COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

WASHINGTON, D.C.

INTERVIEW OF: BYUNG J. "BJay" PAK

Wednesday, August 11, 2021

The interview commenced at 10:30 a.m.
Appearances:

For the COMMITTEE ON THE JUDICIARY:
Senator Richard Blumenthal
Senator Jon Ossoff
Sara Zdeb, Majority Chief Counsel for Oversight
Joseph M. Charlet, Majority Counsel
Quinton Brady, Minority Investigative Counsel
Joshua Flynn-Brown, Minority Deputy Chief Investigative Counsel
Daniel Parker, Minority Investigator
Bradley Weinsheimer, DOJ
Emily Loeb, DOJ
Kira Antell, DOJ
Christina Calce, DOJ

Counsel for Witness:
Edward T. Kang, Alston & Bird
Ryan Martin-Patterson, Alston & Bird
Ms. Zdeb. It is 10:31 and we can go on the record.

Mr. Pak, good morning. Thank you very much for being with us. I'm going to go over a very short preamble and then I'm going to turn it over to my colleague, Mr. Charlet, to start asking some questions.

This is a transcribed interview of BJay Pak. Chair Durbin requested this interview as part of the Judiciary Committee's investigation into efforts to involve the Justice Department in former President Trump's attempts to overturn the 2020 Presidential election.

Would the witness please state and spell his name for the record?

The Witness. Byung J. Pak, B-y-u-n-g. Jin, as in J-i-n, my middle name. Last name is P-a-k.

Ms. Zdeb. Thank you. On behalf of the Chair, I thank Mr. Pak 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 will now ask everyone else on the Zoom to introduce themselves for the record except for Mr. Pak's counsel, who we will get to in just a minute. And we can start with the Senator.

Senator, you're on mute.

Mr. Blumenthal. Sorry about that.

Ms. Zdeb. And going around the Zoom now and perhaps for ease, we could start with my colleague on the Chair's staff.

Mr. Charlet. Hi. Good morning. I'm Joe Charlet, counsel for the Majority.

Ms. Zdeb. And my colleagues on Senator Grassley's staff.

Mr. Flynn-Brown. Good morning, sir. My name is Josh Flynn-Brown. I'm deputy chief investigative counsel for Senator Grassley. We really appreciate your time today. So thank you for being here, and I'll turn it over to two of my colleagues who are also online today. Thank you.

Mr. Brady. Good morning, Mr. Pak. My name is Quinton Brady, investigative counsel for Senator Charles Grassley. Thank you again for being here.

Mr. Parker. And I am Daniel Parker, also an investigator for Senator Grassley.

Ms. Zdeb. Go ahead, Brad.

Mr. Weinsheimer. Brad Weinsheimer, Department of Justice.

Ms. Loeb. Emily Loeb, Department of Justice.

Ms. Zdeb. Kira, you're muted.

Ms. Antell. Kira Antell, also from the Department of
Justice.

Ms. Zdeb. Great. We muted you so you can't object to any of our questions.

I'm just kidding.

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 will 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 manner 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 time before then, please just let us know.

As I noted earlier, you are appearing voluntarily. You have been authorized by the Department of Justice to provide, quote, unrestricted testimony irrespective of potential privilege, unquote, on topics within the scope of the Committee's investigation. Accordingly, we anticipate that our questions will receive complete responses.

As you can see, we have a stenographer, Mary Grace, on the line taking down everything we say in order to make a written record, and so we ask that you give verbal
responses to each question. Do you understand?

Mr. Pak. Yes.

Ms. Zdeb. We encourage witnesses who appear before the Committee to consult freely with counsel if they choose. You are appearing here today with counsel. Counsel, would you please introduce yourselves for the record?

Mr. Kang. Good morning. My name is Edward Kang at Alston & Bird.

Mr. Martin-Patterson. Good morning. I'm Ryan Martin-Patterson, also of Alston & Bird.

Ms. Zdeb. Mr. Pak, 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 let us know. 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. Pak. I do.

Ms. Zdeb. Specifically, witnesses who knowingly provide materially false statements during the course of the Congressional investigation could be subject to criminal prosecution under 18 U.S.C. 1001, and this statute applies to your statements in this interview. Do you understand that?

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

Mr. Pak. I know of no reason.

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

Is there anything else that my colleagues on Senator Grassley's staff would like to add before we get started?

Mr. Flynn-Brown. I have nothing to add at this time.

Thank you, Sara.

Ms. Zdeb. Mr. Pak, do you or your counsel have any questions before we get started?

Mr. Pak. I do not.

Mr. Kang. None.

Ms. Zdeb. Great. In that case, this is the end of my preamble. It is 10:37 and I'm going to turn it over to my colleague, Mr. Charlet, to begin our first round of questioning.

BY MR. CHARLET.

Q. All right. Thank you. Good morning, Mr. Pak. I'm going to start with a few questions about your background just for the record before we begin. Could you tell us about your most recent role at the
Department of Justice was?

A. Yes. I was the United States attorney for the Northern District of Georgia from October 10th to January 4th, 2021.

Q. Thank you. And prior to your confirmation as U.S. Attorney for the Northern District of Georgia, can you give us a brief overview of your professional experience?

A. Prior to becoming United States attorney, I was in private practice. I also, during my private practice years, I served in the Georgia general assembly as a state representative for six years starting from January 2011 to January 2017. It's a part-time legislature here, so I also practiced law during that time.

Prior to that, previously I served in the Department of Justice as an assistant United States attorney in the Northern District of Georgia from 2002 to 2008. And prior to that, I was also in private practice.

Q. All right. Thank you. And when you were the U.S. Attorney for the Northern District of Georgia, what did your responsibilities include when it came to investigations concerning election fraud?

A. As the chief federal law enforcement officer in the district, I obviously supervised all federal investigations that were under my purview in accordance with the Justice manual in coordination with, as necessary,
the Election Crimes Branch and working with all federal law
enforcement agencies, but primarily the Federal Bureau of
Investigation, and also coordinating any type of
investigation with state and other local authorities.

Q. And prior to the 2020 election and the time
period surrounding that, can you describe how and how often
you interacted directly with the deputy attorney general
and/or the attorney general while you were a U.S. Attorney?

A. It was -- it wasn't an everyday occurrence but, yes, we do interact with the attorney general and the
deputy attorney general. In particular through the deputy
attorney general's office, my primary contact as a U.S.
Attorney would have been the principal associate deputy
attorney general or better known as PADAG.

The deputy attorney general is kind of viewed as the
chief operating officer of the Department so we were in
contact with the DAG's office more frequently and, of
course, the attorney general's office.

In addition, through my duties and work on the
subcommittees of the attorney general's advisory committee,
I would often work with various component heads and also
had some interactions with the attorney general and the
deputy attorney general individually.

Q. And you just described the deputy attorney
general as the chief operations officer. Do you mean that
your interactions with him were more administrative or did they also include the substance of investigations in your regular interactions?

A. It could be both. Because the United States Attorney's Offices, the administrative side, there is the executive office for the U.S. Attorneys, so that generally gets handled through EOUSA. But it is possible and it happened when you have substantive cases, particularly things that are sensitive or something that would draw the attention nationally, that we would coordinate with the deputy attorney general's office.

And as a matter of practice, if there are sensitive cases that are going on, investigations going on, the guidelines show that we have to kind of file a sensitive investigative report internally through EOUSA and the DAG's office so that they are made aware of what is going on throughout the country.

Q. Okay. Thank you. We will probably return to some of those subjects as we go through the rest of the interview.

So on December 1st, 2020, Attorney General Barr publicly announced that the Department of Justice had found no evidence of widespread election fraud in the 2020 election. He reaffirmed this finding on December 21st, 2020, two days before his resignation.
Prior to December 1st, had your office looked into allegations in Georgia of election fraud?

A. There were complaints and allegations that were coming in. The way we usually handle election fraud cases is that each district is required to designate a district elections officer and the FBI investigative component does the same. And so we established a hotline so if there is a -- allegations of some type of criminal violation that they would call and bring in the leads.

Unlike the state and local prosecutors, the U.S. Attorney's Offices do not have their own investigators, so we rely on our federal law enforcement agencies to at least track down the substance of the allegation and to do some preliminary investigation to see if there is anything there, whether or not the allegation is true.

In particular, during the election cycle, the district election officer would give the front office of our office, which is me and also my FAUSA and crim chief, regular reports about some of the investigations going on, generally things that have progressed to a level where the U.S. Attorney needs to be aware of it. As you can imagine, in every election there is usually some call comes in and the deputy election officer is responsible for working with the FBI to track down some allegations, to see if there are any substance, to see if there is enough evidence to
actually investigate or open a case. Of course they are in constant communication with the Department of Justice, the Election Crimes division, when they do this.

For me, for that time period that you referenced, Mr. Charlet, on December 4th, I believe, there was news reports that came out related to a state Senate hearing on election irregularities. I don't recall exactly the name of the committee that they had, but it made the news because at the time, Mr. Giuliani, Rudy Giuliani, came down to the state of Georgia, at the capitol, and showed a video that he described as a suitcase full of ballots being run. And this hit the news. I did not know whether or not that complaint was made directly to the Department or my office, but it was all over the news. He called it a smoking gun of election fraud.

Following the morning of that news cycle when Mr. Giuliani came down and testified -- he didn't testify because the state Senate doesn't have power to put people under oath. So any statements are not subject to perjury. I think people probably should know that.

And as -- by way of background, I have to tell you that as a state legislator at the time, one of the frustrating things about policymaking at the state level was that we couldn't make sure what people are telling us are exact in fact truth because we couldn't put them under
oath.

But in any event, when he testified -- when he told the state Senate committee that this was a suitcase full of ballots that they pulled out from underneath a table and that it ran through, that it was evidence of fraud, of course that raised my interest to see what he was talking about.

That morning, I believe in December 4th, the morning after, I did have a conversation with the attorney general at the time, Attorney General Barr, related to another matter that has nothing to do with the election fraud cases that you're talking about. But at the time, Attorney General Barr asked me if I had seen the news about this allegation of this suitcase full of ballots and I said I did hear about that. And then Attorney General Barr said that, you know, he had an upcoming meeting with the White House and, given the fact that he had made a statement two days before that there was no widespread fraud that he thought that this investigation -- or I'm sorry, the videotape might come up during the discussion. So he asked me to make it a priority to find out some more details about the allegation made by Mr. Giuliani.

I told him I would do that. He asked me to make it a top priority. So I said I'd be certain to do that.

At this point, we didn't even have a copy of the
videotape. We didn't even know what the videotape was about. I just saw the news clip about it. So at the time, you know, I obviously contacted the people responsible for investigation in my office and relayed to them in general that we want to find out what's going on with this videotape. And oh, the attorney general asked me to keep me kind of posted on any updates that I might get.

Per protocol, I definitely then called Rich Donoghue, who was at the time the principal associate deputy attorney general. The U.S. Attorney's kind of main contact with the deputy attorney general's office. That's kind of protocol because we coordinate and we would certainly want to let them know that the attorney general wanted us to kind of track down the videotape and see what was going on there. But I talked to Rich Donoghue and told him about my conversation with Attorney General Barr and that we are trying to get a copy of the videotape and find out what -- some additional facts surrounding that.

So my district election officer was the main person who reached out to the FBI. I did have a conversation with the special agent in charge here about the videotape to see if in fact the FBI knew about the videotape. They had not. It was the first time they had heard of it. And so they were going to coordinate with the Secretary of State's office, who were already investigating this videotape, to
find out what -- the facts behind that videotape.

And so operationally, the FBI kind of chooses when to reach out and whatnot. I just merely told them to go ahead and let's try to find out what's going on with the videotape, given the fact that the attorney general is going to the White House through -- this may come up. And I told him it was a top priority to do that.

At the same time, I think that I had not had any conversation with Main Justice other than Rich Donoghue and the attorney general about the case and they were -- I know that the FBI had reached out to the Secretary of State's office to start the process. The protocol is, because this is during the election time where there's an election cycle, and in particular in Georgia at the time, there was a U.S. Senate runoff election scheduled for January 5th, I believe, Tuesday, January 5th, I was very sensitive to the fact that we can't do anything overt that may be viewed one way or the other by the voters, whether giving -- inadvertently giving legitimacy to some claim of irregularity of fraud or -- so we were very sensitive to that.

And so the FBI was coordinating with the Election Crimes Branch about doing some investigative steps, which is the protocol. And the agents were -- it took a few days, I think, to kind of get ready to find out kind of
what happened. I think that the plan was to try to interview the individuals who were depicted in the video and what we found out was the videotape was of a surveillance camera located at the State Farm Arena here in Fulton County, Atlanta on the night of the ballot tabulation.

So it took a couple of days. Meanwhile, I saw the news reports of the implementation manager for the Secretary of State's office related to the Dominion voting machines to discuss kind of what the actual videotape showed. Gabe Sterling was the person. He went on the news and described kind of what the Secretary of State's investigation had shown in terms of videotape. At this point, we still did not have a videotape. That the luggage or suitcase that was referenced by Mr. Giuliani was in fact a secure ballot box and that there was a miscommunication as to why the poll watchers from each parties were mistakenly sent home. And they were -- it was around, I believe, late evening that night that the Fulton County elections director decided to kind of come back tomorrow to continue the tabulation, so they started packing up.

And seeing that the partisan poll watchers, the people from the Democratic Party and the Republican Party, thought that they were done for the night and they left the State Farm Arena, and then the communication was made by the
Secretary of State's office calling down to the State Farm Arena and saying what's going on there? And they said, we're done for the night, and the Secretary of State's office told them that, no, no, no, you've got to continue tabulating because there's a lot of work to be done.

So they were reopening or bringing back the secure ballot box to open to be retabulated. As a matter of fact, in the news segment, they showed clips of the entire evening, which you could see the workers actually packing up the suitcase -- or they referred to it as a suitcase -- but the secure ballot box and putting it underneath the table. And then -- so once the full picture was shown, it was clear that it was the exact same box that they pulled out to start recounting at the time.

