UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY

WASHINGTON, D.C.

INTERVIEW OF RICHARD DONOGHUE

FRIDAY, AUGUST 6, 2021

The interview was convened, pursuant to notice, at 9:05 a.m., and was conducted via Zoom.
Ms. Zdeb. This is a transcribed interview of Richard Donoghue. Chair Durbin requested this interview in connection with the Judiciary Committee's investigation of efforts to involve the Justice Department in former President Trump's attempts to overturn the 2020 presidential election.

Would the witness please state his name for the record.

Mr. Donoghue. My name is Richard Peter Donoghue, D-o-n-o-g-h-u-e.

Ms. Zdeb. On behalf of Chair Durbin, I'd like to thank you, Mr. Donoghue, for appearing here today. We appreciate your willingness to appear voluntarily.

My name is Sara Zdeb. I'm the majority Chief Oversight Counsel for the Judiciary Committee. And I'll now ask everyone else on the Zoom to go around and please introduce themselves for the record, with the exception of Mr. Donoghue's counsel, who we will get to in just a minute. And maybe for the ease of this, we can start with my colleagues on the chair staff.

Mr. Charlet. I'm Joe Charlet, Counsel for the majority.

Ms. McClain Walton. Good morning. I'm Nicole McClain Walton, Counsel for the majority.
Mr. Flynn-Brown. Good morning, Mr. Donoghue.

My name is Josh Flynn-Brown. I'm Deputy Chief Investigative Counsel for Senator Grassley. We want to thank you for your time this morning and this afternoon. And I'll turn it over to DeLisa for her introduction.

Ms. Ragsdale. I'm DeLisa Ragsdale. I'm Chief Investigative Counsel for Senator Grassley.

Ms. Zdeb. Department counsel?

Mr. Weinsheimer. Brad Weinsheimer, Department of Justice.

Ms. Loeb. Emily Loeb, Department of Justice.

Ms. Antell. Kira Antell, Department of Justice.

Ms. Zdeb. Thank you.

The Federal Rules of Civil Procedure do not apply to the committee's investigative activities, including transcribed interviews. That said, we do follow some guidelines that I'll go over now.

Our questioning will proceed in rounds. The majority staff will ask questions for one hour, then the minority staff will have the opportunity to ask questions for an equal amount of time. We will go back and forth in this way until there are no more questions.

We typically take a short break at the end of each hour, but if you need to take a break at any other time,
please just let us know.

As I noted earlier, you're appearing voluntarily, and we very much appreciate that. I want to note that you have been authorized by the Department of Justice to provide "unrestricted testimony, irrespective of potential privilege" on topics within the scope of the committee's investigation.

As such, we anticipate that our questions will receive complete responses. As you can see, we have a stenographer taking down everything that we say to make a written record. And so we ask that you give verbal responses to each question.

Do you understand?

Mr. Donoghue. Yes.

Ms. Zdeb. We encourage witnesses who appear before the committee to consult freely with counsel if they choose. You're appearing here today with counsel. Counsel, could you please introduce yourselves for the record.

Mr. Andres. Sure. Good morning. My name is Greg Andres from Davis Polk. And together with me here in New York are my colleagues, Kate Swan and Charles Klug. And on the Zoom is Brook Jackling in Washington.

Thank you.

Ms. Zdeb. Mr. Donoghue, we want you to
answer our questions in a complete and truthful manner. So if you don't understand one of our questions, please just ask. You should understand that, although this interview is not under oath, by law, you are required to answer questions from Congress truthfully.

Do you understand that?

Mr. Donoghue. Yes, I do.

Ms. Zdeb. And specifically, witnesses who knowingly provide materially false statements during the course of a congressional investigation could be subject to criminal prosecution under 18 USC 1001. And this statute applies to your statements in this interview.

Do you understand that?

Mr. Donoghue. Yes, I do.

Ms. Zdeb. Is there any reason why you are unable to provide truthful answers to today's questions?

Mr. Donoghue. No.

Ms. Zdeb. Finally, we ask that you please not speak about what we discuss in this interview with anyone, outside of those of us who are on the Zoom, in order to preserve the integrity of our investigation.

Is there anything else that my colleagues from Senator Grassley's staff would like to add at this point?

Mr. Flynn-Brown. I have nothing to add at this point. Thank you.
Ms. Zdeb. In that case, this is the end of my preamble.

Mr. Donoghue, do you have any questions before we begin?

Mr. Donoghue. No. I'd just like to thank the Senate and Senate staff for your professionalism throughout, as well as the Davis Polk team that's helped me prepare for today. Thank you.

Ms. Zdeb. With that, it is 9:10 a.m., and we can begin our first round of questioning.

BY MS. ZDEB.

Q. Mr. Donoghue, what was your most recent role at the Department of Justice?

A. My last official position at DOJ was as the Principal Associate Deputy Attorney General. I served in that position from mid-July 2020 through the transition. My detail from the Eastern District of New York to D.C. ended at the end of January. So I did remain on DOJ's roll because I was a career employee. I officially retired from DOJ in early April of this year.

Q. Congratulations.

So working backward from your -- well, actually, strike that.

So at some point during that tenure during which you were Principal Associate Deputy Attorney General,
you were elevated to the position of Acting Deputy Attorney General; is that right?

A. Technically, I was not the Acting Deputy Attorney General because, under federal personnel law, if there is a Senate-confirmed individual who is still in the Department, you should not use the term "Acting Deputy Attorney General," or "Acting" in any capacity. And since the Deputy Attorney General confirmed by the Senate was still in the Department, I did not technically use that term to describe my position, nor did others, but I was playing that role.

I had the responsibilities and authorities of the Deputy Attorney General from December 23 of 2020 through the transition.

Q. And prior to -- prior to your appointment as Principal Associate Deputy Attorney General, you were -- remind me, you were the U.S. Attorney in the Eastern District starting when?

A. I started as U.S. Attorney in the Eastern District in January of 2018 and remained in that position until mid-July of 2020 when I went down to D.C. as the Principal Associate DAG.

Q. Thank you.

And can you give us just a brief overview of your professional experience prior to the time when you became
U.S. Attorney in the Eastern District?

A. Sure.

Briefly, I graduated law school in 1992. I was admitted to the bar in December of '92. In January of 1993, I went on active duty in the U.S. Army Judge Advocate General's Corps. I spent seven years on active duty. I served in a variety of places and capacities. Most importantly, I served in the 82nd Airborne Division in the XVIII Airborne Corps.

I was a prosecutor, defense counsel, military magistrate judge, contract litigator, and a few other things along the way. In January of 2000, I began serving as an Assistant United States Attorney in the Eastern District of New York. I remained in that office almost 12 years, leaving in November of 2011.

During my time in the EDNY, I was a line assistant. I was promoted to deputy chief of the section, chief of the section, deputy chief of the criminal division. And I was ultimately appointed chief of the criminal division by Loretta Lynch while she was the U.S. Attorney. And as I said, I served there until November of 2011.

I left at that point and went to work for a Fortune 500 software company as chief of litigation. And I remained in that role until I became the U.S. Attorney in 2018.
Q. Thank you.

Turning back to the more recent period during which you were Principal Associate Deputy Attorney General, and, in particular, during the period of time after the 2020 election through the conclusion of your tenure in that role, without getting into the details of any particular investigation, can you give us just a general overview of what your role would have been with respect to any investigations into allegations of election fraud?

A. The allegations of election fraud were handled primarily by the U.S. Attorney's Offices. So each U.S. Attorney obviously had authority over their jurisdiction and a responsibility to carry out investigations that they deemed appropriate.

I, sitting in the Office of Deputy Attorney General, to some extent, supervised these investigations, but it was more a coordination role; making sure that the U.S. Attorneys were aware of certain things, or making sure that they were not in conflict with one another because we had more than one office investigating the same thing, that sort of thing.

So I had frequent contact with the U.S. Attorneys. I was generally aware of the investigations they were doing; although, I was not deeply involved in individual investigations. I also made an effort to keep the Deputy
Attorney General, Jeff Rosen, up-to-date on what was going on, as well as AG Barr. And also, we had officials within the criminal division headquartered at Main Justice who were involved in some of these investigations.

So sometimes there were issues between the U.S. Attorney's Office and the criminal division that I became aware of or got involved in.

Q. Given the role that you just described, again, during this period of time postelection through the conclusion of your tenure in that role, is it fair to say that if the Criminal Division, a U.S. Attorney's Office, or the FBI had concluded that there was evidence of election fraud sufficient to have impacted the outcome of the 2020 election, you would have been made aware of it?

A. Yes, I would have known that.

Q. On December 1, 2020, then-Attorney General Barr publicly announced that the Justice Department had found no evidence of widespread election fraud on a scale that could have affected the outcome of the 2020 election. I think he later reaffirmed that finding a couple of weeks later on December 21.

Did you have any reason to doubt Attorney General Barr's conclusion that the Department had found no evidence of widespread election fraud sufficient to change the outcome of the election?
A. No, none at all.

Q. At this point, I'd like to ask you a couple of questions about a document that we have designated as Majority 1. And we can mark this as Exhibit 1.

(Exhibit 1, email, was marked.) BY MS. ZDEB.

Q. It is an email. The beginning Bates number at the bottom of the page is -680.

A. I have it.

Q. Terrific.

So this is an email that you sent to Assistant Attorney Generals, copying Mr. Rosen, on November 11, 2020, attaching a couple of policy documents. I imagine you're familiar with these policies?

A. Yes.

Q. And there's a -- the dual policies that the Department and the White House each maintain, and have historically maintained, that govern limitations on contacts between those two entities; is that right?

A. That's right.

Q. And at the time you circulated these, what was your general understanding of the limitations they imposed?

A. The memos were designed to funnel communications in a certain way, and I won’t go through all the details of it, obviously. But the goal of each memo was to minimize contact
between the White House and DOJ personnel, and to make sure
that any communications went through the proper channels so
that we can have appropriate insight and supervision over
those communications.

Q. So I think you've just described the component of
the policy that limits and prescribes who in the White House
and the Department can communicate with one another.

But as I read it, and tell me if you agree,
it seems like the policy also places limits not just on who
within the Department can communicate with the White House and
vice versa, but also when those sorts of communications can
occur.

So, for instance, at the bottom of the first
page of the document, Bates-numbered -681, there is some
language -- there's some language indicating that only when it
is important for the performance of the President's duties,
and important from a law enforcement perspective, is it
acceptable for there to be communications about pending or
contemplated investigations or prosecutions.

Is that consistent with your understanding?

A. Yes, it is.

Q. Why did you circulate these policies at the time,
which was about a week after the 2020 election?

A. Right. These are long-standing policies, but I
circulated them on that particular day pursuant to a
conversation I had with Will Levi, L-e-v-i. Will was AG Barr's chief of staff at that point.

And I don't remember all the specifics, obviously, but I recall Will calling me -- or we were on the phone, for whatever reason, and he asked me to circulate these policies back around to the AG -- AAGs, sorry -- Assistant Attorneys General, as sort of just a precautionary measure. I don't, again, remember exactly why he said to do this, but he said something like, Let's just make sure nobody trips over a line or anything to that effect. Let's make sure people are aware of the policies.

And so I sent it out pursuant to that discussion.

Q. Did you have some understanding of why that precaution was needed at that time?

A. Not really. I don't remember him giving a specific reason for it, but obviously we were in the post-election period. There were challenges all over with regard to the election, and it was clearly going to be controversial for some period of time. It was a tumultuous period.

And I just generally remember Will saying something like, Let's just remind our people of where the lines are.

I think he had sent this out to other people in the AG's staff, and he thought it might be a good idea for
me to send it to the AAGs. I agreed, and I sent it out.

Q. Did you take notes of that call, incidentally? I know we've seen other notes of yours that we'll get to a bit later, but I'm curious if you have any from that conversation with Mr. Levi.

A. No, there are no notes from that. I spoke to him often. And it was a very routine thing. I wouldn't have taken notes on that.

Q. Fair enough.

Just to be clear, because it sounds like you're describing this largely as a prophylactic measure and, perhaps, in anticipation of future communications. But at the time you sent this out — again, November 11, shortly after the election — were you aware at that point of any outreach from the White House to the Departments that may have implicated those policies?

A. No.

Ms. Zdeb. So I'd like to jump ahead about a month or so, and ask you about a document that we have designated as Majority 2, if you have that. And we can mark this as Exhibit 2.

(Exhibit 2, email, was marked.) BY MS. ZDEB.

Q. So this is an email from Theresa Watson in the Office of the Attorney General. It has some documents
attached to it related to allegations of election fraud in
Antrim County, Michigan. You're not on the email, but she
sends these two documents to the two U.S. Attorneys in
Michigan, in the Eastern and the
Western District, and she says, "See attachments per
Rich Donoghue."

Do you recall how the -- how the attachments
to this email, that it seems like you requested to be sent to
the two U.S. Attorneys, how those attachments first came to
your attention?

A. Generally, yes. It's been, obviously, quite a
number of months at this point. But I do remember generally
how those documents were being discussed that day, and why
they went out to those U.S. Attorneys.

Q So can you describe that context that you're recalling?

A. Sure.

So the Allied Security Operations Group
report that is attached there is dated December 13. These
communications took place on December 14. I won't get into
all the details of that report, but amongst other things, it
claimed to be a forensic review of Dominion Voting machines
and Dominion Voting software used in Antrim, A-n-t-r-i-m,
County in
Michigan. And the report claimed that this forensic review
indicated that there was a 68 percent error rate in the
machines used in Antrim County. That made a lot of news that day.

It was -- I think this was part of a civil filing. The forensic review, as I recall correctly, arose from some state litigation. There was some lawsuit filed, I believe, by a private citizen. Pursuant to that action, the state court had authorized its forensic review of the machines and software in the county, and that's what this report supposedly arose from.

December 14th was the day that Attorney General Barr announced his resignation and submitted his resignation letter to the President. Later that afternoon, I was up at AG Barr's office, and he said, "Have you heard about or seen this report from Michigan?"

It was getting a lot of coverage in the media. And, obviously, if there really was a 68 percent error rate in Dominion Voting machines and systems, we had a huge problem on our hands. Not that we believed that, but obviously that's what the report was claiming.

So I don't know if I had seen the report at that point or just seen headlines or whatever it was. But we had a brief discussion, and he said something to the effect of, We have to get on top of this; make sure the U.S. Attorneys are aware of this report, since they would have primary authority and jurisdiction and responsibility for
addressing these things, and let's find out what this is all about.

I think at that point, he had said that he wanted DHS, Department of Homeland Security, to take a look at the report and to let him know what their views were.

And so various things were going on with regard to this report. And as I was leaving AG Barr's office, I think he said Theresa -- who is Theresa Watson, his secretary -- I think he said Theresa has the report. She has electronic copies.

And so as I passed her desk, I said, "Theresa, do you have these reports about this Michigan thing?"

She said, "Yeah, I've got them right here."

And I said, "Just do me a favor. Send them out to the U.S. Attorneys in Michigan."

Which she obviously did pursuant -- as you see in this email.

I think I also called the U.S. Attorneys there. My recollection on this is not great, but I believe I called Matt Schneider first. And I just said, hey, you know, heads up. This report is out there.

And he was already aware of it. I don't think he had seen the report. I don't recall exactly, but he was aware of it.

And I said, all right, just, you know, get on
top of this. We're going to find out whether there's anything to this.

And then I believe Matt then told me that Antrim County is actually Andrew Birge's district. I called Andrew and said, you know, basically the same thing. Heads up. This thing's out there. We're going to try to take a look at this and figure out if there's anything to this report.

And subsequently what happened was DHS did look at the report. There were some communications back and forth. The AG asked them to provide what he termed a "white paper" to provide their views on the report. Ultimately, a couple days later they had provided, I think, a one-page summary. It was just sort of bullet points.

And they also came over with their experts to discuss the report with AG Barr, which we did. We discussed it with DHS as well as the FBI.

Director Wray was there. I believe the deputy director was there and one or two other FBI personnel.

And the reason, just so you understand that we were turning to DHS, is because DHS has the expertise with regard to election hardware and software. Their election support efforts are designed to help local, state and other entities conduct elections. And so they had the expertise as to these machines.

They came over. They briefed AG Barr. They
provided their report. And they were generally very critical of this Allied Security Operations Group report. They explained why they felt it was defective.

Ultimately, there was a hand recount ordered in Antrim County that was pursuant to the state litigation that was going on. And from what I recollect, the hand recount revealed that there was only a one-ballot difference between what the Dominion systems had counted and what the hand recount showed.

There were over 15,000 votes cast in Antrim County. And so I just kind of myself did the error rate calculation, and I believe it was .0063.

So the difference was the Allied report claiming a 68 percent error rate and the hand recount showing a .0063 error rate.

Q. Thank you.

When the report first came in, did you have any familiarity with Allied Security Operations Group?

A. No. I had never heard of them.

Q. And if you flip to the very last page of the so-called forensic audit, you'll see a signature from an individual named Russell Ramsland, who presumably authored the report.

Did you have any familiarity with Mr. Ramsland at the time?
A. No, none at all.

Q. I'd like to go back to something that you said a minute or two ago, because it seems to me that when you were describing this report, you said it “claimed” to be a forensic review. You noted specifically the claimed 68 percent error rate and said "not that we necessarily believed it," or something to that effect. But you also indicated that Attorney General Barr said, "We need to get on top of this."

Can you give me a sense of why he felt it was important to get on top of this, if you weren't necessarily certain that it was at all credible?

A. So I think you have to understand the AG -- by which I mean AG Barr's -- general approach to this, which he had been very consistent about for months.

Well before the election, I heard him say on many occasions that we need to make sure the American people can trust the outcome of this election. He was very, very concerned that the election, because it was being conducted in the midst of a pandemic, and there were new procedures, and there were questions to be raised about the security of the election, he was very concerned that we would potentially end up in the situation where a large number of the American people would not trust the outcome of the election. And, as a result, we did various things.
One of which was he issued a memo shortly after the election which authorized U.S. Attorney's Offices, FBI and others to conduct real-time investigations, rather than delay those investigations, which would have been the more traditional department approach. And I heard him speak about this pretty passionately a number of times, like, We need to do our job. We need to be able to say to the American people that they can trust this election. And if there's a problem, we need to know what it is and what the scope of it is.

So this was all in keeping with his approach. So when you have purportedly a forensic audit of a single county, the implications of that go far beyond the county. If, in fact, there really was a 68 percent error rate in one county in Michigan, because Dominion Voting machines and Dominion Voting software was widely used across the United States, that would mean that we had a huge problem across the country and with the Presidential election.

So he wanted to get on this quickly because, if that was true, then we needed to understand what the implications were. And if it was not true, we need to be in a position to say that, if appropriate.

Q. So I'm just trying to understand his position a little bit more.
Was it your sense that his position was that in order to provide some assurance of the accuracy of the election to the American people that it was the role of the Department to look into all allegations of election fraud irrespective of how farfetched they were?

A. I think each of these allegations had to be sort of taken on its own facts, right. And that's why we analyzed them one at a time. And so, obviously, hearing a 68 percent error rate being reported, that seemed unlikely to us. But if it was true, we had a huge problem.

And so I think that his concern at that point was understanding, one, how they came up with this; and, two, what DHS said about the reliability of this conclusion. So he was very concerned about claims like this that people could use to undermine the country's confidence in the election.

Q. And to your knowledge, did he or did you personally, as part of this thought process, consider whether the act of the Department taking public actions to look into allegations like these might have the inadvertent effect of legitimizing them for the very -the very people that it sounds like he was trying to provide assurances?

A. Well, the appearance was always a concern, and it was something that we took into consideration.

But, for instance, with regard to this, right, we didn't do anything overtly. It's not as if we
issued grand jury subpoenas or began interviewing witnesses or anything like that. At the time, we made a request to DHS. DHS did their evaluations. They provided the paper. They came over and briefed the AG, but no one outside the government knew that.

And furthermore, we relied on the hand recount, which we had nothing to do with. That was ordered by the State court. We were not involved in that litigation. We made no public statements about it, to my knowledge, anyway.

And so at the end of the day, everything that we did with regard to this Antrim report, I think, was nonpublic, but it did inform the AG's comments when he later said that we've looked at a lot of these allegations, including the most significant ones, and this definitely was a significant allegation.

And we at the Department have concluded that there's no fraud on the scale that would call into question the outcome of the election. So all these things mattered.

We were very sensitive to the appearances, but you had to balance the appearance against the ability of someone like the Attorney General to say that we've looked at these things, and we either have or have not found fraud that calls into question the election.

But, thankfully, he was in the position, because of the decisions he made earlier on, to be able to say...
Q. Turning back to the two attachments that you forwarded to the two U.S. Attorneys, do you recall discussing with Mr. Rosen how he received those emails earlier that day?

And to be more specific, were you aware that they had been sent to Mr. Rosen by Molly Michael, a White House special assistant, who told him that the documents were "from POTUS"?

A. I believe I found it out later, but you should understand that there's no way that I knew that before Theresa Watson sent them out.

