UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C.

INTERVIEW OF JEFFREY ROSEN

SATURDAY, AUGUST 7, 2021

The interview was convened, pursuant to notice, at 10:00 a.m., and was conducted at the Dirksen Senate Office Building, Washington, D.C.
PROCEEDINGS

10:04 a.m.

Ms. Zdeb. It is 10:04. We can go on the record. Welcome, Mr. Rosen.

I have a short preamble to go over and then we'll jump into questioning.

Mr. Rosen. Sure.

Ms. Zdeb. This is a transcribed interview of Jeffrey Rosen. Chair Durbin requested this interview as part of the Senate 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 your name for the record.

Mr. Rosen. Yes, my name is Jeffrey Rosen.

Ms. Zdeb. On behalf of the Chair, Mr. Rosen, I thank you for appearing here today. We appreciate your willingness to appear voluntarily.

My name is Sara Zdeb. I'm the Majority Chief Oversight Counsel for the Judiciary Committee. And I'll ask everyone else in the room to introduce themselves for the record, except for Mr. Rosen's counsel, who we'll get to in a few minutes.

And we'll start with the Senators.

Mr. Blumenthal. Richard Blumenthal, United
States Senator from Connecticut.

Mr. Whitehouse. Sheldon Whitehouse, Rhode Island.

Ms. Zdeb. 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 Minority staff will have the opportunity to ask questions for an equal amount of time. We'll 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. And if you need to take a break at any point before that, please just let us know. And assuming we're still going, we will take a lunch break at some point.

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

As you can see, we have a stenographer taking down everything that we say in order to make a written record, so we ask that you use verbal responses to each question.
Do you understand?

Mr. Rosen. 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. Brown. Reginald Brown, counsel for Jeff Rosen. And I am accompanied by two colleagues.

Mr. Byrnes. John Byrnes.

Mr. Gallagher. Nicholas Gallagher.

Ms. Zdeb. Thank you.

And I just realized that I neglected to give the other counsel for the Committee an opportunity to introduce themselves, as well as department counsel. So we can do that now, and then I'll continue.

Ms. McClain Walton. Good morning, Nicole McClain Walton, Counsel, Oversight for Chair Durbin.

Mr. Flynn-Brown. Good morning, Mr. Rosen. My name is Josh Flynn-Brown. I am Deputy Chief Investigative counsel for Senator Grassley.

The minority was unaware that Democratic members would be attending until this morning, about an hour before today’s interview. I want to let you know, as a courtesy, that in light of this recent development, Republican members
might attend during the course of today’s interview. And
Senator Tillis just arrived as I was speaking. So, as a
courtesy we wanted to make sure you were aware of additional
members and their potential attendance.

Mr. Rosen. Thank you.

Ms. Zdeb. There are two counsels for the
Department of Justice. Would you introduce yourselves as
well, please.

Mr. Weinsheimer. Brad Weinsheimer,
Department of Justice.

Ms. Antell. Kira Antell, Department of
Justice.

Ms. Zdeb. Thank you.

Mr. Rosen, we want you to answer our
questions in a complete and truthful manner. If you don't
understand one of our questions, please 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. Rosen. Yes.

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

Do you understand that?

Mr. Rosen. I will tell the truth, as always.

Ms. Zdeb. Is there any reason why you are unable to provide truthful testimony here today?

Mr. Rosen. Not that I'm aware of.

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

Is there anything that my colleagues from the Minority would like to add?

I will take that as a no.

This is the end of my preamble. Do you have any questions before we start?

Mr. Rosen. I just want to make sure that your colleagues had heard that.

Ms. Zdeb. Did you have anything to add at this point?

Mr. Flynn-Brown. I do not. Thank you.

Ms. Zdeb. Mr. Rosen, I understand you have a prepared statement. If you wish to give it, now would be the time.

Mr. Brown. If I might, before he gives his statement, I want to make sure we enter some items into the
record.

The letter of authorization from the Department of Justice dated July 26, 2021; the prior authorization, which remains in effect, which was May 9, 2021; and the letter of nonobjection from Doug Collins on behalf of former President Trump dated August 2, 2021. These authorize testimony that Mr. Rosen will give today.

Ms. Zdeb. Thank you. And those will be entered into the record.

Mr. Rosen. Okay. Well, thank you. I thought I'd offer some preliminary observations to help frame the discussion and facilitate some conversation. So thank you for the opportunity to make some preliminary observations as we begin the voluntarily transcribed interview. With both the current President and the former President having confirmed that they do not object to my responding to these questions, I'm here today to share with you, and the American public, information about events during the period that I served as the Acting Attorney General.

So I want to affirm at the outset that during my tenure at the Department of Justice, my priority was to ensure that the Department would always proceed on the basis of the facts and the legal merits to enforce the Constitution and preserve the rule of law. We did that. And I was honored to have led and have served alongside the extraordinary team
of public servants who always put the best interests of our country first.

During my tenure as the Acting Attorney General, which began on December 24 of last year, the Department of Justice maintained the position, publicly announced by former Attorney General William Barr, that the Department had been presented with no evidence of widespread voter fraud in a scale sufficient to change the outcome of the 2020 election. We thus held firm to the position that the Department would not participate in any campaign’s or political parties’ legal challenges to the certification of the Electoral College votes, and that there must be an orderly and peaceful transfer under the Constitution.

In particular, then, during my tenure, we appointed no special prosecutors. We sent no letters to states or state legislators disputing the election outcome. We made no public comments saying the election was corrupt and should be overturned. We initiated no Supreme Court actions, nor filed or joined any other lawsuits, calling into question the legitimacy of the election and our institutions.

To the contrary, the only time the Department of Justice filed a brief in court regarding the election, it was to say that a Congressional member's lawsuit to overturn the election should be dismissed. And it was.

Back in April of 2019, when I appeared before
the Senate Judiciary Committee at my nomination hearing, I testified, "If the appropriate answer is to say no to somebody, then I will say no." That's exactly what I did.

At the outset, I want to comment on the actions of two people you will likely be interested in; President Trump, and former Acting Assistant Attorney General for the Civil Division, Jeffrey Clark.

President Trump's unwillingness to accept the results of the election is public and well known. I thought that was misguided, and I disagreed with things that President Trump suggested the Justice Department do with regard to the election, so we did not do them.

But when I and others told the President he was misinformed or wrong or that we would not take various actions to discredit the election’s validity, he acquiesced to the Department's position.

The President was persistent with his inquiries. And I would have strongly preferred if he had chosen a different focus in the last month of his presidency. But as to the actual issues put to the Justice Department, DOJ consistently acted with integrity, and the rule of law held fast.

It was unfortunate that I ultimately had to seek a meeting with the President on the evening of January 3rd, 2021, to persuade the President not to pursue a different
path endorsed by Jeffrey Clark, which would have ended my
tenure. But with the support of the entire DOJ's senior
leadership team, and the White House counsel as well, the
President himself decided not to do that, not to pursue that
alternative path.

To this day, I find Mr. Clark's actions
inexplicable. I'll do my best to answer your questions today,
recognizing my memory is unlikely to be perfect, as the events
occurred many months ago during an extraordinary time for our
country, and additional access to documents or other things to
jog my memory could be useful.

But the key thing that I clearly remember,
and will underscore today, is that during my time as Acting
Attorney General, the Department of Justice maintained its
integrity and maintained the rule of law with regard to last
year's elections.

Having seen no widespread fraud sufficient to
change the election result, we resisted entreaties from any
source to take public actions or make public statements that
would negate the results of the election.

So if there any further questions, I'll be
happy to address them.

Ms. Zdeb. Thank you, Mr. Rosen, for that
opening statement. We're glad to have the opportunity to
speak with you. And as you can imagine, we do have some
questions. So it is 10:16, and we will start our first round of questioning.

BY MS. ZDEB.

Q. You alluded to Jeffrey Clark. As you can imagine, we have a number of questions about Mr. Clark. We'll get to them shortly. But before we do that, I wanted to start with a couple of basic questions just to contextualize the discussion we're going to have today.

So in terms of your role at the Department, you were confirmed when?

A. May 16 of 2019.

Q. And you became Acting AG, I think you said earlier, officially on December 23rd; is that right?

A. I think technically the 24th, because Attorney General Barr departed on the 23rd, so yes.

Q. You alluded to Attorney General Barr's statements before his resignation to the effect of the Department had not found any evidence of widespread election fraud sufficient to change the outcome of the election.

A. Right.

Q. He -- I believe he made one of those statements on December 1. And then, although he didn't actually resign until the 23rd, he announced on the 14th that he would be resigning. When did you first learn that Attorney General Barr would be stepping aside?
A. Well, there's two parts to that. I was aware that he was considering whether he was going to stay to the end or not. But in terms of his actual decision, I learned of it the day he resigned.

Q. Did he share with you what prompted his decision to resign or to announce his resignation on the 14th?

A. Well, he wrote a letter that I saw. I don't think he and I had a discussion about it.

Ms. Zdeb. Just for the record, I wanted to note that Ranking Member Grassley is now present in the interview.

Good morning, Senator Grassley.

BY MS. ZDEB.

Q. Mr. Rosen, under the Department's line of succession, the DAG, which is the position you held at the time, is next in line to become Acting Attorney General as the Attorney General position; is that right?

A. I believe so.

Q. Did you become aware at any point around the 14th when Attorney General Barr announced that he would be resigning, that President Trump was considering bypassing you and asking Richard Donoghue, your deputy, to step in as the Acting Attorney General?

A. I don't think I had any specific discussions to that effect. I think -- when I was aware that Attorney General
Barr had not decided to stay until the end, I think it was an obvious question as to would the President go with the normal line of succession or something else. But with regard to my deputy, in particular, I don't think I had any conversation about that.

Q. Did you have an impression as to why the President might not go with the ordinary line of succession?

A. No, but he had departed from it in the past with other departments.

Q. So there was not some sense that he was unhappy with you?

A. At least not that I -- that he had communicated to me.

Q. Fair enough.

I want to show you a document, again, in the vein of contextualizing some of the discussion that we're going to have about Mr. Clark's activities.

My colleague, Nicole, is handing you a document that we marked as Exhibit Number 1. It begins in Bates No. -680, at the bottom of the page.

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

Q. So this is an email that Mr. Donoghue, your deputy, sent to the Department's leadership, copying you on November 11th, 2020.
Do you recall receiving this document at the time?

A. Yes. I think we had discussed this.

Q. And the two attachments to this email are the companion policies that the White House and the Department maintained at the time, and still maintain, that govern contacts between the Department and the White House; is that right?