So I forwarded that news article to my district election officer to make sure that they had the latest information. By then, I think that they were making plans to try to interview the individuals. We also heard reports that someone had identified the people who were depicted in the video and they were in fact getting some death threats. So there was another need to kind of talk to the individuals there.

And at the same time, I had reached out to the Secretary of State's office to see if there was any investigative files, like memos of interviews of these
individuals that we could start taking a look at. And they had -- ultimately, the lead investigator had not written a report, actual written memorandum of the interviews of the people working that night as depicted on the video, but she did send me an audio recording of the interviews that they conducted that day. And so I obviously listened to it and I forwarded it to the FBI and also the district election officer.

And I also listened to the tape in conjunction with watching the video and the explanation of it and it was all consistent. So I was comfortable in my mind at least, without -- just looking at what the Secretary of State's done, that the story seems to be consistent. But the FBI wanted to make sure and also talk to some of the people there who are depicted and they were trying to arrange that.

But I did get a call that the reason they were not yet having interviewed those individuals were that the Main Justice had not authorized them at that point to reach out to the poll workers and to interview them. And then I asked why not. And I think the protocol was the FBI coordinates with their headquarters, who coordinates with the Department of Justice Election Crimes Branch to kind of take every step in terms of -- because of the sensitivity surrounding elections. I said that's fine.
So at that point, I called Rich Donoghue and told him -- gave him an update on kind of the investigation in terms of what I did, in terms of listening to the interviews, looked at the news report and what the FBI had told me that they have -- the reason they have yet to kind of interview them. And that was my extent of kind of telling Rich that that's why -- the PIN has not authorized them to look at or authorized them to interview.

And my understanding, based on my discussion with the FBI, was that there was a disagreement in terms of the interpretation of the November 6th memo issued by AG Barr. But I've never talked to election crimes or anybody in Justice. I did tell Rich that that was the issue.

And so eventually, a few days later, I think that Rich Donoghue called me and told me that they had resolved the issue and that the FBI would go ahead and do the interview. And then he sent me an email confirming kind of his discussion with the deputy director, David Bowdich, related to getting the FBI to go ahead and interview the individuals.

And I know that they've done that and they actually did a little bit more in terms of looking after the sensitivities of kind of doing interviews because at the same time that the FBI wanted to interview the witnesses, the Secretary of State's office was doing a follow-up
interview of those witnesses. So I think operationally they decided to do them together and not separately. And so the special agent in charge had informed me and called me that the interviews were consistent with what was in the audit recordings and there was nothing irregular about the events, and the allegations or statements made by Mr. Giuliani during the Senate hearing were contradicted by the FBI and my own investigation of the situation.

I called back to -- during the time, I kept Attorney General Barr kind of informed where we are. I think I talked to him maybe twice very briefly. And then once it was -- the FBI had concluded their assessment interviews, I called the attorney general along with -- I called Rich Donoghue as well to tell him exactly what was going on. And I told the attorney general that there was no substance to the allegations. And he said, okay, thank you very much for letting me know.

And that was the last time I communicated with either the deputy attorney general or the attorney general related to the State Farm video.

And then the next thing I found out is that, you know, the attorney general had issued -- that he was going to resign.

With respect to the other type of investigations, there was nothing that kind of -- the FBI had taken steps
to kind of verify few at that point, enough. I mean, there were allegations coming in. We were trying to make sure that we have resources and attention to particular types of complaints that were coming in. In particular, there were lots of threats being made to various people who were involved --

Mr. Weinsheimer. At this point, I'm concerned that Mr. Pak may be going beyond the scope. I don't think it's appropriate for him to talk about all of the investigations. The scope deals with the circumstances on which he left his position and pressure from the White House or Department leadership. So I just want to be careful that he doesn't go into other investigations that aren't within that scope.

Mr. Charlet. I'll take a quick moment to note for the record that Senator Ossoff has joined the interview.

BY MR. CHARLET.

Q. So first thank you, Mr. Pak. That was a lot of detail. Just to clarify a couple of points really quickly. First, you said that it took a few days to sort all of this out. Do you recall about what day it was when you had determined on your own separately that there was no credibility to these allegations regarding the State Farm Arena video?

A. Me individually, I think it took maybe two or
three days from my call with the attorney general when I got the audited recording via email. And so that was the day that I took time to review the evidence that the Secretary of State's office had collected at that time. I have not seen any other evidence other than look at the audio recording and the video recording of it and I just kind of concluded that it was consistent with what's been reported to the public by the Secretary of State's office. So unless there was something else that was going on, I was comfortable that the main allegation that Mr. Giuliani made with respect to the secure ballot box being a suitcase full of fake ballots, that was not true. That was debunked. I was satisfied of the explanation. So it took about three days, I want to say, after -- two or three days -- I can't remember exactly when -- that everything kind of came to its natural kind of conclusion based on the evidence that we see.

Q. And then were the interviews where there was a bit of a delay before they were actually conducted, was that on the same timeline or about when -- when were those completed?

A. Mr. Pak. I think it was right around the same time they got completed. The two or three-day delay was, I think, the FBI was gathering preliminary evidence to review to do the interviews. It's not like you just go ahead and
go. You want to make sure you have the facts straight and their previous statements and things like that.

And it was during this time also where I think that they were -- I don't know this personally, but I heard a couple days after, when I talked to the FBI of where the status of the interviews were, it was kind of waiting for the authorization from the Election Crimes division or branch, I'm sorry, that they were working through those issues. And so it was right around the same time so -- and not -- so the delay until like when we got most of the evidence kind of reviewed and done the interviews was right around the same time. In total, maybe three days, three to four days from December 4th call that I had with the attorney general.

Q. And then for the interviews themselves, I was just unclear so just to clarify, were they for the people or with the people making the allegations or the poll workers who are seen in the video?

A. The authorization I think the FBI had received was only for the individuals that are depicted in the video who was at the State Farm location and so I think that my recollection is they interviewed five to seven people, which were -- I think there were five people who were poll workers, and then there was two additional. One actually -- there was a Secretary of State's office law
enforcement officer present on the night of the video and so I can't remember if it was he or she. I know they were talking to him and also I think they talked to someone with respect to making a call that they were going to close down for the night and then the reopening, the circumstances surrounding like reopening of ballot boxes, continue counting. That's my recollection. They might have interviewed more people but I seem to recall that was the authorization given by the Election Crimes Branch or the Department itself and so that was narrow in scope.

Q. And then you also said there was an additional sensitivity because people were receiving death threats. Was that also the poll workers who appear in the video who were receiving those threats?

A. That's correct.

Q. Okay.

A. That's correct. And there were others as well, but those in particular, the name of the individual who was in the video was leaked to the public by someone and as a result, we were getting -- we were very sensitive to that. That's another reason to kind of touch base with them.

Q. Okay. Great. So I'm going to take one step back before doubling back into some of the substance since we're trying to establish the timeline of what happened when and where.
So when Barr first made his declaration that there was no evidence of widespread election fraud on December 1st, at that time, your office, at least insofar as the Northern District of Georgia was concerned, is it correct that you had not found any election fraud sufficient to change the outcome of the election by December 1st?

A. That's correct. At that time, there wasn't anything like that. And I think that -- just to give you context, Mr. Charlet, the PADAG at the time, which is Rich Donoghue, would from time to time check in, right? And that's kind of the job of the PADAG, to check in with the U.S. Attorney's Offices, make sure that there's not anything that the front office should know about.

And so -- but the short answer to your question, yes, there was absolutely nothing that -- of any investigation that would cause a widespread fraud or anything like that going on in the district.

Q. And then around the time of December 1st when Attorney General Barr made that declaration, you had no other reason to doubt his conclusion that the Justice Department had found no evidence of widespread election fraud in the 2020 election?

A. That's correct.

Q. Okay. Thank you. So I want to get back to your explanation of how exactly your office works through
election fraud allegations or voter fraud allegations. You had discussed there being a district officer who was concerned with these matters and also that your office coordinated with the FBI. So I'm just going to try to understand how that functions a little bit more.

So how exactly does that officer, the district election officer, fit into the way the U.S. Attorney's Office is run? Do you directly oversee their work or is there sort of a hierarchy that they sit within?

A. There's a hierarchy. The district election officer, the criminal division chief, the first assistant and then myself, those are kind of the leadership team related to these things. All of them are career except for me. They were career officers. As a matter of fact, the district election officer used to work in the civil rights division of the Department and so he was a perfect fit, in my mind, and he's handled several cases.

So he would report regularly to the criminal division chief and also, if necessary, to the FAUSA, then to me, but it wasn't a regular kind of direct line. I did not ask him for a report on every little thing that's going on on every single basis. It would be once a week unless there was something significant that we needed to -- that he decided to elevate to the front office. So that's kind of the supervisory chain.
Q. Okay. And then does that officer -- is he the one -- he or she -- the one that coordinates with the local FBI field office for the preliminary investigations that you were discussing?

A. That's correct, yes.

Q. And you made mention of this before, but I guess I'm asking on a more general level. How does the intake process for voting or election related allegations look? Is it always through a hotline that you set up or is there a more general way in which the intake process works?

A. It's a hotline. We publicize the hotline and the district election officer, the FBI's phone number. We do a press release and I go on the radio and press to tell them that if they need to call, contact the FBI or the U.S. Attorney's Office. Other kind of complaints would come into various AUSAs or myself and I would forward those to the district election officer.

So, but there was a main way and then there's obviously some other ways people would send information and then we funneled it to the district election officer to work with the FBI to track down.

Q. And then you also said on or about December 4th, AG Barr himself called you because he had concerns about these allegations and wanted to understand more what was happening.
Outside of the election fraud context and I guess prior to the 2020 general election season, would you say that officials from Main Justice often alerted your office of allegations of crimes of any kind that should be investigated?

A. It's not often. And the attorney general did not call me for this case. He actually called me about another matter and then this came up. But it's not every day when the attorney general will call but from time to time there would be conversations with the front office of Main Justice about various cases, but in terms of the actual allegations coming down from the AG's office, no, that's rare.

Q. Okay.

And in the election fraud context, you were confirmed in 2017 so you were the U.S. Attorney for the Northern District of Georgia during the state's 2018 general election, correct?

A. That's correct.

Q. During that election, do you recall officials from Main Justice alerting your office to allegations of election fraud that should be investigated?

A. No.

Q. So I want to turn your attention to an exhibit that we have marked as Majority 1, and for the record, we
can mark it as Exhibit 1.

(Exhibit 1, email marked Majority1, was marked for identification.)

BY MR. CHARLET.

Q. It's an email from Richard Donoghue to you forwarding you a discussion that Mr. Donoghue had with David Bowdich. Do you have that document in front of you?

A. I do.

Q. Thanks. So he forwarded this exchange that he had with FBI Deputy Director David Bowdich about interviews that AG Barr wanted to conduct in Atlanta. But before we talk about the allegations in more detail, as you can see in the underlying email that Donoghue sent Bowdich, AG Barr had issued a policy change directly after the 2020 general election on November 9th, 2020.

Do you recall the nature of that policy change?

A. I think -- I remember the memo. The memo, in substance, I mean, in summary, basically said that the general policy is that we defer investigation into election fraud or tabulation until everything has been certified or finalized. However, they are -- the policy currently allows some preliminary inquiries, not on a wide open case but preliminary inquiries that you can make including doing some interviews.

And the memo had said that -- I think he was
reiterating that we had had authority under limited
circumstances to do preliminary inquiries in cases where
there is -- I can't remember exactly but I think cases
where there is a substantial, I think, allegation, I think
those were the terms, of some type of fraud that could
impact, potentially impact the outcome of an election. And
that's the substance of what I remember the memo saying.

Q. Okay. And then could you describe how if in
any way this policy change manifested in your work as a
U.S. Attorney? Were you approached by Main Justice at any
point to take a more forward-leaning approach to election
fraud investigations?

A. Apart from the memo, no, they have not. You
know, we took a -- internally at the U.S. Attorney's Office
that I was leading, I took the approach of being
conservative, of not -- of deferring every case that we
can, particularly because, as I noted before, there was yet
another election coming up.

By early December, the general election had been
completed. It would not be an open polling place type of
investigation that people are very sensitive to. But we
just wanted to make sure that we don't do anything that
would leave the public with an impression that we give some
kind of substance to any type of allegation or otherwise.
And so we were very sensitive to that.
I didn't read the memo as being a directive to be forward-leaning in terms of investigations. I took it as being sensitive but reminding that you can do it under certain circumstances when there is substantial allegations of fraud that could have, potentially have an outcome-determinative impact.

Q. And in this email to Bowdich, Mr. Donoghue alludes to a, quote, unquote, policy disagreement between Public Integrity and DOJ leadership over the application of this policy change. Did you ever become aware of that policy disagreement at some point?

A. Yeah, my conversation with the FBI about why there was a delay in terms of them doing the interview, the special agent in charge told me that they were waiting for authorization from the headquarters to go ahead and do that. Then I asked him and said, you know, I think the headquarters -- I think they refer to as PIN but I think it's election crimes division -- felt like there was not a substantial allegation.

And so that's the conversation. That's when I was aware that I think there was a disagreement because in my mind, the Attorney General wanted us to kind of track down the allegation. He had authorized it, to do the interviews. So that's why I called Rich Donoghue because that is a disagreement between what the Attorney General
and I had wanted versus what the election crimes division's reading the memo. And so that's how I became aware of the disagreement on the interpretation.

Q. And just to make sure that I understand, your understanding of the policy disagreement is that the Elections Crime Branch or PIN did not think the State Farm allegations were substantial and that is why they had concerns about the investigative steps that were being authorized by the Attorney General?

A. I think that was one of. The other was whether or not it should be deferred, you know, done now versus later.

But I would not talk to the election crimes division so I wouldn't know exactly what the nature of the disagreement was. I think it was interpretation over the memo, the application of the memo, and so that's what I communicated to Rich Donoghue, that I believed that that was the reason why the FBI had not done their interviews yet.

