

Excerpts set forth below are taken from much longer emails that cover other issues than the interview protocol and the Patriots effort to understand and respond to the request for what would have been Mr. McNally's fifth interview.

Excerpt from email dated 2/5/15 @ 3:53 p.m. from Daniel L. Goldberg to Ted Wells and Lorin Reisner:

“Scheduling of witness interviews: You have requested new interviews of those already interviewed, as well as interviews of a number of other individuals. We will work to accommodate all those interviews. The interviews will be arranged so that, barring unanticipated circumstances, there will not be future multiple interviews of the same person.”

Excerpt dated 3/9/15 @ 4:46 p.m. from Daniel L. Goldberg to Ted Wells, with a cc to Lorin Reisner:

Ted and Lorin: ...

- As to Jim McNally,
- He is a game day only, minimum wage employee who is not due back to the Stadium for work for another 5 or 6 months. He lives over an hour away from the stadium in NH, and has already missed several days of his full time work to appear for interviews. Rather than having his cooperation be appreciated by the League, League security personnel subjected him to irresponsible accusations of lying to them. Even after that, he came for a full day interview with you, much of which was spent asking him about routine autographing of items by Tom Brady and about texts exchanged with his friend, the team's Equipment Assistant, months before the AFC Game and asking if he could interpret what someone else put in texts that were fairly obviously part of what could best be described as humorous responses to Tom Brady's outbursts during the Jets game. He also, at our request, turned over his phone so that any relevant ESI could be produced.

- Due to leaks that could only have come from League personnel, Jim and his family have been subjected to public humiliation, with his name, photo and home address plastered all over the media, and media pursuing him. . . . A heavy burden is placed on anyone asking that he devote yet more time to this investigation. This is particularly true since, so far as I am aware, there is no one who has ever so much as seen Jim put a gauge or pump or needle in ball – he schleps them to and from the OLR to the field, and, given the information collected to date, never even knows whether or when he will be accompanied by League personnel on the journey from the OLR to the field.
- We just went through your similar request for what was the fourth interview by or on behalf of the League of John Jastremski. I had asked you in advance what the subject matter was going to be when you asked for another interview of John, since we had an agreement from the outset that, barring extraordinary or unexpected circumstances, each person would be subjected to only one interview by you. You refused to give me the information I requested except to say that the topic was “new”. It turned out, however, that the topic involved asking about texts that you had before his prior interview – so it was not something that arose from extraordinary or unanticipated circumstances, but was apparently just something you neglected to pursue in his earlier interview. ...
- Given this history, if you want some added information from Jim McNally, let me know what it is and I will consider the best way to get relevant information to you.

Thanks. Best, Dan

Excerpt from email dated 3/9/15 @ 4:47 p.m. from Dan Goldberg to Ted Wells and Lorin Reisner:

“As to Jim McNally

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No time limits were put on his prior interviews, three by League Security and one, full day interview, by you. Among the reasons for my disinclination to ask that he come for yet another interview are:

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We had an agreement from the outset that, barring extraordinary or unexpected circumstances, each person would be subjected to only one interview by you.

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if you want some added information from Jim McNally, let me know what it is and I will consider the best way to get relevant information to you.

Email dated 3/17/15 @ 10:34 a.m. from Dan Goldberg to Ted Wells and Lorin Reisner:

“Ted and Lorin:

Thank you for accepting our invitation to have Mark Briggs review security video with you last Thursday. Although the League has had all that video footage for almost two months, Mark was able to point out what I gather were some new observations. I am glad you found it helpful.

I would hope that the video review resolves any further request for what would be the fifth interview of Jim McNally in the investigation. It shows in detail his activities in the only relevant involvement he had: taking the balls from the OLR to the field. In

summary, here is what the security videos (some of which you acknowledged you had not yet looked at) show as to McNally's activities:

-- He took the game balls to the OLR 3 hours and 40 minutes before the scheduled game time -- far in advance of when required -- thus giving the game officials maximum time to measure, inspect, and approve the balls (totally inconsistent with any plan to maintain control over the balls or alter the balls).

-- He left the OLR with the game balls in their bags just after the Seattle game ended, just as he had stated in his interview.

-- His departure, unaccompanied by any game official or League official, out the OLR door and his walk, also unaccompanied down the tunnel and then left down the hallway toward the field, was not stealthful and did not lead to any official racing after him, telling him to stop, etc. No one at all seemed concerned that he had taken the balls and was not accompanied as he proceeded to the field. (This confirms, as well, the statements of the security personnel stationed in the area who said it was routine for him to take the balls from the OLR to the field unaccompanied.) Indeed, James Daniels of the NFL is seen looking in his direction as he took that walk, not reacting to it in any way, and then casually turning to walk in the other direction.

