

**HEARING ON THE REPORT OF SPECIAL COUNSEL
JOHN DURHAM**

HEARING
BEFORE THE
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES
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WEDNESDAY, JUNE 21, 2023

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Questions to the Hon. John Durham, Special Counsel, United States Department of Justice, from the Honorable Matt Gaetz, a Member of the Committee on the Judiciary from the State of Florida, the Honorable Thomas Massie, a Member of the Committee on the Judiciary from the State of Kentucky, the Honorable Dan Bishop, a Member of the Committee on the Judiciary from the State of North Carolina, and the Honorable Jerrold Nadler, Ranking Member of the Committee on the Judiciary from the State of New York, for the record

No responses at time of publication.

HEARING ON THE REPORT OF SPECIAL COUNSEL JOHN DURHAM

Wednesday, June 21, 2023

HOUSE OF REPRESENTATIVES

COMMITTEE ON THE JUDICIARY

Washington, DC

The Committee met, pursuant to notice, at 9:05 a.m., in Room 2141, Rayburn House Office Building, the Hon. Jim Jordan [Chair of the Committee] presiding.

Members present: Representatives Jordan, Issa, Buck, Gaetz, Johnson of Louisiana, Biggs, McClintock, Tiffany, Massie, Roy, Bishop, Spartz, Fitzgerald, Bentz, Cline, Gooden, Van Drew, Nehls, Moore, Kiley, Hageman, Moran, Lee, Hunt, Fry, Nadler, Lofgren, Jackson Lee, Cohen, Johnson of Georgia, Schiff, Cicilline, Swalwell, Lieu, Jayapal, Correa, Scanlon, Neguse, McBath, Dean, Escobar, Ross, Bush, Ivey, and Balint.

Chair JORDAN. The Committee will come to order. Without objection, the Chair is authorized to declare a recess at any time. We welcome everyone to today's hearing on the report of Special Counsel John Durham.

The Chair now recognizes the gentleman from Alabama to led us in the pledge.

[Pledge of Allegiance.]

Chair JORDAN. The Chair is recognized for an opening statement. Three years ago and 11 months, July 24, 2019, Bob Mueller sat in this room, in that Chair and told this Committee no collusion, no conspiracy, no coordination between President Trump and Russia. None.

What did the Democrats say? We don't care. We are going to keep going after President Trump. In fact, they didn't even wait one day. The next day, the phone call between President Trump and President Zelenskyy became the basis for their impeachment. Republicans said maybe, maybe instead of the never-ending attacks on President Trump, maybe the country would be better off if we figured out how the whole false Trump-Russia narrative started.

After 2½ years of the Mueller investigation, 19 lawyers, 40 agents, \$30 million where they found nothing, maybe we should figure out how the whole lie started and that's exactly what Mr. Durham has done. In his report, he told us how the dossier was funded. He told us who funded it, he told us how the information in the dossier was gathered, he told us how eager the FBI was to

use it, how they put the dossier in FISA draft application just two days after receiving it. He told us that not one, not one single substantive allegation in the dossier was ever corroborated, ever validated. Yet, it was used, used to spy on an American citizen associated with the Presidential campaign.

He told us there was no proper predicate for opening the Crossfire Hurricane investigation. Maybe most importantly, he told us the FBI, the FBI, the preeminent law enforcement agency in the world failed, failed in its fundamental mission of adherence to the rule of law. Unfortunately, I think once again, the Democrats will say we don't care. It doesn't matter. We are never going to stop going after President Trump. In fact, eight days ago, we saw how far they are willing to go with the indictment of President Trump.

Frankly, this shouldn't surprise us. They told us their objective. In fact, it was an agent on the case of Crossfire Hurricane who told us what their objective was. We all remember the text message from Peter Strzok where he said, "don't worry, we'll stop Trump."

It started with the Crossfire Hurricane investigation. Mr. Durham has told us how wrong that was. Now, we have an indictment of a former President, who is winning in every single poll by his opponent's Justice Department. In between those two events, we have the Mueller investigation. We had impeachment. We had 51 former intel officials falsely tell us the Biden laptop was Russian disinformation. We had a raid on President Trump's home and of course, we got Alvin Bragg's ridiculous case in New York. Seven years, nothing has changed.

If you don't believe me, we interviewed Steven D'Antuono, former head of the Washington Field Office when the Trump classified document case began. Mr. D'Antuono told the Committee, interviewed just two weeks ago, two weeks ago today, Mr. D'Antuono told the Committee that when he asked the Department of Justice why is there no U.S. Attorney assigned to the Trump classified document case? Headquarters said because we are running it. He suggested the Miami Field Office to do the raid. Instead of sending the folks from Washington Field Office down to Miami, have the folks in the Miami Field Office do it. Headquarters said no. He suggested there shouldn't be a raid. Instead, they should continue to work with President Trump's lawyers. Once again, headquarters said no.

Mr. D'Antuono even said how about when we get there? When we arrive at President Trump's home, we then call his lawyer, and we do the search together. Again, headquarters said no.

Another interesting fact. The lawyer who turned down Mr. D'Antuono's request happens to be the same person who is alleged to have pressured the attorney representing a Trump employee about a judgeship. Nothing has changed and frankly, they are never going to stop. Seven years of attacking Trump is scary enough, but what is more frightening any one of us could be next. In fact, it has already started.

Parents at school board meetings are terrorists. Pro-life Catholics are extremists. Even journalists aren't safe.

Federal Trade Commission, 13 letters. One of those letters to Twitter said, "who are the journalists you are talking to?" Think about that? They named four people personally. Two come and tes-

tify in front of this Committee. While they are in front of this Committee, Democrats are asking them to reveal their sources, violate First Amendment principles. One of them, Matt Taibbi, while he is sitting at that table testifying to the Judiciary Committee, the IRS is knocking on his door.

Parents, Catholics, journalists, but guess who gets it the worst? Guess who gets it the worst? Whistleblowers. If you dare come forward and tell Congress what is going on, look out. They will come for you. They will take your clearance. They will take your pay. They will even take your kids' clothes. Just ask Garret O'Boyle, who testified in front of this Committee as well.

Over the next few hours, we are going to hear the facts and details about the whole false Trump-Russia narrative, the Crossfire Hurricane investigation, and hopefully, hopefully, it will help change things at the Department of Justice. Regardless of what the Biden Administration and the Garland Justice Department do; I know what Republicans in the House are committed to doing. We will work to dramatically change the FISA law, and we will do everything we can in the appropriation process to stop the Federal government from going after the American people.

I now recognize the Ranking Member for an opening statement.

Mr. NADLER. Thank you, Mr. Chair. On June 8th, a Grand Jury in Miami indicted former President Trump on 37 counts related to his mishandling of extraordinarily sensitive national security information, including information regarding defense and weapons capabilities of both the United States and foreign countries, the United States' nuclear programs, potential vulnerabilities of the United States and its allies to military attack, and plans for possible retaliation in response to a foreign attack.

According to the indictment, the unauthorized disclosure of these classified documents could put at risk the national security of the United States, foreign relations, the safety of the United States military, and human sources, and the continued viability of sensitive intelligence collection methods. Indeed, the indictment goes on to describe how the former President made such unauthorized disclosures.

Even if you believe, as Chair Jordan claims, that President Trump has committed no crime, surely, we can agree that it is dangerous and profoundly irresponsible to have taken these documents from the White House and left them unsecured in Mar-a-Lago.

Don't take just my word for it. Trump's Secretary of Defense, Mark Esper, said that the former President's handling of this information put U.S. service members' lives and our national security at risk. Trump's hand-picked Attorney General Bill Barr, with whom I agree on very little, hit the nail on the head when he described the former President's legal troubles as

... entirely of his own making. He had no right to these documents. The government tried for over a year, quietly and with respect to get them back, and he jerked them around. When he faces subpoena, he didn't raise any legal arguments. He engaged in a course of deceitful conduct that was a clear crime if those allegations are true.

The former President could have at any time, for months, simply returned the documents and avoided prosecution. House Republicans do not want to talk about any of that. They seem incapable

of assigning any agency or responsibility to Donald Trump for problems that are Trump's and Trump's alone.

Instead, Republicans have planned this hearing and constructed an entire false narrative around this work of Special Counsel Durham in an effort to distract from the former President's legal troubles and misled the American public.

To be clear, the Durham Report is by itself a deeply flawed vessel. After four years, thousands of employee hours, and more than \$6.5 million in taxpayer dollars, Special Counsel Durham failed to uncover any wrongdoing that Justice Department Inspector General Horowitz had not already found in 2019. He brought just two cases to trial and lost them both. Both defendants were acquitted in mere hours. The single conviction that Special Counsel Durham obtained involved a single charge of lying to the FBI. The case developed and handed to him by the Inspector General and one resolved by a quick plea bargain.

The report itself outlines some fairly glaring investigative missteps. The FBI apparently never even looked at a thumb drive of key evidence related to allegations of contact between the Trump Campaign and the Russian government via a Russian cell phone. Nor says the report, did the FBI ever examine questionable computer contacts between the Trump organization and Alfa Bank, one of the largest banks in Russia.

The report also fails to recommend a single remedial measure that the Justice Department or the FBI might take to address certain process-related concerns, largely because DOJ and FBI have already implemented the changes recommended by the Inspector General 3½ years ago.

Now, I understand that like the former President, many MAGA Republicans had a lot riding on the Durham investigation. I understand that they might be disappointed with where it landed, but that is no excuse for making things up.

First, the Durham Report unequivocally concludes that the FBI not only have the evidence to open an investigation into Russian interference in the 2016 election, but actually had an affirmative obligation to investigate ties between the Russian government and the Trump Campaign. It is simply not true, as some Republicans have claimed, that the Durham Report suggests that there should not have been an investigation. Affirmative obligation. Those are Mr. Durham's words, not mine.

Second, the Durham Report shows that the FBI began its investigation when an aide to the Trump Campaign disclosed in May 2016, that the campaign knew that Russia had thousands of emails that would embarrass Hillary Clinton. The aide bragged about it at a bar. An Australian diplomat who overheard the remark reported it, and the investigation began.

It is simply not true, as the most extreme voices in this room have claimed, that the investigation was somehow launched by the Clinton Campaign. That particular conspiracy theory is off by several months. Nor is it true that the FBI was opposed to Trump from the beginning. For example, the Durham Report tells us that the FBI encouraged the confidential human source to infiltrate the Clinton Campaign, not the Trump Campaign, and take steps to entrap, unsuccessfully, aides to Secretary Clinton. This story is right

there on pages 74 and 75 of the report. I suspect we won't hear a word about it from House Republicans today because it does not fit the MAGA narrative.

Finally, nothing in the Durham Report disputes the central findings of Special Counsel Robert Mueller, namely, Russia interfered in the 2016 election. It did so to help Donald Trump and the Trump Campaign welcomed this interference. This last point is important because it tells us how Mr. Durham became Special Counsel in the first place, and it goes to the heart of the fully false narrative of MAGA victimhood.

From the day that Special Counsel Mueller began his work, Donald Trump and his political allies have railed against an imagined conspiracy against the former President. The Russian investigation was a set up. It was a witch hunt. Obama did it. We need to investigate the investigators.

Then came the Mueller Report. The Mueller Report was delivered to Attorney General Barr on Friday, March 22, 2019. Next Monday, Mr. Durham was in Barr's office. A week later, a colleague emailed Mr. Durham to ask about "the project that Durham and Barr were working on."

While we on this Committee were fighting to get access to the Mueller Report, Mr. Durham was already working on an investigation to undercut its central findings. A few weeks later, the Trump Administration announced Mr. Durham's investigation into the investigators. By August 2019, Mr. Durham and Attorney General Barr were on a plane to Europe, jointly hunting down nonexistent evidence of Donald Trump's deep-state conspiracy theories. If the duo ever found evidence proving that Donald Trump was right all along, that evidence certainly never made it into the Durham Report. It has been alleged, however, that they found evidence implicating the former President in certain financial crimes during their trip. Incidentally, that information, too, is missing from Mr. Durham's final pages.

When he did not give Donald Trump evidence of a deep-state conspiracy, Mr. Durham gave him the next best thing, a public narrative with Hillary Clinton as the villain. Over the ensuing years, Mr. Durham constructed a flimsy story built on shaky inferences and dog whistles to far right conspiracy theories.

Although he lost both times, he took a case to trial. By prolonging his investigation, Durham was able to keep Donald Trump's talking points in the news long after Trump left office. With a loose approach to DOJ norms, protecting the reputation of the Agency, and a cavalier disregard for the privacy and reputational rights of others, Mr. Durham's investigation operated as headline generator for MAGA Republicans.

Less than half a year into his four-year investigation, Mr. Durham publicly disputed Inspector General Horowitz's conclusion that the FBI was warranted in opening a full investigation in violation of DOJ rules protecting investigations from appearances of political bias.

Mr. Durham similarly flouted guidelines designed to protect third parties from reputational injury when he used his two indictments to accuse the Clinton Campaign of a vast conspiracy that tied Trump to Russia. At the end of the day, Mr. Durham never

found what he was looking for. He cannot dispute a single conclusion in the Mueller Report. He cannot prove a magnificent deep-state conspiracy, and he cannot say that the FBI investigation into the Trump Campaign's many ties to Russia never should have happened. Again, I can see why this would be disappointing to some. Instead of owning up to his failure, the Durham Report doubles down on theories that lost spectacularly before two unanimous juries.

The report also references classified material that has been called likely disinformation, to lay out a series of accusations against the former President's perceived enemies. By presenting as so-called findings in this way, swiping a Republican bogeyman and hiding an inconvenient truth in footnotes, the Durham Report is Donald Trump's one last talking point. It did not have to be this way. It may be hard to remember, but at the outset of the Durham investigation, Mr. Durham was a well-respected career prosecutor with a solid reputation.

The Attorney General is supposed to appoint the Special Counsel to prevent the appearance of politicization in a criminal investigation. Mr. Durham could well have lived up to that expectation. Instead, what we got was a political exercise that operated with ethical ambiguity and existed to perpetuate Donald Trump's unfounded claims. Investigations failed in its political objectives, but did real damage to a department that is still recovering from the excesses of the Trump Administration. Despite Mr. Durham's best efforts, a reckoning is well underway.

Do not be misled, former President Donald Trump is not a victim. He did this to himself. For all its flaws, the Durham Report does not show that anyone else is responsible for the President's legal woes, past, present, or future. Anyone who tells you otherwise is simply making it up.

I thank the Chair and I yield back.

Chair JORDAN. Without objection, all other opening statements will be included in the record.

Today's witness is the Hon. John Durham. Mr. Durham was appointed as a Special Counsel in 2022 to investigate intelligence activities investigations arising out of the 2016 Presidential campaign. He is a career prosecutor, having served as the U.S. Attorney for the District of Connecticut and in various other roles with that office since 1989. Prior to that, he served with the Department of Justice, the Boston Strike Force on Organized Crime, and in various State level prosecutors' offices.

We welcome our witness and thank him for appearing today. We will begin by swearing you in. Will you please rise and raise your right hand, Mr. Durham?

Do you swear or affirm under penalty of perjury that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief so help you God?

Let the record show that the witness has answered in the affirmative. Thank you, you may be seated. Please note that your written testimony will be entered into the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes. We will give you a little extra time if you need it.

Mr. Durham, you may begin. Hit your mic, there, Mr. Durham, and just keep it on, if you can, throughout the day.

Mr. DURHAM. Is it on?

Chair JORDAN. Yes, it is on now. Thank you.

STATEMENT OF THE HON. JOHN DURHAM

Mr. DURHAM. Good morning, Chair Jordan, Ranking Member Nadler, and Members of this Committee.

As the Committee knows, on May 13, 2019, Attorney General Barr directed me to conduct a preliminary review into certain matters related to Federal investigations concerning the 2016 Presidential Election campaigns. That review subsequently developed into several criminal investigations and gave rise to my subsequent appointment as Special Counsel in these matters.

Many of the most significant issues documented in the report that we have written, including those relating to lack of investigative discipline, failure to take logistical and logical investigative steps, and bias are relevant to important national security interests of this Committee and the American people are concerned about. If repeated and left unaddressed, these issues could result in significant national security risks and further erode the public's faith and confidence in our justice system.

As we said in the report, our findings were sobering. I can tell you having spent 40 years plus as a Federal prosecutor, they were particularly sobering to me and a number of my colleagues who spent decades in the FBI themselves, they were sobering. While I am encouraged by some of the reforms that have been implemented by the FBI, the problems identified in this report, anybody who actually reads the report and the details of the report, the documented portions of the report, I think would find the problems identified in the report are not susceptible to overnight fixes.

As we said in the report, they cannot be addressed solely with enhancing training or additional policy requirements. Rather, what is required is accountability, both in terms of the standards to which our law enforcement personnel hold themselves and in the consequences they face for violations of laws and policies of relevance.

I am here to answer your questions. I appreciate the opportunity to. I will answer to the best of my ability, and I hope to be of service to your oversight function. I am sure you know; the Department of Justice has issued some guidelines as to what I am authorized to discuss and those things that I am not authorized to discuss. In this regard, accordingly, I will refer principally to the report.

I do want to emphasize a few points at the outset, however.

First, I want to emphasize in the strongest terms possible that my colleagues and I carried out our work in good faith, with integrity, and in the spirit of following the facts wherever they lead, without fear or favor. At no time, and in no sense, did we act with a purpose to further partisan or political ends. To the extent that somebody suggests otherwise, that is simply untrue and offensive.

Second, the findings set forth in this report are serious and deserve attention from the American public and its representatives. Let me just briefly highlight a few of those. For one, we found troubling violations of law and policy in the conduct of highly con-

sequential investigations directed at members of a Presidential Campaign and, ultimately, a Presidential Administration. To me it matters not whether it was a Republican Campaign or a Democratic Campaign, it was a Presidential Campaign.

Our team comprised dedicated and experienced prosecutors and law enforcement agents who worked day-in and day-out through the entire COVID epidemic, in the office, trying to interview people, all in an effort to try to get to those facts and ground truth. That such a group made these findings, experienced FBI agents, experienced prosecutors, not people by and large from Washington, but from other parts of the country, the fact that these people made these findings that is reflected in the report is of concern and should be of concern to any American who cares about our civil liberties, the rule of law, and the just and proportionate application of the law to all of us, whether we are friends or we are foes, the law ought to apply to everybody in the same way.

During our investigation, we charged a former FBI agent who pleaded guilty to the felony offense of altering and fabricating a portion of a document used to obtain a court order, a FISA order of surveillance of a United States citizen, which in our view is a significant problem.

Several of the relevant FISA applications at issue in the cross-fire investigation omitted references to what was clearly relevant and highly exculpatory information that should have been disclosed to the FISA Court.

Multiple FBI personnel who signed or assisted in preparing renewal applications for that same FISA warrant acknowledged that they did not believe that the target, Mr. Page, was a threat to national security, much less a knowing agent of a foreign power, which is what the law requires. It appears from our investigation, that the FBI leadership dismissed those concerns.

Another aspect of our findings concerned the FBI's failure to sufficiently scrutinize information it received or to apply the same standards to allegations it received about the Clinton and Trump Campaigns. As our report details, the FBI was too willing to accept and use politically funded and uncorroborated opposition research such as the Steele Dossier. The FBI relied on the dossier in FISA applications knowing that it was likely material originating from a political campaign, political opponent. It did so even after the President of the United States, the FBI, and CIA Directors, and others received briefings about intelligence suggesting that there was a Clinton Campaign plan under way to stir up a scandal tying Trump to Russia. The accuracy of the intelligence was uncertain at the time, but the FBI failed to analyze or even assess the implications of the intelligence in any meaningful way.

When the FBI learned that the primary source of information for the Steele Dossier, which was basically the guts of the narrative about there being a well-coordinated conspiracy involving Trump and the Russians, when they learned that Danchenko was the primary subsorce to those reports, it was at the time when the FBI already knew that Danchenko himself had previously been the suspect of an espionage investigation. He was suspected of being a Russian asset. Nonetheless, they signed him up as a paid informant without further investigation of that espionage concern, to say

nothing of resolving that espionage matter before using Danchenko and Danchenko's information.

When the FBI and Special Counsel Mueller's Office learned that Steele's primary subsource likely had gathered important portions of the dossier information during travels to Russia with one Charles Dolan, it inexplicably decided not to interview Dolan or investigate his activities.

Finally, I would like to add that although our work exposed deep concerns, concerning facts about the conduct of these investigations, our report should not be read to suggest in any way that Russian election interference was not a significant threat. It was. Nor should it be read to suggest that the investigative authorities at issue no longer serve important law enforcement and national security interests. They do.

Rather, responsibility for the failures and transgressions that occurred here rest with the people who committed them or allowed them to occur. Again, to my mind, the issues raised in the report deserve close attention from the American people and their elected representatives here in Washington.

Thank you, Mr. Chair.

[The prepared statement of the Hon. Durham follows:]

**Opening Statement for House Judiciary Committee
John H. Durham, Special Counsel
(June 21, 2023 open session)**

Good morning, Chairman Jordan, Ranking Member Nadler, and members of the Committee.

As the Committee knows, on May 13, 2019, Attorney General Barr directed me to conduct a preliminary review into certain matters related to federal investigations concerning the 2016 presidential election campaigns.

That review subsequently developed into several criminal investigations and gave rise to my appointment as Special Counsel.

Many of the most significant issues documented in the report, including those relating to lack of investigative discipline, failure to take logical investigative steps, and bias, are relevant to important national security interests. If repeated or left unaddressed, these issues could result in significant national security risks and further erode public faith in our justice system.

As we said in the report, our findings were sobering. While I am encouraged by some of the reforms that have been implemented by the FBI, the problems identified in the report are not susceptible to overnight fixes. As we said in the report, they cannot be addressed solely with enhanced training or additional policy requirements. Rather, what is required is accountability—both in terms of the standards to which our law enforcement personnel hold themselves, and in the consequences they face for violations of law or policy.

I am here to answer your questions to the best of my ability, and I hope to be of service to your oversight function. As I'm sure you know, the Department of Justice has advised me of what I am authorized to discuss here. In this regard, I will rely mostly on the report itself.

I do want to emphasize a few points at the outset:

First, I want to emphasize in the strongest terms that my colleagues and I carried out our work in good faith, with integrity, in the spirit of following the facts wherever they lead, without fear or favor. At no time, and in no sense, did we act with a purpose to further partisan or political ends.

Second, the findings set forth in this report are serious and deserve attention from the American public and its representatives. Let me just briefly highlight a few.

For one, we found troubling violations of law and policy in the conduct of highly consequential investigations directed at members of a presidential campaign and, ultimately, a presidential administration.

Our team comprised dedicated and experienced prosecutors and law enforcement agents who worked day in and day out on DOJ and FBI investigations—including national security matters. That such a group made these findings should be of concern to any American who cares about civil liberties, the rule of law, and the just and proportionate application of the law.

- During our investigation, we charged a former FBI lawyer who pleaded guilty to the felony offense of altering and fabricating a portion of a document used to obtain court renewal of FISA surveillance of Carter Page.
- Several of the relevant FISA applications omitted reference to relevant exculpatory information that should have been disclosed to the FISC.
- Multiple FBI personnel who signed or assisted in preparing renewal applications for that same FISA warrant acknowledged that they did not believe that the target was a threat to national security, much less a *knowing* agent of a foreign power. It appears that FBI leadership dismissed those concerns.

Another aspect of our findings concerned the FBI's failure to sufficiently scrutinize information it received or to apply the same standards to allegations it received about the Clinton and Trump campaigns.

- As our report details, the FBI was too willing to accept and use politically funded and uncorroborated opposition research like the Steele Dossier.
- The FBI relied on the dossier in FISA warrant applications knowing that it likely originated from the Clinton campaign. It did so even after the President of the United States, the FBI and CIA Directors, and others received briefings about intelligence suggesting that there was a Clinton campaign plan under way to stir up a scandal tying Trump to Russia. The accuracy of the intelligence was uncertain, but the FBI failed to analyze or assess the implications of this intelligence in any meaningful way.
- When the FBI learned that the primary source of information for the Steele dossier, Igor Danchenko, whom the FBI previously suspected of being a Russian spy, it nevertheless signed him up as a paid FBI informant without further investigating, to say nothing of resolving these espionage concerns.
- And when the FBI and Special Counsel Mueller's Office learned that Steele's primary source likely had gathered important portions of the dossier information during travel to Russia with Charles Dolan, it inexplicably decided not to interview Mr. Dolan or investigate his activities.

Finally, I would like to add that although our work exposed deeply concerning facts about the conduct of these investigations, our report should not be read to suggest that Russian election interference was not a significant threat. It was. Nor should it be read to suggest that the investigative authorities at issue no longer serve important law enforcement and national security interests. They do.

Rather, responsibility for the failures and transgressions that occurred here rest with the people who committed them or allowed them to occur. Again, to my mind, the issues raised in the report deserve close attention from the American people and their elected representatives here in Washington.

Thank you, Mr. Chairman

Chair JORDAN. Thank you, Mr. Durham. We will now proceed under the five-minute rule for questions.

The Chair now recognizes the gentleman from Louisiana, Mr. Johnson.

Mr. JOHNSON of Louisiana. Thank you, Mr. Chair and Mr. Durham, for being here today. This is much anticipated. We have lots of questions for you. I'll try to set the table here at the outset from 20,000 feet.

The American people rely on the FBI to abide by its guiding principles, and what those are—fidelity, bravery and integrity—and we rely on them to uphold the Constitution and protect the American people.

Americans deserve and expect from our premier law enforcement agency to apply justice blindly and that is without political bias or ulterior motives.

However, your report now famously states, and here's the big quote—based on the review of Crossfire Hurricane and related intelligence activities you concluded that the DOJ and FBI failed to uphold their important mission of strict fidelity to the law.

There's no other way to put this. The report illustrates egregious actions on behalf of the FBI that have further eroded faith in our institutions.

Mr. Durham, in your report and again here today you said that your findings and conclusions are sobering. Could you unpack a little bit more what that means? Why do you say sobering?

Mr. DURHAM. Well, let me give you some real-life views on that.

I have had any number of FBI agents who I've worked with over the years—some of them are retired, some are still in place—who have come to me and apologized for the manner in which that investigation was undertaken.

I take that seriously. These are good, hardworking—the majority of people in the FBI—decent human beings who swear under their oaths to abide by the law and the like, and I think that this typifies, exemplifies, the concern here.

There were investigative activities undertaken or not undertaken here which raise real concerns about whether or not the law was followed and the policies in place at the FBI were followed.

Mr. JOHNSON of Louisiana. You wrote in your report, quote,

Based on the evidence gathered in the multiple exhaustive and costly Federal investigations of these matters, including the incident investigation, neither U.S. law enforcement nor the intelligence community appears to have possessed any actual evidence of collusion in their holdings at the commencement of the Crossfire investigation.

To date has any evidence of collusion between the Trump Campaign and Russia have ever been uncovered?

Mr. DURHAM. There's information, obviously, in the report that was prepared by Director Mueller and whatnot, but as to collusion or conspiracy I'm not aware of any.

Mr. JOHNSON of Louisiana. Let me stop you—when the FBI opened Crossfire Hurricane—that's the issue at hand—it did not have any information that anyone in the Trump Campaign had ever been in contact with Russian intelligence officials. Isn't that right?

Mr. DURHAM. As we wrote in the report, we talked to the Director of the CIA, the Deputy Director of the CIA, the Director of NSA, and people within the FBI, and there was no such information that they had in their holdings at the time they opened Crossfire Hurricane.

Mr. JOHNSON of Louisiana. You detail—I'm going to go quickly here. I'm running out of time. You detail how FBI personnel working on FISA applications violated protocols.

They were cavalier, at best, as you said in your own words, toward accuracy and completeness. Senior FBI personnel displayed a serious lack of analytical rigor toward information that they received, especially information received from politically affiliated persons or entities. You said,

... significant reliance on investigative leads provided or funded by Trump's political opponents were relied upon here.

Among the most alarming things that you referred to in the report is the impact of confirmation bias and you said in your report at page 303, that's defined as or,

It stands for the general proposition that there is a common human tendency—mostly unintentional—for people to accept information and evidence that is consistent with what they believe to be true

Sir, here this wasn't innocent, unintentional human tendency, was it? It was overt political bias, was it not? Peter Strzok, for example.

Mr. DURHAM. There are some individuals who clearly expressed a personal bias. It's difficult to get into somebody else's head to see whether they knew it—

Mr. JOHNSON of Louisiana. Unless we have their emails, right. Peter Strzok, for example, pronounced—he had pronounced hostile feelings toward President Trump. Everybody knows that.

Everybody in the country knows it. So, he was in charge of this. He was the Deputy Assistant Director of Counterintelligence, officially opened the investigation at the direction of FBI—Deputy FBI Director Andrew McCabe.

He said horrible things about President Trump and all his supporters, by the way. How could we say he did not have political bias?

Mr. DURHAM. Yes, I know that it clearly reflects a personal bias that he had. I'll leave it to others and the facts that are set out in the reports of whether that's political bias, personal bias, but there's clearly bias.

Mr. JOHNSON of Louisiana. What we know now is the FBI and the DOJ have been turned into activated political weapons against citizens and even a former President because of their opposing viewpoints, sir.

They failed to follow protocols in 2016 and you've suggested new protocols may somehow be a fix to this. How can the American people have confidence that if they didn't follow protocols in 2016 that they will follow new protocols?

Mr. DURHAM. I think that's why I said in the opening remarks this is not an easy fix. It's going to take time to rebuild the public's confidence in the institution.

The changes or the reforms they have made are certainly changes that are going to guard to some extent against the repeat of what happened in Crossfire Hurricane.

Mr. JOHNSON of Louisiana. I'm out of time. I yield back.

Chair JORDAN. The gentleman yields back. The Chair now recognizes the gentleman from New York.

Mr. Durham, can you pull that microphone real close so everyone can hear what you say? We appreciate that.

The gentleman from New York is recognized.

Mr. NADLER. Thank you, Mr. Chair.

Mr. Durham, your report reads like a defense of the Trump Campaign and an attack on Hillary Clinton because that's exactly what it is. Donald Trump wanted you to investigate the investigators to show the Deep State conspiracy, but you never found one.

Instead, you gave him and his MAGA Republicans the next best thing, someone else to blame for Donald Trump's problems. That's why you're here today because the Chair and his colleagues need someone, anyone, to deflect from the mounting evidence of Trump's misconduct.

Let me remind you that Donald Trump was Federally indicted on 37 counts for mishandling classified information—37 counts. That's why you're here today, not because of anything that happened in 2016.

