



**Office of the Inspector General
U.S. Department of Justice**

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



**A Review of Various Actions by the
Federal Bureau of Investigation and Department of
Justice in Advance of the
2016 Election**

APPENDIX ONE

Oversight and Review Division 18-04

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I. (U) INTRODUCTION

[REDACTED] In this classified appendix, we discuss a collection of data that was obtained [REDACTED] and provided to the Federal Bureau of Investigation (FBI) beginning in [REDACTED]. This collection consists of [REDACTED] reports purporting to analyze or characterize intercepted U.S. communications, as well as emails and other data intercepted [REDACTED] through cyber intrusions into U.S. entities. The investigation into [REDACTED] cyber intrusions and the resulting data collection is known by the codename [REDACTED] (sometimes abbreviated [REDACTED]). As described in more detail below, although thumb drives containing [REDACTED] data have been in the FBI's possession beginning in [REDACTED], the vast majority of this data has never been reviewed by the FBI, including for counterintelligence purposes, based on concerns that information from certain U.S. victims may be privileged.

[REDACTED] is relevant to the Midyear investigation in two ways. First, in [REDACTED] and [REDACTED] the FBI obtained [REDACTED] reports purporting to discuss efforts to influence the Midyear investigation. The initial [REDACTED] report suggested that then Attorney General (AG) Loretta Lynch and then FBI Director James Comey were interfering in the Midyear investigation to help the Democratic and Republican presidential candidates, respectively. The second report stated that Lynch had been in contact with a named individual working for the presidential campaign of former Secretary of State Hillary Clinton to provide information about the Midyear investigation. As described in more detail below, the FBI determined that these reports were not credible on their face. Nevertheless, as described here and in the unclassified report, Comey cited his concern that these reports would be leaked as a factor contributing to his decision not to inform Lynch of his plan to make a unilateral statement announcing the conclusion of the Midyear investigation on July 5, 2016.

Second, the OIG learned near the end of our review that the [REDACTED] data contains a large volume of emails obtained through [REDACTED] cyber intrusions into Department of State (State Department) networks. The OIG subsequently obtained drafts of a memorandum created in late May 2016 that requested access to thumb drives containing [REDACTED] data for purposes of the Midyear investigation. As described in more detail below, the draft memorandum stated that review of the thumb drives was necessary to conduct a "thorough and complete investigation" and to "assess the national security risks" associated with former Secretary Clinton's use of a private server, and FBI members of the Midyear investigative team described it as a logical investigative lead. However, the FBI never finalized the memorandum or submitted this request to the Department.

In this classified appendix, we first provide an overview of the [REDACTED] collection and briefly summarize prior discussions between the FBI, the Department of Justice (Department), and the White House Counsel about accessing the data on the thumb drives. We then

[REDACTED]

discuss the two [REDACTED] reports obtained by the Midyear team in [REDACTED] and [REDACTED], including FBI briefings subsequently provided to senior Department officials about the information. We next describe the draft memorandum requesting access to the thumb drives for purposes of the Midyear investigation and witness testimony about the potential relevance of that information. Finally, we provide a brief analysis.

II. [REDACTED] THE [REDACTED] COLLECTION

[REDACTED] Beginning in [REDACTED], the FBI obtained thumb drives from a [REDACTED] source known as T1. These thumb drives contained [REDACTED] data, including [REDACTED] and content exfiltrated from the U.S. victims of [REDACTED] computer network intrusions. The FBI refers to all data acquired from T1 as [REDACTED] data. According to FBI witnesses and documents we reviewed, the FBI obtained eight thumb drives from T1 between [REDACTED] and [REDACTED], all of which are in FBI custody at the Washington Field Office (WFO) Northern Virginia Resident Agency (NVRA). T1 continued to provide additional [REDACTED] communications and documents after the production of the thumb drives. This data is referred to as "Post-8 Data" or "Mission Ridge Data."

[REDACTED] Thumb Drives 1-5

[REDACTED] The first five thumb drives were obtained by the FBI in [REDACTED]. These thumb drives primarily contain data exfiltrated by [REDACTED] from various U.S. victims, including the Executive Office of the President (EoP), the State Department, the U.S. House of Representatives, other federal agencies, and private sector and educational institutions. FBI employees told us that it was highly likely that data exfiltrated from other, unknown U.S. victims was also present on these thumb drives.

[REDACTED] In [REDACTED] FBI personnel [REDACTED] process [REDACTED] the first five thumb drives. [REDACTED], they reviewed data on the thumb drives and determined that it contained U.S. victim information. FBI personnel told us that the data on the first five thumb drives appeared to have been obtained from [REDACTED], because the FBI personnel could see [REDACTED]

[REDACTED] Examples of U.S. victim information that the analysts observed during this review included former President Barack Obama's emails, possible evidence of an [REDACTED] intrusion into the [REDACTED] advance intelligence about a planned FBI arrest of a Russian citizen, network infrastructure diagrams for U.S. government classified networks, and other potentially classified U.S. government information.

[REDACTED] One FBI employee told us that thumb drives 3 and 4 focused primarily on State Department communications, while another FBI witness stated that an estimated [REDACTED] percent of the data on the first five thumb drives pertained to the State Department. According to an FBI employee we

[REDACTED]

interviewed, the [REDACTED] maintained an [REDACTED] cyber intrusion into State Department computer networks for approximately [REDACTED], which was the reason for the large quantity of State Department data in the collection.

[REDACTED] Witnesses told us that the FBI has never comprehensively reviewed thumb drives 1 through 5. Beginning in late [REDACTED] there were discussions within the FBI and with the Department about whether and how to review the data on the thumb drives. An FBI Office of General Counsel (OGC) lawyer told the OIG that there were concerns that exfiltrated victim data for EoP, the State Department, and the House of Representatives may be subject to Executive and Congressional Privileges. According to FBI witnesses and contemporaneous documents reviewed by the OIG, EoP officials raised privilege concerns with respect to certain U.S. victim data present on the thumb drives, precluding review by the FBI subject to limited exceptions discussed below.¹

¹ [REDACTED] Although beyond the scope of our current review, various FBI witnesses told us that the FBI Cyber Division has sought to obtain approval to conduct a comprehensive review of the [REDACTED] data since receiving the first five thumb drives in [REDACTED]. FBI witnesses we interviewed identified different Department and FBI officials as responsible for the decision in late [REDACTED] to limit FBI access to the first five thumb drives; most of the officials they identified are no longer employed by the Department. However, all of the FBI and Department witnesses we interviewed agreed that the decision not to allow the FBI to review the data on the first five thumb drives was based on concerns that U.S. victim information exfiltrated by [REDACTED] was subject to various Executive and Congressional Privileges. Given the focus of this review, we have not sought to determine what happened or identify who was responsible for the ultimate decision not to review the thumb drives.

[REDACTED] Our limited investigation into this issue revealed additional efforts to obtain access to all eight thumb drives in [REDACTED], after the Midyear investigation concluded on July 5. In particular, we identified an August 31, 2016 memorandum from then Deputy Director Andrew McCabe to then DAG Sally Yates requesting permission to review all eight thumb drives for information related to attempts by the Russian Government to influence the U.S. political process. We were told by FBI witnesses that this memorandum resulted in two separate meetings about this issue that included McCabe, Yates, and White House Counsel W. Neil Eggleston, among others. The first meeting occurred on September 20, 2016, and the second on October 20, 2016.

[REDACTED] On September 30, 2016, after the first meeting, Comey and McCabe received an email from Eggleston that referenced review protocols that had been developed for thumb drive searches that the White House Counsel had agreed to in early 2016 (discussed below) related to [REDACTED]. The email stated, "The proposal that is the subject of the current outreach differs materially from these prior efforts. In this case the FBI has not presented a clear idea of what it is searching for or any limitations on its access to the data." Eggleston's email also expressed willingness to work with the FBI to discuss "possible ways forward." FBI witnesses stated that Eggleston told the FBI in the October 20 meeting that their proposal for reviewing the thumb drives was overly broad and did not include sufficient protections for privileged material, but that they would consider a proposal to conduct keyword searches. According to these witnesses, the FBI did not raise the issue again with EoP given the focus in October and November 2016 on the investigation into Russian election interference and the review of the Anthony Weiner laptop.

[REDACTED] On January 19, 2017, the last day of the Obama administration, Eggleston sent a letter to Comey and McCabe that referenced the October 20, 2016 briefing and stated, "To date, there has not been further contact concerning your request." The letter stated that there was a need to develop search protocols that would enable the FBI to review the thumb drives, while protecting the interests of EoP as a victim, and asserted a continuing right by

[REDACTED]

[REDACTED] The data on the first five thumb drives has been queried three times since [REDACTED]. In early 2016, the FBI obtained permission from the White House Counsel and the Office of the Deputy Attorney General (ODAG) to conduct queries using keywords associated with [REDACTED]. The authorization to conduct these queries was based on concerns that [REDACTED]. These queries revealed that [REDACTED] was targeting [REDACTED] and the FBI subsequently sought and obtained approval to conduct a second set of queries using additional [REDACTED] terms. However, witnesses told us that the FBI was not permitted to review any victim data during these searches, meaning that the FBI was unable to review any potential U.S. government communications, including those referencing information about [REDACTED] that might be in the possession of the Russian government.

