

EXECUTIVE SESSION
PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: JOHN CARLIN

Thursday, July, 2017

Washington, D.C.

The interview in the above matter was held in Room HVC-304, the Capitol, commencing at 10:13 a.m.

Present: Representatives Gowdy, Stewart, Speier, Schiff, Swalwell, and Conaway.

[REDACTED]

Appearances:

For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

For JOHN CARLIN:

KENNETH L. WAINSTEIN, ESQ.

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[REDACTED]

[REDACTED]

[REDACTED] Good morning, everyone. This is a transcribed interview of John Carlin, former Assistant Attorney General for the National Security Division at Department of Justice.

Sir, thank you for speaking with us today.

MR. CARLIN: Thank you.

[REDACTED] For the record, I'm [REDACTED], staff member for the House Permanent Select Committee on Intelligence. At this point, in time I'd like for us to briefly go around the room and introduce ourselves, starting with Mr. Gowdy.

MR. GOWDY: Trey Gowdy, South Carolina.

MR. STEWART OF UTAH: Congressman Stewart, from Utah.

[REDACTED] [REDACTED], HPSCI staff.

[REDACTED]: [REDACTED] with the majority staff.

[REDACTED]: [REDACTED], with the minority.

[REDACTED]: [REDACTED] with the minority.

MS. SPEIER: Jackie Speier, California.

MR. SCHIFF: Adam Schiff, California.

MR. WAINSTEIN: Ken Wainstein.

MR. CARLIN: And John Carlin.

[REDACTED] Thank you. Before we begin, I want to state a few things for the record.

MR. STEWART OF UTAH: I'm sorry, can I just -- Ken, what's your role?

MR. WAINSTEIN: I am his counsel.

MR. STEWART OF UTAH: Okay. I wanted to make sure.

[REDACTED] The questioning will be conducted by members and staff. During the course of this interview members and staff may ask questions during

[REDACTED]

[REDACTED]

their allotted time period. Some questions may seem basic, but that is because we need to clearly establish fact and understand the situation. Please do not assume we know any facts you may previously have disclosed as part of any other investigations or review.

During the course of this interview, we will take any breaks that you desire. There is a reporter making a record of these proceedings so we can easily consult written compilation of your answers. The reporter may ask you to spell certain terms or unusual phrases you might use and ask may you to slow down or repeat your answers.

We ask that you give complete and fulsome replies to questions based on your best recollections. Right now clear top secret /SCI level, but please let us know if your answer requires you to speak to classified at a compartmented level and we will make the necessary arrangements.

If a question unclear or you're uncertain in your response, please let us know. And if you do not know the answer to a question or cannot remember, simply say so.

You are entitled to have a lawyer present for this interview, though you are not required to. I understand that Ken Wainstein of Davis Polk is here with you today. For the record, I will ask him to state his details again.

MR. WAINSTEIN: Ken Wainstein, W-a-i-n-s-t-e-i-n, Davis Polk & Wardwell, representing John Carlin.

[REDACTED] Thank you sir. The interview will be transcribed. Because the reporter cannot record gestures, we ask that you answer verbally. If you forget to do this, you might be reminded to do so.

Consistent with the committee's rules of procedure you or you and your counsel if you wish, will have a reasonable opportunity to inspect the transcript of

[REDACTED]

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this interview in order to determine whether your answers were correctly transcribed. The transcript will remain in the committee's custody. The committee also reserves the right to request your return for additional questions should the need arise.

The process for the interview is as follows, the majority will be given 45 minutes to ask questions, then the minority will be given 45 minutes to ask their questions. Immediately thereafter, we will take a 5 minute break. After which, the majority will be given 15 minutes to ask questions and the minority will be given 15 minutes to ask questions. These time limits will be strictly adhered to by all sides with no extensions being granted. Time will be kept for each portion of the interview with warnings given at the 5 minute and 1 minute mark respectively.

To ensure confidentiality, we ask that you not disclose the interview with anyone, other than your attorney. Our record today will reflect that you have not been compelled to appear. You are reminded that it is unlawful to deliberately provide false information to Member of Congress or staff. Lastly, the record will reflect that you are voluntarily participating in this interview which is under oath.

Do you understand these circumstances, sir?

MR. CARLIN: Yes.

██████████ And if you will raise your right-hand, I will administer the oath.

Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you god?

██████████ Thank you, sir.

Mr. Gowdy, over to you.

MR. GOWDY: It's 10:15, does everybody agree on the time?

██████████ Yes sir.

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EXAMINATION:

MR. GOWDY: Mr. Carlin, thank you for being here. You're a subject matter expert. I can't speak for my colleagues on the other side, but neither Mr. Stewart nor I would qualify as a subject matter expert. So before we ask you what appears to be a rudimentary question, just bear with us, okay?

MR. CARLIN: Yes.

MR. GOWDY: Are you familiar with what is sometimes referred to as the Steele dossier?

MR. CARLIN: Yes.

MR. GOWDY: Have you read it?

MR. CARLIN: Public parts -- yeah, I can't recall reading it in its entirety, I think I've read parts of it.

MR. GOWDY: Let's go back to the Carter Page FISA application.

MR. STEWART OF UTAH: Can I ask you a clarifying question?

MR. GOWDY: Sure.

MR. STEWART OF UTAH: When you say you read parts of it, did you read that as parts of it in your role in a classified setting or was it only in media reports?

MR. CARLIN: Thanks for asking. That's the part that's getting fuzzed up in my memory which was directed to my attention when I was in the role versus all the chatter that's been there about it in the public reporting and then after the fact.

MR. GOWDY: We'll make him get to it --

MR. SCHIFF: Mr. Gowdy, if I could. I just want to make sure we are permitted to discuss what you just asked about this in this setting with the people present who are present. I think we should make sure before we proceed on that.

MR. GOWDY: You would know the answer to that better than I would, you

are the ranking member and a member of the Gang of Eight. I don't know.

██████████: That's not our understanding, no.

MR. SCHIFF: I don't believe we can go ahead with that with all the people present here. And --

MR. GOWDY: We can't go into the FISA application process?

MR. SCHIFF: You mentioned a specific application and are we -- is this a classified session today? Is the first question.

██████████ Yes, it is a classified session.

MR. SCHIFF: Okay. The second is whether all the folks who are here, including staff and members are permitted to go into this. So I don't know the answer to that.

MR. GOWDY: I don't either and it will be a very short 2-hour interview if we cannot go into the FISA application. So I'm going to have to let someone else resolve that. I don't know the answer to that question.

MR. SCHIFF: We've had a rather uncoordinated, to put it diplomatically, process with that where initially it was only the Gang of Eight, then the Judiciary Committee was permitted to see it, but not the members of our committee, apart from the Gang of Eight. But then some of our members went to the Judiciary Committee to view it. And that made the least sense of all.

But also I think apart from Gang of Eight staff, I don't know how many staff are permitted to discuss or learn about it. So that's as much as I can tell you about it. I can also say that -- well. I guess I shouldn't say any more than that.

MR. GOWDY: Well, I appreciate you bringing that. As ranking member you are infinitely more familiar with what can and not be gone into than just regular old line back ventures like Stewart and myself. But to the extent the jurisdiction is

[REDACTED]

what did Russia do? What were their active measures? What was the U.S. response. This is indispensable to our understanding, the U.S. response.

So we're going to need to get an answer to that question before we go forward, because that's a lot of the questions I have.

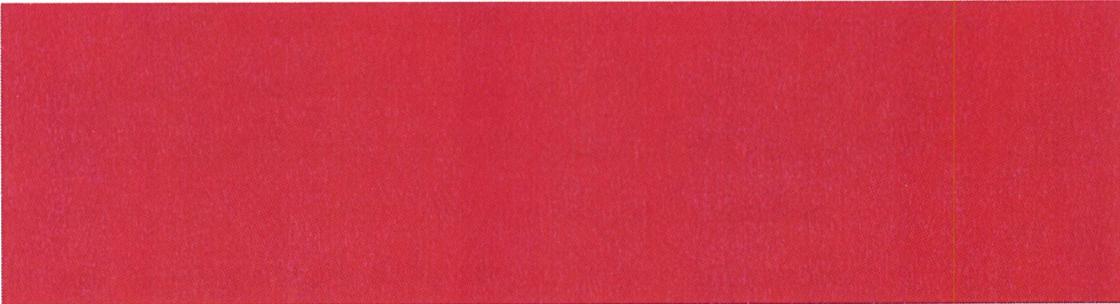
MR. WAINSTEIN: If so, if I may. If the hang up here is about a specific FISA application?

MR. GOWDY: Yes.

MR. WAINSTEIN: It might well be that Mr. Carlin is not going to be able to speak to his memory of an actual application, so you might want to -- does that obviate the concern?

MR. GOWDY: I don't know. It may obviate the concern with the answer, but it might not obviate the concern with the question.

[REDACTED] If I may, Mr. Gowdy, and Ranking Member Schiff, in terms of



Additional restrictions were not placed on -- beyond who could review it. There weren't additional restrictions imposed on us in terms of discussing it. So in terms -- we briefed that to our members and to the staff members on the -- who are on the Russia team and handled it at that level.

I understand from my colleague that the minority may have had a different practice. But separate and apart from that, like many other issues related to this investigation, there's been [REDACTED]

[REDACTED]

[REDACTED]

MR. GOWDY: [REDACTED] let me stop you there. The fact there has been public reporting does not obviate Chris and I of the responsibility not to discuss it. So, I do appreciate the fact that we learned as much from the media as we do from being on the Intel Committee, but that does not obviate our responsibility not to discuss it.

Someone at a higher pay grade than me is going to need to answer whether

[REDACTED]

[REDACTED] That's why I want to talk to him.

So if I can't go into that, then we're going to need to reschedule until I get an answer as to -- I'd love to hear the general FISA process, but that's not -- we can bring anybody for that, not Mr. Carlin.

[REDACTED] I'm not aware of any reason why we can't discuss this.

MR. GOWDY: Mr. Schiff just raised a reason.

MR. SCHIFF: [REDACTED] I don't know the answer. I can tell you this, I made a request to reread any pertinent application that had been denied so they take a very narrow view of who can even see it again.

MR. STEWART OF UTAH: Who denied it?

MR. GOWDY: DOJ?

MR. SCHIFF: Anyway, I raise this only because I want to be careful.

MR. GOWDY: I appreciate you raising it and I know you can understand our desire to ask him specific questions given what his role was until he left or what it may have been and given what our jurisdiction is.

MR. STEWART OF UTAH: Could I suggest we recess for 2 minutes and get

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an answer on this?

