

ecutor who does what is politically not expedient for himself, his staff, but for the law.

And I'm not the only person in this hearing, in this committee, who has worked with Director Comey or for him. Representative Gowdy himself also commended Director Comey, and he said this, and I quote: "I used to work with him. I think Comey is doing exactly what you want. He's doing a serious investigation behind closed doors, away from the media's attention, and I'm going to trust him until I see a reason not to."

Representative Gowdy referred to Director Comey as honorable and apolitical. He said this is exactly what you want in law enforcement. Well, it's exactly what you want in law enforcement until the decision is not the decision that you want.

Director Comey, Chairman Chaffetz, as it was said by one of my colleagues, went on television and accused you of making, quote, "a political calculation." He said that your recommendation was nothing more than, quote, "a political determination in the end."

I'm going to ask you, how do you respond to that? Were your actions in any way, shape, or form governed by political consideration?

Mr. COMEY. No, not in any way.

Ms. PLASKETT. And did anyone with Secretary Clinton's campaign or the administration influence your recommendation for political reasons?

Mr. COMEY. No. They didn't influence it in any way.

Ms. PLASKETT. I'm going to take you at your word, because I know, and those who will go through the record of your long tenure as a career prosecutor and they'll look at examples, will see that you have taken decisions that have not been that which your supervisors, which the President, which others have wanted you to take.

As a Federal prosecutor who believed that the facts must come above politics, I'm thankful that we have you. And, Director Comey, I want to thank you for your service to our country, and you have our support.

We would like to see as much documents. And I'm grateful that you want to keep the transparency so that the American public can understand the difference between what they hear in the media and the elements of a crime necessary for criminal prosecution.

Thank you.

Chairman CHAFFETZ. I thank the gentlewoman.

We'll now recognize the gentleman from Texas, Mr. Farenthold, for 5 minutes.

Mr. FARENTHOLD. Thank you very much, Director Comey.

I want to talk a little bit about cybersecurity. The State Department's inspector general report detailed instances of multiple attacks on Secretary Clinton's computer as well as her replying to suspicious email from the personal account of the Undersecretary of State.

Director, you said that hostile actors successfully gained access to the commercial email accounts of people Secretary Clinton regularly communicated with. In the case of the Romanian hacker, Guccifer, accessing Sidney Blumenthal's account. And, you know, that's been public for some time.

During your investigation, were there other people in the State Department or that regularly communicated with Secretary Clinton that you can confirm were successfully hacked?

Mr. COMEY. Yes.

Mr. FARENTHOLD. And were these folks that regularly communicated with the Secretary?

Mr. COMEY. Yes.

Mr. FARENTHOLD. And were you able to conclude definitively that the attempted hacks referenced in the IG report were not successful?

Mr. COMEY. We were not able to conclude that they were successful. I think that's the best way to say it.

Mr. FARENTHOLD. All right. So while you said that given the nature of Clinton's server, you would be unlikely to see evidence one way or the other of whether or not it had been successfully hacked, how many unsuccessful attempts did you uncover? Did you find any there?

Mr. COMEY. There were unsuccessful attempts. I don't know the number off the top of my head.

Mr. FARENTHOLD. Do you have an idea, were they from foreign governments? Where did they come from?

Mr. COMEY. I want to be careful what I say in an open setting, and so I—we can give you that information, but I don't want to give any foreign governments knowledge of what I know. So there—

Mr. FARENTHOLD. All right. But would you be so far as to say they probably weren't American high school students fooling around?

Mr. COMEY. Correct. It was not limited to—

Mr. FARENTHOLD. All right.

Mr. COMEY. —criminal activity.

Mr. FARENTHOLD. During your investigation, did you or anyone in the FBI interview the hacker Guccifer?

Mr. COMEY. Yes.

Mr. FARENTHOLD. And he claimed he gained access to Sid Blumenthal's email account and traced him back to Clinton's private server. Can you confirm that Guccifer never gained access to her server?

Mr. COMEY. Yeah, he did not. He admitted that was a lie.

Mr. FARENTHOLD. All right. Well, at least that's good to hear.

All right. Section 793 of Title 18 of the United States Code makes it a crime to allow classified information to be stolen through gross negligence. Were you to discover that hostile actors had actually gotten into Secretary Clinton's email, would that have changed your recommendation with respect to prosecuting her?

Mr. COMEY. Unlikely, although we didn't consider that question, because we didn't have those facts.

Mr. FARENTHOLD. All right. I want to go back to the question of intent real quick for just a second. I'm a recovering attorney, it's been decades since I actually practiced law, but you kept referring to she had to know it was illegal to have the requisite criminal intent. I was always taught in law school, and I don't know where this changed, that ignorance of the law was no excuse. If I'm driving along at 45 miles an hour and didn't see the 35-mile-an-hour

speed limit, I was still intentionally speeding even though I didn't know it.

Now, I might not have had the requisite criminal intent if maybe my accelerator were jammed or something like that, but even though I didn't know the law was 35, I was driving 45, I'm going to get a ticket and I'm probably going to be prosecuted for that.

So how can you say ignorance of the law is an excuse in Mrs. Clinton's case?

Mr. COMEY. Well, the comparison to petty offenses, I don't think is useful. But the question of ignorance of the law is no excuse. But here's the distinction. You have to have general criminal intent. You don't need to know what particular statute you're violating, but you must be aware of the generally wrongful nature of your conduct. That's what—

Mr. FARENTHOLD. Now, so Congress, when they enacted that statute, said gross negligence.

Mr. COMEY. Yep.

Mr. FARENTHOLD. That doesn't say intent. So what are we going to have to enact to get you guys to prosecute something based on negligence or gross negligence? So are we going to have to add, "And, oh, by the way, we don't mean you—we really do mean you don't have to have intent there"?

Mr. COMEY. Well, that's a conversation for you all to have with the Department of Justice, but it would have to be something more than the statute enacted in 1917, because for 99 years they've been very worried about its constitutionality.

Mr. FARENTHOLD. All right. Well, I think that's something this committee and Congress as a whole, the Judiciary Committee that Mr. Chaffetz and I also sit on, will be looking at it.

And I was on television this morning, and I just want to relay a question that I received from a caller into that television commercial, and it's just real simple. Why should any person follow the law if our leaders don't?

And we can argue about intent or not, but you laid out the fact that she basically broke the law but you couldn't prove intent. Maybe I'm putting words in your mouth, but I do want to know why any person should follow the law if our leaders don't have to. Maybe that's rhetorical, but I'll give you an opportunity to comment on that.

Mr. COMEY. Yeah. That's a question I'm no more qualified to answer than any American citizen. It's an important question.

In terms of my work in my world, my folks would not be—one of my employees would not be prosecuted for this. They would face consequences for this. So the notion that it's either prosecute or you walk around, you know, smiling all day long is just not true for those people who work for the government. The broader question is one for a democracy to answer, it's not for me.

Mr. FARENTHOLD. And I guess the ultimate decision as to whether or not Mrs. Clinton works in government or not is not in—is in everybody's hands.

Chairman CHAFFETZ. I thank the gentleman.

Mr. FARENTHOLD. Yield back.

Chairman CHAFFETZ. We'll now recognize the gentleman from Pennsylvania, Mr. Boyle, for 5 minutes.

Mr. BOYLE. Thank you, Mr. Chairman.

And thank you, Director Comey, for appearing, especially on such short notice.

I want to share with you actually something a friend of mine was expressing when watching your press conference 48 hours ago, and this is someone who's not in any way political; in fact, probably typical of most American citizens today in being depressed about the remarkable level of cynicism we have in our government, but specifically those of us who are in government make decisions first and foremost because of the party hat we wear and not necessarily based on the facts and the evidence.

And he texted me after watching your 15-minute presentation: Oh, it's nice to see a real pro. You can tell that he would make the decision based on the facts and the evidence and not what party he wears.

I think that's so important if we're ever going to get to a place in this country where we restore some of the faith that we had in government. If you looked at the poll numbers from the 1940s and 1950s and you look at faith in government among the American public, and you look at those numbers today, the numbers today are anemic, they're nowhere near the levels that they were decades ago.

So for that, I want to say thank you. And I think that many citizens have the same impression.

When I first met you a couple years ago at a weekend session in Colonial Williamsburg, you might remember that we had a discussion about my biggest concern, frankly, facing the security of the American people, and that is the possibility of a lone wolf terrorist, someone becoming self-radicalized and acting based on that. We had an exchange that I'll keep private, but I think I can characterize that you share my concern.

I'm just thinking, for the last 2-1/2 hours that we've been here, we've had the FBI Director, asking questions on this matter, when, frankly, I would have much rather your time spent dealing with the potential of lone wolf terrorists and other coordinated attacks that we face.

But since this is the Oversight and Government Reform Committee, trying to find something that we can now take and possibly use in a systemic way, not just the celebrity of Secretary Clinton and the fact, because it involves her, let's face it, that's the reason why we're here, but I want to try to take something out of this very expensive and long investigation and try to use it in a productive way toward reforming government that possibly we can get something good out of it.

So toward that end, I'm really concerned about this issue of up-classification, because it seems as if, and I was not aware of this until the investigation, there is quite a strong discrepancy between not just former Secretary Clinton, but even former Secretary Powell, what he thinks should be classified, and then what is classified after the fact. And I think you—if I'm right, there were some 2,000 emails that were up-classified? I was wondering if you could speak to that.

Mr. COMEY. Yeah. It actually was not a concept I was real familiar with before this. It's the notion that something might not have

been classified at the time, but that in hindsight, as a government agency considers releasing it, they raise the classification level to protect it because it would—it's a candid assessment of a foreign leader or something like that.

I think it is largely a State Department thing, because their diplomats will often be conversing in an unclassified way, that when they look at releasing it in response to a FOIA request, they think it ought to be protected in some fashion.

But, honestly, I kind of pushed those to the side.

Mr. BOYLE. Right.

Mr. COMEY. The important thing here was what was classified at the time, that's what matters.

Mr. BOYLE. Right. And that for a law enforcement official matters. But I'm just wondering if you could share with us any of your impressions about a system that exists where there is such gray area and discrepancy in what is classified and what's not, and if you or your agents had any suggestions for us, either in Government Reform, or I happen to be on the Foreign Affairs Committee that has oversight of State Department.

Do you believe that this is a matter that we should take up where there is such discrepancy on what's classified, what's not classified? I think of one example. Ambassador Ross put something in a book that wasn't classified, and then it was up-classified after the book came out. But what good does that do us as a country in terms of trying to protect the intelligence of the United States.

Mr. COMEY. Yeah. I'm not an expert in this up-classification business, but I do suspect it would be a fertile ground for trying to figure out whether there are ways to do it in a more predictable, reliable way.

Mr. BOYLE. Yeah. Well, thank you again for your service.

And I yield back my time.

Chairman CHAFFETZ. I thank the gentleman.

We'll now recognize the gentleman from Georgia, Mr. Hice, for 5 minutes.

Mr. HICE. Director Comey, your statement on Tuesday clearly showed that Secretary Clinton not only was extremely careless in handling classified information, but that also any reasonable person should have known better, and that also, in doing so, she put our national security at risk with her reckless behavior.

So it seems to me that the American people are only left, based on your assessment, with just a few options. Either Secretary Clinton herself is not a reasonable person, or she is someone who purposefully, willfully exhibited disregard for the law, or she is someone who sees herself as above the law.

And to muddy the water even further, after listening to you lay out the facts of the investigation, much of what you said directly contradicted her in previous statements that she had made.

I think it's all this compiled, putting the—connecting the dots that so many American people are irate, that after all of this there was not a recommendation for Secretary Clinton to be prosecuted.

Now, I do greatly appreciate the fact that you came out with much more information on this than you would have in other cases, and I think that was the right the thing to do. Undeniably, this is not a typical case. This is something of great public interest, obvi-

ously the subject of the investigation, former Secretary of State, former senator, and all those things that we have talked about, former first lady, and so forth.

And in addition to this, her husband, who happens to be the former President of the United States, is meeting privately with the Attorney General right before all of this interview takes place. Obviously, this is very suspicious, just the optics of it all. And at the same time that you're coming out, or more or less the same time that you are announcing the decision, Secretary Clinton is flying around in Air Force One with the President doing a campaign event.

I mean, there's nothing about this case that's ordinary, there's nothing about the subject that's ordinary.

So let me ask you this, Director: Did Secretary Clinton in fact, comply with the Department's policies or the Federal Records Act?

Mr. COMEY. I don't think so. I know you have the State inspector general here, who's more of an expert on all the Department's policies, but at least in some respects, no.

Mr. HICE. So keeping the servers at home and all these types of things, obviously, is not in compliance with the Department's policies?

Mr. COMEY. Yes. And I've read the inspector general's report on that. That's part of the reason I can answer that part with some confidence.

Mr. HICE. Okay. And yet she said publicly that she fully complied. So there again is another issue.

If you had the same set of facts but a different subject, a different individual involved, say, just an average, ordinary State Department employee or an anonymous contractor, what would have been the outcome?

Mr. COMEY. I'm highly confident there would be no criminal prosecution no matter who it was. There would be some range of discipline. They might get fired, they might lose their clearance, they might get suspended for 30 days. There would be some discipline, maybe just a reprimand, I doubt it, I think it would be higher on the discipline spectrum, but some sort of discipline.

Mr. HICE. So is it your opinion that there should likewise be some discipline in this case?

Mr. COMEY. That's not for me to say. I can talk about what would happen if it was a government employee under my responsibility.

Mr. HICE. Well, then, what you're laying out is that there is a double standard. For someone else, a different subject, an anonymous contractor or someone at the State Department, there would absolutely be discipline, but because of who the subject is, you're not willing to say there should be discipline. So there's—again, this whole issue, this is what the American people are so upset about.

Let me say that, when you stated that no reasonable prosecutor would pursue this case, is that because the subject of this investigation was unique?

Mr. COMEY. No. Huh-uh. There's no double standard there. And there's no double standard, either, in the sense that if it was John Doe, a former government employee, you'd be in the same boat. We wouldn't have any reach on the guy. He wouldn't be prosecuted.

Mr. HICE. But he would have some discipline?

Mr. COMEY. Well, not if he had left government service.

Mr. HICE. Had they lied about having servers, had they lied about sending and receiving classified emails, had they lied about not deleting those emails to the public, had they lied about not having any marked classified, the statements are clearly documented, and you're saying that an average person would experience discipline, by your own words, but Secretary Clinton does not deserve to be disciplined?

Mr. GOWDY. [Presiding.] The gentleman's time has expired, but the Director may answer if he wants to.

Mr. COMEY. An average employee still in government service would be subject to a disciplinary process. Now, if they'd left, you'd be in the same boat.

Mr. GOWDY. The gentleman from Georgia yields back.

The chair will now recognize the gentleman from Vermont, Mr. Welch.

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

Thank you, Director Comey.

The prosecutor has really awesome power. The power to prosecute is the power to destroy and it has to be used with restraint. You obviously know that. You're being asked to—you had to exercise that responsibility in the context of a very contested Presidential campaign, enormous political pressure.

You had to do it once before. And I go back to that evening of March 10, 2004, when the question was whether a surveillance program authorized after 9/11 by President Bush was going to continue despite the fact that the Justice Department had come to an independent legal conclusion that it actually violated our constitutional rights.

That's a tough call, because America was insecure, the President was asserting his authority as Commander in Chief to take an action that was intended to protect the American people, but you and others in the Justice Department felt that, whatever that justification was, the Constitution came first and you were going to defend it.

And as I understand it, you were on your way home and had to divert your drivers to go back to the hospital to be at the bedside of a very sick at that time Attorney General, and you had to stand in the way of the White House chief of staff and the White House counsel.

I'm not sure that was a popular decision or one that you could have confidently thought would be a career booster, but I want to thank you for that.

Fast forward, we've got this situation of a highly contested political campaign. And there is substantive concern it's legitimate by Democrats and Republicans for independent political reasons, but you had to make a call that was based upon your view of the law, not your view of how it would affect the outcome of who would be the next Commander in Chief.

Others have asked this for you, but I think I'm close to the end. I want to give you a chance to just answer, I think, the bottom line questions here. Had you, after your thorough investigation, found evidence that suggested that criminal conduct occurred, is there

anything, anything or anyone, that could have held you back from deciding to prosecute?

Mr. COMEY. No. I mean, I don't have the power to decide prosecution, but I'd have worked very hard to make sure that a righteous case was prosecuted.

Mr. WELCH. And you would have make that recommendation to the Attorney General?

Mr. COMEY. Yes.

Mr. WELCH. Was there any interference, implicit or explicit, from the President of the United States or anyone acting on his behalf to influence the outcome of your investigation and the recommendation that you made?

Mr. COMEY. No.

Mr. WELCH. Was there anyone in the Hillary Clinton campaign or Hillary Clinton herself who did anything, directly or indirectly, to attempt to influence the conclusion that you made to recommend no prosecution?

Mr. COMEY. No.

Mr. WELCH. At this moment, after having been through several hours of questioning, is there anything in the questions you've heard that would cause you to change the decision that you made?

Mr. COMEY. No. I don't—you know, I don't love this, but it's really important to do, and I understand the questions and concerns. I just want the American people to know, we really did this the right way. You can disagree with us, but you cannot fairly say we did it in any kind of political way. We don't carry water for anybody. We're trying to do what the right thing is.

Mr. WELCH. Well, I very much appreciate that, and I very much appreciate that it takes strong people of independent judgment to make certain that we continue to be a Nation of laws.

Mr. Chairman, just one final thing, and I'll yield to Mr. Cummings. We've got a political debate where a lot of these issues that are going to be—that have been raised are going to be fought in the campaign, and we've got Secretary Clinton who's going to have to defend what she did. She's acknowledged it's a mistake. We've got that great constitutional scholar, Mr. Trump, who's going to be making his case about why this was wrong. But that's politics, that's not really having anything to do with the independence of prosecutorial discretion.

Thank you, Director Comey.

And I yield whatever additional time I have to Mr. Cummings. Chairman CHAFFETZ. I think the gentleman's going to yield back. I've spoken with Mr. Cummings.

We'll now recognize the gentleman from Kentucky, Mr. Massie, for 5 minutes.

Mr. MASSIE. Thank you, Mr. Chairman.

And thank you, Director Comey, for showing up and your willingness to be transparent and answer a lot of unanswered questions.

A few hours before this hearing started I went onto social media and asked people to submit questions, and I've got over 500 questions, and I don't think I'll get to ask them all in these 5 minutes, but I'm sure you'll be willing to answer them.

One of the common things that I came in here to ask, but I realized it's not the right question now, is what's the difference be-

tween extremely careless and gross negligence. But in the process of this hearing, what I'm hearing you say is, that's not what we—that's not what your reluctance is based on, it's not based on—the reluctance to prosecute, by the way. Your reluctance to recommend a prosecution or an indictment is not based on parsing those words, it's based on your concern for this statute, with this statute, is that correct, from your opening statement?

Mr. COMEY. It's broader than that, actually, the statute, and it fits within a framework of fairness and also my understanding of what the Department of Justice has prosecuted over the last 50 years.

Mr. MASSIE. So when you say a reasonable prosecutor wouldn't take this case, it's not because you don't think she made—that she lied in public or that maybe she was negligent, it's because you have concern with the prosecutorial history of the statute?

Mr. COMEY. And not just that statute, but also 1924, which is the misdemeanor. I also don't see cases that were prosecuted on facts like these. So both, both 793 and 1924.

Mr. MASSIE. But you did find one prosecution. And has it been overturned by the Supreme Court?

Mr. COMEY. No. There was one time it was charged in an espionage case, and the guy ended up pleading guilty to a different offense, so it was never adjudicated.

Mr. MASSIE. So, you know, so that your concern is with the negligence threshold, that you think it requires mens rea, or knowing the crime. But in all 50 States isn't there a negligent homicide statute and aren't people prosecuted for that all the time, and doesn't the Supreme Court and all the courts below that uphold those prosecutions, just on the basis of negligence?

Mr. COMEY. I don't know whether all 50 States. I think negligent homicide and manslaughter statutes are relatively common.

Mr. MASSIE. Okay. So but don't all 50 States have something like that, and aren't those sustained in the upper courts, those convictions?

Mr. COMEY. I don't know whether all 50 States have something like that. But, again, I think it's very common and I think those are sustained.

Mr. MASSIE. So don't we have a history of—you know, you implied that the American judicial system doesn't have a history of convicting somebody for negligence, but don't we in other domains of justice?

Mr. COMEY. We do. I know the Federal system best. There are very few in the Federal system. They're mostly, as we talked about earlier, in the environmental and Food and Drug Administration area.

Mr. MASSIE. Okay. Thank you.

Now, I want to ask another question that's come up here. You've basically related to us that this information, this top secret or classified information, got into these email chains because of conversations people were having, they were relating what they heard before in other settings. Is that correct?

Mr. COMEY. No. Maybe in some cases, but it was people having an email conversation about a classified subject.

Mr. MASSIE. Okay. So they were having an email conversation, but how in this email conversation did this bore marking show up? Like, if they're not sophisticated enough, as you said before, even Hillary Clinton wasn't sophisticated enough to recognize a bore marking, the C with the parentheses for confidential or classified, how did—if they weren't that sophisticated, how did they recreate that bore marking in their emails when they were having these discussions?

Mr. COMEY. Yeah. Somebody—a lot of what ended up on Secretary Clinton's server were stuff that had been forwarded up a chain and gets to her from her staff, a lot of that forwarding, and then she comments sometimes on it.

Someone down in the chain, in typing a paragraph that summarized something, put a portion marking, C—paren, C paren, on that paragraph.

Mr. MASSIE. Can you—doesn't it take a lot of intent to take a classified document from a setting that's, you know, authorized and secure to one that's not? Wouldn't it require intent for somebody to recreate that classification marking in an unsecure setting?

Mr. COMEY. I don't know. It's possible, but also I could—

Mr. MASSIE. I mean, did they accidentally type open parentheses, C, close parentheses, and indent the paragraph?

Mr. COMEY. Oh, no. You wouldn't accidentally type that.

Mr. MASSIE. Right. Someone—

Mr. COMEY. Right.

Mr. MASSIE. Someone down the chain—

Mr. COMEY. Okay.

Mr. MASSIE. So this is my question, is someone down the chain being investigated? Because they had the intent, clearly, if they had the sophistication, which Hillary Clinton, you insinuate, may have lacked, if they had the sophistication to know what this bore marking was, they had the—had to have the intent to recreate it or the intent to cut, copy, paste from a secure system to an unsecure system. Wouldn't that be correct?

Mr. COMEY. Potentially, but we're not—there's not an open criminal investigation of that person way down the chain at the State Department.

Mr. MASSIE. Shouldn't there be?

Mr. COMEY. A criminal investigation?

Mr. MASSIE. An investigation if there's intent, which is what you—I mean, and I think you may be reasonable in requiring that threshold, but don't we treat everybody the same, whether it's at the top of the chain or the bottom of the chain?

Mr. COMEY. Sure. You want to if the conduct is the same. But we did not criminally investigate whoever started that chain and put the C on those paragraphs, we didn't.

Mr. MASSIE. Okay. I would suggest maybe you might want to do that.

And I will yield back to the chairman.

Chairman CHAFFETZ. I thank the gentleman.

We'll now recognize the gentlewoman from Michigan, Mrs. Lawrence, for 5 minutes.

Mrs. LAWRENCE. Director Comey, how many years have you been the Director?

Mr. COMEY. Two—well, 3 years. I know the exact date count, I think, at this point.

Mrs. LAWRENCE. Okay. So how many cases have you investigated, approximately, that you had to render a decision?

Mr. COMEY. The Bureau investigates tens of thousands of cases. The Director only gets involved in a very small number of them.

Mrs. LAWRENCE. So about how many?

Mr. COMEY. I think I've been deeply involved in probably 10 to 20.

Mrs. LAWRENCE. Have you ever been called before Congress on any of those other decisions?

Mr. COMEY. No, this is the first time.

Mrs. LAWRENCE. Thank you.

There are some Republicans who support you. Not surprisingly, they're the ones who actually know you.

And I have a letter here and I would like to enter into the record from Richard Painter, Mr. Chair. He was President Bush's chief ethics lawyer. And may it be entered into the record?

Chairman CHAFFETZ. She's asking unanimous consent. Without objection, so ordered.

Mrs. LAWRENCE. Mr. Painter refers to Mr. Comey as a man of, and I quote, a man of the utmost integrity, who calls the shots as he saw them without regard to political affiliation or friendship.

He states, and I quote: Throughout the FBI investigation of Secretary Clinton's email server, I have been convinced that the Director would supervise the investigation with being impartial and strict adherence to the law, as well as prosecutorial precedent.

He also adds: Although I'm aware of very few prosecutions for carelessness in handling classified information as opposed to intentional disclosure, I knew that the Director would recommend prosecution in any and all circumstances where it was warranted. I cannot think of someone better suited to handle such a politically sensitive investigation.

Finally, and I quote: I urge all Members of the United States Congress to stop from inferring in specific decisions, particularly those involving political allies or opponents. During my tenure in the White House, there were very unfortunate allegation that powerful senators sought politically motivating firing of a United States Attorney. Whether or not such allegations were true, it is imperative, and I'm still quoting, that members of the Senate or the House never again conduct themselves in a manner where such interference could be suspected.

And I want to be on the record, I wholeheartedly agree with Mr. Painter.

Director, you have demonstrated yourself, you sat here and answered the questions. And I would never oppose to finding the answers to any situation that is directly related to Federal agencies which we on this committee are responsible for. But I want to be clear that Congress has no business—no business—interfering with these types of decisions that are coming in this—in your responsibility.

These type of attacks are not only inappropriate, but they're dangerous. They're dangerous because they could have a chilling effect on the future investigations.

And I asked that question, how long have you been in this position and how many times have you made decisions and yet were not pulled in 24 hours before this committee? How many times? And then we say it's not political.

