

HOW JAMES COMER'S COUNSEL, JAMES MANDOLFO, CONDUCTS AN INVESTIGATION

Amid the excitement yesterday, the Oversight Committee released the transcript of the now-retired FBI Agent who would have interviewed Hunter Biden if a bunch of things had gone differently on December 8, 2020.

Because I appear to be the only one who read the Gary Shapley and Joseph Ziegler interviews closely, I wanted to make sure to describe this one – to describe how James Comer's counsel, James Mandolfo, simply ended the interview when the witness started describing how the rules about lawyers, sensitive persons, and elections – the same rules that Republicans claimed to care about with Carter Page – would have required the FBI to adopt less intrusive methods than they might otherwise have done.

As to the topic that the Oversight Committee cared about, the agent admitted he was upset that the Biden Transition Team learned of the interview in advance (though as he described, he only heard that from Gary Shapley). He also revealed that he and Shapley had another person to interview that day.

A We waited a period of time. You know, I will add, it was frustrating, and I know supervisor number two was very frustrated, and I understood that frustration, but I also -- we had other -- another interview to conduct. So after a certain period of time, and I don't exactly recall how long, we transitioned to make an attempt to interview another -- or a witness as part of the investigation.

Shapley didn't describe that detail. When being

questioned by Democrats, the agent described that he simply moved on after this, and said he personally had not witnessed any politicization.

When Mandolfo asked for more background on Shapley's claim that the FBI agent had asked, in May 2022, why the IRS weren't asking for a Special Counsel, the agent's attorney advised him not to answer on deliberative privilege basis.

The agent retired just a month after that, after the normal 20-year career at the FBI.

When the Democrats questioned the witness, though, he provided answers that were less helpful to James Comer's conspiracy theories. He described how careful the FBI has to be when investigating attorneys and that such an investigation might require using least intrusive investigative methods. He described additional approvals required for Sensitive Investigative Matters. He described the care required during an election.

Effectively, he described that the FBI applied the rules required by the FBI's investigative manual, the same ones that protected Donald Trump's during the 2016 election.

Things got weirder when the Democratic staffers asked about the leaks. They appeared to be doing the same thing, basically getting this witness to explain why the things Shapley and Ziegler complained about all had ready explanations. And ultimately, the FBI agent did concede that if leaks got really bad it might make sense to reassign a team.

But when asked if he had ever been part of an investigation from which there were leaks, he denied it.

Q Generally speaking, do you think it could be problematic for agents' views in any ongoing investigation to be publicly reported or released to news sources?

A Yes.

Q And it could create problems potentially for the integrity of an investigation?

A Yes.

Q In your career, have you ever worked on an investigation in which there were leaks? And you don't need to be specific, just yes or no.

Mr. Zink [the Agent's attorney]. Leaks to the press?

[Dem staffer]: To the press.

[Retired FBI Agent] Sorry. My pause is I'm thinking back through my career.

[Dem staffer] No, that's fine.

[Retired FBI Agent] Not that I recall.

Wrong answer!!

The Hunter Biden investigation had several major leaks, starting in 2020, and continuing through the period when he retired (he was also part of the Duke Cunningham investigation, though I don't recall major leaks from that).

Having not recalled that *this investigation* had serial major leaks, his answer about what he would do if he learned of one was still weirder.

[Retired FBI Agent] Not being part of one previously, I'd -- I, you know, believe it would go to our Internal Investigations Section. Whether there was -- now, if you're asking if it was an unsubstantiated allegation versus something I did believe happened, you know, then maybe potential removal of -- of, you know, the agent in question from the case to protect the integrity of the investigation. You know, I'd want those steps to be taken.

[Dem staffer to Dem staffer] do you have any other questions before we stop?

[Dem staffer] So the question my colleague was asking you is there's -- there's an ongoing investigation. There's a concern that there is a leak coming from someone on the investigative team, but --

Mr. Zink. You mean generally or --

[Dem staffer] Generally.

Mr. Zink. Okay.

[Dem staffer] and -- but there is no clear answer as to who on the investigative team it is. Would it be reasonable for management to consider removing the entire investigative team in order to protect the integrity of the investigation?

Ultimately the agent, who claimed he would have told his supervisor if there were a leak as there had been on this case which he didn't acknowledge had been riddled by leaks, conceded that you might ultimately remove people from the team.

The discussion then turned to details about the investigation when someone -- possibly the agent himself -- asked to go off the record.

And that was it.

Mandolfo came back and ended the interview.

Mr. Zink. Just want to confirm with counsel for majority and minority that the terms "target," "subject," and "witness" as they were used in today's questioning modify and relate to the FBI and Department's investigation, not the grand jury's investigation. Just confirming that.

Mr. Mandolfo. Yes. And just based upon the narrow scope and agreement that was

formed amongst counsel and the parties that this would be limited to a very limited set of facts, we are now going to conclude with speaking with [Retired FBI Agent] at this time.

It's not clear whether Mandolfo ended the interview because the retired agent realized he had violated grand jury rules (thus the clarification from his lawyer), whether he realized answering the question about other agencies would do so, or whether the discussion of leaks had been so unhelpful that Mandolfo had to stop.

But the tactic was a fairly telling indicator of what would happen if there were a substantive review of the investigation into Hunter Biden.

Perhaps we'll now see some of that in discovery.