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A F T E R N O O N P R O C E E D I N G S

(Court proceedings commenced at 1:11 p.m.)

THE COURT: Anything before we bring out the jury?

MR. KEILTY: Your Honor, I don't know if your preliminary instructions will cover this, but one of the jurors walked up to me and wanted to ask a question about logistics, Where the jury room was, and I just ignored her. Look, I'm usually rude to people, but I didn't want her to think I was --

THE COURT: All right. Well, thank you for that.

I am going to read, with some minor additions, agreed-upon jury instructions 1, 2, and 3 as preliminary instructions.

Let's bring the jury out.

(Jury present.)

THE COURT: Please be seated.

Ladies and gentlemen, as I mentioned, I'm now going to give you some preliminary instructions, following which we'll have opening statements. What I say now is intended to serve only as an introduction to the entire trial of this case. It is not a substitute for the detailed instructions on the law, which I will give you at the end of the case and before you retire to deliberate on your verdict. It is only a brief overview of the trial process.

1 Beginning with these preliminary instructions and
2 during the trial, you'll hear me use a few terms which you may
3 or may not be familiar with. Let me now briefly explain some
4 of the most common to you. You will sometimes hear me refer
5 to counsel. Counsel is simply another way of referring to the
6 lawyers or the attorneys. I will sometimes refer to myself as
7 the Court. The prosecution and the defendant are sometimes
8 called the parties to this case.

9 When I sustain an objection, I am excluding the
10 evidence from this trial for good reason. When you hear that
11 I have overruled an objection, I am permitting that evidence
12 to be admitted. When we say, "admitted into evidence" or
13 "received into evidence," we mean that this particular
14 statement or this particular exhibit is not part of the trial,
15 and most importantly, may be considered by you in making the
16 decisions you must make at the close of the case. Statements
17 or exhibits which are not admitted into evidence may not be
18 considered by you in reaching your verdict.

19 The term "burden of proof" or "sustaining its burden
20 of proof" means the obligations of proving its case in this
21 trial, the government's obligation to produce proof beyond a
22 reasonable doubt of the changes in the indictment that is
23 brought.

24 This is a criminal case commenced by the United
25 States, which I may sometimes refer to as the prosecution and

1 sometimes the government and sometimes the Special Counsel
2 against Igor Danchenko, to whom I may refer to as the
3 defendant. The case is initiated by way of an indictment.
4 You should understand that an indictment is simply a charge by
5 the government to begin a case and that it is not in any sense
6 evidence of the allegations or statements it contains. Igor
7 Danchenko, the defendant, has pleaded not guilty to the
8 indictment. The defendant contends that he is not guilty.
9 The government has the burden or obligation to prove each of
10 the essential elements of the crimes charged in the indictment
11 to you beyond a reasonable doubt. The purpose of this trial
12 is to determine whether or not the government can meet its
13 burden or obligation.

14 I instruct you that you must presume Mr. Danchenko,
15 the defendant, is not guilty of the crimes charged in the
16 indictment. The crimes charged in the indictment are based on
17 Title 18 of the United States Code, Section 1001(a)(2), which
18 provides, in relevant part, as follows: Whoever in any matter
19 within the jurisdiction of the executive branch of the
20 government of the United States knowingly and willfully makes
21 any materially false fictitious or fraudulent statements or
22 representations shall be guilty of an offense against the
23 United States.

24 To help you analyze the evidence as you hear it at
25 trial, I will give you now a preliminary summary of the

1 individual elements of the crimes charged which the government
2 is required to prove beyond a reasonable doubt.

3 In order to prove the crime of -- the crime charged
4 in Counts 1 through 5, the government must prove, one, the
5 defendant made a false, fictitious or fraudulent statement or
6 representation to the government as detailed in the count in
7 the indictment under consideration. A false or fictitious
8 statement or representation is an assertion which is untrue
9 when made and which is known by the person making it to be
10 untrue; number two, in making the false, fictitious or
11 fraudulent statement, the defendant acted willfully, knowing
12 that the statement was false; third, the statement was made in
13 a matter within the jurisdiction of the executive branch or
14 the government of the United States; and, fourth, the
15 statement made by the defendant was material to the Federal
16 Bureau of Investigation. A statement is material if it has a
17 natural tendency to influence or is capable of influencing
18 either a discreet decision or any other function of the
19 government agency to which it is addressed.

20 At the conclusion of the trial, after you've heard
21 all the evidence and after I've had an opportunity to confer
22 with the lawyers, I will give you the final and controlling
23 statement as to what the elements of the crimes are. I'm
24 giving you this preliminary summary now to help you as you
25 hear the evidence and see the exhibits as the trial

1 progresses.

2 The trial will proceed in the following order:
3 First, the parties have the opportunity to make opening
4 statements. The government may make an opening statement at
5 the beginning of the case. The defendant may make an opening
6 statement following the opening statement of the government or
7 may postpone the making of opening statement until the close
8 of the government's case. The defendant is not obligated to
9 make an opening statement.

10 What is said in opening statements is not evidence.
11 The opening statements simply serve as an introduction to the
12 evidence which the party making the opening statement intends
13 to produce during the trial. Second, after the opening
14 statements, the government will introduce evidence which it
15 feels supports the charges in the indictment. Third, after
16 the government has presented its evidence, the defendant may
17 present evidence, but is not obligated to do so.

18 The burden or obligation, as you will be told many
19 times during the course of this trial, is always on the
20 government to prove each and every element of the offenses
21 charged beyond a reasonable doubt. The law never imposes on a
22 defendant in a criminal case the burden of calling any
23 witnesses, producing any exhibits or introducing any evidence.
24 A defendant is presumed to be innocent of the charges.

25 Fourth, after all the evidence has been received, in

1 other words, after all the witnesses have testified, after all
2 the evidence has been admitted, each party will be given the
3 opportunity to present argument to you in support of its case.
4 This is called closing arguments. What is said in closing
5 arguments is not evidence, just as what is said in opening
6 statement is not evidence. The closing arguments are designed
7 to present to you the theories and conclusions of the parties
8 as to what each feels the evidence has shown and what
9 inferences may be drawn from the evidence.

10 Fifth, after you've heard the closing arguments of
11 the parties, I will give you orally and in writing the final
12 instructions concerning the laws which you must apply to the
13 evidence received during the trial. Those instructions will
14 be much more detailed than these I'm giving you now. You will
15 then retire to consider your verdict. Your verdict must be
16 unanimous. All 12 of you must agree to it. Your
17 deliberations are secret. You will not be required to explain
18 your verdict to anyone.

19 Sixth, you must keep an open mind to both the
20 government and the defense during this trial. As you know,
21 there are generally two sides to most stories, and you must
22 not make up your mind about any of the questions in the case
23 until you have heard all the evidence and all of the law which
24 you must apply to that evidence; in other words, until you
25 begin your deliberations.

1 Let me now talk about your duties as jurors, the
2 duty of the Court and the evidence.

3 Your assignment as jurors is to find and determine
4 the facts. Under our system of justice, you are the sole
5 judges of the facts. If at any time I should make any comment
6 regarding the facts or you think I am making some comment on a
7 piece of evidence, you're at liberty to disregard it totally.

8 It is especially important that you perform your
9 duty of determining the facts diligently and consciously for
10 ordinarily there is no means of correcting an erroneous
11 determination of facts by a jury.

12 On the other hand, and with equal emphasis, I
13 instruct you that the law, as given by the Court, and these
14 and other instructions constitute the only law for your
15 guidance. It is your duty to accept and to follow the law as
16 I give it to you, even though you may disagree with the law.

17 You are to determine the facts solely from the
18 evidence admitted in the case. This evidence consists of the
19 testimony of witnesses and the exhibits received.

20 Questions asked by the lawyers are not evidence.
21 For the evidence consists of the witnesses' answers to the
22 questions, not the questions themselves.

23 As I said earlier, statements and arguments of
24 counsel are not evidence. Counsel, however, may enter into
25 agreements or stipulations of facts, which are not in dispute

1 in this case. And when they do so, you may accept those facts
2 as established.

3 I may also tell you that I'm taking judicial notice
4 of certain facts, and you then may accept those facts as true.
5 It is always up to you, however, to decide what facts are
6 established by the evidence and what inferences are to be
7 drawn from the evidence.

8 The parties may sometimes present objections to some
9 of the testimony or the exhibits. An obligation -- I'm
10 sorry -- an objection is the only proper method for requesting
11 the ruling from the Court concerning evidence.

12 It is the duty of a lawyer to object to evidence,
13 which he or she believes may not properly be received or
14 admitted, and you should not be prejudiced in any way against
15 the lawyer who makes objections or against the party he or she
16 represents.

17 At times, I may sustain objections or direct that
18 you disregard certain testimony or exhibits. You must not
19 consider any evidence to which an objection has been sustained
20 or which I have instructed you to disregard.

21 Do not read any news accounts about this case in any
22 newspaper or on the internet, or watch any such news accounts
23 on television, or listen to any such news accounts on the
24 radio.

25 You must not consider anything you have read or

1 heard about the case outside of this courtroom, whether it
2 before or during the trial or during your deliberations.

3 Do not attempt any independent research
4 investigation about the matter. Your decision in this case
5 must be based solely and exclusively upon the evidence
6 received during the trial, my final instructions, and not upon
7 anything else.

8 You may have heard the terms "direct evidence" and
9 "circumstantial evidence." Direct evidence is generally the
10 testimony of a person who claims to have actual and direct
11 knowledge of a fact. For example, the testimony of an
12 eyewitness who claims to have seen an event.

13 Circumstantial evidence is generally testimony of a
14 chain of facts, which may lead to a conclusion of some kind.
15 In any event, the law makes no distinction between direct
16 evidence and circumstantial evidence.

17 In considering the evidence here in the trial, you
18 should give it such weight or importance that you think it
19 deserves, whether it is called direct or circumstantial
20 evidence, and make the deductions and reach the conclusions to
21 which your experience and common sense lead.

22 In attempting to determine the facts in this case,
23 you may be called upon to judge the credibility of witnesses
24 who testify in the trial. In deciding whether or not to
25 believe what a witness is -- what a witness has said, I

1 suggest that you consider the intelligence of the witness, the
2 ability of the witness to have seen or heard, what the witness
3 said was seen or heard, the ability of the witness to remember
4 what happened, any interest the witness may have in how this
5 case is decided, and whether the testimony is reasonable.

6 You are free to believe all of what a witness -- or
7 exhibits says, some of it or none of it. I will address the
8 subject again after you've heard all the evidence in the
9 trial.

10 No statement, ruling, remark or comment, which I may
11 make during the course of this trial is intended to indicate
12 my opinion as to how you should decide the case or is intended
13 to influence you in any way in your determination of the
14 facts.

15 I may, for example, ask questions of a witness. If
16 I do so, it is for the purpose of explaining matters, which I
17 feel should be brought out, and not in any way, to indicate
18 any opinion about the facts or to indicate the weight I feel
19 you should give to the testimony of the witness so questioned.

20 I may also find it necessary, for exhibit -- for
21 example, to admonish the lawyers. And if I do, you should not
22 show prejudice towards the lawyer or the client of that lawyer
23 because I have found it necessary to correct him or her.

24 At times during this trial, it will be important for
25 me to confer privately with the lawyers and others about

1 various elements here and procedural issues. During those
2 conferences, both here at the bench and in my chambers, it is
3 not my intention to hide anything from you, but simply to
4 determine how certain issues will be handled. Please be
5 patient with us during such delays. We're only taking care to
6 ensure that the trial is being conducted fairly and according
7 to the law.

8 At times, you will also be required to wait in the
9 jury room while I am required to hear and decide other matters
10 from other cases not contested -- not connected with this one.
11 These delays are unavoidable. I do everything I can to keep
12 these interruptions to a minimum, but can never avoid them
13 entirely, so please be patient with us.

14 You are not to concern yourself in any way with a
15 sentence, which a defendant might receive if you should find
16 him guilty. Your function is solely to decide whether the
17 government has sustained and carried its burden of proving the
18 charges to you beyond a reasonable doubt. If, and only if,
19 you find the defendant guilty of the charges, it will become
20 the duty of the Court to pronounce a sentence.

21 The attorneys and the parties will not speak to you
22 because I've already instructed them. They must not do so.
23 When you see one of the lawyers in the hallway, for example,
24 or he or she -- and he and she does not speak with you, don't
25 think that the lawyer is being rude or cold or unfriendly, but

1 that lawyer is simply doing what I've ordered all the lawyers
2 in this case to do. It simply does not look appropriate for
3 one side or the other to be speaking with any of you no matter
4 how innocent or trivial that conversation, in fact, may be.

5 Until this case is submitted to you to begin your
6 deliberations, you must not discuss it with anyone at all,
7 even with your fellow jurors. After it's submitted, you must
8 discuss the case only in the jury room with your fellow
9 jurors.

10 It is important that you keep an open mind and not
11 decide any issue in this case until the entire case has been
12 submitted to you and you have received the final instructions
13 of the Court regarding the law, which you must apply to the
14 evidence.

15 Please keep a few principles in mind as we begin the
16 trial. First, again, your job is to decide all the factual
17 questions in the case; like who should be believed and who
18 should not be believed; how to decide all the legal questions
19 in the case, like what testimony or exhibits are received into
20 evidence and which are not received. Please do not concern
21 yourself with the legal questions.

22 The defendant has pled not guilty, and is presumed
23 to be innocent of the crimes charged. As such, the defendant
24 is not required to produce any evidence whatsoever. By
25 bringing the indictment, moreover, the government has accepted

1 the responsibility of proving the guilt of the defendant to
2 each of you, unanimously, beyond a reasonable doubt.

3 Finally, do not discuss this case with anyone. Keep
4 an open mind regarding each issue in the case until all the
5 evidence has been received. At that time, I will be able to
6 give you the final and complete instructions, which you must
7 use to guide you in reaching your decisions. Then and only
8 then, will you be fully prepared to begin your deliberations
9 and reach your verdict.

10 There's also been publicity about this case prior to
11 the beginning of this trial. The statements contained some of
12 the accounts may, of course, not be accurate, and may have
13 come from individuals who will not be present in the
14 courtroom, therefore, cannot be seen or evaluated by the jury
15 like all other witnesses, and will not be examined or
16 cross-examined by either of the parties under oath.

17 You, of course, must lay aside and completely
18 disregard anything you have heard, or read or heard about the
19 case, outside of this courtroom because your verdict must be
20 based solely and exclusively on the evidence presented here in
21 the court in accordance with my instructions to you at the
22 close of the case about the law you must apply to the
23 evidence.

24 To rely upon anything you see or hear outside of the
25 courtroom in reaching your verdict is a violation of your oath

1 as a juror.

2 The Court is also permitting each of you to take
3 notes during the course of this trial, and you should have
4 notebooks by now. You, of course, are not obligated to take
5 notes. If you do not take notes, you should not be influenced
6 by the notes of another juror, and rely upon your own
7 recollection of evidence.

8 Notes are only an aid to your recollection. You're
9 not entitled to any greater weight than actual recollections
10 or impressions of each juror as to what the evidence actually
11 is. Note-taking must not be allowed to interfere with the
12 ongoing nature of the trial or distract you from what happens
13 here in court.

14 Notes taken by any juror, moreover, are not evidence
15 in the case and must not take precedence over the independent
16 recollections or the evidence received in the case. And any
17 notes taken by any juror concerning this case should not be
18 disclosed to anyone other than a fellow juror, and should
19 remain in the jury room at the end of the day and not be
20 brought home with you.

21 So with those preliminary instructions, we will now
22 begin. We'll have opening statements.

23 MR. KEILTY: Thank you, Your Honor.

24 **OPENING STATEMENT**

25 MR. KEILTY: Good afternoon, ladies and gentlemen.

1 My name is Mike Keilty, and along with John Durham and
2 Brittain Shaw, we have the privilege of representing the
3 United States.

4 Before I begin, I just wanted to echo with what
5 Judge Trenga said to you, and thank you for your jury service
6 today.

7 Ladies and gentlemen, this is a false statements'
8 case, false statements that the defendant told to the FBI.
9 Lies that the FBI relied on in a historic investigation of
10 alleged collusion between United States citizens and the
11 Russian government. Lies that the FBI relied on as it used
12 its powerful authorities to conduct national security
13 wiretaps. Lies that the FBI should have uncovered, but never
14 did.

15 In September 2016, the FBI received a series of
16 reports from a former British intelligence officer by the name
17 of Christopher Steele. Now, these reports contain allegations
18 that candidate Donald Trump and members of his campaign were
19 communicating with the Russian government.

20 Some of you may recall that these reports became to
21 be known in the media as the Steele dossier. The evidence in
22 this trial will show that the Steele dossier would cause the
23 FBI to engage in troubling conduct that would ultimately
24 result in the extended surveillance of the United States
25 citizens. And the defendant's lies played a role in that

1 surveillance.

2 You see, ladies and gentlemen, the evidence will
3 show that the defendant was the primary source of the
4 information contained in the Steele dossier. And when
5 questioned by the FBI about the important parts of the
6 information he provided, he lied.

7 You see the FBI needed to know where the defendant
8 was getting his information. They needed to know so they
9 could evaluate that information and vet that information. So
10 agents asked him questions about his sources. And in two
11 important respects, instead of telling the agents the truth
12 about that information and those sources, the defendant lied.

13 And what were those lies? Well, there were two of
14 them. First, he fabricated a source. And second, he
15 concealed the source. So let's talk about each one of those
16 lies in turn.

17 First, the evidence in this case will show that the
18 defendant lied to the FBI about a telephone call he claimed to
19 believe was from a man by the name of Sergei Millian.
20 According to this defendant, despite having no contact with
21 Mr. Millian, Mr. Millian allegedly told him about an exchange
22 of information between the Trump campaign and Russian
23 government officials.

24 The government is going to prove to you, through the
25 defendant's own words and phone records, that this call never

1 took place. There simply was never a call. And you will hear
2 testimony from FBI agents that the information that this
3 defendant provided, allegedly from Mr. Millian, ended up in a
4 surveillance warrant against a United States citizen.

5 And you'll hear testimony that had the defendant
6 been truthful about Mr. Millian, the FBI would have been
7 required to advise the Court about the misrepresentations that
8 they put in that surveillance application that a federal judge
9 signed against a United States citizen.

10 Now, in December of 2016, the FBI eventually figured
11 out that the defendant, a Russian citizen living in
12 Washington, right here in Washington across the river, was
13 Christopher Steele's primary source of information for his
14 dossier. And you will learn, the evidence will show, that in
15 January of 2017, the FBI interviewed the defendant about his
16 role in the dossier. And as part of that interview, you will
17 learn the defendant was provided with an immunity agreement.
18 The only requirements of that agreement, the only requirements
19 was that the defendant provide complete and truthful
20 information, that he not withhold any information, and that he
21 not attempt to protect any person through false information or
22 omission. Those were the requirements of that immunity
23 agreement for the January 2017 interviews. And you will hear
24 testimony that, in fact, the FBI did interview the defendant
25 for three straight days in late January of 2017.

1 You'll hear testimony that the defendant was
2 represented by a lawyer, that he spoke excellent English, and
3 that these interviews consisted of a free-flowing
4 conversation. And you will learn that the evidence will show
5 that these FBI agents conducting these interviews had two
6 goals: first, to identify the defendant's sources for the
7 Steele dossier; and, second, to corroborate or refute
8 information that was in the dossier. Two goals: Identify
9 sources, corroborate or refute information in the dossier.

10 But you will learn that one item in particular was
11 very important to the FBI, the identity of an anonymized
12 individual in the dossier known as Source E. This is the
13 individual who allegedly told the defendant about the exchange
14 of information between the Trump campaign and Russian
15 officials. This is the allegation that ended up in four
16 surveillance warrants against a U.S. citizen. And the
17 evidence will show that the defendant told the FBI that Source
18 E was Sergei Millian. And you will hear testimony that the
19 defendant told the FBI that he had never spoken to or met
20 Mr. Millian prior to reaching out to him on July 21, 2016, by
21 email.

22 You will learn that the defendant told the FBI that
23 he reached out to Mr. Millian on two separate occasions, that
24 he never received the response back from Millian; wrote to
25 him, never received a response. The evidence will show that

1 the defendant told the FBI that despite getting no response
2 from Millian, that he received a phone call in late July 2016
3 from a Russian male who didn't identify himself, but who the
4 defendant claimed to believe was Sergei Millian. The
5 defendant told the FBI that this call was either from a
6 cellular phone number or an internet-based app. Now, the
7 defendant told the FBI that this call was a 10- to 15-minute
8 conversation. And we'll show, the government will prove that
9 this call never happened. There was never a call with Millian
10 or the person the defendant claimed to believe was Millian.

11 Now, during this call, again, Mr. Millian or the
12 person the defendant claimed to be Mr. Millian, allegedly told
13 the defendant that there was an exchange of information to
14 members of the Trump campaign and Russian government
15 officials, and that this exchange of information was being
16 facilitated by two Trump campaign figures. Some of these
17 names may be familiar to you: Paul Manafort and Carter Page.
18 The caller, who the defendant believed to be Millian, also
19 said that the Kremlin, the seed of the Russian government,
20 could help to get Trump elected. Again, we will prove to
21 you -- and I'll go through the evidence in a second -- we will
22 prove to you that this call never happened.

23 The evidence will show that the defendant also told
24 the FBI that during this purported call, he agreed to meet
25 Millian in New York in late July 2016, but then Millian never

1 showed up for this supposed meeting. Now, you'll hear
2 testimony that following the January 2017 interviews, a
3 decision was made in the FBI to make the defendant what is
4 known as a confidential human source, and you'll hear the term
5 CHS, confidential human source, and that is someone who gets
6 paid by the FBI to provide information, someone who gets paid
7 by the FBI to provide information. And you'll hear testimony
8 that the defendant was engaged as a source by the FBI, in
9 part, to continue the FBI's efforts and to identify his
10 sources and to corroborate or refute the evidence contained in
11 the Steele dossier.

12 Now, you're also going to hear evidence and
13 testimony that the defendant provided other information about
14 other Russian matters, some of which I believe you'll hear
15 testimony was useful to the FBI. But with respect to the
16 dossier information, the defendant was paid to identify his
17 sources, and the defendant was paid to provide evidence that
18 would corroborate the allegations in the Steele dossier. But
19 the evidence will show that the defendant could not provide
20 any corroboration through any information he provided.

21 You will learn that during his meeting as a
22 confidential human source with the FBI, the defendant again
23 repeated his lies about his purported call with Sergei
24 Millian. He repeated his lies on four separate occasions.
25 Ladies and gentlemen, we are going to prove to you, beyond a

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1 reasonable doubt, that the defendant never received a called
2 from Sergei Millian. We're also going to prove to you that
3 the defendant never received a 10- to 15-minute call from an
4 anonymous individual. It's a fabrication, and we are going to
5 prove that to you. How so?

6 First, we are going to show you the defendant's
7 emails with Sergei Millian and others from July and August of
8 2016. These emails will make it abundantly clear to you that
9 there was never a call. The defendant's very own words will
10 show that there was never a call to say nothing of a meeting
11 in New York which Millian supposedly skipped out on. The
12 government will walk through these emails with Supervisory
13 Intelligence Analyst Brian Auten and FBI Special Agent Kevin
14 Helson. You will get to see for yourself the defendant's own
15 words with Mr. Millian. These emails will prove to you that
16 there was never a late July call, and these emails will prove
17 to you that there was never information passed by Mr. Millian
18 about the Trump campaign and the Russian government.

