

Third, the defendant acted under color of law. Acting “under color of law” means acts done under any state law, county or city ordinance, or other governmental regulation, and acts done according to a custom of some governmental agency. It means that the defendant acted in his or her official capacity or else claimed to do so, but abused or misused his or her power by going beyond the bounds of lawful authority.¹⁵⁶

7. Conspiracy to violate civil rights

18 U.S.C. § 241 makes it a crime to conspire to deprive a person of his or her civil rights. The government must prove three elements beyond a reasonable doubt to obtain a conviction under section 241:

First, the defendant entered into a conspiracy to injure, oppress, threaten, or intimidate a named victim;

Second, the defendant intended to interfere with the named victim’s exercise or enjoyment of a right that is secured (or protected) by the Constitution (or laws) of the United States; and

Third, the named victim was present in any state, district, or territory of the United States.¹⁵⁷

8. General conspiracy statute

A conspiracy under 18 U.S.C. § 371 requires the government to prove four elements beyond a reasonable doubt:

First, two or more persons in some way agreed to try to accomplish a shared and unlawful plan;

Second, the defendant knew the unlawful purpose of the plan and willfully joined in it;

Third, during the conspiracy, one of the conspirators knowingly engaged in at least one overt act as described in the indictment; and

Fourth, the overt act was committed at or about the time alleged and with the purpose of carrying out or accomplishing some object of the conspiracy.¹⁵⁸

In addition to criminalizing an agreement whose object is to violate a federal criminal law, section 371 also criminalizes a conspiracy “to defraud the United States, or any agency thereof for any manner or for any purpose.” This may also include interfering with the performance of official duties by government officials.¹⁵⁹

¹⁵⁶ See, e.g., *Pattern Crim. Jury Instr.* 5th Cir. 2.12 (2019).

¹⁵⁷ See *Modern Federal Jury Instructions-Criminal*, LexisNexis Form 485-17-33 (Elements of the Offense).

¹⁵⁸ See, e.g., *Pattern Crim. Jury Instr.* 11th Cir. OI 013.1 (WL 2020).

¹⁵⁹ See *United States v. Klein*, 247 F.2d 908, 916 (2d Cir. 1957); Practical Law Securities & White Collar Crime, *Conspiracy Charges: Overview*, w-009-8988 (WL 2022).

9. Campaign contributions

52 U.S.C. § 30116(a)(1)(A) provides that “no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$2,000.” The term “person” includes “an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.”¹⁶⁰ “Contributions” are defined as, “any gift . . . or deposit of . . . anything of value made by any person for the purpose of influencing any election for Federal office.”¹⁶¹ Contributions do not include, “the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee.”¹⁶² Section 30116(c) provides for adjustments for inflation, stating that limitations for contributions by persons to federal candidates are adjusted every two years.¹⁶³ The limitation for an individual donor to a candidate committee for the 2015-2016 election cycle was \$2,700.¹⁶⁴

Violations of section 30116 by a person qualify as a crime if, (1) the violation involved at least the amount specified in a calendar year, and (2) the violation was committed knowingly and willfully.¹⁶⁵

10. Campaign contributions by foreign nationals

52 U.S.C. § 30121(a)(1)(A) makes it a crime for “a foreign national, directly or indirectly . . . to make a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal . . . election.” Subsection (a)(2) makes it a crime for any person to solicit, accept, or receive such a contribution or donation.

11. Fraud against the United States

18 U.S.C. § 1031(a) imposes criminal liability on:

Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent—

- (1) to defraud the United States; or
- (2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises,

¹⁶⁰ 52 U.S.C. § 30101(11).

¹⁶¹ *Id.* § 30101(8)(A)(i).

¹⁶² *Id.* § 30101(8)(B)(i).

¹⁶³ *Id.* § 30116(c).

¹⁶⁴ Federal Election Commission, *Archive of Contribution Limits*, <https://www.fec.gov/help-candidates-and-committees/candidate-taking-receipts/archived-contribution-limits/>.

