COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: [REDACTED]

Monday, July 17, 2023
Washington, D.C.

The interview in the above matter was held in room 6480, O'Neill House Office Building, commencing at 1:29 p.m.
Appearances:

For the COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY:

CLARK ABOURISK, COUNSEL

JESSICA DONLON, DEPUTY STAFF DIRECTOR

JAKE GREENBERG, DEPUTY CHIEF COUNSEL FOR INVESTIGATIONS

JAMES MANDOLFO, GENERAL COUNSEL AND CHIEF COUNSEL FOR INVESTIGATIONS

[REDACTED], MINORITY CHIEF COUNSEL

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[REDACTED], MINORITY COUNSEL

For [REDACTED]:

ROBERT ZINK

MICHAEL SHAHEEN

ISABELLE SUN

Quinn Emanuel
Mr. Mandolfo. Good afternoon. This is a transcribed interview of [redacted].

The Committee on Oversight and Accountability is conducting oversight of the programs and operations of the Department of Justice, Internal Revenue Service, and United States Secret Service.

The committee has also been investigating foreign nationals' attempts to target and coerce high-ranking U.S. officials' family members by providing money or other benefits in exchange for certain actions, and is considering legislative solutions to this problem.

Would the witness please state your name for the record?

[redacted].

Mr. Mandolfo. On behalf of the Committee on Oversight and Accountability, I want to thank [redacted] for appearing here today. The committee appreciates your willingness to appear here voluntarily.

My name is James Mandolfo, and I am general counsel and the chief counsel of investigations with the Committee on Oversight and Accountability for Chairman Comer's staff.

I will now ask everyone else on the majority and minority committee staff to introduce yourselves who are at the table.

Mr. Greenberg. Jake Greenberg, majority staff.

Mr. Abourisk. Clark Abourisk, majority staff.

[redacted], minority staff.

[redacted], minority staff.

[redacted], Democratic staff.
Ms. Donlon. Jessica Donlon, majority staff.

Mr. Mandolfo. Thank you.

I'd like to go over a few ground rules and guidelines that we will follow during the interview that have been previously discussed with your lawyer.

First, our questioning today will occur in rounds. The majority will ask questions for 1 hour, and then the minority staff will have an opportunity to ask questions for an equal period of time if they choose.

Typically, we take a short break at the end of each hour, but if you would like to take a break apart from that, please just let us know.

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

Do you understand everything so far?

I do.

Mr. Mandolfo. To ensure the court reporter can make a clear record, we will do our best to limit the number of people directing questions at you during any given hour to just those people on the staff whose turn it is.

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

We encourage witnesses who appear before the committee to freely consult with counsel if they so choose. It's my understanding that you are accompanied by counsel.

Could your counsel please state your name on the record?

Mr. Zink. Yes. Robert Zink on behalf of Special Agent Quinn Emanuel.

Mr. Shaheen. Michael Shaheen, also on behalf of retired Special Agent
Ms. Sun.  Isabelle Sun, also on behalf of retired Special Agent, as well as also from Quinn Emanuel.

Mr. Mandolfo.  Thank you.

If at any point you want to talk with your counsel in private, you may do so.  We will go off the record, step out of the room, and allow you to consult with your attorney in private.  You can speak with your attorney in private as much as you'd like during this interview.

We want you to answer our questions in the most complete and truthful manner possible, so we will take our time.  If you have any questions or if you do not understand one of my questions, please let me know.  If you honestly don't know the answer to a question or you do not remember, it is best not to guess.  Please give us your best recollection.  And it's okay to tell us if you learned information from someone else.  Just indicate how you came to know that information.

If there are things you don't know or can't remember, just say so, and please inform us who, to the best of your knowledge, might be able to provide a more complete answer to the question.

I want to emphasize not to speculate.  This is not the forum to guess or give your opinion as to what happened.  We seek facts, not speculation, about why certain actions occurred.

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

I do.

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

I do.

Mr. Mandolfo. Witnesses that knowingly provide false testimony could be subject to criminal prosecution for making false statements. Do you understand that?

I do.

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

There is not.

Mr. Mandolfo. On June 22nd of 2023, the Ways and Means Committee publicly released transcripts of interviews with two whistleblowers who worked as criminal investigators for the Internal Revenue Service. Both whistleblowers provided testimony related to their involvement in the Hunter Biden investigation, the irregularities of that investigation, and the retaliation they faced for blowing the whistle.

The interview this afternoon will only address a narrow portion of the topics and issues raised by the IRS whistleblowers' public statements. That is on purpose and agreed upon by the committee and your counsel.

The committee is seeking information related to the Federal agency's actions leading up to the planned interview of Hunter Biden in California on December 8th of 2020, and references to you in a transcript that were made by one of the IRS whistleblowers. The Hunter Biden interview, according to the IRS whistleblower, never took place.

If you or your counsel believe that any question or an answer to a question regarding this matter falls outside the agreed-upon scope of the interview, you or your counsel should inform the committee prior to answering that question, and we can rephrase the question or withdraw the question.
Any questions before we begin?

Not at this time.

Mr. Mandolfo. That is the end of my preamble.

Is there anything the minority would like to add?

Not at this time.

Mr. Mandolfo. Is there anything counsel would like to add?

Mr. Zink. Yes. Thank you.

Last week, on behalf of Special Agent [REDACTED], retired, we solicited advice and guidance from the U.S. Department of Justice regarding the parameters for some of the ground rules for today's questioning in our -- the answers we could appropriately give.

Yesterday afternoon, we received, that's July 16th of 2023, letter from Jason Jones, FBI general counsel, Fraud Section alum, who noted that the applicability of several potential privileges and statutory constraints on [REDACTED] ability to provide information.

Just to read it in the record, they include the law enforcement privilege and deliberative process privilege, attorney work product, attorney-client, the rules and regulations related to classified information, Rule 60 of the Federal Rules of Criminal Procedure, 28 U.S.C. 6103, which protects tax return information and tax returns, and deliberative process privilege.

They have asked us to, quote, decline to respond to questions seeking nonpublic information likely covered by one or more components of executive privilege or other significantly -- or other significant confidentiality interests; in particular, information about deliberative or ongoing investigative activity in law enforcement matters.

And we intend to abide by and follow the Department's guidance and expectations.
Mr. Mandolfo. And just to be clear, the Department sent that letter on a Sunday afternoon, the day before this interview was scheduled, correct?

Mr. Zink. Yes. Yes.

Mr. Mandolfo. And because of those ground rules, we have scoped and narrowed, as an accommodation to you and your client, what we will be asking here today.

Mr. Zink. That's correct.

Mr. Mandolfo. And what we'll be discussing is not the totality of the substance or information that your client knows or is aware of, but we are constrained in what we can -- what he can answer at this point.

Mr. Zink. By virtue of -- that's correct, by virtue of the FBI's guidance to us.

Mr. Mandolfo. Okay.

Mr. Zink. Sorry. If I may, just briefly, looking at the letter, I'll note that the committee did not contact the Department of Justice about appearance at today's TI, and I do not believe that the committee reached out to -- inquired as to whether the Department of Justice wanted to request the opportunity to have a -- an attorney present, given kind of the considerations laid out in this letter.

Mr. Zink. I can just give some clarification. We -- I requested that they come to protect the privilege so we didn't mess anything up, so we made that affirmative request. And it's my -- I received an email about 20 minutes ago noting that because there was no affirmative request by Congress, they didn't feel it was appropriate to attempt to --

Mr. Mandolfo. And when did you initially notify the Department of this interview?

Mr. Zink. Midweek last week at the very latest.

Mr. Mandolfo. So they've been aware of this interview since midweek last
Mr. Zink. Yes.

Mr. Mandolfo. My clock now reads 1:38, and we will begin the majority's round of questioning.

EXAMINATION

BY MR. MANDOLFO:

Q, are you retired from the Federal Bureau of Investigation?

A I am.

Q When did you retire?

A June of 2022.

Q What did you do prior to working for the FBI?

A Most recent or since college?

Q I mean, a little bit of background since college.

A Sure. I certified as a paramedic in Pennsylvania. I worked as a paramedic for a period of time.

I briefly worked in sales at a pharmaceutical company.

I then went to work for an organization based out of Philadelphia called the [redacted], which is -- I worked to offer families the opportunity to donate organs at the time of the death of a loved one. Did that for about 3 years.

And then I went to work for two different pharmaceutical companies, one after another, managing drug trials. And it was during those -- the last year or so with the transplant program and during the time with the pharmaceutical companies I had applied to the FBI, and then entered -- entered on duty with the FBI in March 2002.

Q Can you tell us about your educational background?

A Sure. I have a bachelor's degree in health science and went to a paramedic
And I don't have any advanced degree.

Q You worked for the FBI from approximately 2002 to 2022?

A That's correct.

Q So for approximately 20 years?

A Twenty years and 3 months, I think it was.

Q And during your time with the FBI, did you hold different positions with the Bureau?

A Yes. I -- technically, I guess I was considered a probationary agent, as all are, but I was a special agent onboarded in 2002, new agent training in the FBI Academy at Quantico, Virginia.

While in the academy, I was assigned to the Washington Field Office. So upon graduation from the academy in, I believe it was July of 2002, assigned to the Washington Field Office as a special agent, where I remained until 2011. I was on various squads within the Washington Field Office during that time.

