

Sussmann Acquitted & Top Gun – Maverick!

What Happens Next – 06.19.2022

Larry Bernstein:

Welcome to What Happens Next. My name is Larry Bernstein.

What Happens Next is a podcast where the speaker gets to present his argument in just Six Minutes and that is followed by a question-and-answer period for deeper engagement.

Today's discussion will be on the acquittal of Hillary Clinton's lawyer Michael Sussman and a movie review of the new Top Gun Maverick film.

Our first speaker today will be Sean Berkowitz who successfully defended Michael Sussmann of felony charges that he lied to the FBI about the Trump investigation. Sean will give us the inside look from the defendant's perspective. Sean is an old friend of mine. We attended Hebrew School together and we were opponents in high school debate tournaments. Sean claims he won. Sean is also famous for being the special prosecutor in the Enron trials.

Our second speaker will be Robert Young who is a retired air force pilot. Youngster Aka Farmer will discuss the new blockbuster film Top Gun: Maverick! I want to learn how Top Gun has influenced a generation of fighter pilots and our military men and women in uniform.

Our final speaker will be Darren Schwartz who is one of my golfing buddies. Darren is the new What Happens Next movie critic, and he will provide a humorous take on Top Gun Maverick.

If you missed last week's podcast of What Happens Next, check it out.

Our first speaker was the tax expert Chris Doyle. He explained the rules on how to leave high state tax jurisdictions.

Our second speaker was Northwestern Law School Professor John McGinnis. The topic was how law schools have gone woke and what the implications are for legal education and society.

Buckle up.

Alright, Sean please begin your six-minute presentation.

Sean Berkowitz:

My name's Sean Berkowitz, I was the attorney for Michael Sussmann in the recent prosecution by John Durham, the special prosecutor appointed by then-Attorney General Barr. I just want to make clear that the comments I'm about to give are my own and not my clients, and I'm also speaking, based on the public record, not on anything outside of the public records. That's for a couple reasons, including attorney-client information as well as the fact that there was a fair amount of classified and secure information that was accessed during discovery.

I want to talk about three things. Why did this prosecution happen? What happened at the trial and what the implications are?

Why did this happen? John Durham was appointed as a special prosecutor in October of 2020, shortly before the election between Biden and Trump. He had previously been assigned an investigation by Attorney General Barr into allegations made by Trump that the FBI and other individuals had created a hoax or a conspiracy of Trump's connections to Russia. Some people at the time said that he was investigating Mueller's investigation.

When the election was coming up, Barr wasn't certain who would win, and he wanted to appoint Durham as special counsel, which would make it difficult for Biden's attorney general to fire Durham.

And for years, John Durham conducted this investigation that was fairly wide-ranging. My role was relatively limited, I represented Michael Sussmann, who was an attorney at Perkins Coie. Michael Sussmann is a nationally-renowned, cybersecurity and data privacy expert who had done some work in connection with the election. He was not the main point of contact for Hillary Clinton's campaign. His law firm Perkins Coie was her outside general counsel, but Michael Sussmann's role was relatively limited.

The special counsel investigations, was far and wide and they weren't coming up with anything. They ultimately came up with the allegations that Michael Sussmann lied to the general counsel of the FBI, when he brought the FBI certain information showing potential connections between Trump and Russia and that he was not acting on behalf of any particular client.

The special counsel looked into those issues and found that Mr. Sussmann did bill a substantial amount of time to Hillary Clinton's campaign and concluded that he was attempting to pass these allegations off as a concerned public citizen rather than on behalf of the campaign. And they indicted him in September of 2021.

My own personal view as to why they charged him was that they were having trouble telling their story in a public forum, and although the charge against Mr. Sussmann was fairly narrow, lying to the FBI, they were able to in a 25-page indictment tell a wide-ranging political conspiracy that fit the narrative that Hillary Clinton and others working at her behalf were attempting to create a false narrative of Trump's connections to Russia.

And so that set up the battle for the trial.

The government's case consisted largely of Jim Baker, the general counsel of the FBI testifying as to what Mr. Sussmann allegedly told him, information related to the FBI's investigation into the allegations, as well as the connections between Mr. Sussmann and Hillary Clinton and her campaign. Mr. Sussmann did not testify, and the jury was out about six hours, and quickly determined that the government had not met its burden of proof, proving that Sussmann had lied to the FBI.

The key issues in the trial were as follows. Number one, Mr. Sussmann told the FBI that he was not acting on behalf of a particular client when he was providing the information, that Mr. Sussmann had gotten the information from a client of his who was a cyber expert, that the information showed potential connections via DNS links to a Trump server and a server associated with Alfa Bank, which is a Putin affiliated entity.

Mr. Sussmann and his cybersecurity expert client, Rodney Joffe, went to the New York Times Pulitzer Prize-winning journalist named Eric Lichtblau, who indicated that he was to run a story. Mr. Sussmann and his client went to give the FBI a heads up. The FBI went to the New York Times after learning this information and asked to hold the story while they investigated it. The New York Times held the story, the FBI investigated it, and later told the New York Times they didn't think that it was substantiated or there were innocent explanations. The New York Times ended up not running any story. Another news organization about a month later, Slate ran a story that talked about the potential connections.

Sussmann had a client, but he wasn't there representing any clients' interests, that although he billed time to Hillary for America and the story that would have appeared in the New York Times would have benefited Hillary for America. All three witnesses from Hillary for America testified that they were not aware that Sussmann was going to the FBI, they didn't authorize him, and going to the FBI would've been against their interests.

The government was left with a largely circumstantial case that Mr. Sussmann had lied when he said he wasn't there on behalf of a client. The final piece of the of the trial was the FBI's investigation, which was in my own view, a joke. Within a couple hours of getting the information, they largely discounted the allegations. Nobody ever interviewed Sussmann, nobody ever interviewed the cyber expert that had provided him the information. The individuals who looked into this at the case agent level were denied who the source of the information was.