19 So without more, these emails will show there was
20 never a call with Millian, but there is more. You're going to
21 see phone records. The defendant's own phone records will
22 make it abundantly clear to you that he never received a call
23 from somebody he claimed to believe was Sergei Millian. In
24 fact, the evidence will show that the defendant never received
25 a 10- to 15-minute call in late July from any unidentified

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1 individual. FBI Supervisory Special Agent Ryan James is going
2 to walk through those phone records with you in detail, and
3 you'll see there was never a call with any number associated
4 with Sergei Millian, and there was never a 10- to 15-minute
5 call with any anonymous unidentified individual.

6 Now, you will learn from FBI Special Agent Kevin
7 Helson -- now, Agent Helson is what was referred to as a
8 handling agent in the FBI. So I told you that the defendant
9 was a source for the FBI. Agent Helson was his handling
10 agent. He conducted the interviews with the defendant during
11 their meetings. And you will learn from Agent Helson that he
12 asked the defendant for phone records, explicitly asked the
13 defendant for phone records that could corroborate his call
14 with Sergei Millian. The evidence will show that the
15 defendant produced nothing, no cell phone records, no records
16 of any internet apps such as WhatsApp, for example, or Signal
17 or Telegram, no records, none, from a purported call that took
18 place only six months before the interviews.

19 To that end, Agent James will also show you emails
20 that demonstrate that when the defendant did want somebody to
21 call him using an internet-based app, he would explicitly tell
22 that person which app to use. And the evidence will show that
23 the defendant's initial email to Sergei Millian, his initial
24 reach-out on July 21, 2016, said nothing about the use of an
25 internet app. The evidence will show that email simply

1 provided his cell phone number and an email.

2 Ladies and gentlemen, the evidence in this case will
3 plainly demonstrate to you that the defendant never received a
4 call from Sergei Millian or somebody that he claimed to be was
5 Sergei Millian.

6 So why were the defendant's false statements about
7 Sergei Millian important? Why are we here? Because they
8 related directly to the FBI's investigation of a U.S. citizen
9 by the name of Carter Page. The evidence will show that the
10 information the defendant attributed to Sergei Millian partly
11 formed the basis for a surveillance warrant against Mr. Page,
12 a U.S. citizen. You see, the FBI was investigating Mr. Page's
13 connections to the Russian government. The evidence will show
14 as part of that investigation, the FBI wanted to secure what's
15 called a FISA warrant, F-I-S-A, Foreign Intelligence
16 Surveillance Act warrant. A FISA allows the government to
17 monitor the calls and emails of a subject that they believe to
18 be acting at the direction of a foreign government. They can
19 monitor the call in realtime and they can monitor the emails.
20 This is an incredibly powerful tool that the FBI has.

21 The evidence will show that the information the
22 defendant purported to receive from Sergei Millian about
23 Carter Page was put in the FISA application against Mr. Page.
24 And you will learn that on four separate occasions, a federal
25 judge approved that surveillance warrant in part because of

1 the defendant's lies and the information he attributed to
2 Mr. Millian. Importantly, despite this surveillance, the
3 evidence will show that Mr. Page was never charged with any
4 crime.

5 Now, why was the lie important? You will learn that
6 the FBI has an affirmative obligation to alert the Court about
7 any misrepresentations or errors that are contained in a FISA
8 warrant. So if the defendant had been truthful about
9 Mr. Millian and the allegations he attributed to Millian, the
10 government would have been under an obligation to go to the
11 Court and tell the Court about the misrepresentations the
12 government had made in each and every one of those four FISA
13 applications. Ladies and gentlemen, the government and the
14 FBI surveilled Mr. Page for nearly a year. But that never
15 happened. The FBI never corrected the error. The FBI never
16 corrected the information that allegedly came from Sergei
17 Millian. And, again, the FBI surveilled Mr. Page for a year,
18 in part, based on this defendant's lies.

19 The bottom line is that the evidence will show that
20 there was never a call with Sergei Millian. There was never a
21 call with someone this defendant believed to be Sergei
22 Millian. Emails will prove it and the phone records will
23 prove it, and those lies mattered.

24 Now, the defendant's lies against Mr. Millian form
25 the basis of Counts 2 through 5 of the indictment under review

1 by you. So let's talk about another lie the defendant told
2 the FBI. The evidence will show that on June 15, 2017, the
3 defendant concealed another source of information by telling
4 the FBI that he had never spoken to an individual by the name
5 of Charles Dolan about anything specific in the Steele
6 dossier. The evidence will show that that was a lie. The
7 defendant had, in fact, spoken with Mr. Dolan over email about
8 something very specific, and that item ended up in the Steele
9 dossier. Indeed, in an August 19, 2016, email, the defendant
10 asked Mr. Dolan to provide information, truth, rumor or
11 allegation about Trump campaign manager, Paul Manafort. And
12 the defendant told Mr. Dolan he was working on a very
13 important project against Donald Trump. And you will learn
14 that the very next day Mr. Dolan delivered. Mr. Dolan did
15 provide the defendant with information about Paul Manafort.
16 And that information that Mr. Dolan provided ended up in a
17 Steele report two days later. You will see the defendant's
18 emails with Mr. Dolan, and you will see the Steele report that
19 reflects that information. You will see both of those.
20 Decide for yourself whether that information Mr. Dolan
21 provided mirrors the information two days later that appeared
22 in the Steele dossier.

23 Ladies and gentlemen, you will get a chance to hear
24 from Mr. Dolan in this case. So why was the defendant's lie
25 about Mr. Dolan important? Again, like Mr. Millian, why are

1 we here? As an initial matter, you will learn that if the
2 defendant had been truthful about Mr. Dolan being a source for
3 the dossier, the FBI would have learned that Mr. Dolan was the
4 only current US-based source for the dossier. And you will
5 hear testimony that had the FBI known that Dolan was a source
6 for this information, it's likely they would have taken
7 additional steps to further understand his role in the
8 dossier.

9 Now why is that? Because even prior to the
10 defendant's lie about Mr. Dolan in June of 2017, the FBI had
11 more questions than they did answers on Charles Dolan. First,
12 you will hear testimony that Dolan was present in Moscow with
13 the defendant in June of 2016 at the very time this defendant
14 told the FBI he was collecting information for the Steele
15 dossier. And you'll see evidence that Mr. Dolan was also in
16 Moscow with the defendant in October of 2016 at a business
17 conference.

18 Second, you're going to learn that Mr. Dolan
19 maintained a business relationship with another individual who
20 the defendant used as a source for the Steele dossier. Third,
21 you're going to learn that Dolan maintained relationships with
22 several senior Russian government officials which he had
23 garnered through his 20-something years as a public relations
24 professional.

25 And, finally, you will learn that Charles Dolan was

1 a long-time Democratic political operative who had worked on
2 every U.S. presidential campaign from Jimmy Carter to the
3 present.

4 To that end, with all that information, you will
5 learn the FBI requested that Agent Helson asked the defendant
6 about Charles Dolan. And the evidence will show that on
7 June 15, 2017, Special Agent Helson asked the defendant
8 whether he had spoken with Mr. Dolan about anything, anything
9 specific in the dossier, and the defendant denied that he had
10 spoken with Mr. Dolan about anything specific in the dossier.

11 Ladies and gentlemen, this interview is recorded.
12 You're going to get to hear for yourself the defendant's lies.
13 And you will learn the context of Agent Helson's questioning
14 of the defendant.

15 Now, you're going to hear from four FBI witnesses
16 about Mr. Dolan. And you will learn through each one of them
17 that they had questions about Charles Dolan. And based on
18 those questions, you will learn that Supervisory Intelligence
19 Analyst Brian Auten and another FBI special agent, by the name
20 of Amy Anderson, that prior to the defendant's lie, the FBI
21 was trying to figure out what was Charles -- Charles Dolan's
22 role in the dossier.

23 What were his connections to the dossier? We have
24 all this information, but what were his connections? And you
25 will learn that that information and those connections

1 triggered the FBI to ask the defendant about Charles Dolan.
2 You're also going to hear from a former FBI intelligence
3 analyst by the name of Brittany Hertzog. You will learn that
4 she was the analyst who conducted -- who collected information
5 from various FBI databases that demonstrated the defendant's
6 connection to Charles Dolan, his relationship to Charles
7 Dolan, and his relationship to another source of the
8 defendants.

9 The evidence will show that Ms. Hertzog, the former
10 FBI intelligence analyst, prepared a lengthy report about
11 these relationships; the defendant's relationship with Charles
12 Dolan, and Charles Dolan's relationship with Russian
13 government officials, and Charles Dolan's relationship with
14 another source of this -- from the dossier of this defendant.

15 Finally, you're going to hear from Special Agent
16 Kevin Helson, and I told you before, he was the defendant's
17 handling agent. You will learn that Agent Helson had so much
18 interest in Charles Dolan that he asked permission to
19 interview Mr. Dolan, but you will learn that the FBI didn't
20 interview Charles Dolan.

21 Agent Helson will explain to you why the defendant's
22 lie was important and what steps the FBI may have taken if
23 this defendant had been truthful about Charles Dolan's role as
24 a source for this Steele dossier.

25 Now, the information about Charles Dolan relates to

1 Count 1 of the indictment. Ladies and gentlemen, throughout
2 this case, you will hear testimony that the FBI often relies
3 on human sources when conducting investigations. When those
4 sources lie, it corrupts the process and functions of the FBI.

5 You will learn that lies can cause the FBI to wield
6 their powers too aggressively, and you will also learn that
7 lies can cause the FBI to not act aggressively enough. And
8 you will see examples of both -- both of those situations here
9 in this trial. And you will learn that the FBI -- look, the
10 FBI should have taken certain actions in this case. And the
11 evidence will show that if they had taken those actions, they
12 may very well have uncovered the defendant's lies.

13 Now, ladies and gentlemen, you've been asked to
14 decide a very simple case. A lot of facts and a lot of
15 information, but ultimately, a simple case. You've been asked
16 to decide whether the defendant lied to the FBI and whether
17 those lies could have affected the actions of the FBI. This
18 case is about protecting the functions and integrity of our
19 government institutions.

20 Now, questions about what the FBI actually did or
21 failed to do in this case, are not something you have to
22 decide. Rather, what you will be asked to do, indeed, what is
23 your duty to do, is to determine whether the defendant made
24 false statements to the FBI that either had the natural
25 tendency to influence the actions of the FBI or was capable of

1 influencing the actions of the FBI.

2 At the end of this trial, Judge Trenga is going to
3 instruct you on the law. Please listen to him very carefully.
4 The law the defendant is accused of violating is intended to
5 protect the government from both the real and potential
6 effects of materially false statements.

7 Importantly, it even covers material false
8 statements, whether or not they actually had any influence on
9 the government, and that makes sense. By way of analysis, the
10 bank robber doesn't get a free pass simply because the
11 security guards were asleep. You will hear evidence in this
12 case that the FBI should have done certain things, but they
13 simply didn't.

14 Now, after all the evidence is in, the government
15 will have a chance to speak with you again. But between now
16 and then, please do three things: First, please pay close
17 attention to the evidence, and I know you will, both at the
18 beginning of trial, all the way through the end of trial.
19 Second, please listen carefully to Judge Trenga's instructions
20 on the law. They are really important. And third, use your
21 common sense. The same common sense that each and every one
22 of you as Virginians use every single day.

23 Ladies and gentlemen, unlike your cell phones, you
24 didn't check your common sense at that courtroom door. If you
25 do all three of those things, the defendant will get a fair

1 trial, the government will get a fair trial, and I am
2 confident that each and every one of you will reach the only
3 conclusion that is consistent with both the facts and the law,
4 which is that the defendant is guilty as charged.

5 Thank you for your attention.

6 THE COURT: Thank you.

7 **OPENING STATEMENT**

8 MR. ONORATO: May it please the Court and government
9 counsel.

10 Ladies and gentlemen of the jury, good afternoon.
11 Let me be crystal clear from the outset, Igor Danchenko is not
12 guilty. Igor Danchenko committed no crime. During the course
13 of the next few days, you're going to agree and conclude that
14 Igor Danchenko did not lie to the FBI. Igor Danchenko did not
15 mislead the FBI. And finally, the government has no evidence
16 to come into this courtroom and argue with a straight face
17 that the statements you're going to hear about are false.

18 Indeed, the evidence is going to show the exact
19 opposite. His statements were truthful. I want to repeat
20 myself. The evidence is going to establish that Igor
21 Danchenko told government agents the truth when he was asked
22 about two simple things about the Steele dossier. The first
23 is whether he had talked, talked -- so listen to that word
24 "talked" -- to a man named Charles Dolan about anything in the
25 Steele dossier. He told the truth.

1 Second, he was truthful when he said that he
2 received an anonymous phone call in July of 2016, and he
3 formed the subjective belief that it could have been a person
4 from a named Sergei Millian, who, in context, that's who he
5 concluded it could have been. The facts will show, not only
6 were his conclusions reasonable, but they are actually
7 probably correct. And if that wasn't enough, the government's
8 theory of materiality in this case is nonexistent.

9 My name is Danny Onorato. Along with my colleague
10 Stuart Sears, we represent Igor Danchenko. Ladies and
11 gentlemen of the jury, I submit to you that after you hear the
12 evidence and you apply the law, as Judge Trenga will instruct
13 you, there is only one fair verdict that must be rendered on
14 all counts, and that is: He is not guilty.

15 The story here is quite simple. The harder part for
16 you will be how to figure out how the prosecution wants you to
17 conclude that he's guilty based on evidence that falls his
18 way.

19 Here are the basics: Igor Danchenko was working as
20 a business analyst, he was put in touch with a fellow named
21 Christopher Steele, and the two had a business relationship
22 with Mr. Danchenko with work projects for Mr. Steele.

23 In late spring of 2016, Mr. Steele asked
24 Mr. Danchenko to get information related to the November 2016
25 presidential election. Mr. Danchenko gave that information to

1 Mr. Steele, not knowing what Mr. Steele would do with that
2 information.

3 Six months later, some of that material provided by
4 Mr. Danchenko wound up -- wound up in what's called "the
5 Steele dossier." Within two weeks of that document being
6 published, the FBI contacted him, and he voluntarily agreed to
7 meet with them. So think about that. He went in, and he met
8 with them voluntarily.

9 And I want you to consider a false statement, which
10 you heard about 10 minutes ago from Mr. Keilty. He told you
11 that Mr. Danchenko was given immunity. That's a lie. He just
12 lied to you. You look at Government's Exhibit 118 that
13 they're going to admit.

14 And I read to you, it says [as read]: As a
15 preliminary matter, I must advise you that the government does
16 not intend by this letter to grant your client immunity from
17 prosecution.

18 And he just told you the opposite. So you think
19 about that when you consider the government's case.

20 At every point in this trial, the evidence is going
21 to show that Mr. Danchenko did not lie. With that in mind,
22 I'd like to give you a road map about what I'm going to talk
23 about, and I'll try to be brief.

24 So first of all, I'm going to give -- and it's on
25 your screens, I believe -- a brief overview of the charges of

1 the law, background about the Crossfire Hurricane case,
2 information about the meetings with Mr. Danchenko and the FBI
3 that formed the basis of the allegations. I'm going to give
4 you some information about the tremendous and remarkable
5 service he provided to the United States of America, and then
6 I will conclude.

7 Number one, an overview of the charges and the law,
8 and as Mr. Keilty said, there are five counts. And so, for
9 Count 1, you must decide simply whether the government can
10 prove, knowing that it was untrue, okay, that Mr. Danchenko
11 willfully, knowingly, and intentionally lied, and that those
12 lies were material when he told an FBI agent named Kevin
13 Helson that he had not, quote, talked with a man named Charles
14 Dolan about anything specific in the Steele dossier. And I
15 want you to listen carefully to the evidence there. The
16 evidence is going to support showing that Mr. Danchenko is
17 innocent.

18 In other words, Mr. Danchenko answered that question
19 truthfully. And the law requires you to find him not guilty
20 based on that evidence. In other words, a truthful statement
21 to an FBI agent simply cannot be false. It cannot be a crime.
22 And that statement was not material or capable of influencing
23 any type of government investigation or decision, which the
24 judge will talk to you about later.

25 Counts 2 through 5 are likewise simple. And they

1 are based on conversations with, again, Kevin Helson. And
2 here is what the government is intending to prove: Based on
3 the facts and circumstances that it was false when
4 Mr. Danchenko said that he believed -- he believed that he
5 received a telephone call from a person he identified from
6 Sergei Millian.

7 And what I heard Mr. Keilty say is they are going to
8 prove there was no phone call, and he said by cellular phone
9 records. But I didn't hear him mention anything about phone
10 apps because the government doesn't have phone app records.
11 And what he also said is that Mr. Danchenko didn't come
12 forward and provide phone app records to the FBI. Well, Judge
13 Trenga is going to tell you one thing, and it is the most
14 fundamental thing in the justice system. He doesn't have a
15 burden of proof. The special counsel does. And they have the
16 burden of proving the phone call didn't occur. He doesn't
17 have a burden of proving it did occur, and they can't do that.

18 And so, what Mr. Danchenko is going to tell -- what
19 you're going to hear from Mr. Danchenko, through the agents,
20 is that he came to that belief based upon common-sense facts.
21 Mr. Keilty told you to keep your common sense, and I invite
22 you to do that. When you hear that evidence, you're going to
23 conclude that he is not guilty of the remaining counts.

24 Okay. Backfire -- Crossfire Hurricane. So I didn't
25 quite follow what Mr. Keilty's point was, but prior to July of

1 2016, a friendly foreign government warned the government that
2 a high-level policy person in Donald Trump's campaign named
3 George Papadopoulos suggestion -- suggested that Russian could
4 provide damaging information about Hillary Clinton and Barack
5 Obama. Had nothing to do with Igor Danchenko. And the
6 government's going to agree with that and the evidence is
7 going to show that. Immediately, the government started to
8 investigate.

9 They did investigate Papadopoulos. They did
10 investigate Manafort. They did investigate Carter Page, and
11 they did investigate Sergei Millian, and that was in the
12 August of 2016.

13 Now, I think Mr. Keilty told you that the FBI didn't
14 even meet with Mr. Danchenko until January of 2017. So
15 whatever the FBI did between August of 2016 and January of
16 2017, had nothing do with him, and it's irrelevant from this
17 case.

18 To sum it up, those investigations began completely,
19 and the undisputed evidence will show it, unrelated to the
20 opening Crossfire -- the opening of the Steele dossier
21 investigation, and unrelated to Crossfire Hurricane at the
22 time.

23 Now, information from the dossier did get passed
24 over to the government. They did begin investigating it in
25 September of 2016. And by December of 2016, they found out

1 that Mr. Danchenko had been working with Mr. Steele.

2 So let's turn to point No. 4, and this is where we
3 start to talk about the interviews in 2017, Mr. Danchenko and
4 the Government. On January 10th of 2017, the Steele dossier
5 was published on a website called BuzzFeed, and it became
6 significant news at the time.

7 Two days later, you are going to see evidence that
8 two days later, FBI agents got together, and they said, we
9 want to go talk to Igor Danchenko, but we want to make him a
10 confidential human source. We want to work with Igor
11 Danchenko. He didn't even know that at the time.

12 The evidence is going to show that this is the
13 background leading up to his meeting with the FBI from January
14 24th to January 26th. He then corroborated with him
15 extensively for not one years, not two years, not three years,
16 but nearly four years, providing extraordinary cooperation to
17 the United States of America as a confidential human source.

18 The evidence will show that Mr. Danchenko was
19 stunned when he learned that portions of the information that
20 he gave to Mr. Steele were in the dossier. He didn't write
21 anything in the dossier. So the FBI asked him to meet, and he
22 went, and he met, and he was cooperative.

23 Nevertheless, when he went in that meeting, not
24 knowing exactly what he was going to be asked, he gave the FBI
25 truthful information. And Mr. Keilty told you you'll hear

1 from Brian Auten. Brian Auten is an FBI Intel analyst, and he
2 met with Mr. Danchenko along with another agent named Steve
3 Somma for those three days. The evidence is going to show
4 that Auten is a supervisory intelligence analyst, and his role
5 is to kind of connect the dots by making inferences. That's
6 important in probability calculations when he gets facts and
7 he gets facts from witness interviews; he gets facts from open
8 source, you know, newspaper articles that we all read every
9 day, and that's going to be important related to the Dolan
10 count. He gets information from intelligence reports as well.
11 He also told you that Mr. Danchenko told him the same thing,
12 Danchenko is likewise an analyst.

13 And so, analysts look at facts and reach
14 conclusions. And the evidence is going to show that
15 Mr. Danchenko drew a reasonable belief based on facts and
16 circumstances presented to him with regard to Mr. Millian.

17 Agent Auten will tell you that the interview with
18 Mr. Danchenko was not, quote, designed to be a finished
19 intelligence product. He will also tell you Steve Somma, one
20 of the other agents, said not to probe or ask a lot of
21 follow-up questions with Mr. Danchenko, because the purpose of
22 the meeting was to get him to cooperate. And that reason is
23 simple, because you're going to hear evidence that the FBI has
24 problems recruiting sources with connections in that area of
25 the world, and it was important to get the cooperation of

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1 Mr. Danchenko.

2 FBI agent -- Analyst Auten will tell you that this
3 was not, quote, a major debriefing in his mind, and that Somma
4 said that they could follow up with him if they wanted to
5 later on. With that backdrop, with that backdrop, over the
6 course of the next three days, Analyst Auten, and Agent Somma
7 did not ask -- now, listen to me when I say this -- they did
8 not ask a single question about what is called Report 105.
9 And when you heard Mr. Keilty talk about Charles Dolan, that's
10 what they were talking about. It's going to be 105. The
11 government believes that that has to do with Mr. Dolan. You
12 heard me correctly. In that three-day interview where he was
13 supposed to tell the truth, they didn't ask a single question
14 about that.

15 How could that be relevant in any investigation?
16 And there's an answer why that question wasn't asked: Because
17 it was a widely-known open secret that that information was
18 all in the public domain.

19 Now, what are they going to focus this case on? It
20 really relates to the Millian counts. And although
21 Mr. Danchenko discussed that material on the 24th and 25th of
22 January, no charges stem from that interview. They stem from
23 charges -- from meetings later on where he repeats the same
24 information. So, really, you have to consider what happened
25 on the 24th and what Investigator Helson tells you later.