Mr. Durham, your investigation cost more than \$6.5 million, involved the work of dozens of FBI employees and Federal prosecutors, some of whom resigned in protest, and took, roughly, four years to complete. Is that correct?

Mr. DURHAM. No.

Mr. NADLER. It's not correct?

Mr. DURHAM. No. There were multiple parts of that.

Mr. NADLER. Did it take four years to complete?

Mr. DURHAM. Correct.

Mr. NADLER. OK. With all these resources and all these people who were sent to help you investigate the investigators you only filed three criminal cases. You only brought two cases to trial. Correct?

Mr. DURHAM. Correct.

Mr. NADLER. You lost all the cases you brought to trial, correct?

Mr. DURHAM. Correct.

Mr. NADLER. In fact, two juries acquitted your defendants on all charges and the one conviction that you obtained the defendant pleaded guilty to a single count and never went to trial, correct?

Mr. DURHAM. Correct.

Mr. NADLER. I will note that in that case the primary investigative steps were all completed by Inspector General Horowitz.

Perhaps you were better when it came to your report. From my reading your report did not make any specific concrete recommendations to improve DOJ or FBI policies or procedures.

In fact, your report repeatedly references the recommendations made by Inspector General Horowitz, almost all which DOJ and FBI have already implemented.

Again, your investigation lasted four years, four years and untold sums of money and you still obtained only one conviction. You did

produce a 300-page report, though, and that's given my Republican counterparts plenty of material to spin.

Mr. Durham, George Papadopoulos was a Foreign Policy Adviser to the Trump Campaign in Spring 2016. Isn't that right?

Mr. DURHAM. Correct.

Mr. NADLER. In May 2016, he told an Australian diplomat that the Trump team had received some kind of suggestion from Russia that it could assist this process with the anonymous release of information during the campaign that would be damaging to Secretary Clinton.

This is a fact that came out during the Mueller investigation and your investigation found nothing to dispute this fact, correct?

Mr. DURHAM. There's more detail to that in the report.

Mr. NADLER. Did it find anything to dispute this report—to dispute this fact?

Mr. DURHAM. No.

Mr. NADLER. OK. On page 50 of your report, you wrote that on July 28, 2016, FBI headquarters received the Australian information that formed the basis for the opening of Crossfire Hurricane, correct?

Mr. DURHAM. Correct.

Mr. NADLER. So, this fantasy that some MAGA Republicans have created where the investigation was started for any reason other than a Trump Campaign operative bragging to Australian intelligence assets about Russian dirt that would damage Hillary Clinton is not true, and when the FBI received that information, according to your report, it had not just the predication to investigate, there was no question, you wrote that, "the FBI had an affirmative obligation to closely examine the Australian information." Isn't that right?

Mr. DURHAM. The FBI had an obligation to examine the information.

Mr. NADLER. That's correct. So, the origin of the investigation was not the Steele Dossier. It was not Alfa Bank. It was a Trump aide's loose lips about his campaign's advanced view into a hack that had a profound effect on the 2016 election.

That information supplied by the Australian government gave the FBI predication to begin an investigation.

I'd like to discuss one more false conclusion about your report that's made its way into the MAGA Republican talking points. Some of my colleagues across the aisle have started calling this the, quote, "Russia hoax." It's the theory that Russia did not actually interfere in the 2016 Presidential Election.

That is patently false. In 2017, during the Trump Administration the Director of National Intelligence declassified a report on Russian activity in the 2016 election. You're aware of this report, correct?

Mr. DURHAM. Correct.

Mr. NADLER. In this report the intelligence community found that, quote,

Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the U.S. Presidential Election. Russia's goals were to undermine public faith in the U.S. democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess

Putin, and the Russian government developed a clear preference for President-elect Trump.

You did not dispute that Trump ordered an influence campaign to influence the 2016 election in your report, did you?

Mr. DURHAM. As I said, there was a real Russian threat.

Mr. NADLER. Yes or no?

Mr. DURHAM. No.

Mr. NADLER. OK. Special Counsel Mueller indicted 12 Russian intelligence officers in July 2018. Isn't that right?

Mr. DURHAM. Correct.

Mr. NADLER. The 12 intelligence officers were indicted for attacking the Clinton Campaign. On page 55 of your report, you acknowledge that at a press conference in 2016 Donald Trump on camera said, "Russia, if you're listening I hope you're able to find the 30,000 emails that are missing." Is that correct?

Mr. DURHAM. That's correct.

Mr. NADLER. Two years later—

VOICE. Regular order.

Mr. NADLER. Trump told the press that he believed Russian President Putin over his own intelligence officials when he told them Russia did not interfere during the 2016 election season.

I see my time has expired. I yield back.

Chair JORDAN. The witness can respond if he chooses to.

[No response.]

Chair JORDAN. The Chair now recognizes the gentleman from South Carolina, Mr. Fry, for five minutes.

Mr. FRY. Thank you, Mr. Chair.

We are here today to provide transparency, finally, to the American people. Seven years ago, the FBI launched Crossfire Hurricane, the left's brazen attempt to keep Donald Trump out of the White House.

This Federal investigation, funded by the Hillary Clinton Campaign, caused Americans to believe that then candidate Trump was colluding with Russia to win the 2016 Presidential Election.

Mr. Durham has spent four years investigating this—480 witnesses, six million pages of documents, 190 subpoenas, and executing seven search warrants.

Less than a month ago he completed this report that instigated the baseless investigation and launched a partisan attack on President Trump despite having no true justification to do this. That was the FBI.

Within three days of receiving the information from a diplomat in Australia the FBI opened a full-fledged investigation into the Trump Campaign.

So, Mr. Durham, let's get into this. The FBI opened up Crossfire Hurricane without speaking to the people who provided the initial information. Is that true?

Mr. DURHAM. That's correct.

Mr. FRY. The FBI opened Crossfire Hurricane on a Sunday, only three days after reviewing that information. Is that correct?

Mr. DURHAM. That's correct.

Mr. FRY. So, just think about that for a moment, an investigation—a full investigation into a Presidential Campaign over a weekend.

Mr. Durham, the FBI opened Crossfire Hurricane without interviewing any of the essential witnesses. Is that true?

Mr. DURHAM. That's true.

Mr. FRY. The FBI also opened up Crossfire Hurricane without using any of the standard analytical tools typically employed to evaluate that evidence. Is that true?

Mr. DURHAM. That's true.

Mr. FRY. So, think about that. The FBI had never talked to the people who gave them the intelligence information. They never examined their own witnesses. They never interviewed the witnesses. They never corroborated the dossier.

Mr. Durham, if the FBI had done these things, if they had done their homework, would it have found that its own Russian experts had no information about President Trump being involved with Russian leadership or Russian intelligence officials?

Mr. DURHAM. Yes.

Mr. FRY. So, then was there an adequate predication for the FBI to open Crossfire Hurricane as a full investigation?

Mr. DURHAM. On July 31st, in my view, based on our investigation, there was not a legitimate basis to open as a full investigation, an assessment if something that had to be looked at, to gather information such as interviewing the people who provided the Papadopoulos information, checking their own data bases, the data bases of other intelligence agencies, and the standard kinds of things that you would do in an investigation like this.

Mr. FRY. Mr. Durham, I think it's safe to conclude based on that report and anyone who has read it, that they did not have that adequate basis, as you talked about, to launch this investigation.

Let's move on to a second really troubling aspect of your findings. From the report I gathered that key FBI leaders all the way at the top were predisposed to go after candidate Trump.

This bias likely affected the conduct of FBI personnel in this investigation. Is that true?

Mr. DURHAM. Yes.

Mr. FRY. Can you describe that for a moment? How did confirmation bias play into this?

Mr. DURHAM. Confirmation bias, as was alluded to, has to do with our human tendency to accept things that we already think are true and to reject anything else. In this instance, there are any number of significant red flags that were raised that were simply ignored.

If there's evidence that was inconsistent with the narrative, they didn't pay attention to it. They didn't explore it. They didn't take the logical investigative steps that should have been taken.

Mr. FRY. Let's see how real this bias was. FBI Deputy Assistant Director Peter Strzok drafted and approved the Crossfire Hurricane opening communication. Is that correct?

Mr. DURHAM. That's correct.

Mr. FRY. In your investigation your office discovered text messages between Strzok and Lisa Page, who was a Special Assistant to the FBI Director McCabe, expressing strong bias against candidate Trump.

Mr. DURHAM. That's true.

Mr. FRY. For the record, let me read aloud. This was generated by staff, but this would look like they're text messages. On August 18, 2016, Page texted Strzok, "Trump's not going to become president, right? Right?" Strzok responded by saying, "No, no, he's not. We'll stop it."

It's clear that there was no evidence of Russia collusion with the Trump Campaign in 2016. The American people deserve the truth and I'm proud to serve on this Committee to uncover these lies that were perpetuated for far too long.

With that, Mr. Chair, with my remaining 30 seconds I will yield to you.

Chair JORDAN. The Chair will yield back. I'll wait for my time. I will now recognize the gentlelady from California.

Ms. LOFGREN. Thank you, Mr. Chair, and thank you, Mr. Durham, for being here this morning.

The Ranking Member explored an item that I wanted to explore with you, which is based on the information provided to the U.S. Government by Australia that a campaign aide had told one of their diplomats that the Russians had dirt on Clinton in the form of thousands of emails that—and this is a quote from your report—

... as an initial matter, there is no question the FBI had an affirmative obligation to closely examine the Australian information.

So, that's in your report and I think the issue might be preliminary versus full because you agree that there was an obligation to look at it based on that. Is that correct? That's what you say in your report?

Mr. DURHAM. When you say based on that, some of the premises of the question are inaccurate. Papadopoulos did not tell the—

Ms. LOFGREN. No, the question is do you disavow what you said in your report, that you had an affirmative obligation—the FBI—to look at that?

Mr. DURHAM. The answer to that question they had to look at it, yes.

Ms. LOFGREN. All right. I want to take a look at some of the other things that I didn't find in your report. In looking at the FBI's behavior did you find any evidence that the FBI was taking a look at the hacking of the Democratic National Committee and their investigation of that? If so, where is that in your report?

Mr. DURHAM. That was outside the scope of what I was asked to do.

Ms. LOFGREN. In the Mueller Report he found that the Campaign Manager, Mr. Manafort, was giving inside information, private polling data, to the Russians, that there was a meeting in Trump Tower with the President's son-in-law and his son where the Russians had promised they had dirt and the email from the President's son was something to the effect, if so we love it.

Did the FBI look at that? Did you examine that and if so, where is that in your report?

Mr. DURHAM. That is not something I was asked to look at and we didn't look at that.

Ms. LOFGREN. I'm wondering, did you take a look at how the FBI evaluated the alleged ties to Alfa Bank? Did you hire cyber experts to actually take a look at those potential or alleged ties?

Mr. DURHAM. Yes. Well, I didn't hire them. They were FBI experts.

Ms. LOFGREN. Where is that in your report?

Mr. DURHAM. I can't—it's in there. I can find the page. My colleagues can find the page, but it is an entire section on Alfa Bank, the white papers and the data that were provided by Mr. Sussmann to the FBI, and then the subsequent investigation.

Ms. LOFGREN. No. No. My question was did you take a look—did you hire experts to evaluate the FBI's evaluation?

Mr. DURHAM. I did not hire experts to examine what the experts said, no.

Ms. LOFGREN. OK. Let me ask another question. I thought it was down a rabbit's hole, but you and Attorney General Barr went to Italy to take a look at some allegation about foreign servers and Italian officials gave you evidence that they said linked Donald Trump to certain financial crimes.

Did the Attorney General ask you to investigate that matter that the Italians referred to you, and if so, did you take any investigative steps and did you file charges, or if not, did you file a declination memo for a decision not to charge in this case?

Mr. DURHAM. The question is outside the scope of what I think I'm authorized to talk about. It's not part of the report. I can tell you this, that investigative steps were taken and grand jury subpoenas were issued, and it came to nothing.

Ms. LOFGREN. I'd like to yield the balance of my time to my colleague from California, Mr. Schiff.

Mr. SCHIFF. Mr. Durham, DOJ policy provides that you don't speak about a pending investigation and yet you did, didn't you?

Mr. DURHAM. I'm not exactly sure what you're referring—

Mr. SCHIFF. When the Inspector General issued a report saying that the investigation was properly predicated you spoke out in violation of Department of Justice—Department of Justice Policy to criticize the Inspector General's conclusions, didn't you?

Mr. DURHAM. I issued a public statement. I didn't do it anonymously. I didn't do it through third persons. There were—

Mr. SCHIFF. Nonetheless, you violated department policy by issuing a statement while your investigation was ongoing, didn't you?

Mr. DURHAM. I don't know that. If I did then I did. I was not aware that I was violating some policy.

Mr. SCHIFF. You also sought to get the Inspector General to change his conclusion, did you not? When he was concluding that the investigation was properly predicated did you privately seek to intervene to change that conclusion?

Mr. DURHAM. This is outside the scope of the report. If you want to go there, we asked the Inspector General to take a look at the intelligence that's included in the classified appendix that you looked at and said that this ought to affect portions of his report.

Mr. SCHIFF. You thought it was appropriate for you to intervene with an independent investigation by the Inspector General because he was reaching a conclusion you disagreed with? You thought that was appropriate?

Mr. DURHAM. That's not—the premise isn't right. The Inspector General circulated a draft memo to a number of agencies and per-

sons. Our group was one of them. We were asked to review that draft and bring to his attention any concerns that we had or disagreements.

Mr. SCHIFF. When he refused to change his—

Chair JORDAN. The time of the gentleman—the time of the gentleman has—

Mr. SCHIFF. —when he refused to change his report, you violated department policy.

Mr. JOHNSON of Louisiana. Mr. Chair, I insist on regular order.

Chair JORDAN. It's not even his time. It's Ms. Lofgren's time. So, the gentleman yields back to Ms. Lofgren, who's not here. So, the time has expired.

Mr. Durham, in the Summer of 2016 did our government receive intelligence that suggested Secretary Clinton had approved a plan to tie President Trump to Russia?

Mr. DURHAM. Yes.

Chair JORDAN. Was that intelligence important enough for Director Brennan to go brief the President of the United States, the Vice President of the United States, the Attorney General of the United States, and the Director of the FBI?

Mr. DURHAM. Yes.

Chair JORDAN. Was that intelligence put then into a memorandum—a referral memorandum?

Mr. DURHAM. Yes.

Chair JORDAN. Was that memorandum then given to Director Comey and Agent Strzok?

Mr. DURHAM. That's who it was addressed to, yes.

Chair JORDAN. Did Director Comey share that memorandum with the FISA Court?

Mr. DURHAM. I'm sorry, can you—

Chair JORDAN. Did he share that memorandum with the FISA Court? Did Director Comey do that?

Mr. DURHAM. I'm not aware of that if he did.

Chair JORDAN. Did he share with it with the lawyers preparing the FISA application?

Mr. DURHAM. Not to my knowledge.

Chair JORDAN. Did he share it with the agents on the case working the Crossfire Hurricane case?

Mr. DURHAM. No.

Chair JORDAN. Didn't share it with the agents on the case. Can you tell the Committee what happened when you took that referral memo and shared it with one of those agents, specifically supervisory Special Agent No. 1?

Mr. DURHAM. We interviewed the first supervisor of the Crossfire investigation—the operational person. We showed him the intelligence information. He indicated he'd never seen it before. He immediately became emotional, got up and left the room with his lawyer, spent some time in the hallway, came back and—

Chair JORDAN. He was ticked off, wasn't he?

Mr. DURHAM. Yes.

Chair JORDAN. He was ticked off because this is something he should have had as an agent on the case. It was important information that the Director of the FBI kept from the people doing the investigation.

Mr. DURHAM. The information was kept from him.

Chair JORDAN. Who's Charles Dolan?

Mr. DURHAM. Charles Dolan is a public relations person here in Washington, DC. He had prior involvement—professional involvement with the Russian government representing Russian government interests. He was a person that was associated with Igor Danchenko.

Chair JORDAN. He's also buddies with the Clintons, wasn't he?

Mr. DURHAM. He had held positions when President Clinton was President—

Chair JORDAN. Their campaign advisor to Secretary Clinton's Presidential Campaign, Executive Director of the Democratic Governors Association. That's the same Charles Dolan we're talking about?

Mr. DURHAM. Yes.

Chair JORDAN. Yes. Wasn't he also a key source for information in the dossier?

Mr. DURHAM. He provided some information that was included in the dossier, yes.

Chair JORDAN. Ritz-Carlton stuff, the Manafort stuff. In the Crossfire Hurricane investigation and the Mueller investigation, when the FBI interviewed Mr. Dolan what did he have to say?

Mr. DURHAM. To my knowledge, they didn't interview Mr. Dolan.

Chair JORDAN. They didn't interview this guy? Source for the dossier? Key information in the dossier? Buddies with the Clintons? They didn't talk to him?

Mr. DURHAM. No. We report on that because even Christopher Steele on October 2016 identified Dolan as somebody that might have information—

Chair JORDAN. I find it interesting they didn't talk to him. Were there agents on the case who wanted to talk to Mr. Dolan, Mr. Durham?

Mr. DURHAM. Yes.

Chair JORDAN. What happened to Analyst No. 1? She kept pushing to talk to Mr. Dolan. She was ultimately turned down. What happened to her the day that she was turned down and said, no, no, we're not talking to Dolan? What happened to her?

Mr. DURHAM. At or about the same time she was assigned to a different project—

Chair JORDAN. They moved her. They said, we can't have this—we can't have that—we can't be looking into the Clinton's buddy, a key source for the dossier. They reassigned her. Then what did she do?

Mr. DURHAM. She memorialized it.

Chair JORDAN. She entered a memo to the file because she said at some point the Inspector General is going to want to know this information. I'm going to make sure it's recorded contemporaneously. She put it in the file.

I mean, it's crazy. They didn't talk to the key source. They kept key intelligence from the investigators. This is how bad this investigation was.

Here's the scary part. I don't think anything has changed. The day your report came out five weeks ago, May 15th, you got a let-

ter, Mr. Durham, addressed to you from the General Counsel at the FBI.

Mr. Jason Jones writes you this six-page letter and he says not to worry, everything is fine. It's all been worked out at the FBI. He even says on page 2—he says,

... had the reforms implemented by current FBI leadership summarized below been in place in 2016 failures detailed in your report never would have happened.

and he underlines it. He said, “this would never happen because of the reforms we implemented in 2019 and 2020.”

Then, he says on page 4—one of the specific reforms—he says, “FBI executive management has instructed an investigation should be run out in the field and not from the headquarters.”

That statement is not true. Five weeks ago, the FBI wrote you and said everything has changed when, in fact, it hasn't and the statement in there is absolutely false and we know it's false because two weeks ago today we interviewed Steven D'Antuono, former head of the Washington field office, Mr. Durham, and here's what he said in his transcript—head of the Washington field office when the Trump classified document investigation began. He said,

That case was handled differently than I would have expected it to be than any other cases handled. We learned a lot of stuff from Crossfire Hurricane, that headquarters should not work the investigation. It's supposed to be the field offices.

My concern is that the Department of Justice was not following these principles. Nothing has—and that's the thing that scares me the most. Nothing has changed.

Mr. Durham, let me just finish with this. Sixty percent of Americans now believe there's a double standard at the Justice Department.

You know why they believe that? Because there is. That has got to change, and I don't think more training, more rules, is going to do it.

I think we have to fundamentally change the FISA process, and we have to use the appropriations process to limit how American tax dollars are spent at the Department of Justice.

I yield back.

The gentlelady from Texas is recognized, Ms. Jackson Lee.

Ms. JACKSON LEE. Good morning.

Mr. DURHAM. Good morning.

Ms. JACKSON LEE. You value the independence of a Special Counsel, do you not?

Mr. DURHAM. I do.

Ms. JACKSON LEE. In a letter to Attorney General Garland submitting your report you asked him to allow you to continue your investigation unencumbered. You said,

We want to thank you and your office for permitting our inquiry to proceed independently without interference as you assured the Members of the Judiciary Committee would be the case during your confirmation hearings to become Attorney General of the United States. You value your Special Counsel status.

So, it is accurate that Attorney General Garland let you proceed on your case as you wish. Is that true?

Mr. DURHAM. That's true.

Ms. JACKSON LEE. Yes or no, it was important to you that as a Special Counsel your investigation was supposed to be independent. Is that correct?

Mr. DURHAM. That's correct.

Ms. JACKSON LEE. Because Special Counsels and Special Attorneys are supposed to be independent, right?

Mr. DURHAM. Special Counsels.

Ms. JACKSON LEE. Yes, and independent. They're supposed to be independent. Is that correct?

Mr. DURHAM. Special Counsel is independent of the Attorney General's office.

Ms. JACKSON LEE. Thank you. Why is that the case, in your view.

Mr. DURHAM. So, there can be some confidence on the part of people looking at the investigation that was done, the decisions which were made that—

Ms. JACKSON LEE. Thank you. Special Counsels and Special Attorneys are supposed to be for the American public to prevent the potential of a conflict of interest between the government and a sensitive investigation.

By appointing a Special Counsel, an Attorney General is supposed to be finding an unbiased party to do the investigating. This was at a very high level. This was dealing with potential Presidential candidates.

This was dealing with Russia collusion and undermining the very fabric of the United States of America and they are supposed to leave that person alone, as you commended Attorney General Garland for doing.

So, unlike Attorney General Garland, Attorney General Barr was very involved in your investigation, wasn't he?

Mr. DURHAM. He was not involved as a—when I became a Special Counsel. Prior to that, I worked under the supervision of the Attorney General and Deputy Attorney General.

Ms. JACKSON LEE. He was very involved, was he not? Let me just bring you to this point. Barr established early on that he was very interested in your investigation. On June 8, 2018, he sent then-Deputy Attorney General Rod Rosenstein an unsolicited memo arguing that the Mueller investigation should not be able to force the President to submit to interrogation about obstruction. In his text message sending the memo, Barr wrote that, "he feels very deeply about some of the issues taking shape in the Mueller matter."

How often did you meet with Attorney General Barr in 2019?

Mr. DURHAM. Before I was Special Counsel, maybe—well, with himself maybe every 2–3 weeks, something of that sort, and sometimes more frequent.

Ms. JACKSON LEE. Then after? Then after?

Mr. DURHAM. After, I had been appointed Special Counsel, I don't know. I'm sure that I saw him, but I didn't meet with him on the investigation.

Ms. JACKSON LEE. A lot.

Mr. DURHAM. No, it was not a lot.

Ms. JACKSON LEE. How often did you speak or text with the Attorney General? This is during the investigation.

Mr. DURHAM. I wouldn't—during the—when I was Special Counsel or prior to that?

Ms. JACKSON LEE. Special Counsel, sir.

Mr. DURHAM. I don't know how many times I've texted with him.

Ms. JACKSON LEE. Well, according to now public records Barr scheduled at least 18 meetings or calls with you between March–October 2019, and you and he text messages with each other frequently, didn't you? Text messages?

Mr. DURHAM. I was appointed as Special Counsel in October so before that, yes, there were probably any number of text messages. After that I don't know.

Ms. JACKSON LEE. Here are some examples.

On August 31, 2019, he sent you a message that said, "John, strongly suggest that you a lot of interesting things."

On February 6, 2020, you text him, "Sir, just emerging from a SCIF. Are you open to a call earlier this morning?"

On February 14, 2020, Barr texts you, "Call me when you get a chance."

On March 19, 2020, Barr texts, "Can I call you later?" and you respond, "Most certainly."

On March 27, 2020, you sent him the best phone number for you all during the time of being Special Counsel, and here's an interesting one.

On September 24, 2019, the day that the Speaker Pelosi announced a formal impeachment inquiry into President Trump Attorney General Barr texted you, "Call me ASAP," and later that day you text back, "Do you have a minute for a quick call, Durham?"

What was the purpose of this call, Mr. Durham? Were you discussing the impeachment inquiry?

Mr. DURHAM. I never had any conversation with the Attorney General Barr about the impeachment inquiry.

Ms. JACKSON LEE. Mr. Durham, this is an awful lot of direct interactions with the Attorney General for impose—supposedly independent counsel prosecutor. During these messages does that sound to you like appropriate interactions? Do they sound like appropriate interactions between an attorney general and a prosecutor investigating the administration?

Mr. DURHAM. Before I was appointed Special Counsel, I worked for the Attorney General of the United States. That's who supervised me.

Ms. JACKSON LEE. You subsequently became Special Counsel. I know that. You subsequently became. Not only did you interact with the Attorney General frequently you also regularly engaged with one of his top deputies, Seth DuCharme. What was your relationship with Mr. DuCharme?

Mr. DURHAM. Seth DuCharme was then an Assistant United States Attorney in the Eastern District of New York. He works with one of my sons. We were friends and at the time was working in the Office of the Attorney General.

Ms. JACKSON LEE. It seems that rather than having—
Chair JORDAN. The time of the gentlelady has expired.

Ms. JACKSON LEE. —an independent investigation there was a lot of interaction between the Attorney General and the special prosecutor—

Chair JORDAN. The time of the gentlelady has expired. I've been generous with the time—

Ms. JACKSON LEE. —which shows that the Attorney General was actively directing your work. I yield back.

Chair JORDAN. The gentlelady yields. The gentlelady yields back.

I think this is amazing, Mr. Durham. You had eight text messages with the Attorney General of the United States in 11 months' time period. That's amazing. I can't believe that—

Ms. JAYAPAL. Mr. Chair, parliamentary inquiry. Whose time is that you were speaking of?

Chair JORDAN. That was that time that was yielded to me. I yield it back.

Ms. JAYAPAL. Mr. Chair, that is absolutely inappropriate.

Chair JORDAN. I was just pointing out something that I think is so—

Ms. JAYAPAL. Mr. Chair, that is not appropriate.

Chair JORDAN. We will go to Mr. Cline for five minutes. The gentleman from Georgia—from Virginia, excuse me, is recognized.

Mr. CLINE. Thank you.

Mr. Durham, your report is not just sobering, as you stated. It's outrageous and deeply troubling. Can you confirm the several main points that it found? The FBI did not have an adequate basis on which to launch Crossfire Hurricane, correct?

Mr. DURHAM. That's correct.

Mr. CLINE. The FBI failed to examine all available exculpatory evidence, correct?

Mr. DURHAM. Correct.

Mr. CLINE. FBI leadership continued the investigation even when case agents were unable to verify the evidence, correct?

Mr. DURHAM. That's correct.

Mr. CLINE. The FBI did not interview key witnesses in Crossfire Hurricane, correct?

Mr. DURHAM. Correct.

Mr. CLINE. Individuals within the FBI abused their authority under the Foreign Intelligence Surveillance Act, correct?

Mr. DURHAM. Correct.

Mr. CLINE. The FBI immediately opened Crossfire Hurricane as a full counterintelligence investigation. What other options could the FBI have taken rather than immediately opening such an investigation?

Mr. DURHAM. Attorney General Edward Levi essentially created the guidelines in this area, these three divisions of assessments, preliminary, and then full, although they were different names at the time. That has evolved over time and become more particular.

In this instance, the information that they had received from Papadopoulos about a suggestion of a suggestion and not anything about emails, but just the suggestion of a suggestion was sufficient and would have required the FBI to take a look at it—well, what is this about.

You open it as an assessment and then you would analytically go try to collect intelligence that either supports or refutes or explains that information. That's the whole purpose of it.

You assess it and then you can move to a preliminary investigation, and if the evidence bears it out you go to a full investigation where you have all the tools available, including the most intrusive physical surveillance and electronic surveillance of U.S. citizens.

Here, they just immediately went to—opened it as a full investigation without ever having talked to the Australians or gathered other evidence.

Mr. CLINE. Right. So, investigators relied on misstatements by the confidential human source, ignored exculpatory statements made by Papadopoulos and submitting the FISA application to surveil Carter Page, correct?

Mr. DURHAM. That's correct.

Mr. CLINE. Is it true that an FBI employee fabricated this evidence? Can you expand on that fabrication and the reliance to support that—

Mr. DURHAM. Sure. In connection one of the extensions, the final extension of renewal of the FISA on Carter Page, one of the agents who had come on board wanted to be certain that there was information that—was there information as to whether or not Carter Page had been a source of information in the CIA, and pressed Kevin Clinesmith in the General Counsel's Office of the FBI on that point.

Clinesmith got a hold of people at another government agency, intelligence agency, on the issue, and that person indicated—not indicated, said—that, yes, in FBI parlance, Carter Page was the source, and put that in writing.

When Clinesmith talked to the agent who was saying, “we want to be sure on this, was he or was he not a source,” Clinesmith said, “no.” He said he's not. He said, “do we get that in writing?” Clinesmith said “yes,” and then said, “well, I want to see it.” Then Clinesmith altered the other government agency document to reflect this to say that Page was not a source when he in fact was a source. That's the gist of it.

Mr. CLINE. What did the investigators mean when they said they hoped the returns on the Carter Page FISA application would, quote, “self-corroborate”?

Mr. DURHAM. That was another troublesome thing. The agent was saying, well, if we can get surveillance—electronic surveillance of Page, then we'll find out essentially whether we really do have probable cause or not. He would self-corroborate in that sense.

Mr. CLINE. Are investigators supposed to corroborate information before or after it's included in a FISA application?

Mr. DURHAM. Yes. You have to have that before you intrude on the liberties of American citizens.

Mr. CLINE. In fact, the FBI is required to follow its Woods Procedures, which the FBI adopted to ensure the accuracy of the information contained in FISA applications, correct?

Mr. DURHAM. That's correct.

Mr. CLINE. Did the FISC ever criticize the FBI's handling of the Page FISA application?

Mr. DURHAM. Yes.

Mr. CLINE. What were some of those concerns that they raised?

Mr. DURHAM. Ultimately, the FISC issued an order—a memorandum indicating that had the information, and it was disclosed in the investigation done by Inspector General Horowitz, a very thorough job and a good job and a well written report—had they had known that at least the second and third renewal applications would not have established probable cause and I think the bureau—I'm sorry, the Department of Justice acknowledged that as well.

If the FISC had all the information that I think is included in this report, it's highly doubtful that there would have ever been an application submitted and if it was submitted that the FISC would have ever granted that order.

Mr. CLINE. Thank you. I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from Tennessee is recognized.

Mr. COHEN. Thank you, Mr. Chair.

Mr. Durham, you were appointed by whom?

Mr. DURHAM. So, I was—

Mr. COHEN. Who recommended you? Who appointed you?

Mr. DURHAM. As the Special Counsel?

Mr. COHEN. No, as a U.S. Attorney.

