that you found communication between Secretary Clinton and President Obama.

During your investigation, did you seek access to communications from the Department of Justice?

Mr. HOROWITZ. Yes, we did.

Chairman GOODLATTE. What about former Obama White House officials?

Mr. HOROWITZ. We sought Department records and Department information. We have, in the past, when we've sought White House records—and this is true of administrations going way back—it's been made clear to us that the executive office of the President does not provide records to inspectors general of agencies.

So we would look for them if they were incoming to the Department and those would be records that we would seek and obtain, but we don't have authority over any other agency outside government—outside, I'm sorry, the Justice Department.

Chairman GOODLATTE. Did you seek to interview any officials at the White House? The Obama White House?

Mr. HOROWITZ. I would have to go back and ask the team whether we sought interviews.

Chairman GOODLATTE. Denis McDonough?

Mr. HOROWITZ. I don't believe so.

Chairman GOODLATTE. Valerie Jarrett?

Mr. HOROWITZ. I don't believe so.

Chairman GOODLATTE. How about the President himself?

Mr. HOROWITZ. No, we did not.

Chairman GOODLATTE. Neither the Department of Justice—would you have liked to have had that information if you could get access to it?

Mr. HOROWITZ. I would have to think about that and talk with the team, frankly, about that and how they would view that.

Chairman GOODLATTE. Neither the Department of Justice nor the FBI are mentioned in the Constitution. However, each institution has engaged in repeated stonewalling of Congress' constitutionally mandated oversight.

The infamous text from Peter Strzok saying "We will stop President Trump from taking office," which we received on the day of your report's release, is a prime example.

This text was revealed to you late in your interview as well, as I understand.

Do you believe this text shows political bias?

Mr. HOROWITZ. I think as we found, it clearly shows a biased state of mind.

Chairman GOODLATTE. And if so, do you believe the political bias shown by this text had an effect on the initiation of the Russia investigation?

Mr. HOROWITZ. I think, as you know, Mr. Chairman, that's a matter we've got under review and are looking at right now.

Chairman GOODLATTE. More to be determined on that?

Mr. HOROWITZ. More to be determined.

Chairman GOODLATTE. But the time proximity, as Mr. Gowdy, pointed out is significant.

Mr. HOROWITZ. Correct. In fact, there are these other text messages that are roughly in the same time period.

Chairman GOODLATTE. You were an assistant United States attorney for eight years. Is that correct?

Mr. HOROWITZ. Correct.

Chairman GOODLATTE. In that time, did you ever charge any Espionage Act case or a case under Section 793(f)?

Mr. HOROWITZ. I did not.

Chairman GOODLATTE. I'm trying to understand more about the seeming need for intent in this statute. Of course, as some have noted, people never intend the bad things that happen due to gross negligence, right?

Mr. HOROWITZ. Correct.

Chairman GOODLATTE. So some courts have stated that willful blindness satisfies the requirement of knowledge. For example, this happens in cases where a defendant is transporting a package containing narcotics. Courts have never allowed the defendant to claim he didn't know what was in the package because he should have known and exercised criminal recklessness by failing to determine what was in the package.

In your opinion as a former prosecutor, isn't a similar analysis appropriate here?

Mr. HOROWITZ. I'm going to demur on what I would have done as a prosecutor or my views as a former prosecutor. I will say what was explained to us in terms of intent was actually, really knowledge. The focus was largely on the fact that these documents that were classified weren't clearly marked as classified.

Chairman GOODLATTE. Didn't Mrs. Clinton, as Secretary of State, having the authority not only to read all levels of classified documents, but also to classify documents herself, didn't she have a duty to determine whether the unclassified server she used to transact all her official business was moving classified information?

Mr. HOROWITZ. I think it's fair to say there's a responsibility on senior officials to understand and know what classified information may be present.

Chairman GOODLATTE. Wasn't that the least amount of care we should have expected from her with information that could cause serious harm to our national security?

Mr. HOROWITZ. I think I'm going to rely on the evidence that we had here and our review, which was to look at what the prosecutors made as an assessment, and as we described here, their view was, unless it was marked, unless it was clear knowledge, they believed that it would be inconsistent with past practice and how they would look at this provision, and, therefore, not charge it.

Chairman GOODLATTE. Following the 2016 election, many of my Democratic colleagues called for the resignation or termination of former FBI Director James Comey for his mishandling of the Clinton investigation.

Curiously, these same colleagues cried foul when President Trump, upon the recommendation of Department of Justice, Deputy Attorney General Rosenstein did, in fact, terminate Comey.

For instance, on November 14, 2016, one of our Democratic Judiciary Committee colleagues told CNN's Chris Cuomo that Comey should be fired immediately, and that President Trump ought to initiate an investigation into his actions.

Conversely, on May 9, 2017, that same Democrat made a complete U-turn and stated that, quote, "The firing of FBI Director Comey by President Trump is a terrifying signal of this administration's continued abuse of power on so many levels," end quote.

Additionally, following the 2016 election, another of our Democratic colleagues insisted that Comey should "pack his things and go." However, a year later, the same person insisted that James Comey's firing suggests an attempt to squelch an investigation in an effort to cover up wrongdoing.

Lastly, on October 31, 2016, a third Judiciary Committee Democrat stated that Comey's actions make it clear he should resign immediately for the good of the FBI and the Justice Department.

Fast forward a year, and the same Democrat is then advocating for Director Comey to receive—get this—the Profiles in Courage Award following his termination.

So to clear up the apparent confusion among my colleagues, do you believe the termination of former FBI Director James Comey was justified following your recent findings that describe Comey as insubordinate in his handling of Hillary Clinton's email investigation?

Mr. HOROWITZ. Mr. Chairman, as inspector general, my responsibility is to get the evidence and the facts, and it is then up to others to decide what the appropriate penalty or adjudication should be of that.

So I'm going to, for the reasons that we found here, that people should stay in their roles and responsibilities and understand those, I'm going to—

Chairman GOODLATTE. You would agree, however, that insubordination, in the matters that you outlined in your report, is a serious matter?

Mr. HOROWITZ. Oh, I agree. It is a serious matter.

Chairman GOODLATTE. So on page 147 of your report, there is a text exchange that I'm curious about. About halfway down the page, Agent 1 stated he could not recall anything specific to add to this exchange.

In another exchange on February 4, 2016, Agent 1 and an FBI employee who was not assigned to the Midyear investigation discussed Agent 1's interview with a witness who assisted the Clinton's at their Chappaqua, New York residence.

Part of this exchange follows:

"FBI employee: Boom. How did the witness go?"

"Agent 1: Awesome. Lied his ass off. Went from never inside the SCIF, Sensitive Compartmented Information Facility at residence,



to looked in to when it was being constructed, to remove the trash twice to troubleshoot the secure facts with HRC a couple of times, to every time there was a secure fax, I did it with HRC. Ridic.” End quote.

“FBI employee: Would be funny if he was the only guy charged in this deal.

“Agent 1: I know, for 1001”——

Now that’s referring to 18 USC 1001, is it not?

Mr. HOROWITZ. That’s correct.

Chairman GOODLATTE. All right.

“Even if he said the truth and didn’t have a clearance when handling the secure fax, ain’t no one going do S blank, blank, blank.”

Now, we asked Agent 1 about the implication in this message—this is your report.

Mr. HOROWITZ. Correct.

Chairman GOODLATTE. —that no one would be charged irrespective of what the team found.

And Agent 1 stated, “Yeah, I, I don’t think I can say there’s a specific person that I worked with in this case that wouldn’t charge him for that, wouldn’t charge him for that. I think it’s a general complaint of, you know, of FBI agents that are kind of, kind of being emotional and complaining that no one is going to do something about, about something, so, but there’s nothing specific that I, that I can tell you.”

Now, this individual, Agent 1, is expressing an opinion that that, was a circumstance under which charging somebody would be appropriate. Is that correct?

Mr. HOROWITZ. That’s certainly the—what he’s suggesting here.

Chairman GOODLATTE. All right. Now, what is Title 18, Section 1001? What is that about?

Mr. HOROWITZ. Making a false statement to a government official in the course of a review or investigation.

Chairman GOODLATTE. So is that not exactly the same statute under which Mr. Papadopoulos and Mr. Flynn were charged?

Mr. HOROWITZ. I don’t specifically, but I assume so.

Chairman GOODLATTE. All right. Thank you. Those are all the questions I have, Mr. Chairman.

Chairman GOWDY. The gentleman from Virginia yields back. The gentleman from New York is recognized.

Mr. NADLER. Thank you, Mr. Chairman. Yes, first, of all, let me state before I ask questions of Mr. Horowitz, the President told us why he fired Mr. Comey, and it wasn’t for any of the things mentioned in the report. It was because of the Russia investigation.

He told that to us on NBC News in an interview with Lester Holt. I believe the President, unless there’s evidence he was lying, but I haven’t heard any suggestions of that.

Now, Mr. Horowitz, the special counsel’s investigation has resulted in five guilty pleas, and 23 indictments so far. Do any of your reports, findings, call into question any of these serious criminal indictments?

Mr. HOROWITZ. Our report focused on the Clinton emails.

Mr. NADLER. The answer is no, it has nothing to do with it?

Mr. HOROWITZ. The only place we touched on Russia is that October time period.

Mr. NADLER. Thank you. On May 2nd, 2017, President Trump tweeted, “FBI Director Comey was the best thing that ever happened to Hillary in that he gave her a free pass for many bad deeds,” unquote.

Over the course of your investigation, did you find that the FBI gave Hillary Clinton, quote, “a free pass from any bad deeds,” unquote?

Mr. HOROWITZ. I’m sorry. Could you restate that Congressman?

Mr. NADLER. Did you find that the FBI gave Hillary Clinton, quote, “a free pass for many bad deeds,” unquote?

Mr. HOROWITZ. I think we’ve laid out here quite clearly what the investigative steps were and how the decision was made, so 500 pages worth of information here to make that assessment.

Mr. NADLER. You stand on that?

In fact, you found, did you not, that the specific investigative decisions that you reviewed, quote, “were based on the prosecutor’s assessments of the facts, the law, and the Department practice,” close quote.

Mr. HOROWITZ. Correct.

Mr. NADLER. On July 22nd, 2017, the President tweeted, quote, “So many people are asking why isn’t the AG or special counsel looking at the many Hillary Clinton or Comey crimes,” close quote.

Did you uncover evidence of any crimes committed by James Comey?

Mr. HOROWITZ. I’m going to, again, rely on this report.

Mr. NADLER. Let me rephrase the question. Does the report discuss any alleged crimes committed by James Comey?

Mr. HOROWITZ. The report does not discuss—

Mr. NADLER. Thank you. Does not.

Mr. HOROWITZ. —crimes.

Mr. NADLER. And in fact, although you found reason to question Mr. Comey’s judgment, you found no evidence that his actions were, quote, “the result of bias or an effort to influence the election.” Is that correct?

Mr. HOROWITZ. That’s correct.

Mr. NADLER. It is correct?

Mr. HOROWITZ. It is correct.

Mr. NADLER. Thank you. On September 1, 2017, the President tweeted quote, “Wow, looks like James Comey exonerated Hillary Clinton long before the investigation was over and so much more. A rigged system,” close quote.

Did you uncover any evidence supporting President Trump’s assertion that Mr. Comey prejudged or, quote, “rigged” the outcome of the investigation?

Mr. HOROWITZ. Again, I’m going to rely on what’s here. I can only speak to what—

Mr. NADLER. Okay. Then let me rephrase the question.

Mr. HOROWITZ. Well—

Mr. NADLER. Did the report note any evidence of that?

Mr. HOROWITZ. We’ve got the May drafting of the statement, which some people have raised concerns about. I’m not going to sort of extrapolate beyond the facts here, but I think there is that information about the drafting of the statement back in May.

Mr. NADLER. And your office reviewed evidence that showed Director Comey resisted acknowledging the existence of the Russia investigation in October 2016 because he wanted to avoid taking action that might influence the election. Is that correct?

Mr. HOROWITZ. That's correct. And he wanted to be fair to then-candidate Trump.

Mr. HOROWITZ. I don't know what his—

Mr. NADLER. I think it can be fairly stated that if the FBI acknowledged an investigation into the Trump campaign, it might not have inured to Trump's benefit, and, therefore, being fair to Trump may not—

Mr. HOROWITZ. I understand.

Mr. NADLER. Okay.

Mr. HOROWITZ. I'm saying we—he explained in here what his rationale was—

Mr. NADLER. On December 3, 2017, the President tweeted, quote, "After years of Comey, with the phony and dishonest Clinton investigation and more, running the FBI, its reputation is in tatters, worst in history," close quote.

Did your investigation uncover any evidence that the Clinton investigation was, quote, "phony and dishonest"?

Mr. HOROWITZ. Again, I'm going to rely here. We found that the prosecutors made the judgments they made based on the facts, the law, and the evidence they uncovered. We had concerns about the text messages and the implications for the investigation.

Mr. NADLER. I'll take that as a no.

On June 5, 2018, the President tweeted, quote, "What is taking so long with the inspector general's report on crooked Hillary and slippery James Comey? Numerous delays. Hope report is not being changed and made weaker," close quote.

Did you omit horrible things from this report or otherwise weaken it to paint Hillary Clinton, James Comey, or any other Department official in a better light?

Mr. HOROWITZ. We handled this report like we did any others. No, we didn't.

Mr. NADLER. Thank you.

Last week, the President said that the FBI, quote, "plotted against his election," close quote, and that your report shows "total bias," in quotes, at the FBI against the President and in favor of Secretary Clinton.

Did your investigation uncover evidence of an FBI plot against the President's election?

Mr. HOROWITZ. I think those August text messages reflect individuals suggesting that they could take action based on their beliefs.

Mr. NADLER. But your report also said that they did not, in fact, that the FBI's decisions were not influenced by that?

Mr. HOROWITZ. If we're focused on Midyear on the Clinton investigation, that's correct, that's what we found as to the decision to decline back in July.

Mr. NADLER. Did your investigation find that FBI is totally biased against President Trump?

Mr. HOROWITZ. We lay out here what we found on bias and what we did, and at least as to certain individuals, we had concerns about what their texts indicated.

Mr. NADLER. So your report concludes that the outcome of the Clinton investigation was based on the facts and the law and not on political bias. Do you stand by that conclusion?

Mr. HOROWITZ. We stand by that conclusion in this report.

Mr. NADLER. Can you explain why you reached that conclusion?

Mr. HOROWITZ. We looked at the decision to decline prosecution. We interviewed the prosecutors, we looked at their notes, their emails, the documentary evidence. And as a result of that, we did not see evidence of bias by the prosecutors, political bias, I'm talking about, which is what we were looking at and looking for, and looked at past precedents they cited as their reasons for what they did. And based on all of that information, we concluded that there wasn't evidence of political bias infecting that decision, and we describe here how they reached the decision they reached.

Mr. NADLER. Thank you. Now, during the rollout of the report, your office confirmed that it continues to investigate the improper disclosure of information about the Clinton investigation to Trump campaign surrogates like Rudy Giuliani. Can you confirm that this work is ongoing?

Mr. HOROWITZ. The only thing I'll say about that is that, as we indicate here, our investigative work continues. I'm not going to speak as to what particular leak, matter, individuals might be part of that ongoing review.

Mr. NADLER. So you can confirm—I will take that as a confirmation of the existence of a specific investigation into Mr. Giuliani's comments in the week before the election?

Mr. HOROWITZ. You shouldn't take that as any specific confirmation of anything. I'm not going to do the same thing. We lay out here, it was inappropriate—

Mr. NADLER. Fair enough.

Mr. HOROWITZ. —as to what occurred.

Mr. NADLER. When is the timeline for this work? When can we expect the next report?

Mr. HOROWITZ. We will, much like this review, we will follow the evidence where it leads, and when it is completed, we will issue our report. We will—

Mr. NADLER. Now, on page—thank you. On page 387 of the report, I'm going to read it. It said, "He said it's clear to me"—this is Attorney General Lynch quoting FBI Director Comey—"He said it's clear to me that there's a cadre of senior people in New York who have a deep and visceral hatred of Secretary Clinton. And he said it is deep. It's—and he said, he said it was surprising to him or stunning to him," close quote.

Is there evidence that, in fact, there were people in the FBI office in New York who were very—who had a hatred of Secretary Clinton?

Mr. HOROWITZ. We looked at individuals connected to the Mid-year Review. We were not out there looking at every single FBI agent's personal devices, text messages, who had no role in the Midyear investigation.

Mr. NADLER. Okay. Now, I want to get back to the Peter Strzok matter. And I would like to discuss what appears to be the most troubling—well, let me ask first.

You would agree, I take it, that there's a crucial distinction between appearance of political bias on the part of an FBI agent or whoever, and whether any investigative actions are actually taken as a result of political bias?

Mr. HOROWITZ. They are two different issues.

Mr. NADLER. Okay. I would like to discuss—and by the way, let me ask a different question. We keep using the word “bias,” is the word “bias” synonymous with the word political opinion, or is it used in a different sense?

Mr. HOROWITZ. No, we used it, and I'm using it in the context of political bias.

In other words, you're using your personal views to impact your decisions in a way that's non-investigatory. In other words, for other reasons—

Mr. NADLER. So you found that Strzok, for instance, had this bias but that it didn't impact the investigative action?

So is that a—in what way is that bias, if it didn't impact the investigation, different from a political opinion, or is it the same thing?

Mr. HOROWITZ. Let me just—we found he exhibited bias. We found decisions that were made by others were not infected by that bias, we did have concerns about how his, what we thought was a biased state of mind impacted his October decision regarding the Weiner laptop. I think it is important to keep them separate.

Mr. NADLER. You couldn't say it didn't or it didn't in that one?

Mr. HOROWITZ. We could not say one way or the other but we couldn't rule it out—

Mr. NADLER. Okay.

Mr. HOROWITZ. And that's a pretty significant—

Mr. NADLER. Now, I would like to discuss what appears to me the most troubling text exchange, which has already been talked about. On August 8th, 2016, Page asks, quote, “Trump”—actually, she didn't use the word Trump, it's clear it's referring to him—“not ever going to become President. Right. Right.”

Strzok responds, “No, no, he won't. We'll stop it.”

Many have used this text as proof that Strzok actually intended to use his position at the FBI to stop Donald Trump from becoming President of the United States. But Peter Strzok did not have that kind of power.

Your report found that Strzok was, quote, “not the sole decision-maker for any of the specific Midyear investigative decisions. Is that correct?

Mr. HOROWITZ. Pre-July 5, just to be clear. Preclosing in July. I think it is important to keep it separate from where he could have been a decision-maker in October with regard to the Weiner laptop.

Mr. NADLER. Peter Strzok certainly knew about the Russia investigation before the election. And if he had publicly disclosed that information, he might have prevented Mr. Trump from being elected.

But your investigation did not find that Mr. Strzok disclosed the details of the Russia investigation to the press before the election, did it?

Mr. HOROWITZ. No, we don't.

Mr. NADLER. Okay. Your report goes on to point out that despite the appearance created by his texts, you, quote, "found no evidence, and in some instances, Strzok and Page advocated for more—I'm sorry—you, quote, "found evidence," I added the word "no"—"you found evidence that in some instances, Strzok and Page advocated for more aggressive investigative measures than did others on the Midyear team, such as the use of grand jury subpoenas and search warrants to obtain evidence. Is that correct?

Mr. HOROWITZ. That's correct.

Mr. NADLER. So, in general, I think it is fair to say that the evidence does not show that—well, it shows that pre-July 5th, certainly, Strzok left his bias or political opinions at home and didn't bring it to the office. And after July 5th, it doesn't show one way or the other, is that correct?

Mr. HOROWITZ. I wouldn't go that far in terms of what our finding is pre-July 5. I would say that at the investigations, we looked at his bias, we didn't find cause for those decisions. You know, as we noted, there are lots of decisions in investigation. I can't go through all of them.

Mr. NADLER. So you could not point a finger and say, he made this decision or influenced this decision because of his bias?

Mr. HOROWITZ. That's correct.

Mr. NADLER. Okay. And were there FBI agents, to your knowledge, or officials, who had negative opinions of Hillary Clinton?

Mr. HOROWITZ. We have the text messages we laid out here. There are some that you could, I think, imply that. Certainly Peter Strzok's attorneys have made that argument. Almost everything we found was the other way, was anti-Trump.

Mr. NADLER. By Strzok and Page?

Mr. HOROWITZ. By Strzok and Page and the other three agents that we—

Mr. NADLER. The other three agents, but you didn't look at—

Mr. HOROWITZ. Or two agents and lawyer.

Mr. NADLER. But you didn't look at other agents, like in the New York offices?

Mr. HOROWITZ. We did not look at agents beyond the Midyear team, the Clinton email investigation team. I am not here to tell you—

Mr. NADLER. I will simply observe, in conclusion, that an organization as large as the FBI, in a country that was pretty closely divided where half the American people thought Trump was a great guy and half thought Hillary was wonderful, and half thought the opposite in both cases, it will be pretty amazing if there weren't lots of people in the FBI who loved Donald Trump, and lots of people who couldn't stand him.

And that there's nothing wrong with people holding their political opinions as long as they didn't let those opinions impact their jobs. Would you agree with that statement?

Mr. HOROWITZ. People are free to have their personal views and their job is to check them at the door when they walk into work.

Mr. NADLER. And I'll say one other thing.

If it is true that Strzok did not impact any decision based on his personal political opinion, then expressing his political opinion to his girlfriend was wrong only because he used the FBI phones?

Mr. HOROWITZ. I think it is very troubling because it undercut confidence in the investigation as we laid out here, and as I said, I can't say definitively that his actions didn't result in action. I can only speak to the ones we looked at and the ultimate—

Mr. NADLER. So there's no evidence it did.

Mr. HOROWITZ. There's no evidence as to those pre-July 5 ones they did. I'm very concerned about what occurred in October. And I, you know, again, I go back to what I said earlier. I think frankly anybody should be concerned about any law enforcement officer expressing these kinds of views while they're investigating those very individuals. I don't care whether it's a presidential race or a local election. It just shouldn't happen.

Mr. NADLER. Okay. Thank you very much. I yield back.

Chairman GOWDY. The gentleman yields back.

Two quick housekeeping matters. Inspector Horowitz, if you need to take a break for any reason or no reason, just let me know.

To my colleagues, I am acutely aware that all four chairpersons went over the time limit. And I am acutely aware of how manifestly unfair it would be for me not to allow you to do the same. Nevertheless, I will not be able to allow everyone the same amount of time.

Mr. HOROWITZ. Thank you.

Chairman GOWDY. Because some people have July 4th plans.

So I'm going to try to do a better job. What I've done in the past is if you ask a question after 5 minutes, I'll say "the witness may answer but no more questions." And I apologize. I appreciate your attendance, but I'm trying to get us out of here before Friday.

With that, the gentleman from Ohio, Mr. Jordan, is recognized.

Mr. JORDAN. Mr. Horowitz, does Peter Strzok like the President?

Mr. HOROWITZ. I can only speak to what his text messages say, and they're obviously not positive comments about the President.

Mr. JORDAN. February-March of 2016, Peter Strzok said Trump's abysmal, Trump's an idiot. He's a bleeping idiot. Hillary should win 100 million to 0. It sounds to me like he hates the President.

Mr. HOROWITZ. His text messages would certainly leave that as the implication.

Mr. JORDAN. Your report says Strzok ran the Clinton investigation on a daily basis. Is that accurate?

Mr. HOROWITZ. That's correct.

Mr. JORDAN. And Peter Strzok, in your report, he was the lead investigator on the Russian investigation. Is that true?

Mr. HOROWITZ. That's my understanding for the time period he was on it.

Mr. JORDAN. So the guy, he ran the Clinton investigation, he runs the Russian investigation, he hates the President, but your report says "while his bias cast a cloud, it didn't impact final decisions." Is that accurate?

Mr. HOROWITZ. It didn't impact the prosecutors' final decision.

Mr. JORDAN. Right. Let's look at a few other things Peter Strzok had to say.

On May 4, 2016, the day after President Trump secures the Republican nomination, Mr. Strzok says “Now the pressure really starts to finish the Clinton investigation.”

I’m not sure why the pressure would be more or less the day after. It seems to me you just want to do the investigation.

On July 31st, as was mentioned earlier, the FBI opens the Russian investigation. One week later, Peter Strzok says “I can protect my country on many levels.” Two days after that, he says, “We will stop Trump.” One week after that, he says “No way he gets elected. It’s like an insurance policy.”

So think about this, Mr. Horowitz, Peter Strzok opened—the FBI opens the Russia investigation on July 31st, 2016. Peter Strzok is the lead investigator. Within the next 15 days, he says, “I can protect my country on many levels.” “No way he gets elected. We will stop him. We have an insurance policy.”

Now that seems like, at least, think a lot of regular folks would interpret that as more than just casting a cloud on what the FBI ultimately did. I mean, it is one thing to say Trump is an idiot. It is another thing to say, “We’ve got an insurance policy.”

It is one thing to say, “Trump’s awful. It’s another thing to say, “We’re going to stop him, especially when those statements are made within 15 days, just days after you’ve launched an investigation into that individual.”

Would you agree?

Mr. HOROWITZ. And I think the important thing here is the time period we’re talking about. Because those messages in the July-August period, which we found extremely concerning and antithetical to core values of the FBI, concerned, as we noted, the Russia investigation—and as you noted—and that’s why we had so much concern about what occurred in late September and October.

Mr. JORDAN. Exactly. Mr. Horowitz, was Peter Strzok put on Special Counsel Mueller’s team?

Mr. HOROWITZ. He was.

Mr. JORDAN. So, again, the guy who hates the President, the guy who ran the Clinton investigation, the guy who ran the Russian investigation, then gets assigned to the special counsel team.

Do you know what date, Mr. Horowitz, the special counsel was named?

Mr. HOROWITZ. I believe it was around May 17th.

Mr. JORDAN. May 17, 2017. May 17, 2017.

Mr. Horowitz, do you remember what Peter Strzok said on May 18, 2017?

Mr. HOROWITZ. I do. It’s in our report on page 405.

Mr. JORDAN. I unleashed it on the Midyear Exam, this one?

Mr. HOROWITZ. Yes.

Mr. JORDAN. And now I need to fix it and finish it. There’s unfinished business, and this could be an investigation leading to impeachment. That’s what he said the day after.

Mr. HOROWITZ. Correct.

Mr. JORDAN. Again, don’t you think that sounds and looks a little bit like, to regular Americans, a little bit more than just casting a cloud on the overall investigation?

Mr. HOROWITZ. Again, I go back to what the report concerns, which was the Clinton email investigation, which was concluded



about a year earlier with Director Comey's announcement. But it is precisely why we were concerned about what occurred in late September and October, when Mr. Strzok had the choice between working on the Russia investigation——

Mr. JORDAN. Right.

Mr. HOROWITZ. —or on the Weiner laptop Clinton investigation.

Mr. JORDAN. He was prioritizing the one over here.

Mr. HOROWITZ. Chose Russia.

Mr. JORDAN. Yeah. Let me just finish with this. And this is probably what bothers me more than all what we just went through. More than that, probably what bothers me the bother is Peter Strzok's attitude. I think it's what bothers Americans the most about this whole ordeal.

I just want to go to one more text message that, one more thing Mr. Strzok said. This is back in that August time period again. August 26, 2016, Peter Strzok says, "just went to a southern Virginia Walmart, I can smell the Trump supporters." This is what ticks Americans off more than anything else I'm convinced about. All this Clinton investigation, all this Russia investigation, is this idea that there are two sets of rules, or two standards. One set of rules for us regular folk who shop at Walmart, but a different set if your name is Clinton, Comey, Lynch, McCabe, or if your name is Peter Strzok.

And the arrogance and the condescension and elitist attitude, that is what ticks people off. And as they look at all this and see what Strzok said throughout this investigation, that's why their confidence is shaken. And frankly, that's why they're so mad.

And that's why we got to get some answer from Mr. Rosenstein and Mr. Wray about this whole ordeal.

With that, I yield back, Mr. Chairman.

Chairman GOWDY. The gentleman from Ohio yields back. The gentlelady from New York is recognized.

Mrs. MALONEY. Thank you, Mr. Chairman, and thank you, Mr. Horowitz for your service.

Chairman Gowdy and others have mentioned the very troubling emails that were very critical of President Trump. So my question to you, none of these emails were made public during the election, correct? That's what I read. They were not made——

Mr. HOROWITZ. No, they were not. The text messages were not——

Mrs. MALONEY. They were not made public during the election. And so therefore, it's fair to say that these emails did not influence the election, correct? They weren't made public, so they did not influence the election.

Mr. HOROWITZ. Yeah, I don't think these text messages at all were out there during 2016. We uncovered them in 2017.

Mrs. MALONEY. Okay. Did they did not influence the election.

Now the FBI conducted investigations related to both presidential candidates. But Director Comey publicly released information only about Secretary Clinton, while he kept secret information about the investigation related to the Trump campaign and the Russian Government, correct?

Mr. HOROWITZ. He followed the rules on the Trump—the Russia matter. He followed the rules on the Clinton Foundation matter. He didn't follow the Department's practices on the——

Mrs. MALONEY. And that was very troubling to me that he did not follow the protocol.

Mr. HOROWITZ. I just worry when people say “kept secret,” he actually followed the rules.

Mrs. MALONEY. Mr. Horowitz, in a Senate Judiciary hearing the other day, one of our colleagues from the other side of the aisle, he said that your report only confirms that Hillary Clinton got kid-gloved treatment from the FBI.

I would say the opposite is true. And as my good friend Joe Biden would say, that that is total malarky.

I think that your report makes clear that the reverse is true. And that there was a fact and element within the FBI that was biased against Secretary Clinton.

For example, according to your executive summary, one of the reasons cited for Mr. Comey's extraordinary October 28th letter to Congress about the discovery of additional emails on a laptop was, quote, “the fear that the information would leak if the FBI failed to disclose it.” And that, to me, is very troubling.

And then it went on to say that there were selective leaks throughout the investigation on Clinton, serious errors in judgment. I quote, “serious errors in judgment” in the unprecedented action by the Director of the FBI in the final weeks right up next to the election of 2016 presidential race in violation of protocol, as you've mentioned.

And I would say that this all worked in one direction and to the detriment of candidate Clinton and to the benefit of candidate Trump. And I would say that it may well have determined the outcome of the 2016 election.

So my question to you is, what are you doing to make sure that this doesn't happen again? That it does not become politicized, that it can't influence another election?

Mr. HOROWITZ. That's a very important question, Congresswoman. And what we've done is we've made nine recommendations in this report. One of which is precisely to that issue. That the Department needs to consider putting in place some guidance and rules and policies, practices, to memorialize what it believes prosecutors and agents should be doing in the time period before the election.