MR. GOWDY: But what I'm struggling with is who do we go to for the answer.

██████████ Well, we can figure that out. It will take a few minutes.

MR. GOWDY: Off the record.

[Recess.]

MR. GOWDY: Is there any resolution? Is it okay to proceed with our line of questions?

MR. SCHIFF: I think we're going to start out by asking whether he participated in the preparation of any FISA application and see where we go from there.

MR. GOWDY: Thank you for your patience, Mr. Carlin and to your attorney. Did you participate in preparation of any FISA applications related to Russian active measures or counterintelligence matters related to Russia in 2016?

MR. CARLIN: Yes.

MR. GOWDY: Did you participate in any FISA applications related to Carter Page?

MR. CARLIN: I believe-- I believe I did. There's been so much public reporting since I left, but I remember being involved in the preparation of the FISA application for an individual that was related to the Trump campaign and being briefed on it.

MR. GOWDY: Do you remember being involved in FISA applications for more than one person connected with the Trump campaign?

MR. CARLIN: I just remember that -- I just remember one and -- I'm not sure how far to go while we're doing this --
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MR. GOWDY: Well, I will be the one who gets in trouble, not you.

MR. CARLIN: Okay. I remember there was one application. I don't remember whether or not I actually signed it. My memory is that I did not sign it. But I remember getting briefed at one point that there's an application that involved someone who was linked to the campaign that our folks saw because of that it was a highly sensitive application, we're giving it extra scrutiny and that it relied upon -- the part of the affidavit relied upon -- a portion of the affidavit relied upon someone who was affiliated in some way with, or had been with, a group that was associated with the other campaign. And because of that, they wanted to give it extra scrutiny and to ensure that the leadership or the FBI knew -- knew of that background. So that -- that's the part that is sticking in my memory.

MR. GOWDY: Now you lost me a little bit, which is my fault, not yours. When you said, the other campaign, what campaign are you referring to?

MR. CARLIN: Sorry. So there was the Clinton campaign and the Trump campaign. There was an individual who was associated with the Trump campaign as I recall with this application. I'm not sure if they knew exactly what the nature of the association was and then there was part of the information, that was going into the affidavit for probable cause, came from someone who had had some association with a group that was associated with the Clinton campaign.

MR. GOWDY: Do you recall the name of the group?

MR. CARLIN: I don't, but -- I think at the time that association was supposed to be over, but it still caused reason to give it extra scrutiny. And our folks wanted to make sure that the leadership of the FBI knew the history of whoever that individual was and could take extra steps to either corroborate that he had given truthful information before or that there were other -- other factors inside the affidavit

that would corroborate it. And --

MR. GOWDY: Do you remember the name of the individual?

MR. CARLIN: I -- I don't actually -- there's been so much public reporting since that it's influencing, but I don't think I clearly remember, you know, them -- the name based on what I remember from that actual time. If that makes sense.

MR. GOWDY: Sort of. Is your -- any chance the public reporting may have refreshed your recollection on the name you previously remembered?

MR. CARLIN: I'm so skeptical often of what the public reporting is getting right, what actually happened. I'm trying to distinguish what I read in the papers versus what I actually remember happening at the time. I don't think I was that focused on the name of the person at the time.

What I remember is being briefed on that surrounding set of circumstances. And then because of that, making sure that there was a briefing so that the leadership of the Department was aware of it and that the FBI leadership was aware of it. And I remember talking to -- raising it with the then deputy director Andrew McCabe.

MR. GOWDY: All right. That's on the Bureau side. On the DOJ side, who can sign off on or approve FISA applications related to counterintelligence?

MR. CARLIN: The Attorney General, Deputy Attorney General, and me. And on this one, without looking at the document, I don't actually remember signing this particular FISA -- I don't know if there's a way to refresh my recollection?

MR. GOWDY: And the Attorney General at the time would have been Ms. Sally Yates?

MR. CARLIN: No, the Attorney General then was -- she was the deputy Attorney General at the time and the Attorney General was Loretta Lynch.

MR. GOWDY: So Ms. Lynch, Ms. Yates and you, would have been one of the three to sign off on FISA applications related to counterintelligence during this time period?

MR. CARLIN: Yes.

MR. GOWDY: All right. And you don't recall whether you were the one who did it or not?

MR. CARLIN: Correct.

MR. GOWDY: All right. Do you recall reading what's been known as the Steele dossier during this same time period?

MR. CARLIN: See that's the part -- I don't remember reading the whole, what's now called the Steele dossier or something called a dossier at the time.

MR. GOWDY: So that was an inartfully asked question on my behalf. I've got to ask it more artfully. Do you recall any portions of the Steele dossier being in any application you reviewed prior to submitting it?

MR. CARLIN: The part I remember, I think it was the same individual that later gets associated with the dossier was a -- one of the sources for some of the information in the application, because that was the issue that got flagged. I don't remember at the time if it was called a dossier. I know that there was some written documents versus them relying on a source.

MR. GOWDY: This would have been a Bureau source?

MR. CARLIN: Yes.

MR. GOWDY: Is this the same person you're referring to go that may have been connected with what you called another campaign or the other campaign.

MR. CARLIN: The other -- the Clinton campaign, yes.

MR. GOWDY: The Clinton campaign.

MR. CARLIN: But what I don't remember is -- my recollection is it wasn't directly involved with the -- And I know I'm a little fuzzy on this, because it's been a while -- I haven't looked at it -- I don't remember it being directly linked to an employee of the campaign. There was some other group that they felt that group was linked to the campaign and that he worked for that group.

MR. GOWDY: Let me ask you this, given the fact it is closing in on I guess 10 months, is there anything that would refresh your recollection or take you back to that time period where you might have more clarity?

MR. CARLIN: I mean, certainly looking at the application would help.

MR. GOWDY: [REDACTED]

MR. CARLIN: Well, I don't have a precise --

MR. GOWDY: A ballpark figure.

MR. CARLIN: [REDACTED]

MR. GOWDY: Had to go back and work on them --

MR. CARLIN: [REDACTED]

MR. GOWDY: Do you recall this application related to Carter Page either being rejected or asked to be reworked?

MR. CARLIN: No.

MR. GOWDY: So the original application, related to Carter Page, was the

one that was signed by the FISC.

MR. CARLIN: Well, I don't know. I just -- I don't remember -- I don't remember it being either rejected by the FISC, or a back and forth in the FISC process, but I don't also remember whether I signed -- whether I actually signed this one and --

MR. GOWDY: But you would have read it?

MR. CARLIN: Probably. If I had the timeframe a little bit -- I think it happened close to when I was leaving. I may have that a little bit fuzzy. And I think I may have been -- willing to look at it to refresh -- which is why I am being so hesitant. I think it may have been out of -- for some reason I wasn't there when it was signed. So I may have been out of town. I just don't know that answer.

MR. GOWDY: You may have left by the time it was signed.

MR. CARLIN: I may have.

MR. GOWDY: Did you leave the 16th of October?

MR. CARLIN: Yes. And I was really out a couple weeks out before?

MR. GOWDY: When it was signed on the [REDACTED] of October, you would have been gone.

MR. CARLIN: I was gone then.

MR. GOWDY: But you recall it. You recall whether or not you read it or not --

MR. CARLIN: I don't recall reading it, what I'm remembering is this briefing, because that stuck -- that stuck in my mind where there were concerns, our folks thought of this as a particularly sensitive one, wanted to make sure that an extra degree of scrutiny from both our leadership and FBI leadership. I agreed with that in particular. They wanted to make sure they asked -- they asked a series of

questions about the sourcing, that's the part that's sticking in my head?

MR. GOWDY: The evidentiary standard for seeking a FISA warrant would be what.

MR. CARLIN: Probable cause.

MR. GOWDY: So how would you investigate or seek to substantiate the information you received from sources and subsources?

MR. CARLIN: And that's fairly common this issue of -- you're a former prosecutor -- getting back to when I was in street crime. I remember going a jury and explaining if all crime happened in front of a church, that would be great, and then you would be hearing from priests as witnesses, but it doesn't. And usually you end up hearing from people who have something in their backgrounds, but you need to look at all the circumstances, all the facts and -- to corroborate and see whether it's true or not.

A lot of the sources that we would use would have one issue or another. And it is important in those cases to make sure that that information is included in your application to the court and then anything that would corroborate them is also included in the application to the court.

My memories on this, even before I left based on the oral conversation that our folks had already been told that he had done prior work for the FBI that had proven to be corroborated.

MR. GOWDY: Him being who?

MR. CARLIN: I'm conflating it with public reporting. I wouldn't otherwise independently remember the guy's name from this conversation, but I assume it is Steele based the public reporting.

MR. GOWDY: You believe it was Steele.

MR. CARLIN: Based on the public -- the way it is has been publicly reported. I don't think, without looking at the --

MR. GOWDY: You don't recall whether or not he was an official source of the Bureau signed up as an informant?

MR. CARLIN: No, I just don't remember.

MR. GOWDY: What would refresh your recollection on whether or not there were any applications submitted that were either withdrawn or rejected?

MR. CARLIN: The applications if there's any back and forth with the court.

MR. GOWDY: Where would that be?

MR. CARLIN: Where would the application --

MR. GOWDY: Where would that --

MR. CARLIN: I guess it would reside in -- the way it was structured, I had a deputy assistant attorney general, who oversaw the office of intelligence, Stewart Evans, there would be records that were held in that shop.

In that shop there's a subsection called counterintelligence investigations, other than that I guess the court. But I'm not as familiar with how the court keeps its own records.

MR. GOWDY: Who took your place?

MR. CARLIN: When I immediately left, the acting assistant attorney general was Mary McCord. And then subsequently she's left, and now the acting assistant attorney general is Dana Boente, and there hasn't been a nominee yet.

MR. GOWDY: So you would not -- typically how long are applications valid for -- not applications, warrants. If it is signed, how long is it good for?

MR. CARLIN: I don't recall.

MR. GOWDY: Does it differ depending on the case?

MR. CARLIN: I think in some cases we did put in different reviewed provisions with the court.

MR. GOWDY: So you wouldn't know whether or not DOJ or the Bureau asked for a re-up?

MR. CARLIN: No.

MR. GOWDY: You wouldn't know, you were gone at the time?

MR. CARLIN: Certainly. If it was signed after I left, I certainly would be gone when it was re-upped and I think I would be gone anyway because my recollection is it was happening towards the end of my tenure. I knew I was leaving at that time.