And then, in 2011, I received a transfer to the Wilmington Resident Agency out of the Baltimore Field Office or the Baltimore Division. I was there from 2011 until August of 2015.

In August of 2015, I was promoted to headquarters as a supervisory special agent as part of an 18-month temporary duty program within the Healthcare Fraud Unit. I served there for 18 months as a supervisor. At the completion of the 18 months, which was February of 2017, I went back to the Wilmington Resident Agency as a special agent.

And in -- I believe it was August of 2017, the previous supervisor had vacated due to promotion. I applied and was promoted to supervisor of the white collar squad, or, you know, Public Corruption, Financial Crimes squad, more accurately described, from August 2017 until my retirement.
And during your career with the FBI, did you win any awards for your service?

I did. I -- two of the biggest were the Director's Award. I was the case agent who led all operations from the FBI point of view for the inauguration of President Obama in 2009, so it was service -- I believe Service to the Law Enforcement Community, Director's Award.

I also received an award from the Office of the -- or Office of the United States Attorney's Office, I guess the national office, for a case I worked in Wilmington. It was the first cyberstalking leading to death prosecution, as far as I know, in the country.

And then I did receive individual awards, performance awards from the FBI, and recognition awards from various United States attorneys' offices. I believe I received an award from Commonwealth of Virginia AG, or attorney general's award, and then some minor ones as well.

Over the course of your career -- and you can estimate this -- how many matters and investigations have you participated in throughout that whole duration that you just described?

Dozens as a case agent where I was leading the investigation or leading with a partner, and then, you know, scores more where I participated, whether it was through an ancillary or collateral duty, or helping, you know, squadmates or officemates in needs at the time, whether it was interviews or arrest operations, search operations, various things. So scores, I would say.

Can you describe what kinds of investigations that you've worked on? You mentioned that you were involved in white collar and public corruption, but could you give us some more background --

Absolutely.
Q -- over the course of your career the different types of matters that you
handled?

A Absolutely. Initially, I was assigned right out of the academy, which was
common practice, for a rather large office. I did background investigations called special
inquiries, where it was either somebody being appointed to a position within the United
States Government, I would assist in the background investigation, or applicants to the
FBI, you know, maybe future special agents themselves. I did that for about 6 months
first out of the academy.

I then was assigned -- the FBI actually made sense. They saw my healthcare
fraud -- or healthcare background and assigned me to a healthcare fraud squad. It was
my first squad. Primarily, at that time, I worked cases involving Oxycontin or
narcotic -- prescribed narcotics being diverted, whether it be by practitioners or
individuals. I also worked on cases involving, you know, practitioners providing
unnecessary surgery or falsifying billing. So various healthcare fraud matters.

Also at that time, even though it was a healthcare fraud squad, it was right after
9/11, so we took on a little more responsibility. So we were assigned mortgage fraud at
the time. So one of the first cases I went to trial on was a mortgage fraud
investigation -- that was here in D.C. -- where somebody was -- conspiracy among several
to inflate and fabricate appraisals to obtain loans from banks to the tunes of millions of
dollars. I worked that for about 3 years.

During that time, I was temporarily assigned -- I was picked to -- assigned to
investigate the Duke Cunningham matter, which was the former Congressman out of
California, who was diverting funds to a -- a government contractor that he was
associated with. Assisted on that case for a period of time while I was assigned to
the -- permanently assigned to the healthcare fraud squad.
At the conclusion -- or in -- probably -- approximately December 2006, I had maintained my certification as a paramedic, because I was asked to transfer to the Joint Terrorism Task Force in Washington, D.C. -- or the Washington Field Office. I had been located in Tysons Corner at the -- what was the Falls Church, Virginia office. I was asked to move to the JTTF as the operational medical coordinator to use my experience and background as a paramedic.

So I was responsible for ensuring that high-risk warrants executions, activities, operations were supported medically, you know, whether helping to assign somebody there, to do it myself, and that would be, you know, SWAT missions, or we also had the Underwater Search and Evidence Recovery Team. I helped with the dive team, making sure, as they conducted dives, that they were safe.

As part of my duty on the JTTF, we were assigned to the National Capital Response Squad. So in addition, I was also the special event coordinator responsible for coordinating with other State, local, and Federal agencies for high-profile events that could be the subject of, you know, terrorist activities or, you know, some untoward events by actors. So I was responsible, the lead case agent at times, for the State of the Union address, making -- coordinating with Secret Service and Capitol Police on protection of the Capitol during the State of the Union.

I also was the lead case agent for the papal visit, which I believe was in 2008, into Washington, D.C. And then, ultimately, I was the case agent for President Obama's inauguration in January 2009, which really was almost my full-time job for the 6 months leading up to it.

Generally, also, our squad was responsible for responding to any event in the city. You know, on the heels of, you know, 2001, with white powder letters, suspicious packages, pipe bombs, you know, anything you can imagine. We went to Capitol Hill
when a gentleman was allegedly conducting testing. He was a professor from Japan, and he was taking samples with chemicals on the Capitol Hill grounds. So if anybody was here, that was quite a response that day.

After the inauguration, I then -- I had missed my time on criminal, and I endeavored to get back to working criminal investigations. So I was lucky enough to get reassigned to the public corruption squad in the city of Washington, D.C. At that point, we had multiple public corruption squads within the white collar side of the Washington Field Office.

So my squad that I got assigned to was responsible for corruption within the city, as well as corruption against government -- Federal Government programs. And most of my work on that squad involved cases where actors were defrauding government programs, such as, you know, programs against the FCC, the Export-Import Bank of the United States.

And then, at the end of that -- I was on that squad when I was -- there's a list that we can put our name on to be preferentially transferred based on seniority to hopefully an office you would want to go to. So to get on -- I'm from the suburban Philadelphia area, so I put my -- I put my name on the Wilmington RA list, transferred to Wilmington, got the call and was able to get transferred in February of 2011.

And Wilmington RA is a resident agency, which means it's a suboffice of a field office. So as I said earlier, we're part of the Baltimore Field Office. And the Wilmington RA was responsible for all matters within Delaware, which is, you know, equivalent to the Federal district of Delaware. So, initially, I was assigned as the intelligence agent, you know, for intelligence matters. I did that for a brief time, which included some outreach. And then I was assigned to a criminal squad, which was the only criminal squad at the time, so all matters, whether it was violent crime or white
collar crime in the State of Delaware, and did some fraud cases.

And then probably what took up most of my time in the next few years was there was an active shooter event in Wilmington -- courthouse -- at the New Castle County Courthouse in Wilmington, Delaware, where two individuals were killed and there was a shootout with the State of Delaware Capitol Police. I ended up -- responded with -- the day of the events. And, ultimately, it led to a cyberstalking case against the remaining family members.

It was -- essentially, it started as a domestic problem that led to the murder of a woman who was the ex-wife of one of the subjects of our investigation. That case started in 2013 at the time of the shooting and went to trial in 2015.

At the end of the trial, I concurrently knew that that was, you know, going to be the end of, you know, most of my activity there, and so I -- meaning I timed it with -- I applied and got selected to be promoted to the Healthcare Fraud Unit. So following a good outcome on the trial -- everybody was convicted and sentenced to life -- I went to the Healthcare Fraud Unit.

Mr. Zink. In D.C.? I'm sorry. In Washington, D.C., which is located, you know, downtown D.C. It's within the Financial Crimes Section of the FBI Criminal Investigative Division.

Originally, I went there as part of the Major Provider Response Team, so the Healthcare Fraud Unit was bifurcated into two. The Major Provider Response Team was assisting Department of Justice trial attorneys with investigating both civil and criminal matters that typically may have arose from a qui tam. I did that for a period of time.

The second half of the unit, or the second side of the unit was the program manager, so these are headquarters supervisory special agents, as I was at that time, who
were responsible for managing healthcare fraud investigations around the country. So there was a vacancy there. The unit chief asked me to move over, so I became the program manager for the northeast of the United States. Did that for the remainder of my time on the TDY.

And at the end of the 18 months, I went back to Wilmington. I was there for a short period of time, but I was able to get one other fraud case done or essentially started and almost done before I was given the opportunity to apply for the supervisor position, and then became the supervisor of the Public Corruption, Civil Rights, Financial Crimes squad. So -- and most of our cases there were dominated by fraud and money laundering, you know, healthcare not so much, but mostly, you know, financial crimes.

**BY MR. MANDOLFO:**

**Q** And when you were supervisor at the Wilmington RA, how many agents did you supervise?

**A** It varied with personnel changes, but 8 to 10. I had actually originally started the squad back in 2014. The squad was one squad, as I said earlier. And in late 2014, they asked me to begin the squad as an acting SSA, because they wanted to create a white collar squad versus, like, a catchall squad. So it was split into the violent crime and the white care -- white collar --

**Q** Not to interrupt you, but SSA is?

**A** Oh, supervisory special agent. So -- sorry. I got off track there.

So I temporarily was the acting SSA, as I was doing the trial prep as well. And -- and the FBI chose to post the position. In a way, I wasn't as competitive, because I didn't have my headquarters time, and that may have been one of the reasons why I decided to ultimately go to headquarters, you know, later or apply at that time. So I did that briefly.
And I apologize. What was the lead-in question?

Q I was just asking how many people you supervised.