If you need a minute to review.

A. I remember that we had been operating at the time under the contact policy that had been put in place originally by Attorney General Mukasey, and then a revised version by Attorney General Holder, a memorandum. That was one of the reasons -- is that what's attached?

Q. Yes, that's right.

So the first of these memos is the Holder version of it. And you're welcome to take as much time to review it as you want, but I mostly just want to get a sense from you of at the time Mr. Donoghue circulated these, what was your understanding of the restrictions that they imposed?

A. Well, the general idea was to channel the sensitive communications -- in other words, there are certain things, legislation is appropriate to have staff to staff discussions, but the more sensitive communications, they should be at a top level. On the White House side, the President and the White
House Counsel, and on the Justice Department side, the Attorney General, Deputy Attorney General, or, in some places, the Associate Attorney General. And they can deputize others, but they typically should be aware of the communications.

Q. So, in other words, it places sort of ministerial, for lack of a better word, limits on who in each of the Department and the White House can communicate with to the other about pending civil, criminal investigations or cases. Is that consistent with your understanding?

A. That's trying to channel to the leadership at each end of the street, let's say, who can have the communications or have authorized them.

Q. And there's another aspect to the policy that I wanted to draw your attention to. There's a little "a" at the bottom of the very first page of the Holder memo.

A. Right.

Q. And it says, "In order to ensure the President's ability to perform his constitutional obligation 'to take care that the laws will be faithfully executed,' the Justice Department will advise the White House concerning pending or contemplated criminal or civil investigations or cases when -- but only when -- it is important for the performance of the President's duties and appropriate from a law enforcement perspective."

So when I read it, I understand the policy
not just to impose ministerial limitations on who can talk to whom, but also it reflects limits on when the Department can have these sorts of conversations in the first place. In other words, only when it is important for the performance of the President's duties.

Is that consistent with how you understood it at the time?

A. Some variation on that. The President has the overall obligation to faithfully execute the laws. So you're not going to have a situation where the Attorney General can't take the President's phone calls, because you don't know what the call is about. So -- but then it's really calling for some judgment and sensitivity to the balance that has to be struck between things where it enables the President to perform his functions and also the Department to have direction from the President versus things where there's no real reason for the discussion to happen.

So it's common, I think, for a fairly sensitive judgment to have to occur regarding those.

Q. I can understand that as well, which is why I imagine it has this language about ensuring the President's ability to perform his constitutional obligations, on the one hand; but then on the other hand, there is also language in the very first -- the very first paragraph of that memo emphasizing that the legal judgments of the Department of
Justice must be impartial and insulated from political influence.

And so, as I read this document, it seems to be striking a balance between enabling the President to do his job but also the very important purpose of insulating the Department from improper political influence. Would you agree with that?

A. Well, as it says in the second paragraph of this memorandum, it sets out the guidelines to govern the communications. So this is the thing. Not to speak for Attorney General Holder or his state of mind, the direction, there are conventions that are designed to strike these balances that the Department has had. And I think these guidelines or conventions, if you will, are designed to ensure that things are done on the merits.

As I said in my preliminary remarks, that I think the Justice Department in the case of investigations has to proceed on the basis of the facts and the law and not extraneous considerations.

Q. While we're on the topic of policies, I did want to briefly ask you about a different policy, which is the Department's policy of -- I forget the exact title, but it is the one that has long been reflected in the Election Crimes Branch's manual on election crimes. I see you nodding your head. It has the policy of noninterference in elections. And
it is the one that Attorney General Barr updated in November
of 2020.

Do you have a general understanding of what
I'm referring to?

A. I remember that. The general policy of
noninterference is very long-standing. And, like a lot of
these things, the nuances of the policy can be addressed from
time to time.

But I remember Attorney General Barr did
update them on that. I want to say after the election; maybe
before the election. I don't remember exactly, as I sit here.

Ms. Zdeb. And for the record,

Senator Klobuchar just walked in.

BY MS. ZDEB.

Q. So, again, your recollection of these policies is
consistent with -- my understanding is, as I understood it,
the long-standing policy of the Department, at least before
Attorney General Barr's November update, was essentially to
avoid taking overt investigative steps in election fraud
matters in the period of time between when people started
casting ballots and when the vote was certified.

Does that ring a bell with your
understanding?

A. Say that again. I think I may have missed a word.

Q. As I understand it, the prior policy before Attorney
General Barr's memo was that in the post-election period, so essentially starting when voters began to cast ballots and ending when the vote was certified, during that entire period of time, the Department, at least pursuant to the old policy, would avoid -- would generally avoid taking investigative steps that were overt, in order to avoid interjecting the Department into the process.

A. It would help if I have that document, because I remember there was a process of preliminary reporting. So some of this gets into terminology; what's an inquiry, what's an investigation, what are the steps and the like.

Conceptually, I want to say I think AG Barr's memo was changing the time frame with regard to the certification date versus -- I think it was Election Day. But I need the document to make sure I have got that right.

Q. Sure. I'm happy to share a copy of the document with you. I apologize to other counsel that I don't have extra copies of this.

So I've just handed you a document that we can mark as Exhibit Number 2, which is Attorney General Barr's November 9th, 2020, memo. And you can take a minute to go over it, if that would help.

(Exhibit 2, memo, was marked.)

Mr. Rosen. I'll look it over. But so as to not be inefficient with your time and mine, this is the --
Attorney General Barr's changed policy, announced on November 9th.

BY MS. ZDEB.

Q. Yes.

A. What I was alluding to is the prior policy. I thought it had more descriptions of different stages of things. And I'm not really -- to be clear, I'm being technical here. I'm not sure it's even -- I'm not trying to disagree with you. I'm just trying to understand, sometimes these policies, they speak for themselves.

So in my effort to summarize it, I'm trying to be very accurate. I'm not sure if that's the use of time you want.

Q. And I appreciate that. I mostly want to ask you about the document that you have in front of you so we can move on from that one.

A. Okay.

Q. So that memo was issued by the Attorney General in November of 2020, about a week or so following the election. And you said earlier that you were in the Department in 2019. And I'm curious whether, to your knowledge, there was any consideration given by the Attorney General or anyone else within the Department to making the policy changes reflected in that memo at some point before the election.

A. Well, that might be something that Attorney General
Barr would know about. He is the most knowledgeable about it, I suppose. I think -- sorry, I was just trying to be a little precise here.

Are you asking me whether this memo was discussed and prepared before the election, or are you asking me whether there had earlier been changes considered that would move this date to pre-election?

Q. The latter of the two. So I'm curious about the fact that it was not until a week after the election that the Attorney General changed the policy, when it seems to me there were four years in which to do that.

So I'm just asking if you had any awareness of whether consideration was given to doing it previously, as opposed to immediately after the election.

A. I think -- I don't know the answer as to whether it was in consideration of changing this in, say, a year before or something like that. I think this memo itself didn't just turn up on November 9th, but the Attorney General had been considering it earlier.

Q. At some point, did a policy disagreement develop between the Department's Public Integrity Section, or PIN, and the Department's leadership about this memo and the application of the memo in the post-election period?

A. I'm trying to remember when this was announced. And I think that this was something AG Barr was overseeing
himself. So I think that, as often happens when there's a new policy like this, there's some friction in the early administration of it. But I don't know that -- I don't know the details of that.

Q. Did you have a sense that the friction, to use your word, had to do with, perhaps, a desire by Public Integrity to hew a bit more toward their preexisting approach to these things, on one hand, and on the other hand, the Attorney General's desire to be a little bit more forward-leaning in terms of the types of investigative steps the Department would take?

A. I don't remember myself having discussions with the Public Integrity Section leadership or staff. So I don't think I have firsthand communications to share on that.

As I say, a new policy like this comes out, there's implementation issues. So I think the folks on my staff and the AG staff were involved with that, but I don't think I had discussions with Public Integrity Section about that.

Q. Do you recall the career head of the Election Crimes Branch within Public Integrity stepping down from his position, albeit not from the Department, in response to this friction?

A. Mr. Pilger, yes. I remember him stepping down, but I don't remember if he said that it was specifically this or
some follow-up to this. But I do remember him stepping down.

Q. And were you ever personally asked to step in and essentially mediate disputes between Public Integrity and others within the Department when it came to the application of this policy?

A. Not that I recall, as I sit here today. As I said, I think my deputy -- my staff -- probably might have been, would have been responsible for something like that, but I don't remember the details.

Ms. Zdeb. Okay. So I want to ask you about a communication you received on the same day that Attorney General Barr announced that he would be resigning. And we can mark that as Exhibit Number 3 for the record.

(Exhibit 3, document, was marked.)

Ms. McClain Walton. Just for the record, we are happy to have so many Senators in the room today. We did not make a copy. So I apologize in advance if I don't have a copy for everyone.

(Discussion off record.)

Ms. Zdeb. So Exhibit Number 3 is a document starting on page that is Bates-numbered -425 at the bottom, and it's a December 14 email from Molly Michael, in the Executive Office of the President, to you.

And it has a couple of other attachments.
BY MS. ZDEB.

Q. Do you recall receiving this email?

A. Well, the email shows that I did. I don't actually specifically remember it showing up, but it is addressed to me.

Q. So we can continue to take this outside the context of this particular email for a minute. The attachments to the email involved the allegations concerning Antrim County, Michigan.

Do you have a general recollection of what those allegations were?

A. Yes. Well, again -- well, let me sort of clarify because I don't want to be overly precise.

Do I remember this popping up in my email, no. But do I remember the document, yes.

So the 14th was the day that AG Barr resigned and I was asked to become the Acting Attorney General, which I agreed to do.

So the next day -- well, two things. One is, at some point, probably the next day, I don't remember precisely, I looked at this, you know, in an overview kind of way because I think we had received a briefing from DHS of the voting machines issues previously that was inconsistent with this. This did not seem accurate.

And the next day, the 15th, Richard Donoghue
and I and others were asked to go to a meeting at the White House, at which several things were covered, but one of which was mentioned was this report. And, you know, I'll be happy to get into it more with your questions, but the gist of it was we had shared with the President -- he had said that he had asserted that other people were telling him there was fraud, you know, corruption in the election. The voting machines were no good.

And we were telling him that is inconsistent, by "we," I mean Richard Donoghue and myself, that that was not what we were seeing. It was inconsistent with the Justice Department's assessment at that point. So I think this report came up. That's why I remember it. It was not because it hit my inbox, as such, but because it was discussed the next day.