Mrs. MALONEY. Well, I think that's very, very important to make sure that no future election is swayed and no collusion is overlooked because of politics, pure and simple. And the main question that remains, and that I'd like to see a report on was why was there a different standard on the Russian investigation, which followed protocol, but on the Clinton area, there were press conferences, there were testimony before Congress, there were statements about emails that he hadn't even read. Why was there such a difference in standards? And how can you enforce a standard?

You have a standard. It wasn't enforced. It was violated. So how would you enforce the standard in the future?

Mr. HOROWITZ. So, you know, as we describe in here, Director Comey explained what his rationale for treating the Clinton email,

the Weiner laptop issue differently than the Russia investigation, the Clinton Foundation investigation, even the request of the Intelligence Committee put out a statement about it, which is described in here.

Mrs. MALONEY. Well—

Mr. HOROWITZ. And I think what has to happen going forward, and one of the most concerning parts, many concerning parts of this is Director Comey, rather than speaking with the Attorney General about it or consulting directly with them, did what he did in terms of his guidance.

I think the bottom line here is, the leadership of the Department needs to have rules in place, policies in place, norms in place, practices in place to consider this. And when an issue like this arises, they should be able to talk to one another.

Mrs. MALONEY. Well, he violated protocol with one candidate. And followed it with the other helping President Trump and hurting the candidacy of Secretary Clinton.

Chairman GOWDY. The gentlelady's time is expired. The gentleman from California is recognized.

Mr. ISSA. Thank you, Mr. Chairman. And I would like to thank the gentlelady from New York for making the case for firing Comey. Making the case for why both Democrats and Republicans had very valid reasons that we wanted the President to let him go for his unprofessional and insubordinate activity. And yet, once the President did it, somehow he was wrong.

In your report, Mr. Horowitz, you bring out the fact that the former Director was, in fact, at times, unprofessional, didn't follow rules, and even insubordinate, correct?

Mr. HOROWITZ. That's correct.

Mr. ISSA. So we have a reason to fire somebody. The gentlelady from New York just made the case in resounding ways if what she believes to be true is true, that he should have been fired and fired immediately. And probably would have been fired by President Clinton had she become President.

But I want to go on to two other points. And one of them is, the standard for bias. Now I'm a former—I guess I'm an employer now, but in the years that I was manufacturer and so on, you know, the definition for most of us for a bias if reviewing text or emails and anything close to what Strzok and Page were saying and others, occurred, and we were in an EEOC or some other kind of complaint, we would be held clearly for this to have met the requirement for any action whatsoever that was less than favorable for an employee, a termination, and so on. We would be held as having a bias.

As a matter of fact, every member up here on the dais had to go through 90 minutes of training in which they gave us examples that for a fraction of what Page and Strzok had done, if there were any adverse action whatsoever, we would be held as biased.

How is it you can say you found no evidence of bias? What makes the standard different for the Department of Justice?

Mr. HOROWITZ. Well, let me be clear. We did not say that their words and texts and these messages were not indicative of bias. In fact, we were very concerned with them because that kind of bias and those kind of—

Mr. ISSA. So you found bias, but the actions—

Mr. HOROWITZ. That's the question.

Mr. ISSA. —the famous insurance policy, the likelihood that they were in, quote, Andy's office and were plotting, conspiring, to figure out a way to either keep the President from winning or hurt him, that conspiracy, that evidence of that conspiracy is not enough to be an action?

Isn't a conspiracy an action separate from what you might do? If you conspire to blow up the Oklahoma City Federal Building, you don't have to succeed for there to be a crime. Isn't that true?

Mr. HOROWITZ. Yes. A conspiracy, you don't have to actually carry it out at all. And I agree with you the concern evident in those texts in August.

Mr. ISSA. So they had a bias, and they had a conspiracy to do something, we just don't know exactly what that is. Is that correct?

Mr. HOROWITZ. Well, I'm going to put aside what they had a conspiracy to do. But I do think that what was reflected there in August translated directly for us into concerns about what occurred a month later in September.

Mr. ISSA. Okay. So I see it as there's a bias, a conspiracy, and they did do some things wrong, and that came out clearly in your report. Very clearly there was a reason to fire the former FBI Director Comey. And it was a bipartisan effort. I guess I would say that maybe Republicans would have objected if President Clinton had fired him, but that isn't the case.

I want to ask, though, a question back to Mr. Comey. Last Thursday when you issued your report, basically 4 hours before that was issued his op-ed came out showing that he had clearly read the report. How did he get to see the report before it was public?

Mr. HOROWITZ. So as with all of our reviews—first of all, he did not see the whole report—but as with all of our reviews—

Mr. ISSA. But he is a former member—

Mr. HOROWITZ. Right.

Mr. ISSA. —a former person. Do all former employees get this?

Mr. HOROWITZ. So the process is—and we did this from Fast and Furious on forward to ones that never make headlines—if individuals whose conduct we criticize in a report have testified to us and voluntarily agreed to speak to us—as you know this has been an issue that you've supported us on—

Mr. ISSA. Right.

Mr. HOROWITZ. —getting testimonial subpoena authority, one of the—without that authority—

Mr. ISSA. We want you to have it for former employees.

Mr. HOROWITZ. Right. Without that authority they have to come in voluntarily. And one of the things that we do is, if they come in voluntarily and speak to us, we allow them—

Mr. ISSA. Okay. So the quid pro quo is you let him see it. Did he sign a—

Mr. HOROWITZ. Only those portions of the report that related to him.

Mr. ISSA. Did he sign a nondisclosure?

Mr. HOROWITZ. He did.

Mr. ISSA. So when he published before it came out he effectively breached the nondisclosure, didn't he?

Mr. HOROWITZ. I'd have to look at the timing—

Chairman GOWDY. The gentleman's time has expired, but you may answer the question.

Mr. HOROWITZ. I'd have to actually look at the exact timing on that, on when it came out on Thursday versus when our report came out. I, frankly, didn't focus on that question before.

Mr. ISSA. Well, he certainly disclosed it to the newspaper to get it published in that timing. He must have been disclosing it to newspaper personnel hours or days ahead of time. That would seem to be a violation of that nondisclosure.

Thank you, Mr. Chairman.

Chairman GOWDY. The gentleman yields back.

The gentlelady from Texas is recognized.

Ms. JACKSON LEE. Mr. Horowitz, thank you for your service.

Let me apologize. I'm going to be wanting yes/no answers. I think some of these you have already, but because of the nature of the time.

Let me just repeat, your report does not vindicate the President or conclude that the Trump campaign did not conclude with the Russians. Is that accurate?

Mr. HOROWITZ. Our report doesn't address the Russia investigation.

Ms. JACKSON LEE. And your report doesn't have anything to do with the numbers of individuals that were—the numbers of individuals that were connected to the Trump administration—Trump campaign with Russia, you didn't deal with any of these, including the picture of Papadopoulos, who was indicted in the meeting in Trump Tower?

Mr. HOROWITZ. Our review focused on the Midyear investigation.

Ms. JACKSON LEE. Thank you very much.

Donald Trump is the first sitting President in history whose campaign chairman spent his time behind bars doing his own Presidential campaign, but none of these issues were investigated by your investigation. Is that correct?

Mr. HOROWITZ. Our review concerned the Clinton email investigation.

Ms. JACKSON LEE. And then let me quickly. Your report does not—excuse me, I am interested to know about chapter 7, pages 260–262. You cite all the reasons for concluding that Secretary Clinton did not break the law or have any basis to conclude that she broke the law for her use of a private server. Is that accurate still?

Mr. HOROWITZ. That are the prosecutor's reasons as given to us and explained to us and it is our analysis—

Ms. JACKSON LEE. And you didn't counter that in your report?

Mr. HOROWITZ. Correct.

Ms. JACKSON LEE. Did you say that it was grounded in the law, facts, and applicable DOJ precedent?

Mr. HOROWITZ. Based on the evidence we had reviewed, that is what we found with regard to the prosecutor's decision.

Ms. JACKSON LEE. And her campaign was not subject of a Federal counterintelligence investigation by the Nation's law enforcement to your knowledge or at least you didn't investigate that?

Mr. HOROWITZ. There was a review on that issue, and I could talk a little bit more about it. I'd need to tease that out just a little, Congresswoman.

Ms. JACKSON LEE. But it did not impact the original or the basis of your report?

Mr. HOROWITZ. The finding was that there was no intrusion.

Ms. JACKSON LEE. In light of what you saw, would you think it was reasonable for Americans to conclude that Secretary Clinton was a victim of a double standard in light of the information that the FBI had about the Trump administration—or, excuse me, campaign—and its opening of the investigation that was not leaked?

Mr. HOROWITZ. I'm going to focus on what our conclusion was as opposed to the public's. Our conclusion was the standard that should have applied was the same one that the Director applied to the Russia investigation and the Clinton Foundation investigation.

Ms. JACKSON LEE. And it was not the same standard?

Mr. HOROWITZ. It was not the same standard.

Ms. JACKSON LEE. I want to show these documents which show the leaks from the Southern District and others from the FBI. Do you find that troubling, that leaks in your report went out?

Mr. HOROWITZ. Just to be clear, we do not say where those are from. We simply put in there the individual's titles. But we're very concerned, as we explained in here, we're asked to look at leaks all the time in this matter, other matters. And if there are, as you know, multiple people who have had disclosures or contacts it makes it very hard to figure out who did it.

Ms. JACKSON LEE. Do you think they were biased toward Mrs. Clinton?

Mr. HOROWITZ. I have no idea one way or the other.

Ms. JACKSON LEE. Let me move to the Strzok-Page questioning that I have.

On November 2016, the day after the Presidential election, Lisa Page sent a quote to Peter Strzok: Are you going to give out your calendars? Seems kind of depressing. Maybe it should be just the first meeting of the secret society.

Mr. Horowitz, are you familiar with that text?

Mr. HOROWITZ. I am.

Ms. JACKSON LEE. On January 24, 2018, Ron Johnson went to FOX News and indicated, shouting: It is further evidence of corruption, more bias, corruption of the highest levels, the secret society. We have an informant that was talking about a group holding secret meetings off-site. There's so much smoke and there's so much suspicion.

Mr. Horowitz, did your report find any evidence of a secret society at the FBI?

Mr. HOROWITZ. We did not find any.

Ms. JACKSON LEE. Did your report find any evidence that there was a group at the FBI holding secret meetings off-site?

Mr. HOROWITZ. I'm not sure we looked for that, but certainly as part of the Midyear investigation we didn't see—

Ms. JACKSON LEE. In fact, Page explained that the calendars referenced in this text message was funny and snarky calendars of Russian President Vladimir Putin in different poses, such as holding up a kitten.

Mr. Horowitz, Page and Strzok both told your investigator that secret society was used as a joke. Is that correct?

Mr. HOROWITZ. That's what they told us.

Ms. JACKSON LEE. On August 15, 2016, Strzok had sent Page a text that stated, quote: I want to believe the path you threw out for consideration in Andy's office, and there's no way he gets elected, but I'm afraid we can't take that risk. It's like an insurance policy in the unlikely event you die before you're 40.

Mr. Horowitz, in your report Strzok explains a reference in his text to an insurance policy, quote, reflected his conclusion that the FBI should investigate the allegations thoroughly right away as if Trump was going to win. Is that correct?

Mr. HOROWITZ. That was his explanation.

Ms. JACKSON LEE. Did your report reach any conclusions that would contradict Mr. Strzok's explanation?

Mr. HOROWITZ. I think it's fair to say we had concerns about what his intentions were there.

Ms. JACKSON LEE. Did any of what you came across suggest that they had a plan to undermine the election of Donald Trump?

Mr. HOROWITZ. We did not. We did not investigate, as we said here, the Russia matter. We have ongoing work in that regard. So—

Ms. JACKSON LEE. And was there—in your opening statement I think you said the Director, Director Comey, clearly departed from the norms and undermined the perception of fairness of the FBI. Those are my paraphrasing words. Is that in relation to his handling of former Secretary Clinton's emails, which you found that she did not break the law based upon their report?

Chairman GOWDY. The gentlelady's time has expired, but you may answer the question.

Mr. HOROWITZ. Yes, Comey violated the norms, as you said. We didn't find that she didn't break the law. We found what the prosecutor's assessment was of it and determined that it was based on the facts and the law.

Ms. JACKSON LEE. And that was that she did not break the law?

Mr. HOROWITZ. That was their conclusion, correct.

Ms. JACKSON LEE. Thank you. I yield back, Mr. Chairman.

Chairman GOWDY. The gentlelady yields back.

The gentleman from Ohio is recognized.

Mr. CHABOT. Thank you, Mr. Chairman.

Mr. Chairman, having spent the last 2 years down in the Old Executive Office Building, along with our colleague Mr. Issa, I didn't get an opportunity to hear all the other questions and the answers to those questions. So rather than repeat what a lot of others may have said, I would like to yield to my colleague from Ohio, Mr. Jordan, my time.

Mr. JORDAN. I thank the gentleman for yielding.

Mr. Horowitz, how many text messages were exchanged between Peter Strzok and Lisa Page?

Mr. HOROWITZ. I don't have an exact number, but tens of thousands.

Mr. JORDAN. Tens of thousands. And we got to see most of these last fall and over the last several months. But there was one we didn't get to see, one text message we didn't get to see until last week when your report came out.

Mr. HOROWITZ. Yes.

Mr. JORDAN. And it just happened to be the most explosive one, the one that says: We'll stop Trump. How come we didn't see that beforehand?

Mr. HOROWITZ. Let me explain how we ended up finding that, because I think it's important to also appreciate—

Mr. JORDAN. I guess I'm more interested in if someone was trying to hide it.

Mr. HOROWITZ. Well, we uncovered it in May, so last month. We uncovered it in our fourth round of work on their personal—on their FBI devices.

Mr. JORDAN. That's my question. If you uncovered it a month ago, why did we not see it until last Thursday?

Mr. HOROWITZ. I can't answer that question. We provided the materials to the Department—

Mr. JORDAN. But who made the decision? Was it Mr. Wray? Was it Mr. Rosenstein? Was it Mr. Sessions? Who made the decision?

Mr. HOROWITZ. What we have done, as we have found these texts, is send them to the Department and for them to produce it to Congress, and that's what we did in May.

Mr. JORDAN. And who at the Department, though?

Mr. HOROWITZ. We sent it to the Office of Deputy Attorney General and—

Mr. JORDAN. So Mr. Rosenstein?

Mr. HOROWITZ. In his office.

Mr. JORDAN. Mr. Rosenstein made a decision that instead of us seeing the most explosive text message between these two key agents who were on the Clinton team, the Russia team, and on the special counsel team, he made a decision to wait a month for us to see that text message.

Mr. HOROWITZ. I can't speak to whether anyone made a conscious decision. I would just say we—there was in that fourth recovery that we made in May there was 100,000-plus lines of texts to go through. Most all of them we'd found before. This one was one we hadn't. We didn't see it or pick it up until June.

Mr. JORDAN. And did you not see it or was it hidden from you? Because we have the text message right before it and the one that happened right after it, but somehow that one, the most explosive one, was missing from the pages that we got months ago.

Mr. HOROWITZ. And I can explain how we ended up finding it, because it was missing from—we did not have it either. We recovered it.

Mr. JORDAN. So the Department didn't give it to you either?

Mr. HOROWITZ. I don't think the Department had it, and I can explain why I don't think they had it.

Mr. JORDAN. Okay.

Mr. HOROWITZ. These text messages were retained by the FBI pursuant to a data collection where they were pulling text mes-



sages—I'm not a tech person, I'll do my best here—they were pulling them off the FBI devices. They each had their own FBI phones. They were pulling them.

As we got these texts and found these concerning messages in 2017, we then asked the FBI for all their text messages. When we got all their text messages, as you know, we found a window, a period of several months where there was zero.

Mr. JORDAN. Right.

Mr. HOROWITZ. We then went and got their phones and said: Okay, if the FBI isn't collecting them, we're going to try and extract them from the phones.

We did a first run-through using our cyber forensics capabilities, collected material. We went to our outside vendor that we use to see what else that contractor had. We did another go-round with some additional tools, found more.

We then went to the Defense Department.

Mr. JORDAN. Okay.

Mr. HOROWITZ. Did the same thing.

Mr. JORDAN. Yeah, I'm thankful that Mr. Chabot yielded me time, but I got the gist of it. You jumped through all kinds of hoops to retrieve it.

Mr. HOROWITZ. Correct.

Mr. JORDAN. The point is when you did get it Mr. Rosenstein decided we couldn't get it until your report came out. He sat on it for a month of time.

Mr. HOROWITZ. I can't speak to how they—

Mr. JORDAN. Well, it's not the first time Mr. Rosenstein has kept us from getting information. I mean, he's hid information from us. He redacted all kinds of important conversations between Strzok and Page. He redacted that from us. We had to go over to the Justice Department and find it. So this wouldn't be the first time he hasn't given us information, frankly, I think we're entitled to.

I want to—well, I got 30 seconds. I don't have time to get into another subject area here.

Mr. Horowitz, I appreciate that, but I do think it is interesting that you had it, you discovered it, and we couldn't get it right away. Like all the other text messages, we had to wait until the final report.

With that, I yield back, Mr. Chairman.

Chairman GOWDY. The gentleman yields back.

The gentlelady from the District of Columbia is recognized.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. Horowitz, if there's a bottom line to your report it appears to be that while there were mistakes made, the mistakes that have been discussed, that the Clinton email—that the investigation itself was not politically motivated. Is that a fair rendition?

Mr. HOROWITZ. I think what I would say about the final decision by the prosecutors is that we found their decision was not based on political bias but on their assessment of the facts, the law, and the precedent.

Ms. NORTON. Now, that, of course, in spite of what has been made at this hearing by some of my colleagues about Mr. Strzok's testimony, you know. If one hears that testimony, it could sound like a textbook example of bias.

So could you explain why, notwithstanding the renditions we have heard of his virtual on-the-record, because it has been quoted, bias, nevertheless the investigation itself was not biased given the leading role he played in the investigation?

Mr. HOROWITZ. What we found was with regard to the specific decisions we looked at pre-July 5 that there were other team members involved in some of those. He and Ms. Page took a more aggressive view than the prosecutors. In some of those instances or many of those instances actually it was the prosecutors who were making the decision, not the agents.

And so when we looked at the notes, the emails, the other evidence we could find, and the testimony we got, we concluded that there wasn't evidence of bias in how those decisions were actually made or carried out, the specific ones we looked at.

Ms. NORTON. Notwithstanding Strzok's involvement, there were a sufficient number of other investigators so that the bottom line here of no political motivation stands as far as you're concerned?

Mr. HOROWITZ. As to the specific decisions we looked at, correct, and as to the prosecutorial decision for the reasons I indicated.

Ms. NORTON. Now, there's a lot of concern about Mr. Comey's speaking out. He used words like "extremely careless." And he has been criticized for, after the case was closed, speaking out again.

Yet your report said, and here I'm quoting, sir: "The problem originated with Comey's elevation of 'maximal transparency.'"

I tell you, sir, if someone said, "Eleanor," to me, "you're being maximally transparent," especially as a Member of Congress, I would take that as a compliment. So I need to understand your use of that word, rather than perhaps a more critical use of language.

Mr. HOROWITZ. Right. Well, that was Mr. Comey's explanation to us as to why he did it. I will say as inspectors general, as you know, we stand for—

Ms. NORTON. No, I was quoting the OIG report—

Mr. HOROWITZ. Right.

Ms. NORTON. —found the problem originated with Comey's elevation of maximal transparency as overriding this case. That is to say overriding the principle that you've got to stay silent—

Mr. HOROWITZ. Correct.

Mr. NORTON. —if you are the FBI.

Mr. HOROWITZ. Correct.

Look, I'm—we are as IGs for government transparency in all ways possible. But there are places where there are other rules, like classified material, like ongoing criminal investigations, for the reason we said: Individuals' reputation should not be tarnished if they're not going to be charged with a crime. And that's a rule—

Ms. NORTON. So he went beyond—his transparency is not what you're recommending—

Mr. HOROWITZ. Correct.

Ms. NORTON. —for Members of Congress.

Mr. HOROWITZ. Correct.

Ms. NORTON. Thank you very much.

Thank you, Mr. Chairman.

Chairman GOWDY. The gentleman yields back.

The gentleman from Iowa is recognized.

Mr. KING. Thank you, Mr. Chairman.

Thanks for your testimony, Mr. Horowitz. It has been a busy week for you this week.

First, I'd like to turn to the question of how many emails were exchanged on the unsecured server between Hillary Rodham Clinton and President Barack Obama.

Mr. HOROWITZ. I don't know the exact number. We can go back and look. We understood he was 1 of 13 individuals in that.

Mr. KING. Do you have any sense of the volume that was exchanged between the Secretary of State and the President?

Mr. HOROWITZ. I can get back to you on that. I'd have to refresh my recollection on that one.

Mr. KING. At this point you don't have a sense of that volume?

Mr. HOROWITZ. I just don't.

Mr. KING. And then do you have the information or a sense of were those emails secret, top secret, classified?

Mr. HOROWITZ. My recollection is, as I sit here, that they were not among the classified material, but I'm not certain of that. So I'd need to go back and double check that.

Mr. KING. And I want to ask you formally that you produce those records for us.

Mr. HOROWITZ. I will do that.

Mr. KING. I think it is essential that this committee understand those facts surrounding that. And I'll get to that hopefully in a moment.

Could you point out to us your first encounter with the replacement of the words from the statute in 793, "gross negligence," with the words "extreme carelessness," the first encounter with that switch?

Mr. HOROWITZ. That was back in May as this—as the drafts were—the Comey statement as the drafts were evolving into June.

Mr. KING. And were the fingerprints of Peter Strzok on that exchange?

Mr. HOROWITZ. Yes.

Mr. KING. Anyone else's fingerprints on that exchange?

Mr. HOROWITZ. I believe Ms. Page, as well.

Mr. KING. And what about James Comey, had he—

Mr. HOROWITZ. He was very much in the middle of the drafting that was going on.

Mr. KING. The three of them were in communication and drafting that. So it would be hard to identify exactly who inserted it the first time. Is that a fair analysis?

Mr. HOROWITZ. I think we actually do have some idea of how it got changed and who put it in, but not necessarily because it was their decision as opposed to who was the sort of scribe on it as opposed to the decision-maker.

Mr. KING. I would like a little bit more information on that, too, if you could, Mr. Horowitz.

Mr. HOROWITZ. We can do that, yes.

Mr. KING. So while we're searching back for the genesis of "extreme carelessness" as a replacement for the statutory language of "gross negligence," could you inform the committee here as to the genesis of the word "intent" as it found its way into this dialogue?

Mr. HOROWITZ. So it looks like in a variety of discussions with the team and the prosecutors, the investigative team from the FBI

and the prosecutors, that the focus was on in a significant way—there were other factors as well here—but in a significant way the focus was on the fact that the classified material that was transiting through the email server was not clearly marked as you’re supposed to have it marked, with banners saying it is classified and what level it is classified at.

Mr. KING. To more clarify my question, actually the insertion of the word “intent” as a condition to a violation of 793, when did that word first find itself in the dialogue that you looked at?

Mr. HOROWITZ. That is in the dialogue months earlier, well before the investigation reached its conclusion.

Mr. KING. About when would you guess that is the months earlier?

Mr. HOROWITZ. I’d have to—

Mr. KING. In 2016?

Mr. HOROWITZ. It’s in 2016.

Mr. KING. Not in 2015?

Mr. HOROWITZ. I’m not sure whether it went back that far, although, frankly, it could have, because there’s some indication that early on people thought that it was unlikely to be the case.

Mr. KING. Mr. Horowitz, let me assert that the evidence I’m looking at suggests that President Barack Obama spoke that word into law and that a taped program October 10 of 2015 he said Hillary Clinton was careless but not intentional. That program was aired on October 11, CBS “60 Minutes.” And I have the article printed in The New York Times, that’s dated the 16th of October, the article that references the October 11, where it says in this article, quote: “Mr. Obama said he had no impression that Mrs. Clinton had purposely tried ’to hide something or to squirrel away information,’ close quote. Continuing: “In doing so, Mr. Obama spoke directly to a core component of the law used against Mr. Petraeus, intent, and said he did not think it applied in Mrs. Clinton’s case.”

So I’m going to suggest that the President suggested that language through the open medium and spoke the word into the law, that it would require intent, which shows up throughout in the following months, in particular in James Comey’s July 5, 2016, exoneration—well, let’s say summary of the prosecution/exoneration statement, six times that word “intent,” and I find it no place else.

Would you have any comments on your thoughts of how that might have been—the genesis might have gone back to the President of the United States on that idea?

Mr. HOROWITZ. I don’t know that that was necessarily the genesis. We don’t have evidence of that. But we do have in here, as you noted, references to the statements made by President Obama and by his press secretary and the concerns that those raised and the issues that—and how it was viewed and perceived by the team, by the investigative team.

Mr. KING. My time has expired. Thank you, Mr. Horowitz.

I yield back the balance.

Chairman GOWDY. The gentleman from Iowa yields back.

The gentlelady from California, Ms. Bass.

Ms. BASS. Thank you, Mr. Chair.

Mr. Horowitz, thank you for this report. It lays out in clear and unequivocal terms a conclusion that Republicans have resisted for

years: The investigation into Secretary Clinton's emails and the decision to decline prosecution were both done properly, without bias.

In this report you concluded, quote: "We did not find documentary or testimonial evidence that improper considerations, including political bias, directly affected the specific investigative decisions...or that the justification offered for these decisions were pretextual."

Is that right?

Mr. HOROWITZ. That's correct.

Ms. BASS. Republican Members have repeatedly declared that the investigation was illegitimate and have questioned many aspects of that investigation, from the Justice Department's use of immunity agreements to the timing of James Comey drafting process.

Did you investigate these allegations?

Mr. HOROWITZ. The questions of—I'm sorry, could you say that again?

Ms. BASS. Republican Members repeatedly declared that the investigation was illegitimate and questioned many aspects of the investigation, from the Justice Department's use of immunity agreements to the timing of James Comey drafting process.

Did you investigate these allegations?

Mr. HOROWITZ. Yes.

Ms. BASS. In response to your report Chairman Gowdy wrote, quote: "This report confirms investigative decisions made by the FBI during this investigation were unprecedented and deviated from traditional investigative procedures in favor of a much more permissive and voluntary approach."

Chairman Goodlatte similarly wrote, quote: "The Justice Department and FBI didn't treat her like any other criminal suspect and didn't follow standard investigative procedures."

This doesn't seem to reflect your report's findings to me. In fact, your report explicitly states, and I quote: "Contrary to public perception, the Midyear team used compulsory process in the Midyear investigation."

Your report also stated, quote: "We found that these specific decisions were the result of discretionary judgments made during the course of an investigation by the Midyear agents and prosecutors and that these judgment calls were not unreasonable."

Is that right?

Mr. HOROWITZ. That's correct.

Ms. BASS. The report also concluded, quote: "We found no evidence that the conclusions by the [Department] Prosecutors were affected by bias or other improper considerations; rather, we determined that they were based on the prosecutors' assessment of the facts, the law, and past Department practice."

Is that correct?

Mr. HOROWITZ. As to the prosecutorial decision, yes, that's correct.

Ms. BASS. Mr. Horowitz, I appreciate you being here today. I do want to ask you a couple of other questions.

On June 29 Democrats on this committee and the House Judiciary Committee sent you a letter raising concerns that Attorney General Sessions may have violated his recusal when he partici-

pated directly and personally in President Trump's decision to fire FBI Director James Comey.

You testified last November that you had not made a decision, but that you were holding off while special prosecutor Mueller has an ongoing investigation, but you also said you would revisit your decision if new information came to light.

Is this an accurate description?

Mr. HOROWITZ. Yes.

Ms. BASS. It now appears that Attorney General's violation of his recusal impacts issues well beyond the scope of the special counsel's probe.

On November 13, the Department of Justice sent a letter stating that the Attorney General has been directly involved in decisions regarding the appointment of a special counselor to investigate, and I quote, "the sale of Uranium One, alleged unlawful dealings related to the Clinton Foundation, and other matters."

This letter says that the Attorney General, and I quote, "directed senior Federal prosecutors to evaluate whether a special counsel should be appointed and told those prosecutors to report their findings," quote, "directly to the Attorney General and deputy attorney general."

Representative Raskin asked you about that letter and you said you would receive and review this additional information.

On November 30 Ranking Member Cummings followed up and sent you a letter providing this additional information and again requesting you to conduct this review.

On December 12 you responded with a letter that said, and I quote: "Your letter asked the OIG to conducted an investigation separate from that of the special counsel."

Do you have any update to provide at this time?

Mr. HOROWITZ. I don't, and I stand by what I said earlier. I think it's important for us as an OIG to consider what other investigative activity is ongoing out there and consider that—keep that in mind as we're deciding when would be an appropriate time to make a determination whether to go forward with a review.

Ms. BASS. The report your office issued last week that is the subject of today's hearing discusses text messages sent by FBI employees who previously were working on the special counsel's investigation.

Can you explain why in that instance you were willing to conduct a review related to the special counsel's investigation but you will not review the Attorney General's potentially ongoing violations of his recusal agreement?

Mr. HOROWITZ. Certainly.

So when we undertook this review and started finding the problematic text messages back in 2017 and ultimately gathered the evidence we gathered in July of 2017, and then met with the Deputy Attorney General and the special counsel to inform them of what we had found, because at the time Mr. Strzok was working for the special counsel, I also discussed the matter with the special counsel about what we believed was our need to collect all of the text messages from those individuals even beyond the Clinton email investigation so that we could make an assessment of how

their views and their conduct impacted the Clinton email investigation.

Ms. BASS. Okay. Thank you.

I believe that you could review today whether the Attorney General is violating his recusal when he participates in matters that are unrelated to the special counsel's investigation.

I yield back my time.

Chairman GOWDY. The gentlelady from California yields back.

The gentleman from Michigan is recognized.

Mr. AMASH. Thank you, Mr. Chairman. I yield to my friend, the gentleman from Ohio, Mr. Jordan.

Mr. JORDAN. I thank the gentleman for yielding.

Mr. Horowitz, I want to go back to where we were just a few minutes ago. This text message, this mysterious one, that was the most explosive one disappeared, refund, but the Department sits on it for a month.

Can we get a copy of the correspondence that you had with Mr. Rosenstein? Was there any type of—how did you communicate to the Justice Department that you had found this text message?

Mr. HOROWITZ. My agent sent it by email.

Mr. JORDAN. So you sent an email. Did you get—

Mr. HOROWITZ. This printout, the spreadsheets, you know, of all the texts. We had 120,000 or so, 100,000 lines of texts.

Mr. JORDAN. So you didn't specify we found this one that had been missing?