Mr. DURHAM. As U.S. Attorney it was President Trump at the time with two Democratic Senators from Connecticut supporting the nomination.

Mr. COHEN. Mr. Trump appointed you. Do you believe Mr. Trump has pretty good judgment on people, their abilities, and their character?

Mr. DURHAM. I'm not going to characterize Mr. Trump or my thoughts about Mr. Trump.

Mr. COHEN. Mr. Barr appointed you Special Counsel. Is that correct?

Mr. DURHAM. That's correct.

Mr. COHEN. Mr. Trump has called Mr. Barr a gutless pig, a coward, and a RINO. Which of those is correct and which isn't?

Mr. DURHAM. In my experience, none of those are correct.

Mr. COHEN. So, Mr. Trump isn't that good of an expert on character and judging people? In your opinion he isn't because he's none of those. He's not a gutless pig. Trump says he is.

Mr. DURHAM. That's outside the scope of my report.

Mr. COHEN. Also, outside the scope of your report apparently—
[Laughter.]

Mr. COHEN. Also, outside of the scope of your report was apparently the meeting at Trump Tower between the Russians and the Trump boys where they talked about, allegedly, adoptions, but we know it was really about sanctions. How was that outside of your report?

Mr. DURHAM. Yes, I'm sorry. I didn't quite follow that.

Mr. COHEN. The meeting at the Trump Tower attorney—the Russian attorney came to Trump and Donald Trump, Jr., was just, wonderful, wonderful. We love it. We love it. Russian decisions to interact with the Trump Campaign and influence the actions of the campaign allegedly for adoption law, but really for sanctions relief. The FBI came up with that, did they not?

Mr. DURHAM. A meeting took place at Trump Towers on June 9th. The lure, as I understand it, was that there was information—derogatory information on Clinton was going to be provided. They met and, as I believe, in a HPSCI report the HPSCI report fully laid that out that the discussion then at Trump Towers was about adoption, not about anything relating to Ms. Clinton.

Mr. COHEN. It's was totally about sanctions and trying to get rid of the Magnitsky law. Adoptions are a ruse.

Should you not have gone and looked into that and seen what the Russians were wanting in return for that because that's the biggest thing Putin wanted at the time was to get Trump to relieve his people of Magnitsky sanctions.

Mr. DURHAM. I think that Director Mueller investigated that, and I believe one of your House Committees explored that. That was outside the scope of what we were looking at.

Mr. COHEN. It was outside of the scope of your authority to look at Kilimnik and Manafort meeting and changing polling data?

Mr. DURHAM. What's that? I'm sorry, I'm not following you.

Mr. COHEN. Manafort. Do you remember Manafort, the crook that managed the campaign for nothing, but got tons of money from different Russian people over the years that you pardoned—Mr. Barr later got—helped him with a commutation or a pardon? I think it was a pardon. Manafort.

Mr. DURHAM. I know who Mr. Manafort is.

Mr. COHEN. Yes. He met with Kilimnik and they discussed polling data. You don't know about that?

Mr. DURHAM. I know that Mr. Kilimnik met with a lot of people, including people with the State Department—

Mr. COHEN. He met with Manafort and discuss polling data. Do you not know about that?

Mr. DURHAM. I'm aware of that.

Mr. COHEN. All right. Why did you then not think it was a good idea for you to look into it and see if the FBI wasn't correct in that there was collusion, a connection between Russia and the Trump Campaign to elect Trump?

Mr. DURHAM. My assignment was to look at the conduct of the intelligence community agencies, not to conduct a separate investigation that was done by—how served, as done by the Senate, or was done by Director Mueller.

Mr. COHEN. You don't think that if there were the intelligence communities, the FBI, others came up with this information and did good work that this should be part of your balanced report?

Mr. DURHAM. I'm not following your question. I apologize. If it's a—

Mr. COHEN. Well, I followed your report. Mr. Donald Trump, Jr., would have called it a nothing-burger. You got no convictions. You got nothing. It was all set up to hurt the Mueller Report, which was correct and was redacted, to hurt the Bidens and to help Trump and you were a part of it.

You have a good reputation. You had a good reputation. That's why the two Democrats supported you. The longer you hold on to Mr. Barr and this report that Mr. Barr gave you as Special Counsel your reputation will be damaged as everybody's reputation who gets involved with Donald Trump is damaged. He's damaged goods.

There's no good dealing with him because you will end up on the bottom of a pile.

I yield back the balance of my time.

Mr. DURHAM. Sure.

Mr. ISSA. Can we presume the gentleman is undecided on how he feels about the former President?

[Laughter.]

Chair JORDAN. The gentleman—the witness can respond.

Mr. DURHAM. Yes. My concern about my reputation is with the people who I respect, my family, and my Lord, and I'm perfectly comfortable with my reputation with them, sir.

Chair JORDAN. Well said. God bless you.

[Applause.]

Chair JORDAN. The Chair recognizes the gentleman from Wisconsin, Mr. Fitzgerald.

Mr. FITZGERALD. Mr. Durham, thank you for being here today. On October 3, 2016, the FBI met with Christopher Steele, who confessed to relying heavily on a Russian national living in Washington, DC, as a subsource. That subsource was later identified as Igor Danchenko.

Steele not only used Danchenko to create the dossier, but according to your report Steele was unable to corroborate any of the substantial allegations made in the dossier. Is that correct?

Mr. DURHAM. That's correct.

Mr. FITZGERALD. Even after the FBI offered Steele a million dollars if somehow, he could actually follow through and underscore some of those specific items. Is that correct?

Mr. DURHAM. That's correct.

Mr. FITZGERALD. So, the FBI interviewed Danchenko and Steele's subsource—the Steele subsource for three days from January 24–26, 2017. However, according to your report, Danchenko could not provide any evidence corroborating allegations contained in the dossier. Is that correct?

Mr. DURHAM. That's a fact.

Mr. FITZGERALD. Yet, the FBI paid Danchenko \$220,000 during his time as a confidential human source. Is that correct?

Mr. DURHAM. That's correct.

Mr. FITZGERALD. Did the FBI propose making continued future payments to Danchenko totaling more than \$300,000?

Mr. DURHAM. That's correct.

Mr. FITZGERALD. Danchenko becomes a confidential human source that enlists his own subsource, Charles Dolan, as was brought up earlier, who was a Democrat operative and had previously served as an adviser to Hillary Clinton's 2008 Presidential Campaign. Is that your understanding? Is that correct?

Mr. DURHAM. That's correct.

Mr. FITZGERALD. Did Danchenko ever disclose his relationship with Charles Dolan to the FBI that you're aware of?

Mr. DURHAM. He did not during the interviews that were conducted in January. Subsequently, he was specifically asked in an interview with his then handler, do you know Charles Dolan.

He listened to the recording. He hesitates for some awkward period of time and then said, "Yes, I know who Dolan is." So, he acknowledged knowing Mr. Dolan.

Mr. FITZGERALD. Do you think it had anything to do with he was simply worried that disclosing a Democrat operative as a subsource might jeopardize the whole payroll deal that the FBI had set up with him?

Mr. DURHAM. When we lay these facts out as we do other facts in the report, leave it to others to draw the reasonable conclusions or inferences from those facts.

Mr. FITZGERALD. Very good. Of the hundreds of individuals who the FBI interviewed through the course of Crossfire Hurricane and Mueller's Special Counsel investigation—this came up earlier—was Charles Dolan ever interviewed by the FBI?

Mr. DURHAM. He was not.

Mr. FITZGERALD. Do you have any insight as to why the FBI would not interview him or overlook such a high-profile person in this whole investigation?

Mr. DURHAM. That's something of a mystery. Going back to October 3rd, according to the ALAB—the assistant legal attache for the bureau—when he first—I'm sorry, going back to July 5th when he first met with Steele, Steele had indicated to him at the time that H.C. was aware of what he, Steele, was doing.

When the bureau went back to interview Steele on October 3rd about matters relating to Crossfire Hurricane, Steele, in fact, had provided the bureau with Dolan's name as somebody who might have information relating to Trump. He was never interviewed.

So, yes, I don't know why they never interviewed Trump—I'm sorry, why they did not interview Mr. Dolan, but they didn't. The explanation that was given to the intelligence analyst who's referred to in the report essentially was that this would be outside the scope of their mission—outside of their role.

Mr. FITZGERALD. Very good. You note in your report on page 168, that one of the analysts of the Mueller team was told, quote, "to cease all research and analysis related to Dolan."

This was the same analyst who, according to your footnote, prepared a timeline in the event she was later interviewed about her role on the Mueller Special Counsel investigation. Is that correct?

Mr. DURHAM. That's correct.

Mr. FITZGERALD. Igor Danchenko had also relied on other sub-sources, mainly Olga Galkina and Sergei Millian. When the FBI interviewed those two subsources, were either of them able to verify the information in the Steele Dossier?

Mr. DURHAM. Well, speaking first to Millian, we interviewed Millian, as well. He was outside the country. He claims to fear for his safety and what not. He adamantly denied ever talking to Danchenko or providing any information akin to what was in the Steele reporting.

In fact, he is a supporter of President Trump, which made it seem highly unlikely that he would be providing derogatory information to somebody he had never met or spoken to. So, that's as to Millian.

With respect to Ms. Galkina, Ms. Galkina was somebody who provided some information to Danchenko, provided some information to Dolan.

Mr. FITZGERALD. Thank you, Mr. Chair. I'm out of time.

Chair JORDAN. The gentleman yields back. The Chair now recognizes the gentleman from Georgia.

Mr. JOHNSON of Georgia. Thank you, Mr. Chair.

Special Counsel Durham, in March 2019 before releasing the Mueller Report to the public Attorney General Barr released a statement mischaracterizing its findings and conclusions and shortly thereafter Attorney General Barr announced that he was investigating the FBI for investigating Putin's interference in the 2016 Presidential Election.

Then, in April or May 2019, Attorney General Barr appointed you to lead that investigation. Isn't that correct?

Mr. DURHAM. He did appoint me to lead the investigation, yes, sir.

Mr. JOHNSON of Georgia. Then, in October 2020, Attorney General Barr appointed you as an independent Special Counsel, so that you could continue investigating the origins of the "Russia, Russia, Russia investigation," once Trump was out of office, correct?

Mr. DURHAM. I was appointed Special Counsel in October, yes.

Mr. JOHNSON of Georgia. By that time, your investigation had already cost the American taxpayers over \$6.5 million, isn't that correct?

Mr. DURHAM. At that point, probably not, no.

Mr. JOHNSON of Georgia. Well, at this point, how much has it cost?

Mr. DURHAM. As I understand the figure, having looked at it, it's around \$6.5 million.

Mr. JOHNSON of Georgia. After 3½ years of investigation and \$6.5 million of taxpayer money spent, your investigation to led to the indictment of only three individuals, correct?

Mr. DURHAM. That's correct. Well, it was an indictment of, yes, indictment of—

Mr. JOHNSON of Georgia. Contrary to the fervent prayers of some on this panel, former FBI Director Jim Comey and former CIA Director John Brennan were not among those three who were indicted, isn't that correct?

Mr. DURHAM. That's correct.

Mr. JOHNSON of Georgia. To the extreme disappointment of some on this panel, your investigation failed to produce indictments against Hillary Clinton, correct?

Mr. DURHAM. That's correct.

Mr. JOHNSON of Georgia. Didn't indict Barack Obama?

Mr. DURHAM. That's correct.

Mr. JOHNSON of Georgia. Didn't indict Joe Biden?

Mr. DURHAM. That's correct.

Mr. JOHNSON of Georgia. Couldn't even indict Hunter Biden, correct?

Mr. DURHAM. We didn't investigate Mr. Hunter Biden.

Mr. JOHNSON of Georgia. Of your three prosecutions, one ended with a guilty plea to an unrelated to the origins of the FBI investigation, and that individual received a probated sentence with no jail time, correct?

Mr. DURHAM. Parts of that are correct.

Mr. JOHNSON of Georgia. The other two men you prosecuted went to trial on the charges, charging—they were accused of lying to the FBI, and both were slam-dunk acquitted, isn't that correct?

Mr. DURHAM. They were acquitted.

Mr. JOHNSON of Georgia. None of the individuals you prosecuted were ever charged with being part of a hoax, a fraud, a witch hunt, or a politically motivated, deep-state conspiracy against Donald Trump, isn't that correct?

Mr. DURHAM. I would not say that's accurate.

Mr. JOHNSON of Georgia. You mean you did charge somebody with being a part of a hoax?

Mr. DURHAM. We charged Mr. Sussmann with having not only provided false information to the FBI regarding Alfa Bank and lying and—

Mr. JOHNSON of Georgia. He was acquitted, though, right?

Mr. DURHAM. That wasn't your question.

Mr. JOHNSON of Georgia. Well, he was, Mr. Sussmann was acquitted after you charged him, correct?

Mr. DURHAM. The grand jury found—

Mr. JOHNSON of Georgia. He was found innocent by a jury of—by an unanimous jury of 12.

Mr. DURHAM. That's not true.

Mr. JOHNSON of Georgia. Well—

Mr. DURHAM. What's true is a grand jury found probable cause to indict Mr. Sussmann.

Mr. JOHNSON of Georgia. A jury of his peers acquitted him, though, correct?

Mr. DURHAM. A trial jury—

Mr. JOHNSON of Georgia. You're not, you're not going to disagree on that, are you, Mr. Durham?

Mr. DURHAM. I'm going to try to answer your question as it was asked.

Mr. JOHNSON of Georgia. Well, let me ask you this. Because in your report, you related or alluded to allegations of misconduct against Mr. Sussmann and Mr. Danchenko, as if those allegations had been proven true at trial, when, in fact, both those individuals had been acquitted and your allegations disproven. Do you believe that it's ethical to state something as a fact in an official government report, when the court system found that you could not prove those allegations?

Mr. DURHAM. Well, I think if you read the report, you'd see that we talked about the results of the trial, and we included all the evidence that we had available; unfortunately, not all which was admitted at trial. So, it's matter of—

Mr. JOHNSON of Georgia. Well, let me ask you this, Mr. Durham: You closed your investigation after you failed to find that the FBI investigation into Putin's interference into the 2016 election was politically motivated and was a deep-state conspiracy against ex-President Trump. You were unable to prove that this was true.

Mr. DURHAM. That isn't what we—

Mr. JOHNSON of Georgia. So, you—

Mr. DURHAM. That is not what I was investigating.

Mr. JOHNSON of Georgia. Well, but you did not find that was true, correct? You found it to be false, as a matter of fact.

Mr. DURHAM. If you've had a chance—

Mr. JOHNSON of Georgia. Isn't that correct?

Mr. DURHAM. If you have a chance to read the report, the report's, in fact—

Mr. JOHNSON of Georgia. Well, I did, and—

Mr. ISSA. Mr. Chair, could we—the time has expired.

Could the gentleman be allowed to answer the question?

Mr. JOHNSON of Georgia. This—

Chair JORDAN. The gentleman can respond.

The time of the gentleman from Georgia is expired. The witness can respond.

Mr. DURHAM. To say, if you, if you read the report, we lay the facts out in the report as to these matters. I'm not here to talk about Mr. Trump. I'm not here to talk about deep-state, or whatever other characterizations you made.

This report is factual. Nobody has raised any issues as to whether it's factually inaccurate in any way. People can draw their own conclusions based on those facts.

Chair JORDAN. Mr. Durham, you've been at it an 1½ hours here. We could keep going if you can keep going. Just let us know if and when you might need—

Mr. DURHAM. Yes, I'm fine. Whatever the Committee wants.

Chair JORDAN. OK. Great.

The Chair now recognizes the gentleman from California, Mr. Issa.

Mr. ISSA. Mr. Durham, each of us on the panel has a different background and a different idea of what's best to get out of this report and the work that you have done so faithfully, not just for the last four years, but your entire career.

So, I'm going to start off by asking, is it true that you have the Attorney General's Exceptional Service Award, a decoration for your service?

Mr. DURHAM. That's true.

Mr. ISSA. Is it also true that you have the Attorney General's Distinguished Service Award?

Mr. DURHAM. That's true.

Mr. ISSA. Who awarded you that?

Mr. DURHAM. It goes back in time. Attorney General Reno had—

Mr. ISSA. No, no, 2012.

Mr. DURHAM. Oh, I'm sorry, in 2012. I'm trying to remember what award it was. I don't, frankly, recall. I don't really—

Mr. ISSA. Just for the record, it's Eric Holder.

Mr. DURHAM. Yes. That was, that was the CIA investigation. That's right, it was Attorney General Holder.

Mr. ISSA. It was.

Mr. DURHAM. Yes.

Mr. ISSA. You had to deal with some of the most despicable people and do the things that we do sometimes when wrong has been done. So, I want to thank you for that.

It seems like for your entire career you've been a go-to for difficult situations, not necessarily the standard "I'm trying to rise quickly award," but, in fact, you are a career investigator, and I would imagine, pretty closely, that you've got your 82 percent overall.

I want to talk about something that I'm not qualified to talk about, but I can ask you. Are there, what you would call, unindicted co-conspirators in this? In other words, are there people at all levels who did things wrong who were not charged with crimes because of the limitation of the ability to bring charges against them for what they did, even if it was wrong?

Mr. DURHAM. We brought charges where we thought, in good faith, that we could prove the case beyond a reasonable doubt.

Mr. ISSA. OK, but—

Mr. DURHAM. Is there evidence beyond that? Of course.

Mr. ISSA. Sure. So, in your experience as a career prosecutor, when people break the rules and it changes the outcome of something—like launching an investigation without a predicate, like the President, the Vice President, the Attorney General, and a host of others, the FBI Director—knowing that this had been started with a false predicate, knowing that Hillary Clinton's Campaign, with her approval, in fact, had authorized this, not op research, but this weaponizing of a false claim, when they did that, they, in fact, changed the outcome, whether criminal or not, of many things, including, certainly, some things in voters' mind, isn't that correct?

Mr. DURHAM. I mean, generally speaking, there are lots of bad things that people do that aren't crimes. We can only charge those that are crimes.

Mr. ISSA. I appreciate that. So, when people are constantly making this point that somehow you didn't put enough people in jail, you gave us 300 pages that give us a responsibility. As I said, I'm not going to try to pretend that I'm the smart lawyer up here at all, or even a lawyer, but I am somebody that understands organization, oversight, and transparency.

In your report, you do note the changes made, and so on. Unless we make changes in transparency to outside individuals who can be counted on to be ombudsmen to the process, isn't it true that, if the President, the Vice President, the Attorney General, and a host of other top people at the FBI and Department of Justice, choose in the future to push to make change, to make outcomes occur that would not occur according to their own printed rules, that no rule per se is going to change that?

Mr. DURHAM. I think that's true. As we say in the report, ultimately, what this comes down to is the integrity of the people who are doing the job. Are they adhering to their oath or are they not adhering to their oath? Are they following the law? Are they not following the law?

Mr. ISSA. Well, in my 20-plus years on this side of the dais, what I've found is that people, when the light of day is shed on them, follow the rules much better than they aren't.

So, for all of us up here, I want to thank you for your contribution and your service. Hopefully—I know you're going into, you've gone into retirement—but, hopefully, in the future, as we begin looking at reforms that can be counted on and believed by the American people, at reforms that create better transparency, at reforms that do not allow FISA judges to be misled by people with an agenda, that you'll be available to at least give us some of the guidance from your decades of knowing how it's done right at the Department of Justice.

Mr. Chair, I want to thank you for your indulgence, and with so many people, I will not take excess time. I believe this witness' 300-plus pages speaks extremely well for itself.

I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from California is recognized.

Mr. SCHIFF. Mr. Durham, just so people remember what this is all about, let me ask you, the Mueller investigation revealed that Russia interfered in the 2016 election in "sweeping an systemic fashion," correct?

Mr. DURHAM. That's correct.

Mr. SCHIFF. Russia did so through a social media campaign that favored Donald Trump and disparaged Hillary Clinton, correct?

Mr. DURHAM. That's what the report says, yes.

Mr. SCHIFF. Mueller found that a Russian intelligence service hacked computers associated with the Clinton Campaign, and then, released the stolen documents publicly, is that right?

Mr. DURHAM. That report speaks for itself as well.

Mr. SCHIFF. Mueller also reported that, though he could not establish the crime of conspiracy beyond a reasonable doubt, he also said, quote, "A statement that the investigation did not establish certain facts does not mean there was no evidence of those facts." That also appears in the report, doesn't it?

Mr. DURHAM. It's language to that effect, yes.

Mr. SCHIFF. In fact, you cited that very statement in your own report, did you not, as a way of distinguishing between proof beyond a reasonable doubt and evidence that falls short beyond a reasonable doubt?

Mr. DURHAM. Correct.

Mr. SCHIFF. As an illustration of this, both Mueller and Congressional investigations found that Trump's Campaign Chair, Paul Manafort, was secretly meeting with an operative link to Russian intelligence named Konstantin Kilimnik, correct?

Mr. DURHAM. That's my understanding, yes.

Mr. SCHIFF. That Manafort, while Chair of the Trump Campaign, gave that Russian intelligence operative the campaign's internal polling data, correct?

Mr. DURHAM. That's what I've read in the news, yes.

Mr. SCHIFF. That Manafort provided this information to Russian intelligence while Russian intelligence was engaged in that social media campaign and the release of stolen documents to help the Trump Campaign, correct?

Mr. DURHAM. You may be getting beyond the depth of my knowledge, but it's—

Mr. SCHIFF. Well, let me say, very simply, while Manafort, the Campaign Chair for Donald Trump was giving this Russian intelligence officer internal campaign polling data, Russian intelligence was helping the Trump Campaign, weren't they?

Mr. DURHAM. I don't, I don't know that, but that sounds right.

Mr. SCHIFF. You really don't know those very basic facts of the investigation?

Mr. DURHAM. I know the general facts, yes. Do I know that particular fact myself? No. I know that I've read that in the media.

Mr. SCHIFF. Are you aware, Mr. Durham, that Mueller and Congressional investigations also revealed that Don Jr. was informed that a Russian official was offering the Trump Campaign, quote, “very high-level and sensitive information,” that would be incriminating of Hillary Clinton and was part of, quote, “Russia and its government’s support of Mr. Trump”? Are you aware of that?

Mr. DURHAM. Sure. People get phone calls all the time from individuals who claim to have information like that.

Mr. SCHIFF. Really? The son of a Presidential candidate gets calls all the time from a foreign government offering dirt on their opponent? Is that what you’re saying?

Mr. DURHAM. I don’t think this is unique in your experience.

Mr. SCHIFF. So, you have other instances of the Russian government offering dirt on a Presidential candidate to the Presidential candidate’s son? Is that what you’re saying?

Mr. DURHAM. Would you repeat the question?

Mr. SCHIFF. You said that it’s not uncommon to get offers of help from a hostile foreign government in a Presidential Campaign directed at the President’s son. Do you really stand by that, Mr. Durham?

Mr. DURHAM. I’m saying that people make phone calls making claims all the time, that you may have experienced.

Mr. SCHIFF. Are you really trying to diminish the significance of what happened here and the secret meeting that the President’s son set up in Trump Tower to receive that incriminating information? Trying to diminish the significance of that, Mr. Durham?

Mr. DURHAM. I’m not trying to diminish it at all, but I think the more complete story is that they met, and it was a ruse, and they didn’t talk about Ms. Clinton.

Mr. SCHIFF. You think it’s insignificant that he had a secret meeting with Russian delegation for the purpose of getting dirt on Hillary Clinton, and the only disappointment expressed at that meeting was that the dirt they got wasn’t better? You don’t think that’s significant?

Mr. DURHAM. I don’t think that was a well-advised thing to do.

Mr. SCHIFF. Oh, oh, not well-advised?

Mr. DURHAM. Right.

Mr. SCHIFF. Well, that’s the understatement of the year. So, you think it’s perfectly appropriate, or maybe just ill-advised, for a Presidential Campaign to secretly meet with a Russian delegation to get dirt on their opponent? You would merely say that’s inadvisable?

Mr. DURHAM. Yes. If you’re asking me would I do it, I hope I wouldn’t do it. It was not illegal. It was stupid, foolish, and ill-advised.

Mr. SCHIFF. Well, it is illegal to conspire to get incriminating opposition research from a hostile government that is of financial value to a campaign. Wouldn’t that violate campaign laws?

Mr. DURHAM. I don’t know—I don’t know all those facts to be true.

Mr. SCHIFF. Well, your report, Mr. Durham, doesn’t dispute anything Mueller found, did it?

Mr. DURHAM. No, our object, our aim, was not to dispute Director Mueller. I have the greatest regard, highest regard, for Director Mueller. He's a patriot.

Mr. SCHIFF. The only distinguishment between his investigation and yours is he refused to bring charges where he couldn't prove guilt beyond a reasonable doubt, and you did.

I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from Colorado is recognized.

Mr. BUCK. Thank you, Mr. Chair.

Mr. Durham, I want to, as a fellow alum of DOJ, (1) I want to thank you for your service and (2) welcome you to Congress.

Mr. DURHAM. It's a real pleasure, really.

[Laughter.]

Mr. BUCK. I want to ask you some questions about FISA and some of your most recent experiences as the Special Counsel and what your specific advice would be, I guess.

I am concerned with the conclusions in your report, and I just want to—they've been mentioned several times here. In your opening statement, you talk about "lack of investigative discipline, a failure to take logical investigative steps, and bias."

It appears to me that the lack of an investigative discipline and the failure to take logical investigative steps are a result of bias. Is that fair?

Mr. DURHAM. I think that's fair. When you look at what is involved here, this is a Presidential Campaign. It's not a run-of-the-mill investigation. This is so highly sensitive; it could affect the outcome of a Presidential Election and the future of the Nation. You would expect that the discipline that would have been followed would have been higher than ever. That didn't happen here. The sort of analytical rigor, the discipline in how we investigate criminal matters, that was just absent here in large measure.

Mr. BUCK. Fair to say that there was a rush to judgment?

Mr. DURHAM. I'm sorry?

Mr. BUCK. Fair to say that there was a rush to judgment? In other words, the judgment of proceeding with the investigation before following proper procedure.

Mr. DURHAM. As has been alluded to here, the information that they had received from the Australian diplomats, not Australian intelligence or law enforcement, but Australian diplomats, about something that was said at a bar, within three days of that information having been received at FBI headquarters, the Deputy Director of the FBI, according to Mr. Strzok, told him too immediately open that. It was opened as a full investigation on a weekend with Mr. Strzok not only writing the opening electronic communication, the opening memo, but approving that memo as well.

Mr. BUCK. This is the same Mr. Strzok who we saw the text message from that had a clear bias regarding President Trump?

Mr. DURHAM. It's the same person, yes.

Mr. BUCK. How long did Director Comey serve in the FBI before he became Director? I'm not saying Department of Justice; I'm saying FBI.

Mr. DURHAM. Right. To my knowledge, he was not in the FBI prior to becoming Director.

Mr. BUCK. He promoted the people—Andy McCabe, Peter Strzok, others—to the position at headquarters, and then, dealt with them there? Is that fair?

Mr. DURHAM. He would have certainly had a role in the advancement of people in the upper management of the FBI, yes.

Mr. BUCK. My concern is that the bias that has been demonstrated there, whether it has been eradicated or dealt with, could exist in any of these agencies. These agencies have access to very sensitive information that we in Congress allow for counterterrorism/counterintelligence activities—and it really goes around the Constitution because it does not deal with U.S. citizens. I'm talking about the FISA rules now.

Have you heard of backdoor searches?

Mr. DURHAM. I've heard the term, yes, sir.

Mr. BUCK. It refers to the ability of an agency to look at a U.S. citizen's communications because the communication was with a foreign individual, and it was recorded because that foreign individual was being looked at. Is that fair?

Mr. DURHAM. That's fair.

Mr. BUCK. If there was this bias in an agency like the FBI that we saw previously, and they wanted to go after a U.S. citizen, they could use that technique to go after that citizen. My question to you is, how do we prevent that? How do we in Congress take a look at FISA, try to maintain the national security interests, but at the same time protect U.S. citizens from a rogue agency, a biased agency, or agent—I shouldn't say "agency" and condemn everyone, but individuals in the agency—how do we protect American citizens from what could occur?

Let me give you another quick example. Going out and buying information from private data sellers to obtain information that you couldn't obtain with a search warrant because you don't have probable cause, those techniques are all available under FISA. What should we do?

Mr. DURHAM. That's, clearly, beyond my background and experience. These are very complicated questions, particularly when we know that adversaries are doing the same thing. What do we do under those circumstances?

I think you've got a very tough job in figuring out how do you balance the liberties of the American people, and protect the liberties of the American people, while at the same time protecting the country and the Nation, and the people of the United States. I don't feel qualified really to provide you with any helpful information along those lines, but I know that it is a serious issue and it's of serious concern.

Mr. BUCK. I thank you, and I yield back.

Chair JORDAN. The gentleman yields back.

Before going to the gentleman from California, the gentlelady from Texas has a unanimous consent, I think.

Ms. JACKSON LEE. Yes, I do.

Chair JORDAN. OK.

Ms. JACKSON LEE. Mr. Chair, I ask unanimous consent to submit records from the Department of Justice reflecting meetings with the U.S. Attorney John Durham. These records were in response to American Oversight's request for DOJ communications between the

Offices of the Attorney General and the Deputy Attorney General and Durham or his first assistant. I ask unanimous consent to place this in the record of this hearing.

Chair JORDAN. Without objection, so ordered.

Mr. SCHIFF. Mr. Chair, I have a unanimous consent request.

Chair JORDAN. The gentleman from California.

Mr. SCHIFF. Mr. Chair, you and your colleagues have continually cited to Steve D'Antuono's transcribed interviews using selected statements taken out of context. I move for unanimous consent to enter the entire transcript into the record, so the American public can see for itself exactly what he said.

Chair JORDAN. Yes, we will work on that. Yes, we'll work on that. We don't want to—we've got to—we'll talk with the Chair—we want to make that fully available with the Ranking Member.

Mr. NADLER. Mr. Chair you're objecting to a unanimous consent request and to something—

Mr. ISSA. Mr. Chair, I object.

Chair JORDAN. OK.

Mr. SCHIFF. So, if I understand correctly, Mr. Chair, you're happy to cite selected portions of the transcript out of context, but you're not happy to see—

Chair JORDAN. We'll make a—

Mr. ISSA. Mr. Chair, there's an objection. Is there further action?

Mr. SCHIFF. You don't want the American public to see this, Mr. Issa?

PARTICIPANT. Roll call vote, please.

Mr. ISSA. There's no vote on that.

Chair JORDAN. I just want to clarify for the gentleman, we want to put the transcript out, but there's a couple—we've got a little work to do on certain names that have to be redacted for obvious reasons. Yes, we definitely want to put the transcript out.