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1 During this trial, you're going to hear and you're
2 going to see evidence that is going to eviscerate -- I say
3 eviscerate -- any claim that Mr. Danchenko was anything but
4 untruthful -- but truthful when he formed a subjective belief
5 that he received a phone call in July of 2016 from someone he
6 thought was Mr. Millian. And the evidence will show that was
7 the only fair reading of what Mr. Danchenko believed at the
8 time. The evidence is going to prove that he was -- he told
9 the government -- and no one is going to say, Hey,
10 Mr. Danchenko, who called you? He didn't say, Sergei Millian
11 called me. 100 percent, a thousand percent, he said, Look, I
12 got an anonymous phone call. He said I got an anonymous phone
13 call, I don't know who called me, but I'm connecting certain
14 facts, okay, facts known to him, facts that he told the FBI,
15 and I came to the conclusion that it probably could have been
16 Millian. That's what I believe, okay. So the answer to the
17 question was, I don't know who called me. But, he speculated,
18 and he speculated not to hinder the investigation, but,
19 rather, to help it. This information was designed to help the
20 agents. So on those days, he spoke truthfully, in the
21 simplest and plainest terms, why he believed that call was
22 from Millian.

23 Here's what the FBI was told: He said in May of
24 2016, a Russian journalist had a conversation with
25 Mr. Danchenko and that journalist said, Hey, you should talk

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1 to Sergei Millian. There's no evidence that Mr. Danchenko
2 even knew who he was in May of 2016. There is going to be
3 undisputed evidence that evidence is not a lie, and it is, in
4 fact, true.

5 In May of 2016, that journalist asked a colleague of
6 his named Dmitri Zlodorev to see if Zlodorev could reach out
7 to Millian so that there could be a connection between
8 Mr. Danchenko and Mr. Millian. Again, there is indisputable
9 evidence that that happened. You're going to see concrete
10 evidence that those two facts occurred.

11 You're going the see concrete evidence that on July
12 21st, Mr. Danchenko sent an email to Mr. Millian, and he
13 requested an opportunity to meet with him in New York or
14 Washington, D.C. Mr. Danchenko reminded Millian that he had
15 also sent him a LinkedIn message. There is undisputable
16 evidence that that is true. He did not lie. Shortly
17 thereafter, Mr. Danchenko received an anonymous phone call,
18 had a discussion with someone for 10 to 15 minutes, as
19 Mr. Keilty said, and there was a discussion about potentially
20 meeting up in New York the following week.

21 Mr. Danchenko told the truth about that call. And
22 remember when I talked about the burden shifting? They have
23 to prove to you that a call was not completed via a mobile
24 app, you know, some type of mobile app that you use. Because
25 the evidence is going to show if you want to be anonymous,

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1 because you're not sure if you want to meet with someone, why
2 would you identify who you are if you're trying to feel that
3 person out? The evidence will show he didn't lie and they
4 have the burden of proving he didn't get a call, and they
5 can't do it.

6 Now, Mr. Danchenko told the agents that he traveled
7 to New York City, okay, in late July of 2016 with his
8 daughter. And guess what? There are records from Amtrak that
9 prove that on July 25th, he bought a train ticket after
10 getting the anonymous call; he traveled to New York City on
11 July 26th, and he remained there for two days. That was the
12 truth, and that is a lie, and the government cannot disprove
13 that.

14 Now, one thing that we agree on is that when
15 Mr. Millian -- when Mr. Danchenko was in New York, Mr. Millian
16 didn't appear for the meeting. Mr. Keilty told you that, and
17 I agree with him.

18 Now, the other thing that Mr. Danchenko told him is
19 that -- he said, Look, guys, after he didn't show up to that
20 meeting, I tried to pitch a real estate deal to Millian, so I
21 made up a real estate, I sent him an email in hopes that he
22 would contact me, and Millian never replied to them. And he
23 actually gave that email to the government in July -- in
24 January of 2017. The evidence is going to show that he told
25 the FBI the truth about everything.

1 And based upon that evidence, Mr. Danchenko was not
2 incorrect in his subjective belief that the anonymous caller
3 could have been Mr. Millian. Based on these facts and
4 circumstances, he formed the belief that it was probably
5 Millian who was the anonymous caller, but he never said it
6 definitely was. And that's all the government hears. He said
7 I'm not sure. There are two different things. He drew a
8 commonsense conclusion based on facts, and his subjective
9 commonsense belief cannot be false. The evidence will show
10 that Mr. Danchenko represented those same facts to Agent
11 Helson over the course of four different meetings; and, again,
12 he's not guilty of those facts.

13 What you're going to find ironic, and it's going to
14 be one of the government's first witnesses, is that Brian
15 Auten, the Intel analyst, is going to say that Mr. Danchenko
16 after he was done with the debriefing, never thought that
17 Mr. Danchenko minimized or, rather, lied about who his sources
18 were from the dossier, okay. He drew the opposite conclusion
19 and he met with them. These guys didn't meet with him.
20 They've never met with him. He's going to tell you, based on
21 his discussions with them, and his questions of him, he
22 believed he was truthful. He drew the opposite conclusion
23 based on facts that the government is trying to prove. His
24 impression was, Look, maybe Danchenko was minimizing his
25 relationship with this guy Millian, but not fabricating it.

1 Now, six years later -- now, six years later, playing Monday
2 morning quarterback, the special counsel wants to come in and
3 try to prove the exact opposite proposition which the evidence
4 doesn't support. And listen to this, okay, when you hear the
5 evidence presented during the course of the July timeframe
6 that Mr. Danchenko himself was unaware of, you're going to
7 have a stronger belief and conclusion that the caller was
8 probably Mr. Millian, stronger than the one that he had at the
9 time. The proof will be that he did not lie.

10 Now, with respect to Count 1, that's the Dolan
11 matter that they did not ask him anything about Number 105.
12 They're going to hear evidence that Special Agent Helson had
13 the most basic and rudimentary conversation with Mr. Danchenko
14 about Charles Dolan. And that's what forms the basis of this
15 charge. The evidence is going to be pretty simple. Helson
16 asked Mr. Danchenko whether he, quote, talked to Mr. Dolan
17 about anything specific in the dossier, okay. He asked him if
18 he talked about it. Danchenko replied that he had not talked
19 to Dolan about anything specific, maybe just generally.
20 Nothing specific, maybe just generally. That is it; nothing
21 more, nothing less.

22 Agent Helson never bothered to ask Mr. Danchenko a
23 simple clarifying question about, Wait a minute, when you
24 talked about something general about the dossier, what gives,
25 what was that? Okay. Never followed up on it. Now, again,

1 some six years later, the special counsel team has come before
2 you with a convoluted theory based on the evidence, and
3 they're going to tell you, they're going to try to convince
4 you that that truthful answer is somehow false. And their
5 so-called proof is that they have a, quote, written, written,
6 okay, a written email exchange between Mr. Danchenko and
7 Mr. Dolan in August of 2016 on a topic that appears widely
8 known in the press.

9 The evidence will show that their claim fails for
10 commonsense reasons. First of all, the evidence will show
11 that when -- I'm talking right now; I'm not writing to you.
12 We will all agree with that. And so, that would be a lie if I
13 said I'm writing to you. But that's what the government is
14 going to try to prove to you in this case. The special
15 counsel will try to get you to take the meaning of "talk" and
16 twist it into something that it is not.

17 And the questions weren't asked properly, and that's
18 not his fault, because the law, as you'll hear it, requires
19 them to be precise in terms of what they want to know.
20 Special Agent Helson did not ask him whether there was
21 communication. And so, I'm going to invite you to do this,
22 because Mr. Keilty told you, Well, he was, you know,
23 cooperating with the government so he had an obligation to do
24 these things. You see if they produce a contract -- you see
25 if they produce a contract with Mr. Danchenko where they say,

1 Mr. Danchenko, when we say did you talk to someone, I want to
2 know if you've ever emailed him, I want to know if you've ever
3 been to his house for dinner, everything else in the world, or
4 you just answer the question that's posed. Because they don't
5 have evidence. They don't have a piece of paper to state that
6 Mr. Danchenko's going to have the same understanding of what
7 they're asking.

8 Of course, the government cannot prove a plausible
9 or rational reason why there was no follow-up on this, and the
10 failure to simply follow up on that is not Mr. Danchenko's
11 fault.

12 Let's talk about Mr. Danchenko, what he did do with
13 the government and with Mr. Helson. The evidence at trial is
14 going to show that Igor Danchenko courageously, loyally, and
15 honestly served the national security interests of the United
16 States for four years. His accomplishments as an FBI source
17 are unparalleled. And you're going to hear evidence to
18 support that. These are going to come in the form of two
19 government witnesses. Kelvin Helson will state that he
20 provided critical intelligence to the Russian government's
21 efforts to conduct influence operations in the U.S. Brian
22 Auten agreed with this statement under oath. One of the
23 upshots of Crossfire Hurricane was that the FBI built a
24 relationship with Igor Danchenko. He provided the FBI into
25 insight into individuals, into areas it was otherwise lacking

1 because of difficulty with which the FBI recruiting people
2 from that part of the world.

3 Agent Helson said that not only was he a productive
4 source, but that information, when asked a question, was
5 corroborated. And -- if you bear with me for one second.
6 When he was asked if that information was corroborated, and
7 excuse my words, Mr. Helson said, and I apologize, [as read]:
8 Holy shit. This is actually real. Helson observed that
9 Danchenko was able to suck in a lot of information, process
10 it, and give it back. I was like, wow, that's actually
11 important.

12 And lastly, on August 12th of 2019, Helson wrote in
13 a government report, and listen to this [as read]:
14 Mr. Danchenko's reporting will have serious national security
15 implications. He is reporting on a top five threat within
16 your division to another government agent. That is the man on
17 trial.

18 In sum, in order for this offset of Special Counsel
19 to prove this case beyond a reasonable doubt, you're going to
20 have to do the unthinkable, and something that is frankly
21 wrong. The evidence will have you defy common sense, logic,
22 and reality; things that you can't do as jurors.

23 You would have to redefine the common sense,
24 everyday use of the word "talk." Yes, they want you to
25 disregard the commonsense notion of what talking means, and

1 that is in a oral communication. And they now want you to
2 find that "talking" means a writing. They are wrong.

3 In order to convict Mr. Danchenko of Counts 2 to 5,
4 they want you to suspend reality. They want you to become
5 mind readers, and they want you to go into Mr. Danchenko's
6 mind and how he interpreted facts that were presented to him.

7 Of course, the law doesn't let you rewrite the
8 dictionary with respect to Count 1. And likewise, the
9 government cannot, six years later, sustain its burden of
10 proof that Danchenko's beliefs were real based on undisputed
11 evidence.

12 The facts, the law, and principles of fundamental
13 fairness are the pillars of our criminal justice system. When
14 you apply the facts, the laws, and the evidence to this case,
15 there's simply only one verdict that you can unanimously reach
16 and that is a guilty -- or of -- that is a verdict that
17 Mr. Danchenko is not guilty of each and every charge.

18 Again, our jury system relies on you to do the right
19 thing and that's what we ask of you. Thank you.

20 THE COURT: Thank you, counsel. Ladies and
21 gentlemen, we're going to take a 15-minute recess before we
22 begin with the first witness. You're excused to the jury
23 room. Please do not discuss this case among yourselves.

24 (Jury excused.)

25 THE COURT: Who is the government's first witness?

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1 MR. DURHAM: Brian Auten, Your Honor.

2 THE COURT: How long do you anticipate his direct
3 testimony to be?

4 MR. DURHAM: I think that Mr. Auten's testimony,
5 direct and cross, is likely to consume at least the balance of
6 the day.

7 THE COURT: All right. All right. Thank you.

8 MR. DURHAM: Your Honor --

9 THE COURT: Yes.

10 MR. DURHAM: -- if I might be heard. I'm not sure
11 how to remedy this, but Mr. Onorato felt it necessary to say
12 that the jury -- that the government lied and talked about
13 immunity agreement.

14 Now, Counsel has been provided with a copy of a
15 document dated January 24, 2017. It's Government's
16 Exhibit 118. It's signed by folks from the National Security
17 Division as well as the defendant. And that document clearly
18 sets forth that the defendant was being provided information,
19 and was protected on provisions on Title 18, United States
20 Code, Section 6001, that section, which is immunity.

21 So for the defense counsel to stand here and tell
22 this jury that the government lied is highly inappropriate.
23 And I'll ask the Court to give instructions to the jury to
24 disregard that because it's untrue.

25 THE COURT: I'll review the letter. I'm going to

1 read this letter. I will decide how to proceed on that.

2 Anything further? All right. Court is in recess.

3 (Recess.)

4 (Court proceedings resumed at 2:46 p.m.)

5 THE COURT: All right. I've looked through this
6 letter. I think the jury does need to be told something.

7 What do you propose the jury be told, Mr. Durham?

8 MR. DURHAM: The government would propose that
9 defense counsel stated that the government lied regarding an
10 immunity letter, and the evidence in this case will prove that
11 that's not the case.

12 And, in fact, Mr. Danchenko was given an immunity
13 letter pursuant to 18 U.S.C. Section 6001, so they should
14 disregard that comment by counsel because it's untrue.

15 MR. ONORATO: May I be heard, Your Honor?

16 THE COURT: Well, are you done, Mr. Durham?

17 MR. DURHAM: Yes.

18 THE COURT: All right.

19 MR. ONORATO: Mr. Keilty gave the impression that
20 Mr. Danchenko believed he had immunity, and my reading of that
21 letter says that he doesn't have immunity --

22 THE COURT: Well, it says he has use immunity. He
23 doesn't have transactional immunity. He has use immunity.
24 That's an immunity agreement.

25 MR. ONORATO: Correct. Well, in his mind, he can

1 still be prosecuted. It's just that the government had to --

2 THE COURT: Well, you didn't phrase it in terms of
3 what Mr. Danchenko thought. You said the government lied
4 when --

5 MR. ONORATO: It was --

6 THE COURT: The government lied when -- when they
7 told the jury that they had provided him with an immunity
8 agreement.

9 It needs to be corrected. I don't want to prejudice
10 Mr. Danchenko because of his counsel's improper remarks, and
11 I'm trying to think of what I should say.

12 MR. ONORATO: Well, what I think is -- what I think
13 is fair is that -- there's a reading of the document by which
14 Mr. Danchenko did not believe that he was subject to. I mean,
15 Mr. Keilty told the jury that he was not the -- he could not
16 be prosecuted. And that --

17 THE COURT: No, no. He said he had an immunity
18 agreement. All right.

19 All right. I'm going to -- I'm going to tell the
20 jury.

21 MR. DURHAM: Your Honor, I'm just briefly --

22 THE COURT: Yeah.

23 MR. DURHAM: Also briefly. I know you don't want
24 nor do we want to hold the jurors up, but there are two
25 issues -- two additional -- not issues --

1 THE COURT: Right.

2 MR. DURHAM: I just seek direction of the Court.
3 One, the defense will settle it, and, one, to prevent the
4 government from raising questions relating to the defendant
5 not providing emails.

6 THE COURT: Right.

7 MR. DURHAM: Well, defense counsel --

8 THE COURT: I know that they have very -- they have
9 an expansive view that may make all of that relevant. I
10 understand that.

11 MR. DURHAM: Okay. So work through those --

12 THE COURT: We'll pick it up when you present the
13 questions --

14 MR. DURHAM: Yes, sir.

15 THE COURT: -- to the witness.

16 MR. DURHAM: And then, similarly, with respect to
17 the prior counter intelligence case, the defendant elected in
18 his opening to start talking about Mr. Danchenko's
19 contributions to the country.

20 THE COURT: No, I understand.

21 MR. DURHAM: And so, that clearly opens the door.

22 THE COURT: I understand that point as well.

23 MR. DURHAM: Thank you.

24 MR. ONORATO: And, Your Honor, just briefly in
25 response. The government knew these issues. I mean,

1 Mr. Keilty actually knew that we were going to do this in
2 opening. They never objected. And so, I don't see how -- I
3 don't see how what -- what -- I don't see how that makes the
4 previous thing irrelevant, and then we turn it into a mini
5 trial.

6 THE COURT: All right. Let's bring the jury out.

7 MR. DURHAM: Thank you, Your Honor.

8 (Jury present.)

9 THE COURT: Please be seated. Ladies and gentlemen,
10 before we begin, I want to -- I want to advise you on
11 something you heard during opening statement by Mr. Onorato,
12 by both the prosecutor and Mr. Onorato. Mr. Keilty referenced
13 an immunity agreement that they had provided to Mr. Danchenko,
14 and Mr. Onorato characterized that as inaccurate and a lie.

15 As you will see from the document, the document --
16 that's -- Mr. Onorato's statement needs to be clarified, and
17 you need to be told that the agreement -- there's two things.
18 On the one hand, it does not provide what's called "total
19 immunity" from prosecution with respect to any crimes that may
20 be related to what they ask him about.

21 On the other hand, the agreement does, in fact,
22 provide an immunity to Mr. Danchenko from any prosecution
23 based on information that he provided. It's typically called
24 "use immunity." So while it didn't provide total immunity, it
25 does provide use immunity. And you need to -- I wanted to

1 make that clarification for you. All right.

2 MR. DURHAM: Thank you, Your Honor.

3 THE COURT: All right. Call your first witness.

4 MR. DURHAM: We will call Brian Auten, Your Honor.

5 THE COURT: Agent Auten will come forward, please.

6 (BRIAN AUTEN, Government's witness, affirm.)

7 THE COURTROOM CLERK: Thank you.

8 (Witness seated.)

9 DIRECT EXAMINATION

10 MR. DURHAM: May I proceed, Your Honor?

11 THE COURT: Yes.

12 BY MR. DURHAM:

13 Q. Sir, would you state your name for the record and spell
14 your last name.

15 A. Brian James Auten, A-U-T-E-N.

16 Q. Mr. Auten, I'm going to ask you be sure to keep your
17 voice up so that the jurors can hear your responses, okay?

18 A. I will do that.

19 Q. If I should ask you some question that is convoluted and
20 you don't understand, just let me know, and I'll rephrase it,
21 okay?

22 A. Will do.

23 Q. Will you tell the ladies and gentlemen of the jury how
24 you are employed?

25 A. I work for the FBI as a supervisory intelligence analyst.

1 Q. And for approximately how long have you been working for
2 the FBI?

3 A. I have worked for the FBI since January of 2005.

4 Q. Please explain, if you would, to the jurors what your
5 basic educational background is?

6 A. So I have a bachelors of art in history. I have a
7 masters degree in national security studies, and I have a
8 doctorate in international politics and strategics studies.

9 Q. In order to become a intelligence analyst with the FBI,
10 did you require any training beyond those education
11 accomplishments?

12 A. Not to get into the FBI, no.

13 Q. Well, after you joined the FBI, did you receive any
14 specialized training?

15 A. Yes, after I joined the FBI, I went for, in effect,
16 training down in Quantico.

17 Q. And explain just briefly, if you would, to the jurors
18 what that training involved.

19 A. So it was approximately -- I want to say 12-13 weeks of
20 training. It covers anywhere from writing skills to
21 analytical method, learning the different tools, different FBI
22 authorities, and the like.

23 Q. Just so the jurors have an understanding, is there a
24 difference between FBI Intelligence Analyst and an FBI Special
25 Agent?

1 A. Yes. They are two completely different job series.

2 An FBI Special Agent is most of what you see on
3 television with respect to carrying a badge, having a weapon.

4 An intelligence analyst is more of a supporting role
5 that bridges a lot of what the investigations are going on in
6 the field, and then what is going on within the Intelligence
7 Community as a whole.

8 Q. Now, have you held more than one position within the FBI
9 since the time you first joined?

10 A. I joined as a line analyst and then became a supervisor.

11 Q. And describe, if you would, or explain to the jurors when
12 you started out as a line analyst and then when you became a
13 supervisory intelligence analyst?

14 A. So I started as a line analyst in January of 2005. I
15 stayed a line analyst until -- I believe it was July of 2015.
16 And in January of 2015, I became a supervisor.

17 Q. Would you describe to the jurors, sir, generally
18 speaking, what is it that an analyst does and then what does a
19 supervisory analyst do?

20 A. So an analyst will do any number of things. It's looking
21 through case information, looking through information
22 collected by the special agents in the course and scope of an
23 investigation. You'll hear people talking about "connecting
24 the dots." An analyst is about trying to come up with
25 judgments that will assist the FBI in the Intelligence

1 Community and moving the FBI's mission forward.

2 Q. All right. Now, I want to begin, if I might, with asking
3 some background -- background questions, context to be of
4 assistance to putting some of your testimony in context. All
5 right.

6 First of all, will you tell the ladies and gentlemen
7 of the jury where within the FBI, that is in its structure,
8 were you assigned in late July, early August of 2016?

9 A. I was assigned in the Counterintelligence Division in the
10 FBI.

11 Q. And at that time, would you have been serving as under
12 the acting role of the supervisory intelligence analyst?

13 A. At that point in the middle of 2016, I was serving as a
14 supervisor.

15 Q. Do you recall, sir, whether or not, at any point in time,
16 you became aware of an FBI investigation, which was code-named
17 Crossfire Hurricane?

18 A. Yes.

19 Q. How did you first become aware of that?

20 A. I was told by my immediate -- actually, not immediate
21 supervisor, but a section chief by the name of Jonathan Moffa,
22 who talked to me about the case. It was either the 1st or 2nd
23 of August in 2016.

24 Q. And do you remember when Crossfire Hurricane was formally
25 opened by the FBI?

1 A. Formally opened in a couple days before 1st or 2nd of --
2 of August 2016?

3 Q. So it would be a fair statement that you got -- you were
4 assigned to Crossfire Hurricane within a matter of days with
5 it being opened?

6 A. Correct.

7 Q. And then, what, if any, role did you, yourself, play with
8 the Crossfire Hurricane investigation?

9 A. So I was asked in August of 2016 to help lead the
10 analysts in the Crossfire Hurricane investigation at that
11 point.

12 Q. Describe, if you would, to the ladies and gentlemen of
13 the jury, again, just by way of background, general
14 understanding, how was the Crossfire Hurricane team
15 structured?

16 A. So the Crossfire Hurricane team was structured -- it was
17 an integrated combination of analysts and agents. It was
18 structured whereby the -- the authority structure was done
19 both on the agent side and the analyst side, or one might say
20 the operational side and the analytical side.

21 The analysts -- the line analysts reported to me. I
22 reported to, again, Jonathan Moffa was his name, who was a
23 section chief at the time, and then Jonathan Moffa reported up
24 to, at that point, it was Deputy Assistant Director Bill
25 Priestap.

1 And on the agent side, it was my operational
2 counterpart by the name of Joe Pientka. Joe reported up
3 through Peter Strzok, who was DAD, and then up to Assistant
4 Director Priestap.

5 Q. Okay. And just for the jury, is a DAD a deputy
6 assistant --

7 A. Sorry, yes, deputy assistant director, and AD is an
8 assistant director.

9 Q. And, again, just in terms of context on a places matter,
10 was this investigation being done by a particular division of
11 the FBI?

12 A. So it was -- dominantly, it was out of the
13 counterintelligence division, but it was being run out of
14 headquarters.

15 Q. Okay. So this wasn't out in the field office; this was
16 all being done at the Hoover building in Downtown Washington?

17 A. That is correct.

18 Q. And with respect to the reporting chain, you indicated
19 that Mr. Moffa and Mr. Strzok both reported to Bill Priestap?

20 A. That is correct.

21 Q. And then where did Mr. Priestap direct -- report? I'm
22 sorry.

23 A. Mr. Priestap would have reported to Deputy Director
24 McCabe, Andrew McCabe.

25 Q. And then above that?

1 A. It would have reported to the director, Director Comey.

2 Q. Okay. And to your personal knowledge, when this
3 investigation was going on, particularly in its beginning part
4 and continuing on from there, was this all being reported up
5 to the director?

