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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.

1           Appearances:

2

3

4       For the COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY:

5

6       CLARK ABOURISK, COUNSEL

7       JESSICA DONLON, DEPUTY STAFF DIRECTOR

8       JAKE GREENBERG, DEPUTY CHIEF COUNSEL FOR INVESTIGATIONS

9       JAMES MANDOLFO, GENERAL COUNSEL AND CHIEF COUNSEL

10      FOR INVESTIGATIONS

11      ██████████, MINORITY CHIEF COUNSEL

12      ██████████, MINORITY SENIOR COUNSEL

13      ██████████, MINORITY COUNSEL

14

15

16      For ██████████:

17

18      ROBERT ZINK

19      MICHAEL SHAHEEN

20      ISABELLE SUN

21      Quinn Emanuel

1

2

3 Mr. Mandolfo. Good afternoon. This is a transcribed interview of [REDACTED].

4

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

7

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

11

12 Would the witness please state your name for the record?

12

13 [REDACTED]: [REDACTED].

13

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

16

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

19

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

21

22 Mr. Greenberg. Jake Greenberg, majority staff.

22

23 Mr. Abourisk. Clark Abourisk, majority staff.

23

24 [REDACTED], minority staff.

24

25 [REDACTED], minority staff.

25

[REDACTED], Democratic staff.

1 Ms. Donlon. Jessica Donlon, majority staff.

2 Mr. Mandolfo. Thank you.

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

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

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

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

12 Do you understand everything so far?

13 [REDACTED]. I do.

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

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

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

22 Could your counsel please state your name on the record?

23 Mr. Zink. Yes. Robert Zink on behalf of Special Agent [REDACTED], retired, from  
24 Quinn Emanuel.

25 Mr. Shaheen. Michael Shaheen, also on behalf of retired Special Agent [REDACTED]

1 [REDACTED], also with Quinn Emanuel.

2 Ms. Sun. Isabelle Sun, also on behalf of retired Special Agent [REDACTED], as  
3 well as also from Quinn Emanuel.

4 Mr. Mandolfo. Thank you.

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

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

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

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

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

24 [REDACTED]: I do.

25 Mr. Mandolfo. This also applies to questions posed by congressional staff during

1 an interview. Do you understand this?

2 [REDACTED]: I do.

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

5 [REDACTED]: I do.

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

8 [REDACTED]: There is not.

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

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

17 The committee is seeking information related to the Federal agency's actions  
18 leading up to the planned interview of Hunter Biden in California on December 8th of  
19 2020, and references to you in a transcript that were made by one of the IRS  
20 whistleblowers. The Hunter Biden interview, according to the IRS whistleblower, never  
21 took place.

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

1 Any questions before we begin?

2 [REDACTED]: Not at this time.

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

4 Is there anything the minority would like to add?

5 [REDACTED] Not at this time.

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

7 Mr. Zink. Yes. Thank you.

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

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

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

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

24 And we intend to abide by and follow the Department's guidance and  
25 expectations.

1           Mr. Mandolfo. And just to be clear, the Department sent that letter on a Sunday  
2 afternoon, the day before this interview was scheduled, correct?

3           Mr. Zink. Yes. Yes.

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

7           Mr. Zink. That's correct.

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

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

12          Mr. Mandolfo. Okay.

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

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

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

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

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



1 week?

2 Mr. Zink. Yes.

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

5 EXAMINATION

6 BY MR. MANDOLFO:

7 Q [REDACTED], are you retired from the Federal Bureau of Investigation?

8 A I am.

9 Q When did you retire?

10 A June of 2022.

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

12 A Most recent or since college?

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

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

16 I briefly worked in sales at a pharmaceutical company.

17 I then went to work for an organization based out of Philadelphia called the [REDACTED]

18 [REDACTED], which is -- I worked to offer families the opportunity to donate  
19 organs at the time of the death of a loved one. Did that for about 3 years.

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

24 Q Can you tell us about your educational background?

25 A Sure. I have a bachelor's degree in health science and went to a paramedic

1 program. And I don't have any advanced degree.

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

3 A That's correct.

4 Q So for approximately 20 years?

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

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

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

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

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

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

22 And in -- I believe it was August of 2017, the previous supervisor had vacated due  
23 to promotion. I applied and was promoted to supervisor of the white collar squad, or,  
24 you know, Public Corruption, Financial Crimes squad, more accurately described, from  
25 August 2017 until my retirement.

