

THE BROOKINGS INSTITUTION

IT WAS ALWAYS ABOUT RUSSIA:  
DISCUSSING THE MUELLER INVESTIGATION AND THE FBI  
A CONVERSATION WITH JIM BAKER

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## P R O C E E D I N G S

MR. WITTES: Good morning. Welcome to The Brookings Institution. For those of you who don't know me, my name is Benjamin Wittes. I'm a senior fellow here and the editor of Lawfare. And this is, among other things, a live recording of the Lawfare podcast, so let me just welcome you here with our trademark: I'm Benjamin Wittes and this is the Lawfare podcast.

We have a huge amount of ground to cover, so I'm going to dispense with normal introductions. But I do want to tell one scene-setting story about Jim Baker, our guest.

I honestly don't remember when exactly this happened, whether it was before the Comey firing or after it, but it was in some period of time and sort of in 2017, and I had out of caution about not wanting to trigger leak investigations, I had been consciously not in touch with Jim, this Jim, Baker for some time. But we nonetheless invited him to an event that we were holding. And when Jim came in he sat down next to me. And I said to him, Jim, are you sure you want to be sitting next to me? I'm not sure that's a good idea. You know, I don't want to trigger a leak investigation. And he paused for a minute and thought about it and said, I think I'm still allowed to sit next to an old friend.

And so I want to actually make two points about that before then telling you something else he said a moment later. The first is that he had to think about it. And the second thing is that he did it anyway.

So, first of all, it's great to be with you here, sitting next to you in public and without having to think about whether it's appropriate.

MR. BAKER: I thought a lot about this, let me tell you. (Laughter)

MR. WITTES: The second thing is what he said next, which was, oh, my god, it's a different thing, it's a different novel issue every day. And that's really what we're here to talk about.

So, Jim, welcome.

MR. BAKER: Thank you. Great to be here.

MR. WITTES: And I want to start by, you know, everybody knows who the other Jim is. Everybody now knows who Andy McCabe is. People know, you know, a lot of people who were present at the creation here. But I want to start with a sort of Admiral Stockdale moment, you know. Who are you and what are you doing here?

MR. BAKER: The who am I is probably easier. I was from 2014 to 2018 the general counsel to the FBI. That was during the time that Jim Comey was there. He got there a little bit before me and I left after he left. As we all know, he left two years ago yesterday I think it was. And so we'll talk about that.

I was a long-time Justice Department official before that. I am not and have no relationship with the former Secretary of State who shares the name with me. That is often a subject of jokes. So anyway, that's who I am.

Why I'm here, it's a very question, Ben. I've thought about it. I mean, in some ways I think maybe it's stupid for me to be here. Maybe I'm overconfident in my ability to try to be able to communicate the kinds of things that hopefully we'll talk about today. I've thought a lot about that.

But honestly, there was a point in time relatively recently where I just became sick of all the BS that is said about the origins of the investigation and I just got fed up with it. And so I just want to be able to speak as openly as I possibly can. I am restricted still. I can't say everything for classification issues mainly. But I want to talk about the origin of the investigation to reassure the American people that it was done for lawful, legitimate reasons and was apolitical throughout in my experience.

MR. WITTES: All right, so let's do that. I want to start with the actual origin story of the investigation. The FBI has described it and Bob Mueller's report describes it as the result of a partner intelligence service approaching the FBI with information about George Papadopoulos. There has long been a suspicion that this is not the truth and that the investigation had some nefarious other origin. And the Attorney General of the United

States recently fed that in congressional hearing when asked, you know, about the origins of the investigation. He said of the conventional narrative that that was “the story” and he said it in a way that sort of implied that he had doubts about it.

So I want to ask you just very directly how did the FBI come to be investigating anyone associated with the Trump campaign and that person’s or those people’s relationship with Russia?

MR. BAKER: Well, yes, I mean, to the short answer. There’s a lot that you have in your question there, so I’ll just try to pick apart and then just come back to it if I don’t answer something you want to talk about.

Yes, most directly in July of 2016, we got the information from the trusted, reliable foreign partner that we have a deep relationship with, and so we had a high degree confidence in that information coming to us, about George Papadopoulos’ interactions with a person who claimed to have email dirt on Hillary Clinton and that the Russians wanted to find some way to support the Trump campaign. That’s the best of my recollection sitting here today about the information. That was the nugget of information that got everything going.

But the important thing I think to remember that it gets said sometimes, but I don’t think people focus on it enough, that the case was about Russia. We’ve written about this. It was about Russia, period, full stop. That was the focus of the investigation. So when the Papadopoulos information comes across our radar screen, it’s coming across in the sense that we were always looking at Russia.

I don’t know how long the FBI’s had its focus on Russia, but it predates the Soviet Union and the FBI predates the Soviet Union and the Russian Federation. And so we’ve been thinking about Russia as a threat actor and the Soviet Union before it before decades and decades. And so this information, first of all, comes in against that backdrop and then we can talk about the other things that were going on in the summer of 2016, too.

MR. WITTES: All right. So I want to come back to this question about what

the investigation was about because I think it's a really important question and I want to flesh it out. But just to clarify, was there an open investigation against anybody associated with the Trump campaign before this Papadopoulos investigation was opened in response to this information?

MR. BAKER: Not to my knowledge.

MR. WITTES: So it's fair to say the Russia investigation that we -- there may be other investigations of things involving Russia, and, as I say, we'll come to that in a moment, but to the extent that people associated with Donald Trump were being investigated by the FBI, that is a creature of this incident in the summer of 2016?

MR. BAKER: This incident, the Papadopoulos information, is what triggered us going down this path.

MR. WITTES: Okay.

MR. BAKER: Again, it's against the backdrop of a dump of emails over the summer that were attributed by various entities to the Russians in one way or another and then -- and other things going on that summer. And this thing then lands in the middle of that.

MR. WITTES: Right.

MR. BAKER: That's what then focuses us and triggers this course of investigation.

MR. WITTES: Sitting here today, do you have any anxiety or doubt in your mind that that information that came to us from this partner intelligence service properly predicated an FBI investigation of the individual in question?

MR. BAKER: I have no doubt.

MR. WITTES: Would it have -- in your judgment, was there any alternative to investigating it?

MR. BAKER: No, and other people in the Bureau have noted this, too. In my opinion, it would have been a dereliction of our duty not to investigate this information.

Again, given the fact that we'd been focused on the Russians as threat actors for a long, long time, given what was going on with respect to email dumps and hacking and the connection with those to the Russians in that summer, and then this thing drops, I think it would have been malpractice, dereliction of duty, whatever you want to say, but it would have been highly, highly inappropriate for us not to pursue it.

MR. WITTES: All right.

MR. BAKER: And pursue it aggressively.

MR. WITTES: So let's come back to this background. So this is a conversation that you and I have been having for months and months now. And it took me a long time to appreciate the importance of this, so I'm going to try to distill this in a way that we can actually talk about briefly.

You know, you said to me it was about Russia. The investigation was always about Russia. And when you said that, what I take to be your meaning is it wasn't really an investigation of the Trump folks at all. The focus of the investigation was of Russian intelligence activity. Explain to me the difference between the two.