Just so the physical layout is clear, the Attorney General's office is on the fifth floor. DAG Rosen's office is on the fourth floor. I think, if I remember correctly, the line of these emails, DAG Rosen received that email from the President's secretary about two minutes before Theresa sent them out. So that's coincidental, and it's a result of the fact that this report was all over the place that day. It was all over the Internet. It was being sent to various places.

So although it's the same report, the email that went to DAG Rosen was not the source of this email that went from AG Barr's secretary out to the U.S. Attorneys. They were overlapping, but there's no way that we got it in to DAG Rosen's email box and, in less than two minutes, printed it
out, ran up to the fifth floor, ran down the hallway, had a
secretary scan it, and then sent it out to the U.S. Attorneys.
It didn't happen that way.

Q. And just to close the loop on the process
that you described in which DHS was pulled in, and I think you
described a meeting with DHS, the FBI director, the deputy
director and the Department, is it fair to say that the
conclusion of the DHS report, I think, as you said was highly
critical, and that—well, you tell me.

How was the DHS report received by that group
of individuals who assembled to hear the conclusions of DHS's
work?

A. Just as a general matter, DHS reported out that the
Allied report was unreliable; that it was riddled with errors
and that, amongst other things, they were looking at the wrong
version of the software.

So the software that Antrim County used was a
different version of the Dominion software than is described
in the report. I think that the one-page summary gives a lot
more detail, and I'll just defer to that. But I do recall
being up in the conference room on the sixth floor with the
Attorney General and the other assembled federal partners, and
sitting through that briefing and having DHS explain to the
AG, to Director Wray and to the others in the room why this
just did not support.
And I think it was within a day or two, probably, that the hand recount was completed. And then, you know, obviously, a strong level of confidence that the Allied report was not accurate.

Q. So jumping ahead, we've been talking about—we've been talking about, primarily, December 14, which is when that report was first in the news and was the day when it was sent out on your behalf to the two Michigan U.S. Attorneys.

Jumping ahead a day to December 15, do you recall attending a meeting or meetings at the White House that day, which, again, was the day after Attorney General Barr announced that he would be resigning?

A. Yes, I do.

Q. And was it one meeting or two meetings? It's been a little bit unclear to us from the documents.

A. There was one meeting in the Oval Office. I don't recall right now as I sit here whether we had a short meeting with the White House counsel or anyone else before we went to the Oval Office, but I do remember the Oval Office meeting.

Q. So with respect to the Oval Office meeting, it sounds like you attended, obviously.

Who else attended that meeting?

A. From what I recall, in the Oval Office, there was obviously the President, Chief of Staff, White House counsel Pat Cipollone, I believe White House Deputy counsel Pat...
Philbin, myself, DAG Rosen, and I believe there was an individual from DHS named Chad Mizelle.

After the meeting started, the Chief of Staff excused himself and said he had to go work on something else. And somewhere around that time, Ken Cuccinelli, who was the number two at DHS, the acting number two at DHS, came into the meeting.

Q. Who called the meeting? Was it a meeting that the White House called? Was it a meeting that the Department called?

A. The department did not call it. We were called over to the White House.

Q. Did you have a sense at the time of what the reason for your being called over to the White House was?

A. I don't remember specifically how it was communicated to me that we had to go over to the White House, but I do think we understood at the time it had to do with election matters.

Q. And given the proximity in time to the Antrim County allegations that we were just discussing, I'm curious whether those were a topic of discussion in this meeting?

A. Yes, they were. Yes.

Q. And could you give us a sense of how that discussion unfolded? Who raised the allegations? Was it the President?

Just sort of elaborate a bit on what that
A. Right. And with the caveat, obviously, I'm not a human tape recorder, so I can't give you exact quotes in many of these instances. But, generally, the President raised the Antrim County matter. And he said something to the effect of, you know, "Have you guys seen this report? This is unbelievable. This is a disaster. They've got a 68 percent error rate. They used these machines all over the country," and so on.

And so the conversation basically progressed by us saying, Well, there is a hand count underway that should be done shortly. And I recall Ken Cuccinelli saying, "The hand count will be the gold standard. That will tell us whether that's true or not." And we should know in a day or two, or maybe three, at most, whether the hand recount supports or undermines the Allied report.

And so there was nothing to be decided or to be done. It was just a matter of the President talking about the possible implications of this, if, in fact, the report was correct. And we all agreed that if there's a 68 percent error rate, then, yes, there's a huge problem for the country. But let's not get ahead of ourselves. The hand recount is underway and let's let that progress. And we should know in a day or two whether there's really anything to this.

He seemed satisfied with that response.
Q. Did he give you the impression at the time that this was something he would like the Department to look into?

A. The way he generally framed and phrased these things, not just in that meeting but in subsequent meetings, was "I want to make sure you guys were aware of this."

And so we said -- well, you know, I think, DAG Rosen said, "Mr. President, we're aware. We're aware of the report. We don't know what to make of it yet."

I don't recall if he told him that AG Barr had asked DHS to look at it or not. I just don't remember. But the way the President presented these things throughout was, "I want to make sure you guys know about this, that you're aware of it."

We would say, essentially, "Yes, sir, we're aware of it," and leave it at that.

And like I said, because the hand recount was already underway on the Antrim County matter, it was very easy to just say, you know, "Let's wait on the hand recount and see what that shows."

Q. Did any of the other White House participants in the meeting offer views on the Antrim County issue at the time? For instance, did Mark Meadows chime in, if he was still there?

A. Not really. I mean, everyone is aware of the report, obviously. I don't know that anyone in the room had
read it fully at that point, but everyone was aware, and
everyone was aware that if this was right, it had serious
implications for the election nationwide. But, again, the
matter was very much up in the air.

I think everyone was just relieved that there
was a hand recount underway so that we can say, well, let's
just wait for a day or two and see how this thing really
shapes up.

Q. Did the President raise the prospect of appointing
special counsels to investigate Dominion
Voting systems?

A. I don't specifically recall if he did in that
meeting. He may have. He raised it in at least one
subsequent meeting. And I don't know that it was specifically
to Dominion, but he raised the possibility of a special
counsel being appointed to look at election fraud overall.

Q. And what was the subsequent meeting where you do
recall him raising that?

A. I believe it was raised on December 31st, in the
meeting. And the reason I recollect that is because the
President said something to the effect of, "I think Ken
Cuccinelli would be a great special counsel."

And Ken was not in the room when the President said
that. I remember sort of taking note of the fact that Ken
wasn't there. I think that was in a subsequent meeting.
Q. Putting aside the question of whether he specifically invoked the idea of special counsels in the December 15th meeting we've been talking about, did he make other complaints about Dominion, generally speaking? Did he ask the Department to look into issues involving Dominion?

A. I'm sure Dominion came up, obviously, in connection with Antrim discussion, but I don't specifically recall him either on the 15th or the 31st talking at any length about Dominion. It may have been there. I just can't recall specifically, as I sit here now.

Q. Did the President raise the prospect of the Department filing legal briefs in support of his campaigns, lawsuits or lawsuits filed by his allies, with the aim of challenging and overturning the election results?

A. He did raise the prospect of the Department filing, not so much on his behalf or the campaign's behalf -- but, again, as he framed and phrased this throughout, it was that the election has been stolen from the American people, and doesn't the Department represent the American people and shouldn't you guys be doing something.

So I do recall -- these conversations overlap a little bit, so you'll forgive me. But between the 15th and the 31st, the President saying things like, "All these cases are getting dismissed because the judges say we no have standing."
And the President clearly believed that the department would have standing. And I can understand, as a layman, why he would.

So he believed, well, if these elections were not conducted properly in certain states, that means that the American people have been harmed, and, therefore, the Department should be filing things because the Department would have standing. It represents the American people. And then the judges wouldn't dismiss these cases on standing grounds, and you can actually get to the merits.

We explained to the President a number of times why that doesn't work and why the Department did not have standing. There was a particular brief that was forwarded, I think, to Jeff Rosen, probably after AG Barr left. And we asked both the Office of the Solicitor General and the Office of Legal Counsel to take a look at it and give us their views as to whether the Department would have standing to file such a brief, because that was the first issue. That didn't mean we would file the brief; it just meant there was a question about standing.

And both OSG and OLC came back and opined that the Department would not have standing to file such a brief.

Q. Thanks for the explanation. And we'll get back to that, that potential Supreme Court brief in a little bit.
I take your point that the President may have viewed or may have conveyed that he viewed the notion of a legal filing by the Department being more on behalf of the American people as opposed to a filing on behalf of his campaign or filing that would benefit him personally.

But you understood, obviously, that such a filing would, in fact, have redounded to the benefit of him in his capacity as a political candidate; right?

A. Yeah. I think as a practical matter, it would have benefited his campaign, of course. But throughout, the President was very careful in how he worded these things. And he would say, "Well, you guys represent the American people, and the American people are the victim here. They are the ones being harmed," that kind of thing.

So I just wanted to make it clear that his wording was more along those lines. He wasn't saying, "I want you to file this on my behalf or on behalf of my campaign."

But, sure, we all understood the implications.

Q. At some point a couple of days after this meeting on December 21, which was, I think, two days before Attorney General Barr formally stepped down as Attorney General, he reiterated that the public statement he had made previously to the effect of the Department has found no evidence of widespread election fraud sufficient to alter the outcome of the election.
And I'm curious whether you have any sense as to whether that later statement on December 21st was related to pressure that he was feeling, that you or Mr. Rosen may have been feeling, from the President to look into some of the issues we just discussed.

A. I don't know his motivations for making it that day. As you said, he was leaving two days later. I just think he wanted to make it very clear before he left that that was still the situation, as far as the Department was concerned.

Q. So, in other words, in the intervening period of time between when he first made the statement and December 21st, none of the allegations that had been brought to the Department, either by the President or that had appeared in the public domain, had changed the conclusion that there was no evidence of widespread election fraud?

A. That's right.

Q. I want to ask you real quickly about a document just to make sure that I understand what it is and kind of where it fits into the chronology. So if you could pull up the document that is designated Majority 4.

(Exhibit 3, email, was marked.) BY MS. ZDEB.

Q. And this is an email exchange between you and Ken Cuccinelli on December 18th. On December 18th, he
forwards you a one-pager that appears to summarize the Antrim County allegations we were just discussing. And then later on in the email chain -- and this is the document numbered -689 at the bottom -- you respond to Cuccinelli, and you say that you understand the limited scope of the document he has attached and will be sure the AG knows that.

You then, I think, go on on the final page of the exhibit to ask Theresa Watson to forward the attachment to the AG.

Just to put this in context, is the one-page document attached to Ken Cuccinelli's email to you, which you then went on to ask be forwarded to the Attorney General, is that the DHS kind of summary analysis that you were talking about earlier?

A. Yes, it is.

Q. And by "AG" in this series of emails, at the time, you were referring to Attorney General Barr and not Mr. Rosen; is that right?

A. Correct.

Q. So I'd like to ask you about another one of your conversations with the President, and if you could pull up the document labeled Majority 5.

(Exhibit 4, notes, was marked.) BY

MS. ZDEB.
Q. And although you've said earlier something to the effect of, I'm not a stenographer, this is one where there are some pretty detailed notes.

So, for starters, I should ask are these notes that you took?

A. Yes, they are.

Q. And at the top, there's a notation saying, "12/27/20, DAG called, on with POTUS and wants to conference me in."

So it sounds like the DAG, who was Mr. Rosen at the time, was on the line with the President and wanted to patch you in. Is that an accurate description of what happened?

A. Yes, that's right. And because of the date, you should just be aware that DAG Rosen, who I referred to typically as "the DAG," was the Acting Attorney General because AG Barr had left on the 23rd.

Ms. Zdeb. Okay. And by the way, just so I am not completely confusing exhibit numbers, I think Majority 5 can be designated --

Actually, Barb, what exhibit number are we on right now? And if you don't know, we can come back and clarify later.

(Discussion off the record.)

BY MS. ZDEB.
Q. So turning back to these notes, which are—which have now been marked as Exhibit 4, do you recall roughly what time of day this call was?

A. It was sometime in the afternoon.

Q. And did you have a sense as to why Mr. Rosen wanted to patch you in?

A. Yes. He called me that afternoon. It was on the government cell phone, and I answered it. And he said something to the effect of, "Hey, I'm on the phone with the President. We've been on the phone for about 30 minutes. He's talking a lot about some of these election allegations. It would be very helpful if you were on the phone. Do you mind if I patch you in?" And I said, "Of course."

And he then three-wayed me into the call.

Q. Did you have a sense of why he thought it would be helpful?

A. Generally, I knew more about the allegations and the Department's work on the allegations than Acting Attorney General Rosen did, because I was closer to U.S. Attorneys, I was closer to the criminal division, I was very close to the FBI deputy director. So I knew what we were looking at and not looking at, for the most part.

And I knew that with regard to any major allegations, I had a better sense of, you know, whether we had dispelled them or where we were in the process, that sort of
thing. Not that we were necessarily going to report any or all of that to the President, but he just felt that I had a better handle on it, so I was useful to have sort of at his side in a conversation like this.

Q. Was anyone else on the line, to your knowledge?
A. Not that I know of.

Q. You said he had been on the line with the President for some period of time before you got patched in. Did you say three minutes or 30, 3-0, minutes?
A. He told me 3-0. So it wasn't like he immediately rolled me in. It seemed like he was trying to have the conversation with the President. And for whatever reason, at that point, thought it would be better to have me on the line.

Q. Once you joined, how long did the call last?
A. It was a long call. I'd say over an hour after I joined.

Q. Was this the first call of this nature, to your knowledge, that the President had placed to Mr. Rosen?
A. I don't recall specifically. He would be a better position to say that.

We had the meeting on the 15th, obviously. But between the 15th and the 27th, I don't remember without looking at, you know, maybe emails or things that were contemporaneous.
Q. But certainly it sounds like this is the first one that you would have been patched in to, whether there were other intervening calls or meetings or not.

A. Yes.

Q. So in a second, I want to walk through aspects of the notes. But before I do that, I'm wondering if you can just give us kind of a thumbnail sketch, if you will, of the overall tenor of the call.

A. The President was going on at length about some of these allegations. It was similar to some of things he said on the 15th about "This election has been stolen out from under the American people. Are you guys aware of this or that allegation? Are you taking it seriously?" That sort of thing.

And the President did the vast majority of the talking. And we sort of were taking the approach of saying, you know, "Yes, we're aware of it," or if we're not, admitting that "Well, we haven't heard that one before."

And, basically, DAG Rosen and I had conversations in advance of this, and even in advance of the 15th of, saying our approach is going to be to say to the President we're doing our job. "Yes, sir, we understand. We're doing our job." And try to leave it at that as much as possible.

So the President was well-versed in these
various allegations. It certainly seemed that people were providing these allegations to him and he was then relaying them to us. There was at least one allegation in here that I had not heard of before, and, frankly, that was the reason for me taking notes, in case he came up with something that we had not heard of before. We ultimately did check that out, but it did not support any conclusion that there was a problem with the election.

Q. On the very first page of your notes, there's a notation toward the top about Scott Perry, and then in parenthesis, I think it says "PA." And then it says, "Senator from PA - Doug Mastriano."

What was the President's point in raising these two individuals, if you recall?

A. I don't remember exactly, but I generally remember that the President said something to the effect of "there are officials all over the country who are raising issues about the elections."

This one obviously was Pennsylvania.

And he said, for instance, you know, you've got Scott Perry in Pennsylvania and the State Senator Mastriano. I think the State had had some hearings, or something to that effect, both Pennsylvania and I think Georgia did something similar.

So the President was saying that these local
officials, or I guess in Scott Perry's case, a federal
official, had all kinds of information about all kinds of
fraud and problems and things that had impacted the election.

Q. There's also a reference to Jim Jordan on this first
page. Did the President raise him in a similar vein? In
other words, as someone who said or was advancing claims of
election fraud?

A. He made a passing reference to Jim Jordan.

You can see I wrote there, "Fighter."

And the President said something to the
effect of, you know, "People were trying to address this
problem, Scott Perry and Mastriano. Jim Jordan, he's a big
fighter, but they can't do it in their own capacities," or
something to that effect. You know, they all had this limited
authority and limited responsibility.

So he did mention him, but it was very much
in passing.

Q. How did you interpret the rejoinder to that?

In other words, if Congressman Scott Perry or
Congressman Jim Jordan couldn't do as much as the President
wanted in their own limited capacity, was he suggesting that
the Department had a greater capacity?

A. He didn't say that specifically, but, you know, he
would say again, similar to what he said on the 15th,

essentially, "My God, are you guys aware of this? Have you
seen this? Have you seen these reports? Did you hear about this hearing in Pennsylvania?"

And then he would go through various allegations, like you can see I have 205,000 votes there. He said that, you know, according to what he's being told from Pennsylvania, there were 205,000 more votes certified than were actually cast. That, in fact, was an allegation I had not heard before. And, frankly, it's why I started taking notes because I realized the President was going to raise some things that maybe I had not heard before.

And so then he went through the 600,000 votes added. And you can see, you know, throughout the notes, he raises various things.

So, again, sort of in keeping with his tone of "are you guys aware of this," that's how he was discussing it in this call. But he was -- he was concerned, certainly. And starting to get -Q. But -- I'm sorry. Finish your thought.

A. No. The President was pretty, you know, adamant about there being a major problem, in his view, or a series of problems with the election.

Q. So it seems like, at some point, he then did go on, at least according to your notes, to specifically invoke and perhaps even complain about the Department and the FBI. You have a notation here saying, "People are angry – blaming DOJ
for inaction."

Am I reading that correctly?

A. No. That's right. He did say that.

Q. And then later on down the page of your notes, there's a notation about U.S. Attorney's Offices and FBI. And then on the third page of your notes, which is Bates numbered -737 at the bottom, you have a notation here saying, "DOJ failing to respond to legitimate complaints/reports of crimes."

Is that -- am I -- have I deciphered your notes correctly there?

A. Yes, he does say that.

Q. So I hear what you're saying in terms of the way it sounds like the President would typically present the various allegations of election fraud. But as you're sitting there listening to this, and you hear the complaints about the allegations, you then hear him say, "Jim Jordan and Scott Perry are great, but they are limited in their capacity in terms of what they can do." And he then goes on to say, "DOJ is failing to respond to legitimate complaints."

So when you put all of those things together, I'm curious how you interpreted it, right?

Irrespective of the specific words the President may have used, how did you interpret that as a commentary on what the Department should or should not be doing, in his view?
A. He was certainly complaining about what he thought to be the Department's lack of action. His displeasure was clear. He felt that we should be doing things that, in his mind, at least, we weren't doing.

Q. I'm getting close to the end of my hour. So let me just ask one or two more quick questions in the vein of deciphering some of your handwriting before we take a quick break.

There's a notation again on the third page of your notes about -- it seems to be about Georgia. And it says -- I think it says, "Tape" something "shows fraud."

Can you elaborate on what that -- what that statement or allegation was?

A. Sure.

This relates to Georgia. He was going through the different states and he was sort of rattling off these various theories and allegations. With regard to Georgia, he said, "the tape," meaning the videotape at the -- I believe it's the State Farm Arena -- "shows fraud."

Here it says "Ruby Freeman." And the word next to that is "Huckster." Then he says, "Closed the facility and then came back with hidden ballots under the table." I have an ellipsis there to show that he kept talking about that particular claim, and I heard him make that claim
on numerous occasions.

He said "The networks," meaning the television networks, "magnified the tape and saw them running them through repeatedly," which was -- the President seemed to be of the view that the videotape in the State Farm Arena showed that the ballot workers were taking the same ballots and running them through the machine repeatedly, I suppose, to rack up votes for one candidate versus the other.

Ms. Zdeb. I've reached the end of my hour, so why don't we go off the record and take a quick break. And then we can come back and my colleagues on Senator Grassley's staff will have their turn.

(Discussion off the record.) Ms. Zdeb. It is 10:24, and we can go back on the record. And, with that, I will turn it over to my colleagues on Senator Grassley's staff.

BY MR. FLYNN-BROWN.

Q Thank you, Mr. Donoghue. Thank you for your time today.

Can you hear me okay, first of all?

A. I can.

Q. Great.

I'd just like to introduce Minority 7 as Exhibit 5, I believe. This is Bates-stamped -744 to -750.
Q. You can pull that up and let me know.
A. I have it.

Q. So with reference to the December 28, 2020, email on Bates -745 from Jeffrey Clark to you and Jeffrey Rosen, it says in part that the draft Clark letter would have been sent to the "Governor, Speaker and president pro temp of each relevant state to indicate that in light of time urgency and sworn evidence of election irregularities presented to courts and to legislative committees, the legislatures thereof should each assemble and make a decision about Elector appointment in light of their deliberations."

And then let's move back to Bates -744, the first page in this exhibit. And I'm going to reference to your email dated December 28, 2020, in response to Clark's email that I just referenced and where you rejected the letter. And with the following handwritten at the top right corner, if you see that, it says, "This letter was opposed by A/AG + OLC. Discussed with POTUS on January 3, 2021, and he rejected AAG Clark's idea to send it."

Sir, are these your handwritten notes at the top right corner?