1 Q And during your career with the FBI, did you win any awards for your  
2 service?

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

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

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

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

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

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

25 A Absolutely.

1           Q    -- over the course of your career the different types of matters that you  
2 handled?

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

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

15           Also at that time, even though it was a healthcare fraud squad, it was right after  
16 9/11, so we took on a little more responsibility.  So we were assigned mortgage fraud at  
17 the time.  So one of the first cases I went to trial on was a mortgage fraud  
18 investigation -- that was here in D.C. -- where somebody was -- conspiracy among several  
19 to inflate and fabricate appraisals to obtain loans from banks to the tunes of millions of  
20 dollars.  I worked that for about 3 years.

21           During that time, I was temporarily assigned -- I was picked to -- assigned to  
22 investigate the Duke Cunningham matter, which was the former Congressman out of  
23 California, who was diverting funds to a -- a government contractor that he was  
24 associated with.  Assisted on that case for a period of time while I was assigned to  
25 the -- permanently assigned to the healthcare fraud squad.

1           At the conclusion -- or in -- probably -- approximately December 2006, I had  
2 maintained my certification as a paramedic, because I was asked to transfer to the Joint  
3 Terrorism Task Force in Washington, D.C. -- or the Washington Field Office. I had been  
4 located in Tysons Corner at the -- what was the Falls Church, Virginia office. I was asked  
5 to move to the JTTF as the operational medical coordinator to use my experience and  
6 background as a paramedic.

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

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

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

23           Generally, also, our squad was responsible for responding to any event in the city.  
24 You know, on the heels of, you know, 2001, with white powder letters, suspicious  
25 packages, pipe bombs, you know, anything you can imagine. We went to Capitol Hill

1 when a gentleman was allegedly conducting testing. He was a professor from Japan,  
2 and he was taking samples with chemicals on the Capitol Hill grounds. So if anybody  
3 was here, that was quite a response that day.

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

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

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

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

1 collar crime in the State of Delaware, and did some fraud cases.

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

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

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

16 Mr. Zink. In D.C.?

17 [REDACTED]. I'm sorry. In Washington, D.C., which is located, you know,  
18 downtown D.C. It's within the Financial Crimes Section of the FBI Criminal Investigative  
19 Division.

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

24 The second half of the unit, or the second side of the unit was the program  
25 manager, so these are headquarters supervisory special agents, as I was at that time, who

1 were responsible for managing healthcare fraud investigations around the country. So  
2 there was a vacancy there. The unit chief asked me to move over, so I became the  
3 program manager for the northeast of the United States. Did that for the remainder of  
4 my time on the TDY.

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

11 BY MR. MANDOLFO:

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

14 A It varied with personnel changes, but 8 to 10. I had actually originally  
15 started the squad back in 2014. The squad was one squad, as I said earlier. And in late  
16 2014, they asked me to begin the squad as an acting SSA, because they wanted to create  
17 a white collar squad versus, like, a catchall squad. So it was split into the violent crime  
18 and the white care -- white collar --

19 Q Not to interrupt you, but SSA is?

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

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



1           And I apologize. What was the lead-in question?

2           Q    I was just asking how many people you supervised.

3           A    Oh, yeah. So -- oh, yeah. Sorry. Apologize.

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

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

10          A    Uh-huh.

11          Q    -- who oversaw --

12          A    I'm sorry, yes.

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

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

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

1           So they would report to an ASAIC, and then each of those ASAICs then reported to  
2 the special agent in charge of the Baltimore Field Office located in Baltimore.

3           Q    And is the special agent in charge the leader, so to speak, for the FBI RA?

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

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

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

16           Q    And given your experience with the FBI, did you have the opportunity to  
17 interview witnesses?

18           A    Oh, yeah.   Scores over years.

19           Q    Do you have an approximate amount you could estimate, or an over  
20 number?

21           A    I mean, hundreds.   It would be a ballpark.

22           Q    And with those witnesses, did you have the opportunity to interview  
23 victims?

24           A    I did.   I did.

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

1 subjects?