MR. BAKER: Well, the way I think about it, and I think this is consistent with the way the FBI thinks about, the way the Attorney General Guidelines are structured, is that the FBI exists, among other things, to investigate federal crime, threats to the national security, and to collect foreign intelligence, at least in the area that we're talking about. The FBI does a lot of other stuff with 38,000 men and women, dedicated professionals, doing this every day. That's what we're focused on.

And so with respect to Russia, in this context our job is to detect, deter, disrupt, and defeat their operations lawfully, using lawful methods at all times, but that's what we're there to do. And so as we're focused on Russia we have groups of people that constantly -- their job is to focus on nothing but Russia. As we're staring at the Russian problem, to the extent that other people, third country nationals or Americans or anybody else, comes across our radar screen and has a connection to the Russians in some way that

looks nefarious to us and falls within the scope of the Attorney General Guidelines that authorize us to conduct investigations, if that comes across our radar screen, then we go and investigate that and run it down wherever it goes. We take the facts wherever they go.

And once we're done with that, we just keep going because there's going to be -- the Russians are not going away. We will not have a time when we're not dealing with the Russians, at least that I can foresee. And so, you know, we'll just keep on going and we'll deal with other Russian threats simultaneously. So you're constantly staring at that problem.

And again, to the extent that any Americans cross our path or cross our radar screen, then we will investigate that.

MR. WITTES: Russian counterintelligence or U.S. counterintelligence against the Russian target was recently described to me as an investigation with no beginning and no end. And I forget who said this to me, but I said when did it start? And they said, oh, you know, 1917. (Laughter)

How much of a joke is that?

MR. BAKER: It's not a joke whatsoever. That is how we have to think about the problem. It's a persistent, long-term threat that we have to constantly deal with. And it changed when the Soviet Union collapsed, but the FBI was all over the Soviet Union before that dealing with that problem. And now it's different and it continues to change as the Russians rethink how to achieve their national objectives.

MR. WITTES: So is it reasonable to say, to describe your attitude toward this as there is a background condition in which we are always engaged in counterintelligence, counterespionage activity involving the Russian Federation? That is a background condition. In the presence of that background condition there were thefts of Democratic emails that were attributed to the Russian Federation and that you guys -- I'm saying this, you're not -- presumably had internal reasons to believe those attributions accurate.

The political candidate himself was openly calling, you know, maybe jokingly, maybe not jokingly, openly calling on the Russian Federation to engage in similar activity. And against this background you get this information from a partner intelligence service about a particular individual that causes you to predicate an investigation against that particular individual, not against the campaign itself. Is that a fair summary?

MR. BAKER: I don't remember, honestly, how the -- so the FBI typically will style an investigation in the name of a particular person or organization. I can't remember exactly how this one was styled, how it was formulated or written down in the log books. I'd have to look at that again. I haven't seen it in a long, long time, but that's the basic idea, that we started to focus on, at that point in time, a person associated with the campaign based on this information.

MR. WITTES: All right. So I want to talk about the broader set of concerns that have arisen about this investigation and the way it was conducted. Until relatively recently those were confined to a pretty -- you know, a corner of the U.S. political world. I would say the sort of far right, I'll say it, conspiracy theorists. More recently, the Attorney General of the United States in two separate congressional testimonies has fueled this and has raised some concerns, and so I want to talk about them.

But first of all, I want to just get out in the open you have a relationship with Bill Barr.

MR. BAKER: Yes.

MR. WITTES: So tell me about your relationship with Barr and how you know him and what your instincts are about him.

MR. BAKER: Bill Barr hired me at Verizon when I went to work for the General Counsel's Office there. He and the team hired me, but Bill was the general counsel at the time. And so I worked for him, you know, indirectly while I was there, while he was still there, and always thought of him as a brilliant lawyer, a person of high integrity. That was his reputation at Verizon. That's how he performed at Verizon. He built a great legal



shop there. It was really an honor to work with those folks. And so I've always held him in high regard.

MR. WITTES: And what was your, without getting into sort of arguments, what was your reaction when he went -- leaving aside the use of the word "spying" and whether that was an appropriate formulation for him, you know, he did seem to be raising questions about whether the investigation was properly predicated and whether specific investigative steps that we're about to talk about were appropriate. What was your reaction when Barr made those comments?

MR. BAKER: Well, it didn't make sense to me based on the information that I knew, that I have available to me. Look, the Attorney General is the head of the Department of Justice, which includes the FBI. And I don't know the Inspector General has been doing reviews for a long period of time. Has he found something? I don't know. I mean, I'm eager to find out what both the Attorney General and the Inspector General know. It's a good thing that there exists an Inspector General that can hold the FBI and other parts of the Department accountable, so I'm fine with that.

So I honestly don't know what he's referring to. If he has other information available to him that somehow hasn't been made public yet, I'm eager to hear it, but I don't understand it.

MR. WITTES: All right. So let's talk about the categories of things he could be referring to. Because it seems to me there are four areas where there have been questions raised about the conduct of the FBI's investigation, and I want to tick them off.

The first we already talked about, which is whether the investigation was properly predicated in the first instance.

The second is the handling of Chris Steele and whether it was appropriate to rely on his information, which is sometimes called "the dossier."

The third is the integrity of the FISA wiretap of Carter Page and the application for that.

And the fourth is fast forwarding ahead to the period after Jim Comey was fired, whether it was appropriate to open an investigation at that point, either a national security investigation or a criminal investigation, related to obstruction by the President.

So let's just talk about those in sequence. The first we've already talked about, so I won't belabor that again. Chris Steele, there seems to be this alternative origin story of the investigation, which is that the FBI was blindsided by a Democratic campaign operative's hire who did some research that may have been influenced by Russian disinformation and that the entire investigation was sort of predicated on, in fact, a data dump from Chris Steele. So what is your view of the way the FBI interacted with Steele and how we should understand what his role was here?

MR. BAKER: Well, that's a big question. So, look, the investigation was not predicated on the basis of the information that Christopher Steele gave to us in the form of the dossier. That is just not -- was not my understanding at the time and has never been my understanding. So just to say that flat out.

Steele, at the time, my understanding was that he was thought to be a reliable source that had a prior relationship with the FBI and brought this information to us. Look, I don't know how to say this other than we're not stupid, right, the FBI. (Laughter) We're not stupid. People roll in to give us information all the time from all kinds of different angles. You know, if it's counterterrorism information, in this case counterintelligence, crimes reporting, all kinds of stuff, people come to us for lots of different reasons. And so the FBI has an obligation to both take that seriously and be highly skeptical of the information, as well, because people come to us with agendas.

MR. WITTES: You might say seriously, but not literally.

MR. BAKER: Exactly. Exactly. We take it seriously. We don't necessarily take -- well, we take it literally, too, I guess, but I take your point. But, you know, could it literally be true? Yes. Okay, well, let's go figure out if it is literally true.

So when a source shows up with a big, you know, stack of information, as in

this case, you go to work. It came in from what appears to be a reliable source. He gives you all this information. Go to work, try to validate it. You don't just swallow it hook, line, and sinker. That's not what we do. That's preposterous. That does not happen.

