

Australian High Commissioner Alexander Downer.<sup>209</sup> Both meetings were over drinks in public settings.<sup>210</sup>

The Australian diplomats were interested in meeting with Papadopoulos because of his role in the Trump campaign, and much of the conversation centered on the upcoming U.S. election.<sup>211</sup> Over two months later, on July 26, 2016, Australia provided the U.S. Embassy in London certain information its diplomats had memorialized at or around the time of the meetings with Papadopoulos. The next day, the State Department passed this information on to the FBI's Legal Attaché assigned to the Embassy in London ("UK Legat-1").<sup>212</sup>

"Paragraph Five" was the name given to the raw information provided by the Australian government and included in a May 16, 2016 cable that documented the diplomats' encounters with Papadopoulos.<sup>213</sup> Paragraph Five is an abstract from the cable and was quoted verbatim in the *Crossfire Hurricane Opening EC*, stating in its entirety that:

Mr[.] Papadopoulos was, unsurprisingly, confident that Mr[.] Trump could win the election. He commented that the Clintons had "a lot of baggage" and suggested the Trump team had plenty of material to use in its campaign. He also suggested the Trump team had received some kind of suggestion from Russia that it could assist this process with the anonymous release of information during the campaign that would be damaging to Mrs[.] Clinton (and President Obama). It was unclear whether he or the Russians were referring to material acquired publicly of [sic] through other means. It was also unclear how Mr[.] Trump's team reacted to the offer. We note the Trump

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<sup>209</sup> *Australia 302* at 2-3. Australia has released a redacted version of a cable describing the meeting with Papadopoulos. Cable from London (Alexander Downer) to Canberra, *Re: UK: US: Donald Trump – Views from Trump's Adviser* (May 11, 2016), <https://www.dfat.gov.au/sites/default/files/dfat-foi-1801-f1852.pdf>. Sky News has also interviewed Downer about the meeting. Jack Crowe, *Ex-Australian Diplomat Explains Why He Turned Papadopoulos [sic] Info over to FBI*, Yahoo! News (May 10, 2019), <https://www.yahoo.com/video/ex-australian-diplomat-explains-why-164317262.html>. In its report, the SSCI includes a detailed description of the meetings between Papadopoulos and the Australian diplomats. See *SSCI Russia Report*, pt. 5, at 487-89.

The information that the Australian diplomats provided to the U.S. Embassy and the FBI is described in SCO-010930 (FBI EC from London, *Re: Legat London information from U.S. Embassy London Deputy Chief of Mission* dated July 28, 2016) (hereinafter "*London EC*").

<sup>210</sup> *Australia 302* at 1-2.

<sup>211</sup> See *London EC* at 2; *Australia 302* at 1; OSC Report of Interview of Alexander Downer on Oct. 09, 2019 at 1; OSC Report of Interview of Australian Diplomat-1 on Oct. 09, 2019 at 1.

<sup>212</sup> OSC Report of Interview of UK Legat-1 on May 28, 2019 at 1-2; *London EC* at 2; see also *Redacted OIG Review* at 50-52.

<sup>213</sup> OSC Report of Interview of FBI OGC Unit Chief-1 on Aug. 29, 2019 at 3.

team's reaction could, in the end, have little bearing of [sic] what Russia decides to do, with or without Mr[.] Trump's cooperation.<sup>214</sup>

The Australian account reflects that two meetings of a casual nature took place with Papadopoulos.<sup>215</sup> These meetings were documented by Downer on May 11, 2016 and by Australian Diplomat-1 later in the month.<sup>216</sup> Both diplomats advised that prior to the Spring of 2016, Papadopoulos was unknown to them.<sup>217</sup> Notably, the information in Paragraph Five does not include any mention of the hacking of the DNC, the Russians being in possession of emails, or the public release of any emails. In addition, when interviewed by the Office, Downer stated that he would have characterized the statements made by Papadopoulos differently than Australian Diplomat-1 did in Paragraph 5. According to Downer, Papadopoulos made no mention of Clinton emails, dirt or any specific approach by the Russian government to the Trump campaign team with an offer or suggestion of providing assistance. Rather, Downer's recollection was that Papadopoulos simply stated "the Russians have information" and that was all.<sup>218</sup>

As recounted to the FBI on August 2, 2016, by Australian Diplomat-1, the substance of Paragraph Five was written in a "purposely vague" way.<sup>219</sup> This was done because Papadopoulos left a number of things unexplained and "did not say he had direct contact

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<sup>214</sup> *London EC*, at 2-3; see also *Crossfire Hurricane Opening EC* at 3 (also quoting the Paragraph Five information); *Redacted OIG Review* at 52, 55.

<sup>215</sup> We note there is an inconsistency in the statements given by Australian Diplomat-1 and former-High Commissioner Downer to the Crossfire Hurricane interviewers in August 2016 and what they told the Office when interviewed in October 2019. Australian Diplomat-1 and Downer were interviewed together in August 2016, and, according to the FD-302 prepared afterward by Supervisory Special Agent-1, Papadopoulos made the statements about the Russians during the May 6, 2016 introductory meeting when he met only with Australian Diplomat-1. When the two diplomats were interviewed separately by the Office in October 2019, investigators were advised that Papadopoulos made the statements in front of both Australian Diplomat-1 and Downer during the second meeting on May 10, 2016.

<sup>216</sup> The meetings with Papadopoulos took place on May 6 and 10, 2016. *Australia 302* at 1-2. The Australian diplomats documented the meetings in two cables dated May 11 and May 16, 2016; OSC Report of Interview of Alexander Downer on Oct. 9, 2019 at 2; OSC Report of Interview of Australian Diplomat-1 on Oct. 9, 2019 at 3.

<sup>217</sup> OSC Report of Interview of Alexander Downer on Oct. 09, 2019 at 1; OSC Report of Interview of Australian Diplomat-1 on Oct. 09, 2019 at 1-2.

<sup>218</sup> OSC Report of Interview of Alexander Downer on Oct. 09, 2019 at 2 (and related field notes); Downer also is reported to have stated in an interview that in talking with Papadopoulos there was "no suggestion that there was collusion between Donald Trump or Donald Trump's campaign and the Russians." Brooke Singman, *Diplomat Who Helped Launch Russia Probe Speaks Out, Defends Role*, Fox News (May 10, 2019), <https://www.foxnews.com/politics/former-australian-diplomat-alexander-downer-defends-work-pushes-back-on-claim-he-tried-to-trap-papadopoulos>.

<sup>219</sup> *Australia 302* at 2.



with the Russians.”<sup>220</sup> The impression Papadopoulos made on the Australian diplomats was wide ranging. On the one hand, he “had an inflated sense of self,” was “insecure,” and was “trying to impress.”<sup>221</sup> On the other hand, he was “a nice guy,” was “not negative,” and “did not name drop.”<sup>222</sup> Downer noted that he

was impressed Papadopoulos acknowledged his lack of expertise and felt the response was uncommon for someone of Papadopoulos’ age, political experience and for someone thrust into the spotlight overnight. Many people in a similar position would represent themselves differently and [Downer] would have sniffed them out. If [Downer] believed Papadopoulos was a fraud [he] would not have recorded and reported on the meeting [he] had with Papadopoulos.<sup>223</sup>

Downer also said that he “did not get the sense Papadopoulos was the middle-man to coordinate with the Russians.”<sup>224</sup>

The Australian diplomats would later inform the FBI, and subsequently the Office, that the impetus for passing the Paragraph Five information in late-July was the public release by WikiLeaks (on July 22, 2016) of email communications that had been hacked from the DNC servers.<sup>225</sup> As far as the Office’s investigation was able to determine, Papadopoulos’s comments did not undergo any additional analysis or scrutiny by Australian intelligence officials.

b. The lack of intelligence information supporting the premise of Crossfire Hurricane

As an initial matter, there is no question that the FBI had an affirmative obligation to closely examine the Paragraph Five information. The Paragraph Five information, however, was the sole basis cited by the FBI for opening a full investigation into individuals associated with the ongoing Trump campaign.<sup>226</sup> Significantly, the FBI opened a full investigation before any preliminary discussions or interviews were undertaken with either the Australian diplomats or Papadopoulos. Further, the *Opening EC* does not describe any collaboration or joint assessments of the information with either friendly foreign intelligence services or other U.S. intelligence agencies. In effect, within three days of its receipt of the Paragraph Five reporting, the FBI determined,<sup>227</sup> without further analysis, that the

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<sup>220</sup> *Id.*

<sup>221</sup> *Id.* at 2-3.

<sup>222</sup> *Id.*

<sup>223</sup> *Id.*

<sup>224</sup> *Id.* at 3.

<sup>225</sup> See *Australia 302* at 4; OSC Report of Interview of Alexander Downer on Oct. 09, 2019 at 2-3.

<sup>226</sup> See *supra* §§ III.B.1 – 3.

<sup>227</sup> Regarding who on the 7<sup>th</sup> floor was involved in the decision making, McCabe informed the OIG that Director Comey “was engaging on a very regular basis” with the team after the

Australian information was an adequate basis for the opening of a full investigation into whether individuals associated with an ongoing presidential campaign were “witting of and/or coordinating activities with the Government of Russia.”<sup>228</sup>

In his interview with the Office, Executive Assistant Director for National Security Michael Steinbach commented on the sufficiency of the information in the *Opening EC*, stating that it was “poorly written.”<sup>229</sup> Steinbach added that the EC should not be read to suggest that the FBI was investigating the Trump campaign, but only those potential subjects within the campaign whose activities justified inquiry.<sup>230</sup> Steinbach was also questioned separately by the OIG on the amount of information that should normally be included in an EC opening a counterintelligence case. He stated that it should be a logical summary sufficient to justify the opening. Steinbach told the OIG, by way of an example, “It’s, hey look, I have Mike Steinbach on this date met with a Russian who we know is associated with this intelligence organization. And, lay that out, and open a PI (preliminary investigation).”<sup>231</sup>

Although not referenced in the *Opening EC*, FBI officials have later pointed to the importance of the Australian information when viewed in conjunction with Russia’s likely connections to the WikiLeaks disclosures and its efforts to interfere with the 2016 U.S. elections.<sup>232</sup> In addition, Trump had also stated in a recently televised campaign speech, “Russia, if you’re listening, I hope you’re able to find the 30,000 emails that are missing,”<sup>233</sup>

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Paragraph Five information had been received. OIG Interview of Andrew McCabe dated Aug. 15, 2019 at 16.

<sup>228</sup> *Crossfire Hurricane Opening EC* at 3-4.

<sup>229</sup> OSC Report of Interview of Michael Steinbach on Aug. 12, 2019 at 2.

<sup>230</sup> *Id.* at 3.

<sup>231</sup> OIG Interview of Michael Steinbach on June 20, 2019 at 22-28.

<sup>232</sup> See, e.g., OSC Report of Interview of FBI OGC Unit Chief-1 on August 29, 2019 at 4; OSC Report of Interview of Supervisory Special Agent-1 on June 17, 2019 at 2; see generally *Redacted OIG Review* at 351-52. There were also at least some activities involving the Trump campaign and Russians that did not become public, and were not known to the FBI, until much later. For example, on June 9, 2016, senior representatives of the campaign met briefly with a private Russian lawyer, Natalia Veselnitskaya, and others at the Trump Tower. 1 *Mueller Report* at 110, 117. Veselnitskaya “had previously worked for the Russian government and maintained a relationship with that government throughout this period of time.” *Id.* at 110. The initial email to Donald Trump Jr. proposing the meeting said that the Crown prosecutor of Russia was offering to provide the campaign with documents and information that would incriminate Clinton. *Id.* The meeting at the Trump Tower only became public over a year later. *Id.* at 121.