Both Democrats and Republicans have claimed some implications arising out of this that are reported in the press. The Republicans have said that the case was essentially dead from the start because of the jury pool in DC. Democrats have said this vindicates Hillary Clinton and Trump has tweeted that this makes him more likely to want to run for President because of the information that came out of trial.

My own view is that it shows our jury system works. This was a case that shouldn't 've been brought. It was a politically motivated prosecution that was designed to use Sussmann to tell a broader conspiracy and that's inappropriate. And thankfully, the jury listened to the evidence, and they did what juries typically do, which is get it right and acquitted him.

Larry Bernstein:

Why did Durham bring this case?

Sean Berkowitz:

Durham was appointed to look into whether there was an effort to perpetrate false information associating Trump to Russia and he had been involved in Russian interference in the election. He brought this case because he was having trouble finding support for his mandate. He could very well have just issued a report that detailed all of the stuff that he found, but instead he chose to bring a prosecution that was incredibly wide ranging in its allegations.

He attempted to get the judge to allow evidence in as part of a broader conspiracy, his words, not mine, and the judge shut him down on the broader conspiracy evidence because the only crime charge was a simple one count, lying to the FBI. If he had gotten a conviction here, it likely would have emboldened him to have gone after other people, and he might've made an effort to immunize and get Mr. Sussmann to offer testimony to go after other people.

Larry Bernstein:

Politically speaking, nobody cares about Sussmann, it was always about bigger fish and the weaponizing of the FBI by political campaigns.

Sean Berkowitz:

This particular case was very narrowly focused, the evidence suggests that the FBI did nothing to interfere with or hurt the Trump campaign. Sussmann brought evidence of DNS links, which are essentially internet look-ups between a server connected to Trump and a server connected to Alfa Bank, that his client had concerns about these connections and it was going to come out in the New York Times and the FBI should literally do whatever they wanted with it. He said, "I'm not asking anything." And Jim Baker, the general counsel of the FBI said as much. "He didn't ask for anything, and he didn't ask me to get back to him. He said, 'Do with it whatever you want.'"

And the information was sent to agents in the counterintelligence division in Chicago, an FBI agent named Allison Sands. It was literally her first investigation ever, she was fresh out of Quantico.

The cybersecurity division didn't even look into it, and didn't talk to anybody. The Chicago agent in the first line of her report said that it was referred by the Department of Justice, which was absolutely wrong. They spoke to an Alfa Bank paid expert to say that the connections were innocuous.

They asked to speak to the source of the information. But senior people at the FBI wouldn't tell them either who brought the information in, or what the ultimate source of the information was. And within two weeks they had essentially run its course. They said that the investigation was incomplete because they weren't allowed to speak to the appropriate people, and there was nothing more that could be done. And it's hard to think of the FBI doing anything less with this information than they actually did.

Larry Bernstein:

Was there anything to the allegations of a connection between Trump and Alfa Bank?

Sean Berkowitz:

What I can tell you is that Sussmann was concerned enough about the potential issues that when he didn't hear anything back from the FBI, in February, months after Trump won, Sussmann went to the CIA with essentially the same information. They said, "This isn't really in our wheelhouse." There was nothing in the trial to suggest that there was in fact a connection between the two, Larry. I don't want to suggest that there was anything hidden.

What I can say is that the FBI didn't do sufficient investigation to determine whether the issues were of more concern.

Larry Bernstein:

Why did Sussmann go to the FBI if he wasn't going for the Hillary campaign?

Sean Berkowitz:

Sussmann, his profession was based on his relationships with national security. He interacted regularly with the FBI and with other national security agencies. He had been hired by the DNC to represent them in connection with the hack that had gone on in the summer of '16.

The Russians hacked the Democratic National Committee's emails and were releasing those emails around the time of the Democratic National Convention. Sussmann was a known commodity with the FBI and other national security agencies. He was so closely connected to these entities, he had national security clearance, and he had a badge that allowed him access to the FBI without having to go through all the security protocols, that's how trusted he was and what a close relationship he had with them. That evidence came out at trial.

He was able to call somebody he felt was appropriate. He chose the general counsel who he felt was in a better position to determine what to do with this. He knew that there were rules relating to election issues, and if he gave it to an agent, it might have needed to be looked into. The fact that he gave them actual data to look into belies the fact that he was trying to hide anything. An analogy I used in closing was, we came in with a jar of jelly beans and said, "I think there's 5,427 jelly beans in here. But here are the jelly beans, count 'em yourself, and do with it what you want." You take it and do with what you want but know that the New York Times is going to be publishing a story on this.

You want the public to provide information to the FBI. They can determine what they want to do with it. And the concept that he was trying to hide the fact that he had any relationship with Democratic parties is absurd. He says, "I'm not doing this on behalf of any particular client. I want to give you a heads up to help the bureau." But his connection to the Democrats was very well known. Within days he was meeting with the FBI on behalf of the DNC, and what's even more significant for purposes of this case is a concept called materiality.

Did this thing he say, even if it weren't true, matter. Everybody at the FBI knew he worked for the DNC. And most of the people that looked into this who knew he was the source, said he was a DNC lawyer, and so the concept that Clinton or the DNCs were trying to conceal that is absurd. The last person you would send in, if you were trying to conceal involvement would've been him. Similarly, if he was really working for the Hillary Clinton campaign, why did he go to the CIA four months after the election with the same information?

Larry Bernstein:

Did Sussmann bill the Hillary campaign for that fateful meeting with the FBI?

Sean Berkowitz:

What we introduced at trial is he actually didn't bill the meeting with the FBI, to Hillary for America. There were billing entries on a confidential project which was thought to be the Alfa Bank project, but then there's no evidence that there was any discussion of going to the FBI. And on the 18th, he texted Jim Baker saying he was coming on his own behalf not on behalf of a client. He then met with them on the 19th. He billed time on the 19th to Hillary for America but he did not bill a meeting with the FBI in his time entries. And one of the things that I thought was particularly powerful in our closing argument is the^{re} were a dozen entries both before and after September 19th where Sussmann did bill meetings with the FBI to the DNC or to HFA.