But you take the information and then you try to vet it. And that -- my recollection is we spent a lot -- "we" the Bureau, the folks in the Counterintelligence Division, spent a lot of time trying to vet that information line by line.

MR. WITTES: Okay. So if Chris Steele had been instead of a former British spy had been an al Qaeda operative, would you guys have received information from him and treated it as potentially interesting or serious?

MR. BAKER: Yes. We vet the hell out of the information that comes from these sources, especially an al Qaeda person. An al Qaeda person walking and offering to help us could be dangerous and it could be a misinformation campaign. Al Qaeda could be trying to accomplish lots of different things through that, or it could be real.

MR. WITTES: Could be a crazy person, too, right?

MR. BAKER: Could be a crazy person who has no relationship to al Qaeda whatsoever. And so you have to figure out by doing the hard work that the Bureau is great at in going through in a very detailed way figuring out, okay, is this true or not, what parts of it are true, what can we verify, what can we not, and how much confidence do we have in it to go about taking actions based on the information from this source? How much confidence do we have that we're going to put this out, for example, to the intelligence community and let them take that and send people overseas into harm's way?

We want to make sure we know how important this information is once we start to put it out into the intelligence community and act on it. So you want to do everything you can to validate it. It doesn't mean you can always do that. Sometimes you can't. But you have to then assess how much you're willing to rely on it and what actions you're willing to take on the basis of such information.

MR. WITTES: What if he had been a member of the Gambino crime family?

MR. BAKER: I think the same thing. You vet it and you don't trust the person. You don't trust the information at the outset. You scrub it and look at it and try to figure out whether it's true or not.

MR. WITTES: So is it fair to say -- because this has always been my reaction to this, which is, you know, the FBI investigates bad people. That's the nature of what it does. Right? It investigates people doing bad things. You often have to deal with highly disreputable individuals in order to get such information. That's called investigating. You're not looking only to get information from Boy Scouts and Girl Scouts.

And among the many types of disreputable people that the Bureau deals with on a regular basis, relatively well regarded operatives for allied intelligence services within the Five Eyes community is fairly respectable by the standards of the kind of people that you routinely accept information from, even if they are hired by domestic political campaigns indirectly and their work, therefore, may reflect either the biases of MI-6 or the biases of a domestic political actor. Is there any reason why in the normal course of business, if such a person walks in with a lot of information, why the FBI should be per se not willing to think about that information?

MR. BAKER: No, we think about it. I mean, we expect and need help from the public and from outside groups, from foreign partners especially. And so when we get that information -- maybe I'm missing your question, but when we get that information -- we want people to report things to us and then we'll take it from there.

MR. WITTES: Okay. No, no. But my specific question is, the criticism, as I understand it, of the FBI's engagement with Chris Steele is this was a piece of domestic political campaign opposition research that was perhaps influenced by Moscow in some sense. If Chris Steele walked in and you were aware that he is a former British spy who's now working indirectly for the Hillary Clinton campaign, would that cause you to say to line agents who might be interested in engaging with him, don't engage with this guy? What would be the conclusion that you would draw from that fact pattern?

MR. BAKER: You would use that to evaluate the reliability of the information that is being presented to you and factor it in in terms of, yes, this person has a prior relationship with a friendly foreign service that we have a good relationship with. They have a good track record in dealing with us. But now this information comes and we want to -- and to the extent -- or whatever we knew and know about the motivation with respect to why the information was created, we would look at that, and I believe we did look at that in terms of evaluating its reliability.

And then you look at the level of detail. Does it seem like there's a lot of detail? Is there detail that is unique that you can't just get, for example, from the public record of things, meetings or where people were or where, for example, Donald Trump was? It's often publicly available where he was at various points in time in his career and so on.

So you look at -- you try to find facts that are unique and then that only this person might know or his sub-sources. And then you have to try and figure out how validate that, and that can be really hard.

MR. WITTES: All right. So now we've had two years of subsequent efforts to validate that, including the entire Mueller investigation. And I'm curious, like famously the Prague meeting seems not to have happened. Right? Some of the specific unique details of the -- associated with that document appear not to be the case.

Does that indicate to you that the Bureau may have been overly credulous of him at the time or does it indicate to you that, hey, sometimes specific articulable facts arise, you investigate to them, and the answer to the question is no? Like what does it tell you that Mueller has concluded what he has related to facts that were brought to the Bureau's attention by Chris Steele?

MR. BAKER: Now, let me see if I can unpack that in a variety of ways. Well, first of all, I don't know what Mueller has assessed with respect to all of the facts and circumstances set forth in the so-called dossier. Like line by line I don't know what that analysis is. I don't know if he rejected the totality of it or whether there were certain parts of

it that they actually validated. Some parts, as you said, appear to have washed out. So I don't know what to say about that. I just don't have enough information to conclude one way or the other what his assessment was at the end of the day.

I'm sorry, then I've lost your threat.

MR. WITTES: Yeah. But like assume that some significant pieces of it --

MR. BAKER: Washed out.

MR. WITTES: -- have washed out.

MR. BAKER: Yeah.

MR. WITTES: We seem to know that the Prague meeting didn't happen.

There's not a lot of indication that there was a pee tape, right? So let's assume that some of the more spectacular of his allegations are either false or unsupported.

MR. BAKER: This is what happens in an investigation. An investigation is basically a question that you start out with. Is this true? That's essentially what you're asking. You have, under the Attorney General Guidelines, an articulable factual basis to justify the investigation that reasonably indicates there's a crime, a threat, or you need foreign intelligence information.

MR. WITTES: Or may be a crime or a threat, right?

MR. BAKER: Exactly. Exactly. And so we're the Federal Bureau -- we, when I was there, we were the Federal Bureau of Investigation, not the Federal Bureau of Conclusions. Right? And so we start investigating when you have a question to figure out what the answer is. And sometimes, many times, most times, when you start out with something, an allegation of some sort, and you follow it, it turns out not to be what you thought it was originally.

But given the nature of the threat that was described from the source of the information that you had, it's prudent and appropriate to at least investigate and figure out as much as you can, and then you have to make a series of hard choices.

MR. WITTES: All right. Let's talk about the FISA application. And this is a

related issue because the critique of the FISA application, at least as I understand it, is it was pervasively dependent on the information from Chris Steele. Of course, a lot of it is redacted, so we don't -- the public version anyway, so we don't really -- I'm not confident that that's true, but that is the critique.

So, first of all, how should -- were you involved in the FISA application? You ran the office that supervised all FISA applications. How aware were you of this particular one?

MR. BAKER: So that was in the past. Yeah, so from -- I worked on FISA applications directly as part of my responsibility at the DOJ from 1996 until 2007.

MR. WITTES: Right, but I mean in the context of these FISA applications, something doesn't even get to DOJ before FBI General Counsel is comfortable with it, right? So you were --

MR. BAKER: My office, yes. The Office of the General Counsel was comfortable with it, that's correct, yes.

MR. WITTES: And was this something that you were personally thinking about or involved with?

MR. BAKER: So I was obviously aware of the investigation itself. The investigation had -- and we can talk about it -- had a number of different threads. We were looking at a number of different people. And I knew that we were looking at Carter Page.