<sup>233</sup> *Donald Trump on Russian & Missing Hillary Clinton Emails*, YouTube Channel C-SPAN, posted 7/27/16, available at <https://www.youtube.com/watch?v=3kxG8uJUsWU> (starting at 0:41). The *Mueller Report* states that this statement was “apparently a reference” to emails stored on a personal server that Clinton used while she was Secretary of State. 1 *Mueller Report* at 49. Strzok stated in his book *Compromised: Counterintelligence and the Threat of Donald J.*



a widely reported statement that appears to have referred to emails stored on the personal server that Clinton used while Secretary of State.<sup>234</sup>

The evidence the Office reviewed shows that there were internal discussions with FBI Headquarters executives, including the Deputy Director, about the decision to open Crossfire Hurricane. The executives were unanimous in supporting the opening of the investigation and there is no indication that these discussions contemplated anything short of an immediate full investigation, such as an assessment or preliminary investigation, into the meaning, credibility, and underpinnings of the statements attributed to Papadopoulos.<sup>235</sup> The personnel involved in the decision to open a full investigation have stated that they acted within the FBI's governing principles as set forth in the *AGG-Dom* and *DIOG* that required an authorized purpose and an "articulable factual basis for the investigation that reasonably indicates" that an activity constituting a federal crime or a national security threat "may be" occurring. But notably the *DIOG* also explicitly cautions FBI employees to avoid reputational risk to those being investigated by, among other things, specifying different standards for opening an assessment, a preliminary investigation, and a full investigation, with a corresponding continuum of permissible investigative activities. That measured approach does not appear to have been followed with respect to Crossfire Hurricane. Instead, as described above, on a Sunday and just three days after receiving the unanalyzed information from Australia, Strzok authored and approved the Crossfire Hurricane opening EC.<sup>236</sup> Thus, a full counterintelligence investigation into a SIM<sup>237</sup> was triggered, at the height of a political campaign, before any dialogue with Australia or the Intelligence Community, and prior to any critical analysis of the information itself or the potential for the risk

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*Trump* at 109, as well as to the OIG that Australian High Commissioner Downer was prompted to turn over the Paragraph Five information upon seeing Trump's televised news conference during which Trump made his "Russia, if you're listening" comment. Strzok, *Compromised* at 109; OIG Interview of Peter Strzok on May 8, 2018 at 15. Strzok's version of this is factually inaccurate and contrary to the FBI's report of the August 2, 2016 interview of Downer and Australian Diplomat-1, an interview that Strzok himself conducted. The report of interview does not refer to Trump's news conference or the missing Clinton emails. *See Australian* 302. Moreover, Downer and Australian officials came to the U.S. Embassy with the Paragraph Five information on July 26th - one day *before* Trump's televised news conference. As referenced above in footnote 189, Strzok declined to be interviewed by the Office on this and other subjects.

<sup>234</sup> *See* 1 *Mueller Report* at 49.

<sup>235</sup> *Redacted OIG Review* at 53-54.

<sup>236</sup> *Crossfire Hurricane Opening EC* at 1. The speed of this action sharply contrasts with Strzok's decision-making in the referral in September 2016 of a matter involving former Congressman Anthony Weiner's laptop computer. In that instance, according to the OIG, the FBI and Strzok did not act for over a month to pursue legal process to review thousands of missing Clinton emails found on Weiner's laptop. The OIG sharply criticized the FBI, and particularly Strzok, for this delay. As discussed more fully below, the immediate opening of Crossfire Hurricane as a full investigation contrasts with the care taken in connection with the investigation of the Clinton Foundation and other matters.

<sup>237</sup> *See supra* § III.B.1 for a discussion of the requirements for sensitive investigative matters.

of error or disinformation, issues that appropriately are addressed during assessments or preliminary investigations.

The information from Papadopoulos was, in the words of one FBI executive, “a tipping point.”<sup>238</sup> When interviewed by the OIG, FBI Deputy General Counsel Trisha Anderson stated that it would have been a dereliction of duty had the FBI not opened Crossfire Hurricane.<sup>239</sup> For his part, FBI General Counsel James Baker told the OIG that “[t]he opening of an investigation . . . [a]nd doing it quickly is a good thing for oversight because it forces the institution of the FBI and eventually the Department of Justice . . . to have appropriate management controls over what’s going on.”<sup>240</sup> In this regard, the *OIG Review* found that in early August 2016, after the opening of Crossfire Hurricane, NSD officials “were briefed on at least two occasions” about the investigation.<sup>241</sup>

FBI officials have acknowledged that they were aware that the information concerning Papadopoulos did not come from Australia’s intelligence services, but rather from Australian diplomats who were previously unknown to the FBI personnel handling the Paragraph Five information.<sup>242</sup> In various interviews, several FBI officials have opined that the FBI was justified in opening Crossfire Hurricane as a full investigation because, in part, the information was given to the FBI from a trusted partner and therefore was deemed reliable.<sup>243</sup> Although this sentiment is understandable, the FBI’s well-placed trust in a foreign partner should not equate to confidence in the shared information itself. Australia could not and did not make any representation about the credibility of the information. Although the Counterintelligence Division did eventually seek information about Papadopoulos,<sup>244</sup> the Office found no indications from witness testimony, electronic communications, emails, calendar entries, or other documentation that, at the time, the FBI gave any consideration to the actual trustworthiness of the information the diplomats

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<sup>238</sup> *Redacted OIG Review* at 53.

<sup>239</sup> *Id.* at 54.

<sup>240</sup> See OIG Interview of James Baker on May 17, 2019 at 44; OSC Report of Interview of James Baker on Feb. 7, 2020 at 6. Baker’s point is a reasonable one regarding the oversight value of opening an investigation, but we note that it would and should apply equally to the opening of a preliminary investigation or an assessment.

<sup>241</sup> *Redacted OIG Review* at 58 n.176 (“Notes and testimony reflect that in early August, NSD officials were briefed on at least two occasions” about the investigation).

<sup>242</sup> See, e.g., OSC Report of Interview of Supervisory Special Agent-1 on July 22, 2020 at 1.

<sup>243</sup> U.S. Senate Judiciary Cmte. Staff Interview of Jonathan Moffa on September 9, 2020 at 65-66, 71-72.

<sup>244</sup> See, e.g., FBI-AAA-02-0019550 (Email from Special Agent-2 to Supervisory Special Agent-1, Case Agent-1 & Laycock dated 08/05/2016); FBI-AAA-02-0019485 (Crossfire Hurricane Papadopoulos Profile dated 08/05/2016).



received from Papadopoulos - an individual whom they described as, among other things, “insecure” and “trying to impress” them.<sup>245</sup>

The information from Papadopoulos was clearly raw and unevaluated. It was not the product of normal Intelligence Community collection and analysis, and it lacked the standard caveats accompanying uncorroborated information from an individual whose information was being seen for the first time. The information – involving an ongoing presidential campaign – was precisely the kind of unevaluated information that required rigorous analysis in order to assess its relevance and value.<sup>246</sup> Nevertheless, the FBI predicated Crossfire Hurricane and its subsequent investigative activities, including the use of CHSSs, undercover operations and FISA coverage, on the statements attributed to Papadopoulos.

Thus, at the time of opening Crossfire Hurricane, the FBI had (i) publicly available information concerning Papadopoulos’s role in the campaign as a volunteer foreign policy adviser, (ii) information obtained from Papadopoulos by the Australian diplomats, (iii) information about Russia’s likely election interference activities, (iv) Trump’s public statements about Russia, and (v) unvetted media reporting on possible ties between Trump and Russian businessmen.<sup>247</sup> Significantly, beyond this, the FBI’s Counterintelligence Division and its Crossfire Hurricane investigators did not possess any intelligence or other vetted, corroborated information regarding Trump or his campaign staff colluding with the Russian government.<sup>248</sup> The FBI OGC Unit Chief who advised on many Crossfire Hurricane matters and approved the case being opened as a SIM, (“FBI OGC Unit Chief-1”) noted that she lacked “knowledge of alleged . . . ties between the Trump campaign and Russia prior to the

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<sup>245</sup> See *supra* § IV.A.3.a (discussing the views of Papadopoulos held by the Australian diplomats and noting his strengths and weaknesses). Understandably, as noted below, when Crossfire Hurricane was opened, serious efforts were made to keep the investigation quiet so as not to interfere with the upcoming election. Ultimately, however, the Mueller investigation reported that:

When interviewed, Papadopoulos and the Campaign officials who interacted with him told the [Mueller] Office that they could not recall Papadopoulos’ sharing the information that Russia had obtained “dirt” on candidate Clinton in the form of emails or that Russia could assist the Campaign through the anonymous release of information about Clinton. . . . No documentary evidence, and nothing in the email accounts or other communications facilities reviewed by the [Mueller] Office, shows that Papadopoulos shared this information with the Campaign.

1 *Mueller Report* at 93-94.

<sup>246</sup> See discussion of analytic requirements *supra* § III.B.3.

<sup>247</sup> See *Redacted OIG Review* at 351-52.

<sup>248</sup> In early July 2016, the NYFO received some of the reports that later came to be known as the “Steele dossier.” The Office found no evidence, however, suggesting that Strzok, who wrote and approved the *Crossfire Hurricane Opening EC*, was aware of those reports when he opened the investigation, and the Crossfire Hurricane investigators did not receive the reports until mid-September. See *Redacted OIG Review* at v.

[Crossfire Hurricane] investigation being formally opened.”<sup>249</sup> The *FBI Inspection Division Report* describes similar statements by others. As noted in that FBI internal review, “[t]his total lack of intelligence did not appear to have been considered significant [ ]”<sup>250</sup> when opening a full investigation on persons associated with an active presidential campaign.

As the record now reflects, at the time of the opening of Crossfire Hurricane, the FBI did not possess any intelligence showing that anyone associated with the Trump campaign was in contact with Russian intelligence officers at any point during the campaign.<sup>251</sup> Moreover, the now more complete record of facts relevant to the opening of Crossfire Hurricane is illuminating. Indeed, at the time Crossfire Hurricane was opened, the FBI (albeit not the Crossfire Hurricane investigators) was in possession of some of the Steele Reports. However, even if the Crossfire Hurricane investigators were in possession of the Steele Reports earlier, they would not have been aware of the fact that the Russians were cognizant of Steele’s election-related reporting. The *SSCI Russia Report* notes that “[s]ensitive reporting from June 2017 indicated that a [person affiliated] to Russian Oligarch 1 was [possibly aware] of Steele’s election investigation as of early July 2016.”<sup>252</sup> Indeed, “an early June 2017USIC report indicated that two persons affiliated with [Russian Intelligence Services] *were aware of* Steele’s election investigation in early July 2016.”<sup>253</sup> Put more pointedly, Russian intelligence knew of Steele’s election investigation for the Clinton campaign by no later than early July 2016. Thus, as discussed in Section IV.D.1.a.3, Steele’s sources may have been compromised by the Russians at a time prior to the creation of the Steele Reports and throughout the FBI’s Crossfire Hurricane investigation.

c. Interview of the Australian diplomats

On August 2, 2016, two days after opening Crossfire Hurricane, Strzok and Supervisory Special Agent-1 met in London with the Australian diplomats to assess and clarify exactly what had been said by Papadopoulos in May and provided to the U.S. government in July.

In preparation for their interview, Strzok and Supervisory Special Agent-1 sought the assistance of the FBI’s Assistant Legal Attaché in London (“UK ALAT-1”). UK ALAT-1’s primary FBI responsibilities in London included, among other things, collaboration and information-sharing with British Intelligence Service-1. In UK ALAT-1’s interview with the Office, he pointed out the inherent importance of sharing information with the British intelligence service that related to potential Russian intelligence activity in the United Kingdom.<sup>254</sup> Thus, UK ALAT-1 briefed the British intelligence service about

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<sup>249</sup> U.S. House of Representatives Cmte. on the Judiciary Interview of FBI OGC Unit Chief-1 on Oct. 23, 2018 at 145.