Mr. HOROWITZ. I then—when we found it I specified to the associate deputy attorney general on June 8 that he ought to look at this one.

Mr. JORDAN. Oh, so you sent it to him last month, but then you specifically pointed it out to him last week or 2 weeks ago?

Mr. HOROWITZ. Correct. When we identified it and saw it as we were going through these hundred thousand pages.

Mr. JORDAN. What response did he give you when you pointed it out, the most explosive text message?

Mr. HOROWITZ. Thank you for telling me about it.

Mr. JORDAN. Thank you for telling me about it. Well, yeah, I think so. But not like, well, we need to get this to Congress like we did all the others right away?

Mr. HOROWITZ. I didn't engage him on that.

Mr. JORDAN. Do you know if there's anything nefarious at work? Because when we got the original pages of the text it had the prompting question from Ms. Page that says: He is not ever going to become President, right? We had that one.

Mr. HOROWITZ. As did we.

Mr. JORDAN. We have had it for months, as did you. So why didn't we get the response? All the other times we get the back and forth, this time we didn't.

Mr. HOROWITZ. I think actually it goes to the technical—technological issue that we think needs to get addressed and fixed, frankly. Because what happened here is on the fourth go-round, when we were doing our quality control check on what we had done, we found an operating system program in the phone that was—

Mr. JORDAN. So you think it was technical, you think it was a technical problem?

Mr. HOROWITZ. To us that's what it appears as to why this wasn't found before May.

Mr. JORDAN. I'm more concerned about why Mr. Rosenstein didn't give us the information when he first got it. It seems to me he should have.

Let me go to something else here. How many different investigations do you have going on right now? Are you looking at—you're looking at Mr. Comey, you're looking at FISA, potential abuse of the FISA court process. And are you looking at the leak issue with the FBI? Are you looking at—you got three other ones going on?

Mr. HOROWITZ. We've got lots of investigations going on.

Mr. JORDAN. Well, I know, but with all this stuff, I know you've got lots.

Mr. HOROWITZ. Yes, we're looking at the leak issue, as well. That's ongoing.

Mr. JORDAN. So all three of those—

Mr. HOROWITZ. Remain ongoing.

Mr. JORDAN. —within ongoing investigations, right?

Mr. HOROWITZ. Yes.

Mr. JORDAN. Do you have any idea when—I'm particularly—well, I'm interested in all of them, but I'm particularly interested in the FISA—potential abuse of the FISA process. Do you have any idea when that one will be complete?

Mr. HOROWITZ. I don't, Congressman. In part, as you know, a few weeks ago we were asked to broaden that and look at some additional information and issues.

Mr. JORDAN. Do you anticipate it taking 18 months like this Clinton investigation one did, Mr. Horowitz?

Mr. HOROWITZ. I don't anticipate it, but let me just say, if we had released this report in January you would not have most of these text messages.

Mr. JORDAN. No. I understand. I mean, you got to do your work.

Mr. HOROWITZ. So I can't—I didn't expect that.

Mr. JORDAN. As important as it is, when you look at looking at the FISA, potential abuse of the FISA process, will you be looking at the question of whether Mr. Rosenstein threatened staff members on the House Intelligence Committee?

Mr. HOROWITZ. I've read about that recently, and I'm certainly, as in all instances, available to take information. I only know at this point what I've read from the newspaper.

Mr. JORDAN. Would that be within the parameters of your investigation, that question?

Mr. HOROWITZ. Frankly, I would have to understand a little bit more about it and what occurred and how it might connect to this, if at all, or whether it's something separate.

Mr. JORDAN. Will you look at the issue of why when the dossier was taken to the FISA court they didn't tell the court who paid for the document? Will you look at that question?

Mr. HOROWITZ. Certainly within the FISA review—

Ms. JACKSON LEE. Parliamentary inquiry, Mr. Chairman, parliamentary inquiry.

Mr. JORDAN. Mr. Horowitz, when you—when you—

Ms. JACKSON LEE. Mr. Chairman.



Mr. JORDAN. In the course of your investigation will you look at the question of why when the application was taken to the FISA court they didn't reveal the fact that the author of the document, the author of the dossier—

Ms. JACKSON LEE. Mr. Chairman, I have a parliamentary inquiry.

Chairman GOWDY. The gentleman from Ohio controls the time.

Ms. JACKSON LEE. Is it not appropriate to raise the question as to what is the germaneness of the gentleman's line of questioning and whether or not we are dealing with the report of Mr. Horowitz or are we dealing with the Republicans' attempt to undermine the Mueller investigation and as well to fire deputy secretary—excuse me, Attorney General Rosenstein, which they're planning to do on Friday.

Chairman GOWDY. The gentelady has not stated her parliamentary inquiry.

Ms. JACKSON LEE. This is not the agenda.

Chairman GOWDY. The gentleman from Ohio controls the time, and I would ask that the time be put back on the clock that was usurped by the gentelady from Texas.

Mr. JORDAN. I would just respond, Mr. Chairman, it's been widely understood that when the dossier was taken to the FISA court to get a secret warrant to spy on a fellow American citizen they didn't tell the court two important facts. They didn't tell the court who paid for the document, they didn't tell the court the guy who wrote it had been fired by the FBI. And I'm just asking as Mr. Horowitz undergoes this important investigation if he will be examining those two fundamental questions.

Mr. HOROWITZ. We will take under advisement those and other questions that have been raised. And as we said with this review, if we find additional issues we will look at those, as well, and partly that's why—

Mr. JORDAN. One last question, if I could, Mr. Horowitz.

May 17, 2017, Rod Rosenstein writes a memo outlining the scope and parameters of the special counsel investigation. On August 2, 2017, he writes another memo that in some way alters, amends, modifies the initial scope of the investigation. And yet we can't see that, the American people can't see that.

Seems to me if you're altering the scope of an investigation into the guy that the American people made President of the United States, we as Americans deserve to know exactly the parameters and scope of that investigation.

So will you be able to get ahold of that August 2 memo and make that available in the course of your investigation?

Chairman GOWDY. The gentleman's time has expired, but you may answer the question.

Mr. HOROWITZ. I'd have to think about how that connected to our investigation and what connectivity, germaneness it would have to ours. I'm happy to consider it. I have not seen either of those memos myself. And like I said, on its face I'm not sure the connection between that and the FISA. But I will certainly take it under advisement, Congressman.

Mr. JORDAN. I thank the gentleman.

Chairman GOWDY. The gentleman yields back.

For planning purposes, we will plan to break at 1 o'clock, if that's okay with the Inspector General.

Mr. HOROWITZ. Fine with me.

Chairman GOWDY. With that, the gentleman from Missouri, Mr. Clay, is recognized.

Mr. CLAY. Thank you, Mr. Chairman.

And here is where I see where we are. A Presidential candidate was targeted by Russia, Russian intelligence. Members of Congress, including myself, were targeted, as well. And at least 21 States had their voter information penetrated by Russian intelligence.

That information obtained by the Russians was weaponized with the clear intention to harm Hillary Clinton and support the election of Donald Trump. Time will tell, when Special Counsel Mueller issues his report, whether or not the President's campaign actively colluded with the Russians.

Now, Mr. Horowitz, thank you for being here.

On February the 2nd, 2018, the President tweeted, and I quote: "The top leadership and investigators of the FBI and the Justice Department have politicized a sacred investigative process in favor of Democrats and against Republicans, something which would have been unthinkable just a short time ago," end of quote.

This is an accusation that has been repeated by multiple Republican Members, including Representative Jim Jordan, who stated in an interview about your report, and I quote: "I think one of the big takeaways is the exact same people who ran the Clinton investigation, who had a bias in favor of Clinton, who did all of these things that are not the typical practice when you're doing an investigation, those same people took over and ran the Russian investigation."

You know, these are serious allegations, and I would like to address them head on.

Mr. Horowitz, did you find any evidence that James Comey took any investigative actions in the Clinton matter based on political bias and, quote, in favor of Democrats and against Republicans?

Mr. HOROWITZ. We did not find evidence that Mr. Comey had acted out of political bias.

Mr. CLAY. And your investigation undiscovered five FBI employees who had exchanged texts or instant messages reflecting strong personal political views, but you found that even those individuals did not let their personal political views determine the outcomes of the Clinton matter.

Your report states, and I quote: "Our review did not find documentary or testimonial evidence directly connecting the political views these employees expressed in their text message and instant messages to the specific investigative decisions we reviewed."

And you also quote: In some instances Strzok and Page advocated for more aggressive investigative measures in the Midyear investigation, such as the use of grand jury subpoenas and search warrants.

Did you find that there is a pro-Democrat or anti-Republican conspiracy at the FBI or Justice Department?

Mr. HOROWITZ. We didn't reach the question of whether there was a conspiracy or not. We've just laid out here what the text

messages indicated and, as you noted, the fact that the specific decisions we reviewed we found weren't impacted or affected or resulted from political bias.

Mr. CLAY. I see. Do you know if the Office of Professional Responsibility is taking any actions on the subjects that you have, on the people—

Mr. HOROWITZ. Director Wray testified yesterday that he had referred—provided our information and report to the FBI's Office of Professional Responsibility.

Mr. CLAY. I see. Thank you so much for your responses.

And at this time, Mr. Chairman, I'm going to yield my remaining time to the gentlewoman from Texas.

Chairman GOWDY. The gentlelady is recognized for 33 seconds.

Ms. JACKSON LEE. Mr. Director—excuse me, Mr. Horowitz—did you investigate any questions about Mr. Rosenstein's actions in your report as relates to any inappropriate behavior?

Mr. HOROWITZ. No.

Ms. JACKSON LEE. I didn't hear you, sir.

Mr. HOROWITZ. No.

Ms. JACKSON LEE. And did you—let us finish the question that I had dealing with the FBI agents in the Southern District of New York. You did confirm that they leaked. Is that not correct?

Mr. HOROWITZ. We did not say anything at all about whether they leaked or didn't leak. We're not speaking, or speak at all, to who we are looking at or what we're looking at, other than we're looking at the issues we were asked to look at about investigative leaks.

Ms. JACKSON LEE. And so you will continue that investigation?

Mr. HOROWITZ. We will.

Ms. JACKSON LEE. All right. Thank you very much.

I yield back.

Chairman GOWDY. The gentlewoman from Texas yields back.

The gentleman from Texas, Mr. Gohmert, is recognized.

Mr. GOHMERT. Thank you, Mr. Chairman.

Mr. Horowitz, there has been a massive amount of bias documented by you in your investigation. You have concluded with recommendations that appear to just be more policies of the same policies the FBI, the DOJ already had. You understood it was already against FBI, DOJ policy to let bias come into play in these investigations, correct?

Mr. HOROWITZ. Absolutely.

Mr. GOHMERT. Well, you made references in your report, even quoted from unnamed but numbered prosecutors and agents. Have you given us the names of those individuals?

Mr. HOROWITZ. So we have a request for them, and we are—

Mr. GOHMERT. So you haven't given us the names and now you can't decide whether you're going to give them to us?

Mr. HOROWITZ. Well, let me be clear. We engaged the committee on this. We went out, went to the FBI. The FBI raised the concern—

Mr. GOHMERT. Okay. The answer is no, you haven't given them to us.

So let me just tell you, we're here because prosecutors and agents at the DOJ have been biased and it may have and some of us be-

lieve you have laid out a case that bias did affect what was going on. And then you come in here and say: We're going to number these people, we're not going to let you know who they are.

But let me ask you this. Have you checked to see what normally wouldn't matter, how they voted in a Presidential election, except when you're investigating a nominee or a President? Do you know how they voted? Did they donate money to either of the candidates?

Mr. HOROWITZ. I have no idea how they voted, and I don't have an idea—

Mr. GOHMERT. So you're bringing this investigation in here based on or utilizing opinions and information provided by prosecutors and agents who may be just as biased as the people that we're investigating, we just don't know because we hadn't seen their texts, we hadn't seen their emails.

Normally, putting back on my felony judge hat, if a jury is going to make a decision on guilt or innocence of a felony of, say, a Presidential nominee, I'm going let them ask the jury panel: Did you vote for this person, did you give money to this person, do you have a bumper sticker for this person, did you put a sign in their yard, did you talk this person up?

And yet you're coming in here, you don't know if these people you were relying on actually had any biases like the very ones you were investigating.

Well, let me ask you this. Among the supervising special agents you referenced and the prosecutors, do you have any idea of the percentage that may have voted for Hillary Clinton?

Mr. HOROWITZ. We did not ask people who they voted for.

Mr. GOHMERT. Well, let me tell you, I know my friend Mr. Nadler had referenced, said, oh, you know, a big organization like that, probably just as many people supported Trump. I heard Newt Gingrich yesterday said the fact is 97 percent of the people in the DOJ that donated, don't to Democrats, 97 percent.

So there's a good chance that the people that you're relying on did support Hillary Clinton. We don't know because you haven't asked. It is important to know who the investigators are and the people you're relying on.

You mentioned in here, in the report, about Strzok and the relationship that he mentions with Judge Contreras. Do you know why Judge Contreras was recused, was removed from the Mike Flynn case?

Mr. HOROWITZ. I don't know why he was recused.

Mr. GOHMERT. Is that something you would investigate?

Mr. HOROWITZ. It's not within the scope of this investigation.

Mr. GOHMERT. I'm going reinforce the request for the identities of the supervising special agent, the prosecutors, and agents that were only identified by numbers and ask who they contributed to, if anyone, in the last two cycles.

Now, in your report you said: The SSA us that the FBI did not consider Pagliano as a subject or someone to prosecute in connection. But this guy set up the unsecured server, as I understood it. This is a guy that you had a laydown case, or the DOJ did, and yet they don't put—they don't use that leverage, they don't treat him like they did Manafort or any of these other people.

The DOJ had leverage. And this is where bias came into play. They didn't go after him. You said the SSA told us he believed Combetta should have been charged with false statements, yet nobody charged him. And why? Because bias played a role.

I understand when you have an investigation you like to give something, a little something to both sides, makes you feel good. You gave us hundreds of pages of bias, but the conclusion was just, I'm sorry, whether it was subconscious or conscious, you had a little throwaway to go to the Democrats.

But the fact is bias is all the way through this, and I'm sorry that you were not able to see that with what is very obvious from your evidence.

I yield back.

Chairman GOWDY. The gentleman's time has expired.

The gentleman from New York, Mr. Jeffries, is recognized.

Would you like to respond, Mr. Horowitz?

Mr. HOROWITZ. Mr. Chairman, can I just finish on the identity issue, just so the record is clear on that?

We were asked to—when we write a report we obviously comply with the Privacy Act and the other laws Congress has in place on who we can speak to and who we can't. That's the first step we do here. Much like what we lay out here with the criticisms of folks who didn't follow the rules and the norms and law, we followed that.

We then got the committee's request. Consistent with our support for transparency, we would be supportive of getting the committee that information. The FBI interposed an objection: Because these individuals work on and have worked on counterintelligence matters, that there might be a security or safety issue.

That's what we've talked to the committee about. We're happy to facilitate that issue with the committee and the FBI. But that's the objection that was raised—what's today, Tuesday—Monday, I think it was, by the FBI.

Mr. GOHMERT. Mr. Chairman, to clarify my request, it was not for anything to do with any counterintelligence. I don't want to know anything about that, just who worked on this matter.

Chairman GOWDY. I think the request is clear and his response is clear.

We're going to go to the gentleman from New York, and then we're going to go to the gentleman from Montana, and then we will break, Inspector General Horowitz, just so people can know what we're doing.

My friend from New York, Mr. Jeffries.

Mr. JEFFRIES. Thank you, Mr. Chairman.

Mr. Horowitz, we live in a democracy, not an authoritarian state. Is that correct?

Mr. HOROWITZ. That's correct.

Mr. JEFFRIES. And in your view, is it generally appropriate to begin to ask American citizens how they voted in a Presidential election or in any election for that matter?

Mr. HOROWITZ. In my view that's not a question we should be asking, certainly from my standpoint.

Mr. JEFFRIES. Okay. Thank you.

Special counsel's investigation into possible Russian interference with the 2016 election has resulted in 23 indictments, correct?

Mr. HOROWITZ. I don't know actually.

Mr. JEFFRIES. Twenty individuals have been indicted in connection with that investigation.

Mr. HOROWITZ. I'll accept your representation.

Mr. JEFFRIES. Okay. Three corporate entities have been indicted in connection with the special counsel's investigation, correct?

Mr. HOROWITZ. Again, I don't know as I'm sitting here, but I'll certainly accept your representation.

Mr. JEFFRIES. Special counsel's investigation into possible Russian collusion identified 75 different criminal acts, correct?

Mr. HOROWITZ. Same answer.

Mr. JEFFRIES. There have been five guilty pleas, true?

Mr. HOROWITZ. Same answer.

Mr. JEFFRIES. Trump's campaign manager Paul Manafort has been charged with conspiracy to defraud the United States, correct?

Mr. HOROWITZ. Same answer. I believe that's correct.

Mr. JEFFRIES. And Paul Manafort is now sitting in jail, correct?

Mr. HOROWITZ. That is correct.

Mr. JEFFRIES. And that's in connection with alleged witness tampering, true?

Mr. HOROWITZ. That's what I've read.

Mr. JEFFRIES. And Trump's former National Security Advisor, Michael Flynn, has pled guilty to lying to the FBI, correct?

Mr. HOROWITZ. That's my understanding.

Mr. JEFFRIES. His deputy campaign manager, Rick Gates, has been indicted on conspiracy to defraud the United States, true?

Mr. HOROWITZ. Again, I would accept your representation.

Mr. JEFFRIES. Okay. And George Papadopoulos, a former Trump campaign national security adviser, has pled guilty to lying to the FBI about his contacts with Russians during the campaign, correct?

Mr. HOROWITZ. I believe that's correct.

Mr. JEFFRIES. Now, former FBI Director James Comey initiated the criminal investigation into possible collusion between the Trump campaign and Russia, correct?

Mr. HOROWITZ. Actually I'm not sure who and precisely how it was opened.

Mr. JEFFRIES. Okay. But he was FBI Director at the time, true?

Mr. HOROWITZ. He was the FBI Director at the time.

Mr. JEFFRIES. And James Comey is a lifelong Republican, correct?

Mr. HOROWITZ. That I don't know.

Mr. JEFFRIES. Bob Mueller is the special counsel leading the criminal investigation into possible collusion between the Trump campaign and Russia, true?

Mr. HOROWITZ. He is now the special counsel, correct.

Mr. JEFFRIES. And Special Counsel Bob Mueller is a well-respected law enforcement professional, correct?

Mr. HOROWITZ. I'll speak for myself. I have respect for him.

Mr. JEFFRIES. He is a man of integrity, true?

Mr. HOROWITZ. That's my opinion.

Mr. JEFFRIES. And Special Counsel Bob Mueller is a lifelong Republican, correct?

Mr. HOROWITZ. That I don't know.

Mr. JEFFRIES. Now Rod Rosenstein is the Justice Department's deputy attorney general, correct?

Mr. HOROWITZ. Correct.

Mr. JEFFRIES. And in that capacity the deputy attorney general oversees the special counsel's criminal investigation into the Trump campaign, correct?

Mr. HOROWITZ. That's my understanding.

Mr. JEFFRIES. Now, Donald Trump, the Republican President, appointed Rod Rosenstein to that position of deputy AG, true?

Mr. HOROWITZ. Correct.

Mr. JEFFRIES. And Rod Rosenstein is a registered Republican, correct?

Mr. HOROWITZ. That I don't know.

Mr. JEFFRIES. Christopher Wray is the current FBI Director, correct?

Mr. HOROWITZ. Correct.

Mr. JEFFRIES. He was appointed to that position by Donald Trump, true?

Mr. HOROWITZ. Correct.

Mr. JEFFRIES. And in that capacity the FBI Director helps lead the criminal investigation into the Trump campaign, correct?

Mr. HOROWITZ. I'm actually not sure of that with the special counsel, how that plays out.

Mr. JEFFRIES. Okay. We think that he is involved.

FBI director Christopher Wray is a registered Republican, correct.

Mr. HOROWITZ. That I don't know.

Mr. JEFFRIES. For the last few hours we have sat in this hearing, and some of my colleagues, part of the Cover-Up Caucus, have attempted to peddle conspiracy theories that the investigation into the Trump campaign's potential criminality, where we were attacked by a hostile foreign power, is a witch hunt.

There is not a scintilla of evidence that a witch hunt exists right now. In fact, if any, individual connected to the 2016 Presidential campaign was victimized by prosecutorial misconduct, her name was Hillary Clinton.

The report that you produced, 500-plus pages, makes clear that the former FBI Director violated Department of Justice protocol on multiple occasions, most severely in July of 2016 with a public explanation of Hillary Clinton's conduct, recklessly calling it extremely careless, violating DOJ protocol, and then, of course, again in October of 2016, with 11 days prior to the Presidential campaign.

What are you guys complaining about? You know what happened. James Comey decided to play judge, jury, and executioner. And on October 28 he executed the Hillary Clinton campaign, killed her in Pennsylvania, killed her in Michigan, killed her in Wisconsin, and handed Donald Trump the Presidency; and at the same time decided to pardon the Trump campaign in the court of public opinion by refusing to confirm to the public the investigation that was taking place in the Trump campaign.

It's a phony, fraudulent, and fake argument. Stop peddling lies about a so-called Democratic witch hunt to the American people.

I yield back.

Chairman GOWDY. The gentleman from New York yields back.

The gentleman from Montana is recognized.

Mr. GIANFORTE. Thank you, Mr. Chairman.

Mr. Horowitz—over here, sorry—I appreciate the work you have done and continue to do on your ongoing investigations. I'd like to focus my short time with you on the improper interactions and leaking of information to the media.

On page 19 of your report you state that the FBI policy and regulations forbid the confirmation or denial and any discussion of an active investigation, except in limited specified circumstances. Is that correct?

Mr. HOROWITZ. That's correct.

Mr. GIANFORTE. Also, only the FBI Director, deputy director, associate deputy director, and other limited staff are authorized to speak to the media. Is that correct?

Mr. HOROWITZ. Yeah.

Mr. GIANFORTE. So why does the agency have such a policy? And could you briefly describe the consequences of not following it?

Mr. HOROWITZ. The agency has the policy because leaks harm cases, they can terribly damage an ongoing criminal investigation, and they harm people's reputations. No one should want to see anybody tarnished with mud, other allegations that are never charged, never proven.

Mr. GIANFORTE. So leaks are damaging?

Mr. HOROWITZ. Leaks are damaging to people and investigations.

Mr. GIANFORTE. Okay. So on page 430 of your report you state that the FBI policy limits employees who are authorized to speak to the media, but you found that that policy was widely ignored and that numerous FBI employees at all levels of the organization were in frequent contact with reporters. Is that correct?

Mr. HOROWITZ. Correct, yeah.

Mr. GIANFORTE. Further, your team identified instances where FBI employees received tickets to sporting events from journalists, went on golfing outings with media representatives, were treated to drinks and meals after work with reporters, and were guests of journalists at nonpublic social events. Is that correct?

Mr. HOROWITZ. Correct.

Mr. GIANFORTE. Some might consider such gifts as bribes. At the very minimum these are serious ethics violations.

In appendixes G and H you identify over 50 FBI employees who had over 300 interactions with reporters during the period you looked at. Is that correct?

Mr. HOROWITZ. Correct.

Mr. GIANFORTE. What evidence did you find that these 300 or so interactions and outings and meals and golf tournaments were authorized and in compliance with FBI policy?

Mr. HOROWITZ. It appears that most, many, were not, and that is precisely why I wanted to put this—make this public. We have this work ongoing, so I can't speak to any individual matter or issue, but I thought it was critical because of our concern as we do these reports on systemic issues that the public and policymakers



and the Department of Justice and the FBI itself understand what the challenge is. When we have to look at leaks and there are that number of contacts it makes it very, very, very challenging to figure out how it occurred.

Mr. GIANFORTE. So you noted that this leaking of information to the media was widely known within the organization and even played a role in decisionmaking.

Mr. HOROWITZ. And in addition here very concerning, correct, that a number of people made decisions based on concerns over what might be leaked.

Mr. HOROWITZ. And you note on page 429, quote: "We have profound concerns about the volume and extent of unauthorized media contacts by FBI personnel that have been uncovered during the review."

Mr. HOROWITZ. Correct.

Mr. GIANFORTE. So given the policy to limit contact with the media was very clear, knowledge of the practice of leaking was widespread, and the potential consequences great, what evidence did you find of any disciplinary action against violating employees?

Mr. HOROWITZ. Well, when leaks were, in fact, uncovered there was discipline. Our concern was that the contact alone wasn't being addressed effectively and that that's where the FBI needs to focus on and that's what Director Wray has said publicly that he will look at.

Mr. GIANFORTE. So based on your investigation, how many people have been referred to investigation in possible code conduct violations?

Mr. HOROWITZ. I'm not sure that number, but I can assure you that when we find contacts, even when we can't prove the leak going forward, when we find contacts, even if we can't prove that someone actually leaked, but if they contacted in violation of policy, we will refer that to OPR for their investigation.

Mr. GIANFORTE. Okay. And at this point how many FBI or DOJ employees have been fired for violating the leaking policy or accepting improper gifts?

Mr. HOROWITZ. I would have to get back to you on that. I don't know off the top of my head.

Mr. GIANFORTE. Okay. It is very important, given the extent of your findings.

And finally, the real issue here is can the American people trust that these individuals will be held accountable. And can we count on you and your organization in your role as inspector general to ensure that this kind of improper behavior does not persist?

Mr. HOROWITZ. I can. And I will say that we will, to the extent the law permits us, make public our findings when we can make them public.

Mr. GIANFORTE. Thank you.

And I yield back.

Chairman GOWDY. The gentleman yields back.

Mr. Inspector General, how long of a break would you like?

Mr. HOROWITZ. Long enough to get a sandwich or a bite to eat.

Chairman GOWDY. Is 45 minutes enough?

Mr. HOROWITZ. Plenty of time.

Chairman GOWDY. Why don't we reconvene at 1:45?

With that, we're in recess.

[Recess.]

Chairman GOWDY. The committee will come to order.

The gentlelady, Mrs. Watson Coleman, is recognized for 5 minutes of questions.

Mrs. WATSON COLEMAN. Thank you very much, Mr. Chairman.

And good afternoon to you, Mr. Horowitz. Thank you for your testimony. Thank you for the work you've done. Thank you for the investigation that you've overseen here today, and thank you for the report that you've made.

I'm very struck by the report that you made: 500 pages, 17 months of investigative work, 1.2 million documents, including over 100,000 text and instant messages, and interviewed more than 100 witnesses, many on multiple occasions.

Am I correct that your findings, as it relates to this Clinton email investigation, is that the decisions that were made, the findings that were made, the investigations that were conducted were not negatively—the outcomes were not negatively impacted by the biases of any individuals?

Mr. HOROWITZ. Correct. The decision was—our conclusion was that the decision of the prosecutors was not the result of political bias, based on the evidence we reviewed.

Mrs. WATSON COLEMAN. Thank you.

And I am very disturbed about the behavior of many people in the FBI, starting with Mr. Comey. I find his ego exceeded his ability to discern right from wrong. I am very concerned about those individuals that had negative things to say about either one of the candidates. And I am very concerned about what I think was a failure of the leadership in the Justice Department, who seems to me to have been intimidated by Mr. Comey and not pushing back on him and not holding him accountable.

Having said that, I'm tired of this discussion.

I thank you for your findings.

I would like for my committee, the Oversight Committee, as well as the Judiciary Committee, of which I get the chance to sit today but do not belong to, to look at the issues that are impacting the safety and security of our Nation, our reputation, and whether or not we should be using tax dollars to try to figure out why the President of the United States of America, his administration are doing things that are so un-American as to rip children and babies from the hands and the hearts of their parents and putting them in cages.

We've seen in our history two times in particular that we should be so offended by. The first was slavery, when we ripped families apart and wouldn't let parents be parents to their children or wives to their husbands, and then during the World War, when we took Japanese Americans and we put them in internment camps.

We have seen what this kind of behavior has done in the world when we saw what Germany did to the Jews. And now we're doing it in the United States of America.

And I need to understand why my colleagues, who've been elected to Congress to protect and preserve this Constitution, this Republic, and this Nation, is sitting silently by while we consistently observe this un-American activity on behalf of this administration,

coming from this administration, and their complicitness in this and their silence.

I want to know why we haven't used our taxpayer dollars and our responsibility here to look at the constant violations of the Emoluments Clause by this President and his family and how they consistently are intermingling their desires to get richer and richer and richer with our safety and security with other nations.

I want to understand why my colleagues here in this room, in this committee, in the Judiciary Committee, and even in Congress are silent as we become enemies to our friends and friends to dictators.

Who are we? We are better than that.

I want to say that, if we were going to utilize our good time, our communication to the Nation, our exploration of what's right and what's wrong, what's going on, then we've got lots of opportunities, from an arrogant, dismissive Secretary of Homeland Security who has not a heart in her to a President who doesn't even read the material before him.

So I am feeling very discouraged by where this committee has taken us all day long. I am very discouraged by what my colleague Mr. Hakeem Jeffries referred to as the antics of the cover-up caucus.

And before I yield back, I just want to say that we are the people for whom this government has been organized. It is of us, by us, and for us. And the people must have the final word here. Pay attention.

I yield back.

Chairman GOWDY. The gentlelady yields back.

The gentleman from Arizona is recognized, Dr. Gosar.

Mr. GOSAR. It's good to see you, Mr. Horowitz. Sorry you had to hear some of the ranting and raving and people talking out of both sides of their mouth. I mean, we can bring up abortion. And, oh, my God, how is that not the ultimate in hypocrisy?

But I'm going take a little different tact. I want to talk about the foreign access to the Clinton email server.

Mr. HOROWITZ. Uh-huh.

Mr. GOSAR. So what difficulties did the FBI have during the intrusion analysis process of the capacity of the servers?

Mr. HOROWITZ. Well, in terms of difficulties, what they were trying to do is understand who had intruded, if at all. And one of the challenges they had was getting the servers themselves and, obviously, recreating what was on the servers and what emails and evidence trafficked through it, but also the fact that foreign adversaries might not leave footprints if they did attack the server.

Mr. GOSAR. Right, but we didn't have all of the server materials and that.

Mr. HOROWITZ. Correct.

Mr. GOSAR. So that leads me to my next question. So how did the FBI square its lack of the complete data with a definitive statement on whether an adversary compromised Clinton's server or system?

Mr. HOROWITZ. Well, I think, you know, one of the issues was trying to understand Director Comey's statement where he both—in his July 5th statement—indicated that there wasn't evidence of

a—that they had uncovered evidence of an intrusion, but they wouldn't necessarily know that either. And that was a question we had. And, as we lay out here, they explained to us the steps that they took, and we questioned the individuals who were involved in the intrusion analysis.