So it was a smaller squad. I think we -- we had -- when we first started, we were maybe five, six of us. Again, I was the acting supervisor initially. The other supervisor came in while I was at headquarters, and by the time I was back, it was -- we were in the ballpark of 8 to 10, you know, would probably be the most I ever had.

Q And at the FBI Wilmington RA, can you kind of explain the supervisory structure? So you were the supervisory special agent --

A Uh-huh.

Q -- who oversaw --

A I'm sorry, yes.

Q -- approximately 10 or so agents at a given time. And then who would have been -- you don't have to say their name, but just what titles would have been above you?

A Sure. So, as I say, once the squad was split, there was actually -- there were three supervisory special agents in the Wilmington RA. One was primarily responsible for national security matters, led the Joint Terrorism Task Force. The other supervisor was responsible for like drug and violent crime investigations.

As such, each of us reported to a different assistant special agent in charge. So my -- I reported to an assistant special agent in charge who was responsible for all white collar or public corruption, financial crime, you know, squads within the Baltimore Field Office. So it would include squads perhaps in, you know, Annapolis or headquarters city Baltimore. And then, you know, counterparts. Again, violent crime would report to a violent crime ASAIC.
So they would report to an ASAIC, and then each of those ASAICs then reported to the special agent in charge of the Baltimore Field Office located in Baltimore.

Q And is the special agent in charge the leader, so to speak, for the FBI RA?
A No. The special agent in charge is the leader of a field office. So in an RA, there's a -- it's called a supervisory -- a senior resident agent. So when I -- for example, when I became the SSA of the white collar squad in 2017, the violent crime supervisor was the most senior supervisor in the office by time. So he was designated as the supervisory senior resident agent.

In practice, it was a title, but the chain of command -- for example, if I had an issue on a public corruption case or a white collar case or a money laundering case of some sort, I was not going to go to the SSRA. I would go to my ASAIC, you know, as far as reporting, and certainly to headquarters, whatever program manager I was dealing with.

So the SSRA is more of a outreach, single point of contact maybe in an emergency, responsible for also keeping the lights and the heat and, you know, any problems that may happen to the office, you know, making sure people have parking, things like that.

Q And given your experience with the FBI, did you have the opportunity to interview witnesses?
A Oh, yeah. Scores over years.

Q Do you have an approximate amount you could estimate, or an over number?
A I mean, hundreds. It would be a ballpark.

Q And with those witnesses, did you have the opportunity to interview victims?
A I did. I did.

Q In addition to victims, did you also have the opportunity to interview
subjects?

A I did.

Q So these are people who aren’t necessarily a target of an investigation but may have some criminal exposure when you interview them?

A Yes. Both subjects who were targets and somebody who may have been open to possible criminal investigation, or prosecution, I should say.

Q And you touched on my next question is: Have you had the opportunity to interview targets?

A I have.

Q And what is a target, to the best of your knowledge?

A So a target -- you know, typically we name a target -- if known or suspected, we identify an individual as a target of an investigation. So, for example, if somebody defrauded a bank in some form or fashion and the bank was able to identify them and they give us their name and we open an investigation, they would be listed as the target, you know, and we would start building a case around that person or the activities of that person.

Q And, again, an estimate, approximately how many targets have you had the opportunity to interview during your career?

A Scores. You know, north of -- targets, probably north of 50.

Q In addition to your on-the-job experience, did you also have training in conducting interviews?

A I did. Certainly, we have robust training through the FBI Academy how to conduct interviews and, additionally, the FBI afforded me the opportunity for the Reid School, for example. So I did -- you know, that was, you know, essentially an outside source of training.
Q And while you were supervisor, did you have the opportunity to provide training to agents who were below you as far as interviewing techniques or skills?

A Nothing formal. You know, through mentoring, both, you know, my time as a senior agent or as a supervisor, certainly you would mentor younger, less-experienced agents on best ways to approach witnesses, subjects, targets, you know, how to build rapport, things like that. Not formal. I was not a -- certified as an instructor for interviewing, for example, where you can get that within the FBI.

Q You previously mentioned that you testified at a trial. Approximately how many trials and hearings have you testified to in Federal court?

A In Federal court --

Q And I'll include grand jury hearings.

A Yeah. So that's what I was going to wonder. Grand jury would expand it. You know, trials, probably that I personally was a case agent on, five. Four. Four or five, where I was the lead case agent. I was also -- I testified in at least one other manner where I was not the lead case agent. I was, you know, one of the agents. And then grand jury would be a handful of times, you know, for my cases mostly.

Q Have you also had the opportunity to take part in the drafting of search warrant affidavits or applications that have been submitted to Federal judges for approval?

A I have.

Q And can you explain generally how that process works?

A So during the course of an investigation, if we believe or have, you know, probable cause to believe that there's evidence maintained, whether it be, for example, a -- an individual's house, or on an email account maintained by a provider, we would articulate the facts in a document, which would be an affidavit, laying out our probable
cause to believe that there was evidence of activity in violation of Federal statutes that were maintained, whether it be in the house or on -- you know, as I said in my example, an email account of an individual.

We would lay those facts out. We would review it with a -- typically assistant United States attorney. And then we would then bring that before a local judge, either within the district court -- or within the district court of where the search or the -- you know, for example, where the residence was located, and we would swear that out in front of a district magistrate or district judge, who would then give us permission, you know, to execute a search warrant on the subject of our -- you know, whether it's a property or an email address or something similar.

Q Have you participated in the execution of search warrants at homes and also to get third-party content, for instance, from email providers?

A Yeah. Homes, businesses, as well as third-party providers. You know, email was not a frequent target early in my career, but certainly, with the evolution of email and those providers, it became a more often sought-after tactic to gather evidence.

Q When an FBI agent interviews someone, whether it's a victim, a subject, or a target, do they memorialize that interview in any manner?

A We do, in an FD-302.

Q And what is an FD-302?

A The FBI numbers all its forms. I forget what the FD stands for. Federal -- I don't know -- FBI document. But it -- and there's a whole host of numbers. For example, consent to search form would be an FD-26. But an FD-302 is the written report that is done contemporaneously at the time of an interview, where the agent who led the interview writes down not a word-for-word transcript, but a recollection of everything that -- or that occurred or was discussed during the interview.
Q  And that FD-302 then is preserved by the FBI and maintained on the FBI's
   database, commonly known as SENTINEL, correct?

A  That's correct.

Q  And that FD-302 can be on SENTINEL for a duration of time for other
   investigators to use, if they have access and permission, to review the contents of that
   FD-302?

A  Yes.  Every -- every case is assigned a number, and so if I'm conducting an
   investigation, I'll have a unique number assigned to that case.  And then I'll -- that 302
   will be written in reference to that number.  And then, if not restricted in some form or
   fashion, it would be made available within the FBI management system for retrieval by
   anybody with access.

Q  I want to give you a hypothetical.  So if an FBI agent were to go out and
   interview the target of an investigation, and the target made statements to the FBI agent,
   do you agree, then, the statement should be memorialized in an FD-302 at that point?

A  If an FBI agent went out -- to understand this correctly, if an FBI agent went
   out to interview a target, conducted an interview, whether or not they should -- the
   question is should they have memorialized it?

Q  Would it be common practice for that to be memorialized in an FD-302 by
   the FBI agent?

A  Absolutely.

Q  And the contents of what the target would say to the FBI agent, that could
   then be used for other legal process, correct?


Q  So, specifically, that statement could then be used to get search warrants,
   right?
A Yes. So if -- if I go out and talk to an individual, whether a witness or a subject of an interview or target of an investigation, any statements they made -- so hearsay is allowed in an affidavit for -- you know, for example, a search warrant.

Q And so if you were going to get a search warrant for a home, you could use the statements by the target. If it referenced the home or if it provided some additional evidence regarding that home, you could then use that statement in the affidavit that would be submitted to the judge?

A Yes, assuming there's no -- I'm just -- I'm thinking of an example. For example, if a target came in under agreement with a U.S. attorney's office, a proffer session --

Q I'll get to a proffer agreement later.

A Yeah. So --

Q Assuming there's no proffer agreement, there's no immunity, you just go out and have a conversation. -- you approach them at their residence and you have a conversation with them, and they provide you statements, that could be used in a search warrant affidavit, correct?

A Yes, typically.

Q And that could be used for a search warrant affidavit for a home?

A Yes.

Q And for a business?

A Yes.

Q And for -- to get an email account, contents of an email account?

A Yes.

Q In addition, that could also be used to get a search warrant for a person's actual cell phone that they possess on them if there's probable cause related to the
statements that the target is making to the FBI agent?

A  Yes. This is assuming whatever they're saying is relevant to the -- you know, like you said, whether it's the property, the cell phone, or an email account, yes.

Q  And the same question for, if you were going to get a warrant for a geolocation data, if you were submitting an application to the judge and you wanted to provide an affidavit setting forth facts, some of those facts that could be included there would be the interview of a target that an FBI agent conducted?

A  Yes.

Q  Statements by a target can also be used in the grand jury, correct?

A  Yes.

Q  And, in fact, even if a defendant does not testify at trial, an FBI agent is permitted to take the stand and swear under oath as to the statements as admissions that the target made to the FBI agent?

A  Yes. Yes.

Q  In addition to submitting materials to the court to get more legal process and build up your investigation, when interviewing with witnesses, subjects, and targets, it also allows you to develop evidence as to other witnesses who may be involved in a matter, correct?

A  Correct.