Q. And the interviews did happen within the course of a few days despite this disagreement, is that correct?

A. That's correct.

Q. And was this the only time that this seeming policy disagreement manifested itself in your work, at least when it came to the 2020 election?
A. Yes.

Q. Okay. So in the policy, the underlying policy itself, the final paragraph notes -- actually, let me enter that for the record. So this document is Majority 2, or it's marked as Majority 2. We'll mark it as Exhibit 2.

(Exhibit 2, two-page policy statement marked Majority 2, was marked for identification.)

BY MR. CHARLET.

Q. It's a two-page document and on the second page, in the last paragraph, the first line states, "While it is imperative that credible allegations be addressed in a timely and effective manner, it is equally imperative that the Department personnel exercise appropriate caution and maintain the Department's absolute commitment to fairness, neutrality and nonpartisanship."

So as I read it, that policy seems to indicate that DOJ should investigate credible allegations in a timely manner. Was that your understanding?

A. That's correct.

Q. And in regards to the State Farm Arena video, would you agree that the investigation did happen in a timely manner?

A. I believe so.

Q. And on a higher level, were you ever asked to
look into allegations that you didn't find credible?

A. No.

Q. So let's go back to the actual allegations in this email. So the interviews that AG Barr wanted to conduct in Atlanta were related to allegations that we discussed previously, that poll workers at State Farm Arena were stuffing ballots into suitcases.

Were you aware -- or sorry.

When were you aware that the Georgia Secretary of State's office had investigated the allegations and concluded they were unfounded?

A. I saw at least the implementation manager, Gabe Sterling, was on TV giving an interview of explaining away the video, and so that was the first time that he represented they looked into it, they'd done some investigation. I didn't know what they exactly did but that's when I became aware that at least the Secretary of State's office had look into the video.

Q. And based on your previous testimony, this email is on December 7th so you would have been several days into your own investigation into this issue, is that correct?

A. Yes.

Q. Do you know exactly why Mr. Donoghue forwarded this exchange to you?
A. I think it was just to let me know that he had raised the issue with the FBI or talked -- discussed it with the FBI.

Q. And as you said, your office did not conclude that these allegations were credible, is that correct?

A. Ultimately, yes.

Q. And do you recall about when you -- or sorry. Did you relay these conclusions back to either Mr. Donoghue or Mr. Rosen or AG Barr, and could you just help us understand exactly when that took place?

A. It was a couple of days after or the night of when the FBI completed their interviews. I just had a short call with the Attorney General, wanted to let him know that we've done all these things, we tracked down the witnesses, the FBI talked to them, it was consistent with what we knew before with respect to the audio.

I told him that I personally looked at the video and listened to the interview audio and found the witnesses' statements to be consistent with what's been reported and that I don't see anything that would give an indication that the suitcase, the alleged suitcase or box was anything irregular other than there was some misunderstanding as to why the poll workers left the State Farm Arena -- or not poll workers -- the poll watchers left the State Farm Arena. There was nothing nefarious to open any kind of
Q. Okay. Thank you.

So our time is running short in this round so I'm going to turn back to my colleague, Ms. Zdeb, to finish out this round of questioning for the Majority.

Ms. Zdeb. Thank you, Joe.

BY MS. ZDEB:

Q. Mr. Pak, I wanted to follow up on a couple of other aspects of the lengthy and quite helpful and detailed explanation that you provided us about the State Farm situation.

I think you indicated that it was on December 4th that Attorney General Barr had this discussion with you about something else, but that during the course of that discussion, he raised these allegations which had just been made in the public domain; is that correct?

A. That's correct.

Q. And I think you said he raised it by way of saying that he was preparing to have some sort of conversation with the President and he was hoping you could look into the allegations in preparation for that conversation.

Did I hear that correctly?

A. No. He called me and the conversation came up like this. He asked me if I've seen the videotape that's
been in the news about the alleged suitcase. The reason I know it's December 4th is because there was the Senate hearing -- it was the Senate committee hearing on kind of the election integrity or whatever they were having happening at the state capitol occurred the day before. And so that's how I know it was the following day. It hit the news and I saw the news and that's why. And then it was that morning when AG Barr and I had a conversation.

What he mentioned was a couple of days ago, to Mr. Charlet's question, a couple of days ago he had announced that at that time the Department had no evidence of widespread fraud. And what he said was the allegation Giuliani is making is pretty serious and I want to make sure that -- you know, I have to go to the White House for -- to discuss other matters, but this might come up. So could you get to the bottom of this and make it a priority for us, for me. And that's the gist of exactly what he said.

Q. Did he indicate when he was going to the White House?

A. No.

Q. Did he ever follow up with you after that meeting to give you a readout or indicate one way or the other whether the Giuliani State Farm allegations came up during the course of that White House meeting?
A. He did not.

Q. Did he or anyone else, either within or outside the Department, ever ask you to speak with Mr. Giuliani in connection with these allegations?

A. He did not.

Q. Were you ever asked to speak with Mr. Giuliani in connection with any other allegations?

A. No.

Q. And I think you somewhat addressed this in your explanation earlier, but just to make sure I'm understanding the thought process on your part and on the Department's part more generally, you've discussed how the Secretary of State's office was already, to your knowledge, looking into these allegations and I think you actually described at a certain point that the FBI ended up coordinating with some of their investigators on your interviews.

I'm curious if you ever considered simply not interjecting the Department and the FBI at that point and deferring to the Secretary of State's judgment and, if not, why not?

A. Well, first of all, I don't know what investigations they did. I just know that they did something. And so at the same time, I don't really give directions to the FBI on operational matters. I just ask...
them to -- that the AG wanted to get to the bottom of it, try to conduct those interviews.

It was the FBI's decision to do it together. And so I don't have a full picture of what exactly investigations the Secretary of State's office did. And we're federal law enforcement and we trust the federal agencies to do it right. So I just left it to the FBI to kind of figure out how best that they're going to do the investigation.

Q. Thank you. I think we actually have a little bit of time left on our initial round, but I also think that this is probably a good time for a quick break. So unless Joe has other questions at this point, I think we can probably conclude our first round a couple of minutes early, take a quick break and then come back and turn it over to Senator Grassley's staff.

Would that work for you, Mr. Pak?

A. That'd be great.

Ms. Zdeb. Josh, does that work for you?

Mr. Flynn-Brown. Yes, that's fine. Thank you.


Mr. Flynn-Brown. That's fine with me.

Ms. Zdeb. We can go off the record and we'll come back shortly.

(Recess.)
Ms. Zdeb. It is 11:31 and we can go back on the record. And before I turn it over to Senator Grassley's staff, I wanted to note for the record that we have been joined by one additional attorney for the Department, if she could introduce herself for the record, please.

Ms. Calce. Good morning, everyone. My name is Christina Calce. I'm with the Office of Legislative Affairs. I'm taking over for my colleague, Kira Antell.

Ms. Zdeb. Josh, over to you.

Mr. Flynn-Brown. Thank you, Sara. I appreciate it.

BY MR. FLYNN-BROWN:

Q. Mr. Pak, thank you again for your time today. First thing's first, can you hear me okay?

A. Yes, I can.

Q. Great. Thank you again.

I'd like to go back to my colleagues on the other side of the aisle, his questioning in the beginning and ask a few follow-up questions. So you had mentioned, I believe, in an answer to him, and please correct me if I get this wrong, that you mentioned sensitive investigative reports that were sent to the DAG's office, the deputy attorney general's office, with respect to sensitive investigations.

Did I hear you correct?

A. It's not just for investigations, but it's anything related to something that the deputy attorney
general's office should be made aware of.

Q. Okay.

A. It could be a small thing as one of the AUSA's laptop got stolen out of a car, you know, because there's sensitive info. So it's a reporting system that was developed for reporting various things that the front office should know about.

Q. Understood. Okay. So all U.S. Attorney's Offices have this reporting structure over to Main Justice, specifically --

A. That's correct.

Q. -- the deputy attorney general.

A. That's correct. And other things. We obviously talk to the associate deputy attorney generals and the PADAG all the time as necessary. So it's not the only structure or method to kind of report things up, but it's the main one that people rely on.

Q. Okay. Thank you for that. So bound up in that reporting structure, then, would be reports relating to election fraud and election crime allegations during the 2020 election, is that correct?

A. If it was something of substance, yes.

Q. Okay. So can you say how many election-related reports regarding 2020 were sent up that reporting chain?

Mr. Weinsheimer. I would object to that question.
It's beyond the scope of the authorization.

Mr. Flynn-Brown. I think it's precisely in scope and a very critical question for him to answer.

Mr. Weinsheimer. The scope of the authorization deals with the circumstances on which he left and about pressure that was placed on him from the White House or the Department leadership offices to investigate specific instances of alleged voter fraud. This question goes beyond that scope.

BY MR. FLYNN-BROWN:

Q. Mr. Pak, I assume that --

Mr. Flynn-Brown. Maybe I should ask your counsel, but your counsel defers to the Department's position, is that correct?

Mr. Kang. Yes, we do.

Mr. Flynn-Brown. Thank you, sir.

BY MR. FLYNN-BROWN:

Q. So with respect to this reporting structure and other U.S. Attorney's Offices nationwide, would you then see what their reports were or could you only see your reports going to this -- to the DAG's office?

A. I do not have any way to view what other offices file.

Q. Okay. So you mentioned that, with respect to the December 4th call with Attorney General Barr, then
Attorney General Barr, relating to the -- the allegations relating to the State Farm Arena video, you had mentioned I believe -- and again, please correct me if I'm wrong here -- there were two or three days from the call with Attorney General Barr before you got an audio recording, but it wasn't clear to me, unless I missed it, what that audio recording was for.

A. So I reached out to the Secretary of State's office to see if there was any memorandum of interviews that they've done interviewing the various people who were depicted in the video. My understanding is they did not have any memorandum of interviews.

Instead, while they interviewed the individuals that night, they recorded all the interviews, the statements and explanation made by the people that are depicted in the video. That audio recording file was provided to me by the lead investigator of the Secretary of State's office. And that's the audio that I reviewed.

Q. Okay. So these are the audio recordings of the interviews that the Georgia Secretary of State's office performed?

A. Correct.

Q. Do you know when those interviews took place that were audio recorded?

A. I don't know exactly, but I believe it was the
next day when they reconvened to continue the processing of the ballots.

Q. Okay. With respect to the interviews that were eventually done by the FBI relating to these same allegations, I believe you said -- and again, correct me if I'm wrong here. I don't want to mischaracterize this -- I think you said maybe three to four days from the December 4 call, the FBI interviewed the same folks in the audio recording.

Is that accurate or was it -- is that three to four days incorrect?

A. I think that's correct.

Q. And so that puts us roughly at December 8th approximately when the interviews took place. And at what point did the attorney general become aware that the FBI had interviewed these folks and that the allegations were not credible?

A. I do not know that other than I spoke to the attorney general when the interviews were completed and told them that there was nothing inconsistent about the facts as we knew it at that time, based on the interviews.

Q. And Mr. Pak, did you ever speak to President Trump about the 2020 election?

A. No.

Q. When did you first hear about voter fraud and
election crime related allegations relating to the 2020 election?

A. I saw it on the news, I believe, after the general election. I think there were various folks making allegations that there were fraud and also that the election was stolen.

Q. Do you know when you started to hear about those allegations time-wise? Date-wise?

A. I heard it on the news. I'm sorry?

Q. Date-wise, do you have an approximate date when you started hearing about these types of allegations?

A. It was within a few days after the actual election. I want to say starting the following day, I think there were some discussions about -- in the news. And this is not -- I want to make clear that this is not from the official channels I heard this from. This is from the news, because that was what was covered in the news. I mean, everybody was -- I think every news outlet was focused on the election, and I think that various elected leaders were making allegations about how the election was fraudulent. So that's how I heard.

Q. Can you give us a description of the examples -- some description of the examples of the types of voter fraud and election crime allegations that you received relating to the 2020 election?
Mr. Weinsheimer. I would object to that question as beyond the scope of the authorization.

Mr. Flynn-Brown. I think in the Donoghue interview I had five objections. In the Rosen interview, I had one. I have two now. So let's see how many I can rack up today.

Mr. Weinsheimer. Then I recommend you stay within the scope and I won't object.

Mr. Flynn-Brown. Yeah. Well I -- look, I disagree for the record.

Mr. Weinsheimer. I understand.

Mr. Flynn-Brown. I think he needs to answer these questions.

Mr. Weinsheimer. I understand.

BY MR. FLYNN-BROWN.

Q. And again, Mr. Pak, your counsel defers to the Justice Department's position here?

Mr. Kang. Yes, we do.

BY MR. FLYNN-BROWN.

Q. Mr. Pak, do you believe it's part of the President's job to ensure the departments and agencies and personnel under his control properly perform their duties and responsibilities on behalf of the American people?

A. Yes.

Q. Mr. Pak, you mentioned earlier the Public Integrity Section, PIN, and the Elections Crimes Branch is
within PIN.

Do you recall who was in charge of the Election Crimes Branch during the 2020 election?

A. I think it was Corey Amundson at the time.

Q. Does the name Richard Pilger ring a bell at all?

A. It does not, other than what's been reported in the news.

Q. What's been reported?

A. I think that he resigned and I think there was some coverage about that. I have not had any personal dealings, nor do I know Mr. Pilger.

Q. Can you describe to me again in a bit more detail your office's relationship with the Public Integrity unit?

A. The Justice manual, which is the policy that all U.S. Attorney's Offices and components abide by, it's the policy of the Department, requires that in most instances when it related to election crimes and investigation, even initiating it, that consultation with the branch is necessary.

In a practical term, we coordinate, certainly, because particularly elections have national consequences and implications, and so the Election Crimes Branch also has resources and subject matter experts so it makes practical
sense that the U.S. Attorney's Offices coordinate with
that. So that's kind of the relationship that the U.S.
Attorney's Offices have.

