

COMMITTEE ON THE JUDICIARY,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: STEVE JENSEN

Friday, May 19, 2023

Washington, D.C.

The interview in the above matter was held in room 2237, Rayburn House Office Building, commencing at 10:02 a.m.

Present: Representatives Jordan, Gaetz, and Biggs.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[REDACTED], GENERAL COUNSEL
 [REDACTED], DEPUTY GENERAL COUNSEL
 [REDACTED], COUNSEL
 [REDACTED], COUNSEL
 [REDACTED], CHIEF COUNSEL FOR OVERSIGHT
 [REDACTED], MINORITY CHIEF OVERSIGHT COUNSEL
 [REDACTED], MINORITY INTERN
 [REDACTED], MINORITY OVERSIGHT COUNSEL
 [REDACTED], MINORITY PROFESSIONAL STAFF MEMBER

For the U.S. DEPARTMENT OF JUSTICE:

[REDACTED], SPECIAL COUNSEL,
 OFFICE OF LEGISLATIVE AFFAIRS

For the FEDERAL BUREAU OF INVESTIGATION:

[REDACTED], ASSISTANT GENERAL COUNSEL,
 OFFICE OF GENERAL COUNSEL

[REDACTED]: Good morning. This is a transcribed interview of Steve Jensen with the FBI. Chairman Jordan has requested this interview as part of the committee's oversight of the FBI.

Would the witness please state your name for the record and your current FBI title?

Mr. Jensen. Absolutely. My name is Steven John Jensen, and my current position is Special Agent in Charge of the Columbia Field Office, FBI.

[REDACTED]: And you're here today with lawyers from DOJ and the FBI; is that correct?

Mr. Jensen. That's correct.

[REDACTED]: And you understand that agency counsel, their first obligation is to represent the Bureau and the Department, not you individually.

Mr. Jensen. Yes, sir.

[REDACTED]: We'll have the agency lawyers introduce themselves for the record.

[REDACTED]: [REDACTED] from the FBI's Office of General Counsel.

[REDACTED]: [REDACTED] from the Department of Justice, office of legal affairs.

[REDACTED]: My name is [REDACTED]. I'm with Mr. Jordan's House Judiciary Committee staff. I'll have the rest of the staffers introduce themselves.

[REDACTED]: [REDACTED] with Chairman Jordan's staff.

[REDACTED]: [REDACTED] with Chairman Jordan's staff.

[REDACTED]: [REDACTED], Chairman Jordan's staff.

[REDACTED]: [REDACTED], Chairman Jordan's staff.

[REDACTED]: [REDACTED], chief oversight counsel for the House Judiciary

Committee Democratic staff.

[REDACTED] [REDACTED], counsel for the House Judiciary Committee

Democratic staff.

[REDACTED] [REDACTED], with House Judiciary Democrats.

[REDACTED] [REDACTED], House Judiciary Democrats.

[REDACTED]. We're also joined by three of our Members, Mr. Biggs --

Mr. Jordan. Jim Jordan, Ohio.

Mr. Gaetz. Matt Gaetz, Florida.

Mr. Biggs. Andy Biggs, Arizona.

[REDACTED]. I'll go over the ground rules and guidelines that we'll follow in today's interview. Our questioning will proceed in rounds. The majority will ask questions first for one hour, and then the minority will have an opportunity to also ask you questions for one hour. And we'll rotate back and forth until we're done.

Ordinarily, we'll take a short break at the end of each hour, but if you'd like to take a break a part of that, please let us know. As you can see, there is an official court reporter taking down everything we say. Sometimes, that requires us to repeat a question because we're talking over one another, and so we'll do our best not to foul up the record on that front. We want you to answer our questions in the most complete and truthful manner possible, so we'll take our time.

If you have questions and don't understand one of our questions, please let us know. If you honestly don't remember the answer to a question, it's of course best not to guess. Give us what recollections you do have, and it's okay to tell us if you learned information from somebody else. The Federal Rules of Evidence and the hearsay rules aren't applicable. So, if you have some secondhand information, you can just tell us as long as you just tell us how you came to possess that information.

You should also understand that, although this interview not under oath, that by law, you're required to answer questions from Congress truthfully, you understand that, correct?

Mr. Jensen. I do.

██████████: 18 United States Code, 1001, the false statements statute, is applicable for those that intentionally provide false information to Congress, you understand that as well?

Mr. Jensen. I do.

██████████: We like to keep the information that we cover here today confidential to the extent we can. Accordingly, if we have some exhibits, and they may be an exhibit that the FBI provided or you provided through official channels, we will -- even though you provided it, we'll keep it here in the room because the exhibits we show the witnesses, as I'm sure you can appreciate, form a roadmap of our questions and things we're interested in. So we will collect any exhibits that we used on the record.

██████████, do you have any welcoming remarks?

██████████: No. Just thank you for the witness taking time out of your schedule to come up here today.

Mr. Jensen. Yes, ma'am.

██████████: And do you have any welcoming remarks of your own or introductory?

Mr. Jensen. No. I want to thank the committee. I appreciate the opportunity to represent the FBI and my time of service in the FBI and answer your questions to the best of my ability.

██████████: We do appreciate your service. I'm going to turn it over to ██████████, and she'll do most of your questions here. It's 10:07 for the record.

EXAMINATION

BY [REDACTED]:

Q Good morning, sir. I want to begin with your professional background.

When did you join the FBI?

A In 2006.

Q And what was your key motivation for joining the FBI?

A The mission of the FBI. And, if I could for background, I was a police officer in Colorado Springs prior to joining the FBI. I come from a legacy -- a family legacy of law enforcement in New York, and so it's kind of the family profession. And I had the opportunity to work with Federal agencies on task forces in Colorado Springs, and the mission of the FBI in my particular background I thought I served best in that broad-based mission of the FBI. And so it drew me, and I was very proud to be selected.

Q And can you walk us through some of the positions you held at the Bureau?

A Absolutely. So, in 2006, I entered on duty April 30th, 2006, at Quantico, Virginia, as a new agent trainee. My first office of assignment was the New York field office. I was assigned there first on applicant matters, and then I was assigned to healthcare fraud, domestic terrorism, and then Asian organized crime, three subsequent squads that I served with.

I was also a SWAT team member. I served as a firearms instructor, and a defensive tactics instructor. That parlayed into an assignment as an instructor at Quantico, Virginia, teaching new agent trainees in firearms. I did that approximately since 2012 through 2014. At which time, I was promoted to supervisory senior resident agent of a resident agency in Chicago, Illinois.

I served in that capacity for approximately 3 years, from 2014 until 2017, when I was promoted as assistant special agent in charge of the Jackson Field Office where I

served both as the criminal and administrative ASAC and, subsequently to that, as the national security ASAC. In 2020, I was promoted to section chief under Counterterrorism Division at FBI Headquarters as the Domestic Terrorism Operations Section chief.

I served in that capacity from April of 2020 through October of 2021, where I was again promoted as Deputy Assistant Director of the Training Division at Quantico. I served in that capacity from October of 2021 until my promotion as special agent in charge in March of 2023.

Q Okay. So I just want to make sure we have the dates right here. So, April 2020 through October 2021, you were the section chief within the Counterterrorism Division for the Domestic Terrorism Operations Section; is that correct?

A Yes, ma'am.

Q And then you were at the Training Division from October of 2021 until when was your promotion?

A It was March, officially transferred March of 2023. And, in that time period, 17-plus years with the FBI, there were several TDYs to different details, right, different temporary duty assignments, notable but not permanent.

Q And, when you were at the Domestic Terrorism Operations Section, were you stationed at headquarters? Did you work out of headquarters?

A I was. I was in the J. Edgar Hoover building.

Q And how many other times have you worked out of headquarters?

A So the first time was the -- as an instructor at Quantico. That is technically a headquarters billet. But it's down at Quantico, Virginia, outside of headquarters property.

Q And you are now currently the special agent in charge of the Columbia Field

Office, correct?

A Yes, ma'am.

Q And who's your direct supervisor now?

A That would be the Deputy Director, Mr. Abbate.

Q And how many people directly report to you?

A It's more than 200.

Q And how would you characterize the size of the field office? Is it like a medium size or large size field office?

A It's considered a small field office.

Q Small. Okay. Great. And how often do you interact with the FBI Director?

A Currently?

Q Correct.

A Infrequently.

Q Okay. When you were at the Domestic Terrorism Operations Section, did you interact with the FBI Director?

A Yes.

Q And how frequently did you interact with the FBI Director in that position?

A At times, it was daily. Generally, weekly.

Q And when were your daily interactions with the Director? Like what time period was that?

A It could have been in the general meetings that started about 8 o'clock in the morning. Those are the briefings from all the assistant directors and executive assistant directors to the deputy. I was often in those meetings, giving updates on domestic terrorism operations. And the Director was present for those. There were also times

that we were helping him prep for briefings to Congress or conversations with the Attorney General or meetings over at the White House. And I was key on those conversations as well.

Q And, when you were helping the Director prep for briefings for Congress, what were those briefings normally? What was the subject matter of those briefings?

A They varied. They could have been -- you said to the Attorney General, right?

Q To the Director, excuse me.

A Right. Director in preparation for the Attorney General?

Q Correct.

A Yes. So those were often specific about domestic terrorism operation cases. They could have been specific cases that were underway and posed operational risk; in other words, we were about to do multi-jurisdictional takedown using SWAT teams or HRT, our hostage rescue team, so higher risk operations. And it also included status updates of various activities in field offices, opening cases related to civil unrest from the summer of 2020, the status of some of those investigations or updates related to travel and support of riot activities and things of that nature, as well as intelligence briefings -- what are we seeing related to the pending election, are we seeing threats coming in against elected officials -- and then, obviously, with January 6th occurring, numerous briefings about status updates, investigative strategy and updates on arrests as they were occurring.

Q And, when you were section chief, can you kind describe for us the organizational chart? Did you have people who reported to you?

A I did. So Domestic Operations Section consisted of three units when I first arrived -- correction four units when I first arrived. And those units were led by a unit

chief. That's a GS-15 employee. Has oversight over supervisory special agents, imbedded intel analysts, and other personnel. They primarily are responsible for oversight of any domestic terrorism investigations that are opened in the field offices.

They provide policy guidance to the field. They provide support to the field for operations, whether it's funding for sources, travel expenses for operational expenses, and then across field offices, because many of these cases bleed over across multiple jurisdictions, operational awareness of what one field office is doing so there's no unilateral action that negatively impacts other field offices' investigations, right? And so there is a coordination piece that we provided from Domestic Terrorism Operations Section.

Those units were comprised of about 26 or so special agents that are supervisory special agents, about 12 intel analysts, and a handful of other professional staff. During my tenure there, based on the environment that we faced and the surge of cases being opened, there was a flow of temporary duty agents from other branches of the FBI to support our work in supporting field offices.

And that ebbed and flowed over time. And that was to either fill vacant positions that I was unable to fill from the field offices because they were tasked with working investigations in the field offices or to help on special cases, critical incidents, or cases that required specific attention, and we didn't have the personnel on hand to dedicate to it. So they would surge temporary resources to me.

Q About how many temporary duty employees were in the section at any given time?

A It truly ebbed and flowed. This was also during COVID, and I'm remiss to say, during my tenure there, I never met my full staff. There just wasn't opportunity to meet my entire staff. So I had many people working for me that I never met in person

or never had conversations with. In total, at one point, I think I had about 60 total FBI personnel temporarily assigned to my section. I think that was maximum. I think it was sustained for about 30 days.

Q And what time period was that for the 60?

A Well, that probably would have been the summer of 2020, just with the number of field offices that required additional support; not only were they temporarily assigned to me, but we were also deploying personnel out to those field offices to support them in their command posts in responding to the various crimes that were being committed, which cases could we reasonably open with the Federal nexus, and which cases do we need to support State and local partners. So the bulk of that would have been 2020.

We also had surge across multiple divisions to develop a strategy and implement a strategy for January 6th investigations. They weren't necessarily TDY'd to me, but they fell under my purview as my role as the -- for lack of a better term -- the headquarters on scene commander for a unified response to January 6th. So multiple divisions had personnel contributing to that mission.

Q And so you spoke about four units, and those were each headed by a unit chief; is that correct?

A That's correct.

Q And did each unit have a subject matter area that they worked on, or was it just everyone worked on everything?

A No, ma'am. So, in the section, we all were responsible for the primary threats of domestic terrorism as the FBI defines them, as well as some of the additional investigative matters that we were responsible for, program managing all of those cases. The way our -- that we broke up those units was by region. So we had an Eastern

Region, field offices that fell in the eastern region in the United States, a Central Region, and a Western Region. And then the fourth unit when I arrived was the Hate Crimes Fusion Cell that had been stood up prior to my tenure, and that was to look at the corollary or the overlap of domestic terrorism investigations and hate crimes. And are we dual-captioning, are we coordinating, and are we leveraging hate crimes charges where appropriate on DT subjects.

Q Okay. I want to kind of focus in on your time as the section chief, specifically surrounding the time of the October 4th memorandum that the Attorney General issued. Are you familiar with the National School Boards Association letter to President Biden?

A I became aware of it. Yes, ma'am.

Q And when did you first learn of that letter?

A I learned of that letter based on communications I had with the Department of Justice. That would have been around October 1st. I had a conversation with a counterpart in Counterterrorism Section, National Security Division of DOJ. And there was a request for him and I to collaborate together: What is the Federal response on three particular measures? And I could generalize those measures or requests from DOJ.

Q That would be great.

A The first was, where, if there were threats received or made against school boards or elected officials, does it rise to a Federal nexus, specifically regarding domestic terrorism? Two, can the FBI assist in serving as a clearinghouse for any threats that were received? And, three, how would we best coordinate with State and local partners to use enforcement action where appropriate so whether it was a State or local authorities or Federal authorities?

Chairman Jordan. -- that request October 1st. Who did the request come from?

Mr. Jensen. That came from ODAG office, an email to myself, and I believe it was Tom Brzozowski of the Department of Justice, CTS.

Chairman Jordan. So the email came from Tom, say the last name.

Mr. Jensen. Brzozowski. Common spelling. I wish I could spell it for you, but I can't, sir.

Chairman Jordan. Mr. Brzozowski emailed you on October 1st?

Mr. Jensen. No, sir. It was, oh, Kevin Chambers would have sent the initial email.

Chairman Jordan. And what's Mr. Chambers' title?

Mr. Jensen. I don't know his title, but he is from ODAG's office.

Chairman Jordan. Thank you.

Mr. Jensen. Yes. And I'm sorry; just for clarification, that email that he sent was to myself and Mr. Brzozowski to coordinate, and it was not uncommon for Mr. Brzozowski and I or other members of CTS to coordinate on issues. I had a standing meeting with CTS regarding domestic terrorism operations and cases and potential prosecutions.

BY [REDACTED]:

Q Was that the only outreach you received from DOJ regarding the September 29th letter?

A That was the initial outreach.

Q The initial outreach?

A Yes, ma'am. That was the initial request for coordination, and how would we respond to this? And that was a telephone call that I received from Mr. Brzozowski

because I was working in a secure facility. I didn't have my phone, my cell phone, and it happened after normal business hours, which was also not uncommon because of the pace that we were maintaining. We would often do post business hours meet-ups.

Q And when was the phone call from Mr. Brzozowski?

A It was after five o'clock, but the specific time I don't no.

Q Was it on October 1st?

A I believe so. That was Friday, October 1st, I believe, if my memory serves.

Q Yes. That would be right. So October 1st -- did you receive the phone call Mr. Brzozowski first, or did you receive the email from Mr. Chambers first?

A So the email hit my inbox first, and I believe I forwarded it to my immediate supervisor, Deputy Assistant Director Jim Tarasca, but I didn't have any comments on my email to him. It was just kind of like: Hey, I received this. I don't have time for this right now.

But it's for his awareness.

Chairman Jordan. Can you describe that email? What did Mr. Chambers say? Was there urgency in the email? What -- give me the tone.

Mr. Jensen. It's hard to describe tone from an email. I didn't sense, like, we need a response right now. It was a request for Mr. Brzozowski and I to review those three requests, right, and how would we best respond to that. Based on my conversation with Mr. Brzozowski, my request of him was we need more time, right? I don't know at this time, does the FBI have any threats relative to this letter that was sent or responsive to ODAG's question. I would need to get in touch with the National Threat Operations Center at CJIS and ask for them to pull information, do we have anything relative to this, and then coordinate with my counter -- Criminal Investigative Division.

Chairman Jordan. Did Mr. Chambers say what prompted him? Did he reference the letter from the National School Board Association?

Mr. Jensen. The National School Board Association letter was attached for reference. And so it was part of the email for me to review.

Chairman Jordan. Okay.

BY [REDACTED]:

Q Did Mr. Chambers mention anything else in the email besides the letter that was kind of prompting this discussion?

A Without the particular email in front of me, it would be a hard for me to say. I think there was -- there were two or three separate paragraphs in the email, very short, kind of saying: This is the request that's attached. This is how it came in. This is what we're looking to do, right. Can you guys coordinate on these three things?

It was very simple. And really the summary was: Based on this letter that alleges threats against their members, other public officials at schools, can we do these three things, and how would we best do these three things?

Q And when were you and Mr. Brzozowski able to start working on the three things that Mr. Chambers had asked to collaborate on?

A So, on that phone call, we talked about those three things and pretty much went through them in order. I unfortunately didn't have that email in front of me then. He called me, cold-called me, referenced the email and the SBA letter, and so I was able to pull it up on my computer, and we talked through it. It wasn't a lengthy conversation. It was essentially: I understand what's being asked. There are other parts of the FBI that should be involved in this, NTOC for one, to determine do we have anything currently in our holdings relative to these types of threats?

And I wasn't aware of any, but I didn't want to give bad information back to DOJ.

Two, it's not simply a domestic terrorism matter, and most of these, from my awareness of what was occurring and being broadcast in the media at the time, specifically Loudoun County, they appeared to be State and local matters. And I believe that was also highlighted in Mr. Chambers' email to us, saying: While I recognize many of this -- much of this would be a state or local matter, how could we engage on these? Right. Using Federal authorities, could we engage on these?

That was one of the questions, right?

And so my response to Tom was: First, we would need to talk to NTOC and pull some data. We would also need to bring in my partners over in Criminal Investigation Division because many of these would come in as generic threats, threats against public officials would largely be worked out of the Violent Crime Section in CID, and there should coordination with them as well. And they need to be brought in, but it's after 5 o'clock, and I'm not sure they're in right now. Right. So we would have to reconvene on Monday to answer these questions a little bit better. And he agreed more time was necessary, and we would reconvene on Monday.

Mr. Biggs. Can I just ask for clarification?

Mr. Jensen. Yes, sir.

Mr. Biggs. Because you said Chambers asked, how could we or could we?

Mr. Jensen. So those are my words, right? His email was very definitive, and I don't have that email in front of me.

Mr. Biggs. The reason I say is "how could we" sounds like "how do we shoehorn ourselves into it," and "could we" sounds more like, you know, "is it permissible, do we have authorities?"

Mr. Jensen. Yes.

Mr. Biggs. That's what I'm trying to get at. Which one is he saying?

Mr. Jensen. So I don't want to put words on the email because they are in black and white. My interpretation of it is "could we," right? I had concerns about the initial SBA letter, right, that came from a private organization and some of the things that they wrote in their letter. I think they had concerns about threats against their members. And we're claiming certain authorities that they believed we could use that, not appropriate for us to use on U.S. citizens, okay?

But then a blanket statement of "if it rises to counterterrorism, domestic terrorism," that was concerning to me too, and I was adamant during my entire tenure, still adamant today, and even when I was an agent working investigations in domestic terrorism, that we focus on individuals for violent conduct, not on groups or associations of people. And it's often misconstrued, and it's something that I constantly had to remind people of, even our own agent personnel. Mere association does not warrant predication. We also don't assign labels, right, broadly that you're a domestic terrorist because you are an associate of this. It's specific based on conduct that meets the statutory definition. And that was very, very important to me to clarify on that call.

Mr. Biggs. So, when you talked about authorities just in your answer, what were the authorities that you thought the FBI might have to investigate what seemed to many to be local and State issues?

Mr. Jensen. Right. So my concern about in-person meetings in particular and asking "are there -- or how could the Federal Government, FBI in particular, engage in those" is they're happening in person. There's no indication that a Federal facility was used in the commission of a crime, threat by wire, threat my communication device. These -- if there were threats, it appeared based on media, right -- I don't have personal knowledge of it, but just what I was seeing in the news, it appeared that they were happening in person and would be a local harassment or threatening communication in

person if somebody filed a complaint. And that would be handled at the local level.

Mr. Biggs. So but you mentioned that maybe there were Federal authorities. What would those Federal authorities have been to investigate to determine whether it's credible or not?

Mr. Jensen. If we received a credible tip -- and that was the part I wasn't aware of, right? That's why I wanted to talk to NTOC. If we received from the public, from a member of a school board, from anybody really a tip that alleged a potential Federal violation, that would give us authority to look into that and determine, was this a true threat, and do we need to investigate further or pass it along to our State and local partners? And that's consistent with how we triage all threats that we receive. And then, once we determine if there is a Federal violation and it warrants the opening of an investigation, then additional lawful authorities would connect.

Mr. Gaetz. Thank you for being here. Good morning. I want to draw a fine point on this testimony you've just given about predication functioning as a feature of conduct rather than a feature of association.

Mr. Jensen. Yes, sir.

Mr. Gaetz. Is that a proper understanding of your testimony?

Mr. Jensen. Conduct, criminal conduct.

Mr. Gaetz. Right. There are those who believe that predication occurs based on one's conduct, and there are those who believe that predication can occur based on one's association, and your testimony today is that you found that to be often misconstrued?

Mr. Jensen. So I should clarify. I did mention that, even with some of our own agents as they're opening cases, they would misconstrue like this person is also associated with, and we would correct that, right? It's their violent conduct, and they

had predication for that. This person was alleged to have been engaged in violent conduct, or was willing to engage in violent conduct, but that is our predicated statement for domestic terrorism investigations.

Where I found the confusion was often when I talked to people outside of the FBI about how we conduct domestic terrorism operations versus their understanding of international terrorism operations. Mere association, affiliation with a foreign terrorist organization, whether it's material support or otherwise, does give us authorities to investigate.

Mr. Gaetz. I thought your testimony was that, even among FBI personnel, that this distinction between association and conduct was misconstrued as a feature of predication. Did I understand that correctly?

Mr. Jensen. So, at times, yes. And that is often with somebody who has never worked domestic terrorism before, a new agent trainee, somebody who has not opened a case before. And where the predication exists, it's making sure that predicated statement is at the front side, that the association is not the predicated statement.

Mr. Gaetz. And this confusion regarding associations versus conduct on predication, did you ever see that arise as it related to school board meetings and people associated with those who attend them?

Mr. Jensen. So I did not, but the timing of this is important too. So I noted in my brief resume, that in October of 2021 is when I left Counterterrorism Division and went down to Training Division. And so I stepped out of my role as Domestic Terrorism section chief around the time that that joint message from CID and CTD went out to the workforce about how to triage those investigative leads that come in and what our response was, right? So I was part of the conversations leading up to that, but I was not there for any resulting tips or guardians that might have been developed in response to

that.

Mr. Gaetz. But it seems to be that, based on this communication from Chambers, that you were part of -- you were tasked to come up with the doctrine on how these school board threats or associations would be analyzed. And you seem to have laid out this three-part test in developing that doctrine: the existence of a Federal nexus, the FBI having -- being a clearinghouse for the threats, and then coordination where appropriate with State and local. Is that --

Mr. Jensen. Those three were outlined. And, again, those are my -- it's my summary of what was in the email, right, my recollection of what those three taskers were. As far as a doctrine for the memo, I don't believe I was a part of creating a doctrine, but what are our authorities inside the FBI to respond to, if at all?

Mr. Gaetz. Well, that may just be our difference in semantics. But drawing a finer point on what my colleague Mr. Biggs was asking you about: When you say, like, when analyzing the Federal nexus to these matters, did you observe any FBI personnel wanting the exercise of jurisdiction to be the outcome of that nexus?

Mr. Jensen. So, again, the timing is important. I didn't -- to the first part of your question, I didn't do any analysis on tips that might have come in during that time because I had left after the threat tag had been created. I'm sorry. I left before that threat tag had been created and implemented. I didn't have any purview or oversight of any of those tips or Guardians that would have come in. And I am not aware, based on my experience working with the agents and the analysts, that there was any impetus other than, do we have a lawful authority to investigate?

Mr. Gaetz. Was it a quest to acquire that lawful authority during your time there?

Mr. Jensen. No, sir.

Chairman Jordan. Was the request of October 1st, was that typical?

Mr. Jensen. So it was unique. It was not atypical to get direct communications from ODAG's office.

Chairman Jordan. No, but -- I understand that. I assume they reach out to you. But was this specific one -- you said unique. Was it unique?

Mr. Jensen. It was unique in that it came -- the method in which it came and the specific letter from the SBA. I had not received --

Chairman Jordan. Okay. So that was unique. An attachment from some outside organization, that was unique.

Mr. Jensen. During my tenure, that was unique.

Chairman Jordan. Okay. And was the time unique? So the letter is dated September 29th; 2 days later, you get it attached to something from the offices of the -- Attorney General's Office, Deputy Attorney General's Office. Was that unique?