And you have said repeatedly, regardless of who it was, you conducted the investigation as required under your responsibility. And here you have Republicans who are saying you are an honorable man, and till this day, I have not heard any complaints of your judgment.

So I sit here today as a Member of Congress on the record that the slippery slope that we're seeing today in this hearing, I want every Member to be cautious of what we're saying, that in America when we have investigations, that we will allow our own elected Congress and Senate to make this a political agenda to attack, but only if it's in their agenda. This goes for Democrats and Republicans. We are not here to do that.

Thank you, and I yield back my time.

Chairman CHAFFETZ. I thank the gentlewoman.

We'll now recognize the gentleman from Iowa, Mr. Blum.

Mr. BLUM. Thank you, Mr. Chairman.

Thank you, Director Comey, for being here today, and thanks for hanging in there till every last question is answered.

I'm not a lawyer. That's the good news. I'm a career businessman. I've spent most of my career operating in the high-tech industry. And today I've heard words such as common sense, reasonable person, carelessness, judgment, or lack thereof. I like these words. I understand these words. I think the average American does as well. So I'd like to focus on that.

Last Tuesday, Director Comey, you said, and I quote: "None of these emails should have been on any kind of an unclassified system, but their presence is especially concerning because all these emails were housed on unclassified personal servers not even supported by full-time security staff, like those found at agencies of the United States Government, or even with a commercial email service such as Gmail."

Director Comey, my small Iowa business doesn't even use Gmail for our email, because it's not secure enough. I know some security experts in the industry. I checked with them. The going rate to hack into somebody's Gmail account, \$129. For corporate emails, they can be hacked for \$500 or less. If you want to hack into an IP address, it's around \$100. And I'm sure the FBI could probably do it cheaper. This is the going rate.

Director Comey, are you implying in that statement that the private email servers of Secretary Clinton's were perhaps less secure than a Gmail account that is used for free by a billion people around this planet?

Mr. COMEY. Yes. And I'm not looking to pick on Gmail. Their security is actually pretty good. The weakness is in the individual users.

But, yes, Gmail has full-time security staff and thinks about patching and logging and protecting their systems in a way that was not the case here.

Mr. BLUM. I'd like to ask you, what kind of judgment—we talked a lot about judgment today—does this decision to potentially ex-

pose to hackers classified information on an email service that's less secure than Gmail—your words—what does that suggest to you? What type of judgment does that suggest to you?

Mr. COMEY. It suggests the kind of carelessness that I talked about.

Mr. BLUM. In August of last year, Secretary Clinton was asked by Ed Henry of Fox News whether she had wiped her entire server, meaning did she delete all the emails on her server. Her response: "You mean with a cloth?"

March of 2015, during a press conference, Secretary Clinton assured us her private email server was secure, saying the server was on private property guarded by the Secret Service.

Now, this would be laughable if it wasn't so serious. I know, you know, my constituents in eastern Iowa know you don't need to be a cat burglar to hack into an email server and you don't need a cloth to wipe a server clean. One would think that a former United States senator, one would think that a former secretary of state would know this as well. Would you agree with that statement?

Mr. COMEY. You would think, although as I said before, one of the things I've learned in this case is that the Secretary may not have been as sophisticated as people assume. She didn't have a computer in her office at the State Department, for example. So I don't think—so I would assume the same thing about someone who had been a senator and a high-ranking official. I'm not sure it's a fair assumption in this case.

Mr. BLUM. In your opinion, Director Comey, did Secretary Clinton know that a server could, in fact, be wiped clean electronically and not with a cloth?

Mr. COMEY. Well, I assume that—I don't know.

Mr. BLUM. Would you assume she knows that?

Mr. COMEY. I would assume that it was a facetious comment about a cloth, but I don't know. I don't know in particular on that one.

Mr. BLUM. Would you also assume, Director, that Secretary Clinton knew that a server could be wiped clean electronically, that it could be hacked electronically, not physically, you don't need a cat burglar to hack a server? Would you assume—would it be reasonable to assume she knows that?

Mr. COMEY. To some level it would be reasonable, to some level of understanding.

Mr. BLUM. Then, once again, for someone who knew these things, or we assume to some level she knew these things, what kind of judgment does the decision to expose classified material on personal servers suggest to you, what type of judgment?

Mr. COMEY. Well, again, it's not my place to assess judgment. I talk in terms of a state of mind, negligence in particular. I think there was carelessness here, and in some circumstances extreme carelessness.

Mr. BLUM. Was her server hacked?

Mr. COMEY. I don't know. I can't prove that it was hacked.

Mr. BLUM. So that answer says to me it could have been hacked.

Mr. COMEY. Sure. Yeah.

Mr. BLUM. And if it was hacked, potentially damaging material damaging to American secrets, damaging to American lives, could have been hacked. Could have been exposed, correct?

Mr. COMEY. Yeah.

Mr. BLUM. Lives could have been put at risk if that server was indeed hacked?

Mr. COMEY. I'm not prepared to say yes as to that last piece. That would require me going into in a way I can't here the nature of the classified information. But there's no doubt that it would have potentially exposed the information that was classified. The information was classified because it could damage the United States of America.

Mr. BLUM. So it could have happened. The FBI just isn't aware?

Mr. COMEY. Correct.

Mr. BLUM. Thank you very much. Thank you for being here. I yield back the time I do not have.

Chairman CHAFFETZ. Thank the gentleman. I now recognize the gentlelady from New Jersey, Mrs. Watson Coleman, for 5 minutes.

Mrs. WATSON COLEMAN. Thank you. And thank you, Director. I've got a number of questions. So I'm going to, like, zip through these.

Mr. COMEY. Okay.

Mrs. WATSON COLEMAN. This is a question I'm going to ask and you, and may not even have the answer to it because you may not have known this. This is about the classification marking issue that you've been asked about earlier. According to the State Department, which addressed this issue yesterday, a spokesman said that the call sheets appear to bear classified markings. But this was actually a mistake. To quote, "Generally speaking, there's a standard process for developing call sheets for the Secretary of State. Call sheets are often marked, but it's not untypical at all for them to be marked at the confidential level prior to a decision by the Secretary that he or she will make that call. Oftentimes, once it is clear the Secretary intends to make a call, the Department will then consider the call sheet SBU, sensitive but unclassified, or unclassified altogether and then mark it appropriately, and then prepare it for the Secretary's use and actually marking the call."

"The classifications of a call sheet, therefore, is not necessarily fixed in time and staffers in the Secretary's office who are involved in preparing and finalizing these call sheets, they understand that. Given this context, it appears that markings in the appropriate—in the documents raised in the media reports were no longer necessary or appropriate at the time. They were sent as an actual email. Those markings were human error. They didn't need to be there." Did you know this?

Mr. COMEY. No.

Mrs. WATSON COLEMAN. Thank you, Mr. Director. Can you tell me, based upon your information, has there been, and is there any evidence that our national security has been breached or at risk as a result of these emails, and their being on this server? Is there any evidence?

Mr. COMEY. There's no direct evidence of an intrusion.

Mrs. WATSON COLEMAN. Thank you very much. I have to tell you that while I think that this should conclude this discussion, I know

we're going to hear this issue ad nauseam. But I am concerned about another issue that I think really is resonating with the people in this country.

And that issue has to do with experiences that we had just the last 2 days. Mr. Director, I want to bring this up for your consideration, because I want to ask you what can the FBI do—FBI do in this issue? This morning we woke up to another graphic and deeply disturbing video that actually brought me to tears when my staff played it for me wherein a Minnesota woman's boyfriend was—has been shot as her young child set in the back seat after apparently telling the officer he was licensed to carry a weapon, he had it on him, and was going to reach for his identification.

Just the other day there was an incident in Baton Rouge involving a Mr. Alton Sterling, an African American man who was shot while pinned to the ground by police officers in Baton Rouge. An interaction tape by two bystanders with cell phones captured this.

So I think that we have got an issue here. An issue of real national security. And I want to ask you, Mr. Director, do we have an opportunity to direct our time and resources in your department to those issues? Is it not important that we say their names to remind people of the loss of a Tamir Rice, to an Eric Garner, to an Alton Sterling, to a John Crawford, III, to a Michael Brown, to a Walter Scott, and even a Sandra Bland? Deaths in the hands of police custody, or by police happening. Are these not happening at an alarming rate? And is this not a legitimate space for the FBI to be working in?

Mr. COMEY. Yes, is the emphatic answer. Those are incredibly important matters. As you know, the FBI spends a lot of time on them because they—they're very, very important. We have an investigation open on the Baton Rouge case. I was briefed this morning on the Minnesota case. And I would expect we'll be involved in that as well. It's an important part of our work.

Mrs. WATSON COLEMAN. Do you feel that you have the sufficient resources from the legal imperative to the funding to address these cases and what seems to be a disturbing pattern in our country today?

Mr. COMEY. I'm a bad bureaucrat, but I believe I have sufficient resources and we are applying them against those situations. Because I believe the individual cases matter enormously, but also, the people's confidence in law enforcement is one of the bedrocks of this great country of ours. So I have the resources, and we're applying them.

Mrs. WATSON COLEMAN. And, in addition, we believe that our law enforcement is, by and large, of high integrity and has the desire to keep us protected and safe. But when we find out that there are these occasions, and when there's an indication that there's a pattern that is taking place in this country, we have a responsibility to ensure that everyone in this country is safe. And simply because you're a black man or a black woman does not make you a target. Thank you. I yield back my time.

Chairman CHAFFETZ. Thank the gentlewoman. We'll now recognize the gentleman from North Carolina, Mr. Walker.

Mr. WALKER. Thank you, Mr. Chairman. Thank you, Director Comey, for being here. A few things in this town that people agree

on both sides of the aisle. And one is your reputation. Reminded the passage in James, "Swift to hear, slow to speak, slow to wrath." I am a little disappointed in some of the things that I've heard from my colleagues about some of the attacks on your character and your integrity. I haven't heard those, and I hope that we have not experienced that. I also struggle with the change of heart that we're hearing today. Because I have a list of elected officials who have questioned your investigation, even attacked it. In fact, the former President Clinton said this is a gain. In fact, just last Friday, Ms. Wasserman Schultz, Congresswoman Wasserman Schultz said Secretary Clinton is not the target of this investigation or whatever you want to call it. My question to you today is do you feel like this has been a Republican witch hunt? This hearing.

Mr. COMEY. No.

Mr. WALKER. Okay. Thank you for—

Mr. COMEY. No, I said at the beginning I understand people's questions and interest. And I'm a huge fan of transparency. I think that's what makes our democracy great.

Mr. WALKER. I think those are one of the reasons of why you are so respected. To me, this hearing is about understanding and disseminating the facts, how you saw them, and how the American public sees them. And specifically, in the areas of where there was wrongdoing admitted under your investigation, where there was obviously breaking the law. But also some coverups. Did Congress ask you to pursue this investigation?

Mr. COMEY. No. It was a referral from the inspector general of the intelligence community.

Mr. WALKER. So it wasn't Republicans either. Was it?

Mr. COMEY. No.

Mr. WALKER. How did you go about collecting the evidence?

Mr. COMEY. We used the tools that we normally use in a criminal investigation.

Mr. WALKER. Did or do you receive a congressional referral for all the information that you collected?

Mr. COMEY. Not to my knowledge.

Mr. WALKER. Well, then one of the things that I'm struggling with, or that I would like to know specifically is, under oath, Ms. Clinton made these three comments that we now know are untrue in the Benghazi hearing. Number one, she's turned over all her work-related emails; number two, telling the committee that her attorneys went through every single email; and then finally, and probably the one that continues to stick the most, there was, and I quote, "Nothing marked classified on my emails," end quote. Now, earlier, when the chairman questioned you about this, you said something about needing a congressional referral recommendation. My question is, something of this magnitude, why or can you help me understand, why didn't it rise to your investigation, or someone bringing that to your knowledge as far as saying this is a problem, here she is, again, Secretary Clinton lying under oath, specifically about our investigation?

Mr. COMEY. Well, we, out of respect for the legislative branch being a separate branch, we do not commence investigations that focus on activities before Congress without Congress asking us to get involved. That's a longstanding practice of the Department of

Justice and the FBI. So we don't watch on TV and say: We ought to investigate that. You know, Joe Smith said this in front of the committee. It requires the committee to say: We think we have an issue here. Would you all take a look at it.

Mr. WALKER. But with all due respect, if you had the Secretary Clinton, who is under oath speaking about your very investigation, and you talked about your wonderful staff, and certainly have no reason to deny that, why wouldn't that rise to the level of suspicion? Here she is saying this under oath. I mean, lying under oath is a crime. Is it not?

Mr. COMEY. Yes.

Mr. WALKER. And what's the penalty on that? That's considered perjury, right?

Mr. COMEY. Perjury. It's a felony. I forget the exact—it's potentially years in prison.

Mr. WALKER. But I don't understand. Would you help me understand why somebody wouldn't have tipped you off that she's talking about the very specific case under oath that you're investigating.

Mr. COMEY. Well, there's a difference between us being aware of testimony and us opening a criminal investigation for potential perjury. Again, it's not this case in particular, but all cases. We don't do that without a committee saying we think there was an issue in testimony given in this separate branch of the government.

Mr. WALKER. You also mentioned earlier, and it's been quoted several times that no reasonable prosecutor would move forward with some of the facts. Is there any room at all that somebody would differ a little bit on the opinion? I know that former United States Attorney General Michael Mukasey said would the illegal server disqualify her from ever holding any Federal office? So there are some people of high esteem that may differ, obviously not privy to the exact facts, but can you make any room—you said no reasonable person. Do you understand why the American people, or would you understand why other people may say that she has stepped across the line or broken enough law here that you would come to a different conclusion?

Mr. COMEY. Sure. I respect different opinions. My only point is, and I said earlier I smile because those folks are my friends. I've worked with them for a long time. None of those guys in my position, I believe, knowing what I know, would think about it differently. But I also respect that they have a different view from the outside.

Mr. WALKER. Thank you, Mr. Chairman. Yield back.

Chairman CHAFFETZ. I thank the gentleman. I now recognize the gentleman from California, Mr. DeSaulnier.

Mr. DESAULNIER. Thank you, Mr. Chairman. Director, I just want to thank you as others have and I know you don't need this, but I think the American people clearly need to hear it. And you've done a wonderful job today. But there are moments in my political life and as an American I despair for the future of this country. Not often. But in those moments comes an individual like yourself either by providence or good fortune or by the framework of the U.S. Constitution, and I really believe you have served this country and all Americans well, irrespective of their party affiliation.

So really two questions. Two lines of questions, I should say. One is, and another colleague has brought this up. But you mentioned in just previous testimony about the bedrock and the importance of public confidence in public safety institutions, yours and all. So I just want to give you an opportunity, I think you have responded to this multiple times, but give you a little more opportunity, because I think it's important for the American public to know that the system isn't rigged, that there are people such as yourself, and the 15 individuals who worked on this case and others that do their job and believe in the Constitution of the United States. And if you have any further comments about comments that would say that the system's rigged and Americans should give up on the system?

Mr. COMEY. No, I—one of reasons I welcome this opportunity to have this conversation is I was raised by great parents who taught me you can't care what other people think about you. Actually, in my business, I have to and deeply do, that people have confidence, that the system's not fixed against black people, for rich people, for powerful people. It's very, very important that the American people understand that there really are people that you pay for with your tax dollars who don't give a rip about Democrats or Republicans or this or that, who care about finding out what is true.

And I am lucky to lead an organization that is that way to its core. I get a 10-year term to ensure that I stay outside of politics. But in a way, it's easy. I lead an organization that is resolutely apolitical. We are tough, aggressive people. If we can make a case, we'll make a case. We do not care what the person's stripes are or what their bank account looks like.

And I worry very much when people doubt that. It's the reason I did the press conference I did 2 days ago. I care about the FBI's reputation. I care about the Justice Department. I care about the whole system deeply. And so I decided I'm going to do something no Director's ever done before. I'm not going to tell the Attorney General or anybody else what I'm going to say, or even that I'm going to say it. They didn't know, nor did the media know, until I walked out what I was going to talk about.

And then I offered extraordinary transparency, which I'm sure confused and bugged a lot of people. It's essential in this democracy that people see as much as they can so they can make their judgment. Again, you may—they may conclude I'm an idiot. I should reason differently. But what I hope they will not conclude is that I am a dishonest person.

I am here trying to do the right thing in the right way. And I lead 36,000 people who have that as their spine. That's what I want them to know. I don't care that people agree or disagree. That's what's wonderful about our democracy. But at its core, you need to know there are good people trying to do the right thing all day long. And you pay for them, and we'll never forget that.

Mr. DESAULNIER. I appreciate that. And within the context of these are human institutions, pretty clear to me as a nonlawyer that you got a bright line in terms of your decision about pursuing prosecution. But you did spend an extended period of time talking about what I think I take from you as being fairly objective analysis of what was careless in terms of handling of it, either ascribed

to the former Secretary of State or to the Department. And you said, and I quote, during your comments, "While not the focus of our investigation, we also developed evidence that the security culture of the State Department in general and respect to the use of unclassified email systems in particular was generally lacking in the kind of care for classified information found elsewhere in the government." That's accurate. Isn't it?

Mr. COMEY. Yes, sir.

Mr. DESAULNIER. So struggling with this, and this is in the context of this hearing, Oversight and State Department, and this committee, as to how do we go from here and be clearer about how the State Department, we'll talk about this with the IG, and some of the comments that former Secretary Powell has made, including that the absurdity of the retroactive classification. And now we have 1,000 of these emails from Secretary Clinton that's out in the public and are being spread even further.

So there are other people involved. Sitting there, how does this committee go forward to make sure that the State Department can still function in the way it does with human beings and have conversations that are both transparent but also national security? What are the things we need to do to make sure that this doesn't happen again?

Mr. COMEY. Well, I think a good start—I think the reason the chairman has the IG from the State Department here is to start that conversation. The IG knows deeply the culture of a Department, and is far better equipped than I to say you ought to focus here, you ought to focus there to make it better. So I think that's place to start.

Mr. DESAULNIER. Thank you, Mr. Director. I yield back.

Chairman CHAFFETZ. Thank you. We'll now recognize the gentleman from Tennessee, Mr. DesJarlais, for 5 minutes.

Mr. DESJARLAIS. Director Comey, thank you for appearing so quickly on short notice. I think it's really important that you're here. Because of the way you laid out the case on Tuesday, there is a perception that you felt one way and then came to another conclusion. I, like many of my colleagues, put a post up back in my district and let them know you were coming. And in less than 24 hours, I had 750 questions sent to ask you.

So, again, thank you for being here. But a common theme, just to summarize, a lot of those concerns were that in this case, Clinton was above the law. That there was a double standard. And a lot of that was based on the way you presented your findings. Now, your team, you said you did not personally interview her on Saturday but your team did for about 3-1/2 hours, correct?

Mr. COMEY. Yes.

Mr. DESJARLAIS. Okay. Do you know in reading the review or the summary, did they ask Hillary Clinton about her comment that she had never sent or received classified information over private email?

Mr. COMEY. I think so. But I can't—I can't remember specifically.

Mr. DESJARLAIS. Okay.

Mr. COMEY. It's a very long 302. I'd have to check.

Mr. DESJARLAIS. And we'll get access to that. Do you know if they asked her when she said that there was nothing marked classified on my email sent or received?

Mr. COMEY. Same answer. I'm not sure.

Mr. DESJARLAIS. Okay. And so the same answer then when she said, "I did not email any classified material to anyone on my email. There is no classified material." You don't know whether they asked her that?

Mr. COMEY. I don't know whether they asked her that question. The entire interview was going—was focused on so what did you know, what did you see, what is this document. That kind of thing.

Mr. DESJARLAIS. Do you know if they asked her whether she stands by the fact that she said she just used one device and that was for her convenience?

Mr. COMEY. I don't know. I know they established from talking to her she used many devices during here 4 years. So I don't know whether they asked her specifically about that statement.

Mr. DESJARLAIS. Okay. I guess my—

Mr. COMEY. That's easy to check, though.

Mr. DESJARLAIS. I guess my point is, you're trying to get inside the head of Hillary Clinton in this investigation and know whether there was intent. And so we all know what she told the people. That's been well-documented. She said that she did not do those things, that she did not send or receive classified emails, that she used one server and one device for her convenience, and since then, I think even in your statement you recognize that those were not correct. Is that fair?

Mr. COMEY. I really don't want to get in the business of trying to parse and judge her public statements. And so I think I've tried to avoid doing that sitting here.

Mr. DESJARLAIS. Why do you feel that's important?

Mr. COMEY. Because what matters to me is what did she say to the FBI. That's obviously first and foremost for us.

Mr. DESJARLAIS. Right. Honest people don't need to lie. Is that right?

Mr. COMEY. Honest people don't need to lie? I hope not.

Mr. DESJARLAIS. Okay. Well, in this case, for some reason, she felt the need to misrepresent what she had done with this server all throughout the investigation. And you guys, after a year, brought her in on Saturday. And in 3-1/2 hours, came out with the conclusion that she shouldn't be prosecuted because there was no intent. Is that right?

Mr. COMEY. No.

Mr. DESJARLAIS. Okay. So I don't want to put words in your mouth, but is it fair to say that your interpretation of Hillary Clinton's handling of top secret information and classified documents was extremely careless?

Mr. COMEY. Yes.

Mr. DESJARLAIS. And is it fair to say that you said that you went on to define "extremely careless" that Hillary Clinton's handling of top secret information was sloppy or represented sloppiness?

Mr. COMEY. Yeah. That's another way of trying to express the same concept.

Mr. DESJARLAIS. Okay. And then just a few minutes ago, you also stated that you now believe that Hillary Clinton is not nearly as sophisticated as people thought. Is that correct?

Mr. COMEY. Yeah. I think that's fair, actually. No, not as people thought, but as people would assume about somebody with that background. I'm sorry. I should be clear about this. Technically sophisticated. I'm not opining in other kinds of sophistication.

Mr. DESJARLAIS. All right. In the last minute, Director, I want to talk a little bit about precedent. Because I think my colleague, Trey Gowdy, made a great point that there still is really no precedence in terms of punishment for this type of behavior. Are you familiar with Brian Nishimura's case?

Mr. COMEY. Yes.

Mr. DESJARLAIS. Okay. He's a Naval Reservist for those who don't know. And he was prosecuted. What is the difference between his case and Hillary Clinton's case in terms of extremely carelessness and gross negligence, because we're dealing with statute 793, section (f), where it does not require intent. Is that correct?

Mr. COMEY. I'm sorry. 793(f) is the gross negligence standard.

Mr. DESJARLAIS. Right. And is that why Brian Nishimura was punished?

Mr. COMEY. No. Nishimura was prosecuted under the misdemeanor statute 1924 on facts that are very different. If you want me to go through them, I'll go through them, but very different that—

Mr. DESJARLAIS. Okay. I think that there's been a review of this case, and they're very similar. And that's why people feel that there's a double standard.

Mr. COMEY. What they're reading in the media is not a complete accounting of the facts in that case.

Mr. DESJARLAIS. Well, would you agree, then, with Representative Gowdy that there still is really no precedence for punishing someone like Hillary Clinton and she could really go in—potentially be elected President and do this again without fear of being punished?

Mr. COMEY. I don't think I'm qualified to answer that question.

Mr. DESJARLAIS. My time's expired. Thank you for your time.

Chairman CHAFFETZ. Thank the gentleman. I now recognize the gentlewoman from New Mexico, Ms. Lujan Grisham.

Ms. LUJAN GRISHAM. Thank you, Mr. Chairman. I've had the benefit of when you're last, or nearly last to really have both the benefit and then the question, the kinds of statements and the dialogue back and forth. And where I am settled at this point in time is in a couple of places. But particularly, I don't think there's any member in this committee or, quite frankly, any Member in Congress who doesn't both want and expect that the FBI and the Department of Justice to be and to operate in a fair, unbiased, highly independent manner. Otherwise, you can't appropriately uphold or enforce Federal law. And while we have all—this has been stated in a couple of different ways, I'm going to see if we can't—I want to get direct answers.

So, Mr. Comey, is there any evidence, given that that's the standard that we all want, desire, and expect, to suggest that Hillary Clinton was not charged by the Department of Justice due to inap-

propriate political influence, or due to her current or previous public positions?

Mr. COMEY. Zero. And if there is such evidence, I'd love folks to show it to me.

Ms. LUJAN GRISHAM. In that regard, was there a double standard?

Mr. COMEY. No. In fact, I think my entire goal was to avoid a double standard, to avoid what sometimes prosecutors call celebrity hunting and doing something for a famous person that you would never do for an ordinary Joe or Jane.

Ms. LUJAN GRISHAM. Thank you. And I really appreciate that you're here today, and explaining the process in great detail, frankly, and I've—this committee works at getting specific detail about a variety of reviews, investigations, policies, concepts throughout Federal Government. And I think I can say that this committee often finds that we don't get very much clarity or specific responses to the majority of questions that we ask. So I really appreciate that. And that in explaining that what led the FBI to conclude that Hillary Clinton should not be charged.

Saying that, however, I'm still concerned, frankly, that the use of this hearing and some of the public statements made by elected officials accusing the Department of Justice of using a double standard without any evidence at all to support that statement, leaning on accusations of such, in fact, jeopardizes the very thing that we want the most, which is an apolitical and independent Department of Justice. And we have every right to ask these tough questions.

And to be clear that the process that you use for everyone, including elected officials, works. And that there's a responsibility not to substitute your own political preferences to the outcome of an independent and apolitical Department of Justice investigation on any level, whether it involves Hillary Clinton or anybody else. Do you agree with that general statement?

Mr. COMEY. Yes.