Those were related to the hacks. And in his time entries he said, "Meeting with FBI." Other times when he had meetings he billed, "Meeting." There was nothing on the 19th that either referenced a meeting or referenced the FBI. And, so, the fact that he billed time on the 19th to Hillary for America is immaterial from our perspective to whether he actually billed this 20-minute meeting with Jim Baker. And in fact, we introduced evidence that said that the car that he took to and from the meeting was billed to the firm and not to HFA.

Larry Bernstein:

Robby Mook said on the witness stand in the Sussmann trial that Hillary was involved in the decision to provide the media with the allegations about Trump and Alfa Bank. Why was this disclosure important in the trial?

Sean Berkowitz:

We called Robby Mook, who was the campaign manager for Hillary for America to establish that he was not aware of who Michael Sussmann was and that Sussmann was going to meet with the FBI to share these allegations, which undercut the suggestion that Hillary for America either wanted him to go to the FBI or knew he was going to the FBI.

On cross examination of our witness, the government elicited testimony from Mook that Hillary was in fact informed generally about information that the campaign had related to Trump's connections to Russia and was supportive of the release of that information.

And the fact that the candidate was aware that her staff were doing opposition research and putting out information that they believed was credible related to these issues is neither surprising, criminal nor relevant to the allegations in our case. It was given a tremendous amount of play in the press but it was kind of like a nothing in the courtroom, Larry.

I don't think it had any impact on the trial. They didn't even talk about it in their closing argument.

I think that given the press coverage of that remark, it was exactly what a lot of people on the conservative side of the aisle wanted to come out and were interested in having reported. I think that they read far too much into the remark. In other words, some sort of suggestion that the candidate was behind this huge effort to perpetrate a false narrative.

A lot of the confusion, I think, comes from the Steele dossier, but the Steele dossier had no real connection to our trial nor to the testimony that Robby Mook gave. That Hillary Clinton was aware of the Steele dossier, approved the dissemination of the Steele dossier, or anything of that nature.

People were mixing various narratives and taking what they wanted from that testimony. In terms of its implications for Hillary Clinton.

Larry Bernstein:

There was some chatter that Jim Baker who was GC at the FBI was buddies with Sussmann and that relationship undermined Durham's prosecution.

Sean Berkowitz:

I'm going to take issue with the question, Larry. In my view, Baker worked very hard to convict Sussmann. He testified that he was 100% confident that Michael Sussmann used these words in the meeting on September 19th, most people aren't 100% confident of something that was said two weeks ago, let alone six years ago. And, Baker testified multiple times beforehand, under oath and he said the issue of whether he had clients never came up. Another time he testified under oath in an Inspector General proceeding that Sussmann provided the information on behalf of cybersecurity clients of his, and only after the FBI showed him other people's notes did he start forming an opinion over time as to what was said.

What's significant about Baker is that he was under investigation criminally by John Durham in connection with the leak, himself for over a year, and in our view had concerns that Durham was going to come after him again. He said that he was friends with Michael Sussmann, and yet he met with the special prosecutor's office 10 times to prepare his testimony and he met with us zero times despite the fact that we made specific requests of his lawyer to meet with us.

He went out of his way to talk about how sure he was that these words were said. So, the concept that he wasn't working that hard is belied by what happened. I remarked in closing that

he was afraid of being prosecuted, and he performed exactly as the special counsel wanted him to. That's my view of Jim Baker.

Larry Bernstein:

What Happens Next with Durham's investigation?

Sean Berkowitz:

My own view is that this ought to be the logical conclusion of his work. He's had several years to look into this. His two charges are against Michael Sussmann and Danchenko who is even a less relevant player in all of this, who's scheduled to go to trial later this year.

I think he ought to shut down his special counsel's office which is averaging about a million and a half dollars of tax payer money every three months in expenditures.

Larry Bernstein:

Any lessons on involving the FBI to investigate political campaigns?

Sean Berkowitz:

If you look at what happened with the investigation into Clinton's emails. I think it's fraught with danger.

The FBI's job, just like any US attorney's office job, is to follow the evidence and take it where it will, but to avoid publicizing investigations that are not fully formed and to do their job not in a political way. And It's a really difficult line to walk.

Larry Bernstein:

Sean you're a former prosecutor in the US attorney's office and the Enron special prosecutor, what is your evaluation of Durham's investigation?

Sean Berkowitz:

I was head of the Enron task force for the Department of Justice. The US attorney's office in Washington made the prosecution of crimes arising out of the downfall of Enron a strategic priority where they wanted to devote resources. The special prosecutor role that Durham is in is much different. It's a fairly autonomous situation.

I think both situations, Larry, come with some danger. If you task a particular group of people or entities with looking for a crime, there can be an incentive to find one or to do something because you've devoted a fair amount of time, energy, and resource into that. And I think that you need people who are responsible and people overlooking that work to make sure that the people do justice, not to convict somebody for the sake of convicting them. Accountability is super important. And that that can get lost in a special prosecutor type of situation.

Larry Bernstein:

Could Durham get a fair trial in a Blue DC court with a mostly Democratic Party supporting jury?

Sean Berkowitz:

The special prosecutor chose to bring this case in the District of Columbia and specifically said throughout it was not a political case. And their theory was that Michael Sussmann was a man of privilege who used those privileges to abuse the institution of the FBI.

That was their theory and their theme that they used, which if true, would have played very well to a jury in D.C. They could have brought the case in Virginia if they'd wanted to do that. The jury selection process, the government had the opportunity to exercise for cause strikes. There was a lengthy questionnaire that was handed out beforehand. The parties agreed to strike a number of jurors who both sides believed couldn't be fair. Each side then had the opportunity to question each individual juror with whatever they wanted and had an opportunity to make a for-cause strike, meaning a suggestion that there was a reason that they couldn't be fair. And then there were six strikes that the government could use for no reason at all. If this were an 11 to 1 situation with 11 voting to convict and one holdout, you could say it was a jury nullification situation. This jury came back in a split second (laughs).

You know, five or six hours and said that they were all aligned and that this was a case that the jury foreperson felt should never have been brought. This wasn't a failure of the jury system.