Mr. GOSAR. Well, that kind of gets me back to the point. So why wouldn't you ask any and all sources, like the DNI, the military, CIA, special ops, any remote centers, if they had hacked into the server during this time? I mean, because it was offline, no one really realized what this really was. This was off—the server was here. So we could ask a number of questions in regards to that opportunity of how they looked at that server.

And the reason I say that is, when I asked the question last Thursday as to who looked at that server, I was told that it was an individual from the FBI. So, to me, that's bothersome, because once again we saw upper-echelon FBI with problems with this aspect.

And I'm going to come back to another aspect here, and that is, there was a megadata abnormality that happened with Mr. Strzok, and Mr. Strzok blew it off.

So my point is, why wouldn't we go outside the FBI to look at the servers and this data?

Mr. HOROWITZ. Let me—my understanding was there was some contact with other agencies, but I'd have to go back and just refresh my—

Mr. GOSAR. I'd love to know exactly who that is and who they were, because my understanding is that there's something peculiar in that regards. There were other people that noticed something totally different than what the findings that you're showing—

Mr. HOROWITZ. Right.

Mr. GOSAR. —okay?

Now, I want to go back to this comment in regards—who told Comey that “reasonably likely” was the proper way to explain the results for the intrusion analysis?

Mr. HOROWITZ. I don't recall, as I sit here. I'd have to go back and take a look at the report.

Mr. GOSAR. Do you feel that you delved into that issue deep enough to have a thorough conversation on that?

Mr. HOROWITZ. I think, to be clear, what we did was look at what the FBI did, as opposed to do the intrusion analysis ourselves, where, you know, as an IG, inspector general's office, we don't do an intrusion analysis. We're looking at what the FBI did—

Mr. GOSAR. Right.

Mr. HOROWITZ. —to effect that.

Mr. GOSAR. Well, I mean, I'm going to get back to Mr. Strzok. I mean, so he's—my understanding is he responded to the “reasonably likely” formation when providing edits back—

Mr. HOROWITZ. Right.

Mr. GOSAR. —to Comey, did he not?

Mr. HOROWITZ. He did.

Mr. GOSAR. So, once again, there's a common thread that we're seeing here with Mr. Strzok, not just in the parsing of words but also in megadata anomalies, as well as looking at sources within the data.

So is Strzok's edit advice to Comey not a clear example of where Strzok's bias is not publicly sound—to sound not too harsh on Clinton and change the public's perception on that?

Mr. HOROWITZ. Well, it's certainly a place where he weighed in and had an effect on the statement and had an impact on what ultimately was said publicly by Comey about whether or not there was evidence of intrusion.

Mr. GOSAR. Well—and I'll get back to reiterating. I'd love to know all the sources and actually have the server and these devices looked at by other groups, particularly some hotshots within DOD, DNI, to really look at this aspect, because I think there's more to this story than meets the eye. It seems to me that I'd want different validation than just the FBI.

Thank you, Mr. Horowitz.

Mr. NADLER. Mr. Chairman?

Chairman GOWDY. For what purpose does the gentlemen from New York seek recognition?

Mr. NADLER. To make a point of order.

Chairman GOWDY. State your point of order.

Mr. NADLER. Mr. Gosar, a moment ago, referred to a member on our side of the aisle as, quote, "ranting and raving," speaking out of both sides of her mouth. I ask that his words be taken down.

Mr. MEADOWS. So, Mr. Chairman, I think it would do us all good to make sure that we have personalities that are not involved in this. And I think it really degrades the overall importance of this issue as we bring personalities in, whether it be with other Members or others in the administration. So I think it's important, maybe a gentle reminder would be appropriate.

Mr. NADLER. Mr. Chairman, I would insist on—I would insist either that his words be taken down or that there be an apology.

Chairman GOWDY. Well, I'm not going to instruct the gentleman from Arizona to apologize any more than I am other Members who today have also said things that came precipitously close to the line.

Mr. NADLER. I don't think anybody—

Chairman GOWDY. I will ask the gentleman from Arizona—if I may continue. If I may continue.

Mr. NADLER. All right.

Chairman GOWDY. I will ask the gentleman from Arizona if he wishes to rephrase or restate his comments in any way or to make clear that he wasn't directing this at his colleague.

Mr. GOSAR. Thank you, Mr. Chairman. I was acknowledging that the other side has been ranting and raving about issues that are not pertinent to today's hearing. And that's what I was confronting, not just one individual person.

Chairman GOWDY. So it was a general comment as opposed to one directly—specifically directed at an individual colleague?

Mr. GOSAR. No.

Chairman GOWDY. Does the gentleman from New York still wish to—

Mr. NADLER. Well, as long as it's clear that he was talking in general political terms and not about an individual, okay.

Chairman GOWDY. I think it's pretty clear.

We will now recognize the gentleman from the great State of Texas, Judge Poe.

Mr. POE. Thank you, Mr. Chairman.

Thank you, Mr. Horowitz, for being here. You probably think you are in the lion's den. I don't think you are. You're handling the questions quite well.

As the chairman alluded to, I'm a former judge, a former prosecutor like you. And the justice system, we strive—whether we're a prosecutor, defense attorney, judge, we strive for the goal of fairness. Whatever happens, whether it's a hearing on a search warrant, whether it's a criminal case, we strive for fairness.

And things must not only be fair in the Justice system, they've got to look fair. And if they don't look fair, that's, to us in the system, like you, just as bad as if it weren't fair.

Prosecutors, when I was one, I had the rule, as you have, that prosecutors must seek justice, not convictions. That's our role when we're a prosecutor. I tried a lot of cases, and lawyers always wanted to know from the prospective jurors if they're biased for or against one side. If they're biased, it's happy trails, they can't serve on the jury.

So, in this case—and it may not be an exact analogy, but here we have a jury taking place on a case, and we find out five of the jurors are biased for whoever they're investigating or hearing a criminal case. Neither side would tolerate that. They could not be involved in that proceeding. And, in some cases, if we're proceeding in a trial and the jury's biased from the outset, there's a mistrial. We may try it again, or it may be dismissed with prejudice, depending on the severity of the bias.

But, in this case, we've got two named individuals, Page and Strzok. We know who they are. We know what they've done. All of the things that you've mentioned.

But there are also three other unnamed biased people based on your investigation, one lawyer and two other FBI agents. What are their names?

Mr. HOROWITZ. So, as I mentioned earlier, Congressman, the request has come in from the committee to give their names. We went to the FBI. The FBI raised a concern because they work on counterintelligence matters. And we are working with the committee to try and get the information you've asked for to the—

Mr. POE. So the FBI does not want their names released.

Mr. HOROWITZ. Correct.

Mr. POE. And so the FBI makes the decision as to who those other three biased people are, and they say, we're not telling you because of some other internal reason on what they also work on, counterintelligence—

Mr. HOROWITZ. Right.

Mr. POE. —whatever that means to whoever is hearing it.

So my point is we let the FBI determine not to tell us who the other three biased people were in this 500-page investigation that we all now have. Does that seem a little odd to you? I'm just asking your opinion.

Mr. HOROWITZ. Yeah, no, and there's a legitimate request, reasonable request from the committee, and I don't think it is a final decision at this point from the FBI or, in my view, a final decision.

It's something I'm looking forward to working with the committee to try and get the answers to, because I completely understand what the interest is of the committee in getting that information.

Mr. POE. Well, it just seems to me that, in the name of fairness, we ought to know the names of those three people who you determined were biased in this investigation that has taken place, this 18-month investigation that you have been working on. I think that's in fairness, and I think the American public would like to know who they are.

I think in this issue, changing gears a little bit to Comey, he has done a great disservice to the reputation of the FBI. I mean, when FBI agents would walk in my courtroom back in Texas, you know, the jury wanted to stand up and say the pledge, because they just trusted what they were going to say. I think now those days are over, because the investigation must not only be fair, it has to look fair, and it no longer looks fair, as to what the FBI is doing.

Thank you, Mr. Chairman.

Chairman GOWDY. The gentleman from Texas yields back.

The gentleman from Tennessee is recognized.

Mr. COHEN. Thank you, Mr. Chair.

How many years have you known Jim Comey?

Mr. HOROWITZ. He was in the U.S. attorney's office when I started in 1991 there. So sometime after I started in 1991 I, obviously, met him.

Mr. COHEN. How many years do you think y'all worked in the same area? Eight years? Ten years?

Mr. HOROWITZ. No, no, no. He left, I think, within a year or 2 of my arriving to come down to Virginia to work in the U.S. attorney's office there. I'd have to go back and try—

Mr. COHEN. And then, in your position at Justice, he was at FBI, so you had—

Mr. HOROWITZ. When I became IG, a year later he became the FBI Director.

Mr. COHEN. Okay. So you've known him long enough to have an idea about what his reputation for truth and veracity was among other members of the Justice Department and the FBI? Is that accurate?

Mr. HOROWITZ. Yes.

Mr. COHEN. And what was his the reputation for truth and veracity?

Mr. HOROWITZ. He had a very strong reputation.

Mr. COHEN. In your report, do you ever say at any point that Jim Comey lied?

Mr. HOROWITZ. We do not.

Mr. COHEN. Do you know of any time when Jim Comey has lied?

Mr. HOROWITZ. I can't think of any as I sit here.

Mr. COHEN. So when President Trump said there's not a bigger—a person who's told more lies in the world than Jim Comey, you would disagree with that?

Mr. HOROWITZ. I'm not going to answer what other people's views are. I think I can only speak to what my interactions with him were—

Mr. COHEN. Thank you.

Mr. HOROWITZ. —in my capacities.

Mr. COHEN. I know that your report basically said that Jim Comey was exceedingly careless in coming forward before the election with his reportage of the renewal of the investigation of Hillary Clinton and the laptop and Anthony Weiner but that there was no malicious intent. Is that accurate?

Mr. HOROWITZ. As to Mr. Comey, we didn't find any malicious intent.

Mr. COHEN. And what he did could have possibly affected the election. You don't know if it did or it didn't, but it could have.

Mr. HOROWITZ. I have no idea.

Mr. COHEN. But it could have.

And he also could have gone into the Trump/Russia investigation, which could have affected the investigation, and he didn't. Is that correct?

Mr. HOROWITZ. When you say "go into," I'm sorry—

Mr. COHEN. He could have let the public know—

Mr. HOROWITZ. Oh.

Mr. COHEN. —that there was such an investigation.

Mr. HOROWITZ. The only thing I would say is he did not do that—

Mr. COHEN. Right.

Mr. HOROWITZ. —which was consistent with policy.

Mr. COHEN. Some of the attacks were made on your decision not to prosecute or the Justice's Department's decision not to prosecute Secretary Clinton, and they stem from the Justice Department and the FBI's interpretation of the legal statute and term "gross negligence." The Justice Department and FBI interpreted the statute to require deliberate intent, and they agreed there was simply no evidence in the Clinton case.

And your report examined this and stated, "We found this interpretation of section 793(f)(1) was consistent with the Department's historical approach in prior cases under different leadership, including the 2008 decision not to prosecute former Attorney General Alberto Gonzales for mishandling classified documents."

Mr. Horowitz, did you find the Department's prosecutors investigating Secretary Clinton considered both the caselaw and the Department's previous decision to decline the prosecution of Mr. Gonzales?

Mr. HOROWITZ. Yes.

Mr. COHEN. Can you explain to us a little bit about the decision not to prosecute Alberto Gonzales and how that was similar to or parallel to Secretary Clinton?

Mr. HOROWITZ. Well, I think the issue there—and I'd have to go back and refresh myself on the Gonzales case—but it was the fact that it wasn't being sent to a third party who—classified information wasn't being provided to a third party, and some of the other factors overlapped with the factors in this matter, according to the prosecutor's assessment.

Mr. COHEN. The FBI has been referred to in somewhat disparaging terms since this report. Did your report find that the rank and file of the FBI were at all guilty of bias?

Mr. HOROWITZ. No, not at all. In fact, as we lay out in the conclusion here, they worked hard to create a strong reputation, and, as



we know, conduct like this creates such harm to that reputation that's been built up that that's why it's, in part, so important to address and to avoid having this kind of activity occur.

Mr. COHEN. Mr. Chairman Gowdy, my friend, said that the confidence in our system of law enforcement and public prosecutions is important to its confidence in our government and the rule of law, and I agree with him.

Would a statement to say that the FBI was a den of thieves contribute to the soured climate that we have in this country towards law enforcement and the rule of law?

Mr. HOROWITZ. You know, Congressman, I'm going to stick to what we concluded in our report, and others can assess what they think this—

Mr. COHEN. Is there a den of thieves at the FBI?

Mr. HOROWITZ. We—in this investigation or any others we've done, we've not identified a den of thieves.

Mr. COHEN. I thank you for your service and yield back the balance of my time.

Chairman GOWDY. The gentleman from Tennessee yields back.

The gentleman from Illinois is recognized.

Mr. KRISHNAMOORTHY. Good afternoon, Mr. Horowitz.

Mr. HOROWITZ. Good afternoon.

Mr. KRISHNAMOORTHY. I just want to go through some things.

Isn't it true that, regarding the FBI's investigation of—

Mr. COHEN. Mr. Chairman, I think the gentleman's mic's not on.

Mr. KRISHNAMOORTHY. Do I get 10 more seconds?

Chairman GOWDY. Absolutely not.

Mr. KRISHNAMOORTHY. Mr. Horowitz, isn't it true that, regarding the FBI's investigation of Hillary Clinton's email servers, also called the Midyear review, your report found, quote/unquote, "no evidence" that the conclusions of the Department of Justice prosecutors were affected by bias or improper considerations?

Mr. HOROWITZ. Correct.

Mr. KRISHNAMOORTHY. And isn't it true that the report found that decisions made during the 2016 campaign Midyear review were, quote/unquote, "based on the prosecutors' assessment of the facts, the law, and past Department practice"?

Mr. HOROWITZ. Correct.

Mr. KRISHNAMOORTHY. Now, turning now to Agents Strzok and Page, it is true that your report says that their actions brought discredit to themselves, correct?

Mr. HOROWITZ. Correct.

Mr. KRISHNAMOORTHY. However, it's also true that you, quote/unquote, "did not find documentary or testimonial evidence" directly connecting these political views that these employees expressed in their text messages and instant messages to the specific investigative decisions that you reviewed.

Mr. HOROWITZ. Correct.

Mr. KRISHNAMOORTHY. Now, unpack that for them. How could it be that these two individuals who texted back and forth—and I reviewed hundreds of these texts. They're unprofessional. They say bad things about Donald Trump. They say bad things about Hillary Clinton. If they knew me, they'd say bad things about me too, I'm sure.

How could it be that these two individuals, who were tainted by this political bias, could have done what they did and yet you say that the ultimate decisions made by the prosecutors were not tainted by political bias?

Mr. HOROWITZ. So the reason and how we got to our conclusions was by looking at all the records of all the individuals involved in those specific decisions we looked at as well as the prosecutors' ultimate decision. And going through those records, the question was, was the biased evidence by those individuals translated into action by what turned out to be, in most instances, other people—prosecutors—

Mr. KRISHNAMOORTHY. Oh, so other people were involved. Is—

Mr. HOROWITZ. —others that were involved.

Mr. KRISHNAMOORTHY. —that what you're saying?

Mr. HOROWITZ. Correct.

Mr. KRISHNAMOORTHY. Oh, so it wasn't just Strzok and Page who called all the shots on this investigation.

Mr. HOROWITZ. Certainly as to the decisions we looked at pre-July. Again, I'm separating out the October events because, in that instance, Mr. Strzok was a key decision-maker.

Mr. KRISHNAMOORTHY. Okay. So let's unpack this. There's more than two people involved here investigating the Hillary Clinton email server situation. How many other people were involved?

Mr. HOROWITZ. My understanding, there was somewhere over a dozen. So whether it was in the 15 or so range—I don't have a precise number, but it was certainly in that 10 to 15, 20 range, as I understand.

Mr. KRISHNAMOORTHY. Oh, wow. So as many as 20 people could have been involved in basically making decisions of this group. And what you're saying is that these 2 people, though they personally may have been tainted by political bias, did not railroad the other 20 into making a decision that was politically tainted.

Mr. HOROWITZ. That's my—that's—in looking at those decisions we're talking about, that's precisely the case.

Mr. KRISHNAMOORTHY. Got it.

Mr. HOROWITZ. There was either a broader team decision or the prosecutors, not the agents, who made the decision.

Mr. KRISHNAMOORTHY. Got it. Got it.

Now, let me take you to another point. You would agree with me that Jim Comey, although he did announce that there was an investigation into Hillary Clinton, did not announce any investigation into Donald Trump, correct?

Mr. HOROWITZ. In October—in that fall period, he did not announce the ongoing Russia investigation or, for that matter, as I said, the Clinton Foundation investigation.

Mr. KRISHNAMOORTHY. Correct.

Now, Strzok and Page, if they wanted to really tank Donald Trump, the way that some of my colleagues assert that they wanted to do, could have leaked that this investigation was happening. But you did not uncover any evidence that Strzok and Page did that, did you?

Mr. HOROWITZ. We did not uncover evidence that they disclosed the Russia investigation. And that was one of the arguments their lawyers made as to their conduct.

Mr. KRISHNAMOORTHY. In fact, there's no evidence in your report that anybody leaked evidence of an ongoing investigation into Donald Trump and Russia, correct?

Mr. HOROWITZ. We didn't touch on the Russia investigation in this. This was focused on the Clinton email investigation. I will say that, obviously, we're looking at the leak question. It could be a broader question, depending on what we find.

Mr. KRISHNAMOORTHY. Sure. But in this report—

Mr. HOROWITZ. This report does not reference that.

Mr. KRISHNAMOORTHY. Correct. That's what I thought.

Thank you so much.

Mr. HOROWITZ. Yep.

Chairman GOWDY. The gentleman yields back.

The gentleman from Tennessee, Dr. DesJarlais, is recognized.

Mr. DESJARLAIS. Thank you, Chairman.

And thank you, Mr. Horowitz, for your time and testimony here today.

You did determine in your report that there was political bias against President Trump evidenced by the Strzok-Page text, correct?

Mr. HOROWITZ. Correct.

Mr. DESJARLAIS. Okay. These same agents assigned to the Clinton investigation were then assigned to the Russian probe, correct?

Mr. HOROWITZ. Correct.

Mr. DESJARLAIS. Do you think that this probe, the Russian probe, then, could potentially have been tainted by the same political bias?

Mr. HOROWITZ. I'm not going to opine on that, Congressman. We focused in this review on the Midyear investigation. As you know, we have the ongoing work that we're doing. So I'll defer on that, if I could.

Mr. DESJARLAIS. Okay. But it's reasonable, then, if you found agents with political bias against the President that were then assigned to the Russia probe, that certainly that is something that needs to be looked at.

Mr. HOROWITZ. It's certainly a reasonable question and something, as I said, that we're looking at in our ongoing review.

Mr. DESJARLAIS. Now, I assume you watch the news.

Mr. HOROWITZ. Occasionally. I try not to, actually, as much as perhaps I have in the past, but—

Mr. DESJARLAIS. Do you believe that there is anti-Trump bias in the news, not as inspector general but just as a private citizen?

Mr. HOROWITZ. I'm not going to opine on that.

Mr. DESJARLAIS. You don't have an opinion as a private citizen?

Mr. HOROWITZ. I might have a private citizen opinion—

Mr. DESJARLAIS. But you won't in a hearing.

Mr. HOROWITZ. No.

Mr. DESJARLAIS. Okay. Would it surprise you to know that 90 percent of the mainstream media coverage is anti-Trump?

Mr. HOROWITZ. Again, I wouldn't weigh an opinion on that, Congressman.

Mr. DESJARLAIS. Okay. Would it be safe to assume that FBI agents and attorneys watch the mainstream news?

Mr. HOROWITZ. I assume the public at large does, and since they're a part of that, I assume they do.

Mr. DESJARLAIS. Okay. So I guess what I'm getting at, wouldn't it be fair to conclude that some of the biased coverage has impacted their ability to fairly conduct their investigation?

Mr. HOROWITZ. I couldn't draw that—I wouldn't be able to draw that conclusion, sitting here, Congressman.

Mr. DESJARLAIS. Okay.

While your report highlighted some of the most blatant anti-Trump sentiments within the FBI, it concerns me that this problem is more pervasive than we think. The FBI is oath-bound to remain neutral and enforce the law impartially and fairly. How can we accomplish this when there is—when there are agents that are actively biased against our sitting President?

Mr. HOROWITZ. Look, I think, Congressman, you know, having been an AUSA, worked with agents, tremendous agents, at the FBI and other law enforcement agencies, the one thing I thought we all understood is you're entitled to be and you should be part of the public, the government, the democracy that we live in, but when you get to the work and to your office, you leave your views outside the door when you walk through, and you just focus on your work, the law, the evidence. And that's what you focus on.

Mr. DESJARLAIS. Knowing what you know, though, if you were the subject of the investigation and knowing that the people you just investigated were the ones doing the work, would you not be concerned?

Mr. HOROWITZ. Look, I think, again, it goes to what I just said. There are—I was a public corruption prosecutor, and the key, the most important thing—I supervised our unit. People who were working on those cases needed to leave whatever their views were outside the office. They needed to come in and be committed to focusing only on the facts and the law.

Mr. DESJARLAIS. But that didn't happen in this case. That didn't happen, at least with multiple agencies—

Mr. HOROWITZ. Well, certainly with regard to what occurred in October, we were concerned that that did not happen.

Mr. DESJARLAIS. Okay. Well, I thank you for your time.

I would like to yield the balance of my time to our chairman, Mr. Gowdy.

Chairman GOWDY. Thank you, Dr. DesJarlais.

Mr. Horowitz, I'm trying to understand, drafts of the Comey memos indicated that the missing element was the failure to expose the material to potentially hostile actors. And then I'm going back to his press conference and his subsequent testimony where he said the missing element was intent.

Mr. HOROWITZ. Right.

Chairman GOWDY. So I want you to put on your old hat. It's rare, when your job is to prove intent, that you have a defendant or a suspect who walks in and has a card out and says: To whom it may concern, I would like to admit that I had the intent to commit a violation of each and every essential element of the offense charged beyond a reasonable doubt.

I've never had that happen. Have you?

Mr. HOROWITZ. I can't recall that happening as an AUSA.

Chairman GOWDY. You have to prove intent with circumstantial—usually it's circumstantial evidence. Rarely do you have direct evidence of intent. Is that fair?

Mr. HOROWITZ. That's fair, although there are times people do things on camera and admit things—

Chairman GOWDY. They do.

Mr. HOROWITZ. —in a wiretap that gives you pretty good evidence of intent.

Chairman GOWDY. Those don't go to trial that much. Sometimes those plead.

Mr. HOROWITZ. Those plead.

Chairman GOWDY. When you're going to trial, the best you can have sometimes is circumstantial evidence.

Mr. HOROWITZ. Sometimes that is the best you have.

Chairman GOWDY. All right. Such as false exculpatory statements, false nonexculpatory statements, concealment, destruction of evidence, knowledge, absence of mistake, notice of wrongdoing. I can't think of a better source for that potential circumstantial evidence than the actor, the target, the defendant himself or herself, can you?

Mr. HOROWITZ. That's usually where you find some of your best evidence.

Chairman GOWDY. All right. I'm out of time.

If any of my colleagues give me any more of their time, I want to close the loop on how to prove this missing element and whether or not, in your judgment, in this case, a fulsome effort was made when they did interview the target.

With that, the gentleman from Georgia, Mr. Johnson.

Mr. JOHNSON OF GEORGIA. Thank you, Mr. Chairman.

Thank you.

Mr. Chairman, between Republican-led committees, there have been numerous hearings on the topic of Hillary Clinton's emails. Hillary Clinton has been the gift that Republicans can't get enough of.

The American people will recall that, during the run-up to the 2016 Presidential election, House Republicans held numerous hearings about then-Presidential candidate Hillary Clinton. We remember what House Majority Leader Kevin McCarthy admitted when he told a reporter, quote, "Everybody thought Hillary Clinton was unbeatable, right? But we put together a Benghazi special committee, a select committee. What are her numbers today? Her numbers are dropping. Why? Because she's untrustable," end quote.

Well, Mr. Chairman, today finds us again mired in another hearing about Hillary Clinton's emails. And instead of holding hearings to muck up Hillary Clinton, today we're holding this hearing hoping that the American people are distracted from important issues of today.

As chants of "Lock her up" fade from our memories, our consciences are being disturbed as we hear the ProPublica footage of the little children crying, "I want my mama," "I want my daddy." As I prepared for this hearing last night, all I could hear were the cries of those children being held in private, for-profit jails crying out for their parents.

Mr. Chairman, I think we should have hearings about how the Trump administration is deporting their parents as those children remain wards of this country. And we also can be looking into issues like what was reported last week, the New York attorney general's investigation and criminal referral to the Department of Justice.

The same day that the OIG report came out, New York attorney general, his office—or her office sued Donald Trump, his children, and the Trump administration, with alarming allegations about flagrant violations of the law and potentially criminal acts.

The New York attorney general found, and I quote, "In sum, the investigation revealed that the foundation was little more than a checkbook for payments to non-profits from Mr. Trump or The Trump Organization. This resulted in multiple violations of State and Federal law because payments were made using foundation money regardless of the purpose of the payment. Mr. Trump used charitable assets to pay off the legal obligations of entities he controlled, to promote Trump hotels, to purchase personal items, and to support his Presidential election campaign."

The complaint included images of emails from campaign staff, such as Corey Lewandowski, directing political spending out of the foundation's accounts. It included a note, clearly in the President's own handwriting, directing foundation money to be used to settle a lawsuit against Mar-a-Lago, his country club estate for the ultra-rich.

This is simply stunning. The New York attorney general alleged that there were, quote, "multiple violations of State and Federal law," end quote. The New York attorney general sent an official criminal referral letter to the IRS and also to the Federal Election Commission to investigate tax and election law violations. The letter to the FEC copied an official from the Public Integrity Section of the Criminal Division of the Department of Justice.

Now, more than ever, we need strong and independent oversight to ensure that Federal law enforcement and prosecutors can do their job free of political pressure. Based on the President's past statements and actions, I have serious concerns that he or his political allies will attempt to make this new potential criminal case go away.

And so I think we will once again need to rely on your office, Mr. Horowitz, for that oversight. Can you commit to us here today that your office will look into this criminal referral to ensure that there is no improper outside influence—or inside influence, for that matter—including any attempts from the President or his staff to shut down an investigation into the conduct of the President or his family?

Mr. HOROWITZ. So certainly matters that are within our jurisdiction and our authority we're prepared to conduct appropriate oversight on. There are some things that will be within our jurisdictions, some things that are not within our jurisdiction, and I think it really depends ultimately on what comes to us in terms of a referral or not, if and when one does come.

So that's what I can tell you in a hypothetical. But that's why we're here as Inspector General Office, and if it's within our jurisdiction, we will obviously take any referrals and look at it carefully.

Mr. JOHNSON OF GEORGIA. I thank you for your exhaustive investigation in this report. I think you've done a great job, and I thank you.

And, with that, I yield back.

Chairman GOWDY. The gentleman from Georgia yields back.

The gentleman from Kentucky is recognized.

Mr. MASSIE. Thank you, Mr. Chairman.

Mr. Horowitz, did Lisa Page work on the Hillary email investigation?

Mr. HOROWITZ. She did.

Mr. MASSIE. Did she work on the Russian investigation?

Mr. HOROWITZ. She did.

Mr. MASSIE. Did she work on the Mueller investigation?

Mr. HOROWITZ. Yes, she did.

Mr. MASSIE. When you or your people asked her why she used her FBI phone for personal purposes, what did she tell you was the predominant reason?

Mr. HOROWITZ. Well, as she indicated, she and Mr. Strzok were having a relationship, and they were using the phone to communicate with each other for that purpose.

Mr. MASSIE. To cover up the affair, to keep their spouses from knowing?

Mr. HOROWITZ. Yeah.

Mr. MASSIE. So she texted something that you asked her about. This is an April 1st, 2016, text. I want you to tell me why she told you she sent this text.

She said, "So look, you say we text on that phone when we talk about hillary because it cant be traced, you were just venting bc you feel bad that youre gone so much but it cant be helped right now."

Why did she—what did she tell you was the reason she sent that to Strzok?

Mr. HOROWITZ. The—she told us this was an example—and I'm looking at our report here—why she had used the phone to keep this information from their spouses, and this was an example of that.

Mr. MASSIE. And, in this text, she said she was coaching Strzok, basically, on what to tell his wife, correct?

Mr. HOROWITZ. Correct.

Mr. MASSIE. So she was telling him how to lie. She was using a government phone to tell her husband how to cover up an affair, coaching him on how to lie, and using the pretext of this investigation to carry out this affair with her coworker.

So she coached her coworker and lover on how to lie to his wife, used government resources to do it and the pretext of this investigation to conceal what they both knew was immoral behavior. Did that give you any reason to doubt her testimony to you in the interviews?

Mr. HOROWITZ. I think, frankly, as to all the individuals, when we go in, we come in with a healthy skepticism, as you would expect us to. And I think we, you know, treated her no differently than we would treat others in terms of going in and looking. And I think, you know, as you can see here, we expressed our skepticism of some of the explanations we got.

Mr. MASSIE. Your report's really good at uncovering bias, so I want to talk about some bias that has been uncovered by your report that's not being covered in the news. So I want to read you five texts.

March 12th, 2016, Page forwarded an article about a conservative candidate in Texas, stating, "What the f is wrong with people?" Strzok replied, "That Texas article is depressing as hell. But answers how we could end up with [Trump as President]."

August 26th, 2016, Strzok sends to Page, "Just went to a southern Virginia Walmart. I could SMELL the Trump support."

August 29th, 2016, Agent 5 to Agent 1: "I would rather have brunch with Trump and a bunch of his supporters like the ones from Ohio that are retarded."

October 28th, 2016, Agent 5 lists things that he's sick of, and he lists on there the "average American public."

And then on November 9th, 2016, unnamed FBI employee says, "Trump supporters are all poor to middle-class, uneducated, lazy POS"—we know what that stands for—"that think he will magically grant them jobs for doing nothing. They probably didn't watch the debates and aren't fully educated on his policies."

This is bias at the FBI at the top level. I'm not saying at the field agent level. They probably more reflect the American people. But at the top, highest-most level, you have a bias against the American people. And this terrifies the average worker, who is paying their salary with their tax dollars. So I think that's something we need to look at.

I want to yield my remaining minute to the gentleman from Ohio, Mr. Jordan.

Mr. JORDAN. I thank the gentleman.