Ms. LUJAN GRISHAM. For me, that's a really important ethical line that I believe should never be crossed. I worry that some of what we did today could be, frankly, interpreted as violating that very standard. And for that, I certainly want the American people and my constituents who are watching to understand that very important line, and to be sure that our responsibility is better served making sure that we do have, in fact, an independent body whose aim it is to bring about truth and justice and uphold the Federal law. And, sir, based on everything that you've said today, I don't see any reason to disagree with your statements, your assessments, or the explanation of that process.

With the little time I do have left, I do want to say that given that some of the classified material that we have both debated and talked about today can be classified later or up-classified, or that other agencies have different determinations of what constitutes classified and not. I do think that's a process that warrants refining. And if something can come out of this hearing about making sure that we do something better in the future for everyone, not just appointed or elected officials, that that ought to be something that we do.

I'm often confused by some of the things that are clearly told to us in a classified briefing that appear to be different or already out in the public in some way. And I'm not sure who's making those decisions. I honor my responsibility to the highest degree, but I think that's a process that could use some significant refining, and that's my only suggestion, sir. Thank you for being here today.

Mr. COMEY. Thank you.

Chairman CHAFFETZ. Thank the gentlewoman. We'll now recognize the gentleman from Georgia, Mr. Carter, for 5 minutes.

Mr. CARTER. Thank you, Mr. Chairman. And, Director Comey, thank you for being here today. I appreciate it. I'm over here. And I'm going to be real quick and try to be succinct. I want to clarify some things that you said. And, look, I don't want to go over everything that everybody's been through today. I mean, we've had some great questions here that have asked you about you said this, she said that. Representative Gowdy made a great case of, you know, this is what she said under oath and publicly, and yet you dispute that and say, No, this is the case. But, look, I've just got a couple of questions. Okay? First of all, did I understand you correctly that your decision—that this decision was made within 3-1/2 hours of an interview and that was all?

Mr. COMEY. No. We investigated for a year.

Mr. CARTER. But you interviewed her for 3-1/2 hours last week and then came to the conclusion?

Mr. COMEY. Correct. We interviewed her on Saturday for 3-1/2 hours. The last step of a yearlong investigation.

Mr. CARTER. Now, as I understand it, Hillary Clinton has testified that the servers that she used were always safe and secure. Yet you refute that and say, No, that is not the case at all. Were they ever secure? Were the servers that she were using, were they ever secure?

Mr. COMEY. Well, the challenge, security's not binary. It's just degrees of security. It was less security than, one, at the State Department, or, as I said, even one at a private commercial provider, like a Gmail.

Mr. CARTER. Well, let me ask you this: She's got staff and she's got people around her. Did they know she was doing this? Did they know that she was using these other devices? Did anybody ever bring it to her attention and say, Hey, you're not supposed to be doing that?

Mr. COMEY. I think a lot of people around the Secretary understood she have was using a private personal email setup.

Mr. CARTER. Then why didn't they say something? Don't they have a responsibility as well?

Mr. COMEY. That's an important question that goes to the culture of the State Department that's worth asking.

Mr. CARTER. I mean, look, we all surround ourselves with good people and we depend on them to help us. I don't understand—should they be held responsible for that, for not bring that to someone's attention? If I see someone who's breaking—who's not following protocol, is it my responsibility to report them?

Mr. COMEY. Yes.

Mr. CARTER. Well—

Mr. COMEY. Especially when it comes to security matters. You have an obligation to report a security violation that you may witness, whether it's involving you or one of your co-workers. But this is about so—

Mr. CARTER. What about Bryan Pagliano? Did he ever know? Do you know if he knew that she was not following proper protocol here?

Mr. COMEY. He helped set it up.

Mr. CARTER. He helped set it up. So obviously he knew.

Mr. COMEY. Yeah. Obviously, he knew that—

Mr. CARTER. Okay. Is anything going to be done to him? Any prosecution or any discipline, any—

Mr. COMEY. I don't know about discipline, but there's not going to be a prosecution of him.

Chairman CHAFFETZ. Will the gentleman yield?

Mr. CARTER. I yield.

Chairman CHAFFETZ. My understanding, Director, is that you offered him immunity. Why did you offer him immunity, and what did you get for it?

Mr. COMEY. Yeah. That I have to—I'm not sure what I can talk about in open setting about that.

Chairman CHAFFETZ. Well, he's not going to be prosecuted. So—

Mr. COMEY. Right. But I want to be careful. I'm doing this 24 hours after the investigation closed. I want to be thoughtful because we're, as you know, big about the law, that I'm following the law about what I can disclose about that. So I'll have to get back to you on that one. I don't want to answer that off the cuff.

Mr. CARTER. Director Comey, I am not a lawyer. I'm not an investigator. I'm a pharmacist. But I'm a citizen. And citizens are upset. I watched, with great interest, last—earlier this week when you laid out your case. And I'm telling you, you laid it out, bam, bam, bam. Here's what she did wrong, wrong, wrong, wrong. And then all of a sudden, you used the word "however." And it was like you could hear a gasp throughout the country of people saying, Oh, here we go again. Do you regret presenting it in a way like that?

Mr. COMEY. No. And I'm highly—I think I didn't use the word "however." I try never to use that in speaking. But I did lay it out, I thought, in the way that made sense and that I hoped was maximum transparency for people.

Mr. CARTER. I'm sorry, but that's the point. It didn't make sense. The way you were laying it out it would have made sense and the way that the questions have been asked here and we've made all these points of where she was—obviously told lies under oath, that it would have been, Okay, we finally got one here.

Mr. COMEY. I think it made sense. I just hope folks go back maybe with a cup of tea and open their minds and read my statement again carefully. But again, if you disagree, that's okay. But—

Mr. CARTER. But when we—look, I've only been here 18 months. And I want to tell you, this inside-the-beltway mentality, no wonder people don't trust us.

Mr. COMEY. I have—I know who you're talking about. I have no kind of inside-the-beltway mentality.

Mr. CARTER. But this is an example of what I'm talking about here. It just as a nonlawyer, as a noninvestigator, it would appear to me you have got a hell of a case.

Mr. COMEY. Yeah. And I'm telling you we don't. And I hope people take the time to understand why.

Mr. CARTER. Mr. Chairman, I yield back.

Chairman CHAFFETZ. Thank the gentleman. I will now recognize the gentleman from Arizona, Mr. Gosar. Oh, let's go ahead and go to the gentleman from South Carolina, Mr. Mulvaney, first.

Mr. MULVANEY. Thank the gentleman. Director Comey, earlier today you heard a long list of statements that Mrs. Clinton has made previously, both to the public and to Congress that were not factually accurate. I think you went down the whole long list. When she met with you folks on Saturday last week, I take it she didn't say the same things at that interview?

Mr. COMEY. I'm not equipped sitting here without the 302 in front of me to answer in that broad—

Mr. MULVANEY. But it's your testimony—

Mr. COMEY. I have no basis that—we do not have a basis for concluding she lied to the FBI.

Mr. MULVANEY. Gotcha. Did anybody ask her on Saturday why she told you all one thing and told us another?

Mr. COMEY. I don't know as I sit here. I mean, I'll figure that out—

Mr. MULVANEY. Would that have been of interest to you in helping to establish intent?

Mr. COMEY. It could have been, sure.

Mr. MULVANEY. More importantly, I think, did anybody ask her why she set up the email system as she did in the first place?

Mr. COMEY. Yes.

Mr. MULVANEY. And the answer was convenience?

Mr. COMEY. Yeah. It was already there. It was a system her husband had. And so she just jumped onto it.

Mr. MULVANEY. Were you aware that just earlier this week, her assistant actually said it was for an entirely different reason? It was to keep emails from being accessible, and that it was for concealment purposes? And Huma Abedin was asked in her deposition why it was set up. And it was said to keep her personal emails from being accessible. The question, to whom. To anybody. Were you aware of that testimony?

Mr. COMEY. Generally, yes.

Mr. MULVANEY. Okay. So here's sort of the summary I take from what we've done today, which is that over the course of the entire system, what she did, she intentionally set up a system. According to your testimony, your findings, she was careless regarding its technical security. I think you've said that even a basic free account, a Gmail account had better security than she had. And she did that, according to her own staffer's sworn deposition for the purpose of preventing access to those emails. As a result of this, she exposed top secret information to potential hack by foreign actors. You've seen the emails, we have not. I think you've said earlier that the emails could be of the sort that would put national security at risk, and I think we had testimony earlier that got you acknowledge that it might even put our agents overseas at risk.

Mr. COMEY. Yeah. I don't think I agree with that. But it's still important.

Mr. MULVANEY. Okay. All right. She kept all of that secret until after she left the State Department. She lied about it, or at least made untrue statements about it after it finally came to light. She, thereafter, ordered the destruction of evidence, evidence that was destroyed so thoroughly that you folks could not do an adequate recovery. Yet she receives no criminal penalty. So I guess this is my question to you: Are we to assume, as we sit here today, that if the next President of the United States does the exact same thing, on the day he or she is sworn into office, sets up a private email service for the purpose of concealing information from the public or from anybody, that as a result of that, potentially exposes national security level information to our enemies, lies about it, and then destroys the evidence during an investigation, that there will be no criminal charges if you're the FBI Director against that person?

Mr. COMEY. That's not a question the FBI Director should answer. I mean—

Mr. MULVANEY. No, I'm asking if she does the exact same thing as President as she's done today, your result will be the exact same as it was 48 hours ago. There will be no criminal findings, right?

Mr. COMEY. If the facts were exactly the same?

Mr. MULVANEY. Right.

Mr. COMEY. And the law was exactly the same?

Mr. MULVANEY. Right.

Mr. COMEY. Yeah. The result would be the same.

Mr. MULVANEY. And I guess under the theory that if the law is to be equally applied to everybody, that if a White House staffer does the exact same thing for the exact same purpose and exposes the exact same risks, that there will be no criminal action against that person. There could be, as you've mentioned, administrative penalties. There are no administrative penalties, as I understand it, by the way, against the President. Correct?

Mr. COMEY. I don't think so. But I'm not a—

Mr. MULVANEY. I don't think there are either. I don't think you can take away the President's top security clearance. And I'm pretty sure you can't fire the President because we've tried. Not only would a staffer not have any criminal charges brought against him, but I suppose a summer intern could do the exact same thing under the theory that we're going to apply the law equally regardless of who the people are. My question to you is this: And it's not a legal question. I guess it's a commonsense, ordinary question that folks are asking me. From a national security standpoint, somebody who used to lecture on that, does that bother you?

Mr. COMEY. The mishandling of classified information bothers me no matter what circumstance it occurs in. Because it has national security implications.

Mr. MULVANEY. Does it bother you that the precedent that you are setting today may well lead to a circumstance where our top secret information continues to be exposed to our potential enemies?

Mr. COMEY. No, in this sense. The precedent that I'm setting today is my absolute best effort to treat people fairly without regard to who they are. If that continues to be the record of the FBI

and the Justice Department, that's what it should be. The rest of the implications in your question are beyond that. They're important, but they're not for the FBI to answer. We should aspire to be apolitical, facts and the law, treat Joe the same as Sally as Secretary so-and-so. That's my goal.

Mr. MULVANEY. If you had come to a different decision—by the way, I tend to agree with everything you've just said. If you had come to a different decision, do you think that would have a different precedential value that would keep our information more safe?

Mr. COMEY. If we decided to recommend criminal charges here?

Mr. MULVANEY. Yes, sir.

Mr. COMEY. I don't know. That's a good question. I don't know. I could argue it both ways. I guess I'm a lawyer, I can argue everything both ways. But I could argue that both ways.

Mr. MULVANEY. Thank you, Director Comey. Thank you, Mr. Chairman.

Chairman CHAFFETZ. Thank the gentleman. Now recognize the gentleman from Arizona, Mr. Gosar, for 5 minutes.

Mr. GOSAR. Thank you, Mr. Chairman. Thank you, Mr. Comey, for being here. My colleague alluded to Bryan Pagliano, the IT adviser. And were you made aware of the deal of immunity with him?

Mr. COMEY. I am aware.

Mr. GOSAR. Now that Attorney General Lynch has stated that there will be no charges, there's many that suspect that he failed to answer questions in his congressional deposition, that he had something to hide. Why did your investigators at the DOJ decide it was necessary to offer Mr. Pagliano immunity?

Mr. COMEY. As I said in response to the earlier question, I need to be more thoughtful about what I say about an immunity deal in public. It may be totally fine. I just don't want to screw up because we're doing this so quickly. In general, I can answer, because I've done it many times as a prosecutor. You make a grant of immunity in order to get information that you don't think you could get otherwise.

Mr. GOSAR. But you know that there may be something there in hindsight, right? You're looking ahead because of the pertinent information this person possesses.

Mr. COMEY. Right. You believe they have relevant information to the investigation.

Mr. GOSAR. So did the investigators draft an interview report known as a 302 with Mr. Pagliano?

Mr. COMEY. Yes.

Mr. GOSAR. Given the importance of this case, will you commit to voluntarily disclosing the 302s for review of Bryan Pagliano and other witnesses interviewed as part of your investigation?

Mr. COMEY. I'll commit to giving you everything I can possibly give you under the law, and to doing it as quickly as possible. That said, that means I got to go back and sort it out. For example, the 302 of Secretary Clinton is classified at the TS/SCI level. So we got to sort through all that. But we'll do it quickly.

Mr. GOSAR. Yeah. I know you've done this, because you've done this for Lois Lerner and other cases. So we would expect that.

Now, Director Comey, Hillary Clinton testified before Congress and told the American people multiple times that she never emailed any classified information to anyone on her private email servers. Your investigation revealed 110 of Clinton's emails, and 52 email chains confined classified information. Clinton told the American people, and I quote, "The laws and regulations in effect when I was Secretary of State allowed me to use my email for work. This is undisputed," end of quote. Your investigation revealed that that also wasn't true.

Clinton claimed she turned over all her work-related emails. Your investigation revealed that this wasn't also true. Clinton claimed that there was no security breaches and her private servers had numerous safeguards. Your investigation revealed eight email chains on Clinton's private servers containing top secret information. And that is was possible, quote, "hostile actors gained access to sensitive information." Further, multiple people she emailed with regularity were hacked by hostile actors and her private servers were less secure than a Gmail account, making a security breach all the more likely.

Director Comey, it's a Federal crime, as you know, to mishandle classified information in a grossly negligent way. And you stated Clinton and her colleagues were extremely careless. Clinton has publicly stated she was well aware of the classification requirements, yet she broke the law anyway. Multiple people have been prosecuted for less. And there is a growing trend of abuses in senior level employees. The only difference between her and others is her total resistance to acknowledge her irresponsible behavior that jeopardized our national security and the American people.

I think you should have recommended Clinton be prosecuted under section 793 or section 1024 of Title 18. If not, who? If not now, when? Your recommendation deprived the American people of the opportunity for justice in this matter. There shouldn't be double standards for the Clintons, and they shouldn't be above the law. With that, I'm going to yield the rest of my time to the gentleman from South Carolina, Mr. Gowdy.

Mr. GOWDY. Thank you, Dr. Gosar. Director Comey, I want to go back to the issue of intent for just a second. We can disagree on whether or not it's an element of the offense. Let's assume, for the sake of argument, that you're right and I'm wrong, and that it is an element of the offense. Secretary Clinton said that she was, quote, "Well aware of classification requirements." Those are her words, not mine and not yours. So if she were, quote, "well aware of classification requirements," how did that impact your analysis of her intent. Because I've heard you this morning describe her as being less than sophisticated. She disagrees with that.

Mr. COMEY. Well, I was talking about technical sophistication. The question is—I would hope everybody who works in the government is aware of classification requirements. The question then is if you mishandle classified information, when you did that thing, did you know you were doing something that was unlawful. That's the intent question.

Mr. GOWDY. Well, you and I are going to have to get together some other time and discuss all the people we prosecuted who were unaware that they were breaking the law. There are lots of really

dumb defendants out there who don't know that what they're doing is against the law. But let's go with what you say.

Mr. COMEY. I disagree. You may have prosecuted a lot of those folks. I did not prosecute a lot of those folks—

Mr. GOWDY. Well, I was a gutter prosecutor and you were a white collar prosecutor. Trust me. There are lots of people who don't know you can't kill other people. Let me ask you this: On the issue of intent, you say it was convenience. Okay? You're a really smart lawyer. If it were convenience, Director, she wouldn't have waited 2 years to return the documents. And she wouldn't have deleted them 4 years after they were created. So you can't really believe that her intent was convenience when she never turned them over until Congress started asking for them. Could you?

Mr. COMEY. You know, my focus, and I hope I made this clear. My focus was on what was the thinking around the classified information. I mean, it's relevant why the system was set up and the thinking there. But she didn't—I don't understand her to be saying—well, I think I've said it already. But that's my focus.

Mr. GOWDY. So I know I'm out of time, but it just strikes me you are reading a specific intent element into a gross negligence statute. Not even general intent.

Chairman CHAFFETZ. The gentleman's time—

Mr. GOWDY. A specific intent—

Chairman CHAFFETZ. The gentleman's time has expired.

Mr. COMEY. Sorry.

Chairman CHAFFETZ. The Director can answer.

Mr. COMEY. I enjoy talking with him. The question you got to ask is so why is it that the Department of Justice, since 1917, has not used that gross negligence statute but charging it once in an espionage case. And whether their decision was smart or not, that is the record of fairness. And so you have to decide, do I treat this person against that record? And if I do, is that a fair thing to do, even if you're not worried about the constitutionality of it? And my judgment is no reasonable prosecutor would do that. That would be celebrity hunting. That would be treating this person differently than John Doe.

Chairman CHAFFETZ. Director, I want to follow up on that. Why did you do what you did? You know, my interpretation of what the FBI is supposed to be doing is come to a determination of the facts. And then turn it over to a prosecutor. You were a prosecutor. But you're not a prosecutor now.

Mr. COMEY. Right.

Chairman CHAFFETZ. It is unprecedented that an FBI Director gave the type of press conference that he did and took a position that an unreasonable prosecutor would only take this case forward. Why did you do that?

Mr. COMEY. Yeah. It's a great question. The—everything I did would have been done privately in the normal course. We have great conversations between the FBI and prosecutors. We make recommendations. We argue back and forth. What I decided to do was offer transparency to the American people about the whys of that what I was going to do because I thought that was very, very important for their confidence in the system of justice. And within that, their confidence in the FBI. And I was very concerned if I

didn't show that transparency, that in that lack of transparency people could say, Gees. What's going on here? Something—you know, something seems squirrely here. And so I said I will do something unprecedented because I think this is an unprecedented situation.

Now, the next Director who is criminally investigating one of the two candidates for President may find him or herself bound by my precedent. Okay. So if that happens in the next 100 years they'll have to deal with what I did. So I decided it was worth doing.

Chairman CHAFFETZ. Mr. Cummings.

Mr. CUMMINGS. Mr. Director, I have just one question. You know, I've been sitting here listening to this. And I really—this is something that bothered me in the Lois Lerner case, and it bothers me in this case. And I'm just wondering your opinion. Mrs. Lawrence had talked about this, the chilling effect of your having to come here and justify your decisions. And I know that you've been really nice, and you just explained why you did what you did, and I'm glad you're doing it. But, you know, do you at all, and, I mean, taking off—I'm just talking about here you've got people making decisions and then being pulled here in the Congress to then say, okay, to be questioned about the decisions. At what point—or do you even think about it becoming a chilling effect? Because most people, you know, when their decision's made, don't get this kind of opportunity, as you well know. There are no statements. You know, they either get indicted or they're not.

So I noted you see this as a special case. And I wonder whether you agree with Mrs. Lawrence that we may be just going down a slippery slope. That's all I want to ask.

Mr. COMEY. And my honest answer is I don't think so. As I—when I talked to the chairman, I agreed to come because I think the American people care deeply about this. There's all kind of folks watching this at home or being told, Well, lots of other cases were prosecuted and she wasn't. I want them to know that's not true. And so I want to have this conversation. And I actually welcome the opportunity. Look, it's a pain. I've had to go to the bathroom for about an hour, but it is really—

Chairman CHAFFETZ. Don't worry. We're halfway done. So—

Mr. COMEY. It is really important to do. Because this is an unprecedented situation. Transparency is the absolute best thing for me and for democracy.

And I realize, Mr. Chairman, my folks told me I screwed up one fact that I should fix. I was misremembering. In the Petraeus case, we didn't find the notebooks in the attic, we found it in his desk. So I wanted to make sure I was fair to him about that.

But I really don't think so. I don't think it has a chilling effect. Again, if there's another presidential candidate being investigated by the FBI, maybe they'll be bound by this. Lord willing, it's not going to happen again. Certainly I have 2,619 days left in this job. I won't happen on my term. But if does, I won't be chilled.

Chairman CHAFFETZ. Thank the gentleman. If we need a humanitarian break, just give me the cue, but—

Mr. COMEY. No. I feel like we're almost done, though.

Chairman CHAFFETZ. We're on the right trajectory, yes.

But we would like to recognize the gentleman from Alabama, Mr. Palmer, for 5 minutes.

Mr. PALMER. Thank you, Mr. Chairman. Director Comey, your statement on Tuesday indicated that Secretary Clinton and her colleagues send and received emails marked classified on an unsecured private email server that may or may not have been hacked by a foreign power. Are you aware that teenage hackers hacked the personal email accounts of CIA Director John Brennan, the Director of U.S. National Intelligence, James Clapper, and FBI Deputy Director Mark Giuliano?

Mr. COMEY. I am intensely aware. They didn't hack in the way we normally think of it, but that they, by trickery, got access to their accounts.

Mr. PALMER. The point I want to make is that these were personal—commercially protected personal email accounts that contained no classified information. Yet Mrs. Clinton used her personal email, not a commercial account, on a server in her basement without even this basic protection, and transmitted classified information through that account. If teenagers in England were able to hack the personal email accounts of the Director of the CIA, the Director of U.S. National Intelligence, and the Deputy Director Of the FBI, does it concern you that sophisticated hackers or hackers working for foreign interests never attempted—I mean, does it seem reasonable that they never attempted, or were never successful in hacking Mrs. Clinton's personal email accounts or one of her devices?

Mr. COMEY. No. It concerns me a great deal. And that's why we spent so much time to see if we could figure out—see fingerprints of that.

Mr. PALMER. Well, you said in your statement regarding your recommendation not to prosecute, "To be clear, this is not to suggest that in similar circumstances, a person who engaged in this activity would face no consequences. To the contrary, these individuals are often subject to security or administrative sanctions, but that is not what we're deciding here." Do you stand by that?

Mr. COMEY. Yes.

Mr. PALMER. Okay. I thought you would. You also said you could not prove intent. I don't want to—I want to touch on a couple things here. One, a reasonable person would not have compromised classified information by keeping that information on inadequately secure private devices. In other words, such a person would be viewed as unreasonable and unsuitable for any position in our government that included any responsibility for handling and protecting classified information. Would you agree?

Mr. COMEY. I would agree it would be negligent. I can't prejudge a suitability determination, but it would definitely be stared at very hard.

Mr. PALMER. Well, let me tell you why I bring this up. I sat here next to Mr. Hurd, who served our country valiantly. Put his life on the line. And I don't know if you could sense the passion and intensity of his questions, because he knows people whose lives are on the line right now. And in regard to his questions, if someone, a U.S. intelligence agent had their mission compromised, or worse, had been killed or injured or captured because of the carelessness

of someone responsible for protecting classified information, would intent matter at that point?

Mr. COMEY. In deciding whether to prosecute the person? Of course. But—yeah. That's the answer. Of course it would. It would—the matter would be deadly serious. But the legal standards would be the same.

Mr. PALMER. Well, what we're dealing with in this hearing is not the lack of due diligence in handling routine government data or information, but the lack of due diligence by Secretary Clinton and her carelessness in handling classified information that could have compromised American national security, and as Mr. Hurd pointed out, the missions and personal safety of our intelligence agents. That troubles me greatly.

And I think the issue here—and I do respect you. I have spoken in your defense many times, at this point, to my detriment. But I do believe that your answers are honest and factual. But based on your answers regarding Mrs. Clinton's use of the email, and based on what we know, it seems to me that she is stunningly incompetent in her understanding of the basic technology of email, and stunningly incompetent in handling classified information. I mean, you should never associate the Secretary of State and classified information with the word "careless." It doesn't matter. I mean, we have to exercise the utmost due diligence. All of us in this committee do in handling this. You do in prosecuting cases. And I see that in what you're trying to do.

I just think we need to leave here with this understanding, that there's more to this story than we know. If a foreign hacker got into this, I can assure you that they know what was in those emails that were deleted. They read them all. They know what is in the emails that we never received.

Mr. Chairman, I yield back.

Chairman CHAFFETZ. I thank the gentleman. We'll now go to the gentleman from Wisconsin, Mr. Grothman, for 5 minutes.

Mr. GROTHMAN. Thank you. Thanks for coming on over to the Rayburn Building. As I understand it, your testimony today, is that you have not brought criminal charges against Hillary Clinton, in part, because you feel you can't prove guilt beyond a reasonable doubt, and in part, because she didn't understand the laws with regard to emails and servers and that sort of thing.

Question for you. When she erased these emails—or no, I digress for a second. You, however, did say that if somebody did this under you there would be consequences. If somebody did exactly what Mrs. Clinton did, but was one of your lieutenants or you think one of the lieutenants under the CIA or some other agency that deals with top secret documents, what would you do to those underlings?

Mr. COMEY. I would make sure that they were adjudicated through a security disciplinary proceeding to figure out what are all the circumstances and then what punishment, discipline is appropriate. That could range from being terminated, to being reprimanded, and then a whole spectrum in between, suspension, loss of clearance. It's a bunch of different options.

Mr. GROTHMAN. Okay. But tomorrow, say one of your top two or three lieutenants you find out that they've had this separate server out there and they're keeping secret documents, you know, flipping

them around. Do you think they should be fired? Not criminally charged, but fired?