Larry Bernstein:

Why didn't Durham just publish a report about the findings in his investigation instead of bringing the Sussmann case?

Sean Berkowitz:

My speculation would be that it allowed him a vehicle to tell a larger narrative. I think they also thought they were going to win.

When you've got a group of people all looking for the same mission and not evaluating the evidence as fairly as they should, you end up in a situation like this. It's really difficult for a criminal defendant to win in a federal trial. It's very difficult. And I think they felt that they had the wind at their backs, and that they had a fairly straightforward, open and shut case, and that they would win and that this would vindicate some of what they'd been doing and that they would be able to tell their larger narrative. We worked very hard to ask them not to bring this case, and I don't think that we ever got close to convincing them that this was an inappropriate case.

I think that this is an example of our system working the way that it should, at least in terms of the jury, but not necessarily working the way that it should in terms of a case being brought against somebody who had to undergo incredible hardship.

Having an investigation hanging over him for well over a year, and then eight months of uncertainty surrounding it. Every case is an incredible challenge. It was a privilege to do it. And I'm happy to be done with it and to move on.

Larry Bernstein:

Thanks Sean. We now move on to our second speaker who is Rob Young, a retired Air Force pilot. I became friends with Rob over 30 years, when he was in my brother Ron's fraternity at Northwestern University.

Larry Bernstein:

Rob, today we are going to discuss the influence that the movie Top Gun had on your generation of air force pilots. But before we really get into it, I want to hear about why you joined the air force and chose a career in aviation.

Robert Young:

I had my private pilot's license, junior year of high school, long before some of my friends even had their driver's (laughs) license. I was involved in general aviation flying up at Hanscom Air Force Base, and we'd see Weekend Warriors. The first airplane I ever saw there was a C-5. I'm like, "Wow. Anybody who must fly this has got to be the best pilot in the world," and, three weeks later, a pair of F-16s pulled in, and, staring at these, just Ferraris. I was fascinated by the fighter jet and watching Top Gun fueled that idea that, "Wow, you want to fly fighters if you want to be a real pilot," That was transformative.

Larry Bernstein:

What was the reaction of the air force recruits to the release of Top Gun?

Robert Young: It had a pretty dramatic effect on a lot of people in terms of piquing their interest. It glamorized and made it look easy, right? That's the whole point of the movie was that it, "We're just going to show up, brief a little bit, fly some, and then hang out, have a barbecue, play some volleyball, and drive our motorcycles around base." Like, nothing could be further from the truth (laughs) that way.

Larry Bernstein:

What are you talking about?

Robert Young:

Top Gun, it just looked like, "Oh, this is the life, but nothing could be further from the truth in terms of daily life of a fighter pilot. Between my sophomore and junior year of college, I did an Air Force ROTC internship down at Homestead Air Force Base, and I got two rides in the backseat of an F-16.

It was 45 minutes of the most thrilling time ever. But the preparation and the work that went into just one mission was unbelievable. That's when I realized the contrast between (laughs) Top Gun movie and the reality of being a fighter pilot in the Air Force. We started our briefing at 0500. It was 12 hours of work for a 45-minute flight, and then the debrief itself was even longer. So, it's extraordinary what the reality of flying a fighter jet entail versus what was portrayed.

Larry Bernstein:

There are these debriefing scenes in both the original Top Gun as well as the new Maverick film. In Top Gun, Maverick's love interest played by Kelly McGillis aka Charlie analyzes Maverick's flying performance in detail with the entire squadron. How real to life was that evaluation?

Robert Young:

In real life, it's extremely competitive, and there's an old adage that, "You don't win the flight, you win the debrief."

They'll send a 4-ship up of F-16s on a training mission, and they'll do a bombing run, and they'll score every single practice bomb hit to the target, and they will critique each other. It is as competitive as any environment you can imagine. In one debrief of this particular bombing run called a dive toss, and they go straight up, roll over, pull, roll in, and then drop their bomb, and pull out. So, it's almost like a roller coaster S-turn, and certain parameters have to be met, speed, altitude, and the more altitude you gain here, the more time you have to acquire your target.

I remember the debrief. He went up probably two or 300 feet too high that gave him more time to acquire the target. So, he might hit the target maybe three feet off when the others were outside the circle, and they'd critique and say, "Yeah, well, hey, slider, you broke the altitude. You went 300 feet higher. Of course, you had a better angle. So, we're not going to give you that," and then he'd go in there and go, "No, that's total horse shit."

I didn't go that high, and they would literally argue down to the foot. They would go back and look at the tape and prove each other wrong, and this went on for hours. This was a three-hour debrief where they nitpicked each other and competed down to the last bombing run for a score, and then whoever won the debrief basically won the day, and they'd start over and do the same thing the next day.

Larry Bernstein:

In sports and business, learning from past experiences is critical. Is this the case in the military as well?

Robert Young:

There's an element of diminishing returns. Preparation-wise, I understood. You wanna make sure that you cover all scenarios for anything that can happen, but in the post-flight, I was amazed at just the stuff they wouldn't let go. (laughs) Three-hour debrief for a one-hour flight.

Same could be said for post-mission analysis or large-scale exercise. We would run a special operations mission and we'd break it down afterwards. Sometimes, that would take three days of analysis. "What could we have done better in the planning, in the execution, and the mission objective? Was it achieved or not?"

You can plan down to the gnat's ass, but when something throws a wrench, can we pivot quickly enough?

And so that's part of the analysis. In a real-time war environment, you don't have that luxury.

It's critical and we do it very well in the Air Force. The overall accident rate versus the hours flown, it's incredibly low given the complexity and the danger of the mission.

Larry Bernstein:

In Top Gun, the pilots and even the instructors get call signs. How do you get your call sign?

Robert Young:

When you get stuck with one early on, it stays with you throughout your career, especially in that fighter world. Usually, they developed in training. The first rule (laughs) about a call sign is don't react to it. If you hate it, it will stick forever (laughs).