<sup>250</sup> *FBI Inspection Division Report* at 125.

<sup>251</sup> This is shown by an analysis in early 2017 of what the FBI knew about articles published in the *New York Times*. It is described later in this report in connection with other matters from that time period. See *infra* § IV.D.1.a.iii.

<sup>252</sup> *SSCI Russia Report* at 885 (emphasis added).

<sup>253</sup> *Id.*

<sup>254</sup> OSC Report of Interview of UK ALAT-1 on June 4, 2019 at 1.



Papadopoulos's allegations involving possible Russian influence in the Trump campaign. Given the nature of the allegations and the speed with which Strzok and Supervisory Special Agent-1 needed his assistance, UK ALAT-1 assumed that the FBI's interview of the Australian diplomats was exceptionally critical.<sup>255</sup> UK ALAT-1 also believed that the Crossfire Hurricane investigators likely were in possession of compelling facts beyond what UK ALAT-1 understood from the substance of Papadopoulos's claims in Paragraph Five.<sup>256</sup> Nevertheless, UK ALAT-1's independent impression of the predication for the investigation was echoed by Supervisory Special Agent-1 in a Lync exchange with UK ALAT-1 during which the predication was referred to as "thin."<sup>257</sup> UK ALAT-1 also recalled Strzok making a comment in the taxi on their way to the Australian High Commission to the effect that "there's nothing to this, but we have to run it to ground."<sup>258</sup> These exchanges with Supervisory Special Agent-1 and Strzok resonated with UK ALAT-1 because, in sharing the Papadopoulos information with his British Intelligence Service-1 counterparts at the time, they expressed real skepticism about the motivations and reliability of Papadopoulos.<sup>259</sup> UK ALAT-1 told the Office that British Intelligence Service-1 did not assess the information about the Russians and Trump, attributed to Papadopoulos, to be particularly valuable intelligence.<sup>260</sup> Indeed, he told the FBI's Inspection Division investigators that "the British could not believe the Papadopoulos bar conversation was all there was,"<sup>261</sup> and they were convinced the FBI must have had more information that it was holding back.<sup>262</sup>

As it relates to predication for opening Crossfire Hurricane as a full investigation, after Strzok and Supervisory Special Agent-1 had traveled to London and interviewed the Australian diplomats on August 2, 2016, the following Lync exchange between UK ALAT-1 and Supervisory Special Agent-1 on August 11, 2016 is instructive:

UK ALAT-1: Dude, are we telling them [British Intelligence Service-1] everything we know, or is there more to this?

Supervisory Special Agent-1: that's all we have

Supervisory Special Agent-1: not holding anything back

UK ALAT-1: Damn that's thin

Supervisory Special Agent-1: I know

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<sup>255</sup> *Id.* at 1-2.

<sup>256</sup> *Id.*

<sup>257</sup> FBI-AAA-EC-00000365 (Lync exchange between Supervisory Special Agent-1 and UK ALAT-1 dated 08/11/2016).

<sup>258</sup> OSC Report of Interview of UK ALAT-1 on June 4, 2019 at 2.

<sup>259</sup> *Id.* at 3.

<sup>260</sup> *Id.*

<sup>261</sup> *FBI Inspection Division Report* at 224 (quoting UK ALAT-1).

<sup>262</sup> *Id.* at 225.

Supervisory Special Agent-1: it sucks<sup>263</sup>

UK ALAT-1 went on to tell the Inspection Division that in discussing the matter with a senior British Intelligence Service-1 official, the official was openly skeptical, said the FBI's plan for an operation made no sense, and asked UK ALAT-1 why the FBI did not just go to Papadopoulos and ask him what they wanted to know,<sup>264</sup> a sentiment UK ALAT-1 told investigators that he shared.<sup>265</sup>

Later in the Fall of 2016, UK ALAT-1 was at FBI Headquarters with some of his British Intelligence Service-1 counterparts. While there, members of the Crossfire Hurricane team played the audio/visual recordings of CHS-1's August 20, 2016 meeting with Carter Page. UK ALAT-1 said the effect on the British Intelligence Service-1 personnel was not positive because of the lack of any evidence coming out of the conversation.<sup>266</sup> UK ALAT-1 told the OIG that after watching the video one of his British colleagues said, "For [expletive] sake, man. You went through a lot of trouble to get him to say nothing." At a later point in time, after the Mueller Special Counsel team was in place, UK ALAT-1 said that "the Brits finally had enough," and in response to a request for some assistance "[a British Intelligence Service-1 person] basically said there was no [expletive] way in hell they were going to do it."<sup>267</sup>

From his vantage point, UK ALAT-1 saw that FBI executive management was pushing the matter so hard that "there was no stopping the train," and he told the OIG that, "I mean it was, this thing was coming. So my job was to grease the skids for it, and that's what I did."<sup>268</sup>

Had the Crossfire Hurricane investigators attempted to critically assess the information from Papadopoulos through FBI holdings and standard requests to other government agencies for information about Trump and Russian intelligence activities involving Trump, they would have learned:

- Jonathan Moffa served as the Chief of the FBI's Counterintelligence Analysis Section throughout 2016. Moffa was a career FBI Intelligence Analyst who began working as a full-time FBI counterespionage analyst in 2004,<sup>269</sup> and, prior to being selected for the Section Chief position in January 2016, had been Chief of the Russian Analysis Unit for approximately four years. Moffa advised investigators that he had heard nothing about Trump and Russia until events began to be reported in July 2016.<sup>270</sup>

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<sup>263</sup> FBI-AAA-EC-00007239 (Aug. 11, 2016 at 14:40:27)

<sup>264</sup> *FBI Inspection Division Report* at 224 (quoting UK ALAT-1).

<sup>265</sup> *Id.* at 227.

<sup>266</sup> *Id.* at 208.

<sup>267</sup> *Id.* at 233.

<sup>268</sup> *Id.* at 225.

<sup>269</sup> The Counterintelligence Analysis Section that Moffa headed throughout 2016 had responsibility for covering Russia intelligence matters, among those of other countries.

<sup>270</sup> See Section IV.A.1 regarding pre-July 2016 efforts.



- The FBI Intelligence Analyst who had perhaps the most in-depth knowledge of particularly sensitive Russian intelligence information in FBI holdings during the relevant time period disclosed that she never saw anything regarding any Trump election campaign conspiracy with the Russians, nor did she see anything in FBI holdings regarding Carter Page, Michael Flynn, George Papadopoulos, or Paul Manafort<sup>271</sup> engaging in any type of conspiracy with the Russians regarding the election.<sup>272</sup>
- Similarly, DNI James Clapper testified before Congress on the subject of Trump and Russia and he answered “no” when asked if he was aware of any such evidence.<sup>273</sup> The former DNI reconfirmed this fact when he was interviewed by the Office and advised that he knew of no direct evidence that would meet the legal standard of conspiracy or collusion on Trump’s part.
- Admiral Mike Rogers served as the Director of NSA during the relevant time period. When asked about any awareness he had of any evidence of collusion as asserted in the Steele Reports, he stated that he did not recall any intelligence that supported the collusion assertions in that reporting, nor did he have any discussions during the Summer of 2016 with his counterparts in the intelligence community about collusion between the Russians and any Republicans.<sup>274</sup>
- Victoria Nuland served as Undersecretary for Political Affairs at the Department of State during the relevant time frame. A career employee of the Department of State and one of its most experienced Russian observers, she told our investigators that she never saw any U.S. government proof of the allegations contained in the Steele reporting regarding Trump and Russian officials,<sup>275</sup> and further stated that to her recollection no information regarding a well-coordinated conspiracy between Trump and the Russians had ever come across her desk,<sup>276</sup> with one exception. Nuland advised that she had received a two-page

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<sup>271</sup> The Intelligence Analyst did, however, find some information related to Manafort that was not connected to the election or the presidential campaign. OSC Interview Report of Headquarters Analyst-3 on Aug. 14, 2019 at 4.

<sup>272</sup> OSC Reports of Interview of Headquarters Analyst-3 on Aug. 14, 2019 at 4; Dec. 10, 2019 at 4; and Feb. 19, 2020 at 7.

<sup>273</sup> U.S. House of Representatives Executive Session, Permanent Select Committee on Intelligence Interview of James Clapper on July 17, 2017 at 26, 87-89; OSC Report of Interview of James Clapper on December 13, 2021 at 5.

<sup>274</sup> OSC Report of Interview of Mike Rogers on Aug. 1, 2019 at 2, 5.

<sup>275</sup> OSC Report of Interview of Victoria Nuland on Nov. 30, 2021 at 5-6.

<sup>276</sup> Nuland also pointed out, however, that, if reporting is about a U.S. person, “it is heavily redacted and compartmented before it would come to her attention” and that it was possible that “she would not have seen all the information.” She said that “[t]he masking rules are followed when it comes to providing intelligence reporting” and that she “would have had no national security reason to see reporting on the sex-related allegations concerning an American businessman.” In her view, for the State Department, “it was not intelligence” if it pertained to U.S. persons. *Id.* at 6, 8.

summary of the Steele allegations from Jonathan Winer, who in 2016 was serving as Secretary of State Kerry's Special Envoy to Libya.<sup>277</sup> Winer told Nuland that Winer had prepared the summary from his review of the Steele reporting while he was at Steele's country house in the United Kingdom. Nuland thought Winer had passed the summary to her sometime in July 2016.<sup>278</sup>

- CIA Director John Brennan and Deputy Director David Cohen were interviewed by the Office and were asked about their knowledge of any actual evidence of members of the Trump campaign conspiring or colluding with Russian officials. When Brennan was provided with an overview of the origins of the Attorney General's Review after Special Counsel Mueller finding a lack of evidence of collusion between the Trump campaign and Russian authorities, Brennan offered that "they found no conspiracy."<sup>279</sup> <sup>280</sup> (In fact, Special Counsel Mueller's report explicitly states that "[u]ltimately, [his] investigation did not establish that the [Trump] Campaign coordinated or conspired with the Russian government in its election-interference activities."<sup>281</sup>) Relatedly, however, shortly after Special Counsel Mueller delivered his report to the Attorney General and the Attorney General had issued a short summary of the Report's findings, Brennan appeared on MSNBC's *Morning Joe* program, where he stated that "[he] suspected there was more than there actually was" with regard to collusion between the Trump campaign and Russia in the 2016 election, thus suggesting that he had no actual knowledge of such information.<sup>282</sup> Moreover, Deputy Director Cohen advised that he had no recollection of knowing anything Trump was doing with Putin, as opposed to what Putin and the Russians were doing to interfere in the election. Cohen stated that if there were such

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<sup>277</sup> Nuland thought the summary was more on the order of four pages, but others believed it was two pages. *Id.* at 4.

<sup>278</sup> *Id.*

<sup>279</sup> OSC Report of Interview of John Brennan on Aug. 21, 2020 at 1.

<sup>280</sup> Prior to the release of the *Mueller Report*, and specifically in an August 16, 2018 opinion piece, the former Director had characterized the claims of then-President Trump that there was no collusion with Russia as, "in a word, hogwash."

<https://www.nytimes.com/2018/08/16/opinion/john-brennan-trump-russia-collusion-security-clearance.html>.