Mr. COMEY. Yeah. I don't think it's appropriate to say. I think it should go—we have a very robust process. There ought to be a very intense suitability review of that person. Maybe there's something we're missing that would mitigate the punishment we would impose. But it would have to do through our system.

Mr. GROTHMAN. Okay. Next question. Just for the listening audience here, at first when I hear about erasing emails, I think it's like, you know, on my own phone where I might erase an auto insurance solicitation. The erasures here, however, were not just Mrs. Clinton pressing delete. Were they? There was a much greater effort made to make sure that these emails would never be recovered. Do you want to comment on what was done to erase the emails?

Mr. COMEY. I think what you're referring to is after her lawyers—her lawyers say, although I'm not able to verify this, there were 60,000 or so left at the end of 2014. They went through them in a way I described in my statement 2 days ago. And then they produced the ones that were work-related, and then they erased from their system the ones that were not work-related. That was done using technical tools basically to remove them from the servers to wipe them way.

Mr. GROTHMAN. Okay. So in other words, the effort was not just Mrs. Clinton or somebody went delete, delete, delete. They went above and beyond that so that your top technical efforts could not—technical experts could not get back at these emails, correct?

Mr. COMEY. Right. Not fully. We were able to by going—

Mr. GROTHMAN. You recovered a few.

Mr. COMEY. Yeah. We could go through the lawyers' laptops and see some traces, but not fully—not fully recover them.

Mr. GROTHMAN. Okay. Now, the information that I have, and you can correct me if I'm wrong, implies that these erasures were done in December of 2014 after the Benghazi scandal broke, after there were questions about the Clinton Foundation. Did you ever come across why she allowed these emails to sit out there, even for years after she stopped being Secretary of State but all of a sudden as these other scandals began to bubble up she felt, or her lawyers felt, that she had to erase them?

Mr. COMEY. Yeah. I think the way the process worked is she had emails that were just on her system. She actually had deleted some, I think, over time, as an ordinary user would. And then the State Department contacted her and other former Secretaries and said, We have a gap in our records. We need you to look and see if you have emails and give them back. She then tasked her lawyers to engage in this review process of that 60-some thousand and make that cut. And then was asked by her lawyers at the end, Do you want us to keep the personal emails? And she said, I have no use for them anymore. It's then that they issued the direction that the technical people delete them.

Mr. GROTHMAN. Do you think Mrs. Clinton knew that the technical people were erasing these emails so that even your top technical experts could recover them?

Mr. COMEY. Based on my sense now of her technical sophistication, I don't think so.

Mr. GROTHMAN. You don't think the lawyers told her that that's what they were doing, erasing all these emails that everybody on this committee wanted to look at?

Mr. COMEY. Yeah. And I'm sure we've asked this and—

Mr. GROTHMAN. What type of lawyer wouldn't tell their client they were doing that? But—

Mr. COMEY. I don't think—I think our evidence—our investigation is they did not, that they asked her, Do you want to keep them, and they said no, and they said, Wipe them away.

Mr. GROTHMAN. Okay. Now, as I understand it, the goal was just to erase personal emails, but you've recovered emails that wouldn't be considered personal emails at all.

Mr. COMEY. Correct.

Mr. GROTHMAN. Okay. I know that you didn't recover them, but based upon the emails that you recovered, presumably her lawyers or somebody was going well beyond personal emails, is it possible we'll never be able to recover emails that dealt with the Clinton Foundation or dealt with the Benghazi scandal? Is it possible, because of what her lawyers did, that they were erasing things that were incriminating, maybe involving items that you yourself were not particularly investigating, but that these have now been destroyed forever?

Mr. COMEY. I guess it's possible. As I said in my statement on Tuesday, we did not find evidence to indicate that they did the erasure to conceal things of any sort. But it's possible, as I said on Tuesday, that there are work-related emails that were in the batch that were deleted.

Mr. GROTHMAN. I'm sorry. When you go to this length to make sure you can never recover the emails that are erased, wouldn't you think the intent is to make sure nobody ever looks at them again? Why would—otherwise, would you just go—

Chairman CHAFFETZ. I thank the gentleman. We'll give the Director time if he wants to respond.

Mr. COMEY. Sure. You know, I guess it's a bit circular. You delete because you want to delete, but that—what I mean is we didn't find any evidence of evil intent, an intent to obstruct justice there.

Mr. GROTHMAN. You wouldn't have been able to—

Chairman CHAFFETZ. I thank—

Mr. GROTHMAN. —because you don't know what was deleted, but—

Chairman CHAFFETZ. I thank the gentleman.

We'll now recognize Mr. Russell of Oklahoma for 5 minutes.

Mr. RUSSELL. Thank you, Mr. Chairman.

Director Comey, thank you for your long service and your long suffering. I think we're toward the end of the line here.

I want to state for the record with regard to national security, I sleep a little easier at night knowing that you're at the helm of the FBI. Thank you for your dedicated service and your integrity.

Mr. COMEY. Thank you.

Mr. RUSSELL. You have stated in your statement and also multiple times here that there should be consequences for the mishandling of state secrets. If I held a top secret/SCI in the Bureau—

and I did hold one when I was in the United States Army, in a career of service, I've handled classified information here—but if I held that in the FBI and you discovered that I mishandled state secrets on a private server in my basement, would I be trusted by the Bureau to further handle top secret/SCI information?

Mr. COMEY. Maybe not. You would go immediately through a security process to review whether you should continue working for us, and if you do, what clearances you should retain.

Mr. RUSSELL. If I violated the handling of state secrets in the FBI, would you consider me the best suitable candidate for promotion and higher responsibility?

Mr. COMEY. It would be a serious concern, and we would stare at it very hard in a suitability review.

Mr. RUSSELL. Although you have recommended to the Department of Justice that no criminal charges be brought to bear, are you recommending to the Department of Justice that there be no consequences for the mishandling of state secrets?

Mr. COMEY. No. My recommendation was solely with respect to criminal charges.

Mr. RUSSELL. What would you recommend?

Mr. COMEY. I don't think it's for me to recommend.

Mr. RUSSELL. But you do—you've been very open and even stated why you felt that these were unique sets of circumstances that called for greater transparency. You do make recommendations routinely, as you've stated here today. We're talking top secret/SCI information that's been mishandled. You would take a dim view to that if I were an agent. What consequence—this is what the American people feel exasperated about. There seems to be no consequence.

So in a case like this, if it's not going to be criminal charges recommended, what are the American people to do to hold their officials accountable if maybe they shouldn't be trusted for further promotion and higher responsibility?

Mr. COMEY. And what I meant earlier is that's not a question that the American people should put to the FBI Director. I can answer about the things within my remit, but that—I understand the question, but it's not one for me to answer in my role.

Mr. RUSSELL. Well, I hope it's one that the American people answer in the future, because we do have a choice about those that would mishandle information. And while we're all fallible human beings and we all make mistakes, in a case like this, I mean, for decades of my service in the Army infantry and handling top secret/SCI information and then as a Member of Congress, I mean, we know those responsibilities.

Is it your view and others that have interviewed Mrs. Clinton that she would not have known what those responsibilities were?

Mr. COMEY. No, I think, in a way, you would expect she understood the importance of protecting classified information.

Mr. RUSSELL. Well, I would agree with that. And there has been a breach, and I think that the American people demand a consequence, that they demand an accountability. And I think it's important, to uphold the form of our republican government, that we have a consequence.

And with that, thank you for your appearance here today.

And I would like to yield the remainder of my time to Chairman Chaffetz.

Chairman CHAFFETZ. Thank you. I think, if you yield back, through mutual agreement, Mr. Cummings and I have agreed that I do have about a dozen or so quick follow-up questions. You've been most generous with your time, but I would like to get through these last bit.

Mr. COMEY. Okay.

Chairman CHAFFETZ. And, again, we'll do so with equal time.

How did the Department of Justice—or how did the FBI view the incident in which Hillary Clinton instructed Jake Sullivan to take the markings off of a document that was to be sent to her?

Mr. COMEY. Yeah. We looked at that pretty closely. There was some problem with their secure fax machine. And there's an email in which she says, in substance, take the headers off of it and send it as a nonpaper.

As we've dug into that more deeply, we've come to learn that, at least there's one view of it that is reasonable, that a nonpaper in State Department parlance means a document that contains things we could pass to another government. So essentially, take out anything that's classified and send it to me.

Now, it turned out that didn't happen, because we actually found that the classified fax was then sent, but that's our best understanding of what that was about.

Chairman CHAFFETZ. So this was a classified fax?

Mr. COMEY. Correct.

Chairman CHAFFETZ. So Hillary Clinton sends to Jake Sullivan—let me go back. Jake Sullivan says: They say they had issues sending secure fax. They're working on it. Hillary Clinton sends to Jake Sullivan: If they can't, turn into nonpaper with no identifying heading and send nonsecure.

Mr. COMEY. Yeah.

Chairman CHAFFETZ. So you're telling me it's a classified piece of information, she's taking off the header, and she's instructing them to send it in a nonsecure format.

Mr. COMEY. Right.

Chairman CHAFFETZ. Is that not intent?

Mr. COMEY. Well, that actually caught my attention when I first saw it. And what she explained to us in her interview was, and other witnesses did as well, is what she meant by that is make it into a nonclassified document, that's a what a nonpaper is in their world, and send it to us, because I just—I don't need the classified stuff, I just need the—

Chairman CHAFFETZ. Then why take off the heading? If it's going to be turned into a nonclassified document, why take off the heading?

Mr. COMEY. I assume because it would be nonclassified anymore, so you wouldn't have a classified header on it, I think is what she said during her interview.

Chairman CHAFFETZ. So she wanted to be technically correct? Is that what you're saying? This is your—

Mr. COMEY. No. I think what she said during the interview is: I was telling him, in essence, send me an unclassified document, take the header off, turn it into a nonpaper. Which is a term I'd

never heard before, but I'm told by people I credit that in diplomatic circles, that means something we could pass to another government.

Chairman CHAFFETZ. You are very generous in your accepting of that.

Let me ask you, Director, did any uncleared individuals receive any classified information over Hillary Clinton's server?

Mr. COMEY. Did any uncleared people receive classified information? I don't think any of the correspondents on the classified emails were uncleared people. These were all people with clearances working, doing State Department business on the unclass system.

Chairman CHAFFETZ. Did Mr. Pagliano have the requisite security clearance?

Mr. COMEY. As I sit here today, I can't remember. He was not a participant on the classified email exchanges, though.

Chairman CHAFFETZ. He was running the server. He set up the server.

Mr. COMEY. That's a different question. Well, I'm sorry. I misunderstood your question, then.

Yeah. There's no doubt that uncleared people had access to the server, because even after Pagliano, there were others who maintained the server who were private sector folks.

Chairman CHAFFETZ. So there are hundreds of classified documents on these servers. How many people without a security clearance had access to that server?

Mr. COMEY. I don't know the exact number as I sit here. It's probably more than 2, less than 10.

Chairman CHAFFETZ. And I appreciate your willingness to follow up with this.

Did Secretary Clinton's attorneys have the security clearances needed?

Mr. COMEY. They did not.

Chairman CHAFFETZ. Does that concern you?

Mr. COMEY. Oh, yeah. Sure.

Chairman CHAFFETZ. Is there any consequence to an attorney rifling through Secretary Clinton's, Hillary Clinton's emails without a security clearance?

Mr. COMEY. Well, not necessarily criminal consequences, but there's a great deal of concern about an uncleared person, not subject to the requirements we talked about in the read-in documents, potentially having access. That's why it's very, very important for us to recover everything we can back from attorneys.

Chairman CHAFFETZ. So what's the consequence? I mean, here Hillary Clinton gave direction to her attorneys without a security clearance to go through documents that were classified.

Mr. COMEY. I think that's what happened in fact. Whether that was the direction is a question I can't answer sitting here.

Chairman CHAFFETZ. You're parsing that one a little bit for me.

Mr. COMEY. No, no. You were just asking me. I don't—I don't know—

Chairman CHAFFETZ. What's the consequence? They don't work for the government. We can't fire them.

Mr. COMEY. Right.

Chairman CHAFFETZ. So is there no criminal prosecution of those attorneys? Should they lose their bar license? What's the consequence to them?

Mr. COMEY. Well, if they acted with criminal intent or acted with some mal-intent.

Chairman CHAFFETZ. What you're telling us is it doesn't matter if you have a security clearance or not, because I may be innocent enough, hey, I'm just an attorney, I like the Secretary, I'm trying to help Hillary Clinton, I'm not trying to give it to the Chinese or the Russians, I'm just trying to help her. So there's no intent? It doesn't matter if these people have security clearances?

Mr. COMEY. Of course it matters. That's why I said—

Chairman CHAFFETZ. But there's no consequence, Director. There's no consequence.

Mr. COMEY. Well, I don't know what consequence you'd have in mind. Very—

Chairman CHAFFETZ. Prosecute them.

Mr. COMEY. An attorney for receiving from his client information that ends up being classified?

Chairman CHAFFETZ. I asked you at the very beginning, does Hillary Clinton—is there a reasonable expectation that Hillary Clinton would send and receive hourly, if not daily, classified information? That's reasonable to think that the Secretary of State would get classified information at every moment. She is not the head of Fish and Wildlife.

So the idea that she would turn over her emails, her system, her server to, what it sounds like, up to 10 people without security clearances, and there's no consequence. So why not do it again?

Mr. COMEY. Well, that's a question I don't think you should put to me. You're asking—I'm talking about my criminal investigation.

Chairman CHAFFETZ. But how can that—there's no intent there? Does she not understand that these people don't have security clearances?

Mr. COMEY. Surely she understands at least some of them don't have security clearances.

Chairman CHAFFETZ. So she understands they don't have security clearances and it's reasonable to think she's going to be getting classified information. Is that not intent, to provide a noncleared person access to classified information?

Mr. COMEY. You're mixing it up, though. I don't think it's reasonable to assume—mixing me up, sorry, it's not your fault—that someone who is maintaining your server is reading your emails. In fact, I don't think that's the case here.

There's a separate thing, which is when she's engaging counsel to comply with the State Department's requests, are her lawyers then exposed to information that may be on there that's classified.

Chairman CHAFFETZ. Did they see any classified information? Did Hillary Clinton's attorneys, without security clearances, see classified information?

Mr. COMEY. As I sit here, I don't know the answer to that.

Chairman CHAFFETZ. It has to be yes, Director. You came across 110, and they said they went through all of them.

Mr. COMEY. Well, they didn't read them all, they just looked at headers.

Chairman CHAFFETZ. So their excuse is, "We saw the emails, but we didn't read them"?

Mr. COMEY. No, I think I said this in my statement on Tuesday, they sorted the emails by using headers and search terms to try and find work-related emails. We read them all.

Chairman CHAFFETZ. I know that you read them all. Do you think it's reasonable or unreasonable to think that her attorneys, under her direction, did or did not read those emails? Because there were—let me go back to this. Yes or no, were there or were there not classified emails that her, that Hillary Clinton's attorneys read?

Mr. COMEY. I don't know whether they read them at the time.

Chairman CHAFFETZ. Did Hillary Clinton give noncleared people access to classified information?

Mr. COMEY. Yes. Yes.

Chairman CHAFFETZ. What do you think her intent was?

Mr. COMEY. I think then it was to get good legal representation and to make the production to the State Department. I think it would be a very tall order in that circumstance, I don't see the evidence there to make a case that she was acting with criminal intent in her engagement with her lawyers.

Chairman CHAFFETZ. And I guess I read criminal intent as the idea that you allow somebody without a security clearance access to classified information. Everybody knows that, Director. Everybody knows that.

I've gone way past my time. Let me recognize Mr. Cummings for an equal amount of time.

Mr. CUMMINGS. Director, thank you for your patience.

I want to clear up some things. I want to make sure I understand exactly what you testified to on the issue of whether Secretary Clinton sent or received emails that were marked as classified.

On Tuesday, you stated, and I quote: "Only a very small number of the emails containing classified information bore markings"—and I emphasize, bore markings—"indicating the presence of classified information," end of quote. Republicans have pounced on this statement as evidence that Secretary Clinton lied. But today we learned some significant new facts, and I hope the press listens to this.

First, you clarified that you were talking about only 3 emails out of 30,000 your office reviewed. Is that right?

Mr. COMEY. Three, yes.

Mr. CUMMINGS. Three out of 30,000. Is that right?

Mr. COMEY. Yes. At least 30,000.

Mr. CUMMINGS. At least 30,000.

Second, you confirmed that these three emails were not properly marked as classified at the time based on Federal guidelines and manuals, they did not have a classification header, they did not list the original classifier, the agency, office of origin, reason for classification, or date for declassification. Instead, these emails included only a single, quote, "C," parenthesis, end parenthesis, and then end of quotation mark, for confidential on one paragraph lower down in the text. Is that right?

Mr. COMEY. Correct.

Mr. CUMMINGS. Third, you testified that based on these facts, it would have been a, quote, "reasonable inference" for Secretary Clinton to, quote, "immediately," end of quote, conclude that these emails were not, in fact, classified. So that was also critical new information.

But there's one more critical fact, that these emails were not in fact—and that is this, Director, and to the press—these emails were not, in fact, classified. The State Department explained to us yesterday, they reported that these emails are not classified and that including the little C on these emails was a result of a human error. The bottom line is that those little C's should not have been on those documents because they were not in fact classified.

When Representative Watson Coleman asked you a few minutes ago about this, you testified that you had not been informed. And I understand that, I'm not beating up on you, I promise you. But can you tell us why, Director Comey, because I want—you know, because the Republicans are pouncing and saying that the Secretary lied, and so I want to make sure that we're clear on this.

Can you tell us why, Director Comey, did you consult—and we're just curious—did you consult with the State Department about these 3 emails out of the more than 30,000, or did this just not come up? What happened there?

Mr. COMEY. Yeah. I'm not remembering for sure while I'm here. I'm highly confident we consulted with them and got their view on it. I don't know about what happened yesterday, maybe that their view has changed or they found things out that we didn't know. But I'm highly confident we consulted with them about it.

Mr. CUMMINGS. So this is totally different than what we understood yesterday. Today we learned that these emails were not in fact classified. They should not have been included—they should have not included those stray markings, they were not properly marked as classified, and the Director of the FBI believes it was reasonable for Secretary Clinton to assume that these documents were not classified.

Chairman, you raised a question about whether Secretary Clinton's attorneys had security clearances. It's my understanding that they did. We can double-check that, but that is my understanding. We'll double-check that.

Going on, let me move to the next topic. You explained on Tuesday that you were providing, quote, "an update on the FBI's investigation of Secretary Clinton's use of a personal email system during her time as Secretary of State." You explained that you received a referral on this matter from the inspector general of the intelligence community on July 6, 2016. Is that right.

Mr. COMEY. Yes.

Mr. CUMMINGS. Today, tens of thousands of Secretary Clinton's emails are publicly available on the State Department's Web site. And our staff have been reviewing the emails that were retroactively determined to include classified information.

Based on this review, it appears that these emails included more than 1,000 individuals who sent or received the information that is now redacted as classified. Let me make that clear. About 1,000 people sent or received the same information that was contained in

Secretary Clinton's emails and retroactively classified. Were you aware of that?

Mr. COMEY. No. The number doesn't surprise me, though.

Mr. CUMMINGS. Why not?

Mr. COMEY. Because this was—they were doing the business of the State Department on this email system. So I don't know how many thousands of people work at the State Department, but it doesn't surprise me there would be lots of people on these chains.

Mr. CUMMINGS. And would you agree that we need—that something needs to be done with regard to this classification stuff, because things are classified, then they're not classified, then they are retroactively classified. I mean, does that go into your consideration when looking at a case like this?

Mr. COMEY. Yeah. I don't pay much attention to the up-classified stuff, because we're focused on intent. So if someone classifies it later, it's impossible that you formed intent around that, because it wasn't classified at the time. I know that's a process. I wasn't familiar with it before this investigation, but I don't spend a lot of time focused on it in the course of a criminal investigation.

Mr. CUMMINGS. I understand. We also reviewed who these people are, and they include a host of very experienced career diplomats with many years of experience. So let me ask you this. When you received this referral from the inspector general about Secretary Clinton's emails, did you also receive any referrals for any of the other 1,000 people who sent and received those emails? Did you?

Mr. COMEY. No.

Mr. CUMMINGS. I understand—

Mr. COMEY. Well, I should stop there. Within the scope of our investigation was a group of people closer to the Secretary. We looked at their conduct. I forget what the number is, four or five of them. But then the hundreds of others who may have been on the chains were not the subjects of the investigation.

Mr. CUMMINGS. Okay. I think I have 30 more seconds.

I understand that Secretary Clinton is the only one running for President, but it does not make sense that she was singled out for a referral to the FBI. Do you agree with that?

Mr. COMEY. No, I don't—I don't think I agree with that.

Mr. CUMMINGS. Okay. So you—so you—let's go back to Colin Powell. Do you think you ought to look at his situation? Or Condoleezza Rice?

Mr. COMEY. Well, there's been no referral on them. I know only sort of at a superficial level their circumstances. This case strikes me as very different from those and not an inappropriate referral from the inspector general.

Mr. CUMMINGS. Very well.

Chairman CHAFFETZ. I thank the gentleman.

Who was Hillary Clinton emailing that was hacked?

Mr. COMEY. Yeah. I don't want to say in an open forum. We can get you that information, but I don't want to—again, I don't want to give any hostile adversaries insight into who—what we figured out.

Chairman CHAFFETZ. Fair enough.

Mr. COMEY. So I know the names.

Chairman CHAFFETZ. Understood.

Mr. COMEY. Yeah.

Chairman CHAFFETZ. Was there any evidence of Hillary Clinton attempting to avoid compliance with the Freedom of Information Act?

Mr. COMEY. That was not the subject of our criminal investigation, so I can't answer that sitting here.

Chairman CHAFFETZ. It's a violation of law, is it not?

Mr. COMEY. Yes. My understanding is there are civil statutes that apply to that. I don't know of—

Chairman CHAFFETZ. Let's put the boundaries on this a little bit, what you didn't look at. You didn't look at whether or not there was an intention or the reality of noncompliance with the Freedom of Information Act?

Mr. COMEY. Correct.

Chairman CHAFFETZ. You did not look at testimony that Hillary Clinton gave in the United States Congress, both the House and the Senate?

Mr. COMEY. To see whether it was perjurious in some respect?

Chairman CHAFFETZ. Yes.

Mr. COMEY. No, we did not.

Chairman CHAFFETZ. Did you review and look at those transcripts as to the intent of your recommendation?

Mr. COMEY. I'm sure my folks did. I did not.

Chairman CHAFFETZ. So—okay. And this is an important point, because I think those of us in Congress, knowing that you got a criminal referral from an inspector general, thought that you were also looking at whether or not Hillary Clinton had provided false testimony, which is a crime, to the Congress, but you didn't look at that.

Mr. COMEY. Correct. As I said, I'm confident my folks looked at the substance of the statements trying to understand the circumstances around the entire situation.

Chairman CHAFFETZ. Can you confirm that? I just want to make—

Mr. COMEY. Yeah, we'll confirm that. And also, again, maybe I'm missing this, but I don't think we got a referral from congressional committees, a perjury referral.

Chairman CHAFFETZ. No. It was the inspector general that initiated this.

Mr. COMEY. Yeah.

Chairman CHAFFETZ. Did the—the fact that Hillary Clinton refused to be interviewed by the inspector general, what did that say to you about intent?

Mr. COMEY. Not, at least for our criminal investigation, not particularly germane.

Chairman CHAFFETZ. Are you familiar—you're familiar—there's a Web site. I mean, lots of government agencies have Web sites. The State Department has a Web site, state.gov, and they have a YouTube site. Videos that are uploaded to a YouTube site, would those be considered Federal records?

Mr. COMEY. I don't know.

Chairman CHAFFETZ. So they're paid for by Federal dollars, they're maintained by Federal employees. Would that not be a Federal record?

Mr. COMEY. Yeah, I just don't know. I'm sure there's an expert who could answer that in 2 seconds, but I'm not that expert.

Chairman CHAFFETZ. Okay. We've kept you here a long time. I want to follow up on that.

Is the FBI still investigating Hillary Clinton's aides?

Mr. COMEY. No is the answer. The Department of Justice declined on all of those who were subjects communicating with her through that email system.

Chairman CHAFFETZ. What recommendations did you make about her aides?

Mr. COMEY. Same. Same. We didn't recommend that anybody be prosecuted on those facts.

Chairman CHAFFETZ. And if you can help us understand who precisely had been ruled out for prosecution, that would be—

Mr. COMEY. Sure.

Chairman CHAFFETZ. Did you look at the Clinton Foundation?

Mr. COMEY. I'm not going to comment on the existence or non-existence of any other investigations.

Chairman CHAFFETZ. Was the Clinton Foundation tied into this investigation?

Mr. COMEY. I'm not going to answer that.

Chairman CHAFFETZ. The server that was set up in her home was originally set up by, you said, former President Bill Clinton.

Mr. COMEY. Correct.

Chairman CHAFFETZ. Do you know who paid for that?

Mr. COMEY. I don't, sitting here.

Chairman CHAFFETZ. Okay. I'll allow some equal time now for my colleague and friend, Mr. Cummings.

Mr. CUMMINGS. I'm going to yield 2 minutes to—of my 3.43—to Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Director. We're talking about hacking. And so on this committee we're very much interested in cybersecurity and we review a lot of the major hacks that are going on. So just recently, and I would say in the last 18 months, we've had a major hack, February of 2016, at the Department of Homeland Security and the FBI. We had a hacking group, the SITE Intelligence Group, reported that a group called Crackers With Attitude had hacked 9,000 employees' data from the Department of Homeland Security, including names, email addresses, locations, telephone numbers; also 20,000 FBI workers.