Mr. Horowitz, James Comey, Director of the FBI; Andy McCabe, Deputy Director; Chief of Staff Jim Rybicki; General Counsel Jim Baker; FBI Counsel Lisa Page; and Deputy Head of Counterintelligence Peter Strzok—these were six important people at the FBI. Is that right?

Mr. HOROWITZ. Correct.

Mr. JORDAN. And they were the key players on the Clinton investigation and on the Russian investigation, correct?

Mr. HOROWITZ. They were certainly important on both.

Mr. JORDAN. Has Mr. Comey been fired?

Mr. HOROWITZ. Yes.

Mr. JORDAN. Has Mr. McCabe been fired?

Mr. HOROWITZ. Yes.

Mr. JORDAN. Did Mr. McCabe lie under oath, according to your report?

Mr. HOROWITZ. In our view, yes.

Mr. JORDAN. Yeah. Is there a criminal referral for Mr. McCabe?

Mr. HOROWITZ. I'm not going to comment on that.

Mr. JORDAN. Has Mr. Rybicki left the FBI?

Mr. HOROWITZ. Yes.

Mr. JORDAN. Has General Counsel Jim Baker left the FBI?

Mr. HOROWITZ. Yes.

Mr. JORDAN. Was he removed from his position prior to leaving the FBI?

Mr. HOROWITZ. I'm not sure of that.



Mr. JORDAN. Has Lisa Page left the FBI?

Mr. HOROWITZ. Yes.

Mr. JORDAN. Was she reassigned prior to leaving the FBI?

Mr. HOROWITZ. I believe so.

Mr. JORDAN. And has Peter Strzok been removed from his position as Deputy Head of Counterintelligence?

Mr. HOROWITZ. Yes.

Mr. JORDAN. Now, Mr. Horowitz, you've been in the DOJ for 10 years. You've been inspector general for 6 years. You're chief of all the inspector generals. Have you ever, ever seen anything like this at any other Federal agency in your time in the Federal Government, six of the top people fired, demoted, reassigned, or left?

Mr. HOROWITZ. I obviously can't speak broadly to other areas that I haven't known before, but, yes, this is concerning.

Mr. JORDAN. I've been in this town 11-1/2 years. I have never seen anything like this. Even the IRS scandal didn't come close.

And, again, this is not any type of reflection on the rank-and-file agents who I know you respect, we all respect, and do a great job. But these were the six key people. I have never seen anything like this in my time in government. My guess is there's not a person on this dais who has, as well.

Chairman GOWDY. The gentleman's time has expired.

The gentleman from Maryland, Professor Raskin.

Mr. RASKIN. Mr. Chairman, thank you very much.

Mr. Horowitz, our committee seems deeply lost in the forest today. A lot of my constituents are baffled why, at a moment when the U.S. Government is separating thousands of children and parents at the border in a way that threatens to make us an international pariah, the Judiciary Committee and the Oversight Committee are doing nothing about this scandalous policy but, rather, seem stuck in a time warp, doing another investigation into an investigation into an investigation of Hillary Clinton's emails.

The amazing thing is that the majority chose to reenter this maze when your report was perfectly clear on its findings. And I quote, "We found no evidence that the conclusions by the prosecutors were affected by bias or other improper considerations. Rather, we determined they were based on the prosecutors' assessment of facts, the law, and past Department practice."

Indeed, you seemed to find that the major case of prosecutorial wrongdoing here took place at the expense of Secretary Clinton. While Director Comey properly kept secret the FBI investigation of the Trump campaign's involvement with Russian agents throughout the campaign, he repeatedly ignored Department policy to release information about the Clinton email investigation.

Mr. Horowitz, did you make a finding about why Director Comey violated DOJ policy and tradition in the Clinton case while steadfastly refusing to talk about Trump/Russia? This might have cost the Democrats the election. And Comey, of course, was a lifelong Republican. Was he motivated by partisanship and bias? Was that something that you found?

Mr. HOROWITZ. We did not find that Director Comey's decisions were based on political bias.

Mr. RASKIN. Do you think we're making a mistake not to blame that decision on partisan bias because he was a Republican?

Mr. HOROWITZ. Again, I'll stick with our finding, which is that we did not see evidence of political bias.

Mr. RASKIN. Well, all of this seems to come down to, in my view, the text in this sophomoric texting relationship between Strzok and Page, a couple now made almost as famous as Bonnie and Clyde or Romeo and Juliet by this committee.

We've all read and heard these titillating messages between the two. Sure enough, they don't like Donald Trump. They're very snarky about him. They called him an idiot. They were also snarky about Eric Holder, Chelsea Clinton, Bernie Sanders, and my good friend Martin O'Malley.

So, if the question is whether they liked Donald Trump, of course not. They called him an idiot. But your job as the inspector general is not to diagnose their private biases as government employees but, rather, the character of their public actions. Mr. Gohmert seemed to think it's sufficient to disqualify public prosecutors or investigators because of their private biases.

And I'm wondering whether you could illuminate for the committee the difference between a private bias or political opinion someone might have and a public bias that actually gets activated in the character of a public investigation or policy.

Mr. HOROWITZ. I think it's fair to say, if you are involved in a democracy, whether you're a Federal prosecutor, an agent, or just a citizen going about your business, you have views, political views. You vote; you have positions. That's what you would want people to do and be engaged in democracy.

When you are a law enforcement agent, when you are a Federal prosecutor, you have to understand and appreciate that whatever your views are as a citizen, you keep them outside the office and away from your decision making.

And what was troubling here is—and I understand the explanation that was provided to us by Mr. Strzok and Ms. Page, that they thought these were private. But they weren't. They were using their FBI devices, sometimes at work, sometimes not at work, to speak about individuals they were investigating.

So they weren't just speaking about a generic election that they cared about. It just so happened that the people they were speaking about had a connection to the investigations they, themselves, were working on. And, in some instances, they tied that discussion to their investigative work, and that's what's concerning.

Mr. RASKIN. Okay.

When these text messages came out, it turned out that representatives of the Department of Justice actually convened a select group of reporters in advance to show them the texts. And there was great mystery about why that happened.

Have you made any progress in investigating why this was leaked in advance by the Department of Justice to certain reporters?

Mr. HOROWITZ. Yeah, we haven't undertaken a full investigation of it. We made clear to the committee that we were unaware of that until after it happened and we got complaints in from it. We were told it was considered by the Department and by its lawyers.

And so, as you know, the IG doesn't have authority over decision by lawyers in the course of their legal authority. Under the IG Act,

those go to the Department's Office of Professional Responsibility. And so they would be the ones who would have to be consulted as to what they ultimately found—

Mr. RASKIN. So you're not doing any further investigation.

Mr. HOROWITZ. We don't have jurisdiction, actually. Because what we first learned right away was that lawyers had been consulted and lawyers had given advice. And once that happens, while we would—and the committee has supported given us that jurisdiction, at this point we don't have it.

Mr. RASKIN. Thank you.

I yield back, Mr. Chairman.

Chairman GOWDY. The gentleman yields back.

The gentleman from North Carolina, Mr. Meadows, is recognized.

Mr. MEADOWS. Thank you, Mr. Chairman.

Mr. Horowitz, thank you. And for your entire team, some of which are Republicans, some of which are Democrats, some of which are unaffiliated, I thank you for your unbiased way that you conducted this comprehensive report, and for the rest of the team at large that's probably back at DOJ watching this.

And so I want to get right to the heart of the matter. One of the concerns that I have when we look at bias in the analysis that you made at the very end, it is incumbent upon any team to make sure that they do the investigation without bias. And it is clear that Peter Strzok and Lisa Page had some bias. Is that correct?

Mr. HOROWITZ. That's correct.

Mr. MEADOWS. And so, if you were to learn that they had a disproportionate role in the investigation, both on this investigation and the Russia investigation, that would mean that their bias would have a disproportionate contribution to that decision, would that not?

Mr. HOROWITZ. Yeah, and I'm going to stick to this review, since I know this one at this point, but, yes, that would be a concern.

Mr. MEADOWS. All right. So let me go further. You're the one that actually discovered the text messages.

Mr. HOROWITZ. That's correct.

Mr. MEADOWS. Your forensic team.

Mr. HOROWITZ. Correct.

Mr. MEADOWS. So why would the FBI not have been able to find that?

Mr. HOROWITZ. So—

Mr. MEADOWS. Did they look?

Mr. HOROWITZ. Well, the first batch we recovered in 2017—

Mr. MEADOWS. Right.

Mr. HOROWITZ. —we found because we asked for text messages.

Mr. MEADOWS. All right. And so they produced them to you.

Mr. HOROWITZ. They produced them to us. Then we asked for more.

Mr. MEADOWS. So the ones that you found forensically—

Mr. HOROWITZ. Correct.

Mr. MEADOWS. —why did they not find those?

Mr. HOROWITZ. If you didn't do the forensic work on the phones, you wouldn't have found the text messages on the phones.

Mr. MEADOWS. So they really just didn't look is what you're saying. The FBI didn't look.

Mr. HOROWITZ. Nobody looked beforehand, correct.

Mr. MEADOWS. So you looked, but they didn't look.

Mr. HOROWITZ. They hadn't looked.

Mr. MEADOWS. So was it a lack of curiosity on their part? I mean, because you're the ones—

Mr. HOROWITZ. I think you'd have to ask the FBI on that, as to why they didn't—

Mr. MEADOWS. Well, but if they were really serious about oversight and they were really serious with the confines of these text messages, I think an investigator would want to know if they had bias within their own agency, wouldn't you?

Mr. HOROWITZ. Yes. And I would just add, we've had those phones in our custody for probably about a year now or 6 months now. So, just to be clear, we've had them the last 6—

Mr. MEADOWS. Since then. Well, you've done a lot more with them than they did, and I'll give you that.

And so let me—I want to focus on what's not in the report. Because, as we look at what's not in the report, what's not in the report is, as you know, the intelligence community IG actually was part of the predication for this investigation. Is that correct?

Mr. HOROWITZ. That's correct.

Mr. MEADOWS. They were so concerned that there might have been foreign infiltration into this that they went immediately to the FBI to let them know about that. Is that correct?

Mr. HOROWITZ. I know they went to them. I don't know the—

Mr. MEADOWS. Well, I talked to the IG, and he indicated that he went literally that day, got in a car, went over and met. And so he was really concerned that there were some anomalies in the metadata that would—

Mr. HOROWITZ. Right.

Mr. MEADOWS. —suggest that a foreign actor was getting copies of potential emails. Are you aware of that?

Mr. HOROWITZ. I am. And I've talked to him as well.

Mr. MEADOWS. Okay. And so, if they are that concerned, do you not find it curious that the FBI investigators, Peter Strzok and his team, did not ever talk to them other than that initial meeting where they did that? Would you think that part of an investigation would be to go back to the very people that brought up the accusation to say, what did you find?

Mr. HOROWITZ. Yeah, I assume that would be—

Mr. MEADOWS. But that's not in your report.

Mr. HOROWITZ. That's correct.

Mr. MEADOWS. And they didn't do that, did they?

Mr. HOROWITZ. I'd have to double check that.

Mr. MEADOWS. Yeah. I can tell you that the last time that they talked to them was when they gave the referral to close it out after the Comey incident.

So wouldn't you find that curious, that they wouldn't have looked any further?

Mr. HOROWITZ. If they didn't, yes.

Mr. MEADOWS. All right. And so you can get back to the committee on that.

Mr. HOROWITZ. Yes.

Mr. MEADOWS. All right.

So let me go on a little bit further. So, if they didn't look and if we don't have that information, your staff indicated that, indeed, emails with at least some classified information did go to a foreign entity or a third party.

Mr. HOROWITZ. Yes. One of the individuals who was on Secretary Clinton's staff, his email account, private email account, Gmail account, was hacked.

Mr. MEADOWS. Right.

And so let me look at four other things that I need to hear some clarification. Because there are some text messages. We know that Peter Strzok worked on both the Russia and the Hillary Clinton investigations, so I want to make sure that these text messages don't apply to Hillary.

So, on July the 29th, before the investigation into the Russia investigation started, there was a text message that says, do you want us to reach out to Gurvais? And I think they're referring to Gurvais Grigg at that particular point. And they said, well, why do you want to do that? Well, we want to see if he actually has the names that we already have.

Now, I'm troubled by this a little bit. Did that apply to the Hillary Clinton investigation? It was already closed at that point.

Mr. HOROWITZ. It was already closed. I'd have to go back and double check.

Mr. MEADOWS. Okay. Why I'm curious is, why would they be checking with someone who his specialty is, quote, "FBI advanced electronic surveillance"? Why would he be checking before a Russia investigation is opened with somebody who does essentially bugging and monitoring to find out anything that might have been going on? Why would that have happened?

Mr. HOROWITZ. I don't know.

Mr. MEADOWS. Okay.

So let me go on a little bit further then. The text message that says the White House is running this, which happened on August 5th, was that in reference to Russia or Hillary Clinton?

Mr. HOROWITZ. Our assumption and understanding was it was not Hillary Clinton's matter because that had been closed already.

Mr. MEADOWS. That's my assumption as well.

And the one that says that the President wants to know everything about this that happened on September 2nd, was that with Hillary or with the Russia investigation?

Mr. HOROWITZ. Our understanding is that would not have been Hillary, that would have been the Russia matter.

Mr. MEADOWS. Yeah.

So, looking at the difference between the way that the Hillary Clinton investigation was notified and researched versus the way that it appears that the Russia investigation, did the administration, the previous administration, take an abnormal interest in all of that?

Chairman GOWDY. The gentleman's time has expired, Mr. Inspector General, but you may answer.

Mr. HOROWITZ. I don't know the answer to that at this point because that was not part of this review. But, certainly, it's something we, as we look at the matters that have recently been referred to us, we will be considering.

Mr. MEADOWS. I thank you.

I yield back.

Chairman GOWDY. The gentleman from North Carolina yields back.

The gentleman from California is recognized, Mr. Swalwell.

Mr. SWALWELL. Thank you, Mr. Horowitz.

I want to see if we can summarize your findings after a long day going through your testimony.

Do you agree, yes or no, that Hillary Clinton committed no crimes?

Mr. HOROWITZ. Our finding is that the prosecutors looked at the facts along with the evidence to conclude she shouldn't be charged.

Mr. SWALWELL. Do you agree, yes or no, that Page and Strzok acted inappropriately?

Mr. HOROWITZ. Yes.

Mr. SWALWELL. And you agree they were removed by Bob Mueller from his team?

Mr. HOROWITZ. He was removed. Ms. Page had already returned prior to our notification to the special counsel.

Mr. SWALWELL. You agree that Director Comey never leaked the Russia investigation, the existence of it, prior to his testimony to Congress?

Mr. HOROWITZ. He did not disclose it back at the time period we looked at.

Mr. SWALWELL. You agree there's no evidence that Jim Comey lied to you in your investigation?

Mr. HOROWITZ. We did not make any finding that he lied to us.

Mr. SWALWELL. Mr. Horowitz, do you think it is time to move on past the Hillary Clinton emails?

Mr. HOROWITZ. I think we have put forward our report. Congress has a separate oversight authority and interest, and I'm not going to speak to what Congress should or shouldn't do.

Mr. SWALWELL. Because I appreciate your work on this, and I think it was fair findings all around, but the only text messages that I really care about right now are the hundreds of people at home and across the country who are asking me what in the hell is the Judiciary Committee doing right now? I mean, this is maddening. I don't know if my colleagues are checking their voice mails or checking your you emails or checking your Twitter feed; people aren't talking about the God-damned emails. They're not. They're talking about kids separated from their mom and their dad sitting in cages on our southern border.

And then they say: Hey, Congressman Swalwell, which committee is responsible for that?

And I tell them: Well, it is the Judiciary Committee.

Great. So, when you get back to Congress on Tuesday, you guys are immediately going to look at why this is happening, right?

No, we're having a hearing, I tell them, but our hearing is on Hillary Clinton emails.

You know how upsetting that is? That is upsetting to Republicans, Democrats, people who don't give a rip about politics.

This is important. People should be held accountable for inappropriate behavior, Mr. Inspector General, and again, I appreciate that you're doing that, but our responsibility is to act on behalf of

the American people, and we're not helpless. We're actually the one committee in Congress that is not helpless to act when families are being ripped apart.

So I would ask Chairman Goodlatte, please interrupt me if you intend when we conclude today to hold a hearing on how we're going prevent future families from being separated and reunite those who have already been torn apart.

Mr. Gowdy, again, interrupt me if you have a plan for what we're going to do next what I can tell my constituents because the only thing they care about right now is that the United States that they know is no longer a compassionate one.

Chairman GOODLATTE. Would the gentleman yield?

The gentleman may be pleased to know that, on the floor, on Thursday, as soon as Thursday, there will be a bill to address the very problem the gentleman is talking about, but it has nothing to do with the importance of making sure that the Federal Bureau of Investigation does not repeat what it did in 2016 and into 2017.

Mr. SWALWELL. And reclaiming my time, Mr. Chairman, I understand that's a partisan bill without Democratic support, and that did not come through this committee. Again, we have an opportunity to act now. I saw Mr. Meadows at the White House today, and, Mr. Meadows, I was encouraged by what you said that families shouldn't be ripped apart, but here we sit.

Mr. MEADOWS. Well, if the gentleman will yield.

Mr. SWALWELL. Yes.

Mr. MEADOWS. I have a nonpartisan bill that does not deal with a wall, does not deal with sanctuary cities, that I introduced an hour ago. If he would like to cosponsor with me, we'll bring it together.

Mr. SWALWELL. Let's work on that, Mr. Meadows, because my constituents, and I think all of our constituents want to make sure that we show compassion, that we show heart, and that Congress acts. There's consensus on this issue. And it is just maddening that the one committee that has the responsibility to do something is focused on this.

I yield back the balance of my time.

Chairman GOWDY. The gentleman yields back.

The gentleman from Florida, Mr. DeSantis, is recognized.

Mr. DESANTIS. Thank you, Mr. Chairman.

Mr. Horowitz, with the Weiner laptop issue, I think that you had said Peter Strzok's explanation for his conduct was not really persuasive.

Mr. HOROWITZ. Correct.

Mr. DESANTIS. So it would be reasonable for somebody to infer that his actions, at least with the Weiner thing, were motivated by his bias.

Mr. HOROWITZ. And that was precisely our concern.

Mr. DESANTIS. Okay. July 31 Strzok, the same Strzok that's bias affects how he is handling the Weiner laptop, opens up a counter-intelligence investigation against Trump's campaign. Why? We're trying to get the reason. Some guy made a comment in a bar, so he opens up an investigation. Eighth of August he is asked: Trump can't be President, right, right? No, he can't. We'll stop it.

Why was that text message not originally produced to you? What did the FBI tell you?

Mr. HOROWITZ. So what appears happened is that its collection mechanism, the program it used, was not collecting all the text messages.

Mr. DESANTIS. But you had every other text message from that day, correct?

Mr. HOROWITZ. Actually, I don't know the answer to that. I thought I did, but I'm not sure.

Mr. DESANTIS. So, when you guys went back recently and got this damning one, was that the only one from that day that you found that was new?

Mr. HOROWITZ. I would have to go check, but there was at least one other—actually, there were several others, but at least one other relevant to our review that we had not seen before that we found as we went back through it.

Mr. DESANTIS. And that was—so it was their explanation that it was not human agency, that it was some type of glitch?

Mr. HOROWITZ. Correct, right.

Mr. DESANTIS. Well, look, this is the most damning one of all.

Mr. HOROWITZ. Correct.

Mr. DESANTIS. I guess theoretically possible it could be the glitch, but I need an explanation for that.

Now, the 16th of August, the infamous insurance policy text message. They have a scenario thrown out in Andrew McCabe's office that Trump can't win. Strzok says: No, no, no. We can't take that risk. We need an insurance policy.

Their explanation: Oh, we don't really know. We don't remember the meeting.

I mean, was it persuasive or credible how they explained that text message?

Mr. HOROWITZ. It wasn't persuasive to us.

Mr. DESANTIS. It was total not at all. And so here's the thing that I get with the insurance policy. If the investigation was validly predicated in the Trump's campaign, who the hell cares whether he was going to win or not? If it is an investigation, you should want to do it. This tells me that they're saying: Well, heck, if the guy may win, then we have to do this.

Peter Strzok, the same guy who said, "We'll stop him," who opened this up on the 31st of July based off some errant comment in a bar. This stinks to high heaven.

Let me ask you this: The three other FBI agents who you're not naming you said because they're involved in counterintelligence, correct?

Mr. HOROWITZ. Not me. The FBI has asked they not be named.

Mr. DESANTIS. Why did we get Peter Strzok's name, though. That's what I don't understand.

Mr. HOROWITZ. So what we do is, when we prepared the report, we do an analysis under the Privacy Act Federal law, and our determination was that because of his—the level he was at at the agency, Deputy Assistant Director, the Privacy Act balance weighed against him, and we would make it public. As to the others, they're lower down.

Mr. DESANTIS. Okay.



Mr. HOROWITZ. And the balance went the other way.

Mr. DESANTIS. Two of the three had worked for Mueller?

Mr. HOROWITZ. That's my understanding.

Mr. DESANTIS. Do they still work for Mueller?

Mr. HOROWITZ. My understanding is no.

Mr. DESANTIS. So did they get removed because of bias?

Mr. HOROWITZ. I believe at least one of them—and I can double-check this—was removed after we alerted again the special counsel to the text messages. It may have been both of them, but I think it was one.

Mr. DESANTIS. Is it fair to say that your investigation identified a culture of leaking in the FBI?

Mr. HOROWITZ. That's precisely what we say here and is a very big concern.

Mr. DESANTIS. Okay. Let me ask you about the Clinton-Lynch tarmac meeting. Is that plane monitored in any way, either audio or visual monitoring, Lynch's plane?

Mr. HOROWITZ. I don't believe there's audio monitoring.

Mr. DESANTIS. You were never given any type of document that memorialized any conversation between the two?

Mr. HOROWITZ. No, not at all.

Mr. DESANTIS. And what was your report's view of Lynch's explanation for the meeting? I know it was about a 20-minute meeting. She said it was about grandkids. Could you fill up—I don't think she has grandkids. So what did you think? How did you guys view that?

Mr. HOROWITZ. I think we laid out there what the explanation was from former Attorney General Lynch, President Clinton, that was the sum total of the evidence that we had, and they both explained, and we detailed here what they said occurred during the during the meeting, and that is the basis for our evidence at this point.

Mr. DESANTIS. Comey in his statements to you guys said that there was, you know, they were grappling with the Hillary stuff; there's no evidence of willfulness. But was there any doubt that Hillary intended to create a separate server? I mean, that was done willfully, correct?

Mr. HOROWITZ. Yes, that was never the question.

Mr. DESANTIS. So the question is, if you take a willful action, and there are certain consequences that are reasonably foreseeable—I mean, there's certainly aspects of the law where you would be held liable for that. So you're setting up a parallel system knowing you're going to conduct the main business of Secretary of State, one of the most sensitive positions in our government. The idea that Comey's like, "Oh, there was just no willfulness here," I didn't really find his explanation credible. I know you guys have looked at it, but I just wanted to put that on the record.

I'm out of time. So I yield back.

Chairman GOWDY. The gentleman yields back.

The gentlelady from the Virgin Islands is recognized, Ms. Plaskett.

Ms. PLASKETT. Thank you very much.

Thank you, Mr. Horowitz, for being here.

I have—since, you know, I'm further down in seniority I have the ability to now ask you some questions trying to clarify what my other colleagues were discussing with you.

In your discussion with Mr. Meadows, there was a question that the texts sent between Mr. Strzok and Ms. Page discussed the White House running this. You said you assumed that this text was not referring to the Clinton email matter and that you assumed it referred to the Russian investigation. I just want to clear up, do you actually know who the text was referring to?

Mr. HOROWITZ. I'm sorry. The particular—

Ms. PLASKETT. The text that says the White House is running this.

Mr. HOROWITZ. No, my understanding just the general reference to the White House. I don't know if there was a particular person.

Ms. PLASKETT. And if it was to discuss the Russia investigation, it is not the Russia collusion investigation by the special counsel; it is referring to the Russia election interference investigation, right?

Mr. HOROWITZ. Correct.

Ms. PLASKETT. We have so many investigations here. Let's keep them in line. Now also in your discussion with Mr. Meadows, there would seem to be some logical analogy that was made, and as an attorney, you know, that's one of thing that we look at is the logical inferences, and I wasn't sure if it was necessarily correct. The discussion was that if you have a person who has a disproportionate bias in their personal, that you also then have to look at their disproportionate amount of decisionmaking in determining how that. Is that necessarily how one determines if their bias, in fact, affects the outcome?

Mr. HOROWITZ. I had understood it as that they would have a disproportionate, given their role, impact on decisions that were made.

Ms. PLASKETT. Okay.

Mr. HOROWITZ. And that may be—

Ms. PLASKETT. And that is if their personal bias then bled into their work, as well, correct?

Mr. HOROWITZ. Correct, and I think that—I think in terms of answering, it wasn't, was there disproportionate—did they, in fact, cause an impact, but rather, given their role, did they have a disproportionate—

Ms. PLASKETT. So the disproportionate bias of Page and Strzok in terms of their bias against now President Trump, was that disproportionate in size to their decisionmaking?

Mr. HOROWITZ. I wouldn't know. You know, as I said earlier, I don't have precisely which decisions they made over this period of time.

Ms. PLASKETT. Let's move on to someone else who may have had a bias. My former boss, Director Comey, was a Republican, was he not?

Mr. HOROWITZ. I have read that. I don't know at the time whether he was.

Ms. PLASKETT. I worked with him in a Republican administration—

Mr. HOROWITZ. —I've heard also he changed his registration—

Ms. PLASKETT. —appointed by—

Mr. HOROWITZ. —I just I don't know—

Ms. PLASKETT. So I worked with him in a Republican administration when he was the Deputy Attorney General of the Justice Department. Would his bias as a Republican and him being the decision-maker have affected why he decided not to leak or not to discuss the Russia investigation itself?

Mr. HOROWITZ. Our concern about what Mr. Strzok did, what Ms. Page does, wasn't based on their political affiliation, but, rather, on the text messages, so whether Mr. Comey—

Ms. PLASKETT. Did you know their political affiliation?

Mr. HOROWITZ. I do not know their political affiliation.

Ms. PLASKETT. But we know the affiliation of Mr. Comey, but we're not going to count that against him?

Mr. HOROWITZ. I think you have every right to register with whichever political party or none at all, and that—

Ms. PLASKETT. Sure, because we are still a democracy, are we not?

Mr. HOROWITZ. Correct.

Ms. PLASKETT. But listening to my colleagues, it would seem that if anyone has a personal opinion about someone, that it should automatically exclude them from working in the FBI or working any place else and that justice should not be blind anymore.

Mr. HOROWITZ. I don't think, and I don't think I have suggested, that your personal opinion prohibits you from working in the FBI or the Justice Department. The concern here are the text messages that they exchanged about people they were looking at.

Ms. PLASKETT. Sure, because bias—I mean, before the election, many of my colleagues had a bias against Trump, but it appears now that he is the chief executive, that they have all fallen right in line and follow right behind whatever he says, even though many of them made public statements against him and against some of the opinions that he had before he became President.

In your investigation, you said you looked at 1.2 million documents, correct?

Mr. HOROWITZ. Correct.

Ms. PLASKETT. And in those documents, which are now being subpoenaed by Chairman Gowdy as well as Chairman Goodlatte, on the documents for investigation on the FBI's handling of Secretary Clinton's emails, have you had access to all of the documents that the Justice Department has subpoenaed but haven't received? Isn't that correct?

Mr. HOROWITZ. That the Justice Department—you mean the Congress has subpoenaed? Right.

Ms. PLASKETT. Subpoenaed, correct.

Mr. HOROWITZ. Yes, we have had access to all the records—

Ms. PLASKETT. And your office was able to review those documents and any other documents that's needed as part of your investigation for this report?

Mr. HOROWITZ. Correct.

Ms. PLASKETT. And your report concluded, and I quote: We found no evidence that the conclusions by the Department prosecutors were affected by bias or other improper considerations. Rather, we

determined that they were based on the prosecutor's assessment of the facts, the law, and past Department practices. Correct?

Mr. HOROWITZ. Correct.

Ms. PLASKETT. And so I just want you to be careful because now that you have not followed the conclusion that the Republicans would like you to, you may, in fact, be up for a special counsel investigation yourself.

And I yield back.

Chairman GOWDY. On that sobering note, Inspector General Horowitz, we will now go to the gentleman from North Carolina, Mr. Walker.

Mr. WALKER. Thank you, Mr. Chairman.

If I could take just a moment, I would like to say thank you for your leadership. You have been the voice of justice, not just for today but for more than 7 years. I have no doubt that you will continue to be a warrior against injustice and for the underprivileged, and I am proud to have served with you and call you my friend.

Mr. Horowitz, you previously testified that, during the investigation, you found additional texts between Agents Strzok and Page on FBI devices which the FBI had not analyzed, including texts about meeting in Andy's office. I'm assuming that wasn't Andy Griffith, Andy Cohen, or Andy Rooney. The closeness of referring to Andy bothers me a little bit because evidently it says there may have been some relationships. Of course, according to your words, according to your report somebody denies—which one denies that meeting happened? Is it former FBI Director Andrew McCabe or is it Peter Strzok?

Mr. HOROWITZ. I think the denial is that Mr. McCabe says he does not recall being present for that meeting.

Mr. WALKER. He doesn't recall being present for that meeting. Have we investigated that further? Have you referred that to be investigated further because that's a pivotal point in all of this as far as what was said, who was involved in these meetings, whether there was intent, or whether there was bias.

Mr. HOROWITZ. I think we have investigated, frankly, as far as we can take it and could find evidence to see whether he was present, and, you know, we have laid out here what we found ultimately.

Mr. WALKER. Does it concern you that the FBI did not further investigate this issue of these discovered text messages? Seems like it raises larger questions with some of the behavior at the FBI. Does that offend you, bother you?

Mr. HOROWITZ. What has concerned us is that the FBI has this imperfect system of collecting records, has known that for some time, and needs to get it fixed. Frankly, once we started looking at these text messages, we were going to be the ones who kept digging to get them, so I didn't expect at that point the FBI—

Mr. WALKER. Fair enough. Because of Strzok's actions—I have a question, can you with certainty express that the Hillary Clinton investigation was without bias or interference?

Mr. HOROWITZ. I cannot speak to every single decision that was made he might have been involved in. So I can't speak to that broader point.

Mr. WALKER. So you're not saying that there wasn't bias. It appears that you are saying that bias may have existed in all of this but not to the place that you could prove that it influenced the investigations.