MR. GOWDY: All right. Well let's go to something that was squarely within your tenure. June of 2016, I believe -- my friends on the other side will correct me if I'm wrong, I believe Director Comey testified that the Bureau's investigation began in June of 2016. Do you remember when you were first briefed on Russian efforts to interfere/influence our 2016 election?

MR. CARLIN: Sorry. Director Comey testified that what began in June of 2016?

MR. GOWDY: The Bureau's investigation. And I could be wrong about that. I have that -- well, let me just ask you, do you recall when the Bureau -- does the Bureau have to come to you for permission to begin an investigation into matters like that?

MR. CARLIN: So the way the counterintelligence investigations work, as a best practice, if you will, we would really be encouraged if they were doing the counterintelligence investigation that they would hook up in the beginning with our CS, our counterintelligence and expert control section. Both when I was at the

[REDACTED]

Bureau and afterwards that didn't always -- that did not always happen.

Sometimes there would be steps taken that didn't require a trial attorney or a prosecutor that were taken towards the counterintelligence investigation before they had that meeting or briefing with our trial attorneys.

[REDACTED]

[REDACTED]

[REDACTED] Simultaneously we were often seeing them be, and have been for a period of time, very aggressive in their treatment of our folks overseas which we thought was all the more reason to be disruptive inside to what they were doing inside inside the United States, including roughing up employees and doing things like -- [REDACTED]

[REDACTED]

So I remember that framework and then what I can't recall is precisely -- but I also remember activities about them to using cyber enabled activities to penetrate both nonprofits and the -- try to do the campaigns. The DNC in particular. I just

[REDACTED]

can't remember the precise dates, but June sounds about right on some of the cyber enabled activity.

MR. GOWDY: This estimate speaks for itself, I could be off. You mentioned cyber activities with respect to campaigns. When did you learn that DNC had been hacked?

MR. CARLIN: That's the part -- I can't fully remember, but June sounds right. I'm just not -- I would have to look, and it may have even been a bit earlier that I heard wind of it. I might be conflating it with some of these other Russian activities that we were hearing at the same time in terms of nonprofits and others.

MR. GOWDY: Were you part of the investigation into the hack of the DNC servers?

MR. CARLIN: Yes.

MR. GOWDY: Do you recall whether or not the DNC turned the server over to the Bureau?

MR. CARLIN: I don't. I remember discussion about them working with -- they hired an outside -- they hired an outside contractor to assist them I think it was CrowdStrike and there were discussions back and forth about getting the data or information they needed from CrowdStrike. I recall asking about it a couple of times and not -- our folks weren't getting updates. There was a period of time it went kind of slow.

MR. GOWDY: Why would the DNC go to, did you say CrowdStrike?

MR. CARLIN: I may be misremembering. There were a couple of key ones that helped us on different cases. I think it was -- I think this one was CrowdStrike.

MR. GOWDY: Why would the -- do you know why the DNC would go to CrowdStrike and not go to the Bureau?

MR. CARLIN: Actually that was fairly common in cyber investigations, I'm seeing that now on the private sector side. A lot of -- outside of any political organization, companies, most corporations, they often would use these third party contractors, who they hired through their own counsel, and maximize the control from the point of view of the victim. They are always worried about exactly what's going to happen if they share information. Sometimes they are worried about their businesses being disrupted.

And so there's a lot of expertise in some of these groups. They often have a lot of ex government employees in them. Actually, there was a hiring problem. It is something to worry about in the FBI because it is such a hot job right now. Sometimes you lose a lot of your best experts to outside vendors. So that part wouldn't have struck me as odd.

MR. GOWDY: CrowdStrike, would have been good about producing witnesses for your subsequent trial?

MR. CARLIN: I'm trying to remember the different groups, but in general, we've had success in criminal cases when we've used these third party intermediaries. Nation-state cases are rare to bring. It was part of a new process. We brought that first case in 2014 against five members of the People's Liberation Army. There I think it would be Mandiant, now FireEye, but they were cooperative and helped with the case in the -- North Korea has so many cases, I think it was Mandiant FireEye again, and they were helpful.

I can't remember who some of the financial institutions used with the Iranian D-DOS attacks case. But in general we often did use, we'd either use them as witnesses or they would provide information in a way that we could subsequently authenticate and that would allow us to bring criminal cases.

MR. GOWDY: I'm trying to reconcile your being okay with an outside nongovernmental entity being used with Director Comey's frustration that it was not produced to the Bureau. I think he used to work for the Bureau, didn't he?

MR. CARLIN: Oh, yeah. No, I mean -- look, we always, if you could get it kind of the druthers would be get everything we can directly from the victim companies, servers, et cetera. It's just in cyber cases for a while that rarely was happening when it came to private company victims instead we're working through third party intermediaries.

There may be frustrations sometimes depending on the third party intermediary and the victim as to what they give you. The idea that we didn't get unfettered access is pretty common in a cyber investigation these days. It doesn't mean you love it, but actually a lot of the cyber agencies are trying to use that too.

MR. GOWDY: I guess I'm just trying to understand why a victim would feel comfortable providing something to a private entity, but not being comfortable providing it to the world's premier law enforcement agency?

MR. CARLIN: Well, obviously my bias towards the world's premier law enforcement agency, having worked there, but I'm seeing it now. When I advise private clients too, and I can tell you a little bit about the thought process -- I know a little bit more of their thought process, not that they didn't try to explain it to me when I was on the other side too, but -- and I'm not saying this specifically for DNC, this is more general for private companies when they are going through this thought process.

But they want to maximize the control over the information, they retain the private group so it works for them, usually through counsel, so it is privileged and they are often worried about ancillary consequences. So they might support the

law enforcement investigation. Sometimes they are worried at what might happen if there's a prosecution, how disruptive it is going to be to their business, but then they also worry about potential ancillary consequences like civil suit from people whose information might be compromised or regulatory actions.

And so it is just a lot of uncertainty for them. They are trying to increase the certainty and one way they can do that is by having the private company report directly to them, take their direction through counsel.

MR. GOWDY: I get that, but we're in the summer of 2016, when the throes of the presidential election a foreign country is attempting to either interrupt, influence or otherwise impact the election. There's always a potential for other victims, which I would think you would want to stop the potentiality for others being victimized. Which just has me wondering why you wouldn't turn it over to the world's premier law agency, if for no other reason than just to prevent other people from being victimized?

MR. CARLIN: Is that a specific case, I can't -- I would just be speculate to what was going on in their internal conversations. It was vital to us --

MR. GOWDY: So you didn't have any conversations with anyone at the DNC about it? That would have been the Bureau?

MR. CARLIN: I did not. And I remember the Bureau handling it and I actually remember us saying is there some way we can help or get our folks directly involved with the conversation? I don't know whether that happened in this case.

Sometimes we would end up being the intermediary usually with counsel, not directly with the company itself. So again, they usually hire them through an outside law firm. Our trial attorneys would sometimes have the conversation over the terms with the outside law firm. In this case, I think -- I do have a memory for a

period of time that it was just the FBI because I remember our folks, and I asked at some point is there some way can help we bring our trial attorneys in. I don't remember if they ever got brought in to that conversation.

MR. GOWDY: Would you have probable cause to issue a subpoena or search warrant for the server?

MR. CARLIN: I don't remember being presented with an affidavit.

MR. GOWDY: It is a separate question.

MR. CARLIN: Right. So it's hard to --

MR. GOWDY: Is that evidence of a crime?

MR. CARLIN: -- speculate. You think at some point we'd probably cross that threshold, I don't know if we crossed that threshold because of what they provided.

MR. GOWDY: Would it have been evidence of a crime?

MR. CARLIN: Our theory would be yeah, every time we have a potential hack that the server could contain evidence of that crime.

MR. GOWDY: Would it potentially have helped you identify who the perpetrator was?

MR. CARLIN: That being -- the information that would reside on the servers?

MR. GOWDY: Yeah.

MR. CARLIN: Sure, yeah. You want to do the forensic analysis of the servers.

MR. GOWDY: So you would have had probable cause to issue a subpoena and or search warrant, a grand jury subpoena or a search warrant?

MR. CARLIN: So there's -- a subpoena is a lower threshold so I think at

some point, I'm speculating as to --

MR. GOWDY: You're not speculating that much.

MR. CARLIN: As to when we got -- what I'm not remembering is -- because I think we -- I think the Bureau went to them. We were not involved at that point. I don't know what the Bureau was relying on when they first went to them, versus what they had at a predicate after they start cooperating and provided information. So I don't remember the --

I think it first came from the FBI. I don't remember the predicate that they had when they went to tip them. [REDACTED]

[REDACTED]

At some point in time when they are cooperating and providing information, you'd cross that -- you'd cross the threshold where we would issue grand jury subpoenas or do an affidavit. I just don't know when that threshold gets crossed.

MR. GOWDY: Fire away.

MR. STEWART OF UTAH: Mr. Carlin, thanks for being with us. You have helped bring some clarity to some important aspects of what we're trying to understand.

I've got to go back and just kind of for my own benefit and maybe add clarity. Maybe I just missed it, I don't know. I just want to make sure I stand what you were saying or what you were unsure of. And you know the context of this, it is kind of a big deal it seems when you have a FISA application against someone who's associated with one of the presidential campaigns, one of the two at this time.

[REDACTED]

At that time, were there any other FISA requests concerning any individuals that you're aware of with either campaign or was this just the one?

MR. CARLIN: I want to be hesitant about giving an absolute answer, but that's the one I remember.

MR. STEWART OF UTAH: Okay. [REDACTED]

MR. CARLIN: [REDACTED]

MR. STEWART OF UTAH: [REDACTED]

MR. CARLIN: [REDACTED]

MR. STEWART OF UTAH: [REDACTED]

MR. CARLIN: That's right.

MR. STEWART OF UTAH: This so one stood out in that sense. Is that true?

MR. CARLIN: Yeah. The reason why I remember this one is the two reasons that I gave. One is that the sensitivity and the idea that there be collusion with someone linked to a campaign and the other was the sourcing issue.

MR. STEWART OF UTAH: And just think, sure, this is uncommon. It is not like this kind of thing was common. It was unusual that you would be having to have this application before you sitting on your desk or you'd be briefed on it. Is that true?

MR. CARLIN: Well there's two -- I signed a lot of FISAs so I was briefed

[REDACTED]

regularly. It was unusual for them to come outside of the context of the briefing and get a normal FISA to have a special briefing, saying we have a concern, this one's highly sensitive. So that's unusual.

And then secondly, having a foreign power potentially directly try to co-op someone in a presidential campaign, my experience I don't recall that happening before.