2 A I did.

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

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

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

9 A I have.

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

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

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

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

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

22 A I did. Certainly, we have robust training through the FBI Academy how to  
23 conduct interviews and, additionally, the FBI afforded me the opportunity for the Reid  
24 School, for example. So I did -- you know, that was, you know, essentially an outside  
25 source of training.

1 Q And while you were supervisor, did you have the opportunity to provide  
2 training to agents who were below you as far as interviewing techniques or skills?

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

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

10 A In Federal court --

11 Q And I'll include grand jury hearings.

12 A Yeah. So that's what I was going to wonder. Grand jury would expand it.  
13 You know, trials, probably that I personally was a case agent on, five. Four. Four or  
14 five, where I was the lead case agent. I was also -- I testified in at least one other  
15 manner where I was not the lead case agent. I was, you know, one of the agents.

16 And then grand jury would be a handful of times, you know, for my cases mostly.

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

20 A I have.

21 Q And can you explain generally how that process works?

22 A So during the course of an investigation, if we believe or have, you know,  
23 probable cause to believe that there's evidence maintained, whether it be, for example,  
24 a -- an individual's house, or on an email account maintained by a provider, we would  
25 articulate the facts in a document, which would be an affidavit, laying out our probable

1 cause to believe that there was evidence of activity in violation of Federal statutes that  
2 were maintained, whether it be in the house or on -- you know, as I said in my example,  
3 an email account of an individual.

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

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

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

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

18 A We do, in an FD-302.

19 Q And what is an FD-302?

20 A The FBI numbers all its forms. I forget what the FD stands for. Federal -- I  
21 don't know -- FBI document. But it -- and there's a whole host of numbers. For  
22 example, consent to search form would be an FD-26. But an FD-302 is the written  
23 report that is done contemporaneously at the time of an interview, where the agent who  
24 led the interview writes down not a word-for-word transcript, but a recollection of  
25 everything that -- or that occurred or was discussed during the interview.

1 Q And that FD-302 then is preserved by the FBI and maintained on the FBI's  
2 database, commonly known as SENTINEL, correct?

3 A That's correct.

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

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

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

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

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

20 A Absolutely.

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

23 A Correct. Yep. Yes.

24 Q So, specifically, that statement could then be used to get search warrants,  
25 right?

1           A    Yes.  So if -- if I go out and talk to an individual, whether a witness or a  
2           subject of an interview or target of an investigation, any statements they made -- so  
3           hearsay is allowed in an affidavit for -- you know, for example, a search warrant.

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

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

11          Q    I'll get to a proffer agreement later.

12          A    Yeah.  So --

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

17          A    Yes, typically.

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

19          A    Yes.

20          Q    And for a business?

21          A    Yes.

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

23          A    Yes.

24          Q    In addition, that could also be used to get a search warrant for a person's  
25          actual cell phone that they possess on them if there's probable cause related to the

1 statements that the target is making to the FBI agent?

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

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

8 A Yes.

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

10 A Yes.

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

14 A Yes. Yes.

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

19 A Correct.

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

22 A Typically, yes.

23 Q And, in fact, the statements of a target are so powerful at trial that defense  
24 attorneys will often file motions to suppress statements made by their client, the  
25 defendant, if they do make statements to FBI agents.



1 Have you ever seen that in your career?

2 A I have.

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

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

7 Q And that's at Title 18 --

8 A Title 18 --

9 Q -- U.S.C. 1001?

10 A Yes, correct.

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

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

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

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

22 Q Is another concern the destruction of evidence?

23 A Sure, absolutely.

24 Q And what about the safety of the agents who are involved if the target were  
25 to know that you're going to go interview them beforehand?

1           A    Always thought about, and that's why we're very -- you know, we're  
2 constantly assessing those types of threats, you know, especially when it comes to arrest  
3 and search activity, but even at interviews, considering the safety of the agents.

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

6           A    To interview a target?

7           Q    Yes.

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

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

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

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

1 event to interview the target of an investigation. So they would know.

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

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

11 A Yes. A couple times.

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

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

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

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

25 A I was.

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

3 A So, in 2020, I was the supervisory special agent of our financial crime, public  
4 corruption squad. And just for clarity, at some point, the -- the supervisory senior  
5 resident agent of the violent -- who was also the supervisor of violent crime squad,  
6 retired. And at some point -- and I can't remember the time. It may have been around  
7 2019 or 2020 -- I became the SSRA, as I previously explained. So I was the most senior  
8 supervisor in Wilmington.