6 A. My understanding was yes, it was.

7 Q. Okay. Now, with regard to Crossfire Hurricane itself,
8 how would you describe it? Was it an open file? How did it
9 get opened?

10 A. So Crossfire Hurricane, the best way I like to explain it
11 is what's called an umbrella investigation. So you open up an
12 investigation based upon material that came in to us, to the
13 FBI; and out of that investigation, there were a number of
14 several investigations that were opened up out of it.

15 Q. So it's kind of, as you say, the umbrella case?

16 A. Correct.

17 Q. And that was opened based on what?

18 A. That was opened based on information that came from a
19 friendly foreign government.

20 Q. And the investigation [sic] that came from the friendly
21 foreign government was, essentially, what? Explain that to
22 the jurors so they have some understanding.

23 A. Sure. The friendly foreign government had provided
24 information that the Trump team had received the suggestion
25 that Russia could assist the Trump team to help with respect

1 to releasing information anonymously that would benefit both
2 the Clinton campaign and president --

3 Q. Which team?

4 A. Sorry. Provided information for the Trump team that
5 would be detrimental to Hillary Clinton and to President
6 Obama.

7 Q. Friendly foreign government with a suggestion of some
8 kind of suggestion?

9 A. Yes.

10 Q. And the FBI opened that up to say full investigation?

11 A. That is correct.

12 Q. From day one?

13 A. Correct.

14 Q. And then you made reference to -- I'm not sure if you
15 called them files subfiles -- how many files were opened under
16 that umbrella?

17 A. So the umbrella investigation was opened, and then there
18 were four main files, four main investigations opened up under
19 the umbrella investigation.

20 Q. Do you recall what those four files were?

21 A. Who the individuals were?

22 Q. Yes, sir.

23 A. Yes. One was Carter Page, one was George Papadopoulos,
24 one was Paul Manafort, and one was Michael Flynn.

25 Q. And with respect to the information that caused Crossfire

1 Hurricane to be opened in the first sense, is that it's from
2 the friendly foreign government, do you recall whether or not
3 there was somebody who was reported to have talked about this
4 suggestion -- that was a suggestion?

5 A. Yes. The information from the friendly foreign
6 government indicated that George Papadopoulos had given that
7 information.

8 Q. So he's one of the four files that were opened?

9 A. That is correct.

10 Q. Okay. And describe or explain to the jurors, if you
11 would, what, if any, role that you played with respect to the
12 umbrella case or any of the four files under it.

13 A. So for all of the investigation -- the umbrella
14 investigation as well as the four sub cases -- I was helping
15 to lead the analysts who were working together with the
16 special agents on those cases.

17 Q. I asked you about the opening of Crossfire Hurricane, and
18 you said it was opened to a full investigation, correct?

19 A. Correct.

20 Q. Would you explain to the jurors, again, by way of
21 background, are there different levels at which the FBI will
22 open or look at particular matters?

23 A. Yes. There are really three levels. You have what would
24 be considered a threat assessment, which would be, for lack of
25 a better term, a lower level of looking at something; and then

1 there are two kinds of what would be called predicated
2 investigations. One type is a preliminary investigation, and
3 one type is a full investigation.

4 Q. And in this regard as to files or subfiles, the four
5 subfiles, were those opened, to your recollection, as full or
6 preliminary or assessments?

7 A. To my recollection, those were full.

8 Q. All four opened immediately as full investigations,
9 correct?

10 A. That is my recollection.

11 Q. Okay. So Carter Page would have been one of those?

12 A. Correct.

13 Q. Would you explain to the jurors, if you would, whether or
14 not, depending upon the level at which a matter is open, that
15 the bureau has the same investigative tools that it could use?

16 A. No. There are investigative tools that are allowed at
17 the full investigation that aren't allowed at the preliminary
18 investigation.

19 Q. So with respect to all four of the subfiles, including
20 Mr. Page, those were all opened as full, correct?

21 A. Correct.

22 Q. Explain to the jurors, then, what tools, investigative
23 tools, the FBI had available at that time as a result of
24 opening a full investigation as opposed to some lesser level
25 of --

1 A. With a full investigation, you are able to use the
2 Foreign Intelligence Surveillance Act, or FISA.

3 Q. And are court authorized FISAs, essentially, the most
4 powerful tool that the FBI has available and --

5 A. I would say one of.

6 Q. So, again, by the way of background, and I need help in
7 explaining that, what is a FISA? First of all, what does FISA
8 stand for? That's an acronym, correct?

9 A. Right, FISA is an acronym. It stands for the Foreign
10 Intelligence Surveillance Act.

11 Q. Is it a particular federal statute that lays out what can
12 and can't be done?

13 A. Correct.

14 Q. And then what kind of court authorization might be
15 required; is that a fair statement?

16 A. Fair statement.

17 Q. So in that connection, you said that this case was being
18 run out of the counterintelligence division of the FBI
19 headquarters, correct?

20 A. Correct.

21 Q. Does the FBI have a criminal division as well?

22 A. Yes, it does.

23 Q. So if the jurors, for example, have heard about wiretaps
24 or things of that sort, maybe T3s or the like, is that on the
25 counterintelligence side or is that on the criminal side?

1 A. For a T3, or what would be called Title III or T3, that
2 was on the criminal side.

3 Q. We're talking about counterintelligence where the FISA
4 statute issues, correct?

5 A. That is correct.

6 Q. Again, just for background for the jurors, with respect
7 to the FBI, can the FBI, on its own, just go start to surveil
8 people electronically without court authorization?

9 A. No.

10 Q. In getting authorization to do that, on the
11 counterintelligence side, to use the FISA tool, what does the
12 FBI have to do?

13 A. The FBI has to determine probable cause and to be able to
14 go to the FISC, or the Foreign Intelligence Surveillance
15 Court.

16 Q. And do you know, based on your own personal knowledge in
17 connection with Crossfire Hurricane, whether or not at any
18 point in time the FBI went to the FISA court to seek
19 permission, authorization to conduct any kind of FISA
20 surveillance?

21 A. Yes.

22 Q. What's the basis of your knowledge?

23 A. I was on the team and I -- involved with providing
24 information that went into the application.

25 Q. Now, I want to focus a little bit more narrowly at this

1 point and ask you about the Carter Page investigation,
2 specifically.

3 Do you recall, sir, whether you played any role in
4 the Carter Page investigation?

5 A. I was supervising my analysts who were involved embedded
6 in doing analysis on -- for the Carter Page investigation, and
7 I'd also reviewed the footnotes and a bit of ad hoc review of
8 the application itself, and I -- there was involvement that
9 way.

10 Q. Okay. Now, you told the jurors that the investigation
11 started at the end of July; you got involved in the next
12 couple of days, correct?

13 A. Correct.

14 Q. Would you tell the ladies and gentlemen of the jury
15 whether or not the FBI, as relates to Carter Page, almost
16 immediately started work on trying to put together a FISA
17 application for Mr. Page?

18 A. There was discussion fairly early on about giving the
19 FISA.

20 Q. All right. Before I ask the details of that, do you know
21 whether or not the FBI tried to put together information on
22 Mr. Papadopoulos that you mentioned, to do a FISA on
23 Papadopoulos?

24 A. There was talk about a FISA on Mr. Papadopoulos as well.

25 Q. And could they get there?

1 A. No.

2 Q. And how about you made reference to Mr. Manafort; do you
3 know whether or not the bureau made an attempt to put together
4 a FISA application on Mr. Manafort?

5 A. I don't recall any discussion about a FISA for
6 Mr. Manafort.

7 Q. How about Michael Flynn?

8 A. No, I don't recall any discussion it was Michael Flynn
9 either.

10 Q. Okay. So worked on trying to put something together on
11 Papadopoulos; didn't go anywhere, correct?

12 A. Correct.

13 Q. And they worked on Carter Page?

14 A. Correct.

15 Q. Now, I want to ask you about the investigation related to
16 Carter Page prior to the date of September 19th, all right?
17 Do you recall whether or not September 19th of 2016 was a
18 significant date for the Carter Page investigation?

19 A. Yes.

20 Q. Now, what was it about September 19th that was of
21 significance based on your personal knowledge?

22 A. That was the date that the Crossfire Hurricane team
23 received the information that is collectively known as the
24 Steele dossier.

25 Q. Okay. So prior to September -- prior to September 19th

1 of 2016, had the FBI been successful in putting anything
2 together for a FISA application on Carter Page or not?

3 A. So the FBI had put material together, but had not
4 actually achieved the ability to go in front of the court
5 and -- and secure.

6 Q. And that inability, in fact, was because they hadn't been
7 able to put together probable cause to go to a federal judge
8 to ask for a FISA warrant, right?

9 A. That was my understanding.

10 Q. So --

11 MR. ONORATO: I'm just going to object. The witness
12 doesn't have firsthand knowledge. He's speculating and I
13 think you should strike that.

14 MR. DURHAM: Well, I can clarify.

15 BY MR. DURHAM:

16 Q. Is that based on your personal knowledge, prior to
17 September 19th, they had not been able to put it together?

18 A. I am aware that they had not been able to go in front of
19 the court with anything.

20 Q. Okay. So September 19th arrives, and remind the jurors
21 what happened on September 9th [sic] of 2016?

22 A. September 19th of 2016, the Crossfire Hurricane team
23 began to receive the reports that are -- some of the reports
24 that are collectively known as the Steele dossier.

25 Q. Now, the jurors are going to hear -- the jury is going to

1 hear a lot about the Steele dossier. Let me ask you, what
2 is -- what is that? What's parochially known as the Steele
3 dossier? Is it a single report? Is it made up of many
4 reports? Describe it to the jurors.

5 A. It is a set of reports that were -- originated, came to
6 the FBI via a -- well, information that came to the FBI
7 originating from Christopher Steele's organization or
8 businesses -- or his business intelligence.

9 Q. All right. And let's drill down just a little bit on
10 that. With respect to the Steele dossier, you made reference
11 to Christopher Steele, correct?

12 A. Yes.

13 Q. Is Christopher Steele a United States citizen?

14 A. No, he is not.

15 Q. Where is Christopher Steele from?

16 A. He is from the U.K.

17 Q. And with respect to Christopher Steele, is he an
18 associate of a particular business entity?

19 A. Yes.

20 Q. And what was that business entity?

21 A. Orbis Business Intelligence.

22 Q. And with respect to Orbis Business Intelligence, do you
23 know what kind of work they did?

24 A. A number of things with respect to analysis, legal work
25 for banks, things of that sort.

1 Q. All right. Now, you told the jurors that the information
2 from the Steele reports, you say, started to come in, correct?

3 A. Correct.

4 Q. I'm going to drill down a little bit on that.

5 Did the FBI, to your personal knowledge, receive all
6 the Steele reports at the same time?

7 A. No.

8 Q. Describe to the jurors how they started to come in.

9 A. So initially, they came in -- well -- the reports came in
10 early on, and then the Crossfire Hurricane team received them
11 later. I believe there were two reports that came in to us at
12 that point. And then, we started to receive other reports
13 across from other different entities. Not just from -- not
14 just from sources, but from journalists and the like.

15 Q. So let's get down a little bit more detail about that.

16 You've told the jurors that the reports didn't
17 initially come to the Crossfire Hurricane folks, correct?

18 A. Correct.

19 Q. How, based on your personal participation in the
20 investigation, did they first come in?

21 A. My understanding is this actually comes from the IG
22 report. And my understand -- sorry.

23 Q. Okay. You don't have to testify upon that report.

24 A. Okay. Okay.

25 Q. Do you know whether or not, or at a point in time prior

1 to the Crossfire Hurricane team getting the reports, whether
2 some of those reports -- this just calls for a "yes" or "no."

3 A. Right.

4 Q. Had been received by anybody in the FBI?

5 A. Yes.

6 Q. Okay. And do you know who that person was?

7 A. Mike Gaeta.

8 Q. And is Mike Gaeta someone that you worked with during the
9 course of the Crossfire Hurricane proceedings?

10 A. Yes, for a time.

11 Q. Well, at the time that Mike Gaeta got -- where is Mike
12 Gaeta located, if you recall?

13 A. In Rome.

14 Q. All right. So do you have personal knowledge as to who
15 Gaeta got them from?

16 A. Yes.

17 Q. And who is that?

18 A. That would be from Christopher Steele.

19 Q. Okay. So Christopher Steele visited Gaeta in Rome,
20 correct?

21 A. Correct, yes.

22 Q. And therefore, it takes some period of time to get from
23 Rome to the Crossfire Hurricane team?

24 A. Correct.

25 Q. And that's in September of 19th of 2016?

1 A. Correct.

2 Q. Once those reports have been -- let me -- you also told
3 the jurors that some of the reports came in subsequent to the
4 initial reporting, correct?

5 A. Correct.

6 Q. Did you make reference to the reports having been given
7 to journalists?

8 A. Yes.

9 Q. What's the basis of your knowledge for that?

10 A. Understood that they came from journalists, and I believe
11 that there was discussion among the team that some come in.

12 Q. Okay. With respect to what the FBI got directly from
13 Steele, did you, yourself, have occasion to see that
14 reporting?

15 A. Yes.

16 Q. And what, if any, involvement did you then have, sir, in
17 the preparation process relating to FISA application being put
18 together to cover Carter Page?

19 A. So my analysts help to gather material, and to assist
20 with providing language for the application.

21 Q. And once the -- once the Steele dossier reporting started
22 coming in, do you recall, sir, whether or not the FBI was able
23 to move ahead to put together a FISA application to submit to
24 a federal judge on the FISA court?

25 A. The FISA was submitted after receipt of this deal

1 reporting, yes.

2 Q. Do you recall, sir, whether or not any information from
3 the Steele reports were included in the FISA application that
4 now could move forward?

5 A. Yes.

6 Q. And what's the basis of your knowledge that the
7 information from the dossier reports were then included in the
8 FISA application?

9 A. I've read the FISA applications.

10 Q. All right. Do you recall offhand, as you're here now,
11 when that FISA application was submitted to the FISA court?

12 A. It was October 21st, I believe, 2016.

13 Q. All right. So, now, I want to focus your attention on
14 the period of time between September 19th and October 21st,
15 okay?

16 Let me ask you, sir, first, whether or not -- what,
17 if any, efforts you are personally aware of were undertaken by
18 the FBI to verify or corroborate any of the allegations that
19 were contained in those dossier reports that the FBI was
20 including in a FISA application on a United States citizen.

21 A. Myself and my analysts were -- were busy attempting to go
22 through the material to look through FBI systems to determine
23 whether or not we could verify, corroborate, confirm, or
24 disconfirm the information in those reports.

25 Q. And between September 19th of 2016 and October 21st, when

1 the FBI submitted the FISA application, were you able to
2 confirm or corroborate in any of the FBI system the very
3 serious allegations that were contained in dossier reports?

4 A. No.

5 Q. A separate part from the FBI checking its data banks, its
6 files, do you recall whether or not the FBI, to your personal
7 knowledge, inquired of other members of the Intelligence
8 Community to see whether any of those other members of the
9 Community might have information that would corroborate the
10 information in the dossier?

11 A. Yes.

12 Q. And to -- do you have any personal knowledge?

13 A. I do.

14 Q. And what can you tell the jurors about whether or not any
15 of the intelligence agencies that the FBI contacted for
16 corroborative information produced any corroborative
17 information?

18 A. We did receive information back from a number of
19 different agencies.

20 Q. Then, as to the information that you received back from
21 the agencies, did they corroborate the specificity of specific
22 allegations that were contained in the dossier reports?

23 A. Not corroborating the specific allegations, no.

24 Q. Do you have any personal knowledge whether or not between
25 September 19th of 2016 and October 21st of 2016, whether or

1 not any attempts -- this calls for a "yes" or "no" -- were any
2 attempts made by the FBI to meet with Christopher Steele to
3 try to vet this reporting that was in the dossier reports that
4 had been received up to that point in time?

5 A. Yes.

6 Q. What's the basis of your knowledge?

7 A. I went to actually help to interview Christopher Steele.

8 Q. Did you go alone or did you go with other persons?

9 A. No, I went with other persons.

10 Q. And who else did you go with?

11 A. I went with Mike Varacalli, who is a special -- a
12 supervisory special agent. I went with -- Mike Gaeta was
13 there, Special Agent. Ben Guessford was there as well,
14 Special Agent, and myself.

15 Q. And how about who is the actual applicant on the -- that
16 first initial FISA application, the October 21st?

17 A. The actual affiant?

18 Q. Yes, If you know.

19 A. I believe his first name is Brandon. I can't remember
20 his last name.

21 Q. Okay. At that time, bureau protocol of the affiant, the
22 person signing the thing, wasn't actually the most active
23 participant, correct?

24 A. Correct.

25 Q. Do you remember -- do you remember an individual by the

1 name of Steve Somma?

2 A. Yes.

3 Q. And who is Steve Somma?

4 A. Steve Somma was one of the agents who was on the
5 Crossfire Hurricane team.

6 Q. And did Somma go with you as well to meet with -- Mr.
7 Steele or not?

8 A. No, he did not.

9 Q. Okay. So it was yourself, Mr. Varacalli, and Mr. Gaeta?

10 A. Mr. Gaeta and then Mr. Guessford.

11 Q. And Mr. Guessford. Okay.

12 So when did that occur?

13 A. The beginning of October 2016.

14 Q. All right. So several weeks before the application was
15 actually submitted?

16 A. Correct.

17 Q. Did you, yourself, have any particular focus for the
18 meetings that you had with Mr. Steele in early October of
19 2016?

20 A. My main role was to ask about Christopher Steele's
21 sources, and any type of information that would help us to
22 understand and better understand and better corroborate the
23 material that we received.

24 Q. Okay. So to help the jury out here, you were interested
25 in the sources of the information, correct?

1 A. Correct.

2 Q. And you are interested in corroborative information?

3 A. Correct.

4 Q. Okay. So any other focus other than those two generally
5 that you can recall?

6 A. Other focus would be to, again, see if Mr. Steele could
7 provide any other information that would help to move this
8 case forward.

9 Q. Let me ask you this first about corroborative
10 information. When you and Mr. Varacalli, and Mr. Gaeta, and
11 Mr. Guessford met with Christopher Steele in early October of
12 2016, did Christopher Steele provide any corroborative
13 information for the information that was contained in his
14 reports, in the dossier reports?

15 A. Not for the allegations, no.

16 Q. Do you recall, sir, whether or not in that regard, if the
17 FBI when they met with Mr. Steele in early October of 2016,
18 offered Mr. Steele any type of incentive to provide
19 corroborative information?

20 MR. ONORATO: Objection.

21 THE COURT: Let me see counsel.

22 (Side bar.)

23 THE COURT: What's the objection?

24 MR. ONORATO: So the objection is they are going to
25 say -- I think the answer to the question is going to be they

1 offered him a million dollars or some extraordinary amount of
2 money. They didn't provide proper information. So --

3 MR. DURHAM: Your Honor, this was offered because
4 Counsel clearly has indicated he's going to make an issue out
5 of what the agent, at various points in time, said to
6 Mr. Danchenko. For example, in January and then with the LA
7 Times when Mr. Danchenko was meeting with Mr. Helson.

8 The government wants to present, in crystal clear
9 terms, to this jury that from the very beginning the FBI was
10 inquiring about any corroborative information, any source of
11 information, who the sub-sources were, what kind of
12 information or evidence they might have that is corroborative.
13 And it's all part of the particular pattern by the same
14 people.

15 THE COURT: I'm going to let it in.

16 MR. ONORATO: The only point to make, Your Honor, is
17 that why didn't they just ask Agent Auten whether he was of
18 (indiscernible) with Mr. Danchenko.

19 THE COURT: I'm assuming Mr. Durham is going to get
20 to that. I'm going to let it in.

21 MR. DURHAM: Thank you, Your Honor.

22 (Open court.)

23 BY MR. DURHAM:

24 Q. So, let me ask you again: Do you recall whether or not
25 when you and the other FBI personnel met with Mr. Steele in

1 early October and he wasn't able to provide any corroborative
2 information at all regarding the substantive claims in the
3 dossier, whether or not the FBI offered Mr. Steele some type
4 of incentive to be able to provide any corroborative
5 information of what was in those reports?

6 A. Yes, it did.

7 Q. And what was it -- tell the ladies and gentlemen of the
8 jury what it is that the FBI offered Mr. Steele for any
9 corroborative information.

10 A. Mr. Steele was offered anywhere up to a million dollars
11 for any information, documentary, physical evidence, anything
12 of that sort which could help to prove the allegations.

13 Q. At any time when you were overseas meeting with Steele in
14 early October, did he provide anything?

15 A. He did not.

16 Q. At any time after the October meeting with Mr. Steele and
17 after the million dollars-plus had been offered as an
18 incentive to provide corroborative information for what was in
19 those reports, did he provide any corroborative information?

20 A. No.

21 Q. You had indicated that a second principle purpose or
22 focus of the meeting was to try to identify the sourcing of
23 the information, correct?

24 A. Correct.

25 Q. Explain to the jurors why you and your colleagues were

1 interested in the sourcing.

2 A. Well, the sourcing is important because the reports have
3 significant allegations, individuals who are mentioned in the
4 reports, and the key to be able to track back exactly whether
5 or not the information is accurate, true, whether or not the
6 individuals who are mentioned in the reports have the accesses
7 to actually have the information, whether it is in the
8 reports, etc.

9 Q. And was the FBI -- well, let me retract and ask you
10 personally: Were you personally only interested in drilling
11 down on, trying to get source of information in early October
12 of 2016, or was that a continuing concern on your part?

13 A. That was a continuing concern.

14 Q. How about your colleagues, were they similarly
15 continually interested in trying to develop source
16 information?

17 A. Yes.

18 Q. To the best of your ability, did you try to elicit or
19 learn from people that you were meeting with, talking to about
20 the dossier, what the sourcing was?

21 A. Yes.

22 Q. Any doubt in your mind about that?

23 A. No.

24 Q. Do you recall any instance in which you met with anybody
25 trying to develop information about the sourcing, where the

1 person seemed confused about what you were asking?

2 MR. ONORATO: Your Honor, I'm going to object.

3 THE COURT: I'm going to sustain that objection. Go
4 ahead.

5 BY MR. DURHAM:

6 Q. So you talked to Mr. Steele about sourcing. Do you
7 recall whether or not Mr. Steele, in early October of 2016
8 provided you or your colleagues with the names of any of the
9 sources?

10 A. Sources, no.

11 Q. Do you recall, sir, whether or not he provided any
12 information at that time concerning the types of persons as
13 opposed to the persons' names?

14 A. Yes. There were source characterizations, but no source
15 names.

16 Q. But not any of the sources themselves?

17 A. No.

18 Q. Did you learn in October of 2016 whether there were
19 multiple sources who were behind the information or who had
20 provided the information in the reports or if there was a
21 principle source?

22 A. Our --

23 MR. ONORATO: I'm going to object as to hearsay.
24 I'm not sure where this is going.

25 THE COURT: Okay. Go ahead. Establish a

1 foundation.

