

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

INTERVIEW OF: JENNIFER LEIGH MOORE

Monday, April 24, 2023

Washington, D.C.

The interview in the above matter was held in Room 2237, Rayburn House Office Building, commencing at 10:03 a.m.

Present: Representatives Jordan and Gaetz.

Appearances:

For the COMMITTEE ON THE JUDICIARY:

[REDACTED] GENERAL COUNSEL  
[REDACTED] SENIOR PROFESSIONAL STAFF  
[REDACTED] DEPUTY GENERAL COUNSEL  
[REDACTED] DEPUTY DIRECTOR FOR IMMIGRATION  
[REDACTED] COUNSEL  
[REDACTED] CHIEF COUNSEL FOR OVERSIGHT  
[REDACTED] SENIOR PROFESSIONAL STAFF MEMBER  
[REDACTED] MINORITY CHIEF OVERSIGHT COUNSEL

For the SUBCOMMITTEE ON THE CONSTITUTION AND LIMITED GOVERNMENT:

[REDACTED] MINORITY DEPUTY CHIEF COUNSEL  
[REDACTED] MINORITY INTERN  
[REDACTED] MINORITY PROFESSIONAL STAFF MEMBER

For REPRESENTATIVE GAETZ:

 General Counsel

For the FEDERAL BUREAU OF INVESTIGATION:

MEGAN L. GREER, ASSISTANT GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL

TASHA V. GIBBS, ASSISTANT GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL

██████████ Good morning.

This is a transcribed interview of Jennifer Leigh Moore with the FBI. Chairman Jordan has requested this interview as part of the committee's oversight of the FBI and particularly the way the Bureau has retaliated against individuals that have had communications with Congress.

Would the witness please state your name for the record?

Ms. Moore. Jennifer Leigh Moore.

██████████ And, agency counsel, please state your name for the record.

Ms. Greer. Megan Greer, from the FBI's Office of General Counsel.

Ms. Gibbs. Tasha Gibbs, from the FBI's Office of General Counsel.

██████████ And before we get started, you understand, Ms. Moore, the FBI counsel represents the FBI, not you individually?

Ms. Moore. I do.

██████████ And you understand that?

Ms. Moore. Yes, sir.

██████████ All right.

On behalf of the committee, I want to thank you for appearing here today to answer our questions. The chairman appreciates your willingness to appear here voluntarily.

My name is ██████████ I'm with Mr. Jordan's staff on the House Judiciary Committee. I'll now have the staffers in the room identify themselves.

██████████ ██████████ with Mr. Jordan's staff.

██████████ ██████████ with Mr. Jordan's staff.

██████████ ██████████ Mr. Jordan's staff.

[REDACTED] [REDACTED] with Mr. Jordan's staff.

[REDACTED] [REDACTED] Mr. Jordan's staff.

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

Committee Democratic staff.

[REDACTED] [REDACTED] House Judiciary Democratic staff.

[REDACTED] I am [REDACTED] House Judiciary Democratic staff.

[REDACTED] [REDACTED] with the committee's minority staff.

[REDACTED] I'll go over the ground rules and guidelines that we'll follow during today's interview.

Our questioning will proceed in rounds. The majority will ask questions for the first hour. Then we'll turn it over to the Democrats.

You can take a break at any time, if you need to confer with counsel, you need a glass of water, for whatever reason. A lot of times, we do these breaks on the hour.

So the court reporter can take down a clear record, we'll do our best to limit the number of people directing questions to you, and we'll try not to talk over one another. From time to time, we have to go back and repeat a question or repeat an answer.

We want you to answer our questions in the most complete and truthful manner possible. If you have questions or don't understand what we're asking, just let us know.

The Federal Rules of Evidence don't apply, so if we're asking for something that maybe calls for hearsay, you can just go ahead and answer the question. Just tell us how you learned something, even if it's not directly.

As you know, you're required to answer questions truthfully when you appear before Congress and congressional staff. Do you understand that?

Ms. Moore. Yes, sir.

[REDACTED] 18 United States Code 1001, you know, covers false statements

before Congress, and those that knowingly make false statements can be prosecuted.

Do you understand that?

Ms. Moore. Yes, sir.

██████████ Finally, I'd like to make a note that our interview here today is confidential, so we'd ask that you not take information back to the Bureau and impart that to potentially future witnesses.

Ms. Moore. Okay.

██████████ And I'd also say the same thing to FBI counsel. We've made an accommodation to allow witnesses to bring agency counsel, and so we ask agency counsel not to take a list of our questions and, you know, use them and use the content of the interviews to prep future witnesses.

Ms. Greer. We understand the committee's request, and certainly, as we discussed last time, not intending to provide a roadmap to any other witness. But, as agency counsel, I'm certainly involved in other witness preparation. So, with that caveat, just want to put that --

██████████ Well, with witness preparations, I mean, if you're going to tell witnesses the types of questions that we've asked, I mean, I think we have an issue with that. So can you agree that you're not going to be doing that?

Ms. Greer. Again, I have no intention of providing a roadmap. I'm not aware that there are any other witnesses who are appearing on this same --

██████████ Okay.

Ms. Greer. -- subject matter, unlike other ones.

██████████ Right.

Ms. Greer. So I don't believe that this is an issue.

██████████ Okay.

Along the same lines, we'll have some exhibits today and we'll mark them, and we ask that they just remain in the room, even if it's materials that you may have provided.

That's the end of my -- [REDACTED], do you have any welcoming remarks today?

[REDACTED] No. Just thank you to the witness for appearing here today.

Ms. Moore. Thank you.

[REDACTED] All right. We'll go on the clock. It's 10:08, and I'll turn it over to my colleague [REDACTED]

#### EXAMINATION

BY [REDACTED]

Q Good morning, Ms. Moore. Again, my name is [REDACTED] and I'm with Chairman Jordan's staff.

I want to first talk to you about your professional background. When did you join the FBI?

A 1995.

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

A Service to the country.

Q And can you walk us through the positions that you've held at the Bureau?

A Sure.

I entered on duty in 1995 as what was called at the time a support typist.

In 1996, I became a supervisor in the San Diego Field Office.

In 1998, I went to new agents training out of Quantico, Virginia.

In 1999, I reported to the Dallas Field Office.

In 1995, I was promoted to a supervisory special agent overseeing security and personal conduct within the Dallas Field Office.

In -- I have to get this right. What year did -- 1998. I'm so sorry. I'm trying

to do this all here.

Q You take your time.

A Let me start over. So -- golly. I'm so sorry, y'all. I'm a little nervous this morning.

In 1998, I went to the Academy.

In '99, I graduated and went to the Dallas Field Office.

In 2005, I was promoted to a supervisory special agent within the field office.

In 2011, I was promoted to headquarters as a supervisory special agent in our Inspection Division.

In 2012, I went out as a supervisory senior resident agent in the Las Vegas Field Office, overseeing the territories of northern Nevada.

In 2016, I reported to the Louisville Field Office as an assistant special agent in charge over all criminal investigations for the State of Kentucky.

In 2017, I returned to FBI headquarters, where I served as a senior executive within our Security Division.

In 2019, I was promoted to the special agent in charge of the Washington Field Office.

And, in 2021, I returned to FBI headquarters as the assistant director over the Security Division.

And, in 2022, I was promoted to the executive assistant director of our Human Resources Branch, which oversees all of our Training Division, Security Division, and human resources functions, as well as data analytics.

Q And that's your current role at the FBI?

A Yes, ma'am.

Q And can you briefly describe your roles and responsibilities in that position?

A As the executive assistant director, I oversee all of our Training Division, so that's cradle-to-grave training for all FBI employees and task force officers, detailees; our Human Resources Division, which is, again, cradle to grave, from hiring to retirements; and then our Security Division, which oversees security personnel, information, and facilities security for the Bureau; and then our data analytics, which is all of our statistical information regarding employees.

Q And who is your direct supervisor?

A My direct supervisor is Associate Deputy Director Brian Turner.

Q And how many people directly report to you?

A Directly report to me?

Q Uh-huh.

A Approximately 14.

Q And within the divisions that are underneath the Human Resources Branch, are there heads of those divisions?

A There are, yes. Each one has one.

Q Who are those?

A The assistant director of security is Douglas Beidler. The assistant director of Training Division is Timothy Dunham. The assistant director of human resources is Michael Schneider. And the section chief over data analytics is Tanya Tucker.

Q And can you kind of briefly describe the organizational chart within the Human Resources Branch?

A So, further than how it's divided out amongst each --

Q Who are your deputies?

A I don't have a deputy. So the deputies would fall under the assistant director. So --

Q Okay.

A -- the first line under the executive assistant director is an assistant director.

And then each of them have respectively a number of deputy assistant directors that serve under that respective division.

Q Uh-huh.

A Under that, you would have your senior executive section chiefs. And then, below that, you would have assistant section chiefs, unit chiefs, program managers.

Q And how long have you worked out of headquarters?

A This term?

Q Uh-huh.

A Since I returned in 2021.

Q And you've had stints at headquarters before, correct?

A I've in total served 5-1/2 years at FBI headquarters. The rest of my 28-year career has been in the field office.

Q And how often do you interact with FBI Director Wray?

A Generally, we do an executive briefing every morning.

Q And what role do you play in the executive briefing each morning?

A If we have a significant event that we need to brief, we brief that.

Otherwise, we're in intake mode for anything that might affect our respective oversight.

Q And what is an example of a significant event?

A If we had a mass shooting, if we had a breach of a security facility, any type of those things.

Q And how often do you interact with the Deputy Director at the FBI?

A On a daily basis.

Q And what's your formal training and work experience in the human

resources arena?

A So the human resources arena -- prior to the Bureau, I was in business management. I worked for an international marketing company. And in that capacity, for human resources, I had training within the State of California on employment law, those type of things.

When I came into the Bureau, I was a support supervisor. I mentioned that early on.

Q Uh-huh.

A Again, we had ultimate trainings that are provided through our Human Resources Division. I can't remember all the names of the trainings, but we do all of that, from performance classification to discipline matters.

I spent 10 years in the Dallas Field Office serving as the chief security officer for that AOR. Again, there's a lot of training -- analytical risk management, security adjudicative guidelines, executive order training -- that we receive while in those capacities.

And then just outside trainings that we've had from different departments, things of that nature.

Q And during your tenure at the FBI, have you participated in reviews of your performance?

A Are you saying, like, do I have annual performance reviews?

Q Correct, ma'am.

A Yes, ma'am, I do. Yes.

Q And generally good markings on your --

A I have, yes, ma'am.

Q I want to go through the adjudicative process for misconduct investigations

with you.

Can you briefly kind of give us an overview of the process that the Human Resources Branch uses to investigate and adjudicate misconduct or security risks or other suspensions?

A So the Human Resources Branch strictly investigates regarding to the national security guidelines and misconduct or security risks to national security information. So that's different -- I want to be very clear -- that's very different than just general misconduct of an employee.

Q Uh-huh.

A Like, an insubordination or something would fall under a different branch of our Inspection Division. So we are looking at the adjudicative guidelines in relation to possessing a clearance and handling national security information.

So, if we receive an allegation of misconduct, that goes into our Security Division Intake Unit.

Q Uh-huh.

A They get about 50 of those misconduct reports a week. And I wouldn't say -- "misconduct" isn't actually the right word, but security-type concerns a week. They review those to determine what they'll open.

It then can go into an investigative stage, where they do a full investigation to determine how that conduct relates in regards to handling national security information.

Ultimately, it goes into an adjudication section for a fresh set of eyes to review it. And they'll make a recommendation at some point for a suspension or revocation of a clearance, or it could be a disciplinary action, such as a letter.

Q Okay.

So, going to the very first step, the allegation comes in. How do these allegations

come in?

A They can come in in any number of manners. It can come in through, like, an employee self-report. Like, "I had a law enforcement contact over the weekend" -- I didn't personally, but if you have a law enforcement contact, you can report that yourself through our security reporting system online.

Q Uh-huh.

A You can have a colleague report something that they feel is unusual or out of the norm. You can have a supervisor report it.

Or it could come in through -- we do participate in the Office of Director of National Intelligence mandate continuous vetting. That system can pop a security concern that will also come in through our Intake Unit.

Q And the Intake Unit, how many members are on that staff?

A The staff itself is probably, in Intake -- and I apologize, I don't know if this is the exact number. It's probably, in Intake -- we have about 15 in Intake.

Q Uh-huh. And you said you get about 50 allegations per week?

A Yes, ma'am.

Q And, on average, how many of those go into the investigative stage?

A I don't know that exact number. I can tell you that at any given time over the course of a year we run about 600 active investigations.

Q And who makes the decision on whether an allegation goes into the investigative stage?

A So the initial unit will make that decision if it meets the parameters of concern that rises to a level of an investigation.

Q And the parameters of concern, what are those?

A Those would be in the adjudicative guidelines.

Mr. Gaetz. Excuse me. Just so I understand that, when you say "the initial unit," is that a person? Is that a team of people?

Ms. Moore. It's a team of people. It's that initial 15-ish people.

Mr. Gaetz. So, just so that I understand it, it's not that each of the 15 has a batch of cases where they're able to make individual determinations. The whole team of 15 is evaluating the roughly 50 that show up every week, and then as a group that 15 make a decision?

Ms. Moore. No, that's not --

Mr. Gaetz. Okay.

Ms. Moore. They're each trained on the intake process. So they can each make a recommendation. The unit chief ultimately will decide if it's opened or not. But it goes through a process of review.

Mr. Gaetz. So describe that process.

Ms. Moore. So it -- I'm not sure I quite understand what you're asking.

So it comes in. So someone reads it and looks and makes an evaluation of if it rises to the level of, like, a security concern.

So let's say you report a law enforcement contact. "I had a law enforcement contact that I was speeding. I was going 15 miles per hour over the speed limit." We may say that's not enough to open.

So that unit has that training to determine like, hey, that really doesn't rise to national security concern as it relates to the 13 adjudicative guidelines. And so they'll make a non-recommendation, and it'll be signed off on.

Mr. Gaetz. Right. And what I'm trying to get a granular understanding of is, let's take that example you just laid out where someone may have been 15 miles an hour over the speed limit. Does one of the 15 people on this team assess that that doesn't

rise to the level of needing further investigation, or does some amalgamation of the 15 underneath the unit chief make that decision?

Ms. Moore. It'll go through a series -- so the intake recommender will go through a program manager that will go to the unit chief.

Mr. Gaetz. So it's intake person, program manager, unit chief. And each of the 50 that come in per week follow that process?

Ms. Moore. Yes, sir. Yes.

Mr. Gaetz. Thank you. That's very helpful.

Chairman Jordan. Just to be clear, of those 15 people, only one makes the initial determination, and then it goes through the next two steps?

Ms. Moore. It'll go through all the steps regardless. So it's a "yes" or a "no." So the "yes" or "no" -- I recommend --

Chairman Jordan. I understand, but one person of the 15 is making a determination to send it to the next step?

Ms. Moore. I may not be explaining this very clearly.

So, of the group that works in the Intake Unit, it may come in to -- you may get one this morning, you may get one this morning, and you may get one. Each of you are trained to make that decision --

Chairman Jordan. Right.

Ms. Moore. -- and to move it forward. And so you'll make a recommendation. So, yes, you're not making the decision; you're making the recommendation --

Chairman Jordan. Gotcha.

Ms. Moore. -- that will be decided upon.

Chairman Jordan. Okay.

BY [REDACTED]

Q And you spoke about a unit chief. Is there a unit chief over the Intake Unit?

A There is, yes.

Q And what's that person's name?

A It is an acting right now. So we are in the process of hiring someone to that unit. So I apologize, I don't know the acting's name right now. I can ask counsel.

Ms. Greer. I don't know.

Ms. Moore. Okay. I'm sorry.

BY [REDACTED]

Q That's okay.

And so, as the Intake Unit is evaluating and investigating the allegations to determine if it needs to go to the next step, what process do they use? Are there guidelines that they look at besides the 13 adjudicative guidelines?

A Well, Executive Order 12968 and the adjudicative guidelines are the roadmap to security clearance determinations. So that is what they use.

Q And then when you move to the investigative stage, what happens at that point?

A So the investigative stage, that's where we've decided to open a case. So -- and this is going to get a little confusing here, so I apologize.

But it can go from intake to where they're saying, hey, like, we think this is of such a concern that it needs to bounce over really quickly to the adjudicative stage to see if we need to do a suspension based on separating the risk from national security. So it can go over there.

At any point also during the investigative stage, if it is determined that there is such a risk to national security that a suspension may be necessary as by Executive Order 12968, they'll bounce it over to Adjudications. Adjudications will take a fresh set of eyes

on it and make that recommendation or not.

But while it's in the investigative stage -- so the investigative stage is just that. It is to determine and investigate any and all allegations that are a threat to national security within that incident.

Q And so what are some examples of when it would go from the Intake Unit directly to the adjudicative stage?

A It could do that if you had, again, a threat to national security in a manner that you felt that the individual needed to be separated.

So let's say we get an allegation of someone who has a domestic violence incident over a weekend. They're arrested. They make remarks, a confession or something. That will bounce right over into our adjudicative unit, and they'll make a quick recommendation to separate the individual from national security.

Q And during the investigative stage, what is the office reviewing? What kind of documents or allegations?

A They're reviewing the whole person, so everything -- so we'll go back, if you come into a security investigation, and we'll open back up your initial background investigation to make sure -- and I'll give an example really quickly, if I can.

If you got stopped for a DUI and you were found guilty of an alcohol incident prior to entering on duty, there may have been a whole-person concept that said, "Hey, the time and distance from that incident is such that we feel like, hey, they've moved on, whole person. Otherwise, it's something you can overcome." And so you may be granted initially a security clearance.

You come into the organization. You have another alcohol incident, perhaps a second DUI, in this example. They will go back and reopen that and look at the whole person. So, now, then, I have a pattern of misconduct, and so we're going to investigate

all of that again as the whole person.

We're going to review that initial investigation. We're going to review any other reports of misconduct, any other security concerns, any other security violations. We really look at everything that falls within the parameter of that investigation.

Q So, then, when you end the investigative stage and go to the adjudicative stage, what kind of steps are between them? How do they know that they need to go to the adjudicative stage?

A So it gets signed off on by a unit chief that oversees our investigative stage --

Q And do you know who that unit chief is?

A He just retired, so I'm sorry, we have another acting in there. We're rapidly trying to hire for that, though.

Q Uh-huh.

A So we have a unit chief. It will go into our adjudicative stage. And it's just -- it moves through the process.

So this group and this group are separate so that you have a clean set of eyes. We've found sometimes that if you are the same person and you're investigating something and you interview someone, you might become sympathetic to them or angry at them because you didn't like the way they answered your questions, and that's not fair to the person.

And so we always want it to be fair and impartial, so we stood up a separate Adjudications Unit to be fair and impartial. So it's a fresh set of eyes that's just looking at the facts of what the case found.

Q So, during the investigative stage, does the person who's, like, under scrutiny, I guess, do they get interviewed by the investigators?

A They will at some point during the investigative stage. As a general rule,

that is yes.

Q And so, during the investigative stage, that's before they get the letter suspending their clearance; is that right?

A It depends.

Q Okay.

A Again, if it's such that we need to separate from the organization -- they may have been suspended before they get interviewed. That can happen.

Q Uh-huh.

A So it just depends upon what the nature -- each misconduct -- and by "misconduct," I'm talking security-type misconduct -- allegation stands on its own. So there is no, like, roadmap, cookie cutter. It just unfortunately doesn't work that way. So it doesn't seem as clean as it really is and when it's actually being actioned in that manner. So they may not get noticed and they may not interview until after they're suspended.

Q Okay.

And so, at the end of the investigative stage, the unit chief then makes a decision to suspend the clearance?

A No, no.

Q Okay. Tell us that process.

A So it goes over to the adjudication. The adjudication team will take a look at it. And there are seven processes, right?

So they're going to have the SSA that looks at it, then the program manager, then the unit chief, then an assistant section chief, then a section chief, then the deputy assistant director, then the assistant director. And, ultimately, the recommendation will come to me for final decision. So any of those come to me.

Q And so, at the end of the investigative stage, what is the unit chief signing off on?

A Moving it to the adjudicative side, saying, "Hey, I believe this investigation is complete. It looks like a complete folder. Good work. Good work" -- or, "Thorough work," I should say. And now it goes into -- that's all they're doing. They're just moving it to the adjudicative side. They make no recommendation.

Q Uh-huh. And so, then, at the end of the adjudicative process is when they're deciding whether or not --

A Correct.

Q -- to suspend the clearance?

A Yes.

Q And are you the ultimate decision-maker there?

A I am.

Q And, during any of the process, does your branch involve the employee's direct supervisor, interview the direct supervisor?

A It depends. It can depend upon what type of investigation that we're looking at.

Q And does the employee have a right to appeal the decision to suspend their clearance?

A Not to suspend the clearance.

Q Okay.