Mr. SCHIFF. Mr. Chair, I suggest, then—

Chair JORDAN. We'll work with the minority to make sure that happens. I thought it was an amazing interview by Mr. D'Antuono, the former head of the Washington Field Office. We want that information out to the public and we'll make sure it happens.

Mr. SCHIFF. Can I suggest to the Chair that you grant the request, subject to redactions to protect personally private information?

Chair JORDAN. Without objection, so ordered.

Ms. JACKSON LEE. Thank you very much.

Chair JORDAN. The gentleman from California is—

Ms. JACKSON LEE. You have accepted my submission. I didn't hear it.

Chair JORDAN. I did that right away, right away.

Ms. JACKSON LEE. Thank you, Mr. Chair.

Chair JORDAN. The gentleman from California is recognized.

Mr. SWALWELL. Mr. Durham, many of my MAGA colleagues want you to be someone who you are not and to say something that you, clearly, won't.

So, I want to just start by thanking you for your many years of service to our country as a Federal prosecutor.

I want to talk a little bit more about the independence of a Special Counsel, and just clarify, you did send multiple texts to the At-

torney General after you were appointed as Special Counsel. Did you ever text message with Attorney General Garland once he took over as Attorney General?

Mr. DURHAM. No. Attorney General Garland had me communicate through the Principal Deputy Attorney General, Mr. Weinsheimer.

Mr. SWALWELL. Did you ever travel overseas with Attorney General Garland?

Mr. DURHAM. No. I have with the Attorney General, but I didn't travel overseas with him.

Mr. SWALWELL. President Biden, through the Attorney General, could have had you removed, fired, is that right?

Mr. DURHAM. I'm sure he could have.

Mr. SWALWELL. You stayed on?

Mr. DURHAM. I completed my term as Special Counsel.

Mr. SWALWELL. Was there anyone you wanted to indict that you were prohibited from indicting by Attorney General Garland?

Mr. DURHAM. No.

Mr. SWALWELL. So, if you wanted to, you could have indicted Hillary Clinton, but you never asked, is that right?

Mr. DURHAM. If I had the evidence, yes, we could have for sure.

Mr. SWALWELL. If you wanted to indict President Biden, you could have asked, right?

Mr. DURHAM. Yes. That was not part of our mission. We weren't really looking at that, but—

Mr. SWALWELL. If you could have indicted Director Comey, you could have asked, is that right? You didn't?

Mr. DURHAM. Yes, the Attorney General Garland had never asked me not to indict somebody.

Mr. SWALWELL. Right. So, I just want to make clear to my colleagues, you had all the power in the world to indict anyone that you had evidence to indict, and you were never blocked from doing it. That's correct?

Mr. DURHAM. That's correct.

Mr. SWALWELL. I also want to compare you to the last major Special Counsel investigation that we had. You agree Special Counsel Mueller charged dozens of individuals and you indicated three, is that correct?

Mr. DURHAM. Indicted two, and another, a third, pleaded guilty.

Mr. SWALWELL. Right. Special Counsel Mueller had dozens of convictions, some at trial, but no defendant was outright acquitted, is that right, in the Mueller investigation? Outright acquitted? Across the board, every charge, acquitted?

Mr. DURHAM. Right. I don't believe there are any acquittals. I'm not sure there were dozens of convictions. There were dozens of—they're, yes, more than a dozen people who were indicted.

Mr. SWALWELL. You were wise earlier to not weigh in on Donald Trump's character. You are under oath, after all. Did anything in your report prove false that Russians met with Trump's family during the campaign at Trump Tower after an offer of dirt on Hillary Clinton? Anything prove that this meeting didn't happen?

Mr. DURHAM. I don't have any evidence that this did not happen.

Mr. SWALWELL. Anything prove false that in the 2016 Campaign Donald Trump tried and concealed from the public a real estate deal he was seeking in Moscow?

Mr. DURHAM. I don't know anything about that. There's nothing in the report about it. It's not something we investigated.

Mr. SWALWELL. Anything in there prove false that Donald Trump publicly asked Russia to hack Hillary's emails, and then, hours later, they did?

Mr. DURHAM. If you're referring to—

Mr. SWALWELL. Did you prove—did Donald Trump not say at a press conference, "Russia, if you're listening, you should get Hillary's emails."? Did you prove that he didn't say that?

Mr. DURHAM. Yes, no, we didn't.

Mr. SWALWELL. OK.

Mr. DURHAM. We didn't investigate that.

Mr. SWALWELL. Did you prove false in the 2016 Campaign that Trump's Campaign Manager gave polling data to a spy for a Russian intelligence service?

Mr. DURHAM. We didn't investigate that.

Mr. SWALWELL. Anything in your report say that Donald Trump in 2016 acted the way that Americans would want a Presidential candidate to act with regard to Russia?

Mr. DURHAM. I'm sorry, could you repeat that?

Mr. SWALWELL. Are you signing off on the way Donald Trump acted with Russia in 2016?

Mr. DURHAM. Our report doesn't address that.

Mr. SWALWELL. You agree that Russia interfered in the 2016 election?

Mr. DURHAM. Agree that there's substantial evidence to show that.

Mr. SWALWELL. Thank you.

Mr. Durham, my MAGA colleagues want you to be someone you're not and they want you to say something you won't. They want you to join the law firm of Insurrection, LLC, which, incidentally, and probably appropriately, is chaired by a guy who never passed the bar exam, and you're wise not to do that.

You see my colleagues today; they are making themselves footnotes and foot soldiers in the history books that will chronicle Donald Trump's corruption.

I yield my remaining time to Mr. Schiff.

Mr. SCHIFF. Mr. Durham, returning to your decision to speak out during the pendency of your investigation, did you have staff on your team advise you against making statements during the pendency of your investigation?

Mr. DURHAM. They didn't advise me either way, no.

Mr. SCHIFF. Did any of your staff raise ethical concerns about your speaking out either in an interim report or after the Inspector General investigation? Any of your staff raise ethical concerns with your doing so?

Mr. DURHAM. Not that I recall, no. Yes, raise a technical concern? No, not that I'm aware of.

Mr. SCHIFF. Did they raise concerns with your speaking out during the pendency of the investigation?

Chair JORDAN. The time of the gentleman has expired.

The witness can respond.

Mr. DURHAM. I'm sorry—

Mr. SCHIFF. Did any of your staff raise concerns about your speaking out during the pendency of your investigation, in contrast to DOJ policy?

Mr. DURHAM. Not that I recall.

Mr. SCHIFF. Thank you.

Chair JORDAN. The gentleman yields back.

The gentlelady from Florida is recognized.

Ms. LEE. Good morning, Mr. Durham.

Mr. DURHAM. May I just complete that answer more?

I don't want to lay any blame at their—I made that decision to make a statement. They were not involved in it.

Mr. COHEN. Did Nora Dannehy?

Mr. DURHAM. Did Nora Dannehy?

Chair JORDAN. The gentlelady from Florida—

Mr. DURHAM. Right. Nora Dannehy, a friend of mine, a very good lawyer, an honest person.

Mr. SCHIFF. Why did she resign?

Mr. DURHAM. That's Nora Dannehy. That's why we brought her on.

Mr. SCHIFF. Why did she resign?

Chair JORDAN. The gentleman's time has expired.

The gentleman can—

Mr. SCHIFF. You can answer the question if you'd like.

Mr. GOODEN. Mr. Chair, who's in charge here? Because it's not Mr. Schiff, I don't think.

Chair JORDAN. It's the lady's time from Florida.

Ms. LEE. Good morning, Mr. Durham.

Mr. DURHAM. Good morning.

Ms. LEE. As a former Federal prosecutor, I want to begin by telling you how much I appreciate your work, that of your team, and your presence here today.

You may begin by answering the prior question, if you wish.

Mr. DURHAM. With respect to Ms. Dannehy, I have the greatest respect for her. She is a friend of mine. She is very well educated; she is an honest person. We had some disagreements on issues, and I don't really have any comment beyond that. I am not going to discuss the internal management and decisionmaking.

I will tell you this, that every agent and every lawyer who worked on this project had a full voice in the decisions that were going forward. I made the final decisions.

Ms. LEE. Thank you, Mr. Durham. I would like to focus on the Department of Justice's procedures as to FISA applications when that process is conducted appropriately. To begin with, so FISA surveillance application must include an affidavit from a Federal law enforcement officer, correct?

Mr. DURHAM. That is correct.

Ms. LEE. That affidavit must demonstrate cause to believe that the target of the surveillance is an agent of a foreign power, is that also right?

Mr. DURHAM. Right, if it relates to U.S. citizen. It has to be that they are a knowing agent. If it is a non-U.S. person, a knowing element is not required.

Ms. LEE. It is intended that this affidavit should rely on reasonable, trustworthy information, is it not?

Mr. DURHAM. That is correct.

Ms. LEE. In some cases, and including the case of Carter Page, those affidavits, that information can include that use of information obtained from a confidential human source, correct?

Mr. DURHAM. That is correct.

Ms. LEE. When information from a confidential human source is included, would you agree that it is important that material related to the reliability or trustworthiness of that confidential human source is disclosed within the affidavit?

Mr. DURHAM. Yes.

Ms. LEE. I believe you testified here earlier today that in this case, information in that Carter Page application related to the reliability and credibility of the confidential human source was not included in these applications. Is that right?

Mr. DURHAM. I believe that is correct.

Ms. LEE. Would you tell us, in your experience, in your many years working with the department, why is it important that this type of information is included and disclosed to both Federal prosecutors and to the court?

Mr. DURHAM. When matters are submitted to the court, it is for a reason, to a judge. It is to let an independent judicial officer weigh the questions of whether probable cause exists or not.

In providing that information to independent, objective judicial officers and judicial magistrates, if there is confidential human source information that is being provided, it is important for the person, the judge who is reviewing this, to know what is the basis of the person's knowledge. Is it hearsay or do they have personal knowledge, as an example.

Then whether or not there is some track record of basis to believe that the information would be credible coming from this person.

Ms. LEE. Of course at this stage of the proceeding, the person who is the subject of the investigation has no idea that this application is even being made or considered or reviewed by the court in most cases.

Mr. DURHAM. That is correct.

Ms. LEE. So, it solely rests with the government, the responsibility to ensure that this power, that this surveillance power that is being used is being done in a way that is appropriate and compliant with the law.

Mr. DURHAM. That is correct.

Ms. LEE. You mentioned something earlier about that in this case, agents immediately moved to the most intrusive investigative means that were available, referring of course to the interception of live communications, correct?

Mr. DURHAM. That is correct. In this instance, the Bureau almost immediately, when they opened this full investigation, the umbrella case, Crossfire Hurricane, and then the four subfiles, the immediately went to try to get FISA coverage on Papadopoulos, which they weren't able to do. Then Carter Page.

Ms. LEE. Some of the techniques, for law enforcement there are myriad of other things they can do to collect surveillance informa-

tion short of this interception of the communications. Like pole cameras, pen registers, trap and trace, trash pulls, correct?

There are many things that in investigations are often utilized prior to taking this step of attempting to intercept live communications.

Mr. DURHAM. Right. Those are typically building blocks for electronic surveillance.

Ms. LEE. So, based on your testimony so far, what we are hearing is that here, a FISA application was pursued without disclosing some relevant information to prosecutors or the court, without following standard procedural rules, utilizing investigative techniques that were the most intrusive without first exhausting other techniques. Instead pursuing the most invasive method possible from the outset against Mr. Page.

Mr. DURHAM. That is essentially correct, yes.

Ms. LEE. Now, one other thing. You mentioned earlier during your testimony that the failures identified during your investigation, that if they were not addressed, they would result in national security risks and continued public lack of confidence in our institutions of justice. That there were no overnight fixes, but we needed accountability standards and consequences. Would you elaborate please?

Chair JORDAN. The time of the gentlelady has expired. The witness can respond.

Mr. DURHAM. The national security interests here include liberties of the American people. One of the things that was most disturbing about the dossier, the Steele Dossier, is whether or not this is—at least some of it was Russian disinformation.

Whether Igor Danchenko, who personally wrote that he was responsible for 80 percent of the intelligence in the dossier and 50 percent of the analysis, whether or not Mr. Danchenko was the source of Russian disinformation.

If you don't run some of those things to ground, it does affect the liberties, or potentially affects the liberties of the American people and the national security interests of this country.

Ms. LEE. Thank you, sir.

Chair JORDAN. Gentlelady yields back. The gentleman from California is recognized.

Mr. LIEU. Thank you, Mr. Chair.

Before I begin my questioning, I want to say that the House Judiciary Committee is responsible to helping to ensure the rule of law. The Chair of this Committee ignored a bipartisan Congressional subpoena. The precedent set by this Chair has damaged the ability of Congressional Committees to get information from witnesses and damaged the rule of law.

Now, Mr. Durham, thank you for being here voluntarily today. In your report, not only did the FBI have information, as stated before, that the Australians knew that Trump Foreign Policy Advisor George Papadopoulos had suggested that the Russians were going to release anonymous information damaging to Hilary Clinton.

The FBI also knew and had information that the Democratic National Committee was hacked by the Russians and information was being released to the American public.

The FBI also had information from various media reports that Trump had relations with different Russian businessmen, and the FBI had information that Trump said, “Russia, if you’re listening, I hope you’re able to find the 3,000 emails that are missing.”

The FBI had all that information prior to opening Operation Hurricane, correct? Crossfire Hurricane, is that right?

Mr. DURHAM. That is correct.

Mr. LIEU. OK. If the FBI had chosen to do so, the multiple pieces of information they had would have allowed them to open a preliminary investigation, is that right?

Mr. DURHAM. Not a report but I would say that the FBI certainly had an obligation to assess the information perhaps make it a preliminary investigation.

Mr. LIEU. OK, in fact, it would have been a dereliction of duty for the FBI to have just sat on their hands and done nothing with the information that they had, isn’t that right?

Mr. DURHAM. The FBI should not have ignored that information.

Mr. LIEU. OK. It is also true, isn’t it, that the Inspector General of the Department of Justice looked at this situation and concluded that not only did FBI have enough information to open a preliminary investigation, but the FBI had enough information to open a full investigation. That was the conclusion of the Inspector General, correct?

Mr. DURHAM. My recollection is that the Inspector General said it is a low bar and he thought it had been met. Inspector General didn’t necessarily address—

Mr. LIEU. So, thank you. I would like to enter the Inspector General’s report dated December 2019 into the record, Mr. Chair.

Mr. JOHNSON of Louisiana. Without objection.

Mr. LIEU. OK. It turns out the FBI was correct. The Department of Justice found that the Russians interfered in our elections in a “sweeping and systematic manner.” A bipartisan U.S. Senate Report confirmed that the Russians interfered in the 2016 elections, and that interference benefited Donald Trump.

Paul Manafort, Trump’s former Campaign Chair also publicly admitted to giving internal Trump Campaign data to the Russians. The U.S. Treasury Department found that this data, which it said was “sensitive information on polling and campaign strategy” was then passed to Russian intelligence services.

There is a phrase to describe the facts I just set forth. It is called Russian collusion.

Mr. Chair, I would like to enter both the Treasury Department documents dated April 2021, as well as the bipartisan Senate Report intelligence dated August 2020.

Mr. JOHNSON of Louisiana. Without objection.

Mr. LIEU. OK, now, Mr. Durham, I would like to ask you the following simple yes-or-no questions. Trump’s former Campaign Chair Paul Manafort was convicted, correct?

Mr. DURHAM. I’m sorry, could you just repeat that one.

Mr. LIEU. That Trump’s former Campaign Chair, Paul Manafort, was convicted, correct?

Mr. DURHAM. That’s correct. Not in connection to—

Mr. LIEU. Trump’s former Foreign Policy Advisor to the campaign, George Papadopoulos, was convicted, correct?

Mr. DURHAM. That is correct.

Mr. LIEU. Trump's former Deputy Campaign Manager, Rick Gates, was convicted, correct?

Mr. DURHAM. Not in connection with a Russian matter.

Mr. LIEU. Trump's—all right. Mr. Durham, you can hold yourself out as an objective Department of Justice Official or as a partisan hack. The more that you try to spin the facts and not answer my questions, you sound like the latter.

So, I am just going to ask this simply. Trump's former National Security Advisor, Michael Flynn, was convicted, correct?

Mr. DURHAM. That is correct.

Mr. LIEU. Trump's longtime advisor, Roger Stone, was convicted, correct?

Mr. DURHAM. I am sorry, I missed the last thing you mentioned.

Mr. LIEU. Trump's longtime advisor, Roger Stone, was convicted, correct?

Mr. DURHAM. Correct.

Mr. LIEU. In contrast, multiple Trump associates were convicted, you brought two cases to jury trial based on this investigation, and you lost both. So, I don't actually know what we are doing here. Because the author of the Durham Report concedes that the FBI had enough information to investigate. Thank goodness the FBI did, because multiple Trump associates who committed crimes were held accountable. The best way to summarize what happened is thank you to the brave men and women of the FBI for doing their jobs.

I yield back.

Mr. JOHNSON of Louisiana. The gentleman's time has expired, he yields back. The gentleman from California, Mr. McClintock, is recognized for five minutes.

Mr. MCCLINTOCK. First, Mr. Durham, I apologize for the personal attacks that have been leveled on you from sources on the other side of the aisle. This is what they do, this is how they argue. So, we have gotten used to it, and I hope you will too at some point.

The central charge in the Russian collusion hoax was that Trump Campaign operatives were in contact with Russian intelligence sources. Were Clinton Campaign operatives in contact with Russian intelligence sources?

Mr. DURHAM. That is beyond the scope of our report. I can only speak to the former, and the former is there was no such evidence. As we reported in the report, there was—

Mr. MCCLINTOCK. Well, was Danchenko a Russian intelligence source?

Mr. DURHAM. Mr. Danchenko had been investigated by the FBI for espionage. They closed the case when they mistakenly thought he had left the country. Mr. Danchenko's status in connection with that espionage matter was never resolved by the Bureau. The Bureau, in fact, never opened it or pursued it.

Mr. MCCLINTOCK. He was the source for much of the Steele Dossier.

Mr. DURHAM. He said that he was responsible for 80 percent of the intelligence in the dossier and 50 percent of the analysis.

Mr. MCCLINTOCK. Who commissioned the Steele Dossier?

Mr. DURHAM. The Steele Dossier was done by Fusion GPS, who was hired by Perkins Coie, who represented the Clinton Campaign and the DNC.

Mr. McCLINTOCK. So, what role did the Clinton Campaign play in this hoax?

Mr. DURHAM. What, I am sorry, did they play?

Mr. McCLINTOCK. What role did the Clinton Campaign play in this hoax?

Mr. DURHAM. The Clinton Campaign funded the work, the opposition research, that was done by Fusion GPS. GPS paid Mr. Steele for the dossier.

Mr. McCLINTOCK. Who in the Clinton Campaign approved that relationship?

Mr. DURHAM. Well, we lay some of the out in the report. I think it was Mr. Elias, who was General Counsel to the campaign, who engaged the services of Fusion GPS.

Mr. McCLINTOCK. Mr. Jordan referenced the Clinton plan intelligence. Exactly what was the Clinton plan?

Mr. DURHAM. Based on declassified documents in the public record, there was intelligence information that was received at virtually the same time that the information came from the Australians. I mean, within a day or two.

That intelligence included information that there was a purported plan designed by one of Ms. Clinton's foreign policy advisors to create a scandal tying Donald Trump to the Russians. That is the essence of the intelligence as contained in the declassified information.

Mr. McCLINTOCK. Did the President receive this intelligence?

Mr. DURHAM. On August 3, 2016, then-Director Brennan had briefed the President, Vice President, Director of National Intelligence, the FBI, the Attorney General, and others.

Mr. McCLINTOCK. When you say the FBI, you mean Mr. Comey?

Mr. DURHAM. On August 3rd it was conducted at the White House, so it was Director Comey himself.

Mr. McCLINTOCK. So, Mr. Comey knew about this, President Obama knew about this. Vice President Biden knew about this. It wasn't provided to the agents on the case or provided to the secret FISA Court, is that correct?

Mr. DURHAM. That is correct.

Mr. McCLINTOCK. Why wasn't it?

Mr. DURHAM. We can tell you what the facts are. People can draw their own conclusions from them.

Mr. McCLINTOCK. About the Papadopoulos comments at the bar that were used as justification for this whole thing, what would the FBI have learned had it looked into this information honestly?

Mr. DURHAM. If before opening Crossfire Hurricane they had checked their own files and communicated with other intelligence agencies and the like, they would have found that there was nothing at that time in their files that would corroborate the information, the suggestion of a suggestion that the Russians might provide some kind of assistance. There is nothing in their files that would corroborate that.

Mr. McCLINTOCK. The Steele Dossier was entered into the Congressional Record. Was it true?

Mr. DURHAM. I am sorry, the Steele Dossier—

Mr. MCCLINTOCK. The Steele Dossier was entered into our Congressional Record. Was it true?

Mr. DURHAM. There is not a single substantive piece of information in the dossier that has ever been corroborated by the FBI or to my knowledge anyone else.

Mr. MCCLINTOCK. You mentioned that the FISA Court criticized the misleading and false information that was used to request the FISA warrants. Did the FISA Court hold anyone in contempt for that?

Mr. DURHAM. Not to my knowledge.

Mr. MCCLINTOCK. Did they apply any sanctions to anyone responsible for that?

Mr. DURHAM. Not to my knowledge. They issued—

Mr. MCCLINTOCK. Did they even yell at anybody?

Mr. DURHAM. They issued an appropriately harsh memo, something about what the expectation is when a document is submitted to that court, that it be truthful and accurate and complete. That was the expectation, is the expectation.

Chair JORDAN. The gentleman yields back. The Chair now recognizes the gentlelady from Washington.

Ms. JAYAPAL. Thank you, Mr. Chair.

Mr. Durham, thank you for being here today to speak with us about the report you have produced looking at the FBI's investigation into Russian interference in the 2016 election. Your report took four years and over six and a half million dollars in taxpayer dollars to produce.

Mr. Durham, how many cases did you bring to trial during your time investigating the 2016 election?

Mr. DURHAM. I'm sorry, just missed part of that because—

Ms. JAYAPAL. How many cases did you bring to trial?

Mr. DURHAM. Two.

Ms. JAYAPAL. Two. In how many of those two cases did the juries vote to convict?

Mr. DURHAM. Neither one.

Ms. JAYAPAL. Neither one. Neither jury voted to convict the gentleman that you prosecuted. In fact, in one case, the trial judge threw out one of your charges because the claim that you were charging as false was, as he put it, "literally true."

Mr. Durham, I think you were given an impossible task by Attorney General Bill Barr. He asked you to figure out how to make Donald Trump's Spycast claims true. You couldn't do that because you quickly realized that the claims were false. So, you set about, as many Republicans on cable news do, trying to find a way to blame Hilary Clinton for Donald Trump's woes.

Mr. Durham, do you know how many people Special Counsel Mueller indicted or obtained guilty pleas from?

Mr. DURHAM. They indicted or charged a number of people. I think—

Ms. JAYAPAL. It was 34 people and three companies. Do you know how many of those indictments were of individuals who were acquitted in court?

Mr. DURHAM. I don't know that anybody was acquitted.

Ms. JAYAPAL. That is right, the answer is none. So, I think the difference between your investigation and Mr. Mueller's was that Mr. Mueller actually found actual evidence of crime.

We know that Russia did attempt to interfere in the 2016 election. We know that Russia did hack into the DNC email server. Mr. Mueller's prosecutions reflected that reality, such as the case of 12 Russian military intelligence officers who he charged with crimes related to the hacking and the leaking of leading Democrats' emails in 2016.

Similarly, the Mr. Mueller found repeated instances of Trump Campaign associates lying when asked about their interactions with Russian interests. As a result of Mr. Mueller's investigation, George Papadopoulos pleaded guilty in October 2017 to making false statements to the FBI.

Trump Campaign aide Rick Gates pleaded guilty to one false statement charge and one conspiracy charge. Trump National Security Advisor Michael Flynn pleaded guilty to making false statements to the FBI.

In November 2019, Trump advisor Roger Stone was convicted on seven counts, including lying to House Intelligence Committee and tampering with a witness.

Again, Mr. Mueller indicted or got guilty pleas from 34 people and three companies.

Mr. Durham, you are a career prosecutor, correct?

Mr. DURHAM. That is correct.

Ms. JAYAPAL. You started working as a State Prosecutor in 1977, and you joined the Justice Department in 1982. Yes or no, prosecutors prioritize bringing cases to court that have a high likelihood of winning.

Mr. DURHAM. I would not say that is the standard, no.

Ms. JAYAPAL. So, you don't think that to call an investigation successful, you should at least reveal some new information. Most of your report, Mr. Durham, is a rehashing of old news, including process-related concerns that the FBI had already addressed.

In fact, that is why you said you were not recommending any further changes to FBI policies or procedures. So, at the very least, I would think that you would need to win some of the cases on their merits. That is not what happened, and that is not what many Republicans are looking for.

Chair Jordan seems to be looking for any excuse to discredit law enforcement and DOJ, who are finally holding Donald Trump accountable for his serious violations of the law. Violations, by the way, that Donald Trump just admitted to last night on *Fox News*. Americans will see through this facade.

I wanted to ask Mr. Schiff if he wants my additional 40 seconds of time. If so, I yield.

Mr. SCHIFF. Thank you. I just want to followup on my question before. Nora Dannehy was a very well-respected member of your team. Why did she resign?

Mr. DURHAM. I am sorry?

Mr. SCHIFF. Nora Dannehy was a very well-respected member of your team. Why did she resign?

Mr. DURHAM. That is not part of the report and I'm not going to discuss internal matters—

Mr. SCHIFF. Did she resign over disagreements she had with you about how you were handling the investigation?

Mr. DURHAM. Not part of the report and I am not going to discuss it.

Mr. SCHIFF. It is not part of the report, but you—

Mr. DURHAM. I have the highest regard for Ms. Dannehy.

Mr. SCHIFF. You know the answer, Mr. Durham. Why won't you tell us?

Mr. DURHAM. Because that is not part of the report, that's not part of the mission. I am not going to discuss internal discussions.

I can tell you this, that with respect to every major decision that was made by our team, every agent, and every lawyer, had full voice in expressing their opinions, and we proceeded accordingly when we made the final—

Mr. SCHIFF. Some voted with their feet to leave your office.

Chair JORDAN. The time of the gentlelady has expired.

Ms. JAYAPAL. I yield back.

Chair JORDAN. The gentlelady yields back. The gentleman from Texas is recognized.

Mr. GOODEN. Thank you, Mr. Durham. That is not part of the report is a lot of what I have heard from my colleagues on the other side of the aisle. One of my colleagues from California said, "I don't know what we're doing here."

What we are doing here is going through this very damning report. The FBI has failed many times over the years that you investigated them.

I would like to ask, did the FBI open Crossfire Hurricane without speaking to the people who provided the information?

Mr. DURHAM. Yes.

Mr. GOODEN. Did the FBI open Crossfire Hurricane on a Sunday, only three days after reviewing the information?

Mr. DURHAM. Yes.

Mr. GOODEN. Did the FBI open Crossfire Hurricane without any significant review of its own intelligence data base?

Mr. DURHAM. Yes.

Mr. GOODEN. Did the FBI open Crossfire Hurricane without interviewing the essential witnesses?

Mr. DURHAM. Yes.

Mr. GOODEN. Did the FBI open Crossfire Hurricane without using any of the standard analytical tools typically employed in evaluating intelligence?

Mr. DURHAM. Yes.

Mr. GOODEN. Did the FBI consider the possibility that it was the target?

Mr. DURHAM. It didn't appear so to me, from the evidence.

Mr. GOODEN. So, I am curious if you could tell me, because I am not a prosecutor. Some of my colleagues here are, but the average American is not. Can you tell us why and under what motivation would a prosecutorial agency act in such a way where it willfully ignores multiple instances of exculpatory evidence throughout the course of its investigation? Because I just don't understand that.

Mr. DURHAM. That, in my experience, is not the norm. That is not how the FBI performs. In this particular case, as is reflected in the report, there appear to be people, persons in the FBI who

were central to opening the investigation that had rather strong views concerning then-candidate Trump.

Mr. GOODEN. We have heard in your report that you reference confirmation bias. A lot of times, or sometimes we see that the investigators, perhaps the FBI investigators, they have a confirmation bias because they want a guilty outcome. They want to find the suspect guilty.

We did not see that to be the case for Hilary Clinton. So, it makes me think that based on the investigation into the conduct and the continuous disregard for duty, there was obviously a special motivation to find this suspect, Donald Trump and his campaign, guilty above anyone else. Would you agree?

Mr. DURHAM. I can speak to what the facts show, as documented in the report. Again, people draw their reasonable inferences, conclusions from those facts. With an honest reading of the report.

Mr. GOODEN. If either you or someone on your team willfully ignored exculpatory evidence, refused to interview key witnesses, favored one suspect over another, or did any or all the things that the FBI did there in Crossfire Hurricane, would you face repercussions?

Mr. DURHAM. There ought to be repercussions if that ever happened in connection with an agent that I was working with and I knew about it.

The first thing would be to report it to the court.

The probable second thing would be to report it to their superiors.

The third thing would be to ensure that agent never worked with me again.

Mr. GOODEN. I appreciate that. I also appreciate your remarks earlier in your opening testimony where you said,

My colleagues and I carried out our work in good faith with integrity in the spirit of following the facts wherever they lead without fear or favor.

I believe you did that.

I am disappointed in some of my colleagues that have said disparaging remarks about you. I have seen very few that actually talk about your report. They want to talk about everything else, which tells me you are onto something.

I would also yield the balance of my time to the Chair.

Chair JORDAN. I appreciate the gentleman for yielding.

So, Danchenko's the primary subsource. A few years before he does this work, he was investigated by the FBI for espionage. Is that right, Mr. Durham?

Mr. DURHAM. Correct.

Chair JORDAN. That case was halted because the FBI thought he left the country, right?

Mr. DURHAM. Correct.

Chair JORDAN. Had he left the country?

Mr. DURHAM. No.

Chair JORDAN. Where was he living?

Mr. DURHAM. He remained living in the place that he was living when they opened the investigation.

Chair JORDAN. Right here in DC, right.

Mr. DURHAM. Yes.

Chair JORDAN. He hadn't left anywhere, he was right here in DC. We are going to stop this. Then they go hire him, use the tax money of the people I get the privilege of representing to pay this guy, who they obviously knew was a Russian spy. They hire him, who is the source of all the false information. Is that true?