Q. And who was your main point of contact for that
unit, the Election Crimes Branch?

A. I do not have -- I personally do not call them
directly. The district election officer, I don't know
exactly how they're divided up responsibility-wise, but I
believe that the Election Crimes Branch has certain
individuals assigned to certain districts and so there is a
coordination and communication with them. And they also
put forth some refreshers and trainings for the district
election officers to make sure to discuss and consult with
them about particular issues that may come up.

Q. Now, can the U.S. Attorney's Office proceed
with investigative activity without getting approval from
the Public Integrity Section?

A. The Justice manual requires consultation with
them so I think by -- since the manual requires
consultation, practically speaking, I don't think that ever
happens. U.S. Attorney by him or herself would initiate an
investigation. If they did, it would be contrary to kind
of what the policy was designed to do.

Q. So it's a matter of consultation, so you're
supposed to apprise them of some of your activity but they
don't have the ability to stop you or tell you no. If you need to proceed, you will proceed, is that accurate?

A. Ultimately I think that's correct, but the deputy attorney general certainly, who oversees both of those components, would have the ultimate authority, along with the Attorney General.

Q. So then Attorney General Barr, you know, the November memo that my colleague was referring to -- I'll paraphrase this because I don't think this is exact, but generally speaking it says I authorize you to pursue substantial allegations of voting and vote tabulation irregularities prior to the certification of elections in your jurisdiction in certain cases.

This forward-leaning posture, was it different before this memo was issued?

A. I think it was pretty similar. Like I said, my view of the memo was that it was emphasizing kind of the authority that we have, and that if there is substantial allegations, the Attorney General wanted us to take a look at it.

Q. So is it accurate to say that prior to this November 9th Barr memo, DOJ and FBI generally would not take investigative steps until the election has been certified?

A. I think that that's too broad of a
characterization but generally, a run-of-the-mill allegations of fraud, I think the policy would be that you defer the investigation of it until all the election process has been concluded.

Q. Okay. So then with respect to the Barr memo, you know, what was the effect of it? Did it shift any policy or did it simply more finely tune and focus the existing policy?

A. I viewed it as it finely tuned the existing policy.

Q. I see.

A. I didn't think it was a huge shift in the current policy.

Q. Did you agree that that policy needed to be fine-tuned and more focused?

A. Yeah, I believe so. I do think that -- I think the general default rule is that you don't do any investigation but there are circumstances where it may justify doing some preliminary inquiries and I think the Attorney General's memo reemphasize and clarify that you can in fact do that.

Q. So, sir, what do you think the -- let me say it this way then. What are the risks attendant to not taking investigative steps prior to certification?

A. It depends on what the allegation is. I think
you ultimately, for example, if there is spoliation of
evidence or destruction of evidence or threat of physical
harm to particular people, I think you would consider doing
something before the actual certification or completion of
the election process. And it would be fact-intensive.

So loss of evidence and also physical harm I think
would be two examples I could think of that may justify
doing something prior to the final certification.

Q. So you got into this a little bit in the first
hour regarding the vetting process, or I should say the
intake process with respect to some of the voting fraud,
election-related allegations. You mentioned the DEO,
right? The DEO. And the DEO is an official within the
U.S. Attorney's Office?

A. It is an assistant U.S. Attorney that the
United States Attorney designates as the point person for
election-related issues.

Q. Okay. So for the 2020 election, then, who was
your DEO?

A. Assistant -- actually, he was senior litigation
counsel, Brent Gray.

Q. So he was basically the intake officer for
allegations that came specifically to your office?

A. That's correct.

Q. So he would take them in. Did he have a team
of people to help him vet or was he a one-man crew?

    A. He had resources asking the other AUSAs to help
track that down, but primarily he would be the legal
advisor, so to speak, with the FBI's group that's
responsible for investigating allegations.

    Q. And what is the name of that FBI group?

    A. I think the FBI, I think it was Public
Integrity. I think they called it Public Integrity.

    Q. Okay. So this gentleman would then interface
with the FBI, but he also had other individuals within your
office that would assist him as he needed?

    A. Correct.

    Q. And then from there, after they vet these
allegations, after the DEO and the FBI vet the allegations,
if they're substantial enough, then where do the
allegations go?

    A. If there is enough evidence to justify opening
a case, that would be elevated to the front office, crim
chief, if necessary to even the United States Attorney,
like myself. In consultation with the Election Crimes
Branch, we would open up the case.

    Q. And when you say crim chief, who is the crim
chief? Is that a crim chief for you or is that a crim
chief back in Washington, D.C.?

    A. Crim chief in my office.
Q. And who was that?

Mr. Weinsheimer. I would object to identifying who the individuals are. I didn't object to the DEO because that's something that was public. But to the extent that this is nonpublic information, I would object to it.

BY MR. FLYNN-BROWN.

Q. Okay. So you have the crim chief, and whoever that is then looks at all the material before him or her, and then if it's substantial enough or credible enough, however you want to describe it, it then is moved up to you, sir, at that point?

A. No. The section chief or the crim chief have authority to open up the matter.

Q. Okay.

A. If it's a matter that's substantial or big or that's sensitive that the U.S. Attorney should be made aware, then that would be elevated to me in regular reporting.

Q. And how many items were elevated to you as part of regular reporting for 2020?

Mr. Weinsheimer. I would object as beyond the scope of the authorization.

Mr. Flynn-Brown. I think Congress would like to know the answer.

Mr. Weinsheimer. It's beyond the scope of the
authorization.

Mr. Flynn-Brown. For the record, I disagree.

BY MR. FLYNN-BROWN.

Q. And, Mr. Pak, your counsel defers to the Justice Department's position on this matter?

Mr. Kang. Yes, we do.

Mr. Flynn-Brown. Thank you, sir.

BY MR. FLYNN-BROWN.

Q. Sir, what was your relationship like with the local field offices in Georgia, the FBI field offices to be more precise?

A. We had a very close and good working relationship.

Q. So no issues with them?

A. No.

Q. Okay. Let's turn to, I believe it's Minority 1, and it's Bates stamped 751 to 754. And sir, let me know when you're there. And if you need to review this, let me know if you need some time.

A. Okay.

Q. Okay, sir. The email thread begins on Bates 753, I believe, and this is an email from Corey Amundson, the chief of the Public Integrity Section, 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."

And this is about the State Farm Arena allegations according to the email and you had addressed these earlier in your testimony.

With respect to the 2020 election, how many times did the Public Integrity Section provide a nonconcrence to potential investigative activity prior to election certification?

A. This is the only one I know of.

Q. Same question, I can repeat it in full, but with respect to after election certification.

A. I was not made aware of any others.

Q. And again, who would be the individual that would have apprised you of any nonconcurrences or concurrences from the Public Integrity Section?

A. I think that would generally come through the district election officer.

Q. And who was that again?

A. Brent Gray.

Q. Let's turn to Bates stamp 751. And I'm going to read the first paragraph and this is from Richard Donoghue, Acting Attorney General Rosen's deputy at that time, and David Bowdich, then deputy director of the FBI. It says, "Unfortunately, this is a continuation of a policy disagreement between the Election Crimes Branch (ECB) of
PIN and the AG. While I understand ECB's concerns and the reasons for their historic practice, the AG simply does not agree with what he termed their 'passive and delayed enforcement approach' and has clearly directed that department components should undertake preliminary inquiries and investigations of election-related allegations in certain circumstances even if election-related litigation is still ongoing. While this may be different from ECB's traditional approach, which was essentially to allow election fraud to take its course and hope to deter such misconduct in future elections through intervening prosecutions, the AG gets to make that call. PIN recognizes that much when they say below that he 'has ultimate decision-making authority on this issue.' As I relayed last night, the AG told me last night that the FBI should conduct some interviews relating to the State Farm Arena allegations so that we are not relying entirely on the work/assessments of nonfederal law enforcement authorities. It may well be that the Georgia Secretary of State is correct in concluding that nothing nefarious happened there but the fact is that millions of Americans have come to believe, rightly or wrongly, that something untoward took place and it is incumbent on the Department to timely conduct a limited investigation to assure the American people that we have looked at these claims. If we
come to the same conclusion as the Georgia Secretary of State, then that should give the public increased confidence in the election results in Georgia. If we come to a different conclusion, then we'll deal with that. Either way, the AG made it clear that he wants to be sure that we are actually doing our job and not just standing on the sidelines." End of first paragraph.

And then this email in full, I believe, was forwarded by Mr. Donoghue to you. So when the AG -- so when Donoghue said, "The AG simply does not agree with what he termed their" -- as in PIN and ECB[] -- "passive and delayed enforcement approach," do you agree with Attorney General Barr's assessment that the Public Integrity unit and the Election Crimes Branch had a passive and delayed enforcement approach?

A. I think so, yeah. I would agree.

Q. And why would you agree?

A. I don't think that -- I think they take a very conservative approach about the appearance the Department and the role the Department's investigation may have on the impact of actual voting, perception of it. So I think they take a conservative approach and try to defer as many election investigations until after it's done.

Q. Donoghue also said in part, "The AG told me last night that the FBI should conduct some interviews
relating to the State Farm Arena allegations so that we are not relying entirely on the work/assessments of nonfederal law enforcement authorities."

Did you agree with Attorney General Barr that the FBI should conduct those interviews?

A. Yes.

Q. Going on, the email also says in part, "It may well be that the Georgia Secretary of State is correct in concluding that nothing nefarious happened there, but the fact is that millions of Americans have come to believe, rightly or wrongly, that something untoward took place and it is incumbent on the Department to timely conduct a limited investigation to assure the American people that we have looked at these claims."

Do you agree with this statement?

A. What part of the statement?

Q. That it is incumbent on the Department to timely conduct a limited investigation to assure the American people that we have looked at these claims.

A. Yes.

Q. And the investigation was completed, correct?

A. The limited investigation, yes.

Q. And again, for the record, how did these State Farm allegations resolve?

A. To the extent my involvement was, we made a
conclusion that the allegations made by Mr. Giuliani that these were -- a box that was pulled from under the table was a suitcase full of ballots that was fraudulent, we debunked that. That was not correct at all.

Q. And was that the full scope of this review?
A. That I was involved in, yes.

Q. Can you clarify, when you say that you were “involved in,” it seems to imply there's a secondary part to this.
A. As far as I know, the FBI did not do any additional investigation beyond what I've described to you reporting. They might have done some, but I have not -- I don't recall if there were.

Q. I understand. So Mr. Donoghue also stated, "Unfortunately, this is a continuation of a policy disagreement between the Election Crimes Branch of the Public Integrity unit and the attorney general."

So when he said the word "continuation," it seems to imply repeated conduct. Would you agree with Mr. Donoghue's assessment in that regard?

A. I don't have enough knowledge to agree or disagree on that. That could be based on maybe his dealings with investigations in other districts. But with respect to, you know, the one in my district, this was the only instance that I recall where we had -- where they took
a different interpretation of the memo.

Q. So when then Attorney General Barr issued his November memo with respect to what could be investigated prior to certification, are you aware of any Justice Department personnel or units undermining the operationalization of that memo?

A. I don't have any personal knowledge of that.

Q. Aside from the State Farm Arena allegations, sir, did your office open any election related cases before the 2020 election was certified?

Mr. Weinsheimer. I would object to that question. It's overly broad and, on that basis, outside the scope of authorization.

BY MR. FLYNN-BROWN:

Q. Did your office open any voter fraud or election crime related allegations with respect to the 2020 election before the election was certified?

Mr. Weinsheimer. Same objection.

BY MR. FLYNN-BROWN:

Q. Did your office open any voter fraud or election crime related cases for the 2020 election after the election was certified?

Mr. Weinsheimer. It's the same objection.

BY MR. FLYNN-BROWN:

Q. Mr. Pak --
Mr. Flynn-Brown. Counselor, sir, you defer to the Justice Department's position here, correct?

Mr. Kang. Yes, we do.

BY MR. FLYNN-BROWN:

Q. Okay. Let's turn to Bates 754. Sir, let me know when you're there or if you need time to review.

A. I'm ready.

Q. So this is an email from Mr. Donoghue to Bobby Christine and Corey Amundson is cc'd. The date is January 5th, 2021.

Sir, who is Bobby Christine?

A. By this time, he was the acting U.S. Attorney for the Northern District of Georgia and he was also the U.S. Attorney for the Southern District of Georgia.

Q. Do you know Mr. Christine well?

A. I do.

Q. What is your opinion of him?

A. He's an honorable man.

Q. Do you think he's a capable and a very ethical U.S. Attorney?

A. In my dealings with him, he has always been.

Q. So this email states in part that Mr. Amundson is "aware of the allegations regarding the truck and knows more about what has been done on that than any of us." Sir, do you know what these allegations refer to and
did you learn them while you were U.S. Attorney?

A. I don't know exactly what this email is referring to, but there was an allegation that there was a truck full of certain ballots that were in Cobb County, I think related to Fulton County, and that something was being done with those ballots. And that's the extent of which I recall.

Q. Do you know what happened to those allegations; in other words, did your office investigate them?

A. The allegation came in through -- the primary person that I spoke to about this was a state senator who was chairing a subcommittee of the state Senate related to, I think, the election fraud. I spoke to the senator related to certain shredding of ballots and he referenced that there was someone who came and told him about -- or there was a video of someone with a truck full of ballots being moved to a warehouse in Cobb County and that they were intended to be shredded to prevent an audit. That was the allegation.

Q. Thank you for that explanation. Are you aware of whether or not those allegations were investigated by your office?

A. The allegation came in, I believe, two days before I resigned. So I don't know what happened.

Q. Did the allegation reach you or was it at one
of your lower level officials? I don't mean to be
disrespectful at all by saying lower level officials, but
folks under you. Did they get these allegations and just
not refer it up to you?

A. No. I spoke to the senator myself and I
forwarded the information to the district election officer.
This was a couple of days before I resigned, so I don't
know what happened after that.

In addition -- I might be going a little out of
timeline here -- but in addition, I made -- after I found
out that Mr. Christine was going to be my successor instead
of my FAUSA, I arranged a briefing of all of the election
cases -- related cases that we had going on in the office
and facilitated transition call, so he's aware of all the
cases that are pending that needed his attention, which
included this allegation which I forwarded to him.