Mr. Jensen. The timing didn't stand out to me, sir.

Chairman Jordan. Okay. You said you went to Quantico sometime between when the memo was released on the 4th and the 20th when the FBI sent out the guidelines on how they were going to put this all together with the threat tag and everything else. Is that right?

Mr. Jensen. Yes, sir.

Chairman Jordan. What date did you go to Quantico.

Mr. Jensen. It was mid-October. I'd have to get back to you on the specific date. I know I had --

Chairman Jordan. Before the 20th?

Mr. Jensen. It was. I had a procedure -- a stress-related procedure, unfortunately, an angiogram, which came back clear, but it was on the 16th.

Chairman Jordan. -- okay -- what did you do between when you got the request on the 1st and the 4th when the memorandum was issued from the Attorney General?

Mr. Jensen. I'm sorry. Can you repeat that, sir?

Chairman Jordan. So you get the request on the 1st, and then the memorandum goes out on the 4th. What type of communication and what happened between the 1st and the 4th between your office and the Attorney General's Office?

Mr. Jensen. Yes, sir. So there was a series of email exchanges that I was copied on. DOJ, various officials in DOJ updating their comments towards what was described as a media release, which, in my initial conversation with Mr. Brzozowski, I was not aware of potential media release, just that this request had come in for us to coordinate. And we, myself and Mr. Brzozowski -- I don't want to speak for him, but he summarized our conversation back up to Mr. Chambers in ODAG's office, and it was thorough. He missed the one part that I had chimed in about a clearinghouse could exist in NTOC if it needed to be used because it's already set up to receive tips and distribute those tips to State and local partners. That was an important part for me so we didn't duplicate efforts or resources or recreate the wheel, but that was a minor part.

The communication that I was copied on referenced 18 U.S.C. 2331, which clearly defines international terrorism and domestic terrorism. That was referenced in one email communication, and I was copied on that. And it also referenced that there would be a media release. When I received that email, started a separate chain of email's internal to the FBI.

Chairman Jordan. Is the that unusual to be referencing talking about a media release?

Mr. Jensen. No, sir.

Chairman Jordan. Okay.

Mr. Jensen. No, sir. My concern was broadly applying a statutory definition, specifically of domestic terrorism, to a broad-based population. Like I said before, we predicate on individuals for their individual conduct. And a broad application of a statutory definition can be very misleading, and that's what I flagged internally to FBI chain of command inside of CTD. And my request in flagging that was that they engage with DOJ because I felt, with a pending media release, we needed higher level of engagement. And so I had a conversation on Saturday -- and I do remember this very well, because Saturday we had a large group of kids coming over my house for a -- like a fall party. And I was trying to finish the construction of a fire pit because we promised them s'mores.

So I was in the middle of working on that project, trying to get it done before everybody was arriving, and I was getting email traffic and phone calls, right? And it was taking away -- which was not atypical either, right. I worked around the clock and often answering on weekends. But the timing of this one was rough. So I remember the conversations, and I remember the emails.

I had a conversation with the DADs, forwarded the email traffic internal to FBI only, just for their awareness, briefed my DAD, Deputy Assistant Director, on my conversation with Tom the night prior, what my concern was in a media statement that might use the term "domestic terrorism," and that we still didn't know are we even looking at -- do we have any tips, do we have anything in our current holdings Guardian-wise that references threats against school boards, or is this strictly a state and local matter?

Mr. Biggs. Can I just get on that because that's really what I want to get at is, from this October 1st to October 4th, is it fair to say -- because you mentioned the Federal nexus, you and I have talked about the authorities, you didn't actually even know

whether there was anything coming in that had a Federal nexus, which I think --

Mr. Jensen. I didn't.

Mr. Biggs. Yeah.

Mr. Jensen. And that was a key point for me is I wanted to know; do we have something --

Chairman Jordan. You expressed that concern multiple times in the correspondence back and forth with folks who work in the FBI and folks who work in the Justice Department?

Mr. Jensen. So I know Tom and I spoke, Mr. Brzozowski and I spoke about that directly, right? We needed to see specifically is there even something to scope here.

Chairman Jordan. And did you -- but what I want to know is, did you communicate that to the Attorney General's Office via email?

Mr. Jensen. I did not. I did not.

Chairman Jordan. Okay.

Mr. Jensen. I communicated that internal to the FBI, that my concern was a broad application of the term "domestic terrorism," where we're not clear if there is a Federal nexus for us to even be attached to it. There was internal communication back stating, you know, without a Federal violation, a clear Federal violation, it would be hard for us to engage on the criminal side, let alone on the counterterrorism side.

Chairman Jordan. And that was an email back to you guys?

Mr. Jensen. That was back to me from my Deputy Assistant Director, one of the Deputy Assistant Directors.

Chairman Jordan. Okay.

Mr. Jensen. So there was shared concern. But, again, this is -- it's not uncommon in communications with DOJ of what intent is and what we're capable of and

making sure there's enough time to coordinate to make sure we're married up in what our abilities are, our lawful authorities are, and what the intent is, and trying to marry those up. With the pending media release, it seemed we were getting ahead of ourselves on the coordination piece, and that was my bigger concern.

Chairman Jordan. Are you confident that your concerns were made clear to the Department of Justice about no Federal nexus here?

Mr. Jensen. I was.

Chairman Jordan. Okay.

[REDACTED]. You said -- you had a -- go ahead.

Mr. Jensen. I'm sorry. Uncertainty about a Federal nexus, right, because I didn't even know if we had anything at this point.

Chairman Jordan. Fair enough.

BY :

Q And prior to that time, had you been aware or any of your FBI colleagues been aware that domestic terrorism at school board meetings was something coming down the pike?

A No, sir.

Q And did you provide any feedback to the Justice Department or the ODAG officials that the FBI wasn't aware that there was a domestic terrorism issue at school board meetings?

A No. It would have been that early conversation with Mr. Brzozowski about assuming it's domestic terrorism, right, that it needs to be scoped properly. Much of it, again, would have been State or local. Where it potential implicates a Federal violation, it might still best be handled at State or local because it's happening there, but that, if those threats did come in, it probably implied Criminal Investigative more so than DT, and

we needed to bring them in.

Q As far as the potential incidents happening at school board meetings? Who goes to school board meetings? Like what was the concern? What types of people?

A I don't believe that came up. Are you asking me who goes to school board meetings, or are you --

Q Right. What types of people go to school board meetings?

A Generally parents and people who are concerned about what's being taught in the schools, or what's about to be implemented by the school board.

Q Right. And the incidents you are aware of that have happened at school board meetings that the FBI either looked at and decided to investigate or looked at and decided not to investigate, did most of those involve parents?

A So, again, I'm not aware directly. I know more than 20 Guardians came in, but that's just from a briefing that I received. I didn't have direct oversight, and so I don't know the details of any of the investigative efforts.

Q So you don't know if any of those 20 or so Guardians involved anyone other than parents?

A I couldn't tell you. I would assume, but I've also been told that assumption is one of the mothers of all mistakes, right? And so I don't have direct knowledge.

Q Right. Did you have any awareness that the National School Boards Association was working with the White House on this initiative before their letter was published?

A No, I didn't know.

Q And were you aware at the time there was a Governor's election in Virginia going on?

A I was aware of the Governor's election. I was a resident of Virginia at the

time.

Q And some of these school board related topics were very politically sensitive at the time?

A So they received a lot of media attention around the Governor's election and for the school board meetings themselves.

Q Right. Was there ever any discussion that this letter from the National School Boards Association to the White House might have just been a political move to get more attention on those political issues to advantage Governor --

A No discussion that I was a part of.

Q Did that raise any concerns that maybe this letter was, you know, introduced, you know, September 29th -- the Attorney General's memo was October 4th. Did anyone on your end express concerns that, you know, maybe this was getting a little too political?

A Not on my end. The speed at which the memo came out was concerning because we didn't have an opportunity to fully coordinate internal to the FBI. I never drew connections between elections, external politics, and a complaint by a private organization that we ultimately received alleging violent threats against some of their members, right? And so, that's what I was focused on, is: Are there credible threats? Do we have a duty to look into this, and if we did receive any of those threats, are we dealing with them appropriately, either passing them off to State and local partners for action, or if it was done through a Federal facility, are we investigating it appropriately?

Q The officials at NSBA that we've spoken to have represented to us that they googled things. They googled things when writing their letter, okay? So, if you had known that, would that have given you any pause? This wasn't a set of incidents that had been brought to NSBA's attention from their constituency, okay? This was NSBA

officials googling things to create the predicate for their letter to the White House. If you had known that, would that have given you any concerns?

A No more concern than I had of what was contained in that document. It appeared to be written by somebody who didn't fully understand the implications of what they were asking us to do versus what we're capable of doing. And that's just ill-informed. But we receive a lot of that in the FBI. We receive complaints from ill-informed people, well-intended but ill-formed, and some of the allegations require us to look deeper into it.

Chairman Jordan. If it was so ill-informed, why was it attached to a request from the Justice Department to you guys?

Mr. Jensen. So I can't say they were fully ill-formed, but it appeared to be ill-informed on what authorities we actually have, right? "Misinformed" is a better word.

Chairman Jordan. Which is the key component.

Mr. Jensen. Yes, sir.

Chairman Jordan. Why would the Justice Department attach that and send it to you guys and say: How do we set this up?

Mr. Jensen. So I can't speak to why other than the potential allegations of the threat of violence or the actual use of violence against officials, school board, or otherwise or people attending large gatherings in those school board meetings, and the concern being, do we have a duty to look into these? Do we have an authority to look into these if they are occurring broader than what we see in media on Loudoun County, and that's how I interpreted it.

Chairman Jordan. Okay.

BY :

Q And nobody disputes that, if somebody goes to a school board meeting, a parent or a vendor -- somebody suggested vendors go to school board meetings. I'm not sure they have been involved in any of these incidents, but if somebody is at a school board meeting, nobody is suggesting on our end that, if they do a bad thing and they threaten someone, they shouldn't be handled. But that I think you would agree is a local matter, correct, the local sheriff or the local police would deal with an assault or a verbal threat, correct?

A So, broadly, right, I try to be very specific, but broadly, if a threat occurs in person, it would be a State or local matter generally speaking.

Q Now, if it were an interstate conspiracy to disrupt, you know, a school board member or a school board meeting, then perhaps the FBI has a bigger role, correct?

A So a big jump. An individual who uses a telecommunication device, who uses the internet, social media account, or otherwise who makes a threat against a U.S. citizen or an elected official, regardless of their position, rank, or authority, they've used the facility to engage in interstate commerce, and it could imply 18 U.S.C. 875, which is threat over wire communications.

Regardless of conspiracy or otherwise, individual threats that are a true threat, versus just speaking broadly about "somebody should do this," or "I'm going to do this against this person," that requires us to look into it. And that doesn't mean we are going to specifically going to investigate. It might mean we pass it off to the State and local authority that has jurisdiction where that individual lives. Maybe we'll partner with that State or local jurisdiction, but we need to determine, is that a credible threat, does it pose injury or harm to that individual or others, and can we mitigate that threat?

Q Did you believe, during the October 1st to October 4th timeframe, that there was a necessary predicate to involve the domestic terrorism resources of the FBI into this

issue?

A I still didn't know. My concern in the way it was being discussed was a broad statement that it's domestic terrorism or could be domestic terrorism if it meets the statute, and my language was "dangerous to broadly apply a statement like that." It's because of the implications it carries of broadly assigning a label when that's not how we operate. That was my bigger concern. I still needed to look at or the Bureau largely needed to look at: Do we have tips coming in? Is this truly a big problem, or is this a letter that is highlighting a potential problem? And we just didn't know that at the time. So I couldn't speak to our scoping or authority at that point.

Q In hindsight, do you think it was a stretch that the NSBA folks cited the PATRIOT Act? I mean, I think that's how the whole domestic terrorism angle was introduced to this conversation? Do you think that was a bit of a stretch?

A That's where I go back to the misinformed. I know I said "ill-informed," but "misinformed" is probably -- they are aware that there are certain authorities the FBI can use but not fully aware of how those can be implemented.

Q But using the PATRIOT Act for cranky parents at school board meetings is probably a little bit of an overreaction, correct?

A So, again, without seeing the letter specifically, I don't think they used the term "cranky parents." I think they used the term "people making threats," right. Broadly speaking, people making threats against officials, my statement back to the DOJ and internal to the FBI is that's not a broad statement of domestic terrorism, right? They might view it as terroristic threats on the receiving end, but we have to make an independent assessment of how we're going to conduct our operations.

Q Did you find it remarkable that the entire might of DOJ was operationalized to deal with this so quickly?

A Can you describe "might"?

Q Well, the Attorney General promulgated a memo. The Office of the Deputy Attorney General had her staff communicating with the FBI. It was instructed that U.S. attorneys nationwide and FBI nationwide, you know, examine this issue. Was that -- do you think that's remarkable in hindsight that it happened so quickly?

A So the speed without what I viewed as better coordination, better information from the FBI to scope it, how the FBI could respond in the coordination piece, I would have preferred more time. That's my preference at a much lower level than the Attorney General, but I can't speak to what was his rationale or the motivation. He's in charge of the Department of Justice, and he picked his timing.

Q Fair enough. The speed with which the letter, you know, came to fruition -- and I think you represented and other witnesses have told us that there were maybe 25 Guardians that resulted from this. Is that a good number?

A Again, I didn't have oversight over this, but from a briefing that I was privy to, I believe more than 20 Guardians actually came into the system and were generated with that specific tag.

Q Right. As you sit here today, is that more or less than you would have expected given the high level priority that was placed on it?

A So I don't know that I had a quantitative analysis going into this. I didn't know, right? That's a very fair statement for me. I just didn't know were we already dealing with this, and how big of a problem nationally was this? And I think as a result of the limited number, my understanding is that it's, from October of 2021 until January of 2023, that number is a valid number, is only about 20 or more than 20 Guardians came in. That's relatively good job of scoping. This wasn't as endemic of a problem as was suspected. And so it didn't take a lot of effort or resources to do that. It took time.

And I think, in retrospect, the way that it was implemented internal to the FBI once that memo was released gave us the ability to scope it appropriately.

Q Okay.

BY :

Q And so you get the communication from Mr. Chambers October 1st. You said you had some more email traffic on October 2nd, and then Monday --

A I'm sorry. So October 1st evening, and then October 2nd as well.

Q And then you said that you went into reconvene with Mr. Brzozowski on Monday, which would have been October 4th. Were you able to reconvene with him?

A No.

Q And were you able to do any of the, kind of, the due diligence on the three things that you were asked to do by Mr. Chambers before the memo came out on October 4th?

A Aside from coordinating with Mr. Brzozowski, no.

Q And so the only coordination you had with Mr. Brzozowski would have been on the 1st, or did you have some sort of coordination on 4th?

A No. The only one I recall, and I recall most of them because of the circumstances, was on the 1st.

Q So, in the memorandum the Attorney General released, he described the threats and harassment that were going on at school board meetings or against teachers and staff as a disturbing spike. Were you able to determine if there had been a disturbing spike before the memo was released?

A No.

Q Do you know where the Attorney General got that information --

A I don't.

Q -- that there had been disturbing spike? It wasn't from the FBI, you don't think?

A I can't speak to that. I don't know where it originated.

Q And so, after the memorandum came out, there was an email that created a threat tag. Did you have any involvement in the discussions surrounding the creation of the threat tag?

A I did.

Q Can you describe those communications?

A So, generally, it was my position early on that this request coming in from DOJ, we would need to coordinate with CID. I can tell you the memo being released on Monday the 4th, immediately after that, so, on Wednesday the 6th, the Director and the Deputy Director held a video teleconference with all SACs. And often, in those conferences, the ASACs of the various field offices attend as well. And they responded internally to that AG memo.

And, specifically, I'm present in that room when that happened, but specifically addressed the response of the FBI: What are the expectations of our response? And it's to be a good partner to the U.S. attorneys who were directed to lead in their various districts, more than 70 districts, with State and local partners, any response from law enforcement necessary to address threats against school boards, threats against the elected officials, or anybody else participating, that we were going to partner with the U.S. Attorney's Office, but we were not directing it, and any leads or tips that came in would be assessed as we normally do.

This was not a change in behavior for the FBI, and it would not be a change in how we operate. That was very, very clear. And then, on the heels of that, the Deputy Director, I believe, said that both Criminal Investigative Division and Counterterrorism

Division would send out a unified message about how we were going to capture information or report information relative to the Attorney General's memo.

Shortly thereafter, I believe I talked to Acting Deputy Assistant Director Mr. Peoples from Criminal Investigative Division, what is our best way to gather information for tips that might come in responsive to the Attorney General's media statement. If we ask the media or if we ask the public to provide information, they're, post-911, very good at providing information. And not all of it is actionable information, and we have to weed through that. But, when we have campaigned for the better part of 20 years "if you see something, say something," generally the public has gotten very good about providing information.

And so we needed a way to capture that data across all the various field offices to provide credible information to those districts if those meetings occurred about in this particular area how much of a problem is represented. And so that tag was created to attach to any complaints that came in, specific to threats against school board officials, school officials or anybody else that would have participated in those school board meetings. So the EDU official tag was created for that purpose.

Q You said, on the FBI side, those that were involved in that discussion of the creation of the tag was you and Mr. Peoples. Is that correct?

A So, to the best of my recollection, right, we oversaw the two branches or sections that were most responsive to it. I think we ultimately coordinated on it. We might have gotten input on it from our intel sections. That's generally how I operate. I seek information, what is the best way so it doesn't confuse people? The tag has to be very clear. We don't want miscellaneous information going in there. So I would have gone through my normal process. I can't speak to his process, but ultimately he's the one who pushed out the final email about coordination across the two divisions, the

threat tag usage, and the expectations.

Q Was there any approval required for the creation of the threat tag?

A I've been part of creation of numerous threat tags. Usually, it's at the division level, that: Yes, we concur this a threat tag.

I believe, in this case, it was briefed up to the Deputy Director, I believe.

Q Okay. So, before the tag was created, you believe that it was briefed up to the Deputy Director?

A I do believe that. I know the email that went out with that tag had the two Assistant Directors from Criminal Investigation and CTD, ultimately, as the authorities for that joint message. Although, pushed out by Mr. Peoples as the Acting Deputy Assistant Director, it was representative of both their reviews and approval for that threat tag. Because it implied multiple equities, it wasn't just one division of the FBI; it would have gone up higher than just the ADs.

Q And so, after you and Mr. Peoples discussed the creation of the threat tag, you then were transferred to the Training Division. Is that correct?

A So I was already under orders. I was cleaning up what my responsibilities were inside our Counterterrorism Division, and then, shortly thereafter, yes, I left and went down to Quantico.

Q So you left before the email was sent out. Is that correct?

A I believe so, yes.

Q And, when the Attorney General released the memorandum, there was also a press release that accompanied the memorandum that created a task force. Did you have any knowledge of the task force?

A Only what was in the press release.

Q No involvement with the task force. Do you know if it was stood up?

A I don't.

Chairman Jordan. I want to go back for a second. Back to the beginning here. October 1st, you get this email communication from ODAG's office, Mr. Chambers, sent to you. And did you get -- between the 1st and the 4th when the memo comes out, did you communicate anything back to -- directly to the Attorney General's Office?

[11:02 a.m.]

Mr. Jensen. I don't believe so.

Chairman Jordan. So -- and the email, again, on October 1st asked you for your thoughts on how we would do this.

Mr. Jensen. So that's a good correction. It asked for me to coordinate with Mr. Brzozowski on how we could implement these three things, right? Mr. Brzozowski summarized our telephone conversation the night of October 1st and copied me --

Chairman Jordan. To who?

Mr. Jensen. To his boss and chain of command inside of DOJ, Mr. Chambers in particular.

I responded to Mr. Brzozowski's email, and I had a point of clarification. Yes, you summarized our communication very well, but this is a key point that I want to highlight that we talked about and was not included in that email. So I did have one email, to my knowledge, directly back to DOJ.

Mr. Biggs. What was the key point?

Mr. Jensen. It was that NTOC CJIS already exists, would be collecting information and tips from the public, and that we should tap into them to determine, is this already being reported? And if we are going to use FBI resources as a clearinghouse, they already exist for that purpose of receiving information and disseminating it broadly, related to threats or actionable intelligence.

Mr. Biggs. And did Mr. Brzozowski's -- I don't even know if I'm saying that right, but did he -- did his communication back to his superior indicate your concerns that you expressed with regard to the Federal nexus?

Mr. Jensen. I would have to double-check the content of that. I don't want to

speak for Mr. Brzozowski. He did emphasize that we agreed we needed more time to coordinate internal to the FBI and across the Department to better address those three items.

My recollection of our conversation is, we both agreed we didn't have enough information at our fingertips on that evening of Friday to answer those questions sufficiently and we needed to regroup on Monday. And that's what he communicated.

Mr. Biggs. Previously, in our discussions, you talked specifically about a concern you had with the authorities and nexus. And I just want to make sure that -- did you feel that Mr. Brzozowski -- the gentleman had adequately communicated it to his supervisor?

Mr. Jensen. If I recall the email from Mr. Chambers correctly, I think he highlighted in one of those paragraphs that, while most of these would be occurring at their State or local level -- and I think that was fronted in his email, recognizing that --

Mr. Biggs. Okay.

Mr. Jensen. -- these events were already happening at the State or local level -- are there authorities, right? Those three lines that I've already talked about.

So I think it was put in up front from DOJ.

Mr. Biggs. So you didn't feel that you needed to further emphasize that in your communication via Mr. Brzozowski?

Mr. Jensen. I didn't, because on the front of it, it was already emphasized, right? We recognize this, but, given that, is there a way we can do these things?

BY :

Q And I know you had said that you weren't able to get back with Mr. Brzozowski before the memo came out on October 4th. But were you and Mr. Brzozowski ever able to reconvene on the three things that were asked of you by Mr. Chambers at any point in time?

A Not to my knowledge.

And I should note, it's not that I couldn't get back in touch with him. I probably could've called him at any point and he would've taken my call.

Q Uh-huh.

A It's that I elevated this inside my own chain of command, because I felt a higher level of engagement, especially with a pending media release and the implications of additional FBI equities or concerns -- I don't like talking like a bureaucrat too much, but -- you understand what I'm saying. It implied more on the FBI side than I felt we were able to answer on my limited conversation. And so I wanted higher-level engagement.

And once I did that, I didn't feel it was my role to have lower-level conversations without engaging my bosses who were already talking about this.

Q And do you know if your bosses were engaging with the DOJ on this?

A So I was told by my DAD that both he and the AD were engaging on this, and it wasn't my job to question him further, and if they wanted to share something with me, they would have. I didn't get anything from them.

Q And was the AD Timothy Langan?

A It was.

Q And the DAD you've been referring to was?

A So there were three.

Q Uh-huh.

A And I included all of them.

Q Okay.

A But the primary one was Jim Tarasca.

Q Okay.

A And he was my principal DAD.

Q Okay.

I think we're out of time, so we'll go off the record.

[Recess.]

┆ All right. It is 11:15 -- 11:16. I'm sorry. We can go back on the record.

┆ Before you jump in, just --

┆ Yeah?

┆ -- real quick, on the record, I just want to make sure that we get an opportunity to review and propose errata on this and the other transcripts. I know we've had several of these TIs this week and this month, and so I just want to make sure we get a chance to review and provide errata before any other transcript is used publicly or, you know, used in any way.

┆ Right. And the transcript review procedure, the witness and the two individuals in the interview, okay -- so that would be Megan and you, Matt, or Ms. Greer and Mr. Hanson -- can come review the transcript, and you can check the transcript for accuracy. If the witness believes that one of our court reporters -- and this never happens -- got something wrong, flag that, or if the witness decides that he, upon reflection, wants to correct something. That's the purpose for the review.

At that time, you can also suggest proposed redactions in the event the committee wants to release the transcript.

┆ Okay. Yep. Appreciate that. I know that's a little different than the process has been in the past, because there hasn't been a limitation around who is able to go and look at the transcript. So I'm happy to discuss the mechanics of the process offline.

[REDACTED]: Yeah. I mean, we never contemplated that we would have people from the Department who weren't in the interview come to review the transcript and just bring their laptops and start, like, typing up notes. So that's why we went back to, you know, our old rules about guidelines for reviewing transcripts.

[REDACTED]: Okay. Again, happy to discuss the mechanics of transcript review offline, but the requirements we've discussed here are a little different than the process that has already been underway for other transcripts for TIs that have been done in the last couple months.

[REDACTED]: Shouldn't have been, but --

[REDACTED]: So I'm happy to discuss that offline.

[REDACTED]: -- that's the process. It's not really open to negotiation or debate.

That's the process, so --

[REDACTED]: I'm happy to talk further offline.

[REDACTED]: And, sorry, before we start our question time, you were referring -- did you say we went back to the rules the way they were before as you knew them?

[REDACTED]: Yes.

[REDACTED]: I'm kind of new here. What rules were those? What was the era, or what was the --

[REDACTED]: The rules we've always had with transcripts when we've been in the majority.

[REDACTED]: Okay. So it's from when you were in the majority in '17? '18?

[REDACTED]: We were in the majority in 2018.

[REDACTED]: Okay.