And so at some point in time, I found out that one of the investigative techniques that the agents wanted to use was a FISA. And when it did, my recollection is that I said to my teammates, I said when that application is jelled enough that it makes sense for me to read it, please bring it to me because I would like to read it before it starts to go through the final processing and the signature process. I wanted to be able to ask questions and make changes to the application if they were warranted before it was on its way to the Attorney General to be signed, right, and to like pull it back at the last minute. So that was it.

So I, based on my -- based on a couple different things. Based on my experience for many years dealing with FISA applications and reading literally thousands of them and given what I knew would be the sensitivity of this particular FISA, I knew it would be sensitive. I imagined having to go up and explain what we were doing to Congress and sitting in forums like this and trying to talk about this application, so I knew it was sensitive. So I wanted to take that burden on me to a significant degree within my office, alleviate my team from that, and ask hard questions about it. And make sure that it was being done lawfully, protect the director, protect the institution of the FBI, protect the Department of Justice, protect the Attorney General, and protect the FISA Court from something going forward that was not consistent with the law.

MR. WITTES: And yet a thing went forward that people around the country are convinced was not consistent with the law. In retrospect, sitting here today, how comfortable are you with the Carter Page FISA application?

MR. BAKER: So I read it at the time. I read the initiation, the first one, at the time and went back and looked at it recently. And it is, as you say, it's all blacked out, so there's not a lot there that you can see. (Laughter)

MR. WITTES: Even you, right? You don't get to see it.

MR. BAKER: And I don't get to see anything behind it anymore. So recollection at the time is that when I read it, I asked questions about it, but nevertheless I was comfortable that the application that we were submitting to the FISA Court was consistent with the Constitution and laws of the United States and was consistent with the requirements of the FISA statute and lawful. And there was probable cause that was, in my mind, sufficient to pass muster and pass review and that it would be reviewed by the FISA Court. And -- and -- that we were making disclosures in the application about the Steele information in a way that were consistent with the other types of disclosures we've made about sources and their reliability.

MR. WITTES: All right, I want to flesh out that point in particular. Because



one of the criticisms is that you guys didn't put a big red pen warning, you know, "Warning, FISA Court," this guy was under contract to Fusion GPS, which was under contract to Perkins Coie, which was campaign counsel to Hillary Clinton. Right? And instead, it is in a pretty extensive footnote you didn't identify the U.S. entities.

So my question is, why didn't you identify it in -- A, explicitly who the U.S. entities were, the U.S. political campaign, the other U.S. entities; and number 2, why was it in a footnote rather than written in big, red magic marker, in block letters across every page of the thing?

MR. BAKER: Nobody's going to miss a page-long footnote in regular type. Okay? (Laughter)

MR. WITTES: Not even busy federal judges?

MR. BAKER: No. And that's the other thing. Look, these are federal judges, for goodness sake. They know how to evaluate wiretap applications. They've been doing it in their regular jobs before they get to the FISA Court with Title III applications and then they've been on the court for a while. These are serious, serious judges and they have a highly qualified professional staff of lawyers who work only for the court, who review all these things. And there's a constant dialogue back and forth.

On this particular application what conversations exactly took place between the FISA Court, the judges themselves, the legal advisors, the Department of Justice, the FBI, I don't remember. I wasn't privy to all those communications. But my assessment was that the information set forth in that gigantic footnote was consistent with the type of information and the way we would phrase things to basically, effectively be the red light on top of a document. Like, hey, Court, pay attention to this, there are issues here. We think you need to know about these things.

My view was, and we have a -- and I'm well aware of this, the Department attorneys have the highest duty of candor to the FISA Court that exists in law. It's an ex parte proceeding and we have the obligation to tell the court every material fact with respect

to the application. And so I wanted to make sure that that was done. I thought that this was sufficient to put the court on notice. And I don't know what else to say.

MR. WITTES: Okay. So I want to flag two aspects of this because I'm actually surprised you didn't make a point that I'm now going to ask you about. You seem to be saying two things here. The first is that there is almost like a common law dialogue, a code that exists between Justice Department lawyers who work on FISA applications and the judges, and that there is a style of presentation of information and that this is consistent with the way -- in the language in which these two entities communicate. This is the equivalent of a blinking red light that, hey, here's some reason to have doubt about this. Is that fair?

MR. BAKER: That's how I think about it.

MR. WITTES: Okay. Second thing, and this is the one I'm surprised you didn't mention, the absence of explicit identification of the U.S. entities, is it not for the same reason that Donald Trump is not named in the indictment, he's called "Individual 1," of Michael Cohen? It's because we don't name U.S. persons who are not targets or subjects in documents like this. Is that fair or is that wrong?

MR. BAKER: No, I mean, I think in the application he's referred to as "Candidate Number 1." But the basic idea is, yeah, you don't want to put into a document like this gratuitous information about U.S. persons. You want to try to minimize it to some extent. If it's important, if the assessment is that the identity is critically important and you need it to be able either to follow the information because you can't, you need to follow the flow, like you can't read it and understand it without the identity of the person, then you might put the person's name in. If there's some other reason to put the person's name in, then fine.

But lawyers that handle these applications think about do I really need to put this person's information in -- this person's name in? I'm sorry. Do I need to add this identity? Do I need to have every one of those details? I mean, these things are already

quite long.

So, you know, look, it's an art, not a science. And you're trying to make sure that you apprise the court of everything's that important.

MR. WITTES: All right. So the fourth big area that -- and this is the one the President says it was a coup, right, it was an attempted coup. If there was an attempted coup, you're counselor to the coup. Right? You're the sort of legal counsel to the coup plotters.

Now Jim Comey has been fired and *The New York Times* has reported and Bob Mueller has now validated that reporting that an obstruction investigation was opened at that point. *The New York Times* has said it had a component counterintelligence investigation. I don't think that specifically has been confirmed, but you were asked about it in your deposition to the House last year, and they have released the transcript of that and your answers were allowed by the Bureau.

So, you know, with that as caveat, you guys seemed to have opened at least one -- sort of two investigations or concurrent investigations involving the President at that point. The President talks about this as a coup. How comfortable are you with the predication of those investigations, with what you guys did, and with the way you did it?

MR. BAKER: Okay, that's a lot to unpack. There was no attempted coup.

MR. WITTES: No coup?

MR. BAKER: No.

MR. WITTES: Not even a little coup?

MR. BAKER: There was no coup. There was no attempted coup. There was no conspiracy to commit a coup. There was nothing having to do with a coup.

MR. WITTES: Was the "coup" ever spoken? (Laughter)

MR. BAKER: Not to my recollection in that timeframe, no. I don't know how else to say it. And had anybody even proposed such a thing or said such a thing or mentioned such a thing I can tell you that I would not have tolerated it whatsoever. I have

gone to the mat in the past in my career with stuff that I thought was inappropriate, and I would have called out such a thing. And I either would have stopped it immediately or resigned or reported it to the IG or reported it to Congress or done some other action to make sure that it was dealt with. There was no way in hell that I was going to allow some coup or coup attempt to take place on my watch or any conspiracy to do anything unlawful. No way.