A friend of mine who flew F-15s, his name was Scott. He's a great storyteller. He loved to tell jokes. He always wanted to be called Joker. And he's always trying to champion himself to be my call sign's Joker. Nobody would give it to him. He was short and his name was Scott, so they called him Squat. He hated it.

But boom, it stuck with him and he's always been Squat. And then he flies at FedEx (laughs) and they still call him Squat.

Larry Bernstein:

What's your call sign?

Robert Young:

Mine was Farmer.

Larry Bernstein:

How'd you get that?

Robert Young: Four flights into pilot training, I was flying with an instructor. And I planted a few landings. He goes, "Goddammit, Farmer, you just plant these things on the soil."

"Your nickname is Farmer." So, Farmer was mine throughout training, and then when I moved over to a different aircraft in Special Operations, I was the new guy on the squadron. And I got handed a bunch of old stuff. I had one of the old dome World War II helmets that looked like Skyler from the comic strip Shoe. And boom, somebody looked at me, "You look like Skyler." For my special ops career, I was Skyler (laughs). That one stuck for a little while. That's how it generally goes. They're generally not something endearing, like Slider, Maverick, Goose, those are all cool. A buddy of mine was nicknamed Whiz.

He needed to use a piddle pack in an F-16 and he couldn't get to it (laughs) and he ended up making a mess and they called him Whiz throughout. So that was Whiz. Call signs are very, very important, great for camaraderie.

Larry Bernstein:

Camaraderie is a theme in both Top Gun movies. The original film had a volleyball scene and the new one has a football scene on the beach. The instructors are trying to create teamwork. How true to life is that?

Robert Young:

That is a very accurate. Volleyball and beach football are probably the Navy guys because they're closer to beaches. In pilot training, once a week, we had some sort of gym activity.

There was a game called Crud. And it's around the pool table. And it's an incredibly competitive game that started in the fighter realm. You can tackle. You can throw people into walls. There's lots of alcohol involved (laughs). The Crud matches were infamous in the armed forces.

Larry Bernstein:

Fighter pilots are uber competitive. You have this hostile dynamic between Iceman and Maverick, and we see similar relations between Goose's son and Hangman in the new movie. Is the fighter culture more competitive or mutually supportive?

Robert Young:

It's more mutually supportive. Certainly, the egos are involved. A guy like Hangman on a fighter squadron wouldn't last 30 seconds.

Larry Bernstein:

So, you weren't surprised when Maverick didn't pick Hangman to be on that critical mission?

Robert Young: There's always going to be the element of trust, no matter whether you like or hate the guy. Nobody trusted Hangman. And if that was real world, he wouldn't last very long in that squadron.

Larry Bernstein:

In the opening scenes of Maverick, some of the senior commanders are giving Maverick a tough time because he's been a fighter pilot for over 30 years. It seems that a fighter pilot is a young man's game. When do fighter pilots age out?

Robert Young:

Most pilots just want to fly the airplane. There are a handful that want to go into the ranked structure and do two tours, go to the Pentagon, and then squadron officer school, air command staff college and air war college and they wanna follow that progression.

And then the other guys after two tours usually find their way into the guard reserves and fly F-16s. And in the guard, guys fly forever.

Larry Bernstein:

Is there more burnout in combat?

Robert Young:

So, very good question.

Those missions are quite a bit different than any training mission. Because you're going up against a real enemy, people are shooting back at you and the bombs are real. There's a mental toll there that we're starting to understand what impact that's had on some of our veterans.

Larry Bernstein:

Did you enjoy the new movie, Top Gun Maverick?

Robert Young:

It's a great thing to see. They talk about fifth gen fighter going up against an F-18. That's actually real time. That was pretty interesting to watch them sort of address that.

In terms of that mission in particular, they borrowed pretty heavily from Star Wars. I kept thinking I was watching the Empire Strikes Back. These guys are going to have to launch two little darts into a tiny little hole and then the whole planet explodes.

About five days after the premier of Maverick, unfortunately an F-18 pilot was killed in a crash in a training mission over the desert in California. That's real world. That should serve as a reminder to everyone who might be thinking this is all fun and games. No, there are still real-life consequences to a highly dangerous mission.

Larry Bernstein:

In the original Top Gun, Maverick's partner Goose is killed in an ejection that goes awry. It really affects Maverick. He thinks about dropping out of Top Gun and questions what he wants to do in life. How typical is that when you lose your partner?

Robert Young:

So, in my experience, I've lost three- three- three friends due to military accidents. One of them was killed in Iraq. Another was killed in a 130 crash, and one of our flight engineers died on active duty back in 2000 in my squadron. And loss of a squadron mate, there nothing worse, Larry.

I haven't talked about these guys except for a little bit over Memorial Day. So, my friend Ryan died in a crash in Iraq. His kids were 13, 11, and 9. His wife was wonderful. And I flew with him a

bunch, and they think it was a sabotage. And then Greg Fritz, he passed away in a C130 crash in the mountains of San Juan, Puerto Rico. And then Carl unfortunately died unrelated to combat.

You rely on each other to such a degree that it's a death in the family. That's the best I can describe it. So that's real. That depiction.

Larry Bernstein:

On September 11th I had a business meeting at 7 World Trade Center, and I hit traffic heading downtown on the West Side Highway. When I got to 23rd Street, I saw that one of the World Trade Center buildings was on fire. So, I'm not making that meeting. I decided to go hang out at my old apartment where my brother was living on 14th Street. The doorman let me right in and as I entered the apartment, there you were Rob with your wife.

Robert Young:

Yeah.

Larry Bernstein:

Looking out the window, we saw both towers on fire.

Robert Young:

Yeah. Crazy right? Lisa and I were actually headed that morning to Windows of the World.

Larry Bernstein:

We witnessed the collapse of those two towers. My friend Michael Miller who worked at Cantor Fitzgerald died that morning.

It was shocking. But it was different for you. I was sad, but I would wake up and it would be another day. For you, it meant something else. You were to be called up for active military duty and sent to war.