<sup>281</sup> 1 *Mueller Report* at 173; *see also* 1 *Mueller Report* at 1-2 ("Although the investigation established that the Russian government perceived it would benefit from a Trump presidency and worked to secure that outcome, and that the Campaign expected it would benefit electorally from information stolen and released through Russian efforts, the investigation did not establish that members of the Trump Campaign conspired or coordinated with the Russian government in its election interference activities."); 1 *Mueller Report* at 9 ("Further, the evidence was not sufficient to charge that any member of the Trump Campaign conspired with representatives of the Russian government to interfere in the 2016 election.")

<sup>282</sup> MSNBC, "Morning Joe," March 25, 2019 at 8:24 a.m. ET; *see also* RealClear Politics, Brennan: 'Relieved' There Was Not a Criminal Conspiracy with Russia, 'Good News for the Country,' March 25, 2019.



knowledge, it would have been included in a formal referral to the FBI. In addition, if the CIA had become aware of any U.S. person being involved in a criminal conspiracy, it would have sent the information to the FBI in a formal referral. He advised that he was not aware of any such referrals in this matter.<sup>283</sup>

In any event, within days after opening Crossfire Hurricane, the FBI learned from interviewing the Australian diplomats that there were reasons to be unsure about what to make of the information from Papadopoulos. Not only had Supervisory Special Agent-1 and Strzok told UK ALAT-1 that what they had was “thin,” but one of the Australian diplomats had told Strzok and Supervisory Special Agent-1 in their interview that the Paragraph Five information was written in an intentionally vague way because of what Papadopoulos did and did not say. Nonetheless, shortly thereafter, the FBI opened full investigations of Papadopoulos, Carter Page, General Michael Flynn, and Paul Manafort.<sup>284</sup> All four were U.S. persons associated with the Trump campaign and all of them (other than Papadopoulos) had “either ties to Russia or a history of travel to Russia.”<sup>285</sup>

In July 2016, in addition to receiving the first several Steele reports, the FBI received a separate stream of information regarding Trump from a former FBI CHS. Specifically, an FBI supervisor from a New England field office (“New England Supervisory Special Agent-1”) was contacted unexpectedly by the former CHS with whom the supervisor had worked many years earlier when assigned to a different field office on matters related to Russian organized crime. New England Supervisory Special Agent-1 agreed to meet his former CHS on July 21, 2016. At that meeting, the CHS told New England Supervisory Special Agent-1 that he/she had been contacted by a colleague who owns an investigative firm and who was looking into Trump’s various business contacts and ventures in Russia.<sup>286</sup> The former CHS did not identify the investigative firm that day, except to say that the firm had been hired by the DNC and another unnamed individual.<sup>287</sup> The former CHS then provided New England Supervisory Special Agent-1 with a list of approximately 45 individuals and entities who reportedly had surfaced in the firm’s investigation of Trump’s ties to Russia.<sup>288</sup>

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<sup>283</sup> OSC Report of Interview of David Cohen on Feb. 2, 2022 at 7-8.

<sup>284</sup> FBI-0002788 (Crossfire D. Opening Electronic Communication dated 08/10/2016); FBI-0007869 (Crossfire F. Opening Electronic Communication dated 08/10/2016); FBI-0007875 (Crossfire T. Opening Electronic Communication dated 08/10/2016); FBI-0007873 (Crossfire R. Opening Electronic Communication dated 08/16/2016). As noted above, the NYFO had already opened an investigation of Page. In addition, in January 2016, the FBI’s Criminal Investigation Division had opened an investigation into allegations of money laundering and tax evasion by Manafort. *Redacted OIG Review* at 291.

<sup>285</sup> *Redacted OIG Review* at 59-60; *see also* U.S. Senate Judiciary Cmte. Staff Interview of Jonathan Moffa on September 9, 2020 at 77-80.

<sup>286</sup> FBI-EMAIL-197479 (Email from New England Supervisory Special Agent-1 to New England Supervisory Special Agent-2 dated 07/29/2016).

<sup>287</sup> *Id.*

<sup>288</sup> *Id.*

The list was comprised mostly of Russian individuals and entities and immediately raised “red flags” for New England Supervisory Special Agent-1, who believed it was necessary to get the information into the right hands as soon as possible.<sup>289</sup> Following the July 21, 2016 meeting, New England Supervisory Special Agent-1 emailed a counterintelligence colleague about the meeting and forwarded the list of names he had received. Within a few days, New England Supervisory Special Agent-1’s email and the investigative firm’s list of names made its way to FBI Headquarters and to the Crossfire Hurricane investigators.<sup>290</sup>

The former CHS reached out to New England Supervisory Special Agent-1 again on August 23, 2016, telling him that he/she had reviewed a large volume of material that the investigative firm had compiled and the former CHS passed on more information from that effort.<sup>291</sup> New England Supervisory Special Agent-1 in turn passed the information directly to an Agent on the Crossfire Hurricane team (“Special Agent-2”).<sup>292</sup> Then, one month later, on September 23, 2016,<sup>293</sup> the former CHS reached out yet again, prompting New England Supervisory Special Agent-1 to email the Crossfire Hurricane investigators again, to report that the CHS has more information on Trump’s reported ties to Russia.<sup>294</sup>

Months later, on January 11, 2017, after the Steele Dossier had been made public, New England Supervisory Special Agent-1 asked Supervisory Special Agent-1 if anything was “to be gleaned from” the information he provided in July.<sup>295</sup> It was at that time that Supervisory Special Agent-1 let New England Supervisory Special Agent-1 know that his team had received the same information through a separate reporting stream from a different source, in context being Steele.<sup>296</sup> Supervisory Special Agent-1 further advised that the second source was working with the same investigative firm that had given the information to the former CHS. Sometime later, New England Supervisory Special Agent-1 had learned that his former CHS had developed the information related to Trump while working with Glenn Simpson and Fusion GPS. Thus, it appears that in July 2016 the FBI had not yet determined that the dual reporting it was receiving actually was coming from the same source – that is, Simpson and Fusion GPS.

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<sup>289</sup> OSC Report of Interview of New England Supervisory Special Agent-1 on Sept. 1, 2020 at 2-3.

<sup>290</sup> FBI-AAA-02-0018017 (Email from Moffa to Auten, Strzok & Supervisory Special Agent-1 dated 08/02/2016).

<sup>291</sup> FBI-EMAIL-262171 (Email from New England Supervisory Special Agent-1 to Special Agent-2 dated 08/23/2016).

<sup>292</sup> *Id.*

<sup>293</sup> Interestingly, September 23, 2016 was the same day that Michael Isikoff’s *Yahoo! News* article was published.

<sup>294</sup> FBI-EMAIL-242390 (Email from New England Supervisory Special Agent-1 to Supervisory Special Agent-1 dated 09/23/2016).

<sup>295</sup> FBI-EMAIL-038612 (Email from New England Supervisory Special Agent-1 to Supervisory Special Agent-1 dated 01/11/2017).

<sup>296</sup> FBI-EMAIL-028908 (Email from Supervisory Special Agent-1 to New England Supervisory Special Agent-1, Supervisory Special Agent-3, Auten, Case Agent-1 & others dated 01/11/2017).



Further, it does not appear that the FBI was aware of the fact that essentially the same information the former CHS was providing to New England Supervisory Special Agent-1 was being provided to the media by Simpson and Fusion GPS. This was a pattern similar to that later employed in the Alfa Bank matter when the Alfa Bank allegations were provided to members of the media by Fusion GPS and then to the FBI through Michael Sussmann.<sup>297</sup>

#### 4. *Other investigative activity prior to the receipt of the Steele Reports*

Between the time the FBI opened the Crossfire Hurricane investigation and when Crossfire Hurricane investigators first received the Steele Reports in mid-September 2016,<sup>298</sup> the FBI took the following investigative steps:

- As discussed above, Strzok and Supervisory Special Agent-1 met with Australian officials to verify the information provided by Papadopoulos.
- Records and open source data were checked on the four Crossfire Hurricane subjects.
- Travel of the subjects was monitored.
- Some records were obtained from other federal agencies and a foreign government.
- FBI CHSs and UCEs were used to engage with some of the subjects.<sup>299</sup>

The *OIG Review* provides the following succinct summary of the FBI's investigative activity prior to the receipt of the Steele Reports:

[B]y the date the Crossfire Hurricane team received the six Steele reports on September 19, the investigation had been underway for approximately 6 weeks and the team had opened investigations on four individuals: Carter Page, George Papadopoulos, Paul Manafort, and Michael Flynn. In addition, during the prior 6 weeks, the team had used CHSs to conduct operations against Page, Papadopoulos, and a high-level Trump campaign official, although those operations *had not resulted in the collection of any inculpatory information*.<sup>300</sup>

FBI personnel told the *OIG* that “[t]he FBI did not use national security letters or compulsory process prior to obtaining the first FISA orders.”<sup>301</sup> FBI Deputy General Counsel Anderson said that “early on . . . FBI managers . . . ‘took off the table any idea of legal process’ . . . because the FBI was ‘trying to move very quietly.’”<sup>302</sup> Similarly,

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<sup>297</sup> See *infra* § IV.E.1.c.

<sup>298</sup> The Steele Dossier is described in detail in Section IV.D.1.b.

<sup>299</sup> See *Redacted OIG Review* at 78-80; 355-56.

<sup>300</sup> *Id.* at 101 (emphasis added).

<sup>301</sup> *Id.* at 78.

<sup>302</sup> *Id.* (quoting FBI Deputy General Counsel Trisha Anderson); see also *id.* at 69 (describing statements by Comey and Deputy Director McCabe on the importance of keeping the investigation covert).

“[m]embers of the Crossfire Hurricane team told [the OIG] that they avoided the use of compulsory legal process to obtain information at this time in order to prevent any public disclosure of the investigation’s existence and to avoid any potential impact on the election.”<sup>303</sup> Notably absent from the list of investigative steps taken were the following non-public, non-compulsory options:

- Interviewing Page, particularly once the FBI’s interest in him was publicly disclosed by the media.<sup>304</sup> In fact, two days after this disclosure, Page wrote to Director Comey offering to be interviewed, but the FBI elected not to do so.<sup>305</sup>
- Asking Page, who volunteered to be interviewed and had spoken with the FBI when asked to do so on prior occasions, if he would consent to a polygraph exam or provide access to relevant electronic records.
- Using other standard investigative techniques not requiring a court order.
- Interviewing Papadopoulos, the actual source of the Paragraph Five information.<sup>306</sup>  
<sup>307</sup>

Another step that the Crossfire Hurricane investigators could have taken, but chose not to take, was the use of pen registers and trap and trace devices. Although FISA authorizes the government to obtain a pen register when “the information likely to be obtained . . . is relevant to an ongoing investigation to protect against . . . clandestine intelligence activities,”<sup>308</sup> Case Agent-1 told the OIG that he saw pen registers as a “criminal authority.”<sup>309</sup> FBI OGC Unit Chief-1 could not understand why investigators working on

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<sup>303</sup> *Id.* at 78, 355; *see also* OIG Interview of Case Agent-1 on Aug. 28, 2018 at 69 (expressing concern about the risk of disclosure of subpoenas).

<sup>304</sup> *See* Michael Isikoff, *U.S. Intel Officials Probe Ties Between Trump Adviser and Kremlin*, *Yahoo! News* (Sept. 23, 2016) (hereinafter “Isikoff, *Officials Probe Ties*”).

<sup>305</sup> Letter from Carter Page to FBI Director Comey (Sept. 25, 2016). As discussed below, the FBI did not interview Page until Comey approved the interview in March 2017. *See infra* § IV.D.1.h.ii.

<sup>306</sup> As noted below, when Crossfire Hurricane was opened, an important goal was to keep the investigation secret. By September 23, 2016, however, the investigation was made public via Isikoff’s article attributing the information to a “senior U.S. law enforcement official.” *See infra* § IV.D.1.h.ii.