Mr. HOROWITZ. Where we looked on the decisions we looked at and the prosecutor's decision, we made the finding we felt we could make.

Mr. WALKER. Do you understand why the American people are having some trouble with all of this when you begin to talk about, well, there's biased behavior, but is it a subject of call to where that bias level may have reached whether it influenced—the amount of time that Peter Strzok spent as the lead investigator, do you understand why the American people would be upset at least the appearance of all of this?

Mr. HOROWITZ. Absolutely, and I'm upset at all of this. I think it is precisely why it cast a cloud over the investigation. It undermines confidence in it. All of those impacts are very serious and very significant on a very important FBI investigation. That should never happen, and it happened because of these text messages and what these employees were doing. It should not have occurred, period.

Mr. WALKER. Thank you, and it is one of the reasons that you're respected on both sides of the aisle. I do remember—in fact, it might have been my question or another member on the House Oversight Committee—that when asked of former Director James Comey as far as why not to bring charges, I believe his response that no reasonable prosecutor would bring charges. As good as the job that you are doing, my question to you would be, is there any room that if there was other investigations or if there was other inspections, if you will, would people—do you feel like do you agree with James Comey on your conclusion that this would be the same conclusion or is there room that other people, other investigators might find different conclusions?

Mr. HOROWITZ. You know, I think, as you have seen in commentary about the findings and the report, what we try to lay out: This was the policy. This is how they reached the decision. And others are free to disagree with that.

Mr. WALKER. When it comes to the number of FBI employees who were in contacts with the journalists, was it the FBI employee or the reporter who seemed to initiate contacts that resulted in this back-and-forth conversation, or did they seem like long-term relationships?

Mr. HOROWITZ. Some of them, based on what we have, you know, seen, did not seem like—well, let me just, looking at the charts here, you can see these are not, generally speaking, one call, so I would leave it at that. We are looking at that deeper question.

Mr. WALKER. When you say you're looking at it, does that mean it may warrant more investigations for some of those who have been players in this situation?

Mr. HOROWITZ. There are active investigations ongoing by our office.

Mr. WALKER. Thank you, Mr. Chairman. I yield back.

Chairman GOWDY. The gentleman from North Carolina yields back.

The gentleman from Rhode Island is recognized.

Mr. CICILLINE. Thank you, Mr. Chairman.

I want to begin by lamenting the fact that we are not having Judiciary oversight hearings to address this barbaric child separation policy. I just came back from Brownsville, Texas, and McAllen. It is despicable what is happening in our name. We're not having bills to address dozens of ideas to reduce gun violence in this country. We're not marking up the Dream Act. We're not marking up legislation to protect the special counsel or to protect our elections from foreign interference. But, alas, we're having another hearing on the Clinton emails.

So let me just start, Mr. Horowitz, with a basic question. Your investigation was to focus on the investigation of Hillary Clinton's emails, correct?

Mr. HOROWITZ. Correct.

Mr. CICILLINE. And was part of your investigation to examine whether the Trump campaign colluded with the Russians?

Mr. HOROWITZ. That was not part of this investigation.

Mr. CICILLINE. Did you investigate or make findings about collusive behavior between the Trump campaign and the Russians?

Mr. HOROWITZ. The only matter we touched on with Russia was that October matter—

Mr. CICILLINE. I take it that's a no. Was part of your investigation to review whether the President of the United States obstructed justice during the course of the special counsel's investigation?

Mr. HOROWITZ. We looked at the Clinton email investigation.

Mr. CICILLINE. That's yes or no. Was that part of your investigation?

Mr. HOROWITZ. It was not.

Mr. CICILLINE. Okay. And you didn't make any investigation or findings related to the President's potential obstruction of justice. Is that correct?

Mr. HOROWITZ. It had nothing to do with this investigation.

Mr. CICILLINE. Okay. So the President's claim that your report makes clear that he is completely exonerated—there's no obstruction of justice and no evidence of collusion—is a lie or at least unsupported by your report?

Mr. HOROWITZ. Our report focused on the Clinton email investigation—

Mr. CICILLINE. Does your report in any way support the President's claim that he is completely exonerated, there's no evidence of collusion, no evidence of obstruction of justice? The answer is no.

Mr. HOROWITZ. Our investigation focused on the Clinton email investigation.

Mr. CICILLINE. And so your report does not contain any findings, not a single one in 500 pages that would support the President's claim that your report, authored by you, exonerates him fully and presents evidence of no collusion and no obstruction of justice. Isn't that correct?

Mr. HOROWITZ. I'm going focus on our report, and there are individuals—

Mr. CICILLINE. Mr. Horowitz, the truth matters. Can you say in open—I'll finish my question. I get to ask the questions. Will you

admit in open session that your report does not support the claim from the President of the United States that he is completely exonerated, that there's no evidence of collusion between his campaign and the Russians and that there's no evidence of obstruction of justice? Your report does not investigate or make findings on those issues at all, does it?

Mr. HOROWITZ. We do not make findings on those.

Mr. CICILLINE. Okay. So that would mean that's not a truthful statement. I'm not asking you to say that. I know it is hard for you to do that. It is the President; I get it. But it is important that the American people know that the 500 pages that you dedicated your career to developing with professionals does not support any such claim by the President. I'm not asking you for an answer. That's a statement.

Mr. HOROWITZ. Yeah.

Mr. CICILLINE. Let me go next, Mr. Horowitz, to your—the part of your investigation that focuses on—you may have heard the President and many of his allies make numerous statements about your report that were designed to make the American people believe the opposite of what is obvious from your report's findings, that the FBI's actions had an impact on the 2000 Presidential election and in Donald Trump's favor. Your report found no evidence that the FBI or DOJ's conclusions in the investigation of Secretary Clinton's emails were politically motivated, and your report found that Director Comey violated Department of Justice policies by speaking publicly about Secretary Clinton's closed case in July of 2006 and by disclosing the reopening of the investigation in October of 2016. Isn't that correct?

Mr. HOROWITZ. Certainly the latter part, I—

Mr. CICILLINE. That it violated Department policy?

Mr. HOROWITZ. Yes. The earlier part I was—

Mr. CICILLINE. Okay. And your report discusses why the Justice Department and the FBI have a policy and practice of refusing to speak publicly about ongoing investigative activity. It explains the stay silent principle exists to protect the privacy and reputational interests of the subjects of the investigation and also the Department's ability to effectively administer justice without political or undue outside influence, correct?

Mr. HOROWITZ. Correct.

Mr. CICILLINE. Would you agree that the FBI—when the FBI speaks publicly about an ongoing case, it risks harming the subject's reputational interest?

Mr. HOROWITZ. Correct.

Mr. CICILLINE. In this case, that subject of potential harm was Hillary Clinton.

Mr. HOROWITZ. Correct.

Mr. CICILLINE. Your report, Mr. Horowitz, also has a subsection entitled "Avoiding the Perception that the FBI Concealed the New Information to Help Clinton Win the Election." In that section, Director Comey says his decision to disclose the investigation reopening was to avoid, quote, corrosive doubt that you had engineered a cover up to protect a particular candidate. Your report found, however, that Director Comey, quote—and this is your words—did not assess risks even-handedly. In weighing his actions, did Direc-

tor Comey ever express fear that his notification to Congress would tip the scales or at least appear to tip the scales against Hillary Clinton in favor of Donald Trump?

Mr. HOROWITZ. I don't recall him saying that to us as sort of one of his explanations.

Mr. CICILLINE. But Director Comey was afraid that if he stayed silent about the reopening of the case, that he would unfairly be accused of helping Hillary Clinton. Isn't that correct?

Mr. HOROWITZ. That was one of the concerns he expressed.

Mr. CICILLINE. And so, sir, when the President said, when he praised Director Comey's actions when he made that disclosure and said, "It took guts for Director Comey to make the move that he made," end quote, what he did was the right thing, Chairman Goodlatte said he was very appreciative that Director Comey had the courage to step forward and our very own Chairman Gowdy went on to FOX News and stated Director Comey did the right thing in supplementing his testimony. Isn't it true, Mr. Horowitz, just to reiterate, your report concludes Director Comey's October 26 notification to Congress was not the right thing?

Mr. HOROWITZ. Yes, on October 28, correct.

Mr. CICILLINE. So I hope the Justice Department and the FBI learned their lesson from your report and do not cave to the ongoing bullying of President Trump and his allies in Congress. Instead, they must once again uphold longstanding principles and the rule of law, even while facing the onslaught of unfair political attacks. We expect nothing less of you.

And, with that, I yield back.

Chairman GOWDY. The gentleman yields back. Since my name was invoked, before we go to the gentleman from Texas, I would just point out that we don't live in a binary world. You can notify Congress without writing a letter that is publicly disseminated. You have other options, including notifying Congress in a confidential manner.

With that, the former United States attorney from Texas Mr. Ratcliffe.

Mr. RATCLIFFE. Thank you, Chairman.

Inspector Horowitz, in your report and now in your testimony, you said that you are deeply troubled and very concerned that the anti-Trump bias reflected in the Strzok-Page text messages was so great as to have possibly impacted Peter Strzok's conduct about in the Weiner laptop part of the Hillary Clinton investigation. Is that fair?

Mr. HOROWITZ. Correct.

Mr. RATCLIFFE. So, if the Department of Justice and the FBI's own inspector general is very concerned and deeply troubled about Peter Strzok's anti-Trump bias affecting his actions as an FBI agent, is it unreasonable for President Trump as the subject of an investigation to likewise be very concerned and deeply troubled that Mr. Strzok was put in charge of the Trump Russia investigation?

Mr. HOROWITZ. You know, I'm going to step back on that, Congressman, and speak to the broader point that that's precisely why we were concerned, generally speaking, about the election review, that those kind of messages create that appearance of bias that un-



dercuts credibility and the ability to do investigation. I can't speak to—

Mr. RATCLIFFE. I'm not asking you to make any findings about the Trump Russia matter. I'm asking you about the people that you investigated in your report, people whose actions you found so deeply troubling and very concerning. I just want to find out if you think it is unreasonable for the President to feel the same way you do.

Mr. HOROWITZ. My concern on that is, as you know, we're currently reviewing that, and I want to be careful. I don't want to be myself seen as prejudging any outcomes here. So I'm going to let folks draw—

Mr. RATCLIFFE. Again, I'm not—

Mr. HOROWITZ. —what they want to draw from this, but I don't want to be seen as making any judgments on that.

Mr. RATCLIFFE. Well, do you think it is unreasonable for President Trump to be very concerned or deeply troubled, as you were, that 8 days after Peter Strzok was put in charge of the Trump Russia investigation, that he promised another FBI employee, Lisa Page, that Trump would never be President because he would stop it?

Mr. HOROWITZ. I think any individual in this country should be concerned about that kind of language.

Mr. RATCLIFFE. And the reason you're concerned about that, Inspector General, I think is because you have said numerous times here that Strzok's stated bias and stated willingness to act on that bias are antithetical to the core values of the FBI, correct?

Mr. HOROWITZ. Right.

Mr. RATCLIFFE. Another thing that is antithetical to the FBI and the Department of Justice and our entire justice system is putting people in charge of investigating people they hate, of people that they are biased against and that they are prejudiced against, right?

Mr. HOROWITZ. Correct.

Mr. RATCLIFFE. And we don't do that in our justice system. We can't do that in our justice system, a system where the bedrock principle has to be the fair and impartial administration of justice, free from bias and prejudice, right?

Mr. HOROWITZ. Correct.

Mr. RATCLIFFE. So I think the point that you're making and that I agree with is that anyone—you, me, any member of Congress, any American—who becomes the subject of an investigation should not be investigated by people who have sent hundreds of hateful text messages about them before the investigation ever began and then continued to send them while the investigation was occurring. That is, by definition, prejudicial to the fair and impartial administration of justice, isn't it?

Mr. HOROWITZ. I think that is precisely the concern.

Mr. RATCLIFFE. And yet that is exactly what happened to President Trump. Now, to your credit, Inspector Horowitz, you revealed the astonishing level, the outrageous level of bias and prejudice, and when you did, Special Counsel Mueller removed Peter Strzok from the case, but you and I are former prosecutors, and you and I both know that it is impossible to remove bias and prejudice from all of the actions taken, all of the decisions made, all of the inves-

tigative plans implemented, all of the evidence gathered by Peter Strzok and at least two other Trump-hating FBI agents and lawyers who were assigned to the investigation. That's pretty hard to do, isn't it?

Mr. HOROWITZ. Well, that is precisely the question, as you know, we're looking at.

Mr. RATCLIFFE. So my colleagues over there just keep pointing out that your report doesn't state any conclusions about the Trump Russia investigation, and they're right. The report doesn't state any conclusions, but your findings of fact, your findings of fact about the people in charge of the Trump Russia investigation in the case of Peter Strzok, for 9 months, the person in charge of the investigation, well, that leads to all sorts of undeniable conclusions about pervasive bias and prejudice against President Trump by the people who never, ever should have been in charge of gathering evidence against him.

Let me switch topics in the remaining 20 seconds I have. Did Jim Comey make the decision not to prosecute Hillary Clinton before or after her July 2, 2016, interview?

Chairman GOWDY. I'm going to let you answer the question even though the gentleman from Texas grossly misjudged the amount of time he does not have left anymore. It is actually 20 seconds over, rather than under, but you can answer the question.

Mr. HOROWITZ. As we laid out here and described here, prior to the July 2nd interview, absent, as we were told, either a confession or a false statements, the decision had been made to close the investigation.

Mr. RATCLIFFE. So the fact that Director Comey testified under oath to Members of Congress, in response to a question about whether or not the decision was made before or after, unequivocally stated after, do you think it is reasonable for Members of Congress to think that they were misled by that answer?

Mr. HOROWITZ. I probably would have to look at the transcript. As you know, so much of that turns on the precise question and answer so—

Mr. RATCLIFFE. So can I take that as a promise to look at that?

Mr. HOROWITZ. I'll take a look at the question and answer, and then we can talk further, Congressman, about that.

Mr. RATCLIFFE. Thank you, Inspector Horowitz. I appreciate your work.

Chairman GOWDY. The gentleman yields back.

The gentleman from Maryland is recognized.

Mr. SARBANES. Thank you, Mr. Chairman.

Thank you, Mr. Horowitz, for being here, and I want to commend you and your team for a very thorough report. You have taken extreme care to make sure you don't jump to conclusions. You've indicated where the lines are between judgment acting in accordance with various protocols and norms and rules of the Department and so forth. You have indicated that the bias that you have identified did not affect or contaminate the investigative decisions that were being made at the highest levels, which is important.

When you focus on Jim Comey and his conduct, you point to issues of compliance with Department guidelines and norms and standards that you think are very important. I think that's valid.

I think it is also important to observe that that doesn't in any way get to the question of the credibility or truthfulness of an individual. You can say this person is not adhering to what we think is a departmental standard. That doesn't go to whether they're being truthful to their basic credibility and so forth. If I didn't comply with a rule on how much time I'm supposed to take here in asking you a question and then I went out in the hall and I saw someone knock someone else over and run down the hall and I wanted to testify to that, you wouldn't say, "I'm not going to believe you because you didn't follow the clock when you were in the hearing." And that's important because it may be that Jim Comey down the line becomes a witness in various contexts, and there's nothing in your report that I see, and I think you said this in response to Congressman Cohen, that would suggest that you have any reason to think that he has lied, that he misled you, that he was not truthful in the course of your conducting this investigation. Is that correct?

Mr. HOROWITZ. That's correct.

Mr. SARBANES. Now, I wanted to move to the question of—as I step away from this, and I sort of don't consider particular individuals but look at the standards you're articulating for what's a good investigation and how to carry it out, you have identified a variety of things: First of all, follow the rules that exist. Be consistent in following those; that's one of the major concerns you had in terms of the process for taking certain decisions on investigations. So be consistent. Follow the rules. Another thing you have talked about is the importance of there not being leaks, and you have identified some issues with that at the FBI, but that is also—that goes to the overall legitimacy of an investigation, that there not be leaks. You have talked about the issue of bias, and I assume that your expectation would be that a good investigation would be one where, if there's evidence of bias in a way that could affect the investigation, that steps need to be taken to address that bias.

Mr. HOROWITZ. Correct. Or the appearance potentially.

Mr. SARBANES. Or the appearance of bias. So stepping away from that and thinking about those kinds of standards on how an investigation should proceed, you've actually left me in a position of being—having a lot of confidence in the way Bob Mueller is conducting his investigation because, if you take those standards that you are highlighting and you apply them to how he and his team are conducting themselves, he passes with flying colors. Where there's been evidence of bias, he has taken steps.

In fact, you acknowledge that Ms. Page, Mr. Strzok are not part of that team anymore because he took quick action when there was evidence of bias or even the appearance of bias. There's no suggestion that there have been improper leaks from this investigation. And by all accounts, both Bob Mueller and Rod Rosenstein are following to the T the rules and standards that ought to apply to the investigation.

So I want to thank you and your team for describing a set of standards for how to conduct an investigation because I think when you take that set of standards and you apply it to the way Bob Mueller is conducting his investigation, you can see that he is

doing it in a diligent and conscientious way as a straight arrow, and that's why I think we need to support that investigation.

With that, I yield back.

Chairman GOWDY. The gentleman yields back.

The gentleman from Georgia is recognized.

Mr. HICE. Thank you, Mr. Chairman.

And thank you, Mr. Horowitz, for being here.

In late September of 2016, the FBI came into possession of the Anthony Weiner laptop, which contained hundreds of thousands of potentially emails related to the Clinton investigation.

My first question, would you say that this discovery was rapidly communicated with the Midterm Clinton investigation team and the FBI, or was it slow-walked?

Mr. HOROWITZ. The New York office promptly reported it to the Midyear Clinton investigation team.

Mr. HICE. Okay. And when did Peter Strzok, of course, who was leading the Clinton investigation, when did he—when was he made aware of the laptop?

Mr. HOROWITZ. On September 28.

Mr. HICE. All right. So the next day or close within days. All right. So this is the same Peter Strzok has come up in multiple ways, repeatedly bashed President, well, candidate Trump at that time, and then committed to stop him from becoming President.

Now, from Strzok's—from the perspective of his superiors, Bill Priestap, for example, was he at this time committed to the Clinton investigation, or was his focus more on the Russian investigation?

Mr. HOROWITZ. At the time of September 28th and -9th, Mr. Strzok was working on the Russia investigation. And his supervisor was working, not just on that but as you might expect, as Assistant Director of Counterintelligence, a wide variety of matters as we lay out here.

Mr. HICE. Right. On page 297 of your report, Priestap said that the Weiner laptop was not his top priority at this time due to his involvement in the Russia investigation. You said that Priestap himself said that: I don't want to say distracted, but, yeah, my focus wasn't on the Midyear anymore. And Strzok himself was assigned to both the Russia and Clinton investigations at this point, but he was still the lead in the Clinton investigation.

So it is fair to say, by your report, that the superiors were distracted at this time. They were not focused on the Midyear investigation but on the Russia investigation?

Mr. HOROWITZ. Correct. And to be clear, for Mr. Priestap, he was also talking about the election interference issues more broadly than just what has now come to be known as the Russia investigation.

Mr. HICE. Which adds to the whole scenario that he was distracted; his focus was not on the Clinton investigation anymore. So here we go back to Strzok. He is presented now with a choice. He receives the information from the discovery of the Weiner laptop, hundreds of thousands of emails, potentially damaging and at least related to the Clinton investigation. He has a choice now to either follow up on the leads from that laptop and report them in a timely manner, or knowing that his superiors are distracted, he can conveniently place this laptop discovery on the back burner. And so

how long did it take Strzok and the Midyear team to finally get around to the laptop?

Mr. HOROWITZ. So there was activity the next day, September 29, and then there was some discussions back and forth up through October 3 or 4, and then no activity whatsoever until the New York field office again raised a concern on October 21 ultimately—or around October 21—ultimately resulting in a call on October 21 from the U.S. Attorney's Office from the Southern District of New York to the Deputy Attorney General's Office inquiring about why there's been no activity.

Mr. HICE. So Strzok was taking this slow. I mean, he was not—he did not report it in a timely manner and pursue this thing. It was only after the New York group pushed it that he—that Strzok got on board and said we've got to do something about this

Mr. HOROWITZ. Strzok and others, yes.

Mr. HICE. All right. But that's the timeline in all of this.

And so, I mean, from every appearance, he did everything he could to prevent this discovery from becoming public because it may hurt the Clinton campaign. And you, yourself, stated that you could not with any confidence say that Strzok's political bias did not lead him to delay looking at the laptop. Do you still stand by that?

Mr. HOROWITZ. Yes.

Mr. HICE. Okay. So this is where the whole cycle comes back to me, where every appearance and action by Strzok at this point is that his political bias did, in fact, prevent him from bringing forth this information, because it may hurt the Clinton campaign.

And this is precisely, really, one of the big things that to me is just the elephant in the room where there not only was political bias, but action based on that bias to protect one individual over the other, Clinton over Trump. And this is the same Strzok who is leading the Russian investigation, which, of course, is the foundation of the Mueller special counsel. So tremendous concern here.

Again, I thank you for being here.

And, Mr. Chairman, I yield back.

Chairman GOWDY. The gentleman yields back.

Inspector General Horowitz, how about we take a 10-minute break, recess, and then reconvene?

Mr. HOROWITZ. Whatever is good for the committee.

Chairman GOWDY. That suits you, 10 minutes?

Mr. HOROWITZ. It suits me.

Chairman GOWDY. In 10 minutes we'll reconvene.

[recess.]

Chairman GOWDY. The committee will come to order.

The gentlewoman from Michigan is recognized.

Mrs. LAWRENCE. Hello? Are the mikes on? Hello?

Can I reclaim my time, sir?

Chairman GOWDY. You've lost no time.

Mrs. LAWRENCE. Mr. Chairman, I want to thank you.

It's concerning to me that we've spent almost 5 hours here of this esteemed body which I am a Member of to discuss tapes of Hillary Clinton when we know that we have a humanitarian issue happening in our country that we need to resolve.

But with that being said, President Trump fired Director Comey on May 9, 2017, and on May 10, 2017, Chairman Jason Chaffetz sent a letter to you, sir, asking that you investigate the decision to fire James Comey. Did you receive that letter?

Mr. HOROWITZ. I did.

Mrs. LAWRENCE. You separately stated that if circumstances warranted, the OGI will consider including other issues that may arise during the course of the review and the recommendation to remove Comey, indeed, warranted some consideration. Am I correct, sir, you said that?

Mr. HOROWITZ. Yeah. If circumstances warranted, we would expand—

Mrs. LAWRENCE. My question to you is, did you expand the scope of your review into the 2016 election to encompass the firing of Director Comey?

Mr. HOROWITZ. We did not.

Mrs. LAWRENCE. Why didn't you?

Mr. HOROWITZ. For similar reasons to what I mentioned earlier, which is my understanding that it may be the subject of an ongoing special counsel review, that there wasn't a reason for us to make a determination at that point in time—

Mrs. LAWRENCE. Did someone direct you not to?

Mr. HOROWITZ. Nobody directed us not to.

Mrs. LAWRENCE. Is your office currently investigating the firing of Director Comey?

Mr. HOROWITZ. We have not announced any review regarding that.

Mrs. LAWRENCE. I didn't say announcement. Are you currently investigating?

Mr. HOROWITZ. As I said a minute ago, if there is a basis for us to look at it, we will assess and look at it. But my understanding is that it is something that the special counsel is reviewing, and if—

Mrs. LAWRENCE. And that's your sole decision to make?

Mr. HOROWITZ. It is my sole decision to make.

Mrs. LAWRENCE. Have you encountered any attempts to interfere with, obstruct, or curtail that investigation?

Mr. HOROWITZ. Zero, of my own investigations. This investigation or other work, we've had no interference at all.

Mrs. LAWRENCE. Has any entity or individual denied you witnesses or documents that you have requested as a part of your investigation that you have presented to us?

Mr. HOROWITZ. We got access to everything. And as we note here, two witnesses did not agree to voluntarily be interviewed by us, and we had no ability to compel them.

Mrs. LAWRENCE. Is there—and I will ask you again—is there a role that your office will play in the investigation that does not interfere with Special Counsel Mueller's probe?

We have multiple investigations that have happened with the Hillary Clinton emails. Why are you making that sole decision that because there is one investigation that you will not investigate the firing of FBI agent Comey?

Mr. HOROWITZ. As a general matter, Congresswoman, and it's not unique to this matter, as a general matter, when there are on-

going Justice Department investigations, FBI, others, we understand that we don't want to be in the middle of an ongoing investigation. And we defer and wait until the conclusion of that to assess whether there's something for us to review.

And the special counsel, as does the deputy attorney general and others, understand that under the IG Act, if they see misconduct by Justice Department officials, they're obligated to notify us of that.

Mrs. LAWRENCE. So you are stating on the record now that there will be no investigation from your office, based on your sole decision, of the firing of Director Comey?

Mr. HOROWITZ. I'm not saying that. I'm saying we have not made a decision with regard to the request we received as to whether we should or should not do that.

Mrs. LAWRENCE. So how long will that process take for you to make a decision?

Mr. HOROWITZ. In all likelihood, until we understand that there is no other investigation going on of that within the Justice Department, we would wait until that point in time. And obviously, that—

Mrs. LAWRENCE. I would like to ask a question. Repeatedly we've heard about the possible obstruction of the election of our current President. And last time I checked, even though the crowd numbers don't match his statements, he is the President of the United States.

So we are investigating whether a person's personal opinion is one that is conduct that we are finding to be, as far as employment, because it was a government phone, is that the issue that is the core of this, the fact that someone does not support a certain political candidate?

Mr. HOROWITZ. It has nothing—from my standpoint and our findings, it has nothing to do with that.

Mrs. LAWRENCE. Well, that's been brought up multiple times today, that you said because of the email where he said that we'll stop that.

Mr. HOROWITZ. My point being it doesn't matter who he's trying to stop. What I've said repeatedly is I don't care whether he was trying to stop the local election, the Presidential election, or any candidate. An FBI agent cannot take a position or state like that that they would consider using their official action to affect any candidates.

Mrs. LAWRENCE. I agree with that, but I do not want a slippery slope that this President is immune to anyone not agreeing with him. And I've heard that repeatedly today as if it's a capital crime because someone did not agree or support.

But I do support what you're saying, in the role of an FBI agent, that we do not expect that. And I want to be clear, this is a democracy still and we still have freedom of speech.

Thank you.

Chairman GOWDY. The gentlelady yields back.

The gentlelady from the State of North Carolina is recognized.

Ms. FOXX. Thank you, Mr. Chairman. I would like to yield my 5 minutes to you.

Chairman GOWDY. I thank the gentlelady.

Inspector General Horowitz, I want to go back for a couple minutes on the issue of intent. Am I correct, is that your understanding from what Jim Comey said, that the missing element was some element of intent that he was reading into the statute?

Mr. HOROWITZ. That's what he said. I think what the prosecutors were looking at was knowledge and—

Chairman GOWDY. Knowledge of the wrongfulness of her conduct or knowledge that her arrangement with herself may have allowed classified information to traverse her server?

Mr. HOROWITZ. Knowledge that classified information actually did transit through her server—

Chairman GOWDY. All right.

Mr. HOROWITZ. —as of the absence of markings.

Chairman GOWDY. Well, the questions I have for you are equally applicable whether the missing intent is knowledge or intent.

Can you think of a better way to determine what an actor knew than to ask the actor what he or she knew? Am I missing some better repository of evidence than to actually interview the target or the suspect yourself?

Mr. HOROWITZ. I would say there could be instances where there would be better evidence, like contemporaneous recordings, as opposed to the interview where the person might not be candid. But you clearly would want to—

Chairman GOWDY. I'm not aware of those in this case.

Mr. HOROWITZ. Correct.

Chairman GOWDY. But perhaps you know something I do not.

Mr. HOROWITZ. No, I'm not. But I'm just saying you asked hypothetically is there a better way to get evidence of someone's state of mind about the—

Chairman GOWDY. Given the evidentiary restrictions in this case, can you think of any better way to resolve that issue of knowledge than to actually interview the target herself?

Mr. HOROWITZ. No. I think you would want to interview the target herself.

Chairman GOWDY. All right.

And what would you ask the target? You were a highly decorated Federal prosecutor from one of the most prestigious districts in the country. What would you ask the defendant if you were trying to determine whether or not that person, that suspect, had knowledge?

Mr. HOROWITZ. Well, you'd certainly want to start at the beginning, which is, why did the server come to be set up, what was the rationale behind it, what did you understand it would be used for, questions like that, because so much of it would be focused on what the intent, rationale, thinking was behind creating your own separate server or domain name from the outset.

Chairman GOWDY. If multiple explanations have been given in the past on that very issue, would you ask the suspect or the target to reconcile those different explanations?

Mr. HOROWITZ. Presumably, you would ask the subject during the interview in any area where there might be differing reports of testimony or recollections.



Chairman GOWDY. If there had been false exculpatory statements made in connection with the fact pattern, would you ask the target or the suspect to explain those false exculpatory statements?

Mr. HOROWITZ. I think if you were interviewing any witness you would want to ask them about information that was out there that would suggest there was a false exculpatory.

Chairman GOWDY. When I use the phrase "consciousness of wrongdoing," what does that mean to you?

Mr. HOROWITZ. That means you have an awareness, perhaps unstated, that the conduct that you've engaged in is wrongful in some way.

Chairman GOWDY. What about concealment?

Mr. HOROWITZ. Well, that can mean, I guess, different things, depending upon the nature of the concealment. It can be active. It can be passive at some level. But it's keeping something from somebody else. And, you know, we have a concern here about concealment on what happened in connection with July 5th.

Chairman GOWDY. How about the destruction of evidence?

Mr. HOROWITZ. Again, that can be personal or it can be knowing that someone else is going to do it, but it is obviously destroying evidence or information that has evidentiary value.

Chairman GOWDY. I guess what I'm kind of struggling with a little bit, I was actually asked over the weekend whether or not I think she should have been charged. I can't answer that question because I don't think she was interviewed properly. And it's very difficult to go back and conduct a proper interview after one has already been botched.

Did you see all of the questions that you and I just went over in the 302? Were all of those asked of her during that July interview?

Mr. HOROWITZ. I think one of the concerns that's been raised is that, a 302 only being a summary of what was said, that there isn't a transcript or other more definitive report on precisely all the questions and answers.

So we have a summary, and that's what we're working off of, that. It's an extensive summary, but it's still not a transcript.

Chairman GOWDY. Well, given the fact that you and I agree that actually talking to the witness, the suspect, the target might be, absent a contemporaneous recording, some of the better evidence on knowledge and intent, how in the hell was Jim Comey able to draft an exoneration press release 6 weeks before that interview took place?