A. No, I have no idea who wrote that.
Q. Is it accurate to say that A/AG refers to Acting Attorney General?
A. If I didn't write it, I don't know, but I would assume that's correct.
Q. And would you assume that OLC refers to the Office of Legal Counsel?
A. Yes, I would assume that.
Q. Were you in this referenced January 3, 2021, meeting?
A. Yes.
Q. So is it accurate to say that along with President Trump, the Acting Attorney General and the Office of Legal Counsel rejected sending the draft Clark letter?
A. Yes, that's right.
Q. And is it correct to say that you also opposed sending the draft Clark letter, based on your email here?
A. That's correct.
Q. Now, with respect to the January 3 meeting, based on your recollection, who was in that meeting?
A. I entered the meeting after it was already underway. But when I entered, in the Oval Office were the President; White House Counsel Pat Cipollone; Deputy White House Counsel Pat Philbin; the Acting Attorney General Jeff Rosen; Jeffrey Clark, who was the Acting Assistant Attorney General in charge of the
Civil Division; Steve Engel, who was the Assistant Attorney General in charge of the Office of Legal Counsel; a White House lawyer named Eric Herschmann; and myself.

Q. Thank you.

So is it accurate that -- is it accurate to say then that both you and Rosen provided advice and recommendations relating to this draft Clark letter in that meeting, and that you provided advice and recommendations to the President?

A. Yes, we did.

Q. And President Trump -- is it accurate to say that President Trump accepted your advice and recommendations as well as those of the Office of Legal Counsel's?

A. At the end of the meeting, yes, he did.

Q. Now, Trump isn't a lawyer; correct?

A. Right.

Q. So he listened to the advice of the lawyers in the room; is that right?

A. Yes. Yes, he got conflicting advice, and he made a decision.

Q. And where did that conflict exist?

A. Basically, the only one -- the only one advocating for this letter or for a change in department leadership was Jeff Clark, and everyone else in the room was adamantly opposed. The President heard out both sides for several hours...
Q. And he made a decision on -- and correct me if I misunderstood you. He made a decision on two fronts, then; on one front, it had to do with the draft Clark letter, and on the second front, it had to do with replacing Rosen.

Did I hear you right?

A. Correct. That meeting was largely about the leadership change or the potential for leadership change. And at that point, it was very difficult to separate that decision and the leadership change from whether this letter would be sent, because Jeff Clark was pretty clear that he wanted to send this letter and he intended to send the letter, and he would send the letter if he became the Acting Attorney General. So they sort of went hand in hand.

Q. I see. Okay. So then the President, President Trump, rejected not just the draft Clark letter, but he rejected firing Jeff Rosen and replacing him with Jeff Clark?

A. Yes, that's right.

Q. So with respect to that advice that you and Rosen rendered and the President's ultimate decision related to that advice, did he ever instruct you or Rosen to engage in illegal activity?

A. I'll leave the legal conclusions to others. Since I'm a fact witness, I'm happy to relate to the extent I recall what was said and done, but I don't think it's appropriate for
me at this point to make legal conclusions about whether the
President's activities were in violation of any laws.

Q. Well, that wasn't my question. So let me restate it
to make sure I articulated it properly.

So I said, with respect to the advice that
you and Rosen rendered at that January 3rd meeting and the
President's ultimate decision related to that advice that you
rendered, did he ever instruct you or Rosen to engage in
illegal activity based on that advice?

A. Again, with the caveat that others can decide
whether or not the instructions, if any, were legal or
illegal, I did not perceive it to be that, at the time,
certainly.

Q. So the ultimate decisions that the President made
here is, one, he's rejecting sending the Clark letter, which
was your advice; and he's rejecting firing Rosen, which was
also your advice.

A. Right.

Q. So I don't see, frankly, anything illegal about
those two decisions. And those were based on the
recommendations that were provided to him by the Department
lawyers in the room and, I guess, other folks in the room.

So is that a correct accounting of
January 3rd?

A. That is a correct summary of the President's
ultimate decisions, yes.

Q. I think in your testimony earlier with Sara you mentioned a December 15th and a December 31st, 3-1 or 2-1, meeting with the President?

A. 3-1. It was New Years Eve.

Q. Okay. So we have a January 3rd, 2021, and a December 15th, 2020, and a December 31st, 2020, meeting with the President.

Did you meet with the President in person at any other times relating to election fraud matters?

A. No, those were the three times that we met at the Oval Office in relation to election fraud.

Q. Other than this December 27th phone call that Rosen looped you in on, were there any other phone calls that you had with the President?

A. I've had a number of phone calls with the President over the last few years --

Q. Well, I should say relating to election fraud. I apologize for interrupting, but I should have been more precise here.

But with respect to, you know, the election fraud-related issues.

A. Right. He called me on a morning of December 28th, which was essentially a follow-up to the December 27th late afternoon call. It was a very short call.
I was still in my apartment. It was probably around 8:00 or 8:15.

The phone rang. I answered it. It was the President. And he said something to the effect of "I don't know if I mentioned this last night."

And he said something, and I don't recall specifically what it was, but whatever it was, he had mentioned it the night before.

And I said, "Yes, sir. You did raise that."

And he said, "Okay. I just wanted to make sure I didn't forget that." And he hung up.

So it might have been the Pennsylvania claim that there were more ballots certified by the Secretary of State than were actually cast. I think that was it, but I'm not a hundred percent certain. But whatever it was, it was something he had raised the night before.

We had a very brief phone call, and that was in relation to the 28th.

Also, on the night of the 3rd, after the Oval Office meeting, he called me around 10 p.m. or 11:00, or somewhere around there. And he related that he had just received information that a DHS Special Agent had a truckful of ballots, or shredded ballots, that he had in his custody somewhere in Georgia outside of Atlanta.

And he wanted to make sure that we were aware of that.
And I basically said, "Sir, I haven't heard that. If it's a DHS agent, remember they don't belong to DOJ. But if they have an issue that they need our assistance with, they certainly know how to contact us. I'm sure that will happen, if appropriate."

And he said, "Okay. Can you just make sure Ken Cuccinelli knows about it?"

So I followed up with Ken Cuccinelli that night a few minutes later, and I said, "Just be aware. The President called me and he said there is an agent" -- by a specific name, the President actually had the agent's name -- "who had some custody of a truck with ballots in it in Atlanta."

And Ken didn't know about this either. And he said, "Thanks. I'll look into it." And that was it.

We also had a call not specifically about election fraud, but the President did call me on December 14th, the day that AG Barr submitted his resignation.

Q. So with respect to the most recent allegation that you mentioned, the DHS connection, the matter down in Georgia, did the Justice Department and FBI interface with DHS to run that allegation down?

A. Eventually, yes.

Q. And how did that turn out?

A. Other people would be in a better position to give
you the specifics. But as I recollect it as I sit here today, there was a truck that had shredded ballots in it, but I believe the answer was that the County Board of Elections was shredding ballots in the course of their usual procedures, their records retention procedures, and that these were ballots from past elections.

So to make room for the ballots for the 2020 election, which they stored in warehouses, et cetera, they were clearing out old ballots. And, yes, a truck picked up ballots, and, yes, ballots were shredded, but these all related to an old election.

And I think that the FBI -- I know that the FBI and DHS and the U.S. Attorney's Office in Atlanta worked on that, so they would have better information and recollection about it. That's what I remember.

Q. During the course of your conversations with the President, it was -- was it apparent to you that he truly had concerns with respect to the validity of the election, and he did want to run these allegations down?

One way or the other, he wanted to know whether these allegations were true or not. Is that accurate?

A. I think that's a fair characterization of the way he presented these things, yes.

Q. So in these conversations, then, that you mentioned -- I'm not going to go through each one. I don't think we
have enough time today to go line by line with respect to
every sentence that was uttered, but did you offer the
President advice or recommendations, generally speaking,
during the course of these interactions, with respect to those
allegations?

Is there a way that you can generally speak
to your role here?

A. It wasn't so much advice or recommendations on
specific allegations, because the President, you know, wasn't
looking to make decisions about the specific allegations. He
was presenting it as, "Are you guys aware of this, X, this
allegation?"

And we would either say yes, sir, or no. And
the vast majority of the time the answer was "Yes, we knew.
We're aware of that."

And then, again, as I said earlier, we would
reiterate, "Sir, we're aware of it. We know our job.
We're doing our job."

And then he would go through, you know, other
allegations, and we would say, "Yes, sir. We're aware of that
one as well. Got it. Thank you." That kind of thing.

So we weren't providing advice so much to the
President on the individual allegations, but we were informing
him throughout the course of these conversations that what we
had seen to date and what we were seeing did not change AG
Q. Mr. Donoghue, did you take any action to overturn the 2020 election results?
A. Absolutely not.

Q. Did the Attorney General Rosen -- Acting Attorney General Rosen take any action to overturn the 2020 election results?
A. No.

Q. Did President Trump fire Acting Attorney General Rosen?
A. No.

Q. Did President Trump fire you?
A. No.

Q. Did President Trump fire anyone at the Justice Department or FBI relating to his frustration that more wasn't being done to investigate election-related allegations?
A. No, not at all.

Q. Does the President have the authority to fire any U.S. Attorney?
A. Yes.

Q. Who is Patrick Hovakimian?
A. Patrick Hovakimian was the chief of staff to Deputy Attorney General Rosen when I first came to Washington in July of 2020. In the next few months, somewhere in there, the fall, perhaps, he was no longer the chief of staff because
he was nominated to be the Inspector General for the intelligence community. And the hope, the expectation was that he would get confirmed and he would leave the Department. And, as a result, AG Rosen brought in someone else to be his chief of staff. But Pat remained on the ODAG, the Office of the Deputy Attorney General's staff throughout the end of the term because his nomination never went forward.

Q. Was Mr. Hovakimian ever in any meetings with you and the President, or any phone calls with you and the President?

A. No.

Q. Was Mr. Hovakimian at the level within the Justice Department, as far as titles are concerned, to ever meet with the President?

A. No.

Q. Okay. I'd like to turn to the majority 5 document. I guess this was the exhibit -- it's already been used as an exhibit. Majority 5 was Exhibit 4.

Some of the documents that the majority labeled as "Majority," as Sara and I have already discussed, they are also minority exhibits. We just didn't want to double them up.

Let's go to Majority 5. And let's turn to specifically page -- excuse me, Bates -736.

Sir, let me know when you're there.

A. I'm there.
Q.      And these are your notes; correct?

A.     That's right.

Q. If you look down at the bottom, I believe it says, "People won't have confidence in the Georgia Senate races."

Is that something the President said?

A. I wrote that down. It's actually not a quote, so it's not the exact words. But he did say that, yes, in sum and substance.

Q. So is it fair to say as part of his concerns with respect to the election fraud and crime-related allegations, that part of his concern was the sanctity of the Georgia Senate races?

A. Yes, he did say that.

Q. Okay. Let's turn to Bates -737.

Notes say -- I believe Sara referenced this earlier in her first hour, "DOJ failing to respond to legitimate complaints/reports of crimes."

So I note the President's apparent use of the word "legitimate." Are the notes accurate in that regard, based upon your recollection?

A. Yes. Again, this is not a quote, but that is what the President said. And he reiterated that several times.

Q. So the volume of voter fraud and election crime-related allegations that the President had received at that
time and which were publicly reported on at that time, was it unreasonable under the circumstances for the President to have such concerns regarding potentially legitimate complaints and reports of crimes?

A. Well, there were a lot of allegations. There were many allegations relating to concerns about the election. So I'm sure the President was aware of those, as I think we all were. We, the Department, took them one at a time.

So I can't really opine as to whether or not the President's view was well founded based on all of them, but I understood it to be that he was concerned about these allegations, and whether or not the election was somehow tainted by fraud.

Q. So in the same vein, then, was it unreasonable under the circumstances for the President to question what the Justice Department and its components were doing to investigate legitimate complaints and reports of crimes?

A. I don't think it was unreasonable for him to question it. But, again, we tried to allay his concerns by saying, "Yes. We're aware of it. We're doing our job."

Q. Would you agree with me -- or I shouldn't say "with me," I don't want to imply here, but maybe the cat is out of the bag already. But would you agree that the President's job is to keep -- part of his job is to keep executive agencies in check and ensure that they are doing all that they need to do
on behalf of

the American taxpayer?

A. Yes. Absolutely.

Q. Okay. Let's go to the bottom of -737. I might need your assistance here in translating it, potentially. At the very bottom, does the sentence say, "FBI will always say nothing there, leaders there oppose me, SAs support me"?

A. That's what it says. Again, it's not a quote, but it's a summary of what the President was saying.

Q. Right. And for the record, I want to note that when I'm using quotes, I'm literally citing directly from the document. And I understand these may not be direct quotes from that conversation in question.

A. Right.

Q. Okay. So this statement, then, does it indicate to you that the President maintained a certain amount of distrust with the FBI?

A. Yes. At least, the leadership.

Q. Now, did that distrust contribute to the President's concern about how legitimate complaints and reports of crimes were being handled by the Justice Department and the FBI?

A. It may have played into his view, but I really can't speak for him on that.

Q. Let's turn to Bates -738. So towards the bottom, I believe there's one sentence here that says the President
allegedly said, and I'm quoting directly from the notes here, "statistically impossible for me to lose."

Is that a correct reading?

A. Yes, that's what I wrote.

Q. In the interactions you had with the President, did he often refer to statistical analysis when discussing vote results?

A. I do recall him saying that several times in several meetings. Yes, it was statistically impossible given where he stood on election night.

Q. All right. Let's stay on -738. There's a reference to DAG at the bottom -- delta, alpha, gamma -- and that was in reference to the Acting Attorney General Rosen; correct?

A. Right.

Q. Thank you.

So Rosen allegedly said this to the President: "We'll look at whether have more ballots in PA," standing for Pennsylvania, I assume, "than registered voters - should be able to check on that quickly, but understand that the DOJ can't + won't snap its fingers + change the outcome of the election, doesn't work that way."

And then underneath, it has the letter P. "P" responded -- who I presume is the President.

Is that correct?
A. Right.

Q. I'm sorry, can you say that again? The audio popped out.

A. That is correct.

Q. Thank you.

Okay. So the President's alleged response then, if you go from -738 to -739, "Don't expect you to do that. Just say that the election was corrupt + leave the rest to me and the R Congressmen."

Is that a correct reading?

A. Yes, that's right. And that's an exact quote from the President.

Q. So the President didn't expect the Justice Department to change the outcome of the election, then, based on these notes. Is that your interpretation of these notes?

A. Yes, that's right.

Q. Did Mr. Rosen ever look at whether there were more ballots in Pennsylvania than registered voters?

A. Yes, we did.

Q. And how did that turn out?

A. The answer was that the delta between the number of votes certified by the Secretary of State, which is approximately 5.25 million, and the 5 million figure that was being provided to the President, that difference arose from the fact that the database that reflected 5 million votes cast
was incomplete. It was missing, I believe, data from four counties in Pennsylvania.

So once those four counties rolled their information into the database, the number of votes cast matched the number of votes certified by the Secretary of State. So that's how that was resolved.

Q. Okay. Thank you.

So let's move to Bates -741. Same conversation, same notes.

According to the notes, the President said, "You," as in Rosen, "Rich," as in you, Mr. Donoghue, "should go to Fulton County + do a signature verification, and you'll see how illegal it is. You'll find tens of thousands."

Did you and Rosen ever go to Fulton County?

A. We did not.

But just to be clear, he wasn't speaking to AG Rosen at that point. He was speaking to me. He said, "You, Rich, should go to Fulton County."

So he wanted me personally to go to Fulton County.

That didn't involve the Acting Attorney General.

Q. Very good. I appreciate that clarification.

Do you know if anyone from the Justice Department or its components did a signature verification of Fulton County?
A. You'd have to check with the U.S. Attorney's Office down there, and perhaps the FBI, but I know that the U.S. Attorney's Office in the Northern District of Alabama looked at a lot of the allegations relating to Fulton County.

Q. And who would be the official in charge of that?

A. At that time, it was BJay Pak, who was the U.S. Attorney for the Northern District of Georgia.

Q. Thank you, sir.

So with respect to the statement, then, why do you think the President wanted his chief -- one of his chief law enforcement officers to be boots on the ground in that geographic area?

A. I can only take him at his word that if you go down there and look at this, as he said there, you'll find tens of thousands of -- I think he meant illegal votes.

Q. I think I'm done with this exhibit, for the time being.

I'd like to better understand the Justice Department and FBI in their vetting protocol and procedure and the intake process, with respect to how these voter fraud allegations and reports of crimes were handled.

So as a threshold matter, sir, which units within the Justice Department handle election crime allegations?

A. Primarily, the U.S. Attorney's Offices are responsible for any allegations that arise in their
jurisdictions, whether it be election fraud or other crimes.

Each U.S. Attorney's Office has what they call a DEO, a D-E-O, District Election Officer. They are sort of the lead for the United States Attorney for election matters. So each office would have a DEO.

The FBI field office has a corresponding agent. I forget what they called them, but there's a lead agent for election matters.

So these can come in in a variety of ways. It can come directly to the FBI. They could come directly to the U.S. Attorney's Office, or they might arise in different ways. But primarily, the U.S. Attorney's Office would work with the FBI to check these things out.

Also, it's important to understand that within Main Justice, we have the Public Integrity Section, and within the Public Integrity Section is a unit called the Election Crimes Branch. So ECB is within PIN, and they also get involved. Their role is more consulting. They don't necessarily have approval authority, but they work in conjunction with the U.S. Attorney's Offices on these matters when they come in.

Q. Thank you for that.

So with respect to the Public Integrity Section, who was in charge of that section during the 2020 election?
A DOJ employee attorney named Corey Amundson, A-m-u-n-d-s-o-n.

Q. Thank you.

And with respect to the Election Crimes Branch that you mentioned, who was in charge of that branch during the 2020 election?

A. Initially, it was a DOJ attorney named Richard Pilger, P-i-l-g-e-r. As I recollect, Mr. Pilger stepped down from that position after AG Barr issued his November 9th memo relating to election investigations. I believe he remained in ECB, but that one of his deputies was the acting chief of that section from that point forward.

Q. Do you recall why he resigned?

A. Yes.

Q. And what was that reason?

A. Well, he said that he resigned because he was opposed to AG Barr's 11/9/20 memo. Again, he did not -- he presented this as a resignation, but, in fact, he didn't resign from the Department. He simply stepped down from that position. It was very public. There were articles about it. There were emails about it.

I believe he submitted a letter of some sort that was very quickly leaked to the press. And it raised concerns because it left the perception that the Department
was somehow doing something improper when, in fact, all along, what AG Barr wanted to make sure was that we were in a position to assess whether or not the election had been affected by fraud.

Q. Did Mr. Pilger's decision to resign and the subsequent leak -- obviously, I don't know who leaked the document -- but the subsequent leak of his resignation, did that frustrate the Department's ability to properly operate the Election Crimes Branch consistent with AG Barr's November memo?

A. Yes, it definitely did. It put the AG in a poor light publicly, which was totally unwarranted. People misunderstood the memo. They misunderstood what the AG was trying to do. And the immediate leak of the email, the memo and the related documents was not helpful to what the Department was trying to do at that time.

Q. Now, generally speaking, just for the record, since we're referencing the Barr memo, I'm going to paraphrase this. I don't think that this is an exact recitation from the memo itself, but, generally speaking, what Barr did is he authorized department officials to pursue substantial allegations of voting and vote tabulation irregularities prior to the certification of elections in your jurisdictions, in certain cases.

So the difference, then -- correct me if I'm
wrong -- the difference here is that he wanted action to occur prior to certification of elections. And prior to this memo, the standard operating procedure was to wait until after certification of elections to then dig into these election-related issues and, potentially, crimes.

Is that correct, generally?

A. That's generally right, yes. Again, this is all very fact-specific. It was always guidance, so there were always exceptions.

But the general practice of the Department, as per ECB, Election Crimes Branch, was to wait until the certification was done because, in their view, what the Department should be doing is prosecuting things after the fact in an attempt to deter misconduct in future elections.

AG Barr's focus was on the current election and making sure that we, the Department, were doing what we could in real time to ensure that the American people could have confidence in the outcome. So there was a disconnect there, and it created issues.

Q. So did Mr. Pilger, when he was in his position at ECB, did he have the authority to green-light investigative steps for election-related investigations?

I'm trying to figure out the amount of authority and power that he had in that position prior to resignation.
A. So pursuant to the justice manual, the ECB had consultation roles. So the U.S. Attorney's Office was supposed to consult with ECB, and they both reported up to the DAG's office. So if was there a disconnect, either side could report up and say, "Well, we don't think these guys should proceed this way," or something to that effect.

The problem was that ECB routinely implied that they had approval authority. And so the DEOs, those District Election Officers in the U.S. Attorney's Office, were extremely reluctant to proceed without the approval of ECB.

Furthermore, ECB communicated directly with the Public Corruption Branch at FBI. And those FBI agents were, again, extremely reluctant to proceed without ECB's explicit approval. And since ECB was not on the same page with AG Barr and they clearly disagreed with AG Barr's determination, they were, at best, dragging their feet and maybe more to keep these investigations from going forward, in my view.