<sup>307</sup> As noted, Australian High Commissioner Downer told Strzok and Supervisory Special Agent-1 that he did not get the sense that Papadopoulos was the middle man coordinating with the Russians. *See supra* footnote 224.

<sup>308</sup> *See supra* § III.C.

<sup>309</sup> OIG Interview of Case Agent-1 on Aug. 28, 2018 at 69.



Crossfire Hurricane were not seeking authority to use pen registers and trap and trace devices.<sup>310</sup>

In terms of the analytical capabilities that were applied to Crossfire Hurricane, Lisa Page testified that the FBI used “line level analysts who [were] super experts on Russia.”<sup>311</sup> The FBI’s *Inspection Division Report* found, however, that the intelligence analysts “selected for Crossfire Hurricane were uniformly inexperienced” and that “[n]one of them were subject matter expert analysts.”<sup>312</sup> Aside from Auten, the most experienced analyst had less than nine months of experience working in that capacity, two had less than four months experience, and two came straight from analyst training.<sup>313</sup>

The analysis done in Crossfire Hurricane was also limited by the Counterintelligence Division’s failure to integrate the Directorate of Intelligence into the investigation as required by policy.<sup>314</sup> Rather, in at least one instance, Assistant Director of the Counterintelligence Division Bill Priestap appears to have deliberately shut down the involvement of the Directorate of Intelligence in an enhanced validation review of Christopher Steele, a key source.<sup>315</sup>

#### **B. The FBI’s and the Department’s Disparate Treatment of Candidates Clinton and Trump**

In the course of the Office’s investigation, we learned of allegations involving possible attempted foreign election influence activities associated with entities related to Clinton, in addition to the allegations related to Trump. The Office sought to determine, to the extent possible, if the actions taken by the FBI (and in certain instances, the Department) to address the allegations were consistent with those taken by the FBI relating to the allegations of Russian foreign election influence attached to the Trump campaign in July 2016. Comparing the respective investigative activity was significant to the investigation since it could support or undercut allegations of institutional bias against either candidate. As an initial matter, given the

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<sup>310</sup> FBI-AAA-EC-00006440 (Lync message exchange between Clinesmith and FBI OGC Unit Chief-1 dated 10/03/2016). In referring to Crossfire Hurricane investigators, FBI OGC Unit Chief-1 inquired of Clinesmith “[W]hy aren’t they getting PR/TTs [pen registers/trap and trace devices]? UGH!”

<sup>311</sup> U.S. House of Representatives Cmte. on the Judiciary Interview of Lisa Page on July 16, 2018 at 157.

<sup>312</sup> *FBI Inspection Division Report* at 17.

<sup>313</sup> *Id.*

<sup>314</sup> *See supra* § IV.A.3.b.

<sup>315</sup> U.S. Senate Cmte. on the Judiciary Interview of Supervisory Special Agent-1 on Aug. 27, 2020 at 91-105 (agent left the Crossfire Hurricane investigation because he “had a professional disagreement with stopping the enhanced validation review”); *see also* OSC Report of Interview of Supervisory Special Agent-1 on July 22, 2020 at 2-3; OSC Report of Interview of Jonathan Moffa on Oct. 28, 2020 at 15; OSC Report of Interview of Supervisory Special Agent-3 on Mar. 18, 2021 at 2; OSC Report of Interview of Headquarters Analyst-1 on Dec. 16, 2020 at 2. As described above, *see supra* § III.B.3, the *CHS Policy Guide* appears to give the Assistant Director for Intelligence an approval role for a source like Steele.

particular nature of the allegations related to each campaign, attempting to view the FBI's investigative activity in an "apples to apples" approach is undoubtedly an imperfect method to analyze whether the FBI engaged in disparate treatment of the campaigns. Nevertheless, the comparisons are instructive, and below we discuss our observations regarding the investigative approach to allegations of foreign election influence against each campaign.

### ***1. The threat of foreign election influence by Foreign Government-2***

Beginning in late 2014, before Clinton formally declared her presidential candidacy, the FBI learned from a well-placed CHS ("CHS-A") that a foreign government ("Foreign Government-2") was planning to send an individual ("Non-U.S. Person-1") to contribute to Clinton's anticipated presidential campaign, as a way to gain influence with Clinton should she win the presidency.<sup>316</sup> The FBI's independent corroboration of this information is discussed in the Classified Appendix.

Upon receipt of this information and the predication it provided, Field Office-1 sought to have one of two other better-positioned and higher-resourced field offices open a counterintelligence or public corruption investigation into these allegations, but Counterintelligence Division Executive Management directed Field Office-1 to open a full counterintelligence investigation into the matter.<sup>317</sup>

Field Office-1 sought FISA coverage of Non-U.S. Person-1, almost immediately, in order to obtain access to his/her email accounts and to conduct a search of him/her as soon as he/she arrived in the United States.<sup>318</sup> Although Field Office-1 attempted to obtain expedited approval for the FISA authorization,<sup>319</sup> the certified copy of the application was sent by OI to the FBI Headquarters for final approval where it remained, according to Field Office-1 SAC-1, "in limbo" for approximately four months.<sup>320</sup> According to another agent, the application lingered because "everyone was 'super more careful'" and "scared with the big name [Clinton]" involved.<sup>321</sup> "[T]hey were pretty 'tippy-toeing' around HRC because there was a chance she would be the next President."<sup>322</sup> Similarly, Field Office-1 SAC-1 told investigators that, when

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<sup>316</sup> See FBI-AAA-12-0023529 (Classified Codeword-1 Investigation Chronology); *see also*, FBI-AAA-03-0000482 (Email from Comey to Field Office-1 SAC-1 & others dated 04/14/2015); OSC Report of Interview of Headquarters Supervisory Special Agent-4 on May 28, 2020 at 5.

<sup>317</sup> *Id.*; OSC Report of Interview of Field Office-1 Handling Agent-1 on April 23, 2020 at 1; OSC Report of Interview of Headquarters Supervisory Special Agent-4 on May 28, 2020 at 5.

<sup>318</sup> FBI-AAA-03-0000482 at 0000483, Email from Field Office-1 SAC-1 to FBI Director James Comey, April 14, 2015.

<sup>319</sup> FBI-AAA-12-0023529 (Codename-1 Investigation Chronology).

<sup>320</sup> FBI-AAA-03-0000482 at 0000483, Email from Field Office-1 SAC-1 to FBI Director James Comey, April 14, 2015.

<sup>321</sup> OSC Report of Interview of Headquarters Supervisory Special Agent-4 dated May 28, 2020 at 8.

<sup>322</sup> OSC Report of Interview of Headquarters Supervisory Special Agent-4 dated May 28, 2020 at 9.



she spoke with the Counterintelligence Division Assistant Director and Deputy Assistant Director, they alluded to the fact that they did not want a presidential candidate on tape, even though Field Office-1 SAC-1 believed that was a very remote possibility.<sup>323</sup> According to the records the Office reviewed, it appears that the delay also may have been partially attributable to a decision to await the confirmation of the incoming Attorney General.<sup>324</sup> The FISA was ultimately conditioned on the requirement that the FBI give defensive briefings to the various public officials and candidates of both political parties, including Clinton, targeted by Foreign Government-2.<sup>325</sup>

On December 16, 2014, FBI OGC Section Chief Rick McNally summarized his conversation with Stuart Evans, the Deputy Assistant Attorney General responsible for OI, about the proposed activities:

I spoke to Stu Evans, he suggested that we can go back to him rather than calling the AAG. BUT, the question was not about PC (no legal issue)[<sup>326</sup>] it was about what was the FBI's thinking about this case, specifically whether or not we think that the politician's staff and the politician are complicit with the target, meaning that the pol and staff know that the target is working for a foreign government and has some bad intent, or alternatively, do we think that the pol and staff are unwitting, and if they are unwitting, are we considering some sort of defensive brief to the politician or staff to mitigate risk. . . .<sup>327</sup>

Certain critical activity in the investigation was delayed for months due to, among other things, concerns that "a politician [Clinton] [was] involved," and that the investigation might interfere with a presumed future presidential campaign. In line with the directive, the FBI ultimately provided defensive briefings to the officials or their representatives, though it took

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<sup>323</sup> OSC Report of Interview of Field Office-1 SAC dated Sept. 10, 2020 at 1.

<sup>324</sup> *Id.* at 3.

<sup>325</sup> FBI-AAA-12-0023531 (Classified Codeword-1 Investigation Chronology). The need for a defensive briefing had been discussed by the Department and the FBI even before the announcement of Clinton's candidacy in April 2015. Ultimately, one was provided to her representatives in October 2015. *Id.* at 0023531-32.

<sup>326</sup> See also OSC Report of Interview of OI Attorney-2 on August 12, 2021 at 1 (probable cause was "solid" with "plenty of corroborative evidence") and ("it was normal to 'pause' FISAs when they involved politicians because those types of investigations are sensitive"); see also OSC Report of Interview of Stuart Evans on June 17, 2020, at 5.

<sup>327</sup> Email from Richard McNally to Kevin Clinesmith, Headquarters Supervisory Special Agent-4 & others dated 12/16/2014.

approximately 11 months from the receipt of the original allegations.<sup>328</sup> Clinton elected to receive the defensive briefing through her personal attorneys.<sup>329</sup>

The use of defensive briefings in 2015 contrasts with the FBI's failure to provide a defensive briefing to the Trump campaign approximately one year later when Australia shared the information from Papadopoulos. Significant to the question of whether a defensive briefing was appropriate here - as it was determined to be just months earlier when a defensive briefing was given to Clinton via her lawyers - is the fact that Australia had specifically noted, "[i]t was unclear whether [Papadopoulos] or the Russians were referring to material acquired publicly of [sic] through other means."<sup>330</sup> Further, the Office's investigation revealed that the FBI engaged in what were likely very limited discussions as to whether any such briefing was appropriate. Deputy Director McCabe informed the OIG that he did not remember participating in *any* discussions about providing a defensive briefing as an alternative to opening the full counterintelligence investigation.<sup>331</sup> McCabe noted that, at the time Crossfire Hurricane was opened, the FBI had "[t]o do some work to have a better understanding of what [it had] before tak[ing] a step as overt as providing a defensive briefing because the . . . briefing could . . . eliminate . . . or reduce your ability to get to the bottom of the threat."<sup>332</sup> On the other hand, Assistant Director for Counterintelligence Priestap said that he discussed the issue of defensive briefings with others.<sup>333</sup> He explained that the FBI provides

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<sup>328</sup> OSC Report(s) of Interview(s) of Field Office-1 Handling Agent-1 on April 23, 2020 and May 5, 2020; OSC Report of Interview of Headquarters Supervisory Special Agent-4 on May 28, 2020 at 5 – 7; OSC Report of Interview of David Archey on June 21, 2021 at 1 – 3 (discussing the rationale for the debriefings regarding the threat from Foreign Government-2 and ECs documenting the September 1, 2015 briefing to a designated staffer on behalf of an elected official within the Republican party, and the October 15, 2015 defensive briefing Archey provided to Clinton's personal attorneys).

<sup>329</sup> See SENATE-FISA2020-001321 (Declassified defensive brief EC dated 10/22/2015).

<sup>330</sup> *London EC* at 2-3.

<sup>331</sup> OIG Interview of Andrew McCabe on Aug. 15, 2019 at 118; *see also* OSC Report of Interview of Special Agent-2 on June 25, 2020 at 2 (Special Agent-2 did not recall any internal FBI discussions suggesting a defensive briefing to the Trump campaign); OSC Report of Interview of Brian Auten on July 26, 2021 at 12 (Auten did not recall conversations about a defensive briefing regarding the information from Australia); OSC Report of Interview of Supervisory Special Agent-1 on July 22, 2020 at 5-6 (Supervisory Special Agent-1 did not recall any consideration being given to conducting straightforward defensive briefings to candidate Trump or members of his team regarding this information); OIG Interview of James Comey on Feb. 28, 2019 at 102-108 (Comey stated that he had no memory of any discussion of a defensive briefing to the Trump campaign).