[REDACTED] During the [REDACTED] searches, FBI analysts used a program to create a "word cloud" of words extracted from U.S. victim content on the first five thumb drives, which they refer to as the "index."² In August 2017, an FBI OGC attorney granted permission to an FBI analyst to query this index using terms relevant to the Special Counsel investigation being conducted by Robert Mueller III. The OIG was told that the FBI analyst viewed the authorization to conduct these queries as an opportunity to see what was on the first five thumb drives, and to show FBI and Department leadership the value of the information. The additional queries conducted by this employee included "Clinton," which returned [REDACTED] hits, and "clintonemail.com," which returned [REDACTED] hits. After reviewing a draft of this classified appendix, one FBI witness told the OIG that these searches likely did not comport with the review protocols approved for searches of thumb drives 6 and 7, which are briefly discussed below. We discuss these search results and the relevance of the [REDACTED] data to the Midyear investigation in more detail in Section IV below.

[REDACTED] Thumb Drives 6 and 7

[REDACTED] Thumb drives 6 and 7 contain [REDACTED] about cyber intrusions, mostly [REDACTED], with some U.S. victim data included as attachments. The FBI received thumb drives 6 and 7 from T1 in [REDACTED]. FBI witnesses told us that these thumb drives have been reviewed by a filter team, subject to Department-approved protocols that prohibit the review of any exfiltrated content from EoP, the State Department, or Congress. These protocols allow

representatives of former President Obama to protect the potentially privileged information in the exfiltrated victim data. Given the scope of our current review, we have not followed up on this information. In our limited review, we identified no other memoranda or proposals by the FBI to obtain access to the thumb drives until 2018, as we describe in Section IV.C. of this classified appendix.

² [REDACTED] Witnesses told us that some of the data on the first five thumb drives consists of [REDACTED] rather than [REDACTED] and thus requires manual review. As a result, the index likely does not fully account for the data present on these drives.

[REDACTED]

the FBI to analyze non-victim information for foreign intelligence and evidentiary value related to [REDACTED] computer intrusion activity, but not to review victim communications and documents.

Thumb Drive 8

[REDACTED] The FBI received thumb drive 8 from T1 in [REDACTED]. Thumb drive 8 has never been reviewed. Its content is unknown, and was only uploaded onto an FBI system in early 2018. Several witnesses told us that they believe it contains victim data related to EoP, the State Department, and the House of Representatives, and that it may duplicate the information that is on the other thumb drives because T1 [REDACTED]

[REDACTED] One FBI witness told us that thumb drive 8 "fell through the cracks" because the FBI received it after thumb drives 6 and 7 and never added it to the memorandum requesting authorization to review them, while another witness told us that the inability to review thumb drive 8 was based on concerns that U.S. victim data from the first five thumb drives could be present.

Post-8 Data

[REDACTED] In addition to the data on the thumb drives, T1 also provided to the United States Intelligence Community (USIC), including the FBI, [REDACTED]. Referred to as "Post-8 data" or "Mission Ridge data," witnesses told us that this data consists of [REDACTED] as well as [REDACTED] reports. At the request of the USIC, T1 established filters to limit the data that is provided. FBI witnesses told us that T1 is filtering out certain victim data before providing the data to the USIC. FBI witnesses also stated that the Post-8 data is unlikely to contain data exfiltrated from EoP, the State Department, and the House of Representatives because it is from [REDACTED]. FBI witnesses told us that they obtained approval to review the "Post-8 data" subject to review protocols that are similar to the ones used for thumb drives 6 and 7.

III. [REDACTED] REPORTS RELEVANT TO LYNCH AND COMEY AND IMPACT ON THE MIDEAR INVESTIGATION

[REDACTED] In this section we discuss two [REDACTED] reports that the FBI obtained in [REDACTED] and [REDACTED]. Both reports included information suggesting that Lynch was attempting to exert influence on the Midyear investigation, or was providing information about the investigation to former Secretary Clinton's campaign. In addition, the first [REDACTED] report suggested that Comey was taking steps to extend the Midyear investigation to help undermine the Democratic Party.

[REDACTED]

[REDACTED] As described in this section, witnesses told us that the reports were not credible on their face for various reasons, including that they contained information that the FBI knew to be "objectively false." Despite this assessment, Comey told the OIG that he was concerned that the information might leak beginning in mid-June 2016, and that this concern was a factor in his decision not to inform Lynch of his plan to make a public statement on July 5, 2016.

A. [REDACTED] Discovery of the Reports in "Post-8 Data"

[REDACTED] In [REDACTED] the [REDACTED] brought to the attention of the FBI Cyber Division two Russian-language documents that mentioned Attorney General Loretta Lynch. These documents were identified in the "Post-8 data" and were translated into English by an FBI linguist.

[REDACTED] Both documents appear to be [REDACTED] reports discussing purported communications between Congresswoman Debbie Wasserman Schultz, who was at the time the Chairwoman of the Democratic National Committee (DNC), and two different individuals who worked for the Open Society Foundations, a family of offices and foundations created by George Soros. The FBI later determined that the [REDACTED] would have likely obtained any communications underlying the two reports (if such communications in fact existed) through a cyber intrusion into the Atlantic Council, a private think tank.

[REDACTED] The first [REDACTED] report is dated [REDACTED] and the verbatim translation states in relevant part:

[REDACTED] Recent information appearing in the media about the FBI investigating possible facts of corruption connected with the State Department [under Clinton] and the granting of preferences to Clinton Fund donors created a negative reaction within the party, though this information was known to Democratic Party leaders since June 2015. According to Wassermann Schultz [sic], so far the FBI does not have any hard evidence against Hillary Clinton because data was removed from the mail servers just in time.

[REDACTED] Obama is not in the mood to mar the very final segment of his presidency, his legacy with a scandal around a leading nominee for the [D]emocratic [P]arty. To deal with this he is using Attorney General Loretta Lynch to mount a pressure on FBI [D]irector James Comey. Alas, so far, with no concrete results.

[REDACTED] Comey is leaning more to [R]epublicans, and most likely he will be dragging this investigation until the presidential elections; in order to effectively undermine the chances for the [Democratic Party] to win in the presidential elections....

[REDACTED] The second [REDACTED] report is dated [REDACTED], and the verbatim translation states in relevant part:

[REDACTED]

[REDACTED] By way of forming a consensus relative to the candidacy of Hillary Clinton, Barack Obama, leading the Democratic Party (DP), sanctioned use of all administrative levers to remove possibly negative effects of the FBI investigation of the business of the Clinton Foundation and the email correspondence of the State Department.

[REDACTED] Based upon information from Wassermann Schultz [sic], the FBI does not anticipate any kind of direct evidence against Clinton, as there was timely deletion from the email servers. The political director of the Hillary Clinton staff, Amanda Renteria [PH], regularly receives information from Loretta Lynch of the Department of Justice, on the plans and intentions of the FBI. Active work is being done on clarification mostly with potential witnesses: the primary witnesses are a number of computer specialists in the Clinton private circle. They represent the only tools which may be used in this matter. Therefore, the threat is minimal....

[REDACTED] The FBI Cyber Division provided copies of the [REDACTED] reports to the Midyear team in [REDACTED] 2016, respectively. Lawyers in the FBI OGC Cyber Law Unit and Cyber Division analysts also brought copies of the [REDACTED] reports to Deputy General Counsel Trisha Anderson, who had been involved in issues related to the [REDACTED] collection since mid-[REDACTED]

[REDACTED] According to an email dated March 18, 2016, at the request of Peter Strzok, the lead agent on the Midyear investigation, and the Lead Analyst on Midyear, a Cyber Division analyst searched the "post-8 data" for additional information about the reports. These searches revealed an [REDACTED] one of the reports, as well as information suggesting that a [REDACTED] Russian of unknown affiliation were involved in drafting and editing both reports.

[REDACTED] Strzok and the Lead Analyst also requested a Counterintelligence Division analyst to run keyword searches on the "Post-8 data" for various names and terms used in the two [REDACTED] reports, including Lynch, Clinton, and Comey. These searches revealed variations, drafts, or synopses of the original two reports, but not any underlying communications that the reports purported to describe.

B. [REDACTED] FBI Assessment of the [REDACTED] Reports

[REDACTED] Comey and McCabe were informed about the reports, but witnesses did not recall precisely when this took place. McCabe told the OIG that they discussed internally whether there were any investigative steps available that would allow them to validate the information in the [REDACTED] reports, such as a Foreign Intelligence Surveillance Act (FISA) warrant or a subpoena for Lynch's email records. Comey, McCabe, Anderson, and Jim Rybicki, Comey's Chief of Staff, were involved in those discussions, as were

[REDACTED]

others on the Midyear team, including Strzok. McCabe said that they considered asking T1 to collect additional information, but that there were legal concerns [REDACTED]. McCabe told the OIG that they agreed that there were no obvious next steps and decided to consult with Associate Deputy Attorney General David Margolis, who was at the time the highest ranking career Department official. As discussed below, that meeting occurred on March 31, 2016.