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

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

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

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

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

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

17 Q Had you worked with them previously?

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

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

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

25 The Bureau has asked us to keep the identities of people below SES confidential.

1 So I think you can talk about the fact that you worked with two supervisors from IRS CI,  
2 right?

3 [REDACTED]. Correct.

4 Mr. Mandolfo. Okay. Thank you.

5 BY MR. MANDOLFO:

6 Q Did you work with supervisors from the IRS?

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

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

11 [Discussion off the record.]

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

13 BY MR. MANDOLFO:

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

16 A Okay.

17 Q So could you repeat how you know supervisor 2?

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

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

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

25 And supervisor No. 2 came in in early 2020, I think -- it was cold, so first part of

1 2020 -- I mean, very early in 2020. I don't remember the exact date.

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

5 [REDACTED] Exhibit No. 1

6 Was marked for identification.]

7 BY MR. MANDOLFO:

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

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

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

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

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

1 Q And that's President Biden?

2 A President Biden.

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

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

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

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

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

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

20 Q And please continue. What happened?

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

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

25 A Morning of -- this is the evening before. And then -- on December 7th.

1 Oh, I'm sorry. Yes. I apologize. The notification would be made the morning of the  
2 interview.

3 Q That would be December 8th of 2020?

4 A Correct.

5 Q But the conversations you were having with your supervisor in FBI  
6 headquarters was December 7th of 2020?

7 A Correct.

8 Q So please continue.

9 A And leading into that. I'm sure there was some discussion before that.  
10 On the evening of December 7th, we were informed --

11 Q Who's we?

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

17 Q And when say made a notification, can you expand on that, what you mean?

18 A Of our intent, that we sought to interview Hunter Biden.



1

2 [2:26 p.m.]

3 BY MR. MANDOLFO:

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

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

9 Q Why were you upset?

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

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

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

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

21 A Correct.

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

25 A So, obviously, we were on the West Coast. There were additional

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

9 Q In your career of 20 years, have you ever been told that you could -- that you  
10 had to wait outside of a target's home until they contacted you?

11 A Not that I recall. I mean, there have been times where we waited for  
12 maybe something else operationally to happen, but, no, not from the point of view of the  
13 target, the subject of the investigation.

14 Q And did Hunter Biden come out and talk to you?

15 A Well, we weren't allowed to go to the house, so --

16 Q Where did you wait?

17 A A block or two away. Our hotel was nearby. We had known where the  
18 residence was, as we, you know, drove by the day before, but we maintained a distance,  
19 you know, a block or two away.

20 Q What happened next?

21 A We waited a period of time. You know, I will add, it was frustrating, and I  
22 know supervisor number two was very frustrated, and I understood that frustration, but I  
23 also -- we had other -- another interview to conduct. So after a certain period of time,  
24 and I don't exactly recall how long, we transitioned to make an attempt to interview  
25 another -- or a witness as part of the investigation.

1 Q And did there come a time when you learned that Hunter Biden had retained  
2 an attorney?

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

11 Q And were you able to interview Hunter Biden --

12 A I was not.

13 Q -- as part of your investigation?

14 A No.

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

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

19 Mr. Mandolfo. Okay.

20 BY MR. MANDOLFO:

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

25 And I would ask --

1 A I'm sorry. Page?

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

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

5 BY MR. MANDOLFO:

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

11 Can you provide more context?

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

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

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

20 Mr. Mandolfo. Understood.

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

23 [REDACTED] Can we have 5 minutes?

24 Mr. Mandolfo. Yes, of course.

25 Off the record.

1 [Recess.]

2 [REDACTED] Back on the record.

3 [REDACTED] It's 2:45.

4 EXAMINATION

5 BY [REDACTED]

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

9 A Thank you.

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

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

18 [REDACTED] Yep.

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

20 [REDACTED] I appreciate the clarification.

21 BY [REDACTED]

22 Q The U.S. attorney's investigation.

23 A So we considered him a subject. In FBI parlance, he's the subject of the  
24 investigation, interchangeable with target. You know, we basically classify people, you  
25 know, as subjects or witnesses or victims, typically.