<sup>332</sup> OIG Interview of Andrew McCabe on Aug. 15, 2019 at 118-119.

<sup>333</sup> OIG Interview of E.W. "Bill" Priestap on Aug. 22, 2018 at 4; *see also Redacted OIG Review* at 55.



defensive briefings when we obtain information indicating a foreign adversary is trying or will try to influence a specific U.S. person and when there is no indication that that specific U.S. person could be working with the adversary.

... [W]e had no indication as to which person in the Trump campaign allegedly received the offer from the Russians. ...

... Because the possibility existed that someone on the Trump campaign could have taken the Russians up on their offer, I thought it was wise to open an investigation to look into the situation.<sup>334</sup>

How these observations can be reconciled with the defensive briefings previously provided to Clinton and others is unclear. The FBI's decision to conduct defensive briefings in the investigation of Foreign Government-2's foreign influence efforts is curious given that defensive briefings could reduce the likelihood of success of any investigation into the foreign influence allegations<sup>335</sup> and that candidates and public officials might then be less likely to interact with representatives of Foreign Government-2. The decision to provide defensive briefings to Clinton and others seems to conflict directly with McCabe's notion that providing "a defensive briefing [to the Trump campaign] ... could ... eliminate ... or reduce your ability to get to the bottom of the threat."

Similarly, with respect to the Trump campaign, Priestap's twofold concern that (i) the FBI was unaware of which member of the Trump campaign allegedly received the

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<sup>334</sup> OIG Interview of E.W. "Bill" Priestap on Aug. 22, 2018 at 4-5; *see also* OIG Interview of E.W. "Bill" Priestap on Aug. 13, 2018 at 45-48; *Redacted OIG Review* at 55. Similarly, General Counsel Baker advised that there was some limited discussion about providing a defensive briefing to the Trump campaign regarding the Papadopoulos information; however, in his words, there was also the thought that "why hasn't anyone from the Trump campaign reported this information to the FBI?" Baker advised the FBI felt it did not know to whom in the Trump campaign it could provide a defensive briefing as there was uncertainty about who could be trusted with the information. Additionally, there was some concern about tipping off the Russians if they became aware the FBI had learned of its scheme through a briefing provided to the Trump campaign. Baker advised the FBI did not wish to "mess up" the political process by going overt with its investigation. He also advised that the FBI needed to do more work, figure things out and come up with a strategic plan before deciding how to proceed. He said part of that plan may have included providing a defensive briefing to the campaign. OSC Interview Report of James Baker on Feb. 7, 2020 at 8-9; *see also* OSC Interview Report of Case Agent-1 on June 19, 2019 at 3 (Case Agent-1 recalled a "notional idea of going directly to the Trump campaign leadership with a briefing about the intelligence threats").

<sup>335</sup> *See* OSC Report of Interview of Headquarters Supervisory Special Agent-4 on May 28, 2020 at 6-7 ("it was important to know if the [Clinton] people being targeted for foreign influence knew of the targeting. Headquarters Supervisory Special Agent-4 did not think they had any information one way or the other on that issue."); *see also* OSC Report of Interview of Field Office-1 Handling Agent-1 on April 23, 2020 at 3 (Field Office-1 Handling Agent-1 "was ok with the defensive briefings because he felt the common goal was to neutralize [Foreign Government-2's] intent to interfere with the election.")

offer from the Russian government and (ii) the possibility existed that the campaign had ultimately taken Russia up on the purported offer is also unpersuasive when viewed in light of the planned activity of Foreign Government-2 given the unknowns that existed in that investigation. Nevertheless, the FBI went forward with defensive briefings in that investigation – an investigation predicated on the receipt of corroborated information – but failed to conduct defensive briefings to the Trump campaign, an investigation predicated on less certain information.<sup>336</sup>

The FBI's and the Department's measured approach to these foreign influence allegations involving Clinton also stands in stark contrast to the speed with which the FBI undertook to include the Steele Report allegations in the FISA request it submitted to OI targeting Page. Indeed, as discussed below in Section IV.D.1.b.iii, the Crossfire Hurricane investigators received the initial Steele Reports on September 19, 2016 and within two days had included portions of those allegations in the draft Page FISA submission. As noted below, approximately one month later, on October 21, 2016, the FISC signed the initial authorization.

During the period between the drafting of the initial FISA request and the approval of the application by the Deputy Attorney General, Evans (who was previously consulted regarding the allegation of Foreign Government-2's foreign influence effort directed at Clinton and others) raised concerns in a call with FBI Special Assistant Lisa Page about (among other things) Steele's personal bias, unknown sourcing, and that the use of FISA authorities was bad from a policy perspective, to which Page's notes appear to indicate in response:

We accept info from biased people all the time.

Would look terrible if we pull our punch due to policy/political concern.

We believe the info & sourcing is good.

As leaks continue to trickle, is one of the only opportunities to see reflections.<sup>337</sup>

Despite the concerns raised by Evans, the FBI and the Department proceeded to obtain authority from the FISC to conduct surveillance of Page slightly more than one month after the Crossfire Hurricane investigators first received the Steele Reports. The speed with which surveillance of a U.S. person associated with Trump's campaign was authorized – in the face of the unverified Steele Reports and in the absence of a defensive briefing being provided to then-candidate Trump – are difficult to explain compared to the FBI's and Department's actions nearly two years earlier when confronted with

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<sup>336</sup> See OSC Report of Interview of Field Office-1 Handling Agent-1 on May 5, 2020 (“[P]olitics was a concern” because approval for a certain activity was “inexplicably stalled” and “[CD AD] Coleman’s call to [Field Office-1 SAC-1] about the case where he said he didn’t want to drag the Bureau into a firestorm.”); *see also* OSC Report of Interview of [Field Office-1 SAC-1] on September 10, 2020 at 1 - 2 (although the SAC “was never told why HQ would not support the [sensitive investigative technique]A” and “Coleman and [CD Deputy Assistant Director Robert] Jones alluded to the fact they didn’t want a presidential candidate on tape,” the SAC attributed the delay not to the candidate involved, but alternatively, to the identity of Foreign Government-2, the turnover in management at FBI Headquarters, or a bias against Field Office-1).

<sup>337</sup> FBI-LP-00000111-112.



corroborated allegations of attempted foreign influence involving Clinton, who at the time was still an undeclared candidate for the presidency.

## ***2. The threat of foreign election influence by Foreign Government-3***

In addition to advising the FBI of foreign influence efforts by Foreign Government-2, CHS-A also provided information to the FBI about reported foreign election influence efforts targeting the Clinton campaign in November 2015 (and possibly the Trump campaign in March 2016) by a different foreign country ("Foreign Government-3").<sup>338</sup> A Foreign Government-3 insider ("Insider-1"), who was known to the FBI to have foreign intelligence and criminal connections, had solicited CHS-A to set up a meeting with candidate Clinton because Insider-1 wanted to propose "something" that CHS-A understood to be campaign contributions on behalf of Foreign Government-3 in exchange for the protection of Foreign Government-3's interests should Clinton become President.<sup>339</sup>

Although this information pertained to a foreign influence threat from a different country, the handling agent for CHS-A continued to work this threat under the existing counterintelligence case for the threat CHS-A reported regarding Foreign Government-2. The handling Agent consulted with FBI OGC and the Counterintelligence Division at Headquarters to seek to renew the Otherwise Illegal Activity ("OIA") authority the CHS had to make introductions at a prior fundraising event scheduled for December 2014 that involved a representative of Foreign Government-2.<sup>340</sup>

According to CHS-A, Insider-1, on behalf of Foreign Government-3, sought access through CHS-A, to a Clinton campaign fundraising event in the Fall of 2015.<sup>341</sup> Although CHS-A was initially advised by an individual associated with the fundraising efforts that Insider-1 could attend, that individual consulted with the campaign and disinvited Insider-1 to the event because of the perceived negative attention a foreign national might attract.<sup>342</sup> According to CHS-A, the fundraising contact suggested CHS-A schedule a separate meeting for Insider-1.<sup>343</sup> Field Office-1 renewed the OIA from late 2014 for the CHS to attend the late November 2015

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<sup>338</sup> CHS-A Source File, Sub R – Serial 206, OIA Serial 4 (approved 11/19/2015); Sub V Serial 400.

<sup>339</sup> CHS-A Source File, Sub R – Serial 206, OIA Serial 4 (approved 11/19/2015).

<sup>340</sup> FBI-AAA-03-0000514 et seq.; *see also* OSC Report of Interview of Field Office-1 Handling Agent-3 on April 14, 2020 at 3.

<sup>341</sup> CHS-A Source file, Sub R- Serial 207.

<sup>342</sup> CHS-A Source file, Sub R- Serial 207; *see also* FBI-AAA-03-0001188 (Email from Headquarters Supervisory Special Agent-4 to Field Office-1 Handling Agent-3 & others dated 01/15/2016).

<sup>343</sup> FBI-AAA-03-0001188 (Email from Headquarters Supervisory Special Agent-4 to Field Office-1 Handling Agent-3 & others dated 01/15/2016); CHS-A Source file, Sub R Serial 207. The Office found no evidence that candidate-Clinton ever met with Insider-1.

event and make introductions on behalf of Insider-1, but ultimately CHS-A did not attend the event.<sup>344</sup>

CHS-A, however, did attend a fundraiser in January 2016, after providing same-day notice and receiving the approval of his FBI handling agent.<sup>345</sup> CHS-A reported in an email that Insider-1 “got cold feet” and was not going to attend, but the source file report indicates Insider-1 was told by a representative of Clinton not to attend.<sup>346</sup> When Insider-1 decided not to attend, he/she asked CHS-A to deliver a message of support. CHS-A provided the draft message to the handling agent, who received same-day approval from FBI OGC for the CHS to deliver the message at the event scheduled for later that day.<sup>347</sup>

However, without the knowledge or prior approval of the handling agent, CHS-A had made a \$2700 campaign contribution (the maximum amount at the time for an individual contribution) prior to the event, which CHS-A indicated he/she “made on [his/her] [credit] card” on behalf of Insider-1.<sup>348</sup> If true, the campaign contribution on behalf of a foreign national would violate Title 52 USC Section 30121 (“Contributions and donations by foreign nationals”). However, despite CHS-A’s claim that the contribution was made in his/her personal name, the Federal Election Commission records reviewed did not reveal any contribution in CHS-A’s name. Rather, Commission records corroborate a contribution paid by a credit card in the name of a close associate (who was a U.S. person) of CHS-A. CHS-A also told the handling agent that “[t]hey [the campaign] were okay with it. [...] yes they were fully aware from the start” of the contribution being made on behalf of a foreign interest and CHS-A offered to provide a copy of the credit card charges.<sup>349</sup> Despite this offer by CHS-A to provide a copy of the credit card charges, we did not find any indication that the handling agent asked for or otherwise secured a copy.

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<sup>344</sup> See FBI-AAA-03-0000514 (Email from Clinesmith to Field Office-1 Handling Agent-3, Headquarters Supervisory Special Agent-4 & others dated 11/19/2015); *see also* OIA Serial 4 dated 11/19/2015; *see also* FBI-AAA-EC-00000983 (Lync exchange between Headquarters Supervisory Special Agent-4 & Field Office-1 Handling Agent-3 dated 01/19/2016) (CHS did not attend the 11/30/2015 event).