Q. So -- and I'm sorry to interrupt, but I wanted to just clarify that. I take it you -- and you don't recall seeing the email in your inbox and specifically noticing that subject line that said from POTUS; is that right?

A. Not -- yeah, not specifically. I'm not denying that I got it and noticed it. I mean, if you get an email that says from POTUS, you probably notice that. I'm just saying, as I sit here today, did that register, I don't remember it today. I remember it because of the content just described.
Q. You mentioned having received at some point an updated or a briefing from DHS about the voting machine allegations reflected in this document.

And just for the record, the document is a so-called forensic report that has a number of assertions about what happened in this county in Michigan. One of them, for instance, is that there was something like a 68 percent error rate as a result of the voting machines.

A. Yes. That was totally wrong.

Q. And so it sounds like you knew at the time that -- either that you received this or that you first started focusing on it, which I understand may not have been until the meeting the next day, whenever that time was, you knew that the claims in the document were not accurate?

A. So two aspects of this. The document appeared to be inconsistent with what we had heard from the folks at CISA, from DHS -- Cybersecurity and Infrastructure Security Agency is the acronym -- who had come over, I think at AG's Barr's request, and briefed us with regards to some information about voting machines. And what we were seeing, this appeared to be inconsistent with what we had seen. In some aspects, inconsistent with things that we picked up in our own analyses.

But there was -- and I believe that Mr. Cuccinelli had told us -- or maybe it was someone from CISA -- Mr.
Cuccinelli just happened to be at this White House meeting. So I was concerned about that inconsistency. But we had become aware there was going to be a hand recount in this county. That had not yet occurred but was in the works. I think we learned in short order -- from memory, I can't say exactly, but I'm guestimating, say two or three days, something like that. And then in short order, we were advised that a hand recount showed that there was not a differential, or if there was, it was minuscule. Even less than the allowable rate, refuting this report.

Q. Do you know why Attorney General Barr asked that DHS or CISA come and brief the Department on the voting machine issue?

A. Well, I don't remember if he told me why he set up the meeting. But I know in a general sense, we were investigating -- "investigating" may not be the correct word -- we were addressing the reports or complaints of different types of election fraud as they came to the U.S. Attorneys or FBI, et cetera. But we were not really expert in the voting machines. That was more of DHS. So I think we had a need to understand some of those machines.

Q. Was it because the claims about the Dominion machines seemed credible to the Department, or was it just more a desire to understand?

A. I think it was -- well, I'll speak for myself. It
Q. So let's talk about the meeting that you attended on the 15th. And you said, "you," meaning the Department, were asked to go to the White House.

Did I hear that correctly?

A. Well, in part. I think that Richard Donoghue and I received a request to come on over to the White House that afternoon. And then we told AG Barr.

I don't think, the best I recall sitting here today, that I knew exactly what it was going to be about or who else was going to be there. I think that was -- if I remember correctly, I think that was the day the Electoral College had met. So I thought it might have something to do with that's all over, or it might have been to get better acquainted -- you know, the President announced the day before we were in charge.

The short answer is I didn't know initially what the meeting was going to be about. It turned out that it was -- the President wanted to discuss the election.

Q. And you said that you and Mr. Donoghue were specifically requested to attend. Did it seem strange to you that Attorney General Barr also wasn't asked? Because this was the day after he announced he would be leaving, but he still had a couple weeks left before he actually stepped down.

Did that seem strange to you?
A. Well, I didn’t really know the subject, so I didn’t. I, you know, we told AG Barr, and he was okay. I was going to be Acting Attorney General.

Q. When you got to the meeting and realized that the subject related to the 2020 election, at that point did it seem strange to you that Mr. Barr had been excluded?

A. No, because he had said he was leaving and he had publicly said what the Department's posture was with regard to that. And we were maintaining that. So it didn't seem that unusual that the President -- when the President in effect has said, "You guys will soon be doing this. Have the AG send over the guys that currently work for him and soon will be in charge."

And as I said, we made it very clear to the President the things that AG Barr had said publicly, which were, in fact, consistent with what we saw as well.

Q. You mentioned that Ken Cuccinelli with the Department of Homeland Security was at the meeting. You were at the meeting. Mr. Donoghue was there. Who else participated?

A The White House Counsel Pat Cipollone. And I believe the White House Chief of Staff, Mr. Meadows, was there.

Q. Was Chad Mizelle there?

A Not at that one. I think that's a subsequent meeting.
Q. So it sounds like you didn't know what the purpose of the meeting was as you headed over there. And then at a certain point, it became clear that the President wanted to talk about the election.

A. Right.

Q. Can you just give us a flavor of how the discussion unfolded?

A. Yes.

So I think it was -- I don't remember the exact kickoff, so I am just going to give you the general recollection of this, but that the President started delivering remarks that, honestly, to me, seemed pretty consistent with the kinds of things that he was putting in the public domain; the election was unfair, there was fraud, bad things happened in Pennsylvania and Georgia.

And for a while, he did most of the talking. But then when he sort of walked through "People are telling me this, people are telling me that," we said, "Well, people are telling you things that are not right. This is not accurate."

And so he said, "Well, what about this? I saw it on the videotape, somebody delivering a suitcase of ballots."

And we said, "It wasn't a suitcase. It was a bin. That's what they use when they're counting ballots."
It's benign."

And, "Well, people told me, you know, this
other thing."

So, you know, in a fairly high-level way, we were
not walking through each piece of evidence, but in a way of
saying "They're telling you things that are incorrect."

I recall that at one point I said to the
President, "I really want to suggest to you, sir,
respectfully, that it would be a better thing for everyone to
use this last month to focus on some of the things that had
been accomplished in the last four years, a -- tax reform and
the vaccine, Operation Warp Speed, and not go into this 'the
election was corrupt.'"

He said, "Oh, people are telling me this is
what's happening."

So most of the discussion was just back and
forth about that. There was this open issue as to the
Michigan report. And -- I think it was
Mr. Cuccinelli, not certain, but had indicated that there was
a hand recount.

And I think he said, "That's the gold
standard."

So we just dropped that, and the hand recount
was going on. It was not being done by either DOJ or DHS. It
would be done, and that will be that.
So I think that -- we'll call that a loose end. But, otherwise, it was just an opportunity -- it turned into an opportunity for us to reiterate what AG Barr had said: There was no evidence of widespread fraud on a substantial scale.

And that's where it was left at that time, other than this open item which was resolved a few days later when it was reported the hand recount confirmed the result. So at least, as I sit here right now, that's what I remember about that meeting.

Q. You mentioned in your opening, that at the end of the day, following all of the events that we've talked about and that we'll talk about later, the Department did not -- and then you listed a number of actions that the Department did not take part in.

A. That's right. No public actions, no public statements that would contradict the factual assessment that we had at that time that there had not been widespread fraud on a scale that would change the election.

Q. I think you also mentioned that you, among the things the Department did not do, was that it did not appoint special counsels. Was there some discussion during this December 15th meeting of prospect of appointing special counsels?

A. I'm trying to sort out in my mind whether it was at
that meeting or -- I think that that may have come up, because it was -- a lot of what was said in this meeting is consistent with what the President was saying publicly; or was in the public domain and reported that the President said it. And in that time frame, my recollection is that he was publicly, I think, tweeting or doing an interview or something, I don't remember the details. But I think he had called for a special election counsel.

I've been trying to sort it out in my memory if that was at the meeting, whether it was outside the meeting; or both, and I'm not totally certain. I think it may have come up in the meeting.

And I do remember, whether it was at the meeting or elsewhere, that my response on that was "That is not something I want to discuss. We have to leave that to the Department of Justice to decide," and, of course, we decided not to do it.

But that kind of highlights a little bit of the approach that there are some things that my response is just "That's not something that we should talk about. That's for the Department of Justice. We'll figure it out." There were other things like that. And when you get to it, I'll explain which things could be discussed and which things couldn't be.

BY MS. MCCLAIN WALTON.
Q. Mr. Rosen, you said that you weren't sure if President Trump at that meeting or at a subsequent time asked that DOJ appoint a special counsel.

Did President Trump ask DOJ to take any other action in response to the allegations that he was sharing with you?

A. Not in the sense of, you know, "You should do X." More in this broad way, "People tell me there's fraud. You guys are saying there isn't. Why isn't the Department, you know, doing more to look at this? All these people are telling me that there's fraud in Pennsylvania and Georgia. And why are they saying that? Is the Department going to do its job?"

And our response is "The Department is doing its job. And it will continue to do its job. It's for us to sort that out."

So he didn't have a specific ask that I remember. As I said, the special counsel, I'm fuzzy if that's in the meeting or elsewhere, but you can put that one aside.

I don't remember a specific ask. And, again, I don't mean to be semantic, unless you want to say "Let me know how that hand recount came out." I mean, I suppose that's a specific request. But not -- I don't think that's what he was referring to in the meeting.

Q. Let me ask you a question. When
President Trump said "Why isn't the Department doing its job," can you indicate or clarify further on what exactly he thought the Department wasn't doing that it should be doing?

A. No. And it wasn't at that stage. It wasn't -- his tone was not angry. He wasn't raising his voice or something. It was "People are saying this, you know. I mean, is the Department going to do -- you know, it's your job, isn't it?"

You know, it was not belligerent. It was "This is what people are saying."

Rich Donoghue and I said, "You know, maybe they're wrong."

I'm just trying to be clear that this conversation was about -- he's asserting that there's been election fraud. It's an even-keeled conversation. It's not an attack. But, as I say, it's things he's already saying publically.

BY MS. ZDEB.

Q. Recognizing, again, that the Department didn't do anything that you listed at the start of your statement today, does the President of the United States need to be belligerent, to use your word, in order to convey that he is unhappy and wishes that the Department would do more?

A. So I hope I didn't misspeak. I said he was not belligerent.
Q. That's right. And my question is is it necessary for the President of the United States to be belligerent in order for him to convey that people are saying these things and he wishes that the Department would, to use your words, to do its job?

A. I don't think I understand your question. Is it necessary for him to be belligerent? I am not -- I don't think I'm getting what you're asking me.

Q. So my colleague asked you "Did the President ask the Department to do anything specific during that meeting," and your response was to the effect of, he -you were saying that he was raising these allegations and saying "people are saying," and he wasn't belligerent.