A They have a right after revocation. Then they could.

Q And when does the revocation happen?

A At the end of the investigation.

Q Okay.

BY [REDACTED]

Q When a clearance is suspended, they lose their pay, right?

A They can lose their pay, yes, sir. Depending upon what the suspension could be for, they may be allowed to take leave during that time.

Q But after they consume their leave, their pay is --

A Discontinued.

Q -- gone, right?

A Yes, sir.

BY [REDACTED]

Q So you have no right to appeal the decision to suspend the clearance until it has been revoked.

A That's correct.

Q And in the interim time period, as [REDACTED] just said, the employee could be without pay.

A That is correct. And that's the executive order. That's not an FBI policy.

BY [REDACTED]

Q So, in some cases, it's tantamount to them getting fired.

A It's not the same as being fired, because you still receive --

Q But you --

A -- benefits during that time. You don't lose your health insurance and that type of stuff.

Q -- you lose your paycheck --

A You do lose your --

Q -- right?

A -- paycheck, but you don't lose your benefits, no, sir.

Q Okay. But most people need their paycheck to pay their bills, correct?

A Most people do need their paycheck --

Q Okay. So --

A -- to pay their bills.

Q -- if their security clearance is -- if they lose their security clearance and they lose their paycheck, it's tantamount to getting fired, isn't it?

A It's different than being fired because when you're fired you do not receive benefits such as health and dental.

Q Okay. So they lose their -- they still have their dental insurance. Is that correct?

A And their health insurance --

Q Okay.

A -- yes, sir.

BY [REDACTED]

Q And during that time period when their clearance is suspended and they may be on indefinite suspension pending the investigation, does the employee that's affected, do they have to seek permission from the FBI to obtain outside employment?

A They do because they're still considered an employee because they're receiving benefits. And so, yes, ma'am, they do still have to file an outside employment form.

Q And can you describe that process to us?

A The outside employment form?

Q Yes, ma'am.

A It comes in through usually their supervisor or their field chief security officer will submit it if they happen to be in a suspended status. Otherwise, an

employee, if they want outside employment, they can file that themselves.

And a decision -- usually their SAC has that decision. Office of Integrity and Compliance will weigh in to make sure that it's not in conflict to their normal duties.

BY [REDACTED]

Q And how helpful is the FBI with facilitating employment for those that find themselves on suspension?

A Do you mind expanding on that? Are you saying, do we help people find employment?

Q Well, how responsive are you if they seek permission for outside employment and they're suspended?

A I can't speak to the whole of the FBI, so I apologize, because I don't oversee each one of those that come through, because they come through a field office. But I would encourage our people to do that with posthaste, because it is --

Q And do you think that's happening?

A I think that --

Q Do you think the FBI is dragging their feet at all?

A Not intentionally.

Q And if a particular individual needs some FBI records to facilitate that employment, how helpful is the FBI with supplying those records?

A I'm guessing that we're gonna talk about an individual --

Q I'm just asking a question.

A As a general rule, they better be darn responsive.

Q Okay.

A I believe there's been a mistake that has been made. That has been remedied.

Q Right.

A Our employees -- and, fortunately, we don't have a great deal of employees that are suspended on a normal basis, and a lot of our employees don't come in contact with employees that have been suspended.

Q Okay.

A And they get nervous, and they start seeking advice or asking, and sometimes they ask the wrong person, and it delays a process.

Q Okay.

A But we've been very clear now on how that should be handled.

Q Okay. So if they needed their firearms training records --

A Oh, they'll get them timely now, I assure you.

Q "Now."

A Yes, sir.

Q So, in the past, that may not have been happening in a timely way?

A I am aware of one time that I was asked for that and it didn't happen timely --

Q Okay.

A -- in what I would consider timely, which would be posthaste, immediately.

Q Okay.

A That has been fixed.

Q And why does it have to be "posthaste, immediately"?

A Because I think it's not appropriate to delay. But I don't believe anybody does anything with malice in that sense.

Q Okay.

A I believe somebody just simply didn't know what to do. That's -- I will own

that.

Q But if an --

A I will make sure they are trained and everybody is aware.

Q But, really, if an agent has their clearance suspended and they can't come to work and they can't earn a living, they may be in a position where they, without the FBI's indulgence, can't get a second job.

A I don't believe -- indulgence? I wouldn't say that. We have to review our --

Q But if the FBI is dragging their feet, you're going to have an agent that is out of luck.

A The Bureau should not be dragging their feet.

Q They can't get their money from the FBI and they can't get a second job.

And don't you think that's a pretty serious situation?

A The FBI should not be dragging their feet.

Q Okay.

A They should be processing those requests for outside employment timely or records timely, absolutely.

Q And what remedy is there for that agent, other than just quitting?

A They can call someone else to ask for it, if they're not getting timely assistance from the individual.

I get emails from different people from time to time. I respond to every single request that anybody makes of me timely.

Q Okay. But you'd acknowledge it's a pretty big deal if somebody is suspended, they've lost their paycheck, they have a family, they need to pay their mortgage, they need to pay, you know, the other necessities in life, and they can't get the

FBI to engage with them on okaying the outside employment? You'd acknowledge that's a pretty serious situation, correct?

A I will acknowledge that the FBI should timely respond to all employees regardless of what status they are in at the time.

Q Okay.

Mr. Gaetz. During your testimony, you said that in the one case you were aware of firearms records not being provided in a timely manner, you found that unacceptable, right?

Ms. Moore. Right.

Mr. Gaetz. And you also testified that you didn't believe that what animated that delay was malice, right?

Ms. Moore. Agreed.

Mr. Gaetz. And what's your basis for the testimony that malice was not a feature of that delay?

Ms. Moore. Because I inquired as to why it happened.

Mr. Gaetz. And to whom did you make that inquiry?

Ms. Moore. All the way down the chain to the person who denied it -- or delayed it, I should say, who didn't know what to do with it initially.

Mr. Gaetz. All right. List the people you inquired to that constituted your basis for the conclusion that malice was not a feature of this delay.

Ms. Moore. The assistant director of Security Division, the assistant director of Training Division, and our counsel.

Mr. Gaetz. Can you provide their names for me?

Ms. Moore. Assistant Director Doug Beidler, Assistant Director Tim Dunham, and then my counsel, Tasha Gibbs --

Mr. Gaetz. And -- and --

Ms. Moore. -- and my executive assistant --

Mr. Gaetz. -- what was the nature of the inquiry to those individuals?

Ms. Moore. And I have an executive assistant, who is Rebecca Vassilakos, and a special assistant, Glenn Booth. All were asked to find out immediately what happened in the situation.

Mr. Gaetz. And help me understand the nature of the inquiry that you made to these people to arrive at the conclusion that malice wasn't a feature of this delay.

Ms. Moore. I said, "Would somebody please help me understand what happened in this situation? And I would like a written timeline of what occurred." And they provided that to me with the reasoning.

Mr. Gaetz. The reasoning was in writing as well?

Ms. Moore. They sent me -- I was briefed on it verbally, and I received a written timeline of it. So I can't tell you exactly what the written timeline had. I don't want to confuse the two, because I know you're trying to nail me down here.

Mr. Gaetz. I'm not trying to --

Ms. Moore. I just -- and I don't want to tell you wrong, by any stretch.

But I can tell you that what I was told was that the unit chief received the request and was unfamiliar on how to deal with a suspended individual. So they reached out to our Records Division, and the Records Division gave them the generic information that, when somebody who's no longer an employee wants their records, they have to file FOIA, which is inappropriate.

The individual was still -- it was a mistake. It was an honest mistake under communication between people not understanding what was happening and what the employee status was, genuinely. It was bad information.

Mr. Gaetz. Shouldn't the unit chief have had training to not have us in this position?

Ms. Moore. I have been in this position now for over a year. I've never had someone ask for their training records in that capacity. It would be ideal if they had known this. Again, we have reached down and I'm trying to make sure that all of our supervisors know how to handle this in the future. I don't want this to happen again.

Mr. Gaetz. So you've updated the training that they receive to mitigate --

Ms. Moore. Their training -- it's not training like you would do records. This would be like, hey, when someone comes on board, make sure they're aware of this.

It's very difficult -- we have very few people suspended. And our employees, when you're talking -- you have 37,000, almost 38,000 employees. They don't often come in contact with suspended employees. And people want to get it right. And so he asked for assistance on how to do it and got wrong advice.

Chairman Jordan. What was the timeframe for when this person asked for the records of this training and was denied and then until you got it and realized there was a problem and are now working to correct that? What was that timeframe?

Ms. Moore. It was resolved before it ever got to me. So -- let me ask my counsel a fast question. I don't --

Mr. Gaetz. Do you want to go off the record?

Ms. Greer. We'll go off the record.

[Discussion off the record.]

██████████ Let's go back on the record.

Ms. Moore. So, to the best of my recollection, it came in -- about mid-February was the request to the unit chief, and it took 6 weeks for him to get his records, to the best of my recollection. It was either 4 or 6 weeks. Too long.

BY [REDACTED]

Q So, after the decision to suspend a clearance is made, I assume that the letter to the employee is drafted. And then who gives that letter to the employee saying that their clearance has been suspended by you?

A Usually it is presented by the field office where the employee was working at the time of the suspension.

That is up to a field office's head, how they want to do that. Sometimes the special agent in charge will present it. Sometimes an assistant special agent in charge will present it. Sometimes the chief security officer will present it. That's up to the individual field office, how they want to execute the letter in delivery.

Q So you give the letter to the SAC of the field office. Is that correct?

A That is correct, yes.

Q And then they decide who delivers the letter to --

A Yes.

Q Okay. Because I'll represent to you that we've heard from multiple individuals that when they have received their letter revoking their security clearance or suspending their security clearance and the proposal for indefinite suspension, the person who is in the room with them has not identified themselves or the field office they are coming from.

Have you heard of that?

A I have never heard of that.

Q So it would be up to the SAC of the field office involved who's delivering those letters, correct?

A Yes, ma'am.

Q And so, when the employee receives notice that their clearance is

suspended, does an interview take place at that time?

A No, it does not.

Q Are they provided any information for why their clearance has been suspended at that point in time?

A They get a letter to the suspension.

Q Uh-huh. And so, when they get the letter, the suspension of -- their indefinite suspension? Is that what you're talking about?

A It's just a suspension. I don't know, by "indefinite" -- it's a suspension until a decision is made regarding the security action.

Q And so the underlying documents, are they attached to that letter? Or how do they get the information with regard --

A At the time of the suspension, they're not entitled to any additional documents. They're entitled to a letter that advises them that they've been suspended.

Q And so when are they entitled to the information?

A After the revocation of the clearance decision.

Q And how long does that take?

A It depends. Each case is independent and can take a limited amount of time or a longer amount of time. It depends upon the complexity of the case.

Q So, during that period of time when the person has been -- their clearance has been suspended, they're on indefinite suspension until you decide whether or not to revoke their clearance, they have no idea why their clearance has been suspended?

A They have generally the guideline, what they were suspended under, but, no, ma'am, they're not entitled to anything additional.

Q And so why are they not entitled? Is that in the executive order? In the guidelines?

A It is. It's Executive Order 12968.

Q So it's your understanding that all other agencies follow that?

A Yes.

BY [REDACTED]

Q Let me ask you a hypothetical. How would you prevent -- let's say there's two agents that don't like one another.

A Okay.

Q And one agent is a Republican and the other is a Democrat. And the Democrat decides that they're gonna get this Republican and they're gonna provide false information through this chain that the Republican is busy talking to Congress as a whistleblower, or maybe talking to the news media. Because that's a basis for suspending a security clearance, correct?

A Not talking to Congress, no, sir.

Q Talking to the news media?

A Can be.

Q It can be. So what happens in this hypothetical if a Democrat, you know, FBI official just wants to get somebody -- just wants to get somebody that he doesn't like, he or she doesn't like, and falsely sends through information that this person that they don't like is talking to the news media?

A So I wouldn't know if they were Democrat or Republican. We refer to that as a poison pen, if you're saying that it's fraudulent information, that they just made it up.

Q Right.

A Unfortunately, we take the information, we would see if there's any validity to it, and depending upon what we can validate, then a decision will be made or a recommendation will be made to suspend/not suspend, and then --

Q But it's possible that person could be suspended if somebody says, "Hey, he gave the Catholic memo out to a reporter."

A Again, each situation would stand on its own. It couldn't just be like --

Q But is it possible that person could, in fact, be suspended?

A For a poison pen? It is possible. But we absolutely do a thorough and complete investigation based off the --

Q Right.

A -- 13 adjudicative guidelines.

Q And the suspended person might come back and say, "I didn't do it. Why am I being suspended?" And that person has no recourse. Is that correct?

A They will have their opportunity to be interviewed during the investigative phase, yes, sir.

Q They'll have an opportunity to be interviewed, but they don't have an opportunity for anything else. They don't get any paperwork. They don't get to determine, like, what evidence was supplied. Correct?

A If a determination is made to revoke the clearance --

Q Yes.

A -- then they'll get all of that.

Q Right. But during the initial time period, before the clearance is revoked, when they're out of money and they're not getting their paycheck, they have no opportunity to get any of that information. Is that correct?

A By Executive Order 12968, you are correct.

Q Okay.

Ms. Greer. Can we take 1 minute?

██████████ Okay. Let's go off the record.

[Discussion off the record.]

[10:43 a.m.]

██████████ Ready to go back on the record?

Ms. Moore. Yes, sir.

██████████ All right.

Ms. Moore. So I want to emphasize that when we get an allegation like that, we do other steps to validate. We don't just take one single word. We will look at systems; we will look at records.

But we take other investigative steps. It's not something that just flies to a suspension of a clearance. We are very thoughtful in the process and judicious in what we do. Again --

BY ██████████

Q So you have a great process? A great process that has super, great, great integrity?

A We have a very strong process, yes, sir.

Q And you're proud of the process?

A Yes, sir, I am. We are audited by GAO, by the inspector general, by the Office of Director of National Intelligence, and our own Inspection Division, which is a different process than our own. So we take our process very, very seriously.

And right now, like, we have 32 people suspended in the last fiscal year. It's not like we're just willy-nilly out there taking anybody's allegations.

Q All right. All the people talking to us, I guess.

██████████?

BY ██████████

Q I want to talk to you about specific adjudications now. And I know we've

kind of been referring to him already, but are you familiar with a special agent Stephen Friend?

A I am, but I'm not able to talk about his suspension because it's ongoing.

The adjudication has not occurred.

Q So, even though he's resigned, the adjudication is still ongoing?

A That's correct. Security clearances do not -- the investigation into someone's ability to maintain a security clearance doesn't end just on the day of their employment. We have an obligation to the intelligence community, if we issued a clearance, to make a determination on the eligibility of that.

So what's the -- sorry to interrupt here, but what's the basis that you can't talk about his case?

Ms. Moore. His adjudication has not occurred.

Okay. I mean, is this a Privacy Act-based --

Ms. Greer. I can speak. We have several individuals whose adjudication is not complete. We have some individuals who have ongoing parallel proceedings, like, with the MSPB later this week.

Okay.

Ms. Greer. And the last thing the FBI wants to do is to say something that interrupts that process, which those individuals --

Okay.

Ms. Greer. -- are entitled to have play out in the normal order. She's happy to discuss final decisions that have been made, and, if these other adjudications are finalized --

All right.

Ms. Greer. -- happy to revisit and see if there's additional information we can

provide.

██████████ Okay. I mean, that's not going to -- I don't think that's going to work for us.

So we're going to ask you questions. If you refuse to answer, it's very likely the chairman, who's sitting right here, is going to be required to issue a subpoena to bring you back.

██████████ Okay.

Ms. Greer. I would say, we're here and happy to provide as much information as we can today. We've certainly flagged that individual security clearance decisions at all are not something that we typically discuss --

██████████ Well, yeah --

Ms. Greer. -- and we're here to --

██████████ -- you told us that you need a chairman's letter, and we got something better than a chairman's letter; we have the chairman.

Ms. Gibbs. I think we all have the same goal, in ensuring that these individuals are afforded a fair and impartial process. And we don't want to say anything today that could impede their ability to get a fair and --

██████████ Okay.

Ms. Gibbs. -- impartial process before other administrative forums.

██████████ Okay. I mean, Steve Friend has already had such a terrible experience that he's left the FBI. So, you know, I'm quite sure this investigation and determination will be going on for quite some time as a way to circumvent answering our questions.

Mr. Gaetz. Does the FBI ever leave HR matters or security clearance matters pending as a mechanism of punishment?

Ms. Moore. No.

Mr. Gaetz. But you could see why the lack of an adjudication over an extended period of time would hang over someone's life in very significant ways, right?

Ms. Moore. The FBI does not use a suspension as a punitive measure ever.

Mr. Gaetz. What's your basis for that testimony?

Ms. Moore. I'm the executive assistant director that's charged for the organization of signing those. We absolutely do not use a suspension of a security clearance in a punitive manner ever against an employee. It is only utilized in national security matters.

Mr. Gaetz. So your testimony there was really precise, that the suspension itself was never punitive. But what about the delay in the adjudicative and investigative process? Is that a punishment unto itself?

Ms. Moore. It's not a punishment. It's not intended to be punitive. They do a thorough and complete investigation in as timely a manner as possible.

Chairman Jordan. When did you sign the suspension for Mr. Friend?

Ms. Moore. I'm sorry, I don't remember the exact date.

Chairman Jordan. September 2022?

Ms. Moore. Okay. You have it. I'm sorry. Yes, sir, I will concede that it was September of 2022.

Chairman Jordan. So it's been 7 months, and Mr. Friend has terminated his employment, left the FBI, and you still don't have an answer?

Ms. Moore. Not at this time, sir.

Chairman Jordan. Is that normal, a 7-month timeframe?

Ms. Moore. It depends upon -- each case stands on their own, depending upon what has to be investigated.

Chairman Jordan. But you've handled these cases before. Is 7 months normal, and is 7 months normal for someone who's already left the FBI?

Ms. Moore. If they've left the FBI or not is not relevant in --

Chairman Jordan. Okay.

Ms. Moore. -- that case. It depends upon each case and the specificity of what has to be investigated.

Chairman Jordan. Can you give me some examples? Can you give me cases that went longer than 7 months?

Ms. Moore. We have had cases that have court proceedings that attach to them that have taken longer. It does happen, yes, sir. We are driving to get those dates down --

Chairman Jordan. No, I understand, and I appreciate your commitment to do that. But you say it does happen. Does it happen frequently? Does it happen rarely?

We're just kind of -- we're trying to get an idea of what's the normal, if you can say that, what's the normal process here.

Ms. Moore. It takes months to do a thorough investigation.

Chairman Jordan. Okay.

BY [REDACTED]

Q Do you remember what field office Special Agent Friend worked out of?

A Special Agent Friend worked out of our Jacksonville Field Office.

Q And were you involved in his indefinite suspension?

A I signed the paperwork, yes, ma'am.

Q And are you aware that Mr. Friend had received performance awards throughout his career at the FBI for various tasks as well as for his overall performance?

Ms. Moore. I'm not --

Ms. Greer. We're not going to get into the specifics of information that she learned regarding his security clearance.

BY [REDACTED]

Q Are you aware that Mr. Friend recently resigned from the FBI so he could earn an income to support his family?

A I'm aware that Mr. Friend recently resigned. Y'all told me that in the course of this room.

Q And do you remember the circumstances surrounding Mr. Friend's suspension of his clearance?

A I won't discuss his suspension at this time until the adjudication is complete, but I'm happy at that time to come back and answer any and all questions.

Q And besides signing the letter that suspended Mr. Friend's clearance, what was your involvement in his suspension?

A I'm the security program manager. I make the final decision in suspension matters for the organization.

Q Of just security clearances?

A Of security clearances.

Q Okay.

I'd like to enter a September 16, 2022, letter from Ms. Moore to Mr. Friend as exhibit No. 1.

[Moore Exhibit No. 1

Was marked for identification.]

BY [REDACTED]

Q And do you remember signing this letter?

A That is my signature.

Q And was this given to Mr. Friend's special agent in charge to deliver to him?

A As course of process, I sign it; it goes back over to Security Division, and they send it out. They would've sent it to the Jacksonville Field Office.

Q And so it would've gone to Special Agent in Charge Sherri Onks?

A It would've gone to the Jacksonville Field Office. Whether it went in through the chief security officer or directly to the special agent in charge, I can't speak to it. But that would generally be the process, either to the SAC or the chief security officer, who would take it to the SAC.

Q Did you get any readout after Mr. Friend was given the letter about who gave him the letter?

A No.

Q And, in the letter, you stated in the first paragraph there: "The suspension of your security clearance is based on security concerns related to Adjudicative Guideline E - Personal Conduct and Adjudicative Guideline K - Handling Protected Information."

What information did you have to support these security concerns?

A I cannot discuss the ongoing investigation into Mr. Friend's suspension. I'm sorry.

Q Has he been given that information?