Q. Understood. Thank you.

Okay. So let's go ahead and go to, I believe,
Minority 4, Bates stamp 714. And sir, let me know when
you're there.

A. 741?

Q. 714.

A. Oh, it's tab 3. Okay. Yes, I'm there.

Q. Okay. Thank you. So at the top it says
"Meeting with DAG," Deputy Attorney General, "+ Jeff Clark
- sixth floor” and the date over in the top right-hand corner is January 2nd, 2021. I just want to focus on some of the references to Georgia if I may.

If you look in the middle of the page, I believe it says quote -- and when I say quote, I'm not saying that this is an exact quote from the conversation. I'm just quoting to the document. "Thinks he saw trucks move ballots to shredding location." And I don't know who "he" is.

And 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."

Do you recall some of these allegations?

A. That was kind of the substance of what the state senator had relayed to me that he had heard during the state Senate subcommittee.

Q. Understood. Okay. Let's pull up Bates 598 to 601. Let me look at Minority document -- This is actually going to be a Majority document. I think it might be Majority 3.

I believe it's Majority 3. Let's turn to Bates 598. To prevent duplication, we didn't send everything over because some of the same documents the Majority had already sent over.

So, sir, let me know when you're there.
A. I'm there.

Q. Okay. So this is a December 30th, 2020 email from Cleta Mitchell to Mark Meadows in which she tells him that she sent the petition filed in Georgia -- excuse me, in which she sent the petition filed in Georgia and a press release. And then Meadows forwards this up the chain to Mr. Rosen and says, "Can you have your team look into these allegations of wrongdoing? Only the alleged fraudulent activity. Thanks, Mark."

You may need some time to review the press release to get an idea of what the allegations are. If you need that time, let me know.

My question to you is whether or not you recall your team looking into these allegations.

A. Okay.

Q. So the question is, with respect to this email chain and the allegations contained therein, do you recall if your team reviewed these allegations?

A. I don't know. I don't know if my team did or not.

Q. Let's turn to -- I believe this is going to be Minority 3, Bates 736 specifically. So Minority 3 is Bates stamped 735 to 742.

Mr. Kang. Minority 4, you mean?

Mr. Flynn-Brown. Yes, sir, you are correct, Minority
4. Thank you.

   BY MR. FLYNN-BROWN:

   Q. Okay. So according to the top of the notes, these are notes from a call that Mr. Rosen had with President Trump and Mr. Donoghue on December 27th, 2020. You're not on these -- you weren't on the call, I should say, but I want to ask you a question or two relating to the references here.

   So if you turn to Bates 737, and let me know when you're there.

   A. I'm there.

   Q. So the notes say that the President said, "DOJ failing to respond to legitimate complaints/reports of crimes". I note the President's apparent use of the word "legitimate."

   With the volume of voter fraud and election crime allegations that the president had received at that time and which were 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. Are you asking my opinion or --

   Q. Yes.

   A. I don't understand the question. Could you rephrase?
Q. So my question to you is -- I'll just restate it again in full.

With respect to the volume of voter fraud and election crime allegations that the President had received at that time and which were reported on publicly 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. No, I don't think it was unreasonable.

Q. 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 know what he understood as to what the Department of Justice was doing, but I don't think it's unreasonable for him to question what we were doing.

Q. Let's go to the bottom of page 737 and it says, "FBI will always say nothing there. Leaders there oppose me, SAs support me."

When you read this, does it leave you with the impression that the President maintained a certain amount of distrust with the FBI?

A. Yes, I agree.

Q. Is it your opinion then that the distrust could have contributed to the President's concern about how
legitimate complaints and reports of crimes were being
handled by the Justice Department and FBI?
A. Could you rephrase that?
Q. With respect to that distrust, do you think
that it could have contributed to the President's concern
about how legitimate complaints and reports of crimes were
being handled by the Justice Department and the FBI?
A. I'm sure that's possible.
Q. Let's go to Bates 741. According to the notes,
the President said, "You, Rich" -- as in Mr. Donoghue --
"should go to Fulton City" -- or "County, + do a signature
verification and you'll see how illegal it is. You'll find
tens of thousands," end quote.
Sir, do you know if anyone from the Justice Department
or its components performed a signature verification in
Fulton County?
A. I do not know that.
Q. Why do you think the President wanted one of
his chief law enforcement officers to be boots on the
ground and verify fraud allegations personally?
A. You would have to ask him. I don't know.
Q. Do you think it has to do with his distrust of
the process generally?
A. It could be.
Q. So right now, sir, I've got some time left in
my first hour, but I'm going to stop at this point and
defer to my colleague, Sara, if she wants to start again.

I want to thank you again for your time. I may return
to some of these issues later in my second hour, but for
now, I'm going to hand it over to Sara. Thank you, sir.

Ms. Zdeb. Thank you, Josh.

Mr. Pak, would you like another quick break, say, 5 to
10 minutes before we start up again?

Mr. Pak. Sure. That would be nice.

Ms. Zdeb. Okay. It's 12:16. We can go off the
record now and why don't we come back at about 12:25.

(Recess.)

Ms. Zdeb. It is 12:27 and we can go back on the
record.

BY MS. ZDEB:

Q. I'm going to turn it back over to Mr. Charlet
in just a minute, but I wanted to quickly follow up on an
exchange that you all were having with my colleague on
Senator Grassley's staff at the end of the last round.

I will confess I have a little bit lost track of what
exhibits we are marking the documents as, but I believe he
was asking you about the document designated as Minority 4,
which is the set of handwritten notes that begins with
Bates Number 735 at the bottom of the page. I had a couple
of quick follow-ups about that document.
For starters -- and I believe you indicated this earlier -- these are not your handwritten notes, is that right?

A. That's correct, these are not mine.

Q. And you also were not in whatever meeting these notes are presumably recounting.

A. That's correct. I was not present.

Q. So to the extent the President conveyed something about his belief that certain claims of election fraud were or were not legitimate, you wouldn't have the sense one way or the other either as to whether he in fact said that or, more broadly, as to his state of mind when he said that; is that fair?

A. Yeah, that's correct, as to both.

Q. If you see at the very top of page 735 -- and again, acknowledging that these aren't your notes and you weren't a participant in this meeting -- I see that they are dated December 27th, 2020. We were talking a bit earlier during our first round of questioning and then a little bit during my colleague's round of follow-up questioning just now about the efforts that you and your office took to either prove or disprove those allegations related to the State Farm Arena videotape.

And I believe you said that after these were first brought to your attention, because they were a matter of
public record, but also because they came up on that phone call you had with Attorney General Barr, it was December 4th, is that correct?

A. That's correct.

Q. And I believe you also said it didn't take too much time after that, perhaps a couple of days, for the Department's process and the FBI's process to play itself out such that you reached a point that you were satisfied that there was nothing to those allegations, is that correct?

A. That's correct. And to be clear, the only thing that was delayed was the interview of the actual employees. During those three or four days, we were doing other activities such as gathering like the audiotape and things like that. So the interviews themselves were delayed by whatever amount of time that -- from the point they wanted to do them versus getting clearance to do them.

Q. Do you recall if those interviews took place at some point in time before December 27th?

A. Oh, yes, absolutely.

Q. So jumping ahead a couple of pages in the set of handwritten notes that we were just looking at to page 737, there's this notation partway down the page, it says Georgia. There's then some handwriting to the -- I believe to the effect of tape there shows fraud. And then it's a
bit difficult to read the handwriting, which again I recognize is not your handwriting, but there's also some language, I believe, making reference to “hidden ballots under table.”

So to the extent these notes are making reference to those same State Farm Arena allegations that we have now been discussing, is it fair to say that by this point in time, which was December 27th, you personally and your office more generally had already concluded at some point before this meeting that there was no merit to those allegations?

A. That's correct.

Q. And so whether the President believed or called these State Farm Arena allegations legitimate, to use the word that my colleague on Senator Grassley's staff was pointing to earlier, your office had determined by then that they were not legitimate, is that correct?

A. That is correct.

Ms. Zdeb. I will turn it back over to Mr. Charlet.

BY MR. CHARLET:

Q. All right. Thank you. I'm going to turn back actually to the subject that our colleagues in ranking member Grassley's office left off on, which is the signature match allegations in Fulton County. I just want to clarify a few questions since you already stated that
you did not look into these because it is our understanding that there were several other allegations of election fraud that were made during your time as U.S. attorney and we just want to get a sense of which ones you may have looked into and how you did, if you did.

So on December 4th, 2020, the Trump campaign and a Republican presidential elector nominee sued the Georgia Secretary of State and other relevant officials over alleged signature match anomalies in Fulton County, Georgia.

Are you aware of these allegations?

A. Based on what's been reported in the lawsuit, yes.

Q. And were you aware of the allegations at the time or did you come to be aware of them after you left your office?

A. I saw the news of the lawsuit being filed and then obviously after I left, I've read more about the allegations and what happened to them. But in terms of kind of the details as to what's alleged, I just knew generally and not specifically whether or not the allegations are true or not.

Q. And you told our colleague that your office did not investigate these claims, is that correct?

A. Okay. So I do want to qualify my answer here.
My answers are that I was personally aware, okay. So if you recall my testimony of how things progressed in the office, the allegations might have been logged with my office and the FBI as well. Not every allegation that is logged with the office would be elevated to me. So it might have been logged. So my personal knowledge may be limited to only those cases that were elevated to me.

What I do know was they were getting a lot of calls and they were taking lots of information from different sources. So I don't want to overstate like, for example, my office did not investigate it. That would be an overstatement because I don't know. They could have done that that I am not personally aware of.

Q. Okay. I will phrase my questions to your personal awareness, then, so that we don't fall into that issue.

So you personally were not aware of your office looking into these particular issues, is that correct? Is that a correct summation of what you had stated previously?

A. That is correct.

Q. Were you aware at the time that one day after these claims were filed in Fulton County Superior Court that they were thrown out the next day?

A. I don't know if I specifically remember at that time, but I know now that that's what happened.
Q. Okay. And then the Supreme Court of Georgia also declined to hear the case, stating in their order that petitioners have not shown that this is one of the extremely rare cases that would invoke their original jurisdiction.

Do you happen to recall that development as well?

A. Yes, I remember reading that. Yes.

Q. And insofar as your own awareness of such an investigation would be concerned, is it possible that such an allegation wouldn't have been elevated to you because it was insubstantial in some way, either because the people in your office who might have been looking at it had determined that already? Is that one of the reasons it might not have made its way up to you?

A. That's a possibility. The other possibility is that the allegation would have been logged and looked into later after the certification is done. It doesn't mean that it's dismissed outright. It's just that it was on cue to be looked at and then determined later on whether or not there have any merit.

Q. Okay. Thank you. So moving on, then, on December 22nd, 2020, President Trump's chief of staff, Mark Meadows, personally visited Cobb County, Georgia during its signature audit of absentee by mail ballots, specifically the signature on their oath envelopes. While it was our
understanding that he was not allowed to enter the room
where the signatures were being verified, he did meet with
the Georgia Deputy Secretary of State, Jordan Fuchs, to
discuss the audit process.

My question to you is, were you aware of this visit by
Mark Meadows?

A. I found out about it through the press.

Q. Okay. About when did you first learn through
the press about this visit?

A. I think it was immediately -- the day of or
right after.

Q. Did you have any particular reaction to
learning about this trip?

A. I thought it was highly unusual.

Q. And why did you think it was unusual?

A. In the middle of the process, the chief of
staff would come visit, have a meeting with the Secretary
of State. I don't recall that ever happening in the
history of U.S.

Q. And to be clear for my next question, it was
the Georgia Secretary of State that was completing the
audit, is that correct?

A. That's correct.

Q. Okay. But in reference to the allegations that
led to the audit, did Mr. Meadows or anyone at the White
House ever reach out to you directly about the Cobb County mail-in ballot audit process?

A. Not to me directly.

Q. Did anyone at Main Justice ever reach out to you about this issue?

A. Not about the audit process.

Q. In what capacity did they reach out to you?

A. Just in general, checking to see if there's any investigations or developments that they should be aware of.

Q. And did you have an investigation at this time that they should be aware of into the Cobb County signature anomaly allegations?

A. No.

Q. So the Georgia Secretary of State and the Georgia Bureau of Investigation released its findings for the Cobb County signature audit on December 29th, 2020 and concluded that no fraudulent absentee ballots were identified during the audit. Do you recall that being the conclusion or one of the conclusions of their audit?

A. Yes.

Q. Did you or your office have any evidence to the contrary?

A. Not that I know of.

Q. So we also understand that on December 27th,
2020, President Trump discussed various Georgia-related
election fraud allegations directly with Rosen and
Donoghue, the acting attorney general and Mr. Donoghue, in
the notes that my colleagues have directed your attention
to already. President Trump appears to have discussed an
allegation with Mr. Giuliani that a temporary -- or
promoted by Mr. Giuliani that a poll worker had somehow
hidden the ballots to add more votes to Biden's tally
during tabulation and also that there was multiple scanning
of ballots. He said that there was a tape showing the poll
workers putting the ballots in the suitcases.

We've discussed this allegation previously but I just
want to clarify that by December 27th, you had established
that there was no credibility to this allegation, is that
correct?

A. That is correct.

Q. And you also stated previously that the Georgia
Secretary of State's office independently had investigated
this and found no wrongdoing, is that correct as well?

A. I believe that was their conclusion, yes.

Q. During the meeting where this was discussed,
President Trump asked Mr. Donoghue to go to Fulton County
to do a signature verification because it would purportedly
find tens of thousands of fraudulent ballots.

Do you know if Mr. Donoghue ever made such a trip?
A. He did not make such a trip.

Q. Did Mr. Donoghue ever discuss such a trip with you or the fact that the President asked him to take such a trip?

A. Not about the trip, no.

Q. But did he discuss that the President had a concern about these fraudulent ballots with you?

A. Not about the signature matches, no.

Q. And then separately, did anyone else at DOJ ever discuss a need to perform a signature verification process there?

A. No.

Q. So I would like to redirect your attention back to the December 30 email from Mr. Meadows to Mr. Rosen that our colleague from the Minority directed you to. It should be marked as Majority 3, and in the order in which they were entered into the record, this should be Exhibit 5, if I am correct.