And my question is he's the President of the United States --

A. Oh, I --

Q. -- is it necessary for him to be belligerent in order for you to interpret what he is saying --

A. No. I think I'd say it in the other direction, because I can't control what he says. I can only control what I do from my position. The Department of Justice is going to do its job, whether the President is happy, unhappy, measured, belligerent, that the Department of Justice is going to do what we think is right based on the facts and the law. We're going to be faithful to the rule of law, the Constitution, to
the system of government we have. And that's independent of anyone else, including the President of the United States.

So no, I didn't -- I certainly wouldn't suggest that the tone would have affected how I would perceive it. We were firmly committed. We had an obligation to do the right thing. And that's what we would do, based on the facts and the law.

Q.     Understood.

I guess what I'm trying to get at is there's a distinction between how you and the Department responded, perhaps, and how you received what he was saying. And I'm trying to understand how you received it, recognizing that the way you responded sounds like it may have been the completely appropriate way to respond, but in terms of how it was received.

A.     Oh, okay. So maybe another way to get at this is when the President is raising these things, just the fact that he's the President and you wanted to pay special attention or whatever, I think my sense of it was he wasn't presenting it as an -- I'll call it parochial item. He was saying the public is concerned; this is an issue of concern.

And I think there was truth to that. It's just that the public didn't have all the facts that we at the Justice Department had. So AG Barr had shared -- his assessment, and we were hearing from the President how he
felt about that.

Does that maybe get more at it?

Q. It does.

It sounds like he was conveying that there

were all of these allegations out there that he was hearing

that people were talking about. He would perhaps express some

frustration that the Department wasn't doing more, and then

you responded, as you said you responded, which was to make

clear that the Department was doing its job.

Is that sort of a fair summation?

A. That's consistent with what I said.

Q. One more question about this meeting before we move

on. You talked about Georgia, Pennsylvania, and obviously,

the Antrim County issue. We talked about special counsels.

Was there any discussion at this meeting

about the prospect of the Department filing some sort of legal

action in the Supreme Court or otherwise?

A. Not at that meeting. That did come up subsequently.

Q. And just so I'm tracking, what do you recall

specifically, at what meeting or on what phone call that it

came up?

A. So actually -- I'm sorry, I'm trying to listen and

make sure I understood. Did you say lawsuit with the Supreme

Court about the election?

Q. Just about the election.
A. Okay. Then, what I said was accurate.

Okay. So, then, what do I remember about that? At some point, the President had called and he had wanted to talk again about his concern people are saying there's fraud; you are saying there's not. Is the Department going to look into things?

I think my general position was the department will do its job. If there's information presented that fits the criteria, the people would look into it. If it doesn't fit the criteria -- I mean, there's different levels of proof that it takes to be at different stages of inquiry -- then we won't. But you do that on the merits, on the factual and legal merits.

And everybody knows what we've seen up to that point. Just days before, DOJ was talking publicly -- because on the 21st, at a press conference, AG Barr had elaborated on what he said previously.

So I'm trying to remember the first time the Supreme Court lawsuit thing came up, but I think it's in a phone call. There may be documents that would help me remember the date, but I want to say Sunday, Monday of the week after Christmas. So the 27th, 28th, somewhere in there.

At first, I don't know that I quite knew what he was talking about, because I originally thought he was talking about Texas, the state was filing a lawsuit. Their case had
been rejected by the Supreme Court, as I recall.

later there was actually an odd set of

events. The President had his assistant send me and some
others a draft brief that I did not think was appropriate for
the Department to file. And -- I'll kind of give you the
bottom line, and you can ask me if you want more specifics.
The bottom line was we thought it was not well founded,
legally. It wasn't something the Department should do.

So I wound up having a conversation with the
President where I told him that. This is not something we're
going to do. And he asked why. And I explained. And he said
okay. We didn't do it.

But there's definitely some more color to all
this. I'd be happy to walk you through more, if you wanted,
but that's the kind of the beginning to the end aspect.

Q. I appreciate that. Let's put a pin this issue. I'd
like to come back to it in a little bit. We had just been
talking about the December 15th meeting at the White House. I
want to ask you about a call that you and Mr. Donoghue had
with the President, which I understand had taken place on
December 27th.

But before I do that, the 27th is almost two
weeks, I guess, after that meeting on the 15th that we were
just talking about. And I'm curious whether, during that one-
and-a-half, two-week period, were there other instances during
that period where the President called you, perhaps where the
Chief of Staff called you, or you had a meeting related to
these issues, at the White House?

A. My best recollection is that after that
December 15th meeting, I did not hear from the President again
until I became Acting Attorney General on the 24th. I don't
remember, necessarily,

Mr. Meadows, but I don't think so. At least not about the
election. It's possible I had a conversation with someone
else. But the day that AG Barr left, I got a call from the
President.

Q. And what did he say on this call?

A. The first call was more of small talk. You
know, it was "I understand that AG Barr is gone and you're in
charge."

I don't even really remember the substance,
but I think it was more just a checking in with me and letting
me know that he might want to talk to me. It's possible there
was more, but that's -- I don't remember a lot of specifics.

It was a short call.

Q. You don't recall whether he mentioned the election
or not?

A. I don't. In light of subsequent events, it seems
possible that he did, but I just don't remember.

I remember the next day.
Q. Okay. So just to make sure I have the timeline correct, you said that he called you the day that AG Barr left. Was that the 23rd or the 24th?

A. The afternoon of the 23rd.

Q. So this initial call from the President that you're describing also was on the 23rd?

A. I think it was kind of the same thing. But I think what I'm saying is the day that AG Barr departed from DOJ, my recollection is he left that afternoon. It was that afternoon that I got a call from the President. That particular call, I don't have good recollection of what was covered other than small talk.

He -- the President -- was basically saying -- it was just a chat. I'm not saying it wasn't discussed. I don't remember that. But I did receive another call from the President on the 24th.

Ms. Zdeb. I see that I'm getting pretty close to the end of our first hour, so I think this is probably a good stopping point. Why don't we go off the record. It's 11:14.

(Discussion off the record.)

Mr. Flynn-Brown. So we can go back on the record. It's 11:27.

Before I start with my questioning, I want to make sure that the record reflects that Daniel Parker is in attendance.
He’s an investigator for Senator Grassley and I don’t believe he was included in the initial introductions.

Sir, thank you, again, for your time today. Let me first start off with -- I'm going to introduce this as Exhibit 4, a document that is Bates-stamped -744 to -750. I am not stating the entire number on the bottom of the page, just stating the last three digits.

(Exhibit 4, document, was marked.)

BY MR. FLYNN-BROWN.

Q. If you can pull that document up and let me know.

A. I have it.

Q. Okay. So in reference to the December 28th, 2020, email on Bates stamp -745 from Jeffrey Clark. Do you see that?

A. Yes.

Q. -745?

A. Yes.

Q. And that email was sent to you and Mr. Donoghue?

A. That's correct.

Q. The email says in part, and this refers to the draft letter from Clark, that it would have been sent to the "Governor, Speaker, and President pro temp of each relevant state to indicate that in light of time urgency and sworn evidence of election irregularities presented to courts and
to legislative committees, the legislatures thereof should each assemble and make a decision about elector appointment in light of their deliberations."

Let's go back to -744, the first page.

In reference to the email from Mr. Donoghue, dated December 28, 2020, there is a notation at the top of this document. And I am going to state for the record that, although these pages don't include your email response, there is an email response from you with respect to Jeff Clark's draft letter that you rejected sending this letter. And I want to make sure that's stated here for the record.

But with respect to the notes up at the top right corner of this document, it says, "This letter was opposed by A/AG + OLC. Discussed with POTUS on January 3, 2021, and he rejected AAG Clark's idea to send it."

Are these your handwritten notes?

A. I don't think so. I think they're accurate, but I'm just trying to figure out is that Rich Donoghue's? Is that Pat Hovakimian's? I don't know who that is, but I don't think that's me.

Q. So with respect to "A/AG," that refers to the Acting Attorney General; is that correct?

A. Again, I didn't -- I don't think I wrote this, but I would construe it the same way as you.

Q. And "OLC" refers to the Office of Legal
Counsel; is that correct?

A. Yes.

Q. Okay. So along with President Trump, the Acting Attorney General and the Office of Legal Counsel rejected sending the draft letter?

A. That's right. And the reference to the January 3, 2021, is that Sunday night meeting that I requested with the President, that I went through in my preliminary remarks, I guess.

Q. So let's get into that January 3rd meeting.

Were there any pre-meetings that day before the January 3rd meeting?

A. I'm pausing because I remember how that day unfolded. And the pre-meetings -- again, not trying to be semantic, but I met with my own staff that afternoon. I talked to White House counsel shortly before the meeting itself. So the conversations, whether they're pre-meetings or not, you know, I guess we can all size it up, and it'll probably be easier for you if I just tell you what happened.

Q. The evening that the January 3rd meeting took place at the Oval, and we'll get to it, you knew of the substance, what it was going to be about, before you walked in the door?

A. Yes, because the way the meeting came about was, among other things, Jeff Clark had told me that the President was going to replace me so that he could pursue the plan that
Jeff Clark had.

And I said "Well, I don't get to be fired by someone who works for me," in the case of Mr. Clark. I wanted to discuss it with the President.

So I called Chief of Staff Meadows. This was -- I think my conversation with Jeff Clark, the meeting he and I had ended in the neighborhood of 4:00.

And I called Mr. Meadows and said, "I need to meet with the President."

And the best I recall, he didn't even ask me why. He said okay. Called me back and said you're on for 6:15.

So, yes, I knew that this was going to be discussed, because that's really what the issue was. Jeff Clark had a number of things set out in this email and unrelated pieces, and I had a different approach that you all heard about, that my view of the facts required or that the Department not take these measures. So I was in the position of wanting to tell the President he shouldn't do this.

Q. So set this up for us. You walk into the Oval on January 3rd, and President Trump is sitting there at the Resolute desk; correct?

A. Yes. Mr. Meadows had walked a group of us in, and he didn't stay. So in the room are -- there was seven lawyers and the President of the United...
Q. So if you're sitting in his chair, the President's chair, if you proceed from his left to his right, can you name the individuals that were present for us?

A. Yes. So Rich Donoghue and I, my deputy, are in the middle, I think facing the desk, so the opposite way of what you're saying. I'm on the left. Mr. Donoghue is to the right. Then on depending how you look, on the President's left and my right, is Pat Cipollone at the end, the White House Counsel; and Pat Philbin, the Deputy White House Counsel. And then Eric Herschmann, who was also a lawyer; his title was Senior Adviser to the President, or something to that effect.

Now that I just said that, I was sitting next to Mr. Herschmann. So Rich Donoghue was to my left, from the President’s view Donoghue was seated to my right.