A I cannot discuss the ongoing investigation into the suspension of Mr. Friend's security clearance. At the time that it is finally adjudicated, I will be happy to come back and answer any and all questions.

Q So you can't even tell us -- it's been 7 months since this letter was given to Mr. Friend. You can't even tell us if he was given the information of the allegations against him that suspended his clearance?

A I cannot discuss the ongoing investigation into Mr. Friend's security

clearance. At the time it is finally adjudicated I'll be happy to come back and answer any and all questions.

Q And I'm just going to continue to ask my questions. I have a feeling you're gonna say the same answer.

But what materials did the Human Resources Branch rely upon as the basis for suspending Mr. Friend's clearance?

A At this time, I cannot discuss an ongoing security investigation. I will be happy to come back at the conclusion and answer any and all questions.

Q Were witnesses interviewed?

A I cannot answer any questions in regards to the suspended security clearance of Mr. Friend. At the end of the investigation I'll be happy to come back and answer any and all questions.

Q Was Mr. Friend interviewed?

A At the conclusion of the investigation of Mr. Friend's security clearance I will be happy to come back and answer any and all questions.

Q And how did the allegations against Mr. Friend come into your office?

A At this time, I cannot answer any questions regarding an ongoing security investigation. At the conclusion of the investigation I'll be happy to come back and answer any and all questions.

Q In the second paragraph, you stated: "On August 24, 2022, you advised your supervisors of your objection to participating in the court-authorized search and arrest of a criminal subject. During your communications, you espoused beliefs which demonstrate questionable judgment."

How do you define "questionable judgment"?

A At this time, I'm not going to answer any questions --

██████████ Well, you can answer that question.

██████████ Yeah. How do you define "questionable judgment"?

Ms. Greer. Can we go off the record for a second?

[Discussion off the record.]

██████████ Ready to go back on the record? All right.

Ms. Moore. Do you want to ask your question again?

BY ██████████

Q Yeah.

So, in the second paragraph, you stated: "On August 24, 2022, you advised your supervisors of your objection to participating in the court-authorized search and arrest of a criminal subject. During your communications, you espoused beliefs which demonstrate questionable judgment."

How do you define "questionable judgment"?

A The adjudicative guidelines talk about the 13 different areas that can raise to questionable judgment. That's what we would utilize.

Q And so, then, if we go back to the letter here, you cited Adjudicative Guideline E and Adjudicative Guideline K. What information did you have to support that?

A I cannot talk about an ongoing security investigation at this time.

BY ██████████

Q And how much more time do you need for this investigation? It's been 7 months. Like, is this, like, a 27-month investigation? Or 37 months? Like, how many months do you need before it's going to be done?

A Until it's thorough and complete and the investigators feel --

Q Based on your experience -- and you run the office -- how many more

months are you gonna need?

A I don't envision this is going to take very much longer.

Q All right.

Mr. Gaetz?

Mr. Gaetz. Did the FBI --

Chairman Jordan. Sorry.

Earlier, [REDACTED] asked -- when you got this, she asked, how'd you get this information about Agent Friend, and you said you couldn't get into that.

How do you normally get these complaints? What's the normal process, if there is one, where you would receive these concerns that would require you to look into their clearance?

Ms. Moore. We can receive those concerns any number of ways. The employee can self-report. A member of the public can report. A coworker can report --

Chairman Jordan. What's the most common?

Ms. Moore. I don't know that we have necessarily one area over the other. We get a lot of self-reports, actually, that rise to security concerns. Our continuous vetting, which is also a directive of the National Intelligence Agency -- or, ODNI -- hits a lot of things. Like, financial concerns will pop during those.

So they really come in from a myriad of ways. I can get that information and send it to you, if you want the percentage of where we get the allegations from.

Chairman Jordan. All right.

Mr. Gaetz?

Mr. Gaetz. Did the FBI unlawfully retaliate against Steve Friend?

Ms. Moore. Absolutely not.

Mr. Gaetz. So how did the information come in about him?

Ms. Moore. I'm not allowed to discuss an ongoing security investigation at this time.

Mr. Gaetz. And so you're willing to make a conclusory statement, that it's not unlawful retaliation, but if we inquire as to the basis for that conclusion, your answer is that you're not gonna give us that information today.

Ms. Moore. At this time, I'm not allowed to talk about an ongoing security investigation.

Mr. Gaetz. Well, you just did. You said that it wasn't unlawful retaliation, right? You can make that conclusion.

Ms. Moore. The information that I was provided, that I executed the suspension off of, all was lawful.

Mr. Gaetz. And how did you investigate the propriety of that information?

Ms. Moore. I'm not gonna discuss an ongoing security investigation at this time. At the conclusion of the investigation I'll be glad to come back and answer any and all questions.

Mr. Gaetz. Was Steve Friend punished to send a message to chill other potential whistleblowers?

Ms. Moore. I cannot answer any questions regarding an ongoing security investigation.

Mr. Gaetz. Did the FBI encourage anyone to be unhelpful to Steve Friend?

Ms. Greer. Can we go off the record one sec?

██████████ We'll go off the record.

[Discussion off the record.]

██████████ We'll go back on the record.

Ms. Moore. I want to address the question two ago.

There is no chance I would sign anything that was retaliatory or intended to send a chilling message. Absolutely anything that I signed, regardless of the employee, is based off of the security adjudicative guidelines and separating an individual from national security risk.

Mr. Gaetz. So you've answered that question in a general sense. But as I specifically posed that question as it related to Steve Friend, would you assert the same --

Ms. Moore. I would not sign any paperwork, regardless of the employee, to send a chilling effect or in retaliation for anything. No.

Mr. Gaetz. Did the FBI encourage anyone to be unhelpful to Steve Friend in any way?

Ms. Moore. Not to my knowledge, no.

Mr. Gaetz. And would your process normally have uncovered any of that type of retaliatory behavior?

Ms. Moore. Our process involves multiple steps, so there's several different steps that come. Mine is independent of the information that is provided to me.

Mr. Gaetz. So your testimony to us today is that you had sufficient predicate to suspend the security clearance of Steve Friend?

Ms. Moore. I won't talk about an ongoing security investigation. For me to sign suspension paperwork, yes, I had to have enough predicate to do it.

Mr. Gaetz. But you won't share with us any of that predicate?

Ms. Moore. Unfortunately, I can't today.

Mr. Gaetz. And you won't share with us any of the basis for the conclusion that this wasn't intended to chill future whistleblowers?

Ms. Moore. Unfortunately, I can't talk about an ongoing security investigation.

Mr. Gaetz. And you won't share any of the basis for your conclusion that this wasn't retaliatory specifically as to Mr. Friend?

Ms. Moore. Unfortunately, I can't talk about the specificity of his investigation. But when this is done I'll be happy to come back and answer any and all questions.

Chairman Jordan. And you can't share with us when you think this is gonna be done?

Ms. Moore. As soon as possible.

I believe Mr. Franken also signed a waiver that would allow me to do it, and I think we offered that in advance. And if he will do it, I'll be happy to talk about it before it's concluded.

██████████ We don't need the waiver with the chairman's letter. We don't.

Ms. Moore. My counsel has advised me otherwise.

██████████ Well, yeah, okay. Well --

Mr. Gaetz. In your role, do you oversee whistleblower training?

Ms. Moore. Do I oversee it? No, sir. It doesn't fall under me.

Oh, I'm sorry. Yes, it does, because I'm -- I'm so sorry. I'm getting so caught in the Security Division. I oversee Training Division, which publishes whistleblower training, yes, sir.

Mr. Gaetz. Yeah, so you oversee whistleblower training. Do you also oversee insider threat training?

Ms. Moore. I do, but let me explain how that works.

So our Training Division is responsible for publishing those and ensuring that employees take them. The sponsoring divisions of the trainings are the ones that own it.

Mr. Gaetz. Who makes the decision to conduct whistleblower training and

insider threat training on the same day?

Ms. Moore. It would be out of the Training Division.

Mr. Gaetz. Are you aware that whistleblower training and insider threat training occur on the same day at the FBI?

Ms. Moore. I don't believe it always has. I'm not sure what day it actually publishes. I'm sorry. I don't have that. I can get you that information.

Mr. Gaetz. If I represent to you that folks have testified to the committee that these things occur on the same day, you don't have a basis to disagree with that, right?

Ms. Moore. At this time, I could get you the dates of when it happened and previous years when it occurred.

Mr. Gaetz. Is there a risk that if you conduct whistleblower training and insider threat training on the same day, the message being sent to people throughout the FBI implicitly, or perhaps explicitly, is that whistleblowers are insider threats?

Ms. Moore. I don't believe that.

Mr. Gaetz. You're a senior human resources professional. You don't see any tension on the same day having whistleblower training and insider threat training?

Ms. Moore. No, I don't. I think those are two very different things.

Mr. Gaetz. And your testimony is that you're not concerned that if those two very different things are administered on the same day that someone in the FBI might believe that the message being sent from leadership is that whistleblowers are insider threats?

Ms. Moore. I don't believe that we work to the weakest denominator within the organization, if you don't understand that the two are two separate things.

The FBI takes whistleblowers very seriously. We encourage our employees and actually require them to report waste, fraud, abuse, and misconduct. We absolutely

appreciate a whistleblower.

We also have an obligation to national security information and the protection of that information. And those two are not in conflict.

Mr. Gaetz. And you see no problem administering them on the same day?

Ms. Moore. I do not.

Mr. Gaetz. Does the FBI engage in a process by which if someone wants to write a book after their time at the FBI that the FBI reviews it?

Ms. Moore. There is an editorial review that happens through our Information Management Division.

Mr. Gaetz. Are you in any way involved in that process?

Ms. Moore. I am not.

Mr. Gaetz. Where does that sit within the FBI?

Ms. Moore. That falls within our Information Management Division, which falls under the Associate Deputy Director.

Mr. Gaetz. No part of your report?

Ms. Moore. No, sir.

Mr. Gaetz. Have you ever observed in your role complaints about the politics of employees at the FBI?

Ms. Moore. Will you expand on that a little bit more?

Mr. Gaetz. Yeah. Has anyone ever complained that people's partisan politics was creating a hostile work environment?

Ms. Moore. So we have different advisory groups that come in at different times, and they may say like, hey, we want to make sure the Bureau is not partisan in any way, or we want to make sure this action isn't that.

But I don't get, like, directly someone reporting to me that they've had partisan

politics that have happened with a specificity. If they did, we would take action on that. That's not allowed within our workspace.

Mr. Gaetz. Oh, I fully understand it's not allowed. I'm just trying to understand to what extent, you know, are these 50 cases that show up every week regarding the conduct of agents, to what extent those ever present to you concerns about politics. Can you recall any that have?

Ms. Moore. So let me expand upon the 50 cases.

The Security Division oversees agents, professional staff, task force officers, contractors, and detailees. That's 78,000 different individuals that have a reporting requirement to Security Division.

So those 50-ish that we get every week could fall under any of those. It's not specifically related to agents, no, sir.

Mr. Gaetz. In the broadest possible way I can ask this question: In your role as a senior HR official at the FBI, has anyone ever complained through these reporting systems that you oversee that there was politicization or partisan politics reflected at the FBI?

Ms. Moore. If they have, we would've looked at those appropriately and taken any action necessary.

Mr. Gaetz. I'm not asking --

Ms. Moore. I can't tell you.

Mr. Gaetz. I'm asking, are you aware of any time when that has occurred?

Ms. Moore. Specifically, myself? Not through our reporting system, no, sir.

Mr. Gaetz. How about otherwise, outside of your reporting system?

Ms. Moore. Again, I talked about, like, the agents -- the groups will come in, and they'll be like, hey, we want to make sure this isn't happening. But I have never received

a complaint that has come to me that says, within the parameters of this squad or this field office or this thing, that political rhetoric is being espoused and is creating a hostile work environment.

Mr. Gaetz. I just want -- that was a very couched answer, so pardon --

Ms. Moore. I'm not trying to make it couched.

Mr. Gaetz. Yeah, I'm sorry if I --

Ms. Moore. I'm sorry. Maybe I'm not understanding the question.

Mr. Gaetz. I'm sorry if this is pedantic, but when you say "come to you" in that last response, you mean throughout the enterprise of the reporting system that you oversee, right?

Ms. Moore. Yes. Yes, sir.

Mr. Gaetz. Have you ever --

Ms. Moore. And if it did come in --

Mr. Gaetz. Have you ever heard the phrase, "Comey is my homey"?

Ms. Moore. -- we would investigate it appropriately.

Mr. Gaetz. Have you ever heard the phrase, "Comey is my homey"?

Ms. Moore. I have.

Mr. Gaetz. And in what context did you hear that?

Ms. Moore. That was usually after Mr. Comey was terminated. There was a whole -- like, "Comey is my homey" was a statement that people would make in relation to they liked him as the Director.

Mr. Gaetz. And I'll represent to you that the committee has received testimony that there was pressure for people in the "Comey is my homey" era of the FBI to reflect that slogan in some way or they might face retaliation from their coworkers.

Are you familiar with that dynamic?

Ms. Moore. I am absolutely not familiar with that dynamic.

Mr. Gaetz. So you --

Ms. Moore. Nor would I have been in this position at the time that Mr. Comey was removed as the Director.

Mr. Gaetz. But you were around, right? You were at headquarters?

Ms. Moore. Well, I was definitely in the Bureau.

Mr. Gaetz. Yeah.

Ms. Moore. Mr. Comey was removed in 2017. I was not at headquarters when Mr. Comey was removed.

Mr. Gaetz. Great. Thank you.

BY [REDACTED]

Q Are you going to be able to answer any questions about Garret O'Boyle's case today?

A I'm not.

Q So, as to his adjudication or --

A It's ongoing.

Q It's still ongoing?

A Again, it should be -- it should be soon that --

Q It's gonna be soon, right?

A -- that one should be finished.

Q As soon as this interview ends, I bet.

A No.

Q How about Marcus Allen?

A I'll come back. If they finish the adjudication and they come to some --

Q Well, you're gonna -- you know, I --

A You're like, "Are we ever gonna see you again?" I'll come back.

Q Yeah, I think we're gonna --

A As soon as they're done, I am happy -- or if you --

Q I mean, I think -- I think -- let's be clear here. I think the chairman is gonna need to send a subpoena.

A Whatever we have to do that lets my legal counsel do it, I'll come back and talk about him. I just have to -- I'm obligated --

Q Yeah. No, I mean, I would anticipate the chairman is gonna wanna send a subpoena in the short term.

A Again, I'll come back. Whenever my general counsel tells me I can talk about something, I will come back. If it's a subpoena, if it's you get release from the employees, or we finish the adjudication, I will come back.

Q How about Marcus Allen?

A I can't talk about him either.

Q Okay.

All right. We're running out of time with our hour. I think we've got 2 minutes left here?

██████████ Yeah. We'll go off the record. Thanks.

[Recess.]

[11:18 a.m.]

██████████ All right. It is 11:19. We can go back on the record.

Good morning again. My name is ██████████ I'm the Democrats' chief oversight counsel. Nice to meet you.

Ms. Moore. Nice to meet you.

██████████ And I'm joined by my co-counsel, ██████████.

██████████ How are you?

#### EXAMINATION

BY ██████████

Q I want to start out just, I think this was referenced earlier, but I want to make sure we have the record clear on it.

How many -- what's the total number of employees that fall under the purview for the review of these clearances? I think you said 78,000.

A It's roughly -- so employees, we have roughly 37-, almost 38,000 FBI employees; that's agent and professional staff and analytical cadre. And then you have your task force officers, your detailees, and your contractors that make up the remainder.

Q And so it's --

A Yeah, about 78,000.

Q And of that -- so it's 78,000 total -- how many individuals are currently suspended, had their clearances suspended?

A Currently on suspension, there's 32.

Q Thirty-two. So 32 --

A In FY '22, there were 32. I'm sorry.

Q Okay. And you don't have the numbers for FY '21 or FY 2020, do you?

A I don't have them, but I can get them for you if you would like.

Q I think that would be helpful for us. Thank you.

A Okay. Sure.

Q And so -- and the -- you said that there are about 50 -- what's the technical term, complaint or --

A About 50 incidents is what we call them, security incidents, that come in a week.

Q And, to your knowledge, has that number been standard for the past several years?

A It pretty much has. We've, at any given time over the last couple years that I've been involved years, there's been roughly about 600 pending investigations at any given time.

Q Okay. And that equals about 50 a week?

A Yes.

Oh, just because it comes in doesn't mean it gets opened, so --

Q Correct. Sorry.

A Yes. I'm sorry.

Q So what I'm looking at is actually the number that come in per week. Has it been roughly 50 per week?

A Yes, it has, yes.

Q Okay. And do you know if that was the same in 2021, for example?

A It has been.

Q And in 2020?

A I don't know 2020. I wasn't in my seat at the time. I'm sorry.

Q So I think it would be helpful for us if we could get those numbers.

A Sure.

Q You talked through the process earlier between the investigative process and the adjudicative process, and I just want to get some clarity around that. At the investigative stage, it comes in to a case agent? Is that the right term?

A Pretty much. A case investigator.

Q Case investigator. And then there's a supervisor level above that individual?

A There's a program manager that runs above that, and then above that would be a unit chief.

Q Okay. So there's three levels there?

A Yes, ma'am.

Q And then they pass the case over to the adjudicative side, correct?

A Correct.

Q And how many individuals are involved on the adjudicative side?

A It's similarly the same. There would be the investigator, the adjudicator there, and then there's the program manager that oversees that adjudicator, and then the unit chief.

And then, from the unit chief, though, if they're making a recommendation for a suspension, a revocation, or a security warning letter, or no action, it goes to the assistant section chief, and then to a section chief, then to a deputy assistant director, to the assistant director, and then to myself, the EAD.

Q Okay. So that's --

A Roughly seven.

Q -- three at the investigative stage and seven, so it's 10 individuals total?

A No, it's about 7 total --

Q Seven total?

A -- because I don't consider the investigator or the adjudicator as one of the stages.

Q Right.

A I consider the rest.

Q Okay. So the adjudicative side is about 7?

A Yes.

Q And the investigative side is about 3?

A Yes, ma'am.

Q Okay. So it's 10 total?

A Oh, yes, ma'am, I'm sorry.

Q And this is just the adjudication of the clearance suspension, correct?

A Yes, ma'am.

Q So there's a whole different process for an actual revocation, correct?

A It's the same process.

Q It's the same process.

A Similarly.

Q Does it go through again though?

A Yes, ma'am.

Q Okay. So it's a full -- so it's different -- a different review for the actual revocation?

A Yes, ma'am.

Q Okay. You previously served as the assistant director of the Security Division, correct?

A I did.

Q And this is the division that's responsible for overseeing the adjudication of security clearances?

A Yes, ma'am.

Q Okay. Can you describe, how many employees does that division have?

A In total? Almost 800.

Q And how many work on the security clearance review?

A Total, there's probably close to 40.

Q Okay. Can you describe the training that those individuals go through?

A They all receive the adjudicative guidelines, the executive order training. They have refresher training to make sure that everything is level set. But I can't tell you, like, if it's -- how many times a year they do it, but they will periodically, if we're making sure everybody is calibrated appropriately, we have our general counsel come in and again teach them all of those steps.

Q Okay. And I think any training materials that you have that could be made available would also be helpful --

A Okay.

Q -- for us to review.

You've referenced a number of times in the earlier session a thorough and complete investigation.

A Yes, ma'am.

Q What does that mean?

A That means that they will run down any information that we possibly can to be -- however it's positive or negative, so that they have a full jacket, so that we're not weighted one way or another. So they run down all leads that are possible.

Q Okay. And is that both to protect the individual involved, to make sure that

they get a fair shake, I guess you could say?

A It's to protect the individual and national security. It's a requirement.

You wouldn't want -- this is a very serious process, and we take it very seriously, and so you want to make sure you get it right.

Q Okay. Both for the individual who is suspended or potentially revoked and also for the United States?

A Yes, ma'am.

Q We've referenced earlier executive order -- you referenced earlier Executive Order 12968.

A Yeah.

██████████ And I think we talked about it a lot, but we didn't actually look at the executive order. So I'd like to introduce that into the record.

[Moore Exhibit No. 2

Was marked for identification.]

Ms. Moore. Okay.

BY ██████████

Q That will be exhibit No. 2.

A Thank you.

Q And I'll give you a minute to look through this. Let me know when you're ready to continue.

A Yes, ma'am.

Q Okay. You're familiar with this executive order?

A I am.

Q And would you describe yourself as very familiar with this order?

A I am very familiar with the order. I don't know if I can quote it to you by

parts, but yes, ma'am.

Q Okay. And the order is dated August 2, 1995, correct?

A Yes, ma'am.

Q So it's been in effect for nearly 28 years, correct?

A Yes, ma'am.

Q Could you briefly describe what this order does?

A This order talks about who has the authority to have access to classified information, what you're looking to, what the due process is if there's a risk to the organization, what the standards will be.