2 MR. DURHAM: Yes, Your Honor.

3 BY MR. DURHAM:

4 Q. Without telling us what Mr. Steele may have said about
5 that --

6 A. Okay.

7 Q. -- do you recall, sir, after the meeting in early October
8 of 2016 with Mr. Steele, whether or not you and your
9 colleagues began to undertake any particular effort to try to
10 identify?

11 A. Yes. I would say that we were attempting to identify all
12 of the potential sources that we could file those reports.

13 Q. And did you have any -- some understanding as to whether
14 there was a principle source?

15 A. Eventually, yes.

16 Q. Okay. And what can you tell the jurors about that, that
17 is the sourcing of the dossier reports? What can you tell the
18 jurors about what you were able to determine?

19 A. Well, eventually, what we -- the FBI was able to
20 determine by late December of 2016 was that it was one
21 particular individual who was talking to other individuals for
22 material that were in the reports.

23 Q. With respect to the October meeting with Steele before
24 the FBI applied to the FISA court for coverage on a United
25 States citizen, he had not provided any source information to

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1 you other than maybe by position, not by name?

2 A. Source characterizations, yes.

3 Q. Let me ask you this: With respect to your meeting with
4 Mr. Steele in early October of 2016, do you recall whether or
5 not the name Sergei Millian came up?

6 A. Yes.

7 Q. And how did that come up?

8 A. Sergei Millian's name came up as --

9 MR. ONORATO: Your Honor, I'm going to object.

10 THE COURT: Overruled. Go ahead.

11 BY MR. DURHAM:

12 Q. With respect to Sergei Millian, whatever you learned from
13 Mr. Steele in October of 2016, what, if anything, did you and
14 your colleagues do regarding Sergei Millian?

15 A. Out of what we learned from Steele or from -- or what
16 came up before --

17 Q. Based on what you knew. Let's not worry about hearsay
18 from Steele.

19 A. No, no. I mean --

20 Q. What did you learn?

21 A. Millian's name came up in the course and scope of the
22 investigation prior to us talking to Mr. Steele.

23 Q. Okay. So -- and this just calls for a yes or no. Did
24 you have a -- in your meetings with Steele, did Sergei
25 Millian's name come up?

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1 A. Yes.

2 Q. Okay. So you discussed what you discussed with him, that
3 is, you discussed with Steele? I'm not asking what Steele
4 said to you.

5 A. Sergei Millian's name came up in the discussion.

6 Q. All right. Now, you told the jurors at this point no
7 corroborative information and no source information given up
8 by Steele. Do you recall whether or not Mr. Steele provided
9 any other information to you about, not sources for the
10 dossier, but people who might be knowledgeable about some of
11 these matters relating to the Trump campaign and Russian?

12 A. Yes.

13 Q. Do you remember who any of those persons -- those names
14 were?

15 A. Those names included Charles Dolan, Stephen Kupka, and
16 there was one other -- I can't remember, sorry.

17 Q. If you heard it, would you know?

18 A. Yes.

19 Q. What about Greg Harley?

20 A. Yes, Greg Harley, yes.

21 Q. So Charles Dolan, Stephen Kupka, and Greg Harley?

22 A. Yes.

23 Q. All right. But they weren't identified as sources?

24 A. Correct.

25 Q. Okay. At the time that the FBI completed its visit with

1 Mr. Steele in October of 2016, had the FBI been able to
2 identify or confirm the identity of Steele's primary
3 sub-source -- Steele's primary source?

4 A. No.

5 Q. And the same question relating, not to the primary
6 source, but to the primary source's sub-sources; have you been
7 able to confirm the identity of any of those persons?

8 A. No.

9 Q. Now, you've told the jurors that the bureau, the FBI, had
10 not been able to corroborate information from the dossier
11 reporting, but some of it -- some of that information was
12 included in the FISA application, correct?

13 A. Correct.

14 Q. And what is the basis of your knowledge that this
15 uncorroborated information went into the FISA application?

16 A. Again, I've read the applications.

17 Q. Do you remember which portions of the reporting went into
18 the FISA application?

19 A. I don't know if I could rattle off all, you know, each
20 and every -- each and every example or portion, but --

21 Q. Fair enough. I'm going to ask the court security
22 officer, if you would, to provide you with a binder. I'd ask
23 you to take a look at what we've premarked as Government's
24 Exhibit 109 for identification.

25 A. Yes.

1 MR. DURHAM: May I just -- Your Honor, may I just
2 consult with counsel for a moment?

3 THE COURT: Yes.

4 (Counsel confers.)

5 BY MR. DURHAM:

6 Q. 109, would it be a fair statement that there are a couple
7 different versions in there?

8 A. Correct, yes.

9 MR. DURHAM: Your Honor, this is the matter that
10 defense counsel and the government raised to the Court today.
11 Would it be helpful to the Court if we were to provide
12 additional copies to Your Honor?

13 THE COURT: Yes.

14 MR. DURHAM: Okay. Your Honor, in looking at the
15 two versions -- Your Honor, we previously provided copies to
16 counsel, but I don't think they have it in their binder for
17 some reason, so we're trying to just get an additional copy if
18 the Court will bear with us.

19 THE COURT: All right.

20 (A pause in the proceedings.)

21 MR. ONORATO: So, Your Honor, this is a document
22 that we discussed this morning in terms of -- the Court made
23 the ruling before we go too further.

24 THE COURT: Well, I'm not clear what role that it's
25 going to play for this witness. Why don't you ask the

1 question.

2 MR. DURHAM: Yes, Your Honor.

3 BY MR. DURHAM:

4 Q. Sir, looking at Government's Exhibit 109 -- well, first,
5 look at the whole document. Are you familiar with that
6 document?

7 A. Yes, I am.

8 Q. With respect to that document, what is it?

9 A. It is one of the Orbis reports. It's listed as company
10 intelligence report 2016/095.

11 Q. Okay. And with respect to that document that's in front
12 of you, does it contain information, number one, that was
13 subsequently taken and used in the FISA application that was
14 submitted to a federal judge on October 21st of 2016?

15 A. Yes, I do recognize some of the language.

16 Q. And with respect to the information that's contained in
17 Government's Exhibit 101, which, again, is dossier report
18 number 2016/095, are you familiar with that information, that
19 is, something that's normal to you from having used it
20 previously?

21 A. What -- am I familiar with what's in this report?

22 Q. Yes, sir.

23 A. I am, yes.

24 Q. Okay. Do you recall, sir, and we're going a little bit
25 out of order here, but just to maybe set up a little bit more

1 of a stage, at some point in time, did you have occasion to
2 talk to Mr. Danchenko?

3 A. Yes.

4 Q. And with respect to the Government's Exhibit 109, did you
5 have occasion to show that to Mr. Danchenko?

6 A. Not show it to Mr. Danchenko, but to discuss it with
7 Mr. Danchenko.

8 Q. To -- I'm sorry.

9 A. Not to show it to Mr. Danchenko, but to discuss it with
10 Mr. Danchenko.

11 Q. Okay. And at the time you talked with Mr. Danchenko --
12 and, again, we're skipping ahead a little bit here -- did
13 Mr. Danchenko have his own set of the Steele dossier reports?

14 MR. ONORATO: I'm going to object.

15 THE COURT: Sustained. You need to lay a
16 foundation. You need to lay a foundation.

17 MR. DURHAM: Yes, Your Honor.

18 BY MR. DURHAM:

19 Q. Were you -- were you -- at a subsequent time, you and a
20 colleague met with Mr. Danchenko, correct?

21 A. Correct.

22 Q. And you interviewed him?

23 A. Correct.

24 Q. At that time, when you personally interviewed him, this
25 would have been in January of 2017, we'll talk about it in

1 more detail shortly, but when you met with him, at that time,
2 did he have a copy of the dossier reports with him?

3 A. My recollection is that he had a copy of it with him.

4 Q. Right. And with respect to the set of dossier reports he
5 had with him, to your recollection, maybe you recall, maybe
6 you don't, did he have -- were there markings, that is
7 handwritten markings, on the dossier reports?

8 A. I recall that he had a document -- dossier with marks on
9 it.

10 MR. DURHAM: We're off of 109, Your Honor. There
11 are two versions -- I think there are two versions sort of
12 competing, redacted versions.

13 THE COURT: All right. I don't think we're there
14 yet with this witness. I'm going to reserve on that -- on
15 that exhibit.

16 MR. DURHAM: Okay.

17 THE COURT: Let me see counsel at the bench.

18 MR. DURHAM: Yes, Your Honor.

19 (Side bar.)

20 THE COURT: At this point is that the recalls that
21 Mr. Danchenko had documents and the dossier with some writings
22 on it. He hasn't specifically identified this document nor
23 has he identified any specific information that he reviewed it
24 from this document. And I think that's necessary before this
25 document really becomes relevant. All right.

1 MR. DURHAM: Just to let the Court know where
2 government is going on this. What we're principally
3 interested in, at this point, we'll get to later in his
4 testimony, broader than that. What we are principally
5 interested in right now is the -- if I might --

6 THE COURT: This is your version?

7 MR. DURHAM: Is this information that we've
8 prepared. That's the information I want to ask him about
9 right now.

10 THE COURT: Okay.

11 MR. DURHAM: Perhaps what we can do is we could
12 offer that version now --

13 THE COURT: This one.

14 MR. DURHAM: -- and then if we get to the second
15 part then --

16 THE COURT: All right. Let's do that.

17 MR. ONORATO: My assumption is that you want to say
18 that this information went into the FISA.

19 MR. DURHAM: FISA.

20 MR. ONORATO: We have no objection to that.

21 THE COURT: What I will do is I'll admit the
22 defendant's version and then if there's a proper foundation,
23 we'll supplement it.

24 MR. DURHAM: Okay. Maybe we will mark this as 109A
25 and we'll mark it 109B, if it's admitted later.

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1 THE COURT: That's fine. All right.

2 MR. DURHAM: Thank you.

3 THE COURT: Should I hold on to those? Are these
4 your copies or mine?

5 (Discussion off the record.)

6 (Open court.)

7 MR. DURHAM: Perhaps if --

8 THE COURT: Let me give these to you. I put an A
9 next to the one you wanted to use. That's admitted.

10 MR. DURHAM: Your Honor, may I ask permission for
11 the court security officer to provide to the witness what
12 we've marked, with the Court's assistance, of course, as
13 Government's Exhibit 109A?

14 THE COURT: Yes.

15 MR. DURHAM: May I proceed, Your Honor?

16 THE COURT: Yes.

17 BY MR. DURHAM:

18 Q. Sir, looking at what's marked as Government Exhibit 109A.
19 Again, what is that?

20 A. This is a company intelligence report 2016/095.

21 Q. And with respect to the -- is that a complete copy or
22 does that have some information, which for now, is blacked
23 out?

24 A. This is a redacted copy.

25 Q. Okay. With respect to what you're looking at,

1 Government's Exhibit 109A, can you tell ladies and gentlemen
2 of the jury whether or not it contains information which the
3 FBI then used in the Carter Page FISA application that was
4 submitted to a federal judge on October 21 of 2016?

5 A. Yes, it does.

6 MR. DURHAM: I'm going to offer 109A as an exhibit,
7 Your Honor.

8 THE COURT: All right. Without objection, 109A is
9 admitted.

10 (Government's Exhibit No. 109A admitted into evidence.)

11 MR. DURHAM: All right. With the Court's
12 permission, I'm going to ask that the court security officer
13 pull that up on the monitors for the jury.

14 THE COURT: Yes. Yes. It may be published.

15 (Exhibit published.)

16 BY MR. DURHAM:

17 Q. Now, Mr. Auten, the jurors can now see Government's
18 Exhibit 109A so they can read it. But for purposes of the
19 written record --

20 MR. DURHAM: Wondering if we could just have one
21 moment just see if we could maybe blow that up. Court
22 security officer, could you blow that up for the jurors?

23 BY MR. DURHAM:

24 Q. Okay. So for our purposes here, the jurors can see it so
25 they can read for themselves, but for the written record, can

1 you read into the record what 109 is, starting at the top.

2 A. 109 is Company Intelligence Report 2016/095.

3 Q. And then, with respect to the next line, what the heading
4 is.

5 A. [As read]: Russia/U.S. Presidential Election: Further
6 Indications of Extensive Conspiracy Between Trump's Campaign
7 Team and the Kremlin.

8 Q. Now, there's a particular paragraph, it's Paragraph No. 1
9 in the document, that the jurors are seeing, correct?

10 A. Correct.

11 Q. And read that into the record, if you would.

12 A. [As read]: Detail 1, speaking in confidence to a patriot
13 in late of July 2016. Source E, an ethnic Russian close
14 associate of republican US presidential candidate, Donald
15 Trump, admitted that there was a well-developed conspiracy of
16 cooperation between them and the Russian leadership. This was
17 managed on the Trump side by the republican candidate's
18 campaign manager, Paul Manafort, who was using foreign policy
19 advisor, Carter Page, and others as intermediaries. The two
20 sides had a mutual interest in defeating democratic
21 presidential candidate Hillary Clinton, whom president Putin
22 apparently both hated and feared.

23 Q. Now, with respect to that information, what is that --
24 the information contained in Paragraph 1, was that information
25 incorporated in large part FISA application against Carter

1 Page?

2 A. Yes, there were portions of it that were incorporated in
3 the FISA, yes.

4 Q. And with respect to this report, had the FBI been able to
5 corroborate anything, any of that information?

6 A. At that time, not corroborating the main allegations, no.

7 Q. And, in fact, at that time, other than the dossier report
8 saying this, the FBI didn't have any evidence of that,
9 correct, nothing to corroborate that?

10 A. Not that I recall, no.

11 Q. Now, you were the person that had, probably, the most
12 knowledge about the materials matters at the time, correct?

13 A. I don't know if I would say the most knowledge, I was one
14 of them that had knowledge.

15 Q. Okay. Do you recall, sir, whether or not, you told the
16 jurors that the dossier material came in and started to come
17 in on September 19, correct?

18 A. Correct.

19 Q. This information was included in the FISA application,
20 correct?

21 A. Correct.

22 Q. Do you recall, sir, whether or not this information, this
23 allegation, which had not been corroborated in any way when
24 the application was submitted in October, right, was that an
25 important part of the FISA application that was filed against

1 the United States citizen Carter Page?

2 A. So, I would not be in a position to make that assessment.
3 I'm not a lawyer so I wouldn't be able to judge with respect
4 to where this cuts with respect to probable cause.

5 Q. Okay. And my question was whether or not that played a
6 significant part. I didn't ask you if it was -- what role
7 played in probable cause.

8 Was this an important piece of information that was
9 included in that application?

10 A. Yes, it was.

11 Q. And it was uncorroborated?

12 A. Correct.

13 Q. It was submitted to the -- with that information, that
14 the jurors are looking at 109A was submitted to a federal
15 judge in federal court, to the best of your knowledge, did the
16 FBI have any information in its data banks that was
17 corroborative of that assertion?

18 A. Not to my recollection.

19 Q. Now, I want to focus your attention even more
20 specifically, if I might, on certain parts of that. You told
21 the jurors that in early October, you and the FBI had gone to
22 London, correct?

23 A. Correct. Can you go back again, please?

24 Q. I'm sorry. I said London. You went overseas, correct?

25 A. Correct.

1 Q. It was actually a city other than London?

2 A. That is correct.

3 Q. Okay. And do you recall whether or not -- withdrawn.

4 You had told the jurors also that the name Millian
5 had come up when you were over there, correct?

6 A. Correct.

7 Q. Now, this just calls -- so that's yes, but you can't tell
8 us what Mr. Steele said, okay? So I'm not asking you to tell
9 us what Steele said.

10 But will you tell the jurors whether or not the FBI
11 took some action -- I started to touch on this before -- once
12 you returned from overseas after having spoken to Mr. Steele.

13 A. Yes, we continued to try and vet the material and
14 continue to do searches and the like, mining open source,
15 mining classified material to see if we can corroborate.

16 Q. Okay. Now, Sergei Millian in October of 2016, was that a
17 name that was familiar to you?

18 A. Yes.

19 Q. Was he a person, to your knowledge, who had interacted
20 with the FBI?

21 A. Yes.

22 Q. Do you recall, again, to your personal knowledge, whether
23 or not Sergei Millian had some type of a relationship --

24 MR. ONORATO: Objection.

25 THE COURT: Let me hear -- let me hear the question.

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1 MR. DURHAM: Whether or not Mr. Auten has personal
2 knowledge if Mr. Millian had some type of relationship with
3 the FBI.

4 THE COURT: All right. Overruled, you may answer.

5 A. Yes.

6 BY MR. DURHAM:

7 Q. And what was that relationship?

8 A. Mr. Millian, at one time, had been a source.

9 Q. When you say "source," that's the same thing as

10 confidential human source, correct?

11 A. That is correct.

12 Q. In common parlance, might be known as an informant?

13 A. In common parlance, yes.

14 Q. And do you remember for how long Mr. Millian had been a
15 confidential human source for the FBI?

16 A. I don't recall that.

17 Q. Do you recall or do you know in German what the nature of
18 the assistance was that Millian provided?

19 A. I know where he had provided the assistance. I don't
20 know exactly what type of assistance it had been.

21 Q. Okay. So you know that he has helped as a CHS?

22 A. Correct.

23 Q. For a period of time?

24 A. Correct.

25 Q. And you said you knew where he was providing that

1 information?

2 A. Correct.

3 Q. And where was that?

4 A. I believe it was the Atlanta -- the Atlanta field office.

5 Q. Okay. Do you know, again, personal knowledge, do you
6 know whether or not at some point in time Millian's status as
7 a CHS ended, he was closed?

8 A. Yes.

9 Q. And why was it closed, if you know?

10 A. I believe it was closed because he moved out of the area
11 of responsibility for the Atlanta field office.

12 Q. Now, with respect to Mr. Millian, you heard about Millian
13 from Steele, you knew he had a relationship with the bureau,
14 correct?

15 A. Correct.

16 Q. Do you recall whether or not Mr. Millian was involved
17 with any kind of -- with any particular business entity?

18 A. Yes.

19 Q. And what was that?

20 A. It was the Russian American Chamber of Commerce, if I
21 recall correctly.

22 Q. Okay. So he's -- do you remember what his role was, his
23 position was?

24 A. I want to say president, potentially.

25 Q. So Mr. Millian was the president of the Russian American

1 Chamber of Commerce, correct?

2 A. Yes.

3 Q. And he had been a bureau informant?

4 A. Yes.

5 Q. With respect to Mr. Millian, do you recall, sir, whether
6 or not, again, your personal knowledge based on your personal
7 participation in these matters, if Mr. Millian had a
8 particular view of Mr. Trump?

9 A. With respect to what I knew when?

10 Q. Let's say in October of 2021.

11 A. I don't recall whether I knew in October of -- whether I
12 knew he had a particular position on the president.

13 Q. So this just calls for a yes or no: At some point in
14 time, did you learn whether or not Mr. Millian had a
15 particular perspective on the Trump candidacy?

16 A. Yes, at some point, I did.

17 Q. And what was Mr. Millian's view; is he a supporter of
18 Mrs. Clinton, is he a supporter of Trump, he was someplace in
19 between? What do you recall?

20 A. I recall he was a supporter of Trump.

21 Q. He was a Trump supporter, correct?

22 A. Correct.

23 Q. And he had been a bureau informant, correct?

24 A. Correct.

25 Q. Do you recall, sir, based on his name having come up when

1 you were overseas talking to Steele -- and I think you had
2 indicated some things that happened before that -- he was a
3 person of interest, correct?

4 A. Correct.

5 Q. Would you tell the ladies and gentlemen of the jury
6 whether or not -- again, to your personal knowledge -- whether
7 or not the bureau opened some file on Mr. Millian?

8 A. Yes.

9 Q. And was that a matter investigated by the Bureau?

10 A. Yes.

11 Q. And to your personal knowledge, was it at some point
12 closed?

13 A. Yes.

14 Q. Were any charges brought against Millian?

15 A. No.

16 Q. Was there any wrongdoing in terms of him assisting in the
17 interference in some way with the 2016 presidential election?

18 A. No.

19 Q. The -- Millian's name had been provided to you by Steele
20 in October, correct?

21 A. Correct.

22 Q. Do you know if Mr. Millian has dual citizenship? Do you
23 know whether he does or he doesn't?

24 A. I don't know offhand whether he does or doesn't.

25 Q. Do you recall -- or do you know whether or not

1 Mr. Millian any longer resides in the United States?

2 A. My understanding is that he doesn't.

3 MR. ^ : objection.

4 THE COURT: I'll let him answer. Go ahead.

5 BY MR. DURHAM:

6 Q. The Court said you can answer.

7 A. My understanding is that he's currently residing outside
8 of the United States.

9 Q. And do you know if he's been outside of the United States
10 for a number of years now?

11 A. That is my understanding.

12 Q. Okay. Do you recall -- this just calls for a yes or no
13 as well, and then I'll ask you a follow-up question -- do you
14 recall, sir, whether or not -- again, to your personal
15 knowledge -- not what somebody told you, but to your personal
16 knowledge -- at any time after you had been meeting with
17 Mr. Steele, did you personally receive any information about
18 Millian supposedly having provided some of the information
19 contained in the Steele dossier reports?

20 A. Could you clarify that, please?

21 Q. Absolutely. I'm sorry. That was probably way too
22 convoluted.

23 Aside from Mr. Steele, all right -- after you've met
24 with Steele, your colleagues have met with Steele in early
25 October 2016 --

1 A. Right.

2 Q. -- where Millian's name came up, right, do you recall
3 whether or not you at any time received -- you personally
4 received information about Millian having purportedly provided
5 information that was contained in dossier reports?

6 A. I don't recall that.

7 Q. Do you recall whether or not you met with Mr. Danchenko
8 in January of 2017?

9 A. Yes, I do recall that.

10 Q. And did Mr. Danchenko raise Mr. Millian's name when you
11 met with him in January of 2017?

12 A. Yes, he did.

13 Q. But other than Steele and now Mr. Danchenko in January of
14 2017, do you recall anybody else saying that Mr. Millian was
15 somehow tied to the information that showed up in the dossier?

16 A. Not to my recollection.

17 Q. And if that were to have happened, somebody else was
18 talking about that, you would recall that, wouldn't you?

19 A. I believe so, yes.

20 Q. To your personal knowledge and recollection, was any of
21 the Millian information that was contained in that dossier
22 report 2016/095 included, not just the initial FBI submission,
23 FISA submission in October of 2016, but was it also contained
24 in subsequent applications submitted to a federal judge?

25 A. Yes, it was.

1 Q. To continue surveillance on Carter Page, a United States
2 citizen, correct?

3 A. Correct.

4 MR. DURHAM: I'd ask that the court security officer
5 please show the witness Government's Exhibit 1205. Oh, I'm
6 sorry you have the whole book.

7 THE WITNESS: 1205.

8 BY MR. DURHAM:

9 Q. Do you have 1205 in front of you?

10 A. I do, yes.

11 Q. Do you recognize what 1205 is?

12 A. Yes, I do.

13 Q. What is Government's Exhibit 1205?

14 A. It is a copy of the -- well, the first page is a copy of
15 the verified application to the Foreign Intelligence
16 Surveillance Court, dated October 21, 2016.