(U) Credibility of the Information

[REDACTED] Anderson summarized the FBI's assessment and handling of the [REDACTED] reports in a letterhead memorandum (LHM), which was serialized to the Midyear case file. According to the LHM, the FBI did not view the information in the [REDACTED] reports as credible. Most importantly, the FBI assessed that the information in the reports was inconsistent with Director Comey's experience with Lynch and the experiences of other FBI executives in the course of the Midyear investigation. Asked about this, Comey told the OIG:

[REDACTED] I want to be clear on this, I had felt no effort to control me, no intervention by the Attorney General. On their face, I didn't find these communications to be credible and that I read them as an effort by Ms. Wasserman Schultz to assure donors that this is not going to screw up the presidential campaign of Secretary Clinton. And so I didn't find them credible on their face.

[REDACTED] Comey told the OIG that no one believed that the [REDACTED] reports were an attempt at purposeful misinformation by the Russians, but that they also did not credit the underlying information in them. He said that he focused on figuring out what to do with the [REDACTED] reports "as a counterintelligence matter."

[REDACTED] McCabe and Anderson similarly stated that the FBI did not feel pressured by Lynch. Both commented that Lynch was not engaged in the Midyear investigation. Anderson told the OIG that the FBI considered the possibility that, even in the absence of direct pressure, Lynch could have exerted indirect influence on the Midyear investigation, but that they agreed that was not a credible possibility.

[REDACTED] According to the LHM, other factors also weighed against finding that the information in the [REDACTED] reports was credible:

- [REDACTED] The reports likely reflected multiple levels of hearsay given that they were based on purported communications between Wasserman Schultz and potential donors, not any underlying communications between Lynch and Clinton campaign staff (and, as described in more detail below, no such communications were found);

- [REDACTED] Wasserman Schultz's communications may have contained exaggerations designed to reassure potential donors who were concerned by news reports about the FBI investigation;
- [REDACTED] The [REDACTED] who drafted the reports may have injected opinion, editorialization, or exaggeration into the reports; and
- [REDACTED] Translation errors may have contributed to the potential for unreliability.

[REDACTED] When asked about the impact of these other factors on the FBI's assessment of the credibility of the information, McCabe told the OIG:

[REDACTED] We absolutely believed the [REDACTED] collection is righteous and we have no reason to...question that these are in fact [REDACTED].... There are a few things that mitigate against our assessment of their credibility. One is of course we know how the Russians do their analysis. We know their analysis is kind of, their analytical standard is not exactly the same as ours. They typically contain editorialization and spin and hyperbole and all that kind of stuff.

[REDACTED] A second thing we know is that at this time the [REDACTED] is kind of under the gun to show some productivity from this massive phishing campaign that they have been engaged in since fall of 2014.

[REDACTED] Anderson similarly told the OIG that the [REDACTED] lacks analytical rigor in terms of objectivity and vetting of information, and routinely engages in "exaggeration for purposes of inflating the importance of their reporting." She said that these factors contributed to their conclusion that the assertions in the [REDACTED] reports were not credible.

(U) Initial Meeting with the Department

[REDACTED] According to the LHM, Anderson and McCabe met with Margolis on March 31, 2016. Also present at this meeting were Jim Rybicki; FBI Cyber Division Assistant Director Jim Trainor; and George Toscas, a Deputy Assistant Attorney General (DAAG) in the Department's National Security Division (NSD) who was the most senior career prosecutor involved in the Midyear investigation.

[REDACTED] According to the LHM, FBI officials gave the [REDACTED] reports to Margolis and Toscas to review and described the factors that led them to conclude that the information was not credible. The group then discussed what investigative steps, if any, would be appropriate to address the assertions in the report without compromising T1. They ultimately agreed to ask T1 to query its holdings for additional material relevant to the [REDACTED] reports, subject to a determination that such a step would be legal.

[REDACTED]

[REDACTED] The LHM states that the group considered and rejected the idea of discussing the reports with Lynch at that time "given that we had not yet exhausted all available investigative steps that might affirm or rebut our assessment that the reports were not credible." When asked about this decision, McCabe told us that at that meeting, Margolis recounted his experience of being accused of wrongdoing as a young prosecutor, and that he was presented with the accusation before anyone investigated it to see if it was true, which "enraged" him and made him feel like he was carrying a "black cloud" over him. McCabe said that this factored into the decision to take steps to verify or discredit the information before informing Lynch or other political appointees. Anderson stated that they considered it "premature" to provide the information to political appointees, and that it would have placed Deputy Attorney General (DAG) Yates and John Carlin (Assistant Attorney General for NSD) in an awkward position because they would be unable to tell Lynch about it.

[REDACTED] *Request to T1 for Relevant Information*

[REDACTED] Following the March 31 meeting, Anderson and then FBI General Counsel James Baker consulted with NSD's Office of Intelligence regarding whether the FBI legally could ask T1 to query [REDACTED] existing holdings for information relevant to the two [REDACTED] reports. They concluded that such a request would be lawful—i.e., within the FBI's authority and not violative of any legal constraint or prohibition, including the Fourth Amendment—provided that the FBI did not ask T1 to conduct additional data collection to obtain responsive information. Asked about the basis for this distinction, Anderson told the OIG that asking T1 to conduct additional data collection would involve tasking a [REDACTED] without legal process, which the FBI is legally prohibited from doing.

[REDACTED] On May 4, 2016, Anderson sent a request to Trainor with a draft [REDACTED] to be provided to T1 [REDACTED]. The [REDACTED] asked T1 to review [REDACTED] current [REDACTED] and provide copies of any documents relevant to the two [REDACTED] reports, including any documents that may have been used by the Russian actors in the creation of the reports. The request stated that the FBI was not requesting that T1 conduct additional data collection, and asked that T1 pass responsive information directly to the FBI.

[REDACTED] According to the LHM, T1 responded several weeks later that it had no responsive information. Anderson informed Toscas about this response on June 17, 2016.

(U) July 1 Conference Call

[REDACTED] On July 1, 2016, McCabe, Anderson, Rybicki, Margolis, and Toscas held a conference call to discuss potential additional steps following the response from T1. According to the LHM, all of the participants on the call agreed that the information in the [REDACTED] reports was not credible. The group discussed whether legally available investigative steps, such

[REDACTED]

as using legal process to obtain records of any contacts between Lynch and Amanda Renteria, would shed light on the assertions in the reports. They determined that information showing the mere fact of contacts between Lynch and Renteria would not be probative, and that they did not have sufficient evidence to meet the probable cause standard to obtain the contents of any communications between them. The group reached a consensus that the next step would be to present the report to DAG Yates, Principal Associate Deputy Attorney General (PADAG) Matt Axelrod, and AAG Carlin, and then to meet with Lynch.

[REDACTED] Comey told the OIG that he was aware that the group had discussed obtaining Renteria's phone records, but had determined that information showing contacts between Lynch and Renteria would not be helpful. Asked about this, Comey stated:

[REDACTED] [T]hat's a fairly aggressive step to be getting the phone records of a senior campaign official and it isn't likely to be dispositive or move the ball down on the field...because okay, so the Attorney General of the United States knows somebody on the Clinton campaign and...there's communication between them, so how is that helping us.

[REDACTED] Comey stated that his understanding was that Margolis thought obtaining phone records would "take us down the path [where] we're investigating the Attorney General of the United States, and that I think his sense was, you ought to have more of a reason to go forward with it than what you have." Comey said that they determined that this step was not warranted given that the information in the [REDACTED] reports was not credible on its face.

[REDACTED] As described in more detail below, Lynch later told the OIG that she did not even know who Renteria was, and did not have any contacts with the Clinton campaign.

C. (U) July 12 Meeting with Yates, Axelrod, and Carlin

[REDACTED] On July 12, 2016, 1 week after Comey's public statement announcing the FBI's recommendation to decline prosecution of former Secretary Clinton, McCabe and Anderson met with Yates, Axelrod, and Carlin. According to the LHM, McCabe described the relevant background information and presented the two [REDACTED] reports to Yates, Axelrod, and Carlin for their review. The LHM states that McCabe and Anderson walked through the basis for their assessment that the information in the reports was not credible, and that the group then discussed whether they should pursue any additional investigative steps to verify it. According to the LHM, the group unanimously agreed that no additional investigation was warranted, and that the next logical step was for the FBI to meet with Lynch to show her the [REDACTED] reports.