We had another hack—direct evidence, obviously, of those—another hack at OPM of 4.2 million current and former Federal Government employees. Their information had been stolen, including Social Security numbers, which were not redacted.

We had IRS in May 2015, millions—no, I'm sorry, 200,000 attempted and 100,000 were successful. We had—the State Department announced a breach of its computer systems after an infiltration forced the agency to temporarily shut down its classification system. We had the United States Postal Service, 800,000 postal employees, 2.9 million customers.

The White House, The Washington Post reported back in—this is back in 2014—that the White House computer was hacked. The National Oceanic and Atmospheric Administration. I'm on another committee for Financial Service. We had Verizon. UCLA Health

Systems, thousands and thousands and thousands of employees. Anthem HealthCare. Sony Pictures. Staples. Home Depot. JPMorgan. It gets into the millions. Community Health Systems. Target. TJX.

So all these we have direct evidence, millions and millions and millions of people, their accounts being hacked. Any direct evidence that Hillary Clinton's emails were hacked?

Mr. COMEY. No.

Mr. LYNCH. Okay. I have no further questions. I yield back.

Mr. CUMMINGS. Mr. Director, we are about at the end. I'm going to do a concluding statement and then I think the chairman will.

I want to, first of all, I want to go back to something that Mrs. Watson Coleman said a little earlier. As an African American man in this country, 66 years old, moving towards the twilight of my life, we cannot allow Black men to continue to be slaughtered.

This morning I woke up to my wife literally crying watching the tape of this guy, Alton Sterling, in Baton Rouge. And then she looked at the one, Philando Castile, near Minneapolis. And I hope you watched them. There's something wrong with this picture.

And don't get me wrong. I am all for, I've supported police, I am a lawyer, and I know how important police are, and I know there's so many great folks.

But, Mr. Director, if you do nothing else in your 2,000-plus days left, you have got to help us get ahold of this issue. It is so painful, I can't even begin to tell you.

And so I don't want—I've been fortunate in my life. I've been very fortunate that I have not been harmed by the police. But I've been stopped 50 million times.

Now, with regard to this hearing, I want to thank you again. You know, as I listened to you, you said something that I will never forget, and for some reason it gave me a chill. You said there are two things that are most important to me, two things. You said: My family and my reputation. My family and my reputation.

And I don't know whether your family's watching this, but I hope that they are as proud of you as I am, because you are the epitome of what a public servant is all about, sacrificing over and over and over again, trying to do the right thing, sometimes coming under ridicule, but yet still doing the right thing. And so I hope that they are proud of you.

The second thing is that no matter what has happened in this hearing, I hope that you know that your reputation is still intact.

And so I conclude by summarizing that I think some of our—of some of our key findings today. First, the Director testified that his entire team of 15 to 20 FBI investigators unanimously agreed on the recommendation not to prosecute Secretary Clinton.

Second, Director Comey made crystal clear that Republican claims and some of the talking heads' claims of bias are completely false. He testified that he would treat John Doe the same way he would treat Hillary Clinton, that he was very forceful on that point.

Third, on the claim that Secretary Clinton sent or received emails that were marked as classified, that claim has now been significantly undercut. Those documents were not classified and those markings were not proper.

Finally, Republicans have repeatedly cried foul about a double standard when it comes to Secretary Clinton's emails, but Director Comey testified that the real double standard would have been to prosecute her with this completely inadequate evidence.

Again, Director, I thank you, but I thank somebody else. I thank—and having practiced law for many years and having dealt with the FBI on many cases, I want to thank the people who work with you. Because it's not just—it's not just—this is not just about you.

Mr. COMEY. No.

Mr. CUMMINGS. This is not just about Secretary Clinton. When we are addressing you, there are a whole cadre of people who give their blood, their sweat, and their tears to protect us as Americans. And I just want to thank them, because sometimes I think they are forgotten, unseen, unnoticed, unappreciated, and unapplauded. But today I applaud them and I thank you.

Thank you very much, and I yield back.

Chairman CHAFFETZ. And I thank the gentleman.

And I concur with the idea that every FBI agent I have ever met has just been above reproach, and they make us proud. And they work hard, they put their lives on the line, they serve overseas, they serve domestically. Can't thank them enough for what they do, and I hope that is part of the message that we carry back.

I cannot thank you personally enough, you on a personal level, for your accessibility, your ability to get on the phone with me the same day that you make your announcement, and then in rapid fire when I said to you, "What day is best, we're going to have to do this, so which day is best for you?" and you said Thursday, and here we are and doing it. I can't thank you enough.

I wish all of the government employees would have that attitude and approach, I really do, and I can't thank you enough. I look forward to working with you and your staff as we move forward in getting this documentation, things that you can't share publicly, and others.

It is the intention of the committee to—I had told Mr. Cummings here that we would come back after votes. Votes have been pushed back now a bit. So what I'd like to do is to go into recess for 5 minutes and then we will start with our second panel.

The committee stands in recess till 5 minutes from now.

Thank you again, Director Comey.

[Recess.]

Chairman CHAFFETZ. The Oversight and Government Reform Committee will reconvene and we will now recognize our second panel of witnesses.

I'm pleased to welcome the Honorable Steve Linick, inspector general of the United States Department of State.

Mr. Linick, it is our understanding that you are accompanied by Ms. Jennifer Costello, assistant inspector general for the Office of Evaluations and Special Projects, whose expertise may be needed during questioning. So we will also ask that she be sworn in during this time too.

We also welcome the Honorable Charles McCullough, III, inspector general of the intelligence community at the Office of the Director of National Intelligence.

OVERSIGHT OF THE
FEDERAL BUREAU OF INVESTIGATION

HEARING
BEFORE THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTEENTH CONGRESS
SECOND SESSION

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OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION

WEDNESDAY, SEPTEMBER 28, 2016

HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
Washington, DC.

The Committee met, pursuant to call, at 9:04 a.m., in Room 2154, Rayburn House Office Building, the Honorable Bob Goodlatte (Chairman of the Committee) presiding.

Present: Representatives Goodlatte, Sensenbrenner, Smith, Chabot, Issa, King, Franks, Gohmert, Jordan, Chaffetz, Marino, Gowdy, Labrador, Farenthold, Collins, DeSantis, Walters, Ratcliffe, Trott, Bishop, Conyers, Nadler, Lofgren, Jackson Lee, Cohen, Johnson, Chu, Deutch, DelBene, Jeffries, Cicilline, and Peters.

Staff Present: (Majority) Shelley Husband, Chief of Staff & General Counsel; Branden Ritchie, Deputy Chief of Staff & Chief Counsel; Zach Somers, Parliamentarian & General Counsel; Caroline Lynch, Chief Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; Ryan Breitenbach, Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; (Minority) Perry Apfelbaum, Staff Director & Chief Counsel; Danielle Brown, Parliamentarian & Chief Legislative Counsel; Aaron Hiller, Chief Oversight Counsel; Joe Graupensperger, Chief Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; and Veronica Eligan, Professional Staff Member.

Mr. GOODLATTE. Good morning. The Judiciary Committee will come to order.

And, without objection, the Chair is authorized to declare a recess of the Committee at any time.

We welcome everyone to this morning's hearing on "Oversight of the Federal Bureau of Investigation."

Before I begin this hearing, I want to take a few minutes to recognize the chief counsel of the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations, Caroline Lynch. After 15 years working on Capitol Hill, Caroline has decided to move back to her home State of Arizona to be close to her family and to pursue the next steps in her career. Needless to say, we are very sad to see Caroline go.

During her time in Washington, D.C., Caroline worked for Representative John Shadegg, both in his personal office and as chief counsel of the House Republican Policy Committee. In 2006, Caro-

line came to work for the House Judiciary Committee, and in 2008, she became chief counsel of the Judiciary Committee's Crime Subcommittee.

At the Committee, Caroline has had an enormous impact on the reform of our criminal and national security laws. Few people in Washington have done as much to promote the safety of our communities. Caroline has overseen the drafting, negotiation, and passage of critical legislation regarding the Foreign Intelligence Surveillance Act, the Electronic Communications Privacy Act, and the most sweeping set of reforms to government surveillance practices in nearly 40 years, the USA Freedom Act, among many other priority legislative initiatives.

Anyone who has met Caroline knows she is immensely intelligent, hardworking, loyal, and a discerning chief counsel. And, of course, those people she has negotiated with have found her to be a skillful and formidable but fair advocate. Her team at the Subcommittee know her to be a determined leader and a steadfast friend. I have appreciated Caroline's deep knowledge of criminal laws, the strength of her convictions, and her courage to speak the truth in a place where it is rarely convenient to do so.

We wish Caroline well in her new endeavors, and I thank her for her years of dedicated service to this Committee, the U.S. House of Representatives, and the American people.

[Applause.]

Mr. GOODLATTE. And I know the Ranking Member, Mr. Conyers, would like to say a few words as well.

Mr. CONYERS. Thank you very much, Chairman Goodlatte.

This is indeed a unique moment in our history, and on behalf of the Democratic staff and Democratic Members of the Committee, I want to recognize Caroline Lynch for her hard work and her dedication for the past 10 years.

As chief crime counsel for the Republicans during this time, she worked collegially with her Democratic colleagues on a broad range of criminal justice issues: The Crime Subcommittee is legislatively the busiest Subcommittee, to me, in all of Congress, and every crime-related bill that has been enacted during her time here has had the benefit of her expertise.

There are many examples of this, but I will cite her role in helping Members find common ground on section 215 of the PATRIOT Act so that we could enact important reforms in the USA Freedom Act. This important law will both safeguard our national security and our civil liberties, and it set a precedent for how we can proceed on such issues in the future. Her work on this legislation was essential to its ultimate success.

We will miss her insight on these issues as well as her friendship and her friendliness as she leaves the Committee for other endeavors in her home State of Arizona.

We wish you all the best.

[Applause.]

Mr. GOODLATTE. I think you would agree with me in saying that, while her work is not quite done today and the rest of the week, she has also been very critical to the bipartisan work that we have been doing here the past few years, culminating in 11 bills so far passing out of this Committee dealing with criminal justice reform.

And we thank you for the contribution you have made for that. And that work has been, indeed, very bipartisan, so we thank you all.

We now welcome Director Comey to your fourth appearance before the House Judiciary Committee since your confirmation as the seventh Director of the FBI. Needless to say, the past year since our last oversight hearing has been challenging for the FBI on a number of fronts that we hope to review with you today.

I want to begin by commending the men and women of the FBI and the NYPD and the New Jersey Police Department for their swift action in identifying and apprehending Ahmad Khan Rahami, whose cold and cowardly acts of terrorism last week injured 29 American citizens.

This was the latest in a string of attacks stretching back to the 2013 Boston Marathon bombing and continuing through the terror attacks in San Bernardino, Orlando, and Minneapolis. They all share one common thread—namely, radical Islam.

This Administration, however, including the FBI, has coined this cancer with the euphemism of “countering violent extremism.” If the FBI and the rest of our national security apparatus continues its myopia about focusing on ethereal issues of extremism, their mission to protect the American people will always be one of following up on terrorism’s aftermath.

I look forward to hearing from you about how the FBI is working to proactively combat radical Islamic terrorism and put an end to this string of violence.

While terrorism is a malignancy which must be purged, other events at home have called into question the confidence that Americans have historically held in a blind and impartial justice system.

Former Secretary of State Hillary Clinton and the FBI’s investigation into her seemingly criminal conduct is a case in point. It seems clear that former Secretary of State Hillary Clinton committed multiple felonies involving the passing of classified information through her private email server. The FBI, however, declined to refer the case for prosecution on some very questionable bases.

This past Friday afternoon, the FBI released additional investigative documents from the Clinton investigation which demonstrate, among other things, that more than 100 of the emails on Secretary Clinton’s private server contained classified information and that emails required to be preserved under Federal law were, in fact, destroyed.

Even more alarming, we have recently learned that President Obama used a pseudonym to communicate with Secretary Clinton on her email server. Why is this relevant? As Secretary Clinton’s top aide, Huma Abedin claimed, when informed by the FBI of the existence of an email between her boss and the President, “How is that not classified?”

Armed with knowledge of the President’s now-known-to-be-false claim that he only learned of Clinton’s private email account “at the same time everybody else learned it, through news reports,” did the FBI review why the President was also sending classified information over unsecure means. In effect, this President and the former Secretary of State improperly transmitted communications

through nonsecure channels, placing our Nation's secrets in harm's way.

Secretary Clinton's decision to play fast and loose with our national security concerned not simply her daughter's wedding planning or yoga routines but, instead, quoting you, Director Comey, "Seven email chains concerned matters that were classified at the Top Secret/Special Access Program level when they were sent and received." Top Secret/Special Access Programs contain some of the most sensitive secret information maintained by our government. This is a truly remarkable fact. Were anyone of lesser notoriety than Hillary Clinton guilty of doing this, that person would already be in jail.

For Americans unsure what a special access program, or SAP, is, it is the kind of information that a war-planner would use to defeat an enemy or even clandestine intelligence operations. The Wall Street Journal explained that an SAP usually refers to highly covert technology programs often involving weaponry. Knowledge of these programs is usually restricted to small groups of people on a need-to-know basis.

For those wondering whether this kind of information on an unsecure server is a problem, you need read no further than the Huffington Post, which reported Hillary Clinton's private email server, containing tens of thousands of messages from her tenure as Secretary of State, was the subject of hacking attempts from China, South Korea, and Germany after she stepped down in 2016.

To conclude, let me ask everyone to engage in a thought experiment. One of this Nation's signature accomplishments in the war on terror was the raid on Abbottabad, Pakistan, on May 2, 2011, that resulted in the killing of Osama bin Laden. That operation, which was conducted by an elite team of U.S. Navy special operators, was, of course, highly classified.

Now, imagine, if you will, that classified information relating to the raid was passed through a nonsecure email server and was accessed by Nations or individuals hostile to the United States. Rather than a highly successful covert operation, we might have had a team of dead U.S. servicemen.

Hillary Clinton chose to send and receive Top Secret information over a personal, unsecure computer server housed in her various homes and once reportedly placed in a bathroom closet. These actions, without a doubt, opened these communications to hostile interception by our enemies and those who wish America harm.

These facts, and not the imagined history I have asked you to contemplate, were the basis of the investigation by the FBI. And these are the facts that you, Director Comey, chose to hold unworthy of a recommendation to prosecute, saying that no reasonable prosecutor would bring such a case.

We, as Congress and the American people, are troubled how such gross negligence is not punished and why there seems to be a different standard for the politically well-connected, particularly if your name is Clinton.

Mr. Director, I look forward to your testimony today.

At this time, I am pleased to recognize the Ranking Member of the Committee, the gentleman from Michigan, Mr. Conyers, for his opening statement.

Mr. CONYERS. Thank you, Chairman Goodlatte.

Welcome again, Director Comey, for your appearance here today.

The FBI's mission is a complex undertaking: to protect the United States from terrorism, to enforce our criminal laws, and to lead the Nation's law enforcement community.

That mission ought to mirror our own priorities in this Committee. In the past few days, for example, we have witnessed near-fatal terrorist attacks in Minnesota, New York, and New Jersey. These attacks underscore the growing fear that individuals can be moved to violence at home by the propaganda of ISIS and other terrorist groups abroad even though they have no direct connection to those organizations.

To me, this threat is dire. We should be doing all we can within our communities and within our constitutional framework to mitigate the danger. But will our majority here in the House use their time today to discuss these attacks? I suspect that they will not be in their focus in this campaign season.

In Charlotte, in Tulsa, in Dallas, right here in Washington, and in other cities across this country, our citizens demand answers to questions about race and policing and the use of lethal force by law enforcement. Our police are under siege, often underresourced, and, in some cases, hard-pressed to build trust with the communities they serve.

Director Comey, your continued work to foster lines of communication between police officers and the general public is commendable—and necessary if we are to keep our citizens safe from harm.

But will my colleagues discuss this pressing issue with the Director of the FBI, whose leadership in the law enforcement community is paramount? I hope so. I am also afraid the focus may be elsewhere.

The FBI is the lead agency in the investigation of cyber-based terrorism, computer intrusions, online sexual exploitation, and major cyber fraud. We have known for some years about the persistent cyber threat to our critical infrastructure. Now we hear reports of a new cyber threat to the very basis of our democratic process.

Twice this summer, Director Comey, I wrote to you with my fellow Ranking Members to ask you to look into reports that Russian state actors are working to undermine our election process.

Without objection, Mr. Chairman, I ask that both these letters be placed in the record.

Mr. GOODLATTE. Without objection, they will be made a part of the record.

[The information referred to follows:]

Congress of the United States
Washington, DC 20515

July 25, 2016

The Honorable James B. Comey
Director of the Federal Bureau of Investigation
FBI Headquarters
935 Pennsylvania Avenue NW
Washington, D.C. 20535

The Honorable Ashton B. Carter
Secretary of Defense
U.S. Department of Defense
1300 Defense Pentagon
Washington, D.C. 20301

The Honorable John F. Kerry
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, D.C. 20520

The Honorable James R. Clapper
Director of National Intelligence
Office of the Director of National
Intelligence
Washington, D.C. 20511

Dear Director Comey, Secretaries Kerry and Carter, and General Clapper:

As senior Members of national-security committees in Congress, we are deeply troubled by reports of a Russia-supported hacking of Democratic National Committee data, and we applaud the FBI's quick action launching an investigation. We request that the Administration brief members of Congress on this situation as soon as possible in unclassified or classified settings as needed.

We see two separate issues at play here, both of which deserve the focus of investigators and Congressional overseers.

First, the DNC hack was plainly cyber-crime. More and more, America's adversaries are employing cyber-theft and cyber-terrorism as tactics to threaten our security. We need to understand fully the extent of the hack and work to determine who was responsible. We need to assess whose personal information was compromised by the attack, and ensure those individuals have what they need to prevent any further damage. We need to determine what vulnerabilities allowed this attack to succeed, and provide information to the public about how to guard against future attacks of this nature.

Second—and perhaps more important—the timing and content of the theft, targeting one of our two major political parties, makes clear that this cyber-attack amounts to more than a public embarrassment or harmless mischief. If reports of Russia's involvement are confirmed, the only reasonable conclusion is that leaders in Russia are stealing and disseminating information in an effort to sway an election in the United States.

Honorable James B. Comey
 Honorable John F. Kerry
 Honorable Ashton B. Carter
 Honorable James R. Clapper
 Page Two
 July 25, 2016

This is an action right out of President Putin's playbook. In recent years, Russia has influenced elections, infiltrated political parties across Europe, and stoked divisive politics in the hope of fracturing Western unity. It doesn't stretch the imagination that Mr. Putin would now try his hand at manipulating the course of American democracy—leaking information through a syndicate that has repeated anti-Semitic insinuations, endangered lives, and threatened American security by recklessly releasing stolen information. That scenario should sound the alarm for people across this country.

That's why we also ask that the FBI collaborate with the Departments of State and Defense and the Intelligence Community to obtain a complete picture of Russia's involvement and its leaders' intentions. Nearly a half century ago, a break-in at the DNC headquarters eventually led to the end of a Presidency. For a foreign government to engage in the same sort of behavior cannot be tolerated. Russia doesn't get to put its thumb on the scale in our elections. In the days ahead, we need to send a clear message to Russia's leaders and all who mean us harm: we will not allow the Kremlin or any other foreign power to dictate the terms of political debate in this country.

With the clock ticking down to our election, we ask for quick action on this matter. The American people deserve to go to the polls in November confident that Russian subterfuge has had no role in setting the agenda for our country's future.

Sincerely,


 ELIOT L. ENGEL
 Ranking Member
 House Foreign Affairs Committee


 JOHN CONYERS, JR.
 Ranking Member
 House Judiciary Committee


 BENNIE G. THOMPSON
 Ranking Member
 House Homeland Security Committee

Congress of the United States
Washington, DC 20515

August 30, 2016

The Honorable James Comey
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Mr. Director:

Based on multiple press reports, it appears that the Federal Bureau of Investigation (FBI) is investigating whether Russia executed cyber attacks against the Democratic National Committee (DNC) and the Democratic Congressional Campaign Committee (DCCC) that resulted in the illegal hacking of a wide range of emails and other documents.¹

We are writing to request that the FBI assess whether connections between Trump campaign officials and Russian interests may have contributed to these attacks in order to interfere with the U.S. presidential election.

Serious questions have been raised about overt and covert actions by Trump campaign officials on behalf of Russian interests. It is critical for the American public to know whether those actions may have directly caused or indirectly motivated attacks against Democratic institutions and our fundamental election process.

On July 22, 2016, just days before the Democratic convention, approximately 20,000 pages of illegally hacked documents were leaked by WikiLeaks in an apparent attempt to influence the U.S. presidential election in favor of Donald Trump.² According to one press report:

The FBI suspects that Russian government hackers breached the networks of the Democratic National Committee and stole emails that were posted to the anti-secrecy site

¹ See, e.g., *FBI Investigating Whether Russians Hacked Democratic Party's Emails to Help Donald Trump*, Los Angeles Times (July 25, 2016) (online at www.latimes.com/nation/la-na-pol-fbi-hack-dnc-russia-20160725-snap-story.html). See also *Growing Evidence Suggests Recent Hacks the Work of Russian-Backed Cyber Militias*, Fox News (Aug. 20, 2016) (online at www.foxnews.com/politics/2016/08/20/growing-evidence-suggest-recent-hacks-work-russian-backed-cyber-militias.html).

² *WikiLeaks Releases Thousands of Documents About Clinton and Internal Deliberations*, Washington Post (July 22, 2016) (online at www.washingtonpost.com/news/post-politics/wp/2016/07/22/on-cve-of-democratic-convention-wikileaks-releases-thousands-of-documents-about-clinton-the-campaign-and-internal-deliberations/).

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WikiLeaks on Friday. It's an operation that several U.S. officials now suspect was a deliberate attempt to influence the presidential election in favor of Donald Trump, according to five individuals familiar with the investigation of the breach.³

Donald Trump has repeatedly praised Russian President Vladimir Putin, stating that "he's doing a great job,"⁴ "I'd get along very well with Vladimir Putin,"⁵ and "It is always a great honor to be so nicely complimented by a man so highly respected."⁶ Donald Trump's business interests in Russia have also been widely reported.⁷

Donald Trump has proposed shocking policy positions that would greatly benefit Russia, including breaking from longstanding U.S. commitments to our NATO allies to combat Russian aggression⁸ and weakening sanctions and recognizing Russia's annexation of Crimea.⁹

Of direct concern, however, are Donald Trump's comments encouraging Russian hacking and his top aides' previously undisclosed connections to Russian officials and interests.

On July 27, 2016—the third day of the Democratic convention—Donald Trump urged Russia to hack Secretary Hillary Clinton's emails.¹⁰

³ *FBI Suspects Russia Hacked DNC; U.S. Officials Say it Was to Elect Donald Trump*, Daily Beast (July 25, 2016) (online at www.thedailybeast.com/articles/2016/07/25/fbi-suspects-russia-hacked-dnc-u-s-officials-say-it-was-to-elect-donald-trump.html).

⁴ *Larry King Live*, CNN (Oct. 15, 2007) (online at www.cnn.com/TRANSCRIPTS/071015/lkl.01.html).

⁵ *Donald Trump: "I'd Get Along Very Well With Vladimir Putin."*, CBS News (July 30, 2015) (online at www.cbsnews.com/news/donald-trump-id-get-along-very-well-with-vladimir-putin/).

⁶ *Trump Says "Great Honor" to Get Compliments from "Highly Respected" Putin*, ABC News (Dec. 17, 2015) (online at <http://abcnews.go.com/Politics/trump-great-honor-compliments-highly-respected-putin/story?id=35829618>).

⁷ *Inside Donald Trump's Financial Ties to Russia and His Unusual Flattery of Vladimir Putin*, Washington Post (June 17, 2016) (online at www.washingtonpost.com/politics/inside-trumps-financial-ties-to-russia-and-his-unusual-flattery-of-vladimir-putin/2016/06/17/4bdcaac8-31a6-11e6-81f7-7b6c1998b7a0_story.html?postshare=1821472042965377&tid=ss_mail).

⁸ *Trump Takes Heat from NATO Officials for Interview Comments*, Fox News (July 21, 2016) (online at www.foxnews.com/politics/2016/07/21/trump-takes-heat-from-nato-officials-for-interview-comments.html).

⁹ *This Week with George Stephanopoulos*, ABC News (July 31, 2016) (online at <http://abcnews.go.com/Politics/week-transcript-donald-trump-vice-president-joe-biden/story?id=41020870>).

¹⁰ *Trump Urges Russia to Hack Clinton's Email*, Politico (July 27, 2016) (online at www.politico.com/story/2016/07/trump-putin-no-relationship-226282).

The Honorable James Comey
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Less than two weeks later, on August 8, 2016, Roger Stone, a Donald Trump confidant, revealed that he has communicated with WikiLeaks founder Julian Assange about the upcoming release of additional illegally-hacked Democratic documents. Mr. Stone made these statements during a Republican campaign event while answering a question about a potential "October surprise."¹¹

It is unclear whether U.S. law enforcement authorities have interviewed Mr. Stone about his communications with Mr. Assange or about his knowledge of how WikiLeaks obtained the illegally-hacked documents.