And then on the other end and to my left was -- Jeff Clark was to the left of Rich Donoghue. And then Steve Engel was at the other end closest to the desk, but it's like a horseshoe, a semicircle.

Q. So those present were all the major players that needed to discuss this matter?

A. Yes.

Q. Regarding this situation; correct?

A. That is correct.

Q. How long did this meeting last?
A. It was long. It was scheduled to start at 6:15.
And I think it didn't start on time. So the best estimate is
-- to my recollection, I would say probably in the
neighborhood of 6:30, give or take, maybe. And it went till,
I'm going to estimate, maybe 8:30, a little past 8:30.
Q. So approximately two hours?
A. Yeah, maybe even a little longer than that.
It was long.
Q. So the discussion, then, related to voter fraud,
election fraud-related allegations?
A. Yes.
Q. And the draft Jeff Clark letter was also discussed?
A. Yes. I mean, as I said, since the meeting was done
at my request, it was -- the President said something near the
very beginning, "One thing we know is you, Rosen, aren't going
to do anything. And you don't even agree that I'm right about
these concerns that people are telling me. This other guy has
a different plan, you know. Tell me why that's not the better
way to go? You've made it clear you're going to do nothing."
Q. So the President brought everybody in, then, to
allow you, the principals, to debate for him the issues, your
positions, and your challenges on those positions?
A. Substantively, yes. I mean, there's some other
things too. There were people that -- this wasn't me, but
other folks wanted to discuss Mr. Clark's qualifications. It
was not just his proposals of what to do, but that it was
inappropriate for him to even be doing what he was doing. I
think at one time or another, all seven of the folks in the
room had their say, that’s why it went on so long.

Q. So your discussion involved the draft Clark letter,
but did it also include explicitly President Trump potentially
terminating you as Acting Attorney General?

A. Yes, because those were tied together.

However, I was the representative of -- the
department's position is that, based on the facts and the law,
we don't see widespread fraud, so we're not going to take any
public actions or litigation steps or press conferences or
letters. We shouldn't do any of that.

And Jeff Clark was the representative, if you
will, of "No, let's take a different approach," and sending
that letter he was proposing and make some public statements.
And sort of -- you know, as I said in the opening remarks, he
had a very different path in mind.

So these things were bound together because
it wasn't the nature of "Well, one of you is a smarter lawyer
or something." It was about what course of actions we were
taking. But each of us represented a different pathway.

Q. So Jeff Clark was the one person who was asking to
take this particular approach?

A. That's right.
Q. And --

A. That's how it turned out, yes.

Q. That's how it turned out? Okay.

A. Correct. And the only reason I say that is I generally knew that the White House counsel were supportive of where I had been and was. But you just never know until you are in the room with everybody. I knew -- I knew -- actually, I don't even want to -- that's almost unfair to White House counsel.

I did know that they did not think Jeff Clark should be the Acting Attorney General.

Q. Say that again, I'm sorry.

A. I did know that Pat Cipollone and Pat Philbin were strongly opposed to the idea of Jeff Clark being the Acting Attorney General.

Q. So what did Cipollone and Philbin say when Clark advocated his position to the President and to the group?

A. Well, they spoke -- at several junctures, but I think their basic position was the Department of Justice was handling this properly. They should be allowed to continue doing that. I think Mr. Cipollone felt strongly that Jeff Clark was out of line, that he had -- he should not really be doing what he was doing, that I think he made comments to the effect that Jeff Clark wasn't suited to the job, and that the whole approach
would be harmful and shouldn't be pursued.

So combining that, there are a number of different parts to it. But I think what I said earlier was -- everybody in the room, except Jeff Clark, was in one place. Some had different arguments, if you will, but everybody -- it was -- it was six against one.

Q. Jeffrey Clark made clear to the President and to the group that if he is made Attorney General, that he would send this draft letter?

A. Yes.

Q. And how did you respond to that?

A. How did I respond to that?

Q. Yes.

A. I think -- I think I had set out early on, and repeated, that I thought that would not be good —— would not be justified under the law and facts, but also it's not the role of the Justice Department to be telling state legislatures what to do. And it would be bad for the country, that it wasn't something we need to do.

And I think others agreed with that. I think Steve Engel set out a considerable explanation of why that wasn't an appropriate thing to do. Again, I think it was six against one, actually.

Q. So it's fair to say that you provided advice and
recommendations to the President at that time?

A. That, we did. Q.

That you did --

A. Yes.

Q. -- provide advice and recommendations to the President regarding this matter in the discussion?

A. I think that's accurate.

Q. Mr. Donoghue did the same?

A. Yes.

Q. Cipollone, Philbin, Engel, they all did the same?

A. Yes.

Q. Herschmann?

A. Yes. He definitely spoke up. He didn't think the letter was a good idea and was very critical of Mr. Clark.

Q. So President Trump takes in all these data points. He's listening to all of you speak, or is he interjecting in the course of your conversation, or is he letting you -- all of you as principals, as staffers, hash it out and he is just taking in the conversation?

A. Both. He -- some of what you just described. There were considerable parts where people are talking and he was just listening to their points. In some places where he says, "I've heard this or that. What do you guys say about that?"

Q. So he explicitly asked for your advice on this matter under discussion?
A. Yes.

Q. And then in response to the advice and the recommendations from the group, he took your recommendations; is that correct, in the sense of, one, he ultimately rejected sending the Clark letter, the draft Clark letter?

A. Ultimately that's correct.

Q. In the sense of, number one, he rejected sending the draft Clark letter, in agreement with his advisers, you, and others; and two, he rejected terminating you as Acting Attorney General. That was the ultimate one and two decision that was made with respect to this matter; is that correct?

A. Yes. At the conclusion of the discussion, yes.

Q. So how did Jeff Clark take that decision?

A. I mean, that's a very -- I think he just accepted the President gets to make the call. There were other somewhat humorous moments along the way where, at one point, Mr. Clark actually said to the President in the discussion at one time, he said, "Mr. Trump, I think it's time to call the question."

And the President looked at him, with a look that said, "Don't I get to decide that?"

So in terms of how Mr. Clark took it, I don't think it's what he had anticipated going into the meeting, but I think he accepted that the President made a decision.

Q. And his decisions were entirely legal; correct? The
decision to reject sending the draft letter and the decision
to retain you as Attorney

General, those were entirely legal?

A. Certainly within the President's authority to not do
those things, yes.

Q Did the President discuss BJay Pak at that meeting?

A. So I think -- I'm trying to remember that issue. I
think what happened is that after the meeting was over and it
kind of tailed off, it was -- the people were getting ready to
move on, the President brought up Mr. Pak's name. And Mr. Pak
was a very good U.S. Attorney.

So when he came up, and I think the President
raised it in a critical way, I think Richard Donoghue and I
said, "This is not right. He's a good U.S. Attorney."

But I think the President had raised that he
wanted to replace him. And I think, every -- all seven of us,
as best I remember -- I don't remember whether Jeff Clark
spoke to it or not -- but there was certainly nobody who
thought -- who recommended to the President that BJay Pak
should be fired. But I think the President had some -- you
know, had some commentary about that.

And at some point, I think we knew that Mr. Pak
had already told us he was resigning, so somebody told the
President that this would be ridiculous and unfair and that he
was already resigning.
And I think that's where it was left. Well, he's resigning.

Q. So with respect to potentially terminating Mr. Pak, the President again listened to the advice and recommendations of his attorneys and did not fire BJay Pak?

A. Well, on that one, as I say, my memory of how that went -- that stuff is not as good as I would wish.

Q. Did the President of the United States fire BJay Pak?

A. The way I remember it, BJay Pak had already told Rich Donoghue that he was resigning a few days before that meeting. But I cannot recall the sequence after that. You're probably just going to have to --

Q. So it's your recollection that -- with respect to your recollection, the President didn't fire BJay Pak?

A. He accepted that BJay Pak was resigning.

Q. So he was already resigning, he just let that process play out, according to your recollection?

A. Well, I don't -- as I say, I don't want to get too much into the details because I don't remember well, but BJay Pak did resign.

Q. And if Trump wanted to fire any U.S. Attorney, he could under his authority; correct?

A. The U.S. Attorneys are Presidential appointees with
Senate approval, like I was and many other folks. The
President can remove Presidential appointees for any reason
and no reason.

Q. Mr. Rosen, did you take any action to overturn the
2020 election?

A. No.

Q. Did President Trump fire you?

A. He did not.

Q. Did President Trump fire Rich Donoghue?

A. He did not.

Q. Did President Trump fire anyone in the Justice
Department or FBI related to his frustration that more wasn't
being done to investigate election-related allegations?

A. Anyone? Not that I recall.

Mr. Flynn-Brown. Let's go to Bates -736.
Actually, it starts with -735. It goes to -742.

Mr. Rosen. Which page?

Mr. Flynn-Brown. The Bates -- this document
begins -735 to -742, these are the handwritten notes.

Mr. Blumenthal. I do not have a copy.

Mr. Flynn-Brown. Exhibit 5.

Yes, thank you. This would be Exhibit 5.

(Exhibit 5, notes, was marked.)

BY MR. FLYNN-BROWN.

Q. Sir, if you need time to review, let me know.
A. I think -- I think I've recently looked at this, so I might need to look at specific things, but I know what this document is, having just recently seen it. I don't think I was aware of it at the time, the best I recall, but I've recently seen this.

Q. Okay. So according to the top right corner of the notes, these are notes from a call that you had with President Trump and I believe Rich Donoghue on December 27, 2020.

A. Right.

Q. If you look down -- and you're on -736. The Bates start at -735. Let's go to -736.

A Do you want me to give you some context on this call?

Q. Fire away.

A. The way I remember this is that I had asked the President on the 24th, "It's a Christmas holiday weekend coming up. How about we defer talking further until Monday?"

And he said, "Well, okay. But I might need to call you."

So on Sunday morning, he called me from Mar-a-Lago, if I recall, just before he was playing golf. And I remember I took the call, and I started talking to him about golf and sports. And he got me into it a bit. And I was talking to him about when he owned the Tour de New York bike race in New York some years back, and whether he had met Greg LeMond, who was a Tour de France winner.
And then -- because we had talked about all that, he had run out of time. And so he said, "I'm running late to get out to the golf course."

And I said, "Okay, Mr. President. I think that should be your priority today." And he laughed.

But then sometime in the mid to late afternoon, the phone rang and the White House operator is on the line. And I said "Okay."