Q  Would you agree with me that the interview of a target of an investigation is one of the most critical points in an investigation?

A  Typically, yes.

Q  And, in fact, the statements of a target are so powerful at trial that defense attorneys will often file motions to suppress statements made by their client, the defendant, if they do make statements to FBI agents.
Have you ever seen that in your career?

A   I have.

Q   And if someone were to lie to an FBI agent during an interview, that could also result in other criminal liability for a subject or a target, correct?

A   Typically, a 1001 violation, as we refer to it, yes. Infrequently prosecuted, in my experience, but yes.

Q   And that's at Title 18 --

A   Title 18 --

Q   -- U.S.C. 1001?

A   Yes, correct.

Q   Is it important when you're conducting a criminal investigation -- a large-scale criminal investigation, to be discreet that you and your fellow investigators are going to go out and talk with the target of a investigation?

A   With the target of an investigation, yeah. Yes. I mean, we always try and remain discreet to give us the best opportunity to have a conversation with somebody and not have them influenced in some way.

Q   And what do you mean by have them influenced in some way?

A   Well, whether it's a target or a witness, you know, we would like to have the opportunity to talk to a witness and not have the target know we're talking to witnesses so the target and the witness don't talk to each other, have an opportunity to change, amend, create stories that are -- you know, may affect the investigation.

Q   Is another concern the destruction of evidence?

A   Sure, absolutely.

Q   And what about the safety of the agents who are involved if the target were to know that you're going to go interview them beforehand?
A Always thought about, and that's why we're very -- you know, we're constantly assessing those types of threats, you know, especially when it comes to arrest and search activity, but even at interviews, considering the safety of the agents.

Q And when the FBI is going to go interview a target, is there planning that's involved beforehand?

A To interview a target?

Q Yes.

A Not necessar- -- well, sorry. Not operational planning. Not requiring approvals. You know, the -- a case agent's given latitude to go talk to witnesses, their professional judgment. When it comes to interviewing the target of an investigation, certainly there is perhaps more planning, more preparation, understanding you have all the questions that you want to ask, all the evidence that you -- that is available to you, you've hopefully obtained so you can make a more educated or conduct a more educated interview.

But it's -- you know, for example, when I was a case agent, if it was time for me -- that I felt it was appropriate to go interview the target, you know, I certainly would let -- let my supervisor know, okay, I'm going to do a target interview. And certainly my AUSA I'm working with is aware of that. But, you know, I'm not seeking approval typically, other than if there's other aggravating factors.

Q So just to be clear, usually when you would go interview a target, you wouldn't tell multiple layers or levels that you were going to go interview a target?

A Well, it depends upon the investigation. You know, there's plenty of times where it was a -- I don't want to say a simple fraud case, but a less complex fraud investigation, where I would certainly tell my -- as I said, my supervisor would typically know. The AUSA I'm working with would typically know, especially -- it's an important
event to interview the target of an investigation. So they would know.

Unless there was some aggravating situation, you know, where you would -- you would seek guidance from above or perhaps even operational planning. You know, for example, when I was in Washington, D.C., on the public corruption squad, that squad was responsible for, you know, officers that were perhaps corrupt. So that -- that would be a much different thing of, you know, approaching an officer who was armed, you know, that we know to have a gun. So, yeah, that would be deliberated and may seek approval above or, you know, some more planning that would be operationally approved.

Q And in your career, have you worked in instances where you were going to interview multiple people across the country in one day?

A Yes. A couple times.

Q And is it important in those situations that the target doesn’t find out about the potential interview beforehand?

A Yes. You know, we’ve -- I’ve been in at least a couple instances where we time interviews if we’re making an approach locally, you know, where all our subjects of our interviews -- maybe not targets of the investigation, but at least subjects of the interviews are all located in a -- you know, the Greater Washington, D.C. area, for example. We would assign interview teams to approach all at the same time, and that would decrease the likelihood of one witness or subject of the interview calling another subject of an interview, so we could approach them, you know, without them contacting each other.

And I’ve certainly been in that same situation where we have agents flying around the country to do a similar thing on a more geographically large scale.

Q And in 2020, were you working at the Wilmington RA?

A I was.
Q And I believe you said before, but if you could just say it again, what was your position during that time?

A So, in 2020, I was the supervisory special agent of our financial crime, public corruption squad. And just for clarity, at some point, the -- the supervisory senior resident agent of the violent -- who was also the supervisor of violent crime squad, retired. And at some point -- and I can't remember the time. It may have been around 2019 or 2020 -- I became the SSRA, as I previously explained. So I was the most senior supervisor in Wilmington.

Q And in 2020, were you assigned to oversee the investigation of Hunter Biden?

A I was assigned previously, but at that time, I was the supervisor over that investigation.

Q When did you first get assigned to the Hunter Biden matter?

A When we opened -- we opened -- I opened it in 2019.

Q At that time, what U.S. attorney's office were you working with?

A We were in Delaware, so the district of Delaware.

Q Had you worked with them previously?

A I had. So as I said, I started there in 2011. Probably the first case I brought forward was maybe late 2011, 2012. So I'd been working with the AUSAs in that office since 2012, minus my 18-month period when I was at headquarters from 2015 to 2017.

Q And as part of your duties when you were working on the Hunter Biden matter, did you work with a person by the name of Gary Shapley?

Mr. Zink. Real quick. I forgot to read this into the record. I apologize.

The Bureau has asked us to keep the identities of people below SES confidential.
So I think you can talk about the fact that you worked with two supervisors from IRS CI, right?

Correct.

Mr. Mandolfo. Okay. Thank you.

BY MR. MANDOLFO:

Q Did you work with supervisors from the IRS?

A Yeah. Yes. There was one supervisor -- supervisory special agent from the IRS who I briefly met in 2019. And by briefly, I meant one or two meetings in person. And then a new supervisor replaced that supervisor in early 2020.

Mr. Mandolfo. Could we go off the record for one second?

[Discussion off the record.]

Mr. Mandolfo. We can go back on the record.

BY MR. MANDOLFO:

Q For clarity, I'm going to refer to the IRS supervisor who is IRS whistleblower and that I just referenced as supervisor No. 2.

A Okay.

Q So could you repeat how you know supervisor 2?

A Yeah. So -- so -- well, let me back up. In April of 2019, we became aware that the IRS was also conducting an investigation into Hunter Biden, and so we joined together in and around April of 2019 --

Q And when you say we, you mean the FBI and IRS?

A IRS CI. And so the supervisor 1 was the supervisor over the IRS' case agent at that time, and that IRS case agent remained all the way through the entire time. So he was the lead agent all the way through, till the time I retired at least.

And supervisor No. 2 came in in early 2020, I think -- it was cold, so first part of
2020 -- I mean, very early in 2020. I don't remember the exact date.

Q IRS supervisor No. 2 provided statements to the House Ways and Means Committee on May 26th of 2023. It's exhibit 1 in the binder, and I want to direct your attention to page 18.

[Exhibit No. 1 Was marked for identification.]

BY MR. MANDOLFO:

Q I'm going to read the bottom of page 18.

Hunter Biden was assigned Secret Service protection on or around our December 3rd meeting. So we developed a plan for the FBI Los Angeles special agent in charge to reach out at 8 a.m. on December 8th to the Secret Service Los Angeles special agent in charge and tell them that we would be coming to the residence to seek an interview with Hunter Biden and it was part of an official investigation.

However, the night before, December 7th of 2020, I was informed that FBI headquarters had notified Secret Service headquarters and the transition team about the planned actions the following day. This essentially tipped off a group of people very close to President Biden and Hunter Biden and gave this group an opportunity to obstruct the approach of the witness.

I'd like to direct your attention to December 7th of 2020. Can you describe to the committee what the initial plan was when the FBI was going to go interview Hunter Biden?

A So the initial plan was to make approaches of multiple witnesses, to include subject Hunter Biden, on December 8th. At the time, we had learned in the days preceding, probably even before December 3rd, that he had received Secret Service protection, as this is -- I guess the President was President-elect at the time.
Q And that's President Biden?

A President Biden.

So, initially, obviously he had armed Secret Service protection.

Q When you say he, who are you referring to?

A I'm sorry. At least for the purpose of this, Hunter Biden had armed Secret Service protection providing protection at the direction of whomever. And we knew that we could not just, you know, go to the door, or I certainly believed that we just could not go to the door, so that there would be -- have to be some notification to Secret Service so they would be aware that we were coming.

The initial plan was to have the local field office of the Secret Service be notified the morning of to diminish opportunities for anybody else to be notified. I was working with my management on that, as well as headquarter -- our FBI headquarters.

Q Can I stop you there? When you say management, you don’t have to say their name, but can you provide the level of supervisory position that would be?

A Sure. So my -- again, it was an assistant special agent in charge who I reported to, who also -- I personally was in contact and -- or at least as part of a greater call with the special agent in charge of Baltimore Division. And I know that they were in contact with FBI headquarters personnel, which would be inside the Criminal Investigative Division, at least at the deputy assistant director or section chief level.

Q And please continue. What happened?

A So, again, the belief -- or the intent was we were hoping that there would be notification to the local Secret Service field office or the Los Angeles Field Office of the Secret Service on the morning of, and then -- that was our intent.

Q Can I stop you? The morning of the interview, correct?

A Morning of -- this is the evening before. And then -- on December 7th.
Oh, I'm sorry. Yes. I apologize. The notification would be made the morning of the interview.