In addition, on July 7, 2016, one of Donald Trump's foreign policy advisers, Carter Page, traveled to Moscow to give a speech that was harshly critical of the United States and its "hypocritical focus on ideas such as democratization, inequality, corruption and regime change."¹² Mr. Page had touted his extensive dealings with Russian energy giant Gazprom, claiming that he had been an adviser "on key transactions for Gazprom."¹³ After Donald Trump named Mr. Page as his foreign policy adviser in March, Mr. Page explained that "his business has suffered directly from the U.S. economic sanctions imposed after Russia's escalating involvement in the Ukraine."¹⁴

Mr. Page appears to enjoy high-level access to Russian officials that are currently under sanctions imposed by the United States government. According to one press report:

After the Obama administration added Rosneft Chairman Igor Sechin to its sanctions list in 2014, limiting Sechin's ability to travel to the United States or do business with U.S. firms, Page praised the former deputy prime minister, considered one of Putin's closest allies over the past 25 years. "Sechin has done more to advance U.S.-Russian relations than any individual in or out of government from either side of the Atlantic over the past decade," Page wrote.¹⁵

¹¹ *Trump Ally Claims He "Communicated With" WikiLeaks Founder*, Washington Examiner (Aug. 9, 2016) (online at www.washingtonexaminer.com/trump-ally-claims-he-communicated-with-wikileaks-founder/article/2598931).

¹² *Trump's Russia Adviser Criticizes U.S. for "Hypocritical Focus on Democratization"*, Washington Post (July 7, 2016) (online at www.washingtonpost.com/world/europe/trumps-russia-adviser-criticizes-us-for-hypocritical-focus-on-democratization/2016/07/07/304a3d60-4380-11e6-a76d-3550dba926ae_story.html).

¹³ *Biography of Carter Page, CFA*, Global Energy Capital LLC (accessed Aug. 22, 2016) (online at www.globalenergycap.com/management/).

¹⁴ *Trump's New Russia Adviser Has Deep Ties to Kremlin's Gazprom*, Bloomberg (Mar. 30, 2016) (online at www.bloomberg.com/politics/articles/2016-03-30/trump-russia-adviser-carter-page-interview).

¹⁵ *Trump Adviser's Public Comments, Ties to Moscow Stir Unease in Both Parties*, Washington Post (Aug. 5, 2016) (online at www.washingtonpost.com/business/economy/trump-advisers-public-comments-ties-to-moscow-stir-unease-in-both-parties/2016/08/05/2e8722fa-5815-11e6-9aee-8075993d73a2_story.html).

The Honorable James Comey
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It is unclear whether U.S. law enforcement authorities have interviewed Mr. Page about whether he met with Mr. Sechin or other individuals on the U.S. sanctions list during his trip to Moscow or on other occasions.

Another top adviser to Donald Trump, Lt. Gen. Michael Flynn, traveled to Moscow in December 2015 and joined Vladimir Putin at the head table during a dinner honoring the Kremlin-backed media network RT. During the event, General Flynn gave a speech that was highly critical of the United States, stating, "The United States can't sit there and say, 'Russia, you're bad.'"¹⁶ The following week, President Putin praised Donald Trump as "an outstanding and talented personality."¹⁷ General Flynn declined to answer media inquiries about whether he traveled to Moscow on Donald Trump's behalf.¹⁸

Most recently, Donald Trump's campaign chairman, Paul Manafort, resigned after failing to disclose his role in assisting a pro-Russian party in Ukraine. Mr. Manafort reportedly had "wooded investments from oligarchs linked to Putin and advised the now-toppled pro-Russian Ukrainian president Viktor Yanukovich."¹⁹ According to one press account:

Donald Trump's campaign chairman helped a pro-Russian governing party in Ukraine secretly route at least \$2.2 million in payments to two prominent Washington lobbying firms in 2012, and did so in a way that effectively obscured the foreign political party's efforts to influence U.S. policy. Under federal law, U.S. lobbyists must declare publicly if they represent foreign leaders or their political parties and provide detailed reports about their actions to the Justice Department. A violation is a felony and can result in up to five years in prison and a fine of up to \$250,000.²⁰

Rick Gates, a top strategist in Donald Trump's campaign, reportedly worked with Mr. Manafort on this effort, "helping steer the advocacy work done by a pro-Yanukovich nonprofit," including "downplaying the necessity of a congressional resolution meant to pressure the

¹⁶ *Trump Embraces Ex-Top Obama Intel Official*, Daily Beast (Mar. 9, 2016) (online at www.thedailybeast.com/articles/2016/03/09/donald-trump-embraces-top-obama-intel-official.html).

¹⁷ *Putin Praises "Bright and Talented" Trump*, CNN (Dec. 17, 2015) (online at www.cnn.com/2015/12/17/politics/russia-putin-trump/).

¹⁸ *Trump Embraces Ex-Top Obama Intel Official*, Daily Beast (Mar. 9, 2016) (online at www.thedailybeast.com/articles/2016/03/09/donald-trump-embraces-top-obama-intel-official.html).

¹⁹ *Trump Adviser's Public Comments Ties to Moscow Stir Unease in Both Parties*, Washington Post (Aug. 3, 2016) (online at www.washingtonpost.com/business/economy/trump-advisers-public-comments-ties-to-moscow-stir-unease-in-both-parties/2016/08/05/2e8722fa-5815-11e6-9aee-8075993d73a2_story.html).

²⁰ *Manafort Tied to Undisclosed Foreign Lobbying*, Associated Press (Aug. 17, 2016) (online at <http://bigstory.ap.org/article/c01989a47ee5421593ba1b301ec07813/ap-sources-manafort-tied-undisclosed-foreign-lobbying>).

The Honorable James Coincy
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Ukrainian leader to release an imprisoned political rival."²¹ Although Mr. Manafort has resigned from his position, it appears that Mr. Gates continues to be a top adviser to Mr. Trump.

It is unclear whether U.S. law enforcement authorities have interviewed Mr. Manafort or Mr. Page about their failure to disclose this information, but several prominent Members of Mr. Trump's party have expressed grave concerns.

For example, Republican Adam Kinzinger of Illinois called for an investigation into Donald Trump's "chief adviser, what his association with the Russians are." More broadly, Rep. Kinzinger criticized "his affection in the campaign for Russia and Vladimir Putin," and he questioned how and why a reference to Russian offensive weapons was mysteriously removed from the Republican Party's platform, noting that "it just happened."²²

Similarly, Eliot Cohen, who served as a counselor at the State Department under the George W. Bush Administration, warned: "Foreign governments sometimes express preferences about who should be elected; that's already problematic. But to do something in the nature of dirty tricks would be a very, very serious problem."²³

Finally, House Speaker Paul Ryan's spokesman stated: "Russia is a global menace led by a devious thug. Putin should stay out of this election."²⁴

We do not know if Donald Trump's public statements or the connections of his campaign officials to Russian interests directly or indirectly led to the cyber attacks against Democratic party organizations, but there is widespread agreement that the United States should take all steps possible to prevent Russia from interfering in our electoral process and prosecute to the full extent of the law anyone involved in such a scheme.

²¹ *Id.*

²² *GOP Congressman Warns Trump: Russia Not an Ally*, CNN (Aug. 6, 2016) (online at www.cnn.com/videos/tv/2016/08/15/gop-congressman-rep-adam-kinzinger-reacts-to-trumps-isis-plan-the-lead.cnn); *Rep. Kinzinger Calls for Investigation Into Manafort-Russian Ties*, Politico (Aug. 6, 2016) (online at www.politico.com/story/2016/08/gop-rep-calls-for-investigation-into-manafort-russian-ties-227090). *See also Donald Trump Campaign Chairman Paul Manafort Resigns*, CNN (Aug. 20, 2016) (online at www.cnn.com/2016/08/19/politics/donald-trump-campaign-chairman-paul-manafort-resigns/index.html) (citing Rep. Sean Duffy of Wisconsin, stating, "I want to know what money he got from a pro-Russian organization in the Ukraine.").

²³ *Trump Invites Russia to Meddle in the U.S. Presidential Race with Clinton's Emails*, Washington Post (July 27, 2016) (online at www.washingtonpost.com/politics/trump-invites-russia-to-meddle-in-the-us-presidential-race-with-clintons-emails/2016/07/27/a85d799e-5414-11e6-b7de-dfc509430c39_story.html?hpid=hp_hp-top-table-main-trump-emails-clinton-emails%3Ahomepage%2Fstory&hpid=hp_hp-top-table-main-trump-emails-clinton-emails%3Ahomepage%2Fstory).

²⁴ *Speaker Paul Ryan Calls on "Global Menace" Russia to "Stay Out of This Election;" The Call Came After Donald Trump Encouraged Russian Hackers to Target Hillary Clinton*, CNN (July 27, 2016) (online at <http://time.com/4426783/paul-ryan-republicans-donald-trump-russia/>).

The Honorable James Comey
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Thank you for your consideration of this request.

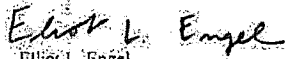
Sincerely,



Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform



John Conyers, Jr.
Ranking Member
Committee on the Judiciary



Elliot L. Engel
Ranking Member
Committee on Foreign Affairs



Bennie G. Thompson
Ranking Member
Committee on Homeland Security

cc: The Honorable Jason Chaffetz
The Honorable Bob Goodlatte
The Honorable Edward R. Royce
The Honorable Michael T. McCaul

Mr. CONYERS. Thank you.

It is now the clear consensus of the intelligence community that the Russian Government was behind the hack of the Democratic National Committee and not, as some suggested, somebody sitting on their bed that weighs 400 pounds.

On Friday, we learned from one report that the United States intelligence officials are seeking to determine whether an American businessman identified by Donald Trump as one of his foreign policy advisers has opened up private communications with senior Russian officials, including talks about the possible lifting of economic sanctions if the Republican nominee becomes President.

The report cites to an unnamed "senior U.S. law enforcement official," which I presume means someone in your orbit, Mr. Director.

Without objection, I ask that this article, Mr. Chairman, be placed into the record as well.

Mr. GOODLATTE. Without objection, it will be made a part of the record.

[The information referred to follows:]

U.S. intel officials probe ties between Trump adviser and Kremlin



Michael Isikoff
Chief Investigative Correspondent
September 23, 2016

U.S. intelligence officials are seeking to determine whether an American businessman identified by Donald Trump as one of his foreign policy advisers has opened up private communications with senior Russian officials — including talks about the possible lifting of economic sanctions if the Republican nominee becomes president, according to multiple sources who have been briefed on the issue.

The activities of Trump adviser Carter Page, who has extensive business interests in Russia, have been discussed with senior members of Congress during recent briefings about suspected efforts by Moscow to influence the presidential election, the sources said. After one of those briefings, Senate minority leader Harry Reid wrote FBI Director James Comey, citing reports of meetings between a Trump adviser (a reference to Page) and "high ranking sanctioned individuals" in Moscow over the summer as evidence of "significant and disturbing ties" between the Trump campaign and the Kremlin that needed to be investigated by the bureau.

Some of those briefed were "taken aback" when they learned about Page's contacts in Moscow, viewing them as a possible back channel to the Russians that could undercut U.S. foreign policy, said a congressional source familiar with the briefings but who asked for anonymity due to the sensitivity of the subject. The source added that U.S. officials in the briefings indicated that intelligence reports about the adviser's talks with senior Russian officials close to President Vladimir Putin were being "actively monitored and investigated."

A senior U.S. law enforcement official did not dispute that characterization when asked for comment by Yahoo News. "It's on our radar screen," said the official about Page's contacts with Russian officials. "It's being looked at."

Page is a former Merrill Lynch investment banker in Moscow who now runs a New York consulting firm, Global Energy Capital, located around the corner from Trump Tower, that specializes in oil and gas deals in Russia and other Central Asian countries. He declined repeated requests to comment for this story.

Trump first mentioned Page's name when asked to identify his "foreign policy team" during an interview with the Washington Post editorial team last March. Describing him then only as a "PhD," Trump named Page as among five advisers "that we are dealing with." But his precise

role in the campaign remains unclear; Trump spokeswoman Hope Hicks last month called him an "informal foreign adviser" who "does not speak for Mr. Trump or the campaign." Asked this week by Yahoo News, Trump campaign spokesman Jason Miller said Page "has no role" and added: "We are not aware of any of his activities, past or present." Miller did not respond when asked why Trump had previously described Page as one of his advisers.

The questions about Page come amid mounting concerns within the U.S. intelligence community about Russian cyberattacks on the Democratic National Committee and state election databases in Arizona and Illinois. In a rare public talk this week, former undersecretary of defense for intelligence Mike Vickers said that the Russian cyberattacks constituted meddling in the U.S. election and were "beyond the pale." Also, this week, two senior Democrats — Sen. Dianne Feinstein, ranking minority member on the Senate Intelligence Committee, and Rep. Adam Schiff, ranking minority member on the House Intelligence Committee — released a joint statement that went further than what U.S. officials had publicly said about the matter.

"Based on briefings we have received, we have concluded that the Russian intelligence agencies are making a serious and concerted effort to influence the U.S. election," they said. "At the least, this effort is intended to sow doubt about the security of our election and may well be intended to influence the outcomes of the election." They added that "orders for the Russian intelligence agencies to conduct such actions could come only from very senior levels of the Russian government."

Page came to the attention of officials at the U.S. Embassy in Moscow several years ago when he showed up in the Russian capital during several business trips and made provocative public comments critical of U.S. policy and sympathetic to Putin. "He was pretty much a brazen apologist for anything Moscow did," said one U.S. official who served in Russia at the time.

He hasn't been shy about expressing those views in the U.S. as well. Last March, shortly after he was named by Trump as one of his advisers, Page told Bloomberg News he had been an adviser to, and investor in, Gazprom, the Russian state-owned gas company. He then blamed Obama administration sanctions — imposed as a response to the Russian annexation of Crimea — for driving down the company's stock. "So many people who I know and have worked with have been so adversely affected by the sanctions policy," Page said in the interview. "There's a lot of excitement in terms of the possibilities for creating a better situation."

Page showed up again in Moscow in early July, just two weeks before the Republican National Convention formally nominated Trump for president, and once again criticized U.S. policy. Speaking at a commencement address for the New Economic School, an institution funded in part by major Russian oligarchs close to Putin, Page asserted that "Washington and other West capitals" had impeded progress in Russia "through their often hypocritical focus on ideas such as democratization, inequality, corruption and regime change."

At the time, Page declined to say whether he was meeting with Russian officials during his trip, according to a Reuters report.

But U.S. officials have since received intelligence reports that during that same three-day trip, Page met with Igor Sechin, a longtime Putin associate and former Russian deputy prime minister who is now the executive chairman of Rosneft, Russian's leading oil company, a well-placed Western intelligence source tells Yahoo News. That meeting, if confirmed, is viewed as especially problematic by U.S. officials because the Treasury Department in August 2014 named Sechin to a list of Russian officials and businessmen sanctioned over Russia's "illegitimate and unlawful actions in the Ukraine." (The Treasury announcement described Sechin as "utterly loyal to Vladimir Putin — a key component to his current standing." At their alleged meeting, Sechin raised the issue of the lifting of sanctions with Page, the Western intelligence source said.

U.S. intelligence agencies have also received reports that Page met with another top Putin aide while in Moscow — Igor Diveykin. A former Russian security official, Diveykin now serves as deputy chief for internal policy and is believed by U.S. officials to have responsibility for intelligence collected by Russian agencies about the U.S. election, the Western intelligence source said.

Mr. CONYERS. Thank you.

Let me be clear. If true, this allegation represents a danger to our national security and a clear violation of Federal law, which expressly prohibits this type of back-channel negotiation.

And I am not alone in describing the nature of this threat. Speaker Ryan himself has said that "Russia is a global menace led by a devious thug. Putin should stay out of this election," end quotation.

But will our majority join us and press you on this problem today, Director Comey? Instead, I believe that the focus of this hearing will be more of the same: an attack on you and your team at the Department of Justice for declining to recommend criminal charges against Secretary Hillary Clinton.

In recent weeks, this line of attack has been remarkable only for its lack of substance. Your critics dwell in character assassination and procedural minutia, like the proper scope of immunity agreements and your decision to protect the identities of individuals wholly unrelated to the investigation. They want to investigate the investigation, Director Comey, and I consider that an unfortunate waste of this Committee's time.

With so many actual problems confronting this Nation and so many of those challenges within your jurisdiction and ours, you would think my colleagues would set their priorities differently. I hope that they do and they listen to our conversation today.

I thank the Chairman, and I yield back.

Mr. GOODLATTE. Thank you, Mr. Conyers.

And, without objection, all other Members' opening statements will be made a part of the record.

We welcome our distinguished witness. And if you would please rise, I will begin by swearing you in.

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

Thank you.

Let the record reflect that the witness answered in the affirmative.

FBI Director James Comey is a graduate of the College of William and Mary and the University of Chicago Law School. Following law school, Director Comey served as an assistant United States attorney for both the Southern District of New York and the Eastern District of Virginia. He returned to New York to become the U.S. attorney for the Southern District of New York. And, in 2003, he served as the Deputy Attorney General at the Department of Justice.

Director Comey, we look forward to your testimony. Your written statement will be entered into the record in its entirety, and we ask that you summarize your testimony in 5 minutes. You may begin. Welcome.

**TESTIMONY OF THE HONORABLE JAMES B. COMEY,
DIRECTOR, FEDERAL BUREAU OF INVESTIGATION**

Mr. COMEY. Thank you, Mr. Chairman, Mr. Conyers, the Members of the Judiciary Committee. It is good to be back before you,

as the Chairman said, for the fourth time. I have six more to go, and I look forward to our conversations each time.

I know that this morning there will be questions about the email investigation, and I am happy to answer those to the absolute best of my ability. In July, when we closed this case, I promised unusual transparency, and I think we have delivered on that promise in, frankly, an unprecedented way. And I will do my absolute best to continue to be transparent in every way possible.

But what I thought I would do, because I know we will talk about that quite a bit, I want to just focus on some of the other things the FBI has been doing just in the last couple of weeks. And my objective is to make clear to you and to the American people the quality of the people who have chosen to do this with their lives, to do something that is not about money, it is not about the living, it is about the life that they make.

And I just picked four different examples of things we have been working on that illustrate the quality of the folks, the scope of the work, which is extraordinary, and the importance of partnerships, because it is true that the FBI does nothing alone.

So just to tick off four from four different parts of our organization, obviously, as the Chair and Mr. Conyers both mentioned, in the last couple weeks, our folks in the New York area have been working in an extraordinary way with their partners at Federal, State, and local organizations of all kinds to bring to justice very quickly the bomber in the New Jersey and New York attacks.

That work was done in a way, frankly, that would have been hard to imagine 15 years ago in a time of turf battles and worries about my jurisdiction, your jurisdiction. They showed you how it should be done, how it must be done. And I think we should all be very proud of them.

Second, within the last week, a hacker from Kosovo, who worked for the so-called Islamic State in hacking in and taking the identities and personal information of American military employees and then giving it to the Islamic State so they could target these people, was sentenced to 20 years in jail for that hacking. His name is Ardit Ferizi.

Our great folks, together with lots of partners around the world, found this Kosovar in Malaysia, and our Malaysian partners arrested him, brought him back to Virginia, where he was just sentenced to 20 years for his hacking on behalf of the Islamic State. Terrific work by our cyber investigators.

And, obviously, as you know, we are doing an awful lot of work through our counterintelligence investigators to understand just what mischief is Russia up to in connection with our election. That is work that goes on all day every day, about which I am limited in terms of answering questions. But I wanted you to know that is a part of our work we don't talk about an awful lot but it is at the core of the FBI.

And the last one I want to mention is, 2 weeks ago, a 6-year-old girl was kidnapped off her front lawn in eastern North Carolina in a stranger kidnapping. And all of law enforcement in North Carolina surged on that case. We rolled our Child Abduction Rapid Deployment Team, which is a capability we have built around the country to help in just these kinds of situations. These are agents

and analysts who are expert at doing what has to be done in that golden 24 hours you have to try and save a child.

And so we rolled those resources, we worked with our partners at State and local levels in North Carolina, and overnight we found that little girl. We found that little girl chained by her neck to a tree in the woods, alive, thank God, and she was rescued.

The picture that they showed me that morning of that little girl with wide eyes and her long hair around her shoulders but still a thick chain around her neck connecting her to that tree is one I will never be able to get out of my own head, because it is both terrible and wonderful. It is terrible because of what happened to this little girl; it is wonderful because, together, we found her and saved her.

So I called the sheriff in North Carolina, I called our key team members who worked on that to thank them. And they told me that they were relieved and exhausted and that they are all hardened investigators but they stood that early morning in the command center and cried together because it almost never ends this way.

So I said to the sheriff and to our people, I wish we didn't live in a world where little girls were kidnapped off of their front lawns, where we had to do this kind of work, but, unfortunately, we live in that world. And because we do, I am so glad that those people and the rest of the people that work for the FBI are in that world, because we are safer, we are better because they have chosen to do this with their lives.

The best part of my job is the people I get to watch, to see their work, to admire their work, to support their work in any way that I can. They are doing extraordinary work for the American people across an incredible array of responsibilities. I know you know that, and we are very grateful for the support you give to the men and women of the FBI. And I look forward to our conversation about their work, Mr. Chairman.

Thank you.

[The prepared statement of Mr. Comey follows:]



Department of Justice

STATEMENT OF
JAMES B. COMEY
DIRECTOR
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

FOR A HEARING CONCERNING
OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION

PRESENTED
SEPTEMBER 28, 2016

**Statement of
James B. Comey
Director
Federal Bureau of Investigation**

**Before the
Committee on the Judiciary
U.S. House of Representatives**

**For a Hearing Concerning
Oversight of the FBI**

September 28, 2016

Good morning Chairman Goodlatte, Ranking Member Conyers, and members of the committee. Thank you for this opportunity to discuss the FBI's programs and priorities for the coming year. On behalf of the men and women of the FBI, let me begin by thanking you for your ongoing support of the Bureau. We pledge to be the best possible stewards of the authorities and the funding you have provided for us, and to use them to maximum effect to carry out our mission.

Today's FBI is a threat-focused, intelligence-driven organization. Each FBI employee understands that to defeat the key threats facing our nation, we must constantly strive to be more efficient and more effective. Just as our adversaries continue to evolve, so, too, must the FBI. We live in a time of acute and persistent terrorist and criminal threats to our national security, our economy, and our communities. These diverse threats underscore the complexity and breadth of the FBI's mission.

We remain focused on defending the United States against terrorism, foreign intelligence, and cyber threats; upholding and enforcing the criminal laws of the United States; protecting privacy, civil rights and civil liberties; and providing leadership and criminal justice services to federal, state, tribal, municipal, and international agencies and partners. Our continued ability to carry out this demanding mission reflects the support and oversight provided by this committee.

National Security

Counterterrorism

Preventing terrorist attacks remains the FBI's top priority. Threats of terrorism against the United States remains persistent and acute. The dangers posed by foreign fighters, including those recruited from the U.S., traveling to join the Islamic State of Iraq and the Levant (ISIL) and from homegrown violent extremists are extremely dynamic. The tragic events we witnessed last week in New York and New Jersey and last June in Orlando are a somber reminder that the challenges we face are not just foreign in nature – they also come from within our own borders. Our work is very difficult; we are looking for needles in a nationwide haystack, but we are also called upon to

figure out which pieces of hay might someday become needles. That is hard work and the particular challenge of identifying homegrown violent extremists.

Threats of terrorism remain our highest priority and create the most serious challenges for the FBI, the U.S. Intelligence Community, and our foreign, state, and local allies. ISIL is relentless and ruthless in its pursuits to terrorize individuals in Syria and Iraq, including Westerners. We continue to identify individuals who seek to join the ranks of foreign fighters traveling in support of ISIL, and also homegrown violent extremists who may aspire to attack the United States from within. In addition, we are confronting an explosion of terrorist propaganda and training materials available via the Internet and social media. As a result of online recruitment and indoctrination, foreign terrorist organizations are no longer dependent on finding ways to get terrorist operatives into the U.S. to recruit and carry out acts. Terrorists in ungoverned spaces—both physical and cyber—readily disseminate poisoned propaganda and training materials to attract easily influenced individuals around the world to their cause. They encourage these individuals to travel, but if they cannot travel, they motivate them to act at home. This is a significant change and transformation from the terrorist threat our nation faced a decade ago.

ISIL's widespread reach through the Internet and social media is alarming as the group has proven dangerously competent at employing such tools for its nefarious strategy. ISIL uses high-quality, traditional media platforms, as well as widespread social media campaigns to propagate its extremist ideology. Recently released propaganda has included various English language publications circulated via social media.

Social media also helps groups such as ISIL to spot and assess potential recruits. With the widespread horizontal distribution of social media, terrorists can identify vulnerable persons of all ages in the United States—spot, assess, recruit, and radicalize—either to travel or to conduct a homeland attack. The foreign terrorist now has direct access into the United States like never before.

Unlike other groups, ISIL has constructed a narrative that touches on all facets of life from career opportunities to family life to a sense of community. The message isn't tailored solely to those who are overtly expressing symptoms of radicalization. It is seen by many who click through the Internet every day, receive social media push notifications, and participate in social networks. Ultimately, many of these individuals are seeking a sense of belonging. Echoing other terrorist groups, ISIL has advocated for lone offender attacks in Western countries. Recent ISIL videos and propaganda specifically advocate for attacks against soldiers, law enforcement, and intelligence community personnel. Several incidents have occurred in the United States, Canada, and Europe that indicate this "call to arms" has resonated among ISIL supporters and sympathizers.

Investigating and prosecuting ISIL offenders is a core responsibility and priority of the Department of Justice and the FBI. The Department has worked hard to stay ahead of changing national security threats and changing technology. The benefits of our increasingly digital lives,

however, have been accompanied by new dangers, and we have been forced to consider how criminals and terrorists might use advances in technology to their advantage. For instance, some of these conversations among ISIL supporters and sympathizers occur in publicly accessed social networking sites, but others take place via private messaging platforms. These encrypted direct messaging platforms are tremendously problematic when used by terrorist plotters. Similarly, we are seeing more and more cases where we believe significant evidence resides on a phone, a tablet, or a laptop evidence that may be the difference between an offender being convicted or acquitted. The more we as a society rely on electronic devices to communicate and store information, the more likely it is that information that was once found in filing cabinets, letters, and photo albums will now be stored only in electronic form. If we cannot access this evidence, it will have ongoing, significant effects on our ability to identify, stop, and prosecute these offenders.