[REDACTED]: I mean, we've been in the majority during this -- you know, we've

been -- at least since I've been here, I've been in the majority for some -- at least 10 years where we've had transcript interviews, and that's always been the process.

[REDACTED]: That's been the process.

[REDACTED]: The witness and the witness's lawyer. I don't think that was different with the limited number of transcribed interviews the previous majority conducted.

[REDACTED]: Okay. Like I said, I wasn't here, so I'm just trying to get clarity on which --

[REDACTED]: Yeah.

[REDACTED]: -- set of policies or procedures we're following. Okay.

[REDACTED]: Would you like it a different way? I mean --

[REDACTED]: No. I just -- I feel like I'm trying to get a sense on -- because I do think that there were situations where some witnesses that have appeared before us this year, their attorneys did get copies of the transcripts --

[REDACTED]: That never happened.

[REDACTED]: -- external. And so I think -- we can talk offline about it. But I think, to the extent that there's changing practices, I just want to be clear on what the policies are. I don't know if they're written down. I assume they are probably not. But if they are, that'd be great.

[REDACTED]: Yeah, that would be interesting. I mean, the Department and I don't believe the Bureau have been given access -- like, been given copies of these transcripts. So that --

[REDACTED]: Yeah, we never give -- we never give the -- we never give the transcripts to the executive branch.

[REDACTED]: Okay.

[REDACTED]: Oh. But they are given to private counsel. Is that what --

[REDACTED]: What's that?

[REDACTED]: -- you're saying? But they've been given to private counsel? Is that the difference?

[REDACTED]: Well, I mean -- you know, when you're conducting an investigation, it's not, I don't think, appropriate for the integrity of the investigation to ship transcripts out to a party that's going to have future witnesses coming in. So --

[REDACTED]: To counsel for the parties that have testified as witnesses? It's not appropriate for them to have the transcripts?

[REDACTED]: When they're represented by agency counsel, that's correct. But let's just go forward --

[REDACTED]: Okay. Because I think --

[REDACTED]: -- with the questioning.

[REDACTED]: -- like, Jill Sanborn, I think her attorney got the transcript, right?

[REDACTED]: He did not.

[REDACTED]: He didn't? Did George Hill? Or Steven Friend?

[REDACTED]: George Hill has not been sent the transcript. Steven Friend has not been sent the transcript.

But let's just go on the record here, and we can deal with this --

[REDACTED]: Okay. Yeah, I think we want to --

[REDACTED]: -- after we --

[REDACTED]: I think we just want to get clarity on what the rules are; that is all.

Because I don't know that I know the policies. I don't know if they've ever been expressed to me. So that's all.

It's 11:21, and we can start our questioning now.

EXAMINATION

BY [REDACTED]:

Q Mr. Jensen, thank you again for taking the time out of your schedule to join us today.

A Of course.

Q At the very beginning of the last hour, we were talking about DTOS and the structure and the organization. Do you recall that?

A Uh-huh.

Q And you made the point that there had been up to a max of 60 individuals under your command. Is that fair?

A So, influx of 60 additional to what my normal FSL would be.

Q Okay. And that max was in the summer of 2020?

A To the best of my recollection, directly reporting in my section, yes.

Q Okay. So that was in response to the civil unrest in the summer of 2020?

A Yes.

Q Okay. Can you talk a little bit about why you needed increased resources during that time?

A The -- it's multiple parts, because the increase of resources that we received wasn't just program managers, supervisory special agents, but it was intel analysts and other tactical analysts.

The reason we needed that additional help is the volume of additional work that my section was undertaking in response to cities like Portland and Kenosha, Louisville; even New York and elsewhere where they didn't experience large riots consecutive nights in a row but they had some spillover or bleed-over of directed threats against government facilities or projected acts of violence that were about to occur.

And not only were we program-managing a direct increase of domestic terrorism investigations, traditionally investigated by us, but also an increase in other categories of investigations managed by Domestic Terrorism Operations Section. And those are our anti-riot statute cases and civil unrest or civil disturbance cases, which, in the history, you know, last 30 years, not often utilized, and there wasn't really good memory in the Bureau for how to conduct those investigations.

And so we needed routine guidance to the field on what our authorities were, given the circumstances. In some cases, it required very specific authority from the Attorney General to collect intelligence because it was viewed as a -- although a civil disturbance, in the guise of a First Amendment-protected activity. And that's a very, very fine line, and we don't want to surveil solely on First Amendment activity.

On the other hand, you have statutes that clearly outline that it's a Federal violation to engage or travel in interstate commerce or use a facility engaged in interstate commerce in furtherance of a riot. And that's a very specific statute that gives us authority, if violated or alleged to have been violated, that we could conduct those investigations broadly.

And the number of cases that we saw increasing required more direct program management.

Q Okay.

A And so it was a direct correlation.

Q And I think you said you also assisted or supported State and locals in the summer of 2020. Is that right?

A We did. So, through the local field offices, we would if they were experiencing -- and Portland is a prime example of that; Seattle also -- multiple consecutive nights and weeks of direct violent activity against Federal facilities, against

State and local facilities, often overwhelming State and local police departments.

And so, providing assistance to conduct investigations, collect evidence where appropriate, try and identify subjects who were either instigating, providing resources for rioting, or directly assaulting Federal police officers, and trying to bring them to justice.

And that was whole of FBI. So there were criminal investigative bodies, there were WMD bodies for SABTs -- special agent bomb technicians -- and domestic terrorism, counterterrorism bodies going out and helping that overall effort.

Q And so wouldn't that have been the case that there might not have been a Federal nexus to prosecute in those cases but the State and locals needed extra assistance on the ground?

A So, oftentimes, in routine investigations, State and locals need additional assistance. And while there is a Federal nexus, right -- it could potentially be a violation of a Federal law -- the better prosecution lies with the State, and so we will support them. And in the summer of 2020, that was often the case.

Q Okay. Thank you.

There was a comment made earlier, some discussion, about how agents sometimes, I wrote down, "misconstrued" domestic terrorism, that there was concern about charging domestic terrorism based on an individual's association with a group as opposed to a criminal act.

Do you recall that?

A So, I think, a point of clarification.

Q Yep.

A The word "charging" domestic terrorism, right? There is no charge for domestic terrorism. It's a --

Q Good point.

A -- statutory definition. And I was referring to the predication or predicate offenses inside of a case opening.

Q Understood.

A And just a little further clarification.

Q Uh-huh?

A Upon receipt of an allegation, we use the information we have at the time, right? It's not probable cause. It is an allegation of a potential Federal violation, which might lend itself towards opening of a domestic terrorism investigation.

But, oftentimes, as we conduct that lawful investigation, we find there are other statutes at play or other motivations that might cause us to change that initial classification away from domestic terrorism, or from criminal investigation to domestic terrorism.

We often see that with somebody who is manufacturing explosive devices. Their simply placing a pipe bomb somewhere doesn't imply ideology. It's a device intended to harm people, and until we identify who the subject is, we don't know what the ideology was, unless it's clearly littered around the area, right?

But, often, that's opened as a manufacturing-of-an-explosive-device case, and once the subject or subjects are identified and they have ideology, it would be converted back over to a domestic terrorism case.

So proper predication is important on this.

Q Understood.

On the specific question of ensuring that agents understand proper predication -- and I think you referred to training agents, for example, sometimes listing, as part of the predication, association with a group -- it's your job, as a supervisor, right, to ensure that no investigations are opened on the basis of improper predication, right?

A So, as a direct supervisor responsible for approving the opening of an investigation, it is the primary responsibility.

Q Okay. So there's a check and balance to make sure that that does not happen?

A There is.

Q Is it fair to say that in your time as the section chief of DTOS that you are confident that no cases -- or no investigations, I should say, were opened based on improper predication?

A Yeah, it's -- there's -- yes, but there's a nuance there, right? Because often the predication statement wasn't what we would expect it to be. The nuances of domestic terrorism is such that we often start with legal caveats, right? We don't investigate solely based on First Amendment-protected activity. We don't investigate based on mere association to a group. Or -- and there's, like, three caveats that almost every single DTOS document starts with.

Q Right.

A And that's to prevent some of that from happening.

But, oftentimes, we will see that first paragraph of a predication EC talk about group affiliation -- a militia violent extremist group that this person is associated with who is now espousing violent conduct. The group association is not the leading statement, right?

Q Right.

A It shouldn't be, and we would have to reverse that.

Q Okay.

A Put the specific instances of the subject. So the predication existed; it was just out of order.

Q Understood. So it was more how the agent was documenting it.

A Correct.

Q Not the concern with the actual predication. Is that fair to say?

A It is fair to say.

Q And is it fair to say that that concern existed in the summer of 2020, for example, when you were looking at potential investigations or cases there?

A So I think it always exists, but yes from the DT perspective, no from the full Bureau perspective, because we had so many cases being opened in the summer of 2020, across all of our divisions, trying to help our State and locals and bring to justice people who were engaged in violent acts.

Q Thank you.

We had some discussion earlier about the 20-plus Guardians related to the October 4th memo. Do you recall that?

A I'm sorry. Can you repeat the first part?

Q There was some discussion earlier about the 20 or more than 20 Guardians that were opened --

A Yes.

Q -- based on the memo. Do you recall that?

A Uh-huh.

Q Okay. The comment was made that, I think -- I didn't write it down precisely, but -- that the Guardians related to disruptions at school board meetings. Do you recall that?

A So I believe a question was asked, and I said I'm not aware of the particular details --

Q Right.

A -- or the outcomes because it was no longer in domestic terrorism.

Q And that's what I was going to ask.

A Okay.

Q So we actually, based on -- there were representations made here today, but, actually, we don't know if it's accurate or not, because they don't have the documents in front of us, whether the Guardians referenced anything about school boards at all.

A I don't have that information.

Q And it's entirely possible that the Guardians, in fact, referenced threats transmitted through email or through the mail, correct?

A Again, I don't know.

Q Right. Or it's possible the Guardians involved threats transmitted over the phone, correct?

A Yeah, I don't know.

Q We don't know. We don't have --

A Right.

Q -- that information here.

A The only thing I can say, based on the briefing I received, is that those Guardians' tips and complaints had that tag.

Q Right. That's all we know --

A That's what I know.

Q -- is that they had the tag --

A Yes, ma'am.

Q -- but we don't know -- and the tag was just "EDUOFFICIALS," correct?

A Correct.

Q It wasn't "SCHOOLBOARDOFFICIALS"?

A It was "EDUOFFICIALS."

Q And it wasn't "SCHOOLBOARDMEETINGS"?

A No, ma'am.

Q Okay.

There was a discussion earlier about who attends school board meetings. And putting aside the question of whether the Guardians actually involved anything about school boards, the comment was made that mostly it's parents who attend school board meetings. Do you recall that?

A I do.

Q And that's based on your own experience?

A So I've never been to a school board meeting, and we homeschool.

Q Okay. So you don't know?

A I don't know.

Q It's just your assumption.

A There's an assumption. And I'm cautious about making assumptions.

Q Okay.

I want to introduce as exhibit No. 1 -- that's really -- you guys didn't do any exhibits? You didn't, did you?

Okay, exhibit No. 1. That's unusual.

I'm going to introduce this as exhibit No. 1. This is a -- we don't have the date on this, do we?

Sorry. Can we go off the record for just a second?

[Discussion off the record.]

██████████. We can go back on the record.

BY [REDACTED]:

Q I want to introduce an article, and I'll represent to you that this is dated October 12, 2021. We don't have a copy with the date on it right now. We're going to fix that before the next round of questioning --

A Okay.

Q -- but I don't want to hold up our questioning now.

This is entitled "Proud Boys' Presence Leads to Metal Detectors, Deputies at School Board Meetings."

[Jensen Exhibit No. 1

Was marked for identification.]

BY [REDACTED]:

Q And I want to put aside -- so I want to look at the third paragraph down.

It says, "'There were two men in Proud Boys shirts and hats,' said chair of the Orange County Schools Board of Education Hillary MacKenzie. 'One wore a stocking over his face which completely obscured his entire face for the whole meeting. The other one told our board during public comment that someone should tie rocks around our necks and we should throw ourselves in a river.'"

Do you see where I read that?

A Uh-huh.

Q Just based on the face of this article, we don't know -- I guess these men in Proud Boys shirts and hats could very well have been parents. We don't know that. But is it fair to say that these individuals don't appear to have been there because they were concerned about their children's education?

A I honestly couldn't opine why they were there.

Q Yeah. And if somebody is wearing a stocking over their face, it might

actually be even harder to tell if they're a parent or not, correct?

A I think somebody claiming to be a parent would be dispositive of them being a parent --

Q Right.

A -- not what they're wearing.

Q Right. But my point is just that, if somebody is showing up at a meeting with a stocking over their face, you know, that's not traditionally what you think of when you think of a parent at a school board meeting, correct? Parents don't usually put stockings over their face to go to a school board meeting to talk about their kid's educations?

A Is there a question?

Q Is that -- do you agree with that statement?

A So it's hard for me to agree wholly with that statement, because in recent events we've seen all kinds of people showing up wearing various garb --

Q Yeah.

A -- right? And I think, generally, school board meetings are open to the public --

Q Uh-huh. Right.

A -- because taxpayers are feeding into the school board and what's being taught at those -- so I don't believe it's restricted to just parents.

And I would be very, very cautious about making any assumptions about what somebody wears demonstrating who they are as a parent and what they're representing at a school board without direct knowledge.

Q Understood. Understood. But my point is just that it's not just parents who attend school board meetings, correct?

A I would assume, as an open hearing, it's open to anybody who has standing to be there.

Q Okay.

I want to introduce as exhibit No. 2 an article from Oregon Public Broadcasting entitled "3 Vancouver schools placed on lockdown after Proud Boys try to enter during masks protest." And this is dated October 3, 2021 -- I'm sorry, September 3, 2021.

[Jensen Exhibit No. 2

Was marked for identification.]

BY [REDACTED]:

Q So on the -- I'm going to refer to the first paragraph. The article describes an incident in Vancouver, Washington, which is a suburb of Portland, Oregon. And the very first paragraph says that "Vancouver Public Schools confirmed on Friday that the Skyview High School, Alki Middle School and Chinook Elementary were put in lockdown after members of the far-right Proud Boys tried to gain access to school grounds, according to witnesses."

Did I read that correctly?

A Uh-huh.

Q Can you understand why a school would have concerns if the Proud Boys were trying to gain access to its grounds?

A Broadly speaking about the Proud Boys, no. And that's based on my understanding of the organization. They're not a criminal organization, to my knowledge. They're not designated -- because we don't designate domestic groups as terrorist organizations.

Q Okay.

A But the notoriety around the Proud Boys, I could see why somebody would

affiliate concern, right -- have concerns about members of the Proud Boys showing up. But that is a determination made by a school official based on whatever they observed at the time.

Q Uh-huh.

A And I would hope it would be more than just what somebody was wearing.

Q Fair. Fair.

All right. There was some comment or discussion -- did you have that statute written out?

[Discussion off the record.]

BY [REDACTED]:

Q We had some --

A And -- I'm sorry.

Q Uh-huh?

A If I could, like, with the Proud Boys, I understand there's media attention around them. They wear certain colors and identify themselves pretty proudly as Proud Boy members. But there is a lot of swirl around them about mere association to the group. And that's why I'm trying to be very clear --

Q Understood.

A -- about my understanding of the Proud Boys and membership of the Proud Boys --

Q Yeah.

A -- versus my knowledge of specific acts of violence or threats of violence by members of a group who would attach an official response from me --

Q Understood. But --

A -- right? So broadly speaking about them is difficult because I'm here

representing the FBI -- in particular, the Domestic Terrorism Operations Section.

Q I appreciate where you're coming from.

We discussed earlier the National School Boards Association letter that was sent.

A Yes.

Q Do you recall -- and you said you recalled receiving it?

A Yes.

Q And we actually didn't introduce it into the record, so I want to introduce it as exhibit No. 3.

[Jensen Exhibit No. 3

Was marked for identification.]

BY [REDACTED]:

Q Before we get there, are you familiar with 18 U.S.C. 875?

A Yes.

Q What does that say?

A In summary, it is a statute that has a criminal penalty for making threats via wire or other communication devices.

Q So it's interstate threats?

A Yes.

Q Okay.

On page 5 of this letter -- and have you -- I'm sorry. Have you reviewed this letter before, do you recall? Has it been a while?

A It's been a while.

Q So I'm going to ask you to read the first couple sentences of the second -- the giant para- -- yes, that paragraph.

A In the middle, starting, "In Ohio"?

Q "In Ohio," correct.

A And starting at the beginning?

Q And not read it aloud. I just want you to read it and familiarize yourself with it.

A Oh. Sure. I was going to put on my best reading voice.

Q Are you ready to continue?

A Sure.

Q So the very first two sentences describe a letter mailed to a school board member. And it says, "We are coming after you and all the members on the Board of Education." It continues, "You are forcing them to wear masks for no reason in this world other than control, and for that you will pay dearly."

Now, if that threat was mailed across State lines -- and I know we don't have that information here, but if that threat was actually sent across State lines, could that potentially meet the statutory definition of 18 U.S.C. 875?

A So a little more particular than that. If it used the U.S. postal system, there is potential for Federal violations there, to include 875.

There is still the Brandenburg test that has to be applied. It's a Supreme Court case, Brandenburg v. Ohio. And that's where we have to assess whether it's a true threat or a mere advocacy of violence. And so, while somebody might've felt threatened by this, it does not automatically imply that it's a true threat. And that's a determination that has to be made.

Q And you would make that -- you would look into it further, correct, to look into that?

A If we received this, there would be an obligation to look into it either at our level or with State and local partners.

Q Okay.

Are you familiar with 18 U.S.C. 245?

A Yes, but I would need to be reminded of what it is.

Q It's violent interference with federally protected rights.

A Okay.

Q And I think -- so subsection (e) says -- sorry. Whoever, whether or not -- sorry. 18 U.S.C. 245, small section (b): Whoever, whether or not acting under color of law, by force, or threat of force, willfully injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with any person because he is or has been, in order to intimidate such person or any other person or any class of persons from" -- and then this is subsection large letter (E) -- "participating in or enjoying the benefits of any program or activity receiving Federal financial assistance."

Does that generally track with your understanding?

A Yes. I believe, in summary, it's our color-of-law --

Q Correct.

A -- statute. Somebody acting in their official capacity who violates somebody else's rights.

[REDACTED]: Or not under color of law.

BY [REDACTED]:

Q Or not -- not in official capacity. It just says anyone --

A Under color of law.

Q Right. Anyone acting -- yeah.

So, on page 3 of this letter, the bottom paragraph says, "An individual was arrested in Illinois for aggravated battery and disorderly conduct during a school board meeting."

Would you agree that that's a violent action, just based on the face of it, realizing you don't -- it could be a violent action?

A It has potential to be, yes.

Q Okay. And if that interfered with the exercise of individuals' rights at a school board meeting, could that, in fact, implicate 18 U.S.C. 245?

A I'd -- I'd be hesitant.

Q Okay.

A Because color-of-law violations require higher level, we usually engage with civil rights attorneys at DOJ --

Q Okay.

A -- to ensure that the application of that statute in particular, as well as hate crime statutes, are appropriately applied.

Q So you'd need to look into it further?

A I would need to look into it further.

Q But it could warrant further investigation --

A It would be a conversation, without a doubt.

Q Okay. I'm sorry, could you say that again?

A It would be a conversation with DOJ attorneys of what statutes would apply.

Q Okay.

And then, on the next page, on page 4, it says, "In Virginia, an individual was arrested and another man ticketed for trespassing and a third person was hurt during a school board meeting discussion distinguishing current curricula from critical race theory and regarding equity issues."

If an individual was hurt -- realizing there's not a lot of information here, but if an individual was hurt, you know, due to the fault of another, that potentially could be an

act of violence, correct?

A It could be.

Q And, again, that could be something that implicated section 245? We don't have enough information here, but it could be?

A It's possible. I mean, one of the issues I see here is it references arrests, which are allegations from the incident that occurred, right? I mean, without the specific details, to your point, it's hard to determine what assessment would be made beyond that.

Typically, if it's handled at the State and local level, there wouldn't be a need for further review by us --

Q Understood.

A -- because the situation was remedied, appropriately charged, and then ultimately charges from a district or State's attorney would be levied.

And so it's hard to review this and say anything beyond what the black-and-white is.

Q Okay.

If you look at footnote 19 on that page, on page 4 -- and, again, there's not a ton of information here, but the subject of the -- it cites to an article, and the article is entitled "If you give one more shot," which I believe refers to a COVID shot, "you yourself will be executed."

Would that potentially qualify as a true threat?

A So the words that are used -- and this is where it gets really difficult, and we often have contentious discussions with people about this, right?

Mere advocacy for violence -- "you yourself will be executed," it's a threat, right? But is it somebody who's saying, "It's going to happen," versus them saying, "I'm going to

do this"? Right? That would be more of the action verbs, "I'm going to do this," true threat, versus, "It's going to happen at some point" --

Q Right.

A -- right? "People are talking about it. I'm in favor of it, but I'm not willing to do it myself."

We get these a lot inside the FBI, and determining what is a true threat versus what is people --

Q Right.

A -- for lack of a better term, blowing off steam. And I don't, by any means, condone this behavior.

Q Uh-huh.

A But this statement, if it was received by the FBI, would warrant further, but it would probably be handled by the Criminal Investigative Division for potential threats.

Q Right. But it would get -- it would get a -- it would get a second look, correct?

A It would be reviewed -- if we received it in our system, it would be reviewed and then probably handed off to the appropriate State or local agency. After that, I couldn't tell you whether agents would go out and participate.

Q Right.

A It depends on the threat matrix and what they're looking at.

Q Okay. But it wouldn't be improper for you to look into it and see if it was, you know, an actual true threat, to see if there was a "there" there?

A In fact, if we received it, we have an obligation to look at it and --

Q And why is that?

A -- to action it.

Because once we receive the information and it implies potential threatening communications or it implies a potential violation of State or Federal law, we have to make sure we get it in the hands of the people who can action that. Even if it means it's closed because it doesn't represent a threat --

Q Uh-huh.

A -- at least it was handled appropriately and we're not sitting on potential threatening communications.

Q Thank you.

I want to turn to the discussion of threat tags that we had earlier. I think we started it near the end of the last hour.

Can you generally explain what a threat tag is?

A The term "threat tag" I think is often misconstrued. It's a tag in a system of record when we receive information in order to track that information.

And, in this case, the threat tag implies complaints, tips, allegations from the general public, the private sector, about, in particular, threats directed at public officials, school board meetings in general, or any officials involved in the business operations of school boards, of education.

And it's attached to the threat, the various types of threats that could come into the FBI. It doesn't attach to a specific group or a specific individual. The key there is, we're not tracking one group or one association or a general group of people, targeting a subset of society.

We're responsible for the threat information that we receive as an agency and, in this case, how much have we received. And a tag in a system that we can do a quick grab from, a quick keyword search or, through an algorithm, pull that information very quickly and see a snapshot in time across all 56 field offices --

Q Uh-huh.

A -- how much information did we actually receive relative to this particular event.

And it's a very common tool used around special events where -- we know the Super Bowl is going to happen every year. It's a multiagency event. It usually receives a high threat rating from the Secret Service and others, DHS, and requires a unified presence. And we are, domestically, one of the agencies that will receive domestic threats, and we want to make sure we're sharing that as early as possible so that the security posture can be appropriate.

Creating a tag in advance of that event allows us to take information and say, these are the types of threats that we're seeing across the United States related to that specific event, even though the event hasn't occurred yet. It's preparatory.

Q Okay. So is it fair to say that the purpose of a tag is to help scope something?

A In some cases, yes.

Q And, in this case, the purpose was to scope the threat of -- scope the size of the threat against education officials. Is that fair to say?

A That was definitely the intent.

Q Okay. And the purpose of scoping -- just to break this down, the purpose of scoping is to assess whether there is something for FBI to do, correct?

A In part, yes.

Q Okay. So, in this case, Kevin Chambers, DOJ, contacted you. He said that most of these incidents appear to be State and local, correct?

A It's a summary, but yes.

Q And then -- but can you scope this, effectively, and see if there is something

for Federal engagement?

A Yes, in summary.

Q Okay.

When the "EDUOFFICIALS" threat tag was created, do you know if it was applied retroactively?

A It wouldn't surprise me if it was. I think, given the nature of our organization and the diligence of our intelligence cadre, if there was a pre-created Guardian, a threat that came in, that would apply to that tag.

And in the system, when a new tag is created, there will be a banner in our system of record that will say: This tag exists. If you see this, it should apply.

And so, as there's a periodic review, I could see our intel cadre applying it retroactively. But it would probably be very limited, given that only a little more than 20 total Guardians existed.

Q Uh-huh.

I want to introduce a March 1st letter from FBI's Office of Congressional Affairs to Mr. Jordan. We'll mark this as exhibit 4.

[Jensen Exhibit No. 4

Was marked for identification.]

BY [REDACTED]:

Q And I'll give you a minute to look this over if you've not seen it before.

A I see they used the Super Bowl example also.

Q Ready to continue?

A Yes, ma'am.

Q Okay.