1           Q    And you were asked about the potential significance of approaching a target  
2           in the first instance and, you know, whether it was an important stage in the  
3           investigation.  Would you agree with me that that is a general observation that may or  
4           may not be true depending on the specific circumstances of the investigation?

5           A    Well, in my experience, interviewing a subject of an investigation is an  
6           important matter that we prepare for, we strive to do to serve several purposes, give the  
7           opportunity to the subject to make their statement, provide their side of the story, for us  
8           to memorialize what they say so if things change after we have it memorialized.

9           So there is a value of that, and we strive as investigators to gather information to  
10          prepare for, you know, that eventuality, which is our goal.  It certainly may change in  
11          some investigations.

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

14          A    It could, yes.

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

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

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

23          A    Correct.

24          Q    You -- if I understood you correctly, you mentioned that you had worked  
25          with the U.S. Attorney's Office in Delaware from 2012 until you retired, with an interim in

1 between for your time in D.C.?

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

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

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

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

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

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

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

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

1 reviewed the whistleblower transcript.

2 A Correct.

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

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

7

BY [REDACTED]

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

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

11 Q As far as an entity?

12 A Transition team, yes.

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

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

18

BY [REDACTED]

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

21 A Sure. Sure.

22 Q How common was that?

23 A Common. I mean, I don't know if I could assign a percentage to it, but I felt  
24 I was more successful than not in engaging people in conducting an interview. But,  
25 yeah, some would just outright decline or certainly invoke their right to counsel and defer



1 an interview at the time we were seeking it.

2 Q Could you give me a percentage on that? Ballpark is fine.

3 A Less than half would -- more than half I would be able to maybe do the  
4 interview.

5 Q What about subjects -- sorry. Let me back up.

6 At the time you sought to approach Mr. Biden in December of 2020, were you  
7 aware that he was an attorney?

8 A Yes.

9 Q Did you have any expectation as to whether Mr. Biden being an attorney  
10 would be less likely to agree to your interview request?

11 A In my experience, an attorney would be less likely to agree to succumb to an  
12 interview.

13 Q And prior to seeking to interview Mr. Biden, had you ever interviewed a  
14 Secret Service protectee?

15 A As part of a criminal matter? I don't believe so. Certainly, referencing  
16 back when I was doing background investigations, I may have interviewed somebody at  
17 the White House, but that would have been a noncriminal matter, just trying to -- for a  
18 reference interview, if you will.

19 Q And again, prior to the investigation involving Mr. Biden, had you worked on  
20 an investigation involving the family of a political candidate?

21 A Of a candidate? Like, as I said previously, I assisted in the investigation of  
22 Randall --

23 Mr. Zink. Yes or no. Yes or no.

24 [REDACTED]. Oh. Yes.

25 Mr. Zink. We're going to move to anonymize that last part. Just yes or no.

1 [REDACTED]. I'm sorry. Can you ask it again?

2 [REDACTED] Could we read the question back?

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

4 [REDACTED]. Yes.

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

6 Pardon me.

7 [REDACTED]. I'm sorry. Can you read back the question at all?

8 [Discussion off the record.]

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

12 [The reporter read back the record as requested.]

13 [REDACTED]. The family of a political candidate? None that I recollect.

14 BY [REDACTED]

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

17 A More familiar with the FBI policy.

18 Q Okay. And what is that policy?

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

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

21 A Yes.

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

23 A If there was something that was considered high profile involving, you know,  
24 political persons, you know, education institutions, religious organizations, things like  
25 that, you know, it would require greater lines of approval up the chain of command.

1           So like the -- you know, a standard case may be opened at the squad level, you  
2 know, such as the Wilmington RA could open a case into, you know, somebody, you  
3 know, who's committed fraud. Open the case. Unless there was any aggravating  
4 circumstances, it could be approved by the supervisor.

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

7           Q    Any other additional process?

8           A    That I recall specifically?

9           Q    Yes.

10          A    No. You know, there's restrictions on cases. All that is contained in our  
11 DIOG, and, you know, I would have had that as -- you know, referenced and followed  
12 that. You know, so restricting case access, for example, so that others weren't aware  
13 that we were conducting an investigation into a high-profile matter.