And then the implementation guide that came with this is the ODNI standards of the adjudication guide, the 13 different standards, so they kind of go together to make one full complete package.

Q You referenced in the earlier session that a suspension is not eligible for review under the order. Is that right?

A Correct.

Q Can you explain how that -- where that is in this or how it would -- I'll give you a minute to --

A Sure. Let me find that, sure.

It will be under part 5.

Q Okay. And can you actually --

A Review of Access Determinations.

Q Okay.

A And it's section 5.1 through 5.2.

Q Okay. And so this section essentially says a suspension is not eligible for review probably because, at that point, it actually is going through the review, correct?

A Correct.

Q Okay. So what happens is, a suspension goes into effect, and at that stage, that's when the investigation continues?

A It can, yes, ma'am.

Q I want to turn back to actually page 1 of this order. I'm sorry. I'm saying page 1. It's page -- this is published in the Federal Register, so it would be page 40245 as printed in the Register.

A Yes, ma'am.

Q In the second and third paragraphs, this order states: Security policies designed to protect classified information must ensure consistent, cost-effective, and efficient protection of our Nation's classified information, while providing fair and equitable treatment to those Americans upon whom we rely for national security.

So that paragraph essentially says that the goal of the order is to balance both the protection of classified information and the -- and ensuring equitable treatment for those who may be eligible to access it, correct?

A Yes, ma'am.

Q Okay. And then the following sentence is: This order establishes a uniform Federal personnel security program for employees who will be considered for initial or continued access to classified information.

So would you agree that the purpose of the order is to establish a uniform standard for assessing Federal employee eligibility to classified information?

A Yes, ma'am. This order is for all Federal agencies across all government entities in the intelligence community that have access to classified information. It's everybody.

Q Okay. So it's the same rules for FBI, for ODNI --

A Yes, ma'am.

Q -- for the CIA?

A Yes, ma'am.

Q For all intelligence agencies?

A Yes, ma'am.

Q And I want to turn to part 3, which is Access Eligibility Standards. It begins on page 40249. That's the fifth page of the document itself.

A Yes, ma'am.

Q At the bottom of that page to the top of the next page, the order says: No employee shall be deemed to be eligible for access to classified information merely by reason of Federal service or as a matter of right or privilege.

A That's correct, yes, ma'am.

Q So the award of a clearance is not automatic, right?

A It's not a -- I mean, it's not a right; it's a privilege, yes, ma'am. There's no -- like, you don't get it just because you're employed by anybody, no, ma'am.

Q And the goal of that is to protect classified information?

A Yes, ma'am.

Q And the national security?

A Yes.

Q Okay. In the following paragraph, which is section 3B -- it's on page 40250 -- I want to go through paragraph B in a bit of detail -- it reads: Eligibility for access to classified information shall be granted only to employees who are United States citizens, for whom an appropriate investigation has been completed, and whose personal and professional history affirmatively indicates loyalty to the United States.

Can you explain your understanding of what "affirmatively indicates loyalty to the

United States" means?

A Right. So there's not like a litmus test on allegiance to the United States. So there's not like a test that you can give that says, "Yes, I am allegiant to the United States," or, no, there's not.

But what we utilize there is there's factors that people display or indicate that could be contrary to an allegiance to the United States. And some of those would be things like illegal activities to overthrow the United States Government, activities that would prevent someone else from executing their First Amendment rights or that would prevent, like, a Federal Government, a State, or a local government from executing their official powers.

Q Thank you for that.

The next sentence describing eligibility requirements lists "strength of character." What's your understanding of what "strength of character" means?

A Strength of character comes down to that whole -- and it goes on here, and it says trustworthiness, but it's more than that. It's like who you are. It's how you act. It's how you execute. We talk about, like, the 13 adjudicative guidelines. So part of that character is, you know, like, alcohol use, or how you behave in whatever situation that you're in, that you're using sound judgment, that you're a good model and image of what you're looking for as a clearance holder.

Q And why is that important?

A Because you're representing the United States Government when you have a clearance, and we need to make sure that these people have good judgment because you're going to be faced, at times, by foreign entities or foreign influence that might want that information, or, you're going to be judged off of where you work, and we want to make sure that you are the right person to have that clearance at all times and that you

make good decisions and don't put national security information at risk unnecessarily.

Q Okay. Skipping ahead a little bit, a little further down, it describes the willingness and ability to abide by regulations governing the use, handling, and protection of classified information. Is this important to the FBI?

A It is very important to the FBI. Sorry.

Q Could you explain why?

A To protect national security information, it's our obligation. I mean, if you disclose national security information, then you put at risk the country. It's not just yourself or your organization, it's the entire United States that comes at risk.

That's why they lay it out, that it's grave consequences if we mishandle national security information. So it's very, very important to us.

Q Okay. And then I want to look at the last sentence, and this came up a little bit in the first hour. So I want to talk through some of the detail.

It says: Eligibility shall be granted only where facts and circumstances indicate access to classified information is clearly consistent with the national security interests of the United States, and any doubt shall be resolved in favor of the national security.

Can you explain what it means for "any doubt to be resolved in favor of the national security"?

A In simplest terms, tie goes to the government. It's like if a lock fails, it fails safe. It is not going to let somebody out of the room. So we're always going to yield to the side of national security.

Q Okay. And can you explain why that is important?

A Again, it's the risk of national security to the Nation as a whole. You give away our secrets, you're not trustworthy, and you can cause grave damage to the United States.

Q So it's not a beyond-a-reasonable-doubt standard?

A No, ma'am.

Q The standard is --

A Always to the national security side. Tie goes to the government. There's no -- no exceptions to it at all.

Q Okay. And, again, this was set in an executive order from 1995?

A That all the intelligence community and anyone issuing a clearance or with anybody that has a clearance holder abides by, yes, ma'am.

Q I want to move on.

██████████ We've referenced the adjudicative guidelines a couple times, and I also want to introduce those actually. So this will be exhibit No. 3.

[Moore Exhibit No. 3

Was marked for identification.]

Ms. Moore. Thank you.

BY ██████████

Q And let me know when you've had a minute to look through them.

A Go ahead.

Q So these are the -- this is Security Executive Agent Directive 4, National Security Adjudicative Guidelines, effective 8th of June 2017.

A Yes, ma'am.

Q Are you familiar with these guidelines?

A I am.

Q And is this the current version of them?

A This is the current version, yes, ma'am.

Q Okay. Could you describe your level of familiarity with these guidelines?

A It's what I utilize at any point to make a security clearance adjudicative action at all. It's what's our -- I hate to use the term, like almost a Holy Grail. It's what you go by. It's what the intelligence community directs us to go by.

Q Okay. And could you describe in a few words what these guidelines do?

A They set the left and right lane limits of what we're looking at. They lay out the parameters. There's 13 in here, and you look into each of those when you're looking at considerations for individuals to be granted a clearance, to maintain a clearance.

Q Okay. Now, throughout these guidelines, there's the use of the term "adjudicative."

A Yes.

Q The term "adjudicative" refers to the process for determining whether an individual is eligible to access classified information or to hold a sensitive position, correct?

A Yes, ma'am.

Q And the guidelines also use the term "adjudicator" throughout.

A Correct.

Q And the term "adjudicator" means the actual individuals who make the determination of whether a person is eligible for access to classified information, correct?

A In the term of this, yes, ma'am.

Q Okay. So the adjudicators at the FBI would be the individuals we talked through earlier?

A Correct.

Q Okay. Can you describe, are they trained in these guidelines specifically?

A Absolutely.

Q Can you describe that training?

A That training is conducted by our Office of General Counsel. They come in and they go through all of the SEADs with them because all of the SEADs play a role in different parts of security, but specifically Directive 4, for the security clearances.

They go through a couple-week class. It's all 8 hours a day. There's a testing. But they get this, and they periodically will have refresher training on it as well just to make sure everybody is level set.

Q Thank you.

A And it does include like practices and things of that nature, scenarios.

Q And I know we said this with respect to the executive order, but I'm not sure if we said it with respect to this. What agencies do these adjudicative guidelines apply to?

A All Federal agencies and all intelligence community agencies, anybody that has anybody with a security clearance within them.

Q So is this the same for all intelligence agencies? It is not just for FBI?

A Correct.

Q Okay. The guidelines are issued by the Office of the Director of National Intelligence, correct?

A Correct.

Q The version I just introduced went into effect June 8, 2017, correct?

A Yes, ma'am.

Q And so that was during the prior administration?

A Yeah.

Q I want to turn to appendix A, which contains the actual guidelines, and I want to begin with Section 2, the adjudicative process, paragraph D, which is factors that adjudicators should consider when making an eligibility determination. This begins on

the bottom of page 6 of the document.

A Yes, ma'am.

Q There's a list of factors, 1 through 9, ranging from the nature, extent, and seriousness of the conduct to the frequency and recency of the conduct to the motivation for the conduct.

A Correct.

Q Can you explain how FBI's adjudicators weigh these factors when making eligibility decisions?

A We call this the whole-person concept. We go back and we look at, again, their entry on duty, what they were like then, what they are like now, are there patterns, other considerations, what was intent when an issue occurs.

But this is, like, the meat on the bone of what they do. This is essentially, in nine bullets, what whole-person concept comes down to.

Q Okay. And does any one factor tend to be more important than the others?

A No, they're all equally important.

Q Okay. And, based on what you said earlier -- I think you used the example of an individual that had a DUI prior to entering service -- it sounds like the whole-person concept could mean different things for different people, right?

A Absolutely.

Q So it's the whole person for you as an agent or you as a contractor?

A Correct.

Q Okay. Notwithstanding these factors, the next paragraph on the top of page 7, it's paragraph E, makes it clear that a single criterion may be sufficient to make an unfavorable eligibility determination, correct?

A That is true.

Q And can you explain what that means?

A So a single one of the criteria could be enough just alone, but you can also take them in totality. So it could be, like, one or two that are kind of causing concern can make a totality, or it could be one that is so significant that it stands on its own.

Q And what would be an example of something that could be so significant to stand on its own?

A Usually spying for another country would absolutely, a Hanssen would stand on its own, no doubt.

Q Got it. Paragraph F, which is the following paragraph, provides factors adjudicators should consider when a security concern becomes known about an individual who currently holds a security clearance, correct?

A Yes, ma'am.

Q And, again, can you explain how adjudicators weigh these factors when making eligibility determinations?

A Absolutely. Again, they're part of the whole-person concept, like, did they own it, were they truthful in what they reported, are they forthright, forthcoming, is this a one-time thing. Again, it goes -- everything goes back to that whole person, that you're taking that one solid look at the entire person and the totality of events that are in question.

Q Okay. And so some of these was truthful and complete in responding to questions. So, if an individual declined to appear for an interview, for example, or to discuss alleged misconduct, that could be taken into account.

A It absolutely can, and actually within the security adjudicative guidelines, personal conduct, which is guideline E, states that failure to comply with a security

investigation in and of itself is enough to suspend a security clearance because it raises doubts to the individual's willingness to comply with national security rules and regulations. We take that very seriously.

Q And I want to get back to the -- paragraphs G and H provide alternatives to a clearance revocation, correct?

A Correct.

Q So paragraph G says that an individual can continue to hold a clearance if the specific risk to national security can be managed with appropriate mitigation measures, correct?

A Correct.

Q So is it fair to say that if an individual actually has their clearance suspended, the conduct must be so serious that it can't be mitigated in that moment?

A Correct.

Q Okay. And paragraph H says that an adjudicator can recommend a warning, instead of a denial or a revocation, if the adjudicator decides that the information is not serious enough to warrant a suspension or revocation, correct?

A Again, so you have your security letter warning letters. You have your suspensions and then ultimately the revocation if that's necessary.

Q So is it fair to say that, if an individual has their clearance either suspended or revoked, then the conduct at issue must have been so serious that a warning alone was not sufficient to address it?

A Correct.

Q Okay. And then, finally, paragraph I on that page says that the eligibility determination process relies on individuals being truthful and honest when they provide information to those who are investigating their backgrounds and adjudicating their

individual eligibility.

It continues: Any incident of intentional material falsification or purposeful noncooperation with security processing is of significant concern.

Can you explain why any falsification or noncooperation with security processing is of significant concern?

A Because to, you to be compliant to security processing so that we understand your allegiance to national security and to that protection of national security information. If you're not willing to be cooperative in a security processing process -- a security processing process -- then I have no ability to make a judgment call off of that willingness, so the only thing I can do is noncompliance, and that's not acceptable for handling national security information.

Q And so, if someone engages in, like, a single incident of noncooperation, so say he or she declines to meet with an investigator, could that be sufficient for FBI to determine that the individual is not eligible to hold or to maintain a security clearance?

A Absolutely.

Q Okay. Thank you for that.

I want to go on to the actual guidelines themselves, and we'll start with guideline A, which is allegiance to the United States. It begins on page 8 of the directive.

The first sentence of guideline A states: The willingness to safeguard classified or sensitive information is in doubt if there is any reason to suspect an individual's allegiance to the United States.

Correct?

A Yes, ma'am.

Q Could you please explain your understanding of what, quote, "any reason" means?

A Well, it helps a lot because the guidelines, again, go on and kind of explain that. If you have involvement in, support of, training to commit, or the advocacy of any act of sabotage, treason, or sedition against the United States, association or sympathy with any persons who are attempting to commit or who are committing, again, those activities I have just listed out, any association or sympathies with persons or organizations that advocate, threaten, or use force or violence, or any other illegal or unconstitutional means to overthrow or influence the United States Government or seek -- or any State or local government, to prevent Federal, State, or local government personnel from performing their official duties, to gain retribution for a perceived wrong caused by the Federal, State, or local government, and any attempt to prevent others from executing their rights under the Constitution or laws of the United States, of any State.

Q Okay. And any of those --

A Any of those.

Q Okay. The last sentence of No. 3 under guideline A says: An individual who engages in acts against the United States or provides support or encouragement to those who do has already demonstrated willingness to compromise national security.

Correct?

A It's a very clear statement, yes, ma'am.

Q Okay. So any evidence of that, we said earlier, you know, any doubts would be resolved in the favor of the national --

A Favor of the national security.

Q And so any evidence that this guideline has been violated, it sounds like, would be a pretty strong reason in the FBI's eye in and of itself --

A Yes, ma'am.

Q -- to withhold -- to either suspend or to deny a clearance, correct?

A Yes, ma'am.

Q Okay. So you just talked through the reasons or the conditions that could raise a security concern listed. I want to look at these, break them down one by one. So the first one, I think, is a little self-evident. It says: An individual -- sorry -- involvement in, support of, training to commit, or advocacy of any act of sabotage, espionage, treason, terrorism, or sedition against the United States.

Correct?

A Yes, ma'am.

Q Would such involvement be disqualifying, in and of itself, for purposes of access to classified information?

A It would.

Q Okay. The second condition is: Association or sympathy with persons who are attempting to commit or who are committing any of the above acts, meaning sabotage, espionage, treason, terrorism, and sedition.

Correct?

A Correct.

Q Okay. Could you explain what "association or sympathy" means?

A "Association" would be: I support, I'm espousing that, I believe in that, I think that person is right, I concur, I support their train of thought.

Q Okay. Can you explain why that's problematic?

A Because it's contrary to adjudicative guidelines, and it shows a non-allegiance to the United States and the Constitution, which we're sworn to protect and defend.

Q Okay. How would the FBI determine that an individual has such association

or sympathy?

A Generally, we would do a thorough investigation, and sometimes those individuals, perhaps would espouse that, like, on the office instant messaging system between two employees, and we have the ability to retrieve those, and so we can take a look at all of that. We can look at text messages that they've sent. We can look at documents that they've created or statements that they have made.

Q And so do you look at public statements they've made?

A We can, yes, ma'am.

Q Do you look at social media posts that an individual may have made?

A We can only look at that in the event that it is public social media. We don't engage in going into closed platforms.

Q Okay. But, if somebody has a public Twitter account, you could look at that?

A We could, yes, ma'am.

Q Okay. The third condition is: Association or sympathy with persons or organizations that advocate, threaten, or use force or violence, or use any other illegal or unconstitutional means in an effort to overthrow or influence the U.S. Government or any State or local government.

Correct?

A Yes, ma'am.

Q Why is that problematic?

A Well, because the rule of law of the Constitution says that we are going to abide by it, and so, when you start to overthrow or influence U.S. Government, that's a frowny face; you can't do it. It means you're not allegiant to the United States and to the Constitution, again that we're sworn to protect, and that makes you a risk to national

security.

I don't want to give somebody that doesn't believe in the United States access to information that could cause harm to our Nation.

Q Okay. And so such association or sympathy, it might be perfectly legal though, right, like it might -- you might have the First Amendment right to say whatever you want or to associate with whoever you want?

A Absolutely. But individuals that are clearance holders are held to a higher standard. And so, while -- when everybody came on board, that's what they understood they were held to, and we're very clear about what that standard is, and they have a continuing obligation.

Q Okay. The third condition states that it is also a concern if an individual with access to highly sensitive or secure material -- or classified materials has an association with or sympathy for persons or organizations that use any illegal or unconstitutional means to, quote, prevent Federal, State, or local government personnel from performing their official duties, correct?

A Yes, ma'am.

Q What is your understanding of what prevent such officials from, quote, "performing their official duties," means?

A That would be someone who was trying to interfere with the official functions, votes, whatever it is, of that Federal, State, or local government in an official capacity that they're required to do by law.

Q Okay. And why is it problematic if an individual with access to highly sensitive information is associated with individuals who -- or has sympathy with people, individuals or organizations, that seek to prevent officials from doing their jobs?

A Because information that would be classified could help a foreign

government to overthrow the United States Government in performance of their official duties if necessary, and they release that inappropriately.

It's just -- it's concerning. Again, you wouldn't want to allow someone to see the Nation's most secret secrets if they're not allegiant to the United States and the Constitution.

Q The next condition -- and I'm just going to go through all of these, so light at the end of the tunnel.

A Okay.

Q The next condition states it is also a concern if an individual has an association or sympathy -- association with or sympathy for persons or organizations that use any illegal or unconstitutional means to gain retribution for perceived wrongs caused by Federal, State, or local government.

Could you explain what "gain retribution for perceived wrongs caused by Federal, State, or local government" means?

A This would be where someone in themselves believe that there was a wrong that was caused, and they want to -- in their -- take a revenge-type action against that. And, again, that's contrary to the rule of law, the Constitution, and what the Constitution dictates.

Q Okay. And then that last condition says that it's a concern if an individual has an association with or sympathy for persons or organizations that use any illegal or unconstitutional means to prevent others from exercising their rights under the Constitution or laws of the United States or of any State.

Can you explain what "prevent others from exercising their rights under the Constitution or laws of the United States or any State" means?

A That would be, again, where an example would be if somebody wanted to

vote, and they weren't allowing someone to cross the line to be able to go into vote. You can't do that. Again, our Constitution is very clearly on what we're allowed to do, and so, in support of that, as a Federal Government employee who holds a clearance, you're required to support the Constitution of the United States.

Q And I want to be clear with all of these, the concern in these guidelines is that an individual who has such sympathies would also have access to classified information, correct?

A That is correct.

Q So it's not that they support these groups or organizations, it's that they support -- or are associated with these organizations and they also have a clearance --

A Yes.

Q -- they also have access to --

A Correct.

Q -- classified information?

A That is correct.

Q And that's the actual threat to national security?

A That is.

Q Okay. So the guideline also lists a number of mitigating factors, and it says, for example, if the individual's involvement occurred under such unusual circumstances or so much time has elapsed that it is unlikely to recur, and does not cast doubt on the individual's current reliability, trustworthiness, or allegiance.

So, if an individual's clearance has been denied or revoked under guideline A, or suspended under guideline A, then the FBI has determined that none of these mitigating factors are sufficient to overcome the concerns presented under that section 4 above?

A That is correct.

Q Okay. I want to move on to guideline B, which is foreign influence. Could you broadly explain what "foreign influence" means?

A This is -- again, it lays it out, so I can quite honestly read it to you so it will be pretty clear. It's foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security if they result in a divided allegiance. And so that means that they're not more allegiant to the United States than they are to a foreign country. And so that is a concern to us, that they may at some point decide that the foreign influence is more pulling than the United States.

Q And so, just to break this down one step further, why would it be concerning for an individual with access to highly sensitive or classified information to have -- to be under foreign influence?

A If you are under foreign influence, specifically it was an adversary foreign influence country, then you would have access within the confines of national security that might provide information to that foreign country that would provide an advantage economically or tactically against the United States.

Q The last sentence of this concern section says that assessments of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including but not limited to considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information, correct?

A Correct.

Q Russia has been known to target U.S. citizens to obtain classified or sensitive information, correct?

A That is correct.

Q The second sentence of that concern section states that an individual's foreign contacts may be a national security concern if they create circumstances in which

the individual may be manipulated or induced to help a foreign government, group, organization, or government in a way inconsistent with U.S. interests.

What does "manipulated" mean in this context?