Robert Young:

I had just finished my civilian training with Continental on September 6th. My last day of active duty in my special operations squadron was September 3rd. I came to a wedding, saw you guys on the 8th and the 9th, stayed with Bernie on the 10th. Lisa and I witnessed the second airplane hit the second tower. I saw it coming out of Newark and I thought, oh, okay a 737. That makes sense, they're probably re-diverting him to see if he can find out what's going on with the first building. And all of a sudden, we just see this thing drive into the back side of the south tower, it was just like oh my God. I mean instantly like anybody who saw it live or in real time on the news knew we were under attack.

I knew right then I was going to get recalled immediately. My active-duty squadron were deployed within two weeks to the Middle East. All the guard, all the reserve, everybody who flew my type of aircraft had deployed by November. They were there for the duration.

Larry Bernstein:

In the original film, the Top Gun squadron was an all-white unit. In the new film, the squadron is very diverse by gender, race, and culture. What's does the current Air Force look like?

Robert Young:

I would say in '86, that was accurate. My pilot training class was all white male. The first female fighter pilot her name was Jeannie Flynn. I think she flew the F-15. That was groundbreaking in the 1990s. That was glass ceiling shattering type stuff.

I don't think women were allowed to fly in combat until like '92, '93, '94. Interestingly enough, when I got to my special operations squadron, we had a handful of female pilots. Darcy Philips. I remember flying with Darcy. She was one of the best. She flies for Delta now.

In terms of ethnicity, Active-Duty Air Force has been doing a better job over the last 20 to 30 years of recognizing its shortfall. I think today's squadron standards, you'd probably find a similar mix as the movie Maverick. But certainly, Top Gun was indicative of the times for what the make-up of a squadron was.

Larry Bernstein:

In the first scene of Maverick, Ed Harris, one of the admirals opposes human flown aircraft and is a big fan of the drone. Is this a big issue in the Air Force?

Robert Young:

Do we really need single-seat fighter pilots anymore? Do we even need dual crews in an airliner? That was compelling when he says, "Look, dinosaur. We don't need you anymore. The future is now."

The use of drone technology is fascinating. And the argument can easily be made that you can fly an F-16 without a pilot and probably drop a bomb more accurately without putting that pilot at risk. They've been flying adversarial drones for target practice for 20 years.

With a pending commercial pilot shortage, there's certainly discussion about single-seat cockpits for airliners. Then if something was to happen to the captain, if he's up there by himself, you'd have means to land that aircraft via drone technology. It all exists.

Maybe in 20 years, we're going to look back, Ed Harris was right (laughing). I do think that's true. I do. I don't want to be up in an emergency trying to handle a flight by myself with 150 people. There are a lot of moments where you absolutely must have two people in the cockpit, so we're not there yet. I wouldn't be surprised in 20 years if you see commercial airliners with just one pilot.

Larry Bernstein:

I end each episode on a note of optimism. Rob, what are you optimistic about?

Robert Young:

From a military standpoint, I am excited about what our men and women do on a day-to-day basis. What does America do best? It builds weapons.

One thing that doesn't get enough coverage is the skill and the talent at all levels of our military. It's just unbelievable what we're capable of.

Larry Bernstein:

I'm now with Darren Schwartz. I don't mean to make a big deal out of this, but he's the official What Happens Next movie critic. We've never had this position. It has been unfilled for over two and a half years. Darren, welcome aboard. There are no benefits in this job.

Darren Schwartz:

First of all, Larry, thank you for having me.

Larry Bernstein:

You saw Maverick. You rewatched Top Gun in preparation-

Darren Schwartz:

Yeah.

Larry Bernstein:

... for today's call. Thanks for the effort.

Darren Schwartz:

My pleasure.

Larry Bernstein:

We'll start off with what are your thoughts on Tom Cruise? Where are you on, on Tom?

Darren Schwartz:

Tom Cruise was a seminal part of my adolescence growing up. I know there's the whole Scientology thing. Whatever. I'm thumbs up on Tom Cruise.

Larry Bernstein:

... you saw Maverick.

Darren Schwartz:

I did.

Larry Bernstein:
Did it move you?

Darren Schwartz:
It did move me. I thought it was an excellent film.

Larry Bernstein:
Can you articulate that message? You're a movie critic, Darren.

Darren Schwartz:
Yeah.

Larry Bernstein:
Come on.

Darren Schwartz:
(laughs) Okay.

Larry Bernstein:
(laughs)

Darren Schwartz:
As of today, I am a movie critic, which is wonderful.

Larry Bernstein:
That's your title.

Darren Schwartz:
Thank you.

Larry Bernstein:
What Happens Next movie critic. You forgot your title?

Darren Schwartz:
I thought it was excellent.

I thought the character evolution of Tom Cruise's Maverick Mitchell and the relationship between him and Val Kilmer was wonderful.

Larry Bernstein:
Tell us a little bit about the backstory. Why is the Val Kilmer character important to you?

Darren Schwartz:

Well, first of all, he was the antagonist in Top Gun, the original movie.

Larry Bernstein:

Iceman.

Darren Schwartz:

He was Iceman Kazansky. He was a cool, by the book guy. Maverick was the maverick. Like, figure that out, you know.

Larry Bernstein:

(laughs)

Darren Schwartz:

Hopefully people can figure that out by now after 27 years. He was the maverick. Or however many years it was.

Larry Bernstein:

36 years.

Darren Schwartz:

Is it 36? There's no way it's 36.

All right. Fair enough. So, they clash because Iceman thought you're going to put your wing men in jeopardy if you keep leaving your wing men. So that was the lesson that Maverick had to learn.

But outside the movie, what I read is that Val Kilmer in real life, kept that character going and had that animosity present off stage.

Fast forward to about five years ago, Val Kilmer developed horrible throat cancer and he was not going to be in the movie. The producers either weren't going to put him in the movie, because he really can't talk, and he looks pretty haggard from the cancer.

But Tom Cruise put his foot down. He said, "I want him in the movie. We're not doing the movie without him." And I thought that was pretty cool.

Larry Bernstein:

So, he refused to leave his wing man from Top Gun?

Darren Schwartz:

That is what's so interesting, is that in real life, he didn't leave his wing man. He learned the lesson. It transcended from the screen to real life.