"The President wants to talk to you."

So that's what I remember. See, the Sunday afternoon, the context just sort of stuck with me. That the President called me back after golfing. I don't remember how he had gotten to it, but I do remember I heard from him before and after his golf game.

Q. Thank you for that.

So let's go to -736, down at the bottom where the notes say "People won't have confidence in the Georgia Senate race."

I don't know if this is a direct quote from the conversation or if this -- when I say quote, I'm not saying that this is word for word what was said in the call. But do you recall whether this was something that the President said?

A. So here's the thing. It was a somewhat longer call. So this isn't -- as best I can discern, it's not a transcript.
These aren't my notes. I think they're Rich Donoghue's. But -- so I don't have any reason to doubt that what Rich put down is accurate.

I see some things in these notes that do square with my memory. I think I did say, for example, that with Pennsylvania, you can't just go and just flip a switch and change the election.

So I see things in here. But on many of the notes what I would say, is, you know, they ring a bell of the kinds of things that were talked about.

Q. Do you recall the President ever having other conversations referencing his concern about the American people's confidence in the Georgia Senate races with respect to some of these allegations of voter fraud and crime-related allegations of other elections that had taken place?

Did he say in those conversations that he was concerned about people having confidence in the Georgia Senate races?

A. He raised that on more than one occasion. "Many people around the United States think there's been fraud. This undermines confidence in the elections."

I remember at that level of generality. As I say, with regard to this particular comment, I don't have any reason to doubt Rich's notes, but I can't say that's the exact words at that level of specificity.
Q. The President, you said, did mention on several occasions that he's concerned regarding -- with respect to the American people's confidence in the electoral process?

A. Yes.

Q. Let's go to 737.

The notes say, "DOJ failing to respond to legitimate complaints/reports of crimes."

I note the President's apparent use of the word "legitimate." Now, with 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. So two things. At about this same time generally, it's consistent with actual things I remember him saying. I don't know if this is a quote. I just remember he would say, you know, "DOJ needs to do more to respond to this. The people are doubting you, you know."

But our response, and "ours" being the department, and, in particular, the administration, "We are and have done these things. We have looked at this as a department. We're continuing to when anybody presents something with the indicia of reliability, but it's just not
accurate that we haven't done that."

And I think the President was reporting that
people had told him this allegation was true, but I think we
felt that there were people giving him bad information.

Q. So based on that, the question is, was it reasonable
for him, based on the data that he was receiving, to have
raised these concerns relating to the election?

A. I'm pausing just because I don't know that it's
really for me to be the one to evaluate what's in someone
else's head. That's really for asking for a person's mental
process. I'm just saying I can't control what the President
is hearing from other people or what he's saying. I can
control what I do about it. And I think what I do about it is
I try to focus on the facts and I do what I think is right and
is consistent with the rule of law.

So I don't think it's for me to comment on
what's in the President's head. I think it's more that I
would prefer, let me put it that way, that other people not
tell him things that I don't think were accurate. And then I
would prefer for the President to accept that.

I suppose since we talked to Jeff Clark Sunday
night in the January 3rd meeting, that's where it comes to a
resolution. And so, you know, the stuff along the way, it is
what it is.

Q. So the Justice Department did review voter fraud
allegations in the 2020 election?

A. Yes.

Q. And reviewing them was what should have been done. That was a reasonable step. That's the DOJ's job; right?

A. Right. And I think the caveat I'm just giving is reviewing them is not inherently validating that they're there. There's a different kind of basis which investigators and prosecutors -- I think -- would have. So to use that in a colloquial sense --

Q. Everybody at the DOJ was doing their job, at least in your view?

A. Yeah.

Q. If those are reasonable steps to take, is it reasonable, then, for the President to use his authority and responsibility to ensure that the Justice Department and the FBI are doing their job?

A. And what I'm saying is that I don't really want to be commenting on the reasonableness or unreasonableness of the President's actions. I'm not here to defend him; I'm not here to criticize him. I'm just -- I think I'm just here to tell you what happened.

Q. Let me ask this on a constitutional level. The President of the United States is the head of the executive branch. It's his job -- he takes an oath, it's his job to work on behalf of the American people and taxpayers to ensure
that the Departments and agencies under his control are doing
what they need to do for the taxpayers.

Would you agree with that?

A. For any President.

Q. Sure.

A. All Presidents have to uphold their responsibilities
to the Constitution.

Q. Okay. So the bottom of 737.

I think it says -- and I know these are not
your notes -- "FBI will always say nothing there.
Leaders there oppose me, SAs support me."

Do you see that at the bottom, sir?

A. Yes.

Q. Does this statement indicate to you that the
President maintained a certain amount of distrust of the FBI?

A. Well, as I said before, I don't have any reason to
doubt the accuracy of Rich's notes. And it's generally
consistent with -- I don't know if it's this call or another
time, but the President had some skepticism with the FBI.

Q. Do you believe that that mistrust, or skepticism as
you just noted, 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. Again, I really don't mean to be quibbling over any
of this. I just don't think it's my role to try to get in the
President's head. I'm just trying to describe who said what when, who did what. So the reality of these type of things, I don't know if they're my role as a factual witness today.

Q. In the course of your conversations with the President about election fraud and crimes-related issues that had been reported and that people had told him, you mentioned earlier, I believe, and correct me if I got it wrong, that the President often was telling you that the DOJ, generally speaking, and I'm paraphrasing, was not doing enough with respect to these allegations?

A. I think the President said that both publicly and privately.

Q. He said it to you often?

A. More than once.

Q. Let's go to -738.

The bottom of the page here. It looks like the President allegedly said, "statistically impossible for me to lose."

Do you see that, sir?

Do you remember that?

A. Yes.

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

A. You know what, I can't remember -- and, again, I'm
not challenging Rich's notes, but I don't remember -- to put
it that way. I just remember it more as, you know, "Election
night, I was ahead at 10:00. And once that happens, you know,
you're in good shape. But this election by the next morning,
you know, you're getting a flood of votes that would be in the
other direction. And that's unlikely."

And I think we thought there was a rational
explanation for that.

Q. What was that?

A. Well, to simplify, that this election was unlike
some past ones in the number of ballots that were not done in
person the day of voting. So if 90 percent of the votes were
in person and you count those and you're ahead with 90 percent
in, you have reason to think you're in pretty good shape if
you're a little ahead.

But if only 50 percent are in because a whole
lot remain to be counted because they weren't in person, the
fact that the other 50 percent changed that just is not remote
and impossible.

Q. If you go down that page to the reference
"DAG," it seems to be a reference to you, sir.

A. I would construe it that way too. They're not my
notes, but that's what it looks like.

Q. So to say there -- I am not saying that this is
word for word what was said. Just reading the notes.
"Will look at whether have more ballots in PA" -- Pennsylvania -- “than registered voters - should be able to check on that quickly but understand that the DOJ can't + won't snap its fingers + change the outcome of the election, doesn't work that way."

And then "P" responded. And I assume "P" is the President here.

Do you read that the same way? You see "P" --

A. No, I see what you're reading. This is another example of what I was getting at, is these aren't my notes so I don't know if this is purporting to be a quote or a summary, et cetera. But I don't have any reason to think that Rich's notes aren't accurate.

Q. So the President's alleged response is "Don't expect you to do that. Just say the election was corrupt + leave the rest to me and the R Congressmen."

Do you see that, sir?

A. I see that.

Q. So then is it your recollection after viewing these notes here that the President didn't expect the Justice Department to change the outcome of the election based on these notes?

A. So I think -- again, I'm not going to challenge the accuracy of the notes. They're not mine, but I think what I can say I do remember that the President raised this issue
that the -- there's a website in Pennsylvania, I think it was
the registered voters website, and then there was the
certified vote and there was a discrepancy. He said to look
into that. We responded that we would. We kind of kept it at
a government-to-government level, nothing public.

There was a reconciliation that actually answered
this, but that came later. I think at this time, I was making
the point that there's a factual question. You know, we can
try to figure out the facts on it, because we can proceed on
the facts and the law. As I said, it's the law.

But what we can't do, and I think I did say
something to this effect, is we can't just -- we can't and we
won't, and even if we could, it's not our role to say "Well,
we're going to overturn the election."

And I think the President in a number of
places, and probably here too, said "The people are telling me
there is fraud and that you're just not finding it and these
statistics show it."

And so I was amenable to figuring out why are
the websites inconsistent, but I was not amenable to doing
things that would criticize the integrity of the election
without a factual foundation.

Q. So with respect to the reference of
Pennsylvania ballots, I want to ask you this question and make
sure the record is clear, sir: Did you ever look at whether
there were more ballots in Pennsylvania versus registered voters?

A. I think we did. I think -- I don't remember the specifics of the steps other than that we had, as a general objective, to make sure that we weren't doing things that were non-governmental in a way that might be misconstrued as "Oh, the Justice Department is looking into this," because that itself gives it plausibility. But this was something I think we sorted out.

Again, I don't remember the who did what and what were the steps, but I think what happened was that the Pennsylvania website for the number of registered voters had not been updated. It was out-of-date. And they were in the process of updating that with the correct information, and they did it shortly after this. And when they did, the reconciled numbers did square, so it solved this issue.

But that was a factual point that there should be an answer to.

Q. Understood. Thank you for that.

Do you recall who at the Justice Department was lead on that particular investigation discussed here?

A I don't. I'd have to ask someone on my staff.

Q Okay. Move to -741. Let me know when you're there, sir.

A. I'm there.
Q. According to the notes at the top, the President said something to the effect of "You, Rich," as in you, Rich Donoghue, "should go to Fulton County + do a signature verification and you'll see how illegal it is. You will find tens of thousands".

Do you know if Mr. Donoghue ever went to Fulton County?

A. I don't think he did. You'd have to ask him to be certain. But I don't think so.

Q. Did you?

A. I did not.

Q. Did anyone from the Justice Department or its components seek signature verifications from Fulton County?

A. I don't remember. I don't know the answer to that. If we did, I don't know about it. I think we had some familiarity with things that had gone on in Fulton County. I am construing "CTY" as county. It could be a city, but -- it's not my notes, but I think that's Fulton County. And so that's Georgia.

(Discussion off the record.)

Mr. Rosen. So the point I'm trying to clarify is I don't think either Rich Donoghue or I personally went to Fulton County, Georgia. This is a pretty busy time. There were lots of other responsibilities besides these issues.
However, the Department has personnel in Fulton County. There's two U.S. Attorneys in Georgia; one that was responsible for Fulton County. And the FBI had a field office.