Mr. Flynn-Brown. Okay. I want to pull up an additional exhibit. We got this exhibit late last night from DOJ, and I believe it was sent to you guys late last night as well.

Let me pull up the Majority -- I think this is labeled Majority -- I think it's labeled Majority 25.

It's the December 7, 2020, email, sir.
It's between you and David Bowdich.

Mr. Donoghue. Yes, I have it.

Mr. Flynn-Brown. I believe we are at -- I believe this is Exhibit 6.

(Exhibit 6, email, marked.)

BY MR. FLYNN-BROWN.

Q. So you -- I believe you began to explain some of the State Farm-related allegations. This email, this December 7, 2020, email between you and David Bowdich references a -- some State Farm Arena allegations. I think you referred to them earlier in the first hour.

Can you just restate them here again for the record, based on your recollection, as to what they were.

A. Generally, my recollection was that there were claims that at the State Farm Arena, election officials, Board of Election officials, said or did something that caused the observers to leave. And after the observers departed, the election officials then produced a suitcase full of ballots, and that they began running those ballots through the tabulation machines, and that they ran them through repeatedly.

So there were a couple different pieces to that allegation. One was that there were these sort of false or fake ballots that were produced. And another was that it was run through multiple times. And then, of course, that the
observers were somehow lured away. That's basically what that
allegation was.

And because there were video cameras in the
facility, we, the FBI and others, were able to go back and
look at exactly what had happened.

Q. So how did this matter resolve, based upon your
recollection?

A. So the U.S. Attorney's Office in the Northern
District of Georgia looked at this. They worked with the FBI.
You can see from this email that there's some frustration
because of the Election Crimes Branch attitude that I
described earlier.

But, ultimately, the witnesses who were there
were interviewed. I can't remember if FBI did the
interviews alone or they did them in conjunction with State
authorities. But whatever it was, they reviewed -- I
believe it was about 15 hours of videotape.

The witnesses were all interviewed. And the
conclusion was that the observers left because of an error on
the part of someone in the media who said, "It looks like
they're done for the night."

And I think that was reasonable because I
believe the intent was to finish their tabulations for the
night. I think it was around 10 p.m. or something like that.

They thought they were done. They began sort of wrapping
things up and closing up their equipment.

Someone in the media pool made this comment that "It looks like they're done for the night." The observers left. They were then contacted by other State officials that said, "Hey, we got a lot of work to do. Don't shut down this early."

So they then went back to tabulating ballots.

The allegation about a suitcase being brought in apparently stemmed from the fact that these ballots were kept in wheeled bins. Those wheeled bins were just used as a matter of routine in that facility. And I think if you go back and watch the video from the beginning, you can see during the day workers opening absentee ballots, taking them out of the envelope and placing them in the bins.

So there was no suspicion from the fact that these were ballots were contained in the wheeled bin. That's just the way they moved them around the facility.

Also, the video, I'm told, showed that they did not feed them through repeatedly, and that that would not have worked anyway because of the barcoding on the individual ballots.

So we looked at the allegation. We had FBI go through the videotape. We had interviews done of all the witnesses, and the U.S. Attorney in the Northern District reported back to me that there was nothing on that video,
nothing to these allegations that should cause us to question what happened in that facility or the outcome of the Georgia election.

Q. So this email thread begins with an email from Corey Amundson on December 7, 2020, at 12:34 a.m. And he says in part, "As explained below, PIN," the Public Integrity Section, "does not concur in any overt investigative activity, including the proposed interviews."

Based on your recollection, how many times did the Public Integrity Section provide a nonconcurrence to potential investigative activity relating to the 2020 election, prior to the election certification?

A. There was several times it came up. I can't remember exactly, but this was not an isolated incident.

Q. Now, when those nonconcurrences came up, did Main Justice override them?

A. In some instances, yes. It wasn't really a matter of overriding because they didn't have the authority to disapprove. Again, you know, the way they framed this sometimes creates confusion.

U.S. Attorney doesn't need their concurrence. They have to consult with them. Certainly, PIN or the U.S. Attorney's Office was free to raise it up the chain of command if they had concerns.

Q. So with respect to the nonconcurrences, did any
nonconcurrence halt investigative activity by FBI or other DOJ units?

A. I believe there was one time that I recollect as I sit here now, that there was a dispute between PIN and the U.S. Attorney's Office. It was not in Georgia. And DAG Rosen, who might have been the Acting AG at the time, decided that while some limited action would be permitted, that generally the U.S. Attorney's Office would not be permitted to go forward at that point in time.

Q. Which state was this?

A. Florida.

Q. Florida?

Do you recall the allegations?

A. I do. But, you know, with all due respect to the questioning, it may be an ongoing matter, so I don't think I can comment on that.

Q. And who was the U.S. Attorney on this matter at this time?

A. Larry Keefe.

Q. So Rosen provided him instructions to perform some actions, but not other actions?

Mr. Weinsheimer. On behalf of the department, I'm indicating that at this point, we've gone beyond the authorization, and the witness has already indicated it may relate to an ongoing matter. He's just not
authorized to speak about ongoing matters.

BY MR. FLYNN-BROWN.

Q. In your email to Bowdich, you stated,

"Unfortunately, this is a continuation of a policy disagreement between the Election Crimes Branch of PIN," the Public Integrity Unit, "and the AG," Attorney General.

So you noted earlier that there were a couple examples, couple times where PIN and the Election Crimes Branch did kind of frustrate investigative steps. So this use of the word "continuation" does imply repeated conduct.

I'm wondering if you can get into more specific numbers as to how many times your efforts were frustrated by the Election Crimes Branch and the Public Integrity Unit to proceed with investigative activity prior to certification.

A. I can't put a number on it, but it was a small handful of times. And I think they were elevated in the way that this one was.

Q. Okay. And then my same question would be for after certification. So after certification occurred, did you still have this frustrating relationship with PIN and the ECB?

A. I can't recall specifically as I sit here whether it was all before or it split between pre and post-certification. I don't remember, but this was an ongoing issue, really, throughout the election cycle.
Q. At the time you left the Department, had this tension that we described here today, based upon these emails in the record, did that tension still exist with the Public Integrity Unit?

A. Well, the issue was still there, but, obviously, the election was over and certified and all that. So the immediate concern was just no longer relevant.

Q. So specifically, sir, you know, as we focus here on the Public Integrity Unit and Barr's November memo altering this policy to be more aggressive and forward-leaning, are you able to specifically mention or name any specific department personnel that worked to frustrate the Barr memo, the November Barr memo?

Mr. Weinsheimer. On behalf of the department, I object. He shouldn't be getting into specific individuals other than those that he's already mentioned.

Mr. Flynn-Brown. Okay. So he's mentioned Richard Pilger. Can he get into more detail in his actions in potentially undermining the November Barr memo?

Mr. Weinsheimer. Again, I would object. I think that's outside the scope of the authorization at this point.

Mr. Flynn-Brown. No, I do think it's in scope, so we'll put a pin in that.

BY MR. FLYNN-BROWN.
Q. So with respect to the Public Integrity Unit, you had mentioned that there was a similar unit at the FBI that they interfaced with. Do you remember the FBI unit precisely?

A. I believe it's called the PCB, the Public Corruption Branch. Could be wrong about that.

Q. Do you recall who was in charge of that branch during the 2020 election?

A. I knew at the time, but I just don't remember as I sit here today.

Q. Did the Justice Department and FBI open any election crime investigations after the 2020 election was certified?

A. I can't say with certainty as I sit here, because I was gone shortly after the election was certified. But I would assume the answer is yes.

Q. So with respect to the process where you guys -- "you guys" being the Justice Department and the FBI -- received voter fraud allegations and reports of crimes, was there a general protocol and process as to how the intake went and how it moved up the chain? Or was it fairly an ad hoc process?

You know, maybe, for example, generally speaking, did an allegation go into the FBI, the FBI vets it and then moves it up to DOJ? Or was there an intake, you
know, process specifically for Justice Department proper?

A. It could come in in a variety of ways. They could come directly to the FBI, in which case the FBI election agent would coordinate with DEO, and they would staff it as needed depending on the allegation.

It could also come in directly to the U.S. Attorney's Office. One of the things that we do, as a routine matter in preparation for elections, is we have U.S. Attorney's Offices all issue a press release, and they identify who the District Election Officer is for the U.S. Attorney's Office; actually put their name out there publicly and how they could be contacted.

So if someone had an allegation, say, on Election Day, you can pretty easily find out who the DEO was in your district and report it to that person directly, if need be.

Q. Understood. Thank you.

So with respect to the Justice Department, do you know how many personnel were responsible for vetting voter fraud and election crime allegations during the 2020 election?

A. Well, at a minimum, you'd have a DEO in each of the 94 U.S. Attorney's Office, so that's 94 AUSAs right there. Obviously, they have supervisors, criminal chiefs, U.S. Attorneys and that kind of thing, who would have
Then you would have the Election Crimes Branch, which I would guess was probably somewhere between 15 and 20 trial lawyers at that time, and then their chain of command. And then, of course, you'd have the FBI side of things with investigators. So you're talking a few hundred people, at least.

Q. And from a data standpoint for the 2020 election, do you know how many voter fraud and election crime allegations were received by the Justice Department and the FBI respectively?

A. I don't know.

Q. So after -- at what point does the Public Integrity Section get involved in a voter fraud allegation? I mean, do they reach down into the FBI? Does the FBI go to them as a matter of course? I mean, how does that relationship work? Because it sounds like the Public Integrity Section, and the ECB, specifically, are in the pipeline of this process to approve investigative steps, whether or not their nonconcurrence or concurrence is given weight. They're in the pipeline.

So I'm wondering are they basically the buffer between the FBI and you and Rosen? How do they fit in the scheme?

A. No. They're not between the FBI and us, but they do
coordinate very closely with the FBI's public corruption branch. So what would typically happen is you'd have something originate either in a FBI field office or U.S. Attorney's Office, and then the appropriate people in those offices would make notifications up their chain of command.

So on the FBI's side, a notification would go up to the Public Corruption Branch. On the U.S. Attorney's Office side, a notification would go to ECB and say, "Hey, we're looking at opening an investigation about an allegation of X."

So they would be aware of it. If I remember correctly, they can do preliminary steps of some sort, perhaps without a notification, but the typical way this developed was those notifications would be made. And so you would have the two components in Washington aware that something was actually out there and being worked.

Q. I see. So when the FBI does the interfacing with the Public Integrity Section and the ECB, in the process you just described, if the FBI does not go around PIN and ECB to apprise you, as was done here with Bowdich in the December 7, 2020, email, is there a chance that you, up the food chain, the leadership chain at DOJ, are not going to be aware of some of the FBI's frustrations downstream with the Public Integrity Section?

A. It's possible. But I would say that Dave Bowdich,
as the deputy director, was very hands on. And Dave and I worked very closely together. We spoke probably every day, often several times a day. And he understood the AG's memo and -- though, there was a lot of back-and-forth there, but it's certainly possible that could be.

Q. My time is running a little bit short here, and I'm not going to move on to another exhibit. I'm going to wait for my second hour, but I do want to ask a couple more questions about PIN and ECB.

So you got Corey Amundson, who is above Richard Pilger, correct?

A. Yes.

Q. So how did those two interact? Did those two get along, or did they often have disagreements with respect to how things should proceed forward?

And I see I’m going to get another objection here from DOJ.

Mr. Weinsheimer. I'm going to object. I think that is beyond the scope and talks about prosecutorial deliberations. Outside the scope.

BY MR. FLYNN-BROWN.

Q. So I'll say it this way, then. With respect to Richard Pilger and the public complaints that are attributed to him with respect to the Barr memo, were those complaints, those feelings, those concerns that
Pilger had, did they permeate through the Public Integrity Unit, or were they specific to Mr. Pilger?

Mr. Weinsheimer. Again, same objection. I don't think it's within the scope of the opposition.

Mr. Flynn-Brown. I think it might be within the scope because the DOJ provided records relating to the questions that I am asking.

Mr. Weinsheimer. With respect to the communications between Corey Amundson and then Dave Bowdich and Mr. Donoghue. So those are what's within the scope.

BY MR. FLYNN-BROWN.

Q. So, Mr. Donoghue, with respect to Corey Amundson, did Mr. Bowdich -- with respect to this December 7, 2020, email, did Mr. Bowdich send other emails like this to you relating to his concerns about the Public Integrity Section?

A. I don't specifically recall other emails like this, but we did have conversations about things like that.

Q. Okay. So you had some phone calls or maybe other emails with Mr. Bowdich about his concerns relating to PIN?

A. Yeah, I don't recall other emails. But as I said, I spoke to Dave Bowdich probably every day in this time period, and this was not limited to this specific instance.

Mr. Flynn-Brown. Okay. So I have five minutes left, but I don't want to move on to the next exhibit.
I'll wait for my second hour.

So, sir, thank you for your time. I may return to some of these issues that we just discussed later on today.

But for now, Sara, I'll turn it over to you.

Ms. Zdeb. Thanks, Josh.

Mr. Donoghue, Counsel, would you like to take another quick break before I start my next hour?

Mr. Andres. That would be great. Thank you.

(Recess)

Ms. Zdeb. It is 11:37, and we can go back on the record.

BY MS. ZDEB.

Q. Mr. Donoghue, I wanted to just ask a couple more questions about the email and the issues that my colleague was just exploring with you at the end of the last hour. I think this was Exhibit 6, which is the exchange involving you and Dave Bowdich and Corey Amundson.

So you spoke a little bit about Richard Pilger. Just so I'm clear, he is, and was at the time, a career employee in PIN. Is that correct?

A. Yes, that.

Q. Do you know about how long he had been in the position as head of the Election Crimes Branch?

A. I believe it was 10 years at that point.
Q. And is it fair to say he is viewed as an expert on election crimes within the Department?

Mr. Weinsheimer. I think, once again, we're going outside the scope of the authorization. I'd object to further questions about Mr. Pilger.

Ms. Zdeb. Well, I'm sticking to the scope of the questions that my colleagues in the minority just asked. And I have a few -- I have a few questions pertaining to questions to which you did not object.

Mr. Weinsheimer. That one, I don't think is within the scope in terms of whether or not he's an expert.

Ms. Zdeb. We can move on.

BY MS. ZDEB.

Q. Just so I'm clear, it seems like the dispute, Mr. Donoghue, that you were describing in this email and describing a little while ago essentially boiled down to a difference of opinion between Mr. Pilger, the career head of the Election Crimes Branch, and the Department's political leadership, when it came to the appropriate way to conduct these investigations.

Is that accurate?

A. To some extent, yes. But keep in mind that I was the senior career person in the Department at that time, even though I had previously been political as an U.S. Attorney. And certainly, I shared the AG's view that we
need to be more proactive at this time period, given this unique election. So it wasn't just career versus political.

Q. Understood.

A. There were legitimate differences of opinion, and there were merits to both sides of the argument, I understood that. And I think I reflected that in my email.

Q. Right. And specifically, as I read your email, it sounds like it boiled down to a policy dispute, to use your -- or policy disagreement, to use your words, between the Election Crimes Branch's historic position that overt investigative steps should be avoided, to the extent possible, because they have the potential to inject the Department itself into the election, on the one hand; and on the other hand, the different view that Attorney General Barr, and it sounds like others including yourself, were espousing at the time.

Is that a fair assessment of the policy disagreement?

A. Yes, that's generally correct.

Q. And I think you said in response to my colleague, that at the end of the day, this dispute manifested itself in a handful of instances. And that at the end of the day, there was only one in which Mr. Rosen -- and I'm paraphrasing you -- took the side of PIN. Is that correct?

A. Yes.
Q. And, in any event, with respect to either that one particular instance or the instances in which the FBI and the Department were permitted to take overt investigative steps consistent with Attorney General Barr's memo, I would imagine that in none of those cases did the Department uncover evidence that changed Mr. Barr's conclusion that there was no widespread evidence of election fraud sufficient to change the outcome of the election. Is that correct?

A. That's right.

Q. Let's move back really quickly to Exhibit 4, which is your notes from the December 27th conversation with the President. And I had just a couple additional questions.

On the third page of that document, which is numbered -737, you have a line saying -- you have a line saying "You guys are not following the Internet the way I do," and you've included quotation marks around that one.

Am I correct in thinking that that means that that was a direct quote, as you transcribed it at the time?

A. Yes, it was.

Q. And I believe you also said, in response to my colleague's question, that the language starting at the bottom of the next page, which is Bates -738 and continuing on to the next page, which said, "Don't expect you to do that, just say the election was corrupt and leave the rest to me and the R Congressmen" -- you also indicated that that also was a
direct quote. Is that right?

A. Yes, that's right.

Q. What did you take the President to mean when he told you and Mr. Rosen to "Just say the election was corrupt and leave the rest to me"?

A. So the last part of that, "leave the rest to me and the Republican Congressman," I understood that to be that they were pursuing a political process on the Hill, whereby the allies of the President would be challenging some of the electoral college votes. That obviously has nothing whatsoever to do with the Department. And so that's what I think he was referring to. That's what I took it as at the time.

I think there was already a lot of discussion about whether there would be challenges to the electoral college votes of certain states. That had happened in previous elections. I believe that happened in 2004 and 2000. So that does happen. Again, that's got nothing whatsoever to do with the Department.

The earlier part was that the President wanted us, the Department, to say that it was corrupt. And, again, I wrote it down as a quote. He said what he said. So you can read it for yourself.

Q. Shortly after that -- let me just pull up the page -- there is a -- there's a notation in here on the following
page toward the bottom of -740. Again, it looks like a direct
quote because you've used quotations.

"We have an obligation to tell people that

this was an illegal corrupt election."

And then after that, not in quotes, you
wrote, "People tell me Jeff Clark is great. I should put him
in."

Did -- well, first of all, am I reading that
correctly?

A. Yes, you are.

Q. Did the President indicate when he said this how he
knew Mr. Clark?

A. No. That was the first I ever heard of a reference
of Mr. Clark in relation with any election matters.

Q. And did you have an understanding of what the
President was getting at when he said, "People tell me he's
great. I should put him in"?

A. I understood that the President was referring to
possibly putting him in a leadership position in DOJ;

obviously, above where he currently was. I was surprised at
the reference to Jeff Clark, though.

Q. Why were you surprised?

A. Because I hadn't heard his name in connection with
this before. And as the head of the Civil
Division, and then, earlier, the head of the
Environmental and Natural Resources Division, he simply didn't have anything to do with the Department's election responsibilities.

Q. I'd like to ask you a couple of questions about some subsequent documents involving Congressman -- Pennsylvania Congressman Perry, who we briefly mentioned before because he comes up at the start of the notes from the December meeting that we were just discussing.

So if you could pull up -- and just for the sake of time I'll do these together, Majority 6 and Majority 7.

A. Yes, I have them.

Ms. Zdeb. So we can mark Majority 6 as Exhibit Number 7.

(Exhibit 7, email, was marked.)

Ms. Zdeb. And Majority 7, not to get completely confusing, will be he Exhibit No. 8.

(Exhibit 8, notes, was marked.) BY MS. ZDEB.

Q. So Exhibit Number 7 is an email, an email that you sent to U.S. Attorney Brady, but you were forwarding an email that you received from Congressman Perry on December 27 at 8:42 p.m.

And then the other document, Exhibit 8, is handwritten notes from a conversation dated

So let's start with the notes first. Is this your handwriting?

A. It is. And I should clarify, I apologize, but those notes are misdated. That would be the 27th.

Q. That's what I thought. Thank you for that clarification.

A. Yeah, I received this call from Congressman Perry while I was in the vehicle traveling back to Washington that night. And it was before he sent me this email. So sometime before 8:42.

Q. And I noticed in the set of handwritten notes that we were just discussing from your call with Mr. Rosen and the President, that there was a notation at the end where you were asked to provide your cell phone number so the President could direct people to call you, in essence.

So when you received this call from Congressman Perry, did you take it as sort of the follow-up to that exchange that you had had with the President?

A. Yes, I assumed the President or someone else passed my cell phone number to Congressman Perry, and he called me.

Q. Was anyone else on the call?

A. Not to my knowledge.

Q. And had you ever spoken to Congressman Perry before this call?
A. No. I had never heard of him before that day.

Q. So you didn't have any awareness at this point of
his role in the Stop the Steal campaign?

A. No. I think the first time I had ever heard
of him was when the President mentioned him on the call
earlier that day.

Q. So it says at the start of the notes, "POTUS asked
him to call."

And then a couple lines down from that your
notes say, "Likes Jeff Clark a lot. Thinks he would do
something about this."

Is that a notation describing what Congressman
Perry was saying about Jeff Clark, or was it --

A. Yes.

Q Okay. And did he -- did he explain what he meant by
that?

A. I don't remember exactly, and I didn't put this in
quotes, but I do remember, as reflected in the notes, that he
brought up Jeff Clark. And he said, effectively, "I think,
Jeff Clark is great. I like that guy a lot. He's the kind of
guy who could really get in there and do something about
this," or something to that effect.