(Exhibit No. 3, an email dated December 30, was marked for the record.)

Q. Let me know when you have it in front of you.

A. Yes, I have it.

Q. So I want to go into the individual allegations specifically to see if you had been directed at any point to look into these allegations. So specifically, after
December 30th when Mr. Meadows forwarded this email to Mr. Rosen, did Mr. Rosen, Mr. Donoghue or anyone at DOJ ask you to look into President Trump's campaign allegations?

A. No.

Q. Had Ms. Cleta Mitchell or anyone affiliated with the Trump campaign ever asked you or your office to look into these allegations?

A. No.

Q. On page 1 of the attachment with this email, which should be Bates Number 600, Ray S. Smith, III, the lead counsel or who was the lead counsel for the Trump campaign, claims in this press release that there are, quote, literally tens of thousands of illegal votes that were cast, counted, and included in the tabulation the Secretary of State is preparing to certify.

Did your office have any evidence to this effect at that time?

A. No, we did not have any evidence to that effect.

Q. And so specifically in the press release and in the filing in Fulton County Superior Court, the Trump campaign alleges that 2,560 felons voted.

Did you have any evidence of such a claim at this time?

A. I would not, no.
Mr. Weinsheimer. I would object as beyond the scope.
You're getting into specific investigations that don't have
anything to do with specific pressure put on Mr. Pak and so
I would object.

Ms. Zdeb. This comes from an email that the
Department produced which was sent to the then acting
attorney general by the then White House chief of staff
along with an express request that the Department look
into, quote, these allegations. And I think it's exactly
within --

Mr. Weinsheimer. This witness has said that he didn't
get it and he didn't get any pressure from either the White
House or DOJ with respect to it. So now basically what
you're doing is taking allegations from here and asking him
about specific investigations in the office. That's beyond
the scope at this point. It doesn't have anything to do
with any pressure put on Mr. Pak from Department leadership
or the White House.

Ms. Zdeb. The scope of the interview and the
investigation, as you noted earlier, Brad, also includes
the circumstances surrounding Mr. Pak's departure from the
Department, and so it is certainly within the scope of that
issue for us to understand, for instance, was there some
feeling on the part of the President or on the part of
others who were involved in decisions surrounding that
departure, was there some sense of unhappiness with the job that Mr. Pak or his office were doing.

And it seems to me that it is inherent in understanding that set of issues, whether there were particular things that Mr. Meadows, the President thought that Mr. Pak's office ought to be looking into that they were not looking into, whether or not Mr. Pak recalls specific instances of pressure directly being placed on him.

So for that reason as well, it strikes me as completely within the scope of this interview.

Mr. Weinsheimer. I think if you want to ask Mr. Pak about the circumstances of his leaving, that's different, but I think your record so far with respect to other witnesses doesn't support that conclusion at all.

Ms. Zdeb. I think we can move on at this point but I will conclude by asking Mr. Pak's counsel the same question that my colleague on Senator Grassley's staff has asked repeatedly when his questions drew objections, which is just to confirm that Mr. Pak's counsel are planning to adhere to the Department's objections in this regard.

Mr. Kang. Yes, we are.

Ms. Zdeb. We can move on.

BY MR. CHARLET.

Q. Okay. Well, then moving forward in topic and
in time, it is our understanding that on New Year's Day,
Acting Attorney General Rosen provided Jeffrey Clark, who
at that time was the acting head of the civil division,
your cellphone number.

Do you know what prompted Mr. Rosen to give Mr. Clark
your cellphone number?

A. I do not.

Q. Had you and Mr. Rosen or Mr. Donoghue or anyone
at Main Justice previously discussed Mr. Clark reaching out
to you in any way?

A. Yes. Around December 30th -- just to lay kind
of groundwork, the background, Rich Donoghue and I would
talk regularly, because we were both colleagues before we
became the PADAG, and also part of that duty, he checked in
with various U.S. Attorney's offices to see if there was
anything that they should become aware.

On December 30th or the 31st, I can't remember
exactly, I knew it was before New Year's, Mr. Donoghue
called me and told me that he was very frustrated because
the President was solely focused on Georgia with respect to
any voter fraud allegations and he had commented that
nothing would dissuade the President from believing that
the election was in fact stolen from him.

He stated that he, the President, just would not
believe that he lost Georgia. I don't know why. He didn't
explain why. And I reiterated to him that we looked into several allegations. Obviously we concluded that there was nothing there and that this was kind of disturbing because in substance that his own people had looked into it and reported back up.

He then asked me about whether or not I knew Jeffrey Clark. And I told him, no, I did not know Jeffrey Clark, who was he. And Mr. Donoghue explained to me that he was the assistant attorney general for environmental natural resources division, the ENRD, and that at that time he was the acting attorney general, acting assistant attorney general for the civil division.

And he said that Mr. Clark had, quote, the President's ear. I asked him what he meant by that and he mentioned in passing that Clark is suggesting that the Department sign on to some letter suggesting that the general assembly call a special session and to refuse to certify the electoral college votes and that he wanted the Department to intervene or join in -- I can't remember exactly -- in a civil lawsuit that was filed by the Trump campaign.

And I said, well, that seems -- that's very -- that's crazy. That's just highly crazy. I think the words I used were -- I think Rich who used the words that this is bat-shit crazy. And that was the description.

Rich told me that Jeff Clark would be calling to --
1 and that maybe I could talk to him about what we found and to dissuade him from, you know, trying to suggest that there was widespread fraud in Georgia, and I told Rich that, well, he can call me all he wants but it's not going to change anything. We're not going to be joining any lawsuits that's not, you know, that's not substantiated by any evidence.

And at that time, Mr. Donoghue mentioned to me that, in fact, I wouldn't be surprised if the President called you directly. And I said, well, he could call me all he wants, the answer is not going to change.

And then that was the end of that conversation. Mr. Clark never called, or at least we never connected if he tried to call, nor did the President ever call me directly.

Q. Okay. And when you had this discussion with Mr. Donoghue, was this a call from Mr. Donoghue specifically about this topic or did it come up in the course of some other discussion we were having?

A. Mr. Donoghue I think called me to give me a heads-up or forewarning that Jeffrey Clark, who I am not familiar with, would be calling me. And so at the same time we talked about kind of what's happening, and my impression in my conversation with Mr. Donoghue was there was a lot of things being asked of the Main Justice, the
acting attorney general and the deputy attorney general that the Department take, and that they were resisting because they were not substantiated by the evidence. And so I could sense the frustration in Mr. Donoghue's voice, but he had called to let me know that Mr. Clark or the President might be calling, and that was the reason for the call.

Q. And then you seem to have indicated as such but just to make it clear on the record, prior to January 1st, would you have ever had any reason to work with Mr. Clark in any capacity at all?

A. Yes, there is a possibility because if we have a case that we have concurrent jurisdiction with ENRD, which is the division in charge with investigating environmental-related cases, but I have not had any cases that -- where we overlapped in jurisdiction so I did not have an occasion to work with or talk to Jeff Clark.

Q. And then in regards to election fraud or just election matters and the cases that arise from them in general, would you ever have had any reason to work with Mr. Clark?

A. Given the fact that he was ENRD and chief of civil, related to election-related items, unless, I guess, there was some civil lawsuit that the Department was going to file, I don't think that there would be any occasion for
him -- to work with him in that regard.

Q. And you indicated that Mr. Donoghue thought that the plan that Mr. Clark was interested in pushing forward was bat-shit crazy, but did it strike you as unusual that the acting attorney general -- or I'm sorry, that the acting head of the civil division would want to reach out to discuss voting or election matters with you?

A. I thought that was very strange and highly irregular.

Q. And you said that Mr. Donoghue indicated that the President might try to call you directly. Have you ever had any situation where someone at Main Justice told you that the President might contact you directly for an issue?

A. I have not.

Q. In your experience, would that be unusual for any U.S. Attorney to hear that the President might contact them directly?

A. That would be highly irregular given the fact that it's been -- traditionally also there are policies in place where communication between the White House and the Department is highly regulated through the Office of Legal Affairs and of course the front office, the AG and the DAG.

Q. And in the course of this discussion with Mr. Donoghue, did the two of you ever develop some sort of
plan for how you would deal with potential reach-out from
Mr. Clark or the President?

A. There was no plan. Mr. Donoghue indicated that Mr. Clark would call me to talk about what's happening in Georgia and potentially, you know, joining in a lawsuit. And I told him that's -- we're not going to do that because there's no evidence of any fraud.

Q. And you're at least not aware of any attempt that Mr. Clark tried to reach out to you, is that correct?

A. I am not aware of whether or not he tried to reach me or not. I had not talked to him.

Q. Did you follow up with Mr. Donoghue or Mr. Rosen at all about this lack of outreach from Mr. Clark?

A. No.

Q. Did you become aware at some point that Mr. Clark was interviewing witnesses in connection with the State Farm Arena allegations?

A. I was not aware of that.

Q. Do you have any idea under what authority he would be able to take such investigative steps like that?

A. I am not aware of any authority that he would have.

Q. And you indicated that you weren't aware, but just to make it clear on the record, you did not authorize
him to interview these witnesses, is that correct?

A. No. No.

Q. Generally speaking, how might a DOJ official's unauthorized and unknown-to-you outreach to a witness relevant to an investigation conducted by your office or that your office may conduct, how would that impact the work of your office or how might it?

A. Well, you could certainly interfere with an ongoing investigation to the extent that it exists. Number two, as a professional courtesy, when you have -- when you operate or do something in the same department in a jurisdiction, you know, you should coordinate and let folks know, who is responsible for that district, what activity is going on.

In this case, none of that happened, if in fact -- I wasn't even aware that he was interviewing witnesses related to the State Farm video incident.

Q. So on January 2nd, President Trump called Georgia Secretary of State Brad Raffensperger to push him to find exactly enough votes to overturn the election results in Georgia.

Were you aware at the time that President Trump made this call?

A. I was not aware of that on January 2nd.

Q. Do you recall when you became aware of this
call?

A. I saw it on the news. It was in news reports of a recording being released, I believe it was January 3rd, and there was -- at that time when I saw kind of the headlines, I did not see -- I didn't read the transcript or anything like that. There was just a summary of what the call entailed. And so it was a day after January 3rd, the day before I resigned, that I found out about the call.

Q. Can you describe your reaction to finding out about the call?

A. I was -- I was very upset, at the same time very disappointed because the call -- the summary of the description about the call indicated that despite at least me and also the attorney general reporting up that there had not been widespread fraud, that the President was seeking to overturn the election or at least find ballots or represent that there was irregularities.

So I was personally very concerned and I even considered potentially resigning on Sunday. But in thinking about that, we had a special election coming up on Tuesday of that week and I thought about the potential impact that might have on whether or not my sudden resignation would give some credence to the allegations of fraud or would dissuade or be used as certain kind of talking point. I decided against that and I decided to
stay with my original plan, which was to, you know, submit
my letter of resignation and give two weeks' notice and
leave office on Inauguration Day.

Q. All right. As you might imagine, we have some
questions about the circumstances surrounding your
resignation itself, but I'm going to put a pin on that to
ask a few more questions about this call specifically.

Did secretary Raffensperger or anyone from the Georgia
Secretary of State office reach out to your office about
this call that the President made?

A. Not that I am aware of, no.

Q. So Cleta Mitchell, who we've discussed
previously and who also oversaw the Trump campaign lawsuits
in Georgia, she advised President Trump on this call. Did
she or anyone from the Trump campaign ever reach out to you
regarding the allegations that he pushed in this call?

A. I do not know -- I am not aware of any such
contacts.

Q. Do you know why President Trump referred to you
as a Never Trumper U.S. Attorney during this call?

A. I do not know other than my conversation with
Rich Donoghue and the conversation he had at the White
House on Sunday, January 3rd. He referred to it as there
was a printout of an article in which I was quoted -- and
this was in 2016 -- in response to a question whether or
not then candidate Trump's candidacy had helped or hurt efforts to recruit minorities to the GOP. And I think my comment was that he had made it difficult to recruit candidate and voters to GOP.

And that was the only reference that I've heard from Mr. Donoghue's conversation, so -- and I believe just in context that he probably took that and his perception that somehow that these allegations of fraud are not being looked into and he probably concluded that I'm not doing those because I was a Never Trumper, which is not true.

Q. And to point out the obvious, you became a presidentially appointed and Republican Senate confirmed official as the U.S. Attorney of Georgia under the Trump Administration, is that correct?

A. That's correct. And during the vetting process, they knew about the quote, they knew about the article and I was asked about it multiple times.

Q. Did you have an understanding at any point prior to this call, though, that President Trump was unhappy with the job you were doing as U.S. Attorney?

A. I was not aware of any such dissatisfaction.

Q. And then also prior to the call, did you have any understanding that President Trump wanted your office -- that President Trump specifically wanted your office to do more to investigate claims of election fraud?
A. During my conversation with Rich Donoghue in a few days leading up to my resignation, Mr. Donoghue let me know that the President was very unhappy that the Department in general were not doing anything about the allegations of fraud and, in particular, in Georgia and he was very focused on Georgia.

So although he didn't tell me that he was particularly unhappy with my performance, but I took that as his dissatisfaction with the Department of Justice in general, in his mind, that they were not doing enough.

Q. And so you said that one reaction that you had -- or let me know if I'm characterizing this correctly. You said that one reaction that you had to learning about this call between the President and the Secretary of State of Georgia was you potentially resigning. Had you ever considered resigning prior to learning of this call?

A. My plan was to leave the office after the inauguration. After the election, people were asking me what my plans were. So the last week before my calls with Rich Donoghue, I let my office, also the courts and the law enforcement in our community partners, know that my plan was to leave at the end of the Administration on Inauguration Day, that -- and I told Rich Donoghue that I will probably submit my resignation sometime the week -- a few days after the runoff election just so that it's not
going to cause any views of potential irregularity and
that -- but my resignation would be effective on January
20th.