-- His time in the bathroom was approximately 95 seconds -- a duration that I am sure you have, from your own experience, determined is consistent with putting down the bags, locking the door, relieving oneself, washing and drying one's hands, unlocking the door, picking up the bags, and exiting. It is also a time totally inconsistent with trying to take 12 footballs out of the bag (either one by one to tamper with or all at a time and spread out in a mess on the floor, putting a needle or gauge in each, adjusting any over-deflation, being sure all balls were then at a consistent psi, replacing them in the bag, and departing). (We certainly saw how the League's halftime psi measurements and adjustments -- even with multiple people involved in the process - of 11 Patriots balls and an unknown number of Colts balls took more like a minute per ball, since the balls were in the OLR for 14

minutes at halftime. The League's conduct in measuring and adjusting the balls took so long it delayed getting the balls back to the field at the start of the second half.) Furthermore, since it had already been announced that kickoff had been delayed 10 minutes when Jim left the OLR with the balls, and with the Seattle game ending so quickly into OT, there was no need for Jim to rush through any theorized psi-adjusting activity – there were still about 20 minutes till kickoff, and he could have, and would have, stayed in the bathroom far longer than 95 seconds were he carrying out a plan to adjust psi .

-- He then went onto the field and is seen on camera going directly to where the protocols require he take the ball bags - next to the review booth. The walk from bathroom to review booth takes him about a minute carrying two large ball bags -- we later see that same walk takes the Referee about 45 seconds not carrying anything. While he is then out of sight of the camera, he is in plain sight of numerous people. These include (i) the review booth officials who are in the vicinity, (ii) the Colts ball boys who see him and within a minute of his arrival at the replay booth , come over to pick up their balls, staying there until about 6:37; (iii) the Referee who gets to the review booth about a minute after the Colts ballboys have left it and shows no signs of concern that the balls and McNally are not where they should be; (iv) the Patriots ball boys who come over and get the Patriots balls from him; and (v) countless others in the area as well as fans in the stands. The security camera does not show him moving from the review booth area -- let alone moving with the ball bags – until it picks him up as he walks from the review booth area (not from some other location) to the back of the Patriots bench area (leaving the bags behind) after all the ball boys have picked up their balls.

-- He brings the ball bags back at halftime. Then, even though League and game officials are fully focused on the psi issue (and League personnel - Mike Kensil at a minimum - have already concluded that the Patriots must have tampered with the balls), he is given the ball bags to take from the OLR to the field, but once again (confirming how routine this was), he is not accompanied by any League or game official – and no such official rushes after him, etc. (This, along with lots of other

evidence, totally undercuts any League official who maintains it was not routine for Jim to unaccompanied when he took the balls from the OLR to the field.) At this point he knows that the second half has started without the balls, so makes no bathroom stop.

In short, the video review confirms that McNally never tampered with the balls and never even had a realistic opportunity to do so. It also confirms McNally's interview remarks about what happened during the time period after the Referee's approval of the balls and their use in the game. I would hope that, upon further reflection, the video review eliminates your request that he reappear since it makes clear he did not, and could not have, tampered with the balls or, indeed, do anything that was not routine. I do not see this as akin to the video leading you to further interview others (whose statements in interviews apparently do not align with what you have now seen on video. I also think it unlikely you are going back to any of them for what would be their fifth interview.)

For the various reasons previously identified, coupled with what you have now seen on video, I remain disinclined to ask him to appear again. As you know, these reasons include the adverse impact on him and his family of League leaks -- which led to him being pursued by the media, ... I have also pointed out to you that the "new" areas explored in the fourth Jastremski interview that you requested did not address issues that could not have been covered in an earlier interview.

For all these reasons, I remain disinclined to ask him to return again. If there are truly unanticipated fact areas that you believe are relevant to whether there was tampering with the balls at the AFC Game for which you need his input, let me know what they are and I will see how best to get you that information. Certainly were we in litigation you would not get the relief you now seek without disclosing specifically what it is that has triggered the request for a fifth deposition of the same witness and what it is you

plan to cover. I do not feel I am asking you for anything out of the ordinary by making this request.

I also anticipate that the science consulting work you are having done will confirm that any below regulation psi measured at halftime has numerous explanations that have nothing to do with tampering with the balls, and therefore the science will also eliminate any perceived need to speak with Jim again. So at a minimum, let's defer your request until that science information is in hand and you have completed all the other interviews to see if it is truly necessary that I ask him to appear yet again.

The Patriots will continue to cooperate with all reasonable requests, as we have done throughout this investigation. Best, Dan"

Excerpt from email dated 3/17/15 @ 4:59 p.m. from Dan Goldberg to Lorin Reisner and Ted Wells:

"We will certainly let you know if the position changes. And please let us know if we can assist you in getting any information you believe you are in need of in some other fashion -- whether in the nature of interrogatories or the like."