¹⁶⁵ 52 U.S.C. § 30109(d)(1)(A).

in any grant, contract . . . or other form of Federal assistance . . . if the value of such grant, contract . . . or other form of Federal assistance . . . is \$1,000,000 or more

The government must prove three elements beyond a reasonable doubt to obtain a conviction under section 1031(a):

First, the defendant knowingly used or tried to use a scheme with the intent to defraud the United States or to get money or property by using materially false or fraudulent pretenses, representations, or promises;

Second, the scheme took place as a part of acquiring property, services, or money as a contractor with the United States or as a subcontractor or a supplier on a contract with the United States; and

Third, the value of the contract or subcontract was \$1,000,000 or more.¹⁶⁶

12. Money-laundering

18 U.S.C. § 1956(a)(1)(A) imposes criminal liability on:

Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity--

(i) with the intent to promote the carrying on of specified unlawful activity; or

(ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986.

To obtain a conviction under section 1956(a)(1)(A), the government must prove the following three elements beyond a reasonable doubt:

First, the defendant conducted (or attempted to conduct) a financial transaction involving property constituting the proceeds of specified unlawful activity;

Second, the defendant knew that the property involved in the financial transaction was the proceeds of some form of unlawful activity; and

Third, the defendant acted either with the intent to promote the carrying on of specified unlawful activity or with the intent to engage in conduct violating certain provisions of the Internal Revenue Code.¹⁶⁷

18 U.S.C. § 1957 imposes criminal liability on:

Whoever . . . knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than \$10,000 and is derived from

¹⁶⁶ See *Pattern Crim. Jury Instr.* 11th Cir. OI 043 (WL 2020).

¹⁶⁷ See 3 *Modern Federal Jury Instructions-Criminal* P 50A.01 (Lexis).

specified unlawful activity [and does so either] in the United States or in the special maritime and territorial jurisdiction of the United States [or] outside the United States and such special jurisdiction, but the defendant is a United States person.

To obtain a conviction under section 1957, the government must prove the following five elements beyond a reasonable doubt:

First, the defendant engaged (or attempted to engage) in a monetary transaction in or affecting interstate commerce;

Second, the monetary transaction involved criminally derived property of a value greater than \$10,000;

Third, the property was derived from specified unlawful activity;

Fourth, the defendant acted knowingly, that is, with knowledge that the transaction involved proceeds of a criminal offense; and

Fifth, the transaction took place in the United States, or the defendant is a U.S. person.¹⁶⁸

Finally, 18 U.S.C. § 1956(h) imposes criminal liability on any person who conspires to commit any offense defined in section 1956 or 1957. To obtain a conviction under section 1956(h), the government must prove the following three elements beyond a reasonable doubt:

First, two or more persons reached an agreement to commit one of the specified offenses;

Second, the defendant voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect; and

Third, at the time the defendant joined in the agreement or understanding, he/she knew the purpose of the agreement or understanding.¹⁶⁹

13. Disclosure of national defense information

18 U.S.C. § 793(d) imposes criminal liability on:

Whoever, lawfully having possession of, access to, control over, or being entrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted or attempts to communicate, deliver, transmit or cause to be communicated, delivered or transmitted the same to any person not entitled to

¹⁶⁸ See 3 *Modern Federal Jury Instructions-Criminal* P 50A.06 (Lexis).

¹⁶⁹ See *Modern Federal Jury Instructions-Criminal* 6.18.1956K (8th Cir.) (Lexis 2022).

receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it.

Modern Federal Jury Instructions summarizes the elements that the government must prove beyond a reasonable doubt to obtain a conviction under section 793(d):

First, that the defendant had lawful . . . possession of (or access to or control over) [describe document].

Second, that the [document] was related to the national defense.

Third, that the defendant had reason to believe that the document could be used to the injury of the United States or to the advantage of [name of foreign country].

Fourth, that on [insert date], the defendant willfully communicated (or delivered or transmitted or caused to be communicated, delivered, or transmitted or attempted to communicate, deliver or transmit) the document to [name of person], who was not entitled to receive it.¹⁷⁰

IV. BACKGROUND FACTS AND PROSECUTION DECISIONS

This section begins by providing factual information about the FBI's New York Field Office ("NYFO") investigation of Carter Page in the spring of 2016 (Subsection A.1); the text messages between certain FBI officials that on their face show a predisposition to investigate Trump (Subsection A.2); and the predication, opening, and conduct of the Crossfire Hurricane investigation (Subsections A.3 through A.5). This part concludes with a comparison of some of the FBI's investigative decisions related to Clinton with some of those related to Trump (Subsection A.6). The remaining parts of this section each include a factual background and then describe the prosecutive decisions the Office made. The first addresses an investigative referral of a possible Clinton "campaign plan" (Subsection B). The next is an extensive discussion of the FISA applications targeting Page (Subsection C). The last part of this section covers conduct by private-sector actors in connection with Crossfire Hurricane and related subjects (Subsection D). In describing these matters, this section does not endeavor to repeat or restate all the information that the Office and others¹⁷¹ have covered and made public. Instead, it aims to add to that body of information, include additional relevant facts, and explain the prosecutive decisions we made.