Larry Bernstein:
He doesn't have many lines in the film.

Darren Schwartz:
He's unable to speak. Yeah. The lines that he has were AI generated. So, I'm not going to give anything away, I guess. (laughs)? This is not a huge spoiler.

He was communicating by text, meaning they were together, face to face, and Iceman was typing on his computer one line at a time. And there was one line he actually said verbally, but actually it was AI generated from his previous voice. It was not really him speaking.

Larry Bernstein:
You rewatched Top Gun.

Darren Schwartz:
Yeah.

Larry Bernstein:
What were your impressions, after 36 years, rewatching that important classic?

Darren Schwartz:
First of all, Tom Cruise looks the same.

Larry Bernstein:
It's unbelievable. How is that possible?

He's the Dick Clark of action films.

Darren Schwartz:
... I think it's grapefruit juice. There's been no surgery. (laughs)

Larry Bernstein:
Is that true?

Darren Schwartz:
No. I have no idea. I don't know if it's grapefruit juice. But he's for sure had something done.

Larry Bernstein:
Well, he had his teeth done. I don't know if you focused on that.

Darren Schwartz:
He looks phenomenal. I love the hair in general. It's from the mid '80s, the fashion and the hairstyles and everything else.

I thought the acting quality was inferior in the original. Or just maybe it was just dated.

Larry Bernstein:

Darren, I read the original Roger Ebert review of Top Gun in '86, and he gives it two and a half stars.

Darren Schwartz:

Yeah.

Larry Bernstein:

And what he says is that the action scenes are fantastic. Loves it. But the relationship with Kelly McGillis is just ridiculous and drivel.

Darren Schwartz:

Yeah.

Larry Bernstein:

Where are you on the Kelly McGillis - Tom Cruise relationship from the original Top Gun?

Darren Schwartz:

Well, first of all, let me just say this about Roger Ebert. For sure, a bleeding-heart liberal.

Larry Bernstein:

Yeah. For sure.

Darren Schwartz:

I'm not criticizing. Anti-war.

Larry Bernstein:

It is what it is.

Darren Schwartz:

Anti-plane. Anti-Maverick. I think you have to put a pin in that. The Kelly McGillis relationship, there was definitely some evolutionary steps in the relationship that didn't happen. All of a sudden, out of nowhere, she was like, "Here's my address. 5:30 PM, don't be late."

Larry Bernstein:

Does that ever happen in real life?

Darren Schwartz:

No.

Larry Bernstein:

(laughs)

Darren Schwartz:

No, of course. And then (laughs) also, it's 5:45, 5:50, and he's on the beach playing volleyball.

Larry Bernstein:

Where's his priorities?

Darren Schwartz:

Well, his priorities are to Goose, and he wants to beat Kazansky and that other guy no one knows. And so, he's on the beach. They're all greased up.

Larry Bernstein:

Right.

Darren Schwartz:

Okay? I mean, these guys probably put four or five layers of Crisco on them just for the sex appeal. And they're wearing tight shorts. Goose, no shirt, also wearing shorts. What's Tom Cruise wearing? No shirt, glistening, in tight jeans. And it must've been 100 degrees. How do you even move?

But they won. Gets out on the motorcycle. And he shows up. It must've been 6:15. The food's cold. He walks in. What does he say? "I want to take a shower."

Power move. Strong move. Ridiculous.

Larry Bernstein:

Yeah. (laughs)

Darren Schwartz:

And she says, hurled back, "No. I'm hungry."

Larry Bernstein:

(laughs)

Darren Schwartz:

And I was like, "Yes. Yes, Kelly McGillis. Absolutely." You know, call sign Charley. So, after dinner, he says, "I'm going to take a shower." Then he said, "It's going to be complicated." Acknowledging we now have a relationship. No kiss. No hug. No handshake. He leaves to take a shower. I think on face, yes, I agree with Roger Ebert.

Larry Bernstein:

The volleyball scene which you referenced is considered the finest homoerotic scene in movie cinema in the 1980s.

Larry Bernstein:

What did you think of the Jennifer Connelly relationship in Maverick?

Darren Schwartz:

I think it was great. I love Jennifer Connelly. I think she is a wonderful actress. I think she's got a beautiful mind.

Larry Bernstein:

Yeah.

Darren Schwartz:

That's an Easter egg, because she was in ... A Beautiful Mind with Russell Crowe.

In the beginning of Top Gun, they referenced that one of the things that Tom Cruise got written up for was being with the admiral's daughter. She was the admiral's daughter.

Larry Bernstein:

I love it. Brilliant.

Darren Schwartz:

Very few people know that.

Larry Bernstein:

Yeah. I missed that.

Darren Schwartz:

And it's amazing. Yeah. Great actress. Great writing.

Larry Bernstein:

You went to the movie theater to see Maverick.

Darren Schwartz:

I had the choice, Larry, and I really struggle with it. Do I see Top Gun in IMAX, do I see it normal, or juiced up, with the sound and the sights and everything else, risk of paralysis, whatever happens?

And I said, "You know what? I'm not ready for IMAX." And I said, "I'm going to go to the regular theater." And, I saw it there.

Now, I'll also tell you this. It's been such a long time. The logistics of, you have to get a ticket ahead of time.

Larry Bernstein:
Yeah.

Darren Schwartz:
You have to go in. You have to look at that map, and you choose where you want. And I strategically chose C10, C11. Obviously, that's my go to, because there's a little bar there and you can put your feet up on it, and no one's in front of you. And I get there. There's seven people in the theater.

Larry Bernstein:
Right.

Darren Schwartz:
They were in groups of three, so some lonely guy was by himself. Okay?

Larry Bernstein:
Yeah. I get it.

Darren Schwartz:
So we walk in, and I look, and I'm in like, D4 and D5, so I screwed something up. I'm thinking, "Well, there's seven people here. It doesn't matter."