The reason I was focused on January 20th was,
throughout 2020, my office and people, the good dedicated
men and women in the U.S. Attorney's Office and my law
enforcement community went through a very difficult, tough
time and transition, in and of itself, is very difficult
and that in order to make sure that we minimize any impact,
that my first assistant, who's a career person, who's been
with the Department over two decades, taking over as the
acting U.S. Attorney, would be the best way to assure the
people in the office and the community that the office is
in good hands.

So I was focused on January 20th and I never wavered
from that, up until January 3rd, the day you pointed out.
It was very clear to me that in spite the reporting up of
what we found in terms of allegations, that that was being
ignored and, if that's the case, I didn't want to be a part
of potentially being a tool or a factor in whether or not
people should believe in the Department. I was looking out
for the Department and its people.

I ultimately came to the conclusion that I would not
go ahead and resign abruptly, but to hold on until January
20th. And of course I think you're probably aware that
things changed very quickly on that evening and the following morning.

Q. So, yes, around 10:00 p.m. on January 3rd, Mr. Donoghue emailed you asking you to call him ASAP. Do you recall speaking with him that evening?

A. On January 3rd, yes. Yes. I had noticed that I missed several calls from him and I saw that I had an email from him. So I called him back that evening and that's when Mr. Donoghue relayed to me that the President was very unhappy and that he wanted to fire me, that he believed that I was a Never Trumper and Mr. Donoghue told me that he had told Mr. Trump that he thought that was incorrect and that the President did not care, but wanted me out of that spot. And then I asked -- oh, oh, I'm sorry. I missed a detail.

So I can't remember if it was Mr. Donoghue or someone else had mentioned to the President that I was submitting my resignation that week, the first week of January, and I think Mr. Donoghue had suggested that instead of doing a firing, which I think everybody from the Department was kind of advising against, that he go ahead and just accept the resignation and so that -- and let him move on.

Mr. Donoghue indicated that Mr. Trump -- President Trump agreed, but that I have to get out of there. And then Mr. Donoghue then asked me like how long were you
planning to stay after you submit your resignation. I told him that, you know, through inauguration. And Mr. Donoghue said, no, unfortunately, it can't be that long.

He then offered to place me in another senior role in the Department. I told him, Rich, thanks but no thanks, I'm done. And then he said, all right, you know, in terms of your announcement of your resignation, you could do whatever you wanted. He said, you know, you could have a press conference, you could, you know, make a big fuss or submit -- just do it quietly. He suggested that it would be best for everybody if you did it quietly. And I said, well, let me think about that, at that time. And then I hung up.

And then the following morning, very early on, I had called Mr. Donoghue, telling him that I'm on my way to the office and wanted some clarification as to why I was asked to resign early. And Mr. Donoghue explained that the President felt like I was not doing enough and he believed that you were not doing enough because you were a Never Trumper. I asked him who else was present during this conversation, and he -- from my recollection, he told me, I think it was the acting attorney general, Rich Donoghue, Mark Meadows, Pat Cipollone, White House counsel, and I think there was the deputy White House counsel in the room, plus the President.
What I forgot to mention is the night before, I asked Mr. Donoghue if my first assistant would be allowed to assume the acting attorney general role -- I mean, acting U.S. Attorney role because I was concerned about kind of the office and how they would take that. And Mr. Donoghue indicated that unfortunately that when he brought that up with him, and acting attorney general brought it up, the President's response was, well, who's that? You know, I don't know that guy. And then he had brought up the fact that how about that Bobby Christine guy? I heard good things about him.

And he indicated to me that they then called Mr. Christine from the White House and told him that he would be taking over as the acting U.S. Attorney for the Northern District. Mr. Donoghue indicated that Mr. Christine was very confused. It was kind of out of the blue for him but that he would have questions about whether or not he could serve him as the head of two different districts. And I believe at the time they got an opinion from the office of legal counsel that they could. And that was the scope of the conversation on the evening of the 3rd.

The following morning when I talked to Mr. Donoghue about my resignation, I had told him that, you know, I'm going to just submit a very bland resignation. I don't
want this to be perceived in a way that may impact the
election or impact the Department in the negative way, and
so I'm going to just go quietly. And he then asked me
again, he was like, are you sure you don't want to stay in
a role? And I said, no, it's fine. I think I'm done with
it. And then I also told him that I was very honored to
serve with him and I told him that -- I told him to hang in
there because I knew kind of the pressure that he was
facing, and so I got off the phone with him.

Then I called my first assistant. I didn't reach him.
Then I called Mr. Christine on my way in to work, and
Mr. Christine was quite apologetic and was kind of confused
about the situation. I told him that, look, I gave him
a -- I said, hey, listen, I think what's important is the
transition here. It's going to be very disruptive to the
office, yours and mine, so why don't we set up a leadership
call between my team and your team at noon that day to go
over all the cases, and at that time he asked me to set up
a briefing of all the election-related cases. And I told
him I would do that.

And after that, I went to the office and then I
finally contacted my FAUSA and told him of my resignation,
which he was obviously surprised, and I told him that he
would not be acting U.S. Attorney, just to give him a
heads-up so he would now be completely blind-sided by what
would be a normal procedure, that the FAUSA become the
acting U.S. Attorney pursuant to the Vacancy Reform Act.

Q. So I have several follow-up questions so I'll try to go through them in an orderly fashion. So you had earlier indicated that one reason why you intended to serve until the end of the Trump Administration was to allow the transition to be as smooth as it possibly can be. So when you found out that Mr. Christine, regardless of his own qualifications, since he was already serving as U.S. Attorney, would be appointed to replace you rather than having your first assistant move up, was that one of those kinds of sort of disruptions you were trying to avoid by not originally resigning before the end of the administration?

A. That's correct. That was my goal to try to stay until the inauguration so that the transition would be as smooth. And obviously my conversations with the deputy attorney general and what I knew behind the scenes, what was going on, was kept from the rest of the office. I was very sensitive to kind of the morale of the office and the Department in general, and so I tried to make it as smooth as possible but obviously that did not happen. Unfortunately, that didn't go as I intended.

Q. And obviously -- or I shouldn't say obviously, but presumably the men and women in your office are quite
hardworking and so was U.S. Attorney Christine, but in
terms of this kind of disruption, what kind of effect can
they have? Why would a disruption like this -- why could
disruptions like this affect -- why and how could they
affect the work of the office?

A. Well, first of all, we were in the middle of a
pandemic, as you recall. It was already disruptive.
People are very worried about the operations. And given
the fact that 2020 was a very challenging time for those in
law enforcement, particularly who are black and people
of -- communities of color, I think it was a very stressful
2020 in general, given those things.

And the fact that, you know, I tried to keep --
transition times are always tough because people always
wonder what's going to be next, and so you want to try to
be transparent about what's happening and what's going to
happen. And we had a lot of new employees that joined the
office in the past two years who had never been through the
transition and that raises a certain level of stress. And
it does. And so my first assistant and I always tried to
make plans to make sure we assure everybody that things
will be fine, that the Department goes on regardless of who
may be in the White House or who may be the attorney
general. Maybe the priorities change but, you know, to new
employees of DOJ, that sometimes -- until they go through a
transition, they always have that doubt.

    So we try to make it as smooth as possible and that
was my number one concern just given kind of where the
office was in terms of morale and kind of mental health.
And not having to come in and connecting at a level and a
personal level, that's another layer of kind of stress that
adds and so any kind of disruption like this that's
traumatic and unplanned certainly I think would have a
negative impact on the morale of the office, and in turn,
the productivity as well.

    Q. And you were discussing earlier when you had
either your first or second call with Mr. Donoghue on the
night of the 3rd going into the 4th, that you understood
the pressure he was under. Could you tell us a little bit
more about what you understood that pressure to be?

    A. Well, Mr. Donoghue and I, prior to him becoming
the acting deputy attorney general, we were colleagues. He
was the U.S. Attorney for the Eastern District, so we had a
level of relationship that was a little bit different than
just someone who was a supervisor in Main Justice.

    So we would talk about what he was doing. I was
concerned about how he's holding up, in particular, because
I knew there were things being asked just of what the
Department -- of the Department from the White House that's
highly unusual. And in fact, Mr. Donoghue had indicated
that on several occasions when the Attorney General and the Acting Attorney General would kind of dissuade the President or someone from doing -- and asking them to do something, that they had offered to resign or they were afraid that they would be fired.

And so from that conversation and just the context of it, I felt that Mr. -- Acting Attorney Rosen and deputy -- yeah, Acting Deputy Attorney Donoghue were pushing back at some of the things that were being asked of the Department.

Q. And then prior to this late January 3rd call with Donoghue, despite the Trump/Raffensperger call on the 2nd that you found out about on the 3rd, you had, prior to the call with Donoghue, concluded that you still would not announce your resignation until after the Georgia runoff election and you would stay until the end of the administration?

A. That's correct, yes.

Q. And can you just describe just like a little bit, with a little bit more detail, how exactly during the call with Donoghue you decided that you would submit your resignation on Sunday the 4th?

A. No, it was not -- oh, okay. I see what you mean.

So I had already intended to submit my resignation the following Wednesday or so, later in that week, and
Mr. Donoghue, when we talked about how -- what was your plan in terms of how long we were going to stay, I said till the 20th, and Mr. Donoghue said, unfortunately, that's not going to work. Maybe two or three days, you know. And so they asked me to submit the resignation earlier, which was immediate, and Rich asked if I would -- that they could put me in another SES position of the Department. I said no, that's fine, I'm kind of -- I'm done.

So I submitted the resignation immediately as they requested, since the President wanted to accept it immediately, and so that's why I submitted on January 4th instead of the Wednesday.

Q. And so was your understanding that if it weren't handed in, the resignation, on the 4th or at least the 5th, earlier than you had intended, then the President would fire you? Was that your understanding from the call?

A. I don't know if that would be the case but, I mean, obviously that's what I probably -- that's what my thinking process was. I mean, there's two way -- I work at the pleasure of the President, regardless of whether or not he thinks -- what his belief in my performance or -- is legitimate or not or he could ask me to resign for any reason since -- so I view it that way. That was -- that's the tradition of the office and that is what the Presidential appointment process is like.
So I didn't really think much of it. I didn't want the issue to become something about like my protest in terms of having the President fire me. So I thought for all those involved, in particular kind of the office and everyone else who has been kind of watching Georgia, that going quietly and with minimal amount of disruption was the best way to go, and hence I was very vague in my resignation letter but it was pretty clear that they wanted my resignation immediately.

Q. I have a couple more questions before I turn it back to my colleague and we end this round. So after you submitted, formally submitted your resignation, Assistant Attorney General for the Office of Legal Counsel, Steve Engel, emailed you to say, "Many thanks for all your service to the Department."

Do you remember that email?

A. I do.

Q. Did you understand this thanks to be for anything specific?

A. No. Mr. Engel and I started working at the Department when we were summer law interns back in 1998. So I've known Mr. Engel for a very long time. He served in the Bush Administration, W. Bush Administration, and I was an AUSA in the Bush Administration and we also served in the Trump Administration. So we have a little bit of
history in the Department, and so I think -- I read that as Mr. Engel just saying farewell since I am leaving and I didn't read any more into that other than just a kind note to say farewell.

Q. Yes. Okay. So is it accurate to say then that you had not interacted with Mr. Engel in regards to any Georgia election fraud allegations or this tension with the President?

A. That's correct. I have not had dealings with him at all related to the election issue.

Q. Okay. Thank you. And then also in response to your resignation, Mr. Donoghue emailed you the next day to call you a class act. Did you understand this phrase to be for anything specific?

A. I took it as just my general note to the U.S. Attorney community and my colleagues. I knew that there were a lot of folks doing the right thing, following the rule of law and defending it. And so I was telling them that I support them and I want them to stay because that's what our country and the Department requires.

And I think Mr. Donoghue, given his history with the Department, he's a longtime AUSA prior to becoming U.S. Attorney, I think he liked the message that I sent to the rest of the community.

Q. And then on January 4th when you officially
submitted your resignation, were you aware of any evidence or credible allegations of widespread election fraud sufficient to affect the results of the 2020 election in Georgia?

A. I was not aware of any evidence that indicated widespread fraud or anything that would affect the actual result of the election in Georgia.

Mr. Charlet. Okay. I'll turn it back over to you, Sara.

Ms. Zdeb. Great. I think I have about three or four minutes left in this round. And I will try to stick to that.

BY MS. ZDEB:

Q. One unrelated question I just wanted to make sure to close the loop on. You had said at some point earlier in our discussion when you were discussing the ballot shredding allegations that were subsequently brought to Mr. Christine's attention the day after he assumed the role as acting U.S. Attorney, I think you had said you had previously been made aware of those allegations by way of a conversation with a state senator.

Could you tell us who that state senator was?

A. It's Bill Ligon, L-i-g-o-n.

Q. Thank you. Jumping to -- I think you said it was either on or around December 30th when Mr. Donoghue
called you with essentially a heads-up that Jeffrey Clark
was pursuing the plan that Mr. Donoghue referred to as bat
shit crazy, he said -- or you indicated that he told you
that Mr. Clark or the President might call you directly and
that neither the President nor Mr. Clark ever did reach out
to you about that particular proposal.

Did anyone else, either within the Department or
within the White House, reach out to you about the bat shit
crazy proposal?

A. No.

Q. And then finally, when it came to this sequence
of events around January 3rd and 4th when you had these two
conversations with Mr. Donoghue about your resignation,
just so I am clear on what you had communicated to
Mr. Donoghue about the timing and when, it sounds like
prior to the call you had with him on the 3rd, you had made
him aware that you were planning to submit your resignation
at some point during the first week of January after the
Georgia Senate runoff, is that correct?

A. Yes, that's correct.

Q. And because it sounds like during that call on
the 3rd he, Mr. Donoghue, asked you when you planned to
actually resign as opposed to when you planned to announce
your resignation, the fact that Mr. Donoghue was announcing
that on the night -- or I'm sorry, the fact that
Mr. Donoghue was asking you that on the night of the 3rd makes me think you had not previously communicated to Mr. Donoghue on what date your resignation would become effective. Is that correct?