The *Appointment Order* authorized the Special Counsel "to prosecute federal crimes arising from his investigation" of the matters assigned to him.¹⁷² What is stated in the *Mueller Report* is equally true for our investigation:

In deciding whether to exercise this prosecutorial authority, the Office has been guided by the Principles of Federal Prosecution set forth in the Justice . . . Manual. In particular, the Office has evaluated whether the conduct of the

¹⁷⁰ 1 *Modern Federal Jury Instructions-Criminal* § 29.04 (2022).

¹⁷¹ These include most notably the OIG in its comprehensive reports, the *Mueller Report*, the *SSCI Russia Report*, and the *FBI Inspection Division Report*.

¹⁷² *Appointment Order* ¶ (b).

individuals considered for prosecution constituted a federal offense and whether admissible evidence would probably be sufficient to obtain and sustain a conviction for such an offense. Where the answer to those questions was yes, the Office further considered whether the prosecution would serve a substantial federal interest, the individuals were subject to effective prosecution in another jurisdiction, and there existed an adequate non-criminal alternative to prosecution.¹⁷³

These considerations, as explained below, led the Office to charge three individuals with making false statements. The Office considered whether other individuals, including individuals in the government, made false statements to the FBI, the OIG, or congressional committees or whether, during the course of the Office's investigation, other individuals interviewed either omitted material information or provided false information. Again, what is stated in the *Mueller Report* is also true for our investigation:

Applying the Principles of Federal Prosecution, the Office did not seek criminal charges against any individuals other than those listed above. In some instances, that decision was due to evidentiary hurdles to proving falsity. In others, the Office determined that the witness ultimately provided truthful information and that considerations of culpability, deterrence, and resource preservation weighed against prosecution.¹⁷⁴

The Office determined that other matters it investigated either did not involve the commission of a federal crime or that our evidence was not sufficient to obtain and sustain a criminal conviction.

In addition to its prosecution and declination decisions, the Office made the following referrals to other entities:

- A referral on June 30, 2020 to the FBI's Washington Field Office ("WFO") regarding a matter related to an existing counterintelligence investigation.
- A referral in December 2020 to OI of information relevant to the accuracy of information contained in four non-Page FISA applications.
- Referrals of two matters on December 14, 2022 to the Inspector General of the Department of Defense with a copy to the General Counsel of the Defense Intelligence Agency. One matter involved the execution of a contract between DARPA and the Georgia Institute of Technology; and a separate matter involved the irregular conduct in 2016 of two former employees of the Department of Defense.
- A referral to the FBI's OGC and Inspection Division of an FBI agent for failing to document properly the known history of Igor Danchenko upon his opening as an FBI CHS.

¹⁷³ 1 *Mueller Report* at 174 (citations omitted). For a discussion of the *Principles of Federal Prosecution*, see *supra* § III.A; *Justice Manual* § 9-27.220 (2018).

¹⁷⁴ 1 *Mueller Report* at 198-99.

- A referral to the FBI's OGC and Inspection Division of the same FBI agent for questionable instructions given to Danchenko regarding the taxability of cash payments made to him by the FBI.

In addition to the referrals described above, the Office also provided information to the FBI's Inspection Division regarding certain activities by current and former FBI employees.