14          Q    And did the Hunter Biden investigation, to your mind, fit into the category of  
15 high-profile matter that we're discussing?

16          A    At the opening, I believe it was approved at least at the special unit in charge  
17 level and may have gone above that to headquarters. I believe it did, but, you know, I  
18 don't recall.

19          Q    Is that how you viewed it at the time?

20          A    All the way through.

21          Q    So given all of that, and just to make sure I'm clear, is it a fair statement that  
22 at the time you sought to approach Mr. Biden and interview him in December of 2020,  
23 there were in place preexisting DOJ policies that governed the conduct of politically  
24 sensitive investigations?

25          A    Yes. Again, I was more familiar with the FBI policies and, you know,

1 therefore, the greater DOJ, and as was members of my team.

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

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

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

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

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

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

17 Q Was that ever your view?

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

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

24 A I don't -- do not have any knowledge of that.

25

BY [REDACTED]

1           Q    You stated earlier that you understood why there was reason to contact U.S.  
2 Secret Service headquarters. Can you explain why that was?

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

8           Q    And why notify Secret Service at all?

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

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

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

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

25           A    As I said, there was a meeting the night before or a phone call, at least, the

1 night before, since I was in California, where we were told that FBI headquarters had  
2 notified Secret Service headquarters in the transition. The change occurred the next  
3 morning. I was informed I believe the next morning. I believe I was with supervisory  
4 special agent No. 2 of the IRS when we were told we just couldn't make the approach at  
5 all and that my information would be passed to -- through the Secret Service to the  
6 subject, Mr. Biden.

7 Q So I'd like to talk to you a little bit about that first phone call the night  
8 before, that you just mentioned. So who was on that phone call?

9 A It would've been -- there may have been more than one call. I can't recall.  
10 And I recall my direct assistant special agent in charge and the special agent in charge in  
11 the Baltimore office, and I don't know if it was relayed to me or if they were on the call,  
12 perhaps the deputy assistant director at FBI headquarters criminal division.

13 Q And what were you told on that call?

14 A That Secret Service was -- Secret Service headquarters was notified and  
15 there was notification to the transition team.

16 Q You remember being told those two things?

17 A I do.

18 Q How was it told to you?

19 A I mean, over the phone.

20 Q Was there a discussion? Was there --

21 A I think I was just told. I mean, you know, words to that effect, you know,  
22 that, okay, here's what's happened.

23 Q Did you request an explanation?

24 A I recall being aggravated with -- in a conversation, which, again, may have  
25 been separate, with my assistant special agent in charge, asking why this happened.

1 And there was no explanation provided. It's just, this is what's happening.

2 Q Do you know who made that decision?

3 A I do not.

4 Q And do you know -- did you ask -- on the call you didn't ask why this decision  
5 was being made?

6 A As I said, I asked why, and I was not provided a reason.

7 Q In a separate call or in the same call?

8 A I believe it was a separate call with the assistant special agent in charge.

9 Q And the assistant special agent in charge wasn't the person who made that  
10 decision?

11 A As I said, I don't know who made the decision, but based on knowing that he  
12 was talking to the special agent in charge and there was also conversations with  
13 headquarter -- headquarters, I don't believe he made that decision.

14 Q And did you receive any information about who in those respective agencies  
15 were notified?

16 A No, beyond -- again, our initial plan was the special agent in charge of the  
17 L.A. Field Office was the original intended recipient of our intent. But beyond that, I  
18 don't know what levels at Secret Service headquarters, you know, by title. I have no  
19 idea.

20 Q And when you say that the transition team was notified, how was that  
21 described?

22 A I believe using those words. Somebody from the transition team was  
23 notified. And if they identified him, I cannot recall who or by role the person was.

24 Q Did they explain what transition team this was or --

25 A No. But as I said earlier, we knew, or at least I knew the transition team is

1 usually made up of individuals appointed by the President-elect to help make the  
2 transition from one administration to the other and are working at the pleasure of the  
3 President-elect.