MR. WITTES: All right. But you did allow two things, one of which you talked about on the Hill, one of which Bob Mueller has publicly confirmed, which is that it was a predicated obstruction of justice investigation and there was a national security investigation opened with respect to Donald Trump. So at this point you are now investigating Donald Trump. Talk about those judgments and how you regarded the predicate for them.

MR. BAKER: So I'm going to be a little bit careful here because I don't think the DOJ or the FBI have disclosed all of the facts in the question that you've just asked me. Okay? Or, you know, validated them or whatever you want to say. So I'm just going to step back from that a little bit.

MR. WITTES: Sure.

MR. BAKER: Because I'm not in the position to confirm or deny every aspect of what you said. Okay.

However, my belief now and my belief then was that the activities that we -- the investigative activities that we approved and engaged in in that period of time that you're talking about were lawful, consistent with the Constitution and laws of the United States, consistent with the Attorney General Guidelines, consistent with Executive Order 12333, consistent with all of the rules that apply to us. To be sure, this was an unusual situation. Right? This was unique in my experience.

However, we did pull out the books and looked at them. I personally pulled out -- you know, made sure I looked at the Attorney General Guidelines and made sure I

thought about the facts that we had at the time and looked at the AG Guidelines and thought about it, and remembered all the experiences that I had had with any number of thousands of other investigations, and made sure that I felt comfortable that this activity that we were about to engage in, these things that we were about to approve were lawful and constitutional.

MR. WITTES: And you still believe that today?

MR. BAKER: I still believe that today.

MR. WITTES: And do you have, in light of the way any of it played out, any reservations or doubts about what you guys did?

MR. BAKER: No. I mean, reservations or doubts, look, the whole period of time has been crazy in many different ways. And the experience dating back, I would say, starting with the Hillary Clinton investigation all the way through this period of time, all the way up until the time that I left the Bureau, it was traumatic. And I don't use that word lightly. I use that very deliberately and thinking about what that means to a lot of people who have been through trauma, and so, again, I don't say it lightly. And so that was a very, very hard experience and a lot of people were negatively impacted by that.

If somehow we could have undone it, I would be happy to go back and do something different. But I perceived and thought about the fact that there were threats to the country that needed to be addressed and that there was some effort afoot to interfere with our ability to deal with the Russians. Again, you got to go back to the fact that we're focused on the Russians, at least I was.

What are the Russians doing? What's going on here? They pose a threat to our country. We need to address that threat and, to the extent that anybody's trying to interfere with our investigation of that threat, we need to deal with that, as well. The two of them together, at least in my mind, potentially presented a threat to our ability to achieve our mission, which the FBI's mission is to protect the American people and uphold the Constitution. And I was worried about that.

MR. WITTES: All right. We now have 400 pages, 448 pages of the Mueller report. You've read it. When you read it did you feel like it vindicated those judgments? Did you feel like it caused you to question any of those judgments in retrospect? Did you feel like it -- you know, to the extent it does not validate some of the factual premises that you guys were working with, do you feel like it gives you reason to say, you know, maybe we jumped the gun? What's the Jim Baker read on the Mueller report relative to the judgments you guys made to open the original investigation, to the way you conducted the investigation, and the elevation of the investigation to include a direct investigation of the President himself?

MR. BAKER: My reaction is, yes, that it was validating. I mean, it took him -- so, again, go back. At the start of these investigations we were asking questions. We were asking questions. What are the Russians doing? Who are they working with? What's their methodology and how do we stop them? That's what we were trying to figure out.

And so it took the Mueller team 22 months, 448 pages, I counted, I think it's 2,390 footnotes, 500 search warrants, I think 500 witnesses were interviewed; 2,800 subpoenas, pen registers, Mutual Legal Assistance Treaty requests overseas, 27 O3D orders, a whole range of investigative tools that had to be deployed over a prolonged period of time to figure out what the answer was to the question that we asked. And they found a lot of stuff.

They brought all these indictments. They indicted -- now I've lost track of that, at least 26, I think, Russians that got indicted, several organizations, a number of Americans. They indicted people who lied to them or lied to the FBI in the course of these investigations.

This was a real investigation. This was a real investigation about a real problem. And as you see from the indictments, the two indictments of the Russian groups, the Russians were really up to something. We didn't know all those facts at the time. We were suspicious. We were worried about it. And that's what Bob Mueller revealed with

respect to the Volume 1 I'm talking about.

MR. WITTES: And a couple of other things with respect to Volume 1 and then I want to talk about Volume 2. They also describe 100+ pages of contacts between Russians or their intermediaries and people associated with the Trump campaign or organization, but that there's not conspiracy there that they can prosecute. How do you read that as somebody who had potentially both criminal concerns and national security concerns? What does that aggregation of contacts say to you?

MR. BAKER: That the Russians were being aggressive with respect to what they were trying to do. So they had multiple lines of effort. I think in the report Bob Mueller says that the Russian efforts were sweeping and systematic. Right? So they were trying to achieve their objectives through a variety of different means, which included the social media, what do you call it, manipulation, active measures; the hacking; and then all these contacts with members of the campaign trying to see what they could get away with. At least in my estimation, they were trying to see what they could convince people in the campaign to do and to try to influence them in some way and to manipulate them if that was possible.

And so it turns out, at the end of the day, that they couldn't find any evidence that the Americans, the folks in the campaign, had any mentality to violate any laws. But I think, again, I think it would have been -- if we had known all those facts with respect to all those contacts, we would have been obligated to investigate those, as well. A lot of those, especially when you, again, focus on the Russians, they are quite worrisome.

MR. WITTES: What about Volume 2? So, you know, there's a -- Volume 2 is centrally about the conduct of the President and interaction with law enforcement and interaction with this investigation. Do you look at this and say the way this played out validates the idea that this -- ironically, a lot of that activity postdates the opening of the investigation, but do you look at it and say, okay, so there's no obstruction indictment or finding at the end of the day, but the pattern of conduct here, like in Volume 1, really

required investigation? Or do you look at it and you say, hey, the President did some stuff, fired Jim Comey, tried to influence the investigation, we opened the investigation and thus triggered the conduct, a lot of the conduct that subsequently becomes the subject of Volume 2? What's the sort of Jim Baker read of Volume 2 of the document?

MR. BAKER: Well, Volume 2, as many people have noted, is complicated. I think that, as people have explained, the team decided not to make a prosecutive recommendation because of the OLC opinion that you can't indict a sitting president and that they thought it was fundamentally unfair to indict the President, accuse him of a crime -- or accuse him of a crime and say that they were going to indict him when he would not have the opportunity to clear his name in a court of law in a reasonable time period. Anyway, that's what they did.

When I read it, I mean, as many commentators have said, it's troubling to say the least. It's alarming. I don't know, it's a -- even if it doesn't rise to the level of illegality, it sure looks like a pattern of corruption, a practice of corruption, a practice of trying to influence investigations and interfere with investigations, influence witnesses that is really, I think, again, even if it's not criminal, it should be unacceptable in America today.

MR. WITTES: All right. I want to talk about the IG investigation because all of this stuff that we've been discussing, the conduct of the investigation, the predicate of the investigation, the Attorney General has said he has anxieties about, and the IG is investigating, and you've expressed great confidence in the way you guys conducted yourselves in the integrity of these fundamental judgments with respect to the opening of two separate investigations, right, and with respect to the handling of this FISA application. So how nervous are you about the IG?