A. The Crossfire Hurricane Investigation

1. *New York Field Office investigation of Page*

In late March 2016, Carter Page, an American energy consultant, was named a foreign policy advisor to the Donald Trump 2016 presidential campaign. Page's prior business experience was largely focused on Russian and Eurasian energy issues, and as such, he frequently interacted with various Russian nationals. Based on his previous Russian contacts, Page was known to the FBI and had been interviewed on three occasions between 2009 and 2013 by the NYFO. In 2015, Page was again interviewed by the FBI in connection with the indictment of three Russian intelligence officers in the Southern District of New York. According to the criminal complaint and subsequently returned indictment in that case, Page had been approached by the intelligence officers in an apparent failed recruitment effort.¹⁷⁵ In the criminal complaint, one intelligence officer referred to Page, anonymized as "Male-1," as an "idiot," and Page does not seem to have been receptive to the recruitment efforts.¹⁷⁶ Page was interviewed by prosecutors as a possible government witness in that case.¹⁷⁷ One defendant, Evgeny Buryakov, pleaded guilty before trial and was sentenced to 30 months of imprisonment.¹⁷⁸ The two other defendants in the case were protected by diplomatic immunity and are no longer in the United States.¹⁷⁹

In April 2016, shortly after Page was named as an advisor to the Trump campaign, the NYFO opened a counterintelligence investigation of him. According to the case agent in the matter ("NYFO Case Agent-1"), in opening the investigation, the FBI was not so

¹⁷⁵ See Sealed Complaint, *United States v. Evgeny Buryakov, "a/k/a Zhenya," et al.* (S.D.N.Y.) ¶¶ 1-4 (Jan. 3, 2015) (hereinafter "*Buryakov Complaint*") (the *Buryakov Complaint* has been unsealed.); see U.S. Department of Justice, Office of Public Affairs, *Attorney General Holder Announces Charges Against Russian Spy Ring in New York City* (Jan. 26, 2015); see generally *Redacted OIG Review* at 61-62 (describing Russian activities in New York and the FBI's interviews of Page).

¹⁷⁶ See *Buryakov Complaint* at 12-13, ¶¶ 32-34; see also Ellen Nakashima, Devlin Barrett & Adam Entous, *FBI Obtained FISA Warrant to Monitor Former Trump Advisor Carter Page*, Wash. Post (Apr. 11, 2017) (quoting one of the "Russian spy suspects" as saying that Page was an "idiot").

¹⁷⁷ OSC Report of Interview of NYFO Case Agent-1 on Sept. 5, 2019 at 2.

¹⁷⁸ U.S. Department of Justice, U.S. Attorney's Office Southern District of New York, *Russian Banker Sentenced in Manhattan Federal Court to 30 Months in Prison for Conspiring to Work for Russian Intelligence* (May 25, 2016).

¹⁷⁹ *Id.* at 4; Nate Raymond, *Russian banker accused by U.S. of spy role gets two-and-a-half years prison*, Reuters (May 25, 2016).

concerned about Page, but rather it was concerned about the Russians reaching out to Page.¹⁸⁰ Moreover, NYFO Case Agent-1 told the Office that there were no plans to seek FISA coverage on Page.¹⁸¹ NYFO Case Agent-1 and her FBI supervisor informed the OIG that Page's role as a foreign policy advisor "did not influence their decision to open a case on Page."¹⁸² It may, however, have affected the timing of the case opening and increased interest in him. Indeed, Director Comey had earlier in April "requested relevant information pertaining to any Presidential candidate."¹⁸³ In line with that directive, Comey was briefed on the Page investigation, which a week later was described as a "top priority" for the Director.¹⁸⁴ At that time, FBI personnel in Washington prepared a counterintelligence report on Page for the Director.¹⁸⁵ In July, the same personnel described the Page case, "and ones like it" as, "a top priority for Director Comey."¹⁸⁶ In any event, despite Page's role as a publicly named foreign policy advisor, the FBI did not open the investigation as a "Sensitive Investigative Matter" or SIM.¹⁸⁷

A few months later, shortly after the FBI opened the Crossfire Hurricane investigation at FBI Headquarters and the four sub-files, including on Page, the NYFO's investigation of Page was transferred to the Crossfire Hurricane investigation at FBI Headquarters.¹⁸⁸

2. Evidence of predisposition to investigate Trump

The record reviewed by the Office demonstrated a rather clear predisposition on the part of at least certain FBI personnel at the center of Crossfire Hurricane to open an

¹⁸⁰ OSC Report of Interview of NYFO Case Agent-1 on Sept. 5, 2019 at 2.

¹⁸¹ *Id.*

¹⁸² *Redacted OIG Review* at 63; *see also id.* at 62 (noting supervisor's view that investigation should have been opened earlier).