MR. STEWART OF UTAH: Yeah. And I appreciate that and that helps me understand it. And we're reviewing what you were telling us before, this was highly sensitive. So you -- your organization was giving it extra scrutiny. But at the same time you don't recall. As you sit here today, you can't tell us yes or no that this was -- that Carter Page was a target of this application?

MR. CARLIN: I want to look at the -- I want to look at the application, that's my memory is that it is Carter Page. It's just there has been so much reporting between whatever this late October and September and now I'm afraid that's influencing my ability to go back.

MR. STEWART OF UTAH: Okay. Believe me, I have a horrible memory. I would hate to have to go back and recall these things. But that does help, because you think it was Carter Page, but you would want to verify that. Is that a fair synopsis?

MR. CARLIN: Yes.

MR. STEWART OF UTAH: Okay. You mentioned that the reviewed information was provided from a group associated with other campaigns. Did they question the credibility of the source then, of some of the sourcing material for this application? That would have justified this application? As you are having this conversation or this briefing did someone raise their hand and say, we don't know if

[REDACTED]

the source of this credible or we should question the credibility of the source.

MR. CARLIN: It would have been phrased differently, but yes, they wanted to ensure that there were extra steps taken at the FBI related to the credibility of the source, because there was this information that there might be a bias of the source and that's the context in which I remember it being raised.

I don't remember them ever saying they didn't think that they had probable cause. The way I'm remembering it being briefed was it is highly sensitive because of who the person is. And that secondly, because of the sourcing issue they wanted to make sure that the FBI took extra steps to assure itself of its prior history with the source and that their leadership know that there was this issue with the source.

MR. STEWART OF UTAH: So in your experience with these applications and you've had many of them I suppose, were there more questions or doubts about the credibility of the source than there was in the normal course of affairs with these applications?

MR. CARLIN: So it's uncommon that it would get raised to me. You know, these are a bunch of spy and terrorism cases that I am usually signing off on. [REDACTED]

[REDACTED]

MR. STEWART OF UTAH: Generally these were not homespun Boy Scouts that had taken over, right?

MR. CARLIN: Exactly.

[REDACTED]

MR. STEWART OF UTAH: Suspicious characters in general.

Was there any advocate or any individual or individuals who seemed to be more active saying, I don't think we can trust this source, I think we need to delve into this more deeply?

MR. CARLIN: In this case?

MR. STEWART OF UTAH: Yeah.

MR. CARLIN: So I remember them -- Stu Evans, the deputy assistant attorney general is the one I -- I don't remember if there's someone else at the briefing, but I remember Stu Evans was there and he's the one you said both that this was sensitive and that there was this issue with the source. And it was that combination of the sensitivity of who the FISA would be on, plus the issue with the source that correctly, and I agreed with him, meant it should get a higher level of scrutiny and that it the leadership and the FBI and the Department should be aware before it was signed off on.

And we should take the extra steps in terms of -- if I remember, learning more about his -- at some point it came back from the FBI and it had additional history with him which is why I think he was considered a trusted source in the past.

MR. STEWART OF UTAH: So he was considered a trusted source by the FBI?

MR. CARLIN: That's my -- yeah, that's my memory that there were some folks that worked with the source in the past, other cases and it had been corroborated.

Five minutes, sir.

MR. STEWART OF UTAH: I will go more quickly then.

So it is your recollection that if someone is in the FBI or the FBI's agency who

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says no we believe this is a trusted source and we can rely upon this information?

MR. CARLIN: Yeah. The way our process usually worked you ask questions of the investigative agency, they provided additional information.

MR. STEWART: I have a couple more questions. Trey, do you have more that you want to come back to?

MR. GOWDY: I just have two quick ones.

Did you brief the AG on this matter?

MR. CARLIN: That's where I have this -- I know that we arranged for them to be briefed, and I remember talking to the deputy director of the FBI about this -- about this matter. I don't have a specific memory of briefing the Attorney General on it.

MR. GOWDY: The DAG.

MR. CARLIN: Yeah, the deputy attorney general. I -- I don't -- I'm pretty sure she was at one of these meetings, but I don't actually 100 percent recall that I briefed or was present when the deputy attorney general was briefed, but I know that's the arrangement that our folks remember. I just can't remember whether I was actually there or not.

MR. GOWDY: Last two questions, Congressman.

MR. STEWART OF UTAH: Yes.

MR. GOWDY: Did you discuss this matter with the media at any point before you left DOJ?

MR. CARLIN: No.

MR. GOWDY: Have you discussed this matter with the media since you left DOJ?

MR. CARLIN: When you say this matter, they definitely ask, but I take very

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seriously that one should not provide, without authorization, information that might damage the national security of the United States. I oversaw the investigation and prosecution of those cases and believed in the investigation and prosecution of those cases. So I wouldn't discuss with them anything that involved disclosing national security information.

MR. GOWDY: I'm with you, I'm not accusing you of doing it. But your answer was definitive before you left DOJ it's less definitive after you left DOJ. You're definitive that you didn't disseminate classified information, but it is less definitive whether or not you talked to the media. I take that as a yes that you talked to the media since you left DOJ?

MR. CARLIN: I have definitely talked to members of the media since --

MR. GOWDY: Do you know which entities?

MR. CARLIN: I mean -- I've been asked about this so many times.

MR. GOWDY: Were they all on the record or any off the record?

MR. CARLIN: Some would be off the record. What they do sometimes they say they are talking about one subject in an interview and they start asking about this. I'm also -- I work as a consultant for, CNBC and ABC News. They definitely ask about this. They know where my lines are, so I'll talk about something like what the process is, what counterintelligence investigation is something like that, but nothing that would have to do with an actual FISA application.

MR. STEWART OF UTAH: In the one minute we have left -- How much time?

One minute.

MR. STEWART OF UTAH:

[REDACTED]

MR. CARLIN:

[REDACTED]

MR. STEWART OF UTAH: So the answer would be no, not to your recollection?

MR. CARLIN: Yes.

MR. STEWART OF UTAH: And then very quickly, did the FBI ever approach you concerning Lieutenant General Michael Flynn or any other members of the Trump administration? Did they ever come to you with concerns or requests regarding Mr. Flynn?

MR. CARLIN: I don't remember that.

MR. STEWART: I'm sure we are out of time?

[REDACTED] Yes, sir.

MR. SCHIFF: Thank you I have just a few follow follow-up questions and I will turn it over to my colleagues. And I notice parts that you know and what you derived from public sources, but you mentioned that you were familiar with a general issue and the fact that one of the sources you believe might be Mr. Steele had a relationship with one of the campaigns indirectly.

And tell me if you have any independent knowledge, if you can, of whether

[REDACTED]

what you're referring to there is an organization that was hired by one Republican candidate in the primary and later contracted with the Clinton campaign in terms of operational research. Is that the type of relationship you're talking about?

MR. CARLIN: Yeah, that's helping to refresh my memory. It was something like that, yes.

MR. SCHIFF: And this was someone that was doing work for that organization, but not directly for either of those prior campaigns, either of those other campaigns?

MR. CARLIN: I just don't remember, but I remember -- after some back and forth between the attorneys and the FBI that my memory is that at the time this was coming up that he wasn't -- he was doing this on his own rather than working for someone affiliated with one of the campaigns. That's my memory of it.

MR. SCHIFF: Your recollection is he started out working for this entity, that started out working for one or more campaigns, at the time he was providing this information he was doing it for a different reason, but the history was a concern?

MR. CARLIN: Yes.

[11:35 a.m.]

MR. SCHIFF: And was there a different reason that he was concerned about what he had learned during the course of his work?

MR. CARLIN: Yeah. In fact, he -- I think -- I'm getting this one step removed, because I got it from the FBI through my folks. [REDACTED]

MR. SCHIFF: And were you aware at the time -- and it's been publicly reported, you can tell me whether you understood this to be the case or not, that this individual was a former British intelligence officer and, therefore, an intelligence officer with a friendly intelligence service that wouldn't have that kind of concern.

MR. CARLIN: Yeah. At the time, I think I was told -- I can't remember whether it was when I was first briefed or after they did the follow-up questions -- that he had been a former Five Eye, but friendly nation Five Eye intelligence member, and that -- I'm not sure whether it was while he was still a member of that service, I think it was subsequent to that, [REDACTED]

MR. SCHIFF: I take it there would have been at least a couple strong sensitivities about this case. The first would be that it involved the campaign of someone who was running for President of the United States. That would have

been considered a big deal, something to be very careful about.

MR. CARLIN: Yes.

MR. SCHIFF: And then you have the second layer being that this former British intelligence person had at one point worked for an entity affiliated with opposition campaigns?

MR. CARLIN: Yes.

MR. SCHIFF: So both those factors would have told you that we need to make sure we dot our "i's," cross our "t's," and this source is credible?

MR. CARLIN: Exactly, yes.

MR. SCHIFF: So when this was brought to your attention, your recollection is there was a discussion about needing to make sure that the information we're getting from this person is credible if we're going to put it in a FISA application.

MR. CARLIN: Yes.

MR. SCHIFF: And at some point, after those concerns were raised, it was brought back that, yes, in fact, he had a good relationship with the U.S. Government, and that he had been found to be credible in the past.

MR. CARLIN: Yes.

MR. SCHIFF: Do you know -- and you may have left by then -- whether, in fact, the FISA application was approved and what the result of the collection was on the FISA?

MR. CARLIN: Yeah. I don't -- I don't remember hearing that it was approved, and I just don't remember that.

If it had been declined while I was there, that's a significantly unusual event and rare enough that I would -- I think I would have remembered the clerk declining to sign an affidavit.

MR. SCHIFF: And you wouldn't be in a position to talk about any renewals of the applications, because that would have been after your time?

MR. CARLIN: Yes. Sounds like the whole thing, the signing, may have been after my time, but I would have to look at it to refresh my memory on it.

MR. SCHIFF: Let me turn to the second issue that was raised with you about the DNC server. There may be conflicting information about whether the DNC was actually asked for the server. Do you have any personal knowledge of whether there was a request made for the server or whether the FBI was satisfied by getting the information from Crowd Strike?