Q. Did he -- did the Congressman give you an
understanding of how it was that he knew Jeff Clark?

A. No, and I didn't ask.
Q. Did it seem strange to you? I mean, you had just -- you had just said a minute ago that it seemed strange to you that the President would be mentioning Jeff Clark, who I think you said had a role in the Department that would not ordinarily be involved in the sorts of things you were discussing.

Were you equally surprised to hear Scott Perry mention him?

A. Yes.

Q. There's a notation immediately following the line about how Scott Perry likes Jeff Clark a lot, that says "EG." And then there's some text that is not completely clear to us. And I'm wondering if you can just decipher that a little bit.

A. Sure. I apologize for the handwriting. It's bad to begin with, but I was also in a moving vehicle at the time. So Congressman Perry was complaining generally about the FBI. And he said, you know, for instance, Awan Brothers, A-w-a-n is how I wrote it down. And it says "HofR IT scandal," House of Representatives IT scandal.

And he said something about the IG being fired. He said, "We asked FBI to interview her and they," the FBI, "told her not to bring anything. She feels like she was the one under investigation. FBI doesn't do the right thing."

This had nothing to do with the
investigation, but he was citing this I guess prior experience with an FBI investigation to say that, you know, sometimes the FBI doesn't handle things correctly. And that raised some concern for him.

Q. And did that have anything to do with Jeff Clark, or was that a separate train of thought?

A. No. But I think it formed some of the background of why he was telling me that he felt that we, the Department, needed to be more involved in the investigation.

Q. So after this call at, again, 8:42 in the evening on what you have just explained is the same day, December 27th, you received this email from Congressman Perry attaching a set of materials pertaining to various election fraud allegations in Pennsylvania. Did you have a sense of why he was sending this directly to you?

A. At the end of his conversation, he asked for my email and said, "Can I send you stuff? We've got a lot of evidence. We've got a lot of information about things going on in Pennsylvania. Can I send it to you?"

And then my last notation there is "Told him we would, of course be willing to look at that, but thus far we haven't seen fraud on the scale that changed the outcome in Pennsylvania."

So he said, "Well, I have stuff. I'd like to
send it to you."

I said, "You're free to do that."

I gave him my email. And then this 8:42 email from him is what followed. Probably an hour or two hours later. I was still in the car.

Q. Why did you then forward those materials to the U.S. Attorney for the Western District of Pennsylvania?

A. So as I said at the outset, the U.S. Attorneys is the one primarily responsible for this. I'm certainly not conducting investigations, right.

Scott Brady was the U.S. Attorney in Pittsburgh, the Western District of Pennsylvania. We had three U.S. Attorneys there. I didn't want to send it to all three of them and have them sort of scrambling around. I knew Scott best out of the three U.S. Attorneys. He'd been on the U.S. Attorney General's Advisory Committee. I knew that he was, as they all were, very, very competent.

So I just forwarded it to Scott in part because a U.S. Attorney had to be looking at this thing, a U.S. Attorney in Pennsylvania. And I had full confidence in his ability to handle it. So what I did was I looked at it -- I couldn't read the whole thing because, as I said, I was in the car. I was reading it on an iPhone. And so I flipped through it quickly to get a feel for it, and then I just forwarded it to
Scott with that notation that you see in the email.

Q. And, to your knowledge, and without getting into the
details of any particular investigative steps that the U.S.
Attorney may or may not have taken, did the U.S. Attorney
determine that any of these allegations were substantiated and
allegations that were sufficient to have impacted the course
of the election?

A. Scott and I talked about this over the following
days, and to the extent that these allegations related to the
things that would be properly within the Department's scope,
he felt that they were not well founded, and that they do not
call into question the outcome of the election in
Pennsylvania.

I would note, however, though, that there
were things in there that don't have anything to do with the
Department's scope, such as I think that there were complaints
that, for instance, the Governor and
the State Attorney General and perhaps the Secretary of State
changed voting procedures, and that that should have been done
by the State legislature. Maybe there's merit to the
argument, maybe not, but that wasn't an issue for the
Department. That was a legal issue for the campaign and the
candidates to pursue on their own.

But to the extent it said things like "there
were more votes certified than actually cast," those kinds of
things Scott said he had looked into it and that was not the case.

In fact, that's how I came to the conclusion that there was nothing to that particular allegation because Scott looked into it, and he came back to me, and he said, "No, the database they were looking at is short data on four counties, and that's why you have a delta."

Ms. Zdeb. My colleague asked you a little bit about Mr. Clark's letter in the previous round. I'd like to turn back to that now. And if you could pull up what has been designated as Majority 8.

Mr. Donoghue. Yes.

Ms. Zdeb. And we will mark that as Exhibit Number 9.

(Exhibit 9, email, was marked.)

BY MS. ZDEB.

Q. This is an email from Mr. Clark to you and Mr. Rosen at 4:48 p.m. on December 28, 2020. The email subject line is "Two urgent action items."

I know you've already explained what role Mr. Clark had at the Department at this time. I'm wondering if you can just briefly characterize your professional relationship with him. Was he someone that you worked closely with?

A. It was fairly limited. When I went down there, I
got to know all of the AAGs because they all reported up to the DAG. And as the PADAG, his deputy, I worked closely with him. There were many, many meetings. So I knew him first as the AAG of ENRD, and then later as the Acting, because I think Jody Hunt left right around the time I went down there.

So I saw him on a regular basis, mostly briefing the Deputy AG on civil matters and litigation that was underway and things like that. They have a vast portfolio that they were responsible for. Nothing having to do with elections, but a lot of other things that were important to the Department at the time.

I think it's important to understand that Jeff Rosen and Jeff Clark had a long professional and personal relationship. They had known each other for, I think, 20 years or more, had worked together at a law firm, et cetera. So Jeff Rosen knew Jeff Clark much better than I did, but I did establish some sort of relationship with him when I went down there.

Q. I know you said that you were surprised to hear his name raised both by the President and by Congressman Perry the day before.

Prior to sending this email, had Clark reached out to you directly in any way about allegations regarding the 2020 election, or was this the first direct outreach you received from him personally?
A. I'm pretty sure this was the first direct outreach. There were discussions earlier in the day with Clark, but I was not involved in those.

Q. What was your reaction to this request?

A. I was stunned.

Q. And I know your email response that my colleague was asking about earlier, in essence, speaks for itself. But I'm wondering if you can elaborate a bit on what about it stunned you?

A. Well, again, the email speaks for itself and captured my views at the time. But I had to read it several times to make sure I understood what he was proposing. It just struck me as being wildly inappropriate for the Department to do the things that he was proposing. It's just not what the Department does. It's not our role, and in addition to it being completely at odds with what we had determined in the investigations that we had conducted.

So it was just factually wrong, and it was not at all the Department's role to be dictating to states what they should or should not be doing with regard to their presidential elections.

Q. Did you have a sense at this point -- I know that his letter is drafted in a way that focuses on Georgia, but it is titled "Proof of Concept," and I think he made it clear in his transmittal that he was not intending it to be limited to
Georgia.

Did you have a sense of which other states he was proposing to send a version of this letter to?

A. As I understood at the time, it was some of the other swing states.

Q. And we've -- you've been talking about this sort of generically, and I understand you to be talking about the proof of concept letter, but I should step back and note that his transmittal email also had another suggestion in there that was unrelated to the letter.

So he starts out with the statement that he would like to have your authorization and Mr. Rosen's to get a classified briefing from the Office of the Director of National Intelligence on Foreign Election Interference. He goes on to make some claims about Dominion, including a claim that a Dominion machine accessed the Internet through a smart thermostat with a net connection trail leading back to China. He then goes on to say, "ODNI may have additional classified evidence."

Did you have a particular reaction to that aspect of his email?

A. Yes. And without going into the details, I did not think that ODNI or anyone in the intelligence community would have such information.

Q. How did you respond to that aspect of his request? Did
you give him the go-ahead to reach out to ODNI? Did you tell him "You shouldn't do that"?

A. I did not address it in my email. But shortly after my response at 5:50, he was summoned to the Deputy Attorney General's conference room, and the three of us met. So you're talking at that point about Acting Attorney General Rosen, myself and Jeff Clark. And we discussed both the letter and his request for a briefing.

With regard to the briefing, he explained that he felt the IC might have information that was relevant. And I really didn't have any input because, before I said anything, the Acting Attorney General said, "Well, look, if you have the appropriate security clearances, you can get a briefing. But I think you're going to see that there's no reason for us to believe that."

Q. Were you aware that Mr. Clark contacted an individual named Dustin Carmack, who was the DNI’s chief of staff on January 1, to arrange a call?

A. Not until I saw the emails that were produced, I guess, initially by the House committee in relation to this. I was aware that there was some sort of briefing provided, but I had nothing to do with approving it or arranging it or anything. I just knew from discussions on January 2 that, in fact, Clark had received a briefing.

Q. Back to the Georgia proof of concept letter aspect
of this email from Mr. Clark, before he sent the email to you, Ken Klukowski, who I understand to have been a senior counsel in the Civil Division, sent a copy of the letter to Clark.

And that's an email that you're not on, so I wouldn't expect you to have seen it, but I'm curious whether you know who Ken Klukowski is?

A. I don't.

Q. Did you have a sense at the time as to whether Clark was sort of a solo operator on this or whether he was working with others either within the Civil Division or elsewhere within the Department?

A. I had no reason to think anyone else in the Department was working on this. I thought that he drafted this letter himself.

Q. So you mentioned Clark being summoned to a meeting in then-Acting Attorney General Rosen's office a bit later in the afternoon, after you had sent the response that we've already discussed.

Can you just give us a sense of how this meeting unfolded? I imagine that you and Mr. Rosen pushed back on his suggestions.

A. Yes. Just so you understand the background, obviously we got the calls the night before the 27th, both the President and Congressman Perry mentioned Jeff Clark. As I said, Jeff Rosen and Jeff Clark had known each other for a
long time.

We spoke both that night and I think the next morning, and Acting AG Rosen said, you know, "I'm going to talk to Jeff," meaning Jeff Clark, "and find out what this is all about, what's going on here."

So I believe there were one or more conversations earlier that day that were then followed by this email at 4:40. I responded at 5:50.

As I recollect, the DAG, the Acting AG, Jeff Rosen, was at some place; he was busy or something. But I responded without showing him or anyone else my response. I simply drafted it and sent it.

And then I went to his office, I think after I sent it, and he was pretty upset with the proposal from Clark. And he said, "I told so and so," one of his administrative assistants, "to get him up here. I want him in my conference room now."

So I understood that the communication had gone out. Jeff Clark came up a few minutes later and the three of us sat in the conference room and had a very difficult discussion.

Q. What was difficult about it?

A. It appeared to me that Jeff Rosen was really floored by the fact that someone he knew and whose professional judgment he had trusted was proposing something like this. I
didn't know Jeff Clark well, and so I was not -- I was certainly surprised. That someone in the Department proposed something like this, but I had no personal relationship to base this on.

It got a little heated. I began telling Jeff Clark that he had no business sticking his nose into this; that he should remain with the portfolio he's got. Why was he involved in this in the first place? Why are we hearing your name from the President? Why are we hearing your name from the Congressman? So on and so forth.

It got a little heated, particularly toward the end. I told him that I thought his proposal was, essentially, wildly inappropriate and irresponsible. I told him that what he was proposing was nothing less than the Department meddling in the outcome of a presidential election.

So it got fairly heated toward the end. And Acting AG Rosen said, "Well, look. Let's just sort of move forward here. Get your briefing, if that's what you want. I think you'll see that there's nothing to be concerned about from the intelligence community. And then, you know, we can talk about this letter."

But he was very clear and I was very clear that that letter was never going out.

Q. Did Clark give you any sense during this meeting of how he knew Congressman Perry?
A. No.

Q. And did he indicate -- I'm sorry. Go ahead.

A. He made some reference to being in communication with the President. I think at this point, he told us that he had been in the Oval Office. He didn't explain how he got there. But I immediately said "You violated the White House contact policy."

Q. Did he say when he had -- I'm sorry. Go ahead.

A. No. It wasn't clear. It wasn't clear how he got there or exactly when he was in the Oval Office, but I'm sure it was in this meeting where he told us he had actually physically been in the Oval Office.

Q. Did he say anything during this meeting about a willingness on the part of the President to install him in Mr. Rosen's place?

A. He did make some reference to that. I don't remember as specifically as the subsequent meeting on January 2nd. But he did make reference to the President being -- considering, I should say, a leadership change to the Department.

Q. Did he indicate whether the President was aware of the proposed letter?

A. I don't remember him saying that, no.

Q. After the meeting, you reached out to Assistant Attorney General for the Office of Legal
Counsel Steven Engel to read him in to the situation.

What was the purpose of doing that?

A. If you follow the Department's internal chain of succession, you'll see that the people who were in place at that time, if you go through them, the next one in line to the Acting Attorney General, absent some action to the contrary by the President, would be Steve Engel. There were other people above the OLC AAG in the chain, but when you do that, you have to remove everyone who is in an Acting position.

So, for instance, the Solicitor General was above the OLC AAG, but there was an Acting Solicitor General, so you had to remove him from the chain. So if you follow the chain, if Jeff Rosen got fired, the next person to become Acting Attorney General would be Steve Engel. And I was concerned that Steve be fully aware of what's going on in case Jeff Rosen was fired and Steve ended up in the seat.

And so Jeff Rosen and I discussed like how far we should allow information relating to this to get out. We decided that it would be prudent to keep a very, very close hold. But we agreed that Steve should know everything because, if he's fired or we're fired and Steve ends up in the seat, Steve needs to know that this is coming and how it came about.

Q. I know at some point a bit later on, you expand the circle of Department officials who you read into the
situation. Why did you want to keep it close hold at this point?

A. We didn't expand the circle until the late afternoon of January 3rd, but we wanted to keep a close hold because, frankly, I thought -- we thought it would create friction and maybe even panic within the leadership of the Department.

Ms. Zdeb. I'd like to turn to a meeting in the White House that takes place the day after Clark sends his letter. This is reflected in Majority 11, which I will mark as Exhibit Number 10. (Exhibit 10, notes, was marked.)

BY MS. ZDEB.

Q. Are these your notes?

A. I have it. Yes, these are my notes.

Q. And these are notes of a December 29, 2020, meeting with the Chief of Staff, White House Counsel, PC and PP, who I imagine are Pat Cipollone and Patrick Philbin, the Deputy Attorney General, you and Steven Engel. Is that correct?

A. That's right.

Q. Did anyone else participate?

A. No.

Q. And this took place at the White House?

Yes. In the Chief of Staff's office. That's the only time I've been in his office.

Q. What prompted this meeting?

A. I don't remember exactly why we were called over
there. There were a number of things the Chief of Staff wanted to discuss. Some of which had nothing to do with the election; they had to do more transition matters. But we went over there, I think it was sometime in the afternoon.

Q. There's a reference to Mark Mathis [sic] and John Eastman at the top of your notes along what a notation that "P trusts," and then I can't read the rest out of it.

Could you clarify what that notation to those two individuals signifies?

A. I think it says "P trusts their view." And the first name is Mark Martin, M-a-r-t-i-n.

Q. There are then some notes a little farther down the page on Pennsylvania election issue, which we've already discussed. There's a notation about the original jurisdiction complaint, which I'll have a couple more questions about in a minute.

But it says here "U.S. does not have standing. DOJ should talk to the Olsens (who filed similar case)."

So this is a reference to the proposal that had just recently been sent to the Department to file an original jurisdiction complaint in the Supreme Court akin to the Texas versus Pennsylvania case. Is that correct?

A. Yes, that's right.

Q. And so, at this point, which I believe is just
shortly after you received -- you, the Department, had received that complaint, it sounds like the Department is sharing its view that the U.S. doesn't have standing. Is that a correct interpretation of your notes here?

A. Yes, that's right. I don't know if we got the written opinions from OLC and OSG at this point or not. But they had shared their views and they followed up with some short written submissions.

Q. And the reference to Pennsylvania just above that, as I read your notes, it says, "Advised that we are looking at the claim that there are more certifications than number of voters."

And we've talked about that a bit before. I'm curious how that came up in the context of this meeting. Did one of the White House participants ask you what you were doing to look into that allegation?

A. I don't recall exactly. But I believe it was raised by the Chief of Staff, and this is the issue I mentioned earlier. So at this point, we obviously didn't have the answer. So this is something he was working on. And I think we were just telling the Chief of Staff, "Yeah, we're aware of that and we're looking into it."

Q. Did the Chief of Staff ask you to take any particular actions, or was it just more in the vein of a
question about whether you were looking into it?

A No. I think it was more along the lines of, you know, "You guys know about this Pennsylvania claim, right?"

And we said yes, because he wasn't on the call with the President. So it was more of an echo of what the President had told us two nights before.

Q. Then we get into a portion of your notes about someone named Arturo D'Elia.

Had you heard of that individual at any point before this meeting?

A. No.

Q. Were you aware that earlier in the day, Mark Meadows had sent Mr. Rosen a letter from a company called USAerospace Partners laying out the so-called Italygate theory?

A. I know I became aware of that letter. I just don't if it was before this meeting or after. If it went to the DAG, we worked very closely together. If he had it before this meeting, likely I would have seen it, but I'm not sure.

Q. And how did Italygate and Arturo D'Elia, who as I understand it is an IT contractor who was a part of the Italygate conspiracy theory, how did those things end up coming up during the course of this meeting?

A. Again, this is something that I believe the Chief of Staff raised. I had my notebook open right in front of me. You can see I was taking notes, so I wrote down the name. I
believe this is actually a misspelling of the name, but that's what he provided.

And he provided some information you see reflected in the notes. The company is Leonardo, something in relation to a facility in Pesaro, Italy.

"Under the protection of government agency in Italy. Sent letter on his company stationery. Claims involvement in vote changing in U.S. 2020. Claims in coordination with CIA officers and Embassy." I have where the embassy is located in Rome.

Then something about a subsidiary, the USAerospace Partners, that was a U.S. subsidiary of Leonardo.

So this was a convoluted story to begin with, and the Chief of Staff himself said, "Look, I'm not even sure about this, or what I'm providing to you."

He just said, "This is what I understand it is."

Because that name, Arturo D'Elia, I don't think is even in the letter. So he was relaying to us that he had some information, it wasn't clear where it had come from, but that he wasn't even sure what the story was supposed to be. But it was a claim that an Italian company with the knowledge of CIA using military-grade satellites was involved in changing vote tabulations in the U.S. presidential
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Q. There's a notation here saying "RPD," which is you, "to check his background with FBI."

Did somebody ask you to check his background with the FBI?

A. Yes, we discussed it there. And the DAG told me to do that. He said, "Just find out if we know anything about this guy, if he shows up anywhere on the radar," whatever it is. So I did do that. I asked FBI to run his name.

But as I've said, the name is misspelled. I don't think we got anything back from the FBI.

Q. And did Mark Meadows ask you and the DAG to look into this?

A. He provided the information. I don't specifically recall him asking me or anyone else to do something specific. I don't think he asked me to run the guy's name. That was, I'm pretty sure, from the Acting Attorney General who said, "Just check this guy out. See what we know about him."

Q. Did you have an impression of why he was sharing the information with you?

A. The Chief of Staff?

Q. Yes.

A. I think he was just trying to pass along whatever ended up on his desk, frankly. I think he was probably getting a lot of these reports as well, and my impression was
he wanted to be able to say "I passed it along to the
Department."

Q. There's a note on the side of the page. Does that say --

does that mean John Demers working on this?

A. Right. So after I got back to the office, I called
John, who was the AAG for the National Security Division. I
gave him this name, "Arturo D'Elio," the way it's spelled
there. And I said, "Can you just find out if we know anything
about this guy? The DAG is asking us to looking into it."

I don't remember what details I would have
given John about this allegation, but he said "Fine."

He took the name.

Q. I imagine this didn't strike you as a credible
allegation, did it?

A. It seemed pretty farfetched on its face. But,
again, we have to take each of these individually and try to
figure out what there is to support or refute it. And so I
asked the FBI to look into it.

I actually just googled the name myself, and I
googled it in conjunction with "Leonardo," and that's how I
realized that the name was actually misspelled. I believe it's
D'Elia, ending with an A. And I found some public reporting
on the arrests of Arturo D'Elia, who was an employee or a
contractor of Leonardo, who was arrested in Italy in
conjunction with a scheme to exfiltrate data from the company.
I believe that scheme ran from, according to public reporting, 2015 to 2017. So at this time, it appeared that Mr. D'Elia was sitting in a prison in Italy.

Ms. Zdeb. I want to jump ahead to the original jurisdiction complaint for just a minute. If you could pull up Majority 12, and this will be Exhibit 11.

(Exhibit 11, notes, was marked.)

BY MS. ZDEB.

Q. So Kurt Olsen is -- or was a private attorney who reached out to the Department purportedly on behalf of the President in connection with this proposed Supreme Court action. And I'm just curious about a few aspects of these notes.

For starters, are these your notes?

A. Yes.

Q. And it says "DAG call with Ken Kohl" at the top. Is that actually Kurt Olsen, or is it somebody else?

A. Yes, I'm certain that should be Kurt Olsen, having reviewed the emails and other things provided in advance to this. So I apologize for the misidentification. There was a great deal going on at that time.