¹⁸³ FBI-AAA-21-0000829 (Email from Headquarters Supervisory Special Agent-1 to Auten & others dated 04/01/2016). Comey declined through counsel to be interviewed by the Office. Counsel indicated his client had previously testified in various Congressional hearings and been interviewed by various government entities on all matters relating to Crossfire Hurricane.

¹⁸⁴ *Id.*; FBI-AAA-21-0000798 (Email to Headquarters Supervisory Special Agent-1, Auten & others dated 04/07/2016); FBI-AAA-21-0000828 (Email from Headquarters Supervisory Special Agent-1 to Auten & others dated 07/01/2016).

¹⁸⁵ FBI-AAA-21-0000798 (Email to Headquarters Supervisory Special Agent-1, Auten & others dated 04/07/2016).

¹⁸⁶ FBI-AAA-21-0000828 (Email from Headquarters Supervisory Special Agent-1 to Auten & others dated 07/01/2016).

¹⁸⁷ *See* OSC Report of Interview of NYFO Case Agent-1 on Sept. 5, 2019 at 3; *Redacted OIG Review* at 62-63.

¹⁸⁸ *Redacted OIG Review* at 63.

investigation of Trump. For example, Peter Strzok¹⁸⁹ and Lisa Page¹⁹⁰ were directly involved in matters relating to the opening of Crossfire Hurricane. Strzok was the Agent who both wrote and approved the electronic communication opening the matter from the very start as a full investigation rather than an assessment or preliminary investigation. At the time, Page was serving as Deputy Director Andrew McCabe's Special Assistant, and, according to Strzok, it was McCabe who directed that the Crossfire Hurricane investigation be "opened immediately" after information described more fully below was received from Australian authorities in late July 2016.¹⁹¹ Over a period of months prior to the opening of Crossfire Hurricane, Strzok and Page had exchanged numerous messages, which are already in the public domain and express a very clear prejudice against Trump. For example:

August 16, 2015:

Strzok: [Bernie Sanders is] an idiot like Trump.¹⁹²

December 20, 2015 (After exchanging an article about Trump):

Page: What an utter idiot.

Strzok: No doubt.¹⁹³

March 3, 2016:

Page: God [T]rump is a loathsome human.

Strzok: Yet he may win [the Republican nomination]. Good for Hillary.

Page: It is.

Strzok: Would he be a worse president than [C]ruz?

Page: Trump? Yes, I think so.

Strzok: I'm not sure. Omg [Trump's] an idiot.

Page: He's awful.

Strzok: America will get what the voting public deserves.

Page: That's what I'm afraid of.

¹⁸⁹ Strzok was a Section Chief and later the Deputy Assistant Director in the FBI's Counterintelligence Division. (For the positions held by those involved in the Crossfire Hurricane investigation, see the chart in the *Redacted OIG Review* at 81-82.) Strzok agreed to provide information to the Office concerning matters related to the FBI's Alfa Bank investigation, but otherwise declined to be interviewed by the Office on matters related to his role in the Crossfire Hurricane investigation.

¹⁹⁰ Page was an attorney in FBI's OGC who was detailed as a Special Assistant to Deputy Director McCabe's Office.

¹⁹¹ Strzok, *Compromised* at 115.

¹⁹² FBI-0008217 (Office of Professional Responsibility [OPR] letter to Strzok dated 08/08/2016) at 4.

¹⁹³ *Id.*

Strzok: God, Hillary should win 100,000,000 – 0.¹⁹⁴

May 3, 2016:

Page: And holy [expletive] Cruz just dropped out of the race. It's going to be a Clinton Trump race. Unbelievable.

Strzok: What?!?!??

Page: You heard that right my friend.

Strzok: I saw [T]rump won, figured it would be a bit. Now the pressure really starts to finish [the Clinton email investigation] . . .

Page: It sure does.¹⁹⁵

July 18, 2016 (During the Republican National Convention):

Strzok: Oooh, TURN IT ON, TURN IT ON!!! THE DOUCHE BAGS ARE ABOUT TO COME OUT. You can tell by the excitable clapping.

Page: And wow, Donald Trump is an enormous d*uche.

July 19, 2016:

Strzok: Hi. How was Trump, other than a douche?