So footnote 2, which is on the bottom of page 2, so the lead-in to that, the

sentence in the actual body of the text says that, between October 14, 2021, and January 2023, approximately 25 Guardians received the "EDUOFFICIALS" tag, based on the information reported to the FBI.

And then the footnote number 2 says: In addition, four Guardians that were open in advance of the Attorney General's memorandum subsequently received the "EDUOFFICIALS" tag.

So, looking at the four Guardians that were open in advance of the Attorney General's memorandum, if they were open before the memorandum ever got issued, the memorandum couldn't have been the impetus for people reporting those threats to NTOC, correct?

A That would stand to reason.

Q Okay.

Do you know the extent of FBI's look-back to determine how many prior Guardians or how many prior threats had been called in that might need to be applied -- that the "EDUOFFICIALS" tag would be appropriate for?

A I don't.

Q Okay. So there actually might have been even more than four, because we don't know how far back the look-back was, correct?

A I honestly couldn't answer that.

Q Okay. And so it's entirely possible that there were more tips; we just don't know that. Is that fair?

A It is possible, but, again, I don't know. We didn't, while I was there, conduct a retroactive review, and the threat tag hadn't been created while --

Q Right.

A -- in my remaining days there.

Q Right. And so you left before -- you left mid-October, you said?

A Uh-huh.

Q Okay. So you wouldn't know.

A That's correct.

Q We don't have that information, yeah.

A I just --

Q Okay.

The March 1st letter from the Office of Congressional Affairs says, in the last paragraph -- I'm sorry, the last sentence of the second paragraph on page 2, it says, "The purpose of the tag was to help the FBI understand the scope of reported threats against school officials on a national level and to provide an opportunity for a comprehensive analysis of the threat picture for effective engagement of law enforcement partners at all levels."

Did I read that correctly?

A Yes, ma'am.

Q Do you agree with that statement?

A I do.

Q And is that an accurate explanation of the threat tag's purpose?

A Yes.

Q And so why is it important for the FBI to understand the scope of the threat?

A Well, I think there's multiple reasons that's important.

One, and not the primary, but it's in response to the request from DOJ to help put in context this issue; I think it was referred to as a "spate of threats" against school boards. Can we put in context, from our holdings and in coordination with State and local officials, how much are we actually seeing across the Nation. And I think, with that

tag, we were uniquely positioned to do that in a system and in a structure that already existed.

Also, in the summer of 2020, our own eyes could tell us that there was a need to surge resources towards a growing threat of civil unrest, civil disturbances, riot activities, and directed violence against police officers, Federal agents, and Federal facilities. Without that specific information, collecting information to help us scope the problem would help us determine, do we need additional resources in specific areas? And in the whole of the country this might not be a problem, but in a particular area of the country we might see a need to surge some resources to support State and locals or to support a local field office.

So that's a secondary part of scoping. Where does the problem exist, and how do we address it?

And then, third, grabbing that information from our system as the complaints are coming in and being able to ascertain very quickly, are these threats that are reported to us, one, credible; two, implicating a potential Federal violation, giving us a nexus to either engage on our own authorities or participate with State and locals.

And I think later in the letter it describes the number. Seventeen of them were Criminal Investigative. The majority of them were sent to State and local partners. And only one resulted in an FBI investigation. So it did help accomplish those objectives.

Q Okay.

And, actually, the language of that sentence that I read earlier, in that second paragraph on the second page, I want to look at that language, "law enforcement partners at all levels."

Is that "at all levels" a reference to State and local law enforcement, do you believe?

A It would include it.

Q Uh-huh.

A And I think it's an easier way of saying what we typically say in the Bureau, which is "State, local, Federal, and Tribal partners."

Q Okay. So it's just a shorter way to --

A A shorter way.

Q Okay. So part of the goal here was to ensure that you could effectively aid State and locals in their work. Is that fair to say?

A Can you restate that?

Q Was part of the goal of the threat tag and of scoping to ensure that if State and local authorities needed more resources or needed assistance from you, you knew that, and you could direct the resources appropriately?

A Yes. I think it's a good distinction of, we can't fully provide resources to State and local partners; we can provide assistance, and usually of a technical nature or an investigative nature, where we can apply a Federal nexus, right? That does help us scope that.

Q Okay.

There have been allegations that the FBI was using the threat tag to, quote, "tag" parents as domestic terrorists. Have you heard these allegations?

A I've heard it in the media.

Q Okay. So, to your knowledge -- sorry.

Are tags applied to people, or to investigations and to cases?

A So, in this case in particular, these tags are applied before investigations are opened up, oftentimes irrespective of a known subject.

Q Right.

A It's applied to a threat.

Q Okay.

A And it doesn't attach to the tipster, and it doesn't attach if a named subject or a potential suspect is listed. It attaches to the type of threat that came in.

Q Okay. And you said sometimes you might not even know the subject, because you're trying to figure that out through your investigation.

A There are many ways that a subject could be anonymous. Social media platforms often provide a screen-handle but not the actual identity of the subject.

Q Right.

I want to look at the October 4th memo itself, because I think we've talked a lot about it but we've not gone -- we haven't introduced it, we haven't set eyes on it yet. So I want to turn to that.

And we'll introduce that as exhibit 5.

[Jensen Exhibit No. 5

Was marked for identification.]

BY [REDACTED]:

Q And let me know when you've had a minute to look it over.

A All set.

Q Okay.

So we discussed earlier an exchange of emails and some conversations that took place before this memo was issued. Do you recall if, in those emails, there was ever a reference to parents?

A I don't recall that.

Q Okay. Do you know if disruptions at school board meetings were mentioned in the emails?

A Not -- not specifically, but without the emails, I don't want to understate or overstate what I recall.

Q Understand. And I'm hopeful that we'll get those emails. But, right now, you don't recall that language being in there?

A I don't.

Q Okay.

Looking at the text of this memo itself, is there any reference to parents in here?

A In my quick review of it, having just read it, I don't see specific verbiage about parents.

Q And can you take a look and let me know if you see anything at all in here about school board meetings?

A I don't see that.

Q Okay. And so there's actually no reference in here to disruptions at school board meetings either, correct?

A I don't see that either.

Q Okay. Now, the memo does use the word "threats," correct?

A It does.

Q And it says -- it also uses reference to actual violence, right?

A It references threats of violence --

Q Uh-huh.

A -- two times that I see in the first paragraph, the second sentence and last sentence.

Q And it also references the Department being steadfast in protecting the people of the United States from actual violence. It says "violence," not "actual violence," but --

A Yes.

Q Okay.

So is it fair to say that the focus of this memo is actually on threats? It's not on who's making the threats; it's on the actual existence of the threats, correct?

A So it is on threats directed against certain officials.

Q Uh-huh.

A But it is specific about violent threats that run counter, according to the verbiage here, and are illegal.

Q Yep. And it specifically says those threats that are made against not just -- it says school board members, but it also says school administrators and teachers and staff as well, correct?

A It does.

Q Okay. So it's not even just limited to school board members; it's education officials writ large?

A That's how it reads.

Q Okay.

I want to look at the very first paragraph here. The very first sentence of this paragraph references harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff, correct?

A Yes.

Q And, again, this paragraph doesn't say anything about school board meetings at all, right?

A It does not.

Q The last sentence of this paragraph notes that, "while spirited debate about policy matters is protected under our Constitution, that protection does not extend to

threats of violence or efforts to intimidate individuals based on their views."

Do you understand the phrase "spirited debate about policy matters is protected under our Constitution" to be a reference to the First Amendment protections?

A That is how I read it also.

Q Okay. In your experience, does the FBI take First Amendment protections fairly seriously?

A Very seriously.

Q Do you want to say anything more about that?

A I've already stated that, especially in domestic terrorism investigations, we start with legal caveats that specifically address: We do not open investigations based solely on First Amendment-protected activity.

We often go further in our threat assessment and make an assumption that U.S. citizens are exercising First Amendment rights and apply that Brandenburg test to determine, is it violating the law in that speech? And that's a requirement based on Supreme Court case law.

Q Okay.

That sentence continues, though, "That protection does not extend to threats of violence or efforts to intimidate individuals based on their views," right?

A That's what it says.

Q And is it accurate that the First Amendment does not protect true threats of violence or actual violence?

A It does not.

Q Okay. So if somebody says, "I am going to kill you tomorrow," that's a true threat, right?

A It could be a true threat.

Q And that would not be protected by the First Amendment?

A Correct.

Q Okay.

And, actually, if these threats are being issued against people, such as teachers or educators, because they are expressing their views, wouldn't those threats actually be infringing on --

A Could we go back?

Q Sure.

A I apologize. So the hypothetical, "I'm going to kill you tomorrow," it's not an uncommon one, right, especially in the workplace. And coworkers get angry at each other and will often say, "I could kill you," right, or, "I'm so angry, I could do X to you," right?

Q Right.

A That person who received that perceives a threat.

One of the determinations of local law enforcement -- I can speak to that because I was one -- is the ability to carry out that threat. Were they truly angry with intent to carry out that threat? Action verbs.

Q Uh-huh.

A Versus a statement uttered -- I don't want to say "under duress," but -- in the heat of the moment that there was no intention behind.

Q Uh-huh.

A And that is part of the analysis of a true threat. And it's very tricky, right? So I don't want to simplify too much by answering your question directly --

Q I understand.

A -- but I want to put it in context of, yes, on its face, but there is -- there's the

human element to this --

Q Right.

A -- right? And I just want to make sure that, in all of these instances, our agents and local law enforcement are making those determinations.

Q Right. But it's not improper for them, if those words were issued or something along those lines, to at least look into it to see if there is the ability to carry out that threat, correct?

A I think, once we receive from the offended party, the harassed person, the victim who felt like they were threatened, we have an obligation to look into it to ensure that it is not a true threat, right? And where it is, to take action appropriately to mitigate that threat.

Q Because you're obligated to investigate all threats to life, correct?

A We serve U.S. citizens and, in particular, victims, trying to prevent victims of crimes.

And I'm sorry, I threw you off your question, but I felt that was important.

Q No, you're fine.

I want to move on to the fourth paragraph of this memo. It says, "Coordination and partnership with local law enforcement is critical to implementing these measures for the benefit of our nation's nearly 14,000 public school districts. To this end, I am directing the Federal Bureau of Investigation, working with each United States Attorney, to convene meetings with federal, state, local, tribal, and territorial leaders in each federal judicial district within 30 days of the issuance of this memorandum. These meetings will facilitate the discussion of strategies for addressing threats against school administrators, board members, teachers, and staff, and will open dedicated lines of communication for threat reporting, assessment, and response."

Did I read that correctly?

A You did.

Q Okay. So this paragraph directs the FBI, working with the United States Attorney's Office, to meet with various State and local leaders, correct?

A It does.

Q Okay. And the stated purpose is to facilitate discussion with them and to open lines of communication?

A Yes.

Q Is it common for the FBI to work together with State, local, Tribal, and territorial partners on matters?

A It is integral to how we operate.

Q Okay. Can you explain what you mean by "integral to how you operate"?

A So, not only do we operate numerous -- I think it's over 400 -- joint terrorism task forces on the threat against terrorism, both domestic and international, we operate counterintelligence task forces and cyber task forces and violent crime task forces, organized crime task forces. I mean, if we're working a violation, there's probably a task force that includes State and local law enforcement participation.

There's a quote on one of our walls at the Hoover Building that says, "The greatest tool in combating crime is cooperation." Right? And that is a principle of how the FBI operates. Our greatest partners are our State and local law enforcement partners.

Q And you referenced task forces. Does the FBI also engage with State and locals outside of task forces?

A We do.

Q And can you say anything about that?

A Routinely.

We hold coordination meetings with our State and local partners. In my capacity as a special agent in charge, I attend sheriff's meetings and I attend meetings of all of the, like, Federal agency heads or State and local law enforcement heads where they're talking about crime problems, they're talking about community engagement issues, and how can law enforcement engage together to better serve their community. And so those are forward-looking or responsive to a growing crime trend, in addition to the engagement on task forces.

Q Okay.

How often do you think -- in your role as special agent in charge, how often do you think you meet with State and local entities?

A They would say not enough. But most sheriffs run a monthly meeting.

Q Okay.

A And then various other entities have also monthly meetings.

And being able to engage, that's where delegation comes in. So, at all levels of -- my field office, in particular, we will assign people to attend different meetings so we're represented, so they know the FBI is engaged, we're part of that community.

Q Uh-huh.

A We're engaged not to overstep our authority and do what the State and local cops should be doing, but to engage with them when it should rise to a Federal investigation.

Q Okay.

A And then also just being good partners with them, addressing crimes that have already occurred, and communicating to the community in a unified response that their local law enforcement is together on this.

Q Okay.

A And very important to do that.

[12:11 p.m.]

BY [REDACTED]:

Q Okay. So if there's nothing unusual -- and, in fact, it's pretty common for you to meet with State and local entities?

A It is.

Q And it's beneficial to them, it sounds like?

A It's beneficial to us as well.

Q Okay. The memorandum finishes off with the line, the Department is steadfast in its commitment to protect all people in the United States from violence, threats of violence, and other forms of intimidation and harassment. Do you see that?

A I do.

Q Do you agree that it's part of the FBI's mission to protect all people in the United States from violence and threats of violence and other forms of intimidation and harassment?

A I do. And we often say our mission is dual and simultaneous to uphold the Constitution and protect the American people.

Q And what does that mean to you?

A It means we have a no-fail mission on both fronts, always uphold the Constitution, without exception, and proactively protect the United States citizenry. And you can't sacrifice one for the other.

Q Okay. There was some discussion earlier that you said you had expressed -- in your conversations prior to October 4th, so October 1st, the email and maybe a couple phone calls after that, you had expressed concern about the use of the term, "domestic terrorism" with respect to the discussion about threats to school officials. Do you remember that?

A I do.

Q Does this memorandum reference domestic terrorism at all?

A It does not.

Q Okay. So to the extent you expressed concerns, I don't know what the memorandum looked like before, but those -- it appears that that was either taken into account or maybe it was never -- they never intended to -- you -- reference domestic terrorism at all, correct?

A My conversation about the use of the term "domestic terrorism" was with one line assistant over --

Q Right.

A -- I shouldn't say line assistant, a DOJ attorney NCTS.

Q Understood.

A I couldn't speak to what broader intention was versus what was pushed out. I can only speak to what was actually pushed out.

Q And what was pushed out does not use the --

A A memo -- I'm sorry. I thought that was a question.

Q And what was pushed out does not use the term "domestic terrorism," right?

A It does not.

Q And it actually doesn't say anything about all about operations. It just says, We're directing meetings?

A Yes.

Q Okay. I want to turn to the press release that accompanied this. Have you seen that before?

A I think I saw it when it came out.

Q Okay. We'll introduce that as exhibit No. 6. And I'll give you a minute to review it as well, and let me know when you're good to continue.

[Pause.]

[Jensen Exhibit No. 6

Was marked for identification.]

BY [REDACTED]:

Q Okay. Are you good to continue?

A Yes, ma'am.

Q Okay. So I want to look at -- so, sorry, before we look at specific paragraphs, there's nothing in this memo that says anything about parents, correct?

A That's correct.

Q And it doesn't reference either school board meetings or disruptions at school board meetings, correct?

A It talks about school board members, but it does not use those terms you referenced.

Q Okay. So it doesn't -- it's not about school board -- disruptions at school boards, it's about threats. Is that fair to say?

A Yes.

Q And those threats could be conveyed through the mail. They could be conveyed in person. It's not specified here.

A It doesn't opine on the types of threats, just threats of violence.

Q Okay. And the first paragraph here discusses -- it references the direction for the FBI and U.S. Attorneys' Offices to meet with Federal and State and -- sorry, State, Tribal, territorial, and local law enforcement, right?

A It does.

Q And it says to open dedicated lines of communication for threat reporting, assessment, and response, correct?

A Yes.

Q Okay. And then that's echoed again in the third paragraph, right? That also talks about holding meetings?

A I believe it does.

Q So -- and it says that part of the purpose is to discuss ways to assist State and local -- State, Tribal, territorial, and local law enforcement, correct?

A It says that.

Q And it says, ways to assist State, Tribal, territorial, and local law enforcement where threats of violence may not constitute Federal crimes, correct?

A Yes.

Q So, again, one of the primary purposes of these meetings was to contact State and local law enforcement and ensure that they had what they needed from the Federal government, correct?

A Yes.

Q Again, there's -- there's no reference in here at all to domestic terrorism, correct?

A No, there's not.

Q Okay. So whatever discussion there was about domestic terrorism shouldn't be mentioned in here, there's no reference to domestic terrorism in here?

A There is not.

Q Okay. At the bottom paragraph, the -- the press release references the National Threat Operations Center via its national tip line and online through the FBI website. Are you familiar with the National Threat Operations Center?

A I am.

Q What does it do?

A It does exactly what's described here. It's -- it's established a 24/7 tip line for the public and others to provide information to the FBI about potential crimes, and then it serves as a -- it serves as a center to dispatch credible threats or threats that require additional review. And I use that term "threats" very, very broadly right now. Tips and complaints are probably a better way of describing.

When NTOC receives a tip or a complaint, they'll gather as much information as they possibly can, and then they'll ship that tip or complaint out to the responsive field office, either based on where the complainant is located, or if they can resolve where a potential subject might be located. And then there's additional review that's required at the field office level.

Q And do tips that come into NTOC sometimes also get sent straight to State and local law enforcement?

A They do.

Q And can you say anything about that?

A That that was a recent addition to NTOC's capabilities in the last 5 years or so, to engage State and local law enforcement through a portal to provide real-time tips, so there was no delay of getting the information to the person best to actuate those threats.

Q And I think you used the term earlier of NTOC acting as a "clearinghouse." Do you recall that?

A It was a term used initially by DOJ, can the FBI serve as a clearinghouse for these tips.

Q Okay. And in your opinion, NTOC would've been the proper entity to

potentially do that?

A It's already -- yes, it's already established to intake large volumes of tips and complaints and provide it out or disseminate it out to the responsible parties.

Q Okay. And so this press release actually references NTOC, correct?

A It does.

Q And it directs people to go to NTOC?

A It does, with any information it might have, responsive to this.

Q Okay. Do you agree that NTOC provides the FBI with an essential service?

A I do agree.

Q And why is that?

A It serves as a conduit between either concerned citizens, aggrieved parties, potential victims of providing information on a day-to-day basis of potential actionable information. And we do that through the 1-800-CALL-FBI, and also through the tip line that's set up for email communications or online tips.

Q Okay.

A But more specifically, where I found tremendous value in them is the ability to cull through during specific critical incident responses, volumes and volumes of tips from the public, whether it's social media grabs or video taken from bystanders or others who had information, providing that to the FBI in a condensed way that can be used to further an investigation.

Q Okay. In your experience, do tips received through NTOC sometimes help to prevent crimes from occurring?

A They do.

Q Do you have any examples of that?

A Preventing crimes, off the top of my head, not prepared for that. They're

numerous, but a specific example I couldn't. A more recent example, I think because it was public, NTOC received a tip about the location of the alleged shooter from Houston, who allegedly killed five people in the neighbor's house. He was on the run. Law enforcement was largely looking for him, big man hunt. And a tip that came through the NTOC line helped identify the location and resulted in his successful arrest.

I think that's an example of a win, potentially preventing future violence by that subject, definitely eliminating a threat to society while he's on the run, but helping us further an investigation.

[REDACTED]: Okay. We're out of time so we can go off the record. Thank you.

[REDACTED]: It's 12:29. We'll go back on the record.

BY [REDACTED]:

Q So throughout the interview you've discussed some of the civil unrest and the rise in threats against police officers during the summer of 2020 that kind of required a surge in resources. And you were section chief at that time of domestic terrorism?

A I was.

Q And so, in that position as section chief, what kind of rise in threats against law enforcement were you seeing?

A So there's general threats online reported, you know, through some of our partner agencies, seeing it on social media accounts. And then there were specific in-person threats against law enforcement, what some described as standoffs, although not necessarily a traditional standoff.

There was a time when we saw protest activity in State capitals of being ascribing to a Second Amendment philosophy, right, in favor of Second Amendment rights, and showing up to State capitals armed. It was concerning to some of our State and local partners. In most cases, it was well within State laws, you know, no violations were

observed in those protests, but increased rhetoric about enforcement activities from State and local law enforcement, and then in certain cases, threats in online platforms directed against law enforcement.

In specific instances during civil unrest where riots occurred after police protected activities, right, so maybe protests during the day, but at night in Portland, almost every night, we saw riots. A lot of the animosity and direct violent activity was first against the police department in Portland, their headquarters, and then against other government facilities to include the Federal courthouse in Portland.

Direct attacks on law enforcement officers, regardless of who they were with, with launchable commercial grade fireworks directed at law enforcement personnel, the use of green lasers into the eyes of law enforcement personnel, in addition to Molotov cocktails being thrown, not only at law enforcement vehicles, but at law enforcement buildings where it was occupied by law enforcement personnel, both sworn law enforcement and civilian law enforcement. It was indiscriminate.

We also saw, in Minneapolis, directed action against the Third Precinct of the Minneapolis Police Department where it was subject to arson, and the police department was, in one description, almost overwhelmed. Thirty rounds from an AK-47 were fired at that building while it was occupied, and while police officers were trying to help rescue a rioter who succumbed to injuries because of the riot.

So lots of activity directed not only against law enforcement, against private sector companies, rampant crime occurring on the streets of multiple cities, which necessitated both a surge of personnel inside of headquarters under my section, but also to field offices to support ongoing investigations related to that activity. Where we could get Federal prosecution, we sought Federal prosecution; where we could collect evidence in furtherance of investigation and get it to our laboratory for processing we

did; and where we could just provide assistance to the State and locals to maintain order to the best of their abilities, we did that as well.

Q And you've discussed Minneapolis and Portland as areas where you needed to surge resources. Were there other areas?

A There were. Louisville stands out to me. I had numerous conversations with the then-SAC at the time. That was not only in response to riot activities anticipating outcomes from a high-profile investigation that was occurring at the State level, but also in Rochester, New York, in Kenosha, Wisconsin, and then in various other cities.

And then that's not to negate direct activity that was occurring in places like Phoenix where we proactively identified a small group of individuals who were targeting electric grid infrastructure and intended to blow it up. And so we still had our proactive investigations and a responsibility to be diligent on those to prevent actions, and in some cases, terrorist actions, plots from occurring while responding to unprecedented -- and I know that term is used often to describe 2020, but violence in the streets of our city.

Q And in your role as section chief of the Domestic Terrorism Operations Section, what was the Federal nexus there for some of the unrest in like Portland, in Minneapolis?

A So there's a statute, that -- it's an antiriot statute. I believe it's 18 USC 2101. It was contested in one of the districts. There was a charge at one time and it was before the court, and so it wasn't an often-charged statute at that time pending the decision of that court, of whether the language in that statute was constitutional or not. But it still allowed us, because it's a statute on the books, lawful authority to investigate individuals who crossed State lines in furtherance of riot activities, or used a facility in interstate commerce to engage in riot activities.

So that was one way. Molotov cocktails by nature are against Federal law, possession of them, creating them, or using them to cause arson. I should note, other agencies have primary jurisdiction over certain crimes to include arson, and that was partnering with the Alcohol, Tobacco, and Firearms, and Explosives Agency. I believe they actually had the lead on the Minneapolis Third Precinct arson.

It was a unified approach across DOJ components as well as some of our other partners in other branches of the Federal government to provide support in response to those riots. And in cases where we didn't have Federal authority, it was providing support either through our laboratory or, in some cases, providing our -- like in Kenosha, I know for a fact we used our SWAT vehicle to use -- to move into a hostile area and recover some of the local police officers to protect them during those riot activities. Their own agency couldn't get to them so we did.

We used every lawful authority that we had to support our State and locals and investigate crimes that rose to a Federal level.

BY [REDACTED]:

Q Do you know how many crimes were investigated?

A I'm sorry?

Q Do you know how many -- what the number of crimes investigated in the summer of 2020?

A No. And there was an effort -- a request, and I can't remember who gave it, to try and -- and codify that. And the sheer volume from NYPD alone, we couldn't codify it on a nightly basis.

Q Right.

A We didn't keep track of State and local records. We did keep track of the surge of open investigations internal to the FBI. And I can tell you, I think from public

testimony of the director at the time, it was more than 500 domestic terrorism-related cases were opened, in addition to --

Q Do you know how many prosecutions?

A I don't. I mean, the last time I looked at those numbers, I think it was more than 60, but a lot of those cases were ongoing pending evidence review and waiting for judicial process.

Q Right. And why do you think -- and these incidents were happening all over the country --

A They were.

Q -- especially out west at some of the Federal courthouses and other Federal properties.

A Uh-huh.

Q Why do you think the events of January 6th received so much more attention? And you know, there's obviously more than 60 prosecutions for January 6th.

A It's a great question. And there's a number, if I can walk through it. A lot of the -- the issues we faced, Portland as a prime example, a lot of the later riot activity was directed against the Federal courthouse in Portland. But what we saw in the nights during those riots was large-scale, what used to be called black-block protest activity. That's individuals dressed in black gear from head to toe, obfuscating their face.

We saw them starting to use umbrella shields. Individuals behind those umbrella shields, or umbrella walls, would launch these fireworks into the Federal facility, and they were occluded from either the surveillance cameras that had already been damaged, or the ones that were replaced were damaged in the process, but under cover of darkness, cover of black, full, head-to-toe gear, obfuscating their identities, and so making it very difficult to attribute a particular subject to the crime that was committed.