Q That would be December 8th of 2020?
A Correct.
Q But the conversations you were having with your supervisor in FBI headquarters was December 7th of 2020?
A Correct.
Q So please continue.
A And leading into that. I'm sure there was some discussion before that.

On the evening of December 7th, we were informed --

Q Who's we?
A Well, at least -- I shouldn't say we. I know I was on the call locally. I don't know if supervisor No. 2 of the Secret -- or of the IRS was on the call with me. But suffice it to say I was informed that FBI headquarters had contacted Secret Service headquarters and had made a notification at that time, or somewhere around that time on the evening of the 7th.

Q And when say made a notification, can you expand on that, what you mean?
A Of our intent, that we sought to interview Hunter Biden.
[2:26 p.m.]

BY MR. MANDOLFO:

Q  Did you also receive information that the transition team was notified as well?

A  I don’t recall that exactly. I was refreshed by the testimony of supervisor No. 2, and I believe he’s correct. I believe I -- you know, and now getting into the frame of mind, I know I was upset when I learned about it.

Q  Why were you upset?

A  I felt it was people that did not need to know about our intent. I believe that the Secret Service had to be notified for our safety, for lack of confusion, for deconfliction, which we would do in so many other cases, but I didn't understand why the initial notification.

Q  And just to be clear, you don't have access to FBI emails or communications or other evidence that could refresh your recollection because you have since retired?

A  Yes. So I don’t have an email account. I don’t have my phone. Everything was turned in on the day I retired.

Q  So at this point, you learn the night before you were supposed to go interview Hunter Biden that Secret Service headquarters was informed about the interview that was supposed to take place the next day, correct?

A  Correct.

Q  What happened the next day? Did you learn any information given now that Secret Service headquarters knows? Was there any additional information that you learned the following day?

A  So, obviously, we were on the West Coast. There were additional
interviews across the country, to include the East Coast, which was 3 hours ahead. So we were up early. I was partnered with supervisor number two of the IRS. And as we got together or while we got together on that morning, I was notified by my assistant special agent in charge that we would not even be allowed to approach the house; that the plan, as told to us, was that my information would be given to the Secret Service, to whom I don't know exactly, and, you know, my name, my contact, you know, my cell phone, for example, with the notification that we would like to talk to Hunter Biden; and that I was not to go near the house and to stand by.

Q In your career of 20 years, have you ever been told that you could -- that you had to wait outside of a target's home until they contacted you?
A Not that I recall. I mean, there have been times where we waited for maybe something else operationally to happen, but, no, not from the point of view of the target, the subject of the investigation.

Q And did Hunter Biden come out and talk to you?
A Well, we weren't allowed to go to the house, so --

Q Where did you wait?
A A block or two away. Our hotel was nearby. We had known where the residence was, as we, you know, drove by the day before, but we maintained a distance, you know, a block or two away.

Q What happened next?
A We waited a period of time. You know, I will add, it was frustrating, and I know supervisor number two was very frustrated, and I understood that frustration, but I also -- we had other -- another interview to conduct. So after a certain period of time, and I don't exactly recall how long, we transitioned to make an attempt to interview another -- or a witness as part of the investigation.
Q And did there come a time when you learned that Hunter Biden had retained an attorney?

A Yes. After an attempt or the completion of the attempt to do the other interview, there was another interview team with us on the West Coast to interview yet another witness, and we had all met at a location to kind of discuss where we were in the morning or as a result of the morning's activities, morning on the West Coast. And at that time when we were all together, I received a call from an individual from a D.C. law firm, who I cannot recall the name of the firm or the individual, and he identified himself as having my contact information and that he represented Hunter Biden and would accept all further communications through him.

Q And were you able to interview Hunter Biden --

A I was not.

Q -- as part of your investigation?

A No.

Q I want to turn your -- to page 26 of the transcript.

Mr. Zink. Just to flag for counsel, I'm probably going to be objecting on deliberate process grounds here, but I know where you're going, but I'll let you ask the question.

Mr. Mandolfo. Okay.

BY MR. MANDOLFO:

Q On page 26, it states in the middle: Just a couple days later, Mark Daley called the case agent back and told him that the President Biden appointee to the United State's Attorney for the District of Columbia, Matthew Graves, personally reviewed the report and did not support it.

And I would ask --
A: I'm sorry. Page?

Q: Sorry. I apologize. Page 26 in the middle. I apologize. I'll reread it, a different section I wanted to read. I apologize.

Mr. Mandolfo: And, Rob, I don't know if that will change this.

BY MR. MANDOLFO:

Q: It states -- so now page 26. In the first week of May 2022, I received a call from FBI Supervisory Special Agent [redacted]. [redacted] was preparing a briefing for FBI leadership. He told me that his field office thought they should push for this case to be given to a special counsel and said, quote, my leadership is wondering why your leadership isn't asking for a special counsel in this investigation.

Can you provide more context?

Mr. Zink: So I'm going to have to instruct Special Agent [redacted] not to answer this one. Deliberative process grounds.

Mr. Mandolfo: Could we just have on the record the basis for the deliberative process?

Mr. Zink: Sure. The idea is that deliberate process privilege encapsulates strategic discussions regarding where to charge and how to charge, and that this discussion reflects information related to a status that could lead to a charge in a different district.

Mr. Mandolfo: Understood.

At this time, we are at approximately 1 hour mark, so we'll turn it over to the minority to ask your questions.

[redacted] Can we have 5 minutes?

Mr. Mandolfo: Yes, of course.

Off the record.
[Recess.]

Back on the record.

It's 2:45.

EXAMINATION

BY

Q, good afternoon. My name is . Again, I am a senior counsel with the Democratic staff of the Oversight Committee. We have a few additional questions for you, but we appreciate your coming in today.

A Thank you.

Q I'd like to start by just going back to the discussion that took place earlier about approaches to targets in investigations. And just as an initial matter, my understanding is that as of December 2020, when you sought to interview Mr. Hunter Biden in California, his status at the time was subject rather than target. Do I have that correct?

Mr. Zink. Real quick clarification. Are we talking about of the grand jury's investigation or the U.S. Attorney's Office investigation? The only reason I ask is grand jury would be 6(c).

A Yep.

Mr. Zink. If we're going outside of 6(c) --

A I appreciate the clarification.

BY

Q The U.S. attorney's investigation.

A So we considered him a subject. In FBI parlance, he's the subject of the investigation, interchangeable with target. You know, we basically classify people, you know, as subjects or witnesses or victims, typically.
Q And you were asked about the potential significance of approaching a target in the first instance and, you know, whether it was an important stage in the investigation. Would you agree with me that that is a general observation that may or may not be true depending on the specific circumstances of the investigation?

A Well, in my experience, interviewing a subject of an investigation is an important matter that we prepare for, we strive to do to serve several purposes, give the opportunity to the subject to make their statement, provide their side of the story, for us to memorialize what they say so if things change after we have it memorialized. So there is a value of that, and we strive as investigators to gather information to prepare for, you know, that eventuality, which is our goal. It certainly may change in some investigations.

Q Understood. So the value of the approach can change depending on the circumstances of the particular matter?

A It could, yes.

Q Okay. And then you mentioned a couple of concerns that may be present in connection with these types of approaches. You referred to safety of agents, to potential tip-offs to other witnesses. Again, would you agree with me that those concerns may or may not be present, again, depending on the specific facts and circumstances of the investigation at hand?

A Yes. I mean, each individual investigation has variable factors.

Q And to the extent either of those is a factor, the strength of those factors can vary, again, depending upon the specific investigation?

A Correct.

Q You -- if I understood you correctly, you mentioned that you had worked with the U.S. Attorney’s Office in Delaware from 2012 until you retired, with an interim in
between for your time in D.C.?

A  I mean, technically, to be accurate, probably 2011 I had some interaction, but, yeah, 2011 forward to my retirement date.

Q  And when you were in Wilmington, how frequently did you interact with the prosecutors in that office?

A  Routinely, both as a case agent -- if I was working a case, I would have frequent contact with whichever AUSA I was working with. The one matter I described earlier, it was much more intense, you know, anytime you're going to trial. So I was working with three of the prosecutors on a daily basis in that matter for some period of time.

Q  So in light of that close interaction with the office over, you know, the course of years, what is your assessment of the professionalism in that office?

A  Got along with the office well. Definitely frustrated at times, and I'm not referring to the investigation at hand or that we're discussing, but I would be frustrated at times with difference of opinion, slow response to act. So there were times that -- and that could be somewhat true of other offices I worked with, but I had the -- I was blessed to work, when I was in the Washington Field Office, with the Eastern District of Virginia that was at the time known as the rocket docket, very aggressive prosecutors.

I worked with the District of Columbia U.S. Attorney's Office, one of my first cases, aggressive. At least two of the prosecutors I worked with closely were aggressive. And I also worked with trial attorneys at Main Justice who I considered aggressive.

I would not consider, at least from the financial crimes point of view, white collar cases that there was an aggressive, you know, tact or, you know, stance.

Q  You spoke earlier about communication -- I'm sorry -- communication to the Biden transition team, and you mentioned that you had not recalled that until you
reviewed the whistleblower transcript.

Q   Okay. So is it fair to say that you don't have an independent recollection of that communication taking place?

A   It pushed my memory when reading it, and I remember that's why I was upset that evening, that somebody beyond Secret Service was notified.