A "Manipulated" can be that they are almost tricked into, taught to believe, encouraged to act in a manner that is in the interest of the foreign government against the United States.

Q Okay. If an individual provides information to a foreign entity such as -- and maybe not classified or sensitive information but information to a foreign entity such as a Russian state-owned media organization, would that create concerns about the risk of them being potentially manipulated or induced to help Russia?

A Absolutely.

Q And that would be problematic for national security purposes, correct?

A Absolutely.

Q Underneath the paragraph describing the concern related to foreign influence, there's a list of conditions that could raise a security concern and could be disqualifying.

A Correct.

Q The third factor is failure to report or fully disclose, when required, association with a foreign person, group, government, or country, correct?

A Yes, ma'am.

Q When is an FBI employee required to report or fully disclose such associations?

A They're -- always have a continuing obligation to report any foreign contacts at any time.

Q Okay. The seventh condition states: Unauthorized association with a

suspected or known agent, associate, or employee of a foreign intelligence entity raises a security concern and may be disqualifying.

Correct?

A Correct.

Q Could you explain what "unauthorized" means here?

A So, again, employees that have security clearances, regardless of the organization, are required to report any foreign contact or any suspicious contact. And so, at times, we may have an individual who works in a LegAt in a threat country that has contact with foreign nationals, they'll report those. But they may be deemed of such innocuous manner that it's approved. But, if they're not an approved association, it would be unauthorized.

Q Okay. And, finally, this guideline lists a number of mitigating factors as well. I think that's on page 10 actually. And I want to look at the fifth one, which is small letter E. It states that a security concern can be mitigated if the individual who has access to highly sensitive information, quote, has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country, correct?

A That is correct.

Q What is the -- how quickly should an individual report such contacts under this section?

A Immediately. Again, we have individuals that get bumped by foreign countries pretty common, not uncommon at all, and they automatically report those. There's no delay at all.

Q Okay. Is there an actual FBI requirement, like 72 hours?

A I can't tell you the number of hours. It's immediate.

Q Okay.

A Like, there's not a delay that's acceptable in this.

Q So I think we would like to know the actual timeframe --

A Okay.

Q -- what the mandatory time frame for that.

A Okay.

Q How does the FBI ensure that it's employees are aware of this requirement?

A We have training on security requirements every year and what is -- we have an information security and -- we call it InfoSec or OPSEC security training.

Q Okay. And are employees also, in their initial training, so at Quantico, FBI agents --

A Oh, yes. I'm sorry.

Q -- they receive training at that stage as well?

A They do.

Q Okay.

A And we have yearly, again, refresher training on it.

Q Okay.

A All FBI employees -- so let me, I'll go a step back. All of the employees onboard through what we call the One Program, which is to ensure that everybody gets the exact same thing, the exact same training, and they all go to Quantico for it. And we have the same instructors come in, and they teach all of us there the reporting requirements and things during that One training as well.

[11:58 a.m.]

Q Thank you.

I want to turn to page E, which is personal conduct, and I think we referenced this just a little bit ago, but I'm going to go through it in a little more detail. It begins on page 12. Can you explain what "personal conduct" means?

A Again, I'll read it right out of the guideline. It's any conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations which can raise a question about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information.

And, again, of special interest to us is at any time a failure to cooperate and provide truthful and candid answers during national security investigations or the adjudicative process.

Q Can you explain why this concern matters to the FBI?

A It matters. We need our employees to be truthful. If you're not being truthful, you can't trust someone. You don't trust people that aren't honest and forthright. Specifically, if you won't comply when we do a security investigation, I have no means to gather further information from you, and, therefore, I have to make -- assume that you are not willing to comply the answer that I'm -- in relation to your security clearance. I didn't explain that very well.

Q And what about demonstrating good judgment, why is that important to the FBI?

A Well, good judgment prevents most people from getting in trouble. It's a commonsense, you know: You're not supposed to drive a hundred miles an hour on the freeway. It's that commonsense element of good judgment. You don't go

around -- we try to get our agents as well and any employees, like: Hey, don't go out and broadcast who you are because you might inadvertently get bumped by someone and give out information that you shouldn't do.

So we try to teach people to have that good judgment or reinforce that.

Q Okay. Thank you for that.

Going down to the conditions that could raise a security concern and may be disqualifying section here. The third one, which is C, says: Critical adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment.

And then it goes on.

Can you explain what that section means?

A So, again, that's if we have a lot of little concerns that stop -- popping up, we call those indicators. And so, like, maybe it's not quite enough here, but when you compound it over here, it is the whole-person concept, it is the totality of the actions as it relates to an individual that can raise to this personal conduct that can lead to questions about their ability to maintain national security information.

Q You were asked earlier about how information comes in to the FBI, how. You said some people self-report. There's other -- sometimes it's supervisor; sometimes it's through the continuous monitoring.

In a situation where there's many small things that add up, how does the FBI -- and could those come in from different reporters?

A They absolutely can, and we do maintain a database. And so, while we may get, like, one report here, it may be 6 months that another report comes in. You go back, you kind of compare them up, and you're like: Oh, now we've got a little bit more

smoke, not quite there.

And then, you know, lo and behold, something else will come in, and you're like: Okay. Now we've got to look at this; this raises to a level of concern.

It's the whole person; all incidents considered.

Q Okay. So you wait until you have the body of --

A We generally -- we are not going to just take it off of something that doesn't rise independently. We're going to look at the totality.

Q The following condition, which is small letter d, refers to credible adverse information that is not explicitly covered under any other guidelines, and it lists a number of subconsiderations, including the unauthorized release of sensitive corporate or government-protected information.

So it is problematic if an individual with access to classified or highly sensitive information makes an unauthorized release of such information, correct?

A It's indicative. So, even if it's law enforcement-sensitive information, it's still law enforcement-sensitive. It's for official use only. So, if it's FBI information for official use only, and you're not protecting that -- that's our lowest level that you protect, and you can't do that -- why would I give you the Nation's secrets and give you free reign to disclose those.

Q Okay. The second subconsideration is any disruptive, violent, or other inappropriate behavior. What would be included as "other inappropriate behavior"?

A Let me think of an example there. "Other inappropriate" would be that espousing of beliefs that are not in line with the Constitution.

Q Okay. What about, for example, if an individual misuses their service weapon, would that be potentially other inappropriate behavior?

A Oh, yes, absolutely. Definitely. You can -- again, it's the totality of the

situation in bringing it together. We might have -- but definitely if you were not trustworthy with your firearm, again, I'm not going to give you national security information. That becomes frightening.

Q Okay. The third subconsideration is a pattern of dishonesty or rule violations. Can you explain what's meant by "a pattern"?

A That's the totality again. It's where, oh, I -- it starts out, you know: I lost my badge. I lost my cred. I lost my shield. I didn't process an arrestee appropriately.

You start getting all these little things that add up to someone who simply doesn't care enough about the organization to do things the right way, the right time, every single time, and it becomes such a point that you're like I just -- the totality is just too much to tolerate for the organization. It's too great a risk when it comes to national security.

Q And then the last one, the fourth subconsideration is evidence of significant misuse of government or other employer's time or resources. Could you provide examples of what that would mean?

A That's where you're using your, sometimes your government employment, to do things that are not related to the interests of the government or that job as it relates to the United States Government. So you might use your position at some point to order illegal silencers for weapons and have them shipped to an FBI field office. That would be conduct that would exceed your government authority as an employee and waste resources and time.

Q I want to move on to guideline -- we have 15 minutes left -- I want to move on to guideline K, which is handling protected information. It begins on page 21.

So the concern section for this guideline reads: Deliberate or negligent failure to comply with rules and regulations for handling protected information, which includes classified and other sensitive government information and proprietary information, raises

doubt about an individual's trustworthiness, judgment, reliability, or willingness and ability to safeguard such information, and is a serious security concern.

Correct?

A Yes, ma'am.

Q So this concern isn't just limited to classified information but to all sensitive information, correct?

A Correct. It's indicative of how you would handle national security information.

Q And you said FOUO is for --

A Official use only.

Q Okay. And then what other nonclassified, sensitive categories are there?

A So we have unclassified -- you have your official use unclassified but official use only, confidential, secret, and top secret, and then subcompartmented, sensitive compartmented information accesses beyond that.

Q So where would law enforcement-sensitive information fall?

A It would go in -- it's down there at the unclassified and classified law enforcement-sensitive.

Q Okay. So the concern applies to both deliberative and negligent failure, correct?

A Yes, ma'am.

Q Why is negligent failure of concern?

A Because it shows that you're not using good judgment. You're careless. You're not thinking through the actions. And, again, if you can't think through the actions, you're not -- we're not going to give you national security information because you're showing that you're careless. You're not using good judgment in the way you

handle things.

Q The first -- the very first condition under conditions that could raise a national security concern and may be disqualifying is the disclosure of protected to unauthorized persons including to the media, correct?

A That is correct.

Q Why is it of concern if an individual with access to sensitive or classified information discloses it to unauthorized persons including the media?

A It can cause damage to operations. It can put other law enforcement officers at risk, specifically, if it involves the tactics or arrests that are pending, and it, again, can cause harm to the United States Government if it's classified information.

Q Okay. The second condition that could raise a security concern and may be disqualifying is collecting or storing protected information and any -- excuse me -- in any unauthorized location.

So would this include a situation in which an individual removes sensitive information from an FBI computer system and transmits it to a non-FBI computer?

A Absolutely.

Q Or puts it on a non-FBI device?

A Correct.

Q Okay. And the situation I just described would also implicate concern C, I think, which is loading, drafting, editing, modifying, storing, transmitting, or otherwise handling protected information, including images on any unauthorized equipment or medium, correct?

A That's correct.

Q Okay. The sixth condition that could raise a security concern and may be disqualify is little -- small letter f, includes viewing or downloading information from a

secure system when the information is beyond an individual's need to know. What does "need to know" mean in this context?

A In that context, although everyone has a top secret clearance or a secret clearance, or even access to law enforcement-sensitive information, you don't need to know. So you have, like an example would be, you have a big celebrity case or something over here that's super in the news or whatever and you're interested in it; I just want to know the back story to it. You don't have a need to know, so you have no right to go into that case, be it unclassified, classified, law enforcement-sensitive, and how it's marked. You don't have a need to know; you don't get to go look at it.

Q Okay. What's a secure system?

A We use, we call that our Sentinel records, our FBI system. That's our official record, our official system of record. It's where we keep all of our cases, our sources, that type of information.

Q Is the Guardian system part of the Sentinel system?

A It is.

Q Okay. So the Guardian --

A It's a subcomponent of it, yes, ma'am.

Q So the Guardian system would be considered a secure system?

A Yes, ma'am.

Q Okay. The seventh condition that could raise a security concern and may be disqualifying is any failure to comply with rules for the protection of classified or sensitive information.

Does the FBI take particular steps to ensure that its employees are aware of the rules for the protection of classified or sensitive information?

A Absolutely. We have a warning banner that comes up on all of our

systems, be it unclassified or classified systems. We have warnings there, we have posters throughout. Again, we have OPSEC training. We train our employees throughout the year on it. Yes, ma'am.

Q That warning banner that you described, is that when an employee signs on to their computer? When does that appear?

A Soon as you touch your computer, the screen pops up and it gives you the warnings.

Q Okay. Do you have to click through to --

A You do. You have to acknowledge that you understand your warning every single time.

Q Okay.

██████████ And I want to introduce as exhibit No. 4 FBI form FD889.

[Moore Exhibit No. 4

Was marked for identification.]

Ms. Moore. Thank you.

BY ██████████

Q This is the FBI information technology and information systems rules of behavior for general users agreement form. This is the version 04-01-2019.

A Yes, ma'am.

Q Are you familiar with this?

A I am.

Q Okay. Is this the current version of it?

A It is.

Q Okay. Does the FBI require all employees to sign this agreement?

A We do.

Q Okay. And, at the bottom of page 4 of this agreement, users certify that they will not remove sensitive or classified media from controlled areas without authorization, correct?

A That is correct.

Q Okay.

██████████ And I also want to introduce, as exhibit 5, FBI form FD857A, which is the sensitive information nondisclosure agreement.

[Moore Exhibit No. 5

Was marked for identification.]

Ms. Moore. Thank you.

BY ██████████

Q Are you familiar with this?

A I am.

Q And this has, in the upper left-hand corner, it says 09-09-2016. To your knowledge, is this the most current version of this?

A To my knowledge, yes, ma'am.

Q Okay. Does the FBI require all employees with access to sensitive information to sign this agreement?

A Yes, ma'am.

Q And, in paragraph 3 of this agreement, employees verify that they have been informed of the unauthorized access, disclosure, or retention of sensitive information, or negligent handling of such information, could cause irreparable damages to FBI investigations, correct?

A Yes, ma'am.

Q And, in paragraph 4, employees verify that they have been advised that any

breach of this agreement may result in a termination of their relationship with the FBI and access to FBI facilities, correct?

A Yes, ma'am.

Q Okay. So I want to turn back to the guidelines now, and I actually -- sorry.

Moving on, I'm going to move on to guideline M, which is the use of information technology. It's on page 23. The concern associated with this guideline is that failure to comply with rules, procedures, guidelines, or regulations pertaining to information technology systems may raise security concerns about an individual's reliability and trustworthiness, calling into question the willingness or ability to properly protect sensitive systems, networks, and information, correct?

A Yes, ma'am.

Q Can you explain why it raises a security concern if an individual with access to sensitive or classified information fails to comply with applicable information technology rules and regulations?

A Information technology is where we keep all of our cases, our CHSes, our tips; everything is in there. If you cannot appropriately abide by the guidelines that we've laid out for you, then you're a risk to national security because I don't know that I can trust you to do anything within our systems.

Q Okay. And one mitigating factor, which is on page 24, is that, if the misuse was due to improper or inadequate training or unclear instructions, that could mitigate whether an employee would be held -- would potentially lose access to information under this section.

Could you explain the training that employees go through with respect to the rules associated with information technology systems?

A Sure. Everybody, again, upon entry, goes through the One training at

Quantico, and they're taught exactly how you can use your systems. When they get to the field offices, you're issued an employee badge, which is part of your access and a token to even obtain access to our classified or unclassified information. You have regular trainings, usually within the office, by -- once a year, we have an all-employee conference. And, additionally, we have InfoSec training that's mandatory once a year as well where you re-execute your acknowledgement to understand -- you have to pass the test and acknowledge that you understand how to continue to use systems. And, again, we have the warnings on all of our systems every day.

Q Okay. And do employees know who they can ask if they have a question about proper use?

A They do. Their chief security officer is the -- we have flyers -- InfoSec flyers up in the office, and additionally, if you try to remove something, you get a warning before it removes. Like, if you're going to plug in a thumb drive and you're downloading information or you're trying to downdraft information, you get a warning.

Q And it's a banner that pops up on the computer screen?

A Yeah. You have to override it and say: I'm going to do this.

Q So you have to affirmatively click "I want to override"?

A Uh-huh.

Q Okay. We have just like, I think, couple minutes left. So, before I go on to a completely new area, just a couple of wrap-up questions.

You were asked earlier about insider threat training and whistleblower training.

A Yes, ma'am.

Q Can you clarify what insider threat training is?

A Insider threat is we consider that to be someone who is a threat to the organization. It could be, like, a hostile employee where it's violence on violence from

an employee to an employee that we consider those insider threats.

We consider anybody that's trying to steal information and give it to a foreign country, that type of insider threat. They're very different. It's an entire group upon itself.

Q And I think you said that they were published the same day. Does that mean that employees had to take them the same day?

A I am not sure that they were published on the same day. I'm taking that that must -- somebody has said that they have been, so I should look into that and get the exact dates for you on the last several years of when they were published and how they were published.

No, you don't have to take them on the same day, just because we populate at different quarters how much training you have that quarter that's due.

Q Okay. So, in other words, you, as an employee, have eight trainings that you have to take, and they might pop up on the same day, but that doesn't mean that you're obligated to take them that day?

A Correct. Yeah, each of them have a deadline. It will tell you in your virtual academy when your deadline is, and it will send you reminders to take them.

Q And how long is that deadline usually?

A Usually it's within the quarter. Sometimes it's even with the 6-months period.

Q Okay. So it's like 3 to 6 months essentially?

A Yeah.

Q Okay. So you have these trainings that pop up, but you can take them at any -- at any point?

A At any time, yeah.

Q Okay. And you said earlier, I think your line was "we don't play to the lowest common denominator." Do you think most employees can understand the difference between an insider threat and a whistleblower?

A Absolutely.

Q Okay. And then you were asked earlier about a number of individuals that you said you couldn't talk about in specificity, but you did say that individuals could be -- could provide a waiver, correct?

A Yes, ma'am.

Q And so, to your knowledge, none of these individuals have provided such a waiver to allow you -- that would permit you to talk about it?

A That is correct.

██████████ Okay. I think we can -- we have about 2 minutes left -- we can go off the record now.

[Recess.]

[12:30 p.m.]

██████████ We'll go back on the record. It's 12:30 p.m.

BY ██████████

Q Ms. Moore, I'm going to talk to you again about some specific adjudications.

A Okay.

Q So are you familiar with a staff operations specialist, Marcus Allen?

A I am familiar with Staff Operations Specialist Marcus Allen.

Q Do you know what field office he worked out of?

A I believe he worked out of the Charlotte Field Office.

Q And what is Mr. Allen's current status with the FBI?

A He's currently suspended.

Q And are you aware that Mr. Allen is a combat military veteran who served deployments in Kuwait and Iraq?

A I am.

Q And, according to representations made by Mr. Allen's attorney to the FBI, Mr. Allen has consistently been rated as exceeding expectations during his tenure at the FBI. Is that accurate?

A And, again, I'm not going to get into the specific investigations surrounding suspended employees.

Q According to Mr. Allen's attorney, he also has received annual step increases on the GS pay scale and several awards, including Employee of the Year in 2019 at the Charlotte Field Office. Is that accurate?

A Again, I cannot talk about ongoing investigations.

Q Do you remember the circumstances surrounding Mr. Allen's suspension?

A I unfortunately am not allowed to talk about any pending security investigative matters. At the conclusion I will be happy to come in and answer any and all questions.

So is your refusal to answer questions on these matters related to the Privacy Act? Or what's the basis for the refusal?

Ms. Greer. Well, it's both the Privacy Act but also the deliberative privilege for something that is currently undergoing review.

Okay. I mean, the committee doesn't recognize nonconstitutional-based privileges. I mean, we've had a long back-and-forth on -- we don't recognize the deliberative process privilege.

I mean, if it's a decision that is going up to the Director, that's a little different than something that hasn't reached the Director.

Ms. Gibbs. So, at this point, these employees have pending investigations, and they should be allowed a fair and impartial process and allow that to proceed to its logical conclusion, both pending before the FBI Security Division and administrative forums.

After she reaches her decision, these individuals can appeal those decisions to third parties, and we want to ensure that those processes are able to proceed impartially and fairly.

Okay. But what's the basis for the objection?

Chairman Jordan. Sounds like the Privacy --

Is it the Privacy Act?

Chairman Jordan. Sounds like the Privacy --

Ms. Gibbs. That it is a pending investigation. These matters have not been resolved. Once they reach their logical conclusion we are more than happy to --

No, I heard you. I mean, that's your desire, right? But what is the

legal basis for not providing that information to Congress?

Ms. Greer. We are here voluntarily today --

██████████ Okay.

Ms. Greer. -- happy to provide what information we can --

██████████ Okay.

Ms. Greer. -- under the constraints that --

██████████ Okay.

Ms. Greer. -- we are under.

██████████ Yeah. We have a deposition subpoena prepared, and we'll get it to you momentarily, so --

Ms. Greer. To be clear, that's not going to change the position of what we're able to share today, to make sure --

██████████ The deposition won't be for today. We'll bring you back next week or whenever the date is.

Ms. Gibbs. Okay.

Is there another question?

██████████ I can keep going.

██████████ Right. But from the witness's standpoint, what's the reason that you can't answer it? Is it just because your lawyers are telling you not to?

Ms. Moore. Correct.

██████████ Okay.

BY ██████████

Q What was your involvement with Mr. Allen's suspension?

A I am the security program manager, so I sign the suspension letters.

Q And on January 10, 2022, you signed a letter to Mr. Allen suspending his

clearance. Do you remember that?

A I don't remember the specific date. I am aware that I am the individual who executed that signature.

Q And, in the letter, do you remember that you said, "The suspension of your security clearance is based on security concerns related to Adjudicative Guideline A, allegiance to the United States"?

What information did you have to support these security concerns?

A Unfortunately, at this time I cannot discuss ongoing security investigations. At the conclusion of the investigation I'll be happy to come back and answer any and all questions.

Q But it must be pretty big if you're questioning the allegiance of a combat military veteran.

A At this time, I'm not allowed to answer any questions regarding a security investigation that is ongoing.

Q What materials did the Human Resources Branch rely upon as the basis for suspending Mr. Allen's clearance?