17 Q. As you look at Government's Exhibit 1205, what's the
18 first page?

19 A. The first page is listed as a verified application with a
20 docket number.

21 Q. And do you recognize that form, that was ^ FISA
22 application ^ prepared and submitted to federal judges to
23 review, that's basically the format, correct?

24 A. I do recognize this format, yes.

25 Q. And then if you go through the balance of the pages,

1 would you tell us what they are?

2 A. Yes. Page 20 has -- it is redacted, but it has an
3 unredacted portion.

4 Q. And with respect to the portion that's on page 20, do you
5 recognize it?

6 A. I do recognize it, yes.

7 Q. And do you know where that information came from?

8 A. So the -- it is quoted in citing, which would have been
9 report 095.

10 Q. Coming straight out of the Steele report, correct?

11 A. There's language from that report in this, yes.

12 Q. Okay. And then what's the next page of 1205?

13 A. Next one is an execution of -- or, sorry, a certification
14 page regarding the Carter Page FISA.

15 Q. In this instance, who signed that?

16 A. It is signed at the top by Director James Comey.

17 Q. All right. What's the next page?

18 A. The next page is an approval form that is redacted in
19 part.

20 Q. ^ this will be on signature or name?

21 A. It only bears the name of the actual subject.

22 Q. Okay. And what's the next page?

23 A. The next page is a signature page that would be the --
24 I'm not sure what you would call this, whether it was an
25 additional certification. I can't recall exactly.

1 Q. All right. And then continuing.

2 A. Continuing is, again, a page that has material -- there
3 are some lines here and the subject's name is on those.

4 Q. Go on. And what's the balance of Government's
5 Exhibit 1205?

6 A. I'm sorry?

7 Q. What's containing the balance, the additional pages of
8 1205?

9 A. This would be the primary order and warrant.

10 Q. And is that signed by a federal judge, the second to the
11 next page?

12 A. Yes, that's correct.

13 MR. DURHAM: Your Honor, the government -- with that
14 foundation laid, we would offer 1205. I believe that the
15 parties have agreed that this is essentially redacted. This
16 entire application. It's pages that the witness has
17 identified.

18 THE COURT: Any objection?

19 MR. ONORATO: No, Your Honor.

20 THE COURT: Without objection, Government's
21 Exhibit 1205 is admitted.

22 (Government's Exhibit No. 1205, was received into evidence.)

23 MR. DURHAM: I would ask to put up Government's
24 Exhibit 1205. And if you would, if you could blow up the top
25 half of the page for the jurors, and then we can go to the

1 bottom.

2 BY MR. DURHAM:

3 Q. Sir, you had indicated or told the jurors that with
4 respect to 1205, this is the verified application, correct?

5 A. Correct.

6 Q. And all government work has numbers on it, so in this
7 instance, it's Docket Number 16-1182, correct?

8 A. Correct.

9 Q. And is this the copy of the application, the FISA
10 application, that was submitted to the FISA court on Carter
11 Page?

12 A. Yes.

13 Q. And you recognize this is what these forms typically look
14 like, correct?

15 A. Correct.

16 Q. I'd ask that you go to page -- it's the second to third
17 page, but it has page 20 -- and I'd ask that you blow it up.

18 And, again, the jurors can see this, but for the
19 written record, will you read into the record the portion of
20 the exhibit you were referring to?

21 A. Yes. It starts off with a parenthesis U, which stands
22 for unclassified. According to information provided by
23 sub-source redacted. There was a, quote, well-developed
24 conspiracy of cooperation between them, bracket, assessed to
25 be individuals involved in the Candidate 1's campaign and a

1 Russian leadership. Sub-source redacted.

2 Q. Closed quote?

3 A. Closed quote.

4 Q. That's taken right out of the report, isn't it?

5 A. Yes.

6 Q. Okay. Can you keep reading?

7 A. [As read:] Sub-source redacted reported that the
8 conspiracy was being managed by Candidate 1's then-campaign
9 manager, who was using, among others, foreign policy advisor
10 Carter Page as an intermediary.

11 Q. Now, the jurors are looking at the first line where it
12 makes reference, according to information provided by
13 sub-source, and then it's redacted out, right?

14 A. Correct.

15 Q. It would be a fair statement that what's redacted out is
16 Source E?

17 A. Well, sub-source --

18 Q. Oh, I'm sorry, I'm sorry. That's right, that would be
19 the primary source?

20 A. Correct.

21 Q. And you learned the primary source was who? Steele's
22 primary sub-source was who?

23 A. Well, eventually, we learned --

24 MR. ONORATO: Your Honor, can we approach?

25 THE COURT: Yes.

1 (Side bar.)

2

3 MR. ONORATO: So the information is redacted.

4 THE COURT: Right.

5 MR. ONORATO: And the notion is that he's going to
6 try to prove that Steele said something about Danchenko for
7 the truth of the matter asserted. I don't see why we need to
8 go beyond what the statement of the record is and that the
9 information that came from dossier 95 is within the document.

10 MR. DURHAM: I have a more fundamental objection to
11 my question.

12 THE COURT: Okay.

13 MR. DURHAM: Which is I said "sub-source C" which is
14 Millian, Your Honor. So I would sustain his objection, if I
15 were Your Honor.

16 THE COURT: Okay.

17 MR. ONORATO: You agree that it is E, is that the
18 idea? Your position is that it's sub-source E?

19 THE COURT: What's redacted?

20 MR. KEILTY: I don't think it's sub-source E.

21 MR. DURHAM: I'm pretty sure it's sub-source.

22 THE COURT: All right.

23 MR. ONORATO: Why don't we just say that the
24 language mirrors dossier 95 and then we move on. I thought
25 you were going to go down with the primary source.

1 THE COURT: All right. Good.

2 (Open court.)

3 MR. DURHAM: Okay. If we could just put that back
4 up, please, sir.

5 BY MR. DURHAM:

6 Q. So we just got back on track here. So the language that
7 you just read into the record for the jury -- well, the jury
8 can read it ^ for the written record -- that comes straight
9 out of the dossier 216/095 that the jurors have looked at
10 previously?

11 A. There are portions of this that come from that, yes.

12 Q. Does that portion also contain the dossier information
13 from 095?

14 A. Yes.

15 Q. 095 relating to Carter Page's supposed role?

16 A. Yes, it does.

17 Q. On October 21, 2016, did the bureau have any information
18 to corroborate?

19 A. At that point, no.

20 Q. For the benefit of the jurors, was that FISA application
21 that was submitted to the FISA court and contained that
22 information relating to a well-coordinated conspiracy of
23 cooperation, was that granted by the Court based on what the
24 FBI had included in the application?

25 A. The application was accepted by the Court in the totality

1 of what was in the application, yes.

2 Q. And that happened, again, on what date?

3 A. If I recall, it's October 21, 2016.

4 Q. On October 21 of 2016, to your knowledge, was Carter Page
5 an American citizen?

6 A. Yes.

7 Q. Would you tell the ladies and gentlemen of the jury,
8 after the bureau had submitted the FISA application on Mr.
9 Page on October 21 of 2016, if there were additional
10 applications made to the FISA court to continue that coverage
11 on Mr. Page?

12 A. Yes.

13 Q. And do you recall how many additional applications were
14 submitted?

15 A. There were three renewals.

16 Q. Do you recall, based on your knowledge of this case,
17 whether or not the bureau continued to include that same
18 information that's on page 20 of the original -- of the
19 initial application and in the subsequent FISA applications?

20 A. It was carried over into subsequent applications.

21 Q. Do you recall, sir, what the dates of the subsequent
22 orders were?

23 A. One was January of 2017, one was, if I recall correctly,
24 April of 2017, and then the other one was June of 2017.

25 Q. Are there any documents that might refresh your

1 recollection as to the exact dates in those respective months?

2 A. Sure.

3 Q. I would ask you to take a look, if you would, sir, at
4 Government's Exhibit 1206, 1207 and 1208. And see if that
5 refreshes your recollection as to when the additional FISA
6 applications were submitted and approved.

7 A. The first renewal was on January 12 of 2017 per the date
8 stamp in 1206.

9 Q. All right. And if you would, in looking at -- while
10 you're going through it, just to be more expeditious about it,
11 would you indicate whether or not on that 1206, the
12 January 12, 2017, whether or not it contains the same language
13 relating to the -- the same language coming from the dossier
14 report 95?

15 A. Yes, on Pages 21 and 22.

16 Q. So that's one. But you indicated there was one in April,
17 correct?

18 A. Correct. That's listed in 1207.

19 Q. Does that refresh your recollection as to the date in
20 April?

21 A. Yes, I believe this says -- it's the -- the time stamp is
22 hard to read, but I believe it is April 7th or some -- it's
23 difficult to read actually.

24 Q. Perhaps if you just thumb through the document and get to
25 the signature page of the court's order, there will be more

1 clarity.

2 A. Yes, it is date stamped the -- April 7, 2017.

3 Q. And as to Government's Exhibit 1207, the April 7
4 submission, would you indicate or tell the jurors whether or
5 not, once again, that same dossier information is included?

6 A. Yes, it is.

7 Q. Now, what pages, again, are the April 7th?

8 A. Pages 22 to 23.

9 Q. And then you said there was some applications submitted
10 in June of 17. Is there anything in Government's Exhibit 1208
11 that would refresh your recollection as to the exact date?

12 A. Yes, the time stamp is very difficult to read, but on
13 Page 100, it lists a signature of the Deputy Attorney General
14 of the United States with the date of 6/29/17, and it is time
15 stamped on Page 20, 6/29/2017.

16 Q. Okay. And with respect then to the information coming
17 from the dossier report, is that also in the June 29
18 application?

19 A. Yes, it is.

20 Q. And on what pages?

21 A. Page 24.

22 MR. DURHAM: Your Honor, we would move 1206, 1207,
23 1208. Again, these are redacted versions of the -- it has the
24 cover page and then the respected pages that Mr. Auten is
25 talking about.

1 THE COURT: Any objection?

2 MR. ONORATO: No objection.

3 THE COURT: Without objection, Government Exhibits

4 1206, 1207, and 1208 -- is that correct -- are admitted.

5 (Government's Exhibits 1206, 1207 and 1208 were admitted into
6 evidence.)

7 MR. DURHAM: Perhaps Ms. Arsenault could just
8 quickly show the jurors the first page of each of those
9 exhibits, and blow it up, and then show the respective pages
10 reflecting, the dossier report information.

11 THE COURT: Yes.

12 BY MR. DURHAM:

13 Q. Okay. So that's the January 12 version, correct? That's
14 1206. That's identical language, correct?

15 A. Correct.

16 Q. And perhaps we can show the jurors. Same language?

17 A. Correct.

18 Q. And then 1208 from June 29th. Okay. Same language?

19 A. Same language.

20 Q. At any point in time between October 21 of 2017 and
21 June 29 of 2017, aside from that information being in the
22 dossier report, the Steele dossier report, had the bureau been
23 able to corroborate that information?

24 A. No.

25 Q. At the end of the period of surveillances, October 21 of

1 '16, and then -- what was it -- a 90-day order in June, so
2 you're down another 90 days beyond that?

3 A. Correct.

4 Q. At the end of all of that surveillance with the FBI using
5 its most powerful investigative tool, was Carter Page charged
6 with any wrongdoing?

7 A. No, he was not.

8 Q. Now, I want to ask you: During that same time period
9 October 21 of '16, through the Page investigation, to your
10 knowledge, does the FBI -- was it backed in its efforts to try
11 to corroborate or confirm the information in the report?

12 A. I'm sorry. I missed the first part of that.

13 Q. Sure. There's not a well -- let me ask it this way.

14 Between October 21 of 2016 and when the FBI
15 submitted its fourth FISA applications on a United States
16 citizen, did the FBI continue to try to corroborate
17 information?

18 A. Yes, it did.

19 Q. It was never able to -- it didn't corroborate. That
20 information came from that dossier report, correct?

21 A. Correct.

22 Q. And is -- what efforts were taken by the FBI during that
23 period of time to try to corroborate that information?

24 A. Multiple investigative steps, analysis, and the like.

25 Q. You continued -- you said you had coordinated databases?

1 A. Correct.

2 Q. Nothing?

3 A. Not confirming or corroborating that information, no.

4 Q. You had said, prior to (indiscernible), the initial FISA,
5 that you talked to intelligence partners in the United States,
6 anything they provided that was corroborative with --

7 A. Not corroborating -- excuse me. Not corroborating that
8 information.

9 Q. Would it be a fair statement that you and others made
10 additional trips to overseas to try to talk to Mr. Steele and
11 others to try to locate or identify corroborative information?

12 A. Are you talking in general people going over -- I mean --

13 Q. You, yourself, did you go over at all?

14 A. I did go over.

15 Q. And did -- were you able to get any corroborative
16 information through those efforts?

17 A. No.

18 Q. Now, I want to focus your attention not just on the --
19 trying to corroborate or finding corroborative information
20 during that period of time, you told the jury that when you
21 met with Steele in early October 2016, the second primary
22 focus of your effort was to try to identify sources.

23 It's important, you indicated, correct me if I'm
24 wrong, it's important to try to identify sources so they can
25 go to the sources and find out whether or not the information

1 is valid or not. Fair statement?

2 A. Fair statement.

3 Q. Through your efforts to try to identify sources -- when I
4 say "your," I'm talking specifically to your participation in
5 the investigation -- did your efforts to identify sources of
6 the information whether it's contained in the various dossier
7 reports continue or did it stop?

8 A. It continued.

9 Q. Now, I want to ask you whether or not any of those
10 efforts bore fruit -- that just calls for a "yes" or "no"?

11 A. Yes.

12 Q. You mentioned before earlier to the jurors that at some
13 point in time, you succeeded in identifying Mr. Steele's
14 primary source, correct?

15 A. Correct.

16 Q. And tell the jurors whether or not you personally
17 participated in that effort or did somebody just tell you
18 that?

19 A. No, I was able to personally identify.

20 Q. And with respect to your personally identifying the
21 primary source of the Steele reporting, who did that person
22 turn out to be?

23 A. Mr. Danchenko.

24 Q. And when, if you recall, approximately or maybe with
25 specificity, when was it that you identified Mr. Danchenko as

1 Steele's primary source?

2 A. If I recall correctly, we had a preliminary
3 identification on the 20th of December, 2016.

4 Q. And did you continue those efforts?

5 A. Yes.

6 Q. And I'll cut to the chase. Were you able to confirm
7 that, in fact, it was Igor Danchenko that was the primary
8 source for Steele?

9 A. Yes.

10 Q. Now, with respect to Igor Danchenko, was December of
11 2016 -- was that the first time that you had heard of someone
12 by the name of Igor Danchenko?

13 MR. ONORATO: Your Honor, I'm going to object and
14 ask to approach.

15 THE COURT: All right. Let's do it.

16 (Side bar.)

17 THE COURT: If he says, yes, what's your next
18 question?

19 MR. DURHAM: The next question will be, "When had
20 you first heard of Igor Danchenko?" And then we will intend
21 to carry out that there was, well, I should say by way of
22 background, this witness is personally involved in that
23 earlier investigation and we've counselled him not to say
24 anything about him pitching anybody for classified information
25 or what informants had said what he knows of those

1 counterintelligence investigation. He knows that it was
2 closed and he knows why it was closed, but I'm not going to
3 inquire: Why do you think he was a spy? I might like to --

4 THE COURT: I understand. I'm going to postpone it
5 until I hear the cross. And then on rebuttal we'll see what
6 he says. All right.

7 MR. DURHAM: So I get when the objection came
8 because I think I asked -- I asked the question is this the
9 first time you heard of Igor Danchenko. So when -- I'm
10 trying -- can you just check to see what the question posed
11 was, where the objection was raised?

12 MR. ONORATO: It may not have been the first time or
13 that's the impression I got and that's why I'm asking.

14 (Court reporter inquires of the Court.)

15 THE COURT: I think I'll let you bring out that he
16 had previously heard his name.

17 And then your next question is, what, when; right?

18 MR. DURHAM: I will follow whatever direction -- the
19 Court's direction.

20 THE COURT: I understand. And it complicates the
21 issue for me. I'm going to hold off. I'm going to hear what
22 the cross is, all right. And when we come back, I'll allow
23 you to ask: Whether you heard his name and in any one
24 context, I think, he can say in connection with --

25 MR. DURHAM: What if I do this, Your Honor: Have

1 you previously heard his name? And he says "Yes," and so,
2 we'll come back to that later.

3 THE COURT: Right. I'm going to go ahead -- I'm
4 going to let you answer that question and then I'm going to
5 take a 20-minute break.

6 (Open court.)

7 BY MR. DURHAM:

8 Q. Sir, let me -- just before the quick exit break here, let
9 me ask you, prior to December 2016, was Igor Danchenko a name
10 you were familiar with?

11 A. Yes.

12 THE COURT: Thank you, Mr. Durham.

13 Ladies and gentlemen, we're going to take a
14 20-minute recess at this time. You're excused to the jury
15 room. Please do not discuss this case among yourselves.

16 (Jury dismissed.)

17 THE COURT: All right. Court will stand in recess.

18 (Recess.)

19 (Court proceedings resumed at 4:42 p.m.)

20 THE COURT: Anything before we bring the jury out?
21 All right. Let's bring the jury out.

22 MR. ONORATO: Your Honor, do you have an idea of
23 what time you're going to break this evening?

24 THE COURT: Probably around quarter to 6:00.

25 (Jury present.)

1 THE COURT: Please be seated. All right.

2 Mr. Auten, you remain under oath.

3 Mr. Durham.

4 MR. DURHAM: Proceed, Your Honor? Thank you.

5 BY MR. DURHAM:

6 Q. Mr. Auten, just before we took the afternoon break, you
7 had indicated that you personally identified Mr. Danchenko as
8 the primary source for Christopher Steele, correct?

9 A. Correct.

10 Q. And how did you do that?

11 A. Through a number of searches through databases, a number
12 of making connections of existing material that we had.

13 Q. But that didn't happen until December?

14 A. That's correct.

15 Q. And do you recall, sir, whether or not the FBI makes any
16 kind of a decision after you had identified the defendant as
17 the person who's the primary source, to approach him?

18 A. Yes.

19 Q. What can you tell the jurors about that?

20 A. He was approached in mid-January 2017.

21 Q. And is that something that you did or others did in the
22 first instance?

23 A. Others did, but I was involved with communications about
24 it, et cetera.

25 Q. Would you tell the juror what, if any, role that you

1 played, then, in connection with Mr. Danchenko being
2 interviewed in January of 2017?

3 A. I was one of two individual FBI employees who interviewed
4 Mr. Danchenko in January of 2017.

5 Q. So let's set the stage for that.

6 Do you recall how much earlier in January of 2017 it
7 was that agents approached Mr. Danchenko?

8 A. I want to say it was mid-January.

9 Q. All right. And after he had been approached, what
10 happened next?

11 A. There was some -- time had elapsed between the time that
12 he was approached and the time that we were able to have the
13 interview.

14 Q. And do you know what was happening during that interim
15 period of time?

16 A. I know there was some back-and-forth about how to set
17 that interview up.

18 Q. All right. And do you know who was involved in the
19 back-and-forth?

20 A. From the FBI side, I believe it was, if my recollection
21 serves, the deputy assistant director at that time, Jennifer
22 Boone.

23 Q. And then how about with respect to the intelligence side,
24 you were involved in it and --

25 A. I was involved and Special Agent Steve --

1 (Court reporter clarification.)

2 Q. So this poor lady has to take all this down, so if I can
3 just finish the question, it makes it easier to take it down,
4 okay?

5 So Mr. Moffa was involved, correct?

6 A. Yes.

7 Q. Okay. And then above Mr. Moffa, do you know who else was
8 involved in this matter?

9 A. People would have been briefed up above Moffa.

10 Q. Do you know how far up in the bureau chain it went?

11 A. I do not.

12 Q. Now, with respect to the January interviews itself, do
13 you recall the date on which the interviews occurred?

14 A. I believe the first interview occurred on the 24th of
15 January.

16 Q. And was it one day or more than one day of interviews?

17 A. It was three days of interviews.

18 Q. And were they full days, part days? What can you tell
19 the jury about that?

20 A. If I recall correctly, they were part days.

21 Q. And it gives us a sense, like, say it was, you know,
22 three mornings, three afternoons, it was more scattered than
23 that? What's your best recollection?

24 A. No. My best recollection is that it was three
25 afternoons.

1 Q. Three afternoons. So then January 24th, 25th, and 26th
2 of 2017, correct?

3 A. Correct.

4 Q. Now, you have told the jurors that you were one of two
5 people who were doing the interview; is that right?

6 A. Two FBI employees, yes.

7 Q. Okay. So let me ask you these -- this series of
8 questions, then. Since you were involved in setting this up,
9 did you have some kind of a game plan, that is what it is that
10 you were trying to elicit from Mr. Danchenko?

11 A. We were there to go through to determine, you know, who
12 the sub-sources were in these reports and what he could tell
13 us about the reports in general.

14 Q. All right. You told the jurors earlier this afternoon
15 that when you worked through with Steele, you wanted to obtain
16 corroboration of the allegations, if you could, and you wanted
17 to do this sourcing, correct?

18 A. Correct.

19 Q. How about corroboration in January of 2017, are you
20 looking to corroborate some of the more serious or most
21 serious allegations in that dossier?

22 A. Yes, if possible.

23 Q. So same focus, what it is that you're trying to get out
24 of this session, correct?

25 A. Correct.

1 Q. Now, tell the ladies and gentlemen of the jury, you're
2 there and the second person, FBI personnel, was who?

3 A. Special Agent Steve Somma.

4 Q. Okay. Tell the jurors what Mr. Somma's role was,
5 generally, in connection with Crossfire Hurricane and this
6 part of the investigation?

7 A. Mr. Somma was the case agent that was handling, at this
8 point in time, the Carter Page investigation.

9 Q. So you told the jurors that there were the four files,
10 that each of the four files had, essentially, a case agent or
11 a leader or somebody who's principally responsible on the
12 operations or special agent side?

13 A. Correct, yes.

14 Q. And that was Somma as related to Carter Page?

15 A. At that time, yes.

16 Q. Okay. So you and Mr. Somma are there. Anybody else
17 present?

18 A. Yes.

19 Q. Who was that?

20 A. On each day, there was an individual from the Department
21 of Justice's National Security Division, or NSD.

22 Q. Do you remember offhand who any of those persons were?

23 A. The first day, it was David Laufman, and the second day
24 was last name of Scott; first name, I can't remember right
25 offhand.

1 Q. Richard?

2 A. Yes, that's it, Richard Scott.

3 Q. Okay. Do you recall whether there was anybody -- or,
4 obviously, Mr. Danchenko was there for this affair, correct?

5 A. Correct.

6 Q. So Mr. Danchenko, yourself, Mr. Somma, and then Mr. Scott
7 and/or Mr. Laufman, correct?

8 A. Correct.

9 Q. Anybody else there?

10 A. Yes.

11 Q. And who else was there?

12 A. Mr. Danchenko's attorney.

13 Q. Okay. So Mr. Danchenko's represented by counsel; is that
14 correct?

15 A. Correct.

16 Q. And with respect to that session with his counsel
17 present, do you have a recollection as to whether or not there
18 was a letter -- an immunity letter that was signed by
19 Mr. Laufman, by the defendant, by the defendant's lawyer?