So a case opened up, trying to resolve it, and really good police work with our State and locals in many areas to identify subjects responsible for those activities, but very complicated work.

Mr. Gaetz. Is geofencing one mechanism to resolve who was in a particular area?

Mr. Jensen. It could be. Geofence, through lawful means, getting a warrant to establish a geofence with particular parameters of why we would do that.

Mr. Gaetz. That happened --

Mr. Jensen. It could be used --

Mr. Gaetz. That happened on January 6th, correct?

Mr. Jensen. It did.

Mr. Gaetz. So if you could geofence the D.C. area on -- as a consequence of the January 6th investigations, why couldn't one geofence the area around the Portland courthouse?

Mr. Jensen. It's a good question, and it could be done. I don't know if it was done.

Mr. Gaetz. If it wasn't done, doesn't that seem to indicate disparate utilization of tools for a riot event?

Mr. Jensen. It's one conclusion that could be drawn. There could be a number of other reasons why a tool was or wasn't used, and I -- I can't speak to it because I don't know if it was used. I wasn't briefed on it. And I don't know, of the vast array of tools and number of investigations that were conducted, whether that tool was implemented or not.

Mr. Gaetz. Okay. Well, I'm sorry, I didn't know if in response to Mr. Castor's question you wanted to give other basis other than the black block protest feature as to

why the riots in summer of 2020 were treated differently than the riot on January 6th.

Mr. Jensen. So I want to be careful about adding any credence to -- from my perspective, that we treated them differently. There was a --

Mr. Gaetz. We just went over one way you treated them differently. You used a geofence in one and not the other.

Mr. Jensen. Well, it's a tool that's available based on an affidavit submitted before a judge to establish probable cause that that tool can be used. It doesn't mean in all cases it should be used, and I can't speak to whether or not they did use it.

Mr. Gaetz. What are the reasons why geofencing should not have been used in Portland or in Minneapolis surrounding the riots events there close to the Federal property? List those reasons.

Mr. Jensen. I don't know that I could at this juncture.

Mr. Gaetz. Okay. So back to Mr. Castor's question, what, other than the black block protest dynamic of the 2020 riots, would serve as a basis for disparate treatment?

Mr. Jensen. So, again, I don't know that there was disparate treatment in how we conducted or opened investigations. We pursued --

Mr. Gaetz. Well, we just went over it. Don't --

Mr. Jensen. -- logical investigations where we had a Federal nexus, where tools or implements rose to the level of Federal investigative activity. There were a lot of crimes committed, and I wish there was a broad brush that could've been used to arrest people that were committing those crimes, specifically against local law enforcement that didn't have the tools to do that and suffered grievous injuries during many of those nights.

BY [REDACTED]:

Q But you'd agree that 60 prosecutions over the course of the entire, you

know, summer of 2020 --

A At the Federal level.

Q At the Federal level.

A Yes.

Q I mean, there were incidents in Portland all over the country, in Philadelphia, in New York, in Washington, D.C., and 60 Federal cases compared to what happened on, you know, January 6th.

A So --

Q It's just a remarkable discrepancies.

A So one major difference is everything that occurred on January 6th happened on Federal property in a Federal-protected area. Typically, crimes committed there would be investigated by the U.S. Capitol Police, whether it's against Members of Congress, or on the property itself. U.S. Capitol Police was largely overwhelmed and, in some cases, the victim of that very event, and so the FBI came in to conduct those investigations.

But everything that occurred in this building was, in fact, a Federal crime. It happened during daylight, which is one difference, but it also happened with people who didn't obfuscate their identities. Many of them posted on social media their presence inside the Capitol and were captured on internal surveillance cameras of the U.S. Capitol Building. But we started with the premise that everybody who entered the Capitol was trespassing and is in violation of Federal law.

Q Do you think the incidents that happened --

A I'm sorry, could I make one --

Q Of course.

A -- clarification? My recollection of 60 prosecutions is a moment in time,

right. That was from one of the briefings I had conducted shortly after the new fiscal year, October 1 of 2021, right. And so, that's a number that stands out to me. I hope that number has grown since then. But overwhelmingly, the number of cases that we opened were also jointly worked with State and locals and led to State prosecutions.

And I don't have those numbers in front of me, but State venue often served as a viable venue to prosecute these cases. Although using Federal investigative tools or laboratory resources to identify these subjects, we did get them prosecuted through the State system.

Q Right. A lot of the riots that happened happened on television --

A It did.

Q -- in the summer of 2020. And so it just seems that with the use of video technology, you'd come up with more than 60 cases if --

A So we did have more than 60 cases.

Q No, 60 prosecutions, I'm sorry.

A Right. And I wish I had the number of our investigative activities that led to State and local prosecutions --

Q Right.

A -- but I don't have that number.

Q Okay.

Mr. Gaetz. I want to better understand how Washington communicated with field offices around the country during these riots in the summer of 2020. Can you give us an understanding of just how that communication occurred? Was it through emailed bulletins, regular conference calls? Help us understand.

Mr. Jensen. So it was both. And in some cases, there were joint communications secure teleconferences that were conducted with myself, weapons of

mass destruction directorate. Because of the implications of the use of Molotov cocktails and the fireworks, they had an investigative equity there and then criminal investigative division.

There were -- in those coordination calls, or SVTC, as we describe them, we would provide guidance of this is what we're seeing as field offices are reporting to us. We typically had a running command post at the Strategic Information and Operations Center, or NCCC as it's called now, National Communication and Coordination Center. It's a headquarters command post to funnel all information from the field for a standard operating picture.

And field offices that had their own command post would feed into that for what threats are they seeing, and then there were a couple means or mechanisms by providing information back to the field, one was the SVTC. This is what we're seeing, specific direction from counterterrorism, specific direction for WMD and CID cases, addressing any issues that might have been brought to our attention.

And the rapidity of those, or repeatability of those was probably a biweekly call, so it was more as-needed to address specific changes in strategy, or nuances of a new city facing issues.

Mr. Gaetz. When you say biweekly, you mean every other week?

Mr. Jensen. Every other week, sir. That's to the best of my recollection. We had daily coordination with SACs and ASACs that knew they were going to have more riots that night, and what did we learn from this field office who just had it last night, how can they better prepare, and we would share best practices prepositioning agents at detention facilities, when State and locals were arresting people, will they voluntarily submit to interviews and provide us information about coordination activities or why they were there, where did they travel from, answering some of those investigative questions.

And so as we learned from one city, we would share that across the multiple cities and field offices so that they could be better prepared and then inform their State and local partners of how to better prepare and hopefully prevent some of the actions that we saw early on in Portland from manifesting in these other districts.

Mr. Gaetz. Other than the tactical features that you just described, was there a feature of these teleconferences that outlined the doctrine for determining a Federal nexus to charge someone, for example, whether that be harm to a Federal law enforcement officer, damage to a Federal building? I mean, was that part of the directive, the charging doctrine?

Mr. Jensen. So not a directive but guidance.

Mr. Gaetz. Okay.

Mr. Jensen. And I know it's nuance, but --

Mr. Gaetz. No, I appreciate that distinction.

Mr. Jensen. Right. Like I learned and appreciate very much so now in my current capacity, but very preeminently as a section chief, that I can't direct an SAC to do anything, right. I can give guidance based on my overall awareness of what's going on, and that's what I tried to do. I also know that the deputy director provided specific guidance on how to establish command post posture with our State and locals. I was not privy to that because I was managing other matters, and he talked directly with the SACs.

But in my capacity, to answer your question, we did provide statutes in coordination with DOJ that might be viable for Federal prosecution, that if we see these, these are statutes that could apply and would aid in the opening of an investigation. We also gave them additional tools for predicated cases, that it doesn't have to be traditional domestic terrorism. You can open a WMD case if you find a Molotov cocktail

somewhere, or pipe bombs or other devices. We're not looking for program specificity. We're trying to address the problems that are happening.

So this wasn't about programs, this was about conducting investigations with lawful purpose, and then figure out who did it. And part of that was providing the statutes that would apply, part of it was applying DIOG, so our Domestic Investigations Operations Guide, and policy determinations from our lawyers about where our lawful authorities attach, when and where can we collect intelligence, because we know oftentimes, projected in 2020, peaceful protest activity often led to violent activity at night. They weren't always connected, but they were definitely capitalized on, and how can we use forecasting from our State and local partners or DHS or other entities that are also looking in this space to better inform not only us, but a security apparatus with our State and local partners. So we were very much in preventative, and if something happened, how do we investigate, and what are our lawful authorities, based on statute and based on policy.

Mr. Gaetz. And --

Mr. Jensen. And I'm sorry, one other.

Mr. Gaetz. Sure. Please.

Mr. Jensen. I apologize. We did follow up with email communications, that this is what we said on the call, here it is in black and white, so that CDC's chief division counsels and field offices could look at it, make sure they're comfortable with it, that we're not directing you must but you can. These are permissible by policy and by law, and it gives you authority to attach.

Mr. Gaetz. I suspect the committee will have some interest in those emails. Are they stored on a shared drive? Are they part of a Microsoft Outlook system? How are they maintained?

Mr. Jensen. Those would've been probably both, Microsoft Outlook. I can't remember which system of record we sent it out through, but I do know we have previously provided them to Congress, maybe not this board itself but -- or committee itself, but they have been the subject of other interest, and it's largely internal communication given, rules of the road, if you will.

Mr. Gaetz. Thank you.

BY [REDACTED]:

Q And so kind of shifting to the events of January 6th, at what point as section chief did you get involved?

A That's a very good question. So, obviously, January 6th didn't happen until January 6th, but we knew leading up to the certification hearing that was happening in Congress, that on that same day, there was going to be a rally, and that it would be a widely attended gathering of multiple people, both to hear the speakers that were projected to be there as well as to potentially protest, and that was telegraphed by certain online platforms that there would likely be a protest over at the Capitol.

My team -- so the timing of this is unique. My wife was pregnant and delivered baby number eight, December 21st, and so I was off on leave for that baby, and then obviously Nashville bombing happened on December 25th. We had lots of resources dedicated to that, and the rhetoric around known predicated domestic terrorism subjects who would be traveling to D.C. on January 6th was starting to increase.

And so, I ended my leave early and came back to work on January 4th. Immediately, on January 4th, we had a meeting of section chiefs across WMD, CID, and myself, and the commander for NCCC, our Strategic Information and Operations Center. It was determined at that point, based on reporting that we already had, and the known predicated subjects, previously existing predicated subjects in Domestic Terrorism

Operations Section, who intended to travel to D.C. that day, that I would take the lead role in coordinating events in SIOC across the multiple field offices. And --

Mr. Gaetz. How many of those previously predicated subjects were there?

Mr. Jensen. So, sir, that's a -- that's a question that I was asked multiple times, and it changed almost hourly, as we were able to either mitigate the travel of some -- so on January 4th I believe it was twelve. By January 6th, it had fluctuated upwards of 21, but we had mitigated the travel of a number of them, and those please take as round numbers, my best recollection.

Mr. Gaetz. How do you mitigate the travel of someone?

Mr. Jensen. So it's tricky, because all of our subjects in domestic terrorism are U.S. citizens, and they're free to travel unless they've been restricted because they committed a crime and we arrested them. And up to this point, there had been no crime committed. They're under investigation for potential crimes or threats of force or violence, which is a requirement of any domestic terrorism case.

So all of our subjects have that threat of force of violence or intended use at some point for force or violence in furtherance of their ideology. So it's concerning that they would want to attend this, and what's their purpose behind it, but they're not prohibited from doing that. And we can't blanket put a stop in front of them and prevent their travel, because now we're infringing on other rights that they have.

And so various means that we're able to do that is through CTD policy, when we have a subject, we're required to get either sources or undercovers to connect with these subjects. Can we have sources monitor either their online accounts, what are they posting online? Can we have conversations about what they intend to do? Or undercovers that are already in place, convince people to agree not to travel, like, Hey, this isn't a good idea, there's going to be a lot.

I know of one case where we were able to do a probation violation. So the probation officer found out that the subject had traveled out of State, and issued a warrant for them, and they were able to be picked up on a probation violation. And so mitigating the travel through lawful means, and that's what we had to do. Many subjects could not be mitigated.

And so, we were informing Washington Field Office that we do know from various field offices there would be travel of subjects into your AOR likely to attend this rally. We don't have any specific threat reporting that they intend to do something, but for awareness, they will be here. And in some cases, the local field office where they originated either had a surveillance platform up to the border of Washington Field Office and Washington Field Office would take over from there, or we had communication devices that would tell us where that subject was.

Mr. Gaetz. So the tool of mitigating travel written a UC would convince someone to not engage in travel, do you know of any circumstances where that mitigation tool was successful?

Mr. Jensen. I know of -- I know of one, and you'll have to forgive me, but I believe these two subjects who were engaged with this UC are still under active investigation. I don't recall their names, nor would I be able to give them to you, but it's -- it's conversational of, Hey, look, I don't think I'm going to travel. I think it's going to be too hot down there. There's going to be too many law enforcement actions, they're going to be looking for this, I think it's a better idea if I stay back, what do you guys think?

It's not -- not ever intended to be direct influence of don't travel, right, threatening or intimidating. It is convincing somebody of their own mind --

Mr. Gaetz. Yeah, what you're describing is coercion. You just said "you guys,"

so am I to assume that in that matter it was a group of people?

Mr. Jensen. There was a group of people intending to travel. Two of them were predicated subjects, and I believe one of them said, I'm not going to travel, and I think one of them still came.

[REDACTED]. Can you remind me, you're talking about situations where there's still an ongoing investigation?

Mr. Jensen. That's correct.

[REDACTED]. Okay. So can you answer two questions that you would avoid discussing matters that are still ongoing?

Mr. Jensen. Yes.

[REDACTED]. Okay. Thank you.

Mr. Jensen. Yes. Yes. And this was generally, right, but this case, in particular, is, I believe, still under active investigation. But it's a tool that was used to try and help prevent DT subjects who were known to us from traveling to event and potentially causing harm at that event.

Mr. Gaetz. You mentioned moments ago the digital monitoring of these subjects that had entered into the Washington AOR. Was that by virtue of their cell phone?

Mr. Jensen. It could've been. And, again, if that -- if that was a tool that was being used, it would've been through lawful process, and it would've been like ping orders or something like that.

Mr. Gaetz. Not suggesting it was unlawful. I'm just trying to get an understanding of how Federal law enforcement was working to mitigate a January 6th threat in the days leading up to January 6th, and I'm trying to understand if one of those tools was to monitor cell phones specifically as they were moving about the country and into the AOR.

Mr. Jensen. So I'd be hard pressed to tell you of one specific instance where it was, but it was a tool that was available -- actually, I do remember one. Ping authorization was available on that subject, but that was not a tool to mitigate his travel. It was where is the subject.

Mr. Gaetz. It was a monitoring tool?

Mr. Jensen. It was.

Mr. Gaetz. Great. Thank you.

BY [REDACTED]:

Q And you said as of January 4th you came back and you took the lead role in the SIOC. Is that right?

A That's correct. So --

Q Can you -- what's the SIOC?

A It's Strategic Information and Operations Center.

Q Okay.

A It's where we run or conduct national command posts. It's now more commonly known as NCCC, National Command Coordination Center, I believe is what it's termed. That's where during 2020, summer of 2020, we ran multiple command posts in support of field offices and provided resources to them, either from an intel perspective or a legal perspective when we stand up a command post at headquarters. And it was determined that on Monday, the 4th, in the afternoon, we would stand up the command post and communicate to the field offices, but Washington Field Office in particular, that we would have a support footprint at headquarters. And we invited partners from DOJ as well as other agency partners to participate and be present so they had an operating awareness of what was happening across the country, but in particular what was happening in D.C.

It was a mirror of what Washington Field Office stood up at their field office. And every 2 hours -- if I recall correctly, it was every 2 hours, upon initiation of the command post we did joint briefings between Washington Field Office and headquarters. Any threat intelligence reporting that was coming in, either about the rally, about specific individuals, or arrests that had been made by State and locals, and any intelligence gathered from those and then vice versa, from a national perspective, any updates to known or suspected DT travelers, and then new tips that were coming into field offices about people making direct threats against politicians, and saying they were going to travel to D.C. to get -- the one I remember is heads on a pike, right, and what actions are being taken by that field office as those guardians are coming in.

Q And when did the every 2-hour joint briefing start? Did that start on January 4th?

A So I believe the construct was put in place on January 4th. I think the first 2-hour briefing would've been the 8:00 on January 5th.

Q 8:00 a.m.?

A I believe so.

Q Okay. And then did those continue January 5th and January 6th?

A They did, up until -- up until we realized that there was a breach of the Capitol. When the first barrier was down and the crowd was surging in and officers were being assaulted, and then ultimately when the doors and the windows of the Capitol were physically breached, the shift changed from coordination to mobilization.

And there were entities at headquarters led by the deputy director at the time for a response to the Capitol, and then my team oft on another side working with DOJ, what is an investigative response? What's the strategy and what's the scope based on the size of the crowd? Is this a Metropolitan Police issue? Is this a Federal Bureau of

Investigation investigation -- investigative matter upon entry into the Capitol? What are the statutes? What are the things that we can potentially do? And how do we go about with this large volume of people, who once it was over and done with, very quickly realizing nobody was really arrested in the moment. So now we have to identify and hold accountable those who were responsible.

And numerous investigative questions hung in the air: Was this a pre-planned event? Was it coordinated? If so, how was it coordinated? Was this a mob mentality? All of those questions are -- were viable at the time, and how do we form a strategy around that and get that out to the multiple field offices?

Because very quickly, knowing that people were coming in from multiple field offices, we realized these field offices are going to be integral in the investigation of these subjects, and how do we message this in a unified manner of not only commanders' intent, but what occurred that day to limit confusion or unilateral investigative efforts so that it's a coordinated effort around that one event.

Complicating that, we also learned that there were two pipe bombs placed in proximity to the Capitol but over at the RNC and DNC, if memory serves. That took resources away from the Capitol and had a separate law enforcement response. It was fortunate that those didn't explode, they didn't detonate and hurt anybody, but that was a live and viable investigation based on components and who could've placed it complicated by the large group of people that were there that day.

And so that's when it shifted from a coordination center to we're now leading an investigation as soon as we have fidelity back over at the Capitol, and then it was starting to message that.

Q And so knowing that there were going to be multiple DT subjects that were coming to the area for the rally, what resources did you kind of delve out for that?

A So it's not unusual. It's actually more commonplace when there's a projected rally across the United States. Gettysburg comes to mind, right. Every year at Gettysburg there's a rally that's projected, and we become aware of known DT subjects that are going to travel. We make notification to Philadelphia AOR, but typically, it's a peaceful rally. Some groups will do a banner drop and say we were here, and whatever they're supporting they support.

We typically will set up surveillance, because they're known DT subjects. But it's not uncommon. And so to hear that DT subjects would be traveling for this rally was also not uncommon, but it was a larger number than we would typically see. And given what occurred in the summer of 2020 puts in context a large frame of mind for what we were preparing for, and what the intel was preparing us for, which was conflicts across competing ideologies.

Small groups of individuals in as recent of December before -- December of 2020, we had small-scale rallies that resulted in violence on the street between opposing ideologues resulting in some members getting stabbed, a State or local matter but something that still rose to our attention once people were arrested for it.

There was a large anticipation based on the size of the crowd that there would be larger-scale fights. And the concern there was, in 2020, we saw one of the first lethal attacks from an antigovernment violent extremist in more than 20 years, and so the mindset of these traditional threat actors had shifted, and they were using more violent tactics against opposing ideologues, which made this a very volatile situation.

And so that's what many of our State and local partners were preparing for, and the concern of our known DT subjects, even though they didn't know each other or weren't part of the same affiliations, presented a threat that we needed to be aware of, right. And so that was our concern is what in the mix do these represent as

opportunists in a big rally like this.

Q And so, you spoke about setting up surveillance. Did you set up surveillance for the January 6th event?

A No. On individuals, right. So the January 6th event that we were aware of was a rally, and then a potential protest. The people who established the rally, to my knowledge, had permits and did everything according to law for National Park Service Police, Metropolitan Police. They were well aware of those rallies, and they didn't have concerns about the organization of the rally. They had concerns about the aftermath.

And then for the protest we also believe that was First Amendment protected, and so we cannot establish surveillance on First-Amendment-protected activity. But where we have known subjects, predicated subjects coming into the territory who are infiltrating otherwise peaceful activity, we can set up, in limited circumstances, where it's feasible for the safety of our agents to do so to establish surveillance on them.

And what we found in many of those instances, as soon as subjects arrived, it wasn't really feasible to maintain surveillance on them because of the size and scope of the crowd. And once they were in the AOR it was a known thing that they were there. In some cases, I do believe we had surveillance, but I don't know to what depth of surveillance we were able to maintain.

[REDACTED]. When you say known that they were there, known to whom, to WFO?

Mr. Jensen. Known -- right. So we knew based on the travel status that the subject arrived and that had been from the case agents that were responsible for the investigation of that subject passing that information off to WFO. And in some cases, Washington Field Office was aware the subject had arrived before headquarters was because of the coordination they had with the local field office agents.

BY [REDACTED]:

Q And so immediately after the events that occurred at the Capitol on January 6, 2021, what was your impression that you got from headquarters about pursuing investigations into these events?

A So I didn't -- I didn't get an impression from headquarters. I -- I was a leading member of headquarters, and we knew that there was a clear violation of Federal law. We knew that there was a responsibility to hold those individuals accountable, and that it would be a massive effort to start identifying and getting these subjects in custody.

We did briefings in the aftermath of January 6th, because we also had the inauguration coming up. And now that this occurred on January 6th, what -- what are the concerns, the implications of individuals involved in January 6th who might go unidentified, or if we can't identify and disrupt them, what -- and this is in the moment thinking ahead to inauguration, is there a persistent threat posed to the inauguration, right.

And so wrapping our minds around that; how do we prioritize and start identifying, triaging, and arresting subjects who illegally entered the Capitol; assaulted Federal officers; damaged property; stole material from inside the Capitol; assaults on media members; like lots of different crimes were committed that day under one overarching umbrella from the FBI with unified guidance on how we would pursue this.

Q And so did you give any direction on how to pursue cases?

A We did.

Q And what direction did you give?

A So it was determined very early on, because I was the lead section chief for the lead-up to January 6th that I would maintain that lead over our response and coordination efforts, not only with WFO, Washington Field Office, but with the numerous

other field offices that would be engaged on this.

We gave guidance through daily secure telephone conferences, or computer calls, establishing the parameters of what occurred that day, what is our lawful authority for conducting investigations, what is the clear line that gives us that lawful authority, what we are doing and what we're not doing, especially in those early days.

And those calls were established with initially the national security branches of the 56 field offices and their intel components. In the very early days, it quickly grew to include the chief division counsels, their associate division counsels, and other leadership members, especially in resident agencies who were not connected to the headquarter city office, to ensure that everybody had the same information at the same time on a unified coordination call as those investigative strategies developed, matured or changed based on prosecutorial efforts.

So this was -- this was something we had never in the FBI tackled before, the size and scope, a very, very small amount of evidence, right, usually digital, large number of people implicated in criminal conduct. And typically, in a critical incident, it's a very small number of subjects, large volume of evidence, and a small digital footprint, right, and it was the reverse.

And so this took a whole-of-FBI approach from our operational technology branch to establish a mechanism for reviewing video surveillance, for identifying subjects or comparative analysis, to positively identify subjects where they were in the Capitol and what movements they had, to increasing bandwidth of our systems, so information technology, getting people certified to review digital evidence, numerous, numerous parts of the FBI mobilized to facilitate this type of investigation.

All of that was centralized, or I should say, focused around a strategy that I was trying to implement and needed correction from time to time, right, like we didn't get it

right the first time, it was iterative, but a centralized communication strategy with decentralized execution. Fifty-six field offices had equities in conducting these investigations, but on a centralized communication plan, and those were those daily coordination calls.

With that came the guidance from DOJ. CTS attorneys, counterterrorism section attorneys from national security division sat next to me on those calls. They provided their review of what potential violations DOJ would consider for January 6th, and what the clear factors were to submit prosecution packets through the U.S. Attorney's Office in the District of Columbia. The District of Columbia was early designated as the prosecuting office, and everything would flow through them for prosecution determinations.

Clear lines were very early established. FBI would investigate. All referrals from those investigations would go through a team of attorneys over at the district, in D.C., for review for prosecutorial merit. In no case were we in a position to say this person should or should not be prosecuted. It was these are the facts of the investigation. We found this tip that came from January 6th; prosecutor, what say you; and they would be in charge of prioritizing which cases would be prosecuted and in what matter those cases would be prosecuted, ultimately which charges would go.

That was established very early on. And then the strategy of Washington Field Office owning the incident. The incident occurred here at the Capitol. It happened in their AOR. Working with the Capitol Police on evidence review, triaging the tips that were coming in through the National Threat Operations Center, and evaluating them based on merit to send out to the field offices for further investigation, and if warranted, predication into a full investigation of that subject, not only for their involvement in the crimes committed on January 6th, but for any future threats posed, if any, by that

subject.

Q And on the coordination calls, did those ever change in frequency?