But, yeah, I believe this is a call with Kurt Olsen. It took place in the DAG's office. He had him on speaker phone, and I was there for the entire conversation.
Q. And why -- why did the DAG agree to this call in the first place? I think you had said earlier that the complaint came in, at least the initial view by the time you had this meeting in the White House where it was raised, the initial view was, at the Solicitor General's office, was that there was no merit to it.

Why entertain a call with Kurt Olsen to begin with?

A. Mr. Olsen kept contacting the Department throughout, at least that day and maybe the day prior. He dealt a number of times with the Acting Attorney General's then-Chief of Staff, John Moran. And I think he was looking for a meeting. The Acting AG said, "I'm not giving this guy a meeting," but ultimately decided to, you know, allow him to call in, I suppose -- you know, I won't speculate too much, but to say that, you know, we heard the guy out, something to that effect.

Ms. Zdeb. Let me jump to one quick aspect of a related document, which is Majority 13, which will be Exhibit 12.

(Exhibit 12, document, was marked.)

BY MS. ZDEB.

Q. And this is a one-pager from the Office of Solicitor General that was sent to Mr. Rosen with a cc to you on
December 30. The attached document, which is a one-pager, contains a number of points, in essence, explaining why the Department cannot bring this original action.

And I want to just ask you about the third bullet on that page, which says, "Prohibition on representing interest of private parties."

When we were talking earlier about some of the back-and-forth with the President during one of your early meetings with him, you said, "Well, he would never say I want you to take legal action on behalf of my campaign or me specifically. You would be doing it on behalf of the American people."

This bullet in the OSG one-pager says, "A sovereign" -- and this is by way of explaining, I take it, that there would be no standing for this lawsuit. It says, "The sovereign may not resort to the Supreme Court's original jurisdiction in the name of the sovereign, but in reality for the benefit of particular individuals, a suit for the benefit of a particular candidate would violate that rule."

So it seems to me that irrespective of how the President may have been characterizing these sorts of potential legal actions, it was the view of the Department that such an action would be for the benefit of a particular candidate as opposed to for the benefit of the American public.
at large.

Is that a fair interpretation of this portion?

A. I think it's fair to say it's one of the concerns that the OSG raised. I didn't discuss this particular bullet point with him, and I don't believe the Acting AG did. I didn't do any research on this myself. We relied entirely on OSG and OLC.

But, yeah, they raised that point. It's one of a variety of points. It doesn't drive the outcome. But there are a number of reasons why the United States would not have standing in their view, and that's one issue that they raised.

Q. Let me jump --

A. It's not necessarily the Department's view, but it's an issue there.

Q. It's the view of the Office of Solicitor General?

A. Yeah. Well, they identified as one of a number of significant procedural hurdles. So, yeah, they raised the concern.

Q. Let me jump ahead to December 31st when I believe there were a couple of meetings. And, again, this is back to the issue with Jeffrey Clark.

Was there another meeting between you, the
1 DAG and Mr. Clark on December 31st?

   A. I know there was a meeting at the White House that day. I don't -- there probably was, but I don't specifically recollect a meeting with Mr. Clark.

   Between Monday the 28th and Sunday, January 3, there were a number of discussions and meetings. I certainly remember the 28th in the conference room, and I remember January 2nd as well as January 3rd. There may be a meeting or two in between there, I just don't specifically recollect.

   Q. So, I'm sorry, you don't specifically recall a meeting in the Oval Office on the 31st?

   A. Oh, no, I definitely recall that, but Jeff Clark was not at that meeting.

   Q. I see. So the Oval Office meeting, there's a photo that the Department has produced at that meeting. And it seems to show that the participants, in addition to the President, were Mark Meadows, Patrick Philbin, Pat Cipollone, yourself and Mr. Rosen. Was there anyone else there?

   A. No, that was everyone who was at that meeting.

   Q. And who initiated the meeting?

   A. Not us. I don't remember exactly how it was communicated to the DAG to come over to the White House. I think the President returned from Florida that afternoon. And shortly after his plane landed, the Acting Attorney General
was contacted and told to come over to the White House, with me, specifically.

Q Did the Clark letter come up during the meeting?
A. Certainly, Clark came up. I don't know if we specifically discussed the letter. But we discussed various election allegations and the more general issue of whether the Department leadership should be changed.

Q. And so this was one of the meetings where there was a discussion about the possibility of installing Mr. Clark in place of Mr. Rosen; is that right?
A. It was part of the discussion, yes.

Q. And was that discussion a discussion that involved the President? Did it involve Mark Meadows?
A. It involved everyone in the room, yes.

Q. What was the President specifically saying about should the Department's leadership be changed and Jeffrey Clark?
A. The way I recollect it at that point, the President's frustration was increasing. The conversation was becoming more contentious. The President said, as I reflected in the notes from the 27th, "People tell me I should get rid of both of you. You're not doing your jobs. People tell me I should put Jeffrey Clark in." That sort of response or statement. And we essentially said, "Mr. President, you
should have whatever leadership you want, but we're going to
tell you the Department operates on facts and evidence. It
doesn't matter who the leader is. That's how the Department
is going to act, and it's not going to change the outcome."

Q. Did the Supreme Court -- did the idea of the
Supreme Court action come up during this meeting?

A. Yes. The President was very frustrated that we told
him that, in our view, the United States Department of Justice
did not have standing to bring such an action. Again, I can
understand the
President's frustration on this point.

He kept saying "How can that be? How is that
possible? You represent the American people. The American
people don't want to be harmed by all this fraud, and you're
telling me you can't file an action to protect the rights and
interests of the American people."

And we repeatedly said no and DAG Rosen tried
to explain why, but the President was very frustrated on that
point.

Q. In other words, he wanted you to bring that
action, and you were telling him you couldn't?

A. Generally, yes. I mean, that wasn't a point where
he said "I'm instructing you to bring this action," but he did
say, you know, "What's going on with this brief?"

He would reference other people, like Mr. Olsen,
1 you know. "They tell me that this is a slam dunk. They tell me you guys can just walk this right into court, and you're refusing to do it."

And we said, "No, we cannot walk it into court. We do not have standing. We've asked the OSG to look at this. We've asked the OLC to look at this. And there are very specific reasons why we don't believe we have standing to bring such an action."

He responded by saying, "How is that possible? How can that be?"

It went on like that for some time.

Q. I have just a little bit of time left in this round. So instead of asking you to look at or authenticate a bunch more documents, let me just short-circuit some of my questions on Mark Meadows a bit, by referring to an email that you sent in which you used the phrase "pure insanity." I'm happy to introduce that.

I think you probably know what I'm talking about. And maybe you can just sort of, generally, in my remaining minute or two, kind of give a flavor for -- give a flavor of the outreach that seemed like it was increasingly coming Mr. Rosen's way, in particular, from Mark Meadows, with emails about things like Italygate, various allegations in Georgia.

How did you -- what was your reaction to
that?

A. I'm familiar with the emails that you're talking about. My comment about "pure insanity" related specifically to the video that had been forwarded. I don't know if Mark Meadows looked at that video. I have no idea. But that was on New Year's day.

The referrals were continuing to come. Some of them were pretty farfetched, as this one was. And when I looked at the video, I think it was about a 20-minute YouTube video or something like that, it struck me as being fairly off the wall, in part because it was very conclusory and it did not really offer evidence.

It basically told a story about how the CIA and British intelligence and actors in Italy were using military satellites to change votes in swing states and so on. And it just seemed not only unbelievably improbable, but even worse. So my "pure insanity" response was specifically directed at the video and the claims in the video as opposed to say the Chief of Staff or the Chief of Staff passing it along or anything like that.

With regard to the subsequent one relating to Georgia, where the Acting AG said "Can you believe this," his frustration, I think was at the fact that they, at least the Chief of Staff, they in the White House believed that Jeff Clark should be involved in any of this stuff. It was
strange, especially at that point, for them to be saying "Have Jeff Clark look into this, or can Jeff Clark look into this."

That, I took as the real frustration point in that email exchange. It had to do with voter signature verification, and I responded sort of meshing two things. Voter signature verification is a more substantive concern than Italian military satellites. So I suppose, in that regard, it was better.

But, again, this idea of sending Jeff Clark down to Georgia to do some sort of firsthand investigation of voter signatures, that's just not the way the Department operates.

Ms. Zdeb. I see that my time for this round is up.

Mr. Donoghue, I know that you have a 2:00 hard stop, and that we are -- I see your counsel is shaking his head.

Mr. Andres. We can talk about that after.

Ms. Zdeb. Okay. I was just going to suggest if we were strictly trying to adhere to that hard stop that we can take a shorter break or just keep going. But if you would prefer to take a break now, and then maybe talk off the record about --

Mr. Andres. We can take a 15-minute break or so. I don't want to speak for Brad or anybody else. But if we
can just have 15 minutes, I don't think we need anything more.
There's a lot of people making a nasty face at me, but we
don't need a long time for lunch.

Ms. Zdeb. Okay. I apologize. We can go off
the record now, if we haven't already. It's 12:39.
(Discussion off the record.)

Ms. Zdeb. It is 1:03. We can go back on
record. And I will turn it over again to my colleagues on
Senator Grassley's staff.

Mr. Flynn-Brown. Thank you, Sara.

And, Mr. Donoghue, thank you for your time
today. I'm probably going to take up less than one hour in
this questioning and then hand it back over to Sara for her
time.

So what I'd like to do is move to Minority 5.
I believe this is Exhibit 13, Bates-stamped -714.
(Exhibit 13, document, was
marked.) Mr. Donoghue. Yes.

BY MR. FLYNN-BROWN.

Q. Okay. So I believe that you may have addressed this
earlier in your testimony. So forgive me if we're retreading
right now, but I just want the record to be precise here.

In the middle of the page, I believe it says,
correct me if I'm wrong, "Thinks he saw trucks move ballots to
shredding location."
It's not clear to me who "he" is. But next
the notes say, "Cobb County—woman who worked at facility
testified at the Georgia Senate hearing that she saw shred
trucks at election location."

Were these allegations investigated by the
Justice Department and the FBI?

A. So this was relayed to us by Jeff Clark. And Jeff Clark
apparently talked to one or two individuals.

It's not entirely clear to me from this. And so this may
relate -- I'm not entirely certain as I sit here. This may
relate to the shredded ballot truck in Georgia. But I don't
know if there was more than one allegation about that.

But to the extent there were allegations in
Georgia, BJay Pak's office handled those. So I believe that
they were aware of the testimony in the Georgia Senate hearing
as well as other allegations. And they, along with the FBI,
were looking at those.

Q. So you said BJay Pak handled these allegations?

A. Yes. BJay Pak was the U.S. Attorney there.

Mr. Flynn-Brown. Okay. Let's now turn to --

Exhibit 14, Minority 2, Bates-stamped -598 to -601.

(Exhibit 14, email, was marked.)

Mr. Donoghue. Yes, I have it.

BY MR. FLYNN-BROWN.

Q. So this is a December 30th, 2020, email from Cleta
Mitchell to Mark Meadows, in which she sent the petition filed in Georgia and a press release, and Meadows then forwards that email to Mr. Rosen.

And in that email, Meadows says, "Can you have your team look into these allegations of wrongdoing? Only the alleged fraudulent activity. Thanks, Mark."

Are you aware of whether or not the Justice Department and FBI reviewed and investigated these allegations specific to this document?

And if you need time to review it, you can have it, obviously.

A. Yeah, I don't recall specifically, as I sit here now, these allegations. But, again, our general practice was to pass these things along to the U.S. Attorney's Office, if they didn't already have it.

Mr. Flynn-Brown. Okay. All right. Let's go to Minority 4. This would be Exhibit 15, Bates -675.

(Exhibit 15, email, was marked.)

BY MR. FLYNN-BROWN.

Q. Let me know when you're there.

A. I'm there.

Q. Okay. So Mark Meadows emails Rosen on January 1, 2021, and says in part, "Can you forward this list to your team to review the allegations contained herein?"

And the allegations related to New Mexico
ballot security issues, according to the subject line on this email.

Do you recall whether this was floated your way? You're not on this email, but do you remember this ballot security issue in New Mexico and whether that was investigated by the DOJ or FBI?

A. I don't remember that as I sit here. I don't remember New Mexico being an issue.

Q. Okay. Was it common practice for Meadows to flip DOJ these types of emails, in essence to say, "Hey, you guys, you need to look into this," so on and so forth?

A. I think so. As I said earlier, my general impression was to the extent that things ended up on the Chief of Staff's desk, I think his desire was to get them, you know, referred out. So I suppose he could say "I referred it to DOJ."

Q. Understood.

So was Meadows fairly deferential to DOJ in that regard? He's forwarding you things, and is he deferring to your judgment and expertise after he sends this information your way?

A. I think that's a fair characterization.

Q. You had mentioned earlier when Sara was questioning you, you guys got into a little bit of a discussion with respect to the White House contact policy and how Clark may
have violated that.

With respect to that policy, generally speaking, White House contact policy for DOJ did not preclude communications between DOJ and the White House. It limited who and the circumstances for those communications; is that correct?

A. That's right.

Q. Now, did Trump's efforts to push the DOJ and FBI to be more aggressive in investigating election fraud and related crimes -- or, excuse me, and election crimes work to make them more aggressive than they would have been absent those efforts from the President?

A. No. I would say it had no impact --

Q. No impact?

A. -- on what we were going to do. We did what we were going to do, regardless.

Mr. Flynn-Brown. I'd like to introduce into the record -- you don't need to comment on this, I'm not going to ask you about it, but I just want the record to reflect this.

These are statements that Senator Grassley made publicly regarding January 6, 2021.

And, Sara, these are all public. And I'd ask that these be included as not witness exhibits, per se, but in the appendix, I'd like these two documents to be included in
the final record.

The first one is a January 6, 2021, press release from Senator Grassley titled "America Must Be Better Than This."

And the second one is a January 6, 2021, press release as well. So he issued two on that day. And this one is titled "Grassley's Statement on Electoral College Certification."

I would like those two to be included into the interview record.

Mr. Donoghue, at this point, I don't have any further questions for you. I may have some depending upon my colleague's questioning, so I'll reserve the time that I have.

But I want to thank you for your time today. And I understand you served in the United States military. So on behalf of Senator Grassley, DeLisa and I would like to thank you for your service to the country.

Mr. Donoghue. Thank you.

Mr. Flynn-Brown. So for the time being, I think we're done with our line of questioning, but we do reserve our time if we need to jump in at the end of this interview.

So, Sara, I'm going to hand it over to you. Ms. Zdeb. Sure.

And as the spouse of a fellow former JAG, I
suppose I will add my thanks to Josh's thanks.

Would you guys like another quick break, or are you good to keep going?

Mr. Andres. I think we're good. Thank you.

Ms. Zdeb. Terrific. So it's 1:11, and we will start our next round.

Now that I understand we are not quite as pressed for time, for the sake of completeness and because I don't think we have done so already, I'm going to go ahead and officially introduce the document that was labeled Majority 18. And we are now, I think, up to Exhibit 16, so we'll call it Exhibit 16.

(Exhibit 16, email, was marked.)

Ms. Zdeb. This is the -- actually, I'm sorry. I'm going to back up a second.

Majority 17, which will be Exhibit 16.

BY MS. ZDEB.

Q. This is the January 1st, 2021, exchange between you and Mr. Rosen that you and I were talking about right before our last break. It's the "pure insanity" email. We talked a bit about your reaction to the video and why you viewed it as pure insanity, but I want to ask you about another portion of the exchange with Mr. Rosen. And that's where he indicates to you that after -- at some point after he received the video he was, quote, "asked to have the FBI meet with Brad Johnson,"
who was the individual who made the YouTube video.

Do you know who asked Rosen, Mr. Rosen, to have the FBI meet with Brad Johnson?

A. I don't know. He may have told me that day.

But if he did, I don't remember as I sit here.

Q. Do you know -- is there anything further that you can tell us about the circumstances of that request?

A. Well, it was January 1st, and so I was at my apartment in Washington. The Acting AG, I believe, was at home. And so these emails flowed throughout the day, and there were calls throughout the day. So he was sort of keeping me updated.

But aside from generally going back and forth and him calling me and saying what was going on, I don't remember the specifics beyond what's in the email here.

Q. Mr. Rosen went on to indicate that he had learned that Brad Johnson -- again, the individual in the YouTube video -- was working with Rudy Giuliani and that he, Mr. Rosen, "Reaffirmed yet, again, that he would not talk to Giuliani about any of this."

Do you know to whom Mr. Rosen reaffirmed that he wouldn't talk to Rudy Giuliani?

A. Sorry, I don't specifically remember. He would have to say.

Q. Were you aware at the time of some efforts to
encourage Mr. Rosen or others in the Department to meet with Mr. Giuliani?

A. I think in relation to this, yes. I do remember this comment about "it was taken as an insult." His refusal to meet with Giuliani was taken as an insult. So I do recollect that, but I can't remember the specifics beyond what I see on the page here about Rudy Giuliani.

Q. Is it possible that it was Mark Meadows who made the request?

A. I'd be speculating, but, sure, that's possible.

Q. Do you have a sense of -- I mean, I think I can imagine, but do you have a sense based on your discussions with Mr. Rosen as to why he refused, apparently, to meet with Mr. Giuliani?

A. As I said earlier, there's sort of a standard way that these things are handled, and the FBI field office does intake -- U.S. Attorney's Office does intake so on and so forth. It didn't surprise me at all that he was refusing to meet with Rudy Giuliani. I don't imagine any scenario where he would have agreed to do that.

So I think he was just saying, "Tell them they can follow the regular course. Rudy Giuliani certainly knows how to bring these things to the Justice Department. He can go to the FBI field office. He can go to the U.S. Attorney's Office. He knows how to do this. He's not going
1 to get an audience with the Acting Attorney General."
2 That was all consistent with his approach
3 throughout this time period.
4 Q. I'm curious, because you indicated, in response to a
5 question from Josh just a few minutes ago, that at the end of
6 the day, the Department didn't take any particular actions in
7 response to all of the outreach that we have been discussing
8 from the White House, that it would not have -- that it would
9 not have taken anyway.
10 I take your point, but I'm sort of curious,
11 just based on your lengthy experience as a career prosecutor
12 and a member of the Department's leadership, whether this sort
13 of course of conduct, the repeated outreach from Mark Meadows,
14 the repeated outreach from the President, changed the
15 Department's actions at the end of the day or not.
16 Would you characterize this as kind of ordinary
17 course, or was this somewhat unusual in your view?
18 A. It was definitely unusual. But, again, I had never
19 operated at that level in the Department in other
20 administrations. So it would be difficult for me to compare
21 one to another. But we certainly thought it was unusual. But
22 at the same time, I can say with confidence that it didn't
23 change anything we did.
24 You know, they were free to raise things. And to
25 the extent they raised things we were unaware of, such as the
five -- over 250,000 supposed difference in Pennsylvania votes, you know, we looked at them, obviously. But no matter what these conversations were, no matter what the phone calls were, no matter what the meetings were, we did our job. And I don't think that them calling or calling us in or anything else changed the way we did it. It just made it a difficult circumstance, obviously.

Q. What was difficult about it?
A. Obviously, the fact that you're getting pulled over to the White House, you know, distracts from your day-to-day work. And so while, at the end of the day, it didn't change what we did, the Acting Attorney General and I and others in the Department had plenty of other things to focus on at that time.

Ms. Zdeb. Let me now jump to Majority 18, which will be Exhibit 17, I think. And this is the follow-up to the email we were just discussing.

(Q. It's the January 2021 email from Mr. Rosen to you forwarding the email in which Mark Meadows alerts you to supposed allegations of signature match anomalies in Georgia, and says, "Can you get Jeff Clark to engage?"

And I think you were saying before the break that that -- the invoking of Jeff Clark's name, in particular,
in this circumstance, was not viewed well by Mr. Rosen. In this instance, you know, we have talked on a number of occasions at this point about the DOJ White House contacts policy.

Would you agree that this request from Meadows was not consistent with that policy?

A. I'd have to look back in the policy to see who on the White House side is authorized to have these types of communications, but I believe the Chief of Staff is. I know, certainly, the White House counsel is.

So I'm not entirely certain, but I don't think it's all that unusual to have the Chief of Staff communicating to someone who, in effect, is a cabinet member at that point, right. But I think that the reference to Jeff Clark specifically is what led to the Acting AG's response.

Q. And just for clarification, and you're obviously free to pull up what I think is Exhibit Number 1, which is the email you sent way back in November attaching copies of the contacts policies, but the White House Chief of Staff is not among the individuals who are authorized to have those sorts of communications with the Department, which is why I asked. You're correct that the White House counsel is, but the Chief of Staff is not among that universe.

And can I just -- before getting back to the Jeff
Clark aspect of this, I did just want to return to the contacts policies. Again, just to make sure that -- just to make sure that we're covering kind of both of the two aspects of that policy, that I think you and I discussed at the very beginning of the interview.

So the first portion of it, and this is the one that Josh was just asking you about a few minutes ago, is the portion that places limitations on who can have communications. So, in other words, limitations on which people in the White House, which people in the Department.