MR. BAKER: I'm always nervous about the IG, I guess, but, I mean, no, they're coming in after the fact to look at what we did when we were trying to do it in real time and having the pressure to try to deal with these threats as they were coming.

Look, I've had a great relationship with the Office of the Inspector General at



the Department of Justice for literally decades now. I've been investigated and matters that I've worked on have been investigated many times by the Inspector General. It's not a pleasant process. It's just not. The people are pleasant, but the process is not the most enjoyable. But it's what we need to have in the system. We need to have the Inspector General's Office to make sure that the American public, the courts, the Attorney General, the rest of the government, Congress have confidence that the enormous power that is entrusted to people at the FBI and the Department of Justice is used wisely, appropriately, lawfully, efficiently.

And so, you know, I welcome the accountability. I'm sure that they will find things that I didn't know at the time, maybe that others didn't know at the time. And, you know, I just don't know where it's going to go. But I'm confident at least in the judgments -- let me back up. All I can talk about is myself.

I'm confident in the judgments that I made at the time based on the information that I had available to me. So I feel confident about that. That there were facts that existed in the Bureau known by certain people that weren't known by others, including me, that's certainly possible. That happens frequently. And so I'm assuming that they'll dig and find stuff like that and we'll try to sort it out and see what mistakes were made.

MR. WITTES: There's one matter that I forgot to ask you about that I want to double back to before pivoting to the final subject I want to cover, which is when you guys opened the investigation of the President in the spring two years ago of now --

MR. BAKER: And I'm not saying exactly what we opened.

MR. WITTES: I agree. Understood, but I am. (Laughter) And Bob Mueller did. Was this the Bureau acting on its own?

MR. BAKER: It was the Bureau acting, but under, in my experience and my knowledge, under the direct supervision -- the direct supervision -- of the person who was, for the purposes of this investigation, the head of the Department of Justice. So the deputy attorney general -- excuse me, the Deputy Attorney General, Rod Rosenstein, for these

purposes was the acting Attorney General. And so what we were doing, we made sure that he knew about what we were up to.

And so I feel confident -- this is why these analogies to the past and the FBI, like, you know, redoing Hoover or something like that, is, to my mind, just like totally inappropriate. Not accurate I guess is a better way to say it. We were acting under the supervision of the acting Attorney General. He was aware of what we were doing. And we all very quickly in this time period that you're talking about, right after the firing, we all quickly went up to the Hill and made sure that the Congress of the United States, the leadership of the Congress of the United States, was also aware of what we were doing.

MR. WITTES: Who was included in that, the leaders? When you went to Congress to brief the leadership, who were you briefing?

MR. BAKER: I don't know what the Bureau or the Department has disclosed about that, so I'm just going to -- I'm not going to name names, but it was the leadership, the appropriate leaders of the United States Congress.

MR. WITTES: So if I were to assume that it would not not have included the chairman of the Intelligence Committee, the Majority Leader of the Senate, and the leadership of the House, that would be a reasonable assumption on my part?

MR. BAKER: It included the right people. (Laughter)

MR. WITTES: Fair enough. How often, when you say it was done under the supervision of the acting Attorney General, how often was the FBI -- the FBI is in some sense always under the supervision of the Attorney General, right? But there's different levels of that supervision. My assumption is in a matter of this political sensitivity involving the President that it would have been -- if I had been in your shoes, I would have made sure that the acting Attorney General was intimately acquainted with our work product and judgment. Is that a reasonable assumption?

MR. BAKER: Well, I didn't personally go over and have those interactions with him. The acting director of the FBI did on a -- well, not literally continuous, on a daily

basis for a long period of time every day; was over there having -- over at the Department, this is Andy McCabe, having regular conversations with the deputy attorney general about what we were up to, what we were thinking, what we were doing, why, how he was thinking about it, and trying to figure out a way forward.

MR. WITTES: So it's fair to say, to summarize the last 55 minutes of conversation, you guys acted in a fashion that you are still confident was lawful and appropriate under the Guidelines. You operated with the supervision, the direct supervision of the acting Attorney General. You briefed Congress on what you were doing. And you are now the subject of an Inspector General's investigation that will make whatever criticisms it has to make on any aspect of that but is a form of retroactive accountability. Is that a fair summary?

MR. BAKER: Yes. Yes, I think what we did was lawful and there are accountability mechanisms in place to make sure that that is the case. And if mistakes were made at any level within the organization, then hopefully the Inspector General will find those.

MR. WITTES: All right. I want to double back and talk briefly before we take audience questions about the President's response to all of this with respect to the institution and with respect to you personally.

What does it do to your life when the President Tweets about you in connection with words like "coup," "treason," "traitor," "liar?" You know, you're not one of the people that he regularly spouts venom about, but he often manages to hit you with some.

MR. BAKER: Some of it, yes, exactly.

MR. WITTES: "Lawyer Baker" is his name for Jim. What's the impact when the President does that?

MR. BAKER: So at first it was -- well, I guess, overall it's like not a happy day. I mean, it's terrible really, I mean, honestly, when this starts to happen. It's like an out-of-body experience. I remember the first time he Tweeted about he, it's just like not what I

was used to. I was not a public figure in that way.

MR. WITTES: You're not Jim Comey.

MR. BAKER: I'm not Jim Comey. I'm not a politician. I'm not a political -- you know, I'm now an elected official, anything of this nature. And so, yeah, it was extremely unnerving and weird. And it produced an anxiety, a physiological response that has gotten easier over time and now I'm more used to it in that regard. But it was bizarre.

It did, I think, affect my professional career.

MR. WITTES: Talk us through that. Like what happens to a lawyer at the highest levels of government when the President points his finger at you and says, you know, I am PNG'ing you in my world to my community?

MR. BAKER: Right. So after Director Ray told me that he wanted to replace me as general counsel, then I started looking for a job, obviously. And I thought about leaving the Bureau pretty much immediately, and so I went on a job search.

And I just want to put in plug for the R Street Institute. It's a great organization. I'm extremely happy. It's a wonderful place to work. It's on *The Washingtonian* list of 50 best places to work in Washington, D.C., so it's a great place. I'm working on national security and cybersecurity there.

But, look, I looked around for a job. I explored lots of different options. I ended up at a think tank, but I looked at corporations, law firms, and so on. And I did have some employers, potential employers, who said flat out, and I give them credit for their candor, Jim, we like you, we'd be very interested in hiring you, you're too controversial, we can't do it.

MR. WITTES: Ballpark, how many such firms? How many such entities?

MR. BAKER: A couple that had like -- look, I mean, so some that I would have thought would have panned out didn't. I don't know why exactly; they didn't tell me. A couple did actually have the character, frankly, to say that and I greatly appreciated it. I thought it was a very honest and high integrity thing to say. So anyway, that's one negative

impact.

And, you know, look, it's stressful. It's happened to other people, too. I don't want to over-index on it. I do want to just point out, also, that there is a bizarre sort of positive to it in the sense that my friends, such as you, especially right when this thing started, rallied around me and said things that were supportive that I appreciated so much so fundamentally. And I did -- I thought of this at the time and I still think about it, I did feel like Jimmy Stewart at the end of *It's a Wonderful Life* when he's deep in the you-know-what and, all of a sudden, all of his friends rush to his aid. And it was that emotional and that moving to me and I appreciated it greatly.