[REDACTED] McCabe told the OIG that he "teed up" the issue by stating that the FBI did not have confidence in the communications. McCabe

[REDACTED]

said that they told Yates, Axelrod, and Carlin that they had confidence in where the documents came from (*i.e.*, the underlying [REDACTED] collection), but not in the truth and veracity of the information about Lynch. He said that the group discussed that there was not an obvious way to prove or refute the information in the [REDACTED] reports, and that in light of this, everyone agreed that they should talk to Lynch. Anderson gave a similar account of this meeting, stating that she and McCabe sought the meeting with Yates to get her views on whether they should show the reports to Lynch.

[REDACTED] Yates' and Axelrod's recollections about this meeting differed from that of the FBI participants. Yates said that she recalled attending two meetings with the FBI about the [REDACTED] reports. She said she did not recall the date of the first meeting, but that she thought it was before Comey's July 5 statement, and she recalled that Margolis was there.³ She said that she recalled the FBI informing her that they had picked up intelligence that Lynch was keeping someone from the Clinton campaign informed about the Midyear investigation. Yates told us that the FBI described the information to her as either "fake intel" created by Russia [REDACTED] as originating from a source that lacked credibility. She said that she asked whether the FBI planned to interview Wasserman Schultz or Renteria to verify or rebut the information in the reports, and she was told that they did not. Yates stated, "I just remember that they didn't come in saying, we're concerned that this is true, but rather kind of letting us know this was out there."

[REDACTED] Yates said that she did not recall being shown the [REDACTED] reports.⁴ Yates said that she recalled that the discussion with the FBI focused on Lynch's alleged contacts with the Clinton campaign, not on information that Lynch was attempting to influence the Midyear investigation. She said that she would have remembered if someone told her that these reports raised concerns within the FBI that Lynch was biased. As described in more detail in Section III.F below, Yates told the OIG that she was never made aware that the [REDACTED] reports played a role in Comey's decision to issue his July 5 statement.

[REDACTED] Axelrod described the meeting with the FBI as a defensive briefing. He said he recalled that McCabe and Anderson either showed them an email or orally described an intercepted communication suggesting that Lynch had "put her thumb on the scale" to influence the Midyear investigation. Axelrod told the OIG that McCabe and Anderson presented the information as

³ [REDACTED] Yates recalled that Margolis told a story about being accused of wrongdoing as a young prosecutor, which she said he used to illustrate the point that Lynch needed to be informed about the [REDACTED] reports. The LHM states that Margolis was hospitalized on the day of the July 12, 2016 meeting involving Yates, and he died that same day.

⁴ [REDACTED] After reviewing a draft of this classified appendix, Anderson told the OIG that she and McCabe showed copies of the two [REDACTED] reports to Department leadership during the meetings held on July 12 and August 10, 2016. She stated that during these meetings, she and McCabe outlined the history of T1, the context in which the reports were obtained, the substance of the reports, and the FBI's assessment of them. As we describe in Section III.D below, Lynch also told the OIG that she did not recall being shown copies of the [REDACTED] reports.

[REDACTED]

lacking credibility, and that he left the meeting with the impression that it was a "nothingburger." After reviewing the two [REDACTED] reports and being asked whether these were the documents that he was shown by the FBI, Axelrod stated, "I've never seen either one of these documents before." He acknowledged that it was possible that he had seen the reports and simply did not remember them but said that that would surprise him. Axelrod stated that he did not believe the substance of the [REDACTED] reports, but that "[t]hese [reports] are different from [a nothingburger]. And so, my reaction had I seen these would be different than what I learned in that meeting."

[REDACTED] Carlin told the OIG that he did not specifically recall the July 12 meeting with the FBI, nor did he recall whether he was shown the two [REDACTED] reports. He said that he did remember speaking to McCabe and Tascas about the general topic. Carlin said that his recollection was that there were reasons to doubt the veracity of the information in the reports, including that they did not think the people identified in them would have been in a position to know about contacts between Lynch and a member of the Clinton campaign, and that they were skeptical that Lynch even knew Renteria.

[REDACTED] In addition, Carlin said that they know from experience that Russian [REDACTED] often "puff" or exaggerate the significance of what they are doing in communications they send to their superiors. Carlin stated that there was specific content in the two [REDACTED] reports that did not have the ring of truth. Carlin said that the FBI had firsthand knowledge of certain information in the two [REDACTED] reports and did not find it credible, including the statement that Comey was leaning toward the Republicans and planned to prolong the investigation to hurt the Democratic Party. He said that they assessed that this undermined the credibility of the remaining information in the reports.

D. (U) August 10 Meeting with AG Lynch

[REDACTED] According to the LHM, McCabe and Anderson met with Lynch and a member of her staff on August 10, 2016. The LHM states that McCabe and Anderson showed Lynch the [REDACTED] reports and briefed her on the matter, but does not include further details about the meeting.

[REDACTED] McCabe described the meeting with Lynch as a defensive briefing, and said that a member of Lynch's staff who handled national security issues attended the meeting with her. McCabe told the OIG that he showed the two [REDACTED] reports to Lynch and explained that the information came from T1, and that Lynch did not respond to the information in the reports. He stated:

[REDACTED] And she read them and I will probably never forget, she just finished reading them and said, okay.... I mean like I expected more of a reaction than that. Like I expected like, this is crazy, I never talked to that person. But she was absolutely stone faced and said nothing about the content of the memos—which I don't know how to interpret that.

[REDACTED]

[REDACTED] McCabe said that he had interacted frequently with Lynch in morning briefings and found her to be engaging, polite, and "well-spoken," and that he thought that her lack of a reaction to the substance of the reports was "odd."

[REDACTED] Anderson said that McCabe walked Lynch through the two [REDACTED] reports and the FBI's assessment of their credibility, and that Lynch had several questions about the reports. Anderson recalled one question in particular about Russian [REDACTED] stating that Lynch was careful in her response to McCabe not to suggest any investigative steps that the FBI should or should not take. Regarding Lynch's reaction to the substance of the reports, Anderson said the following:

[REDACTED] [AG Lynch] made a reference to Amanda Renteria.... [S]he kind of stumbled over the name and...pronounced it differently than we had all been pronouncing it internally and I think she did say...I don't even know who she is or...something to that effect to make it clear to us that...from her perspective, the idea of contact between the two of them was not [credible]. But...it was not like...a direct refutation by the Attorney General, it was sort of like, I don't even know who this person...is[.]

[REDACTED] Anderson said that on the walk back to the FBI, she and McCabe discussed the "circumspect nature" of Lynch's reaction to the information, and the fact that Lynch did not comment on its veracity. Anderson acknowledged that the meeting was not accusatory or akin to an FBI interview, and that they did not ask Lynch directly about her opinion of the reports, but that it was "a little bit weird" that she did not affirmatively offer a disavowal of them. Anderson described Lynch as quiet and calm in reacting to the information.

[REDACTED] Lynch had a different recollection of the meeting than McCabe and Anderson. She said she recalled that McCabe told her that the FBI had information she needed to be aware of, but that they had looked at it and determined that it had no investigative value. She said that McCabe told her that the FBI did not plan to take investigative steps with respect to the information, nor were they recommending that she take any investigative steps. She said that she understood that the FBI had consulted with Margolis about what to do before deciding to talk to her.

[REDACTED] According to Lynch, McCabe explained to her that they did not have the underlying communications that the [REDACTED] reports were purported to be based on, and they discounted the credibility of the information for various reasons, including that they were unable to verify any of the essential facts in the reports. She said that it was her impression that the information was "in some way false or fraudulent." Lynch described the discussion with McCabe as follows:

[REDACTED]

[REDACTED] And I said, however, just so you know, I do not know anyone named Amanda Renteria.... I said do you know if Ms. Renteria knows anyone on my staff or anyone who used to work for either me or anyone...in the AG's office. And he said...we have not taken steps toward that end and we're not recommending that you do.

[REDACTED] I said all right, I will not. And I said, but just to be clear, I don't know the woman involved, Ms. Renteria. I've never had conversations with her like that or anyone to that effect. And I said if you choose to do so, if you'd like to interview anyone on my staff up to and including me, you're free to do so.

[REDACTED] He said thank you very much, we appreciate that, but we're not going to be taking any investigative steps at this time.

[REDACTED] I said all right, and I said by you recommending that I don't, I take it you don't want me to interview my staff. And he said, that's right. I was just clarifying. He did not...imply that I should or anything like that. I said all right.

[REDACTED] And he again said that this was not a matter that was going to cause them to do anything else, but they had in fact had it for several months. And he said that will be the extent of the briefing and then he and Ms. Anderson left.

[REDACTED] She said that she did not have any further discussions about the reports after the briefing from McCabe.

[REDACTED] After reviewing copies of the two [REDACTED] reports during her OIG interview, Lynch stated that she had never seen them before and that they were more substantive than the information that McCabe presented to her. She said that McCabe presented a truncated version of the second [REDACTED] report relating to her alleged conversations with Renteria and Wasserman Schultz. Lynch said that there was no truth to the underlying allegations in the two reports: she was never in communication with anyone related to the Clinton campaign about the Midyear investigation, and she did not mount a pressure campaign on Comey to ensure that the investigation did not go too far.