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

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

9 Q And so --

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

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

12 A Yes.

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

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

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

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

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

22 A Correct.

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

25 A No. If I asked questions, it was of my assistant special agent in charge



1 and --

2 Mr. Zink. On a subsequent call?

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

6 BY [REDACTED]

7 Q Subsequently did you ever inquire as to why it had happened?

8 A No.

9 Q So you remained with the FBI for a couple of years after that?

10 A Correct.

11 Q And you described that you had been upset by this decision?

12 A Yes.

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

14 A Correct.

15 Q Why is that?

16 A I am a supervisor in the field. The decision was made and I moved on.

17 Q And you didn't report that decision as being problematic in any way to  
18 anyone at FBI, did you?

19 A No. I mean, other than if I was frustrated that evening while on the  
20 subsequent call with my ASAIC, no.

21 Q If you had been party to political interference in FBI investigations, you  
22 would have reported that out somewhere, wouldn't you have?

23 A I hope I would've.

24 Q But you didn't do that in this instance?

25 A Well, I wasn't aware of political interference personally.

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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 plainer 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.

BY [REDACTED]

1 Q Did you ever have instances where you had disagreements with the  
2 prosecutors, not just about investigative steps, but charging decisions?

3 A Absolutely.

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

7 A Absolutely.

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

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

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

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

24 A Absolutely. And, you know, that's -- you know, we have -- at times we have  
25 the luxury of seeking out the AUSA we want to work with because we have a better

1 relationship, and there's others that we would know to steer clear of and not bring a case  
2 to them because those reasons. They're, you know, difficult to work with or slow to  
3 work with or handle matters differently than we hope.

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

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

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

10

BY [REDACTED]

11 Q As a general matter.

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

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

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

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

23 Q And have you ever had cases where agents take it personally when a  
24 prosecutor disagrees with them, especially if they've spent a long time building up a case  
25 and the prosecutor decides -- they disagree with them on the ultimate charges?

1           A     Sure, myself included.  You invest a lot of time, effort, energy at the  
2     expense and sacrifice of other things in your life.  And so you do take it personally when  
3     you see things a certain way and want it done a certain way and somebody disagrees with  
4     you and ultimately makes a decision that you don't agree with.

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

9           A     Yes.

10          Q     And sometimes did the agent get those reasons wrong?

11          A     Sure.

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

14          A     Public corruption squad, yes.

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

17          A     Okay.

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

21          A     Correct.

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

25          A     Well, I think --

1 Q Let me maybe ask you a more specific question.

2 A Sure.

3 Q That might be helpful.

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

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

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

9 A Correct.

10 Q Among other considerations.

11 A Yes.

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

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

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

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

25 Q And those steps can include the creation of a filter team. Is that right?

1           A    Frequently, yes.

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

6           A    That is a fair description.

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

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

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

17          A    I don't know it word for word, but I understand that in practice.

18          Q    And so prosecutors are instructed by the Justice Department as a matter of  
19 policy that they should consider less intrusive means, such as a subpoena, instead of  
20 executing a search warrant. Is that fair?

21          A    That is fair.

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

24          A    Yes, assuming you had probable cause to even consider conducting a search.  
25 Yes, absolutely.

1 Q So it would be proper, and by that I mean within DOJ policy, for an attorney  
2 to say to an agent, yes, there is probable cause to execute this search warrant, but we are  
3 not going to do it because there are less obtrusive means of obtaining the evidence?

4 A That's reasonable, yes.

5 Q So we discussed that in the context of search warrants at premises that  
6 belong to an attorney. Are you familiar with similar policies applying to property  
7 belonging to a public official or a political candidate?

8 A Early in my career, I became somewhat familiar with that with a search on  
9 Capitol Hill with Congressman Jefferson's office. So, yes, I'm somewhat familiar that --  
10 Mr. Zink. Just to be clear, the same situation applies to him as the other  
11 individual, correct?

12 [REDACTED]: Yes. Yes, convicted -- yeah, public record.

13 But yes, so I am aware.

14 BY [REDACTED]

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

24 Sorry, that was a mouthful, but I guess my question to you is: Do you agree that  
25 like with the search of an attorney's premises, with the search of a political figure or a



1 political candidate's premises, there are additional factors beyond probable cause that  
2 prosecutors are required to consider under DOJ policy?

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

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

6 A Yes.

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

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

10 [REDACTED] These are Justice Manual citations.

11 Mr. Zink. Thank you.

12 [REDACTED]: And if it's helpful, I have not read the Justice Manual.