Mr. HOROWITZ. You know, I think it's clear from looking at what we uncovered that by that point in time they had largely concluded what they had concluded. And if you—

Chairman GOWDY. But my question is, if what you're missing was knowledge and/or intent and the single best repository for that evidence is the person you've yet to talk to, how in the hell can you make that conclusion?

Mr. HOROWITZ. I think—I'll give you what the answer was that we got back, which was: Of course we kept open the possibility that we would find some evidence that would change that view. That was the explanation we were given.

Chairman GOWDY. If that were true, did you find drafts of inculpatory press releases?

Mr. HOROWITZ. We did not.

Chairman GOWDY. You found no memos or drafts where he had decided to charge her?

Mr. HOROWITZ. That's correct. We were told, by the way, by the prosecutors, as you see here, that they did not draft anything until after the interview, precisely because they wanted to wait before making a final judgment for the interview.

Chairman GOWDY. Isn't that what we normally do, wait until the last interview is—

Mr. HOROWITZ. Correct.

Chairman GOWDY. This is my last question I'll have for you. Back when you did trial work, do you remember the judge ever admonishing the jury that you are not to make up your mind until the last witness has testified and the last piece of evidence has been introduced? Do you remember a jury ever being told that by a judge?

Mr. HOROWITZ. Not only do I remember that as a prosecutor, but I actually served on a jury last year. So I remember that from the judge's instruction.

Chairman GOWDY. It's kind of one of the basic precepts of our justice system, is that you wait until it's over before you draw a conclusion. And I am just dumbfounded that Director Comey would draft a press release and cite the missing element when the single best repository of potential evidence on that element had yet to be talked to. I just—I find that stunning.

But I'm also stunningly out of time, so I'll go to the gentleman from Florida, Mr. Gaetz.

Mr. GAETZ. Thank you, Mr. Chairman.

And from the Amazon jungles to the streets of Shalimar, Florida, I've had a chance to observe the patriotic service of many frontline FBI agents, and I'm in violent agreement with Director Wray that the information in your report does not in any way impugn the incredible work that they do.

Refresh my recollection. We know who Lisa Page is, she sent all these bad text messages about Donald Trump, but we don't know who FBI Agents 1 through 5 are. Why the disparate treatment?

Mr. HOROWITZ. So when we write up our report, we apply Privacy Act and other laws to decide who we can—whose name we can disclose and whose name, on balance, we think as a legal matter we can't. That's why you see some names in here and some names anonymized. We have the request from the committee.

As I mentioned, we sought to get approval from the FBI to send that information forward. They—

Mr. GAETZ. What's the reason the FBI gave you as to why we couldn't learn who FBI Agents 1 through 5 are?

Mr. HOROWITZ. They mentioned a couple of reasons, but the primary reason was that because those individuals—two of them were agents, one's a lawyer—work on counterintelligence matters, they had a security and safety—

Mr. GAETZ. Peter Strzok worked on counterintelligence matters, and we know who he is.

Mr. HOROWITZ. That's correct.

Mr. GAETZ. Why the disparate treatment?

Mr. HOROWITZ. I'm just telling you what was reported to us. And, you know, as—

Mr. GAETZ. Who's Attorney Number 2?

Mr. HOROWITZ. I'd have to think about who that is, but I, again, I'd want to make sure that what I was saying wasn't putting someone in jeopardy or at risk.

Mr. GAETZ. What was the reason the FBI gave for not telling us who Attorney Number 2 is?

Mr. HOROWITZ. The same reason, that that individual works on counterintelligence matters and safety and security reasons as well as some other reasons.

Mr. GAETZ. What were they? I want to obtain the full universe of reasons. Because, you know, I feel as though sunshine, transparency will be the way to root out this bias that we seem to see reflected.

Are you familiar with the resistance movement in this country?

Mr. HOROWITZ. I am familiar with it from looking at some of these text messages, but I am not personally familiar—

Mr. GAETZ. What's your general understanding of what that movement is?

Mr. HOROWITZ. I just could tell you what it says here. Somehow, you know, resist what's going on in the country in terms of the government, governance. I have no real personal knowledge of—

Mr. GAETZ. Does it mean resist Donald Trump, resist his Presidency?

Mr. HOROWITZ. That's my understanding certainly as it was played out here.

Mr. GAETZ. So you've got Peter Strzok, who goes from the Hillary Clinton email investigation to the FBI Trump-Russia investigation to the Mueller probe. You've got Lisa Page, who goes from the Hillary Clinton email investigation to the FBI Russia investigation to the Mueller probe. And then you have Attorney Number 2, who similarly goes from the Hillary Clinton email investigation to the Trump-Russia investigation to the Mueller probe.

It seems like a very bizarre coincidence that the way people tended to end up on the Mueller probe was some association with Hillary Clinton, whether it was the people I just identified or whether it was Andrew Weissman, who attended Hillary Clinton's election night party, or whether it was Jeannie Rhee, who had defended the Clinton Foundation in FOIA defenses.

It seems so bizarre that the people you would go and accumulate to prosecute the President of the United States and investigate him would be so intertwined with these fact patterns regarding Hillary Clinton. Does that strike you as odd?

Mr. HOROWITZ. I don't know if it strikes me as odd other than I know it, as to the three individuals you mentioned, occurred.

Mr. GAETZ. Is that usual, for someone who's like directly tied to one element of a fact pattern to then migrate over to these other investigations?

Mr. HOROWITZ. It's an excellent point, Congressman. We actually make that here as well, that from a management matter, having done corruption cases, you wouldn't put someone who just investigated an individual on one side to go investigate the other person.

Mr. GAETZ. Who made those staffing decisions?

Mr. HOROWITZ. It would have been the leadership of the FBI.

Mr. GAETZ. So it would have been James Comey, who's been fired. It would have been Andrew McCabe, who has been referred for criminal prosecution as a consequence of your good work.

Attorney Number 2 says "viva le resistance" while actively investigating President Trump. Is that right?

Mr. HOROWITZ. That's my understanding.

Mr. GAETZ. And does it trouble you that someone who is tasked with investigating the President was associating himself with a resistance movement against the very same President?

Mr. HOROWITZ. I'll say what I said earlier. I don't care who that person was investigating, that person should not be making comments about an individual or related to a person they're investigating or the FBI is working on.

Mr. GAETZ. It will be totally unacceptable to my constituents to say that there was a person who went from the Hillary Clinton email investigation to the Trump-Russia investigation to the Mueller probe who identified himself and who you identified as the lead FBI lawyer on the Mueller probe and we don't get to know who that person is. Associating with the resistance, going after the President after this totally botched Hillary Clinton email investigation that you've appropriately highlighted.

In this country, we cannot live in a world where unelected people at the FBI get to shelter someone who I believe was actively working against the President and actively associating and identifying with a movement that is intended to frustrate everything that this President is trying to do.

So I hope we get that information, Mr. Chairman, and I yield back.

Chairman GOWDY. The gentleman yields back.

The gentleman from Oklahoma is recognized.

Mr. RUSSELL. Thank you, Mr. Chairman.

And thank you, Inspector General Horowitz, not only for your long patience today, but for your professionalism on so many levels.

One of the things that I think the facts seem to bear out from this hearing today, that there was bias by key investigators collecting evidence; their investigative evidence was provided then to prosecutors; these prosecutors, based on that evidence, acted accordingly, without any bias of their own, in coming to their conclusions.

Is it possible that prosecutors can be misled by biased investigators who guide or withhold evidence?

Mr. HOROWITZ. It's certainly a possibility that, you know, something like that could happen. I don't—we didn't—in the evidence we reviewed, we didn't see that here, but certainly—

Mr. RUSSELL. Well, given the actions of the investigators expressing bias, which was very detailed in the report, and the statements and draft statements of the Director months before the investigation was complete, do you think it possible they already had an outcome in mind?

Mr. HOROWITZ. Well, I think clearly they had an—that the FBI, through Director Comey, had an outcome in mind, given the drafting starting in early May.

Mr. RUSSELL. And while prosecutors were found to be unbiased in their conclusions, did that same conclusion exist with those making investigative decisions whose evidence would ultimately be provided to the prosecutors?

Mr. HOROWITZ. Well, Director Comey obviously heading up the FBI and his folks, we lay out here that they believed by early May that, absent confession, some unusual event or discovery of evidence they didn't anticipate or false statements, that they thought this was heading towards a declination.

Mr. RUSSELL. I guess that, you know, that's the concern that the American people have, is the investigation was not even closed, that we have the Bureau, the Justice Department, in fact, in your own reports, and I quote: "We were particularly concerned about the text messages sent by Strzok and Page that potentially indicated or created the appearance that investigative decisions they made were impacted by bias or improper considerations."

Along that same vein, quote: "We did not have confidence that Strzok's decision to prioritize the Russia investigation over following up on the Midyear-related investigative lead discovered on the Weiner laptop was free from bias."

And then a last one to highlight here: "It is not only indicative of a biased state of mind but, even more seriously, implies a willingness to take official action to impact the Presidential candidate's electoral prospects." And then you highlight that this is antithetical to the core values of the FBI and the Justice Department, and I think that's true.

In your report you discuss also that Mr. Comey was concerned about a classified issue specific to Lynch and that there are questions that many of us have related to these issues that arose in March 2016 that alleged bias or attempts by Attorney General Lynch to impede the Midyear investigations, and that some of that information suggests, or could, that Comey may have also been attempting to influence the investigation.

Your report says that you detail perhaps some answers to some of these questions and others in a classified appendix. When will you provide the committees copies of the classified index?

Mr. HOROWITZ. So that classified appendix was classified by the intelligence community. We don't do that. It ended up—we're not the classifiers. They classified it at such a high level, some of the information, that it made it impossible to make it available to the Members as we wanted to. Only certain Members would have been able to see it.

We have gone back to the intelligence agencies and said: Please let us know what is the material that gets us to this level so we can bring it down to a level where everybody can look at it. We just got a report back from some of the intel agencies today. We're hoping—or last night—we're hoping to get the rest of it in the next few days.

I've raised this with the deputy attorney general's office, that we need this changed, you need to see it. It's important for the Congress to see it. And we're going to work hard to get that.

Mr. RUSSELL. Absolutely. And can the House hold a copy in our secure SCIF—

Mr. HOROWITZ. That's exactly what I'm working to—

Mr. RUSSELL. —an unredacted copy?

Mr. HOROWITZ. Right. That's exactly what I'm working to get.

Mr. RUSSELL. Because we've been through this rodeo before. And I've gone down to the tank and I've read redacted things, and then had members, high-placed members of our Bureau and Justice Department say, well, this is because of Freedom of Information Act redactions, as if that were a grounds to withhold information from Congress.

Which agency in specific? Is it the CIA that's making the determination that members of committees are not authorized to view the classified index?

Mr. HOROWITZ. My understanding is it's—speaking with the ODNI, the Office of Director of National Intelligence, and the CIA, that they're working through these issues with the FBI.

Mr. RUSSELL. Well, I thank you for that, Inspector General, and thank you for your great work. And we will be right there backing you up, that Oversight and Judiciary Committees, with obvious jurisdiction, need, for the sake of the American people, to see what it is that they are concealing. And we await those answers.

And thank you, Mr. Chairman. I yield back my time.

Chairman GOWDY. The gentleman from Oklahoma yields back.

The gentleman from Louisiana is recognized.

Mr. JOHNSON OF LOUISIANA. Thank you, Mr. Chairman.

Mr. Horowitz, thank you for your time today and your dedicated work. I'm going to speak fast.

18 U.S.C. Section 793(f) reads in relevant part, as you know: Whoever, being entrusted with or having lawful possession or control of any document or writing relating to the national defense, through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, shall be fined under this title or imprisoned for not more than 10 years or both.

Isn't it true that Director Comey's initial draft statement, which he shared with FBI senior leadership, criticized Clinton's handling of classified information as, quote, "grossly negligent"?

Mr. HOROWITZ. That's correct.

Mr. JOHNSON OF LOUISIANA. And according to your report, Lisa Page is identified as the person who raised concerns about the term "gross negligence" in that draft statement, and it was later replaced with the phrase, quote, "extremely careless." Is that right?

Mr. HOROWITZ. That's correct.

Mr. JOHNSON OF LOUISIANA. Isn't it true that "gross negligence" is a legal term with criminal implications, while "extremely careless" is a subjective term with no criminal implications?

Mr. HOROWITZ. Correct.

Mr. JOHNSON OF LOUISIANA. I want to pick up on what Chairman Gowdy asked you a few moments ago. You've said a couple times today the focus in this particular investigation was on actual knowledge. Is that correct?

Mr. HOROWITZ. That's correct.

Mr. JOHNSON OF LOUISIANA. The problem I have and the real question here is that that's not a standard of focus or an interpretation that's provided in the express language of the operative statute. Isn't that right?

Mr. HOROWITZ. That is correct. And when I say this investigation, it obviously means the Department's Midyear investigation, not our review.

Mr. JOHNSON OF LOUISIANA. Right. And so the Department used this application of the statute, there's no express language in the statute to give them that authority. The question is, where did that come from? By what authority did these investigators unilaterally decide to employ an actual knowledge standard in interpreting the statute?

Mr. HOROWITZ. Well, as we looked at their—at the written evidence, the documents, and then interviewing the prosecutors, they describe their rationale for interpreting the statute that way as both a legal consideration, because of concerns over whether a prosecution would be upheld if it was successful, and their belief that, based on the legislative history of the statute, it required something more than gross—pure gross negligence, and the statute's absence of a definition of gross negligence.

Mr. JOHNSON OF LOUISIANA. And was there any precedent, specific precedent for them to do that?

Mr. HOROWITZ. They were relying on prior Department precedents. In other words, how the Department they believed interpreted the statute over time.

Mr. JOHNSON OF LOUISIANA. Let me move on.

Of course, everyone in America now knows the sordid history and the infamous text messages between FBI agents Peter Strzok and Lisa Page, including the August 8, 2016, exchange where Strzok assured Ms. Page that they would, quote, stop the election of Donald Trump.

Isn't it reasonable to conclude that criminal charges brought against Mr. Trump's opponent, Hillary Clinton, would hurt her campaign and thus potentially help Donald Trump to be elected?

Mr. HOROWITZ. I think that's probably a given I might have to think a little bit about.

Mr. JOHNSON OF LOUISIANA. A matter of common sense, right? And wouldn't it—and wouldn't that outcome be the opposite of what Strzok promised his paramour in those text messages that we've all seen now?

Mr. HOROWITZ. I guess so, though, frankly, I haven't stepped back and thought about and, frankly, haven't focused on what the implications of it ultimately could be as it played out. Just sort of as it was, it was problematic.

Mr. JOHNSON OF LOUISIANA. Well, the American people have, and many Americans would logically conclude that this political bias directly affected specific investigative decisions and judgment calls. But we'll disagree about that.

I'm running out of time. I want to get to something that's very personal for you.

By all accounts, you're an American patriot. You're an esteemed and trusted public servant. We thank you for that service.

Let me ask you this personal question. Is the American people's trust in our justice system and the people's faith in our institutions important to you as an individual?

Mr. HOROWITZ. Absolutely.

Mr. JOHNSON OF LOUISIANA. And do you believe those things are important to our Republic as a whole?

Mr. HOROWITZ. Yes.

Mr. JOHNSON OF LOUISIANA. In your important role at DOJ, do you believe you have a personal duty to help guard the integrity of and maintain the people's faith in our institutions?

Mr. HOROWITZ. Yes.

Mr. JOHNSON OF LOUISIANA. Let me ask you this very important question then, based on that. If your report had concluded that the evidence showed that improper considerations, including political bias of FBI agents, did directly affect specific investigative decisions, do you think that would have risked eroding the American people's trust in our justice system and the people's faith in our institutions?

Mr. HOROWITZ. It could have had I guess even—it could have had a greater impact. I think this has an impact, standing alone.

Mr. JOHNSON OF LOUISIANA. But Does it—would you agree that it stands to reason that a man in your position might be tempted to rationalize a report that political bias did not affect the Clinton investigation as somehow serving the greater good of not completely undermining the country's faith in our FBI?

Mr. HOROWITZ. Look, I look at this evidence and my team looks at this evidence based on our judgments, our best judgments on this. We don't pull our punches because of concerns over how it'll seem or appear. I think anybody who tells me that having just completed an investigation where I called the former FBI Director insubordinate and issued a report about the deputy director lying under oath, I don't think anybody can accuse us of pulling our punches on that.

Mr. JOHNSON OF LOUISIANA. Could you at least see—I'm out of time—could you at least see how reasonable people might reach a different conclusion, though?

Mr. HOROWITZ. As I said in my opening, Congressman, the purpose of laying out this in 500-plus pages is precisely so the American public, who are the people who I serve, we all serve, can make their own judgments. And people will agree or disagree. We've done our best to put our judgment on it. I would just assure everybody we didn't pull any punches on it.

Mr. JOHNSON OF LOUISIANA. I appreciate your service.

I yield back.

Chairman GOWDY. The gentleman from Louisiana yields back.

The gentleman from Virginia is recognized.

Mr. CONNOLLY. I thank the chair.

What a long day, Mr. Horowitz. Thank you for your patience.

You know, following up on the gentleman from Louisiana's style of questioning as well as content, would it be fair to conclude by the American people that a hearing such as this is designed to discredit an ongoing investigation, criminal investigation by the special counsel, Robert Mueller, and using your report to do that? Might that be something?

Mr. HOROWITZ. I'm not going to speculate—

Mr. CONNOLLY. Of course, you're not.

Mr. HOROWITZ. —on anybody's intent.



Mr. CONNOLLY. Of course, you're not. But that kind of leading question deserves a leading question in return.

One suspects, sitting here, that we're up to no good. Two committees with a big hearing to try to prove that there was such unbelievable bias within the FBI, political bias, that it taints everything they're doing.

And I look at your conclusion. You say there are many lessons to be learned from the Department and the FBI's handling of the Midyear investigation, but among the most important is the need to respect the institutions' hierarchy and structure and to follow established policies, procedures, and norms even in the highest profile and most challenging investigations. Is that correct?

Mr. HOROWITZ. That is correct.

Mr. CONNOLLY. Is it established policy, Mr. Horowitz, DOJ policy, to disband an investigation, an ongoing investigation, because, say, somebody's personal lawyer says it's an investigation that will be cleared up with a pardon?

Mr. HOROWITZ. No policy in the Department.

Mr. CONNOLLY. There's no such policy?

Mr. HOROWITZ. Correct.

Mr. CONNOLLY. In fact, that would be bad policy, would it not?

Mr. HOROWITZ. That would not be good policy.

Mr. CONNOLLY. Is it established Department of Justice policy to disband an investigation because, let's say, the subject or one of the potential subjects of the investigation calls it a witch hunt?

Mr. HOROWITZ. I think, as the Director said yesterday during our Senate hearing, that that decision is made solely by the FBI.

Mr. CONNOLLY. Is it established Department of Justice policy to disband an ongoing criminal investigation because a high-level government official says it's time to wrap it up?

Mr. HOROWITZ. Not unless it's someone who has authority over it and has made that conclusion that it's reasonable, based on the facts and the law.

Mr. CONNOLLY. So I take your report to basically say we have to return to a normal process and allow investigations to work their will, but we can't infect them with bias.

I thought I read in your report, despite hours of hearings here, with 76 Members, I thought your report concluded that in the conclusion with respect to Secretary Clinton's emails you did not detect any evidence of the effect of bias in that conclusion?

Mr. HOROWITZ. On the conclusion of the prosecutors on whether or not to charge.

Mr. CONNOLLY. Right. Right. So despite all this Sturm und Drang, there's no evidence that a bias influenced that conclusion.

Mr. HOROWITZ. The prosecutor's conclusion, correct.

Mr. CONNOLLY. Hmm. By the way, I remember Mr. Nadler a little earlier asking about the—because we're hearing so much about two particular FBI agents who favored, apparently, Hillary Clinton or at least did not like Mr. Trump—a lot of us join in that sentiment—but are you aware of any FBI agents who, in fact, loved Mr. Trump and didn't like Mrs. Clinton?

Mr. HOROWITZ. We looked at the team that worked on this investigation and the Clinton email investigation and we reported what we found in terms of biased texts.

Mr. CONNOLLY. Did anyone ever refer you to, say, the New York field office of the FBI?

Mr. HOROWITZ. There were comments made by the FBI general counsel about his understanding of the view of agents in the New York field office.

Mr. CONNOLLY. My time is almost up. There are a lot of people who believe the New York office had profound bias that was anti-Clinton that actually influenced Mr. Comey's thinking.

I just wish the fervor shown here was reflected in our willingness to look objectively at other needs for investigation, especially with respect to Cabinet members in the current administration. I believe we now have over 50 subpoena requests in my committee to the chairman, none of which have been issued. I wish we had in-depth hearings with respect to potential corruption and ethical lapses by members of the Cabinet, but we haven't done that.

But we are going to spend a joint committee hearing, full committee, looking in the past at something that's already been adjudicated.

I want to thank you, Mr. Horowitz, and your colleagues for a fine piece of professional work, and I hope it doesn't get distorted through this process.

I yield back.

Chairman GOWDY. The gentleman from Virginia yields back.

The gentleman from Wisconsin is recognized.

Mr. GROTHMAN. Okay. We've already spent a lot of time on Mr. Strzok and Ms. Page, but they have obviously said things that you would consider that they had a strong bias towards Ms. Clinton becoming President, correct?

Mr. HOROWITZ. We were concerned about their biased statements, yes.

Mr. GROTHMAN. Oh, and by the way, if something happens or they make decisions that favor Ms. Clinton and they have talked about bias towards Ms. Clinton, you will not say that it has necessarily affected their decision, correct? You will give them the benefit of the doubt in your paper?

Mr. HOROWITZ. I don't know if it's right to say we give them the benefit of the doubt as opposed to we would go and look for the evidence to see if we could find evidence of bias.

Mr. GROTHMAN. Okay. But if they make a decision that happens to favor Ms. Clinton or happens to hurt Mr. Trump, you do not by itself say that's an indication of bias?

Mr. HOROWITZ. Well, I would say that with regard to the October decision to not prioritize the Weiner laptop and prioritize the Russia investigation, we reached the determination we were concerned that it could have evidenced bias.

Mr. GROTHMAN. Okay. Now, there were five other people that you mentioned specifically in the report that apparently said things that would indicate they either did not like Mr.—they did not like Mr. Trump, correct?

Mr. HOROWITZ. Three others plus the two of them. Five total.

Mr. GROTHMAN. So a total of five. Did you find anybody else in any of the emails you looked at throughout the investigation, even minor bit players, that would indicate political bias?

Mr. HOROWITZ. You know, we saw in various messages sort of discussions that are—that were tangential, in our view, to the events. And so I can't sit here and I have to check to see which side everybody was on and who they spoke about, but nothing that we thought connected in any way—

Mr. GROTHMAN. Okay. But there were other comments on the election?

Mr. HOROWITZ. There's going to be people making comments.

Mr. GROTHMAN. Comments. Of course, they're going to make comments.

Mr. HOROWITZ. So that's—I'm just hesitant to say—

Mr. GROTHMAN. It would seem to me in this environment it would stick in your mind if anybody happened to make a comment indicating they wanted President Trump to win. Do you ever remember any comments like that from any of these emails?

Mr. HOROWITZ. I don't remember anything as I sit here.

Mr. GROTHMAN. Okay. Several of these people were involved in more than one investigation, which kind of concerns me. Was it a coincidence that people who had an anti-Trump bias wound up in two separate investigations or three separate investigations?

Mr. HOROWITZ. Well, what we describe here is the decision was made in July after the Clinton investigation was closed in Director Comey's announcement and the Attorney General's announcement when the Russia matter opened to take some of those same members and put them on that next investigation, which we state is from a management standpoint something we would be—thought was a concerning decision.

Mr. GROTHMAN. Was it a coincidence, though, they happened to be Clinton partisans? I guess that's my concern. Of all these seas of FBI people, and we're told they're so professional, is it a coincidence that people who have so brazenly expressed anti-Trump sentiment would wind up on these two key political investigations?

Mr. HOROWITZ. Well, just keep in mind these texts aren't discovered until 2017 when we start our review. So—

Mr. GROTHMAN. Right. I understand that. But would you think it was—it hits me as unusual, given the huge volume of work the FBI has to do, that these clearly anti-Trump people wound up on these two politically charged investigations. No?

Mr. HOROWITZ. I don't know exactly how they ended up on the other investigation—other than Mr. Strzok was at the time the deputy assistant director of counterintelligence. So—

Mr. GROTHMAN. Are you investigating the Russian investigation?

Mr. HOROWITZ. We are now looking at, in light of the referrals we've had over the last several months, the question about the FISA issues that were referred to us as well as the campaign-related questions that have been referred to us.

Mr. GROTHMAN. Okay. But you're not prepared yet to talk about any information on political bias?

Mr. HOROWITZ. No. It would certainly be premature. We're still investigating it, for the very reasons that people have expressed concern about the—you know, the—

Mr. GROTHMAN. I'll give you a broader question, which involves not just this investigation but the whole what we'll call the swamp. I don't mean this to be a partisan thing, because this was an un-

usual Presidential election. It wasn't really a Republican versus Democrat election, it was kind of a swamp versus nonswamp, because a lot of the Republicans I don't think wanted Mr. Trump to win either, because they were kind of wedded to the swamp.

When I look at the voting results in the District of Columbia and surrounding areas, I see—I think the whole country in general was about half Clinton, half Trump. But you look at Montgomery County, 19 percent Trump; Alexandria County, 17 percent; Arlington County, 16 percent; Prince George's County, 8 percent; District of Columbia, 4 percent.

We're living in an area here which is just so out of whack with the rest of the country, you know, so right across the board that it's hard to believe.

Are we in a situation here in which not just with regard to the FBI, but other Federal agencies as well, we have to worry that political bias may creep into decision making?

And my constituents are worried, IRS, EPA, everything, that if it's known that they are supporters or people who want to reduce the swamp, that these agencies may come after them. Is this a—should be an overriding concern of people living in this rather unusual area here?

Chairman GOWDY. The gentleman is out of time, but you may answer the question.

Mr. HOROWITZ. I mentioned, Congressman, I think what's so concerning about this and these texts is because it creates that appearance and, rightfully so, that concern. You know, the Justice Department and the FBI has offices in every part of this country. Some parts of the country have voting records one way, some have the other way.

When you show up in an office and you work for the Justice Department, you work for the FBI, it doesn't matter whether you're in a red State, a blue State, a purple State, a red district, a green district, it should have zero bearing. You walk in that door, if you can't be a professional and walk in that door and do your job, you got to get a different job. That's what it's all about.

And I've seen commentators write about this, and I had a colleague in Southern District of New York who's written about this. We went to the office, and I didn't know what my colleagues' political views were. I just knew they cared about investigating the heck out of the case. And if someone deserved to be charged, they were charged; and if someone deserved to be convicted, they brought the case to the courtroom to see if they could—to see what the jury would decide.

And that's what the Justice Department's about. And if you can't walk in the door and leave your views behind, you got to get a different job.

Chairman GOWDY. The gentleman yields back.

The gentleman from Arizona is recognized.

Mr. BIGGS. Thank you, Mr. Chairman.

It was reported that on May 15 you completed a draft of the report that we're discussing today and then you circulated all of it or portions of it to various individuals: Mr. Comey, McCabe, Loretta Lynch, Lisa Page, Peter Strzok. Were there others that received portions of that draft?

Mr. HOROWITZ. So individuals who provided voluntary testimony whose conduct is critiqued in here, as a matter of fairness—and we do this in every single review we do. We changed no practices here. We give them a chance to come in, as a matter of fairness, to tell us if they think we got it wrong or to give us additional evidence if they think we missed something. And that's what we do.

Mr. BIGGS. Right. So I appreciate that. You testified to that earlier today. So I'm wondering did you give it to anyone else other than those people I just named?

Mr. HOROWITZ. We—yes.

Mr. BIGGS. Okay.

Mr. HOROWITZ. So any—the individuals in here who you see whose conduct was critiqued, we would give it to them and, as a matter of course—every IG does this—you give it to the Department and the—

Mr. BIGGS. Sure. And that would be like—so you gave it to—and I don't mean to interrupt, but we only have 5 minutes. I've been waiting for hours. You've been very good here being many hours, but you've got to at least talk and I haven't got to do that until just now, and I live to talk.

So I guess what I'm asking is, did you give it to Prosecutor 1, Agent 1? They all got it, right?

Mr. HOROWITZ. Yes.

Mr. BIGGS. So did they respond?

Mr. HOROWITZ. Some did, some didn't.

Mr. BIGGS. Okay. And I guess my question at this point is, we've sent you a letter asking for copies of the original draft, any alterations made, edits, red lines. And I hope that we can get that from you.

I want to go to—is there a chance we're going to get any of that information from you?

Mr. HOROWITZ. What I'd like to do is, as we normally do and I like to do, is engage with you and—

Mr. BIGGS. Perfect.

Mr. HOROWITZ. —the committee about it. I understand the concern. I want to talk it through with you and the other Members who signed the letter and the chairs and the ranking member and have a candid discussion about it.

Mr. BIGGS. Love to do that. We can do that offline.

Mr. HOROWITZ. Absolutely.

Mr. BIGGS. Yeah. Great. Thank you.

So you testified earlier this morning when Mr. Jordan from Ohio first questioned you—he took several hits at you. You must have felt like a pinata. Don't feel bad.

Mr. HOROWITZ. Not at all.

Mr. BIGGS. I get that all the time. That Peter Strzok led the Hillary Rodham Clinton—the investigation into her emails. Do you remember saying that?

Mr. HOROWITZ. Yes.

Mr. BIGGS. Okay. Then on page 148 of your report you mentioned the critical roles that both Strzok and Page played in most of the decisions made by the FBI, right?

Mr. HOROWITZ. Correct.

Mr. BIGGS. Fair statement?

Mr. HOROWITZ. Yes.

Mr. BIGGS. And so Lisa Page's duty was she was advising the deputy director, Andrew McCabe, legally, and from reading this, I get the impression that on a lot more than legal. She's giving perhaps even some strategic information and advice, as well, and counsel.

And as you just said, Mr. Strzok, he basically led the investigation and he was acting in some ways, through that chart of order, he's kind of—he's kind of the liaison between all the other analysts and the decision-makers. But he is kind of in the decision-maker, because he's always there with the decisionmaking body. He's giving inputs. And that's what I want to talk about today.

We're talking about—we've been talking about bias a lot. And everybody walks in with bias and you have to be able to set it aside. But in this particular thing the output, the output, and the way you phrased it, and you've been very careful as you've answered today, and in this report you said it didn't—the bias of these people did not directly affect the outcome. But I'm here to suggest to you that inputs affect outcomes. The outputs come on.