A. No, I told him. I told him I'm going to stay until the inauguration. I don't think -- you know, he may not remember that, but I've always intended to stay until the inauguration because I wanted my FAUSA to become acting U.S. Attorney.

In effect, I didn't -- part of the reason is I felt like that leaving while there was a Senate runoff election would send the wrong message to the public and so I tried to do what normally happens during a change in administration, which is the new administration asks for, by tradition, the resignation of all the U.S. Attorneys.

In my case, I wanted to give two weeks' notice to people, so that I settled on the first week of January as the time that I was going to publicize that I'm leaving effective January 20th.

As a matter of fact, when I first drafted the resignation letter, I had that in there, that effective January 20th. It was the morning of when I got the call -- on January 4th when I edited the letter to eliminate the effective and change it to immediately and that's the letter I sent.
Q. Thank you.

Ms. Zdeb. And if I could beg your and my colleagues on the Ranking Member’s staff for just a little bit of indulgence, I have maybe two or three final very quick questions and then I think that may be it for our side. So if I could just wrap those up right now.

Mr. Flynn-Brown. Sara, I think that's fine. When you say wrap it up for your side, are you talking about for this round or do you want to do another round after this? What's your plan? And we can go offline and talk about this if you would like to.

Ms. Zdeb. Yeah. Why don't we go off the record for just a second.

Mr. Flynn-Brown. Okay.

(Discussion off the record.)

Ms. Zdeb. We can go back on the record.

BY MS. ZDEB:

Q. So I understand you to be saying, Mr. Pak, that at some point before January 3rd, when you had this conversation late at night with Mr. Donoghue, you had communicated to him both that you expected to tender your resignation at some point shortly after the runoff the first week of January and that you told him that you were planning to actually resign at the conclusion of the President's term.
Is that a fair summary of what you just explained?

A. Yes.

Q. And so is it also fair to say that you had not told Mr. Donoghue, prior to that late night call on January 3rd, that you were intending either to tender your resignation or to actually resign the very next day on January 4th?

A. I'm sorry, can you rephrase that, Ms. Zdeb?

Q. You had not told Mr. Donoghue, prior to that conversation on January 3rd, that you were intending both to submit and to actually resign as of the very next day, January 4th, is that correct?

A. Yes, that's correct. I did not say that to him.

Q. You alluded to a second discussion with Mr. Donoghue early in the morning on January 4th as you were headed into the office to make your announcement, and I think you told us that during that conversation, you asked Mr. Donoghue again for an explanation about why you were being asked to resign early and you said that Mr. Donoghue told you something to the effect of the President did not believe you were -- or I'm sorry, the President believed you were, quote, not doing enough.

Did you have some understanding of -- or some impression as to what he meant by "not doing enough"?
A. No. The impression I got was that pursuing additional cases other than outside of kind of what would normally happen in these type of cases.

Now, you have to understand, Ms. Zdeb, from my perspective, I had already reported up at least one of the allegations that Mr. President -- the President had referred to, which is the State Farm video. And to my knowledge, that was reported up to the attorney general and I'm presuming that the attorney general told the President about there's nothing to those allegations.

So my perspective was that the President did not want to believe what I reported up. And so that kind of gave kind of context hopefully of my mindset. So if the President thought that I was being ineffective, there was really no reason for me to continue in the role, although I disagree maybe in his ultimate conclusion on that.

But Mr. Donoghue had explained that the President felt like I wasn't doing enough. I presume that he means all the other allegations that were made about the Georgia election that I did not report up as to the status.

Q. Understood. And I think my final question is -- has to do with whatever it was that Mr. Donoghue relayed to you during those two phone calls about the President's decision to bypass your FAUSA, Mr. Erskine, and instead go outside the line of succession and appoint
Mr. Christine as acting U.S. Attorney.

During either of those two phone calls with Mr. Donoghue, did he convey to you that the President had indicated to him some belief that Mr. Christine would do enough or would do something to look into the allegations that he presumably believed you had not done enough to look into?

A. No, nothing specifically like that. My recollection is Mr. Donoghue had relayed that Mr. President had heard good things about Bobby Christine, and that was the extent of it. So I don't think you can read anything more to that, you know. And I was -- you know, once -- I knew Mr. Christine. We worked very closely because we were U.S. Attorneys in the same state. But I knew he was -- he's a military person and he knows the chain of command. And frankly I've looked at it as he was stuck in a very difficult place.

I had reported to him that we looked and there was no substance to the allegations of election fraud. And I believe it was reported that he found the same. But he's an honorable man who was stuck in a very difficult spot and so -- but I knew that he would do the right thing given the evidence. I was very confident in him taking over, although it was highly unusual and very disruptive to the office.
Ms. Zdeb. Thank you. With that, it is 1:34 and we can go off the record.

(Discussion off the record.)

Ms. Zdeb. It's 1:38. We can go back on the record and I will turn it back to my colleagues on Senator Grassley's staff.

Mr. Flynn-Brown. Thank you very much.

BY MR. FLYNN-BROWN:

Q. And thank you again, Mr. Pak. So I had a couple of audio issues in that past round and I'm going to ask you a couple of questions you may have answered already. I apologize. So just bear with me.

So with respect to your resignation, what day did you start thinking about potentially resigning? And I believe you had mentioned the thought process began before the special election. Is there a precise date?

A. Leaving the office after the change in administration?

Q. Yes, sir.

A. No, I was thinking about that, after the general election when it looked like the President had lost that I was going to transition out early the next year. In terms of making it public that I was going to vacate the office, I think that's probably what you were looking at, it was right -- I started making public my intentions the
Christmas week in the final week of December.

Q. And then you were offered a senior role at the Department by Mr. Donoghue? They wanted to try to help you out? Did I hear that correctly?

A. That's what he said. I declined that. It came up in the context of that the President -- the -- did not want me to have the title, U.S. Attorney. So I had to --

Q. Do you know what -- I'm sorry, go ahead.

A. I don't know. I don't know. He just offered some role in the Department for three weeks whenever I would transition out, and I told him no thanks.

Q. Okay. So it was your impression, then, that it was the President's impression that you weren't being aggressive enough with respect to investigating and reviewing these election fraud and crime-related allegations. Is that an accurate summary?

A. Well, I don't know what he was thinking but the impression I got was he was not satisfied with the Department's response to the allegations that were being made.

Q. It was possible then that the President could have been misinformed about DOJ's efforts and quite possibly your efforts with respect to investigating these types of election allegations?

A. I think that is possible, yes.
Q. So is it accurate to say, then, that if you didn't resign right away, you were not 100 percent sure whether or not you would be fired or not?

A. Oh, no, it was a logical conclusion that I would be fired.

Q. 100 percent?

A. The conversation that was relayed to me by Mr. Donoghue was that the President wanted to fire me. He wanted me gone. Those are the words. And it was either Mr. Donoghue or someone else brought up the idea that since I was going to submit my letter of resignation that week, why don't you -- don't fire somebody who is going to resign. Just accept the resignation early. That was the term.

Q. Okay. I'm going to read to you -- and I can send this to counsel if you want it in front of you because this was not an exhibit that we had provided to you guys, so I'm going to read you a paragraph. And again, if your counsel wants a hard copy, we can email it to you but it's a paragraph. The title is: Statement by Press Secretary Jen Psaki on the Department of Justice Leak Investigation Policy. And I'm going to read you the paragraph and if you want a hard copy, we'll send it to you.

June 5th, 2021. "As appropriate, given the independence of the Justice Department in specific criminal
cases, no one at the White House was aware of the gag order until Friday night. While the White House does not intervene in criminal investigations, the issuing of subpoenas for the records of reporters in leak investigations is not consistent with the President's policy direction to the Department, and the Department of Justice has reconfirmed it will not be used moving forward."

Would you like me to email that or is the paragraph sufficient?

A. I guess it depends on what the question is.

Q. Okay. Fair enough.

A. -- gist of it.

Q. Fair enough. So my question to you, then, sir, is would you agree that any President of the United States has a similar authority to ensure the Department and its components have the right policy with respect to investigating and reviewing voter fraud and election crime allegations?

A. I would agree that the President has that duty.

Q. So you had testified earlier -- and I don't want to mischaracterize this so if this isn't what you said, just let me know. But I believe you testified earlier that with respect to all the data, all the voter fraud allegations that the President had read about and
that were public relating to 2020, the 2020 election, that it was not unreasonable for him to have concerns regarding, you know, complaints, reports of crimes, things of that nature.

So my question to you is, did President Trump's forward-leaning posture with respect to investigating election fraud and crime-related issues have an impact on how DOJ and FBI investigated those claims, or would DOJ and FBI have done what they did regardless of President Trump?

A. Well, first of all, I think your question asks me, based on -- you're asking me to assume what the President knows or believes. And so based on that, if a person would believe what's being reported, is it an unreasonable position to take, and my guess is if he reads about all these allegations and really doesn't look into it, I guess you have a perception that there is a lot of fraud out there, right? I think the evidence is contrary, at least from my district, that it wasn't.

But the question, I think, if I heard you correctly, Mr. Brown, is does the President get to kind of set that policy of enforcement or does the Department -- are they independent of that? I think the President does get to kind of dictate the policy, but I think the policy is an informed, kind of based on history of the best practices to go about doing that.
The policy is based on generally the appearance that the Department may have an impact on the outcome of an election one way or the other. We don't want to be that factor. And while I understand that you want to have a forward-leaning policy, I think it has to be carefully balanced.

And as far as I know, at least the way we approached it was we followed the directive but we did it with a careful balancing of all the interests in the existing policy.

Q. Understood. Thank you for that explanation.

So with respect to, then, Trump's forward-leaning posture with respect to 2020 and investigating all these allegations, did that have any positive impact on DOJ and FBI or, you know, would the Justice Department and FBI have investigated these allegations and done these actions absent Trump's forward-leaning posture?

A. Historically, based on my experience with the Department, they do investigate. It's really a matter of timing, right? I think the President and the attorney general wanted to let people know -- let the Department know that you can in fact, in limited circumstances, do overt acts and certain investigative steps before the final certification of election.

But in normal due course in my previous experience as
an AUSA, I do know that the FBI and the Department of Justice do follow up on the allegations of election fraud after it's been certified. So I think it's really a question of timing and not whether or not the Department would completely ignore these allegations. I don't think they ignore it. They do track it down. It's a matter of when they do it.

Q. Understood. So with respect to Bobby Christine, do you believe that he was capable of managing your office after you left?

A. Yes. I mean, I know Bobby personally and also in a professional setting. He's been in the military and I found him to be a very conscientious decision-maker, and so I didn't have any doubts that he would manage the office appropriately.

Q. So then you didn't have any concerns about his ability to lead and get the job done then, is that correct?

A. I did have concern because of the unorthodox way in which he was appointed to be acting U.S. Attorney. I do think that people would have a lot of questions about why is it that he is coming in instead of my FAUSA, which is the normal course. I think the unorthodox nature probably hindered him from, you know, having credibility with the office immediately. It adds a lot of questions.

And the other thing that Mr. Christine kind of did was
to bring some of his AUSAs into the office, which I think did not sit well with the career prosecutors that are in the U.S. Attorney's Office in the Northern District given the fact that my former office is about five times as large as the Southern District of Georgia and at least as sophisticated in terms of types of cases and qualifications of AUSAs. So I didn't think that that was -- that moved the ball forward in terms of helping him transition into the role.

Q. I see. So how many additional people did he bring with him?

A. Based on my call with Mr. Christine during the transition call on the day, I think he was bringing two AUSAs for election-related investigations, and then I think his FAUSA was involved but he was going to run the day to day of the Southern District of Georgia.

Q. Okay. So at the end of the day, though, you felt that Mr. Christine had a leadership ability and quality and was ethically sound and would be able to perform the job ably?

A. I didn't have any other -- I didn't have any reason to doubt that, yes.

Q. So then with respect to the President's opinion that, you know, he had some concerns about how possibly DOJ and you were running these types of investigation-related
reviews and that he wanted your resignation, you know, that's -- you would agree that that is the President's prerogative, is that correct?

A. Yes. I served at the pleasure of the President.

Mr. Flynn-Brown. So right now I don't have any additional questions. I don't know if my colleague does or not but Mr. Pak, I want to thank you for your time today and for your service to country.

Sara, I have two things I want to introduce into the record.

Mr. Pak, these have nothing to do with asking you for a comment. I'm just going to insert two press releases into the record.

I don't know what exhibit we're on but we'll take care of that after the fact, I believe.

So the first press release is from January 6, 2021. This is from Senator Grassley's office. The title is Grassley: America must be better than this.

And the second press release is on the same day, January 6, 2021. And the title is Grassley's Statement on Electoral College Certification.

So at this time I think, unless there is an additional round, that might be the end of my questioning. But sir, I want to thank you for your service to your country and I
really appreciate your time today. So thank you.

Mr. Pak. Thank you.

Mr. Blumenthal. Mr. Pak, if I can just add a word on behalf of the Committee, my colleagues on the Judiciary Committee, greatly appreciate your appearing voluntarily. As you may have noticed, I've been on for the entire call and I think your cooperation has been very helpful and thank you very much for your service.

As a former United States Attorney for Connecticut, quite a while ago, and having said that that was the best job I ever had, I know that you probably miss your service in the Department and I thank you for that service.

Mr. Pak: Thank you.

Ms. Zdeb. And unless Mr. Charlet has anything else on his end, and he will maybe shake his head yes or no indicate one way or the other -- that's a no -- I also have nothing further and so with that, Mr. Pak, I wanted to add my thanks to my colleagues' thanks for your willingness to appear voluntarily, for your time this morning. We very much appreciate it.

And unless you have anything else at this point, I think we can conclude this interview and go off the record at 1:52 p.m.

(Whereupon, at 1:52 p.m., the taking of the instant interview ceased.)
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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