Because, look, at the end of the day, all these decisions, all these things that are happening that people talk about in the public arena, it's happening and being done by people. These are human beings that are trying to do, at least on our side, the best that they can under difficult circumstances, but it has a human impact. It takes a human toll when there's this level of criticism, animosity, anger, hatred, all these other negative impulses that are out there.

MR. WITTES: There's one other thing that was done to you which, you know, I would understand if you don't want to talk about, but I'm going to ask you. There were leaks about a leak investigation. That is, you know, there was a set of stories about how there was an open leak investigation involving you. This was actually before you left, I think, that this was -- first arose. What can you tell us about it?

MR. BAKER: Yeah, I think there was an article about it that I think prompted it. This was when the Tweets started. It was around that time that there was an article about it.

So I can't tell you much. What I can say is, and I won't even categorize what kind of investigation it was, but I'll just say, yes, there was -- well, there is an investigation with respect to matters in which I was involved that is still open, that I have cooperated fully with. I met with the investigative team for many hours over many days. I

believe, to the best of my recollection, I think I answered all their questions. And that took place about a year and a half ago.

And I haven't heard anything since then in the sense of further investigative steps that they want to take or information, update on the investigation, other than to hear from the Department that the matter is still open. I'm confident -- I'm confident -- that I did nothing wrong and I did nothing illegal, and that once this is concluded, the Department will come to the same assessment.

MR. WITTES: All right. One last question and then we will go to the audience. What does it do to the Bureau when -- so you've talked about these personal impacts, but what does it do to the entity to see overt presidential hostility directed to senior management? A lot of people got removed; you were one of them. There's an individual story associated with each individual removal, but it's hard to look at the broad pattern and in the context of the presidential confrontation that happened and not see the pattern, as well.

What does it do to the institution when the President can point his finger at individuals in it and say I'm going to ruin your life?

MR. BAKER: Well, it's not good. (Laughter) Look, the Bureau is an incredible organization that has incredible people in it who are extremely resilient, and they will persevere.

Having said that, I think it does impact how they are thought -- how the institution is thought of in the public mind. And at the end of the day, in order to be successful in the long run, the Bureau needs the trust and confidence of the American people. And so when that is undercut by people such as the President of the United States it is not helpful to organization as a whole. It's just not.

And a thing I worry about, also, is that when people talk about this sort of cabal of conspirators or coup people or whatever you want to call them, well, it was just this cabal of people at the top and they were all bad and the rest of the organization is okay. Well, look, I mean, the Inspector General, as we said, is looking at. But at the end of the

day, you know, the people who were there making these decisions -- Jim Comey, Andy McCabe, and so on -- all came from within either the Bureau or the Department of Justice. We grew up in the culture of the organization.

And again, I believe that we were acting in a way that was consistent with the laws, consistent with our expectations, consistent with our professional approach as Justice Department officials. And so I do think this is, frankly, when you talk about this cabal, it's an underhanded slap at the culture of the organization, which I think is detrimental. I don't think that is good for the organization.

MR. WITTES: I lied, I have one more question. (Laughter) As we were getting ready to walk out here we posted a piece that you wrote on Lawfare that is -- I commend to you all if anybody in the world, other than somebody who's had their family separated at the border, has reason to hate the President, it is you. And it is a piece about why you refuse to engage him on that basis. So I want you to talk about that piece and tell us, like, I think everybody will have noticed by now that there is not a note of rancor in anything that you've said over the last hour. Why not? (Laughter)

MR. BAKER: Because I think to hate the President, to hate his family, to hate his supporters would be to dishonor the country.

MR. WITTES: What do you mean by that?

MR. BAKER: I think that I feel deeply, deeply the benefits that I have as an American from all of those who have gone before me. And especially moving to me was about nine years ago my son and I went to the U.S. Military Cemetery at Normandy. And I think of those people a lot. I think of those people a lot.

And I want to try in my public service, which I consider this obviously we're here in the public, I want to honor their sacrifice and all the other people who sacrifice so much for me to have the freedom and opportunity and benefits that I have. And I just simply think that hating other Americans is not honoring them. That's not what we should do. We are better than that. (Applause) We're better than that as a country.

I also think about my grandchildren who don't exist yet and what they're going to think about me. And I would rather have them read this piece and have them believe that I was not a person who promoted in any way, shape, or form hatred than to read a bunch of hate-filled arguments or Tweets or something like that. I think we just have to elevate the level of debate and discussion in this country and stop hating each other. Because why? Vladimir Putin loves it. We're only helping by hating each other.

MR. WITTES: We're going to go to your questions. When I call on you, please frame your question in the form of a question. State your organization and whom you're here with. And keep it short or I will cut you off with an almost brutal lack of due process. (Laughter)

Lara Flint in the back.

MS. FLINT: Thank you. Lara Flint with Democracy Fund. And Jim, thank you for doing this, especially given everything that you have been through these last few years.

MR. BAKER: Thank you.

MS. FLINT: It's really important and it matters, so thank you.

My question is looking forward, given your many years of experience with law enforcement and especially with Russia and your explanation about this is not new, this goes back decades, what do you see as the greatest national security threat from Russia going forward?

MR. BAKER: Wow, that it's a threat actor that's highly capable in a number of different ways. What I worry about I guess the most at the end of the day is the substantial vulnerability of the United States to cyberattack. And when I use the word "attack" here I'm thinking about like an actual attack that would have the kind of effects that a kinetic attack would have on the United States. And I think that is where they are highly capable and it's where we're highly vulnerable.

More immediately, obviously, look, I'm tremendously worried about the 2020



election. I think they -- again, I think our systems are highly vulnerable. I take the point that systems are so diverse and so not well-connected. And apparently, I think there's 8,800 jurisdictions across the United States that conduct voting every presidential election. That's a lot to worry about. That's a lot of attack surface for the bad guys to go after. And the bad guys don't have to go after all of it. They need to pick those precincts in those states that will flip a state in one direction or another.

And quite honestly, given the Russians and my views about them, you shouldn't presume that they're going to support Donald Trump the next time. They only are doing things to disrupt the United States. And whoever they think will help them in that regard they will support. And so that's what I worry about.

MR. WITTES: Jonathan Rauch. Right there in the middle, in the least convenient location to ask a question. (Laughter)

MR. RAUCH: I'll give you two. Take your pick or do them both.

First, give us your take on the reality and the optics of the texts by Peter Strzok. And I'm not sure I pronounced that name correctly.

MR. BAKER: "Struck."

MR. RAUCH: "Struck," thank you. And second, depending who you believe, there's either a lot of Republicans who are seriously very upset about the way the investigation unfolded and are truly worried about its implications going forward or there is a massive disinformation campaign being run against the FBI and the investigation. Either way, it's a firestorm. Can you look in the mirror in the morning and say that this firestorm will not affect the FBI's behavior, will not deter it from investigating these kinds of circumstances in the future? Can it go on with life as before?