A It did.

Q And what was that frequency?

A So I believe up until the Inauguration Day, they were daily.

Q Okay.

A Post inauguration, we were able to scale it back. And I can't remember if we went to twice a week and then very quickly to once a week. And then with time, distance, and cover from the actual event and people getting more into a routine of how to process these things, the need for daily updates diminished and we went to monthly.

Q And you said you were maintaining the lead in the response in coordination with the WFO. Who was lead for the WFO?

A My main counterpart -- excuse me -- my main counterpart at Washington Field Office was an assistant special agent in charge who was designated to lead a couple different teams established directly for the January 6th investigation, which included -- excuse me, again -- the pipe bomb investigation.

Q Okay. And who was that ASAC?

A That was assistant special agent in charge -- good Lord, I have talked to him every day. Give me a second.

[REDACTED]: You can go back to it.

Mr. Jensen. Yeah, can I come back to that?

BY [REDACTED]:

Q Yeah. Would it have been assistant special agent in charge Timothy Tebow?

A No.

Q No?

A No.

Q Okay. And a little bit earlier you said you needed to get individuals certified to review digital evidence. What kind of -- what's involved with that?

A There's a certification process of getting access to the system that's owned and operated by operational technology division. Typically in a field office, you have a limited number based on a need to access the system. It's to limit overloading the bandwidth or capability of the system itself. But in this case, with every field office having to conduct routine and almost iterative reviews of the same information, we needed batches of people from every field office as well as supporting elements at headquarters to have access to the system.

So OTD put on special almost link-and-learn sessions that certified these individuals, gave them access in volume where normally they would limit the access. But here, because of the size and scope, we needed lots of people to have access on a 24-hour basis. They just increased what they would normally certify.

Q And going to the pipe bomb investigation, when did you become aware of the pipe bombs that were placed by the RNC and DNC?

A It was shortly after the first police officers responded. It's a little bit of a blur as to whether it occurred around the same time the first barriers were removed, but around -- around the same time I heard that Washington Field Office was responding with Metropolitan Police and I believe some elements of Capitol Police to the area for one pipe bomb and then two. And then shortly on the heels of that, that not only were the barriers down, but there were assaults occurring and then ultimately what we saw happened on TV was the breach of the Capitol.

Q And to your knowledge, when did the Bureau become involved with the pipe

bomb investigation?

A So my understanding, one of the special agents in charge at the time responded immediately with his team, and I believe he was on site at one of the pipe bombs from the very beginning.

[1:17 p.m.]

BY [REDACTED]:

Q Was that with the WFO?

A Yes.

Q And do you know what divisions or sections of the FBI were involved with the pipe bomb investigation?

A So I know Washington Field Office and that SAC led the Counterterrorism Division in Washington Field Office. I would imagine -- I don't know for a fact -- that their SABTs, special agent bomb technicians, responded as well. That's a normal response. That would also imply from engagement from Weapons of Mass Destruction. But Weapons of Mass Destruction Directorate was sitting in SIOC with me at the time. So we were all aware of these events at the same time.

[REDACTED] How quickly was the FBI able to determine the pipe bombs were inoperable?

[REDACTED]. I want to be careful on this, given that this is an open and ongoing investigation. There's certainly some information that's been publicly released, but I want to be careful not to go beyond that at this point.

Mr. Jensen. So I was actually going to ask the same thing. I do know they're open investigations, and certain details, like she said, we shouldn't get into.

BY [REDACTED]:

Q Is it fair to say, though, that the FBI had agents examine the bombs as soon as they were recovered?

A So, again, I assumed our SABTs arrived. I don't know who did the examination. I know that information was shared up through headquarters about the status of the device and then components of the device as the investigation unfolded.

And we were involved in it from the beginning. The times and details about the specific analysis of that, I couldn't tell you.

Q There's been reporting that they tracked an individual to a metro spot out in northern Virginia. Are you aware of that reporting?

A So, again, I want to be cautious because it's part of an active investigation, and I don't know that a subject has been identified or eliminated as a potential subject.

Q Okay. Are you aware of that reporting, though, that they had an individual, and they tracked him out, and they knew the metro card he was using and so forth?

A So I am aware that there was specific details about an individual who used a metro card, that there were other leads that they investigated similarly. But, again, it's part of a continuing investigation.

Q There was a whistleblower that came to our office in 2022 that reported to us that a year after the January 6th incident, on February 7th, 2022, the FBI issued a nationwide search for information throughout all their field offices for all confidential HUMINT sources that might have information relating to that. Are you aware of that?

A So I'm not aware of that specifically, but it doesn't surprise me.

Q Okay. What surprised us and what surprised the whistleblower who came to us, was that it happened a year after. Is that unusual in your experience?

A No.

Q And why would something like that take a year before being sent to all the field offices?

A So, in context, I've worked a number of explosive device investigations. Not all of them immediately have an apparent subject. Some of them take time, and I'm aware of some from New York City that are still open that happened over a decade ago. Case agents will periodically review the information, like a cold case homicide, and

determine: We should refresh this. Let's send out a new request for information. Somebody might know something now.

So it doesn't surprise me that that, if it did go out, it's a normal practice to try and refresh new leads into a case.

Q Okay.

██████████ ██████████?

██████████ We have 9 minutes, sir, if you have any questions?

Mr. Gaetz. I want to go to your testimony where you said that Washington Field Office owns the incident on January 6th.

Mr. Jensen. Yes, sir.

Mr. Gaetz. What does that mean?

Mr. Jensen. It means the incident occurred in their area of responsibility. They had responsibility not only to respond in the capacity that they could but to essentially process evidence, identify subjects, and action that for either leads or investigations to other field offices.

Mr. Gaetz. I'll represent to you that whistleblowers shared with us that they felt pressure to open investigations into subjects with insufficient predication. Did you ever observe that type of pressure from the Washington Field Office?

Mr. Jensen. No, sir.

Mr. Gaetz. What would be your reaction to those who believed that pressure emanated out of the Washington Field Office?

Mr. Jensen. So I've heard this circulating around, and I can tell you, in my capacity as section chief, I addressed concerns from field offices, ASACs and SACs, when they're talking to their partners, similar to questions that you asked me before, the difference between 2020 and January 6th. Why is there a push to open all of these

cases where it didn't happen? And some of it's educational. Some of it is starting with the fundamental principle that all these subjects who entered the Capitol that day at a baseline were in violation of trespass. It doesn't mean they're going to be charged with that, but we have a duty to further investigate.

Leads that went out through our Sentinel Crisis System for that incident were sent to the field office for further action. Where they met certain standards and criteria, they were directed by myself and others to open an investigation, that it met the predication authorities to open investigations. They were not directed on which type of case to open up. Based on the individual investigations in the field offices, they could determine this person is a DT subject qualifying under the statute and our policies, an 89 bravo as we call it, which is an assault on a Federal police officer, or a general rioter, which would fall under that 176 classification. But, if they met that standard of having trespassed unlawfully inside the Capitol, it met a basic element of our predication of a Federal law was violated, and there's reason to believe that this person committed that crime?

Mr. Gaetz. How many cases did you direct to be opened?

Mr. Jensen. I couldn't tell you because it was voluminous, right? It was a general operating picture of: Here's how we're going to conduct the investigation. Washington Field Office is responsible not only for the triage of the evidence and pushing their leads out based on what they're receiving from NTOC but also from internal surveillance footage, other tips that are coming in, but to be actioned and owned from the independent field offices based on their own review or tip of that allegation.

Mr. Gaetz. I thought you said just moments ago the Washington Field Office owns the incident?

Mr. Jensen. They own the incident.

Mr. Gaetz. Not the investigation?

Mr. Jensen. So the independent investigations of each subjects follows counterterrorism policy, where there's one subject, one investigation, and that's applicable regardless of what critical incident occurred. If it falls under counterterrorism program management responsibilities, every subject receives its own case file. Now, there were certain --

Mr. Gaetz. Why do those case files emanate out of the Washington Field Office rather than out of their field offices around the country?

Mr. Jensen. It's a great question. It goes towards where the subject resides versus where the incident occurred. So, while Washington Field Office owns the critical incident and the response to that incident to include the victim responsibilities and the evidence processing responsibilities, the field offices who identify the subjects -- or, in coordination Washington Field Office, identified subjects in their AOR have a duty and responsibility not only to verify inculpatory or exculpatory information related to that subject but the ongoing or persistent threat that subject may pose to society.

And, in some cases, it was very quickly determined that there is no persistent threat, it's a trespasser, or this person actually has an ideology and poses a threat, and there are additional tools that we would need to use in the normal course of a counterterrorism investigation.

Mr. Gaetz. Was it hundreds of cases you directed to be opened?

Mr. Jensen. There were hundreds of subjects initially identified in the aftermath of January 6th, which warranted further review and investigation.

Mr. Gaetz. That's not my question. My question is, was it hundreds of cases that you directed to be opened?

Mr. Jensen. Yes, in that general guidance, absolutely.

Mr. Gaetz. And that direction was to special agents in charge in field offices?

Mr. Jensen. That direction was -- I want to be careful because, while we directed the ability to open the cases, I never directed a field office to open a particular case because they still have to conduct an independent review based on the predicated factors around each subject.

Mr. Gaetz. I guess, I know I'm drawing near the end of my time, but on the summer of 2020, you said: We don't direct; we give guidance.

Mr. Jensen. We provided guidance.

Mr. Gaetz. And then you testified that these folks following January 6th were directed. You didn't use the word "guidance." You used the word "directed." So I guess I'm trying to understand why in one case it's guidance, do what you will; and then, in the January 6th case, it seems to be a bit more compulsory.

Mr. Jensen. So it could be my misuse of the term "directive." It was --

Mr. Gaetz. You were real precise in that term earlier.

Mr. Jensen. And I try to be very precise in my term. I'm not trying to split hairs with you or couch my intention here. It was directive in nature. We have a violation of Federal law that was committed, but it doesn't take away the independent review of each field office to find predication authorities to determine what crime was committed.

Mr. Gaetz. It's the opposite, sir. It's that field offices are telling us that they felt there was insufficient predicate, and then they felt pressure from WFO to take action in the absence of predicate. So it's not like: Here are the tools to go find a predicate.

It's: Hey, we don't believe there's predicate, and we feel pressure from Washington Field Office.

You see how those are different?

Mr. Jensen. So I do understand that. In my conversations with the

management teams and field offices, they never expressed there was insufficient predication. It was, what additional resources do we have that show the details of what the subject --

Mr. Gaetz. -- no one ever told you there was insufficient predication? You never heard that once from any field office ever?

Mr. Jensen. I did not. What I had was concerns that the only thing we're given is that this person's cell phone and now the name associated with that cell phone because the geofence you referenced before was inside the Capitol. Sometimes that's all we had. If it referenced --

Mr. Gaetz. The geofence can get that tight to the Capitol Grounds as opposed to if somebody was walking down Independence Avenue?

Mr. Jensen. There was tight geofences inside the Capitol.

Mr. Gaetz. All the more reason to wonder why those tight geofences weren't used other times. I have many more questions on this line, but it seems we're out of time.

██████████: We'll go off the record. Thank you.

[Recess.]

[1:36 p.m.]

█: It is 1:36. We can go back on the record.

I want to start out correcting the record on something. You were asked about geofencing in the summer of 2020. Do you recall that?

Mr. Jensen. I do.

█: I'm going to introduce as exhibit 7 an article, dated August 31st, 2021, says -- the title is "Google dragnets harvested phone data across 13 Kenosha protests, acts of arson," and it says that the -- there were -- geofencing was in fact used during the summer of 2020 in Kenosha, Wisconsin.

[Jensen Exhibit No. 7

Was marked for identification.]

█: Is that accurate?

Mr. Jensen. I wouldn't dispute it.

█: Yeah. And then I want to introduce as Exhibit No. 8 another article. It's dated February 6th, 2021, "Minneapolis Police tapped Google to identify George Floyd protestors."

[Jensen Exhibit No. 8

Was marked for identification.]

BY █:

Q This comments on Minneapolis' Police use of geofencing during the summer of 2020. So this -- go ahead.

A I was going to say I wouldn't dispute what the article says, but I don't have direct knowledge of it.

Q Right. So, at least in two cases, we do have evidence of geofencing being used in the summer of 2020. You just don't have personal knowledge of it. Is that fair

to say?

A It is. And I think was, to my broader point, is it's a tool available, but I was not aware of it being used. Doesn't mean it wasn't. I just can't speak to it.

Q Okay. You just can't speak to it, but --

Mr. Gaetz. [REDACTED], what exhibit numbers are these?

[REDACTED]. These are Nos. 7 and 8. I think 7 is the Kenosha article, and 8 is the Minneapolis article.

Mr. Gaetz. Thank you.

BY [REDACTED]:

Q Are you familiar with the FBI's Domestic Investigations and Operations Guide?

A Yes.

Q And that's also referred to as the DIOG, right?

A It is.

Q Okay. So I'm going to call it the DIOG -- I'm going to refer to it as the DIOG for the rest of today, okay?

A Absolutely.

Q So the DIOG has been in effect since about 2008, correct?

A I believe so.

Q And it applies to all FBI employees and task force officers and all other individuals operating under FBI authority. Is that right?

A Yes.

Q Okay. It also applies to all domestic investigative activities conducted by the FBI, correct?

A It does.

Q And what's your -- and it applies to all domestic intelligence collection as well, correct?

A It does.

Q What's your understanding of the purpose of the DIOG?

A It's to give guidance and establish policy on the conduct of various types of investigative activities and intelligence collection requirements that the FBI has.

[REDACTED]: I'm going to hand you what we're going to mark as exhibit 9.

[Jensen Exhibit No. 9

Was marked for identification.]

BY [REDACTED]:

Q So this is an excerpt from section 3.1 of the DIOG, and it's lists the FBI's core values. Could you please read the core values A through H aloud?

A Yes. This is under 3.1 FBI core values: A is rigorous obedience to the Constitution of United States. B is respect for the dignity of all those protect. C is compassion. D is fairness. E is uncompromising personal integrity and institutional integrity. F is accountability by accepting responsibility for our actions and decisions and their consequences. G is leadership by example, both personal and professional. And H is diversity.

Q Were you familiar with these before you read these?

A Yes.

Q Throughout your career, have you worked to ensure that all of your actions as an FBI employee have adhered to these core values?

A I've tried to exemplify these to the best of my ability.

Q Do you work to ensure that your subordinates also embody these?

A Yes.

Q In your 17 -- is that right -- years of experience at the FBI, have you witnessed a similar commitment from FBI management?

A I have.

Q Is it fair to say that you, as someone with 17 years of experience in the FBI, believe that these FBI core values as we just went through them are fully understood, practiced, shared, rigorously defended, and preserved throughout the FBI?

A I do.

Q The second sentence that we have highlighted in the following paragraph says that: Our individual and institutional rigorous obedience to constitutional principles and guarantees is more important than the outcome of any single interview, search for evidence, or investigation.

Did I read that correctly?

A You did.

Q What does that sentence mean to you?

A It means what I referenced earlier about our mission, dual and simultaneous, upholding the Constitution, and protecting the United States citizens, neither can be sacrificed for the other. I mean, in this case, the goals and objectives in any one particular case can't come above our rigorous obedience to the Constitution and the protections of the United States citizens by extension.

Q Okay. In your practice as an FBI employee, how do you put that into practice in your work as an FBI employee?

A I mean, we always weigh our steps, investigative strategies against the Constitution first and foremost. And every single progress in an investigation, the strategy of the case if you will, is -- it's codified in the DIOG, but it's also in practice of least intrusive means possible to obtain an objective, and always through lawful means if

we go into higher level authorities or higher levels of intrusiveness to obtain an objective on a case. There's no side skirting the requirements under the law or the requirements limiting the government against U.S. citizens by the Constitution.

Q And then that last paragraph right above compliance, it says: We who enforce the law must not merely obey it. We have an obligation to set a moral example that those whom we protect can follow. Because the FBI's success in accomplishing its mission is directly related to the support and cooperation of those we protect, these core values are the fiber that holds together the vitality of our institution.

What do you understand this paragraph to mean?

A It's: We don't just follow it; we set an example of it, how to live it. In our professional lives, we exemplify adherence to the rule of law.

Q And, in your experience, again, the 17 years at the FBI, is that something that you've witnessed on a regular basis in your work?

A It's not only something that I've ascribed to accomplish but been motivated by the people around me to do it to a higher degree because of the example they set.

Q Thank you. Are you familiar with the term "domestic violent extremism"?

A I am.

Q It's sometimes abbreviated as DVE, correct?

A Correct.

Q I'm going to refer to it mostly as DVE going forward. How does FBI define DVE?

A Broadly speaking, a domestic violent extremist is an individual who meets the statutory definition of 18 U.S.C. 231, clearly defines what a domestic terrorist or a terrorist incident is, is motivated by a particular ideology, social or political in nature, intends to coerce or change the actions of the U.S. Government or local governments or

the social body in particular, the citizenry, and does so through force or threats of force or violence, and primarily lives with or resides in the jurisdiction of the United States' boundaries.

Q Okay. Is there a difference between a domestic terrorism case and a domestic terrorism event?

A There can be. You can open up a domestic terrorism case, traditionally a 266, on an incident, but it's not typical to do that.

Q Okay. I guess what I'm getting at is, you know, is it possible for an event such as January 6th to be seen as a domestic terrorism event, but then individual cases resulting from that might not have been domestic terrorism cases?

A Yes.

Q And can you explain how that works?

A Yes, I can. There's limited examples of it where, because of the nature of DVEs, they don't -- they typically radicalize in isolated environments and carry out an attack on their own, very low influence or support from any larger group, right? Unlike in international terrorism where you see material support either by or from a foreign terrorist organization, or they're motivated or inspired by that same terrorist organization. In DVEs, it's usually radicalized in isolation through their own personal belief system, encouraged by others, but the actions they take are of their own volition.

In some cases, you will see groups coalesce around an ideology, and they would still be investigated individually, but in the case of January 6th, where we had this large-scale incident labeled as a domestic terrorism event directed against the U.S. Government, the legislative body of the U.S. Government in session, the event itself was categorized and run by Domestic Terrorism Operations Section.

The numerous investigations that responded from that could be captured

individual conduct of every subject that was identified, and that's how we predicate all of our cases, especially in domestic terrorism. Individuals identified for allegation of Federal violations and then their specific individual conduct or ideologies where they used force or violence in furtherance of that.

Q Okay. And so you just said that the FBI does consider the events of January 6th to be a domestic terrorism event, correct?

A Yes, and I believe that was stated publicly also.

Q Who made that determination?

A I believe the Director of the FBI stated that.

Q What's your understanding of why he classified it in that way?

A So I think it was based -- again, I can't state the specific reasons why he said it other than the event that day of a large group of individuals directing numerous crimes, both violent and somewhat passive crimes of trespassing directly against the legislative body of the U.S. Government.

Q You keep saying the "legislative body of the U.S. Government." Is that important here?

A It's the United States Capitol, but in particular, a portion of that body was in session that day to certify the election results. And so they were conducting the business of the people that day. It was a hearing to certify the election, and the disruptive nature of what occurred that day stalled, at a minimum, definitely caused the disruption in the execution of their duties as that legislative branch.

Q And so, it's -- so you would agree that the fact that Congress was in session, that Congress was certifying the vote, was a specific factor in the reason that this was a domestic terrorism event?

A I think it plays a role in that because actions of individuals who participated

in criminal conduct that day, to be determined through individual investigations, motivated to stop the certification process, and in fact, large groups of individuals were actually chanting to that effect "stop the steal" or specifically targeting individuals of Members of Congress that day, in some cases the Vice President that day, to prevent them from carrying out their specific duties under the Constitution.

█. I want to introduce as exhibit No. 10 a statement that the FBI Director released on January 7th, 2021.

[Jensen Exhibit No. 10

Was marked for identification.]

BY █:

Q Have you seen this before?

A I can't say that I have.

Q I'll give you a minute to look through it.

The very first sentence of this reads: The violence and destruction of property at the U.S. Capitol Building yesterday showed a blatant and appalling disregard for our institutions of government and the orderly administration of the democratic process.

Correct?

A Yes.

Q Do you agree that the attack on the Capitol on January 6th showed a blatant and appalling disregard for institutions of government and the orderly administration of the democratic process?

A I do.

Q Do you think that it was appropriate for the FBI to be very concerned about that?

A Yes.

Q The next sentence reads: As we've said consistently, we do not tolerate violent agitators and extremists who use the guise of First Amendment protected activity to incite violence and wreak havoc. Such behavior betrays the value of our democracy.

Did I read that correctly?

A You did.

Q In my prior hour of questioning, we talked through the First Amendment protections, and you confirmed that the FBI cannot and will not open cases based solely on first amendment activity, correct?

A That's correct.

Q But, again, the First Amendment does not apply to acts of violence, correct?

A Correct.

Q And it doesn't apply to criminal conduct, correct?

A Correct.

Q So somebody trespassing, for example, you know, we've heard allegations that people that were just walking around in the Capitol were just exercising their First Amendment rights. Do you have a response to that?

A I do have a response. Known or unknown to individuals that day, depending on when they entered the Capitol, it was a restricted area, originally protected by Capitol Police and other law enforcement agents. I'm not aware of any time in recent history where general citizens can just walk into the Capitol unescorted and not be charged with trespass. And, on that day in particular, the large number of people who entered through broken facilities to gain access into the Capitol demonstrates criminal conduct occurred at least leading up to that event and then, by mere presence in the Capitol, was, in fact, trespassing by nature. And that's where we started, was anybody who entered the Capitol that day at a minimum had been in violation of trespass on the

U.S. Capitol.

Q The second paragraph of the FBI Director's January 7th statement reads:
Let me assure the American people the FBI has deployed our full investigative resources and is working closely with our Federal, State, and local partners to aggressively pursue those involved in criminal activity during the events of January 6th.

Correct?

A Yes.

Q In your opinion, did FBI leadership take the events of January 6th pretty seriously?

A Very seriously.

Q Why do you think that was?

A At the time, it was viewed as a direct attack against a branch of our Federal Government, particularly disrupting a hearing that was in session certifying the election results of the most recent Presidential election, and the potential implications it had for the pending inauguration and other unrest that might result if it went unaddressed.

Q In your opinion, was the response proportional to what happened on January 6th?

A It was proportional and scalable to what occurred.

Q What do you mean by scalable?

A Meaning, based on the large number of individuals that entered the Capitol at least at a minimum in violation of trespass but implicated in other potential crimes, the need to surge resources not only at headquarters but at Washington Field Office to triage the volume of evidence to identify any one individual responsible but also scalable in our personnel in particular to identify those individuals responsible for any coordination, preplanning, or instigating that particular act against the U.S. Capitol that day, and in

more egregious conduct the assaults on the Federal police officers that day.

[REDACTED]: I want to introduce as exhibit 11 a March 3rd, 2023, letter from the FBI's Office of Congressional Affairs to Mr. Jordan, and I'll give you a minute to review it.

[Jensen Exhibit No. 11

Was marked for identification.]

BY [REDACTED]:

Q You're ready to continue?

A Uh-huh.

Q The letter references the Counterterrorism Program Guide. Are you familiar with the Counterterrorism Program Guide?

A I am.

Q It's sometimes abbreviated as the CTPG, correct?

A Yes.

Q Does the CTPG provide guidance for how domestic terrorism investigations should be managed?

A It does.

Q Okay. Does the DIOG also apply to those investigations?

A It does. The DIOG is an umbrella. The Counterterrorism Guide is a subset of the DIOG.

Q Okay. So, for example, the DIOG lays out predication levels for an assessment, a preliminary investigation, or a full investigation, correct?

A Yes.

Q So the predication levels, when an agent in the field is determining whether to open an assessment or whether to pursue a higher preliminary investigation or full investigation, they follow the predication levels laid out in the DIOG, right?

A They do.

Q Okay. And the DIOG also provides guidance on what investigative methods are permissible at different stages of an investigation, correct?

A That's correct.

Q Okay. So is it fair to say that both the DIOG and the CTPG are in play for investigations such as those related to January 6th?

A Yes. And, in particular, the DIOG gives general rules of operating when you have a full investigation or when you have a preliminary assessment, type one and two, or other matter. CTD program guide gets more specific, and in particular for domestic terrorism investigations, what constitutes a DT case classification and then how to conduct investigations from there inside of the CT program guide.

Q So I think we've talked through that not all the cases coming out of January 6th were CT cases, right; some of them were just criminal cases?

A Some of them were initially just criminal cases. What we encouraged field offices to do, in cases where Washington Field Office identified a subject for, say, assault on a Federal officer, and that subject was positively identified, in certain instances the Washington Field Office sent a lead for the arrest of that subject. We still encouraged field offices, even though that instant was investigated and the arrest was effected, the field office conduct additional investigative actions on what else that subject did that day because we knew they committed a crime against a police officer; we didn't know what else they were involved in: Were there known associates that needed to be investigated? What role and responsibility did this individual play in the overall attack on the Capitol, let alone just the significant incident against that one police officer?

Q And why was it important to do that for that broader investigation?

A The broader investigation paints the overall picture of what happened that

day. Clearly, determines for us from an intel perspective of what were we dealing with leading up to January 6th. If we treated each subject as a separate criminal incident identified by Washington Field Office, positively identified, getting an indictment or a complaint, and then sent out for an arrest, we would miss certain connectiveness across certain subjects.