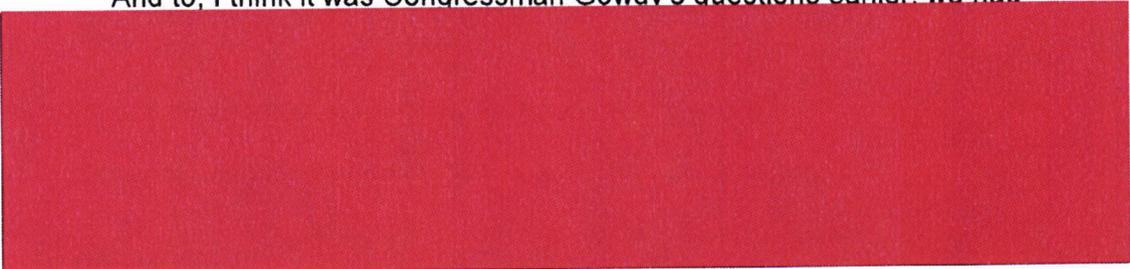
MR. CARLIN: No, I don't. I don't remember that. And, again, it just -- we've had a couple cases where there was some back and forth, and it's one of the areas I think we're working on improving, the type of interaction with victims that we would have at the FBI and at Justice in these cyber -- in these cyber cases.

And if they -- if a victim was providing -- the focus was usually more on what information they were getting rather than whether or not they were getting direct access or through an intermediary.

MR. SCHIFF: Director Comey testified in open sessions that they had gotten what they needed from Crowd Strike. Do you have any reason to believe that that wasn't the case?

MR. CARLIN: I don't, because, again, we were offering to elevate.

And to, I think it was Congressman Gowdy's questions earlier, we had



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And I don't recall them -- I don't recall this reaching a stage where they elevated it and said -- and brought us in and said: We want to do a search warrant or we need this elevated to your level.

MR. SCHIFF: At this point, also, you are not in a position to say whether the DNC had actually been asked for and turned down a request to provide their server?

MR. CARLIN: No, I don't know.

MR. SCHIFF: You mentioned in the private sector it's not uncommon for a victim of a cyber crime to want to hire a private firm rather than give over their server to the government and suffer whatever disruption that might occur?

MR. CARLIN: In the majority of the cases that I oversaw, working as a prosecutor and now in the private sector, the company chooses to use a private vendor as an intermediary, usually through an offer.

MR. SCHIFF: And this allows them to avoid disruption, but also maintain their proprietary interest in their information.

MR. CARLIN: Yeah. It's a question of proprietary interest and then privilege. So it would be -- they want it to be attorney-client privilege.

There are cases where they ask for a friendly -- what's called a friendly grand jury subpoena, the idea being they want to share the information, but if they share it pursuant to the authority of a grand jury subpoena, then that increases the likelihood that the information would be kept private.

MR. SCHIFF: And you tried to work with them, because after all, they are the victims of the crimes, they are not the perpetrators that you would have brought before the grand jury?

MR. CARLIN: One of the key changes that we have been trying to make, back since I was first a computer hacking, intellectual property prosecutor as an

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AUSA, through one time at the FBI National Security Division, was encouraging companies to go forward. The FBI had a whole campaign, we did as well at the Department of Justice, to tell companies, if you come forward and say that you are a victim, we are going to treat you as a victim. We are not going to revictimize you as part of the crime.

And it used to be 10, 12 years ago that companies would say that they didn't want to report these crimes because their offices would be turned into a crime scene. I think we've made good progress at changing that mentality, so they are hearing that we don't do that, that we work cooperatively, that we treat them as a victim, that we're concerned about their interests.

That was of great importance both at the FBI and Justice to continue that campaign, because it's still a problem, that the majority of folks that are hacked in the private sector don't come forward and share that information with the Bureau.

MR. SCHIFF: And you mentioned one of the reasons the private companies were reluctant to turn over the server is it might be disruptive to their business. In what way would that be disruptive?

MR. CARLIN: So there's a couple of different reasons. I mean, one, literally, back when I was early doing this, you'd seize the server. And so, you know, that's where the information is housed that is running the computer system for the company, and depending on what the company is, their business may depend on that information, or maybe how they produce whatever widget it is that they're producing. So that can be enormously disruptive.

And then they also are concerned, again, if they lose control of what's often private or proprietary information, either through the criminal justice process or because they have now – they get shared with other regulatory agencies, plaintiff's

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lawyers now routinely serve companies with requests when they do discovery to get at any information that you may have shared with the government. And I'm finding sort of it's a top-of-mind concern for general counsels.

MR. SCHIFF: So in the midst of a Presidential campaign, it would be natural for a political party to be concerned about any disruption with having to give up their server?

MR. CARLIN: I would imagine at least as much for a private company doing business, if you are in the middle of a campaign and you rely on your server for your data, it would be disruptive, sure.

MR. SCHIFF: Let me turn, if I could, to a question of tradecraft. You've probably seen the public reports recently of a meeting that the President's son, Mr. Manafort, and Mr. Kushner had with several Russian -- Russians and Russian Americans.

According to the email chain that produced that meeting, the meeting was brought about after communication between the Russian crown prosecutor, who I understand is the equivalent of the Russian attorney general, and Aras Agalarov, one of the oligarchs, in an effort to convey damaging information about Secretary Clinton to the Trump campaign.

It is reported it went through a chain of crown prosecutor, to oligarch, to oligarch's son, to business associate, to President's son, to campaign.

Does anything about that strike you as consistent with Russian tradecraft? If the Russians wanted to get information to the campaign, would they do it directly? Would they do it through cutouts? Would they do it through parties like were present at this meeting, a Russian lawyer, a Russian American lobbyist, a Russian oligarch, an oligarch's lawyer? Does any of that strike you as consistent with

[REDACTED]

you to do something on behalf of the Russian Government. And there's been some public cases of the consequences to those if you step out of line with the regime.

MR. SCHIFF: I just want to make sure to turn to my colleagues.

Ms. Speier.

MS. SPEIER: Thank you, again, for joining us voluntarily and your service to our country.

[REDACTED] We had a situation, it would appear, [REDACTED] that Jared Kushner meet with Mr. Gorkov, who was the head of the VEB bank. So that could very easily have been an effort by the Russian Government to try dangle, so to speak, something in front of the U.S. person whom they thought would be persuasive in pursuing their particular agenda?

MR. CARLIN: Again, I just want to be careful to avoid speculating on the public reporting. [REDACTED] I recall a case that we prosecuted where there was a trained Russian intelligence operative working undercover in the VEB out of New York that we publicly prosecuted, and there are numerous ties between VEB and Putin that -- [REDACTED]

[REDACTED]

MS. SPEIER: That would be unusual. I mean, it would follow the tradecraft of Russia?

MR. CARLIN: [REDACTED]

[REDACTED]

MS. SPEIER: I mean, just from a general perspective, if you are as a

[REDACTED]

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Russia oligarch sanctioned, my understanding is you cannot travel to the United States. Is that correct?

MR. CARLIN: I'd want to be careful on the details of the answer, but if you were specifically named in a sanction, it might be difficult for you to travel without getting -- I can't recall whether it was because of the sanction or because of the sanction we had a policy with Russia that they probably wouldn't, in the ordinary course, grant visas to those who were sanctioned. But the state would refuse to grant the visa unless there's some special circumstance as to which --

MS. SPEIER: So a special circumstance?

MR. CARLIN: Yeah.

MS. SPEIER: Because VEB was a sanctioned bank, and yet, Mr. Gorkov was here in the United States in early January. So I just found that kind of curious, like maybe there was some ironclad prohibition, but maybe there was not.

MR. CARLIN: And I don't want -- there may be others who are more expert on that question.

MS. SPEIER: So let's go back. We know now that Russia started hacking into the DNC server back in July of 2015. When did you become aware of it?

MR. CARLIN: I don't recall the exact time I became aware of it.

MS. SPEIER: But it was certainly before the FBI notified the DNC that they were being hacked, correct? Or did you find out about it --

MR. CARLIN: Actually, I'm not sure. I think that this -- this may not have been optimal, but I think they actually -- this may have proceeded for a period of time before I, at least, was notified, and that it may have happened -- I'm not sure anyone at NSD knew originally.

MS. SPEIER: So in August or September, the DNC is notified by an FBI

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[REDACTED]

agent. Do you think you knew at that point?

MR. CARLIN: I'm not sure that I did -- that I did know at that point. And, again, it may be inaccurate, but I recall reading -- this article stuck in my head. There was a New York Times article about the back-and-forth on the notification. And if any of that's true, I didn't know -- I hadn't heard that story of how they tried to notify before. And I'm not sure when we were notified at NSD. And by spring of 2016, we would have known. But back in the original time period, I'm not sure when it came through.

MS. SPEIER: So you're in charge of an office of counterintelligence. There appears to be an effort by a foreign country to impact us in the United States in a way that it's harmful. And, yet, and it goes on for a period of months before you are even notified, and it appears you probably were notified after the victim was notified.

MR. CARLIN: Again, I don't fully remember, but that may be the case. That wouldn't be optimal where we're trying to make certain changes at the time to increase the coordination when it came to these counterintelligence cyber cases.

But for a long -- we're in the midst of a transition that really started in late 2012, accelerated with the prosecution of the People's Liberation Army case in 2014.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] And it was taking the longest to achieve that change and mindset with that unit. But the FBI leadership was onboard, and our folks were onboard on changing that structure to tighten the interactions between the two.

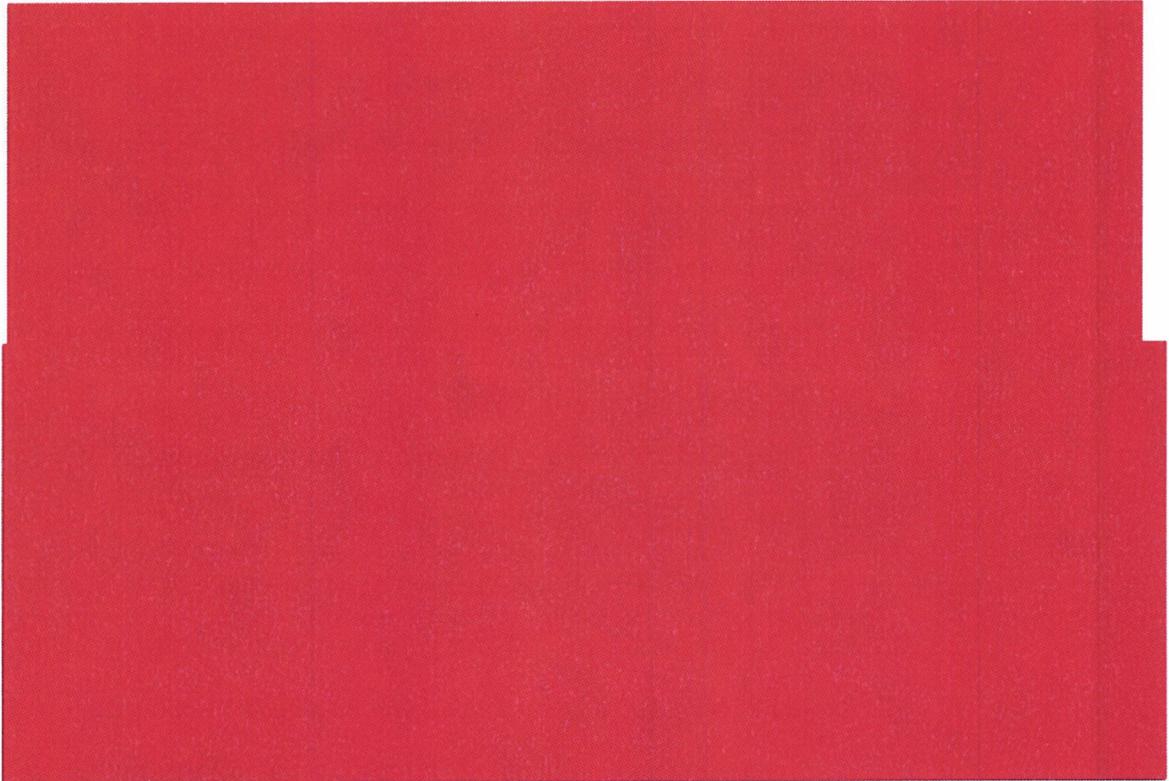
And that was all swirling around in 20 -- again, this -- it starts really beginning of 2013, accelerates to 2014. By 2015, it had not perfected, and by the time I left, I think there were additional improvements, but I think it may be the case that there wasn't back -- that connectivity at the beginning of this investigation.