Q   And when you say somebody beyond Secret Service, you mean you don’t recall at the time exactly who that is?

A   As far as an individual's name, no.

Q   As far as an entity?

A   Transition team, yes.

Q   And when you say the transition team, what do you mean?

A   Well, just by working in D.C. previously, I know that when one party or, you know, President-elect, you know, is in that President-elect phase, their team of advisors or appointees or whomever are considered the transition team. How big and robust that is, I don't -- you know, I don't have any individual name or roles.

Q   Just going back to the topic of approaching subjects. Did it occur during your career that subjects would decline your request to be interviewed?

A   Sure. Sure.

Q   How common was that?

A   Common. I mean, I don't know if I could assign a percentage to it, but I felt I was more successful than not in engaging people in conducting an interview. But, yeah, some would just outright decline or certainly invoke their right to counsel and defer
Q Could you give me a percentage on that? Ballpark is fine.
A Less than half would -- more than half I would be able to maybe do the interview.
Q What about subjects -- sorry. Let me back up.
At the time you sought to approach Mr. Biden in December of 2020, were you aware that he was an attorney?
A Yes.
Q Did you have any expectation as to whether Mr. Biden being an attorney would be less likely to agree to your interview request?
A In my experience, an attorney would be less likely to agree to succumb to an interview.
Q And prior to seeking to interview Mr. Biden, had you ever interviewed a Secret Service protectee?
A As part of a criminal matter? I don't believe so. Certainly, referencing back when I was doing background investigations, I may have interviewed somebody at the White House, but that would have been a noncriminal matter, just trying to -- for a reference interview, if you will.
Q And again, prior to the investigation involving Mr. Biden, had you worked on an investigation involving the family of a political candidate?
A Of a candidate? Like, as I said previously, I assisted in the investigation of Randall --
Mr. Zink. Yes or no. Yes or no.
Oh. Yes.
Mr. Zink. We're going to move to anonymize that last part. Just yes or no.
I'm sorry. Can you ask it again?

Could we read the question back?

Mr. Zink. Is this the individual's name who you've already mentioned today?

Yes.

Mr. Zink. Okay. That's fine, if it's there. You can answer. I'm sorry.

Pardon me.

I'm sorry. Can you read back the question at all?

[Discussion off the record.]

Mr. Zink. Just clarifying whether the individual's name he's going to reference is charged. I want to make sure we're protecting the identities of those who have not been charged.

[The reporter read back the record as requested.]

The family of a political candidate? None that I recollect.

The family of a political candidate? None that I recollect.

Q And in December of 2020, were you -- did you have an understanding with respect to DOJ policy concerning politically sensitive investigations?

A More familiar with the FBI policy.

Q Okay. And what is that policy?

A Greater approvals, I'll say, in opening and conducting such investigations.

Q And that was the policy in place as of December 2020?

A Yes.

Q Okay. And when you say greater approvals, can you expand upon that?

A If there was something that was considered high profile involving, you know, political persons, you know, education institutions, religious organizations, things like that, you know, it would require greater lines of approval up the chain of command.
So like the -- you know, a standard case may be opened at the squad level, you know, such as the Wilmington RA could open a case into, you know, somebody, you know, who's committed fraud. Open the case. Unless there was any aggravating circumstances, it could be approved by the supervisor.

In a case such as this, it would require, you know, up to the level of maybe the special agent in charge and, depending, maybe even at headquarters level of the FBI.

Q Any other additional process?
A That I recall specifically?
Q Yes.
A No. You know, there's restrictions on cases. All that is contained in our DIOG, and, you know, I would have had that as -- you know, referenced and followed that. You know, so restricting case access, for example, so that others weren't aware that we were conducting an investigation into a high-profile matter.

Q And did the Hunter Biden investigation, to your mind, fit into the category of high-profile matter that we're discussing?
A At the opening, I believe it was approved at least at the special unit in charge level and may have gone above that to headquarters. I believe it did, but, you know, I don't recall.

Q Is that how you viewed it at the time?
A All the way through.

Q So given all of that, and just to make sure I'm clear, is it a fair statement that at the time you sought to approach Mr. Biden and interview him in December of 2020, there were in place preexisting DOJ policies that governed the conduct of politically sensitive investigations?
A Yes. Again, I was more familiar with the FBI policies and, you know,
therefore, the greater DOJ, and as was members of my team.

Q Thank you. I'm correct that at the time you learned of the outreach to the Secret Service and the transition team, the investigation was proceeding under Republican political appointees put in place during the Trump administration, specifically Attorney General Barr, Mr. Weiss, the U.S. attorney in Delaware. Is that right?

A They were in those positions at the time, correct, yes.

Q And that was also true with respect to the director at the FBI, Christopher Wray, and the director of the U.S. Secret Service, James Murray, right?

A I don't know anything about the director of the Secret Ser-- -- I don't know who that was of the Secret Service. And yes, Wray was the director of the FBI at the time.

Q Was it ever your understanding that the change in plan on December 7th through December 8th, 2020, that we discussed earlier, was driven by political considerations?

A I couldn't answer that. I don't know why the change or why we were instructed of the changes.

Q Was that ever your view?

A I understood the reason why -- potentially why Secret Service headquarters was notified, because FBI headquarters, you know, has a relationship with Secret Service headquarters. So I could understand that. You know, so to foster an ongoing good working relationship, that one was not blindsided by the other. As far as the other, I don't know. I don't know why that would have happened.

Q And, again, you have no knowledge that it happened for political reasons?

A I don't -- do not have any knowledge of that.
Q You stated earlier that you understood why there was reason to contact U.S. Secret Service headquarters. Can you explain why that was?

A Well, as I said, FBI headquarters was aware of our intent and to -- and this is my opinion -- for FBI headquarters to be aware of something and to only notify the local Secret Service office of the FBI, the L.A. Division, could cause consternation or damage to the relationship between executives at FBI headquarters versus Secret Service headquarters. So from a practical point of view, I could understand that.

Q And why notify Secret Service at all?

A Well, I personally was not going to go to armed Secret Service agents and demand that I interview their protectee for two reasons. Number one, I did not believe they would let me in, which would frustrate us. And number two, they would cause us to wait and seek the permission of, most likely, their headquarters, because those agents in the field are doing their job, which is to protect their assigned protectee.

So it made common sense to me, as we would deconflict other potentially similar circumstances, that if we could make a notification in advance to speed the process so that if there was an opportunity to approach, that those agents that were, you know, at the street level protecting their protectee knew that we were coming and knew why we were coming.

You know, as somebody who has to provide protection, having an IRS supervisor and an FBI supervisor also armed coming to a scene would cause confusion. And at the worst case, you know, as we talk about law enforcement, it could be a blue on blue matter. They don't know who we are. They don't know if our credentials are faked. So, you know, those are things we're thinking about.

Q And how did you learn about the change of plan?

A As I said, there was a meeting the night before or a phone call, at least, the
night before, since I was in California, where we were told that FBI headquarters had notified Secret Service headquarters in the transition. The change occurred the next morning. I was informed I believe the next morning. I believe I was with supervisory special agent No. 2 of the IRS when we were told we just couldn't make the approach at all and that my information would be passed to -- through the Secret Service to the subject, Mr. Biden.

Q: So I'd like to talk to you a little bit about that first phone call the night before, that you just mentioned. So who was on that phone call?
A: It would've been -- there may have been more than one call. I can't recall. And I recall my direct assistant special agent in charge and the special agent in charge in the Baltimore office, and I don't know if it was relayed to me or if they were on the call, perhaps the deputy assistant director at FBI headquarters criminal division.

Q: And what were you told on that call?
A: That Secret Service was -- Secret Service headquarters was notified and there was notification to the transition team.

Q: You remember being told those two things?
A: I do.

Q: How was it told to you?
A: I mean, over the phone.

Q: Was there a discussion? Was there --
A: I think I was just told. I mean, you know, words to that effect, you know, that, okay, here's what's happened.

Q: Did you request an explanation?
A: I recall being aggravated with -- in a conversation, which, again, may have been separate, with my assistant special agent in charge, asking why this happened.
And there was no explanation provided. It's just, this is what's happening.

Q: Do you know who made that decision?
A: I do not.

Q: And do you know -- did you ask -- on the call you didn't ask why this decision was being made?
A: As I said, I asked why, and I was not provided a reason.

Q: In a separate call or in the same call?
A: I believe it was a separate call with the assistant special agent in charge.

Q: And the assistant special agent in charge wasn't the person who made that decision?
A: As I said, I don't know who made the decision, but based on knowing that he was talking to the special agent in charge and there was also conversations with headquarters -- headquarters, I don't believe he made that decision.

Q: And did you receive any information about who in those respective agencies were notified?
A: No, beyond -- again, our initial plan was the special agent in charge of the L.A. Field Office was the original intended recipient of our intent. But beyond that, I don't know what levels at Secret Service headquarters, you know, by title. I have no idea.

Q: And when you say that the transition team was notified, how was that described?
A: I believe using those words. Somebody from the transition team was notified. And if they identified him, I cannot recall who or by role the person was.

Q: Did they explain what transition team this was or --
A: No. But as I said earlier, we knew, or at least I knew the transition team is
usually made up of individuals appointed by the President-elect to help make the transition from one administration to the other and are working at the pleasure of the President-elect.