[REDACTED] Lynch said she would have liked to have known about the [REDACTED] reports in the Spring of 2016. She said that this was when Comey commented that he should be the one to make any declination announcement and she was receiving letters from Congress about appointing a special counsel. She said that she did not think she would have changed her mind had she been told about the reports at that time, but that she would have liked to have known that there were "false allegations floating out there," to allow her to decide how to handle them.

[REDACTED]

[REDACTED] The member of Lynch's staff who attended the meeting described the conversation with McCabe as very brief. Regarding the substance of the discussion, she stated:

[REDACTED] I remember the Attorney General saying I don't know who this person [Renteria] is. I've never had any contact with them.... [W]e were all like what is this? This makes no sense at all.... I just remember her saying...I haven't had any conversations with you know, Wasserman Schultz or you know, this lady, you know I think she said that. But she really didn't say much. I think it was more she was just outrightly dismissive of [the information].... [B]oth of us were a bit incredulous, like what is this? This is very odd[.]

[REDACTED] The staff member said that Lynch is "kind of a formal person," and that Lynch's demeanor during the meeting reflected that she was "not impressed" with the information.

E. [REDACTED] Comey's Concerns about Possible Leaks of the Exfiltrated Data and Impact on the Midyear Investigation

[REDACTED] Comey said that even though he did not believe the information about Lynch in the two [REDACTED] reports, he became concerned that any emails underlying the reports would be publicly released by the Russian government as part of its "active measures" campaign, and that this would call into question the credibility of a declination announcement by Lynch. Comey said that this concern was a factor in his decision not to inform Lynch about his plan to deliver his public statement on July 5, 2016.

[REDACTED] In this section we provide a brief overview of the intelligence community's conclusions concerning the release of hacked emails by the Russian government beginning in mid-June 2016, focusing on information that Comey told us was relevant to his decision to make a unilateral public statement on July 5, 2016. This discussion relies heavily on the Intelligence Community Assessment of Russian Activities and Intentions in Recent U.S. Election (ICA), which was issued by the Office of the Director of National Intelligence, CIA, FBI, and NSA on December 30, 2016.

(U) Background on DCLeaks, Guccifer 2.0, and Wikileaks

[REDACTED] As detailed in the ICA, the intelligence community assessed with high confidence that the Russian Government conducted cyberespionage against targets associated with both major political parties as part of their efforts to "undermine public faith in the U.S. democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency." [REDACTED] penetrated Democratic National Committee (DNC) computer systems beginning in July 2015 and continuing through June 2016. [REDACTED] in March 2016, the Russian military intelligence agency, known as the General Staff Intelligence Directorate (GRU),

[REDACTED]

conducted cyber intrusions into various political targets, including the DNC and the Democratic Congressional Campaign Committee (DCCC), according to [REDACTED] FBI reporting, and technical details of a CrowdStrike cybersecurity report.

[REDACTED] According to publicly available information, a cybersecurity firm hired by the DNC announced on June 14, 2016, that there had been a cyberattack on the DNC using two sets of malware associated with Russian intelligence. The next day, a blogger using the persona Guccifer 2.0 announced that he had conducted the hack, not the Russians, and posted internal DNC memoranda and opposition research on Donald Trump as purported proof that he was responsible for the DNC intrusion. In addition, beginning on June 8, 2016, a website known as DCLeaks began releasing various other documents obtained through cyber intrusions. Based on information in public sources, the initial DCLeaks release was comprised of emails from the personal Gmail account of former NATO Supreme Commander General Philip Breedlove, who communicated with former Secretary of State Colin Powell, former NATO Supreme Commander General Wesley Clark, and others about the need for U.S. intervention in the Ukraine. These emails included Breedlove's communications with a senior adviser to the Atlantic Council.

[REDACTED] The intelligence community assessed with a high degree of confidence that Guccifer 2.0 and DCLeaks.com published GRU-hacked data, but with moderate confidence that they were under [REDACTED] control because the intelligence community did not know the specific individuals responsible for creating the personas that were controlled from Russia.

(U) Role of Potential Leaks of Hacked Emails in Comey's July 5 Statement

[REDACTED] Comey told the OIG that Guccifer 2.0 and DCLeaks began "dumping" emails stolen by the Russian intelligence services in mid-June 2016. Comey stated that the FBI knew from the outset that there was a Russian connection to Guccifer 2.0 and DCLeaks, and that the leaks signaled that the Russians were departing from mere intelligence collection. He stated:

[REDACTED] [T]he Russians have been very aggressive starting in the summer 2015 hitting DNC, DCCC, and some Republican, not many, but some Republican-associated organizations. And the intelligence community assumed and the FBI agreed, that this was standard espionage, in state actors trying to find out what's going on in the civil institutions of other state actors with whom they have an [adversarial] relationship and so we thought this was business as usual.

[REDACTED] The dump from DCLeaks and Guccifer 2.0 is actually the first indication, I think I got this right, that the intelligence community gets that the Russians are doing something different...what Russians called active measures, an active measures campaign, but it is something beyond just intelligence

collection. And then we get [REDACTED] but the first sign is, I don't know if the date is accurate, like June 15th.

[REDACTED] Comey told the OIG that the Guccifer 2.0 and DCLeaks releases caused him to become concerned that any underlying communications between Wasserman Schultz and the individuals identified in the two [REDACTED] reports might leak. When asked about the role that this concern played in his decision to make a public statement announcing the conclusion of the Midyear investigation, Comey said that it was one factor impacting his decision. He stated:

[REDACTED] And again, not that I believe what was in them, but I could picture emails rocketing around the Internet of, I forget the organizations, but someone at the Atlantic Council saying, "I just had lunch with Debbie Wasserman Schultz. She told me Loretta Lynch is controlling Jim Comey," words to that effect and that would be, to add these things together and that starts to make it harder for the normal thing to happen.

[REDACTED] As described in more detail below and in Chapter Six of the unclassified report, Lynch and Yates told the OIG that Comey never informed them that information in the [REDACTED] reports or concerns that they would leak played a role in his decision to make a unilateral public statement on July 5, 2016.

(U) Fall 2016 Releases

[REDACTED] Additional releases of emails obtained through Russian cyber intrusions continued into late 2016. These included the release by DCLeaks of emails from the personal Gmail account of Capricia Marshall, who worked as former Secretary Clinton's Chief of Protocol at the State Department from 2009 to 2013, and the release by Wikileaks of a large number of emails from the personal Gmail account of John Podesta, the Chief of Staff to the Clinton campaign.⁵ Following the release of the Marshall emails, FBI analysts conducted database searches and discovered that the FBI Cyber Division previously had prepared a list of election-related email addresses targeted by GRU cyber actors since early 2016. In an email sent to Executive Assistant Director Michael Steinbach and others on October 9, 2016, Strzok stated:

[REDACTED] At least three of them—belonging to Ian Mellul, Capricia Marshall, and John Podesta—have been released recently by Wikileaks and DCLeaks. Of note, the targeting list also includes Amanda Renteria (important given her role in one of two [REDACTED] reports of significant MYE interest), potentially the AG, several senior members of Clinton's State Department/campaign staff, and a [REDACTED] Russia analyst.

⁵ (U) See DCLeaks, *supra* (retweeting Wikileaks releases of Podesta emails).

[REDACTED]

[REDACTED] Asked about these emails, an FBI attorney assigned to both the Midyear and Russia investigations (FBI Attorney 1), told us that in September or October 2016, the intelligence community task force investigating Russian Influence in the 2016 Presidential Election discussed the two [REDACTED] reports referencing Lynch in connection with their efforts to identify the "most explosive" information that the Russians potentially would leak.⁶ FBI Attorney 1 stated, "Those [REDACTED] memos were some of the most sensitive documents that we thought that they might release."

[REDACTED] However, FBI Attorney 1 told the OIG that the Midyear team did not discuss the two [REDACTED] reports in connection with the decision to send the letter to Congress regarding the discovery of emails on the Anthony Weiner laptop on October 28, 2016. Comey told the OIG that, although the June 2016 DCLeaks and Guccifer 2.0 releases impacted his decision to make his July 5 statement, he did not recall the [REDACTED] reports being discussed in the Fall of 2016.

F. (U) Comey's June 2017 Congressional Testimony

(U) During congressional testimony in 2016 and 2017, Comey explained his reasons for deciding not to inform Department leadership about his plans to make a public statement on July 5, 2016. In his testimony before the Senate Select Committee on Intelligence on June 8, 2017, Comey was asked about the impact of the tarmac meeting between Lynch and former President Bill Clinton on his decision to make a public statement, and whether there were other factors that impacted this decision. Comey replied, "There were other things that contributed to that. One significant item...I know the committee's been briefed on. There's been some public accounts of it, which are nonsense, but I understand the committee's been briefed on the classified facts."