Page: Trump barely spoke, but the first thing out of his mouth was "we're going to win soooo big." The whole thing is like living in a bad dream.¹⁹⁶

July 21, 2016:

Strzok: Trump is a disaster. I have no idea how destabilizing his Presidency would be.¹⁹⁷

July 27, 2016:

Page: Have we opened on him yet? Trump & Putin. Yes, It's Really a Thing <http://talkingpointsmemo.com/edblog/trumpputin-yes-it-s-really-a-thing>

Strzok: Opened on Trump? If Hillary did, you know 5 field offices would . . .¹⁹⁸

¹⁹⁴ *Id.* at 5.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.* at 6.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* at 7 (ellipses in original); *see also* Letter from Jill C. Tyson, Office of Congressional Affairs, FBI, to Senator Ron Johnson, Chairman of the Committee on Homeland Security and Governmental Affairs (Oct. 23, 2020) (attachment), https://www.grassley.senate.gov/imo/media/doc/lync_text_messages_of_peter_strzok_from_2-13-16_to_12-6-17.pdf.

(As discussed more fully below, the next day, July 28, 2016, FBI Headquarters received the Australian information that formed the basis for the opening of Crossfire Hurricane. On Sunday, July 31, 2016, Strzok, as he has written he was directed to do by McCabe, immediately opened Crossfire Hurricane. He both drafted and approved (with the authorization of Assistant Director Priestap) the Crossfire Hurricane opening communication.)¹⁹⁹

August 8, 2016:

Page: [Trump's] not going to become president, right? Right?!
Strzok: No. No, he's not. We'll stop it.²⁰⁰

Similarly, and as discussed in more detail below, FBI OGC attorney Kevin Clinesmith made troubling statements demonstrating a blatant political bias against Trump. Clinesmith, who played a central role in the Page FISA process, on the day after Trump's election as President, stated to fellow FBI personnel, among other things, "viva le resistance,"²⁰¹ an obvious reference to those individuals opposed to Trump.

Although those involved in opening the Crossfire Hurricane investigation denied that bias against Trump was a factor in opening the investigation,²⁰² the communications quoted

¹⁹⁹ *Redacted OIG Review* at 53, 58. Regarding Strzok's having direct access to McCabe, when asked if he was aware of people going around him to the 7th Floor, (meaning jumping the chain of command and going to the FBI Executive Offices on the 7th floor), Priestap replied, "oh, yeah." While Priestap stated he could not remember the specifics, Lisa Page was a concern, without question, in this respect. In addition, there were multiple times when Strzok mentioned something to Priestap and shared it with Page who, in turn, shared the information with Deputy Director McCabe. There were also instances when Strzok shared information directly with McCabe before Priestap could provide the information to McCabe himself. Priestap said these actions drove him "insane." He also told the Office that Strzok was the worst offender in this regard and that these events occurred mostly when he (Priestap) wanted to go in one direction and they (Page and Strzok) disagreed and thus went around him. See OSC Report of Interview of E.W. Priestap on June 2, 2021 at 3.

Priestap agreed to provide information to the Office concerning matters related to the FBI's Alfa Bank investigation, but otherwise declined to be interviewed by the Office on matters related to his role in the Crossfire Hurricane investigation.

²⁰⁰ FBI-0008217 (Office of Professional Responsibility Letter to Strzok dated 08/08/2016 at 7); see also Letter from Jill C. Tyson, Office of Congressional Affairs, FBI, to Senator Ron Johnson, Chairman of the Committee on Homeland Security and Governmental Affairs (Oct. 23, 2020) (attachment).

²⁰¹ FBI-AAA-EC-00006440 (Lync message exchange between Clinesmith and FBI OGC Unit Chief-1 dated 11/22/2016).

²⁰² See, e.g., Strzok, *Compromised* at 345-46; OSC Report of Interview of Supervisory Special Agent-1 on June 17, 2019 at 5; OSC Report of Interview of FBI OGC Unit Chief-1 on Aug. 29, 2019 at 10; OSC Report of Interview of Supervisory Special Agent-2 on May 5, 2021 at 8; OSC Report of Interview of Brian Auten on July 26, 2021 at 16.

above quite clearly show, at least on the part of certain personnel intimately involved in the matter, a predisposition to open an investigation into Trump.