MS. SPEIER: So how common has it been that Russia has intervened in our elections, in your experience, in history.

MR. CARLIN: Yeah. It depends -- pretty -- actually, pretty common that they were running operations inside the U.S. to try to influence an election. They just didn't used to be that effective. Sometimes there would be the campaign contribution type operation. Sometimes they would try to compromise newspaper owners, small -- that had small distribution. Actually, it seemed like maybe they didn't fully understand our electoral system and so that they could put out propaganda in favor of Russia.

So in that sense, it wasn't new. It also wasn't new that their Intel services would try to penetrate campaigns for purposes of gathering intelligence as to what our intentions may be.

[REDACTED]



MS. SPEIER: So to your recollection, you don't become fully briefed or aware until the spring of 2016?

MR. CARLIN: It may have been a little bit -- it may have been earlier, but, yeah.

MS. SPEIER: So when did the alarm bells go off?

MR. CARLIN: Definitely by then, because -- and I'll give some -- so in my spot, I had been pushing very hard for a change in the way we handle national security cyber threats. And so when this first came in to me, it was in that context, and we're already looking to see if we could be more disruptive with Russia.

Because we had been more disruptive, first with China, then with North Korea after Sony, and by bringing the case against the Iranians for their denial-of-service attack. And we brought some other cases as well, against the Syrian Electronic Army, against other Chinese actors, an individual named Subin,

who conspired with the PLA to hack into Boeing.

And so the idea that it looked like the Russians were increasing their active measures campaign, we had seen them interfere with elections before, meant that from our perspective and the changes we were trying to make, that we were pushing -- or we wanted to try to be -- see if there was some way we could disrupt -- disrupt the Russians.

MS. SPEIER: So, you know, hindsight is always 20/20. Do you think the U.S. Government moved too slowly?

MR. CARLIN: So when -- if you think -- the intention behind going public on October 7th was to keep the Russians from trying to undermine confidence in the integrity of our campaign and to view their efforts as a failure.

And so with hindsight, we didn't do enough fast enough, because they view this as a success, which is why I think you see in the assessment, which I share, is that they are going to try to do this again in 2020, maybe as early as 2018.

So I'm glad this committee is taking the effort taken to learn what happened here. Hopefully, we can focus on what do we do to protect our system from an active threat is going to come at us -- come at us again.

MS. SPEIER: Okay. With that admonition to all of us, what would you do differently?

MR. CARLIN: I had a couple of thoughts, and some are structural.

So I think timing matters. Ideally, you could be able to go -- so there's a three-pronged approach that we have been pushing generally with the national security actors. One is figure out who did it. So there you just need to keep resourcing. I hope there's parts of the Community that are working to do attribution. And some private sector groups.

Second, when you figure out who did it, make it public, because if we keep it in the shadows, the type of harm that you can do through cyber-enabled means is different than the spy-versus-spy intelligence that we also handled in our division. And I don't think the kind of Cold War, keep everything in the shadows, just watch what they're doing works when you have an Intel threat on this scale.

And the third is, once you figure out who did it and once you make it public, impose consequences and keep raising the costs until the behavior changes. I think we did that well in terms of changing Chinese approach to targeting our private companies for the private gain of their competitors. We have not done it yet in terms of changing Russia's calculus on meddling with our elections.

I don't know if the December 29th actions were taken earlier, whether that would have had a more -- a greater impact on Russia's thinking and calculus; in other words, if those were done pre-campaign.

But going forward, a couple of ideas. One would be that the administration, I think, struggled with the idea that anything they did would seem political, because there's always one party in charge, and there's going to be an opposition party the way our system works. So we all know that now. We know that Russian wants to exploit that.

So if Congress were to mandate that the career professionals provide assessments like we do with things like the worldwide threat assessment, perhaps yearly, with a version of which that could be made public, at least as to the conclusions, you take out of the sphere of politics, I hope, and wouldn't make it partisan, and there would just be a declaration: So-and-so foreign power is trying to interfere with our elections.

We are very focused on the Russians, rightly so, but now that Russia, looks

like they succeeded, I'm also worried about other nation-states thinking: Hey, this works, so let's try it.

So that's one.

Secondly, I wonder if Congress can help in terms of we need a deterrence element of our strategy, and to deter, it means your adversary needs to know in advance that you're actually going to take action. And there are important separation of powers issues with Congress and the executive branch, but I know in other areas this committee and others have asked us to provide campaign.

So once you get a report that a foreign power is trying to influence our elections, certainly, if they are trying to actually hit the ballot boxes or people's ability to vote on the registration, that you have them briefed as to what the retaliatory actions are going to be and have a plan in place. And, ideally, we would announce ahead of time at a minimum that if we use this mechanism and conclude that you are trying to interfere with the election, there will be consequences, both public and private, to a nation-state.

MS. SPEIER: So when would you say you were certain it was Russia and no one else?

MR. CARLIN: I don't have an exact date.

MS. SPEIER: I understand.

MR. CARLIN: But by July.

MS. SPEIER: 2016?

MR. CARLIN: By July 2016 and maybe earlier.

MS. SPEIER: So in your schematic, that's when you would take steps to -- you would announce it then, or would you have announced it before then?

MR. CARLIN: As soon as you have the assessment that the foreign power

[REDACTED]

is trying to interfere with the election, that would be provided here and made public.

MS. SPEIER: And then sanctions or whatever --

MR. CARLIN: Should follow.

MS. SPEIER: -- should follow immediately thereafter.

So prior to leaving DOJ, did you ever see evidence that any other entity, other than Russia, was responsible for the cyber influence in the 2016 election? Was there any other country?

MR. CARLIN: [REDACTED]

[REDACTED]

MS. SPEIER: Just two last questions.

Were there any other FISA applications that were filed as a result of the so-called dossier?

MR. CARLIN: I was less -- when I was there familiar even with the -- I don't remember the term.

MS. SPEIER: Dossier?

MR. CARLIN: Dossier. And the only one that I remember that I think links to the individual that was linked to the dossier on the public reporting is the one that we've discussed. Other than that, I don't remember.

MS. SPEIER: Okay. And let me just clarify, again, that to your knowledge

[REDACTED]

[REDACTED]

the -- you have no knowledge that the DNC was specifically requested to turn over its server?

MR. CARLIN: Right. Yeah. I don't know.

MS. SPEIER: And you are -- you also, I believe, testified that you believe that you got everything you needed or that the FBI got everything they needed from the third party in terms of pursuing the case?

MR. CARLIN: Actually, I don't know that either, but I don't -- I don't recall them coming to us to ask for additional process.

MS. SPEIER: Okay. Thank you.

MR. SWALWELL: Thank you, again, Mr. Carlin. Thank you for your service.

I have a few questions just to clear up with respect to what may have been the Carter Page application. Is it fair to say that you, in the course of your work at NSD, would have viewed hundreds, if not thousands, of FISA applications?

MR. CARLIN: Yes.

MR. SWALWELL: How many would you estimate?

MR. CARLIN: I could report the number. The vast majority of the ones that are signed will be signed by the person in my spot, and it's only when I was usually unavailable, which happened, that it would get signed by the Deputy Attorney General, Attorney General, or if there's some special circumstance.

MR. SWALWELL: Is it fair to say that with respect to most of those applications that you reviewed that your recollection of them, without the application in front of you, would be fairly limited?

MR. CARLIN: Yes.

MR. SWALWELL: [REDACTED]

[REDACTED]

[REDACTED]

MR. CARLIN: [REDACTED]

[REDACTED]

MR. SWALWELL: And would you describe your work like running kind of a gamut of what the focus was, whether it was counterintelligence or, as you also said, sometimes criminal? Can you just explain the difference?

MR. CARLIN: Sure. It starts with -- because often demanding -- most of my attention was terrorism, and FISAs were generally linked to terrorism or active threats. And then the criminal prosecutions in my last 2 years were brought more international terrorism cases than I think we ever had before at the Department because of the Islamic State in the Levant threat and their success in exploiting social media and crowd sourcing terrorism. So that was one bucket of activity.

Then in the counterintelligence arena, we -- historically, I think, the approach in counterintelligence --

MR. SWALWELL: I'm just talking about with Russia.

MR. CARLIN: Oh, with Russia. Okay.

So with Russia, we were actively exploring -- and this actually dates back to the time I am was with MOLA, we started trying to think this way. [REDACTED]

[REDACTED]

[REDACTED]

MR. SWALWELL: What would you describe it -- how would you describe the breakdown of just strictly counterintelligence Russian investigations and counterintelligence and criminal investigations? Does it make sense?

MR. CARLIN: Yeah. That's kind of hard, because still the vast majority of counter -- let me put it this way -- [REDACTED]

MR. SWALWELL: Yes.

MR. CARLIN: Even if they might use a criminal tool to help investigate it.

MR. SWALWELL: Sure. Was it often -- would you ever assist the FBI in defensive briefings that they would give to individuals because of counterintelligence investigations involving Russia?

MR. CARLIN: I may have one or two. Usually, I wouldn't be present in the room when they did the defensive briefing, but I would be briefed on the fact they were going to do a defensive briefings.