<sup>345</sup> FBI\_DOJ\_2019\_CFH\_005507 at 1-3, 6 (CHS informed handling agent on 1/13/2016: “I just got to DC, will be meeting Hillary today. [Insider-1] was suppose[d] to join me but [Insider-1] got cold feet [...]. [Insider-1] asked me to relay a message and setup a meeting. That should be okay right?” Agent replied on 1/13/2016 that it was fine to deliver that message.)

<sup>346</sup> CHS-A Source File Sub R Serial 208.

<sup>347</sup> FBI\_DOJ\_2019\_CFH\_005507 at 3 (“The message is [head] [of Foreign Government-3] fully supports you and wants closer cooperation once you are president. He has always believed you would be the perfect candidate and has been following your campaigning closely. [Foreign Government-3] and US have a [ ] and is the only standing fort against [third country]. [Insider-1] would like to sit with you and or your staff to discuss regional affairs. If it’s possible for me to get a contact or arrange a meeting. Would that be okay?”); *see* CHS-A Source File Sub-V Serial 384, and Sub R Serial 208.

<sup>348</sup> FBI\_DOJ\_2019\_CFH\_005507 at 7.

<sup>349</sup> *Id.* at 6-7.



When interviewed by the Office about this contribution, one of CHS-A's FBI handlers could not explain why this apparent illegal contribution was not documented in FBI records.<sup>350</sup> Although the handling agent at the time asked CHS-A about the payment,<sup>351</sup> there is no indication that the agent documented the contribution in the CHS's source file.<sup>352</sup> Moreover, despite the CHS telling the handling agent that the CHS was going to Insider-1's house "after the event to update [him/her],"<sup>353</sup> there was no follow up by the handling agent to document that in the source file.<sup>354</sup> In fact, the handling agent subsequently told the CHS to stay away from all events relating to Clinton's campaign.<sup>355</sup>

The Counterintelligence Division Unit Chief ("Headquarters Unit Chief-2") also did not recall the campaign contribution, despite being shown an FBINET Lync chat dated at the time of the events between himself and Headquarters Supervisory Special Agent-4, in which Headquarters Unit Chief-2 wrote "just spoke with the [Field Office-1] ASAC" and asked Headquarters Supervisory Special Agent-4, "do we know who made the \$2700 donation, CHS, CHS's boss, or CHS on behalf of [Insider-1]? We'll have to have an answer for that by the morning."<sup>356</sup> In 2021, at the time of the Office's interview of Headquarters Unit Chief-2, his SAC was the former ASAC of Field Office-1 with whom the Lync indicated Headquarters Unit Chief-2 had spoken about this matter at the time of the events in January 2016. Field Office-1 Supervisory Special Agent-1, who oversaw the investigation, also had no recollection about why this contribution was not documented in CHS-A's source file, nor considered as reportable unauthorized illegal activity by CHS-A.<sup>357</sup> Also, Field Office-1 ASAC-1 had no recollection of the payment by CHS-A, and did not know why it was not documented in the source file.<sup>358</sup>

Although Field Office-1 had documented reporting from CHS-A regarding the threat to the Clinton campaign, and subsequently to the Trump campaign, of Foreign Government-3's

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<sup>350</sup> OSC Report of Interview of Field Office-1 Handling Agent-2 on May 5, 2021 at 3.

<sup>351</sup> FBI\_DOJ\_2019\_CFH\_005507 at 6 ("I also need to know how the money (\$2700) was donated on behalf of [Insider-1]. Did it come out of your pocket? How was it paid? Was there any mention of the donation being on behalf of [Insider-1] BEFORE the contribution was made? Was the money returned?").

<sup>352</sup> OSC Report of Interview of Field Office-1 Handling Agent-3 on September 22, 2020 at 3 ("[Field Office-1 Handling Agent-3] could not recall if he documented the \$2700 payment in [the Source File] or not. He did not make a conscious decision to not document the payment.").

<sup>353</sup> FBI\_DOJ\_2019\_CFH\_005507 at 2.

<sup>354</sup> OSC Report of Interview of Field Office-1 ASAC-1 on July 7, 2021 at 5 (the handling Agent's ASAC did not know why CHS-A's purported visit to Insider-1 after the January 13, 2016 fundraising event was not documented in an FBI record).

<sup>355</sup> FBI\_DOJ\_2019\_CFH\_005507 at 6; *see also* Source file Sub xxx Serial 384.

<sup>356</sup> OSC Report of Interview of Headquarters Unit Chief-2 on April 22, 2021 at 4; FBI-AAA-EC-00000983 (Lync exchange between Headquarters Supervisory Special Agent-4 & Headquarters Unit Chief-2 dated 01/19/2016).

<sup>357</sup> OSC Report of Interview of Field Office-1 Supervisory Special Agent-1 on April 8, 2021 at 5.

<sup>358</sup> OSC Report of Interview of Field Office-1 ASAC-1 on July 7, 2021 at 4 - 5.

foreign election influence efforts, Field Office-1 did not open a separate investigation into this threat.<sup>359</sup> Nor did Field Office-1 “consider this information as to whether it would be a good idea to let [Insider-1] get close to HRC in an operation or that [Insider-1] might be a foreign influence threat to the presidential candidates worthy of continued scrutiny.”<sup>360</sup> Field Office-1 also did not document the unauthorized illegal activity by CHS-A in connection with making a campaign contribution purportedly on behalf of Insider-1.<sup>361</sup> Instead, the FBI effectively removed their sole source of insight into this threat when the handling agent, responding to direction, admonished CHS-A:

do NOT attend any more campaign events, set up meetings, or anything else relating to [Clinton’s] campaign. We need to keep you completely away from that situation. I don’t know all the details, but it’s for your own protection.”<sup>362</sup>

Moreover, despite removing their source of insight into this threat, and DAD Archey’s belief that “the FBI protects the candidates by doing defensive briefings,”<sup>363</sup> the FBI did not provide the Clinton campaign or the Trump campaign a defensive briefing regarding Foreign Government-3’s foreign election influence efforts.<sup>364</sup>

Contrasted with the FBI’s rapid opening of Crossfire Hurricane, the FBI appears to have made no effort to investigate the possible illegal campaign contribution (which allegedly was a precursor to the contribution of a significant sum of money by Insider-1 on behalf of Foreign Government-3) or the Clinton campaign’s purported acceptance of a campaign contribution that was made by the FBI’s own long-term CHS on behalf of Insider-1 and, ultimately, Foreign Government-3.

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<sup>359</sup> OSC Report of Interview of Field Office-1 Supervisory Special Agent-1 on April 8, 2021 at 4 (The Field Office never opened a counterintelligence case on [Insider-1] because [Insider-1] lived in areas outside Field Office-1’s area of responsibility).

<sup>360</sup> OSC Report of Interview of Field Office-1 Supervisory Special Agent-1 on April 8, 2021 at 4.

<sup>361</sup> OSC Report of Interview of Field Office-1 Supervisory Special Agent-1 on April 8, 2021 at 5, (Headquarters Supervisory Analyst-1 “did not know why this action was not documented in a FD-1023 and stated that it should have been because it was Unauthorized Illegal Activity (UIA) and not within the scope of what [CHS-A] was allowed to do in the OIA.”)

<sup>362</sup> FBI\_DOJ\_2019\_CFH 005512; *see also* OSC Report of Interview of Field Office-1 Supervisory Special Agent-1 on April 8, 2021 at 5 (“Their plan, however, was to move [CHS-A] away from the political matters so they could fully utilize [CHS-A] in overseas national security matters.”).

<sup>363</sup> OSC Report of Interview of David Archey on June 21, 2021 at 4.

<sup>364</sup> This conclusion by the Office is based on the Office’s review of available documentation in the source file, Sentinel, and electronic communications of FBI personnel. Neither Archey nor Field Office-1 ASAC-1 recalled this threat reporting nor offered an explanation as to the absence of defensive briefings. *See* OSC Report of Interview of David Archey on June 21, 2021 at 5; *see also* OSC Report of Interview of Field Office-1 ASAC-1 on July 7, 2021 at 5.



### 3. *Allegations involving the Clinton Foundation*

Beginning in January 2016, three different FBI field offices, the New York Field Office (“NYFO”), the Washington Field Office (“WFO”), and the Little Rock Field Office (“LRFO”), opened investigations into possible criminal activity involving the Clinton Foundation.<sup>365</sup> The LRFO case opening communication referred to an intelligence product and corroborating financial reporting that a particular commercial “industry likely engaged a federal public official in a flow of benefits scheme, namely, large monetary contributions were made to a non-profit, under both direct and indirect control of the federal public official, in exchange for favorable government action and/or influence.”<sup>366</sup> The WFO investigation was opened as a preliminary investigation, because the Case Agent wanted to determine if he could develop additional information to corroborate the allegations in a recently-published book, *Clinton Cash* by Peter Schweizer, before seeking to convert the matter to a full investigation.<sup>367</sup> Additionally, the LRFO and NYFO investigations included predication based on source reporting that identified foreign governments that had made, or offered to make, contributions to the Foundation in exchange for favorable or preferential treatment from Clinton.<sup>368</sup>

With three different FBI field offices having opened investigations related to the Clinton Foundation, there was a perceived need to conduct coordination meetings between the field offices, FBI Headquarters, and appropriate United States Attorney’s offices and components from the Department. These meetings likely were deemed especially important given that the investigations were occurring in an election year in which Clinton was a declared candidate for President. Several of those meetings are described in more detail below.

On February 1, 2016, a meeting was held to discuss the Foundation investigations. Present for the meeting from the FBI were, among others, Executive Assistant Director Randy Coleman, Criminal Investigative Division Assistant Director Joe Campbell and Acting OGC Section Chief-1. Those present from the Department included Criminal Division Assistant Attorney General Leslie Caldwell and Public Integrity Section Chief Ray Hulser.<sup>369</sup> When

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<sup>365</sup> OSC Report of Interview of Ray Hulser on July 8, 2020 at 1; OSC Report of Interview of Headquarters Unit Chief-3 on January 28, 2020 at 1; *see also*, 58A-WF-6930742 Serial 1 (opened 1/29/2016); FBI\_DOJ\_2019\_CFH\_002365 (58A-LR-6912913 Serial 1 opened 01-27-2016) (opening EC is almost identical to opening EC for 58A-LR-2187489, opened July 2017 and containing no reference to 58A-LR-6912913); 58A-NY-6888608 Serial 1 (opened 1/22/2016).

<sup>366</sup> FBI\_DOJ\_2019\_CFH\_002365 at 2.

<sup>367</sup> *See* Email from WFO Clinton Foundation Case Agent-1 to WFO ASAC-1 dated 09/01/2017; *see generally*, OSC Report of Interview of WFO Clinton Foundation Case Agent-1 on August 20, 2020.

<sup>368</sup> *See* FBI\_DOJ\_2019\_CFH\_002365 at 2 (referring without specific CHS references to an intelligence product from January 2016), and 58A-NY-6888608 Serial 1 at 4. WFO’s Opening EC (58A-WF-6930742 Serial 1) mentions leveraging CHSs from a different pending investigation but does not incorporate by reference any CHS reporting.