3. *The opening of Crossfire Hurricane*

The FBI opened Crossfire Hurricane as a full counterintelligence investigation “to determine whether individual(s) associated with the Trump campaign [were] witting of and/or coordinating activities with the Government of Russia.”²⁰³ The starting point for the Office’s inquiry was to examine what information was known or available to the FBI about any such ties as of July 31, 2016, prior to opening Crossfire Hurricane. That question then divided itself into two related questions: (i) what was the information that predicated the opening of the investigation and (ii) did that information support such an investigation being opened not as an “assessment” or “preliminary” investigation, but from the start as a “full” investigation. In exploring these questions, we determined the following:

a. The information used to predicate Crossfire Hurricane

In March 2016, the Trump campaign identified George Papadopoulos as a foreign policy advisor.²⁰⁴ Papadopoulos had previously worked as an energy consultant, with a particular focus on projects in the Eastern Mediterranean.²⁰⁵ At the time of his appointment, Papadopoulos was employed in the United Kingdom at the London Center of International Law Practice.²⁰⁶ Among Papadopoulos’s acquaintances in London was a diplomat from another country (“Foreign Government-1 Diplomat-1”). Foreign Government-1 Diplomat-1 was familiar with an Australian diplomat (“Australian Diplomat-1”).²⁰⁷ On May 6, 2016, by prearrangement, Foreign Government-1 Diplomat-1 introduced Papadopoulos to Australian Diplomat-1.²⁰⁸ On May 10, 2016, Papadopoulos and Australian Diplomat-1 met again, and this time they were joined by

²⁰³ FBI-0002784 (FBI EC from Counterintelligence, *Re: Crossfire Hurricane* dated July 31, 2016 at 3-4) (hereinafter “*Crossfire Hurricane Opening EC*” or “*Opening EC*”).

²⁰⁴ Missy Ryan & Steven Mufson, *One of Trump’s Foreign Policy Advisers Is a 2009 College Grad Who Lists Model UN As a Credential*, Wash. Post (Mar. 22, 2016).

²⁰⁵ FBI-AAA-02-0019485 (Crossfire Hurricane Papadopoulos Profile dated 08/05/2016); *See also SSCI Russia Report*, pt. 5, at 471.

²⁰⁶ FBI-AAA-02-0019485 (Crossfire Hurricane Papadopoulos Profile dated 08/05/2016); *SSCI Russia Report*, pt. 5, at 470.

²⁰⁷ OSC Report of Interview of Australian Diplomat-1 on Oct. 09, 2019 at 1-2; *SSCI Russia Report*, pt. 5, at 487.

²⁰⁸ OSC Report of Interview of Australian Diplomat-1 on Oct. 09, 2019 at 2; FBI-0002775 (FBI interview of Australian diplomats dated Aug. 11, 2016 at 1-2) (hereinafter “*Australia 302*”).

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

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.²¹¹ 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").²¹²

"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.²¹³ 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

²⁰⁹ *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*").

²¹⁰ *Australia 302* at 1-2.

²¹¹ 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.

²¹² 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.

²¹³ 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.²¹⁴

The Australian account reflects that two meetings of a casual nature took place with Papadopoulos.²¹⁵ These meetings were documented by Downer on May 11, 2016 and by Australian Diplomat-1 later in the month.²¹⁶ Both diplomats advised that prior to the Spring of 2016, Papadopoulos was unknown to them.²¹⁷ 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.²¹⁸

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.²¹⁹ This was done because Papadopoulos left a number of things unexplained and "did not say he had direct contact

²¹⁴ *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.

²¹⁵ 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.

²¹⁶ 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.

²¹⁷ 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.

²¹⁸ 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>.

²¹⁹ *Australia 302* at 2.

with the Russians.”²²⁰ 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.”²²¹ On the other hand, he was “a nice guy,” was “not negative,” and “did not name drop.”²²² 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.²²³

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

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.²²⁵ 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.²²⁶ 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,²²⁷ without further analysis, that the

²²⁰ *Id.*

²²¹ *Id.* at 2-3.

²²² *Id.*

²²³ *Id.*

²²⁴ *Id.* at 3.

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

²²⁶ See *supra* §§ III.B.1 – 3.

²²⁷ Regarding who on the 7th 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.”²²⁸

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.”²²⁹ 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.²³⁰ 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).”²³¹

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.²³² 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,”²³³

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

²²⁸ *Crossfire Hurricane Opening EC* at 3-4.

²²⁹ OSC Report of Interview of Michael Steinbach on Aug. 12, 2019 at 2.

²³⁰ *Id.* at 3.

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

²³² 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.