MR. SWALWELL: And did you -- you mentioned an escalating pattern. Did you see an escalating pattern in the number of defensive briefings the FBI had to give with respect to Russian counterintelligence?

MR. CARLIN: I don't know if the number of defensive briefings increased,

[REDACTED]

[REDACTED]

MR. SWALWELL: In your recommendations to us, I think the ones you gave earlier to Ms. Speier were helpful, would you recommend that the FBI become just a little more aggressive in the way that they defensively brief individuals who may be around Russians who have these motives?

MR. CARLIN: Yes, I think it's a good idea to -- and I think they did, actually. I know when I was there, we were starting a program focused on businesses to do exactly that, both with the Russia threat and the China threat. And I do think that's good, yeah.

[REDACTED] Five minutes, sir.

MR. SWALWELL: Thanks.

[REDACTED]

MR. CARLIN: I don't have a -- I don't have a number for you.

MR. SWALWELL: Was that a minimal experience? Was that something that you saw happen often?

MR. CARLIN: I'm not -- I'm not sure I would -- I usually, in that context, would see it in the form of a finished intelligence report and it might not appear to see what the -- what the basis was for the report.

MR. SWALWELL: Right.

MR. CARLIN: But as you can imagine, if we're -- if you're targeting a foreign person overseas because you think they're a spy, then from the point of view of my shop, the counterintelligence folks and from the FBI, that's usually what would get the keen -- keenest amount of interest.

[REDACTED]

[REDACTED]

[REDACTED]

MR. SWALWELL: [REDACTED]

[REDACTED]

MR. CARLIN: Yeah. Either Title I.

MR. SWALWELL: Can you give us the numbers? Was that often? Was it not often?

MR. CARLIN: [REDACTED]

[REDACTED]

MR. SWALWELL: What's my time?

[REDACTED] Three minutes, sir.

MR. SWALWELL: Now, you said with respect to the VEB example, you mentioned that that was a public prosecution. And did you say it that way because there's also grand jury indictments that are under seal with respect to Russians that had not become public when you left?

MR. CARLIN: [REDACTED]

[REDACTED]

[REDACTED]

MR. SWALWELL: [REDACTED]

MR. CARLIN: [REDACTED]

MR. SWALWELL: [REDACTED]

MR. CARLIN: [REDACTED]

MR. SWALWELL: Right. [REDACTED]

MR. CARLIN: Yes.

MR. SWALWELL: When you -- it sounds like you are familiar, ranging from the DNC hack to the work that was being done on what we believe was -- or what you understand might have been Carter Page's FISA application to, you know, the whole range of, you know, what this investigation is about. Just putting -- keeping your prosecutor hat on, you know, if you were at DOJ right now and someone in your family said, "So what crimes are contemplated here?" like to the lay person, what would you say? Like, what crimes are contemplated by a hacking and then dissemination of information and what's being considered?

MR. CARLIN: And I'm loathe to speculate. I'm going to throw out some of the statutes for you.

MR. SWALWELL: I think you estimate you're an expert.

MR. GOWDY: I hope he's the one.

MR. CARLIN: Like, you know, we used 1030, the Computer Fraud Abuse

Act. You'd use the Espionage Act, 793. Depending on the circumstances in these cases, obstruction statutes, 18 U.S.C. 951. It's usually what we use for people who are spies and didn't declare it, which spies rarely do.

MR. SWALWELL: Like FARA?

MR. CARLIN: FARA, often versus like a 951. Or if you are a traditional spy, we're usually looking at our core statutes. But FARA's within the scope of jurisdiction. And then sometimes you look for money related.

MR. SWALWELL: So that would be like RICO and wire fraud?

MR. CARLIN: Wire fraud, money laundering type statutes, tax evasion.

MR. SWALWELL: Great. Thank you.

MR. GOWDY: We are going to go 15 and 15 now.

I've been gone a long time, Mr. Carlin. I don't remember the word collude being part of the U.S. Code. No statutes that I was familiar with.

Is the word collude part of any of the statutes you just made reference to, to Mr. Swalwell?

MR. CARLIN: No, it's not a term I remember really using.

MR. GOWDY: I do remember the word conspiracy.

MR. CARLIN: Exactly, sir.

MR. GOWDY: And I'm assuming the two words are interchangeable -- collude, conspiracy, confederate, tacit agreement -- I guess. I don't know. The word collude, I'm not familiar with that being an element of any criminal statute. Have I missed one?

MR. CARLIN: No, I think the two -- probably the two closest concepts, one would be a conspiracy, an agreement to commit a criminal act, where you take an overt step, and aiding and abetting, which if you aid and abet someone in the

commission of another --

MR. GOWDY: Well, you can have this pretty good little felony that's after the fact. You may -- that's a stretch.

MR. CARLIN: Like obstruction or false statement in order to protect someone else.

MR. GOWDY: Hold that false statement thought for just a second. We're going to come back to that.

So the crimes that we know were committed, I guess, absent a jury verdict, hacking of the DNC and Podesta's Gmail account?

MR. CARLIN: And they both, like, they'd be an unauthorized access to someone's system, at a minimum, you have computer fraud and abuse, and then, depending on the intent, might turn into -- actually, I know we're in a closed session, but it's just been ingrained in me as a prosecutor, it's not a crime unless someone brings a charge, but it does sound like criminal -- criminal conduct.

MR. GOWDY: You don't recall any evidence in that FISA application suggesting that Carter Page colluded, conspired, confederated with either the hacking of the DNC or Podesta's email, do you?

MR. CARLIN: My recollection of what's actually in the affidavit versus the brief that I got, I don't even really remember looking at the affidavit. But -- so I have trouble answering the question for that reason alone. If you are asking me at the time that I was there --

MR. GOWDY: Let me ask it differently, more broadly. Probable cause is the evidentiary standard for presenting something to the FISA court?

MR. CARLIN: For a Title I FISA.

MR. GOWDY: Okay. Probable cause of what?

MR. CARLIN: Agent of a foreign power. Some people get confused on that, but this group knows. Could be a terrorist.

MR. GOWDY: Weapons of mass destruction.

MR. CARLIN: Okay.

MR. GOWDY: But it doesn't have to be evidence of a crime?

MR. CARLIN: No, it's a different standard.

MR. GOWDY: Okay. Now, you mentioned false statement. I want to ask you if you remember -- do you remember being interviewed by PBS?

MR. CARLIN: Yes.

MR. GOWDY: I'm going to read this to you. I don't have any idea whether you said it or not. It's in quotes, that's why I'm going to read it. If you take exception to it, I'll let you and your lawyer decide whether or not they got it right.

"For the National Security Advisor to secretly be having conversations with Russia officials, not telling the Vice President of the United States, I can't imagine a situation which would cause more alarm for the career counterintelligence officials," close quote.

Does that sound like what you may have said to PBS?

MR. CARLIN: Oh, yeah.

MR. GOWDY: All right. What do you mean by secretly?

MR. CARLIN: Again, I'm not assuming that it's true. I can't remember what the exact question, but the -- which would be different. But if the National Security Advisor had meetings with the -- secretly, in other words, didn't tell the -- or lied about it to the Vice President of the United States --

MR. GOWDY: Hang on to the word lie. We're getting to it in a second. But this would have been the putative National Security Advisor, right? Would this

have been before the inauguration.

MR. CARLIN: I was out. So in terms of what I was thinking in my head answering this question, was the actual national -- if the actual National Security Advisor of the United States, to my mind, that is the -- if not the, definitely one of the most important positions in our entire national security apparatus. They have access to every secret that I know of, they are usually read into the most sensitive compartments. If they are secretly meaning with a -- secretly meeting without the knowledge of their own -- not secretly -- I think I get what your -- if it was a secret, if, like, the President, the Vice President, and the Intel agency knew but it was secret from everybody else, that's not what I was referring to. But if it's secret like --

MR. GOWDY: That's what I'm getting at. Lots of conversations are secret, and then you don't have them, like, on Facebook Live, you don't have them on national television.

And you were gone, you were gone, so you may not have the chronology perfectly, I may not have it perfectly, you may have been referencing public reporting about a December conversation between the putative National Security Advisor and what you called a Russian official. That would have been pre-inauguration, so he would not be the National Security Advisor. Is that fair?

MR. CARLIN: If it's in December, he wouldn't be the National Security Advisor, yeah.

MR. GOWDY: Right. Now, you said not telling the Vice President of the United States. Are you sure you didn't tell the Vice President of the United States they talked, or did he not mention the topic of sanctions?

MR. CARLIN: I want to be 100 percent clear. This is why I should be even more careful about not answering hypotheticals.

I don't know -- I was gone. So what I was getting at is if a National Security Advisor talks to the Russians without authorization, hiding it from his own intelligence officials, lying to it about the Vice President, that I would be -- because Russia is so active in its attempt to corrupt our officials, that I can't think of anything that would cause us more alarms and concern inside the division.

MR. GOWDY: I'm with you. I'm just looking for the word "if" in your quote. I'm with you. I'm just looking for the word "if."

MR. CARLIN: The --

MR. GOWDY: All right. We'll move on. I'm not going to harp on that.

But what is the statute that is implicated when someone is interviewed by the Bureau and gives a false statement?

MR. CARLIN: If you give a false statement to law enforcement --

MR. GOWDY: Is that 1001?

MR. CARLIN: Yeah. There's a couple other statutes that have to -- that are specific that have to do false statements with different law enforcement, but --

MR. GOWDY: Somewhere under oath, but 1001?

MR. CARLIN: Is one.

MR. GOWDY: All right. Is that a strict liability crime, or are there elements, including an intent to deceive?

MR. CARLIN: Oh. No, it requires -- so, in other words, if you're -- if you had no intent to make a false -- it requires intent to make a false statement.

MR. GOWDY: So if, hypothetically, the Bureau agents did interview someone, concluded that there was no intent to deceive, that wouldn't be a crime, would it? Or you would certainly rather have the defense side of that case rather than the prosecutor side?

MR. CARLIN: Oh. It wouldn't be up to the Bureau agents to make the -- that -- the --

MR. GOWDY: Oh, but if a Bureau agent were called to the stand and had to say, "I do not think they intended to deceive," would you rather be the prosecutor or the defense attorney in that case?

MR. CARLIN: That would be a tough case for the prosecutor.

MR. GOWDY: That would be a tough one.

All right. Carter Page. I know we are asking you to remember stuff --

MR. CARLIN: But just going back to what you said, it might be a tough case, but sometimes, assuming you mean after all, sometimes you find out something the FBI agent fully believes the person they are talking to, and then you get additional proof after the fact that the FBI agent doesn't know --

MR. GOWDY: Sometimes. Sometimes all you got --

MR. CARLIN: Well, then it would be tough.

