

Ex-FBI lawyer admits to falsifying document in probe of Trump's campaign

By **Matt Zapposky** and **Ann E. Marimow**

August 19, 2020 at 1:56 p.m. CDT

A former FBI lawyer pleaded guilty Wednesday to altering an email that one of his colleagues relied on as he sought a court's blessing to surveil a former Trump campaign adviser during the bureau's 2016 investigation of Russia's election interference.

Kevin Clinesmith, who worked in the FBI general counsel's office starting in 2015, told a federal judge he thought at the time he was inserting truthful information, though he conceded he doctored the message.

"At the time, I believed the information I was providing in the email was accurate, but I am agreeing the information I inserted was not originally there and I inserted the information," said Clinesmith, 38.

"You agree you intentionally altered the email to include information not originally in the email?" the judge asked.

"Yes, your honor," Clinesmith responded.

The criminal case is the first to come from the investigation led by Connecticut U.S. Attorney John Durham, who was assigned last year by Attorney General William P. Barr to review the FBI's handling of the 2016 investigation into possible coordination between Russia and the Trump campaign. With the 2020 election approaching, Durham's probe has become the subject of intense partisan fights.

Republicans are hopeful the prosecutor will bring cases against higher-level Justice Department or FBI officials who worked during the Obama administration, which could validate their critiques of the Russia probe. Democrats, though, fear Durham's exercise is a politically motivated attempt to undercut an investigation that dogged Trump's campaign and presidency, and they fear Barr might orchestrate a late revelation of his findings and alter the presidential race.

The 30-minute hearing was held remotely by video and teleconference because of the coronavirus pandemic. After technical difficulties, Clinesmith participated by phone with his attorneys from their D.C. office. U.S. District Judge James E. Boasberg scheduled Clinesmith's sentencing for Dec. 10, and prosecutors did not oppose allowing him to remain free in advance of that date.

Trump has high hopes that Durham will vindicate his attacks on the Russia probe, and after news of Clinesmith's expected plea became public last week, the president seemed to indicate he hoped more allegations would come soon.

"That's just the beginning, I would imagine, because what happened should never happen again," Trump said.

On Friday, Durham is likely to interview former CIA director John Brennan, according to a person familiar with the investigation.

The allegations against Clinesmith emerged last year, when Justice Department Inspector General Michael Horowitz made reference to them in a report detailing failures in how the bureau applied under the Foreign Intelligence Surveillance Act to monitor former Trump campaign adviser Carter Page as a suspected foreign agent.

Page had a previous relationship with the CIA, a fact that might undercut the notion he was a foreign agent. In court documents filed as a part of Clinesmith's plea Wednesday, prosecutors wrote that the CIA had in August 2016 given certain FBI investigators assigned to the Russia case a memo saying Page had been approved as an "operational contact" from 2008 to 2013 and that he provided information on his contacts with Russian intelligence officers.

That memo, prosecutors wrote, was available to agents on that case and Clinesmith "upon request."

The FBI, though, did not disclose Page's CIA connection when it applied to surveil him in the months that followed. It

wasn't until Page began talking about the matter publicly that an FBI agent preparing the application to renew the surveillance asked Clinesmith to clarify what Page's connection to the agency was, according to court documents.

Clinesmith, according to the documents, knew that if Page was a CIA source, that would have to be disclosed to the Foreign Intelligence Surveillance Court. He told inspector general investigators it could "drastically change" the way the application was handled, according to the documents.

But in messages with the FBI agent, Clinesmith said Page was a "subsource" but "never a source," according to the documents. When the agent asked for written documentation, Clinesmith forwarded an email from a CIA liaison that indicated some type of relationship but inserted the phrase "and not a 'source'" into the text. The agent then did not disclose Page's relationship with the CIA in the surveillance application.

Boasberg, who is presiding over Clinesmith's case, has served on the secretive surveillance court since 2014. After Horwitz's report, the judge ordered the FBI and the Justice Department to provide an assessment of errors identified by the inspector general and whether those omissions or misstatements should invalidate certain surveillance applications granted by the court. At the outset of Wednesday's hearing, Boasberg acknowledged his role on the secretive court and noted "while I did not sign any of the four applications that are at issue here, I could see that the [surveillance court] itself could be seen as a victim" of the false statements. For that reason, he gave both parties an opportunity to request a different judge. Both sides declined.

As a part of his plea agreement, Clinesmith agreed to be debriefed by the FBI about any information it might need to bring to the Foreign Intelligence Surveillance Court's attention.

Clinesmith agreed to plead guilty to one count of making a false statement, in this case falsifying a document, a charge that carries a possible prison term of up to five years. Federal sentencing guidelines in Clinesmith's case, though, call for a penalty in the range of zero to six months, Boasberg said Wednesday.

It is unclear what, precisely, Durham is focused on more broadly or whether his findings will reach higher-level officials. Durham has publicly made known his skepticism of the bureau's cause for opening the Russia investigation, and in questioning witnesses he has shown particular interest in why the bureau pressed ahead with surveilling Page even as authorities found problems with some of the allegations against him.

Durham's investigators have asked in particular about how the bureau handled the case after it came to have doubts about the credibility of Christopher Steele, a former British intelligence officer whose work the FBI relied on in part to obtain the secret court order to surveil Page, people familiar with the matter have said. In a bipartisan report released Wednesday, the Senate Intelligence Committee offered a particularly harsh critique of Steele and how the bureau used reports he gave alleging coordination between Russia and Trump's 2016 campaign.

Though Steele's sources were sometimes several steps removed from the information they provided and many of his allegations are uncorroborated to this day, his material was "given a veneer of credibility by lax procedures, and layered misunderstandings" inside the FBI, the committee wrote.

Barr has said Durham's first priority is to investigate and charge criminal cases, though he will also probably produce a report detailing his findings. He has said he will not delay the probe because of the election. Justice Department policies call for prosecutors to not take actions for the purpose of affecting an election, and by tradition they generally avoid taking steps that could have that appearance.

Shane Harris contributed to this report.

Correction: An earlier version of this story misstated who forwarded a doctored email misrepresenting what a CIA liaison said about Carter Page's relationship with the agency. It was Kevin Clinesmith, the former FBI lawyer who pleaded guilty Wednesday to altering the document.