The large group of people that entered the Capitol that day were singular offenders that entered the Capitol and were charged with trespass and, through thorough investigation, determined they didn't have connections in conspiracies. But there were those who were positively identified, both outside the Capitol who assaulted police officers and those inside the Capitol who benefited each other through precoordination, communication, and planning, and were ultimately charged with conspiracy. And, if not for the method of identifying each subject, fully investigating them for complete roles related to January 6th, and then communicating that back to Washington Field Office, we may have missed certain connectiveness across subjects.

Q Thank you.

The paragraph at the bottom of page 2 of this letter says that: The broad geographic spread of January 6th subjects in corresponding cases has necessitated substantial coordination and information sharing among the FBI's 56 field offices.

Based on your experience, is this an accurate statement?

A Yes. I'm sorry. Can you direct me to the paragraph?

Q It's the bottom of page 2.

A I got it. Yes. That is accurate.

Q Okay. So what was the geographical spread of January 6th subjects?

A I mean, one of the first subjects positively identified and arrested was taken at the airport by FBI personnel and a local police department in Hawaii. And that was

within a day or two after January 6th. So very quickly we realized all 56 field offices are going to have a role in this, not only in conducting arrests but the thorough investigations that were required.

Q Given that broad geographic spread, why was coordination among the field offices so -- for example, through these regular calls -- why was coordination so important?

A From my perspective, coordination was important because I've been part of critical incident responses before where I've only received a lead, and I've answered the lead, but I didn't have full context of what was occurring, and I can accomplish the objective, but I can probably accomplish much more with my fellow FBI agents if I knew more about the incident.

Being in charge of our response to this incident, that centralized communication strategy, ensuring that all field office management at a minimum and chief division counsel's offices were aware of the most recent updates that we had as this investigation unfolded and as our strategy progressed, evolved, that they knew the most recent updates so they could respond accordingly with their personnel. That centralized communication plan was the only way I saw conducting thorough and effective investigations on every subject that was implicated in January 6th to give that common operating picture of what actually occurred that day: Was this truly a mob mentality? Was this a combination of various things that contributed to it that day? And were there broader conspiracies at play? A lot of that in those early moments were unknown.

Q And so it was your job to try and disentangle it, correct?

A I think it was my job to help create a platform for that disentanglement. The thorough investigations provide that that. And that's why that common operating picture was so important.

Q So the paragraph at the bottom of page 2 of this letter continues that the FBI received more than 200,000 digital media tips from the public after January 6th, constituting some of the highest daily tip volume in the FBI's history. Is this consistent with your knowledge of the tips received after January 6th?

A It is.

Q Okay. And that refers just to digital media clips. Did FBI also receive a substantial amount of tips via phone?

A We did. We received tips via phone. Field offices received separate that didn't go to NTOC. And these are just digital media clips that came in, video clips or screen grabs from internet sleuths and concerned citizens that were trying to help identify people that conducted crime on that day.

Q Would you describe this as a substantial volume of tips?

A I mean, to this report, it is the highest daily tip volumes in FBI's history.

Q Did this volume of incoming tips and presumably other evidence that you were collecting also make it important for FBI to ensure that the field offices were coordinating effectively?

A It necessitated it. We recognized very early on that the digital media evidence was paramount to identifying subjects responsible for certain criminal activity. Having processes in place, not only for identifying the subjects, collecting that evidence that was pertinent to that subject, but the inevitable discovery implications across multiple defendants, needed to be thought about and actioned at the onset, and that was important for that common operating picture as well, thinking long term about the inevitable prosecutions.

Q When you say it had to be -- I'm sorry. You said at the onset, it has to be addressed at the onset. Is that what you just said?

A Right. So the digital media evidence where one individual was seen in certain corridors of the Capitol positively identified, there could be any number of other defendants that are ultimately in that same area, and we needed an ability to provide discovery through the U.S. Attorney's Office to potentially multiple defense attorneys. And the implications of that environment of digital media was tremendous. So how can we narrow it down to make sure that it is specific to that subject but also implicating -- I shouldn't say "implicating" -- if it had any additional information, whether inculpatory or exculpatory for other defendants, that it was available to them as well. And the reason is early defendants identified, arrested, and prosecuted, whether they pled out or went to trial, had access to certain information. By the time we get all the way down the road in, let's say, the last defendants identified, arrested, and prosecuted, they had the benefit of the total volume, and we needed that total volume for everybody.

Q Okay. So part of this is actually to ensure that defendants had access to evidence that was appropriate for their case?

A And we knew everything that was reasonably available to us at the time the defendant was identified was taken into account.

Q We talked a little bit about the coordination calls earlier. Mr. Jensen, do you recall ever saying anything along the lines of, you know, "I don't give a blank, these people are goddamn terrorists, we're going to round them up"?

A No.

Q Is that something you ever would have said?

A No.

Q Do you swear?

A I don't.

Q There have been allegations that January 6th was, quote, an inside job

conducted by the FBI. Do you have a reaction to that?

A I have numerous reactions to that. The one that I will stand by is the test of time when all of the cases are fully adjudicated, in the light of day of all the evidence, the American public will know that we did the right thing for the right reason in the right manner, not only to uphold our system of government but to protect the institutions that were put in place for the United States citizens. The FBI wouldn't be part of criminal conduct. We don't support it. We investigate it.

Q Over the course of your career, have you been in personal danger through your work ever?

A I have.

Q Do you find it insulting at all that people would suggest that January 6th might be an inside job?

A Personally, I have opinions. Professionally, I have thick skin, and no matter what insults are thrown at us, we do the job that we were tasked with.

Q I want to turn briefly to the conversation at the end of the last hour about field offices being directed to open cases or providing guidance on opening cases. You would agree that, if the FBI has knowledge that an individual has committed an actual crime, has strong evidence that an individual has committed a crime, the FBI is obligated to open a case on that individual?

A It's a little tricky.

Q Okay.

A We have an obligation to conduct an analysis of that, right?

Q Yup.

A There are times when we know or suspect an individual, there's a strong allegation that an individual conducted a crime, but we would defer to a State or local

partner. In the case of January 6th, all of those crimes were Federal in nature. They were solely the responsibility of FBI. We were the ones tasked with investigating and presenting them for prosecution through the U.S. Attorney's Office. So we did have an obligation as the Federal Bureau of Investigation across all 56 offices to respond in a uniformed manner.

Q Why was it important to respond in a uniformed manner?

A Consistency in how each subject was treated, consistency of process that there weren't a difference -- excuse me, there wasn't a different in actioning certain leads in one field office versus another, that everybody, every lead, every piece of information was treated the same so that it would stand the test of time, not only in front of a court but ultimately for what we do in support of the American people.

Q Did you ever pressure any field office to take any investigative steps that they weren't comfortable taking?

A No.

Q Did you ever threaten any kind of retaliation against a field office if they didn't take investigative steps they weren't comfortable taking?

A No, and I'm not sure what kind of retaliation would have been available to me.

Q Okay. You didn't, for example -- well, I won't give a hypothetical. Did you ever witness FBI management, so any of your superiors, pressuring any field office to take any investigative steps they weren't comfortable with?

A No.

Q Did you ever witness anybody at the Washington Field Office pressuring another field office take investigative steps they weren't comfortable taking?

A No.

Q Okay. To your knowledge, did any FBI management -- anyone in FBI management ever threaten to, for example, demote a special agent in charge if they didn't -- if their field office didn't take a particular investigative step?

A Not to my knowledge.

Q We'll move on.

A I can add this, if you have a minute?

Q Sure.

A Any time there's a multiple jurisdictional investigation, meaning there's investigators from multiple field offices, there's going to be, just by nature, disagreements on strategy on an investigation. The FBI I grew up in and the one that I currently see encourages discourse about strategy. The old adage that as iron sharpens iron, so one sharpens another, right? We encourage that kind of discourse in our agency where time allows.

Outside of critical incident response and having to take lifesaving measures, we often have the luxury of challenging assumptions inside of our organization to make sure we have the best investigative strategy possible. That's why CDCs and ADCs are often engaged on the onset of an investigative strategy. So it's not uncommon in these coordination -- I don't want to say these coordination calls for January 6th because those were different -- in coordination across multiple jurisdictional investigations, for field offices to have disagreements over timing of arrests, the next investigative strategy because they have interest in the subject that they're responsible for, and there are still steps that they want to take and might not be ready for a takedown. Our role in headquarters is to help level that across those field offices and ensure no unilateral action is taken that unnecessarily jeopardizes one investigation over the other or potentially puts any of our people or partners in harm's way, right?

And so we handle those coordinations across field offices. It's usually at the special agent, analyst, and supervisor level. Occasionally, it will rise up to the assistant special agent in charge level for a better understanding of what the overall picture and intent is designed to be, and then how do we get that objective. But these are not -- they're not contentious, in my opinion. They're normal standard operating business for clarification purposes and for next steps purposes.

Q So it would be the case, right, that part of your role at FBI Headquarters, you have visibility across all 56 field offices and I guess across different headquarters components as well, right?

A I did.

Q When you were in the position as DTOC section chief, and it may be the case that an individual who is maybe a line agent or a case agent in a field office wouldn't have that visibility, correct?

A It is safe to say a line agent wouldn't have the same perspective that I had overseeing numerous cases versus the one case they're working on.

Q So you're able to look at a variety of cases and ensure consistency and ensure that standards are being met in a way that somebody who is focused solely on one case in a field office might not be able to, correct?

A It is correct by extension of my team managing those cases, right, and informing me --

Q Right.

A But, yes, ultimately, that is correct.

Q And this is the kind of dialogue, is that a fair way to describe it, that you just explained, conversations?

A Uh-huh.

Q That dialogue is standard operating procedure in all cases, right?

A In most cases, especially where you have subjects in multiple field offices striving towards a common objective of a disruption, an arrest, or search warrants and timing of search warrants so that the subject doesn't get tipped off. Those investigative steps and strategies need to be coordinated, and not everybody agrees, but ultimately we find a way to press forward and come up with a reasonable compromise in those cases.

Q I want to switch gears a little bit and talk about the Threat Review and Prioritization Process. Are you familiar be that?

A I am.

Q It's sometimes referred to as the TRP Process, correct?

A Yes.

Q In your roll as DTOC section chief, were you involved in the Threat Review and Prioritization Process?

A At headquarters and in giving review to field offices.

Q Okay. The TRP Process relies on intelligence, right?

A It does.

Q Can you talk through how the TRP Process works?

A So it's multifaceted, but typically, at a field office level, the intel components will conduct a review of various factors to include open cases, outcomes of cases, raw intelligence, and refined intelligence that paint a threat picture, and how present, persistent is that threat in the AOR.

The report that's drafted by intel will give a domain assessment; so, in that area of responsibility, what are the implications of that threat to that field office and then ultimately a recommendation of how the field office should respond to that threat. So, in an emerging threat situation, does the field office need to maintain a persistent status

because we're already addressing the threat but keep it consistent so we don't lose effort on that threat, or do we need to surge resources on a known persistent threat, but an uptick of the threat reporting, do we need to have any response to that? And, vice versa, if the threat is diminishing, are we having the right impact on that threat, and should we continue to pursue it until it's gone?

Q In your opinion, is the TRP Process a reliable way to assess the size of a threat?

A I think it is reliable. It's a valuable tool in informing me as a manager of the field office, also in the role of Domestic Terrorism section chief, broadly how increased of a threat picture we're dealing with.

██████████: We can go off the record.

[Recess.]

[2:21 p.m.]

Mr. Gaetz. We're back on the record. I want to go back to some of the geofence capabilities we talked about during the majority's last hour, and I think what you said is that the technology is so precise that one can determine whether or not a digital device was literally on the Capitol Grounds. Am I understanding your testimony correctly?

Mr. Jensen. Yes. It was precise within a couple -- I don't want to say meters or feet, but it was close.

Mr. Gaetz. That's what I'm trying to figure out. If someone was walking up Independence Avenue, that's only a few feet from Federal property. So how would one know whether or not they had committed a violation of Federal law based on geofencing alone?

Mr. Jensen. So it's an indicator; it's not a predicator by itself. So it warrants additional review, but there were certain cases, many cases, where it's very much inside the restricted area of the Capitol, internal to the Capitol Building itself, very clear in those cases. But still I think it's important to note, and I don't mean to eat up your time, but it's important to note the presence of the device doesn't automatically imply the person who owns the device was there. We still need to put an end user to that device that was hitting inside the geofence.

Mr. Gaetz. You testified in the last hour of the majority's time that sometimes that digital information was the only predication sent to a field office, right?

Mr. Jensen. The initial tip. Yes, sir.

Mr. Gaetz. So, if you're saying now it's not predication by itself, but sometimes it was the only evidence that existed, why would that be the basis of you directing someone in a field office to open an investigation?

Mr. Jensen. Yeah. And so it's a great point of clarification. I appreciate the opportunity. The direction provided is not: On that alone, open an investigation.

Where there's sufficient evidence to support the fact that an individual person -- that's why I wanted to clarify the device itself does not imply the person was there until we can definitively say so. So it's individual conduct for the crime that was committed. And, once we have that, then we should predicate a full investigation and use broader resources to fully investigate that individual.

Mr. Gaetz. Just so I understand it completely then, in the hundreds of cases that you directed to be opened, were any of those cases directed to be opened solely based on digital geofenced information?

Mr. Jensen. Yeah. And, again, I'm married to that term "directed." It's the term that I used, and I'll stick to it. The reality of the situation from the evidence gathered was tips and leads were going out to the field offices for action to evaluate: Did this device or individual identified participate in criminal conduct? And, if so, then open these types of cases. These are the options you have, but a case should be opened and provided to the U.S. Attorney's Office.

That's the directive part. We are doing this.

But not directing specific "you must on this limited piece of information," and that's still discretionary to the individual field office who receives that tip or lead to fully evaluate that information against the other knowns and determine what individual, if any, entered the Capitol and under what circumstances.

Mr. Gaetz. Is intent an element of criminal trespassing?

Mr. Jensen. I would have to check the actual statute and review it.

Mr. Gaetz. That's some kind of mens rea, right?

Mr. Jensen. There are certain crimes that are prima facie, and I would have to

check the statute to give you a direct answer on that one.

Mr. Gaetz. Well, it seems like -- I mean, if you were -- if you were indicating that every person that was in the Capitol had committed a violation of Federal criminal law, it seems as though you made that determination in the absence of an evaluation of intent. Is that fair?

Mr. Jensen. It's not fully fair. Yes, the assumption being made that the Federal violation that we would investigate at a minimum was trespass for entering a federally protected facility. Whether or not that would ultimately be charged, but that gives us the Federal violation that is alleged to have occurred to open an investigations.

Mr. Gaetz. Right. But to evaluate whether or not that violation has occurred, don't you have to know the elements of the violation?

Mr. Jensen. You do.

Mr. Gaetz. Do you know them?

Mr. Jensen. I'm sure that I did in providing guidance out to the field, but right now I haven't reviewed that statute in support of this testimony, and I wouldn't want to speak incorrectly without reviewing that statute.

Mr. Gaetz. Did you ever give direction to any field offices to evaluate the intent of people who might have been on the Capitol Grounds?

Mr. Jensen. Well, it's normal course -- I did not, to answer your question, but it's a normal course of investigative activity to determine what role they had there, and that was guidance that I provided to the field. And every case that we opened to evaluate those individuals for additional conduct, where they were working in coordination or conspiratorially with others.

Mr. Gaetz. Were you ever involved in any discussions with the FBI where the nature of people's intent to commit a violation of Federal law was discussed?

Mr. Jensen. Related to January 6th?

Mr. Gaetz. Yes.

Mr. Jensen. None that come to mind directly, sir.

Mr. Gaetz. Are you aware that, on January 6th, before some people had arrived on Capitol Grounds, barriers that were previously erected had been removed?

Mr. Jensen. I'm not aware.

Mr. Gaetz. So you haven't seen the videos of --

Mr. Jensen. I'm sorry. You mean, before the crowd moved up, the barriers were removed, or before they entered the Capitol?

Mr. Gaetz. I'll represent to you that, as the group of people were walking from the Ellipse to the Capitol, that some of the initial people who arrived removed barriers. I'll further represent to you that barriers were moved at times by Capitol Police. Is that news to you?

Mr. Jensen. It is not. I am aware of that, sir.

Mr. Gaetz. Okay. So how did you evaluate the removal of those barriers in the determination as to whether or not a particular individual intended to break the law?

Mr. Jensen. That was a clear point of discussion between myself and DOJ, especially as we were providing that early guidance to the field about what potential statutes would apply. And, for me, there needed to be a bright line. And that bright line for me was the walls of the Capitol, the doors of the Capitol, the windows of the Capitol that were clearly breached and not open to the general public.

Anybody who entered the Grounds of the Capitol in that restricted area might not have known that it was restricted by the time they got there, and I fully understood that and recognized the backside of the crowd might not have had any idea. But that backside of the crowd, if they entered the Capitol that day, still should have known it's off

limits to the general public. But is not evidence of a crime in and of itself. It needs to be further evaluated if they entered the Capitol that day and investigated by that local field office. That's the direction that was provided, and where criminal culpability was established, a full investigation to evaluate in totality the circumstances.

[2:28 p.m.]

Mr. Gaetz. Were any Americans charged for violations of Federal criminal law on January 6th who did not enter the Capitol?

Mr. Jensen. Yes.

Mr. Gaetz. And were any of those people who were charged not engaged in violence?

Mr. Jensen. That I'm not sure about. To my knowledge, the ones that specifically were charged outside of the Capitol were engaged in assaults on police officers or damage to property of the Capitol grounds. And so, by that, it might not be considered violent, but it was criminal in nature.

██████. Do you have a specific understanding of all the January 6th cases that have been charged since the time you left --

Mr. Jensen. I don't.

██████. -- DTOS?

Mr. Jensen. I don't.

Mr. Gaetz. But if someone were on the Capitol grounds, committed no other criminal act other than technically being on grounds that might have been previously barricaded, you wouldn't give direction in those matters to pursue criminal process to field offices, would you?

Mr. Jensen. So, like I said, the clear, bright line agreed upon between myself, the FBI, and DOJ was individuals or their devices identified inside of the Capitol was action to field offices for further investigation.

Outside of the Capitol, barring what was considered plus-up factors by the Department of Justice -- assaults on Federal officers, assault on media members, damage to specific property on Capitol grounds -- if they didn't have any of those additional

factors, we weren't investigating those people.

Mr. Gaetz. Who developed that bright line? Who were the people involved in the discussion to set that as the bright line?

Mr. Jensen. So that would've been myself, in consultation with Assistant Director Jill Sanborn and DOJ CTS attorneys. And at the time, sir, I believe it was Matt Blue who was my direct counterpart, but there could've been other attorneys that were present.

Mr. Gaetz. How did the FBI work with Bank of America in this investigation?

Mr. Jensen. We maintain partnerships with the private sector, to include Bank of America, and I'm aware that they provided information to the FBI. Outside of that, I didn't have any direct knowledge or interaction with Bank of America.

Mr. Gaetz. How did you become aware that they had provided information to the FBI?

Mr. Jensen. I became aware through one of my unit chiefs, who advised that a number of leads had gone out regarding Bank of America information of subjects -- I shouldn't say "subjects" -- of individuals identified in those leads who had certain purchase histories flagged by Bank of America to the FBI.

Mr. Gaetz. And who was that unit chief?

██████████. You can give the unit but not the name.

Mr. Jensen. Okay.

There was no unit at the time, because he was in charge of our headquarters' presence over Strategic Information and Operations Center.

Mr. Gaetz. Wait a second. Why can't the committee learn who gave the witness information in its Bank of America relationship?

██████████. As is standard practice, we're not putting names of non-SES

individuals on the record. But happy to, if the committee has additional questions of this individual, take that back and see if we can get additional information.

Mr. Gaetz. Thank you.

Did the FBI ask for this information from Bank of America?

Mr. Jensen. Not to my knowledge.

Mr. Gaetz. And do you have knowledge as to how Bank of America provided that information, the medium that they used?

Mr. Jensen. No, I don't.

Mr. Gaetz. And did you evaluate any of the Bank of America information in sending leads out to field offices?

Mr. Jensen. No.

Mr. Gaetz. What was the Bank of America information that was provided?

Mr. Jensen. My understanding -- and, again, I didn't see the information directly. I was made aware of certain leads that were sent out to field offices. I don't recall how many.

My understanding of that information was, it was certain purchaser transaction records of individuals that Bank of America provided over to the FBI that wasn't requested by the FBI. It was of their own volition.

Mr. Gaetz. So you have personal knowledge that there wasn't an FBI request?

Mr. Jensen. To my knowledge, there was not.

Mr. Gaetz. Did the FBI engage in this type of partnership with any other financial institutions as part of the January 6th investigation?

Mr. Jensen. Not to my knowledge.

Mr. Gaetz. Did Capital One provide any records to the FBI?

Mr. Jensen. That sounds very specific, but not to my knowledge.

Mr. Gaetz. So both the lead -- you do have knowledge of these Bank of America leads that went out to the field office but not any other institution.

Mr. Jensen. That's correct.

Mr. Gaetz. Okay.

What about telecommunication companies?

Mr. Jensen. We do have relationships with telecommunication companies. There's law enforcement liaisons at most telecommunication companies that deal with legal process or subpoenas issued by FBI or other law enforcement agencies.

Mr. Gaetz. And was information from telecommunication companies part of the January 6th investigation?

Mr. Jensen. I'm sure that it was. On a granular level, each individual investigation? Probably. But these are assumptions on my part, and I don't want to be misleading.

Mr. Gaetz. Yeah. I want to know as to what you have personal knowledge about.

Mr. Jensen. Yeah.

Mr. Gaetz. And so do you have personal knowledge of any telecommunications companies, of their own volition, providing data to the FBI as part of this investigation?

Mr. Jensen. No, sir.

Mr. Gaetz. And do you have any personal knowledge of the FBI requesting data from telecommunication companies as a part of this investigation?

Mr. Jensen. Yes. I mean, we had the geofence data set up. Google is a telecommunications company.

██████. Are you asking outside of legal process?

Mr. Gaetz. I'm asking it in the broadest sense possible.

Mr. Jensen. I mean, I took it, in our lawful authorities for legal process. Those are the ones I'm aware of.

Mr. Gaetz. Are you aware of any field offices providing pushback to some of the Bank of America-generated leads?

Mr. Jensen. I've become aware of it, but at the time I was not.

Mr. Gaetz. And what have you become aware of?

Mr. Jensen. I've become aware of some public statements from a former FBI employee who categorized interactions between a field office and headquarters about certain leads.

Mr. Gaetz. And is that former employee George Hill?

Mr. Jensen. Yes.

Mr. Gaetz. At the time of the investigation, were you aware of the Boston Field Office's concern about the inclusion of the Bank of America records in this investigation?

Mr. Jensen. No, sir.

Mr. Gaetz. Is that normally something you would've been aware of?

Mr. Jensen. I think it would've come to my attention through the normal course of business. If Boston was truly concerned and they didn't get resolution at a lower level, it would've been flagged for my attention.

But, as I noted, one of my employees made me aware of it, and we took -- I didn't get to this part, but we took immediate action to pull those leads out of our system.

Mr. Gaetz. When was that?

Mr. Jensen. It was immediate upon finding out that those leads existed. I don't know the date. It was a verbal briefing that I received.

Mr. Gaetz. From who?

Mr. Jensen. From one of my unit chiefs.

And my concern being, conflating information of leads going out through the normal process that we established for January 6th investigations and then a separate stream of information provided separately, right, but going out to a field office purporting to be January 6th and taking action on those as though they were part of the overarching investigation.

I didn't know how we had obtained the data at the time. I didn't --

Mr. Gaetz. Bank of America data?

Mr. Jensen. Correct. And I was concerned where it originated. So there were unknown --

Mr. Gaetz. And why did that concern you?

Mr. Jensen. Just because it wasn't coming from the normal case that we were operating under. So I wanted to know, where did it originate, how did we get our hands on it, the process that was issued to get that information.

I came to find out it was provided by Bank of America directly to us without any process being issued. It was them providing it to a law enforcement agency. And those leads were cut by another unit that were not directly involved in the oversight and management of January 6th.

Mr. Gaetz. And which unit was that?

Mr. Jensen. There's a -- it's a unit in a section. The section was the Strategic Partner Engagement Section of Counterterrorism Division.

Mr. Gaetz. Have you ever seen anything like that before, where a large financial institution provided huge swaths of data without being asked?

Mr. Jensen. I couldn't categorize the amount of data because I didn't see it, didn't analyze it.

I have not been a part of that where it's been voluntarily provided, but I don't

know if it's happened before or not.

Mr. Gaetz. Have you ever had to pull back leads in the way that you did regarding the Bank of America data before?

Mr. Jensen. No, not in that nature.

Mr. Gaetz. How many leads did you pull back?

Mr. Jensen. I don't know. I just asked that all the leads relative to the Bank of America get pulled back and be further evaluated and that, additionally, any unit that thought they had information relative to January 6th coordinate with Washington Field Office and the headquarters entities responsible for it.

We couldn't be requesting field offices be unified in the strategy and then ourselves at headquarters not be unified.