MR. GOWDY: -- is a defendant, who doesn't have a testify, and two agents who say, "I don't think he was trying to deceive us." That's a tough fact pattern.

MR. CARLIN: That would be tough.

MR. GOWDY: All right. Back to Carter Page. I know it's hard to go back, but let me go back to 2016. We've got one Presidential candidate who there is an open investigation -- let me correct that -- matter. We'll use the word matter, an open matter with relation to one Presidential candidate. And here something comes across your desk related to the other Presidential candidate. You don't think you would have discussed that with Attorney General Lynch or Deputy AG Yates?

MR. CARLIN: Two things. One, I'm not sure when it came in or that the

investigation was closed. I know that it gets reopened --

MR. GOWDY: Are you talking about the other candidate?

MR. CARLIN: Yeah.

MR. GOWDY: I think it was closed in July and reopened by the time you left.

MR. CARLIN: That wasn't the gist of your question.

MR. GOWDY: Matter. Not investigation, matter.

MR. CARLIN: Well, we -- the -- I think the Attorney General would get -- would get briefed. But I'm having trouble because of the timing and when it occurred. And the reason I was getting briefed -- and when I say the highest levels of the Department, it's for exactly that point. This is something the Attorney General, the Deputy Attorney General needs to be briefed and the leadership of the --

MR. GOWDY: I mean, it's a big deal.

MR. CARLIN: It is. And the leadership of the FBI.

And just in terms of my memory, I remember talking to the then Deputy Director of the FBI about it. I don't remember whether I personally talked to the Attorney General. I may have, I just don't -- I don't independently remember that conversation. Closer to remember than I did with the Deputy Attorney General, but I can't -- you know, kind of picture the room and when the conversation took -- took place.

And it's right around the time when I'm leaving, so it may be that I was, like, out of time, they get briefed, and I'm gone. I just don't -- I don't remember unless I look at something to refresh it.

MR. GOWDY: All right. Do you recall discussing Carter Page with anyone else in the Intelligence Community? Is that a name you had ever heard before?

MR. CARLIN: [REDACTED]

So I don't remember making that connection in my head when I get briefed on this matter, and I was focused less on the name of the guy at the time, at least that's the part that's stuck in my memory, than the circumstances, that it's someone affiliated with the Trump campaign.

And the other thing that stuck in my mind was this -- the source -- source issue. [REDACTED] And if -- if it seems the case, but I would love to look at the application. The application was -- was Carter Page, I guess I would have heard the name before. I'm not sure that light bulb went off or was highlighted when I got briefed on it.

MR. GOWDY: Do you recall any evidence that then candidate Trump had ever met or interacted with at all Carter Page?

MR. CARLIN: I just don't -- I really don't remember one way or the other.

MR. GOWDY: When you were with the Bureau, would you ever alert Members of Congress, Cabinet-level officials, Senators, if they were interacting with shady characters?

MR. CARLIN: Yes. Or I would say not shady characters, but I know what you're getting at.

MR. GOWDY: People with whom they may not fully realize who they are interacting with.

MR. CARLIN: To go back to your questions, Congressman, defensive

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briefings when we knew someone was an agent of a foreign power and they might not know they are an agent of a foreign power, I recall getting -- we use the term in our defensive briefings.

MR. GOWDY: Do you know whether any defensive briefings were given to anyone in the Trump campaign about Carter Page?

MR. CARLIN: I don't know one way or the other.

MR. GOWDY: Who would have done that?

MR. CARLIN: Usually, that would be done through the FBI. I guess it -- the circumstance I remember is usually FBI. Maybe it could be done through Secret Service or another agency.

MR. GOWDY: It wouldn't be DOJ proper? It would be a law enforcement agency probably?

MR. CARLIN: Yes. Sometimes we'd be in the room, depending on who it was in the defensive -- defensive briefing. But usually FBI.

MR. GOWDY: How much time I've got?

██████████ Two minutes.

MR. GOWDY: Let me ask you this in my concluding 2 minutes.

I'm fascinated by motive. We never had to prove it, Swalwell is as an old, washed up prosecutor, you never had to prove motive, but the jury always wants to know.

There's public reporting that there was really negative information about Secretary of State Clinton that was never publicly disseminated. Are you familiar with that?

MR. CARLIN: That there's negative information about her that --

MR. GOWDY: That was captured through these Russian active measures

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[REDACTED]

MS. SPEIER: [REDACTED]

[REDACTED]

MR. CARLIN: [REDACTED]

[REDACTED]

MS. SPEIER: So when were you told about that?

MR. CARLIN: I don't remember the dates. I think it's -- I definitely knew about it by late -- late July. I just don't remember the dates.

MS. SPEIER: So it sounds like you became aware of that fairly quickly but were not aware of the hacking by Russia until literally 8 months later?

MR. CARLIN: Yeah, I knew -- I definitely knew about the hacking by then. But compared to when it happened, I'm not sure when --

MS. SPEIER: You said in the spring of 2016.

MR. CARLIN: I knew it by the spring of 2016. I may have known it earlier, but I also may not have -- and that's not -- I think there have been certain changes to improve that, but given how much hacking that was going on and how it was being treated at the time, it's not entirely surprising [REDACTED]

[REDACTED]

[REDACTED]

MS. SPEIER: So Acting Attorney General Yates goes to the White House to alert the President's general counsel that she was concerned that General Flynn, now the National Security Advisor, had not been truthful to the Vice President and that he would be the subject of being co-opted by the Russians. It seemed like a huge jump on one hand.

Was there -- is that just a very clear pattern that occurs that would create that level of consternation that would make her want to go directly to the general counsel?

MR. CARLIN: I think that was the context which I was getting at, just going back to Congressman Gowdy's -- you know, why would -- why would that be of high concern, why the acting head of National Security Division want to inform the White House counsel if they were aware of -- or believed that the, I guess incoming, whether incoming or actually National Security Advisor was lying about a meeting with a Russian official.

And that does not surprise me. I just -- I never had something like that happen while I was there across my desk. But when we had even lower-level officials who we suspected might not be forthcoming to either FBI agents or their superiors at the National Security Council, that got a very high level of alarm.

And then to have someone, you know, the actual -- holds the Intel keys to the -- to the kingdom do that, I mean, that just would be a highly concerning -- concerning event. So it would be natural to want to inform the right people at the -- both within the Department and the White House as soon as possible.

[REDACTED]

[12:42 p.m.]

MS. SPEIER: So I understand wanting to inform, but the rationale for informing was that he would become co-opted by the Russians. That's a huge jump from --

MR. CARLIN: So I think there would be a concern that -- I mean --

MS. SPEIER: Was there any evidence, I guess?

MR. CARLIN: I wasn't there so I really don't know. But in general your concern often is if there's a secret meeting that -- and especially if you were to lie about it to someone, that that could be used to coerce you and that -- in our experience with the Russians in general, they were constantly looking for ways to gain leverage, much low ranking -- sometimes people you didn't really know why they were trying to gain the leverage.

It was just so much part of their trade craft that they were always looking for a way in that they would later use to exploit you to get to you act on their behalf. I wasn't there, I'm not saying specifically what happened with Flynn. But just -- I don't know. But if someone lied about a meeting with the Russians you could see that being used to exploit them.

MS. SPEIER: So let me shift gears for a moment. During this time you became aware that Russians were intruding into the State and local election boards. You were still in your position at that time. Correct?

MR. CARLIN: Yeah, I think it was relatively late. So close to when I'm leaving, but we got indicia that they were doing an exploratory cyber activities with State election boards.

MS. SPEIER: So the word now is that we got word of this in the summer of 2016. So your recollection is you got word about it much later?

MR. CARLIN: No, I left in October, so I think it was --

MS. SPEIER: So what action, if any, did NSD take?

MR. CARLIN: So there were a couple of different efforts going on, the NSD took actions to, you know, one has to support the investigations of the needed process, the Department of Homeland Security had the lead in terms of the integrity of the electoral system and how to inform State boards. I think we worked -- I'm a little fuzzy on who did what. I remember an FBI report. I can't remember, it may have not have gone out through FBI. It may have gone out through Homeland to alert them to the activity --

MS. SPEIER: So Homeland Security Department doesn't really inform local elected boards and State Secretaries of States until October and then provides resources. Is that late?

MR. CARLIN: I can't recall the exact timing, but in terms of just putting in a general like things to look for where we could try to improve going into 2018, and 2020, there was not a good mechanism, a good communication between Federal authorities and State electoral authorities at the time. And at the time, it wasn't -- it hadn't been -- it was probably an oversight, but it hadn't been designated as critical infrastructure. Critical infrastructure was focused more on things like water and electricity, and nuclear, and that was a mistake as well. It is clearly critical to the functioning of our democracy. So I think that is something.

The other thing I always worry about -- the executive order and with some of our measures because we were focused on critical infrastructure, when you look at what North Korea did with Sony and similarly in some respects to what Russia did in our elections, they are attacking a fundamental value of what makes us American in our system rather than -- and that's the crux of what makes it such a vital national

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security issue rather than the technical system that they are attacking and some of our legal tools and our response programs gear off whether or not it's a specific system.

And so I wonder if we should change our approach on that, because it just seems like each time a foreign adversary gets created we spend all the time doing the executive order that allows to sanction people for a cyber activity, it had to be amended for the Russians because it only covered critical infrastructure and economic espionage, which were the two things that were fundamentally drafted.

So I wonder if there is language we could use that is more linked to our values that would broaden the toolkit for the law enforcement Intel and military authorities.

MS. SPEIER: So there is a Russian who became an American citizen, who has been lobbying against the Magnitsky Act -- is that and it appears at this meeting with Donald Trump, Jr., does that alarm you, just knowing that fact that you have someone who -- or is that commonplace where Russians come here, become U.S. citizens and then lobby on behalf of the homeland, the first homeland?

MR. CARLIN: On behalf. Loads in, because I know you're talking about a specific -- I think in general we have a concern about agents of a foreign power here, if they do any -- if they are working directly on behalf of the foreign power there is a criminal statute so it looks like espionage, that's 18 U.S.C. 951.

And the point of the foreign agents registration act is even if they are not really a spy, but they are doing activity that's on behalf of the foreign Nation that we have transparency about those activities, that's become a harder to administer since a lobbying act reform the LDA. And it also doesn't have simple investigative demand authority.

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[REDACTED]

[Whereupon, at 12:53 p.m., the interview was concluded.]

[REDACTED]