A At this time, I'm not allowed to discuss any security investigations that are ongoing. At the conclusion of the investigation I'll be happy to come back and answer any and all questions.

██████████ And earlier -- let me just ask you this again -- did you invite us to get a waiver from these individuals, and if we get a waiver from these individuals, you're able to discuss it?

Ms. Moore. I was advised originally by counsel that that would work, yes, sir.

██████████ Okay.

BY ██████████

Q And, in Mr. Allen's case, you've talked about in the beginning this kind of, like, three-step process. The allegation comes into the Intake Unit, there's an investigative stage, and then there's an adjudicative stage. But you said that sometimes it can go from the Intake Unit straight to the adjudicative stage. Is that correct?

A That can -- that can be correct, yes, ma'am.

Q So, in Mr. Allen's case, did it go through this three-step or did it go directly to the adjudicative stage?

A I am unfortunately not able to discuss that at this time as it's an ongoing security investigation.

Q And what information has Mr. Allen been provided between January 10, 2022, and now, April 24, 2023?


A He would've received a suspension letter.

Q And what was included with that suspension letter?

A I'm not -- I cannot discuss anything that goes along with a security investigation. But he received a letter.

Q So it's been over --

Chairman Jordan. Is there --

 Oh, go ahead, sir.

Chairman Jordan. In these situations, is there typically other information that gets provided to the individual who has received the suspension letter?

Ms. Moore. Generally, within a suspension letter, it will lay out the guidelines that they were suspended under. But that's all that 12968 requires be provided at that point for due process, and so that's what they get, sir.

Chairman Jordan. That's all they get in any type -- in a broad sense, any type of these investigations?

Ms. Moore. In a broad sense, yes, sir.

Chairman Jordan. Okay.

BY [REDACTED]

Q Has Mr. Allen been interviewed?

A At this time, I cannot discuss ongoing security investigations.

Q And so, in the second paragraph of your letter that you've sent Mr. Allen, you said that "the Security Division has learned you have espoused conspiratorial views both orally and in writing and promoted unreliable information which indicates support for the events of January 6th."

How do you define "conspiratorial views"?

A Are you saying in regards to Mr. Allen or in general?

Q Just in general.

A Conspiratorial views would be views opposite the United States Constitution.

Q So would they be views contrary to the FBI's views on an investigation?

A They would be contrary to the United States Constitution and law.

Q And who determines what is a conspiracy view -- a conspiratorial view?

A It would be what is in conflict to the United States Constitution and law.

Q Who makes that decision? Is it you?

A The United States Constitution defines what's conspiratorial. The --

Q And who --

A -- adjudicative guidelines --

Q -- looks at both documents?

Ms. Gibbs. Could you please let her finish speaking?

Are you finished with your answer?

Ms. Moore. No, I wasn't.

The adjudicative guidelines lay out the parameters, the left- and right-lane limits, specifically in Guideline A, which we talked about, which was allegiance to the United States. That gives you your left- and right-lane limits.

██████████ Uh-huh.

Ms. Moore. And that's how they are applied.

There are seven layers of our process where individuals do the investigation --

██████████ Uh-huh.

Ms. Moore. -- up to finally the recommendation to the security program manager.

BY ██████████

Q And I understand that that's your process. But who looks at those documents and looks at what an individual who's under scrutiny -- the allegations against them, who looks at that and makes that determination, whether it's a conspiracy theory or a conspiratorial view?

A All seven layers will review the investigation or the information provided and make a recommendation.

Q And so, in your letter, you stated, "These allegations raise sufficient concerns about your allegiance to the United States and your judgment to warrant suspension of your clearance pending further investigation."

What facts made you question Mr. Allen's allegiance to the United States?

A At this time, I cannot discuss an ongoing security investigation. At the conclusion of the investigation I'll be happy to come back and answer any and all questions.

Q And did you personally review the information against Mr. Allen? You, personally?

A In any case I review all the information.

Chairman Jordan. Why didn't you just say, "You've expressed views that are unconstitutional" or "not consistent with the Constitution"? I mean, that was your answer you just gave to [REDACTED]. You said that "you've espoused" -- I think the term you used here, allegiance to the United States. "You espoused conspiratorial views both orally and in writing." Why didn't you just say that "you espoused views that were contrary to the Constitution"?

Because that's how you answered it. When she asked you what conspiratorial views are, you said they're contrary to the Constitution. Why didn't you just say that in your letter then?

Ms. Greer. Do we have a copy of the letter that she might be able to see?

[REDACTED] We can certainly enter it if you'd like, yeah. We'll enter this as exhibit No. 6, I believe.

[Moore Exhibit No. 6

Was marked for identification.]

[REDACTED] Here's that.

Ms. Greer. I just wanted to make sure, since we're talking about specific words, she had an opportunity to review.

Ms. Moore. Yes. Will you -- I'm sorry. Will you ask me the question again? It's to the sentence --

Chairman Jordan. I believe -- and we can have the reporter read it back. But I believe when [REDACTED] asked you about -- the suspension of your security clearance is based on the -- "the Security Division has learned that you've espoused conspiratorial views, both orally and in writing, promoting unreliable information."

And you said -- [REDACTED] asked you, what are conspiratorial views? And you said,

views contrary to the Constitution. So why didn't you just say it that way in the letter?

Ms. Moore. Choice of wording by the individual who wrote the actual letter.

Chairman Jordan. Okay.

BY [REDACTED]

Q You didn't write it?

A Do I write this actual letter? No, sir. It's prepared for me in the process of the seven steps. And then I review all the information that comes in, with any suspension letter, and then make a determination based off of that.

Q So you just sign the letter; you don't write it? You don't edit it?

A If I find that it needs to be edited, yes, sir, I can edit it. But I actually don't write the letter myself, no, sir.

Q So sometimes the letter will be different even if it's the same issue?

A Each issue is independent on its own. We've kind of talked about that. And wording can be -- some people like the word "that." Some people like the word "which." So it depends upon sometimes who's writing it. But as long as the meat is there --

Q So you don't edit out the "that"s?

A I could, sir, if I chose to.

Q But you don't?

A The --

Q You just sign it?

A I don't "just sign" anything. I read everything that I sign, and I review all the materials that support that signature.

Q Right. But I'm saying, do you edit it to -- do you like -- do you use the word "that" in letters? Yes or no?

A Do I? No, sir.

Q Okay. So, if you get letters that you're supposed to sign and it has too many "that"s, do you edit them out or do you just sign it?

A It depends. It depends upon -- if it's changing "puppies" to "little dogs," no, sir, I may not, because it's someone else's -- it's just -- it's not material to the document.

Q Okay. And you get --

A I try --

Q -- a lot -- you sign a lot of these letters?

A No, sir.

Q So it's not a time thing? It's a --

A I have a very busy day. If you're asking --

Q Right.

A -- if my days are busy, my days don't just consume of these. I am the executive assistant director. I oversee 37,000 employees within the organization.

Q Okay.

A So I have --

Q All right.

A -- lots of things that happen on a --

Q Okay.

A -- given day. But I take as great a deal of time, read each of these, read the information that comes up supporting them.

Q Okay.

A I don't just sign anything.

Q Okay.

How frequently -- when this type of letter comes to your desk, how much personal

involvement do you have in verifying the underlying file?

A I review it.

Q And do you ask questions of the people that --

A If I have questions, I absolutely will ask questions. I've sent stuff back where I felt like, "Hey, we might've missed an area. I'd like some further expansion on this."

Q Okay.

A Or, "I'd like a verbal brief because I need to really understand the thought process of where we are." Absolutely. I don't ever just sign something.

Q And did you ask for any of that with any of the individuals we've asked you about today?

A I'm not allowed to discuss any of the ongoing investigations.

Q I'm not asking you to tell specifically whether you did that with Mr. Allen's case or Mr. O'Boyle's case or Mr. Friend's case. I'm just saying, generally, with any of the ones we've talked about today, did you ask for any followup?

A I cannot discuss any ongoing investigations, and all the investigations we have talked about today have been ongoing.

Q Uh-huh.

A The only one I believe that y'all have expressed any interest in writing to me about was Kyle Seraphin, and we can talk endlessly about that one because it's completed.

Q Okay.

BY [REDACTED]

Q And so, on January 13, 2022, Katherine Bordeaux (ph) -- am I pronouncing her last name --

A Bordeaux.

Q Bordeaux? She's the unit chief of the Performance Appraisal Unit. She notified Mr. Allen that, based upon your decision to suspend his clearance, the FBI was proposing to indefinitely suspend him.

Did you have awareness of that?

A Yes.

Q And is Ms. Bordeaux one of your direct reports?

A She is not a direct report to me, no, ma'am. She works within our Human Resources Division.

Q Uh-huh.

A She is a unit chief. She falls under a section chief, who falls under our deputy assistant director, who falls under our assistant director.

Q So does she go through a different process than the security clearance process that you're going through?

A Yes, ma'am.

Q And so what does her process look like? What do you understand it to be?

A The Performance Appraisal Unit --

Q Uh-huh.

A -- process? That is -- it goes, again, through the Human Resources Division up to a deciding for signature for conduct -- you'd have to read me that again. I'm sorry.

Q And does her unit fall within the Human Resources Branch?

A It falls within the branch, yes, ma'am.

Q Okay. And how often do you interact with Ms. Bordeaux?

A I probably see Ms. Bordeaux about every 2 weeks.

Q And what are her roles and responsibilities as you understand them?

A She's a unit chief over our Performance Appraisal and Performance Unit. They make recommendations based off of employee conduct, personnel rankings, those type of things.

Q And, in her letter to Mr. Allen, she kind of walks through some of his rights that he had -- the right to review all of the materials relied upon as the basis for his proposed suspension.

Would that include information that your office was reviewing?

A That would not include any information within Security.

Q So you're running two separate investigations at the same time. Is that correct?

A Those can happen, yes, ma'am. There can be a third or fourth as well. There could be an inspector general investigation into the conduct of an employee. There can also be an Inspection Division misconduct investigation of the employee. There can be multiple going on at one time.

Q So is it your understanding that -- your investigation is still ongoing into Mr. Allen. Is her investigation into Mr. Allen still ongoing?

A Ms. Bordeaux at this time? I can't discuss pending investigative matters. I'm sorry.

Q So, "pending investigative matter." So it's still ongoing?

A I cannot discuss any investigative matters regarding the individual in question.

Q And then on February 17, 2022, Mr. Allen received notice that he was indefinitely suspended. Did you have any role in that decision?

A I would've been the signer, yes, ma'am.

Q And so that would have been --

Ms. Gibbs. I'm sorry. Can you just clarify, which suspension?

Ms. Moore. Yeah, I'm very sorry. I apologize.

Ms. Gibbs. And there are multiple suspensions. Can you just clarify which one --

██████████ Allen.

Ms. Gibbs. -- we're talking about? Yeah. Right. But the security clearance suspension or something else? I'm not sure --

██████████ His indefinite suspension.

Ms. Gibbs. Yeah.

She's not talking about the security clearance suspension.

██████████ The indefinite suspension. So, on -- what date was it? On February 13, 2022, he received the notice that -- the proposal for indefinite suspension. Then, on February 17, 2022, he received notice that he had been indefinitely suspended.

Ms. Gibbs. Do you have a copy of that letter --

Ms. Moore. Yeah.

Ms. Gibbs. -- so she can take a look at it and just to see?

██████████ Sure. We can enter it.

Ms. Gibbs. Okay.

██████████ Yeah.

Ms. Gibbs. Okay.

Why don't you just take a minute and look at it?

Ms. Moore. Can I have a moment to chat to counsel too?

██████████ Uh-huh.

[Discussion off the record.]

██████████ We'll go back on the record.

I'd like to offer a February 17, 2022, letter from Christine O'Neill, the assistant director of the Human Resources Division, to Mr. Allen as exhibit No. 7.

[Moore Exhibit No. 7

Was marked for identification.]

Ms. Moore. So this is not signed by me. This is effected by the associate director of Human Resources Division. This is separate than the security investigation.

BY [REDACTED]

Q So they used your decision to suspend Mr. Allen's clearance to inform their investigation? Is that accurate?

A You have to have a clearance as a condition of employment.

Q Uh-huh.

A So they would utilize the suspension, yes, ma'am.

Q And so where does that fall under the Human Resources Division? Is this separate than --

A It's a totally separate process.

Q -- Ms. Bordeaux?

A It's Ms. Bordeaux, yes.

Q Okay.

A But this portion does not come to me. This goes to the assistant director. I would be the appellant. If they should choose to make an appeal to it, they would come to me for that decision.

Q But Ms. O'Neill and Ms. Bordeaux -- I don't know if it's the same person, but --

A Well, they're two different people.

Q Two different people? Okay.

And so their process is separate from yours. But then if Mr. Allen wanted to appeal their decision, he would have to come to you?

A Yes, ma'am.

Q Okay.

Ms. Gibbs. I'm sorry. Can we just go off the record for a second?

██████████ We'll go off the record.

[Discussion off the record.]

Ms. Moore. Okay. Let's go back on so I can clarify. I'm sorry.

██████████ We'll go back on the record.

Ms. Moore. All right.

So, to clarify, I have no role in this at all. So this is handled in the Human Resources Division, but I am recused from it because I do serve as the security program manager. So the assistant director of Human Resources is the one that executed on this. So I can't talk to this at all.

BY ██████████

Q So is the Human Resources Division within the Human Resources Branch?

A It is.

Q So you're the executive assistant director of the Human Resources Branch, correct?

A I am.

Q But you're recused from this process because you are --

A The security programs manager.

Q And then Mr. Allen could appeal the decision about his indefinite suspension to you?

A So, I apologize, I am not involved in this at all.

BY [REDACTED]

Q Well, you are involved with it, because you suspended the security clearance. And we wouldn't get to this letter without the suspended security clearance.

A But they recused me, and they do only from this one. This is where I was confused --

Q Okay.

A -- on what you were asking initially. I have nothing to do with this part.

Q But saying you have no involvement at all is a little too broad there.

A I think it's -- in any matter that you're recused from, if you say, "I've got a personal interest in the matter, and I'm not going to sign this because I'm recused from it," then there's a wall that's built there.

Q Okay.

BY [REDACTED]

Q And what's the status of your investigation regarding Mr. Allen?

A I'm sorry. I can't discuss ongoing investigations.

BY [REDACTED]

Q How long has the investigation been going on?

A I don't know exactly.

BY [REDACTED]

Q So you suspended his clearance on January 10, 2022. So, if it's still ongoing as of today, that's over a year?

A That would be over a year then.

Q Is that normal?

A It can be, depending upon the complexities of the investigation.

BY [REDACTED]

Q Is his investigation complex?

A I would say that it depends upon anybody's complexity of an investigation. I would think, if you were looking at a timeline that was a year, I would say, yes, it could be complex.

Q So you think his is complex.

A I would say that any investigation that takes a year would be complex. Criminal investigations can take up to 5 years at times. Some take 6 months.

Q Well, this is not a criminal investigation.

A But it's the same concept. You take criminal codes and put in the adjudicative guidelines. We take it very seriously. We want to get it right.

BY [REDACTED]

Q And during this time period, has Mr. Allen -- does he have the opportunity to appeal your decision to suspend his clearance?

A He does not have the opportunity -- they do not have an opportunity to appeal a suspended clearance.

Q So he's just supposed to be waiting for over a year for your investigation to conclude while on indefinite suspension, unpaid?

A Per Executive Order 12968. We follow the executive order.

Q Do you think that's fair? In Mr. Allen's case, that he's been waiting over a year, do you --

A I won't --

Q -- personally think that's fair?

A I won't weigh into it personally. I am executed as a security program manager of the organization to follow the executive guidelines. 12968 does not allow me to deviate.

BY [REDACTED]

Q Are the guidelines fair?

A I find the guidelines to be fair.

Q Okay. So you think it's fair.

BY [REDACTED]

Q Are you familiar with Special Agent Garret O'Boyle?

A I am familiar with Special Agent Garret O'Boyle.

Q Do you know what field office he worked out of?

A Kansas City, I believe.

Q And what's Mr. O'Boyle's current status with the Bureau?

A Mr. O'Boyle is currently suspended.

Q And are you aware that Mr. O'Boyle is also a combat military veteran?

A I am.

Q Are you aware that on September 23, 2022, you signed a letter that suspended his security clearance?

A I would have to see the letter, but if you're -- I will acquiesce that that was probably the date, since you have it.

Q And what information did you have to support your security concerns against Mr. O'Boyle?

A I'm sorry, but I'm not allowed to discuss any ongoing security investigation. At the time that it is adjudicated, then I will be happy to come back and discuss any and all matters.

Q Did you rely upon witness testimony or emails or documents?

A I'm not allowed to discuss any security investigation that continues to be ongoing. At the conclusion I'll be happy to come back and testify to it.

Q What allegations did you have at the time that raised sufficient concern about Mr. O'Boyle's judgment, trustworthiness, and reliability to suspend his clearance?

A Unfortunately, at this time, I'm not allowed to discuss any ongoing security investigation. At the conclusion of the investigation I'll be happy to come back and discuss all matters.

Q And who made the allegations against Mr. O'Boyle?

A At this time, I'm not allowed to discuss any security ongoing investigations.

Q And did they have any sort of relationship with Mr. O'Boyle? Were they in his chain of command?

A At this time, I cannot discuss any ongoing security violations -- or investigations. Excuse me.

Q What is the status of your investigation into Mr. O'Boyle?

A Mr. O'Boyle's investigation is ongoing at this time.

Q How has the FBI not made a determination as to the veracity of these allegations in 7 months?

A Investigations can take a long amount of time to vet them out. The investigation is ongoing.

Q Is it a complex investigation?

A It can be. Yes, ma'am.

Q And did you or those under your charge do any investigation into whether Mr. O'Boyle was making protected disclosures to Congress?

A No, ma'am.

Q As part of your investigation or evaluation, have you spoken with Mr. O'Boyle's chain of command?

A I cannot discuss ongoing investigations that involve a security clearance.

Q In his testimony to the committee, Mr. O'Boyle testified that he tried to utilize his chain of command to make protected disclosures. Are you aware of this?

A I am not.

Q And are you aware that, under the Federal whistleblower protection statute, a person just must reasonably believe that they have evidence of wrongdoing to avail themselves of those protections?

A I am familiar with the Whistleblower Act, yes, ma'am.

Q And do you have any evidence that shows that what Mr. O'Boyle was reporting to his chain of command, he did not have a reasonable belief that it was evidence of wrongdoing?

A I'm unaware of anything that Mr. O'Boyle was reporting being a security -- or, excuse me, a whistleblower allegation. I've not been briefed on anything regarding that. To my understanding, no one has brought that to my attention. I don't know what his whistleblower disclosure is.

Q Even to his chain of command?

A No, ma'am, I don't.

BY [REDACTED]

Q What kind of underlying investigation can you do if you don't even know that?

A I'm the security program manager.

Q Yeah.

A I'm not charged with the actual investigation. There's investigators that do that at the line level. So they very well may be aware. I'm not sure of that. But they would --

Q Okay.

A -- not be investigating to find out what a whistleblower allegation was. No, sir. They would be investigating the security concern that was raised around the employee in the situation.

Chairman Jordan. Would they know that the employee in question was functioning under the whistleblower statute?

Ms. Moore. They would not, sir. Not necessarily.

Chairman Jordan. That seems like a pretty important thing to know. If someone's alleging they're bringing forward information that's protected, that Congress has a right to know, and they're functioning as a whistleblower, that seems to me something that should be conveyed to the people investigating and, frankly, should be conveyed to you as the person who signed the letter and doing the suspension.

Ms. Moore. So we aren't told who whistleblowers are. So I'm not aware of who all has even come to you guys and said they're whistleblowers unless they've gone to the media themselves and said, "Hey, I'm a whistleblower." I don't know what their protected disclosures are. Somebody doesn't call me up, as a security program manager, and tell me that or brief me that on any of my employees at all.

Chairman Jordan. But there's an investigation happening of this employee, and then at some point they allege that they're a whistleblower. You don't get that information?

Ms. Moore. No, sir. Not -- no, sir.

But I want to be really clear. Whistleblowers are protected, absolutely, and there is a whistleblower protective act.

There is also the National Security Act that requires protection of national security information --

Chairman Jordan. Uh-huh.

Ms. Moore. -- also based off of a need to know.

Those two do not get to be in conflict. So I am not made aware of who the whistleblowers are, no, sir.

Chairman Jordan. Okay.

Ms. Moore. You -- I'm not, sir. I'm sorry.

BY [REDACTED]

Q And so, at the time of Mr. O'Boyle's suspension, he had been making whistleblower disclosures to Congress. And, you know, then he gets suspended based upon a dubious allegation that has gone unproven for over 7 months.

Do you see why Mr. O'Boyle's situation looks a lot like whistleblower retaliation?

A I'm not authorized to discuss any ongoing security investigation.