[REDACTED] As described in Chapter Six of our unclassified report, Lynch told us that Comey never informed her that he had concerns about her role in the Midyear investigation or her ability to credibly announce a declination. And, as described above, Lynch said that the briefing given to her by McCabe and Anderson focused on the factors impacting the FBI's assessment that the [REDACTED] reports were not credible. According to Lynch, no one told her that the [REDACTED] reports had factored into Comey's decision to issue his July 5 public statement. She said she first learned that this information played a role in his decision based on Comey's congressional testimony in June 2017.

[REDACTED] Yates similarly told the OIG that Comey never conveyed to her that he had any basis for concern that Lynch was exerting

⁶ [REDACTED] On December 27, 2016, the FBI sent an LHM to [REDACTED] summarizing the two [REDACTED] reports. This LHM was cited in the ICA as support for the statement that [REDACTED] were protective of the accesses they used to derive intelligence reports for President Vladimir Putin and other senior Russian officials, and may have argued to prevent the disclosure of non-public material—to include information collected from U.S. think tanks potentially damaging to the Clinton campaign—that would have endangered continued collection on U.S. decisionmaking in a Clinton administration.

[REDACTED]

pressure on the investigation, that he was worried that the two [REDACTED] reports might leak, or that the information influenced his decisionmaking in the Midyear investigation. Yates stated, "And not only was I not aware of that, again when I'm having meetings with the Director and we are strategizing about how best to roll this out, if those were playing a role in his decision as to what he would do, I would have thought he would have raised that with me."

(U) Asked about Comey's June 2017 congressional testimony, Yates stated:

(U) I was shocked by that.... I just felt like it was horribly unfair for him to take something he knew not to be true, that he never expressed to us as having any concern about, and then to publicly, in front of Congress and the rest of the world, say this like there was something to it—or that he had this other concern. I just thought that was really unfair to her....

(U) It was almost a "I know something you don't know, but I can't tell you what it is in this setting," which again I have a hard time believing that this was really a factor in his decisionmaking and that he would have concealed that from me when we were having our discussions.

IV. [REDACTED] REQUEST TO REVIEW THE THUMB DRIVES IN THE MIDYEAR INVESTIGATION

[REDACTED] Near the end of our review, and after we had completed nearly all of our interviews, the OIG obtained emails from the FBI's [REDACTED] system indicating that in late May 2016 FBI OGC lawyers drafted a memorandum requesting access to the thumb drives for purposes of the Midyear investigation. As described in more detail below, this draft memorandum stated that review of the thumb drives was necessary to conduct a "thorough and complete investigation" and to "assess the national security risks" associated with former Secretary Clinton's use of a private server. However, the FBI never finalized the memorandum or submitted this request to the Department.

[REDACTED] Over the course of dozens of interviews with FBI members of the Midyear team and senior FBI officials, including highly classified, compartmented interviews pertaining to the [REDACTED] reports, no witness mentioned the existence of this draft memorandum or that there had been discussions about requesting access to the thumb drives for purposes of the Midyear investigation. This was so despite the OIG's routine practice of asking witnesses whether there was information that the FBI wanted to obtain but could not, whether the FBI was able to obtain everything it needed to complete the investigation, and whether there was anything that the OIG did not ask but needed to know about the investigation. When asked why no one mentioned the request to search the thumb drives in connection with Midyear, witnesses stated that they did not recall the existence of the draft memorandum until the OIG brought the issue to their attention.

[REDACTED]

[REDACTED] Based on this new information, we conducted limited re-interviews in an effort to understand whether the FBI considered the information to be critical to the investigation and why the request was never finalized and sent to the Department. However, for various reasons, we were unable to re-interview several former FBI officials involved in the Midyear investigation, including Comey and McCabe, regarding discussions about the request to search the thumb drives.

A. (U) Draft Memorandum in May 2016

(U) Initial Discussion with Comey

[REDACTED] On May 10, 2016, Comey held a meeting with FBI senior officials and several members of the Midyear team. Notes taken by Strzok indicate that the discussion at this meeting included whether the Midyear team should request access to the thumb drives:

[REDACTED] Has T1 been asked selectors[?]

[REDACTED] Req[uest] to DAG for [REDACTED] thumb access to DD[.]

[REDACTED] T1 provided selectors.

[REDACTED] Letter to AAG from DD re Clinton selectors[.]

[REDACTED] Strzok told the OIG that while he was aware of the issue and remembered discussions about requesting access to the thumb drives, any decisions were made above his level. He said that everyone thought that the thumb drives were something that the FBI needed to review for general counterintelligence purposes, but that the Midyear investigation was only a small part of that issue.

[REDACTED] Anderson said she recalled mentioning the issue at a meeting with Comey around the same time that the FBI was engaged in efforts to obtain the Mills and Samuelson laptops.⁷ Anderson told the OIG that she had been involved in the requests to the Department and the White House to search the first five thumb drives for information associated with [REDACTED] sources in early [REDACTED], and that she wanted to make sure that the Midyear team was thinking about the data on those thumb drives. She said that this discussion led FBI Attorney 1, the lead attorney assigned to the Midyear team, to draft a memorandum requesting access to the thumb drives.

[REDACTED] According to FBI Attorney 1, as the Midyear team neared the end of the investigation, they met weekly with Comey to discuss what remained to be done to ensure that they "check[ed] the boxes." As noted in our unclassified report, Comey told the Midyear team in early May 2016 that there was an "extraordinary sense of urgency" to complete the Midyear investigation. FBI Attorney 1 said that the FBI had been seeking access to the

⁷ (U) The efforts to obtain the Mills and Samuelson laptops occurred in May and June 2016 and are discussed in Chapter Five of the unclassified report.

[REDACTED]

thumb drives for counterintelligence purposes, and that at one of these meetings either Anderson or Baker raised the issue of whether the Midyear team should review the thumb drives. FBI Attorney 1 said that she did not recall Comey having a reaction to this suggestion, but that he was generally supportive of the Midyear team taking the steps needed to complete the investigation.

(U) Drafts of the Memorandum

[REDACTED] On May 20, 2016, FBI Attorney 1 sent an email to Strzok and the Lead Analyst that stated, "Here's a (rough) first draft of the MYE [REDACTED] memo." The email attached a draft memorandum from McCabe to Yates requesting access to the first five thumb drives for purposes of the Midyear investigation. The draft memorandum summarized the information that the FBI had obtained from T1, incorrectly stating that there were seven thumb drives. It then stated:

[REDACTED] In order to conduct a thorough and complete investigation and to assess the national security risks associated with former Secretary of State Hillary Clinton's use of a private email server, the FBI believes it is necessary to review the first five thumb drives, which contain information stolen from USG agencies, including the Department of State. Specifically, the FBI proposes conducting a narrowly-tailored review which includes searching all known email addresses associated with former Secretary Clinton and reviewing folders associated with the Department of State.

[REDACTED] The FBI assesses that it must conduct targeted searches in order to determine the full scope of unauthorized disclosure of classified emails found on the former Secretary's server and to identify any potential cyber intrusions of the server.... As you may be aware, there are press reports indicating that the Russian intelligence service, and others, has infiltrated the former Secretary's private email server. The FBI must review the data that is currently in its possession to determine the accuracy of such statements and to fully assess the damage caused to the national security of the disclosure of such information.

[REDACTED] The FBI has already conducted a review of the data on thumb drives six and seven, as well as material that has been provided by T1 on an [REDACTED]. During the course of this review, the FBI has determined that mere keyword searches will not be sufficient as many of the documents [REDACTED], rather than [REDACTED]. Therefore, the FBI proposes reviewing [REDACTED] associated with the Department of State, as that is the most likely place to find the former Secretary's emails....

[REDACTED] The draft memorandum provided proposed procedures for FBI review of the data, including limiting the data to a standalone computer system and restricting the review team to a small number of employees. On

[REDACTED]

May 23, 2016, Strzok replied, "Looks good to me. I believe there are now eight, not seven, thumb drives."

[REDACTED] FBI Attorney 1 also sent a copy of the draft memorandum to Anderson on May 20, 2016. Anderson provided comments on the draft memorandum the next day, May 21, 2016. One of Anderson's comments stated, "In explaining the potential relevance of the data to our investigation, we should address the timeframe of the data (2014), given that the Secretary left the Department of State in 2013."

[REDACTED] On May 27, 2016, FBI Attorney 1 sent a revised draft to Anderson, Strzok, the Lead Analyst, and an attorney in the FBI OGC Cyber Law Unit. The revised draft memorandum addressed Anderson's comment about the relevance of the [REDACTED] data, stating:

[REDACTED] The FBI assesses that it must conduct targeted searches in order to determine the full scope of unauthorized disclosure of classified emails found on the former Secretary's server and to identify any potential cyber intrusions of the server. FBI investigation has determined that approximately 2063 emails found on the former Secretary's private server contain classified information, up to and including information classified at the TOP SECRET//SAP level. These emails include senders or recipients from the Department of State and may have been exfiltrated by the [REDACTED] actors. [REDACTED]

[REDACTED] Moreover, the FBI must determine if the [REDACTED] actors were able to successfully infiltrate the former Secretary's private email server and exfiltrate classified data. As you may be aware, press reports indicate that the Russian intelligence service, and others, has infiltrated the former Secretary's private email server. The FBI must review the data that is currently in its possession to determine the accuracy of such statements and to fully assess the damage caused to the national security of the disclosure of such information.