<sup>369</sup> OSC Report of Interview of Acting OGC Section Chief-1 on Sept. 9, 2020 at 2; OSC Report of Interview of Randall Coleman on August 12, 2019 at 1.

interviewed by the Office, Hulser noted, in sum, that the FBI briefing was poorly presented and that there was insufficient predication for at least one of the investigations due to its reliance on allegations contained in a book. Hulser also downplayed the information provided by the NYFO CHS and recalled that the amount involved in the financial reporting was “de minimis.”<sup>370</sup>

Although Hulser declined prosecution on behalf of the Public Integrity Section, he told the Office he “made it clear, however, that his decision was not binding on the various U.S. Attorneys’ Offices or FBI field divisions.”<sup>371</sup> Acting OGC Section Chief-1 recalled that the Department’s reaction to the Clinton Foundation briefing was “hostile.”<sup>372</sup>

Three weeks later, on February 22, 2016, another meeting was convened at FBI Headquarters to discuss the Foundation investigations.<sup>373</sup> The meeting was chaired by McCabe.<sup>374</sup> Present for the meeting from the FBI were, among others, Coleman, Campbell, and representatives from the affected field offices, including then-WFO Assistant Director-in-Charge (“ADIC”) Paul Abbate.<sup>375</sup> Representatives from the Department and the affected U.S. Attorney’s offices were also present.<sup>376</sup> At the meeting, McCabe initially directed the field offices to close their cases, but following objections, agreed to reconsider the final disposition of the cases.<sup>377</sup> In his interview with the Office, Abbate described McCabe as “negative,” “annoyed,” and “angry.”<sup>378</sup> According to Abbate, McCabe stated “they [the Department] say there’s nothing here” and “why are we even doing this?”<sup>379</sup> At the close of the meeting, Campbell directed that for any overt investigative steps to be taken, the Deputy Director’s approval would be required.<sup>380</sup> This restriction on overt investigative activity essentially

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<sup>370</sup> OSC Report of Interview of Ray Hulser on July 8, 2020 at 1-2. We note that the financial reporting concerning the Clinton Foundation was not available to show Hulser at the time of his interview to help refresh any recollections he might have. The Office, however, separately reviewed the material to understand the allegations that caused the reporting to be made in the summer of 2015. The reporting, which in itself is not proof of wrongdoing, was a narrative describing multiple funds transfers, some of which involved international bank accounts that were suspected of possibly facilitating bribery or gratuity violations. The transactions involved occurred between 2012 and 2014, and totaled hundreds of thousands of dollars.

<sup>371</sup> *Id.* at 1.

<sup>372</sup> OSC Report of Interview of Acting OGC Section Chief-1 on Sept. 9, 2020 at 2.

<sup>373</sup> *Id.*

<sup>374</sup> *Id.*

<sup>375</sup> *Id.*; OSC Report of Interview of Paul Abbate on March 18, 2020 at 2.

<sup>376</sup> OSC Report of Interview of Acting OGC Section Chief-1 on Sept. 9, 2020 at 2.

<sup>377</sup> *Id.*; OSC Report of Interview of Paul Abbate on March 18, 2020 at 2.

<sup>378</sup> OSC Report of Interview of Paul Abbate on March 18, 2020 at 2.

<sup>379</sup> *Id.*

<sup>380</sup> *Id.*



remained in place until August 2016. Abbate recalled that FBI personnel from the field offices left the meeting frustrated with the limitations placed on them by the Deputy Director.<sup>381</sup>

According to NYFO Assistant Director in Charge Diego Rodriguez, Coleman called him on behalf of Director Comey around May and directed the NYFO to “cease and desist” from the Foundation investigation due to some undisclosed counterintelligence concern.<sup>382</sup> Coleman informed Rodriguez that Comey wanted to consult with Associate Deputy Attorney General David Margolis regarding the referenced counterintelligence matter.<sup>383</sup> The Office was not able to determine what the counterintelligence issue raised by Comey was.<sup>384</sup>

On August 1, 2016, a video teleconference meeting (“VTC”) was held wherein the WFO and LRFO cases were directed to be closed and consolidated into the NYFO investigation.<sup>385</sup> During this VTC, the NYFO was given authorization to seek subpoenas from the U.S. Attorneys’ offices in the Southern and Eastern Districts of New York (“SDNY” and “EDNY”).<sup>386</sup> However, both SDNY and EDNY declined to issue subpoenas to the NYFO, despite previously expressing support for the investigation.<sup>387</sup>

Once again, the investigative actions taken by FBI Headquarters in the Foundation matters contrast with those taken in Crossfire Hurricane. As an initial matter, the NYFO and WFO investigations appear to have been opened as preliminary investigations due to the political sensitivity and their reliance on unvetted hearsay information (the *Clinton Cash* book) and CHS reporting.<sup>388</sup> By contrast, the Crossfire Hurricane investigation was *immediately* opened as a full investigation despite the fact that it was similarly predicated on unvetted hearsay information. Furthermore, while the Department appears to have had legitimate concerns about the Foundation investigation occurring so close to a presidential election, it does not appear that similar concerns were expressed by the Department or FBI regarding the Crossfire Hurricane investigation. Indeed, in short order after opening the Crossfire Hurricane file and its four sub-files, the FBI was having one of its long-time CHSs meet not with just one Trump campaign

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<sup>381</sup> *Id.*

<sup>382</sup> OSC Report of Interview of Diego Rodriguez on August 12, 2019 at 2; *see also* OSC Report of Interview of Diego Rodriguez on January 16, 2020 at 1-2.

<sup>383</sup> *Id.* at 2.

<sup>384</sup> Mr. Margolis unfortunately passed away in July 2016. Comey declined to be interviewed by the Office.

<sup>385</sup> 58A-NY-6888608 Serial 6; OSC Report of Interview of Headquarters Unit Chief-3 on January 28, 2020 at 3.

<sup>386</sup> 58A-NY-6888608 Serial 6.

<sup>387</sup> OSC Report of Interview of Acting OGC Section Chief-1 on Sept. 9, 2020 at 3; OSC Report of Interview of Diego Rodriguez on January 16, 2020 at 1; *see also* OSC Report of Interview of NYFO Clinton Foundation Case Agent-1 on January 15, 2020 at 1-2; OSC Report of Interview of Patrick Fallon on September 29, 2020 at 2.

<sup>388</sup> *See* Email from WFO Clinton Foundation Case Agent-1 to WFO ASAC-1 dated 09/01/2017; *see generally* OSC Report of Interview of WFO Clinton Foundation Case Agent-1 on August 20, 2020.

associate, but meet and record conversations with three such insiders. And a little more than a month after opening the Crossfire Hurricane file on Page, a “senior U.S. law enforcement official” was publicly reported as confirming for Michael Isikoff and *Yahoo! News* that the FBI had Page on its radar screen.<sup>389</sup>

In the end, the perceived difference between the approaches taken and mindsets of FBI personnel central to both the Clinton and Trump matters is well-captured in a February 24, 2016 email between McCabe’s Special Assistant Lisa Page and Strzok. Prior to the FBI’s interview of Clinton in the investigation of her use of a private email server while she was serving as Secretary of State, the following exchange took place:

Page: One more thing: [Clinton] may be our next president. The last thing you need [is] going in there loaded for bear. You think she’s going to remember or care that it was more doj than fbi?

Strzok: Agreed . . . .<sup>390</sup>

### C. Investigative Referral of Possible Clinton Campaign Plan

#### 1. *Factual background*

The Office also considered as part of its investigation the government’s handling of certain intelligence that it received during the summer of 2016. That intelligence concerned the purported “approval by Hillary Clinton on July 26, 2016 of a proposal from one of her foreign policy advisors to vilify Donald Trump by stirring up a scandal claiming interference by the Russian security services.”<sup>391</sup> We refer to that intelligence hereafter as the “Clinton Plan intelligence.” DNI John Ratcliffe declassified the following information about the Clinton Plan intelligence in September 2020 and conveyed it to the Senate Judiciary Committee:

- In late July 2016, U.S. intelligence agencies obtained insight into Russian intelligence analysis alleging that U.S. Presidential candidate Hillary Clinton had approved a campaign plan to stir up a scandal against U.S. Presidential candidate Donald Trump by tying him to Putin and the Russians’ hacking of the Democratic National Committee. The IC does not know the accuracy of this allegation or the extent to which the Russian intelligence analysis may reflect exaggeration or fabrication.
- According to his handwritten notes, CIA Director Brennan subsequently briefed President Obama and other senior national security officials on the intelligence, including the “alleged approval by Hillary Clinton on July 26, 2016 of a proposal from one of her foreign policy advisors to vilify Donald Trump by stirring up a scandal claiming interference by Russian security services.”

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<sup>389</sup> See Isikoff, *Officials Probe Ties*.

<sup>390</sup> FBI-0008217 (Office of Professional Responsibility (OPR) letter to Strzok dated Feb. 24, 2016 at 4) FBI-0008217-240 at 0008220.

<sup>391</sup> Letter from John Ratcliffe, DNI, to Sen. Lindsay Graham (Sept. 29, 2020) (hereinafter “*Ratcliffe Letter*”); Notes of John O. Brennan, declassified by DNI Ratcliffe on October 6, 2020 (hereinafter “*Brennan Notes*”).



- On 07 September 2016, U.S. intelligence officials forwarded an investigative referral to FBI Director James Comey and Deputy Assistant Director of Counterintelligence Peter Strzok regarding “U.S. Presidential candidate Hillary Clinton’s approval of a plan concerning U.S. Presidential candidate Donald Trump and Russian hackers hampering U.S. elections as a means of distracting the public from her use of a private mail server.”<sup>392</sup>

The Clinton Plan intelligence was relevant to the Office’s investigation for two reasons.

*First*, the Clinton Plan intelligence itself and on its face arguably suggested that private actors affiliated with the Clinton campaign were seeking in 2016 to promote a false or exaggerated narrative to the public and to U.S. government agencies about Trump’s possible ties to Russia. Given the significant quantity of materials the FBI and other government agencies did in fact receive during the 2016 presidential election season and afterwards that originated with and/or were funded by the Clinton campaign or affiliated persons (*i.e.*, the Steele Dossier reports, the Alfa Bank allegations, and the Yotaphone allegations), the Clinton Plan intelligence prompted the Office to consider (i) whether there was in fact a plan by the Clinton campaign to tie Trump to Russia in order to “stir[] up a scandal” in advance of the 2016 presidential election, and (ii) if such a plan existed, whether an aspect or component of that plan was to intentionally provide knowingly false and/or misleading information to the FBI or other agencies in furtherance of such a plan.<sup>393</sup>

*Second*, the Clinton Plan intelligence was also highly relevant to the Office’s review and investigation because it was part of the mosaic of information that became known to certain U.S. officials at or before the time they made critical decisions in the Crossfire Hurricane case and in related law enforcement and intelligence efforts. Because these officials relied, at least in part, on materials provided or funded by the Clinton campaign and/or the DNC when seeking FISA warrants against a U.S. citizen (*i.e.*, the Steele Dossier reports) and taking other investigative steps, the Clinton Plan intelligence had potential bearing on the reliability and credibility of those materials. Put another way, this intelligence—taken at face value—was arguably highly relevant and exculpatory because it could be read in fuller context, and in combination with other facts, to suggest that materials such as the Steele Dossier reports and the Alfa Bank allegations (discussed below and in greater detail in Section IV.E.1) were part of a political effort to smear a political opponent and to use the resources of the federal government’s law enforcement and intelligence agencies in support of a political objective. The Office therefore examined whether, and precisely when, U.S. law enforcement and intelligence officials became aware of the Clinton Plan intelligence; whether they vetted and analyzed the intelligence to understand its potential

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<sup>392</sup> *Referral Memo*.

<sup>393</sup> To be clear, the Office did not and does not view the potential existence of a political plan by one campaign to spread negative claims about its opponent as illegal or criminal in any respect. As prosecutors and the Court reminded the jury in the *Sussmann* trial, opposition research is commonplace in Washington, D.C. and elsewhere, is conducted by actors of all political parties, and is not a basis in and of itself for criminal liability. Rather, only if the evidence supported the latter of the two conditions described above—*i.e.*, if there was an intent by the Clinton campaign or its personnel to knowingly provide false information to the government—would such conduct potentially support criminal charges.