We have always respected the fundamental right of people to engage in private communications, regardless of the medium or technology. Whether it is instant messages, texts, or old-fashioned letters, citizens have the right to communicate with one another in private without unauthorized government surveillance not simply because the Constitution demands it, but because the free flow of information is vital to a thriving democracy.

The FBI is using all lawful investigative techniques and methods to combat these terrorist threats to the United States, including both physical and electronic surveillance. Physical surveillance is a critical and essential tool in detecting, disrupting, and preventing acts of terrorism, as well as gathering intelligence on those who are capable of doing harm to the nation. Along with our domestic and foreign partners, we are collecting and analyzing intelligence about the ongoing threat posed by foreign terrorist organizations and homegrown violent extremists. We continue to encourage information sharing; in partnership with our many federal, state, local, and tribal agencies assigned to Joint Terrorism Task Forces around the country, we remain vigilant to ensure the safety of the American public.

Be assured, the FBI continues to pursue increased efficiencies and information sharing processes as well as pursue technological and other methods to help stay ahead of threats to the homeland. However, when changes in technology hinder law enforcement's ability to exercise investigative tools and follow critical leads, we may not be able to identify and stop terrorists who are using social media to recruit, plan, and execute an attack in our country. Ultimately, we must ensure both the fundamental right of people to engage in private communications as well as the protection of the public.

Going Dark

While some of the contacts between groups like ISIL and potential recruits occur in publicly accessible social networking sites, others take place via encrypted private messaging platforms. This real and growing gap, which the FBI refers to as "Going Dark," is an area of continuing focus for the FBI; we believe it must be addressed, since the resulting risks are grave both in both traditional criminal matters as well as in national security matters.

The United States government actively communicates with private companies to ensure they understand the public safety and national security risks that result from malicious actors' use of their encrypted products and services. Though the Administration has decided not to seek a legislative remedy at this time, we will continue the conversations we are having with private industry, State, local, and tribal law enforcement, our foreign partners, and the American people. The FBI thanks the committee members for their engagement on this crucial issue.

Intelligence

Integrating intelligence and operations is part of the broader intelligence transformation the FBI has undertaken in the last decade. We are making progress, but have more work to do. We have taken two steps to improve this integration. First, we have established an Intelligence Branch within the FBI headed by an Executive Assistant Director ("EAD"). The EAD looks across the entire enterprise and drives integration. Second, we now have Special Agents and new Intelligence Analysts at the FBI Academy engaged in practical training exercises and taking core courses together. As a result, they are better prepared to work well together in the field. Our goal every day is to get better at using, collecting and sharing intelligence to better understand and defeat our adversaries.

The FBI cannot be content to just work with what is directly in front of us. We must also be able to understand the threats we face at home and abroad and how those threats may be connected. Towards that end, the FBI gathers intelligence, consistent with our authorities, to help us understand and prioritize identified threats and to determine where there are gaps in what we know about these threats. We then seek to fill those gaps and learn as much as we can about the threats we are addressing and others on the threat landscape. We do this for national security and criminal threats, on both a national and local field office level. We then compare the national and local perspectives to organize threats into priority for each of the FBI's 56 field offices. By categorizing threats in this way, we strive to place the greatest focus on the gravest threats we face. This gives us a better assessment of what the dangers are, what's being done about them, and where we should prioritize our resources.

Counterintelligence

We still confront traditional espionage—spies posing as diplomats or ordinary citizens. But espionage also has evolved. Spies today are often students, researchers, or businesspeople operating front companies. And they seek not only state secrets, but trade secrets, intellectual property, and insider information from the federal government, U.S. corporations, and American universities. Foreign intelligence entities continue to grow more creative and more sophisticated in their methods to steal innovative technology, critical research and development data, and intellectual property. Their efforts seek to erode America's leading edge in business, and pose a significant threat to our national security.

We remain focused on the growing scope of the insider threat—that is, when trusted employees and contractors use their legitimate access to information to steal secrets for the benefit of

another company or country. This threat has been exacerbated in recent years as businesses have become more global and increasingly exposed to foreign intelligence organizations.

To combat this threat, the FBI's Counterintelligence Division has undertaken several initiatives. We directed the development, deployment, and operation of the Hybrid Threat Center (HTC) to support Department of Commerce Entity List investigations. The HTC is the first of its kind in the FBI; it has been well-received in the U.S. Intelligence Community, multiple FBI divisions, and the private sector.

The Counterintelligence and Cyber Divisions have also partnered to create the Cyber-Counterintelligence Coordination Section. This goal of this section is to effectively identify, pursue, and defeat hostile intelligence services that use cyber means to penetrate or disrupt U.S. government entities or economic interests by increasing collaboration, coordination, and interaction between the divisions. Finally, the Counterintelligence Division and the Office of Public Affairs collaborated to conduct a joint media campaign regarding the threat of economic espionage. As a result of this collaboration, the FBI publicly released a threat awareness video called *The Company Man: Protecting America's Secrets*. This video is available on the FBI's public website and has been shown more than 1,300 times across the United States by the Counterintelligence Division's Strategic Partnership Coordinators to raise awareness and generate referrals from the private sector. The video was also uploaded to YouTube in July 2015 and has received over 97,000 views since then.

Cyber

We face sophisticated cyber threats from state-sponsored hackers, hackers for hire, organized cyber syndicates, and terrorists. On a daily basis, cyber actors seek our state and trade secrets, our technology, and our ideas—things of incredible value to all of us and of great importance to the conduct of our government business and our national security. These threats seek to strike our critical infrastructure and to harm our economy.

The pervasiveness of the cyber threat is such that the FBI and other intelligence, military, homeland security, and law enforcement agencies across the government view cyber security and cyber-attacks as a top priority. Within the FBI, we are targeting the most dangerous malicious cyber activity: high-level intrusions by state-sponsored hackers and global cyber syndicates, and the most prolific botnets. We need to be able to move from reacting to such attacks after the fact to operationally preventing such attacks. That is a significant challenge, but one we embrace. As the committee is well aware, the frequency and impact of cyber-attacks on our nation's private sector and government networks have increased dramatically in the past decade and are expected to continue to grow.

We continue to see an increase in the scale and scope of reporting on malicious cyber activity that can be measured by the amount of corporate data stolen or deleted, personally identifiable information compromised, or remediation costs incurred by U.S. victims. For example, as the committee is aware, the Office of Personnel Management (OPM) discovered last year that a number of its systems were compromised. These systems included those that contain information

related to the background investigations of current, former, and prospective federal government employees and contractors, as well as other individuals for whom a federal background investigation was conducted. The FBI is continuing to investigate this matter with our interagency partners to investigate this matter.

Another growing threat to businesses and individuals alike is Ransomware. Last year alone there was a reported loss of more than \$24 million. The FBI works closely with the private sector so that companies may make informed decisions in response to malware attacks. Companies can prevent and mitigate malware infection by utilizing appropriate back-up and malware detection and prevention systems, and training employees to be skeptical of emails, attachments, and websites they don't recognize. The FBI does not condone payment of ransom, as such a payment does not guarantee a victim will regain access to their data, will not be targeted again, and may inadvertently encourage continued criminal activity.

The FBI is engaged in a myriad of efforts to combat cyber threats, from efforts focused on threat identification and sharing inside and outside of government, to our internal emphasis on developing and retaining new talent and changing the way we operate to evolve with the cyber threat. We take all potential threats to public and private sector systems seriously and will continue to investigate and hold accountable those who pose a threat in cyberspace.

Criminal

We face many criminal threats, from complex white-collar fraud in the financial, health care, and housing sectors to transnational and regional organized criminal enterprises to violent crime and public corruption. Criminal organizations—domestic and international—and individual criminal activity represent a significant threat to our security and safety in communities across the nation.

Public Corruption

Public corruption is the FBI's top criminal priority. The threat—which involves the corruption of local, state, and federally elected, appointed, or contracted officials—strikes at the heart of government, eroding public confidence and undermining the strength of our democracy. It affects how well U.S. borders are secured and neighborhoods are protected, how verdicts are handed down in court, and how well public infrastructure such as schools and roads are built. The FBI is uniquely situated to address this issue, with our ability to conduct undercover operations, perform electronic surveillance, and run complex cases. However, partnerships are critical and we work closely with federal, state, local, and tribal authorities in pursuing these cases.

One key focus is border corruption. The federal government protects 7,000 miles of U.S. land border and 95,000 miles of shoreline. Every day, more than a million visitors enter the country through one of the 327 official Ports of Entry along the Mexican and Canadian borders, as well as through seaports and international airports. Any corruption at the border enables a wide range of illegal activities along these borders, potentially placing the entire nation at risk by letting drugs, guns, money, and weapons of mass destruction slip into the country, along with criminals,

terrorists, and spies. FBI-led Border Corruption Task Forces are the cornerstone of our efforts to root out this kind of corruption. Located in nearly two dozen cities along our borders, these task forces generally consist of representatives from the FBI, the Department of Homeland Security Office of Inspector General; Customs and Border Protection Internal Affairs; Transportation Security Administration; Drug Enforcement Administration; Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Immigration and Customs Enforcement-Office of Professional Responsibility; and state and local law enforcement. Another focus concerns election crime. Although individual states have primary responsibility for conducting fair and impartial elections, the FBI becomes involved when paramount federal interests are affected or electoral abuse occurs.

Civil Rights

The FBI remains dedicated to protecting the constitutional freedoms of all Americans. This includes aggressively investigating and working to prevent hate crime, "color of law" abuses by public officials, human trafficking and involuntary servitude, and freedom of access to clinic entrances violations—the four top priorities of our civil rights program. We also support the work and cases of our local and state partners as needed.

We need to do a better job of tracking and reporting hate crime and "color of law" violations to fully understand what is happening in our communities and how to stop it. We cannot address issues about use of force and officer-involved shootings or why violent crime is up in some cities if we don't know the circumstances. Some jurisdictions fail to report hate crime statistics, while others claim there are no hate crimes in their community—a fact that would be welcome if true. We must continue to impress upon our state and local counterparts in every jurisdiction the need to track and report hate crimes. And we need the information they report to be accurate, to be timely and to be accessible to everybody or it doesn't do much good. On the part of the FBI, we are pushing for a more modern system of collecting data on officer-involved incidents and violent crime at all levels. It's a large undertaking; it will take a few years to ensure that all of the databases functional, but we are going to get there.

Health Care Fraud

We have witnessed an increase in health care fraud in recent years, including Medicare/Medicaid fraud, pharmaceutical fraud, and illegal medical billing practices. Health care spending currently makes up about 18 percent of our nation's total economy. These large sums present an attractive target for criminals. Health care fraud is not a victimless crime. Every person who pays for health care benefits, every business that pays higher insurance costs to cover their employees, and every taxpayer who funds Medicare is a victim. Schemes can also cause actual patient harm, including subjecting patients to unnecessary treatment or providing substandard services and supplies. As health care spending continues to rise, the FBI will use every tool we have to ensure our health care dollars are used appropriately and not to line the pockets of criminals.

The FBI currently has 2,783 pending health care fraud investigations. Over 70 percent of these investigations involve government sponsored health care programs to include Medicare, Medicaid, and TriCare, as well as other U.S. government funded programs. As part of our collaboration efforts, the FBI maintains investigative and intelligence sharing partnerships with government agencies such as other Department of Justice components, Department of Health and Human Services, the Food and Drug Administration, the Drug Enforcement Administration, State Medicaid Fraud Control Units, and other state, local, and tribal agencies. On the private side, the FBI conducts significant information sharing and coordination efforts with private insurance partners, such as the National Health Care Anti-Fraud Association, the National Insurance Crime Bureau, and private insurance investigative units. The FBI is also actively involved in the Health Care Fraud Prevention Partnership, an effort to exchange facts and information between the public and private sectors in order to reduce the prevalence of health care fraud.

Violent Crime

Violent crimes and illegal gang activities exact a high toll on individuals and communities. Today's gangs are sophisticated and well organized; many use violence to control neighborhoods and boost their illegal money-making activities, which include robbery, drug and gun trafficking, fraud, extortion, and prostitution rings. Gangs do not limit their illegal activities to single jurisdictions or communities. Because of its authority, the FBI is able to work across jurisdictional lines, which is vital to the fight against violent crime in big cities and small towns across the nation. Every day, FBI special agents work in partnership with state, local, and tribal law enforcement on joint task forces and individual investigations.

FBI joint task forces—Violent Crime Safe Streets, Violent Gang Safe Streets, and Safe Trails Task Forces—focus on identifying and targeting major groups operating as criminal enterprises. Much of the Bureau's criminal intelligence is derived from our state, local, and tribal law enforcement partners, who know their communities inside and out. Joint task forces benefit from FBI surveillance assets and our sources track these gangs to identify emerging trends. Through these multi-subject and multi-jurisdictional investigations, the FBI concentrates its efforts on high-level groups engaged in patterns of racketeering. This investigative model enables us to target senior gang leadership and to develop enterprise-based prosecutions.

Despite these efforts, there is something deeply disturbing happening all across America. The latest Uniform Crime Reporting statistics gathered from the *Preliminary Semiannual Uniform Crime Report, January-June, 2015*, show that the number of violent crimes in the nation increased by 1.7 percent during the first six months of 2015 as compared with figures reported for the same time in 2014, and this year we are also seeing an uptick of homicides in some cities. The police chiefs in these cities report that the increase is almost entirely among young men of color, at crime scenes in neighborhoods where multiple guns are recovered. There are a number of theories about what could be causing this disturbing increase in murders in our nation's cities

and the FBI is working with our federal, state, and local partners to uncover the root causes of violence and tackle it at its infancy.

Transnational Organized Crime

More than a decade ago, the image of organized crime was of hierarchical organizations, or families, that exerted influence over criminal activities in neighborhoods, cities, or states, but organized crime has changed dramatically. Today, international criminal enterprises run multi-national, multi-billion dollar schemes from start to finish. These criminal enterprises are flat, fluid networks with global reach. While still engaged in many of the "traditional" organized crime activities of loan-sharking, extortion, and murder, new criminal enterprises are targeting stock market fraud and manipulation, cyber-facilitated bank fraud and embezzlement, identity theft, trafficking of women and children, and other illegal activities. Preventing and combating transnational organized crime demands a concentrated effort by the FBI and federal, state, local, tribal, and international partners. The Bureau continues to share intelligence about criminal groups with our partners and to combine resources and expertise to gain a full understanding of each group.

Crimes Against Children

The FBI remains vigilant in its efforts to eradicate predators from our communities and to keep our children safe. Ready response teams are stationed across the country to quickly respond to abductions. Investigators bring to this issue the full array of forensic tools such as DNA, trace evidence, impression evidence, and digital forensics. Through improved communications, law enforcement also has the ability to quickly share information with partners throughout the world, and these outreach programs play an integral role in prevention.

The FBI also has several programs in place to educate both parents and children about the dangers posed by predators and to recover missing and endangered children should they be taken. Through our Child Abduction Rapid Deployment Teams, Innocence Lost National Initiative, Innocent Images National Initiative, annual Operation Cross Country, Office for Victim Assistance, 71 Child Exploitation Task Forces, and numerous community outreach programs, the FBI and its partners are working to keep our children safe from harm.

Operation Cross Country, a nationwide law enforcement action focusing on underage victims of prostitution, completed its ninth iteration during the first full week of October. Over 300 operational teams from over 500 agencies across 135 cities and 53 FBI Field Offices were instrumental in recovering child victims of all races and arresting pimps and customers. Ninety victim specialists, in coordination with local law enforcement victim advocates and non-governmental organizations, provided services to child and adult victims.

Indian Country

There are 567 federally recognized tribes in the United States, with the FBI and the Bureau of Indian Affairs having concurrent jurisdiction for felony-level crimes on over 200 reservations.

According to the 2010 Census, there are nearly five million people living on over 56 million acres of Indian reservations and other tribal lands. Criminal jurisdiction in these areas of our country is a complex maze of tribal, state, federal, or concurrent jurisdiction.

The FBI's Indian Country program currently has 124 special agents in 34 FBI field offices primarily working Indian Country crime matters. The number of agents, the vast territory, the egregious nature of crime being investigated, and the high frequency of the violent crime handled by these agents makes their responsibility exceedingly arduous. The FBI has 15 Safe Trails Task Forces that investigate violent crime, drug offenses, and gangs in Indian Country, and we continue to address the emerging threat from fraud and other white-collar crimes committed against tribal gaming facilities.

Sexual assault and child sexual assault are two of the FBI's investigative priorities in Indian Country. Statistics indicate that American Indians and Alaska Natives suffer violent crime at greater rates than other Americans. Approximately 75 percent of all FBI Indian Country matters involve death investigations, physical and/or sexual assault of a child, or aggravated assaults. At any given time, approximately 30 percent of the FBI's Indian Country investigations are based on allegations of sexual abuse of a child.

The FBI continues to work with Tribes through the Tribal Law and Order Act of 2010 to help Tribal governments better address the unique public safety challenges and disproportionately high rates of violence and victimization in many tribal communities. The act encourages the hiring of additional law enforcement officers for Native American lands, enhances tribal authority to prosecute and punish criminals, and provides the Bureau of Indian Affairs and tribal police officers with greater access to law enforcement databases.

FBI Laboratory

The FBI Laboratory is one of the largest and most comprehensive forensic laboratories in the world. Operating out of a state-of-the-art facility in Quantico, Virginia, laboratory personnel travel the world on assignment, using science and technology to protect the nation and support law enforcement, intelligence, military, and forensic science partners. The Lab's many services include providing expert testimony, mapping crime scenes, and conducting forensic exams of physical and hazardous evidence. Lab personnel possess expertise in many areas of forensics supporting law enforcement and intelligence purposes, including explosives, trace evidence, documents, chemistry, cryptography, DNA, facial reconstruction, fingerprints, firearms, and WMD.

One example of the Lab's key services and programs is the Combined DNA Index System (CODIS), which relies on computer technology to create a highly effective tool for linking crimes. It enables federal, state, and local forensic labs to exchange and compare DNA profiles electronically, thereby connecting violent crimes and known offenders. Using the National DNA Index System of CODIS, the National Missing Persons DNA Database helps identify missing and unidentified individuals.

Another example of the laboratory's work is the Terrorist Explosives Device Analytical Center (TEDAC). TEDAC was formally established in 2004 to serve as the single interagency organization to receive, fully analyze, and exploit all priority terrorist improvised explosive devices (IEDs). TEDAC coordinates the efforts of the entire government, including law enforcement, intelligence, and military entities, to gather and share intelligence about IEDs. These efforts help disarm and disrupt IEDs, link them to their makers, and prevent future attacks. Although originally focused on devices from Iraq and Afghanistan, TEDAC now receives and analyzes devices from all over the world.

The National Institute of Justice (NIJ) and the FBI have formed a partnership to address one of the most difficult and complex issues facing our nation's criminal justice system: unsubmitted sexual assault kits (SAKs). The FBI is the testing laboratory for the SAKs that law enforcement agencies and public forensic laboratories nationwide submit for DNA analysis. The NIJ coordinates the submission of kits to the FBI, and is responsible for the collection and analysis of the SAK data. The goal of the project is to better understand the issues concerning the handling of SAKs for both law enforcement and forensic laboratories and to suggest ways to improve the collection and processing of quality DNA evidence.

Additionally, the Laboratory Division maintains a capability to provide forensic support for significant shooting investigations. The Laboratory Shooting Reconstruction Team provides support to FBI field offices by bringing together expertise from various Laboratory components to provide enhanced technical support to document complex shooting crime scenes. Services are scene and situation dependent and may include mapping of the shooting scene in two or three dimensions, scene documentation through photography, including aerial and oblique imagery, 360 degree photography and videography, trajectory reconstruction, and the analysis of gunshot residue and shot patterns. Significant investigations supported by this team in recent years include the shootings in Chattanooga, the Charleston church shooting, the shootings at the Census Bureau and NSA, the shooting death of a Pennsylvania State Trooper, the Metcalf Power Plant shooting in San Francisco, and the Boston Bombing/Watertown Boat scene.

Information Technology

The Information and Technology Branch provides information technology to the FBI enterprise in an environment that is consistent with intelligence and law enforcement capabilities, and ensures reliability and accessibility by members at every location at any moment in time. Through its many projects and initiatives, it is expanding its information technology (IT) product offerings to better serve the operational needs of the agents and analysts and raising the level of services provided throughout the enterprise and with its counterparts in the law enforcement arena and Intelligence Community.

FBI special agents and analysts need the best technological tools available to be responsive to the advanced and evolving threats that face our nation. Enterprise information technology must be designed so that it provides information to operational employees rather than forcing employees to conform to the tools available. IT equipment must be reliable and accessible, as close to where

the work is performed as possible. By doing so, the FBI will decrease the time between information collection and dissemination.

Special agents and intelligence analysts are most effective when their individual investigative and intelligence work and collected information is connected to the efforts of thousands of other agents and analysts. We have developed software that makes that possible by connecting cases to intelligence, threats, sources, and evidence with our enterprise case and threat management systems. Similarly, we have provided our agents and analysts with advanced data discovery, analytics, exploitation, and visualization capabilities through tools integration and software development. In addition, we have enterprise business applications that address administrative, legal compliance, internal training standards, investigative and intelligence needs, and information sharing services. These tools allow for better data sharing with our law enforcement partners and allow FBI agents and analysts to share FBI intelligence products with our Intelligence Community partners around the world.

Conclusion

Finally, the strength of any organization is its people. The threats we face as a nation have never been greater or more diverse and the expectations placed on the Bureau have never been higher. Our fellow citizens look to us to protect the United States from all of those threats and the men and women of the Bureau continue to meet and exceed those expectations, every day. I want to thank them for their dedication and their service.

Chairman Goodlatte, Ranking Member Conyers, and members of the committee, thank you again for this opportunity to discuss the FBI's programs and priorities. Mr. Chairman, we are grateful for the leadership that you and this committee have provided to the FBI. We would not be in the position we are today without your support. Your support of our workforce, our technology, and our infrastructure make a difference every day at FBI offices in the United States and around the world, and we thank you for that support. I look forward to answering any questions you may have.

Mr. GOODLATTE. Thank you, Director Comey.

We will now begin questioning under the 5-minute rule, and I will begin my recognizing myself.

You testified that the FBI did not investigate the veracity of Secretary Clinton's testimony to the Select Benghazi Committee under oath. We referred the matter to the United States attorney for the District of Columbia.

Is the FBI now investigating the veracity of Secretary Clinton's testimony to the Select Benghazi Committee?

Mr. COMEY. Thank you, Mr. Chairman.

The Department has the referral—I think there were two separate referrals—has the referrals. Now it is pending, and so I am not going to comment on a pending matter at this point. But the matter has been received by the Department of Justice. They have the letters from the Committee.

Mr. GOODLATTE. And you cannot tell us whether or not you are indeed investigating?

Mr. COMEY. I can't.

Mr. GOODLATTE. When do you expect that you will be able to tell us more about this pending matter before the FBI?

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

Mr. GOODLATTE. Paul Combetta with Platte River Networks posted to Reddit asking how to "strip out a VIP's (VERY VIP) email address from a bunch of archived email." He went on, "The issue is that these emails involve the private email address of someone you'd recognize, and we're trying to replace it with a placeholder address as to not expose it."

This clearly demonstrates actions taken to destroy evidence by those operating Secretary Clinton's private server and by her staff. Certainly, Combetta did not take it upon himself to destroy evidence but had been instructed to do so by Secretary Clinton or her staff.

So my first question to you is, was the FBI aware of this Reddit post prior to offering Mr. Combetta immunity on May 3, 2016?

Mr. COMEY. I am not sure. I know that our team looked at it. I don't know whether they knew about it before then or not.

Mr. GOODLATTE. Isn't this information evidence of obstruction of justice and a violation of Mr. Combetta's immunity deal?

Mr. COMEY. Not necessarily, no.

Mr. GOODLATTE. Why not?

Mr. COMEY. It depends on what his intention was, why he wanted to do it. And I think our team concluded that what he was trying to do was, when they produced emails, not have the actual address but have some name or placeholder instead of the actual dot-com address in the "from" line.

Mr. GOODLATTE. Last week, the American people learned that Cheryl Mills, Secretary Clinton's longtime confidant and former State Department chief of staff, and Heather Samuelson, counsel to Secretary Clinton in the State Department, were granted immunity for production of their laptops. Why were they not targets of the FBI's criminal investigation?

Mr. COMEY. Well, a target is someone on whom you have sufficient evidence to indict. A subject is someone whose conduct at some point during the investigation falls within the scope of the in-

vestigation. So, certainly, with respect to Ms. Mills, at least initially, because she was an email correspondent, she was a subject of the investigation.

Mr. GOODLATTE. Did the FBI find classified information on either of their computers?

Mr. COMEY. I think there were some emails still on the computer that were recovered that were classified, is my recollection.

Mr. GOODLATTE. Isn't that a crime?

Mr. COMEY. Is what a crime, sir?

Mr. GOODLATTE. Having classified information on computers that are outside of the server system of the Department of State unsecured.

Mr. COMEY. No. It is certainly something—without knowing more, you couldn't conclude whether it was a crime. You would have to know what were the circumstances, what was the intention around that. But it is certainly something—it is the reason we conducted a yearlong investigation to understand where emails had gone on an unclassified system that contained classified information.

Mr. GOODLATTE. And what did you determine with regard to the emails found on her computer?

Mr. COMEY. I hope I am getting this right, and my troops will correct me if I am wrong, but they were duplicates of emails that had been produced, because the emails had been used to sort before a production.

Mr. GOODLATTE. Now, both Cheryl Mills and Heather Samuelson were granted immunity for production of these computers, these laptops. Why were they then allowed to sit in on the interview with Secretary Clinton?