Mr. DURHAM. They paid him, they hired him, and they paid him.

Chair JORDAN. A couple hundred thousand if I recall, right?

Mr. DURHAM. It was over \$200,000.

Chair JORDAN. Yes, and then this guy is hanging out with Dolan, Charles Dolan, who is a buddy of the Clinton's, who's also a source for the false dossier that was used to spy on an American citizen. He is hanging out with Dolan. In fact, don't they meet on a park bench somewhere in Arlington, Virginia, on New Year's Day?

Mr. DURHAM. New Year's Day, middle of the day.

Chair JORDAN. This is straight out of the movies, right. The FBI says but we are not going to talk to Charles Dolan. This is two of the dumbest things I've ever heard.

They won't talk—they pay a guy who is a Russian spy who is the source of the dossier. The other source of the dossier is Charles Dolan, who meets with that guy on a park bench in Arlington, and they don't want to interview him.

You can't make this stuff up. That is what Comey's FBI did. They are still doing this kind of baloney, because Mr. D'Antuono told us so. Running operations, running investigations out of headquarters, instead of assigning a U.S. Attorney, a job you did for a long time and did very well.

That is a huge problem. Your report, that is why your report is valuable.

I yield back to the gentleman who was out of time, and we now recognize the gentleman from—oh, Mr. Correa. Oh, we got it. Oh, I am sorry, right here. The gentlelady from Pennsylvania is recognized for five.

Ms. SCANLON. Thank you. Thank you for coming to testify today, I know it's not a comfortable experience, obviously. Clearly the questions have exposed that we have many areas of disagreement across the aisle.

I am relieved that we have no disagreement about one of the fundamental conclusions of your report, that it was incumbent on the FBI to open some form of investigation when presented with evidence that a Presidential candidate and his associates are either coordinating campaign efforts with a hostile Nation, or being manipulated by such a hostile Nation.

This is a fundamental conclusion, right? Some of form of investigation was necessary.

Mr. DURHAM. Right. The FBI, when they receive information, this information, other information, they almost always have some obligation to assess that information.

Ms. SCANLON. Sure.

Mr. DURHAM. That is what the assessment is about.

Ms. SCANLON. Sure. So, we have established over the course of question that the current Attorney General, Merrick Garland, allowed you to run your investigation, I think you said, independently and without interference, right?

Mr. DURHAM. That is correct.

Ms. SCANLON. You have talked about the thoroughness of your investigation as you performed it over the course of 4–4½ years, \$6.5 million, hundreds of FBI agents, six million pages of documents. Not hundreds of FBI agents, hundreds of personnel working with you.

Mr. DURHAM. That would not be accurate, but.

Ms. SCANLON. OK, well, you also had the benefit of prior investigations, including the Mueller Report.

Mr. DURHAM. Correct.

Ms. SCANLON. The 2019 Department of Justice Office of Inspector General's Report, which concurred with you that there was an obligation to investigate, right?

Mr. DURHAM. Yes.

Ms. SCANLON. Although it disagreed with you about precisely the form, correct?

Mr. DURHAM. I think it is more than form, but we had a disagreement in that regard.

Ms. SCANLON. There was also a 2020 select, Senate Select Committee Report on intelligence run by Senator Rubio that affirmed that Russia, in fact, had sought to interfere in our elections to benefit the Trump Campaign, correct?

Mr. DURHAM. That report—I don't remember if Senator Rubio was the Chair at the time or not.

Ms. SCANLON. OK, but there was.

Mr. DURHAM. I don't think he was.

Ms. SCANLON. OK. So, with all that, you and Attorney General Barr had both been appointed by President Trump, right?

Mr. DURHAM. I am sorry, can you just repeat that one again?

Ms. SCANLON. You and Attorney General Barr had both been appointed to serve at that time by President Trump, correct?

Mr. DURHAM. I had been nominated by President Trump. I believe that Mr. Barr was nominated to be Attorney General by Mr. Trump.

Ms. SCANLON. OK, and the AG Barr appointed you to be Special Counsel, right?

Mr. DURHAM. He appointed me as Special Counsel, yes.

Ms. SCANLON. OK. In contrast to the independence and lack of interference, which you have noted on multiple occasions that has been performed by Merrick Garland, Agent Barr had a very active role in your investigation. I just wanted to mention a couple instances.

First, shortly after your appointment, you and AG Barr both traveled overseas and met with Italian officials who provided some allegations with respect to criminal activity by the former President, correct?

Mr. DURHAM. We traveled to—well, this is outside the report, so I am not sure that I'm authorized to talk about it. We went to Italy to try to pursue leads involving a particular mysterious professor.

Ms. SCANLON. OK. So, you don't mention in your report those allegations of misconduct concerning the former President, correct? It is not in your report. You didn't include that information in your report, right?

Mr. DURHAM. Which information?

Ms. SCANLON. About your trip to Italy with AG Barr.

Mr. DURHAM. No, I don't know why I would have put that in a report.

Ms. SCANLON. OK, and the day the Inspector General's report was published, you issued a press releases saying that you didn't agree with some of his conclusions. Did AG Barr ask you to issue that press release?

Mr. DURHAM. Absolutely not.

Ms. SCANLON. OK, who did?

Mr. DURHAM. I made that decision. Do you want to know why or no?

Ms. SCANLON. Actually, I wanted to know first can you identify any other occasion in which a Special Counsel has released a press statement questioning another Special Counsel or Inspector General's Report? Can you name one?

Mr. DURHAM. Yes, I don't know of any.

Ms. SCANLON. OK.

Mr. DURHAM. They may have, but I don't know about it.

Ms. SCANLON. OK. So, did you communicate with AG Barr about your press statement before his released the same day, or was that just a fantastic coincidence?

Mr. DURHAM. Did I communicate with Attorney General Barr about what?

Ms. SCANLON. About your press release questioning the IG's Report.

Mr. DURHAM. I told Attorney General Barr, I didn't ask his permission, I told him that I was going to do it.

Ms. SCANLON. OK, one more question. There has been mention of the resignation, Nora Dannehy, in the Fall 2020. Isn't it true that she resigned in protest concerning pressure by AG Barr for you to deliver an interim report or other results before the 2020 Presidential Election?

Mr. DURHAM. You would have to ask Ms. Dannehy that. I am not going to discuss the internal discussions in our group.

Ms. SCANLON. Or we could Google it. Thank you, I yield back.

Mr. DURHAM. It's a pretty good source of information.

Chair JORDAN. Sure is. The gentlelady yields back.

The gentleman from Oregon is recognized.

Mr. BENTZ. Thank you, Mr. Chair.

Thank you, Mr. Durham, for being here today and for your patience with us. I want to talk about that space between law and policy, I guess, if you will. I want to go back to—I got your words written during your opening statement where you said there were troubling violations of law and policy. Do I have that right?

Mr. DURHAM. Yes, sir.

Mr. BENTZ. So, the assertion has been that perhaps there should have been more indictments, more people brought before the court for their actions, but it appears to me that you tried that and perhaps encountered—I have not looked at the two trials that turned out not to reach convictions, but was it a situation where there was something wrong, but it didn't rise to the level of a crime? Is that what was going on in that space?

Mr. DURHAM. You conduct these investigation—conducted this investigation, the other public corruption investigations, organized crime investigations. When there's sufficient evidence that you be-

lieve that the evidence is sufficient to prove a case beyond a reasonable doubt, that case should be brought, and maybe evidence that you have, but you're not confident that would be sufficient to prove a case beyond a reasonable doubt and sustain that case on appeal and you don't bring the action. Here there was conduct, some of which was misconduct. There's conduct that was probably criminal, but you couldn't prove it. That's true here it appears in other instances as well.

Mr. BENTZ. Right, and I think the phrase "political bias" or "confirmation of bias" has been used a number of times. Is that a crime?

Mr. DURHAM. Confirmation of bias is not a crime; it's part of our human condition, I suppose.

Mr. BENTZ. Yes. So, you may well have found; and this sounds like you did, troubling violations of law and policy which perhaps would not lead to, and did not of course, convictions, but it doesn't make it any less wrong when we have our law enforcement agencies engaging in this kind of conduct. I think that is why you call it troubling. Do I have that right?

Mr. DURHAM. You have that right.

Mr. BENTZ. The question I suppose is what can we do about this situation looking forward? If it is not a crime, but we know it is wrong, what should we be doing? I think you made some suggestions. Can you recite those for us and what—you spent four years in this space, and there is, obviously, things going wrong that we can't convict people for, or at least it doesn't rise to the level that will warrant that approach. What should we be doing?

Mr. DURHAM. Yes, the real difficulty, in my view, is trying to figure out how to hold people accountable for their conduct. It's not a simple problem to solve.

In the context of the FISA situation, for example, or maybe it would be the case in any instance in which there's what's referred to in the bureau as a sensitive investigative matter, a SIM, that there are additional rules that apply there, you know? Maybe, there's—it's time where if an agent is going to sign a FISA application in a sensitive investigative matter that they not only understand that they're signing under the penalties of perjury, but if the bureau determines that they intentionally misstated anything that their employment will be terminated. There's real teeth in—when somebody signs an affidavit, swears to something before a judicial officer, there are consequences if that is untrue. There are criminal penalties, but there sure as heck ought to be other penalties as well. I mean, there are things like that in these sensitive cases.

This is not a normal case. This is a Presidential Election and it affected the Nation. Maybe they ought to instill a practice, for example, of red teaming, which we tried to do to the extent in our investigation, which is you have a group of people who take the opposite side to make the argument to try to point out either where the weaknesses are or where additional evidence needs to be developed.

It may be that the benefit—that the bureau would benefit, as it said in the report, from having something of an ombudsman who would look at FISA applications or look at the investigative effort being undertaken in these sensitive investigative matters who

looks at how the investigation is progressing and whether or not in that person's estimation the investigation is being done independently and in a disciplined way. There are those kinds of things. Ultimately, I don't know how you hold people responsible absent their integrity and that kind of overview, or review of what the investigation is doing.

Mr. BENTZ. Thank you, Mr. Durham.

I yield back.

Chair JORDAN. The gentleman yields back.

The gentleman from Colorado is recognized.

Mr. NEGUSE. I thank the Chair.

Mr. Durham, thank you for testifying today. Thank you for your service to our country.

Mr. DURHAM. It's been a real pleasure.

Mr. NEGUSE. Well, we appreciate your service to our country, to the Department of Justice. I have read your report, as I suspect most of the Members of the Committee have, and appreciated your work.

I want to talk a bit about your interactions with main Justice, with the Department of Justice, in particular, with Attorney General Garland. Did Attorney General Garland permit your inquiry to proceed independently?

Mr. DURHAM. Yes.

Mr. NEGUSE. Did Attorney General Garland interfere with your inquiry, your investigation in any way?

Mr. DURHAM. No.

Mr. NEGUSE. Did Attorney General Garland attempt to prevent or stop you or your team from taking any investigative step that you deemed necessary?

Mr. DURHAM. He did not.

Mr. NEGUSE. Did Attorney General Garland provide support to your efforts?

Mr. DURHAM. In terms of occasionally we'd need some personnel, in a couple of instances we had a person that was detailed from main Justice, yes. So, in that respect, yes.

Mr. NEGUSE. Did Attorney General Garland decline to implement any of the recommendations that you have made?

Mr. DURHAM. I don't know that.

Mr. NEGUSE. The letter, the report; I believe it is on page 3 of your report, you say, and I'll quote,

After the inauguration of President Biden, Attorney General Garland met with the Office of the Special Counsel. The office very much appreciates the support consistent with his testimony.

Referring to Attorney General Garland,

... during his confirmation hearings that the Attorney General has provided to our efforts and the department's willingness to allow us to operate independently.

You stand by that, I suspect?

Mr. DURHAM. I do.

Mr. NEGUSE. Sounds like the Department of Justice and the Attorney General were supportive of your efforts, did not interfere in any way with the work that you did over the course of the last several years. There are some folks here in Congress, some colleagues of mine on the other side of the aisle, who have talked about or

indicated their desire to defund the Department of Justice. Do you believe the Department of Justice should be defunded?

Mr. DURHAM. I don't believe these discussions about defunding the police make any sense at all for the security of the Nation and I don't think defunding cornerstone law enforcement entities make a whole lot of sense. Maybe more oversight. Defunding in our cities and streets and so forth? No, that doesn't make sense to me. I've only been at this for 40 years.

Mr. NEGUSE. Sure. As I said, I am grateful to your service and—for your service rather and I guess I just want to put a finer point it because I don't—I guess I didn't hear that in your answer. You said a cornerstone of law enforcement. I take that you mean the Department of Justice. The Department of Justice obviously should not be defunded, right? You have committed your career to the Department of Justice. You are a former U.S. Attorney, a former Acting U.S. Attorney, 35 years as an Assistant U.S. Attorney, you have a decorated record of service to the department. I am hoping you are willing to say on the record clearly that you don't believe the department should be defunded.

Mr. DURHAM. I don't believe the Department of Justice or the FBI should be defunded. I think there maybe ought to be some change and the like. Defunded? No.

Mr. NEGUSE. Thank you. I appreciate your candor. I agree with you.

With respect to the Office of the Special Counsel, of course you have concluded your service. As you know, there are different Special Counsels that are appointed from time to time. You have served in that capacity multiple times yourself. There is discussion of defunding Special Counsels. Do you support more broadly the principle of defunding the Office of the Special Counsel?

Mr. DURHAM. Yes, I guess I would have to the particulars of what the discussion is, but the general notion that you had established Special Counsel Office—Special Counsels doing investigation, that you're going to defund it would not make sense to me, no.

Mr. NEGUSE. I agree. Just to put a finer point on this, you served as Special Counsel for a period of years. During the course of your investigation for the bulk of that time Democrats were in control of the U.S. House of Representatives. There was no effort that I am aware of to defund your office. I assume that you would have construed that if someone had made an effort to defund the Office of the Special Counsel, your office, as you were undertaking your investigation, as political interference to the extent that was being done to try to impair or impinge on your investigation. Is that an accurate statement?

Mr. DURHAM. Yes, if it were our office, our team, I guess I'd have to know the basis of that to see if I thought it was political or that we were—

Mr. NEGUSE. Well, let's say it is because people—

Mr. DURHAM. —we were spending too much money.

Mr. NEGUSE. Sure. Let's say it is because people disagreed with the work that you were doing. They didn't like the investigation. They disagreed fundamentally with decisions you were making. I presume you would construe that as political interference.

Mr. DURHAM. Special counsels should operate independently. That's the whole purpose of Special Counsels, so—

Mr. NEGUSE. I certainly agree. I again, I thank you for being here.

I yield back, Mr. Chair.

Chair JORDAN. The gentleman yields back.

The gentleman from Alabama is recognized.

Mr. MOORE. Thank you, Mr. Chair.

Mr. Durham, I appreciate you being here today. Sobering I think is a pretty good word. I think that is a good description of what we are talking about. When I read your report and as we talk about it, when I am in the district very often one of the major concerns is the weaponization of investigations in the Department of Justice against certain people in our society.

So, yes or no, did the FBI place significant reliance on information given to them by President Trump's political opponents?

Mr. DURHAM. I'm sorry. Could you just repeat that one?

Mr. MOORE. The FBI, did they place significant reliance on information given to them by President Trump's opponents?

Mr. DURHAM. The Crossfire Hurricane investigation—well, the FISA, in particular, and Carter Page, the bureau had concluded itself, absent the dossier, they wouldn't have been able to establish probable cause. There was—

Mr. MOORE. Did the dossier come from President Trump's political opponents?

Mr. DURHAM. It was funded by the Clinton Campaign and the DNC. So, in that degree, yes, it came—that's how it was paid for.

Mr. MOORE. Can you connect the dots between the Trump—I'm sorry, between the Clinton Campaign and the investigation of the FBI?

Mr. DURHAM. We were investigating—did investigate what was behind that investigation, how did it get started, was it properly predicated as a full investigation by the FBI, and why did it then continue even after Director Mueller had found lack of sufficient evidence concerning conspiracy or collusion?

Mr. MOORE. Mr. Durham, is that what you call sobering? Would that be sobering to you?

Mr. DURHAM. What's sobering to me in connection with this investigation is the FBI, the people who were involved in the Crossfire Hurricane investigation, ignoring exculpatory information, discarding information that was inconsistent with the investigative narrative, with using information; in this instance from the Steele Dossier, to establish probable cause, to electronically surveil a United States citizen who happened to be a Naval Academy graduate. Those things are sobering to me.

Mr. MOORE. Are sobering? I would agree with that. Did the FBI ever fail to take or delay taking action in an investigation involving Hillary Clinton?

Mr. DURHAM. Well, there's a portion of the report that relates to the disparate treatment. So, did the FBI delay? There are three instances that are identified in the report where the FBI's investigative efforts were considered considerably more disciplined than was the case with respect to Mr. Trump.

Mr. MOORE. More disciplined you mean biased? Let me move on, Mr. Durham. I don't want to run out of time.

Did the FBI give the Clinton Campaign a defensive briefing?

Mr. DURHAM. They—in a particular matter the FBI gave Ms. Clinton's legal representatives a debriefing of a defensive nature, yes.

Mr. MOORE. Why wasn't the same done for the Trump Campaign and President Trump?

Mr. DURHAM. We explored that during the course of the investigation. What we learned is set out in the report. It would appear, from at least what we were told, very little thought went into whether they should give anybody on the Trump Campaign a defensive briefing. They didn't do it.

Mr. MOORE. A lot of thought went into giving Hillary Clinton's Campaign a defensive briefing apparently, but not President Trump.

Mr. DURHAM. In one incidence the—I think you're referring to the submission of a FISA application. In that matter against the foreign interest was premised on them giving a defensive briefing to Ms. Clinton and some other political—

Mr. MOORE. Mr. Durham, is it safe to say that the Clinton Campaign colluded with the Russians to accuse Donald Trump of colluding with the Russians?

Mr. DURHAM. I could not phrase it that way. I could say is that the Clinton Campaign funded the information that showed up in the dossier. The Clinton Campaign funded the information that was put together concerning an alleged secret communications channel between Trump and Alfa Bank, which was presented to the FBI through Mr. Sussmann. So, yes, there are those things that definitely occurred. The evidence establishes that.

Mr. MOORE. Thank you, Mr. Durham. I appreciate your service. I yield back to the Chair.

Chair JORDAN. I thank the gentleman.

Mr. Durham, Carter Page is an American citizen who—a Naval Academy grad—served our country. Why not just talk to him before you spy on him?

Mr. DURHAM. In this instance, I don't know if people looked at this in the report—there was a particular piece of information that had been given to Michael Isikoff and appeared in a Yahoo! News article—

Chair JORDAN. Yes.

Mr. DURHAM. —on September 23rd in which Mr. Isikoff lays out what he's obviously been told. It's clearly the information from Steele, but it also included a statement that a senior law enforcement official confirmed that Carter Page was on the radar screen. That matter was never referred for investigation as to who leaked that. This was an investigation that was supposed to be closely held—

Chair JORDAN. Yes.

Mr. DURHAM. —a confidential, sensitive investigative matter. That's never referred to. Nobody ever looked at who's the senior law enforcement officer who gave the information to Michael Isikoff that Carter Page was on their radar screen? That's No. 1.

Chair JORDAN. Who do you think it was?

Mr. NADLER. Mr. Chair, the time is well-expired. The witness could answer the question. You cannot ask another one.

Chair JORDAN. I appreciate that, Ranking Member, for pointing that fact out.

Mr. DURHAM. OK. I'm not sure. Am I supposed to answer or not? I'm I done?

Mr. NADLER. You are done.

Chair JORDAN. I will let you answer.

Mr. DURHAM. Oh, OK. So, then with respect to Carter Page, Carter Page within two days of that article wrote a letter to Director Comey saying,

I didn't do the things that are suggested. I didn't meet with these people. I'm willing to sit down and talk to the FBI. Tell me when and where essentially.

Chair JORDAN. He offered to be interviewed.

The gentlelady from Texas is recognized for unanimous consent.

Ms. JACKSON LEE. Thank you very much, Mr. Chair. Let me submit into the record an article dated June 18, 2023. "After Years of Political Hype the Durham Inquiry Failed to Deliver." I ask unanimous consent.

Chair JORDAN. Without objection.

Ms. JACKSON LEE. I would then ask unanimous consent to place into the record this language from a letter directed to Mr. Durham on May 15, 2023.

The Federal Bureau of Investigation appreciate the Special Counsel's independent review. We also appreciate your acknowledgement of the extensive cooperation the FBI provided to your team throughout the review including production of nearly seven million pages of documents, assignment of full-time FBI special agents to assist in your fact finding process and provision of FBI technical.

Chair JORDAN. Without objection.

Ms. JACKSON LEE. Thank you. Mr. Chair, I yield back.

Chair JORDAN. The gentlelady yields back.

The gentlelady from Pennsylvania is recognized.

Ms. DEAN. Thank you, Mr. Chair.

Thank you, Special Counsel Durham, for being here today. As has been noted, it has been four years and \$62 million of an investigation of an investigation. The Durham Reports makes no new recommendations to change FBI policy or procedure. It does not conclude that the Crossfire Hurricane investigation should not have been opened. It even acknowledges that the Clinton Campaign did nothing worthy of prosecution. Sadly, the Durham Report dredges up allegations from unsuccessful prosecutions including claims that have been rejected by judge and jury.

The flaws of the Durham process were so troubling that some aides resigned in protest. I did google, and, in fact, read the news articles around the resignation of Nora Dannehy that—it is reported that she resigned because of pressure on and the Special Counsel group to produce a report or an interim report prior to the Presidential Election.

You can't comment on Nora Dannehy's personnel matter. Were you ever encouraged, persuaded, pressured to issue an interim or a report prior to the Presidential Election?

Mr. DURHAM. I can say without hesitation I was not pressured into doing anything.

Ms. DEAN. Was it suggested to you?

Mr. DURHAM. It was not suggested to me.

Ms. DEAN. Yet, it might have been suggested to someone who worked under you, separate from you?

Mr. DURHAM. I don't believe so.

Ms. DEAN. OK. Mr. Durham, would it have been a dereliction of duty if the FBI sat on its hands and did not investigate with the information, they had in front of them? Isn't it true—

Mr. DURHAM. I'm sure the Bureau has an obligation to investigate. They should investigate information that they receive from the public or otherwise. Generally speaking, yes, they have an obligation to look at and assess information.

Ms. DEAN. In this case, they had an affirmative duty to investigate, would you agree?

Mr. DURHAM. They had an affirmative duty to assess the information they had gotten from the Australian diplomat.

Ms. DEAN. Which would be an investigation. You were assigned to investigate that investigation. Mr. Durham, when did you first meet with Attorney General Barr about a potential investigation into the Mueller Report, the Mueller investigation?

Mr. DURHAM. I was appointed in May 2019. I had met Attorney General Barr after—not in connection with these matters, but I think I initially met the Attorney General when I came the U.S. Attorney for Connecticut, so I—

Ms. DEAN. Let me just put the calendar together. It was on March 22nd that the Mueller Report was submitted to Attorney General Barr. Would you agree with that?

Mr. DURHAM. That's yes, March 22nd, correct.

Ms. DEAN. According to public records you met with Attorney General Barr on March 25th, three days later?

Mr. DURHAM. OK.

Ms. DEAN. On March 24th Attorney General Barr released his so-called summary document of a 448-page report which blatantly mischaracterized the findings in the Mueller Report. Would you agree with that?

Mr. DURHAM. No.

Ms. DEAN. Did you discuss the Mueller Report during your meeting with Mr. Barr on March 25th?

Mr. DURHAM. I don't believe so. I think that—

Ms. DEAN. The timing was three days after he received the report, and you don't think in your meeting you talked about the Mueller Report?

Mr. DURHAM. I don't think that it was when I was meeting the Attorney General because I had become the U.S. Attorney in Connecticut in mid to late-February.

Ms. DEAN. Maybe you could search your memory and get back to us on that. It is troubling to me because it is clear you were brought in by Attorney General Barr the same week the Mueller Report was released and the day after his misleading letter, which hung out there for 25 days before the public got our hands and our eyes on the redacted report.

You were hired to investigate the investigators. One week after you met with Mr. Barr, on April 13th, Attorney General Barr's counselor Seth DuCharme emailed you offering assistance on behalf of Barr saying, quote,

John, the AG has made me aware of the redacted material you're working with him on and he asked me to provide you with my support and assistance.

Is that true?

Mr. DURHAM. I think that's correct.

Ms. DEAN. OK.

Mr. DURHAM. I don't remember the date, but that sounds right.

Ms. DEAN. That is only April, so I am wondering if you weren't yet put into this field.

Donald Trump was very vocal on Twitter, as he always has been, about his belief that the Mueller investigation should never have been taken. Are you aware of his tweets?

Mr. DURHAM. I know that the former President was a tweeter, yes.

Ms. DEAN. He was a tweeter. Some Republicans on this Committee believe that part of your purpose was to exonerate Mr. Donald Trump. I want to take you back to your opening statement. It is at paragraph 4. As you know, Mr. Durham, you said this morning:

If repeated or left unaddressed these issues could result in significant national security risks and further erode public faith in our justice system.

We now sit with a former President indicted 37 counts of—around the documents, the classified documents that he took, he held, he moved, he concealed, he lied about, and he showed to other people. Thirty-seven counts. If repeated or left unaddressed these issues could result in significant national security risk and further erode public faith in our justice system.

I thank you for your service, for pointing out what really matters when we have a very dangerous former President and criminal indictment to come, a mess of Mr. Trump's on making.

Chair JORDAN. The time—

Ms. DEAN. I am baffled by this Committee's lifting up of a corrupt President.

Chair JORDAN. The time of the gentlelady has expired.

Ms. DEAN. I thank you for indulging me just as you indulged yourself. Thank you.

Chair JORDAN. God bless you. That's right.

Ms. DEAN. God bless you.

Chair JORDAN. Equal opportunity.

Mr. Durham, if you can go one more round—

Mr. DURHAM. You do this every day?

Chair JORDAN. Yes. Well, this is relatively calm to some hearings we have. If you can go one more and then we will give you a break. We will recognize the gentleman and we will give you a quick break, maybe 5–10 minutes, then we will come back and finish.

The gentleman from California is recognized for five.

Mr. KILEY. Mr. Durham, several people today, including Ranking Member Nadler and three representatives from California: Mr. Schiff, Mr. Swalwell, and Mr. Lieu, have attacked you. Ranking

Member Nadler called your report a political exercise with ethical ambiguity. Mr. Lieu called you a partisan hack. However, it seems that they are taking issue, not so much with the conclusions of your report as those of Mr. Mueller's Report, which concluded that the investigation did not establish that members of the Trump Campaign conspired or coordinated with the Russian government in its election interference activities.

That conclusion directly contradicted statements made on the record by those representatives. For example, Mr. Schiff in 2017–2018 made statements such as:

The Russians offered help, the campaign accepted help, the Russians gave help, and the President made full use of that help, and that is pretty damning.

He also said,

There's clear evidence on the issue of collusion. I think there's plenty of evidence of collusion or conspiracy in plain sight.

Mr. Durham are those statements supported by the conclusions of the Mueller Report?

Mr. SCHIFF. Would the gentleman yield?

Mr. KILEY. No.

Mr. Durham, are those statements supported by the Mueller Report?

Mr. DURHAM. I don't believe so.

Mr. KILEY. Mr. Nadler stated,

It's clear that the campaign concluded and there's a lot of evidence of that. The question is was the President involved?

Mr. Nadler also said, "There was obviously a lot of collusion."

Mr. Durham, were those statements supported by the Mueller Report?

Mr. DURHAM. I don't believe they were supported by the Mueller Report.

Mr. KILEY. Mr. Lieu stated in a press release in March 2017,

The bombshell revelation that U.S. officials have information that suggests Trump associates may have colluded with the Russians means we must pause the entire Trump agenda. We may have an illegitimate President of the United States currently occupying the White House.

Mr. Durham, did the Mueller Report establish that we had an illegitimate President occupying the White House?

Mr. DURHAM. Not to my knowledge.

Mr. KILEY. Mr. Swalwell stated in 2018, "In our investigation we saw strong evidence of collusion." Did the Mueller Report support that there was strong evidence of collusion?

Mr. DURHAM. Not to my knowledge.

Mr. KILEY. Even here today we had Mr. Schiff raise questions about your public statement during the investigation saying that somehow violated a DOJ policy, however Mr. Mueller himself made a public statement in January 2019. This is an article from CNN headlined "Mueller's Office Disputes Buzzfeed Report that Trump Directed Michael Cohen to Lie to Congress."

So, whatever policy there might exist in the DOJ with respect to public statements by Special Counsels it would seem that you and Mr. Mueller would be on equal footing with respect to it. Is that correct?

Mr. DURHAM. Would seem so.

Mr. KILEY. Ranking Member Nadler also suggested that we are only here today because of the recent indictments of President Trump, however you received your assignment as Special Counsel in 2019. Is that correct?

Mr. DURHAM. That's correct. In 2020—Special Counsel was in 2020.

Mr. KILEY. In 2020. Was that before or after the events alleged in the recent indictments by the President?

Mr. DURHAM. That was before.

Mr. KILEY. Is it customary for a Special Counsel to come testify in Congress on the issuance of their report?

Mr. DURHAM. This is my first experience with this sort of thing, so I know that Director Mueller had the occasion to testify before Congress, so I guess this is not unique.

Mr. KILEY. So, it is pretty likely you would have been here whether or not the President had been recently indicted?

Mr. DURHAM. Yes.

Mr. KILEY. Contrary to Ranking Member Nadler's statement?

I want to quote from you a part of your report where you say,

There are reasons why in examining politically charged and high-profile issues the office must exercise and has exercised special care.

One of those statements you said is that,

... even when prosecutors believe that they can obtain a conviction there are some instances in which it may not be advisable to expand government time and resources on a criminal prosecution, particularly, where it could create the appearance, even unfounded, that the government is seeking to criminalize the behavior of political opponents or punish the activities of a specific political party or a campaign.

Could you just expound on that a little bit, this idea that there are prudential considerations that may counsel against prosecution even if there has been some technical violation of a statute?

Mr. DURHAM. Sure. The standard principles of Federal prosecution include kind of as a bedrock that you ought not to bring a prosecution unless you believe in good faith that there's sufficient evidence to prove a case beyond a reasonable doubt and the jury will convict and that the conviction can be sustained on appeal.

There may be those instances, in which, you're pretty well convinced that a crime was committed and can identify the person who committed it, but you can't in good faith say a jury is likely to convict in this case, we believe that a jury will convict and that we can sustain it on appeal. Those are the principles we tried to apply here, that we followed here, the same principle I've followed for 40 years as a Federal prosecutor.