So when you have this very notion of these people, for all we know, they're filtering information, we don't know anything really what's going on in the decisionmaking process, you can't recreate it, but we know that there's certain outputs, and those outputs point to Hillary Clinton's not going to be charged.

The biases that are reflected by these two people who have extraordinary inputs seems to indicate that they could have impacted those outputs. Am I wrong on that? I mean, I view what you've said here. So what I want to say is, could they have indirectly affected the outcome here?

Mr. HOROWITZ. It could have, and we don't rule it out. And, frankly, I think what you have a right to expect from us is this kind of report laying out the facts, so that you and every Member and every person in this country can make their own assessment.

Mr. BIGGS. Well, I will say in my last minute, in my last second, that you've written a report that the other folks that disagree with me will say that, see, there was no bias here, you know, if there was any bias, it was against Hillary Clinton.

And people on my side look at it and say, you've got people working here at the highest levels who appear to have been controlling the inputs that are going into the decisionmaking process, and that indicates that the ultimate output may, indeed, have been biased.

Thank you. I have no further time.

Chairman GOWDY. The gentleman from Arizona yields back.

The gentleman from Florida is recognized.

Mr. RUTHERFORD. Thank you, Mr. Chairman.

General, let me paint a little picture of the FBI that I knew for many years, and I think most would agree. They are the premier law enforcement agency not just in the United States, but I think most likely in the world. Would you agree with that?

Mr. HOROWITZ. I think they're viewed—and I'll say one of, because we oversee other law enforcement agencies at the Justice Department.

Mr. RUTHERFORD. Okay. I'll let you off the hook on that one.

But also that Mr. Strzok, who's risen to a very high level within that organization, has to be a premier agent within the premier agency, the FBI.

Mr. HOROWITZ. That's certainly what we were told.

Mr. RUTHERFORD. Would you agree with that?

Mr. HOROWITZ. Yes.

Mr. RUTHERFORD. And so—and, in fact, I don't know that the FBI, at least in the 40 years that I've been in law enforcement, ever conducted an investigation that brought the integrity of the agency and the investigative process under such scrutiny and questioning of the integrity of the agency. Would you agree with that?

Mr. HOROWITZ. It certainly has brought incredible scrutiny and undercut the credibility of the organization in a way that is unfair to all these thousands of agents out there.

Mr. RUTHERFORD. Exactly. I've never seen anything like it. And in fact even Agent Strzok, I don't know of anything in his past that ever questioned his integrity and his service to the FBI or his country. Do you?

Mr. HOROWITZ. I'm not aware of anything.

Mr. RUTHERFORD. So when I look at your report and then you outline several investigative and prosecutorial missteps in this particular case—and I'll read just a few of them for you. This is from Roman numeral I in the summary:

The preference for consent over compulsory process to obtain evidence; decision not to obtain or to seek to review certain evidence, such as the personal devices used by Secretary Clinton's senior aides; the use of voluntary witnesses over these interviews; quote, "decisions to enter into 'Letter Use' or 'Queen for a Day' immunity agreements with three witnesses," some of which I think might have been potential targets as well, had the potential anyway; the use of consent agreements and active production immunity to obtain the laptops used by Clinton's attorneys, Cheryl Mills and Heather Samuelson, to cull her personal and work-related emails; the handling of the Clinton interview on July 2; the tarmac meeting; the Midyear Exam delay in looking into the Anthony Weiner laptop situation; Director Comey's drafting of an exoneration letter in May.

So my question is, when you look at these things in their totality—you look at them individually, you may not—you may not see much. But you know in a civil rights prosecution, you look at patterns or practices, it will overcome any written policy that they may be presenting. And all a plaintiff has to do is show a pattern or practice to overcome a defense by an organization that, you know, we have this policy against, you know.

So when you say that you found political bias but it had no effect on the investigation, it seems to negate this pattern or practice that clearly existed in this investigation.

Mr. HOROWITZ. I just—I want to say we didn't find that it didn't have any impact on the investigation. We couldn't possibly have looked at all these decisions, as you said, that covered all this period of time. What we found was focused on the individual investigations.

And I think what's important for people to understand is our responsibility as an inspector general or as inspectors general in

looking at these issues, not to say this was thorough or not thorough or the best choice or not the best choice or could have been done more aggressively or not, but we're looking at was there misconduct.

Mr. RUTHERFORD. Let me ask one more question very quickly. Have you ever seen a public relations campaign mounted surrounding an investigation like we saw here where there's a SAC conference so that the agency can pass down information on this case so that they can swat down, quote, swat down stories about it, and they even briefed retirees. Have you ever seen that before?

Mr. HOROWITZ. It's a great question, Congressman, actually the first in yesterday's hearing and today who's asked about that portion of the report. And it doesn't directly affect this investigation, but for the reasons you indicated, I think we were concerned particularly in the context of when it was occurring, which was in October—

Mr. RUTHERFORD. Correct.

Mr. HOROWITZ. —during the campaign.

And in our view, you look at that and you say, you know what, when there's a campaign going on and either side commenting on this, the best place for the Justice Department to be is on the sidelines. The political debate will be the political debate. It might be fair; it might be unfair.

But when you start doing that and sending out talking points across the country you might actually be encouraging people—maybe unintentionally, we didn't make an intent finding here—but maybe unintentionally encouraging people to, as you suggested, get the word out. Well, it may cause other people to want to speak who maybe don't agree with the talking points.

And so that was one of the areas that we had concern about. And I appreciate you raising that, Congressman, because I—

Mr. RUTHERFORD. My time is up. I just can't figure out how Peter Strzok is still at the FBI.

I yield back, Mr. Chairman.

Chairman GOWDY. The gentleman yields back.

The gentleman from Alabama is recognized.

Mr. PALMER. Thank you, Mr. Chairman.

Good to see you, General Horowitz. I have a very high regard for you. And I think you know that.

Your report states that various witnesses told you that the mishandling of classified information was a persistent practice at the State Department. And the State Department is so screwed up in the handling of classified information that if they had wanted to prosecute Secretary Clinton, that they would have had to prosecute 150 State Department people.

Does that basically invalidate the statute?

Mr. HOROWITZ. It doesn't. That's what they told us was one of their rationales though for it.

Mr. PALMER. I don't know if you're going to allow me to do this with you, but I want to do this in regard to the statement of an insurance policy, okay? It's not in regard to the Russia probe. I know that's coming later. But, obviously, Andrew McCabe put Peter Strzok in charge of the Russia probe.

Are you aware that Strzok went to London in July of 2016?



Mr. HOROWITZ. I've learned of that through various public reports.

Mr. PALMER. And I think it would be fair to say that McCabe approved that trip and approved the expenditures for that?

Mr. HOROWITZ. I don't know the answer one way or the other.

Mr. PALMER. I just wonder what other justification there could have been for a trip to London at that particular time other than the Russia probe? And what concerns me was that when he returned he almost immediately launched that probe. That McCabe, I think approved him going to London, he came back and he launched it.

Do you think there's any possibility that Strzok had prior knowledge that Christopher Steele was assembling the dossier?

Mr. HOROWITZ. You know, that's one of the issues we are—have been asked to look at, and so we're in the middle of that work on how that played out with regard to the FISA application.

Mr. PALMER. And I'm glad that you made that point because I think another question I need to ask, was there any possibility that the dossier was at least part of Strzok's insurance policy? Because that statement came later, I believe.

Mr. HOROWITZ. Right. The insurance policy statement came up on—

Mr. PALMER. Well, here is what concerns me about it, is that you've got McCabe, whose wife received almost \$700,00 in campaign contributions from the Clintons. It was almost 40 percent of her total campaign contributions. And obviously there was a very strong relationship. McCabe put Strzok in charge of this. He either sent Strzok to London or allowed him to go or approved it.

Do you think that either of them had knowledge that the Clinton campaign paid for the dossier?

Mr. HOROWITZ. I don't know the answer to that as I sit here, but that, you know, is something that is part of the review that we're doing. It will be touched on in terms of the dossier.

Mr. PALMER. Well, and I appreciate that. I look forward to reading that report. And I understand, you know, what you're trying to do.

But let me ask you this in regard to bias. And I want to be maybe the one guy that doesn't go over time today.

All things being equal, if someone said they thought that another inspector general would be more qualified than you to do this investigation, I think we'd both agree that there was some bias involved there. It might be qualified. It might be justified. But there would be some bias there that they preferred someone else over you, okay.

But if that same person called you and your colleagues pieces of crap, and that's not what they—the word they used—or repeatedly referred to you as loathsome or an idiot, awful, used the F word in regard to you, referred to your team as retarded, crazies, or, as Mrs. Clinton said, deplorables, I think that would go beyond bias. I think you might even consider that extreme prejudice or maybe even extreme animus.

Would you agree with that?

Mr. HOROWITZ. I think, you know, as we've talked about when we—

Mr. PALMER. I'm just asking this, you know, hypothetically. If I were responsible for the job, the assignments you got, and I made comments privately like that about you that later became public, how would you feel about that?

Mr. HOROWITZ. Oh, I think it certainly is evidence of a biased state of mind like we—

Mr. PALMER. But it would indicate that I had made a determination that I was going to prevent you from advancing your career. I just would ask you, would you have any confidence that you would be treated fairly under those circumstances?

Mr. HOROWITZ. I think I'd have—you'd have reason for concern, and it is precisely why this is so problematic.

Mr. PALMER. And especially if it were persistent, right to the very end.

Mr. HOROWITZ. That's right.

Mr. PALMER. Thank you, Mr. Chairman, I yield back.

Chairman GOWDY. The gentleman from Alabama yields back.

The gentlelady from Georgia is recognized.

Mrs. HANDEL. Thank you, Mr. Chairman.

Thank you so much, Mr. Horowitz, for being here.

A January 14, 2016, letter from IG Charles McCullough discusses sworn declarations that dozens of Secretary Clinton's emails were top secret and special access program levels. This information, as you well know, is so sensitive that even for IG McCullough he had to get special clearance in order to even see them. Treating information like this improperly would almost certainly have resulted in serious consequences for just about anybody, not in this situation.

The letter, this letter from IG McCullough, was out well before Comey changed the May memo language from, quote, "gross negligence to extremely careless." And since we have a lot of viewers watching this, and we tend to in this committee, both of these committees, be very legalese, could you describe for everyone the difference between those two phrases?

Mr. HOROWITZ. Well, "gross negligence" is a legal term found in Section 793. Whereas, "extremely careless" is a nonlegal term to describe, as used here by former Director Comey, to describe what his characterization was of the conduct.

Mrs. HANDEL. So did I hear you correctly that there's really nothing in the U.S. Code that deals with, quote, "extreme carelessness" or "extremely careless" when it comes to handling classified information?

Mr. HOROWITZ. Correct.

Mrs. HANDEL. Okay. So information classified at this level contains very critical information, critical to national security, protecting the identity of U.S. intelligence assets. Is it possible that Comey chose "extremely careless" or "extreme carelessness" precisely because of the fact that that phrase is not in the U.S. Code?

Mr. HOROWITZ. In fact, that's what we were told, is the reason for the change was to take it from what was in the statute to something outside the statute.

Mrs. HANDEL. Well, thank you. I think all of us on the committee and those watching appreciate that clarity.

I want to follow up on something that Chairman Gowdy brought up earlier, and that has to do with the interview process.

Secretary Clinton was voluntarily interviewed rather than appearing before the grand jury?

Mr. HOROWITZ. That's correct.

Mrs. HANDEL. Were Secretary Clinton's attorneys, Ms. Mills and Samuelson, I believe their names were, present for that interview?

Mr. HOROWITZ. There were multiple lawyers present, including Ms. Mills and Ms. Samuelson.

Mrs. HANDEL. Mills and Samuelson. Interesting.

Were they not also witnesses in this investigation?

Mr. HOROWITZ. They were.

Mrs. HANDEL. It would strike me that's a little bit unusual to have witnesses a party to an interview with the subject of the investigation.

Mr. HOROWITZ. Which is why we found that it was not consistent with normal investigative practice. And actually Director Comey—sorry, Director Wray yesterday also suggested that.

Mrs. HANDEL. Was that interview recorded?

Mr. HOROWITZ. It was not.

Mrs. HANDEL. Why?

Mr. HOROWITZ. The FBI, as a matter of its practice, does not record interviews of witnesses.

Mrs. HANDEL. Is that one of your recommendations, to change that? I would hope so.

Mr. HOROWITZ. We actually don't have that in a recommendation. That's been a subject of discussion for many, many years within the Justice Department.

Mrs. HANDEL. So there was a written report?

Mr. HOROWITZ. There was a written summary report of the interview.

Mrs. HANDEL. Oh, so only a summary.

So when I read your report, the IG report, that the decision not to prosecute Secretary Clinton was essentially made prior to her interview, did I read that correctly?

Mr. HOROWITZ. What we were told is absent a confession or a false statement, the plan was to close the investigation immediately after the interview.

Mrs. HANDEL. So if the decision not to prosecute was largely made prior to even talking to her, how could it—and there's been all of the discussion today about whether or not she had willful knowledge of intent—how could anybody even know if she had willful intent or knowledge if they didn't talk with her before they made the decision?

And then secondly, with the conversation and what we now know is the very extreme bias, particularly of Strzok and several other agents who, as I read the report, were part of that investigation, how can anyone really be sure that there wasn't bias in the way that interview was conducted when it went to the prosecutorial decision?

Mr. HOROWITZ. And what we went and looked at was the summary and the preparation that went into the interview to see whether the questions that were intended to be asked were in fact asked.

During that, in terms of whether individuals who were in the room were biased or expressed biased—

Mrs. HANDEL. You would have absolutely no idea.

Mr. HOROWITZ. We wouldn't know one way or the other. Although, I would, you know, say, you know, Mr. Strzok was in the room, but not one of the questioners, and we had concerns about his text messages. And one of the two questioners was one of the other three individuals we've referenced here with problematic text messages.

Mrs. HANDEL. Very disturbing.

Mr. Chairman, I yield back.

Chairman GOWDY. The gentlelady yields back.

The gentleman from Kentucky is recognized.

Mr. COMER. Thank you, Chairman Gowdy.

Mr. Horowitz, I have a statement and then a quick question.

I go home to Kentucky every weekend. And when I'm home I'm talking to a lot of people all across the State. My district is very vast, from one State to the other. When we're home during recess, I talk to a lot of people.

The biggest complaint that I hear from the good, hardworking people in my congressional district in southern Kentucky is the disgusting news that they've seen about the obvious bias from the FBI and from the investigators. And it leads in to people's minds exactly what the President has been saying, that this is a witch hunt. This is a witch hunt that every time they turn on the television there is news about the Russia investigation, very little news on certain media outlets about the things that obviously Hillary Clinton did that were illegal.

The approval ratings for the FBI and the Department of Justice now, I would assume are at record lows, probably lower than Congress, and that's not very good.

What steps must the FBI take to restore confidence, to eliminate the obvious political bias that was displayed by reading your report with the FBI in this investigation? What steps does the FBI need to take to eliminate, not reduce, but eliminate political bias in the agency?

Because any time there's an investigation of any type—and one of the main items in the case is conversations with the FBI. And as Congresswoman Handel said, you don't record things in the FBI, it's your word. The word today isn't worth what it should be from the Nation's premier intelligence agency.

So this is a very serious issue that is dividing America. It's really frustrating those of us on the Oversight Committee that have tried to find answers from an agency that, quite frankly, has not been transparent with the American public.

What steps can the FBI take in the future to eliminate this and correct this problem and restore the confidence of America?

Mr. HOROWITZ. Well, I think one of the things we've laid out here, we have nine recommendations in here on various systemic issues, but I think, as I said in my opening and as we say here, really getting back to core values and understanding and making sure that the organization at a leadership level and at a senior level across the organization understands the principles and the norms and follows them.

And, again, I will say, having been an AUSA, obviously it was many years ago now, but I don't think what occurred here represents what thousands of agents would do in terms of their political views or other biases they may have. They understand they may have views, but they understand when they go to work those views stay behind.

And that's what, at a core level, that's what really has to happen, because it is why these kinds of text messages are so corrosive. It's because people see them and they say, how can someone be an FBI agent who has these views?

It happens in civil rights cases. How can people have views we sometimes see when you look at their messages about the people they're investigating. It can't happen?

Mr. COMER. Well, when you have an agency that has a black eye, whether it is the VA or the FBI, I think the best decision a leader could do is change leadership.

I support what President Trump did in firing Comey. I think that was the right decision. And hopefully, with your report and with the work of Congress, we can work to restore the confidence of the American public in the FBI and the Department of Justice.

And Mr. Chairman, I have about a minute left. I would like to yield my time to my friend Mark Meadows.

Mr. MEADOWS. I thank the gentleman from Kentucky.

Mr. HOROWITZ, I want to come back to something we talked about earlier, the disclosure of FBI Attorney 1 and FBI Attorney 2. And you said, I think I'm correct, that they did not want that divulged because they actually worked in counterintelligence. Is that correct?

Mr. HOROWITZ. That's what we were told by the FBI.

Mr. MEADOWS. Okay. But you know who the people are?

Mr. HOROWITZ. Correct.

Mr. MEADOWS. And I would say, based on your report, I know who they are. And what I guess I'm concerned about is you know that they don't work for the counterintelligence division.

Mr. HOROWITZ. Well, two of the agents do.

Mr. MEADOWS. Agents. I'm talking about attorneys.

Mr. HOROWITZ. There's one lawyer who is in here. So there are five people total.

Mr. MEADOWS. Right.

Mr. HOROWITZ. Page, Strzok, two other agents.

Mr. MEADOWS. But you had a dialogue between FBI Attorney 1 and Attorney 2?

Mr. HOROWITZ. Correct.

Mr. MEADOWS. And those two attorneys, do they not work for Trish Anderson?

Mr. HOROWITZ. Those two attorneys work in the Office of General Counsel—

Mr. MEADOWS. Yeah. And so would one of those attorneys be Sally Moyer?

Mr. HOROWITZ. I'm going to defer to what the—

Mr. MEADOWS. But they don't work in counterintelligence. I mean, if that's the reason the FBI is giving, they're giving you false information because they work for the general counsel.

Mr. HOROWITZ. Well, let me just add, they were talking about—

Mr. MEADOWS. Is the other one Kevin Kleinsman?

Mr. HOROWITZ. They were talking about the other attorney there that we have their text messages in here—

Mr. MEADOWS. Right.

Mr. HOROWITZ. —that they were concerned about, along with the other two. I'm not here to articulate the FBI's interest. We oversee the FBI—

Mr. MEADOWS. Well, we're going to get to the bottom of it, like Mr. Comer was talking about.

And I think the other thing that I would ask you to look into, there is growing evidence that 302s were edited and changed. And it gets back to what Mrs. Handel said in terms of those particular interview sessions. And those 302s, it is suggested that they were changed to either prosecute or not prosecute individuals, and that is very troubling.

And I yield back, Mr. Chairman.

Mr. HOROWITZ. If I could just mention, we have been getting those kind of referrals. And as often happens when we issue reports like this, we get other information coming to us, and we're intending to follow up on that.

But I just want to reassure you and the committee, I'm here to let you know what we're being told by the FBI is their concerns. Obviously, Director Wray and the leadership of the FBI and ourselves, I'm certainly not looking to step aside on this, but it is their interests that need to be articulated to the committee.

Chairman GOWDY. The gentleman from North Carolina yields back.

The gentleman, Mr. Rothfus, is recognized.

Mr. ROTHFUS. Thank you, Mr. Chairman.

And thank you, Inspector, for being here this afternoon and all day here.

You identified a lot of devices that were part of the investigation in your report, the different servers and personal devices.

Mr. HOROWITZ. Correct.

Mr. ROTHFUS. In your investigation, did you review whether those conducting the Midyear investigation searched for emails with the Clintonemail.com route on databases that held data collected pursuant to FISA?

Mr. HOROWITZ. I'm not sure as I sit here, but I can certainly get back to you promptly on that.

Mr. ROTHFUS. Yeah. I'd like to know that.

Page 186 of the report, when discussing the topic of whether the FBI would have a separate announcement from the DOJ about the declination to prosecute, Director Comey said the FBI was in the middle of a 500-year flood.

And the quote here is, quote: I mean, to my mind, it was a crazy idea, but we were in a 500-year flood. As you all have now investigated enough and lived enough to know, that this is a circumstance that has never happened before, we're criminally investigating one of the candidates for President of the United States. President Obama's comments obviously weighed on me as well. You've got the President who has already said there's no "there"

there. So all of that creates a situation where how do you get out of this without grievous damage to the institution.

Reading this sounds as though Director Comey, his decision in this context of having a separate statement, was imbued with political considerations, does it not?

Mr. HOROWITZ. He was certainly speaking about the political perceptions that resulted from President Obama's comments and other actions he was concerned with.

Mr. ROTHFUS. Well, he was considering matters just beyond facts, was he?

Mr. HOROWITZ. Correct. Correct.

Mr. ROTHFUS. And he was considering how in his own subjective view that the FBI was going to be viewed in response to this investigation.

Mr. HOROWITZ. Agreed.

Mr. ROTHFUS. And the same would hold true not just for his July 5 press conference but his October 28th letter?

Mr. HOROWITZ. Agreed.

Mr. ROTHFUS. You wonder how the FBI gets to a point where there's a 500-year flood. You know, I represent Johnstown, Pennsylvania, and they had a horrific flood back in 1889. And there was a big rainstorm before that flood, but there were things going on years before. And if you read David McCullough's book about the flood, you understand that things were going on before.

And to understand this in context, we're here today because you had the third-highest official in the executive branch decide to conduct official business on a private server for whatever reason. And I read through this report and just see political consideration after political consideration.

Isn't Mr. Comey's decision to usurp the authority of the Attorney General in order to protect the Bureau inherently a political decision?

Mr. HOROWITZ. I think you can certainly view it that way.

Mr. ROTHFUS. On Page 10, the report states that Mr. Comey's decisionmaking—his decisionmaking process made an implicit assumption that President Clinton would be President. Isn't that yet another example of politics playing a role here?

Mr. HOROWITZ. It is certainly his reading the politics tea leaves, in his view.

Mr. ROTHFUS. When Mr. Comey described Attorney General Lynch's presence imbued corrosive doubt into the entire process, doesn't this confirm the need for a special counsel in this investigation from the very beginning?

Mr. HOROWITZ. I think if Director Comey's view was, as he laid out, the answer wasn't, I'm going to take over and announce the decision. The answer was, I'm going to go to the Attorney General, explain my concerns, and ask her to either recuse or get a special counsel.

Mr. ROTHFUS. You know, going back over the years, and I talk about how the 500-year flood, things happening for years, and you look at everything that was circulating in, first, the Clinton administration and all the scandals that we saw then, and the continuing scandals.

I remember the '96 campaign and the fundraising scandal there and Charlie Trie and Johnny Chung and Johnny Huang and Maria Hsia. And Louis Freeh was looking at that, the Director of the FBI, and he said: It is difficult to imagine at that time a more compelling situation for an independent counsel. But Janet Reno never appointed one.

Why wasn't a special counsel ever appointed in this Clinton email investigation looking at Attorney General Lynch? Why is it that they never?

Mr. HOROWITZ. We have explanations here as to why it was. Attorney General Lynch said she didn't think the standard was met and that there should be one applied. Director Comey essentially told us that he was using it as a leverage point to get the investigation moving as opposed to it actually being presented for serious consideration.

Mr. ROTHFUS. But we see instance after instance where Director Comey was making political calculations.

Chairman GOWDY. The gentleman is out of time.

Mr. HOROWITZ. I think the start, I'll go back to what we've talked about in here and what I talked about earlier.

And as you referenced, it is easy to say there's a 500-year flood, but the reality is we're faced all the time with what people perceive to be unique circumstances. That doesn't mean you make various judgments along the way. In fact, I think many people would argue that's when it's most important to stay true to what the institution's values are, norms are, procedures are.

And you're right, the right approach here, if there was a concern that the Attorney General could not fairly or by appearance decide this, the right response would have been for Director Comey to present that to the Attorney General and for her to make a decision. But she ultimately was the one who was politically accountable in our system of government for that final decision, not him.

Chairman GOWDY. The gentleman yields back.

This concludes today's hearing. I'll recognize the gentleman from Virginia, then the gentleman from Maryland for any concluding remarks.

Chairman GOODLATTE. Thank you, Mr. Chairman.

I want to thank Mr. Horowitz. It's been a long day. I think you're going on 7 hours here with very little respite from that. But I think you've handled yourself well and we very much appreciate that.

You know, at the beginning of this hearing I posed the question, why should Americans care about what we're talking about here today?

And, unfortunately, I think we heard from some of our members that we don't care about these emails anymore, we don't care about these GD emails and texts, I assume they're referring to as well, from Mr. Strzok and Ms. Page.

But I'd like everyone here to think about, what if the shoe was on their foot? What if high-ranking people in the Nation's most important law enforcement organization were talking about an investigation into them and they showed that kind of animus, that kind of bias in the process?

You, Mr. Horowitz, have a number of times today made it very clear that you understand how important it is that the American



people have the assurance that when it comes to the enforcement of our laws that justice is blind and that the guarantee of our Constitution of equality under the law for all people is fulfilled.

I don't think we can say that here right now, unfortunately, about this very sorry circumstance. And we're going to continue to pursue this until we have the assurance that the Federal Bureau of Investigation and the Department of Justice have cleaned house and are making the necessary changes to ensure that in the future, whether it is the 2020 Presidential election or whether it's Jane Doe or Joe Smith's criminal investigation, that they will, indeed, experience equality under the law and the kind of extreme bias that we've seen in looking at some of the most prominent investigations in American history will not happen again.

Thank you, Mr. Chairman.

Chairman GOWDY. The gentleman from Virginia yields.

The gentleman from Maryland.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Horowitz, I want to thank you so much. I want to thank the ladies and gentlemen behind you and all of those who have had anything to do with pulling this report together.

I want to thank you for the recommendations, because I think they go to the heart of the problem.

You know, as I sit here and I think about life, you know, and I tell my constituents this, I tell them I wish there were not a Republican and a Democratic party. I wish I was not a, quote, "politician." You know why? Because I think that when people hear us a lot of time, or hear me, they just assume that I'm saying things based upon political expediency or trying to help a party. My party.

But there are certain things that are about—are bigger than party, like country and being a human being.

And I think that when we talk about—you know, when I read your report and I looked at what you've done, it's the people like the ones that's sitting behind you that take an oath to do their very, very best and to be honest and to uphold the Constitution of our country. Those are the people that will keep our democracy together. And I say it with all of the sincerity I have in my heart.

Everywhere I go, Mr. Horowitz, and I want you to understand this, I've never seen so many people scared. They're scared. I mean, American citizens scared. And they're scared of where our country is going.

But I think what you have done here today, that is examining—first of all, bringing to the table integrity, bringing to the table integrity and honesty, and just calling it like it is.

You may have come out with a report that I didn't like. I mean, there are certain things I saw in the report that didn't sit well with me. But you know what? I'm able to walk away from here believing that you all upheld your oath and your principles for honesty and integrity. Not about party. Not about gender. None of that. Not pro-Trump, against Trump, Republican, whatever. But integrity.

And that integrity, and I tell my staff, that integrity will—you don't have to change from time to time. Whatever that integrity is and you meet that level, it's always going to be.

So, you know, the thing I'm trying to get through to you is that I want you to continue to do what you're doing. Because the people

like the people who are sitting behind you and you are the folk who are going to make sure that this democracy, which so often we take for granted, so often we forget that this democracy allows us to be the people that we are and to do the things that we do and allow us to be all that God meant for us to be.

But it takes people with that high standard, those high standards, that no matter what happens, no matter where the wind may blow, no matter how difficult it may become, no matter how unpopular it may become—and by the way, that's where Comey made a mistake.

Comey got so—this is my own personal opinion—he got so rattled by our Republican friends trying to get the 302s and all that, I think he buckled. That does not mean that he's not a good man. That means that he used poor judgment at that time.

But, again, the democracy is held together by us, by people, determining that—and I'll close with this. I keep going back to something that Martin Luther King said, and I think about it all the time, when he talked about, and he's quoting another preacher, but he said: Silence can become betrayal. Silence can become betrayal. When you see something wrong, you've got to deal with it.

And because if we don't, then we go down a slippery slope of betraying not only the people that we represent, all of us—and that includes, I'm just talking about all of us in government—not only do we betray them, but we betray generations yet unborn.

And so, again, I thank you.

And as to the FBI, you know, Strzok and Page and the other folks, they did some damage, ain't no doubt about it. No doubt about it. And I cannot get away from the questions that—the excellent questions that the chairman asked.

But I believe in my heart—and I wanted to listen to your answers very carefully and how, you know, when you say that the problem originated with Comey's elevation and he got a little—he got off the track. I think the idea is that we have created a track through the practices of the DOJ that we've created a road, and all he had to do is stay on track and he would have been fine. He may have gotten battered a bit, but he would have been fine.

And that's why the integrity issue becomes so significant. And so I'm just glad that we have people like you all who are able to come to the table. And yeah, you're going to catch some hell, probably, you already have. But you can stand, no matter what, and you can say we've looked at it, we gave it our best. You may not agree with us, but we believe in our hearts that this is—these are the right decisions. And I accept that.

And with that, I thank you.

Chairman GOWDY. The gentleman yields back.

The hearing record will remain open for 2 weeks for any member on either committee to submit written opening statements for the record.

I will just say this quickly. Mr. Horowitz, it has been a long day. There are many important and many would argue, including me, urgent issues facing our country today. Some of them have been alluded to today. But there is nothing more important and nothing is ever more urgent than us having confidence in our justice system.

So I will apologize to no one for having a hearing on your report which takes a really hard look at some institutions we desperately need.

And I'll say this as a compliment to you and your team. I was thinking over the weekend how much better off our country would be had you and your team conducted the investigation that is the subject of your report. And make no mistake, you and I probably would have reached some different conclusions as old, washed up prosecutors do from time to time. You can look at a fact pattern and draw different conclusions.

I don't mind if people are wrong. I really mind if they're unfair. We can survive being wrong. We can survive calling jump balls differently. We're not going to make it if our system is perceived as being biased and unfair.

So thank you for your work. I know it took a long time. But as you correctly noted, some of the information that my colleagues found most probative came towards the end. So it's a good thing that you did not succumb to all of our pressures and wrap this thing up before its natural chronology.

And we wish you the same objectivity and fact-centricity that you showed in this investigation with the others. Our country, I think, is counting on you and your team to do in your subsequent investigations exactly what you've done in this one, which is just call balls and strikes. And people are welcome to draw different conclusions, but they're not entitled to their own version of the facts.

With that, to you and your team, thank you.

We're adjourned.

[Whereupon, at 5:10 p.m., the committees were adjourned.]