[REDACTED] We were unable to identify any additional drafts of this memorandum after May 27, 2016, evidence that this request was ever finalized and sent to the Department for approval, or emails exchanged between members of the Midyear team discussing whether the request to search the thumb drives was necessary.

B. [REDACTED] FBI Reasons for Not Requesting Review of the Thumb Drives in Midyear

[REDACTED] Witnesses told us that the draft memorandum was never finalized or sent to the Department. Although notes obtained by the OIG indicate that members of the Midyear team discussed the thumb drives in a meeting with Comey and McCabe on June 27, 2016, witnesses differed on who

[REDACTED]

made the decision to forgo review of the thumb drives and what the basis for that decision was. However, despite statements in the draft memorandum about the need to review the thumb drives, no witness we interviewed told us they thought that the information would have changed the outcome of the Midyear investigation.

[REDACTED] When asked what happened after she sent the revised May 27 draft memorandum, FBI Attorney 1 told the OIG that she did not recall, but that she thought that the Midyear team got "sidetracked" with their efforts to obtain the laptops used by counsel to former Secretary Clinton, Cheryl Mills and Heather Samuelson, to cull Clinton's personal and work-related emails. FBI Attorney 1 said that the Mills and Samuelson laptops were the Midyear team's primary focus:

[REDACTED] [Review of the thumb drives] was certainly something we thought...we should do. Was it something as important as getting into the Mills and Samuelson laptops? No way. And, I always thought of this as sort of also opening the door for us to get more access to the [REDACTED] because Midyear was such a high-profile issue that it would give DOJ some more impetus to work with us.

[REDACTED] FBI Attorney 1 said that she did not recall additional discussions about the request to review the thumb drives, stating that the issue "just dropped off." She said that the Midyear team was meeting with Comey on a weekly basis at the time, and that FBI management would have been aware that the request to search the thumb drives was "an issue dangling out there."

[REDACTED] Asked whether the FBI viewed the request to search the thumb drives as critical to the investigation, FBI Attorney 1 told the OIG that her draft memorandum was intended to make the best case possible for obtaining access to the thumb drives. She stated, "I did not think it was essential that we look at this material, [REDACTED]. I think the chances that it would have been really important to our case were minimal." FBI Attorney 1 said that when she drafted the memorandum, Strzok and the Lead Analyst had not looked at the issue to determine whether the thumb drives were needed to complete the investigation.

[REDACTED] Anderson also characterized the draft memorandum as an advocacy piece that was intended to make the best possible case for obtaining access to the thumb drives. Anderson told the OIG that she did not recall why the FBI never finalized it or sent it to the Department. She said that obtaining access to the thumb drives for purposes of the Midyear investigation was never a major topic of conversation at any of the meetings with FBI management, and that the idea "never got traction" within the Midyear investigative team. According to Anderson, Strzok and the Lead Analyst were the ones who determined that the Midyear team did not need to pursue the thumb drives. Anderson said that near the end of the investigation, Comey asked Strzok and the Lead Analyst whether the team had obtained the

[REDACTED]

information they needed to complete the investigation, and both responded that they had.

[REDACTED] Anderson noted that the data on the thumb drives [REDACTED]. Anderson said that she thought that the Midyear investigative team did not need to review the data on the first five thumb drives because it was never the objective of the investigation to trace and contain the spill of classified information. According to Anderson, the only thing that would have changed the ultimate prosecutive decision with respect to former Secretary Clinton was evidence of her intent in setting up the private email server. She said that the [REDACTED] collection began [REDACTED] the setup of former Secretary Clinton's server in 2009, and that as a result [REDACTED].

[REDACTED] In his OIG interview, Strzok rejected the idea that the Midyear investigative team was responsible for the decision not to obtain access to the thumb drives. Strzok characterized reviewing the thumb drives as a "logical lead" that the Midyear team would have liked to have taken, but not one that was necessary for the investigation to be considered thorough and complete given the time period of the [REDACTED] intrusions into the State Department. He said that the decision not to send the draft memorandum to the DAG was made above his level, not by the investigative team, and was "opaque" to him. When asked whether the Midyear team did not seek to review the thumb drives because they were under pressure to complete the investigation quickly, Strzok replied, "No."

[REDACTED] After reviewing a draft of the classified appendix, the Lead Analyst also rejected the idea that the Midyear investigative or analytical teams were responsible for finalizing and transmitting a legal memorandum. The Lead Analyst stated:

Strzok approved it to go forward from the investigative team's perspective via an email he sent and then [FBI Attorney 1] subsequently made edits to address Anderson's comments. As a result, I consider the last version sent by [FBI Attorney 1] to Anderson and the Cyber Law Unit to be a final version from the perspective of the Midyear team and it was therefore, in my view, up to OGC to approve and submit it as appropriate to DOJ like they had in previous instances. I do not believe that Strzok or I had any reason to believe we were responsible for the decision to send the memorandum to DOJ since that would have been a significant departure from past practice (and outside the boundaries of my authority and role).

[REDACTED] The Lead Analyst told the OIG that he considered the information on the thumb drives to be unavailable to the Midyear team. He said that it was impossible to divorce the request to search the thumb drives in Midyear from the "protracted battle" with the Department to obtain access to the thumb drives for other purposes, including conducting the [REDACTED]

[REDACTED]

source searches. The Lead Analyst explained that the White House and the Department previously had made the determination that certain U.S. victim information was potentially privileged, including State Department information, and that policy concerns about those privileges prohibited them from reviewing the first five thumb drives. The Lead Analyst stated that he did not recall what happened to the request in the draft memorandum. He said that he did not think that "everyone forgot about it," and that it was possible that a definitive decision was reached at a meeting of FBI management that he did not attend, since he did not recall such a decision and it was not reflected in his notes.⁸

[REDACTED] Asked about the importance of the data on the thumb drives to the intrusion analysis, the Lead Analyst said that the Midyear team looked at any means that would allow them to develop a more accurate and confident assessment of whether foreign actors had compromised former Secretary Clinton's email server. The Lead Analyst said that the data on the thumb drives potentially could have been one more "check box" to help the team determine whether the server had been breached. The Lead Analyst stated:

[REDACTED] If there's nothing on the thumb drive, it doesn't mean in any way definitively that the [REDACTED] didn't compromise the server architecture. But it's at least a place you could look. And if there's a [REDACTED] there that appears to contain the entirety of it, well then you get an opposite answer.

[REDACTED] The Midyear SSA was not formally told about the details of the [REDACTED] collection or the request to search the thumb drives for purposes of the Midyear investigation. However, he told the OIG that he was generally aware of the data and thought that it was a "logical investigative lead" that might allow them to obtain access to additional State Department emails.

C. [REDACTED] FBI Cyber Division's 2018 Assessment of Information Potentially Relevant to the Midyear Investigation on the Thumb Drives

[REDACTED] As described in Section II, FBI analysts used a program to create a "word cloud" of words extracted from U.S. victim content on the first five thumb drives during the [REDACTED] searches, which they refer to as the "index." In August 2017, well after the conclusion of the Midyear investigation, an FBI OGC attorney granted permission to an FBI analyst to query this index using terms relevant to the Special Counsel investigation, and an FBI employee relied on this authorization to conduct additional keyword

⁸ [REDACTED] After reviewing a draft of the classified appendix, the Lead Analyst stated that neither he nor Strzok made "an affirmative choice to not review the material on those drives."

[REDACTED]

searches.⁹ The additional terms queried included "Clinton," which returned [REDACTED] results, and "clintonemail.com," which returned [REDACTED] results. However, based on review protocols in place at the time of these searches, the FBI employee did not review the underlying data for the indexed terms.

[REDACTED] We were told that in 2018, after the OIG learned about these thumb drives, the FBI resumed efforts to gain access to all eight thumb drives for counterintelligence purposes. As part of efforts to highlight the importance of the [REDACTED] data, the FBI Cyber Division drafted a memorandum summarizing potential information on the thumb drives related to the Midyear investigation ("Cyber Division memorandum"). The Cyber Division memorandum referenced the keyword search results and stated:

[REDACTED] Without further review, the FBI does not know whether the terms are included within email messages, documents created by [REDACTED], open source news articles, or other content present on the thumb drives. The FBI additionally cannot determine without further review whether the terms appear within content [REDACTED] exfiltrated from the Department of State, Executive Office of the President, House of Representatives, or other U.S. or foreign victims.