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

14 [REDACTED]: Correct.

15 BY [REDACTED]

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

19 A Yes.

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

23 A Yes.

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

1 A Yes.

2 Q Are you familiar with U.S. Attorney Weiss?

3 A Yes, I know him.

4 Q Have you ever known U.S. Attorney Weiss to make prosecutorial decisions  
5 based upon political influence?

6 A No.

7 Q Have you ever known any of the AUSAs in the U.S. Attorney's Office for the  
8 Office of Delaware to let their prosecutorial decisions be guided by political interference?

9 A No.

10 BY [REDACTED]

11 Q I had a couple questions for you. Are you familiar with an October 6, 2022,  
12 Washington Post article titled "Federal agents see chargeable tax, gun-purchase case  
13 against Hunter Biden"?

14 A I mean, there's numerous articles out there. I'm not sure I'm familiar with  
15 the specific details of that one.

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

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

19 A Okay.

20 Q But if you need more time to read it, you can go ahead.

21 A No, go ahead.

22 Q The first sentence of the article states: Federal agents investigating  
23 President Biden's son Hunter have gathered what they believe is sufficient evidence to  
24 charge him with tax crimes and a false statement related to a gun purchase, according to  
25 people familiar with the case.

1           Do you agree that this article seems to include information about agents' views on  
2 an ongoing investigation?

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

5           ██████████: Ask your question again, please.

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

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

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

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

20           ██████████ Yes, understood.

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

23           ██████████: Can I have a word with --

24           Mr. Zink. Look, all we want to do is be fair and play by the rules here, but the  
25 bright line for me is, you know, discussions or thoughts or opinions about is there enough

1 evidence or is there not enough evidence, that's like core Department stuff. So --

2 [REDACTED] And that's not where this line of questioning is going.

3 [REDACTED] It's just on the text of the article.

4 [REDACTED]. Can I talk to you about one thing?

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

6 [REDACTED]. Yes.

7 Mr. Zink. Okay.

8 [REDACTED] Off the record.

9 [Discussion off the record.]

1 [3:37 p.m.]

2 BY [REDACTED]

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

5 A Yes.

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

7 A Yes.

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

10 Mr. Zink. Leaks to the press?

11 [REDACTED] To the press.

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

13 [REDACTED] No, that's fine.

14 [REDACTED]: Not that I recall.

15 BY [REDACTED]

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

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

22 Q And if you were concerned that a leak might be coming from one agent and  
23 there were a lot of agents involved, what steps might you personally -- other than  
24 reporting, which you just said -- consider taking to protect the integrity of the  
25 investigation?

1           A    Well, step one would be reporting it to my supervisor.  Whether  
2 I'm -- whether I'm a field agent reporting to a supervisory special agent or if I'm a  
3 supervisor, I'd report it to my assistant special agent in charge.

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

6           A    They would --

7           Mr. Zink.  They being management?

8           [REDACTED]  Supervisor, management.

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

14          [REDACTED] [REDACTED] do you have any other questions before we stop?

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

18          Mr. Zink.  You mean generally or --

19          [REDACTED]  Generally.

20          Mr. Zink.  Okay.

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

24          [REDACTED]:  I think that would be -- dependent upon the circumstances, I think  
25 that is one reasonable decision that could be made.  You know, whether it's -- again, if

1 there's other factors, if you think it's more likely one versus another, whether or not you  
2 really think the leak is coming from your team or not. You know, I don't trust that  
3 people misrepresent that they say they're close to the investigation when, in fact, they're  
4 not, or maybe they're in a different role, whether it's coming from some other role or  
5 agency.

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

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

13 [REDACTED]. Yes.

14

BY [REDACTED]

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

18 A By the FBI or the IRS?

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

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

24 Q And when did you combine -- remind me when you combined forces with  
25 IRS.

1           A     April 2019. I don't know if we may have heard of IRS in March, that they  
2     existed, meaning -- not the agency, but that they were conducting the investigation or  
3     into -- into that target or subject. But, yeah, by April, we had joined forces.

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

8           A     Correct.

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

11          ██████████ Off the record.

12          [Recess.]

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

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

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

22          Thank you. Off the record.

23          [Whereupon, at 3:52 p.m., the interview was adjourned.]



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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.

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Witness Name

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Date