²³³ *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.²³⁴

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.²³⁵ 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.²³⁶ Thus, a full counterintelligence investigation into a SIM²³⁷ 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

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.

²³⁴ *See* 1 *Mueller Report* at 49.

²³⁵ *Redacted OIG Review* at 53-54.

²³⁶ *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.

²³⁷ *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.”²³⁸ 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.²³⁹ 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.”²⁴⁰ 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.²⁴¹

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.²⁴² 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.²⁴³ 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,²⁴⁴ 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

²³⁸ *Redacted OIG Review* at 53.

²³⁹ *Id.* at 54.

²⁴⁰ 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.

²⁴¹ *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).

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

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

²⁴⁴ 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.²⁴⁵

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.²⁴⁶ Nevertheless, the FBI predicated Crossfire Hurricane and its subsequent investigative activities, including the use of CHSS, 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.²⁴⁷ 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.²⁴⁸ 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

²⁴⁵ 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.

²⁴⁶ See discussion of analytic requirements *supra* § III.B.3.

²⁴⁷ See *Redacted OIG Review* at 351-52.

²⁴⁸ 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.”²⁴⁹ 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 []”²⁵⁰ 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.²⁵¹ 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.”²⁵² Indeed, “an early June 2017 USIC report indicated that two persons affiliated with [Russian Intelligence Services] were aware of Steele’s election investigation in early July 2016.”²⁵³ 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.²⁵⁴ Thus, UK ALAT-1 briefed the British intelligence service about

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

²⁵⁰ *FBI Inspection Division Report* at 125.

²⁵¹ 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.

²⁵² *SSCI Russia Report* at 885 (emphasis added).

²⁵³ *Id.*

²⁵⁴ 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.²⁵⁵ 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.²⁵⁶ 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."²⁵⁷ 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."²⁵⁸ 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.²⁵⁹ 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.²⁶⁰ Indeed, he told the FBI's Inspection Division investigators that "the British could not believe the Papadopoulos bar conversation was all there was,"²⁶¹ and they were convinced the FBI must have had more information that it was holding back.²⁶²

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

²⁵⁵ *Id.* at 1-2.

²⁵⁶ *Id.*

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

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

²⁵⁹ *Id.* at 3.

²⁶⁰ *Id.*

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

²⁶² *Id.* at 225.

Supervisory Special Agent-1: it sucks²⁶³

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,²⁶⁴ a sentiment UK ALAT-1 told investigators that he shared.²⁶⁵

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.²⁶⁶ 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."²⁶⁷

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."²⁶⁸

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 2004,²⁶⁹ 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 2016.²⁷⁰

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

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

²⁶⁵ *Id.* at 227.

²⁶⁶ *Id.* at 208.

²⁶⁷ *Id.* at 233.

²⁶⁸ *Id.* at 225.

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

²⁷⁰ *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 Manafort²⁷¹ engaging in any type of conspiracy with the Russians regarding the election.²⁷²
- 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.²⁷³ 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.²⁷⁴
- 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,²⁷⁵ 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,²⁷⁶ with one exception. Nuland advised that she had received a two-page

²⁷¹ 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.

²⁷² 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.

²⁷³ 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.

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

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

²⁷⁶ 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.²⁷⁷ 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 2016.²⁷⁸

- 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."²⁷⁹ ²⁸⁰ (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."²⁸¹) 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.²⁸² 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

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

²⁷⁸ *Id.*

²⁷⁹ OSC Report of Interview of John Brennan on Aug. 21, 2020 at 1.

²⁸⁰ 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>.

²⁸¹ 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.")

²⁸² 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.²⁸³

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.²⁸⁴ 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.”²⁸⁵

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.²⁸⁶ 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.²⁸⁷ 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.²⁸⁸

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

²⁸⁴ 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.

²⁸⁵ *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.

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

²⁸⁷ *Id.*

²⁸⁸ *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.²⁸⁹ 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.²⁹⁰

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.²⁹¹ New England Supervisory Special Agent-1 in turn passed the information directly to an Agent on the Crossfire Hurricane team (“Special Agent-2”).²⁹² Then, one month later, on September 23, 2016,²⁹³ 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.²⁹⁴

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.²⁹⁵ 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.²⁹⁶ 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.

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

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

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

²⁹² *Id.*

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

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

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

²⁹⁶ 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).