Q And during his testimony before this committee, Mr. O'Boyle detailed the abject cruelty with which the FBI has treated him and his young family.

Are you aware that Mr. O'Boyle was suspended on his first day reporting for a new unit in Virginia?

A I was not aware it was on his first day reporting to a new unit in Virginia.

Q Are you that, in order to accommodate the transfer to this new unit, he had to move from Kansas to Virginia?

A What I'm aware of is that he applied and wanted that promotion and that transfer --

Q Uh-huh.

A -- and then it's up to the employee to execute their transfer upon their timeline within 90 days.

Q And so, during this time period, Mr. O'Boyle and his family sold their house in Kansas. They packed up their belongings in August. The FBI moved these

belongings to Virginia to accommodate the transfer and put them in FBI storage. They contracted with a storage agency, so we understand, that was holding these belongings.

And then the FBI gave Mr. O'Boyle the runaround for over a month, and he was unable to access his personal belongings -- his kids' clothing, their furniture. I think each kid had a backpack of clothes and toys.

Does this surprise you? Did you know about this?

A I am unaware of this.

BY [REDACTED]

Q Does it concern you?

A In what manner? I'm sorry.

Q In the manner that [REDACTED] just articulated to you, that he packed up his house, all his belongings, moved to Virginia, and the FBI waited -- the FBI waited until he did all of that, and then they suspend him on his very first day, and then he can't even get his personal effects out of storage without paying \$10,000 of his own money.

Does that concern you?

A I do not believe that the way you stated that is how it occurred. So I don't think that is accurate. But --

Q Okay. So what is accurate?

A -- what I will tell you is that I care about every single one of our employees. I take their well-being very seriously. I'm a huge wellness proponent within our organization. And I'm adamant for every employee to be treated fairly and accurately. My whole management principle is around "be kind."

Q Okay.

A So, no matter what we're doing, if we're suspending a clearance, if we're bringing on board an employee, or if we're at a retirement, we are always kind.

When I was over criminal investigations, if we were arresting people, we were fricking kind. Because that's how you do it. You do it --

Q You were what kind? What was the --

A You're kind. You're not nasty, and you're --

Q Did you say "fricking kind"?

A No, sir.

██████████ Can you read that back?

Ms. Moore. If I did, I'm sorry.

[The reporter read back the record as requested.]

BY ██████████

Q Okay.

A Because that's how you treat people. So I wouldn't deny someone their ability to get their household goods or their children's toys.

Q Okay.

A I'm not aware that that happened. I can assure you, though, that there was no grand conspiracy to wait --

Q Okay.

A -- until he executed a move --

Q So, if that did happen, then what's the remedy? If that did happen, then what would you do about it?

Ms. Gibbs. Can you just clarify? If what happened?

██████████ What happened to Mr. Boyle.

Ms. Gibbs. Okay. And can you --

██████████ O'Boyle.

Ms. Gibbs. Like, specifically why? Are you talking about the suspension?

██████████ I'm talking about the whole series of events.

Ms. Gibbs. Okay. So if the whole series of events happened -- which ones?

██████████ Well, it's certainly not kind, and it's certainly not fair. And so I'm asking the witness what you would do about it, since this is an area of your responsibility.

Ms. Moore. And I'm going to disagree with your statement. We absolutely execute fairly. So the investigative steps, the suspension were done fairly based off of the information that was provided to us. That I am confident of.

BY ██████████

Q Okay.

A It's unfortunate that Mr. O'Boyle was in the process of executing a move that he requested at his own --

Q Right.

A -- tenure. He decided his move date. He decided when he moved.

Those were his decisions.

Q Why couldn't you have suspended him before he left Kansas, before he sold his house?

A It depends upon where it was in the process at any given time, sir. I can assure you --

Q Before he packed up all his goods?

A What I can 100 percent assure you of, it wasn't done intentionally.

Q That wasn't done intentionally. What happened to Mr. Friend wasn't done intentionally. These are just all coincidences?

A I'm not sure what you're referring to that happened to Mr. Friend.

Q Mr. Friend, where you denied his firearms training documents. We discussed that in the first hour.

A We did, and I owned that. That was a mistake.

Q Okay.

A Mistakes happen when you have a 37,000-employee organization.

Q Okay.

A Absolutely. And I own that, and I am very sorry that happened to him.

Q Okay.

A And I have taken the measures to ensure it doesn't happen to anyone else.

Q Okay.

Are you sorry, what happened to Mr. O'Boyle?

A In the sense that Mr. O'Boyle was treated fairly in the process of what they have done to the security suspension? I can -- I'm not responsible for the fact that Mr. O'Boyle executed a move. The timing of the suspension occurred when it came through.

BY [REDACTED]

Q And I'll represent to you that we have heard from a couple of individuals that the Kansas City SAC, Charles Dayoub, knew Mr. O'Boyle was going to be suspended -- his clearance was going to be suspended prior to the O'Boyle family leaving for Virginia.

Is that surprising to you?

A Surprising to me? I would not be able to testify to what Mr. Dayoub knew or did not know. I'm sorry.

Q But you sent the security clearance letter to the field office, correct?

A They should be served when they receive them.

Q And so, if Charles Dayoub knew beforehand that Mr. O'Boyle was going to be suspended, why didn't the FBI suspend him while he was in Kansas, if he was such a big security risk, before he moved to Virginia?

A I would not -- again, we sign the letters when they come through, when it's reviewed. Then I'll execute the letter, and it's served.

Are you saying -- so I may be confused -- that Kansas City intentionally held the letter and didn't serve it to him?

Could we get the date that's on that letter again?

Q The date that's on Mr. O'Boyle's letter? That was --

Chairman Jordan. October 22nd.

Ms. Moore. Yeah. And what day did Mr. O'Boyle execute his actual move?

BY [REDACTED]

Q His first day was on September 23, 2022.

A And so what was the date of the letter?

Q September 23, 2022.

A Okay. So --

Q So that's just some big coincidence, that it was his first day --

A Absolutely.

Q -- in Virginia?

A It most certainly could be, yes, ma'am.

Q Wow, that's a big coincidence.

A I'm sorry, I didn't hear you?

Q And so what is the current status --

A I'm sorry. I didn't hear what you just said.

Q I said --

[REDACTED] She said, "Wow, that's a big coincidence."

[REDACTED] Uh-huh.

Ms. Moore. Okay. Thank you.

BY [REDACTED]

Q What is the current status of your investigation regarding Mr. O'Boyle?

A It's ongoing.

Q And when can the committee and Mr. O'Boyle expect answers?

A As soon as the adjudication is complete.

Q Why has the FBI kept Mr. O'Boyle languishing on indefinite suspension? Is the goal to get him to resign?

A Absolutely not. That is not a goal of ours at all. It's to do a thorough and accurate and complete investigation.

Q Have you personally been in contact with Mr. O'Boyle?

A I have not.

Q Have any of your direct reports been in contact with Mr. O'Boyle?

A I do not know that answer.

Q Who is the point of contact for Mr. O'Boyle from your office?

A That would be our investigative unit within Security Division.

Q And do you know which specific person within that unit is responsible for Mr. O'Boyle's case?

A I do not.

Q And so, going back to Mr. Friend, that's exhibit No. 1, his security clearance suspension. I think we kind of started on this before our first hour wrapped. But in --

Chairman Jordan. Can I just jump in for a second, [REDACTED]?

[REDACTED] Yep.

Chairman Jordan. So it was a mistake not to give Mr. Friend his training records that he requested.

Ms. Moore. Yes, sir.

Chairman Jordan. And it was a coincidence that Mr. O'Boyle was suspended on the very day he moved from the Kansas office to Virginia.

Ms. Gibbs. I think you misstated something that she said in there. He did get his training records.

██████████ After a long delay.

Ms. Gibbs. Okay. But I just want to be clear, because we have a record. Are you saying it was a mistake that --

Chairman Jordan. I'm saying what she said. She said it was a mistake, the way Mr. Friend was treated when he requested outside employment and his training records.

Ms. Gibbs. Okay. Thank you --

Chairman Jordan. And --

Ms. Gibbs. -- for that clarification.

Chairman Jordan. And you said it was a mistake, right?

Ms. Moore. Yes, sir.

Chairman Jordan. And then you said it was a coincidence that Mr. O'Boyle got notice of suspension the very day he moved to Virginia.

Ms. Moore. You asked me -- or, I was asked if he was targeted and if that was intentional, to cause him some sort of pain or punishment, and it absolutely was not. That is when it came through, when the signature was executed, and it was sent down.

Chairman Jordan. Okay.

Ms. Moore. And I want to say for the record, though, that when people move, they set their move dates way in advance, and then they -- that's between an employee and the move company.

So, again, this was not a targeted thing. This happens when the investigation comes through and I sign it -- or the recommendation for a suspension.

BY [REDACTED]

Q So, going back to Mr. Friend, the first exhibit that we entered here, in the second paragraph, you stated that "on August 24, 2022, you advised your supervisors of your objection to participating in the court-authorized search and arrest of a criminal subject. During your communications, you espoused beliefs which demonstrate questionable judgment."

And I think during the first hour we kind of had a discussion about what "questionable judgment" was.

But are you aware that Mr. Friend raised his concerns to his chain of command?

A I'm not at liberty to discuss ongoing investigations.

Q And was it individuals within his chain of command that spoke to you about the objections that Mr. Friend raised?

A I'm not allowed to discuss ongoing security investigations.

Q Are you aware that once Mr. Friend spoke with senior leadership at his office he was placed on AWOL status?

A I'm not able to discuss ongoing security investigations.

Q According to Mr. Friend's testimony, he was ordered by his ASAC to go on AWOL status. How often does that happen?

A I'm not able to discuss that. I don't know that answer.

Q If he was ordered not to come into work the next day, how was Mr. Friend to comply with his supervisor's orders?

A I'm not able to discuss that. I'm not Mr. Friend's supervisor.

Q Do you know the special agent in charge of the Jacksonville Field Office, Sherri Onks?

A I am familiar with Sherri Onks.

Q What is your familiarity with Ms. Onks?

A Sherri Onks is a senior executive within the FBI who serves as a special agent in charge. She serves as a mentor to other female executives as well, and I lead that mentorship.

Q So do you know Ms. Onks?

A I do know Sherri.

Q Did she provide any information on Mr. Friend?

A I would not be allowed to -- I am not allowed to discuss any ongoing security investigations.

Q And when did the FBI provide Mr. Friend with the opportunity to review all of the materials relied upon as the basis for his proposed indefinite suspension?

A Individuals are allowed to see documents after an adjudication is complete.

BY [REDACTED]

Q Some of these adjudications take years, right?

A They can take a long time, yes, sir.

Q So they don't get to see the documents until after the adjudication is over.

A Per Executive Order 12968, yes, sir. I comply with the executive order.

Q And you believe the executive order is fair?

A I believe that I comply with the executive order.

Q Earlier, didn't you say it was fair?

A I believe that the executive order is fair, yes, sir.

Q Okay. So you think it's fair that they don't get access to these documents until their process -- until the process is over.

A I believe that there are reasons for that. Yes, sir.

BY [REDACTED]

Q And so do you think it was fair for the FBI to keep Mr. Friend suspended for 150 days without a resolution of his case without the approval of outside employment?

A I cannot talk about an ongoing investigation.

Q And Mr. Friend ultimately resigned, correct?

A Mr. Friend did resign.

Q Was that the goal?

A Absolutely not.

Q I want to talk to you about another matter here, as long as any of my colleagues have no other questions on that?

█ Please. Please go on.

█ Okay.

BY █

Q Are you familiar with Executive Order 14043 mandating the COVID-19 vaccine?

A I'm relatively familiar with it, yes, ma'am.

Q Did you have any role in the Human Resources Branch of, kind of, effectuating that executive order?

A Not when it came out, no, ma'am. I inherited what was the order when I came into the branch, yes, ma'am.

Q And what did you inherit?

A I inherited execution of the executive order.

Q And was the executive order in existence prior to you taking over as executive assistant director?

A Yes, ma'am.

Q And what was the Human Resources Branch's involvement in that?

A We have to effectuate the executive order.

Q And how many reasonable-accommodation requests to Executive Order 14043 mandating the COVID vaccine did you receive?

Did you handle those? Who handled those within the FBI?

A They came in through the Office of EEOA.

Q Uh-huh.

A And HRD had some role in it.

Q What was that role of HRD?

A They review them for signature. So it's a reasonable-accommodation request --

Q Uh-huh.

A -- so they were the ones executing based off of -- I have to think about exactly how they rolled that out, because, I apologize, it's been a little bit ago. I'm just trying to remember.

Q Take your time.

A OEEOA reviewed to make sure that all the documents were present, and then they send it over to HR for the signature.

Q And so does HR do any sort of evaluation?

A They would review the documents, yes, ma'am.

Q And what does the review of the documents look like?

A I can't actually speak to that.

Q Did you oversee that process?

A For a very limited time, because there was an injunction right after I came in. So we didn't actually execute on any of that.

Q Are you aware of how many reasonable-accommodation requests were

made?

A I don't know the exact number, but I believe it was around 700.

Q And does the FBI keep a record of the 700 --

A They would --

Q -- accommodation requests?

A -- have them, yes, ma'am. The OEEOA would have them.

Q And do you know how many requests for religious reasonable accommodations were submitted?

A I don't. I'm sorry. And they may have all been -- when I say that 700 number, I'm not even sure that 700 is exactly right. But they would've all been in there together, so I'm not sure.

I can get you those numbers if you would like them.

Q That'd be great. Thank you.

And of the reasonable-accommodation requests that were made, how many were granted or adjudicated?

A I'm sorry, I don't know that number.

Q Do you know if any were?

A I don't know. I thought there was a court order that came in before all that occurred.

Q And how many requests for medical reasonable accommodations were made to Executive Order 14043?

A I'm not sure. But OEEOA doesn't fall under me, so I'll have to get you those numbers. I can get them for you. Again, I'm happy to do that. I just don't know.

Q And at the time that you became the executive assistant director and before the injunction, do you know how many FBI employees initially complied with the

President's executive order?

A I don't.

Q Do you know how many did not comply?

A I do not.

Q Did the FBI have a way of tracking who was not in compliance with the executive order?

A Per the executive order, we set up -- and through DOJ -- they set up a portal where people could enter their information.

Q So it was on the employee to enter their information?

A It was, yes, ma'am.

Q Were they mandated to do that?

A They were, by the executive order.

Q So do you know if any of these employees were removed from Federal service because they were not in compliance with the executive order?

A I don't know that answer.

Q Do you know if any employees were suspended for not following COVID-19 protocols?

A Could you define "suspended"?

Q Placed on, like, indefinite suspension.

A There was no one placed on indefinite suspension. Everybody had the opportunity every day to comply with the protocols or whatever the mandate was --

Q Uh-huh.

A -- at that moment. So nobody was placed directly on indefinite suspension for COVID-19.

Q So what happened if they didn't comply?

A If they didn't comply --

Q Correct, ma'am.

A -- the requirement at that time, depending upon when we're talking about -- and you're not, like, specifying that -- was that they would be placed on AWOL until they complied.

Q Okay. And so what does that mean, when they're placed on AWOL?

A "Absent without leave" means that they do not have -- they were not allowed to take leave. It wasn't an approved leave event.

Q And so were there specific protocols that had to be followed, you know, during the pandemic, which would've been March 2020 through the executive order? Were there specific protocols that had to be followed?

A There were.

Q And what were those protocols?

A I don't know them off the top of my head right now. I can talk in generality as to what I recall, was, there was a masking protocol for a while --

Q Uh-huh.

A -- and then there was a testing protocol.

Q And did that differ by region in the U.S.?

A Depending upon what phase of the COVID-19 crisis or pandemic that we were in, depending upon the levels. But it all started out differently and then changed.

Q And would it surprise you to know that the vast majority of whistleblowers that we are aware of who have been suspended are also unvaccinated?

A I wouldn't know that directly until you tell me that now, no, ma'am.

Q Okay.

And you said that you were generally aware of the whistleblower statute, correct?

A I am familiar with it, yes, ma'am.

Q And in 2022, during testimony before the Senate Judiciary Committee, FBI Director Christopher Wray said, "I condemn in the strongest possible terms any prospect of retaliation against whistleblowers."

Do you agree with Mr. Wray's statement?

A I do.

Q And how does the Human Resources Division kind of live out his statement?

A What do you mean?

Q How do they make sure that, in the strongest possible terms, that whistleblowers are not retaliated against?

A If we believe there's any retaliation for whistleblowing, it would be referred to the inspector general and our Inspection Division.

██████████ We can go off the record.

[Recess.]

██████████ We'll go back on the record. We just have a few more questions for you right now.

BY ██████████

Q How many agents are indefinitely suspended without pay related to off-duty activity on January 6th?

A I can't discuss any ongoing investigation in security matters, specifically for numbers, unless -- no. I'm sorry.

Q But there were --

Ms. Gibbs. I'm sorry. Can you just -- can you clarify?

Ms. Moore. Yeah.

Ms. Gibbs. Because there was a lot packed into that question.

██████████ Not really.

Ms. Gibbs. Can you just clarify?

██████████ Yeah, I can certainly ask the question again.

BY ██████████

Q How many agents are indefinitely suspended without pay related to off-duty activity on January 6th?

A Oh, I can answer that question. Hang on.

[Discussion off the record.]

Ms. Moore. Zero.

BY ██████████

Q Zero are indefinitely suspended?

A Zero.

Ms. Gibbs. Yeah. Based on the fact pattern that you just said, yeah.

Ms. Moore. Yeah.

BY ██████████

Q For off-duty activity on January 6th?

A Zero.

Q And how many agents have had their clearances suspended related to activity on January 6th?

A Zero.

Q And did any of -- or, how many agents have requested approval for outside work while suspended related to January 6th activity?

A I don't have a number. I mean, I'm telling you that there's no agents that are suspended due to January 6 activity. Then that would be zero.

BY ██████████

Q So you're saying there's no agents that were on the Capitol Grounds that have had their security clearance suspended --

A Correct.

Q -- because they were on the Capitol Grounds on January 6th?

A Correct.

I think what you're doing is confusing the question, so I'll help us out here so we don't all go around in a circle here. There's a difference in our organizations between agents and professional staff.

Q Okay.

A So you're asking me about gun-toting 1811 agents. That answer is none.

We have two employees that are non-1811, non-gun-toting, that are suspended based off of entering into -- okay. I can't --

Ms. Gibbs. Okay.

Ms. Moore. I can't answer. I'm sorry. I'm so sorry.

Ms. Gibbs. That's okay.

BY [REDACTED]

Q Yeah. So I'll go ahead and just rephrase the questions --

A Okay.

Q -- then.

So how many employees of the FBI are indefinitely suspended without pay related to off-duty activity on January 6th?

A We have no employees that are suspended based off of executing their legal and lawful First Amendment rights in relation to January 6th.

Q But are they indefinitely suspended?

A I have no employees that are suspended for executing lawful and legal First

Amendment rights as it relates to January 6th.

BY [REDACTED]

Q What are the two people who are suspended -- what were they suspended for?

A In a situation where we would suspend an employee for January 6 activity, it would be that they crossed into restricted areas that were deemed to be unlawful, hypothetically.

Q Okay. What if the individuals in question didn't know that it was unlawful?

A We were --

Q We're not talking about going into the Capitol Building. We're talking about being on the grounds.

A Right. And I think that we all know that even on the grounds there were areas around the Capitol that were clearly marked to stay out, do not trespass, that were very, very plainly marked.

So, in those situations, we would utilize information that we were able to obtain that would determine that they did know where they were.

Q So the two that have been suspended --

A Hypothetically.

Q Not hypothetically. You acknowledge there were two. I mean, let's --

A Then I'm -- then I'm going to -- then I'm going to say that I can't talk about ongoing --

Q Well, I mean, you already --

A -- investigations.

Q -- acknowledged the two. Then they weren't agents, you said. So you're saying they were in clearly marked areas?

A I would say that anybody that would be suspended for any activity that occurred on January 6 would not have been for First Amendment rights and would be for illegally entering restricted areas.

██████████ Do you have followup on that or --

██████████ I don't.

██████████ Okay.

██████████ We'll go off the record.

[Recess.]

[1:28 p.m.]

██████████ We can go back on the record. It's 1:28 in the afternoon.

BY ██████████

Q Again, I'm ██████████ I'm with the Democratic staff.

I want to correct the record on something that was said earlier in the last hour with reference to Mr. O'Boyle. And I know you can't talk about his case, but we were told by the majority counsel that he received his letter on the 23rd of September, I believe, September 23rd, which we don't actually have a copy of that letter, but taking them at their word.

Mr. O'Boyle reported that he actually reported to work the following Monday, on September 26th. So, in fact, the date of the letter and the date that he first reported was not the same.

He also testified that he spoke with his supervisor, presumably at his old office, on the 23rd and said he still intended to report to his unit on the 26th.

So I understand that we can't get into the details, but I wanted to correct the record on that point.