But I think when you and I were initially talking, you agreed that there's a second component to the policy as well, which is that it operates to limit the circumstances in which those sorts of communications can happen at all.

Do you remember that general concept?

A. Right. Yes, I do remember that.

Q. And I have always understood the reason for that second portion of the policy, in particular -- but the policy in its entirety as well -- is really to minimize the prospect of undue political influence in the Department's law enforcement activities.

Would you agree with that kind of assessment of the purpose?

A. Yes, I think that's one of the major considerations.
Q. And so when the White House Chief of Staff or even the President himself raises concerns about particular allegations of election fraud, wouldn't you agree, particularly if it's repeated outreach, as it seems to have been the case here, wouldn't you agree that that starts to implicate that second portion of the policy as well as the overall purpose of trying to limit undue political influence?

A. Yeah, I think those concerns are implicated, absolutely. I don't think that the President is bound to either of these policies, but you're right. It's a legitimate concern, and I think those concerns are implicated.

Q. And I know my colleague Josh, at some point earlier during the interview, asked you a question to the effect of, "Well, isn't it the President's responsibility as the head of the executive branch to supervise the Department of Justice." And you agreed with that concept.

But would you also agree that the President's role as head of the executive branch and supervisor of agencies, including DOJ, it exists in tandem with these principles enshrined in the contacts policy?

So, in other words, he's responsible for supervising DOJ, but there are also limitations designed to ensure that he is not unduly influencing the conduct of law enforcement operations in a way that politicizes them?

A. Yes, I would agree with that get.
Ms. Zdeb. Let's move on to the January 2nd meeting that I understand you and Mr. Rosen had with Mr. Clark. This is Majority 19.

(Exhibit 18, notes, was marked.)

Mr. Donoghue. I have it.

BY MS. ZDEB.

Q. And I think we are now up to Exhibit 18. Are these your handwritten notes?

A. Yes.

Q. There is a notation on -- well, actually, let me take a step back.

Do you remember exactly when on January 2 this meeting took place?

A. It was sometime in the afternoon. This was Saturday. So I was home, "home" meaning my apartment in D.C. And Acting AG Rosen called me and said that he was going to meet with Jeff Clark, but he did not want to meet with him alone and asked if I could come to the apartment. So I said of course, and I immediately left the Department.

I probably got there 15 minutes after the call or something like that. And then we went up and we had this meeting on the sixth floor in the SCIF.

Q. Do you know why he didn't want to meet with Mr. Clark alone?

A. I don't think he said specifically, but I think it
was fairly obvious that this is becoming a very unusual situation, and it would be better to have everyone involved. I mean, we were the Department leadership at this time, and this was becoming more of a concern about the potential for a leadership change. And this was sort of a follow-up to the December 28th meeting.

Q. We talked a bit earlier about Mr. Clark's request to be briefed by ODNI on election-related issues. And it seems from your notes at the top that a meeting of that sort took place. There's this notation saying "DNI briefing, no evidence of ballot tampering, influence only."

Was that something that Clark was reporting to you based on a briefing he had had from ODNI?

A. He had a briefing from ODNI. And one of the things I wanted to nail down was that he had had the briefing that he requested. And that based on the information he was provided, there was no reason in the IC to question the outcome.

Q. How did he react to this?

A. He acknowledged that, but then sort of moved right past it and said, "Fine, but there's all these other things going on." And he began to talk about Georgia and how he had spoken to this individual in Georgia. And then got back to the letter and said, you know, "Based on a discussion with this individual in
Georgia and the things that came up in the Georgia Senate hearing, that we should send the letter."

Q. And there are a couple of notations in here, if I'm reading the notes correctly, to the United States Attorneys in Georgia. So on the left-hand side, there's a little notation saying, "Acknowledges that he did not call BJay Pak as he was told to."

If I'm reading that correctly, can you explain why he had been told to reach out to U.S. Attorney Pak?

A. Right. You are reading it correctly. Keep in mind there were communications between Jeff Rosen and Jeff Clark that I was not a party to in this time frame. But, essentially, when he was complaining about Georgia and these things that had supposedly gone on if Georgia, the Acting AG was getting a little exasperated and said, "Jeff, we've looked at these things. BJay Pak looked at them. You're acting like they haven't been looked at. Just call BJay. Call him and he'll tell you that we've looked into these things."

And at some point, he provided BJay Pak's cell phone number to Jeff Clark and told him to call him.

And at the outset of this meeting, I said to him -- just to make a record and make sure we understood the context in which we're having a conversation, "Did you get the briefing? What was the result? Did you call BJay Pak?"
And he said "No, I haven't called BJay Pak," which I just noted there because I felt it was relevant.

Q. Did he say why he didn't call him?
A. No. He just said that he did not.

Q. Then there's a notation saying "Then called Bobby Christine, but nothing done."

Did you have an understanding about what that outreach to U.S. Attorney Christine involved?

A. I don't believe that was Jeff Clark calling Bobby Christine. I think this is a reference to the individual described above. It says, "Largest bail bondsman in Georgia and owns phone company."

So this is the individual to whom Jeff Clark spoke. And he's saying that he, that individual, the bail bondsman, called the head of GBI, which is the Georgia Bureau of Investigations. They were not interested in his reporting.

He, again, that individual, the bail bondsman, then called Bobby Christine. Nothing done.

And then the reference to the right of that is "Conducted surveillance on warehouse, et cetera." This is talking about that individual or maybe people who worked for him. It wasn't entirely clear to me.

Q. So he was raising these points about Georgia, the surveillance, the outreach to Bobby Christine by way of, again, advocating for the Department to send his letter. Is
that correct?

A. Right. He was focused on Georgia, I suppose, because the letter was, at least, initially, directed to Georgia. And he said, "See, there's all these things going on in Georgia. There were still all these questions. There were still all these allegations. We need to get that letter out." Something to that effect.

Q. Partly down the page, you have a notation "This is entirely unacceptable," which I imagine is something that either you or Mr. Rosen said in response. Is that accurate?

A I said it. This conversation became very heated.

Q. And what -- when you made clear that it was unacceptable, and presumably that the Department would not be moving forward with his letter, how did he react?

A. He just sort of shrugged. I said a number of things, "entirely unacceptable" being one of them, but I reminded him that I was his boss, that he was apparently continuing to violate the White House contact policy, that that letter was never going out while we were in charge of the Department. And I sort of orally reprimanded him on a number of points, including reaching out to witness, and "Who told you to conduct investigations and interview witnesses," and things like that.

I was getting very heated. And he then turned to Acting AG Rosen, and he said, "Well, the President
has offered me the position of Acting Attorney General. I
told him I would let him know my decision on Monday. I need
to think about that a little bit more."

Q. Did he say when he had received that offer from the
President?

A. Not specifically, no.

Q. How did you leave the meeting?

A. So this was Saturday. He said that he had been
offered the position by the President. He was going to let
the President know on Monday, that he was going to continue to
think about it. And that he would let Jeff Rosen know his
decision.

As I said, it was a very heated meeting, and
we all just left there with that being the situation, that we
were expecting to hear sometime between then and Monday as to
what Clark was going to do, whether that was really going to
happen, and so on and so forth.

Q. At some point while this is all unfolding, and
particularly after he has informed you that he was been
offered the position of Acting AG by the President, did you
and Mr. Rosen begin to widen the circle beyond yourselves and
Mr. Engel, and read other department officials into the
prospect, or the likelihood, even, that Mr. Rosen would be
replaced by Mr. Clark?

A. Well, after we left the sixth floor, we went down to
the Acting AG's office and we sat there for some time talking about this. We may have called Steve Engel, I'm not sure, frankly. I think Pat Hovakimian was also sort of in that circle.

Again, the communications between Pat and Acting AG Rosen, I was not always privy to because they had a personal and professional relationship. And I know there were conversations going on there. But we decided to keep a close hold because it still wasn't clear what was going to happen.

And that changed the following day, of course. But at that point on the 2nd, you know, we discussed, "Do we now call everyone in? Do we tell them what's going on?"

And we went back and forth a little bit, and I think ultimately the Acting AG said, "Look, we don't know what's going to happen. Let's just ride out tonight and see how this goes."

That's how we left it at that point.

Q. So at the end of the 2nd, you were anticipating that the following Monday, which was the 4th, you would learn what Jeffrey Clark had decided to do. But then as you just alluded to, it seems that things changed the following day. And on Sunday, the 3rd, there was some sort of conversation or meeting between Mr. Clark and Mr. Rosen.

Is that your recollection?
A. Yes, that's right.

Q. And were you a participant in that meeting, or was it just the two of them?

A. Not the first discussion. I think there were actually at least two discussions that I was not part of that day. Those both preceded the meeting at the White House.

Q. And presumably, you came to have some understanding, though, of those discussions.

A. I did.

Q. And what was your understanding of them?

A. We had a meeting scheduled, a call, for 1:00 that Sunday afternoon. The meeting was amongst various agencies -- DOD, DHS, Interior, DOJ and others -- in relation to preparation for January 6th. That was already on the calendar. I was going to come into the Department to do that call from my office or the DAG's office. So we were already scheduled to be in the office that afternoon.

I came a little before the 1:00 meeting, maybe 12:30 or so, quarter to 1:00, something like that. I came into the DAG's office. Obviously, it was very quiet. It was a Sunday afternoon. No one else was really around. And the DAG was pretty exasperated, and he said, "I spoke to Jeff Clark." It appeared to be just shortly before that. And he said that "Clark says that he decided to take the President up
on his offer, that he's going to be the Acting AG, but he
wants to have one last face-to-face conversation with me
before he tells the President."

It was then time to do the call. We did the
call with DOD and the others, talked through some of
the preparations for January 6. And when that was over, he
filled me in some more on their conversation. And so he said,
"So Clark wants a one-on-one conversation with me." It was
clear to me at that point, Jeff Clark did not want me involved
in any of these conversations.

And I said, "Well, sir, do you really want to
meet with him alone?"

And he said something to that effect of, "Look,
I've known this guy for decades. I'm going to meet with him
alone. That's fine."

He then met with him. I was in my office. I
think they met somewhere in the building. I did not see Jeff
Clark at all until the Oval Office meeting.

Jeff Rosen told me that in the discussion
they just had, Jeff Clark asked him to stay on as his Deputy
Attorney General. And basically said, "Can you believe the
nerve of this guy?" Something to that effect.

He was exasperated. And we both just sort of
shook our heads. And I kind of said, "Well, I guess that's
it. Are we going to find out in a tweet?"
Like, how are we going to find out about it?

And he said, "Well, I think he's going to go over to the White House or call him or something, and I guess we'll find out this afternoon."

At that point, I went back to my office and I began taking things off the wall and put them in boxes, because I told the Acting AG I would immediately resign. There was no way I was going to serve under Jeff Clark. Began taking things off the wall, putting them in boxes. I did that for a short time.

He came over and he said "I talked to Pat," by which he meant Pat Cipollone, "I talked to Pat. Pat said, in his view, this is not a done deal, that we should go to the White House and fight this thing out."

And we talked about that, and he said, "Look, if there's any shot of us stopping this from happening, I think we need to go to the White House."

And I said, "That's fine. I agree with that."

And then he had a series of conversations with people, and he would come back and report to me on them. He said that Jeff Clark had agreed to meet at the White House with DAG Rosen, but only on the condition that only DAG Rosen showed up from the Department and no one else.

And as we got closer to that time, there was
some discussion about timing and such, and it was decided that
the meeting would take place in the Oval Office at 6:15 that
evening.

As we got closer to that, I said, "What do
you need me to do? What can I do to help," essentially. And
I think he also called Pat Hovakimian in.

And he said, "Well, you know, I think it's
time to let everyone know what's going on. So can you do a
call with the AAGs and let them know what's going on? It
would be interesting to know if they would resign. Because
that might help inform the conversation at the White House, if
that's going to be their reaction."

So Pat and I set up that call. We got most
of the AAGs, not all of them. We got them on the phone in
Pat's office. I described for the AAGs what the situation
was, what had been going on over the last week. They, of
course, didn't know this.

And I said to them at the outset, "I don't
need a decision right now, but I need a decision quickly. I
don't want to put anyone on the spot. What I'd like you to
do, I'm going to tell you what's happening here. And if you
can make a decision in the next 15 minutes, call me, call Pat,
email us and tell us what you would do. If you can't, I
understand that.

That's fine."
I also said to John Demers, "John, as the AAG for the National Security Division, I hope you do not resign because we need you to stay in place. We need NSD to have stability, especially if the entire department of leadership disappears."

Before the call was over, the AAG for civil rights, Eric Dreiband said, "Well, I don't need to think about this. I am telling you right now, I'm leaving. There's no way I am standing for this."

Then other people began to chime in. I said, "Again, I don't want to put anyone on the spot. You guys can let us know."

But, essentially, everyone responded either during the call or immediately thereafter that they would resign. And so we then had that information.

I went back to -- Pat and I went back to the Acting AG. We explained to him what the reaction had been among the AAGs. He said fine. He was getting ready to go to the White House.

I said, "What do you want me to do?"

He said, "I want you to come to the White House."

I said, "All right. But didn't Clark say he wouldn't participate if anyone else from the Department was in?"
Rosen said, "I don't care what Jeff Clark wants. I want you to come to the White House. You know these issues better than I do in terms of the election investigations."

I noted that I was not dressed for a visit to the White House. I was in jeans, boots, covered in mud because I had been walking on the Mall earlier in the day. I had an Army T-shirt on. I hadn't shaved in four days. So I said, "Should I go change?"

He said, "No, there's no time for that."

And he said, "Look, I'll have you sit outside the Oval Office. If a question comes up I can't answer, I'll pull you in. But, otherwise, you can just sit outside."

"Fine."

We then got into the vehicles and went over to the White House. We arrived there I think about 6 p.m. We went to the White House Counsel's Office and spoke very briefly to Pat Cipollone and Pat Philbin, and then we headed to the Oval Office where I sat outside on a couch.

As I was on the couch, the Acting Attorney General went into the Oval Office. I saw General Milley walk by. I think he had just left the Oval Office. And shortly after that, I saw the Chief of Staff walk by, who just nodded at me and said "Good luck" and walked on his way.
I sat there for about 25 minutes. I was watching the news. They were talking about the Raffensperger call. I think that was breaking news that afternoon. After about 25 minutes, one of the administrative assistants walked by and said, "Are you supposed to be in this meeting with the President?"

I said, "No, I'm just here to answer any questions if a question comes up no one else can answer."

She then disappeared for a minute, turned around and came right back and said, "The President want you in this meeting."

And I walked back and went into the Oval office.

Q. I'm going to turn it over to my colleague, Mr. Charlet, in just a minute. I know he has some questions. He is going to ask about the Oval Office meeting.

But I first wanted to go back to just the process of getting the AAGs together in the lead-up to that meeting. We have seen a draft of a resignation letter from Mr. Hovakimian that mentions both of your names.

Is that something that you saw at the time?

A No. I think I saw that for the first time yesterday.

Ms. Zdeb. I'll turn it over to Joe to ask some questions about the Oval Office meeting.

Mr. Charlet. Thank you, Sara.
Can everyone hear me? I just want to make sure.

BY MR. CHARLET.

Q. So after you were called into the meeting, can you give us just a general overview of how the meeting took its course? And then we can go from there.

A. The meeting lasted about two and a half hours after I entered, so it was presumably three hours for the other participants. When I came in, seated in the Oval Office was, of course, the President behind the desk. Then there was Pat Cipollone, White House counsel; Pat Philbin; Jeff Rosen; Jeff Clark; Steve Engel and myself.

When I came in, I first apologized to the President for the way I was dressed, and he said, "Yeah, yeah, that's fine. Just grab a seat." And I tried to sit on the couch and they joked, and they said, "No, no, no. You have to sit up here with the rest of us."

So they handed me a chair and I sat directly in front of the President with Jeff Rosen to my right and Jeff Clark in my left. And they were, obviously, in a conversation, and I sort of joined in the conversation from there.

It was a wide-ranging conversation about the department. Focus of it was whether the President should
replace the leadership, whether he should remove Jeff Rosen
and put Jeff Clark in as the Acting Attorney General. There
was some discussions about the letter, obviously.

At that point, it was difficult to separate
the issue of the letter and Jeff Clark being in the leadership
position, because it was very clear, and he stated it
repeatedly, that if the President made him the Acting Attorney
General, he would send that letter.

So it wasn't as if there was a third option
where Jeff Clark would become the Acting Attorney General and
the letter would not go. They were sort of one and the same
at that point.

Essentially everyone in the room -- again,
the President was making the decision, was taking advice from
different sides here. But Jeff Clark was advocating for Jeff
Clark becoming the Acting Attorney General. Everyone else in
the room was adamantly opposed to the President taking that
step. And we kind of went around the room for hours
discussing it and telling him why this was a terrible idea.

Q. And was the nature of the flow of the conversation
more organic? Would people chime in as they had a point to
make, or was it a little bit more structured between Rosen and
Clark?

A. No. It was more organic. I mean, you know, for
whatever else you want to say, it's not difficult to talk
around the President. You don't feel very stilted, right. So people speak their minds, sometimes loudly. And so it just sort of flowed around the room with Jeff Clark making a point and other people would jump in and say, you know, either that's not prudent or whatever.

And so the conversation -- everyone just sort of chimed in as we went around the room. And the President would, you know, make comments throughout about the election and how it was stolen, and how the American people had been harmed, and how he can't believe that the Department hasn't done more. And maybe if he put Jeff Clark in, the Department would do more, and back and forth.

And he would say things like, "Well, what do I have to lose? What would I lose at this point if I put Jeff Clark in?"

And I said, "Sir, you have a great deal to lose."

And then we kind of went around and discussed about the downside of doing this. And we discussed whether Jeff Clark was even qualified to serve as the Acting Attorney General.

And we informed the President that he should expect mass resignations within the Department if he did this. And that -- but at one point, the President said to me "So suppose I do this, suppose I take him out," meaning Jeff
Rosen, "and I put him in," Jeff

Clark, "what do you do?"

I said, "Sir, I'd resign immediately."

And then he turned to Steve Clark, and he

said, "Steve" -- I'm sorry, he turned to Steve Engel, and he

said, "Steve, you wouldn't resign, would you?"

And Steve said, "Absolutely, I would,

Mr. President. You would leave me no choice."

And I said, "Well, and Steve is not the only

one, sir. All your AAGs are going to resign. You should

count on that. They're going to resign, and these are your

people. These aren't bureaucrats left over from another

administration. These are your handpicked people; your

leadership in the Department. This is the team you sent to the

Senate, you got confirmed, and they are all going to walk away

on you at once. What does that say about you as a leader?

What does that say about the Department and what's going on

here? And you shouldn't think it's going to end there because

I have no idea what U.S. Attorneys will do. The U.S.

Attorneys may resign en mass. You may have other department

personnel resign. You could have a situation here, within 24

hours, you have hundreds of people resigning from the Justice

Department. Is that good for anyone? Is it good for the

Department? Is it good for the country? Is it good for you?

It's not."
And so we had these discussions that went on and on, along those lines, for quite sometime.

Q. When you first brought to his attention the fact that you would resign, that Engel would resign and presumably other AAGs would resign, when in the conversation did that first come up?

Was that relatively early on, or did it not come up until further on?

A. I would say it was toward the earlier half. It wasn't later, because that was an important point, right. And in terms of the President saying "Well, what do I have to lose? What's really the downside," I don't think he was he understanding, or at least I wanted to make it clear to him what the fallout would be. The ramifications would be very significant.

So we did not tell him we had a call. We didn't tell him we talked to them or anything like that. I simply said, as a matter of fact, "You should expect your entire leadership time to resign. And do you really want to deal with that?"

And so I made that point earlier rather than later because I thought it was important to his understanding of the situation.

Q. Okay. And to take one step back really quickly, you said at this point, it became hard to disentangle Jeff Clark
becoming Acting Attorney General and sending the letter.

But during the course of this conversation, was the President also focused on other specific election fraud allegations, or was it mostly focused on Clark and the letter and Georgia, specifically, as it pertained to the letter?

A. He mentioned other election allegations as he had in previous conversations. But as in previous conversations, we would say to him, you know, "We checked that out, and there's nothing to it."

So we would repeatedly say "The things you're being told are false," or "the things you're being told do not pan out. They're not supported by the evidence." And we would cite to certain allegations. And so -- like such as Pennsylvania, right. "No, there were not 250,000 more votes reported than were actually cast. That's not true." So we would say things like that.

But the conversation on the 3rd wasn't so much about specific allegations or how we addressed the allegations or anything like that. It was focused much more on the leadership change.

The earlier conversations were more about these allegations "Are you guys really aware of them?"

"We're responding appropriately."

On the 3rd, it was down to "Should I replace
the acting AG or not," and that was sort of just background to that conversation.

Q. Okay. And can you give us a sense of how the conversation came to an end, how the President ultimately made his decision?

A. It didn't appear to us that the President's decision was obvious until about the last 15 minutes of the conversation. I do recall Pat Cipollone earlier saying "That letter," meaning the draft letter to Georgia, "is a murder-suicide pact. And it will damage anyone and anything that it touches."