20 A. I don't have a clear recollection of that letter.

21 Q. What can you tell the jurors about it? Do you remember
22 that there was a letter?

23 A. I recall that there was a letter, yes.

24 Q. And do you recall, sir, whether or not that was a
25 document that was uploaded into the bureau record file?

1 A. Subsequently, it was uploaded into the bureau's record
2 file, yes.

3 Q. I would ask that you take a look at Government's
4 Exhibit 118, please. Do you have that?

5 A. I do.

6 Q. Looking at that, there are people who signed this,
7 correct?

8 A. That is correct.

9 Q. And who signed it on the back of page 2?

10 A. On the back of page 2, it was signed by David H. Laufman,
11 who is listed as chief of the Counterintelligence and Export
12 Control Section of the National Security Division of DOJ.

13 Q. And how about on the third page, who signed it?

14 A. Third page, two individuals signed it. Mr. Danchenko
15 signed and dated it, and Mr. Mark Schamel, who is listed as
16 his attorney signed and dated it.

17 Q. Is there dates, handwritten dates there?

18 A. 1/24/2017 by both signatures.

19 Q. And is that the date of the first interview with
20 Mr. Danchenko in January of 2017?

21 A. Yes, that was the first date.

22 Q. Oh, so he was present, correct?

23 A. Correct.

24 Q. He did have a lawyer with him, correct?

25 A. Correct.

1 Q. And do you remember that there was a letter -- you
2 can't -- you don't have the specific recollection of this
3 being the letter, correct?

4 A. Correct.

5 Q. But you recognize Laufman, Mr. Danchenko, and a lawyer,
6 correct?

7 A. Correct.

8 MR. DURHAM: We'd move 118 as a full exhibit, Your
9 Honor --

10 THE COURT: All right.

11 MR. DURHAM: -- subject to, if there's an objection
12 to connection, we'll put it on through a records custodian.

13 MR. ONORATO: There's no objection.

14 THE COURT: Without objection, 118 is admitted.

15 (Government's Exhibit No. 118, was admitted into evidence.)

16 MR. DURHAM: Okay. Then I'd ask, with the Court's
17 permission, for Ms. Arsenault to pull that letter up.

18 THE COURT: Yes.

19 MR. DURHAM: Ms. Arsenault, if you would, blow up
20 for the jurors on page 1, the top portion of that document.

21 BY MR. DURHAM:

22 Q. And so, Mr. Auten, again, just for purpose of the written
23 record because the jurors can see this, what's the date of
24 this letter?

25 A. January 24, 2017.

1 Q. And who is the letter to?

2 A. The letter is to Mr. Igor Danchenko.

3 Q. In care of his lawyer?

4 A. Correct.

5 Q. And then it goes on -- would you read the first couple of
6 paragraphs into the record?

7 A. "Dear Mr. Schamel, as you are aware, the Federal Bureau
8 of Investigation in coordination with the National Security
9 Division of the U.S. Department of Justice, collectively 'the
10 government', is conducting an investigation which we seek the
11 cooperation of your client, Igor Danchenko. As a preliminary
12 matter, I must advise you that the government does not intend
13 by this letter to grant your client immunity from prosecution.
14 That is, the government will retain its right to prosecute
15 your client for all crimes of any nature that may have been
16 committed by your client. We are, however, sensitive to your
17 concerns about your client's Fifth Amendment constitutional
18 right to remain silent and not to incriminate himself in any
19 criminal wrongdoing."

20 Q. And then read on from there -- so you blow up the bottom
21 paragraph.

22 A. "Accordingly, the government proposes the following
23 agreement: One, your client agrees to supply complete and
24 truthful information and testimony to all persons in this
25 matter as well as in any other proceeding, including court

1 proceedings related to or the growing out of this
2 investigation. Your client must answer all questions
3 concerning the subject matter of this investigation and must
4 not withhold any information. Your client must neither
5 attempt to protect any person or entity through false
6 information or omission nor falsely implicate any person or
7 entity."

8 Q. Okay. You just -- stop there. This document was signed
9 on January 24th, before you started interviewing
10 Mr. Danchenko, correct?

11 A. I don't have a clear recollection of when it was signed
12 on the 24th.

13 Q. Okay. Well, with respect to the exhibit itself, the
14 first paragraph says [as read]: Your client agrees to supply
15 complete and truthful information and testimony to all persons
16 in this matter as well as any other proceeding including court
17 proceedings related to or growing out of this investigation.

18 Now, am I reading the next part correctly? [As
19 read]: Your client must answer all questions concerning the
20 subject matter of this investigation and must not withhold any
21 information.

22 Did I read that that properly -- correctly?

23 A. Yes.

24 Q. And the next sentence says [as read]: Your client must
25 neither attempt to protect any person or entity through false

1 information or omission or falsely implicate any person or
2 entity.

3 Did I read that correctly?

4 A. Yes.

5 Q. If you go to the next paragraph, would you read
6 Paragraph 2 into the written record, please?

7 A. 2, [as read]: "In return for your client's cooperation
8 in this matter, the government agrees that your client shall
9 receive protections coextensive with and limited by those
10 conferred for testimony given pursuant to a compulsion order
11 issued under the provisions of Title 18 U.S. Code,
12 Section 6001, et seq. That is such information or any other
13 information directly or indirectly derived from, it may not be
14 used directly or indirectly against your client in any
15 criminal case exception in a prosecution for perjury, for
16 giving a false statement, and/or for obstruction of justice
17 that may result from any statement, testimony, or other
18 information he provides pursuant to this agreement. However,
19 if your client violates any terms or conditions of this
20 agreement, then the government reserves its right in its
21 discretion to avoid this agreement and use it -- use against
22 him in a criminal proceeding either directly or indirectly,
23 any information or testimony provided by him to law
24 enforcement authorities, the grand jury, or elsewhere during
25 the course of his cooperation in this matter."

1 Q. Now, going back to the first page in the second
2 paragraph -- second numbered paragraph. It reads [as read]:
3 In return for your client's cooperation in this matter, the
4 government agrees that your client shall receive protections
5 coextensive with and limited by those conferred for testimony
6 given pursuant to a compulsion order issued under the
7 provisions of Title 18 U.S. Code, Section 6001, et seq.

8 Correct?

9 A. Correct.

10 Q. Do you know, sir, whether or not Title 18 United States
11 Code, Section 6001, et seq., is the immunity provisions of the
12 federal statutes?

13 A. I would not be able to rattle that off.

14 MR. DURHAM: I would ask the Court to take judicial
15 notice of the fact that Title 18 of the United States Code,
16 Section 6001, et seq., relates to immunity.

17 THE COURT: Counsel.

18 MR. ONORATO: Your Honor, no objection subject to
19 clarification.

20 THE COURT: All right. Court will judicially note
21 that that section retains the judicial --

22 MR. DURHAM: Thank you, Your Honor. Does Your Honor
23 just give a brief instruction concerning what "judicial
24 notice" means?

25 THE COURT: Yes. Judicial notice means that the

1 Court has recognized the sufficient proof. Its recognition
2 that this statute relates to judicial immunity. You may
3 accept that without any further proof, but you should give it
4 such weight as you deem appropriate.

5 BY MR. DURHAM:

6 Q. Okay. I'm going to ask Ms. Arsenault that you would just
7 blow up as much they can so I'm sure I can read it, and I
8 think the jurors can read it. Paragraph No. 1.

9 Now, sir, I know you previously read this, and the
10 jury has heard it twice now. I want to ask you, though, about
11 your interview of Mr. Danchenko on January 24th and 25th and
12 26th of 2017.

13 With respect to what is contained in this letter, do
14 you recall, sir, what, if anything, you and/or Special Agent
15 Somma said to Mr. Danchenko and his counsel along the lines of
16 what's contained in this agreement, that is Mr. Danchenko had
17 to answer all questions concerning the subject matter of
18 the -- this investigation and must not withhold any
19 information.

20 Is that consistent or inconsistent with the
21 information that you personally were present or -- and giving
22 to Mr. Danchenko for those January interviews?

23 A. I'm sorry. I missed the latter part of that.

24 Q. Sure. What's contained in this letter, Government's
25 Exhibit 118 in Paragraph 1 concerning the requirement that

1 Mr. Danchenko must not withhold any information, and that
2 Mr. Danchenko must not attempt to protect any person or entity
3 through false information or omission, or falsely implicate
4 any person or entity, is that consistent with what you and
5 Somma made known to the defendant and his attorney was
6 expected in January of 2017?

7 A. I don't have a clear recollection of what admonitions
8 were given to Mr. Danchenko at the beginning of the interview.

9 Q. Okay. Well, how about during the course of the
10 interview, what do you recall about what Mr. Danchenko's
11 obligations were or what the expectations were?

12 A. I mean, the expectations we were there to talk about the
13 reports. We were there to talk about his involvement with the
14 reports. We were there to talk about the sub-sources. And
15 the expectation was that that's what we would talk about.

16 Q. Okay. Now, I had asked you earlier this afternoon about
17 the three-day interview. I've asked you questions -- remember
18 we had to jump ahead a little bit and asked about when
19 Mr. Danchenko was interviewed in January. Specifically, I
20 asked you about the dossier reports.

21 Do you recall that?

22 A. I do , yes.

23 Q. And I think I had asked you, but I'll ask you again just
24 to be certain. Did Mr. Danchenko bring anything to that
25 interview report with him?

1 A. I recall that he had a copy of the reports.

2 Q. And I believe I also asked you but will confirm, with
3 respect to those reports, those weren't yours, you didn't
4 provide those to him, he brought those on his own?

5 A. That is correct.

6 Q. And you saw there was at least some writing that was on
7 those dossier reports?

8 A. That is my recollection, yes.

9 Q. Explain to the jurors, if you would, sir, what process
10 you then follow -- when I say "you," you and Mr. Somma,
11 whether it was you asking the questions, Somma asking the
12 questions. Explain to the jurors what process was for that
13 interview on January 24th?

14 A. The January 24th interview, I believe Mr. Somma and I
15 went somewhat back and forth asking questions. I believe we
16 started off by asking biographical information, and kind of
17 going through Mr. Danchenko's life, work history, et cetera.

18 Q. Okay. So when you first sat down with the defendant and
19 his lawyer, did you make any note as to whether or not
20 Mr. Danchenko spoke English?

21 A. I don't recall making any note about him speaking
22 English. My recollection is that it was clear he did speak
23 English.

24 Q. Okay. I mean, it was inartfully -- the question was
25 inartfully posed.

1 Does Mr. Danchenko speak English?

2 A. He spoke English during that interview, so, yes.

3 Q. And was he -- does he speak good English?

4 A. To my --

5 Q. Do you have any difficulty communicating with you?

6 A. To my recollection, he spoke good English, yes.

7 Q. All right. But to your recollection, at any point during
8 the course of the three days of interview, did Mr. Danchenko
9 appear to be confused about what he was being asked?

10 A. I don't recall that, no.

11 Q. Would you -- describe for the jurors, sir, whether this
12 was a formal Q and A. Like, for example, you're on the
13 witness stand and I'm asking you questions, and you're giving
14 answers or was the atmospherics different than that?

15 A. The atmospherics were different.

16 Q. Then describe those atmospherics to the jurors.

17 A. It was sitting across the table from one another. It was
18 much more of a conversational style of interview. It was a
19 very typical interview that way.

20 Q. And would you describe it as being free-flowing?

21 A. I think free-flowing may be a bit -- I don't know if I
22 would call it free-flowing because we were asking questions
23 and Mr. Danchenko was answering questions. And then that
24 might spur follow-on questions. So but I wouldn't say it was
25 free-flowing.

1 Q. Okay. Did Mr. Danchenko appear to have difficulty
2 answering your questions or understanding your questions?

3 A. Not to my recollection, no.

4 Q. And was formal courtroom language being used or was it
5 colloquial, you know, as you say, conversational?

6 A. It was conversational.

7 Q. Do you recall, sir, based on the three days, again, as
8 you describe it, as they were really three half days, right,
9 or thereabouts?

10 A. Yes.

11 Q. Yes. During that period of time, did you come to an
12 understanding of approximately how much of the information in
13 the dossier reports had been provided to Steele by Danchenko?

14 A. We didn't have a good kind of percentage breakdown or
15 anything of that sort. It was a sizable amount from what I
16 recall.

17 Q. What can you share with the jurors about whether it was
18 significant portion of the information that that was contained
19 in all of these reports that Mr. Steele provided to the FBI,
20 and the FBI then used at least in the Carter Page
21 applications.

22 A. So my recollection is that the way things were described
23 with respect to how Mr. Danchenko described the reports to us
24 during the interview was that it was his view that these
25 reports included some of his material, some of his analysis,

1 Mr. Steele's material, and then material that he wasn't able
2 to identify.

3 Q. Okay. I'm going to ask you to take a look, if you would,
4 sir, at Government's Exhibit 1502 for identification.

5 A. Okay.

6 Q. And do you recognize what that document is?

7 A. This is a LinkedIn -- it looks like a LinkedIn message.

8 Q. And does it identify who the LinkedIn persons are?

9 A. Yes, it's from Igor Danchenko.

10 Q. Okay. And who is Mr. Danchenko communicating with in
11 that instance?

12 A. I'm going to butcher the last name. Anastasia
13 Gnezditskaia.

14 Q. Why don't you do this? Why don't you spell the name for
15 the court reporter? It'll be a lot easier.

16 A. From Mr. Igor Danchenko to Anastasia, A-N-A-S-T-A-S-I-A.
17 And it's Gnezditskaia, G-N-E-Z-D-I-T-S-K-A-I-A. The date of
18 it is October 11, 2020.

19 Q. October 11, 2020.

20 MR. DURHAM: Your Honor, at this time --

21 MR. ONORATO: I'm going to object to hearsay.

22 THE COURT: I'm sorry.

23 MR. DURHAM: We'll lay a foundation. We haven't
24 moved it yet.

25 THE COURT: All right.

1 MR. DURHAM: At this time, we would, Your Honor, ask
2 that the stipulation, which has been marked as Government's
3 Exhibit 1800 be admitted. Specifically, it's a stipulation
4 between the parties relating to LinkedIn records.

5 THE COURT: All right. Do you want to read it in --
6 do you want to read it into the record?

7 MR. ONORATO: Do they have a record -- I just
8 question its admissibility because it's from 2020. It has
9 nothing to do with --

10 MR. DURHAM: We'll tie it up. We'll tie it up.
11 Don't worry.

12 THE COURT: All right. All right.

13 MR. DURHAM: So the stipulation no objection?

14 THE COURT: All right. Do you want to read it into
15 the record?

16 MR. DURHAM: Is that the Court --

17 THE COURT: Yes.

18 MR. DURHAM: -- will do it, the witness, or would
19 you prefer Counsel do it?

20 THE COURT: You can read it.

21 Ladies and gentlemen, you're about to hear what's
22 referred to as "stipulation." A stipulation is simply an
23 agreement between the parties as to what's contained in the
24 stipulation. You may accept as adequate proof of what's
25 stated without any further proof, but it's ultimately up to

1 you whether or not to accept it and what weight to give it.

2 MR. DURHAM: Thank you, Your Honor.

3 Ladies and gentlemen, the Government's Exhibit 18,
4 which Ms. Arsenault, I think, can put up on the monitor for
5 you. I mean, 1800. I'm sorry.

6 THE COURT: Is it Exhibit 1800?

7 MR. DURHAM: 1800, yes, Your Honor.

8 THE COURT: All right.

9 MR. DURHAM: Okay. This is in the matter of United
10 States versus Igor Y. Danchenko, Criminal No. 1:21-cr-245,
11 parenthesis, (AJT), close parenthesis.

12 [As read]: It is hereby stipulated and agreed by
13 and between the undersigned parties that, if called to
14 testify, a records custodian from LinkedIn would testify as
15 follows:

16 Paragraph No. 1, Government's Exhibits 1500 and 1502
17 are true and accurate copies of the contents of the LinkedIn
18 account "Igor Danchenko" controlled by Igor Danchenko.

19 Paragraph No. 2, Government's Exhibits 1500 and 1502
20 are true and accurate copies of authentic business records of
21 LinkedIn that were made at or near the time of the acts and
22 events recorded in them by a person with knowledge and were
23 prepared and kept in the course of LinkedIn's regularly
24 conducted business activity. And it was the regular practice
25 of LinkedIn to make such business records, and the source of

1 the information or the method and the circumstances of
2 preparation are trustworthy. The parties stipulate to the
3 authenticity of Government's Exhibits 1500 and 1502.

4 Paragraph No. 4, This stipulation is admissible as
5 evidence at trial.

6 And it's dated today -- it's dated, Alexandria,
7 Virginia, October 11, 2022, and signed by Mr. Keilty and
8 Mr. Onorato.

9 BY MR. DURHAM:

10 Q. Sir, with respect, then, to the Government's
11 Exhibit 1502, that's a LinkedIn message, correct?

12 A. Correct.

13 Q. Now, the date of the Government's Exhibit 1502, you
14 indicated was, again, what?

15 A. It was October 11, 2020.

16 Q. Okay. So -- and I want to ask this: You're talking
17 to -- you and Mr. Somma are talking to Mr. Danchenko in
18 January of 2017, correct?

19 A. Correct.

20 Q. At some point in time, do you recall, sir, whether or not
21 an entity known as BuzzFeed publicly published the dossier?

22 A. Yes.

23 Q. Do you recall -- that's based on your personal knowledge,
24 correct?

25 A. That is.

1 Q. This became a big deal, right, when BuzzFeed published
2 this stuff?

3 A. Yes, it did.

4 Q. At some point in time after January of 2017, when
5 Mr. Danchenko was being interviewed by you, do you recall
6 whether or not the fact that Mr. Danchenko was the primary
7 sub-source became public?

8 A. Much later.

9 Q. Right, like in 2020, right, in the fall of 2020?

10 A. Maybe. Maybe even the summer of 2020 or something of
11 that sort.

12 Q. It was 2020 when it became publicly known that
13 Mr. Danchenko had been the primary sub-source, correct?

14 A. Again, I don't have a clear recollection of the date, but
15 around that time.

16 MR. DURHAM: We'd offer 1505, Your Honor, as a full
17 exhibit.

18 THE COURT: Any objection?

19 MR. ONORATO: Objection. Can we approach?

20 THE COURT: I'm sorry?

21 MR. ONORATO: Objection. Can be approach?

22 THE COURT: Yes.

23 (Side bar.)

24 THE COURT: What's the objection?

25 MR. ONORATO: Sorry, Judge. There hasn't been

1 adequate foundation laid that Mr. Danchenko had every single
2 page of (indiscernible) release of the Steele dossier, whether
3 he had reviewed it all at the time of the interview with Mr.
4 Auten. And then, subsequently three years later having him
5 reviewed it and (indiscernible) statements, I don't see how
6 that's relevant.

7 THE COURT: All right. I'm going to admit it.

8 MR. DURHAM: It's a statement against the party
9 opponent.

10 THE COURT: Right.

11 MR. ONORATO: It's an admission, but I guess the
12 problem is the time, right. He doesn't know whether
13 Mr. Danchenko had read. So the idea is that he didn't tell
14 you, at least 100 percent of it, and there's no proof that he
15 read 80 percent of it -- that he had every page of it.

16 THE COURT: Well, this is a statement from a party
17 omission from Danchenko so I'm admitting it.

18 (Open court.)

19 MR. DURHAM: Your Honor, the government will move
20 1502 as a full exhibit.

21 THE COURT: All right. Over objection, the
22 Government Exhibit 1502 is admitted.

23 (Government's Exhibit No. 1502, was admitted into evidence.)

24 MR. DURHAM: Ms. Arsenault, if you would put it on
25 the screen. The font is particularly small here, so whatever

1 you can do to blow it up so that -- maybe blow it up in
2 halves. Okay.

3 BY MR. DURHAM:

4 Q. Now, looking at Government's Exhibit 1502, essentially,
5 which is broken into two pieces, right, make it easier to
6 read, so the jurors can see this, but would you read it into
7 the record so the trial record is complete, sir?

8 A. The content box?

9 Q. Yes, sir.

10 A. Yes. "I collected some 80 percent of raw Intel and half
11 the analysis for the Chris Steele dossier."

12 Q. Okay. So I said yes to the content box. Let's start at
13 the left on the first row. Its broken up on the monitor, but
14 left of the exhibit itself. There's a conversation --

15 A. Conversation ID?

16 Q. All right. And then that appears to be not English under
17 that. It looks like Russian or --

18 A. I'm not exactly sure what that conversation ID
19 represents.

20 Q. Okay. But lots of letters and numbers, correct?

21 A. Yes.

22 Q. And then what's the next box?

23 A. Conversation title.

24 Q. Is that -- does that have information or no?

25 A. That box is blank.

1 Q. And who's this from?

2 A. From Igor Danchenko.

3 Q. And the profile URL reads how?

4 A. [As read]: <https://www.linkedin.com/IN/>, all one word, Igor
5 Danchenko.

6 Q. So this is a similar profile -- this is a LinkedIn
7 account for Igor Danchenko, correct?

8 A. That is what it seems, yes.

9 Q. And it's to a particular person Anastasia and then a very
10 difficult name for some of us to pronounce, correct?

11 A. Correct.

12 Q. And then you told the jurors earlier, when we were laying
13 the foundation for this document, there's a particular date on
14 this, correct?

15 A. Correct.

16 Q. And, again, for the written record, since the jurors can
17 see it on the monitor, what's the date and time reflected in
18 that box?

19 A. The date is October 11, 2020, and the time is 18:25:25
20 UTC.

21 Q. And then there's a subject column, correct?

22 A. Correct.

23 Q. That's blank?

24 A. Correct.

25 Q. And then would you then read again what the content of

1 Mr. Danchenko's LinkedIn message to Anastasia is on
2 October 11th of 2020 at six- -- what is it? 18:25:25 --
3 6:25:25 p.m.?

4 What's his message, his own words?

5 A. The content box reads, "Yes, I collected some 80 percent
6 of raw Intel and half the analysis for the Chris Steele
7 dossier and went through debriefings with the FBI on the
8 collusion matters, period."

9 Q. So Mr. Danchenko's own words, he was responsible not just
10 for dossier report 95; he's responsible for 80 percent of what
11 showed up in the Steele dossier?

12 Is that what those words say?

13 THE COURT: Sustained. Objection sustained.

14 (Counsel confers.)

15 BY MR. DURHAM:

16 Q. Oh, I'm sorry. He was responsible for 80 percent of the
17 raw intelligence and half the analysis for the Christopher
18 Steele dossier, correct?

19 A. Correct.

20 Q. Those were his words?

21 A. Those were his words.

22 Q. Would that be consistent or inconsistent with the
23 impression or an understanding that you had from Mr. Danchenko
24 when you and Mr. Somma and others met with him in January of
25 2017?

1 A. Again, we didn't have an understanding of a percentage or
2 anything of that sort of the material. A large portion that
3 was Mr. Danchenko's, but Mr. Danchenko described the documents
4 as not only his work but others as well.

5 Q. Sure. This 20 percent of the raw intelligence that
6 wasn't his. 80 percent of it he claims is his, correct?

7 A. In this, correct.

8 Q. Okay. Now, again, when you first met, sat down with
9 Mr. Danchenko in January of 2017, what was the focus of what
10 you were attempting to elicit from Mr. Danchenko?