Mr. Gaetz. The committee is interested in the volume and scope of these Bank of America leads.

Mr. Jensen. Uh-huh.

Mr. Gaetz. So, if we sought from the FBI how many went out, how many were pulled back, is that data somewhere in the FBI's possession, custody, and control?

Mr. Jensen. I would imagine it is. When a lead is sent through our system of record, there's a permanent record of it.

Mr. Gaetz. Thank you.

██████████?

██████████: Can I just --

██████████: Sure.

BY ██████████:

Q You would agree that if someone was exercising their First Amendment rights and they were on the Ellipse, they maybe walked down to the Capitol but didn't

approach the Capitol grounds, there's no predication for an FBI visit? Is that correct?

A I mean, as a general rule, anybody engaged in First Amendment activity is protected.

Q Right.

A Yes.

Q And if somebody engaged purely in First Amendment activity and you got a visit from an FBI agent, that would be chilling, wouldn't it?

A Not necessarily. The manner in which the engagement occurs -- and it wouldn't be out of the realm of possibility -- we're speaking hypothetically, but based on my knowledge and experience, if somebody is a bystander engaged in First Amendment activity of a broader construct and potentially was in a position to see something, it wouldn't be chilling for me to go ask them what they saw, because I'm trying to conduct an investigation of other criminal conduct. It doesn't mean they have to engage with me, but it's not focused on them; it's focused on conduct observed.

Q If an individual was identified because they used their Bank of America debit card in Washington, D.C, on January 6th, but that's all you have, you would agree that that's not enough information to go speak with that person about their role in illegal activities on January 6th?

A My concern in those instances where Bank of America data was used to initiate leads is that the leads lacked allegations of Federal criminal conduct. Contact by an FBI agent can be consensual at any time, right, but sending leads out based solely on information of purchase history that have no attachment of potential crimes or criminal conduct is what was concerning to me.

Q Are you aware of the allegation that the Boston Field Office pushed back on the Washington Field Office's request that they open up at least a preliminary

investigation on a number of Bostonians that had traveled by bus from Boston to Washington?

A Yes, sir.

Q And what can you tell us about that?

A So it surrounds a number of individuals that are affiliated with a group, and I know the name of the group has been out there, but that's not the focal point of anything I was interested in. There were known predicated subjects that traveled on that bus, and there were other known and unknown subjects that were believed to have participated in criminal conduct on January 6th at the U.S. Capitol.

There were a couple requests that went to Boston Field Office -- first and foremost, on the predicated subjects, further investigation into their activities and coordination with Washington Field Office on those activities; the known or unknown subjects, based on either cell phone data from the geofence or other means of identifying -- social media and other means -- of passengers on that bus, to conduct additional investigative efforts to identify them and determine whether it warranted a full investigation. So those were tips and leads.

And, then, as for the other passengers on the bus, assess them for their conduct on that day. Did they witness something that would be beneficial to our overall investigation -- in other words, they were witnesses and could be interviewed? Or was there other indications that more people on those bus rides participated in criminal conduct?

Q So you think it would be perfectly appropriate to go interview some of the bus passengers that you had no other information on other than they simply took the bus trip?

A Potentially. Proximity to the known subjects; proximity to some of the

other subjects that might've been identified for participation in criminal conduct.

Whether they overheard conversations or they had information relative to our ongoing investigations, those are viable interviews.

Q What's your reaction, then, to the Boston Field Office pushing back and said, no, we're not going to go interview everyone on that bus unless there is a valid predicate?

A Again, the communications between field offices is normal on large-scale investigations. And for one office to say, for whatever reason -- resource allocation or time and intensity for people that are not involved -- it's not an investigative step worthwhile, that's wholly up to the investigating field office and appropriate, unless there's additional context that can be provided from other perspectives that they're not aware of.

Q Uh-huh.

A And, in this case, I don't believe there was. And so it was proper communication at the right levels to say, this is what we can and will do --

Q Uh-huh.

A -- and this is too far, based on our personnel or other reasons.

Q Okay. So you're fine with Bonavolonta, or whoever the special agent in charge was in Boston, agreeing with his personnel that we're not going to go and talk to everybody on the bus?

A I think that's an investigative call and determined, if it was by Bonavolonta, appropriately based on his assessment.

Q Okay.

BY [REDACTED]:

Q During your tenure working at headquarters and interacting with the WFO, did you ever have occasion to interact with Assistant Special Agent in Charge Timothy

Thibault?

A I did.

Q And how often would you interact?

A Mr. Thibault was an assistant section chief in Counterterrorism Division at the time, though not one of mine. He was in a different section. And I had occasional interaction with him.

Q Uh-huh.

A I believe he was in charge of International Terrorism Operations Section II, which handled most extraterritorial investigations for International Terrorism.

There were certain instances where we had case overlap between domestic terrorism operations and travelers going overseas. And those were my interactions with him -- just coordination of our efforts in foreign countries.

Q And did you ever interact with him when he was an assistant special agent in charge at the WFO?

A Not to my recollection.

Q And are you aware of allegations that ASAC Thibault used his official title on social media to make some political posts?

A I am.

Q And what is your reaction to that?

A I don't know that I have a reaction to that. He made some choices -- and, in my opinion, made choices that I wouldn't make -- blending personal life and professional life.

Q And are you aware of allegations that ASAC Thibault let his political leanings seep into how he conducted public corruption investigations?

A I'm aware of the allegations.

Q And when you had occasion to interact with him, did you view him as unbiased?

A I viewed him as a consummate professional, very well tenured in the FBI, knowledgeable over the programs that he was responsible for.

Q Uh-huh.

A And I say "professional" in the sense that he was always measured in his responses when working with me on joint matters. And that was the extent of my communications with him.

Q And during your tenure at headquarters and interaction with the WFO, did you ever have occasion to interact with Assistant Director Steven D'Antuono?

A Yes.

Q And how often did you interact with him?

A So I believe his first day was also around January 4th, maybe just before that. Shortly after January 6th, we had daily link-up calls between myself, him, some of his executive staff, and the U.S. Attorney's Office criminal chief.

Q What did you understand his role in the January 6th investigations to be?

A Well, he was the division head over Washington Field Office and oversaw the personnel allocation towards the main effort; some of the additional investigations, like the pipe bomb investigations, of staffing; and continuing to operate Washington Field Office on a day-to-day basis.

Q Uh-huh. And how closely would you say that he interacted with headquarters and your -- the Domestic Terrorism Operations Section as well?

A In my observations, I measured it as daily. Many of my interactions with executive management on the seventh floor of headquarters, the Deputy Director or Director, were often in coordination with Mr. D'Antuono.

Q Okay.

Mr. Gaetz, any more questions?

Mr. Gaetz. Yes.

You testified about Mr. Thibault's blending of personal life and political life.

What did you mean by that?

Mr. Jensen. I think the allegation she asked if I was aware of, where certain -- using his title on social media posts that implied certain political opinions.

Mr. Gaetz. Other than using his title in social media posts, did you ever observe any other way in which Mr. Thibault blended political life with professional life?

Mr. Jensen. No, sir.

Mr. Gaetz. That was the only one?

Mr. Jensen. That's the only one, and because it was made public.

Mr. Gaetz. Do you follow Mr. Thibault on Twitter?

Mr. Jensen. I don't have Twitter.

Mr. Gaetz. But you're aware of these tweets, based on media reports?

Mr. Jensen. Yes, sir.

Mr. Gaetz. Are you aware of any other Twitter accounts that Mr. Thibault uses?

Mr. Jensen. No, sir.

Mr. Gaetz. And are you aware of Mr. Thibault utilizing the Twitter accounts of friends and others to get information into the public?

Mr. Jensen. No, sir.

Mr. Gaetz. Would that surprise you?

Mr. Jensen. I'd like to say it would surprise me, but not much surprises me these days.

Mr. Gaetz. What a lovely place for me to end.

BY [REDACTED]:

Q Mr. Thibault's -- you know, there have been allegations that he was instructing his personnel to limit activity on certain politically charged cases. Do you have any awareness of that?

A I don't.

Q Have you ever heard that allegation?

A Only, I believe, what was made public to me.

Q How well did you know Mr. Thibault?

A Not well.

Q So you just had occasional interaction with him?

A Professional contact.

Q Right. Okay.

Going back to the Boston --

A And, I'm sorry, I think also physical locations. I was at headquarters; he was at an offsite in McLean, Virginia --

Q Okay.

A -- right? So proximity is also a limiting factor in our interactions.

Q Okay.

Going back to the Boston Field Office --

A Yes, sir.

Q -- topic, we had a witness tell us when they were discussing the bus trip -- it was related to us that the Boston Field Office related to the Washington Field Office, "Hey, if you've got photos, if you've got video of any of these bus passengers in the Capitol, send them to us, and we will open up an investigation."

Were you aware of that level of detail?

A I've become aware of that. I was not at the time.

It is also a common request that we got from field offices. "I've got this limited lead. Do you have more?" And the system that we put in place, if they followed the instructions, allowed them to access that information.

Q Okay. And you came to learn that just from press reports?

A I believe so, yes, sir.

Q And it was related to us that Washington Field Office told the Boston Field Office personnel that, we can't do that, we can't give you photos or video, because there could be undercovers captured in the footage.

Are you familiar with that?

A I'm not, outside of what was made known to me recently.

Q And the implication was that there were enough undercovers in the Capitol that any amount of footage that you shared, you know, could compromise an undercover, that there's a high volume of undercovers in the Capitol.

Are you aware of the volume of undercovers or confidential human sources that were in the Capitol?

A No, sir.

Q Is it a big number?

A Well, I'm not aware.

Q So you're not -- you don't know if it's 1 or 100?

A It's not something that I was ever made aware of in setting up the video system. And I didn't set it up, but I was part of making it available.

One of the limiting factors of that video system, based on the internal workings of the surveillance system of the Capitol, is the number of angles on any given corridor or doorway. Without a known specific point of entry of a subject or a potential location

inside the Capitol, an individual investigator might have to look through several thousand hours of video without a direct timestamp.

And so, if we could narrow that down --

Q Right.

A -- working with the Capitol Police, Washington Field Office could direct them to the specific locations of the video feeds to look for their subject and then go backwards and forwards and determine all the movements of their subject in the Capitol.

That's my understanding of limitations on that system that was put in place, but not for other reasons.

Q Okay.

Are you familiar with the Ray Epps saga?

A I am familiar based on media reporting, sir.

Q So the only thing you know about Ray Epps is what you've heard from media reports?

A That's correct. And then, I believe, a statement publicly made by the FBI officially about Ray Epps. But I don't have any additional outside of that.

Q Do you know what the FBI public pronouncement was?

A I didn't see it, and I don't have a copy of it, sir.

Q Do you know if Mr. Epps was a confidential human source for the FBI?

A I don't know, and if I did, I wouldn't be in a position to make a comment outside of what was already provided.

Q And so you also don't know or won't tell us whether Mr. Epps was an undercover FBI asset?

A Again, I'm fortunately in a position where I don't know.

Q Okay.

A But, again, not in a position to talk about sources, undercovers, or techniques --

Q Okay.

A -- for security reasons.

Q Well, if you don't know, that covers it.

Mr. Gaetz. How did the FBI use FISA in the January 6th investigation?

Mr. Jensen. I'm not aware that FISA was used in January 6th.

Mr. Gaetz. So raw foreign intelligence wasn't searched by the FBI?

Mr. Jensen. So I'm aware of a couple isolated incidents where an individual was searching records and searched FISA information, but I don't believe it was an intentional search for information of FISA material against January 6th subjects.

Mr. Gaetz. Tell me what you know about that incident.

Mr. Jensen. Outside of what I just described, I don't -- I don't recall the details. I couldn't tell you which field office it was. But it was flagged for my awareness.

Mr. Gaetz. So you only know of one case in the entire January 6th investigation where someone searched information that had been collected pursuant to 702 FISA, correct?

Mr. Jensen. So I should be clear: I'm not sure if it was a case or if it was a subject that they were looking for additional information on -- database queries that are authorized under our various policies. But I'm aware of one instance where a search was conducted and it implied FISA information, but I don't believe, based on the circumstances, that it was an intentional search of FISA records for that record.

Mr. Gaetz. In the scope of your January 6th investigation, did you investigate whether or not foreign entities had inspired or coordinated features of the riot?

Mr. Jensen. That's where I would direct you to the Foreign Influence Task Force.

They were run out of Counterterrorism Division. They were established for that purpose. And we had an imbedded analyst on the task force.

There were meetings and coordinations with the FITF, as we call it. But they were primarily responsible for any foreign influence related to subjects or threat streams related to January 6th.

Mr. Gaetz. How often did you meet with the FITF in the January 6th investigation?

Mr. Jensen. It was infrequent, and I would say probably a monthly briefing. But we typically met on a monthly basis in normal course of business.

Mr. Gaetz. And did you ever come to believe that the FITF may have been searching information collected pursuant to 702 FISA authorities?

Mr. Jensen. That I wouldn't know, sir.

Mr. Gaetz. Are you aware of the searching of information collected pursuant to 702 FISA authorities in the investigations of the violence surrounding the summer of 2020?

Mr. Jensen. No, sir.

Mr. Gaetz. So if I represent to you that, while we've been sitting here today, a court has been quite critical of the FBI's searching of information collected to 702 FISA authorities as to the January 6th investigation and the summer-of-2020 investigations, that would come as news to you?

Mr. Jensen. Outside of the incident that I already described to you. That's one that I'm aware of.

Mr. Gaetz. Would it be concerning if there were searches of information collected pursuant to 702 FISA authority on Americans that became a part of the January 6th investigation?

Mr. Jensen. So it is concerning, because we don't collect using FISA or 702 specifically, which is foreign-facing, on U.S. citizens. And knowing the processes that we have in place, I would be surprised to learn that it was intentional, versus an inadvertent search. But I don't know to the extent of what searches were conducted outside of the one that I referenced. I also don't know how voluminous that search was, whether it was one individual or multiple. But it's a precaution that we have in place on our systems now where it's an overt check in order to search -- positively search FISA systems.

[REDACTED]. But you can still -- if an agent or other employee is checking this database, they can still check "yes" and get the information, right?

Mr. Jensen. If you have access to the system, you can run searches on it.

Mr. Gaetz. And how many FBI employees have access to that system?

Mr. Jensen. I'm not in a position to have that number.

Mr. Gaetz. It wouldn't surprise you, though, if it was more than 10,000, would it?

Mr. Jensen. I couldn't tell you.

Mr. Gaetz. What guardrails were put into place to ensure that 702 material wasn't improperly searched, as it related to the January 6th investigation?

Mr. Jensen. That's a question I'm just not prepared for in totality. I would definitely have to get back to you on that.

Mr. Gaetz. You didn't put any guardrails in place?

Mr. Jensen. No, sir.

Mr. Gaetz. And are you aware of any of the information gathered from the searches you are aware of being used to develop any leads?

Mr. Jensen. No, sir.

Mr. Gaetz. Do --

Mr. Jensen. But I also don't know details of it. So, while I'm not aware of it, I don't know how it was used or if it was used.

Mr. Gaetz. Yeah, I'm not -- this isn't a trick question. I'm just trying to understand if you know. And --

Mr. Jensen. No, I don't.

Mr. Gaetz. -- if the answer is you don't know if it was used or not, you just know that it happened, that would suffice.

Mr. Jensen. Yes, sir.

[REDACTED]: We can go off the record. Thank you.

[Recess.]

[REDACTED]: All right. We can go back on the record. It is 3:01 p.m.

Thank you again. I know it's been a long day and you have a flight to catch.

Mr. Jensen. It's okay.

BY [REDACTED]:

Q Mr. Jensen, what's a voluntary interview?

A It's a consensual encounter between a law enforcement agent or officer and a citizen. And it implies that the citizen can walk away at any time and not engage in that encounter.

Q And those are sometimes conducted potentially because somebody is of interest, but also because they might have been a witness to something, correct?

A They are. And sometimes they're conducted because we're approached to conduct an interview. Somebody has information, they want to provide it, and it leads to an interview.

Q Okay. What's the level of predication that you need to conduct a voluntary interview?

A None.

Q Okay. So it's voluntary, it's the lowest level, basically?

A Yeah. It's completely at the discretion of the individual that's approached.

Q Okay.

We talked about these buses of individuals. Is it fair to say that it would've been within the FBI's authority to conduct voluntary interviews, because you conduct voluntary interviews of anybody?

A It is.

Q Okay. And some of the purpose of interviewing some of those suspects may have been just, "You might have witnessed something; tell us if you saw anything," right?

A That's absolutely true. One of the key things that I reminded the field offices about on those coordination calls is, we're still looking for a subject related to the placement of those pipe bombs. And anybody who had information and anybody that we contact who was there that day could potentially have information relative to that, outside of the actual siege on the Capitol that day.

Q So it doesn't mean that the people on those buses were necessarily predicated subjects; they might've just been witnesses to crimes.

A Very possible.

Q Okay.

There was a question about additional information and the request for additional information. Additional information actually was provided to the Boston Field Office, right?

A In regards to?

Q In regards to the individuals on the buses.

A I think additional information was provided on some of the passengers, not all the passengers.

Q Right. So Boston asked for additional information, and where you had it, you provided it to them. Is that correct?

A I believe so, yes.

Q Okay.

With respect to the Bank of America list, do you have any knowledge of any field offices actually taking any action based on that list?

A I don't.

Q Okay. So you don't know if any field office actually went out and interviewed anybody based on that list?

A I don't.

Q Okay.

How quickly -- I want to get a better sense of the timeframe here. So you learned about the list from a unit chief, you said?

A Correct.

Q And did you immediately act to pull it back?

A As soon as I was briefed on it, my request was that the unit who sent it out pull all the leads back --

Q Okay.

A -- relative to Bank of America, and I was informed that that was already in process.

Q Oh, okay.

A My team anticipated my response and had already started to pull those back.

Q Okay. So you don't know how long the list was circulating, but as soon as your team learned about it, they immediately took action to pull it back?

A Correct.

Q And that was in accordance with what you would've wanted?

A Yes.

Q Okay.

Are you familiar with the difference between an assessment, a preliminary investigation, and a full investigation?

A I am. I often consult the DIOG for clarification, but, yes, I am.

Q Okay. What's your understanding of the level of predication required for an assessment?

A It's a factual basis indicating somebody may have been involved in criminal activity.

Q Okay. What investigative steps can be taken?

A They're limited. And we have a flowchart --

Q Yep.

A -- that goes through what process is. To be specific, I would want to consult the DIOG and give that to you, but it is very limited, what you can do.

Typically, in those three categories, outside of a full investigation, you can conduct a consensual interview; you can potentially do limited surveillance to develop a pattern of life or other means. But unless there is additional levels of predication, you can't engage in more intrusive investigative techniques.

Q Okay.

In the case of January 6th, was the DIOG guidance regarding predication for an assessment followed in all cases, to the best of your knowledge?

A Yes.

Q Was the DIOG guidance regarding the investigative steps that are permissible for an assessment followed in all cases, to the best of your knowledge?

A To the best of my knowledge.

Q Okay.

What's the level of predication for a preliminary investigation?

A I would have to consult the DIOG, if you have it --

Q We have it. We can refresh --

A -- to differentiate.

Q And, actually, turning back real quick to assessments, to the best of your knowledge, did the Attorney General's October 4th memorandum change anything about the level of predication required for an assessment?

A The October 4th memo?

Q Uh-huh.

A Regarding the threats?

Q Regarding violence against educators.

A No, it did not.

Q Okay. That's set by the DIOG, right?

A Yes.

Q And it's not -- no individual memo from the AG would change that?

A Correct.

Q Okay.

All right. Preliminary investigations. You know, I'm actually just going to use this to refresh your recollection. I don't need to introduce it into the record.

A Okay.

Q I think predication is actually on this. It's 6.5.

A For the PI?

Q Yeah, for preliminary investigation.

A So, reviewing this, predication for a preliminary investigation includes activity constituting a Federal crime or a threat to national security which has or may have occurred, may be occurring, or will or may occur, and the investigation may obtain information or intelligence relating to the activity or involvement or role of an individual, group, or organization in such activity.

A subsection of that: An individual, group, organization, entity, information, property, or activity is or may be a target of attack, victimization, acquisition, infiltration, or recruitment in connection with criminal activity in violation of Federal law or a threat to national security, and the investigation may obtain information or intelligence that would help to protect against such activity or threat.

Q So that's the level of predication that's laid out in the DIOG for a preliminary investigation, correct?

A That's correct.

Q To the best of your knowledge, did the FBI adhere to this requirement before opening any preliminary investigation with respect to the January 6th investigations?

A To the best of my knowledge, yes.

Q Okay.

Are you familiar with the level of predication required for a full investigation?

A I am. Again, if you have --

Q Would you like to --

A -- a copy --

Q Yes.

A -- I'd like to read it.

Q And we're not going to enter this into the record. It's solely to refresh your recollection. And I believe predication is section 7.5.

A It is.

So predication for formal investigations, this is where the articulable factual basis that reasonably indicates one of the following circumstances exists: activity constituting a Federal crime or threat to national security, similar to what I already read, and then an individual, group, organization, entity, information, property, or activity is or may be a target of an attack.

Q So the key phrase here is "articulable factual basis," correct?

A Uh-huh.

Q Okay. To the best of your knowledge, did the FBI adhere to the predication standards prior to opening any full investigation related to the January 6th suspects?

A Yes. And I think it's an important note, just looking at the predication differences, like, information or allegation would be commensurable to a tip that an individual may have participated in criminal conduct.

Q Right.

A The articulable factual basis is, based on that initial tip, other information and then specific identification of that subject, that he was or she was, in fact, present inside the Capitol and did X, Y, or Z.

Q Right.

So, essentially, FBI had to build these cases. They didn't just open preliminary investigations or full investigations on a single tip. Is that fair to say?

A That is generally fair to say, yes, ma'am.

Q Okay. And, to the best of your knowledge, that was the structure that you adhered to with respect to January 6th investigations?

A It is.

Q Okay.

A Even in tips where, on its face, it lended itself to articulable factual basis.

Q Uh-huh.

A We received numerous tips that this is the individual identified; he was here on this location. That's that 200,000 --

Q Yeah.

A What do they call it? Social media grabs or --

Q Digital media?

A Digital media tips.

Like, even where it lent itself to the articulable factual basis, we still need to corroborate it.

Q Uh-huh.

A Separately corroborated information that lends us to make that assertion. Not just what somebody else told us.

Q Does the FBI have oversight mechanisms in place to make sure that all case agents are following that requirement?

A We have a couple layers, yes.

Q Can you describe those?

A So, first and foremost, an agent would receive a tip, information, or allegation; determine what, if any, steps needed to be taken -- an assessment, a PI, or a full investigation. They would submit paperwork to their supervisor, who would review it.

In the case of a domestic terrorism investigation, there's an additional layer, which is the CDC has to review all case openings or assessments.

And then there's a secondary layer at headquarters, where program managers would review case openings. So the field already initiated the case; now the PM is going to review it and ensure that it meets all the policy requirements for reporting to DOJ, meeting the Counterterrorism Policy Guide, in our case, or other policy guides that would have been in effect.

Q And all of those steps are documented in the case file, correct?

A There are either notes in the case file or there's an indication that it was reviewed.

Q And if there was ever a situation where certain standards were not met or where a certain supervisor is not clear on something and somehow a case got through and made it to actual trial, that information would be provided to a defense attorney, right, because it would be exculpatory, potentially?

A I mean, anything in our case file is potentially discoverable.

Q Right.

A I'm not aware of a specific instance like that, but if it's in our case file and it's deemed discoverable, it would be provided.

Q Okay.

You were asked earlier about Timothy Thibault --

A I was.

Q -- and you were asked about some allegations. I want to be abundantly clear: You don't have any personal knowledge of these allegations, correct?

A I do not.

Q So this is solely based on media reporting?

A It's on media reporting that I was made aware of.

Q Okay. And so, to the extent that you were asked, you know, "Does this surprise you?" and you said, "Not much surprises me" -- but that was solely a reaction to what you were told in this room, right?

A Correct, and the things that I've experienced in my career.

Q Right. Right. But --

A Expect the unexpected.

Q But you didn't have any knowledge of that allegation before it was told to you today?

A I did not.

Q Okay. So we don't have any knowledge now if it's true or not, correct?

A I don't.

Q Okay.

A And I'm aware that there are allegations.

Q Okay.

And one last question. You were asked about the FISA 702 opinion that apparently came out when we were sitting here. You were asked if there were any guardrails in place on the searching of FISA information related to January 6th, and you said you had not put in any place, but you didn't know if there were others in place by somebody else.

I just want to ask, did you put any guardrails in place with respect to the ability to search FISA information regarding the summer 2020 incidents?

A I did not.

And I might've misunderstood Mr. Gaetz's question about the guardrails in place. I thought, in my understanding of the question, what guardrails were put in place, versus

did I put specific guardrails in place, right? And I don't have authority to put guardrails in place.

In our systems, there are automatic guardrails, checking boxes of which systems you're going to search. And I did not specifically anticipate or put any additional layers of guardrails, as you described it, in place, whether we were conducting searches from 2020 or any time after that.

Q Okay.

Thank you. We can go off the record.

[Whereupon, at 3:14 p.m., the interview was concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date