Q Well, when there's a change in administration, there are a lot of various transitions that happen at various agencies, at various levels of government. There's a lot of transition planning that happens from one agency to the next -- from one administration to the next. You'd agree with me?

A I mean, that makes sense to me, yes.

Q And so --

A I haven't been part of a transition team, so I don't know.

Q So when you were -- so you were just told the transition team?

A Yes.

Q You didn't -- you weren't told what transition team that was, at what level that was told?

A I don't recall. I don't recall being told, and if I was, I don't recall now.

Q Do you know whether this transition team was, in fact, advised?

A I was told they were -- no, I don't know if they were, in fact, advised. I was told they were advised.

Q So you were told in that phone call that headquarters of the United States Secret Service would be advised and then another entity that was just referred to as the transition team?

A Correct.

Q And you didn't ask for any further explanations on that call from the decision-makers?

A No. If I asked questions, it was of my assistant special agent in charge
Mr. Zink. On a subsequent call?

On a subsequent call, yeah. I probably said, what -- you know, again, why did this happen, or words to that effect. And he said that that's the plan and that's what it is.

BY

Q Subsequently did you ever inquire as to why it had happened?
A No.

Q So you remained with the FBI for a couple of years after that?
A Correct.

Q And you described that you had been upset by this decision?
A Yes.

Q But you never sought to clarify with anyone at FBI why that had happened?
A Correct.

Q Why is that?
A I am a supervisor in the field. The decision was made and I moved on.

Q And you didn't report that decision as being problematic in any way to anyone at FBI, did you?
A No. I mean, other than if I was frustrated that evening while on the subsequent call with my ASAIC, no.

Q If you had been party to political interference in FBI investigations, you would have reported that out somewhere, wouldn't you have?
A I hope I would've.

Q But you didn't do that in this instance?
A Well, I wasn't aware of political interference personally.
BY [Redacted]

Q I just want to circle back quickly to our earlier discussion about the U.S. Attorney's Office in Wilmington. I take it from your answers that you had disagreement with at least some of the prosecutors about certain investigative steps. Is that fair?

A On this case or in general?

Q In general.

A In general, yes. And that wouldn't have only occurred in this U.S. Attorney's Office. I mean, there were instances that happen, you know, personally for me throughout my career where we had a difference of opinion, and I'm sure every agent working hard goes through the same thing at times.

Q So it's a common circumstance for FBI agents to have disagreements with prosecutors about investigative steps. Is that fair?

A Yes.

Q You -- as I understood your answer, you referred to certain prosecutors in the office as being perhaps less aggressive than you would have preferred. Could one reasonably ascribe that to caution or deliberateness in the office's approach to investigations?

A Say that again. Would some -- would you ascribe that to caution?

Q Yes. I'll put it in planner English. I apologize for that, that formulation.

A I went to a State school, so --

Q No worries.

Could it be that the reason for what you were observing was, in fact, caution and deliberateness in making investigative decisions?

A Among others, yes.
Q: Did you ever have instances where you had disagreements with the prosecutors, not just about investigative steps, but charging decisions?

A: Absolutely.

Q: Were there instances where you thought there was -- a charge should be -- or a count should be charged because you felt the evidence was sufficient to warrant it and the prosecutors decided not to charge those counts?

A: Absolutely.

Q: Would you say that's common for special agents to have that kind of back and forth with prosecutors?

A: Common, but not -- what's the word I'm looking for? It's common, but, you know, in my experience, I had very good working relationships with my -- the assistant United States attorneys I worked with. We may have disagreements. I certainly recognized my role versus their role, where they're the ones that have to argue in front of a judge and jury, which I don't have to. I have to -- I may have to testify, but it's their case to argue.

So ultimately, you know, we may have our differences, but it's usually a good relationship. We air out our differences, but, yeah, there are differences at times.

Q: And you said usually it's a good relationship. We air out our differences. People are people. Prosecutors are people. There are different kinds of prosecutors out there. Is it fair to say that sometimes prosecutors who have disagreements with agents will sit down with the agents and go point by point and explain why they have disagreements? And other prosecutors just say, I'm not doing that, and don't really afford the agent the benefit of an explanation?

A: Absolutely. And, you know, that's -- you know, we have -- at times we have the luxury of seeking out the AUSA we want to work with because we have a better
relationship, and there's others that we would know to steer clear of and not bring a case
to them because those reasons. They're, you know, difficult to work with or slow to
work with or handle matters differently than we hope.

So, you know, we -- I've had the luxury or luck of working with prosecutors, and if I
have a new case to open, I'll seek out that prosecutor that I have a good relationship with.

Q    And once a case is in the grand jury stage, once it becomes a grand jury
investigation, who gets to call the shots about investigative steps and prosecutorial -- and
charging decisions?

Mr. Zink. As a general matter, not in any specific instance, right?

BY

Q    As a general matter.

A    Well, in the best relationship it's both. It's both the prosecutor and the
lead agent or the case agent.

Q    But if there's a disagreement that can't be resolved, who gets to make the
final call?

A    Well, as I said, in my experience, usually I'll defer to the prosecutor because I
also understand their role, which is they have to ultimately make the argument in front
of -- you know, if there's not a resolution in the case in another matter, they're the ones
that are going to take it to trial and have to argue it in front of a jury.

So, you know, and I always took the belief of, you know, I work -- you know, work
as best as I can with those prosecutors because you never know when you may have to
work with them again.

Q    And have you ever had cases where agents take it personally when a
prosecutor disagrees with them, especially if they've spent a long time building up a case
and the prosecutor decides -- they disagree with them on the ultimate charges?
A Sure, myself included. You invest a lot of time, effort, energy at the expense and sacrifice of other things in your life. And so you do take it personally when you see things a certain way and want it done a certain way and somebody disagrees with you and ultimately makes a decision that you don't agree with.

Q And have you ever been in a situation where the agent just doesn't understand why the prosecutor disagrees with them, why they don't see the case the same way, so they're trying to find a reason why this prosecutor didn't see the case the way they did?

A Yes.

Q And sometimes did the agent get those reasons wrong?

A Sure.

Q I wanted to ask you a little bit about -- you've done sensitive investigations as part of the public integrity section?

A Public corruption squad, yes.

Q Public corruption. My colleague was asking you about some of those, and I wanted to ask you specifically about search warrants.

A Okay.

Q So when you're presenting an application for a search warrant to a magistrate judge, you obviously need to establish probable cause to get the search warrant.

A Correct.

Q But particularly in sensitive cases, isn't it true that there are additional factors that prosecutors are supposed to consider before they make an application for a -- such a search warrant beyond whether or not there is probable cause?

A Well, I think --
Let me maybe ask you a more specific question.

That might be helpful.

Searches of property that belong to an attorney present certain challenges. Isn't that right?

Yes. Yes, and I've experienced that firsthand.

And that's because a search warrant -- conducting a search warrant of an attorney's property can involve material that's protected by the attorney-client privilege.

Correct.

Among other considerations.

Yes.

And is it bad if agents are exposed to material that is -- that falls within the attorney-client privilege?

Well, yes. And I believe there was recent change in practice due to a Third or Fourth Circuit appeal about, you know, how to conduct an investi-- or conduct a search warrant at an attorney's place of business.

But to answer your question as, again, the case agents invest a lot of time, energy into a case. So if a case agent working on a case is exposed or breaches the attorney-client privilege accidentally or otherwise, then, you know, that may taint the case itself and most likely have that case agent removed from the case, from further action, so that there's no belief that that agent then acted on information that came from an attorney-client privilege communication or paper or otherwise.

So we take great effort to ensure that we protect agents from being exposed to any material that could be considered attorney-client privilege.

And those steps can include the creation of a filter team. Is that right?
Frequently, yes.

And that requires additional resources and additional time to have separate agents or prosecutors go through the material, determine whether there is privilege material in there, et cetera. It slows down the investigation and uses up a lot of resources. Is that fair?

That is a fair description.

And if an agent accidentally sees privilege material, that can have an effect for the agent, as you mentioned, but also for the case. It's possible for a case to get dismissed if the prosecution team gets privilege material?

Possible. I personally haven't seen a case get dismissed, but, yes, that is, you know, one of the factors always on the front of our mind.

So are you aware of a DOJ policy, for example, that applies to search warrants at property that belongs to an attorney that instructs prosecutors that in order to avoid impinging on valid attorney-client relationships, prosecutors are expected to take the least intrusive approach consistent with vigorous and effective law enforcement when evidence is sought from an attorney engaged in the practice of law?

I don't know it word for word, but I understand that in practice. And so prosecutors are instructed by the Justice Department as a matter of policy that they should consider less intrusive means, such as a subpoena, instead of executing a search warrant. Is that fair?

That is fair.

And so that is an additional consideration beyond whether or not there is probable cause to execute a search warrant. Is that correct?

Yes, assuming you had probable cause to even consider conducting a search.

Yes, absolutely.
Q  So it would be proper, and by that I mean within DOJ policy, for an attorney
to say to an agent, yes, there is probable cause to execute this search warrant, but we are
not going to do it because there are less obtrusive means of obtaining the evidence?
A  That's reasonable, yes.
Q  So we discussed that in the context of search warrants at premises that
belong to an attorney.  Are you familiar with similar policies applying to property
belonging to a public official or a political candidate?
A  Early in my career, I became somewhat familiar with that with a search on
Capitol Hill with Congressman Jefferson's office.  So, yes, I'm somewhat familiar that --
Mr. Zink.  Just to be clear, the same situation applies to him as the other
individual, correct?