Mr. KILEY. What are you referring to when you say that there might be additional considerations involving the perception that you are criminalizing the behavior of political opponents?

Mr. DURHAM. Yes, these are difficult things. For example, take in this case, I think all the Members of the Committee have had access to—whether they took advantage or not I don't know, but we filed a classified appendix here, right? So, there are some prosecutions where it may very well be that it looks like and you think you can prove the crime beyond a reasonable doubt, but because of the classified nature of much of your evidence it's never going to

see the light of day. So, that might preclude a prosecution. Things of that sort come up that are part of the prudential judgment that a prosecutor has to make in these matters.

Mr. KILEY. I yield back. Thank you.

Chair JORDAN. The gentleman yields back.

The Committee will take a short break, short recess. If we can come back in 10 minutes, so at 12:05, we will come back. Give everyone a short break before we resume.

[Recess.]

Chair JORDAN. The Committee will come to order. The gentlelady from Texas is recognized for five minutes.

Ms. ESCOBAR. Thank you, Mr. Chair, and thank you, Mr. Durham. Mr. Durham, after Inspector General Horowitz found serious errors last year with one aspect of the Russia investigation but found accusations of a politically motivated FBI plot to be baseless, Donald Trump said, quote,

I look forward to the Durham Report which is coming out in the not too distance future. It's got its own information which is this information.

Meaning the Horowitz information, "plus, plus, plus." Mr. Durham, do you consider your report to be the Horowitz report "plus, plus, plus"? Can you turn your mic on? I'm sorry.

Mr. DURHAM. I suppose that's for other people to judge. The report speaks for itself in my view.

Ms. ESCOBAR. OK. Your one criminal conviction was for doctoring an email about a surveillance warrant, wasn't it?

Mr. DURHAM. That's correct.

Ms. ESCOBAR. Who referred this information for prosecution?

Mr. DURHAM. That matter was referred by the Inspector General's office.

Ms. ESCOBAR. OK. This individual pleaded guilty. Isn't that right?

Mr. DURHAM. That's correct.

Ms. ESCOBAR. OK. Can you tell us what his sentence was?

Mr. DURHAM. He was sentenced to 12 months' probation—

Ms. ESCOBAR. That's right.

Mr. DURHAM. —for fabricating a document which was used to get a surveillance order on an American citizen.

Ms. ESCOBAR. Did you charge any high-level FBI or intelligence officials with a crime?

Mr. DURHAM. No.

Ms. ESCOBAR. Right, you did not. In your report, you are highly critical of the FBI's Russia investigation. Is that fair to say?

Mr. DURHAM. Certain aspects of it, yes.

Ms. ESCOBAR. OK. Did you recommend new charges as a result of those criticisms?

Mr. DURHAM. We weren't able to prove matters—I couldn't say under the guiding principles to be able to prove matters beyond a reasonable doubt because of lack of recollections, passages of time, and inconsistent statements. So, no, we didn't.

Ms. ESCOBAR. So, no, you did not. Right. Did you suggest any significant changes to how future investigations should be conducted?

Mr. DURHAM. I guess it's for others to judge whether they're significant suggestions or not. I think that more disciplined ap-

proaches to these matters can be affected by some of the recommendations we made, yes.

Ms. ESCOBAR. OK. I would say you did not suggest any significant changes. In the FBI statement in response to your report, it said that the FBI conduct you examined was, quote,

The reason that current FBI leadership already implemented dozens of corrective actions which have now been in place for some time.

Mr. Durham, do you know why the corrective actions have been in place for some time at the FBI?

Mr. DURHAM. I think I know, yes.

Ms. ESCOBAR. OK. Is it because the Inspector General finished his report 3½ years ago, making recommendations for changes that the FBI could make?

Mr. DURHAM. In part.

Ms. ESCOBAR. OK. In the four years that you spent tracking down Donald Trump's conspiracy theories, other investigations were conducted and completed. These investigations and the Horowitz investigation primarily identified the problems with the FBI investigation. The one thing the Horowitz Report did not do was give Donald Trump and my Republican colleagues across the aisle talking points for their conspiracy theories. On that front, you delivered. I'd like to yield the remainder of my time to my colleague, Mr. Schiff.

Mr. SCHIFF. Mr. Durham, your report attempts to make a case that the investigations of Clinton were given more favorable treatment to that of President Trump. You leave out one very notable example and that is your report makes no discussion of the fact that the email investigation to Hillary Clinton was made very public before the election, was it not?

[Crosstalk.]

Mr. SCHIFF. You had James Comey discussing Hillary Clinton's emails on the days leading up to the election?

Mr. DURHAM. If I follow your question, I don't think that the report says that the Clinton—that Ms. Clinton was given more favorable treatment. I think what the report says is that the FBI exercised some considerable discipline and how it was going to approach those matters as compared to how the FBI people who were involved in Crossfire Hurricane—

[Crosstalk.]

Mr. DURHAM. —approached Crossfire Hurricane.

Mr. SCHIFF. Why, Mr. Durham, would you leave out a glaring contrast between the FBI's public discussion of the Clinton investigation right before the election and it's keeping confidential the Trump investigation? Wasn't that a glaring disparity in how they were both treated?

Mr. DURHAM. I don't know. I mean—

Mr. SCHIFF. You really don't know the answer to that question?

Mr. DURHAM. —the FBI did, and Mr. Comey did what they did. I was asked to—

Mr. SCHIFF. Yes, they did what they did and in glaring contrast how they treated the Trump investigation which was kept secret before the election whereas the Clinton investigation was discussed publicly affecting the outcome. Isn't that correct?

Mr. DURHAM. I can tell you that the FBI had that information and sat on it for months before they acted and making a public disclosure.

Chair JORDAN. Gentleman's time is expired. The gentleman from Texas is recognized for five minutes.

Mr. MORAN. Thank you, Mr. Chair. Mr. Durham, thank you for coming to testify today before the Committee. I'm a recovering attorney and a former judge.

Mr. DURHAM. God love you.

Mr. MORAN. Thank you. As such, I know firsthand the importance of following procedures. I know law enforcement and prosecutors across this Nation do that on a daily basis. They do that because they want to ensure that the criminal investigation is conducted properly.

They need to adhere to a full due process of law and fair application of the law. Quite frankly, process matters because how we go about our investigations will either give credibility to our conclusions or will belie or conclusions. Do you agree with that?

Mr. DURHAM. Wholeheartedly.

Mr. MORAN. Would you agree that some of the important steps in an investigation would including simply vetting the initial information in claims, obtaining the relevant documents, talking to the relevant witnesses, determining the credibility of those witnesses and documents, and doing a lot of that by seeking corroboration of what is either provided in written testimony or oral testimony or in documentary form? Is that true?

Mr. DURHAM. That's absolutely true.

Mr. MORAN. The definition of corroboration is not difficult. Evidence that supports or confirms a statement, theory, or finding is effectively confirmation. That's what we need in an investigation is we need to confirm whether or not an allegation is true or not, correct?

Mr. DURHAM. Yes.

Mr. MORAN. As your report showed, the FBI did not follow its well established procedures and did not corroborate the information that they were receiving. Is that fair to say?

Mr. DURHAM. That's a fair statement.

Mr. MORAN. Take, for example, page 54 of your report. You show that the FBI opened a full investigation into George Papadopoulos. They did so a mere three days after receiving intelligence from Australia. During those three days, do you think the FBI attempted to corroborate the information they had initially received?

Mr. DURHAM. If they did, we didn't see any evidence of that fact.

Mr. MORAN. In fact, on page 112 in your report, you say, quote,

Despite the lack of any corroboration of the Steele reports, sensational allegations. However, in short order, portions of four of the reports were included in the initial Carter Page FISA application without further verification or corroboration of the allegations contained therein.

You also state on page 57 about Australia.

Australia could not and did not make any representation about the credibility of information.

That's because they couldn't verify or corroborate that information. Is that truth?

Mr. DURHAM. That's correct.

Mr. MORAN. You further go on to say on page 57 that, quote,

The Office of Special Counsel found no indication from witness testimony, electronic communications, emails, calendar entries or other documentation that at the time the FBI gave any consideration to the actual trustworthiness of information diplomats received from Papadopoulos.

Do you remember writing that portion of the report?

Mr. DURHAM. I do.

Mr. MORAN. It seems amazing to me that the FBI would not give consideration to the actual trustworthiness of certain information found in an investigation at this level. You write extensively on how the FBI elected to not interview Carter Page, George Papadopoulos, or Charles Dolan. Would interviews with those key individuals have helped to corroborate or dispute the information that the FBI was receiving?

Mr. DURHAM. Yes.

Mr. MORAN. Through your investigation, did you uncover any reason as to why the FBI elected to not interview these individuals?

Mr. DURHAM. I know that the people—operational people doing the investigation were told they could not interview Mr. Page until the seventh floor authorized it. Then the director didn't authorize the interview of Mr. Page until March 2017.

Mr. MORAN. You also noted that it took 75 days to pass the Steele Dossier to the Crossfire Hurricane team. Seems to me that is belying the ability of the investigative team to actually corroborate what the allegations were. Would you agree with that as well?

Mr. DURHAM. I would agree with that.

Mr. MORAN. Mr. Durham, in my opinion, a failure to corroborate information leads to holes in credibility. It also gives rise to potential corruption or actual corruption. The American people now know based on your report that during the peak of the Presidential Campaign, the FBI elected not to follow its own basic procedures and instead watch a politically motivated investigation into a leading Presidential candidate.

I am confident and hopeful that there are still many good agents within the FBI who are there to perform their sacred duty of protecting and serving our Nation that undertake investigations on a daily basis without regard to political affiliation. That's my hope. That's my belief.

Mr. DURHAM. That's my experience.

Mr. MORAN. Your report, Mr. Durham, shows that at least top FBI leadership in this case was politically motivated and did not follow longstanding procedures necessary for a proper criminal investigation. I heard you say to my colleagues on the left a little while ago, quote, "Nothing in the files would corroborate the claims." Another quote, "Not one single fact in the Steele Dossier has been corroborated."

It is amazing to me that we would go through a high-level investigation like this and fail to adhere to a basic principle of investigative procedures and that is corroborate the witness testimony and corroborate the evidence. With that, I yield my time. I thank you for your efforts on this.

Mr. MASSIE. [Presiding.] The gentleman yields back. Now, I'll recognize Ms. Ross from North Carolina for her questions.

Ms. ROSS. Thank you, Mr. Chair. Thank you, Mr. Durham for your endurance. You have cited and discussed the Justice Department's principles of Federal prosecution. I'd just like you to explain for the public what that is. What are those principles?

Mr. DURHAM. Sure. The general principles of Federal prosecution, as I've indicated, provide that Federal prosecutors should not bring criminal charges unless he or she believes that the evidence that will be admissible at trial is sufficient to prove the defendant's guilt beyond a reasonable doubt and that a jury can convict based on evidence. That if the conviction were obtained, then the conviction would be sustained on appeal or upheld on appeal.

Ms. ROSS. OK.

Mr. DURHAM. Those are the basic principles we operate under.

Ms. ROSS. Thank you very much. One major goal of the principles is to ensure that individuals' rights are, quote, "scrupulously protected." Is that correct?

Mr. DURHAM. That's correct.

Ms. ROSS. The principles also contain a limitation on identifying uncharged third parties publicly. Is that correct?

Mr. DURHAM. There's a limitation on that, yes.

Ms. ROSS. It states that,

In all public filings and proceedings, Federal prosecutors should remain sensitive to the privacy and reputation interests of uncharged third parties.

I'm just quoting it. Is that correct?

Mr. DURHAM. That is correct.

Ms. ROSS. Great. Do you believe that you adhere to this limitation in your prosecutorial filings in the Sussmann and Danchenko cases?

Mr. DURHAM. Yes.

Ms. ROSS. Now, that's very interesting because many legal scholars noted that in your filings you laid out not just the prosecution for the court to consider, but you appear to be alleging a conspiracy that you did not intend to prosecute. Rather than indicting Mr. Sussmann on the narrow charge of lying to the FBI, this is a charge which a unanimous jury of his peers acquitted him of. Your filing broadly alleges a vast Clinton conspiracy identifying various individuals and at least one of whom you never prosecuted.

After the Sussmann indictment was filed, on September 16, 2021, for example, President Trump's allies used the broad conclusions you allege to construct a political narrative damaging the reputations of uncharged individuals. In fact, on September 19, 2021, Eric Trump spoke with the *Washington Inquirer* treating these uncharged allegations as fact. The next day on September 20, 2021, Trump associate Kash Patel told *Fox News* that the indictment offers a good view into future charges, including what he called a very well laid out conspiracy charge that will envelope people in and around Hillary Clinton's Campaign. Did you read these interviews or are you aware of them?

Mr. DURHAM. I did not read them. I can imagine that's what people were saying. I did not read them. I don't read a lot of newspapers or listen to a lot of news.

Makes my life a lot easier.

Ms. ROSS. Had you known that was what was going to be done with the indictment, would you have used greater caution?

Mr. DURHAM. I think we took great care in drafting and crafting that indictment and did to the best of our ability comply with all the departments' policies and procedures regarding third persons. I think if you take a look at the indictment and any number of instances, for example, people's identities were masked. We didn't use a person's name.

Ms. ROSS. So, I'm just going to reclaim my time because I think that there were people who were implicated and there was not a narrow enough tailoring of the indictment. Then, in fact, after the February 11th filing in the Sussmann case, Donald Trump told *Fox News* that the conspiracy he claims you described but never prosecuted amounted to treason at the highest

If you read the filing and have any understanding of what took place and I called this a long time ago. You're going to see a lot of other things happening having to do with what really just is a continuation of the crime of the century.

This is such a big event. Nobody has seen anything like it. Given that kind of politicization of what you did, do you think that you could've exercised more caution again with respect to third parties?

Mr. DURHAM. I exercised my judgment under the guiding principles that I had and whether or not an indictment ought to be returned and decided on that basis. Did I give consideration to what Donald Trump might say about it? I would say that was not part of my consideration.

Ms. ROSS. Thank you, Mr. Chair. I yield back.

Mr. MASSIE. The gentlelady yields back. The gentleman from New Jersey is not recognized for his questions.

Mr. VAN DREW. Thank you, Mr. Chair. Mr. Durham, thank you for being here. I know it's been one heck of a slog. I wish that we could just stick to the matter at hand which is your report. It's been interesting. We've been all over the place.

Fidelity, bravery, and integrity, these are the words that have guided the FBI through countless generations. Dishonesty, deception, and corruption and I'm sad to say, historic contrast and unfortunately reality we now find ourselves in. A reality that has revealed a politicized, weaponized, and corrupted Federal Bureau of Investigation in desperate need in my opinion for complete restructuring.

One of the most egregious examples of dishonest that the Durham Report reveals relates to a critical piece on page 16 that summarizes a deeply troubling chain of events. Igor Danchenko who is instrumental in the formation of a Steele Dossier claim that one of his subsources was Sergei Millian, a Belarusian-American businessman and publicly known to be a Trump supporter. The report goes on to highlight that Danchenko claimed to have received an anonymous phone call from an individual he later claimed to be Millian.

On page 173, it is stated this call supposedly revealed, quote, "a well-developed conspiracy of cooperation between the Trump Campaign and Russian leadership" The kicker here? The kicker is Danchenko had never meeting nor spoke with Millian prior to this call and told the Crossfire Hurricane team that despite never actually meeting Millian, he recognized his voice from a YouTube video.

This blatant lie was taken at face value by both Christopher Steele and the FBI's Crossfire Hurricane investigation. Think about that. Everybody think about that.

Danchenko was a foreign agent who the FBI was paying by the way. We haven't talked about that much. Hundreds of thousands of your taxpayer dollars, tells a blatant lie which leads to four FISA applications and lays the foundation for the Trump-Russia collusion hoax. That's what it was.

You may not like it, but that's what it was. One of the greatest disgraces this country in my opinion has ever seen. Americans are literally paying the price for this corruption.

Such an egregious and intentional abandonment of the common procedures that FBI agents are supposed to follow truly encapsulates why so many Americans including myself are calling for complete restructuring of the FBI. There's a reason why now years later the country finds itself so divided. Mr. Durham, is it accurate to say the Crossfire Hurricane investigators made little to no effort to corroborate Danchenko's version of events relating to Millian?

Mr. DURHAM. That would be correct.

Mr. VAN DREW. Thank you. Is it accurate to say that despite not corroborating this information that Crossfire Hurricane still used the Millian accusation to bolster the Carter-Page FISA applications?

Mr. DURHAM. That information was used in the initial FISA application and the three renewal applications.

Mr. VAN DREW. So, the answer is yes?

Mr. DURHAM. Yes.

Mr. VAN DREW. Given the lack of effort by the Crossfire Hurricane investigators to validate Danchenko's assertions about Millian and their use of these unverified allegations in the Carter-Page FISA application, does this raise any legal or ethical concerns about the validity of these FISA applications?

Mr. DURHAM. I think it's been recognized by the department and certainly by the FISA Court to do it respective at least some of those applications. They would never have been authorized. So, it wouldn't have been granted had the information been disclosed.

Mr. VAN DREW. So, it did help in achieving FISA approval?

Mr. DURHAM. Without question.

Mr. VAN DREW. OK. We're getting into the real—these are the real issues, disinformation, bad people, moving forward, getting FISA applications, doing all that they did. I have one quick last question. Do you believe the FBI has been politicized and weaponized and is in need for complete restructuring?

I know I do. I know you have a softer version of it. I think too much happened. Too many bad things happened that you just can't move a few people around and make some minor changes.

I think you need some major changes. I also want to say there are many good people that work for the Department of Justice and work for the FBI. Proud to know them. These folks surely were not.

Chair JORDAN. [Presiding.] Gentleman's time has expired. The witness may respond if he chooses.

Mr. DURHAM. What I can say is that there were identified documented significant failures of a highly sensitive, unique investigation that was undertaken by the FBI. The investigation clearly re-

veals that decisions that were made were made in one direction. If there was something that was inconsistent with the notion that Trump was involved in a well-coordinated conspiracy with the Russians and that information was largely discarded or ignored. I think unfortunately that's what the facts bear out.

Chair JORDAN. The gentleman yields back. The gentlelady from Georgia is recognized.

Ms. MCBATH. Thank you, Mr. Chair. Thank you, Special Counsel Durham, for your time today. I yield the balance of my time to my colleague from California, Representative Adam Schiff.

Mr. SCHIFF. I thank you for yielding. One of my colleagues in the Republican side of the aisle took issue with my saying that the Trump Campaign invited Russian help, received Russian help, made use of it, and then lied about it. So, let's break this down.

Let's go to invited Russian help. Mr. Durham, you're aware of Donald Trump's public statements along the lines of, hey, Russia, if you're listening, hack Hillary's emails. You'll be richly awarded by the press. Are you aware of that?

Mr. DURHAM. I'm aware of that.

Mr. SCHIFF. You're aware that Mueller found that hours after he made that plea for Russian help, the Russians, in fact, tried to hack one of the email servers affiliated with the Clinton Campaign or family.

Mr. DURHAM. If that happened, I'm not aware of that.

Mr. SCHIFF. You're not—

Mr. DURHAM. It could very well. I just don't know.

Mr. SCHIFF. —aware of that in the Mueller Report? When you're saying you're not aware of evidence of collusion in the Mueller Report, it's because apparently you haven't read the Mueller Report every well if you're not aware of that fact. Let me ask you about something else.

Mr. DURHAM. Sure.

Mr. SCHIFF. Don Jr. when offered dirt as part of what was described as Russian government effort to help the Trump Campaign said, "if it's what you say, I love it." Would you call that an invitation to get Russian help with dirt on Hillary Clinton?

Mr. DURHAM. The words speak for themselves, I supposed.

Mr. SCHIFF. I think they do. In fact, he said, especially late in summer. Late in summer was around when the Russians started to dump the stolen emails, wasn't it?

Mr. DURHAM. Late in the summer, there was information that was disclosed by WikiLeaks in mid to late July. I think there had been some in June, and then there was maybe some later in October was it, I think. Don't hold me to those dates.

Mr. SCHIFF. This gets to the receipt of help, second thing I mentioned, receiving Russian help. The dumping of those emails by the way just as forecast by what Papadopoulos told the Australian diplomat. That is that the Russians would help by leaking dirt anonymously through cutouts like WikiLeaks and DCLeaks.

Mr. DURHAM. I don't think that's exactly what he told the Australians.

Mr. SCHIFF. Well, he said that he was informed that the Russians could anonymously release this information, right?

Mr. DURHAM. Release what?

Mr. SCHIFF. By anonymously releasing information damaging to Hillary Clinton, right?

Mr. DURHAM. I think if you read what's in the cable and what's in the report as to what the diplomats reported there was a suggestion of a suggestion that the Russians could help. They have damaging information as to Ms. Clinton.

Mr. SCHIFF. By releasing it anonymously, right? That's exactly what happened, isn't it?

Mr. DURHAM. I don't—

Mr. SCHIFF. You really don't know?

Mr. DURHAM. I'm not sure—when you say exactly what happened—

Mr. SCHIFF. Well, the Russians released stolen emails through cutouts, did they not?

Mr. DURHAM. There were emails that were released by WikiLeaks.

Mr. SCHIFF. It's a very simple question. Did they release information, stolen information, through cutouts, yes or no?

Mr. DURHAM. I'm not sure that—

Mr. SCHIFF. You really don't know the answer to that? The answer is yes, they did. Through DCLeaks—

Mr. DURHAM. In your mind, it's yes.

Mr. SCHIFF. Well, Mueller's answer is yes. More important than mine, Mueller's answer was yes. Now, that information, of course, was helpful to the Trump Campaign, wasn't it?

Mr. DURHAM. I don't think there's any question that Russians intruded into hacked into the systems.

Mr. SCHIFF. Well, I just want to get—

Mr. DURHAM. They released information.

Mr. SCHIFF. That was helpful to Trump Campaign, right?

Mr. DURHAM. The conclusion in the ICA and in the Mueller investigation was that the Russians intended to assist—

Mr. SCHIFF. Can you answer my question, Mr. Durham? That was helpful to Trump Campaign, right?

[Crosstalk.]

Mr. SCHIFF. Trump made use of that, as I said, didn't he, by touting those stolen documents on the campaign trail over 100 times?

Mr. DURHAM. Like I said, I don't really read the newspapers or listen to the news.

Mr. SCHIFF. You were totally—

Mr. DURHAM. I don't find them reliable, so I don't know that.

Mr. SCHIFF. Mr. Durham, you were totally oblivious to Donald Trump's use of the stolen emails on the campaign trail more than 100 times?

Mr. DURHAM. I'm not aware of that.

Mr. SCHIFF. Did that escape your attention?

Mr. DURHAM. I am not aware of that.

Mr. SCHIFF. Are you aware of the final prong that I mentioned, that he lied about it, that the Trump Campaign covered it up? It's the whole second volume of the Mueller Report. I hope you're familiar with that.

Mr. DURHAM. Yes, that's a section of the report, the second volume relating to their obstruction of justice.

Mr. SCHIFF. Well, thank you for confirming what my Republican colleague attacked me about. He also criticized the use of the word collusion. Apparently giving private polling data to the Russians while the Russians are helping your campaign, they don't want to call it collusion.

Maybe there's a better name for it. Maybe they would prefer we just call it good old fashioned GOP cheating with the enemy. Maybe that would be a little bit more accurate description.

Mr. DURHAM. Yes.

Mr. SCHIFF. Because this is what happened. They seem allergic to calling it for what it is. I yield back.

Chair JORDAN. Gentleman yields back. Gentledady from Indiana is recognized.

Ms. SPARTZ. Mr. Durham, I recall excerpts from your report describing the actions in Trump's case. You call them sobering. I call them alarming.

Rapid opening, made no sense, no sound reason, no explanation, difficult to explain, no followup on corroborated evidence, unevaluated information, rumors and speculation, thin intelligence, and exculpatory statements were not included.

Misrepresentation of the recorded conversation, noticeable departure, not using typical tools, serious lack of rigor, choose to ignore red flags, unwarranted delay, ignoring all recommendation to disclose intelligence, not informed.

Inconsistent, did not give proper attention to facts, didn't adequately examine, did not receive satisfactory explanation, was not informed, never corrected assertion, never advised, never been apprised, and never give proper consideration.

No action, failure to make known, failure to act, failure to follow logical leads, failed to interview, failed to revise the paperwork, failure to take even the basic steps, failure to determine, failure to provide, and failure to integrate.

Failure to fully explore the materials, failure to critically analyze information, failure to properly consider, failure to correct errors, ignored contrary evidence, was never brought to the attention, and intentionally falsified material documents.

Fabricated delegation, omission of material fact, numerous significant facts, 17 material errors and omissions, inaccurate representation, deliberately shut down, told not to write and provide findings, orally incorrectly noted, and missed opportunity.

Omitted email, omitted information, did not corroborate, never sought to obtain records, resisted efforts, conflicted recollection, failure of recollection, not a single FBI employee, changing assessment, and key players declining to be interviewed.

Lacks sufficient probable cause, frustration on the part of investigators, sense of betrayal, highly unusual instruction, director was really, really shocking, and the list goes on.

Dolan with extensive connection to the Democrat Party had access to senior Russian officials and Putin's think tank was never interviewed. Request was denied. Case was never open.

On an instruction to cease all research and analysis related to Dolan. Leadership directed to dedicate no resources to Dolan. FBI interviewed hundreds of individuals, yet they did not interview Dolan.

[Inaudible] failure to properly consider prior Russian counter-espionage case, FBI's validation unit raise serious concern. Management ignored and resisted nearly all recommendations and supported continued payment to him.

[Inaudible] Special Envoy Secretary Kerry to lead it, who worked as lobbyist for Russian oligarch Deripaska with ties to Putin. Disseminated the dossier to U.S. officials and destroyed his record. Deripaska was allowed to buy, control, and package in uranium company with extensive mining projects in the United States approved by Secretary Clinton's State Department in 2010.

The former head of the FBI's Counterintelligence Division in New York, McGonigal, involved with this case recently was accused of taking money from Deripaska. Clinton case from your report stands in stark contrast, lack of action, considerable caution, never open inquiry, in limbo, linger, defensive briefing, corroborate information, no effort to investigate cease and desist due to decline to issue subpoenas.

Your concerned with FBI's reputational harm, but it appears to me using [inaudible] lexicon, this case has all classic earmarks of collusion and cover-up. However, not one person went to jail, and Clinton Campaign operatives like Jake Sullivan, now have the highest national security position in our government who's actually driving a very slow response to the Russian invasion of Ukraine. So, you believe that justice has been served?

Mr. DURHAM. I can speak to what my team and I did, which was to try to—

Ms. SPARTZ. Just tell me yes or no. Do you believe it has been served?

Mr. DURHAM. We try to serve justice to the best of our ability. I can speak on that.

Ms. SPARTZ. You also State Russian intelligence investigation for the Clinton Campaign before Crossfire Hurricane was open. Still subsources could have been compromised by Russia. However, FBI have not considered the possibility that there are still reports of Russian disinformation. Is that correct?

Mr. DURHAM. We're talking about Mr. Danchenko?

Ms. SPARTZ. No, just you said—this is in your report. You say that Russian FBI never considered the possibility that still reports of Russian information and [inaudible]. Is that correct? Do you know why?

Mr. DURHAM. I don't know why.

Ms. SPARTZ. OK.

Mr. DURHAM. I think that's correct.

Ms. SPARTZ. OK. Another one.

[Inaudible] Stefan Halper invited Page at the request of FBI to conference in UK, created Manafort-Page conspiracy allegation in direct consequence his recordings. FBI never fully transparent. Recording misstated that Crossfire Hurricane significant [inaudible] on Page-Session conversation. He wouldn't [inaudible] subpoena [inaudible] case in 1980's. In your report, you were able to establish the CHS intentionally lied to the FBI, but we are not able to establish. Why and what you did?

Mr. DURHAM. OK. I'm not sure I—

Ms. SPARTZ. CHS-1.

Mr. DURHAM. I'm sorry?

Ms. SPARTZ. CHS-1, you said that you were not able to establish that CHS-1 intentionally lied to the FBI. What did you do or didn't do to establish it—not able to establish?

Mr. DURHAM. Let me see. This is on page 89?

Chair JORDAN. Gentelady's time has expired. We'll let the witness answer. I think she's referring to Confidential Human Source No. 1, Mr. Durham.

Ms. SPARTZ. Yes, you said you were unable to establish. It's at the end of your report. It's on page 243.

Mr. DURHAM. 243? OK.

Ms. SPARTZ. Yes.

Mr. DURHAM. So, the context of that is in the Steele reporting, one of the pieces of information that had been used in the dossier was that Mr. Page allegedly—

Ms. SPARTZ. Did you interview him? What did you do to establish?

[Crosstalk.]

Chair JORDAN. Gentelady's time is expired. We'll let the witness answer the question. We are going to have to stick close now—closer to the five-minute rules because they're holding votes on the floor until we finish today's business.

Mr. DURHAM. OK. So, I can—

Chair JORDAN. You can answer really quick, sure.

Mr. DURHAM. So, one of the things in the Steele Report was that Carter Page allegedly had met with two sanctioned Russians when he was in Moscow in July. We are able to establish that this was not the truth. I mean, look at the evidence.

That's not true. The FBI should've been able to detect that and they didn't detect it. That was a meeting that supposedly occurred in July 2016, or meetings, one of them with Mr. Sessions.

Later, when the FBI had opened Crossfire Hurricane and in December 2016, CHS-1 met with Mr. Page, again, recorded a conversation with Mr. Page. He several days later told his handling agent that, oh, I forgot to tell you that Page said that Page's most recent trip to Russia where he worked or had business interest, he met with Sessions. The FBI when you look at the communications in the FBI, they're saying, that sounds kind of screwy here, but we should look at that.

They apparently never looked at that. We went and got the recording of that conversation that had occurred between CHS-1 and Mr. Page in December 2016. Page never said that he had meet with Sessions on his most recent visit.

Mr. IVEY. Mr. Chair, that overruns—I appreciate the fact you gave him a chance—

Chair JORDAN. You're definitely going to get asked your question. The Republicans will be squeezed. I think the gentelady's times has expired. We'll now go to the gentelady from—I appreciate your answer, Mr. Durham. I think we understand what you're headed. The gentelady from Missouri is recognized for five minutes.