So where's C10, C11? Well, C10, C11 happens to actually be four down from the guy who was a single who apparently doesn't realize that when you have your phone on, it's completely bright. It's ruining the experience for everybody. So, he and I had a little thing, we can talk about later. And then I say, "We're in the wrong seats. Well, it's no big deal. No one's here. 10 minutes in-

Larry Bernstein:
Yeah.

Darren Schwartz:
... 10 minutes in-

Larry Bernstein:
Hey, hey. You're in my seat. Hey.

Darren Schwartz:
... (laughs) these people are walking down. First of all, who comes 10 minutes late to a movie? And we're in their seats. How ridiculous is that? So that's on me.

Getting back to the logistics, buying tickets and the choosing of the seats is new, but I'm very happy to be back into the flow.

Larry Bernstein:

Where were you on food and beverage in the theater?

Darren Schwartz:

Food and beverage, we brought our own.

Larry Bernstein:

You can do that? I thought they have a strict policy against that. You hide it?

Darren Schwartz:

It's an easy. You put it in your side pocket, and you kind of limp in. They don't say anything.

Larry Bernstein:

(laughs) Do you recommend Maverick to friends?

Darren Schwartz:

I do.

Larry Bernstein:

How do you view it versus the original?

Darren Schwartz:

I, first of all, 100% recommend people go see it. It represents the reemergence into society of movies. We're back.

He put his foot down. I've read on the Internet. People can look it up on the Google. He said, "We're not doing this on home video."

It's a summer blockbuster. I think it was his first \$100 million opening weekend, which is odd, because Tom Cruise is such a movie star.

Larry Bernstein:

Mission Impossible, I would've thought, was a-

Darren Schwartz:

Yeah.

Larry Bernstein:

... blockbuster.

Darren Schwartz:

Maverick is 100% better than the original Top Gun.

Larry Bernstein:

Before you decided to be the movie critic for What Happens Next, you were 19 years old when Top Gun came out, and at that part of Darren's life, you actively quoted films. You quoted Stripes.

Darren Schwartz:

Mm-hmm.

Larry Bernstein:

Uh, you quoted Risky Business.

Darren Schwartz:

Mm-hmm.

Larry Bernstein:

What did you quote from Top Gun? And do you still quote it now?

Darren Schwartz:

Yeah.

Larry Bernstein:

Like what?

Darren Schwartz:

Talk to me, Goose.

Larry Bernstein:

(laughs)

Darren Schwartz:

That's it. I say it constantly.

Larry Bernstein:

(laughs)

Darren Schwartz:

Talk to me, Goose. I said it to my younger son the other day. I said, "Hey, you need to get up."

Larry Bernstein:

So, he's lying in bed. It's 3:00 in the afternoon, right?

Darren Schwartz:

It's exactly 3:00 PM in the afternoon, and I'm like, "You're supposed to be somewhere in a half hour. It's an hour away. I think it was his graduation. "We should leave." And I said, "Talk to me, Goose."

And when he got up a half hour later, I said, "You know where that's from?" He said, "Yeah. Top Gun." Which was amazing. I had no idea he'd even seen it- I said, "You've seen Top Gun?" He goes, "Yeah. Of course."

Larry Bernstein:

So, you're saying it's intergenerational.

Darren Schwartz:

Yes. Yeah.

Larry Bernstein:

I end each episode on a note of optimism. Darren, what are you optimistic about as it relates to Top Gun Maverick?

Darren Schwartz:

Well, Top Gun Maverick is a story about family. Tom Cruise, Maverick Mitchell, was always trying to live up to his father who got shot down in Vietnam. And as far as growing up, Maverick, knew that his father didn't do it right.

You remember Goose. They were in their free fall. Right? And they had to punch out. Tom Cruise couldn't do the punch out. Goose, punch us out. They eject. Goose breaks his neck upon ejection on the canopy. By the way, cleared by the tribunal.

Larry Bernstein:

He was totally clear. No fault of his own.

Darren Schwartz:

So, he quits. He's like, "Goose is dead." Talk to me, Goose. By the way, Goose is not talking to him then. He's dead. He's holding him in the water. He's dead. He's crying. He's dead.

And, he goes to see Viper, which is Tom Skerritt, and he said, "I knew your father. I flew with your father, what happened was not his fault. We were shot down behind enemy lines in Cambodia. The press doesn't want to know about that, so it was all swept under the rug."

And Tom Cruise says, "So he did it right?" And Viper says, "He did it right." Now it's a game changer. His father did it right. And now he says, "I'm going to show up to graduation."

He's called to go to the Gulf, because there's some stuff going on. We've got to bomb and kill some people. Now it's real life. You're not playing around. You're not shooting for points. You're shooting for life.

He is inspired because he now knows that his father did it right.

When Val Kilmer was diagnosed with throat cancer, he originally rejected treatment.

After several years, his children finally talked him into getting treatment, and it saved his life. Unfortunately, left him with damage that he really can't speak anymore.

The children, they didn't leave their wing man. They didn't leave their father. And on Father's Day, I think those things are important to recognize, because as fathers, we all know that we've got a very special job.

Larry Bernstein:

Thanks to Sean, Rob and Darren for joining us today. That ends today's session. I would like to make a plug for next week's show.

I am very excited that we will have Part 2 of the four-part history of WW2 with Yale historian Paul Kennedy. The topics will be the Battle of the Atlantic and the War in the Mediterranean. I want to take you back to 1942 when nobody knew who would win the war. The Nazis had conquered France in a couple of weeks of fighting, and the Americans had just been humiliated at Pearl Harbor. U-Boats were everywhere in the Atlantic and they sank a substantial share of America's Merchant Marine as we tried to prepare for the invasion of Normandy. Paul will explain how the Allies successfully beat back the U-Boat threat in the Atlantic.

Our second speaker will be Ilya Shapiro who recently resigned from Georgetown Law School after he was cancelled. Ilya did not support Biden's decision to limit his Supreme Court nominee to exclusively African American women.

You can find all of our previous episodes and transcripts on our website [Whathappensnextin6minutes.com](https://whathappensnextin6minutes.com). Replays are also available on Apple Podcast, Podbean and Spotify.

Thanks to our audience for your continued engagement with these important issues, good-bye.