So I think what I was trying to get at is I don't have, as I sit here, comprehensive knowledge of everything that was done in Fulton City by either us or by the state authorities -- because I think there's some information-sharing with the state. I think that these kind of issues got addressed, but we're talking about a level of granularity more than I recall as I sit here now. I can't remember exactly what that would be if I was told specifics. I don't think it was ignored, these considerations. I'm just saying that I don't think Rich Donoghue and I actually went there.

BY MR. FLYNN-BROWN.

Q. And who was the U.S. Attorney at that time or in that area with responsibility for Georgia?

A. I think for that area, it was BJay Pak, and another part of Georgia was Bobby Christine. There was actually a third U.S. Attorney in Georgia too.

Q. Do you recall the President ever asking you at other times, or Mr. Donoghue at other times, that he would like you personally to go somewhere to vet these allegations?

A. As I sit here right now, I don't recall any. But I actually don't recollect this; I'm just saying I don't dispute
Q. So do you have any comments on why you think the President wanted one of his chief law enforcement officers to be boots on the ground, so to speak, and verify fraud allegations personally?

A. I couldn't speak for him. I don't remember if he gave a rationale for that.

Q. To your recollection, did the President have a firmly held belief that some of these allegations that he received included information that was potentially credible and needed following up on?

A. Well, as I alluded to, when he said multiple times "people are telling me this, people are telling me." Now, I didn't talk to the people he was talking to, if they were with the campaign, or if the only people that he had as visitors to the White House, were like Mike, the pillow guy.

FEMALE MAJORITY SPEAKER. Mike Lindell.

Mr. Rosen. Yeah, sorry, I couldn't recollect his name.

So I couldn't say who the people are, but people were telling him this. And so he said that with some regularity. "People are telling me this," or "People have said this," or "I've read this," or "I've heard this."

And I would agree with you that that is something that he said more than once, regardless of these
BY MR. FLYNN-BROWN.

Q. The President consistently asserted that?
A. Well, he asserted them more than once.

Q. And he made these assertions with respect to the election system writ large in the United States, he wanted to ensure the proper operation of it?
A. I can tell you what he said. I can't tell you what is in his mind. Someone else would have to do that.

Q. What did he say with regard to the election system in the United States?
A. He said, "The American people are paying great attention to this. You know, people are concerned. I'm hearing that there's fraud in Pennsylvania."

Q. Right. So the President constantly referred to the American people in his context?
A. Yeah. I don't mean -- I try not to be semantic with this, but I don't know if he constantly did that, but it was more than once. I mean, he did say that.

Q. So, Mr. Rosen, I am coming up on my hour here.
We'll get started on another section, and return to it in my second hour.

Which units within the Justice Department handle election crime allegations?

A. So with regard to fraud and illegality or criminal -- the criminal election statutes, it's the FBI that has responsibility for that, as does the criminal division of the Justice Department, the criminal division’s Public Integrity Section. And then also the U.S. Attorney's Offices, of which there are 94 in the United States, each United States Attorney's office has some people who investigate allegations of fraud.

Q. The Public Integrity Section contains the Election Crimes Branch; correct?

A. It does.

Q. Who was in charge of that branch during the 2020 election?

A. Well, Mr. Corey Amundson was the head of the Public Integrity Section. The folks under him -- I'd have to refresh myself.

Q. Richard Pilger?

A. Before the election, it was Richard Pilger. There came a point in November, I think it is, that Mr. Pilger resigned from that position. He didn't resign from the Department, but he resigned from that position.
Q. You said he resigned after the election?

A. To the best of my recollection, as I sit here today. If there's to something to refresh my memory, I would be happy to look at it, but that's how I remember it, is it was after the election. Q. So tell me --

A. I don't know the day, but at some point. Q.

Understood.

So how did this process work, then, with respect to the Public Integrity Section and the Election Crimes Branch? Does the Election Crimes Branch need to fully approve investigative steps for election-related investigations before those steps can be taken?

A. So there's a process in the Justice Manual for coordinating these kinds of things. And I think the Public Integrity Section has election responsibility, because one of the functions in enforcing of the law is there has to be some consistency. No two cases are alike.

And so I think with 94 different U.S. Attorney's Offices, we don't want to get into a situation where the law is looked at in one way in one state and different in the other states. But there's coordination through the Public Integrity Section, but I have to look at the Justice Manual to refresh myself on is it a consultation or is there need of an approval? As I sit here, I don't remember.

Q. So prior to the Barr memo in November of 2020, it
was the Justice Department's policy to wait until after
certification to begin investigating election-related crimes;
is that correct?

A. A little bit like the discussion we had earlier.

There's a document that sets out what the earlier policy is
and what the later one is. So, for accuracy, we should just
look at this and characterize it based on the actual one.

But in the big picture, I'm not really
disagreeing with you. I think I just want to qualify it by
the contents of the actual documents.

Q. So I believe the November 9th memo from Barr
says, "I authorize you to pursue substantial allegations of
voting and vote tabulation irregularities prior to the
certification of elections in your jurisdictions in certain
cases."

When that memo came out, how was that
received by the Public Integrity Unit and the Election Crimes
Branch, based on your recollection?

A. Well, as I said earlier today, I did not, to the
best of my recollection, at least, have a meeting or have a
discussion about this. And it didn't get to the point where
somebody asked to come see me to evaluate the issues, but I
think I had a little bit of a general awareness that there was
some friction about getting the DOJ to look into this.

Q. When you say "friction," do you -- can you describe
the people involved at DOJ?

    A. Not really, because -- again, as I alluded to earlier today, I wasn't -- AG Barr was pretty hands on with regards to this memo that he had put out. And I don't remember -- as I said, I don't think I met with the Public Integrity Section, so I think the things I know about this are kind of a couple of steps removed.

Q. The situations that you did know about, you said "friction." So what do you mean by "friction"?

Can you explain that?

    A. That's what I'm saying. So I had some situational awareness. When you change your policy, that if there are any questions about how to do this or how to implement it, and --

Q. Well, let me put it this way --

    A. -- the issues that came into that, I'm probably just not the best person to get into that. Because, as I said, I wasn't day-to-day having these conversations. Sometimes the way the Department works is there's previous issues that need closure, something can be elevated to the Deputy Attorney General for consideration and resolution. But at least to the best of my recollection, as I sit here today, I don't remember that happening.

Q. Do you recall anyone or any units in PIN or ECB that expressed a position where they did not necessarily want to comply with this Barr memo?
A. I'd have to consult with some others or with the records. As I said, I remember in a situational way there was some friction about this, and I think there were some folks on my staff and on the AG's staff that had access to it, but I think that would take more work than I'm in a position to partake in today.

Mr. Flynn-Brown. I have under one minute left. We don't have enough time to turn to the next exhibit. So, I’m going to wait for my second hour for those questions. Before my time is up, I want to quickly go through that January 3rd meeting and the aftermath.

So once the decision was made by the President, by President Trump, to reject the draft Clark letter and to reject the notion that you were to be terminated, in other words, he decided to keep you as Attorney General, once that decision was made, that was a done deal; correct? There was no going back.

Trump made his decision and everybody proceeded.

Mr. Rosen. That's how I perceived it.

Mr. Flynn-Brown. So that's going to wrap up my first hour. And thank you for your time, sir.

Mr. Rosen. Thank you.

Ms. Zdeb. We can go off the record.

(Discussion off the record.)

Ms. Zdeb. It is 1:13 p.m., and we can go
back on the record. And for the record, Senator Lee has
joined us as well.

BY MS. ZDEB.

Q. Mr. Rosen, I wanted to just follow up very briefly
on a conversation that you referenced in passing that you had
with Attorney General Barr during our initial hour.

So we had talked about that meeting at the
White House on December 15th, the one where you and
Mr. Donoghue were requested to attend, and Attorney General
Barr was not requested. You indicated, I think, that you did
not find it particularly surprising when you were asked to
that meeting -- you and Mr. Donoghue, but not the Attorney
General, were invited. And I think you mentioned returning to
the Department following that meeting, during which, of
course, you described having discussions with the President
about the election. I think you mentioned speaking with
Attorney General Barr at some point after you came back.

Could you give us a sense of what that
discussion involved?

A. What I remember is that when Mr. Donoghue and I went
back to the Department, I think it was an event at the AG's
conference room, maybe an awards ceremony or something --

Q. Excuse me, Mr. Rosen, is your microphone on?

A. I'm sorry, I will turn my microphone on.

So I recall that when we got back from the
meeting with the President, Mr. Donoghue and I, I think we
needed to be at -- it was some kind of ceremonial event in the
Attorney General's conference room. And we went to that.

And I said to the Attorney General at sort of
a reception-like activity after he made some remarks, and I
think Mr. Donoghue and I, either right after the event or
maybe it was a little after, we pulled him aside for ten
minutes outside of it, we left the conference room. And we
said that we had this discussion with the President, we told
him about it.

He said, basically, you know, "Thanks for the
update."

Q. Did he have any reaction beyond that?
A. I think what I just said is the reaction that I
remember.

Q. And, of course, it was just a couple of days after
that, I think December 20th, when he made another public
statement essentially reiterating his prior statement to the
effect of the Department has not identified evidence of
widespread election fraud.

Did you have a sense at the time of whether
he felt some need to reiterate that statement because of the
meeting that you had informed him about?

A. If it was cause and effect, he didn't tell me that.
So I don't know that that's the case. I just remember he
stated it again at the news conference that he did on the 21st, which was about the Lockerbie plane crash, the perpetrators being extradited after all these years. And at least the way I remember it, he made this big announcement, and none of the questions were about the Lockerbie case.

One of the questions was about the election fraud issue. And he gave a very blunt and expansive answer about the Department of Justice had not found evidence of substantial fraud, at least sufficient to overturn the results of the election. And that was, I think, the early afternoon of Monday the 21st of December.

Q. So jumping forward a couple of days -- and I should say I apologize. We've been jumping a little bit back and forth in time. It's just the nature of the question rounds. But I think right before -- right before my last hour ended, you described the call from the President on December 23rd, roughly coinciding with the official departure of Attorney General Barr. And you said it wasn't particularly consequential, you talked about sports, but then you alluded to another phone call from the President the next day on December 24th, and that's where we left off.

Could you tell me a bit about the circumstances of that call?

A. Yeah. Yes.
I think that's the 24th, the day before Christmas.

So it was a Thursday, late December. And many people at the Department of Justice are getting ready for their holiday plans or going places and so forth. I was staying around at holiday season, so I was in the D.C. area.