Ms. BUSH. Thank you. St. Louis and I are here today to set the record straight about this political investigation conducted on behalf of the twice impeached, twice-indicted, former White-supremacist-in-chief Donald Trump. From the start, this entire investiga-

tion has been an attempt to undermine the findings of the Mueller investigation and distract the people of this country from Donald Trump's corruption. That's why it began just days after the release of the Mueller Report. That's why four years later and no matter how much my colleagues across the aisle claim otherwise, the Durham investigation did not exonerate Mr. Trump or any of his associates.

Mr. Durham, I'd like to briefly discuss a few of the different Trump-related items that your report does not touch on. In the interest of time, you can just simply answer yes or no. The Mueller Report found that Trump Campaign Chair Paul Manafort knowingly shared internal polling data and information on battleground States with a Russian spy. Did you find this to be untrue?

Mr. DURHAM. I did not find that to be untrue.

Ms. BUSH. Thank you. Thank you for that. The Mueller Report found that Mr. Manafort shared this internal polling data with a Russian asset with the expectation it would be shared with Putin-linked oligarch Oleg Deripaska. Did you find this to be untrue?

Mr. DURHAM. I didn't find it to be untrue, but I didn't look at it either.

Ms. BUSH. The Mueller Report found that Russian military hackers first targeted Hillary Clinton's personal office within hours of Trump's infamous July 27, 2016 press conference, which we've heard already where he said, "Russia, if you're listening, I hope you're able to find the 30,000 emails that are missing." Did you find this to be untrue?

Mr. DURHAM. When you say, this, what? Mr. Trump clearly said that. It was publicly recorded.

Ms. BUSH. Did you find—the Mueller Report found that Russian military hackers first targeted her personal office within hours of the infamous press conference where Trump said, "Russia, if you're listening, I hope you're able to find the 30,000 emails."

[Crosstalk.]

Ms. BUSH. Did you find this to be untrue?

Mr. DURHAM. I would not—I did not find that to be untrue.

Ms. BUSH. OK. Thank you. So, again, your investigation, Mr. Durham, did not undercut the basic findings of the Mueller Report. Those who read your report as exonerating Donald Trump are willfully deluding themselves and the people of this country.

Let's take a step back for a minute. In the chaos created by all these conspiracy theories and other propaganda amplified by right-wing hate machine, the one we continue to hear, a very simple point is getting lost. Republicans will do anything, say anything, and spend any amount of money to hide the basic truth that their leader is a criminal, corrupt, narcissistic buffoon.

That's why we're still talking about Carter Page. That's why anyone even knows who John Durham is. That's why Republicans are still carrying on Mr. Durham's work by launching frivolous investigations that end with them embarrassing themselves, by propping obvious lies. It has always been about gaslighting the country.

So, instead of holding these farcical hearings about farcical investigations, I urge my colleagues, my Republic colleagues, to get serious and start legislating on behalf of their constituents instead of

helping the twice impeached, twice indicted Donald Trump further evade accountability. Thank you and I yield back.

Chair JORDAN. Gentlelady yields back. The gentleman from Texas is recognized.

Mr. NEHLS. Thank you, Mr. Chair. Mr. Durham, I thank you for being here today and thank you for your tireless work on this, as you called it, a very sobering report. The American people were forced to endure years of the Trump-Russia probe and for what?

I'll tell you why. It's because my Democrat colleagues across the aisle, the Clintons, the dishonest mainstream media, and the rest of the deep-state have been terrified of Donald Trump from the beginning. Their hatred and fear remain today.

From the 34-count felony indictment from the radical DA in Manhattan to the most recent 37 count felony indictment in Mar-a-Lago that just won't stop. They won't stop. Mr. Durham, I want to walk through a few things for the American people in this 300-page report on Crossfire Hurricane.

For those that are watching who don't know, this was the codename for the investigation undertaken by the FBI into whether the Trump Campaign was coordinating with Russia to interfere in the 2016 Presidential Election. Mr. Durham, it says on page 9, at the direction of FBI Deputy Director Andy McCabe and FBI Deputy Assistant Director for Counterintelligence Peter Strzok, Crossfire Hurricane was opened immediately. Is that correct?

Mr. DURHAM. That's correct.

Mr. NEHLS. First, let's talk about who these two characters were. On page 9 of your report, it says, "Strzok and Deputy Director McCabe, Special Assistant, have pronounced hostile feelings, hostile feelings toward Trump." In text messages before and after the opening of Crossfire Hurricane, the two had referred to him as loathsome, an idiot, Donald Trump an idiot, someone who should lose to Clinton 100 million to zero.

Strzok once wrote, "we'll stop mini-Trump from becoming President." So, here we have these two leaders and the FBI. Strzok clearly expressing his hatred toward Trump from the beginning, opening an investigation six months before the 2016 election. Where are these two guys now?

McCabe, he's been a contributor at CNN, the Clinton News Network, since 2019. Strzok is an expert on the Mar-a-Lago raid. Strzok is an expert on the Mar-a-Lago raid.

Both continue to dispel lies to the American people. On page 10 in your report,

... within days after opening Crossfire Hurricane, the FBI opened full investigations on members of the Trump Campaign team.

The FBI then began working on requests of the use of FISA authorities against Carter Page. Is that correct?

Mr. DURHAM. That's correct.

Mr. NEHLS. Folks, let me highlight who this American hero is. Carter Page was painted as an alleged Russian agent. Carter Page served his Nation honorably. He was a Naval Academy graduate and the FBI spied on Carter Page through the use of FISA authority. Sir, do you believe that this FISA warrant against Carter Page was flawed?

Mr. DURHAM. Yes.

Mr. NEHLS. Mr. Durham, Section 702 of FISA expires this year. I'm sure you're familiar with FISA and Section 702. Just for the people listening at home, FISA stands for the Foreign Intelligence Surveillance Act which is created in 1978.

In 2008, FISA 702 was added. Section 702 was created for us to have the authority to spy on non-U.S. citizens, non-U.S. citizens. Mr. Durham, we all know that Carter Page is an American citizen who served his Nation honorably.

Yet, the FBI conducted surveillance, including wire taps based on falsified information provided by agents in the FBI. Mr. Page was an honest American, innocent man. Mr. Durham, the FBI obviously abused its FISA authority.

They went after Carter Page. It is my intent and I hope the intent of my colleagues that we do not reauthorize Section 702 because the FBI cannot be trusted. Finally, I want to talk about Charles Dolan and Mr. Danchenko who was the main source of the Steele Dossier.

Dolan had played multiple roles in the Democrat National Committee, Democrat Party. He worked on both Clinton Campaigns, Bill and Hillary. He was working with them, friends.

On page 15 of your report, it says that in the Summer and Fall of 2016, Dolan and Danchenko travel to Moscow in connection with a business conference. The business conference was held at the Ritz-Carlton in Moscow which, according to the Steele Reports, was allegedly the site of salacious sexual conduct on the part of Trump. Parents, if you're watching, earmuff your kids now, folks. Put earmuffs for your children.

Mr. Durham, was this salacious sexual conduct—what is that?

Mr. DURHAM. The allegation was that—

Mr. NEHLS. OK. Don't answer it. I will.

Mr. DURHAM. OK.

Mr. NEHLS. Think about this, America. In the game of politics, it gets dirty and nasty. The people will say anything to beat their opponent. This is the government doing it. Even the Director of the FBI, Comey, said, "it's possible Trump was with hookers peeing on each other." Christopher Steele said an infamous Trump pee tape probably exists. Alleged pee tape incident was the only sex Trump party in Russia.

You want to irritate the suburban mom at home, five months before an election, tell them the Republican leading candidate is peeing on prostitutes. We are aware of the Member of this Committee having an alleged affair with a Chinese spy I refer to as Yum Yum. This is a new low for anyone. I would hope Mr. Swalwell would agree with me. Imagine if somebody would've said, and taken this step further, Mr. Swalwell was peeing on Yum Yum.

Chair JORDAN. Time of the gentleman—

Mr. NEHLS. It's unacceptable. This has got to stop. The FBI needs to—

Chair JORDAN. Time of the gentleman has expired.

Mr. NEHLS. I yield back.

Chair JORDAN. The gentleman—

Mr. IVEY. Mr. Chair, I ask that the last comments be stricken with respect to Mr. Swalwell.

Mr. NEHLS. My point is this. If you're going to say the President of the United States was in Russia peeing on prostitutes or vice versa, I'm just saying could you imagine how that would affect any Member of this Committee. It would affect you. You're going to pick up a primary opponent, I'll guarantee that.

Mr. IVEY. That's a little different than making a specific allegation about a specific individual on this particular Committee.

Chair JORDAN. If I could, the gentleman from Maryland. The Chair has been very lenient in things being said. Previous speaker from the Democrats called the former President of the United States all kinds of things, and we sat here and let it go.

Probably should've said something then. Maybe everyone should be careful about what they say. The gentleman from Maryland is recognized for his five minutes. We have to move fast.

Mr. IVEY. Before we get to that, Mr. Chair, those rules don't cover—the rules that govern this Committee don't cover statements about people—

Chair JORDAN. I'm talking about decorum in—

Mr. IVEY. —who are not on the Committee.

Chair JORDAN. I'm just talking about general decorum.

Mr. IVEY. They do cover statements about Members of the Committee and Members of the House.

Chair JORDAN. I've admonished the gentleman, he should watch what he says, just like other Members should watch what they say about the former President of our country. Gentleman from Maryland is recognized for five minutes of questioning.

Mr. IVEY. The former President is not a Member of the Committee—

Chair JORDAN. I know that.

Mr. IVEY. —and is not protected by the House rules—

Chair JORDAN. I understand that.

Mr. IVEY. —that govern these kinds of statements.

Chair JORDAN. I understand. The gentleman is recognized for five minutes to question the witness.

Mr. IVEY. Well, Mr. Durham, good afternoon. I appreciate you being here, although I'm sure as you expressed earlier there are probably other places you'd rather be. I did want to followup on your prior testimony about the trip that you and the Attorney General Barr took to Italy. I wanted to ask you to elaborate on that. I take it that was at the point to you becoming Special Counsel, but not by much. Is that right?

Mr. DURHAM. It was prior to that. I think it was a while before.

Mr. IVEY. The dates I've got, just to help out, August 15th and September 27, 2019. Does that sound about right?

Mr. DURHAM. Yes, and I was appointed Special Counsel in October 2020, so more than a year before that.

Mr. IVEY. OK. Why did you go on that trip?

Mr. DURHAM. I want to be careful as to what I'm authorized.

Mr. IVEY. Sure.

Mr. DURHAM. I'm here speaking outside the report. I think Members are probably aware of the fact that there was a particular person who supposedly have provided or had made statements to Papadopoulos. Papadopoulos, not when he talked to the Australians, but when he was interviewed by the FBI, attributed infor-

mation he had to this particular person who's a European. There's a reason to believe that person lives in Italy or had been in Italy.

Mr. IVEY. All right. Let me ask just to followup on that. Why did the Attorney General come with you to investigate that?

Mr. DURHAM. This is my understanding. These weren't communications I had. The Italian authorities wanted to deal with a person at an appropriate level, not with me. So, that's what that was about. That's my understanding.

Mr. IVEY. All right. Was it unusual for the Attorney General of the United States to go on trips to interview witnesses, whether overseas or even domestically?

Mr. DURHAM. Yes, he didn't—to my knowledge, the Attorney General didn't interview any witnesses. My understanding was that in accordance with what the Italian authorities wanted, he was going to go over—did go over and introduce me to them so that they would work with us to see if they could be of assistance in our locating a particular witness.

Mr. IVEY. All right. So, he personally traveled to Italy in the pursuit of this investigative lead?

Mr. DURHAM. In opening the door for our group—

Mr. IVEY. To pursue an investigative lead. All right. Then you said you'd been at the Department of Justice for 40 years?

Mr. DURHAM. I have been.

Mr. IVEY. All right. Do you recall the Attorney General of the United States ever taking a step like that to travel overseas in pursuit of a lead and an investigation?

Mr. DURHAM. I don't know. It may happen all the time. I can only talk by my experience.

Mr. IVEY. Fair enough. Fair enough. Fair enough. I take it that whatever investigation was done over there in Italy didn't lead to any type of prosecution or convictions in your investigation?

Mr. DURHAM. That's correct.

Mr. IVEY. All right. I want to yield the remainder of my time to Mr. Schiff.

Mr. SCHIFF. Mr. Durham, did you seek communications pertaining to someone named Mr. Bernard from a Federal District Judge?

Mr. DURHAM. I'm not—assuming that prosecutors go to judges for certain kinds of orders there, typically sealed proceedings. I'm not speaking—

Mr. SCHIFF. Did you seek an order to—

Mr. DURHAM. I'm not going to comment on anything that I believe is under seal.

Mr. SCHIFF. Did you seek a court order to obtain personal communications returning to Mr. Bernard?

Mr. DURHAM. I'm not going to speak beyond the report and that point. I'm not going to violate any—

Mr. SCHIFF. Were you—

Mr. DURHAM. —sealing orders.

Mr. SCHIFF. I don't think it violates any sealing orders to tell us if you sought personal communications by court order. Did you?

Mr. DURHAM. Again, beyond the report—

Mr. SCHIFF. Well, let's not even—

[Crosstalk.]

Mr. DURHAM. —subject to sealing orders—

Mr. SCHIFF. Did you seek court orders to obtain particular records? Were you denied by the judge?

Mr. DURHAM. I think the question is intended to suggest that I don't want to disclose something I'm uncomfortable with.

Mr. SCHIFF. The question is what I asked you, Mr. Durham. You get to give the answer, not the question. The question is, did you seek a court order to get records from a judge pertaining to private communications? Were you turned down by the judge for lack of a sufficient basis?

Mr. DURHAM. I told it's beyond the report.

Mr. SCHIFF. Yes or no?

Mr. DURHAM. I don't think I'm authorized to talk about, and I'm not going violate—

Mr. SCHIFF. It's not beyond the report. It's not beyond the report.

Mr. DURHAM. Do you see anything in the report about that?

Mr. SCHIFF. Yes. Did you seek an order, and were you turned down? Then did you seek to go around the court order by going to the grand jury?

Mr. DURHAM. No. Would you like to know what that was about?

Mr. SCHIFF. What I would like to know, Mr. Durham, is does Ms. Dannehy who resigned from your team raise ethical concerns about your trying to go around the court order?

Mr. DURHAM. To my knowledge, no.

Mr. SCHIFF. Then why did she leave?

Mr. DURHAM. I told you before previously that I have the highest regard for Ms. Dannehy. Ms. Dannehy and I are friends. Ms. Dannehy—

Mr. SCHIFF. You know why she left, right?

Mr. DURHAM. I'm not sure—

Mr. SCHIFF. You do know the answer to the question. You know why she left, right?

Chair JORDAN. Time of the gentleman has expired. The Chair now recognizes—

Mr. IVEY. Mr. Chair, if I might ask unanimous consent to offer two articles for the record. The first is by Charlie Savage, Adam Goldman, and Katie Benner, "How Barr's quest to find flaws in the Russian inquiry unraveled."

Chair JORDAN. Without objection.

Mr. IVEY. Then the second is Anna Momigliano, sorry, "Italy did not fuel U.S. suspicion of Russian meddling, Prime Minister says," both from *The New York Times*.

Chair JORDAN. Without objection. The gentleman from North Carolina is recognized for five minutes.

Mr. BISHOP. Mr. Durham, I've got a number of things I want to ask you. Do you desire to address what was being raised just now in fairness?

Mr. DURHAM. Yes, apparently, Mr. Schiff's questions are from an unsourced *The New York Times* article written by Charlie Savage. I don't believe there's anything in that article that is attributed to Ms. Dannehy in my recollection. I could be mistaken. My recollection is that Ms. Dannehy did not comment or wasn't quoted anyway in that article. So, to the extent that *The New York Times* wrote an article suggesting certain things, it is what it is.

Mr. BISHOP. What Danchenko's status as a paid confidential human source concealed from you for any period of time?

Mr. DURHAM. I'm not sure it was concealed. We found that out. Once—

Mr. BISHOP. When did you learn about it?

Mr. DURHAM. When we started to, the investigation and how long it took for the FBI to identify the principle subsource and why the principle subsource wasn't identified earlier. That's when we came across Danchenko. We then asked the Bureau for—we found out he was a confidential human source. We asked the Bureau for his informant file. That's when we gleaned that information.

Mr. BISHOP. OK. So, it was from his informant file once you got that from the FBI. Was there any delay in furnishing that to you?

Mr. DURHAM. Not that I recall, no.

Mr. BISHOP. Do you have any recollection—you were investigating you said from May 2019, he was a CHS until October 2020?

Mr. DURHAM. Yes.

Mr. BISHOP. Do you know when in that period of time roughly you learned that he was a CHS?

Mr. DURHAM. Probably halfway through there. I'm not certain.

Mr. BISHOP. OK. Why didn't you interview him while he was a paid source for the FBI?

Mr. DURHAM. So, with respect to Mr. Danchenko, he was interviewed by the Bureau in February 2017. We had brought it to the attention of the new administration and the FBI. Mr. Danchenko's circumstances including the prior espionage case that they never resolved or addressed.

Mr. BISHOP. Right. I understand all those details. I'm asking why you didn't interview him.

Mr. DURHAM. So, when we were dealing with that section, Mr. Danchenko was represented by counsel. Mr. Danchenko as you may know in the normal course, you have to advise people whether they're subjects or targets of investigations. We did not arrive at a point where we could interview Mr. Danchenko.

Mr. BISHOP. Now, FBI made Danchenko a CHS on March 7, 2017. After the factual predicate for Crossfire Hurricane in the Steele Dossier or had collapsed in January 2017 in his interview because he could not corroborate the dossier. He revealed to the FBI that he was not a Russian based source nor did he have a high-level network of sources.

The next day, March 8th, the FBI finalized talking points drafted by Lisa Page on direction of Andrew McCabe for use in briefing the Gang of Eight in Congress. Congress was briefed prior to Director Comey's testimony on March 20th. Attorney General Barr told the Nation December 2019 that you were examining the continuation of the investigation beyond the January collapse of the supposed factual basis. Looking at irregularities, misstatements, and omissions, yet your report makes no mention of the March 8th talking points prepared for Congress. Why?

Mr. DURHAM. I'm aware that there were talking points. It just was part of the crux of the proportion of what we're reporting on.

Mr. BISHOP. I want the clerk to put up on the screen what is marked #7 while I'm asking you this question. These talking points

emerged into public as a defense exhibit in the Sussmann case. They contained lurid allegations about Manafort operating high-level contacts with the Kremlin through Carter Page, that Steele had a primary subsource who was Russian-based.

The primary subsource had a network of high-level Republican subsources. Same garbage that Danchenko had debunked in his January interview, these talking points were circulated among senior FBI leaders and Department of Justice leaders, more than a dozen. Did you interview them all about how this could occur or consider this material as the basis of prosecutable offenses?

Mr. DURHAM. We identified and interviewed many people in the FBI. I guess I would have to know who this particular email was circulated to, to be able to tell you whether we interviewed each of those persons or not.

Mr. BISHOP. Last point, I guess, because I'm about out of time, you identified the failure of the FBI to interview Dolan as sort of inexplicable, totally agree. As I go through your report and look, there are people who declined to be interviewed, not only Dolan, Danchenko, Comey, McCabe, Priestap, Strzok, Page, Glenn Simpson, among others. Seems inexplicable to me that you didn't compel their testimony. Can you explain that?

Mr. DURHAM. Sure. First, let me make it clear that it is as disappointing, perhaps more disappointing to me and my colleagues that these people would not agree to be interviewed. I know some of them had a lot to say publicly. They refused to be interviewed by our folks.

I'm not going to speak to any particular person because I don't want to violate any rules. I'm going to give you the general kinds of considerations that go into these things. First, the only way in which you can compel as it were a person's testimony would be to get a court order after somebody asserted their Fifth Amendment privilege.

So, one factor, there are multiple factors. One factor is that a grand jury subpoena doesn't give a Federal prosecutor the authority to simply force people to talk about things that the prosecutor or this instance the investigative reviewers might be interested in. To properly use a grand jury subpoena, you need to have an active grand jury investigation that's ongoing and a reasonable belief to believe that the person you want to have come in has relevant information about that information.

Otherwise, you run up against claims of grand jury abuse or claims of trying to set a perjury trap or other bad faith reasons. So, you can't just subpoena people to make them talk. You can subpoena people when you believe they have relevant information. So, that's a factor.

You also take into consideration if a person has previously refused to cooperate. They won't cooperate with you on matters, even matters that they previously talked about. On prior occasions, as people have repeatedly said, I don't recall, I don't remember, and so forth and so on.

You have to make the prudential judgment, well, OK, if you were to subpoena a person because you can make an argument that they have information that might be relevant to the investigation, is it going to be worth the effort to have them come in and then repeat-

edly say, I don't recall, I don't recall? You look at the most sensitive piece of information you all saw in classified information, right, that source. Mr. Comey was asked about that in a Congressional hearing under oath, and he didn't recall. So, you make the decision, OK, are we likely to get something or not.

Ms. BALINT. Mr. Chair.

Mr. DURHAM. We over?

Chair JORDAN. Yes.

Mr. DURHAM. All right. Thanks for—

Chair JORDAN. Gentlelady from Vermont, our newest Member, is recognized for five minutes.

Ms. BALINT. Thank you, Mr. Chair. Mr. Durham, thanks so much for being here. I know we've been at this for hours now, so I'll get right to it.

Nothing in the report that I've heard so far today that I've read exonerates Donald Trump. You didn't find that his campaign did not overtly flirt with Russia. You didn't find that he did not attempt to overturn the 2020 election.

You also cannot exonerate Donald Trump for the things he does in the future obviously, just as you cannot control the agenda of Congress or what we do here in our hearings under Chair Jordan. Now, Mr. Durham, I don't necessarily agree with the origins of your investigation, nor the conclusions that you reach in the report. I do absolutely respect your position as Special Counsel and the actions of the DOJ as an independent entity. So, Mr. Durham, I think it's really important for us to establish do you agree that it's important for the Justice Department to be independent from the rest of the Executive Branch?

Mr. DURHAM. Obviously, the Department of Justice plays some role in connection with—

Ms. BALINT. It must be independent?

Mr. DURHAM. —the department decisions.

Ms. BALINT. Must have some independence?

Mr. DURHAM. Right.

Ms. BALINT. It was important to you that Attorney General Garland did not interfere with your Special Counsel investigation, correct?

Mr. DURHAM. Correct.

Ms. BALINT. In fact, as we mentioned earlier, you thanked him for giving you the latitude to operate without his involvement or interference, correct?

Mr. DURHAM. Correct.

Ms. BALINT. Donald Trump has consistently eroded the barrier between the DOJ and the rest of the Executive Branch. During his administration, Trump interfered in Mueller's prosecutions such as when he criticized Roger Stone's sentencing recommendations as, quote, "horrible and very unfair," which resulted in the DOJ overturning its recommendation and all four career prosecutors handling the case, actually withdrew within hours of that decision for ethical objections. Are you familiar with the Roger Stone sentencing recommendations? Do you follow that at all?

Mr. DURHAM. I'm sorry, the Roger Stone sentencing recommendation?

Ms. BALINT. Yes.

Mr. DURHAM. No. I know there was one made. I don't recall what it was.

Ms. BALINT. OK. So, regardless of the sentencing recommendations, is it appropriate for any President to interfere with a Special Counsel's prosecutions?

Mr. DURHAM. No, the Special Counsel is supposed to be independent of the Department of Justice.

Ms. BALINT. That's right. Not appropriate. Never appropriate. Donald Trump has promised to do more of this if he's reelected. He has said it publicly on numerous occasions. So, Mr. Trump, should the DOJ continue to operate independently from the President, again, any President, yes or no?

Mr. DURHAM. I'm sorry. Can you just repeat that one?

Ms. BALINT. Should the DOJ continue to operate independently from the President, yes or no?

Mr. DURHAM. Yes, the Department of Justice should operate independently.

Ms. BALINT. Thank you, Mr. Durham. As I said, Donald Trump has made it clear that if he is reelected, he wants to use the DOJ to go after his political enemies regardless of the facts. He has shown that he is willing to dismantle American democracy if it will put him on top.

He has demonstrated his willingness to do this as President. He's promised publicly to continue to do this if he is reelected. Taking apart our institutions is a refrain that we have heard over and over again from some of my Republican colleagues.

We even have seen a Subcommittee created under Chair Jordan that is essentially tasked with rooting out examples of our government being weaponized. Those branches of government and those agencies within government that are trying to hold people accountable should be dismantled. I think they're essentially being accused of weaponizing specifically because they're choosing to hold people accountable.

I find that deeply disturbing as an American. I think we all should be alarmed by this trend. I yield back.

Chair JORDAN. Gentlelady yields back. Gentleman from Texas is recognized.

Ms. BALINT. Mr. Chair, if I could. I have some documents to ask to be—

Chair JORDAN. If you do it really quickly. They're going to call votes. We want to get moving.

Ms. BALINT. Yes. I ask unanimous consent to enter into the record William Barr's February 6th letter.

Chair JORDAN. Without objection.

Mr. BALINT. I ask unanimous consent to enter into the record Order No. 4878—from October 19, 2020.

Chair JORDAN. Without objection.

Ms. BALINT. Thank you, Mr. Chair.

Chair JORDAN. Gentleman from Texas—

Mr. DURHAM. Mr. Chair, could I just add one thing?

Chair JORDAN. Sure.

Mr. DURHAM. I'm unsure that I understood your question. When you say the department should operate independently of the White House, and I think in investigations and so forth and so on, that's

absolutely true. The Department of Justice obviously plays a role in, and the Executive Branch of the government represents the President on occasion and so forth and so on.

So, I was talking about should the White House interfere with criminal investigations and the like. The answer is absolutely no. In terms of operating completely independent of the White House, that would not be accurate.

Chair JORDAN. They're part of the Executive Branch. Gentleman is recognized.

Mr. ROY. I thank the Chair. Mr. Durham, October 3, 2016, the FBI offered Christopher Steele a million dollars to provide corroborating evidence of the allegations in his reporting. Is that correct?

Mr. DURHAM. Yes.

Mr. ROY. Was that paid to him?

Mr. DURHAM. I'm sorry. What that what?

Mr. ROY. Was that paid to him?

Mr. DURHAM. That money was never paid out.

Mr. ROY. Right.

Mr. DURHAM. There was no corroborating information.

Mr. ROY. Mr. Steele relied solely on a single unnamed subsorce, correct?

Mr. DURHAM. He said that he had a primary subsorce who had a network of subsources.

Mr. ROY. On October 18, 2016, the FBI submits the application for FISA surveillance relying heavily on the Steele Dossier. No corroboration, correct?

Mr. DURHAM. No corroboration for the substantive claims in that.

Mr. ROY. They knew Steele was a sign up paid informant. Could've asked for sources. Never did. Said he was reliable. No record of reliability, correct?

Mr. DURHAM. Mr. Steele had provided information in other areas, not in this area, prior occasions.

Mr. ROY. The FISA application relied, according to your report, at least in part on the Clinton plan intelligence, correct?

Mr. DURHAM. I'm sorry?

Mr. ROY. The FISA application relied, according to your report, at least in part on the Clinton plan intelligence, correct?

Mr. DURHAM. Yes.

Mr. ROY. They knew Steele had been hired by Fusion GPS. Fusion had been hired by a law firm on behalf of senior Democrats that H.C. was aware, correct?

Mr. DURHAM. At various points in time, those things became known to the FBI, yes.

Mr. ROY. In December 2016, the FBI determined that Igor Danchenko, a Russian nationalist previously subject to FBI investigation to be Steele's subsorce, correct?

Mr. DURHAM. Yes.

Mr. ROY. They do not talk to Danchenko before the next FISA application, correct?

Mr. DURHAM. Correct.

Mr. ROY. On January 12, 2017, the FBI goes back to renew the application for FISA surveillance, correct?

Mr. DURHAM. Yes.

Mr. ROY. Coincidentally, one week before Trump is inaugurated, correct?

Mr. DURHAM. Correct.

Mr. ROY. They then after two trips to FISA finally talked to Danchenko. Basically, determined it's all crap, because they've been relying on a Democrat operative, Dolan, correct?

Mr. DURHAM. Well, part of that is they clearly had relied on the information in the Steele Dossier. There's a portion of one report from Steele that was definitely tied to Mr. Dolan.

Mr. ROY. Then in March 2017, Jim Comey testified here on Capitol Hill that the FBI under its counterintel authorities has investigated Trump for collusion with Russia and people might get indicted, correct?

Mr. DURHAM. Correct.

Mr. ROY. Is it normal for the FBI Director to talk about FISA-related investigations publicly as a general matter?

Mr. DURHAM. I would say general matter, I would say no.

Mr. ROY. Right. Again, knowing full well the uncorroborated allegations and knowing full well the genesis of said investigation was tied to Hillary Clinton's Campaign which the FBI Director would've known?

Mr. DURHAM. People in the FBI knew that.

Mr. ROY. Correct. In April 2017, they go back to FISA. They report they've interviewed principal source, that the source is credible. They leave out the entire fact that it's only credible in making clear what they relied on before was total garbage. They continued to the Summer of 2017, correct?

Mr. DURHAM. That's correct.

Mr. ROY. Under Federal law and FISA rules, once they know there's an error. Some material fact is incorrect in previous applications. You've supposed to correct that, right?

Mr. DURHAM. That's correct.

Mr. ROY. Was that done here, yes or no?

Mr. DURHAM. Not at the time.

Mr. ROY. Was Deputy Director McCabe in charge of this investigation?

Mr. DURHAM. Deputy Director McCabe had direct involvement—
[Crosstalk.]

Mr. ROY. Was Deputy Assistant Director Peter Strzok heavily involved in the investigation? Was FBI Director Comey briefed on the investigation?

Mr. DURHAM. The evidence we came on was, yes, they were definitely. This is driving by—

[Crosstalk.]

Mr. ROY. Each FISA application is a verified application, and there's a Woods file with every factual assertion kept in a file, correct?

Mr. DURHAM. Correct.

Mr. ROY. Is it reasonable to believe that senior FBI leadership and indeed senior leadership at the DOJ did not know all these failures to ensure truthful facts were used for each FISA application, an application directly focused on an American Presidential Campaign? Is it reasonable to believe that senior FBI leadership and indeed senior leadership at DOJ did not know these failures?

Mr. DURHAM. I would distinguish between what the FBI knew and what Department of Justice knew.

Mr. ROY. So, FBI leadership knew it?

Mr. DURHAM. The FBI and people in the FBI knew this information. Not everybody knew everything, but they had all this information.