11 A. It was twofold. We were trying to get corroboration as
12 well as understanding the sourcing.

13 Q. Do you recall, sir, when you were going through the
14 interviews with Mr. Danchenko, were you and/or Mr. Somma
15 making use after use of the dossier reports?

16 A. To my recollection, we didn't actually bring the dossier
17 reports with us. We had notes that we had taken, if I recall
18 correctly. But -- and there was some reasons for that I won't
19 get into, but --

20 Q. Is that classification issues?

21 A. There was some classifications issues involved, yes.

22 Q. Okay. So you didn't -- you didn't have your copies
23 actually there?

24 A. To my recollection, no. Well, to my recollection, either
25 that or we had the printout from the BuzzFeed material, but we

1 actually did not have the material that had been given to us.

2 Q. Okay. So just -- so you didn't bring what you, the FBI,
3 had gotten from Steele or the press or journalists that had
4 been leaked to, correct?

5 A. Correct.

6 Q. But you did bring BuzzFeed?

7 MR. ONORATO: Objection, that's not the testimony.

8 A. I don't recall whether or not we had notes or whether we
9 had the BuzzFeed material.

10 BY MR. DURHAM:

11 Q. Okay. Okay. Fair enough.

12 But would it be the fair statement that you went
13 through those reports of the dossier with Mr. Danchenko?

14 A. Yes.

15 Q. And, in fact, you wrote that up, didn't you?

16 A. Yes.

17 Q. And when I say "you," I mean you wrote up the report
18 of --

19 A. Correct.

20 Q. -- that three-day interview?

21 A. Correct.

22 Q. And with respect to the reporting that you wrote up, will
23 you tell the ladies and gentlemen of the jury, you know, how
24 particularly careful you were about what was said and done
25 during that interview?

1 A. I believe I was very careful about what was said in that
2 interview and wrote up based upon my notes.

3 Q. Okay. Do you recall, sir, whether or not at some point
4 in time after that three-day interview in January of 2017
5 whether the bureau, whether the FBI, decided it was going to
6 approach Mr. Danchenko about becoming a confidential human
7 source?

8 A. I recall that there was talk about that, yes.

9 Q. So it's clear to the jurors, what, if any, role did you
10 play in that?

11 A. I did not play a role in that.

12 Q. All right. And you described to the jurors that you
13 are -- you are the supervisory intelligence analyst, correct?

14 A. Correct.

15 Q. So bringing Mr. Danchenko on as a human source, that was
16 operations, that would be Special Agents?

17 A. Yes, that is correct.

18 Q. Do you know, however, whether or not -- based on personal
19 knowledge, do you know whether or not that happened, that is,
20 the FBI opened Mr. Danchenko as a confidential human source?

21 A. Yes, I know that.

22 Q. And with respect to the opening of Mr. Danchenko as a
23 confidential human source, let me withdraw that.

24 Even prior to actually approaching Mr. Danchenko in
25 January of 2017, that was the FBI's plan, wasn't it, to see if

1 they could get him -- bring him on as CHS?

2 A. Yes, that was part of the thinking.

3 Q. And you wanted to bring him on -- the bureau wanted to
4 bring him on for what purpose?

5 A. To get as much information as we could to corroborate or
6 understand the sourcing of this material.

7 Q. Right. And, in fact, when this was all laid out -- when
8 this plan was all laid out to approach Mr. Danchenko, that was
9 the sole purpose to concentrate on the dossier, get
10 corroboration to do the sourcing?

11 A. Yes.

12 Q. Okay. And so, he -- he's approached, and you recall one
13 way or the other what -- did he come on as a CHS or no?

14 A. Yes, he did come on as a CHS.

15 Q. Now, for the benefit of the jury, when Mr. Danchenko was
16 signed up as a confidential human source for the FBI, what was
17 the status of the Crossfire Hurricane investigation itself?
18 How was it staffed and how was it being run?

19 A. So when Mr. Danchenko was brought on as a CHS, the
20 Crossfire Hurricane setup had changed from the first -- I like
21 to kind of break them down into Crossfire 1.0, Crossfire 2.0,
22 and Crossfire 3.0.

23 This was during, what I could call, Crossfire 2.0
24 which was approximately November 2016, December 2016 up
25 through March of 2017.

1 Q. Okay. And so, was it Crossfire Hurricane personnel that
2 wanted to deal with Mr. Danchenko as a CHS or was it others?

3 A. My understanding, at the time, was that Mr. Somma might
4 be involved with that.

5 Q. Okay. And did it actually play out that way?

6 A. Eventually, no.

7 Q. Okay. And tell the jurors what happened with respect to
8 the handling of Mr. Danchenko as a confidential human source
9 for the Federal Bureau of Investigation?

10 A. Mr. Danchenko was subsequently a confidential human
11 source out of the Washington Field Office. Mr. Somma had gone
12 back to New York.

13 Q. Tell the -- he left -- Somma left Washington, went back
14 to New York, somebody else took over?

15 A. Correct.

16 Q. And that person who took over, do you recall who that
17 person was?

18 A. That was Special Agent Kevin Helson.

19 Q. Okay. So Kevin Helson was assigned to the Washington
20 field office, correct?

21 A. Yes.

22 Q. And did he have a particular expertise or area in which
23 he worked?

24 A. Yes.

25 Q. And what was that?

1 A. Russian counterintelligence.

2 Q. Okay. So Helson comes on. He's going to be the handler.
3 When he did take over -- he, Mr. Helson, did take over, was
4 the Crossfire Hurricane personnel -- were they cut out of this
5 or what was the relationship between Crossfire Hurricane, you,
6 Somma and company, and then Special Agent Helson?

7 A. No, there was back-and-forth between Mr. Helson and Mr.
8 Helson's embedded analyst as well as the analyst on my team.

9 Q. And, indeed, when this -- this arrangement was initially
10 set up, do you recall, sir, whether or not Helson was to pose
11 questions for Mr. Danchenko on behalf of the Crossfire
12 Hurricane people?

13 A. In some cases, yes.

14 Q. And what would be the typical basis on which the
15 Crossfire Hurricane people would provide questions that they
16 wanted to pose to Mr. Danchenko to answer?

17 A. That was typically done via email.

18 Q. Okay. And then, what subject matters? I mean, give the
19 jurors a feel for why you were feeding questions to Helson.
20 When I say "you," let me withdraw that.

21 Were you involved -- personally involved in that,
22 giving direction or questions to Special Agent Helson or is
23 that others that did that?

24 A. I believe on occasion I was.

25 Q. In fact, you were one of the principal contacts for

1 Helson, weren't you?

2 A. One of.

3 Q. Okay. So you and your colleagues would pose questions
4 for Helson to ask Mr. Danchenko, correct?

5 A. That is my recollection, yes.

6 Q. And the questions that you were posing, when I say "you,"
7 your group, the Crossfire Hurricane group, were posing for
8 Mr. Danchenko, were those dossier specific, where it's
9 corroborative information you were looking for or sourcing
10 information?

11 A. That is my recollection, yes.

12 Q. Did you ever get any corroborating information back?

13 A. Corroborating information on the --

14 Q. From Mr. Danchenko and the dossier reports?

15 A. Oh, with respect to the allegations in the dossier
16 reports?

17 Q. Yes.

18 A. No.

19 Q. And, in fact, would it be a fair statement that members
20 of your team -- and then, going into director Mueller engaged
21 in this --

22 MR. ONORATO: Your Honor, I'm just going to object a
23 little bit to the leading nature of the question.

24 THE COURT: Yes, it is -- it is getting a little
25 excessive.

1 BY MR. DURHAM:

2 Q. That's fair. That's fair.

3 Do you recall, sir, with respect to the matter on
4 which this investigation was being carried out by the
5 Crossfire Hurricane folks, whether or not people were assigned
6 specific tasks? That just calls for a "yes" or "no."

7 A. Yes.

8 Q. Do you recall, sir, what some of those tasks were?

9 A. Yes.

10 Q. What were some of those tasks?

11 A. Well, the Crossfire Hurricane team was broken up into
12 specific areas of focus and so -- analysts and agents would
13 work on the specific cases involved, and also other related
14 aspects.

15 Q. Okay. Did you work with a Special Agent in the FBI by
16 the name of Amy Anderson?

17 A. Yes.

18 Q. And did she have a specific task when she came on,
19 whether it was Crossfire Hurricane at the time or it folded
20 into the Mueller matter?

21 A. Yes.

22 Q. What was her specific task?

23 A. Her specific task dealt with validation of what we
24 call the dossier validation.

25 Q. Right. Tried to see if there's -- if you could prove

1 anything in there was true or false, correct?

2 A. Correct.

3 Q. And how about an individual by the name of Brittany
4 Hertzog?

5 A. Yes.

6 Q. What was Ms. Hertzog's position with the bureau?

7 A. She was an intelligence analyst.

8 Q. And did she have a specific role?

9 A. Yes, she was assisting Ms. Anderson on -- on validating
10 material from the dossier.

11 Q. During the course, then, of the time that Mr. Helson --
12 the initial parts of Mr. Helson was working with
13 Mr. Danchenko, that foundation, would you feed questions to
14 Mr. Helson to put to Mr. Danchenko concerning sourcing for the
15 dossier?

16 A. Yes.

17 Q. And for any corroboration?

18 A. Correct.

19 Q. And other than posing questions about the dossier, do you
20 remember -- do you have any personal knowledge about anything
21 else that Crossfire Hurricane was giving to Special Agent
22 Helson to ask about?

23 A. I don't recall any specifics regarding outside of dossier
24 verification at that time.

25 Q. Okay. Now, you told the jurors earlier, I think twice,

1 that in October, you and others had gone overseas to meet with
2 Steele as you were looking for -- the folks on these two
3 principal points. And you mentioned --

4 MR. ONORATO: Your Honor, I'm going to object to
5 asked and answered.

6 THE COURT: Why don't you just give him some
7 background for his question. Go ahead.

8 BY MR. DURHAM:

9 Q. You mentioned Mr. Steele would not identify any of the
10 sources, but he did provide you with the name of Sergei
11 Millian, correct?

12 A. That was one of the names he provided, yes.

13 Q. During the January 2017 three-day interview with
14 Mr. Danchenko, do you recall whether you and the Agent Somma
15 inquired about Sergei Millian?

16 A. Mr. Millian's name came up during the course of the -- of
17 the three-day interview.

18 Q. And would you explain to the jury what, if anything, you
19 asked the defendant about Source E who appeared in the dossier
20 report 95?

21 A. Yes. We asked on report 95 as one of the topics of
22 conversation during that three-day interview.

23 Q. Now, with respect to that matter, Source E Pearson
24 dossier report?

25 A. In 95, yes.

1 Q. Do you recall, sir, whether or not during that
2 January 2017 interview whether there's -- what the discussion
3 was about Mr. Millian?

4 A. My recollection is that we asked Mr. Danchenko. This was
5 one of the reports we asked specifically about, and this is
6 where information came up regarding Mr. Danchenko telling us
7 about interactions with Sergei Millian.

8 Q. Okay. So I want to walk through this slowly, and I know
9 Your Honor wants to break about -- in about 15 minutes, and
10 we'll try to get to a proper point for that.

11 The first day of the interview is January 24, 2017,
12 correct?

13 A. Correct.

14 Q. Do you recall, sir, what, if anything, Mr. Danchenko told
15 you and Somma on January 24th concerning any contact with
16 Sergei Millian?

17 A. So I believe it was the 24th that we discussed this
18 report, and at that time, Mr. Danchenko talked about how he
19 had received contact information for Mr. Millian brokered
20 through to Russian journalists in the Washington, D.C. area.

21 Q. Okay. And do you recall what, if anything, Mr. Danchenko
22 said about his own reaching out to Millian?

23 A. My recollection is that he had attempted to reach out, I
24 think, once or twice and then had, at that point, turned
25 around and had had a 10- to 15-minute telephone call with an

1 individual who he thought was Sergei Millian.

2 Q. Okay. You said that you reached out once or twice. Let
3 me be very particular about this.

4 Would it help you to see on a report you had
5 prepared on this?

6 A. Yes.

7 Q. I think this is -- I'm not sure if this is in your book
8 or not? Is Government's Exhibit 100 in your book?

9 A. Excuse me. 100?

10 Q. Yes, Government's Exhibit 100. I believe it is in your
11 book.

12 MR. DURHAM: But I'd ask the Court's permission,
13 Your Honor, to have the court security officer just provide a
14 copy of relevant portions of the report to the witness.

15 THE COURT: All right.

16 BY MR. DURHAM:

17 Q. I'd ask you to take a look at that, and specifically for
18 the first interview, the January 24th of 2017, and see if that
19 refreshes the particulars of what Mr. Danchenko said about
20 this.

21 A. Yes, it does.

22 Q. Okay. So the first time you talked to him about it on
23 January 24th, what was it that Mr. Danchenko said regarding
24 his reaching out to Millian?

25 A. Mr. Danchenko on the 24th indicated that he had reached

1 out to Millian via email twice.

2 Q. And did he indicate whether or not Millian ever
3 responded?

4 A. He indicated he never received a response from the first
5 attempt. But after the second attempt, he received a very
6 strange phone call from a Russian male, who he believed to be
7 Millian.

8 Q. Okay. And with respect to that strange phone call that
9 he said he had gotten -- it was a Russian male, is that what
10 you said?

11 A. Yes.

12 Q. Did the person identify himself?

13 A. No.

14 Q. Do you recall, sir, what, if anything, Mr. Danchenko told
15 you and Somma concerning what that person had to say?

16 A. He said the two of them talked for a bit, and then they
17 tentatively agreed to meet in person in New York City at the
18 end of July.

19 Q. Okay. Well, we'll be very particular about that as well.
20 Did he say that they talked for a bit or did he talk -- tell
21 you approximately how long they spoke?

22 A. The way I have it written down here in my -- in the
23 actual EC is that the two of them talked for a bit.

24 Q. Okay. And that call was -- did he say when that call was
25 received?

1 A. Circulate July 2016.

2 Q. So there are two emails, correct?

3 A. Correct.

4 Q. And on the 24th, did he indicate whether the anonymous
5 call came between the two emails or after the second email?

6 A. He said after the second attempt.

7 Q. And it was from an anonymous caller, according to
8 Mr. Danchenko?

9 A. He said -- he said it was a Russian male who he believed
10 to be Millian, but who never identified himself.

11 Q. Okay. Did you, to the best of your recollection, go back
12 to that issue at any point after the 24th of January?

13 A. Yes, we did.

14 Q. All right. And why did you do that?

15 A. Personally, I can say I felt this to be a very strange
16 part of the interview, and so I believe we needed some
17 clarification.

18 Q. And what did you find strange about it?

19 A. It was peculiar that it was a -- what appeared to be a
20 short phone call. It was unclear exactly how the information
21 that was in report 95 had come out of the very short phone
22 call like this, and so, I felt like we needed to get some more
23 clarification.

24 Q. And so, do you recall who led the -- well, withdrawn.

25 So what did you do -- after the 24th, what did you do?

1 A. So we went back to it in a subsequent interview.

2 Q. And when you say "subsequent interview," which interview
3 was it?

4 A. I believe it was the 25th.

5 MR. DURHAM: I ask, again, Your Honor, permission to
6 have the court security officer provide the witness with a
7 document --

8 THE COURT: Yes.

9 MR. DURHAM -- that might help him refresh his
10 recollection.

11 THE COURT: Yes.

12 THE WITNESS: Yes.

13 BY MR. DURHAM:

14 Q. And does that refresh your recollection?

15 A. Yes.

16 Q. What was the date you raised it -- this issue or question
17 further on this point with Mr. Danchenko?

18 A. It was the 25th.

19 Q. The very next day?

20 A. Correct.

21 Q. And on the 25th, what did Mr. Danchenko say concerning
22 the call?

23 A. Mr. Danchenko said that he had emailed Millian in either
24 June or July of 2016, but it was after Danchenko's trip, his
25 trip to Russia in June. He didn't receive a response from

1 that email that says it was at that point that he had received
2 a telephone call from an unidentified Russian male. He
3 thought it was Millian, but the individual never identified
4 himself, and said they talked for about 15 minutes, and then
5 arranged to meet together in New York City.

6 Q. Okay. So the first day he said that he sent two emails
7 and then they got this call, correct?

8 A. Correct.

9 Q. The second day you went back to it because you thought
10 the way it was presented it was peculiar, correct?

11 A. Correct.

12 Q. And now it was after the first email, correct?

13 A. Correct.

14 Q. And it was a 10- or 15-minute call?

15 A. Correct.

16 Q. And then he told you that they arranged to meet in New
17 York?

18 A. Correct.

19 Q. Do you recall, sir, whether or not, with respect to
20 Mr. Danchenko, did he share with you, to the best of your
21 recollection, that with respect to arrange and to meet in New
22 York, that he already had plans to -- that he was going to New
23 York the next week, did he share that with you?

24 A. I don't recall that specifically being shared.

25 Q. Well, was your impression that you thought that somehow

1 in this phone call they arranged to meet in New York as
2 opposed to Mr. Danchenko was going to be in New York the
3 following week?

4 A. Yes, the way that I have it written up on Page 36
5 indicates that he -- Mr. Danchenko remembered they made plans
6 to meet in New York City, and that Mr. Danchenko had offered
7 to come up any time Mr. Millian was available.

8 Q. So if it were the case that Mr. Danchenko was going to be
9 in New York anyway, that would be different than the way it
10 was conveyed to you on January 25th?

11 A. The way -- I mean, this is the way it is conveyed.

12 Q. Do you recall, sir, whether or not any time on January
13 24, 25 or 26, if Mr. Danchenko provided any documents to the
14 FBI?

15 A. Yes, he did.

16 Q. And what do you recall about that, what can you tell the
17 jurors about that?

18 A. I recall on the second day, Mr. Danchenko -- so on the
19 25th, Mr. Danchenko brought a number of documents that we
20 walked through with him during the course and scope of the
21 interview.

22 Q. Okay. And do you recall, sir, whether or not after that
23 date, after January 26th, that lasted three days, did he
24 provide any additional documents that you recall?

25 A. I recall there were text messages that were subsequently

1 provided.

2 Q. Okay. And did those come to you, to Somma or somebody
3 else?

4 A. I believe those came -- I don't recall exactly who those
5 came to.

6 Q. And do you remember with respect to a text message or an
7 email what -- who the parties were to the email?

8 A. I believe the text messages and the parties involved a
9 woman by the last name of Podevadova, P-O-D-E-V-A-D-O-V-A.

10 Q. Do you recall, sir, whether or not Mr. Danchenko provided
11 a document after the 26th, shortly after January 26th, an
12 email exchange that was in Russian?

13 A. Yes.

14 Q. Do you recall whether or not the bureau, at the time the
15 Crossfire Hurricane people, did they have that translated?

16 A. I don't recall whether they did or not.

17 Q. Do you recall ever learning that the exchange reflected
18 in that email was between Mr. Danchenko and a fellow by the
19 name of Zlodorev?

20 A. Yeah, later on, yes.

21 Q. How much later in time did you learn that?

22 A. I don't have a recollection of exactly how much later.

23 Q. And how did it come about that you learned that?

24 A. I believe that email was uploaded to SENTINEL.

25 Q. Okay. For the jurors, SENTINEL is one of the FBI's

1 databases?

2 A. Right. SENTINEL is the system of record for the FBI. So
3 if there are -- case information is uploaded for record
4 purposes into a system as known as SENTINEL.

5 Q. Now, you told the jurors that the first day Mr. Danchenko
6 told you he had sent the two emails to Millian, no response.
7 And then he got the call, correct?

8 A. Correct.

9 Q. This next day, he tells you he sent one email, and then
10 he gets the call, correct?

11 A. Correct.

12 Q. Did he make any mention of when it was that
13 (indiscernible), the second email that was sent?

14 A. No, on the second day, he did not indicate that.

15 Q. Okay. Let's take a look at Page 37, and see if that
16 refreshes your recollection.

17 A. Oh, okay. Yes.

18 Q. Now, having looked at Page 37, tell the ladies and
19 gentlemen of the jury whether his -- his -- what he told you
20 about the contact with Millian remained consistent or was
21 inconsistent?

22 A. I'm sorry. Inconsistent with what?

23 Q. With the first day.

24 A. Okay. So it was -- so what he said in the second day,
25 with respect to the number of emails, was not consistent.

1 Q. All right. And how so, why wasn't it consistent?

2 A. The first day, he said he emailed twice. The second day,
3 he said he emailed once.

4 Q. And did he say with respect to the second email, the one
5 in September, not in July, not in August, the one in
6 September?

7 A. Yes, on the second day, he talked about a follow-up email
8 with Millian in September.

9 Q. Do you recall, sir, whether or not -- when you were
10 participating in this part of the investigation, if you ever
11 saw the emails that Mr. Danchenko said that he sent to
12 Mr. Millian?

13 A. No, I don't recall seeing those.

14 Q. If you had seen those at the time, that is what
15 Mr. Danchenko had actually said to Millian, you would remember
16 that, wouldn't you?

17 A. Yes.

18 Q. Have you subsequently seen them?

19 A. Yes.

20 Q. And you remember those?

21 A. Yes.

22 MR. DURHAM: Your Honor, this might be a good place
23 to break.

24 THE COURT: All right. I think so. It's been a
25 long day. We're going to go ahead and recess until tomorrow

1 morning. We're going to start at 9:30. So, again, please
2 make whatever travel arrangements necessary to try to get to
3 the courthouse around 9:15, and we'll try to begin at 9:30
4 promptly.

5 Again, please do not discuss this case either among
6 yourselves or with anyone outside the courtrooms. Your
7 friends and family will no doubt be curious about how you've
8 spent your time today. Simply tell them you're under
9 instructions from the judge not to discuss the case in any
10 fashion.

11 Also, don't communicate on any social media, whether
12 it's Facebook or LinkedIn, or any of those matters about what
13 you did today. And also, please do not undertake any research
14 on your own about anything you may have heard here in the
15 courtroom that you may be curious about. Simply isolate
16 yourself from outside sources or information about this case.
17 And that would include any TV or radio reports that you may
18 find yourself exposed to. Just try to absence yourself from
19 those or remove yourself from those, if and when you find
20 yourself confronted with them.

21 So with those comments, I will excuse you until
22 tomorrow morning.

23 (Jury dismissed.)

24 THE COURT: All right. How much longer do you think
25 we have on direct?

1 MR. DURHAM: I would say between an hour -- 60 or 90
2 minutes, Your Honor.

3 THE COURT: All right. All right. Anything before
4 we recess?

5 MR. ONORATO: No.

6 THE COURT: All right. I'll see counsel at
7 9 o'clock tomorrow. All right. Court stands in recess.

8

9 **(Proceedings adjourned at 5:44 p.m.)**

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CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Jury Trial in the case of the **UNITED STATES OF AMERICA versus IGOR Y. DANCHENKO**, Criminal Action No.: 1:21-cr-245, in said court on the 11th day of October, 2022.

I further certify that the foregoing 170 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, my computer realtime display, together with the backup tape recording of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, this October 12, 2022.



Tonia M. Harris, RPR
Official Court Reporter