[REDACTED] The Cyber Division memorandum then identified the following "hypothetical scenarios" where content relevant to the Midyear investigation could be present on the thumb drives:

- [REDACTED] Content emailed by or to victims during the time of cyber intrusions.
- [REDACTED] Historic email content residing within victims' mailboxes.
- [REDACTED] Victims forwarding or referencing historic email content in email messages sent from victim accounts during the time of cyber intrusions.
- [REDACTED] Content referencing Secretary Clinton stored outside of the email system of victim networks and exfiltrated by [REDACTED].
- [REDACTED] [REDACTED] created materials referencing Secretary Clinton.
- [REDACTED] Open source news articles referencing Secretary Clinton exfiltrated from victim entities or directly acquired by [REDACTED] cyber actors.

⁹ [REDACTED] As described above, after reviewing a draft of this classified appendix, an FBI witness told the OIG that the searches conducted in August 2017 revealed victim data, and thus likely did not comport with the review protocols approved by ODAG for searches of thumb drives 6 and 7.

[REDACTED]

[REDACTED] Finally, the Cyber Division memorandum referenced the reports that mentioned Lynch and stated that a failure to review the thumb drives "carries the risk that information potentially pertinent to the [Midyear] investigation, as well as information that could be used in future Russian influence operations, remains in the dataset."

[REDACTED] Anderson brought these documents to the attention of the OIG, and told us that she met with E.W. "Bill" Priestap, the Assistant Director of the Counterintelligence Division, and FBI Attorney 1, about the statements made in the Cyber Division memorandum. She said that they collectively agreed that while information relevant to the Midyear investigation might be on the thumb drives, such information was unlikely to be material, and the Midyear investigation was not a persuasive reason for obtaining access to the thumb drives.¹⁰ Anderson memorialized these points in an April 23, 2018 email to Cyber Division officials:

[REDACTED] With respect to the MIDYEAR EXAM-specific memo, I understand from speaking with Bill Priestap that it was not coordinated with [the Counterintelligence Division] or with the MIDYEAR EXAM team and therefore reflects only the Cyber Division's views about the potential relevance of the [REDACTED] data to the Clinton investigation. While there is an argument that the thumb drives hypothetically might contain emails to or from Secretary Clinton at her private email server [REDACTED]

[REDACTED], we think it highly unlikely that the thumb drives would contain any evidence that would be material to the investigation. As you know the MIDYEAR EXAM team concluded that the former Secretary lacked the requisite intent to be charged criminally. Unlike the emails found on Anthony Weiner's laptop that were from [REDACTED] and were to/from Huma Abedin, Clinton's closest aide, the [REDACTED] data could at the very most contain only further evidence of the transmission of classified information via the private server—evidence that would not change the investigative team's assessment of the former Secretary's intent in setting up the private server. For that reason, we do not think the MIDYEAR EXAM investigation supplies a persuasive reason for urging the DAG to permit the FBI to review the [REDACTED] data. The broader cyber and counterintelligence justifications for reviewing the data are sufficiently important and weighty to carry the day.

[REDACTED] Witnesses told the OIG that on June 1, 2018, the FBI submitted a memorandum from Deputy Director David Bowdich to DAG Rod Rosenstein requesting permission to conduct a comprehensive review of the

¹⁰ [REDACTED] The Lead Analyst told us that he also discussed this issue with Priestap and FBI Attorney 1. The Lead Analyst stated that he concurred with Priestap and FBI Attorney 1 "that information relevant to the Midyear investigation might be on the thumb drives based on the index search." However, the Lead Analyst stated that he deferred to FBI OGC "on the likelihood of it being material to the prosecution decision."

[REDACTED]

thumb drives. According to Anderson, the memorandum requests permission to review the [REDACTED] data for foreign intelligence purposes, and would not permit review of the data for law enforcement purposes or in furtherance of any criminal investigation.

V. (U) ANALYSIS AND RECOMMENDATION

A. [REDACTED] Impact of Concerns about Potential Leaks of Information Related to the [REDACTED] Reports on Comey's Decision Not to Inform Department Leadership of His Plans to Make a Public Statement

(U) As we describe in Chapter Six of our unclassified report and above, Comey told the OIG that he became concerned in mid-June 2016 that classified information suggesting that Lynch was exerting influence on the Midyear investigation would be publicly released, and that this would impact her ability to credibly announce a declination. However, by mid-June Comey was already very far along in his plans to make a unilateral statement. Moreover, witnesses told us that the FBI had determined based on various factors that the allegations that Lynch interfered with the investigation were not credible, describing the information as "objectively false."

[REDACTED] Comey told the OIG that he never saw any actions by Lynch to interfere in the investigation. Rather, Comey was concerned that leaks of this non-credible information about Lynch would undermine her credibility. The FBI did not inform Lynch about the [REDACTED] reports until August 10, 2016, more than a month after Comey's public announcement. As we describe above, Lynch told the OIG that the information in the [REDACTED] reports was presented to her in a way that highlighted the FBI's assessment that it lacked credibility. At no time did Comey alert Lynch or Yates that the information raised concerns about Lynch's ability to participate credibly in the Midyear investigation or in any declination announcement. At no time did Comey consult with Lynch or Yates about how to deal with the information in the [REDACTED] reports to protect the credibility of the declination decision.

[REDACTED] Finally, as described above, the [REDACTED] reports also included an allegation, equally lacking in credibility, that Comey was "leaning more to [R]epublicans, and most likely he will be dragging this investigation until the presidential elections; in order to effectively undermine the chances for the [Democratic Party] to win in the presidential elections." Comey did not inform Lynch or Yates of this information, let alone discuss with them whether it might be leaked or whether, if it was, it might undermine his credibility as a spokesman.

[REDACTED] As a result, we did not find Comey's concerns that information about Lynch in the [REDACTED] reports or any underlying communications would be released by DCLeaks or Wikileaks to be a persuasive justification for departing from well-established Department policies and acting unilaterally to announce the FBI's recommendation.

[REDACTED]

**B. [REDACTED] Request to Review the
[REDACTED] Data in the Midyear Investigation**

[REDACTED] As described above, witnesses told us that State Department communications on the thumb drives [REDACTED]. Although the thumb drives might contain relevant information, such as archived emails from the former Secretary's tenure, witnesses told us that they believed that any additional information obtained from them was unlikely to be material—*i.e.*, would be unlikely to include communications from the beginning of former Secretary Clinton's tenure showing her intent in setting up and using a private email server, and thus would be unlikely to change the decision to decline prosecution with respect to former Secretary Clinton or her senior aides.

[REDACTED] Nonetheless, the May 2016 draft memorandum characterizes review of the first five thumb drives as necessary to conduct "a thorough and complete investigation and to assess the national security risks associated with former Secretary of State Hillary Clinton's use of a private email server," and to determine "the full scope of unauthorized disclosure of classified emails found on the former Secretary's server and to identify any potential cyber intrusions of the server." The two FBI OGC witnesses who were involved in drafting this memorandum—Anderson and FBI Attorney 1—described the memorandum as an advocacy piece that was intended to present the best case for using the Midyear investigation as a way to obtain access to the thumb drives. However, Strzok, the Lead Analyst, and the Midyear SSA told the OIG that they viewed review of the thumb drives as a logical investigative lead that might allow them to obtain access to additional State Department emails.

[REDACTED] In assessing the FBI's handling of this issue, we are mindful of the analytical framework we applied in our review. As we state in our unclassified report, we did not substitute the OIG's judgment for the judgments made by the FBI or the Department regarding the substantive merits of investigative or prosecutive decisions, but rather looked at whether the circumstances surrounding a decision indicated that it was based on considerations other than the merits of the investigation. However, no witness we interviewed recalled who made the decision not to submit the memorandum requesting permission to review the thumb drives to the Department, or even whether any decision was made. Anderson said that she recalled mentioning the thumb drives during a discussion with Comey around the same time the Midyear team was engaged in efforts to obtain the Mills and Samuelson laptops, and Strzok's notes indicate that the request for thumb drive access was discussed in a May 10, 2016 meeting with Comey. In addition, FBI Attorney 1 told us that discussions about whether to request permission to review the thumb drives for purposes of the Midyear investigation "just dropped off," and that FBI management would have been aware that it was "an issue dangling out there." As a result, we cannot assess who made the decision not to request review of the thumb drives for purposes of the Midyear investigation or what the basis for that decision was.

[REDACTED]

[REDACTED] However, we understand from FBI officials that Midyear-related concerns are secondary to the potential relevance of the [REDACTED] data to other issues, including the need to review the thumb drives for general foreign intelligence purposes. We also acknowledge that there may be legitimate privilege concerns related to some of the intercepted U.S. victim communications. The FBI has now submitted a memorandum to the Department requesting permission to conduct a comprehensive review of the thumb drives for foreign intelligence purposes, and we encourage both the Department and the FBI to continue pursuing efforts to obtain access to this data to the extent consistent with law, including any applicable privileges.



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