Mr. ROY. Two final questions, in the fall of 2021, our colleague, Mr. Schiff, said in an interview, but that the beginning of the Russia investigation, I said that any allegation should be investigated. We couldn't have known, for example, people were lying to Christopher Steele. Is it remotely conceivable that the Chair of the House Intelligence Committee and the lead prosecutor of the impeachment of President Trump was uninformed that this investigation was kicked off based on a Clinton Campaign Democrat funded report where they witnessed Mr. Steele claiming facts that were uncorroborated and that ultimately came from a subsource, a Democrat operative, Mr. Dolan. Is that conceivable?

Mr. DURHAM. No.

Mr. ROY. In fact, is evidence out of the House Intelligence Committee that directly contradicts that and he did know, in fact?

Mr. DURHAM. Yes, I wouldn't know what Mr. Schiff would know at the time.

Mr. ROY. Finally, a final question. For the average American watching this besides being fired, have Jim Comey, Andrew McCabe, or Peter Strzok been held accountable for these glaring violations? Have they been hauled before a grand jury or charged in any way? If not, why not?

Mr. DURHAM. So, they have not been—I'm not going to talk about matters that occurred before the grand jury because I can't. With respect to have any of those individuals been charged, the answer is no.

Mr. ROY. I yield back.

Chair JORDAN. Time of the gentleman has expired. The gentleman from Texas—the other gentleman from Texas is recognized.

Mr. HUNT. Thank you, sir. Thank you so much for appearing today. I really appreciate it. I want to tell you about how my friends, neighbors in Tomball, Spring, Texas and of course Americans across this country are feeling today after listening to this.

They feel that we have a two-tiered justice system in this country and it's terrifying. So, I applaud your work. I actually find it to be sincere in working on behalf of the American people. I recognize that.

I also feel like we need to hold the people accountable for participating in a sham of an investigation. I'm going to tell you why. What happened in 2016 was unprecedented.

The same government agencies that were investigating President Trump and his campaign were looking the other way when it came to the allegations against the Clintons. At the same time, the Clinton Campaign paid for the Steele Dossier the DOJ and FBI were helping to cover up Clinton's crimes. We know this to be a fact.

Thirty-three thousand emails miraculously disappeared. Phones were smashed with hammers by the FBI. Even *CNN* fact checked this, and it turned out to be true. Yes, *CNN*. They refused to prosecute her.

This selective prosecution doesn't only favor the Clintons, those as we have seen in very recent history. Sir, I'm sure you are familiar with what's going on with Hunter Biden's plea deal and his refusal to pay his taxes and a separate agreement to dismiss his felony gun possession, both of which were announced yesterday. Are you familiar with that, sir?

Mr. DURHAM. Yes.

Mr. HUNT. Hunter Biden will likely serve no jail time for his offenses, and yet there was no early morning SWAT raid on Hunter's home in coordination with the media either. The American people are sick and tired of this two-tiered justice system. As a Black man, I'm tired of seeing this kind of discretion used to favor people like Hunter Biden because he's White and a son of a President.

Hunter Biden will serve no jail time for these charges. Black men across this country are imprisoned for years for the exact same crimes. I'm not surprised because I guess selective justice shouldn't become as a surprise to anyone in this room. Because after all, Joe Biden was one of the authors of the 1994 crime bill, one of my all-time favorites.

We can see what that has done to Black men across this country. Back to this report, this report concerns, one, many investigations into Trump that led absolutely nowhere with vast amounts of resources and time to spread lies, rumors, and innuendos about Trump across this country. What we know is that the Clinton Campaign and the DNC paid for the Steele Dossier which was used as a basis for the FISA warrants to spy on an incoming President. Correct, sir?

Mr. DURHAM. Much of that the dossier was paid for was from the campaign through Perkins Coie hiring of Fusion and Fusion's hiring of Steele.

Mr. HUNT. Thank you, sir. The biggest problem that I have is that not of the significance has been prosecuted over this sham investigation. No one who participated in this investigation is serving any jail time today.

I think we've kind of heard that resonate throughout the halls of this room today. Meanwhile, the DOJ, the same agency that is responsible for this phony investigation in 2016 is at this very moment seeking to put Donald Trump in prison for over 400 years over a document issue. Last I checked, President Biden has a bit of a document issue himself before he was even the sitting President of this country.

Again, it's another example of this two-tiered justice system. My colleagues on the left talk about democracy. Well, here's what I know about democracy.

In 2016, Donald Trump was elected by the American people to be their Commander in Chief. He wasn't allowed to serve in that capacity because he and his administration spent four years responding to Democrat invented scandal after Democrat invented scandal. Here we are seven years later, still talking about President Trump and this Democrat invented scandal.

This does not look like a Democracy to me. As a West Point graduate and combat veteran, I fought broad against authoritarian countries. I know what they look like, and I know what those countries do and how they treat their people.

I also know what democracy looks like. My fear is that this looks like the death of democracy. It's up to us in this room to do something about it.

Sir, I thank you very much for your time. Thank you for hanging in there. I really appreciate it, and I yield back the rest of my time, Mr. Chair.

Mr. JOHNSON of Louisiana. [Presiding.] The gentleman yields back. The Chair recognizes the gentleman from Wisconsin for five minutes.

Mr. TIFFANY. Mr. Durham, did you see evidence of collusion between Russia and the Trump Campaign in 2016?

Mr. DURHAM. No.

Mr. TIFFANY. So, the American public that has been told this hoax for years, it was just that, a hoax. Is that correct?

Mr. DURHAM. Our investigation showed that there were a lot of failures in the FBI and how they did this investigation that did not disclose or reveal information or evidence concerning any conspiracy or collusion between Mr. Trump and Russian authorities.

Mr. TIFFANY. By the way, I hope you'll give me a full five minutes, Mr. Chair. Are you familiar with the January 5, 2017, meeting that was held in the White House? President Obama was there. Vice President Biden was there. Susan Rice was there and others. Are you familiar with that meeting?

Mr. DURHAM. I know that meeting occurred.

Mr. TIFFANY. Do you know that FBI Director James Comey was there?

Mr. DURHAM. That's my understanding.

Mr. TIFFANY. Did you get access or try to get access to Director Comey's notes?

Mr. DURHAM. We reviewed—in connection with our inquiry, we looked at phone records, notes, those sorts of things. I don't recall seeing any notes of Mr. Comey's from that meeting. They could exist, but I don't recall having seen them.

Mr. TIFFANY. So, Special Counsel, you were authorized to investigate whether any Federal official, employee, or any other person violated the law in connection with individuals associated with campaigns and individuals with the administration, including Crossfire Hurricane. Did you think this wasn't relevant to go after these notes? January 5, 2017, or in the process of the transition, weren't you inquisitive about that?

Mr. DURHAM. Yes, as I said, I don't know. We had sought from the FBI all such records. What I can't tell you is that there were any records. That's what I'm saying.

Mr. TIFFANY. Could you repeat that last answer?

Mr. DURHAM. Sure. I think as we set out in the report, the Bureau produced in excess of—I think it was 6,800,000 pages of records that were reviewed. Among the records that we sought from the FBI were relevant notes, records, telephone records, and the like. What I can't tell you is whether—and Mr. Comey being one of them. What I can't tell you because I just don't know is whether or not there were notes of Mr. Comey's from that meeting.

Mr. TIFFANY. Are you aware that in 2017 prior to the Department of Justice filing a motion to dismiss the case against General Flynn? They interviewed Mr. Priestap?

Mr. DURHAM. Yes.

Mr. TIFFANY. During that interview, the Department of Justice found Mr. Priestap's notes, which suggested that the FBI was trying to entrap Mr. Flynn. Why didn't you interview Mr. Priestap?

Mr. DURHAM. With—

Mr. TIFFANY. Why do you think it wasn't relevant to subpoena Mr. Priestap to gather information on his involvement with Cross-fire Hurricane, especially the Attorney General at the time said they're trying to lay a perjury trap for Mr. Flynn?

Mr. DURHAM. Sure. So, as it relates specifically to Mr. Priestap and it's reflected in the report, Mr. Priestap did agree to talk to us with regard to the Alfa Bank matter. So, we interviewed him on that matter. He was not willing to talk beyond that. As previously indicated, we were disappointed with some of these decisions on the part of high-ranking members of the FBI not to cooperate as you are.

There are reasons. If you've got to subpoena someone to the grand jury which is one of the more powerful tools that you have, you've got to look at a number of factors that determine whether or not it's appropriate, whether it makes sense, whether it be productive. In this case, not speaking to Mr. Priestap's situation alone, but one of the decisions was, OK, does Priestap have information that would be relevant or is likely to be relevant to the criminal matters, not the general inquiry into what happened in the investigation of the campaign, but the criminal matters the grand jury is looking at or not.

Mr. TIFFANY. Mr. Durham, I only have 30 seconds here.

Mr. DURHAM. Oh, OK.

Mr. TIFFANY. Yes, we're very disappointed also. I keep hearing this term, disappointed all day long. Let's sum it up. Vice President Biden and President Obama knew about it. Hillary fabricated it.

The FBI orchestrated it, and the media sold it to the public. It's still out there. The question is, who watches the watchmen?

The FBI has become a praetorian guard here protecting the Nation's capital but not the people of the United States of America. It is going to be up to us as Republicans and solely us as Republicans starting on this Judiciary Committee to get accountability to the FBI in the United States of America.

Chair JORDAN. [Presiding.] The gentleman yields back. I apologize, Mr. Durham, but we are going to have to—I apologize to my colleagues. I was wanting to get this done before votes, and we've been working with the floor.

Unfortunately, they have called them. So, we're going to recess. It'll probably be 30 minutes, more or less. Then we'll come back and you can make yourself comfortable.

Again, I apologize to our team here. I was hoping to be able to get through that. We'll be back in approximately half an hour. Committee stands in recess.

[Recess.]

Chair JORDAN. Committee will come to order. The Chair recognizes the gentleman from Kentucky for five minutes.

Mr. MASSIE. I yield 30 seconds to the gentlelady from Indiana.

Ms. SPARTZ. A quick followup on CHS-1 from page 243, who, according to your report, created conspiracy allegation in direct con-

flict with his recording and misstated significant material fact to the FBI, among other things, and you are unable to establish his intent. Would you be able to provide to the Committee recording of your CHS-1 interview on April 6, 2021, for page 192, and any other interviews in your possession, yes or no?

Mr. DURHAM. Did you refer to page 43? I'm sorry. If I can just find it on page 43.

Ms. SPARTZ. Page 192. Will you provide recording to the Committee that you list, yes or not?

Chair JORDAN. The recording with Confidential Human Source 1, I think is what she is asking about.

Mr. DURHAM. Oh.

Chair JORDAN. She would like that provided—she is asking if that could be provided to the Committee, Mr. Durham.

Mr. DURHAM. It's a piece of evidence that belonged to the FBI. I think probably that's better directed to the FBI.

Chair JORDAN. OK.

Mr. MASSIE. Reclaiming my time. Mr. Durham, this seems to all started with one person, but I don't see his name in your report. I see it in Mueller's Report 89 times. Who did Mr. Papadopoulos meet with that gave him this supposed Russian information?

Mr. DURHAM. When Mr. Papadopoulos was interviewed by the FBI, he had identified Joseph Mifsud as the person who had provided him that information.

Mr. MASSIE. Did you interview Joseph Mifsud?

Mr. DURHAM. We attempted to interview him. We pursued every lead that we had. We talked to a lawyer that he had in Europe, but we never were able to actually make contact with him so we could interview him.

Mr. MASSIE. Do you think he is a Western source? Is he associated with Western intelligence?

Mr. DURHAM. It's hard to say who Mr. Mifsud is associated with. He was tied up with Link University, Mr. Scotti, who had been involvement in the Italian government, and they were appointed—hard to say who Mr.—

Mr. MASSIE. I am going to yield the remainder of my time to Mr. Gaetz.

Mr. GAETZ. Hard to say who Mifsud is? He is the guy who started the whole thing. We have known it for years.

Go ahead and play the video.

[Video played.]

Mr. GAETZ. Mr. Durham, was that what you were doing?

Mr. DURHAM. I'm sorry. Is that what?

Mr. GAETZ. Was finding out who Mifsud was what you were doing?

Mr. DURHAM. We pursued that avenue yes.

Mr. GAETZ. Right, but was he—this whole thing was an op, Mr. Durham. This wasn't like a bumbling fumbling FBI that like couldn't get FISAs straight. They ran an op. So, who put Mifsud in play? You don't know, do you?

Mr. DURHAM. I do not know that. I can't give you the answer to that.

Mr. GAETZ. You had years to find out the answer to what Mr. Jordan said was the seminal question, and you don't have it. It just

begs the question whether or not you were really trying to find that out, because it is one thing to criticize the FBI for their FISA violations, to write a report. They have been criticized in plenty of reports. Some have referred to your work as just a repackaging and regurgitation of what the Inspector General already told us. So, if you weren't going to do what Mr. Jordan said you were going to do in that video and give us the basis for all of it, what has this all been about?

Mr. DURHAM. Well, I'm not exactly sure of the import of your question. If your question is did we try to locate and interview Mr. Mifsud, the answer is yes.

Mr. GAETZ. Why didn't you—

Mr. DURHAM. We expended—

Mr. GAETZ. Wait. Why didn't you subpoena him to a grand jury?

Mr. DURHAM. I'm sorry. Why what?

Mr. GAETZ. Why didn't you send him a grand jury subpoena?

Mr. DURHAM. Mr. Mifsud? You'd have to find Mr. Mifsud before you could serve a grand jury subpoena on him.

Mr. GAETZ. You guys were out in Italy. Were you and Bill Barr looking of authentic pasta over there or Mifsud?

Mr. DURHAM. No, we were looking for information that might help us locate Mifsud.

Mr. GAETZ. You know who I think would probably locate him? The features of Western intelligence and possibly our own government that put him in play. Like your report seems to be less an indictment of the FBI and more of an inoculation, lower case I of course. Like many inoculations it may have worse consequences down the road. We will have some time to discuss this matter further, but it is just hard to pretend as though this was a sincere effort, when you don't get to the fundamental thing that started the whole deal. I yield back.

Mr. DURHAM. I was away from my family for four years essentially doing this investigation. This, my view, is a sincere effort. The fact that you can't find somebody overseas should not come as a big surprise.

Mr. GAETZ. Could you find out [inaudible]?

Mr. MASSIE. Reclaiming my time. Is he alive or dead?

Mr. DURHAM. We don't know.

Chair JORDAN. The gentleman's time is expired.

The Chair now recognizes the gentleman from Arizona, Mr. Biggs.

Mr. BIGGS. Thanks, Mr. Chair.

Mr. Durham, isn't it true that Danchenko admitted that information he provided to Christopher Steele in June 2016 was, quote, "rumor and speculation"?

Mr. DURHAM. Correct.

Mr. BIGGS. Danchenko himself estimated that he was responsible for 80 percent of the intelligence and 50 percent of the analysis in the Steele Dossier. Is that right?

Mr. DURHAM. That's correct.

Mr. BIGGS. Do you agree with his estimate or his estimate of his participation in the dossier?

Mr. DURHAM. Yes, we have no reason to doubt that. I mean Steele identified him as the primary subsource or the principle source of the information.

Mr. BIGGS. Yes, and that is that I mean. Steele used that rumor and speculation to build his dossier. We have wandered all of this. None of the statements were corroborated at all. Yet, Danchenko's reputation for veracity was considered bad. He was considered a boastful man who had low credibility, right?

Mr. DURHAM. There was information that the bureau had along those lines. Yes, sir.

Mr. BIGGS. Yes. In fact, when he lost his visa, his work permit, he used a Russian business as a front to basically fraudulently get a visa to work in the United States? That right? Page 128 of your report?

Mr. DURHAM. Yes, he went to work for a company in the United States and Steele was paying him through a cut-out through that company in the United States.

Mr. BIGGS. Yes, most of us who look at that area of the law regularly like I do would say that is immigration fraud. It is also true—we talked about this. It is true there was an FBI counterespionage investigation into Danchenko 2009–2011. That was a result of him approaching some—a Brookings Institution coworker trying to essentially solicit espionage on behalf of the Russian government. Then even though the Washington Field Office is right there and he lived just a few miles from the Washington Field Office, the case was closed on Mr. Danchenko, that investigation. Right?

Mr. DURHAM. The Danchenko Investigation was being done by Baltimore, the Baltimore Field Office, but that's right. He stayed where he—

Mr. BIGGS. Nonetheless, he lived—I live out there. I know it is literally around the corner from there.

So, let's take a look at—let's boil this down. After determining that nothing that Danchenko told Steele could be verified, it was all a pack of lies, innuendo, and rumor, to further determining that he had attempted to solicit espionage for Russia, and he had himself been the subject of an investigation by the bureau, and after having committed immigration fraud the FBI hired him on as an informer and paid him 220 grand and proposed an additional 300 grand to be paid to him. That is your testimony. That is in the report. It is all there. That is even after the Validation Management Unit has determined that Danchenko was a concern and likely had connections to Russian intelligence. That is in your report as well.

Mr. DURHAM. Correct.

Mr. BIGGS. Very Special Agent Helson knew most of these facts, but continued to endorse Danchenko's recruitment and payment as a confidential human source, right?

Mr. DURHAM. That's correct.

Mr. BIGGS. So, I am going to give you these things and I think you understand why so many of us are over—underwhelmed with some of your recommendations for the FBI but overwhelmed by what is going on here.

The FISA application. We have talked about that, where that came from. We have talked about that the FBI has conducted millions of unconstitutional back door FISA-702 searches. Disparate

treatment of Hillary Rodham Clinton, which you discuss in your report. The sweetheart Hunter Biden plea deal that would send normal Americans to jail for years. He is getting nothing.

We have 50 intelligence officers signing onto a letter stating they would rather have a job in the Biden Administration than tell the truth to the American people. The Hunter Biden laptop suppression. The DOJ targeting parents at school board meetings. A Federal prosecutor setting a quota, essentially an additional—January 6th individuals. He said he has got to get 2,000 more. That is a quota. That is a bounty. DHS targeting Catholics at church. Hoaxes villainizing border agents while the border itself is under attack. That is all from this agency.

I understand that you are loyal to your institution. I get that. Ms. Spartz gave an excellent enumeration of all the things that you found in your report. That is why people like me; and I don't want to speak for anybody else on here, we are baffled, just utterly baffled that more people have not been held accountable for their crimes. Because these are crimes.

What is going on in this country, the division in this country today I can trace back to one thing: It isn't Trump going down the escalator. It is the Steele Dossier paid for by Hillary Clinton through the cut-outs. That has caused the division in this country today. I yield back.

Chair JORDAN. The witness can respond.

Mr. DURHAM. I'm not sure there was a question at the end.

Chair JORDAN. No, I am just giving you the opportunity.

Mr. BIGGS. I was going to. I didn't get there.

Chair JORDAN. Yes. The gentleman from Florida is recognized.

Mr. GAETZ. Yes, I agree with Mr. Biggs. You have given us testimony today that you are disappointed that the FBI didn't cooperate more, right? That was your testimony?

Mr. DURHAM. Said that.

Mr. GAETZ. Yes, so we are disappointed too, but the difference is when regular folks do things that are wrong and unlawful, there is typically greater effort to try to get those people before a grand jury, to utilize criminal process where appropriate, not for other purposes. It is just like oh, well, Bill Priestap, the guy who might have set this whole op in motion, he just didn't want to talk to you about certain things. You were really accommodating to that.

Then Mifsud, the person who juices Papadopoulos to create this predicate that you find improper, I mean did you ever know who is lawyer was, Mifsud's lawyer?

Mr. DURHAM. Talked to his lawyer in Europe, not in—I don't know—

Mr. GAETZ. So, wait.

Mr. DURHAM. —his representative in the United States.

Mr. GAETZ. You could find the guy's lawyer, but you couldn't find him?

Mr. DURHAM. We contacted somebody that we knew had represented him in part of the effort to try to locate him.

Mr. GAETZ. You got the lawyer. Then now you are sitting here in from the Judiciary saying you could find the guy's lawyer, but you couldn't effectuate the service of a subpoena because you couldn't find him?

Mr. DURHAM. Well, first,—

Mr. GAETZ. Do you know how silly that sounds?

Mr. DURHAM. —as you may or may not know, we wouldn't have the authority to serve a subpoena overseas. The lawyer didn't know where Mifsud was. He was in communication with him but claimed not to know where he was. We were trying to arrange an opportunity to talk to Mifsud.

Mr. GAETZ. Did you take possession of two BlackBerry phones from Mifsud in any way?

Mr. DURHAM. There were phones that were provided to us by his lawyer.

Mr. GAETZ. So, you could find the phones, but not the guy?

Mr. DURHAM. Correct.

Mr. GAETZ. Do you see how silly this looks? Like you found the lawyer, you found the phones, but the actual dude who got ordered by Western intelligence to go start this thing you couldn't find? It is kind of laughable. It seems like more than disappointment. It seems like you weren't really trying to expose the true core of the corruption, that you were trying to go at it another way.

Mr. DURHAM. Yes, as we said in the report and as I said in my opening remarks, we pursued the facts as best we could.

Mr. GAETZ. Well, how about this fact?

[Crosstalk.]

Mr. GAETZ. OK. How about this fact, Mr. Durham? The entire Mueller team does a hard reset on their Apple phone in synchronization to wipe away evidence. Did you investigate that?

Mr. DURHAM. I've read that.

Mr. GAETZ. Well, why didn't you investigate it? Who gave the order on the Mueller team to wipe the phones?

Mr. DURHAM. Yes, that was not something that we were asked to look at. We didn't look at that.

Mr. GAETZ. Well, no, that is not true, Mr. Durham. That is not true because I am holding the document that authorizes your activity and it specifically says the investigation of Special Counsel Robert Mueller.

Mr. Chair, I see unanimous consent to enter into the record the order that says that you are supposed to investigate these things.

Chair JORDAN. Without objection.

Mr. GAETZ. So, like whether it is the Mueller team, Mifsud—how about Azra Turk? What is Azra Turk's real name? Do you know that?

Mr. DURHAM. I'm not going to be disclosing the names of FBI personnel that are otherwise unavailable.

Mr. GAETZ. Oh, so the FBI sent somebody to go honey pot George Papadopoulos. Who gave the order to do that?

Mr. DURHAM. I think that's beyond the scope of what's in the report.

Mr. GAETZ. It is literally the scope of what your charging order is. Who put it in motion? We get, after it was put in motion, the FBI did a bunch of wrong and corrupt things. Totally understand. We are trying to deal with that. When you are part of the cover-up, Mr. Durham, then it makes our job harder.

Mr. DURHAM. Yes, well, if that's your thought, there's no way of dissuading you from that. I can tell you that it's offensive and that

the people who worked on this investigation have spent their lives trying to protect the people in this country and pursue within the law—

Mr. GAETZ. You went 0-for-2, Mr. Durham.

Mr. DURHAM. —what it is that we could and we are authorized to do.

Mr. GAETZ. Wait. Hold on. You tried two cases; lost both of them. Then the one guilty plea you got, Clinesmith, Clinesmith is back to practicing law in Washington, DC, today.

Mr. DURHAM. Yes, that's beyond my control.

Mr. GAETZ. Right, but the fact that you allowed that plea to occur, right, and then the punishment was insufficient, the fact that you didn't charge Andrew McCabe, you didn't convict lying Democrats or the lying Russians, you didn't investigate Mifsud or the Mueller probe even though as we sit here today in black letter that was your charge—have you ever heard of the Washington Generals?

Mr. DURHAM. The Washington Generals? Yes.

Mr. GAETZ. Yes, and they are the team that basically gets paid to show up and lose, right?

Mr. DURHAM. Well, I'm sure that the players who exert blood, sweat, and tears don't view it that way, but you might.

Mr. GAETZ. I think they do. I think they do, because the job of the Washington Generals is to show up every night and to play the Harlem Globetrotters. Their job is to lose.

Mr. DURHAM. So, I'm thinking, I'm sorry, of a different—I was thinking of a different—

Mr. GAETZ. Yes. Yes, so their job is to lose. I am kind of wondering—and it just seems so facially obvious that it is not what is in your report that is telling. It is the omission; it is the lack of work you did. For the people like the Chair who put trust in you, I mean you let them down. I think you let the country down. You are one of the barriers to the true accountability that we need.

Mr. DURHAM. Do I get to respond to that or comment on that?

Chair JORDAN. Go ahead.

Mr. DURHAM. Yes. Well, I don't know if you've ever investigated a crime. If you've ever investigated a crime—

Mr. GAETZ. I don't know that you have. You didn't investigate these, Mr. Durham.

Mr. DURHAM. Whether or not—

Mr. GAETZ. How about Andy McCabe? Did you charge him? Did you investigate him?

Chair JORDAN. The gentleman's time is expired. The witness can respond and then we will move onto our last—

Mr. DURHAM. I don't know, sir, whether or not you've ever had occasion to try to investigate crimes under the rules and regulations and under the Constitution that we're bound by. We can gather evidence, in particularly, lawful ways. Can't charge people because we might have something we can charge people—

Mr. GAETZ. It's not just that you didn't charge. You didn't investigate.

Chair JORDAN. The gentleman's time—

Mr. GAETZ. You didn't investigate the Mueller team wiping their phones and you won't tell us who gave the orders because you are protecting those people.

Chair JORDAN. The gentleman's time is expired.

The gentlelady from Wyoming is recognized.

Ms. HAGEMAN. Mr. Durham, in reviewing your report I sincerely wanted to understand the work that you did and decipher the various investigations that we have been discussing: The origins, the history, the back story, the whos, the whys, the whats, the what ifs, and the hows.

I desperately wanted to figure out what happened to what was once our flagship law enforcement agencies: The FBI and the DOJ, to determine what went wrong and to evaluate how we can go forward from here. I have listened with great interest hoping to find some answers to the burning questions of the day and I have reached a few conclusions that I do not believe are subject to dispute or debate.

Now, I truly appreciate your regard for the agency you have dedicated your career to. I am sure that as your investigation progressed you must have been truly saddened by what you found. What you have exposed however is that we are dealing with something so corrupt and so rotten that no amount of face paint, deflection, or whitewashing can fix this.

You have been asked lots of questions about predicates, protocols, the Steele Dossier, the Australian connection, Mr. Papadopoulos, Mr. Carter, the FISA Court, and Crossfire Hurricane, among others. Your responses have been enlightening, but let's get to the brass tacks.

None of those people or documents or reports were relevant to the FBI when it identified Donald Trump as Public Enemy #1. What do I mean? The accuracy and veracity of the Steele Dossier was irrelevant to the FBI. The accuracy and veracity of the reports coming from the Australian Embassy were irrelevant to the FBI. The fact that the Russian experts in the CIA, FBI, NSA, and other agencies had no evidence of any kind of relationship between Mr. Trump and Putin or Russia was irrelevant to the FBI. The fact that there was no verifiable evidence such as testimony, documents, videos, or recordings of Russian collusion was irrelevant to the FBI.

Nothing, and I repeat nothing that the FBI did was designed to show that Donald J. Trump was a Russian asset. That wasn't the purpose of the entire charade. How do I know this is true? Because they told us so. The very people who cooked this up, the ones who ran this entire operation: Strzok, Lisa Page, Andrew McCabe, Clinesmith, Steele, the DNC, and Perkins Coie. It was never their purpose to prove Russian collusion. In fact, from the very beginning they knew that no such thing actually existed.

They knew that the entire Russian collusion narrative was fabricated by the Clinton Campaign to deflect attention from her mishandling of classified materials and destruction of official emails. They didn't need to prove Russian collusion. They just had to keep the investigation alive. So long as they had a complicit press, and so long as they had people in this very body who has been here—one of the gentlemen who has been here much of the day who

would go on TV every night and lie about the smoking gun, they could further their personal and political agendas.

No, the purpose of Crossfire Hurricane wasn't to prove Russian collusion. It was to destroy Donald J. Trump. They told us that with the text messages that are set forth on page 49 and 51 of your report—49 and 50 of your report.

Then if they failed at blocking Mr. Trump from being elected as President, well they had a backup plan. They had their insurance policy, to use Strzok's terminology, which was to make it impossible for him to govern, to use whatever tools were available to taint his Presidency, the legitimacy of his election, his ability to work with foreign leaders and to make everything about Russia, Russia, Russia.

How has this corruption and rot manifested itself in our everyday lives, in our natural culture, and our ability to solve the problems we are facing? It has destroyed some of the key foundations of this country, a foundation built on equal protection, on the belief that justice is blind, on the belief that you will be held accountable if you commit a fraud of the magnitude of what we have been discussing here today, on the belief that due process, justice, and constitutional rights are more than mere words.

It has left a smoldering hot volcanic mess where the soul of this country used to be, all because a few people in the FBI decided they wanted to destroy a political candidate and ultimately a President and anyone associated with him.

While these folks set out to destroy a Presidential candidate and later a Presidency the fact is that they destroyed so much more, and that will be their ultimate legacy. One casualty is America's faith in our institution and another casualty is the erosion of a justice system that is supposed to apply equally to all Americans, but that has been weaponized to protect the favored few elites: The Clintons, the Bidens, while targeting political enemies.

That is the current legacy of the FBI and DOJ.

Mr. Durham, here is my question: How long do you think that this country will survive a two-tiered justice system that seeks to persecute people based on their political beliefs?

Mr. NADLER. Mr. Chair, the time is expired. She can't ask her question.

Chair JORDAN. The witness may respond. The gentlelady's time is expired.

Mr. DURHAM. Do I respond?

Chair JORDAN. Sure.

Mr. DURHAM. I don't think that things can go too much further with a view that law enforcement, particularly FBI or the Department of Justice, runs a two-tiered system of justice. The Nation can't stand under those circumstances.

Chair JORDAN. Well said.

Ms. HAGEMAN. I yield back.

Chair JORDAN. The gentlelady yields back.

This concludes today's hearing.

Mr. Durham, we thank you.

Ms. HAGEMAN. Could I put—with unanimous consent could I put two documents into the record?

Chair JORDAN. I take that back. The hearing is not over. The gentlelady may make her unanimous consent request.

Ms. HAGEMAN. One is "Don't Miss the Most Damning Durham Finding," and the other is "6 Documented Instances Of Systematic Pro-Democrat FBI Corruption."

Chair JORDAN. Without objection, so entered.

Again, Mr. Durham, thank you. Thank you for your work. Thank you for long time being here. Almost six hours is a lot of work, so we appreciate that.

Without objection, all Members will have five legislative days to submit additional written questions for the witness or additional materials for the record.

Without objection, the hearing is adjourned.

[Whereupon, at 2:47 p.m., the Committee was adjourned.]

All items submitted for the record by Members of the Committee on the Judiciary can be found at <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=116122>.