A Okay.

Q There was a fair amount of discussion about fairness and whether decisions were fair. But we're looking at a suspension, correct?

A Yes, ma'am.

Q So the goal of a suspension is to protect national security, right?

A It's to separate the risk from national security, yes, ma'am.

Q And, as we talked earlier, doubts are resolved in favor of the national security, correct?

A Yes, ma'am.

Q We discussed a little bit the whistleblower process.

A Yes.

Q And that's -- I realize that's not your -- that's not under your purview. In fact, the whistleblower process is kept separate from the security clearance review, correct?

A Yes, ma'am.

Q Is that intentional, do you think?

A Yes.

Q Why is that?

A Because what predicates a whistleblower and their absolute right to report waste, fraud, abuse or misconduct is different than what a security investigation will entail regarding safeguarding national security information, and those two can't be in conflict.

Q And, when you say they can't be in conflict, can you explain that any further?

A It means that you always have that priority, right, to protect national security information.

Q Thank you. Quickly, on the questions that you had about the COVID executive order. Is it your understanding that COVID is a highly communicable disease?

A Yes, ma'am.

Q Okay, and FBI agents tend to work in close proximity to each other in a field office, right?

A Yes, ma'am.

Q So, if you're on a joint task force, you may be in breathing distance of each other?

A Yes, ma'am.

Q Would it be a risk to national security if, say, an entire field office came down sick with COVID?

A It would be, yes, ma'am.

Q So is that something that the FBI would be concerned about?

A Yes, ma'am.

Q I want to look at the process for -- the adjudicative process a little further. I know we talked through this in depth, and I'm not going to go back to the guidelines, but I do want to look back at the -- I want to talk through the actual process when some of these clearances actually were revoked.

A Okay.

Q So I want to look at Executive Order 12968 again --

A Yes, ma'am.

Q -- which I don't remember if that was exhibit 2 or 3. Two. And I want to look at Part 5, which is on page 40252, the process and requirements for review proceedings for denials or revocations of eligibility for access.

So this outlines the steps that FBI takes when it actually revokes a clearance, correct?

A Yes, ma'am.

Q And, again, this is an executive order that was issued in 1995, right?

A Yes, ma'am.

Q And it applies to all intelligence agencies, correct?

A Correct.

Q So I want to walk through the requirements listed here. The first requirement -- I'm sorry.

The section 5.2 provides a list of requirements for the process that an agency must make available when an applicant is denied or an employee's clearance is revoked, right?

A Yes, ma'am.

Q So now I'd like to walk through those requirements one by one.

A Okay.

Q No. 1 states that when an agency determines an applicant or employee does not meet the standard for access to classified information, that individual shall be provided as comprehensive and detailed a written explanation of the basis for that conclusion as the national security interests of the United States and other applicable laws permit, right?

A Yes, ma'am.

Q So, when the FBI determines -- and this is final determination -- that an individual does not meet the standard for access to classified information, does it provide them with a complete and thorough -- sorry, a comprehensive and detailed written explanation for the basis?

A Yes, ma'am.

Q Okay. Who prepares that explanation?

A The Security Division, along with our Office of General Counsel, will prepare what is sent out. And it will be essentially all the documents that were relied upon to make that Security Division determination, the security clearance determination.

Q Who reviews -- who reviews it before it's final?

A It will go out through the Assistant Director of Security Division. So the Office of General Counsel and multiple layers underneath that will review it.

Q Could you estimate how many people might be involved in that?

A There's -- five? Usually for the appeal -- I'm trying to think. I'm sorry. Because it's -- the review when it comes up does not -- the whole -- like, if they ask for -- they want to do an appeal and they get the whole file, it would go out under the --

Ms. Gibbs. I think you two are talking about two different things.

Ms. Moore. Oh -- oh, when they get suspended. It goes through seven, yes.

BY [REDACTED]

Q Sorry. Not with -- sorry. I'm actually talking about the final revocation.

A Oh, it's seven. It's seven layers, yes, ma'am.

Q Seven layers, okay.

And the question about comprehensive and detailed, I know all the records.

What about the actual -- is there a document, like a written finding that accompanies it?

A It is. It's many pages long, and it will lay out what the findings were under each of the guidelines and what -- this was what was alleged and this is what was determined by the investigation.

Q Okay. The second requirement in the executive order is that agencies must provide within 30 days any documents, records, and reports upon which a denial or revocation is based, to the extent that that's consistent with what would be provided under the Freedom of Information Act or the Privacy Act.

A Correct.

Q So you said all the documents are actually provided?

A The documents that are used for the determination of the security clearance action, yes, ma'am.

Q They're provided at the time that the letter itself is issued?

A Not all of those. Those they'll get within 30 days. So, if they ask for those, they will get all of those. They'll get a very long detailed letter that explains the

investigation. If they want any of the actual documents, then they request that with FOIA and they get those.

Q And the third requirement is that, when an agency determines an applicant or employee does not meet the standard for access to classified information, the individual must be informed of their right to be represented by counsel.

Does the FBI provide that notice?

A We do.

Q Okay. And they must be informed of their right to request any relevant documents or records. Does the FBI provide that notice?

A We do. We provide a notice on how to do it.

Q And it says they must be provided with information telling them they can request their entire investigative file. Does FBI follow that requirement?

A They do.

Q Is there a process by which you ensure compliance with that requirement? So is there an audit, for example? Have there been audits done?

A So we have been. We've been audited by GAO, the inspector general, the Office of Director of National Intelligence and our own Inspection Division.

Q And I want to get back to all of that in a minute.

The fourth requirement under the executive order is that the FBI must provide an applicant or employee the ability to reply in writing and request a review of the determination that they do not meet the standard for access to classified information.

So this is essentially a written appeal, correct?

A That is correct.

Q Does FBI provide applicants with the ability to file a written appeal?

A We absolutely do.

Q And how does it notify them of that right?

A Again, in that initial letter -- or the final revocation letter or the determination for revocation, it's not the final, but they get all of that information there.

Q And are applicants permitted to be assisted by counsel when they file that written appeal?

A Absolutely.

Q And are often counsel -- or, sorry, are applicants -- I'm saying applicants because I think the guidelines are -- anyway.

Are individuals who are notified of the denial, do they often have counsel assist them?

A Often, yes, they can.

Q Okay. And there's actually particular attorneys that specialize in this, right?

A There are, yes.

Q The fifth item on this list states that, when an applicant or employee files a written appeal, the FBI must provide a written notice of and reasons for the results of the review, the identity of the deciding authority and written notice of the right to the appeal.

Does FBI comply with this requirement?

A We do.

Q And is there like a form document that you use for this, or is it pretty special for each individual case?

A No, it's standardized language that they get.

Q Okay. And who is the deciding authority? It refers to the identity of the deciding authority. Who is the deciding authority?

A The security program manager.

Q Okay. The sixth requirement states that applicants and employees must be provided an opportunity to appeal in writing to a high-level panel appointed by the agency head, who shall -- which shall be comprised of at least three members, two of whom shall be selected from outside the security field.

Does the FBI comply with this requirement?

A We do. That three-letter -- that three-member panel is called the ARC. It's the Access Review Committee. It's by the Department of Justice, and there are three judges assigned to it.

Q And are those judges the same for each case?

A They are.

Q Can you provide --

A I don't know who they are. I'm sorry.

Q Okay. The -- so just so I have this right. So an employee gets the notice that their revocation decision is final. At that stage, they can file a written appeal, and that written appeal goes to the ARC?

A The original appeal?

Q Uh-huh.

A So they get an initial decision for revocation.

Q Yes.

A The initial appeal is administrative. It comes back in to us with any additional information. By "us," I mean the FBI.

Q Okay.

A And to Security Division.

Q And stop you right there. The additional information is information the individual provides?

A Yes.

Q Potentially with the assistance of counsel?

A Correct.

Q Okay.

A And then that information is reviewed against the investigative findings, and that is provided again in a written document to the security program manager to see if it changes the decision for the revocation.

If it does not, at that point, the employee has the right, and they're advised that they can appeal to the ARC, which is the three panel member at the Department of Justice that's made up of judges, completely independent of the Bureau.

Q And who appoints the members of the ARC?

A The Attorney General? I don't actually know who appoints them. I'm so sorry, I don't know that answer.

Q That's a written appeal. Is there also an opportunity to make an oral appeal?

A To the ARC? Yes, ma'am.

Q Okay. So, just to have this -- sorry, to have this process down, because it's a little confusing as laid out in the EO, so the individual files a written appeal to the ARC. Does the ARC sometimes issue just a written determination on that, or does an individual always have the opportunity to make an appearance?

A They can always make an appearance.

Q Okay. And they can be represented by counsel during that appearance?

A Yes, ma'am.

Q And how long does the ARC proceeding go? I mean the actual appearance in front of the ARC. Is that an all-day thing? Is it a 2-hour thing? Is there a time

limit?

A I personally can't answer that. I'd have to refer that to my counsel because I don't -- I don't go to the ARC, in front of the ARC, so I'm not sure how long those take.

Q Okay. No, it's independent of your office, right?

A Yes, ma'am.

Q And that's kind of the point, because it's a whole independent adjudicative body completely outside of you?

A I have no -- I don't know who the judges are. I don't know who appoints them. I have nothing to do with that other than to ensure that our division complies timely with any requests from the ARC for information.

Q So you never speak to the judges on the ARC?

A No, ma'am.

Q They are an independent three judges who make the decision, have no involvement with FBI?

A That is correct.

Q I mean other than you providing them with information upon request.

A Correct.

Q Okay. And then does the ARC issue a written decision or do they issue like an oral decision on the spot, do you know?

A I actually don't know that answer.

Q Okay. If the ARC says, "We overturn, we decide you should have your clearance," what happens then?

A If that were the case, then the employee would be reinitiated to their clearance.

Q Okay.

A To my knowledge. I haven't had that happen. I'm sorry. I don't know. I'm not familiar with that.

Q And, if the ARC determines that the revocation should be upheld, do the individuals then have another opportunity to appeal?

A To my knowledge, no.

Q They can't go to the inspector general?

A Oh, I'm sorry. Yeah, I guess they could. Yes, ma'am. I'm not familiar much beyond that. I'm sorry.

Q If they go to the inspector general, would you discuss that with the inspector general directly, or would that be independent of your office?

A That would be independent of my office as well.

Q So, to get this down, so, after a revocation decision is issued, there's the administrative appeal through your office?

A Correct.

Q Then there's an appeal to the ARC, which is an independent body?

A Correct.

Q Three judges?

A Yes.

Q And then, after that, there's potentially an inspector general appeal as well, correct?

A To my knowledge, yes. I'm not very familiar with that process at all.

Q And then, in some cases, there's also potentially a Merit System Protection Board review, right?

A Yes.

Q For combat veterans, for example?

A Yes.

Q So you don't actually have the last word?

A No, ma'am.

Q And, as we said earlier, the applicable standard here is not beyond a reasonable doubt. The applicable standard is any doubt shall be resolved in favor of national security, correct?

A Yes, ma'am.

Q And, again, this is consistent across all applicable Federal agencies. There's no special FBI standard?

A Correct.

Q You mentioned earlier audits, GAO audits.

A Correct.

Q Can you describe -- go through, again, the type of audits that your division has undergone?

A So the General Accountability Office can come in and review our determinations. We've had the Inspector General come in and review our determinations. We've had our own Inspection Division come in and review our process. And then the Office of Director of National Intelligence also comes in and does an inspection.

Q And I want to go through those one by one.

So, starting with GAO, when was the last GAO audit, if you know?

A I apologize. I don't know that date. I can get it for you, though.

Q Has there been one conducted since you've been there?

A No, ma'am, not that I know.

Q Do you know if there are any open GAO recommendations?

A I don't believe there are.

Q Okay.

A Because we track those. I don't see any of those. But I'll confirm that.

Q What about the Inspector General, when was the last inspector general audit?

A Oh, my gosh. I don't know the exact date of the last one.

Q Okay.

A It's been in recent years.

Q And do you know if there's any open recommendations from the inspector general?

A There is an open recommendation that's in the process of closing regarding polygraphs.

Q Okay. But not regarding the policy -- the procedure for adjudications specifically?

A No, ma'am.

Q Or -- I mean, polygraph is investigation, right?

A Correct.

Q What about INSD, how often does INSD audit?

A They will do it at their random. So it's whenever they randomly select to audit. I asked for an audit when I was named as the security program director. I wanted them to come in and take a review of our adjudication process. So that was in 2021.

Q And is that complete at this time?

A It is.

Q And does the Inspection Division make recommendations?

A They can, yes.

Q Do you know if there's any outstanding recommendations from the Inspection Division?

A There are not. There are not.

Q Okay. And you affirmatively requested that audit, you said?

A I did.

Ms. Greer. I'm sorry, can we take a break for a second?

[Discussion off the record.]

Ms. Greer. Thank you.

BY [REDACTED]

Q Do you have a clarification?

A No.

Q And the Office of the Director of National Intelligence, what is their auditing process like?

A The same. They'll come in and look at adjudications. They most recently just audited in -- what month are we in now, April?

Q April.

A In the last couple months. So it's probably about 3 months ago they came in and did our adjudication process, but it was specifically as it relates to bringing on board employees.

Q With respect to all of these audits, can you describe what they look for? And if it's different for the different types of audits, you can clarify that.

A They're looking for -- that we are in compliance with Executive Order 12968 and the FIS, the Federal Investigative Standards, and SEAD 4, which is the adjudication guides, all in relation to issuing national security clearances because there's reciprocity

between each agency, and we want to make sure constantly that everybody is doing it the same way.

Because if I'm going to give access to someone, they want to make sure that the Bureau did it in accordance with these standards, so that if my employee goes over to NSA or CIA or wherever to work or to share information or to be part of a task force, that everybody was vetted the exact same way.

Q And so will they look at -- will they have the opportunity to interview the individuals who did the investigations, for example?

A They do, yes, ma'am.

Q Do they have access to all of your files?

A They do.

Q Do you know of any instance in which an auditor requested information that you were not able to produce?

A No.

Q How long do these audits usually take?

A They can be anywhere from 2 weeks to like 4 weeks, depending upon how in depth and what all they're looking at. But usually -- usually, it's 14 days.

Q And do they look at the time that it takes to conduct an investigation?

A They do. The inspector general, when they last audited us, that was one of the complaints was that it took us a long time. Again, we have a lot of investigations and not a whole lot of the investigators to do them.

And so, when I came in, what we did was we -- the decision was made to trifurcate the unit. So it was originally one unit. And so they did cradle to grave within the unit. I didn't like the way that looked, and I also thought it was cumbersome and slowed us down because nobody was really great at anything because they were having to do

everything.

So we divided it into the three separate houses so that somebody would do intake. Clean eyes. That's their profession. They're really, really good at that. Investigators, that's what they do. And then the adjudicators over here.

So everybody could specialize and train, focus on their one area. And it also gave a fresh eye to each section so that nobody again -- I kind of talked about it earlier. When you're doing the interview and building the case and then you also have to do the adjudication, I didn't want it to be unfair. And so it gave a clean set of eyes, and it was always fair because they were just looking at the facts and no personal emotions involved.

Q And, with respect to the -- you said that the IG had one of the complaints, meaning complaints from -- that the IG had been responding to or that the IG had?

A One of the complaints the IG had was that it was taking us too long to do our investigations. They wanted to see us do them quicker.

Q So have you decreased that time since that IG investigation?

A We had, although I know that that's still a complaint that it takes a while. But an investigation, to be thorough and accurate, you can't rush it. You have to do it right.

Q And so there's only a limit -- there's a limit on the lowest level amount of time, right?

A Correct. Yes, ma'am.

Q And, as you said before, it has to be thorough and accurate because it's important to get these right?

A Yes, ma'am.

Q And because to protect the national security, right?

A Correct.

Q And also to ensure that the individuals involved get a fair shake, for lack of a better word?

A Exactly.

[Discussion off the record.]

Ms. Moore. Just two points of clarification going backwards a little bit. So the reviews go through the ARC. The inspector general does not review ARC determinations. They only take it if it's a whistleblower retaliation case.

BY [REDACTED]

Q Okay.

A And then MSPB only reviews personnel actions in the event of a servicemember, a veteran. So they only review those personnel actions. They don't actually review security investigations.

Q Understood, understood. And so the inspector general does not review the security clearance determinations?

A They don't. They just review in regard to retaliation.

[REDACTED] I don't think I have anything further. We can go off the record.

Thank you.

Ms. Moore. Thank you.

[Recess.]

[REDACTED] Let's go back on the record.

BY [REDACTED]

Q Just to clarify, on Mr. O'Boyle, you know, it's our understanding that he did not know he was suspended until he reported for work on September 26 in Virginia.

So the letter is dated September 23rd, but he never received it, he never received

word of it, it's our understanding, until he arrived for work on the 26th.

And so my question is, how are these letters transmitted?

A So they come into my office. I execute and sign them. Then my secretary prints it out. And it goes back to the Security Division, who then packages it up and transmits it to whoever it's going to be served. I would envision in this case they would have had to determine where he was at that time.

Q So, I mean, he testified that, on September 23rd, the date of the letter, he spoke with his new boss at the new unit, and it was never mentioned.

A I would think they wouldn't have talked about it on the phone with him. They would have wanted him -- if they knew that they had it at that moment -- his boss may not have known he had it.

I would assume -- and, again, that's assuming -- that Mr. O'Boyle's boss would have been probably a program manager. And so a program manager would be several layers below an assistant director. So the letter may have either gone to Kansas City or to the unit where -- or the division that he was going to. And then it would have gone down appropriately for them to call him in probably when he reported.

Q So, when he had this telephone conversation, he testified that he was in Wisconsin, I believe at his in-laws. And his new supervisor was aware, presumably was aware of that.

A I'm sorry. I wouldn't know that.

Q So, if that's the case, don't you think his new supervisor should have let him know that this was coming down the pike?

A For security reasons of personnel, we generally bring people in and debrief them in person.

Q So you make them travel all the way to Virginia for doing the suspension

there in person?

A At this time, I don't know that on Friday that his program manager knew that he was -- knew he was getting suspended on Monday. I don't know that answer, sir. I'm sorry.

Q And then the IG investigation that you were mentioning on the last round?

A Yes, sir.

Q What was the date of that?

A I don't know. I'd have to find it.

Q What was the year?

A I don't know. I'd have to find it.

Q What was the decade?

A Well, it would have been in the recent decade. So probably 2017, 2018.

I'd have to find it, sir, I'm sorry.

Q 2017 or 2018?

A Uh-huh. I can find it for you.

Q So, obviously, the process hasn't improved at all, right?

A I disagree with that.

Q You think it has improved?

A Absolutely.

Q So what we talked with Mr. O'Boyle and Mr. Friend, you think that's a sufficient amount of time to conduct these investigations?

A I believe we are faster now than we previously were.

Q And is that an acceptable length of time?

A I would like them to be very quick, but, unfortunately, it has to be a thorough and adequate investigation.

██████████ And, as we mentioned, the chairman has a subpoena for you to return. So I'll just provide this to you.

Ms. Moore. Thank you.

██████████ I think that's all our questions for today, unless --

██████████ I have one more.

BY ██████████

Q I just want to -- I think majority counsel just said that he spoke with the supervisor, and it was never mentioned. I just want to read the paragraph into the record. That's not what it says.

A Okay.

Q It says: And, on September 23rd, I spoke with who was going to be my new boss at the new unit and told them that I still intended to come to the new unit the following Monday to report, which was Monday, September 26th.

And I want to note he said he told them that he said: I told them that I still -- emphasis on the word "still" -- intended to come to the new unit.

Thank you.

And then, quickly, on the thorough process, just to follow up on that, this process may involve interviews with individuals, correct?

A Yes.

Q It may involve gathering documents?

A Yes.

Q It may involve -- sometimes interviews might lead to other interviews?

A Correct.

Q Sometimes documents might lead to other documents?

A Correct.

Q Much like a criminal -- this is not a criminal case, but much the same way a criminal investigation would unfold?

A Absolutely, yes.

Q So, when we say -- when you say a thorough process, that means turning over all of those leaves, correct?

A Absolutely.

██████████ Thank you. No further questions.

██████████ Just to be clear here, Mr. O'Boyle, as far as we understand, did not know he was going to be suspended. So I believe, you know, the minority here is reading into the words "still intended" to imply that he knew or that his new supervisor told him on September 23rd that the suspension was coming, and that is not the case.

And I don't know whether "still intended" related to the fact that his wife is pregnant, about to give birth, or some other reason, or whether he was just -- or he was just imprecise here.

But we are aware, with great specificity, the plight of Mr. O'Boyle and when he was suspended and when he learned of his suspension, and he did not learn of it until Monday, September 26th. I'll represent that.

██████████ And I will just respond that the record does not reflect that directly. Thanks.

We can go off the record. Thank you.

[Whereupon, at 1:57 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.

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Witness Name

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Date