And I remember some other specific comments along that line, but we kind of followed up on that saying, you know, "Do you want to be part of that?"

And so very deep into the conversation, the President, who was very frustrated, and he just shook his head and he said, "All right. We're not going to do this."

He looked at Jeff Clark and said, "I appreciate you being willing to do this. I appreciate you being willing to step up and take all the abuse, but the reality is it's not worth the breakage. We're going to have mass resignations. It's going to be a disaster. You're not going to be able to get this stuff done anyway, and the bureaucracy will eat you alive. So we're not going to do this."
At that point, Jeff Clark tried to get the President to change his mind. He kept saying, "Mr. President, we can do this. We can get it done. History is calling." Things like that.

And the President just sort of doubled down and said, "No. No, we're not going to do it."

He then looked at me and said "So now what happens to him," pointing at Jeff Clark.

And I didn't understand the question. I said, "Sir?"

And he said, "Are you going to fire him?"

And I said, "No. I don't have the authority to fire him. He's a Presidentially nominated, Senate-confirmed AAG. I don't have the authority to fire him."

And he said, "Well, I'm not going to fire him."

And I said, "Okay. Then, I guess we should all go back to work."

And we all stood up and walked out of the Oval Office.

Q. So you said that White House Counsel Cipollone made somewhat of a strong statement about the nature of the letter, that it was a murder-suicide pact.

I'm sorry, do you need a break?

A. No.
Q. Okay. Since, at some point during the discussion, you had intimated that you and Engel and several others of his leadership at DOJ might leave or take some sort of action, public action if Clark was installed, did anyone from the White House staff make any indications similarly, maybe not quite that far, but just anything along those lines?

A. Yes, they did. I think Pat Cipollone said, "There's no way I'm going to be here if this happens." I mean, there was no "might." It was very clear. We will resign. And I think Pat then jumped in and said the same thing. "I'm not going to stay around here for this."

Steve Engel at one point said "Jeff Clark will be leading a graveyard. And what are you going to get done with a graveyard," that there would be such an exodus of the leadership.

So it was very strongly worded to the President that that would happen.

Q. And during this meeting, did U.S. Attorney Pak come up in any way?

A. Yes.

Q. And who brought him up? Was it the President himself?

A. I think someone else mentioned something about Atlanta, something to the effect of,
"Mr. President, we've looked at all this stuff. We've looked at this. We looked at that. We looked at Atlanta. And, you know, these things are not supported by evidence."

And then he said, "Oh, right. Atlanta. Of course."

And he had a piece of paper on his desk. He said, "Atlanta, Atlanta, no surprise there. They didn't find anything. No surprise because we have a never-Trumper there as U.S. Attorney."

And I had no idea what he's talking about, and he looked at the piece of paper, and he said, "Oh, yeah, B Jay Pak is a never-Trumper. How did this guy get in my administration? He never should have been here in the first place."

And then he read out a quote from the piece of paper that he was holding, which was purportedly a quote from B Jay Pak criticizing the President about his messaging and how it impacted the Republican Party's ability to recruit minorities and minority candidates, I believe.

I had never heard this quote before. I had no idea what he was talking about. And I just said something to the effect of, "Mr. President, I don't even know what that is. I have no idea what you're talking about. But all your U.S. Attorney's were vetted. So whatever B Jay is, I don't think he's a never-Trumper, whatever that is."
And I said "Oh, no, no. He is. He is."

He's a never-Trumper."

He was fixated on that for a short period of time. And he looked up at me and he said, "I want you to fire him."

I said, "Mr. President, I'm not going to fire him. There's no reason to fire him."

And he said "Then I'm firing him."

And I said, "Well, before you do that, understand that I talked to BJay a couple of days ago, and he is submitting his resignation tomorrow morning," which would have been Monday morning.

Pat Cipollone stepped in and said, "We're not firing someone who is resigning in a few hours."

And the President said, "That's fine. I'm not going to fire him, then. But when his resignation comes in, it's accepted. Tomorrow is his last day as U.S. Attorney."

And Pat Cipollone then said "Fine. Set that aside," and then we got back into the rest of the conversation.

Then the President said, "What do you know about Bobby Christine?"

Bobby Christine is a United States Attorney in the Southern District of Georgia.
I said, "Bobby Christine is a great U.S. Attorney."

I didn't understand where he was going with this. And he said, "I hear great things about him."

And I said, "Yes, he's a great U.S. Attorney."

He said, "I want Bobby Christine to run the Northern District of Georgia."

And I said, "Mr. President, Bobby Christine is already running the Southern District of Georgia. BJay Pak has a first assistant who will step in when BJay leaves."

And he said, "No, I think Bobby should run this, because if he's good, he'll find out if there's something there," something to that effect.

And then he yelled out to one of his administrative assistants "Get Bobby Christine on the phone."

Within a few moments Bobby Christine was on the phone. He was clearly caught completely offguard by this phone call.

The President said, "Bobby, it's President Trump. I'm sitting here with Jeff and Rich and other people, and BJay Pak is leaving Northern District. Would you be willing to run the Northern District for the next few weeks?"

And Bobby sounded confused and -- but he
said, "Mr. President, I'll do whatever is needed."

And he said, "Great, Rich will give you a call later and explain everything."

And hung up. That was it. It was a very short phone call.

Q. I'll return to that subject in just a minute. But by the end of this meeting, once President Trump had indicated that he would not replace Acting Attorney General Rosen with Clark, did he direct you or anyone else or did anyone else at the White House such as the Chief of Staff direct you or anyone at the Department to take any further actions in regard to any election fraud allegations?

A. No. It was clear at that point that that was sort of over. You know, the President said repeatedly, pointing at Acting AG Rosen and me, he said, "These two aren't going to do anything. We all know it. I know it. They're not going to get anything done."

But, nonetheless, that was his decision, and that was kind of the end of it.

Q. So following this meeting at the Oval Office, you and Hovakimian convened a meeting of DOJ senior leaders. What was the purpose of this meeting?

A. To inform them that Jeff Clark was not going to be put in as the Acting AG.

Q. And was this a particularly long meeting? Was there
a debriefing of some sort, or was it more conveying that
direct information?

A. It was pretty much that. I'm sure we gave a brief
description of the meeting in the Oval Office. It was probably
a 20-minute call or so. The Acting AG was on that call, so it
was the three of us in his office. We convened everyone on
the call and just said we just spent three hours in the Oval
Office, and this is the outcome.

Q. Okay. And did anyone in the group in particular
discuss any sort of follow-up actions? And by "the group," I
mean the DOJ senior leadership.

A. No, I think everyone was just relieved that it had
come out that way, and tomorrow is Monday morning and we're
going to get back to work.

Q. Okay. So I'd like to move on -- unless Sara has a
question she'd like to interject -- to shortly after that, you
emailed U.S. Attorney Pak to -- and asked him to call you
ASAP.

Why did you do that?

A. So that I could inform him of the part of the
discussion that related to him. And I told him, obviously,
not about the whole conversation, but I told him about the
"never-Trumper" claim by the President.

I told him about the quote.

And he said, "Yeah, I did say that. That was
from before the election. I said that back in 2016, when I was serving in the legislature in Georgia, and I was criticizing him. And -- but I became U.S. Attorney anyway."

I said, "Well, all I can tell you is he was going on and on about how you're a never-Trumper. You should have never been in the administration, that this was all news to him. And that he wanted to fire you, but he decided to accept your resignation effective tomorrow when you put it in."

Now, I also told him, pursuant to the discussion that Jeff Rosen and I had after the Oval Office, that he was free to stay in the Department. Because what the President said was he was done being U.S. Attorney tomorrow. Jeff Rosen said you know, "If it's helpful to BJay, we can keep him in the Department for like another two weeks, give him time to clear out his office and say his good-byes and all that stuff. He would not be the U.S. Attorney, but we would keep him in the Department as a Schedule C employee."

So I explained that to BJay. I said, "Listen, Jeff Rosen wants you to know that you can stay. You can't be U.S. Attorney after tomorrow. You can stay. If it's more helpful, we will keep you on the payroll. You can take your time cleaning out your office. It would be more graceful, et cetera."
He said, "All right. I appreciate that. Let me think about it, and I'll let you know."

He called me at about, I think, 4:30 the next morning. He was on the road. He said, "I'm on my way to the office. I'm going to clear out my office. Tell Jeff I appreciate the offer, but I'm going to go. If the President wants me out, I'm just going to go."

So he went and cleared out his office and left.

Q. And earlier when we were discussing the Oval Office meeting, you had indicated that you and Pak had previously discussed his resignation, that he had already planned to resign.

About when did that take place, when did Pak inform you of this?

A. Probably Tuesday or Wednesday of that week.

That was routine because of the U.S. Attorneys were all informing me as to their departure plans. Some of them had already left. Some of them had stayed until the end, whatever it was, but that was not unusual.

BJay said, "Hey, Monday morning, I'll send you my resignation."

"Okay. Fine."

That had nothing to do with investigations or election or anything. It was just a routine departure of U.S.
Attorneys.

Q. Okay. So there was no indication on Pak's part that there was a specific impetus besides the end of the administration that was leading him to resign earlier?

A. Yeah, that's all it was.

Q. Were you or Rosen personally dissatisfied with Pak or his performance in Georgia as an U.S. Attorney?

A. No. I certainly wasn't. I don't think Jeff Rosen was. I think he was in a difficult position. I think sort of what I described earlier about the conflict between ECB, the Election Crimes Branch, and others, some of that was going on throughout the Department. And I think that -- BJay would have to explain this for himself, but I think his own people were dragging their feet a little bit in investigating these things. And so -- but he got it done.

When I asked him, he said, "Yeah, we looked at the video. We did the interviews."

So he got it done. And I was confident he was doing his job.

Mr. Charlet. Thank you, Mr. Donoghue. I will turn this back over to my colleague, Sara.

BY MS. ZDEB.

Q. Can I just go back to the Oval Office discussions?

Mr. Flynn-Brown. Sarah, I apologize for
interrupting. But we're wondering, it was our -- it was represented to us that there was a 2 p.m. hard break here.

Ms. Zdeb. Yes.

Mr. Flynn-Brown. What's the status here? Because we're beyond 2:00, and we altered some of our questions to hit the 2:00 p.m. deadline.

Ms. Zdeb. So as I understood our discussion shortly before the lunch break, Mr. Donoghue and his counsel indicated they had a little bit more wiggle room. So I personally just had one or two more questions, and then we are done for purposes of our side. And then, obviously, you're welcome to--

Mr. Flynn-Brown. I appreciate that. Thank you.

Ms. Zdeb. Sure.

BY MS. ZDEB.

Q. So just back to the discussion about U.S. Attorney Pak in the Oval Office and the characterization of him being a never-Trumper. You described that, and then you went on to describe the discussion you had with the President about how, ordinarily, the Acting U.S. Attorney would be the first assistant, but he seemed insistent on, instead, putting Bobby Christine into that role.

And I just wanted to make sure I heard one thing you said correctly. You said the President said
something to the effect of "I've heard great things about Bobby Christine, and if I put him in, he'll do something about it."

Is that what you said?

A. Something to that effect. Of course it's not a quote, but he said something like, "Well, if this guy is good, maybe something will actually get done."

Q. And by "something getting done," what did you interpret him to mean?

A. That there would be some sort of investigation that hadn't been done. But as I had told him repeatedly, the Department's looked at it. They did their job in the Northern District of Georgia.

Q. Just one concluding question, and then I think we are going to be done for our side unless we have any follow-up after any additional questions by our colleagues on Senator Grassley's staff.

So we've discussed today a number of different examples, email communications, phone calls, meetings in which various White House officials and outside allies of the President, for lack of a better term, brought election fraud allegations to your attention; in some instances, asked the Department to look into them.

Other than the examples that we have discussed today, were there any additional instances in which
you were personally approached either by someone in the White
House or an outside ally of the President with election fraud
allegations or a request that you look into something?

A. There were so many other things that we looked into,
as I sit here now, I don't recollect anything offhand that
came from the White House. But there were other matters, some
of which were public, some of which were not, that the
Department, obviously, was looking at. And some of which came
up in the course of these discussions.

So, for instance, there was an allegation of
a truck driver who had driven a truckload of ballots from New
York to Pennsylvania and things like that. We looked at it.
We did not find that to be supported by evidence. And so that
was mentioned in passing, but as one of the examples of things
that we had done and had not been supported by the evidence
that was developed.

So there were things like that, but I don't,
as I sit here now, recollect off the top of my head specific
instances that were referred to us by the
White House.

Ms. Zdeb. Thank you. And with that, I think I am
right at an hour, and that will conclude this round of
questioning for our side.

Josh, I'm happy to turn it back to you if you
have an additional round. And then we'll assess whether we
have anything else. But if we do, I anticipate that it would be very short.

Mr. Flynn-Brown. Just a couple follow-up questions here.

BY MR. FLYNN-BROWN.

Q. So with respect to the January 3rd meeting, and I appreciate the detail that you went into in your explanation, it sounded like President Trump, given the length of the meeting and the number of people in there, and based on your description, that this was a very open and frank discussion about the risks and pitfalls of some of these decisions that could have been made.

Is that an accurate representation?

A. Yes. It was definitely very open and frank.

Q. And you said it lasted approximately three hours?

A. It lasted two and a half hours after I joined, and I think they were in there for 25 minutes before I went in.

Q. So during the course of those discussions, did you feel like President Trump took your and your colleagues', with the exception of Jeff Clark, took your concerns very seriously and gave them the due weight that you would have wanted them to be given?

A. He did. And in the end, he made the decision that we felt was appropriate.

Q. And when he made that decision -- you may have
answered this, so forgive me if this is retread. But what was
Jeff Clark's reaction when Trump rejected his letter and
rejected the idea of him being at the top of the Department of
Justice?

A. He was extremely disappointed. When we walked out
of the Oval Office, we all went over to the box to get our
phones out. And he said something to the effect of, "I know
we were all in there just doing what we thought was best for
the country. So no hard feelings," or something like that.

No one responded.

We all just looked at him.

Q. So Jeff Clark then had a firmly held belief that
what he was doing was the right way, was the right approach?

A. That's what he said.

Q. So after that meeting then, what kind of
interactions and relationship did all of you have with Jeff
Clark at that time, or was he effectively iced out?

A. I only saw him once after that. I don't think I had
any discussions or any interaction with him other than that
one incident, and that was a brown-bag lunch where the AAGs
were invited to the DAG conference room for sort of a final
brown-bag lunch in the last days of the administration. He
showed up, and he sat at the end of the table.

And I said to Acting AG Rosen, after it was
over, I said, "I'm sure the only reason he came here was to
Q. Do you know if Jeff Clark continued to interact with President Trump after this January 3rd meeting?

A. I don't know. I think I -- I didn't say a word to him during the brown-bag lunch. I don't think I said a word to him or had any communications with him from the time we walked out of the Oval Office.

Q. After the January 3rd meeting, did you hear about anything relating to that again?

In other words, basically, the question is once the decision was made, it was made; there was no going back. Is that correct?

A. There was no going back. It appeared to me that decision was done. And, you know, in very short order, we were dealing with January 6.

Q. I see. Yeah, so you guys moved on.

A. Yeah, that and the inauguration were all consuming from that point.

Q. You mentioned that BJay Pak was going to resign on January 4. Is that the correct date?

A. That's the day he was going to submit his resignation letter. I did not know, and he never told me, when he intended it to be effective.

Q. And the President said, "Okay. Once he submits that resignation letter, I want it accepted immediately"?
A. Yes.

Q. And then BJay Pak had an opportunity to walk back that planned resignation, stay at the Department. And he chose not to walk that resignation back; is that correct?

A. Not so much to walk the resignation back, but to remain in the Department as something other than the U.S. Attorney.

Q. I see. So he would have transitioned to a different post. He would still be within the Department?

A. Right.

Q. Okay. I'm going to highlight for the record, Mr. Donoghue -- you don't have to address this. But there was some discussion about communications between the President and members of law enforcement within government.

I want to highlight a September 30th, 2020 -- and incorporate it by reference here, I guess, if you want to call it that -- September 30th, 2020, Senate Judiciary Committee hearing with Former Director Comey, where Comey said, under questioning from Senator Grassley, that Comey provided information to President Obama in the summer of 2016 with respect to the Russia investigation, which we all know is Crossfire Hurricane.

And then, of course, you have the infamous January 5th, 2017, meeting in the Oval Office with Obama, Comey, Biden, Sally Yates and Susan Rice where they discussed
Lieutenant General Flynn and withholding information from the
Trump transition team, with respect to what at that time they
believed to be risks attendant to Lieutenant General Flynn.

Of course, the Obama administration refused
and failed to give any defensive briefing or heads-up to the
Trump campaign and transition team, and they proceeded to
investigate them.

So if we're going to be talking about
communications with the White House and DOJ and FBI officials,
the record with respect to Crossfire Hurricane ought to be
mentioned in the same breath when it comes to those types of
communications. And we all know how Crossfire Hurricane ended
up.

So, with that, I'm going to reserve my time
in case we need to jump in again.

But, Sara, back to you.

Ms. Zdeb. As much as I always enjoy
revisiting Crossfire Hurricane, I think we are complete in
terms of our questions on this side. So, Mr. Donoghue, thank
you very much.

Mr. Andres. Sara, excuse me.

We just wanted to clarify the record and
supplement it with one additional answer that I think wasn't
followed up on, but just wanted the record to be complete
about one other discussion that Mr. Donoghue had with the
President that wasn't asked about.

Ms. Zdeb. Of course.

Mr. Donoghue. Just to be completely clear, I think I was asked about a conversation that I had with the President. I mentioned that the President called me on December 14th, the day that Attorney General Barr submitted his resignation.

The President called me late that afternoon on my cell phone and -- well, let me back up a moment.

After AG Barr returned from the White House, I went to his office and asked him essentially how it went, because I had learned, while he was gone, that he was submitting his resignation. He essentially said it went as well as it could, that he had delivered the letter to the President. And he said, "The President is thinking about who will be the Acting Attorney General."

And I said, "Presumably, Jeff Rosen will be the Acting Attorney General."

And he said "Yes, maybe. But your name came up as well. So you should be prepared to get a call from the President. You should be prepared to get called over to the White House. And you should think about, if that offer is made, whether you'd want to do that."

He said "Think about it tonight because I
I wouldn't be surprised if you get called over there tomorrow morning."

I went back to my office, and very shortly thereafter, my phone rang. It was the White House operator. They put the President on. We had a very brief conversation where he said, "Did you hear that Bill is leaving?"

I said, "Yes, Mr. President. I saw him when he returned from the White House. I understand you had a good meeting."

He said, "Yes, yes, good meeting. He gave me this great letter. So that means I need an Attorney General. I think you would be great at that. Would you want to serve as the Attorney General?"

And I essentially said "Thank you, Mr. President. I appreciate that, but I really think it would be in the best interest of the country, the Department, and you to follow the regular course."

And he said "Well, does that mean Jeff would become the Acting Attorney General? That's the regular course."

And I said, "Yes, pursuant to the statute when the Attorney General leaves, the Deputy Attorney General steps into the position. He's a great lawyer. He'll do a great job."
And the President asked, "Will you stay until
the end?"

And I said, "I have no plans of leaving
before the administration is over. I'll be here to the end."

And he said, "So you'll serve as his deputy?"

Jeff Rosen and I had already discussed that,
and I said, "That's my expectation."

And he said, "Great. I'll call Jeff."

I then left. I went up to AG Barr's office. I told
AG Barr about that conversation. I then went downstairs to
tell the DAG. When I entered the DAG's conference room, his
phone was ringing. He picked it up. He said, "It's the White
House." He went into his office.

Then he came out and he told me that the President
asked him to be the Acting Attorney General, I congratulated
him, and we went on from there.

So I just didn't want that to come up later
at some point, and have anyone say "Why didn't you tell the
staffers or the committee about this conversation?"

BY MS. ZDEB.

Q. I appreciate that. Thank you.

Just a couple of quick follow-ups. I'm
curious if you were either given a sense by Attorney General
Barr, or had your own impression at the time, as to why the
President might be interested in having you serve as Acting
Attorney General as opposed to Mr. Rosen?

A. No, I didn't know. I had no contact with the President for a very long time before that. That's—I had one meeting at the Oval Office on December 4. It had nothing to do with elections. It was one brief conversation. But I had no contact with the President throughout 2020, and I think almost all of 2019.

So I didn't understand why he thought that was a good idea. And AG Barr didn't let me know why he thought that might be an issue.

Q. Did you have any sense that the President was somehow unhappy with Jeff Rosen?

A. No, not at all.

Ms. Zdeb. Josh, anything else?

Mr. Flynn-Brown. I do not. And, again, I want to thank you, sir, for your time today. Much appreciated.

Mr. Donoghue. Thank you all. I appreciate your professionalism in this.

Ms. Zdeb. And we thank you very much for making yourself available on somewhat short notice and voluntarily.

It is 2:23. And unless there's anything else, we can go off the record.
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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