Mr. COMEY. Right. The Department of Justice reached a letter agreement with the two lawyers to give them what is called act-of-production immunity, meaning nothing that is found on the laptop they turn over will be used against them directly, which is a fairly normal tool in investigations.

They were—Ms. Mills, in particular, was a member of Secretary Clinton's legal team. And so Secretary Clinton decides which of her lawyers come to voluntary interviews with the FBI.

Mr. GOODLATTE. Is it usual to allow a witness or potential witness in a subsequent prosecution, had one been undertaken, to be present in the room when the FBI interviews another witness and potential target of an investigation?

Mr. COMEY. The FBI has no ability to exclude or include any lawyer that a subject being interviewed chooses to have there.

Mr. GOODLATTE. Even if the lawyer is a witness in the case? Can you cite any other instance in which a witness to a criminal investigation, who has already been interviewed by the FBI, has been allowed to accompany and serve as legal counsel to the target of that investigation?

Mr. COMEY. I can't from personal experience. It wouldn't surprise me if it happened.

The FBI has no ability to decide who comes to an interview in a voluntary interview context. If it was a judicial proceeding, a judge could police who could be there. And, obviously, lawyers are governed by canons of ethics to decide what matters they can be

involved in. But it doesn't fall to us to say: You can be in, you can't be in.

Mr. GOODLATTE. But wouldn't you agree that it is a conflict of interest for them to serve as attorneys for Secretary Clinton in this matter, having been interviewed by the FBI as witnesses?

Mr. COMEY. That is a question a lawyer has to answer for him- or herself.

Mr. GOODLATTE. You are a lawyer, Director Comey. What is your opinion of that?

Mr. COMEY. Oh, I don't want to offer an opinion on that, but that is something a lawyer has to decide for themselves, I assume, with counsel and consulting our canons of ethics, what matters you can be involved in and what you can't.

But, again, the Bureau's role in conducting a voluntary interview is to interview the subject. Who they bring is up to them.

Mr. GOODLATTE. How can you trust the veracity of Secretary Clinton's answers, knowing that witnesses previously interviewed by the FBI were allowed to participate in the interview?

Mr. COMEY. We assess the answers based on what is said and all the other evidence we have gathered.

Mr. GOODLATTE. In—

Mr. COMEY. It doesn't matter—

Mr. GOODLATTE [continuing]. Consultation with her "attorneys," who are also witnesses to what was previously done earlier and may, in fact, have, themselves, violated the law, for which they requested and were granted immunity.

Mr. COMEY. Again, the answer is—excuse me—the answer is the same. We make the assessment based on what the witness says and the other evidence we have gathered in the case. Who is sitting there, to me, is not particularly germane.

Mr. GOODLATTE. Thank you. My time has expired.

The Chair recognizes the gentleman from Michigan, Mr. Conyers, for his questions.

Mr. CONYERS. Thank you.

Thank you so much.

Director James Comey, twice this past week, the city of Charlotte, North Carolina, has been shaken by the shooting deaths of Black men. It is only one city out of many in this country looking for answers about the use of force by police. We on this Committee are looking for answers too.

You are a vocal advocate for better collection of information about violent encounters between police and civilian. Has the FBI's ability to collect this information improved in the year since we have last discussed it? And why are these statistics so important to our current discussion on the use of force by police?

Mr. COMEY. Thank you, Mr. Conyers.

We are having passionate, important conversations in this country about police use of force in connection with encounters with civilians, especially with African-Americans.

Mr. CONYERS. Yes.

Mr. COMEY. All of those conversations are uninformed today. They are all driven by anecdote. Because, as a country, we simply don't have the information to know: Do we have an epidemic of violence directed by law enforcement against Black folks? Do we have

an epidemic involving brown folks? White folks? We just don't know. And in the absence of that data, we are driven entirely by anecdote, and that is a very bad place to be.

I don't know whether there is an epidemic of violence. My instincts tell me there isn't, but I don't know. I can't tell you whether shootings involving people of any different color are up or down or sideways, and nor can anybody else in this country. And so, to discuss the most important things that are going on in this country, we need information. And the government should collect it. I can't think of something that is more inherently governmental than the need to use deadly force in an encounter during law enforcement work.

Mr. CONYERS. Yeah.

Mr. COMEY. And so what has changed in the last year, which is really good news, is that everybody in leadership in law enforcement in the United States has agreed with this, and they have agreed the FBI will build and maintain a database where we collect important information about all such encounters involving the use of deadly force. That will allow us to know what is going on in this country so we can have a thoughtful conversation and resist being ruled by individual anecdotes.

That is why it matters so much.

We are making progress. We will have this done—I would like to have it done in the next year. Certainly in the next 2 years this database will be up and running, because everybody gets why it matters so much.

Mr. CONYERS. Thank you.

On August 30, I wrote to you regarding Donald Trump's extensive connections to the Russian Government. The letter cites to a number of troubling reports, some that suggest mere conflicts of interest, others that might suggest evidence of a crime.

Last Friday, we read a new report suggesting that Mr. Trump's foreign policy adviser has been meeting with high-ranking, sanctioned officials in Moscow to discuss lifting economic sanctions if Mr. Donald Trump becomes President. The same report quotes, "a senior United States law enforcement official," who says that this relationship is being, "actively monitored and investigated."

Is the FBI investigating the activities of Mr. Trump or any adviser to the Trump campaign with respect to any line of communication between the campaign and the Russian Government?

Mr. COMEY. I can't say, sir. As I said in response to a different question from the Chairman, we don't confirm or deny investigations.

Mr. CONYERS. Well, more generally, then, is it lawful for a private citizen to enter into official government negotiations with a foreign nation?

Mr. COMEY. I don't think it is appropriate for me to answer that hypothetical.

Mr. CONYERS. Uh-huh. Well, in my view, our research shows that it is not. The Logan Act, 18 U.S.C., section 953, prohibits this conduct, in my view.

Does Mr. Trump currently receive intelligence briefings from the FBI?

Mr. COMEY. Both candidates and their running mates are offered on a regular basis briefings from the entire intelligence community. Some portion of the first briefing included an FBI segment, so yes.

Mr. CONYERS. Does his staff attend those meetings as well?

Mr. COMEY. No, just the candidate and the Vice Presidential candidate.

Mr. CONYERS. Uh-huh.

And, finally, if a member of either—

Mr. COMEY. Okay, no, I am wrong. I am sorry. I have to correct what I said.

Each was allowed to bring two people. And, as I recall, Mr. Trump did bring two individuals with clearances to the briefing. Secretary Clinton did not.

I am sorry. I misstated that.

Mr. CONYERS. All right.

Finally, if a member of either campaign were engaged in secret, back-channel communications with a foreign adversary, could that line of communication pose a threat to national security?

Mr. COMEY. Mr. Conyers, I don't think it is appropriate, given that I am not commenting on whether we have an investigation, to answer hypotheticals that might make it look like I am commenting on whether we have an investigation. So I would prefer not to answer that, sir.

Mr. CONYERS. Well, thank you for being here today.

And I thank the Chairman and yield back.

Mr. GOODLATTE. The Chair thanks the gentleman, recognizes the gentleman from Wisconsin, Mr. Sensenbrenner, for 5 minutes.

Mr. SENSENBRENNER. Thank you, Mr. Chairman.

Director Comey, welcome.

Who authorized granting Cheryl Mills immunity?

Mr. COMEY. I am sorry?

Mr. SENSENBRENNER. Who authorized granting Cheryl Mills immunity?

Mr. COMEY. It was a decision made by the Department of Justice. I don't know at what level inside. In our investigations, any kind of immunity comes from the prosecutors, not the investigators.

Mr. SENSENBRENNER. Okay. Did she request immunity?

Mr. COMEY. I don't know for sure what the negotiations involved. I believe her lawyer asked for act-of-production immunity with respect to the production of her laptop. That is my understanding. But, again, the FBI wasn't part of those conversations.

Mr. SENSENBRENNER. Now, it has been a matter of public record that Secretary Clinton brought nine people into the room where two FBI agents were questioning her. Is that normal practice?

Mr. COMEY. I don't know if there is a normal practice. I have done interviews with a big crowd and some with just the subject. It is unusual to have that large a number, but it is not unprecedented, in my experience.

Mr. SENSENBRENNER. Now, Cheryl Mills, you know, also stated that she was an attorney. I am very concerned that when a fact witness represents a client who might be the target of an investigation there is a conflict of interest.

And, you know, rather than letting Ms. Mills make a determination, would the FBI be willing to refer the matter of a fact witness, Ms. Mills in this case, representing a target, Secretary Clinton in this case, to the appropriate bar association for investigation?

Mr. COMEY. That is not a role for the FBI. Even though I happen to be a lawyer, we are not lawyers; we are investigators.

Mr. SENSENBRENNER. Okay.

Mr. COMEY. So that is a question for the legal part of the Department of Justice.

Mr. SENSENBRENNER. Okay.

Why did Ms. Mills request immunity? Was she hiding something or was she afraid that something would incriminate her that was on her laptop?

Mr. COMEY. I don't know. I am sure that is a conversation she and her lawyer had and then her lawyer had with lawyers at the Department. I just don't know.

Mr. SENSENBRENNER. Uh-huh. Well, you know, there was an op-ed by Professor Jonathan Turley that appeared in the media that said that there are a lot of good cases scuttled by granting immunity. And there was lots of immunity that was granted here.

Doesn't it concern you, as an investigator, that your chiefs in the Justice Department decided to become an immunity-producing machine for many people who would have been very key witnesses should there have been a prosecution?

Mr. COMEY. I don't think of it that way. It doesn't strike me there was a lot of immunity issued in this case. I know it is a complicated subject, but there is all different kinds of immunity. There are probably three different kinds that featured in this case. Fairly typical in a complex, white-collar case, especially, as you try and work your way up toward your subject. So my overall reaction is this looks like ordinary investigative process to me.

Mr. SENSENBRENNER. Well, the target was not an ordinary target. I think we all know that. And since you announced that there would be no prosecution of Secretary Clinton in July, there have been several very material issues that are troubling, and would this not require a reopening of the investigation to solve those issues?

Mr. COMEY. I haven't seen anything that would come near to that kind of situation.

Mr. SENSENBRENNER. Oh—

Mr. COMEY. I know there are lots of questions, lots of controversy. I am very proud of the way this was done.

Mr. SENSENBRENNER. Well, you know, come on now. With all, you know, due respect, since you made this announcement, there have been many more issues that came out that were not on the table prior to your announcement that the investigation against Secretary Clinton had been dropped.

And, you know, I think the American public is entitled to answers on this, particularly since we have to know, you know, the extent of the classified information which ended up being in the private email server.

You know, all of us on this Committee have got security clearances of some kind or another, you know, and I am kind of worried that, you know, if I got some classified information and went back

to my office and used an unsecured server to send it to somebody who may also have had classified information, I would be in big trouble. And I should be in big trouble if I did something like that.

There seems to be different strokes for different folks on this. And that is what Americans are concerned about, particularly when we are looking to elect someone to the highest office of the land and the leader of the free world.

I don't think your answers are satisfactory at all, Mr. Comey. I do have a great deal of respect for you, but I think that there is a heavy hand coming from someplace else.

And, with that, I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman, recognizes the gentleman from New York, Mr. Nadler, for 5 minutes.

Mr. NADLER. Thank you, Mr. Chairman.

First, let me express my admiration and thanks to the FBI for the professional manner and excellent work they did in the bombings that occurred in New York about a block out of my district to apprehend the suspect within, what, 48 hours. And through everything, it was a very good indication of teamwork and of professionalism, and I congratulate you on that.

Secondly, let me say that I think that the mud that is being thrown from the other side of this table here continually, only because of the ongoing Presidential election, in the case in which the FBI decided there was nothing to prosecute, it is over—we all know nobody would even be talking about it if one weren't—if Hillary Clinton weren't a Presidential candidate. This is pure political maneuvering.

But let me talk about a case that may pose a current national security threat to the United States and ask you a few questions about that.

In his earlier remarks, Mr. Conyers referenced an August 30 letter from the Ranking Members of a number of House Committees. That letter asked whether the FBI was investigating troubling connections between Trump campaign officials and Russian interests and whether they contributed to the illegal hacking of the Democratic National Committee and the Democratic National Campaign Committee.

You are familiar with that letter, I take it.

Mr. COMEY. Yes, I am familiar with the letter.

Mr. NADLER. I would like to ask you a few questions.

The letter said this: "On August 8, 2016, Roger Stone, a Donald Trump confidant, revealed that he has communicated with WikiLeaks founder Julian Assange about the upcoming release of additional illegally hacked Democratic documents. Mr. Stone made these statements during a Republican campaign event while answering a question about a potential October surprise."

Obviously, if someone is stating publicly that he is in direct communication with the organization that obtained these illegally hacked documents, I assume the FBI would want to talk to that person.

Has the FBI interviewed Roger Stone about his communications with Julian Assange or his knowledge of how WikiLeaks got these illegally obtained documents?

Mr. COMEY. I can't comment on that.

Mr. NADLER. Mr. Stone stated that he has knowledge about upcoming leaks of additional illegally hacked documents. Has the FBI asked him about those communications?

Mr. COMEY. I also can't comment on that.

Mr. NADLER. Because it is an ongoing investigation?

Mr. COMEY. I don't want to confirm whether there is or is not an investigation. That is why—that is the way I answered Mr. Conyers' questions as well.

Mr. NADLER. Director Comey, the FBI acknowledged in private—in public statements and testimony that it—acknowledged that it was investigating Secretary Clinton's use of a private email server, and that was while the investigation was still ongoing. Now you can't comment on whether there is an investigation.

Is there a different standard for Secretary Clinton and Donald Trump? If not, what is the consistent standard?

Mr. COMEY. No. Our standard is we do not confirm or deny the existence of investigations. There is an exception for that when there is a need for the public to be reassured, when it is obvious it is apparent, given our activities, public activities, that the investigation is ongoing. But our overwhelming rule is we do not comment except in certain exceptional circumstances.

Mr. NADLER. Aren't there exceptional circumstances when close officials to a candidate of a major political party for the United States says publicly that he is in communication with foreign officials and anticipates further illegal activity?

Mr. COMEY. I don't think so.

Mr. NADLER. Mr. Trump's campaign chairman, Paul Manafort, resigned after failing to disclose his role in assisting a pro-Russian party in Ukraine. The Associated Press reported, "Donald Trump's campaign chairman helped a pro-Russian party in Ukraine secretly route \$2.2 million in payments to two prominent Washington lobbying firms in 2012, and did so in a way that effectively obscured the foreign political party's efforts to influence U.S. policy."

Has the FBI interviewed Mr. Manafort about his failure to disclose his work for this foreign government, as Federal law requires?

Mr. COMEY. I have to give you the same answer, Mr. Nadler.

Mr. NADLER. Has the FBI interviewed Rick Gates, who reportedly still works for the Trump campaign, about his involvement in this scheme?

Mr. COMEY. Same answer, sir.

Mr. NADLER. Same answer.

Director Comey, after you investigated Secretary Clinton, you made a decision to explain publicly who you interviewed and why. You also disclosed documents, including notes from this interview—from those interviews.

Why shouldn't the American people have the same level of information about your investigation of those associated with Mr. Trump?

Mr. COMEY. Well, I am not confirming that we are investigating people associated with Mr. Trump.

In the matter of the email investigation, it was our judgment—my judgment and the rest of the FBI's judgment that those were exceptional circumstances where the public needed transparency.

Mr. NADLER. Okay.

My final question is the following. You investigated Secretary Clinton's emails and so forth, everything we have been talking about. You concluded, I believe quite properly, there was nothing to prosecute. And you have announced, in my opinion quite properly, that you had investigated it and there was nothing there—or there was nothing to prosecute. That was proper.

But having announced—when a prosecutorial agency announces that “we have investigated so-and-so and we have decided to prosecute because” or “we have investigated so-and-so and we have decided not to prosecute because,” why is it appropriate for that prosecutorial agency to go further and say, “Even though we decided not to prosecute, we still think this person did this, that, or the other thing and it was proper or improper”? Why is it proper for a prosecutorial agency to characterize your opinion of the propriety of the actions of someone who you have announced that you have decided did nothing criminal and shouldn't be prosecuted?

Mr. COMEY. That is a very hard decision. That is why it is the exception to the rule. You do risk damaging someone who isn't convicted.

The judgment I made in this case is, given the unusual—in fact, I hope unprecedented—nature of this investigation, that it was appropriate to offer that transparency. Not an easy call. I really wrestled with it, but I think, on balance, it was the right call.

Mr. NADLER. Let me just say before my time expires that I think—and I am just talking for myself—that that was highly inappropriate; that, having determined that there was nothing to prosecute and having announced that quite properly, for a prosecuting agency, the Department of Justice, to comment with comments that will be looked upon as authoritative that what she did was right or wrong or good or bad is not the appropriate role of a prosecuting agency and risks, not in this case perhaps, but risks—and I talk really now because of the future.

I don't want to see that happen again with regard to anybody, because it puts anybody who did not commit a crime, who you or the Justice Department or whoever has determined did not commit a crime or there is no evidence sufficient to prosecute, puts them at the mercy of the opinion of an individual or individuals within the prosecuting agency. And that is just not right under our system.

I yield back.

Mr. GOODLATTE. The time of the gentleman has expired.

The Chair recognizes the gentleman from Texas, Mr. Smith, for 5 minutes.

Mr. SMITH. Thank you, Mr. Chairman.

Director Comey, thank you for those examples of the FBI's good work in your opening statement. I think we all appreciate what the FBI has done.

My first question is this: Would you reopen the Clinton investigation if you discovered new information that was both relevant and substantial?

Mr. COMEY. It is hard for me to answer in the abstract. We would certainly look at any new and substantial information.

Mr. SMITH. Yeah. Let's impersonalize it—in general, if you discovered new information that was substantial and relevant, you would reopen an investigation, would you not?

Mr. COMEY. Again, even in general, I don't think we can answer that in the abstract. What we can say is, if people—any investigation, if people have new and substantial information, we would like to see it so we can make an evaluation.

Mr. SMITH. Okay. Let me give you some examples and mention several new developments that I think have occurred and ask you if you have become aware of them.

The first example is what the Chairman mentioned a while ago. An employee at a company that managed former Secretary Clinton's private email server said, "I need to strip out a VIP's (VERY VIP) email address from a bunch of archived emails. Basically, they don't want the VIP's email address exposed to anyone."

I assume you are aware of that.

Mr. COMEY. I am aware of that.

Mr. SMITH. Okay.

The same employee called a new retention policy designed to delete emails after 60 days a, "Hillary cover-up operation." And you saw that, did you not?

Mr. COMEY. Say the last—I am sorry, Mr. Smith, I couldn't hear the last—

Mr. SMITH. The same employee called the new retention policy designed to delete emails after 60 days a "Hillary cover-up operation." You saw that?

Mr. COMEY. I don't know that particular language.

Mr. SMITH. Okay. We will get you the source, but you can take my word for it that that is what he said.

Mr. COMEY. I will.

Mr. SMITH. Another example: A former Clinton Foundation employee, who also managed the Clinton server, destroyed devices used by former Secretary Clinton by smashing them with a hammer. You are aware of that?

Mr. COMEY. Yes.

Mr. SMITH. Okay.

Two employees of the company that managed former Secretary Clinton's server recently pled the Fifth Amendment to Congress to avoid self-incrimination. And you are aware of that?

Mr. COMEY. Yes.

Mr. SMITH. Okay.

And then, lastly, 15,000 more work-related emails were discovered, though there had been an attempt to wrongly delete them. And you are aware of that?

Mr. COMEY. I think we discovered them.

Mr. SMITH. Right.

To me, Director Comey, what I cited are not the actions of innocent people. There is a distinct possibility that Mrs. Clinton or her staff directed others to destroy evidence in a government investigation, which, of course, is against the law. So I would urge you to reopen your investigation.

Do you want to comment on that?

Mr. COMEY. I don't.

Mr. SMITH. Okay. I know you can't tell us whether you have or have not, but I believe I have given evidence of new information that is relevant and substantial that would justify reopening the investigation.

My next question is this: I know you granted immunity to a number of individuals, but if you had new information that is relevant and substantial, you would be able to investigate them further, wouldn't you?

Mr. COMEY. Not to quibble, the FBI doesn't grant immunity to anybody. The Department of Justice is able to grant very different kinds of immunity. If new and substantial evidence develops either that a witness lied under a grant of use immunity or under any kind of immunity, of course the Department of Justice can pursue it.

Mr. SMITH. Okay.

Mr. COMEY. Nobody gets lifetime immunity.

Mr. SMITH. Right. Okay. Thank you, Director Comey.

Last question is this: As Chairman of the Science Committee, I issued the FBI a subpoena on September 19, 2016. The due date for a response was 2 days ago, September 26. Bureau staff has still not provided the requested information and documents.

Yesterday, we pointed out to them that the Science Committee has jurisdiction over the National Institute of Standards and Technology, which sets standards for the Federal Information Security Modernization Act of 2014.

I trust you intend to comply with the subpoena.

Mr. COMEY. I intend to continue the conversations we have been having about the subpoena.

Mr. SMITH. Yeah.

Mr. COMEY. As you know, we have made a lot of documents available to at least six Committees, and the question of whether we should make them additional—available to another Committee is something that we are struggling with but talking to your folks about.

Mr. SMITH. Okay. To me, there is no struggle. If we have clear jurisdiction, which we can demonstrate, it, I think, obligates you to comply with the subpoena.

Mr. COMEY. Yes, sir. We are not trying to be disrespectful. We are just not sure we see the jurisdictional issue the way that your folks do. But we are continuing to talk about it.

Mr. SMITH. Okay. Thank you, Director Comey.

Mr. ISSA. Would the gentleman yield?

Mr. SMITH. I will yield to the gentleman from California.

Mr. ISSA. Thank you.

The Chairman of the full Committee had asked something earlier, and I just want to point out and ask that it be placed in the record—according to the Maryland Code of Ethics 19301.11, it specifically prohibits a former or current government officer or employee from acting as a counsel to someone that they represented in government. And I would like that to be placed in the record.

In light of the fact that the Maryland Bar has—

Mr. GOODLATTE. Without objection, it will be made a part of the record.

[The information referred to follows:]

**Rule 1.11 Special Conflicts of Interest for
Former and Current Government Officers and
Employees**

- (a) Except as law may otherwise expressly permit, a lawyer who has formerly served as a public officer or employee of the government:
- (1) is subject to Rule 1.9(c); and
 - (2) shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.
- (b) When a lawyer is disqualified from representation under paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:
- (1) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and
 - (2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this Rule.
- (c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. As used in this Rule, the term "confidential government information" means information that has been obtained under governmental authority and which, at the time this Rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom.
- (d) Except as law may otherwise expressly permit, a lawyer currently serving as a public officer or employee:
- (1) is subject to Rules 1.7 and 1.9; and
 - (2) shall not:
 - (i) participate in a matter in which the lawyer participated personally and substantially while in private practice or non-governmental employment, unless the appropriate government agency gives its informed consent, confirmed in writing; or

(ii) negotiate for private employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially, except that a lawyer serving as a law clerk to a judge, other adjudicative officer or arbitrator may negotiate for private employment as permitted by Rule 1.12(b) and subject to the conditions stated in Rule 1.12(b).

(e) As used in this Rule, the term "matter" includes:

- (1) any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties, and
- (2) any other matter covered by the conflict of interest rules of the appropriate government agency.

Mr. ISSA. In light of the fact the Maryland Bar has this prohibition, would that have changed your view of allowing her in and saying you had no authority?

Mr. COMEY. I am not qualified nor am I going to answer questions about legal ethics in this forum. The FBI has no basis to exclude somebody from an interview who the subject of the interview says is on their legal team.

Mr. SMITH. Okay. Thank you, Director Comey.

Thank you, Mr. Chairman. I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman, recognizes the gentlewoman from California, Ms. Lofgren, for 5 minutes.

Ms. LOFGREN. Thank you, Mr. Chairman.

And thank you, Director Comey, for once again appearing before this Committee, as you appear before so many Committees here in the House. Sometimes I wonder how you get any work done at all, that you are called up here so frequently.

You know, there has been a lot of focus on the private email that Secretary Clinton used, just as her predecessor, Colin Powell, used. So far as I am aware from the public comments, there is no forensic evidence that there was a breach of that server, although theoretically you could intrude and not leave evidence.

But there has been very little focus on the breach at the State Department email system. Now, it has been reported in the press that this breach of the State Department email system was one of the largest ever of a Federal system and was accomplished by, according to the press, either China or Russia.

I am wondering if you are able to give us any insight into whether it was, in fact, the Russians who hacked into the State Department email system or whether that is still under investigation.

Mr. COMEY. Not in this open forum, I can't.

Ms. LOFGREN. All right. I am hoping that we can get some insight in an appropriate classified setting on that.

Now, we have watched with some concern—and I know you are also concerned—about the Russian intrusion into our election system. It has been reported to us that the Russians hacked into the Democratic National Committee database. They also hacked into the Democratic Congressional Campaign Committee. And it seems that they are making an effort to influence the outcome of this election. We have been warned that the information stolen might not just be released but also be altered and forged and then released, in an effort to impact the election here in the United States.

Yesterday, there were press reports—and I don't know if they are accurate, and I am interested if you are able to tell us—that the Russians have also hacked the telephones of Democratic staffers and that there was a request for Democratic staffers to bring their cell phones into the FBI to have them mirrored.

Can you tell us anything about that?

Mr. COMEY. I can't at this point. What I can say in response to the first part of your question, any hacking is something we take very seriously. Any hacking in connection with this Nation's election system is something we take extraordinarily seriously, the whole of government. So it is something the FBI is spending a lot of time on right now to try and understand. So what are they up to and what does it involve and what is the scope of it to equip the