MR. BAKER: I'm not 100 percent confident that it won't deter the FBI in some fashion with respect to engaging in -- you know, hopefully they don't have to investigate future presidential campaigns. We had to do two of them. I hope that doesn't happen. But, yes, absolutely I worry about that, about the second part of it.

Look, institutions are just people. It's a group of people, at least in my view, it's a group of people who come together and agree to work in a particular area and do so in a particular way with a particular culture. And the institutions, and I used to say this frequently to folks, you know, law students I'm trying to encourage to go into the government, the government is only as good as the people who go into it. It's made up of people. People have to make individual decisions. Sometimes they have to take risks and be willing to stand up and speak truth to power and deal with the consequences.

And so I think that's -- so I worry about whether people will over-index on the consequences, the potential consequences, of taking action that needs to be taken to tell people who are in positions of power what the truth is. So I'm worried about that substantially.

MR. WITTES: And the texts?

MR. BAKER: The texts, okay. So the texts, right. So, yeah, I was shocked and saddened when I found out about the texts. Pete and Lisa were very highly regarded people on the team. We had worked with them very closely. I know them very well. And they know that it was a mistake. They know that it harmed the institution. They know that it harmed themselves and they know that it harmed their families, all their conduct. And so they got it, they got the message.

I guess what I would ask is that people in the country, those facts are known. That's all been investigated and that's coming out, and the Inspector General and Congress can make of it what they will.

These are two human beings and can we at least approach them with a little humanity? And if you can't muster that for them, can you muster it for their innocent families? That's what I would ask.

MR. WITTES: Alina?

MS. POLYAKOVA: Thank you. Alina Polyakova. I'm here at Brookings.

I want to go back to where we started this conversation where you said the

case was always about Russia and starting the investigation specifically by receiving this one piece of intelligence from a trusted foreign government ally regarding Papadopoulos. If you had to contextualize that specific incident and given the long sort of durée of counterintelligence operations that the U.S. has been carrying out against Russia, against the Soviet Union, how typical is it to receive that kind of information from a trusted ally?

And if we were -- and I know it's counterfactual, so feel free to not answer the second part, if the context was different, I mean, we didn't have all these email dumps, et cetera, that you also pointed to, would such a similar piece of information trigger a similar kind of investigation in a different context? Thank you.

MR. BAKER: Yeah. I mean, it's hard to imagine what the other facts would be, but I think, as I said earlier to Ben, it did come -- that information came to us against the big background of Russia and their persistent efforts to meddle in U.S. domestic affairs, and then also with the email dump. So I think it was in that context it sort of -- and, again, it came from a trusted partner.

The United States, thankfully, has robust intelligence relationships with, in particular, our Five Eyes partners, as well as many other allies around the world. The FBI and other intelligence community agencies spend a lot of time developing and maintaining those relationships and they're good and they're very productive and they help protect the country. And so that's frequent, the exchange of information between the U.S. and its allies is basically just ongoing. It's consistent. It happens all the time. And so when the information comes in from an ally and then it fits into the piece, it's a puzzle piece that kind of fits other pieces that you've got, then, yeah, it was even more alarming than it may have been in a different set of circumstances, talking about a different country, coming from a different country, you know, the information coming from a different country.

MR. WITTES: Gary?

MR. MITCHELL: Thanks very much. Mr. Baker, I'm Garrett Mitchell. I write the Mitchell Report and I can't pose the question without saying genuinely how much I

appreciate what you did at the FBI and that you're here this morning. It really means a lot.

MR. BAKER: Thank you.

MR. MITCHELL: I want to pose a sort of hypothetical opportunity for you and it may be that you covered this in the Lawfare piece that you've just written. But you made it pretty clear that you don't have room for rancor or hate and you're hoping that we don't either. You also mentioned that you don't have the grandchildren yet. And I was wondering what it --

MR. BAKER: No pressure on my kids because I'll get it. (Laughter)

MR. MITCHELL: I guess I wonder what it is you might say to those grandchildren about what it is you learned during this time and how, if at all, it changed the way you think about what we have to do as citizens to make sure we keep the democracy or the republic that Ben Franklin referred to.

MR. BAKER: There's a lot of things I could say, but I guess one of the things that I think about is that when people talk about the history of the United States and we've been able to get through crises before and so on and so forth, that was all done by people in the past. This is our time. This is our time. We are the ones responsible. We've inherited this tremendous, beautiful, wonderful thing. It's in our custody. We want to pass it on to our grandchildren, but it's our obligation now to defend it, again without trying to hate each other and doing things that are negative. But it's our obligation.

We can't presume just because people in the past were successful that we'll be successful, too. We need to be on the lookout constantly, and I think lookout for threats, dealing with the threats I mentioned earlier with respect to Russia, and being aggressive in dealing with that and being aggressive in holding our elected officials accountable. And if they're not doing their jobs, then they need to go. Right?

So, I don't know, just you made me think about Article IV, Section 4 of the Constitution of the United States. Nobody every talks about it. It's the guarantee clause. It says that the United States has an obligation to guarantee a republican form of government

to the states and protect them from invasion.

And I don't know what you want to -- the founders were not thinking about cyberattacks and so on and so forth. Right? They didn't even know what a locomotive was. But like this sounds like an invasion to me. It was conducted by the military elements of the Russian government and the United States has an obligation to protect the states from such a thing.

We need to get out acts together as a country, as a generation, as a series of generations working together. We're all here now to protect what it is that we are blessed to have.

MR. WITTES: Last question, Carrie Johnson.

MS. JOHNSON: Thanks for doing this. Jim, you're a good lawyer. You've been in the Justice Department and the FBI for a long, long time. There are some people out there who believe that in order to govern future behavior by the FBI and the Justice Department it may be a good idea to develop some rules, some standards, some regulations for what to do when you're performing an investigation of a presidential candidate or a campaign in an election year. What's your take on that? Would that be necessary, a separate question from whether someone would follow those rules even once they were established?

MR. BAKER: So, yeah, you establish rules, people will follow them. I have confidence in that. The FBI has, you know, Executive Order 12333, Attorney General Guidelines, the DIOG, which is this giant tome that the FBI has, to try to address every possible investigative matter that you can think of. So you can come up with rules like that. But the problem is the next thing that is big and controversial will not fall within that category, which is why it will be big and controversial and hard to figure out. Right?

That was the hard part here. We went to the books that we had available to us and there's some guidance that's available. And we applied the law as we thought. But with respect to a lot of these questions and how you handle them and how you approach it,

it's just very difficult. Hindsight is 20/20. You're always trying to solve the last problem.

Yeah, I'm sure that out of this will come some type of rules and, you know, some recommendations from the Inspector General about how to improve things and make things easier and make them clearer. But the future is always going to throw things at us that we hadn't thought of before and it's upon us to rely on our values and our abilities to sort out how to deal with them.

MR. WITTES: We're going to leave it there. Thank you all. (Applause)

Oh, one thing I would be remiss if I didn't say, before we actually stop, I want to give a special thanks to the Democracy Fund which has supported these sort of rule of law events in connection with the Mueller report and related stuff at Brookings. And I really can't say enough how much we appreciate that.

We're going to leave this here. Thank you all for coming and please join me in thanking Jim. (Applause)

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