Yes.  Yes, convicted -- yeah, public record.

But yes, so I am aware.

Q  And so, for example, the Tax Division of the U.S. Department of Justice has a
policy that spells out other factors that apply when serving a search warrant on property
belonging to a political candidate that includes factors such as whether the suspected
crime is significant enough to justify a search warrant, whether the affidavit establishes
probable cause, whether the particular evidence at issue can be secured without a search
warrant, i.e., whether a search warrant is the least intrusive means to obtain the
evidence, and whether there is a reasonable need for the evidence, i.e., whether the case
can be investigated and prosecuted with other evidence with no significant delay in
completing the investigation and no significant diminution in the likelihood of conviction.

Sorry, that was a mouthful, but I guess my question to you is:  Do you agree that
like with the search of an attorney's premises, with the search of a political figure or a
political candidate's premises, there are additional factors beyond probable cause that
prosecutors are required to consider under DOJ policy?

A  I'm not aware of that, until you read it, but certainly makes sense to me.

Q  That accords with your general understanding of practices at the
Department of Justice?

A  Yes.

Q  And similarly, are you aware with the general -- I'm sorry, with the policy at
the Department of Justice --

Mr. Zink.  Are these all Justice Manual citations, I'm guessing?

These are Justice Manual citations.

Mr. Zink.  Thank you.

And if it's helpful, I have not read the Justice Manual.

Mr. Zink.  Word for word.  You've read the Justice Manual.

Correct.

Q  Are you aware generally of the Department of Justice policy that -- with
regard to election year sensitivities that cautions agents and prosecutors not to take any
actions that might give the impression of -- or that might affect an election?

A  Yes.

Q  So there are additional sensitivities during an election year that apply
especially when they involve political figures or those close to political figures.  Is that
right?

A  Yes.

Q  My colleague asked you about the U.S. Attorney's Office for Delaware, with
which you are familiar.
A Yes.

Q Are you familiar with U.S. Attorney Weiss?
A Yes, I know him.

Q Have you ever known U.S. Attorney Weiss to make prosecutorial decisions based upon political influence?
A No.

Q Have you ever known any of the AUSAs in the U.S. Attorney's Office for the Office of Delaware to let their prosecutorial decisions be guided by political interference?
A No.

Q I had a couple questions for you. Are you familiar with an October 6, 2022, Washington Post article titled "Federal agents see chargeable tax, gun-purchase case against Hunter Biden"?
A I mean, there's numerous articles out there. I'm not sure I'm familiar with the specific details of that one.

Q I have a copy of it, if that would be helpful for you to look at it. If you want to just take a second to look at the article.

The questions I have are about just the first page of the article.
A Okay.

Q But if you need more time to read it, you can go ahead.
A No, go ahead.

Q The first sentence of the article states: Federal agents investigating President Biden's son Hunter have gathered what they believe is sufficient evidence to charge him with tax crimes and a false statement related to a gun purchase, according to people familiar with the case.
Do you agree that this article seems to include information about agents' views on an ongoing investigation?

Mr. Zink. Just to be clear, I think you can answer, the question is your view of this article and the views that it reflects. Is that right?

Ask your question again, please.

Yeah. So there are a couple of sentences in here. One of them is the first sentence, which it says -- comments on the investigation says, according to people familiar with the case. Then it says, in the second paragraph -- or in the second sentence, it says that these people said the next step is for the U.S. attorney in Delaware, a Trump administration holdover, to decide on whether to file such charges.

Would you agree that those statements and other statements in those articles seem to reflect agents' views or the perspective of agents involved in the investigation?

Mr. Zink. Well, it's very -- obviously, the line that the Department has drawn is the deliberative process, is there enough evidence to charge or not. I totally get why you would want to know, and I understand why the Department doesn't want that stuff to be out there.

I think the question, as phrased, is asking about an article which necessarily requires him to opine on agents' views of the sufficiency of the evidence. So that's the kind of line we're up against here.

Yes, understood.

And I think the question is a simple -- does this article appear to convey the opinions of case agents on the sufficiency of evidence?

Can I have a word with --

Mr. Zink. Look, all we want to do is be fair and play by the rules here, but the bright line for me is, you know, discussions or thoughts or opinions about is there enough
evidence or is there not enough evidence, that's like core Department stuff. So --

And that's not where this line of questioning is going.

It's just on the text of the article.

Can I talk to you about one thing?

Mr. Zink. Yeah. Do you want to go?

Yes.

Mr. Zink. Okay.

Off the record.

[Discussion off the record.]
[3:37 p.m.] 

BY [REDACTED]

Q  Generally speaking, do you think it could be problematic for agents' views in any ongoing investigation to be publicly reported or released to news sources?

A  Yes.

Q  And it could create problems potentially for the integrity of an investigation?

A  Yes.

Q  In your career, have you ever worked on an investigation in which there were leaks? And you don't need to be specific, just yes or no.

Mr. Zink.  Leaks to the press?

[REDACTED]  To the press.

[REDACTED]  Sorry. My pause is I'm thinking back through my career.

[REDACTED]  No, that's fine.

[REDACTED]  Not that I recall.

BY [REDACTED]

Q  So in a hypothetical situation, you're leading an investigation, you find out that there was a leak. It seems like the leak might have come from an agent or someone close to the investigation. How would you handle that?

A  Well, if I believed there was a leak from an investigation I was involved in, I would report it to whomever my supervisor was at the time, if I believe somebody from the team I was on or the team I was supervising had done something inappropriate.

Q  And if you were concerned that a leak might be coming from one agent and there were a lot of agents involved, what steps might you personally -- other than reporting, which you just said -- consider taking to protect the integrity of the investigation?
A Well, step one would be reporting it to my supervisor. Whether I'm -- whether I'm a field agent reporting to a supervisory special agent or if I'm a supervisor, I'd report it to my assistant special agent in charge.

Q And what steps would you hope that they would take to ensure the integrity of the investigation?

A They would --

Mr. Zink. They being management?

Supervisor, management.

Not being part of one previously, I'd -- I, you know, believe it would go to our Internal Investigations Section. Whether there was -- now, if you're asking if it was an unsubstantiated allegation versus something I did believe happened, you know, then maybe potential removal of -- of, you know, the agent in question from the case to protect the integrity of the investigation. You know, I'd want those steps to be taken.

do you have any other questions before we stop?

So the question my colleague was asking you is there's -- there's an ongoing investigation. There's a concern that there is a leak coming from someone on the investigative team, but --

Mr. Zink. You mean generally or --

Generally.

Mr. Zink. Okay.

and -- but there is no clear answer as to who on the investigative team it is. Would it be reasonable for management to consider removing the entire investigative team in order to protect the integrity of the investigation?

I think that would be -- dependent upon the circumstances, I think that is one reasonable decision that could be made. You know, whether it's -- again, if
there's other factors, if you think it's more likely one versus another, whether or not you
really think the leak is coming from your team or not. You know, I don't trust that
people misrepresent that they say they're close to the investigation when, in fact, they're
not, or maybe they're in a different role, whether it's coming from some other role or
agency.

You know, so I would -- I would -- you know, I'd want to protect the integrity of
the investigation. I think that would be reasonable at times, but I would not want to
make sweeping changes at the mere allegation that is not substantiated, you know, if that
makes sense.

But you agree that there are circumstances in which concern
about a leak might justify management removing an entire investigative team to protect
the integrity of an ongoing investigation?

Yes.

I think I'm going to move to a slightly different topic now. So my question
for you is: Can you remind me -- and I know you discussed this earlier -- when was the
investigation into Hunter Biden opened?

By the FBI or the IRS?

Well, both, if you can -- if you know the dates of both --

I don't know -- since I was not aware at the time IRS opened it -- I believe it
was the fall of 2018 is when the IRS opened their investigation. We opened ours -- you
know, I don't have the exact date in front of me, but it would've been in or around
February of 2019.

And when did you combine -- remind me when you combined forces with
IRS.
A  April 2019.  I don't know if we may have heard of IRS in March, that they existed, meaning -- not the agency, but that they were conducting the investigation or into -- into that target or subject.  But, yeah, by April, we had joined forces.

Q  Okay.  And so from the beginning of the investigation, you think the IRS investigation was opened up in the fall of 2018.  This is to -- through the time that a plea deal was reached, this was over 4 years that the investigation was going on.  It was a multiyear investigation.

A  Correct.

Q  And you mentioned this was an interagency effort and the FBI was involved and the IRS was involved.  Do you know what other agencies, if any, were involved?

Off the record.

[Recess.]

Mr. Mandolfo.  Going back on the record.  Counsel has one clarification.

Mr. Zink.  Just want to confirm with counsel for majority and minority that the terms "target," "subject," and "witness" as they were used in today's questioning modify and relate to the FBI and Department's investigation, not the grand jury's investigation.

Just confirming that.

Mr. Mandolfo.  Yes.  And just based upon the narrow scope and agreement that was formed amongst counsel and the parties that this would be limited to a very limited set of facts, we are now going to conclude with speaking with [REDACTED] at this time.

Thank you.  Off the record.

[Whereupon, at 3:52 p.m., the interview was adjourned.]
Certificate of Deponent/Interviewee

I have read the foregoing _____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

______________________________
Witness Name

______________________________
Date