And I got a -- he called, but I think it was not scheduled. So I don't think it was on my calendar. I think I just got a call from the White House operator, from POTUS, and the President came on the line and said, did I have a few minutes to chat about something that was on his mind.

So, "Okay, what's on your mind?"

And he then brought up the same kinds of issues he brought up back on December 15. He said, you know, "You, at the Justice Department, you need to be aware lots of people are saying that there's election fraud. And I've heard this about Pennsylvania, and I've heard that about Arizona."

And he did most of the initial talking. But he was laying out, again, that -- I think his formulation was not exclusive, but usually "people are saying" or "people are telling me" or "I have heard that there's election fraud. You're saying there's not, but have you looked? Because this is what I'm being told. This is what I've heard."

And he did it at some length; not as
long as he did on the 15th. So I listened to that. And I
said, in substance -- this is just the content I remember --
"I think we've been through that, but if there's new things,
you know, we function on the facts of the law. If there's
more facts, then the Department can receive them, but you know
what we know, that we told you, we haven't seen any."
And so two other things that I remember about
that call; one is more in hindsight. At the time, he was
saying to me, "I'd like you to make sure the Department is
really looking into these things that you may have missed."
And I said, "Well, sir, it's Christmas. Today is
Christmas Eve. Maybe take a few days off, and we can talk on
Monday."
He sort of hesitated. "Well, that's four
days from now."
And I said, "Well, let's start with that."
But I wondered if it was going to be Monday.
You know, Richard Donoghue's notes that show it wasn't
Monday.
But the other part that stuck with me was
kind of an odd reference. Somewhere in the conversation, he
made a reference to Jeff Clark. And, again, I think the way I
remember this is that he said, just out of the blue, sort of,
"Do you know a guy named
Jeff Clark?"
And I said, "Yeah, he's the head of Civil Division."

Then he moved on.

So that struck me as curious as how does the President of the United States know, you know, an Assistant Attorney General. They are important jobs, but I wouldn't expect the President to know all the Assistant Attorney Generals. There are several of them. So it struck me as odd. That's more in hindsight. Now, at the time, that's become more significant, obviously, but at the time, I was just quizzical.

How does the President know who Jeff Clark is and why was he asking me that?

So that's how that call was. It was kind of, as I've alluded to, basically said follow up on all of the stuff referred to in the media; that it was no secret that the President was unhappy about the election outcome and people were, according to him, telling him that there had been corruption.

But the parts that were peculiar is why I made earlier reference to the 24th as an interesting call; Jeff Clark.

I can tell you how I felt about the matter, or -- you have questions.

Q. About how long did this call last?

A. I want to say 10 to 15 minutes, maybe. If I was to
guess, to the extent I can remember, I would say probably in the order of 10 or 15, give or take. Slightly shorter; slightly more.

Q. So in terms of the Jeff Clark reference that struck you as curious at the time, it sounds like you were saying the curiousness of that reference, that became more significant overtime as events unfolded.

A. Yes.

Q. Did you sort of not focus on the curiousness of it per se, but -- well, you tell me. Did you just sort of file it away at the time and not focus on it until later?

A. Well, I heard that on the -- I think it was the afternoon of December 24th. So I didn't think there was immediate follow-up to do on Christmas day. But the day after, I'm pretty sure it was, as I recall, Saturday the 26th, I called Jeff Clark and inquired of him -- I don't remember exactly. I remember I was trying to see if he was going to tell me something.

So I called him and was asking him, you know, something to the effect of "Is there something going on that I don't know about?"

And we had a little bit of a back-and-forth. But then he, at some point in the conversation, acknowledged that he had had a meeting with President Trump. And I was flabbergasted.
And I said, "Excuse me? When was this? How did that happen?"

And he was very defensive and kind of apologetic as I chastised him that you had a meeting with the President. You didn't tell me about it in advance. You didn't get authorization. You didn't tell me about it after the fact. This can't happen.

And so he was somewhat apologetic. And he was saying that he had kind of got caught up in something that he hadn't planned, that he had been -- according to what he said -- that's all that I can recount, what he told me. Obviously, I don't have access to documents -- there could be more to it. But what he said was that he had been talking to Congressman Perry of Pennsylvania, or I think he referenced General Perry, but he's a Congressman.

And that somehow General Perry had asked him to come to a meeting. He didn't understand with who or what it was about, and it turned out they went down to the Oval Office talking to the President.

Well, as you might guess, that did not seem normal to me. And so I told him that shouldn't have happened, can't happen again. And he assured me it wouldn't, that if he was contacted to do it, he would give me a notice. He would tell me about it.

And so I had known him for a long time in a
professional capacity. We had both been in a prior administration. We both had been at the same law firm. We had actually worked together at some point and worked together at the Justice Department. So he said he wouldn't do it again. And, initially, I accepted that.

I also tried to check -- I think this is actually a couple of days later -- did the White House counsel know about the meeting. The answer was no. Had not been present; didn't know it had happened; hadn't authorized it.

So that's my discussion with Jeff Clark, that Saturday the 26th of December, as best I recall. And that was it until you handed me Exhibit 6, until Monday, January 28.

Q. Did he tell you when the meeting that he attended in the Oval Office was?

A. I think so. But I think it had been either the day before Christmas or two days before. So it was either the Wednesday or Thursday, December 23 or 24. I don't know who else was there. But the ones that I remember are him and Congressman Perry, but I think there were others. I just am not sure who they were.

Q. Did he give you a sense of how he came to be connected with Congressman Perry?

A. Not really. I thought about that at some ensuing time, and I haven't been able to sort that out. This has all
sort of popped up again.

So from my vantage point, the open question is did they seek to see the President, or did the President seek them? Sort of what was the direction of the initiation of that process, both at the outset and as it continued through the events of January 3rd, Sunday night, we spoke about just before the break.

At least from my memory, that's an open question that I don't know the answer to, because all I really know is what Mr. Clark told me and, to a limited extent, what the President told me.

Q. When you had this initial call with Mr. Clark on the 26th, did he give you a sense of what had transpired at the Oval Office meeting?

A. He had minimized it. When I look back, I'd like to know more -- but at the time, I was focused on how did the President know who Jeff Clark is. The answer is he was at some meeting and probably had attributed it to that. It was all innocent.

That's the initial stage though it becomes more concerning as the events developed. But at that early part, I'm questioning, as I said, how does the President know who Jeff Clark is. And he's telling me, you know -- he's probably asking who I am because he heard my name and met me. I wonder if it was more, but that's what he told me.
Q. So Clark didn't say to you "I got swept into this meeting and we had a discussion about was the election stolen." It was just more "I got swept into this meeting" -- and what?

A. He may have told me and - I can't recall. I don't think he told me more, but we're talking about our discussion seven months ago. So I told you that the parts that I recall, I think they are telling --

Q. Fair enough.

So that was December 26th. My colleague on Senator Grassley's staff, started asking you a bit about a call on the next day, the 27th, before the break.

A. Yeah.

Q I have a couple of additional questions about that call.

A. Sure.

Q. So if you have Exhibit Number 5, which is Mr. Donoghue's notes --

MALE SPEAKER. Excuse me, which exhibit?

Ms. Zdeb. 5. It's Mr. Donoghue's notes from the call on the 27th.

Mr. Rosen. I have Exhibit 5.

BY MS. ZDEB.

Q. So for the time being, those are just mostly for your reference in case you wanted to consult them. And
recognizing that they're not your own notes, I want to ask about the discussion of Jeffrey Clark that I understand took place on that call.

So you had had this call with the President on the 24th where you had this curious exchange in which he mentioned Jeffrey Clark. You spoke to Clark himself on the 26th. And then the 27th, you had this call with the President that you patched Mr. Donoghue into.

So at some point during that call, did the President again mention Jeffrey Clark?

A. Well, yes. The notes suggest that he did. Again, they're not my notes, but I don't have any reason to question them.

So here is how I remember this is, I think there is another reference to Clark. But at the time, it doesn't really register much with me, because -- in hindsight, in certainly does -- but at the time, Jeff Clark has said, you know, this somewhat benign -- not totally acceptable, but somewhat benign explanation of how the President knew him.

So when the President then makes some reference to him again, I think how to try to -- how he and the President met for the first time three days ago in some kind of group meeting. So it didn't register with me. But when I saw these notes, there was more detail than, let's say, the significance I remember having at the time. But I see
this in the notes.

Q. So putting the notes aside, do you have any

independent recollection of the President saying something to

the effect of "People tell me Jeff Clark is great and that I

should put him in"?

A. I remember at a slightly greater level of

abstraction that "People are really very mad with the Justice

Department. They tell me that there's fraud and the Justice

Department hasn't been addressing it and is the Justice

Department doing its job."

And I think Rich Donoghue and I were both

saying to the President, "You can rest comfortably.
The Justice Department is doing its job."

I think that there was some kind of reference

to Jeff Clark, but I don't think it was -- as I said, I think

it didn’t have great significance at the time. In hindsight,
it's a little bit of a clue that, well, what comes next.

But at the time, it was the President met

some guy three days ago, he asked me who he is or something

like that. Shrugged, like -- if the President wants to

replace the Justice Department, and he can do whatever he

wants, but the Department is going to maintain its position.

Because, at this time, I don't know if Jeff Clark has a

different point of view.

So to me it's -- we're all in the same place,
which, as you know, ultimately, is true except for Jeff Clark.

In the Department leadership, we worked very much together.

But at the time, I didn't register Jeff Clark when the
President says -- and, again, I don't know if the notes are
exactly the way I can remember it. I don't dispute it. So
that's -- in hindsight, that's a tipoff. But after time, it's
more clear.

Q. Did you recall some reference in this meeting to
replacing the Department's leadership, putting aside the
question of whether you recall a specific reference to Clark's
relation to that.

A. Yes. But in one of these, he accused, you know,
"Some people have suggested or some people say the Department
hasn't done his job."

And I think Mr. Donoghue and I are saying "The
Department has done its job. It is doing its job."

If I remember, I saw something in the notes
saying you should have the leadership you want. It's not
going to change where the Department is. And I think that --
again, I don't remember that as a quote, but I think that
point was one of that both

Mr. Donoghue and I had made.

Q. Along similar lines and on the topic of the
suggestion it sounds like the President made that the
Department was not doing its job, there was some discussion
with my colleague on Senator Grassley's staff before the break
about a notation in the notes about the President making
reference to looking into “legitimate claims” of election
fraud. And some discussion about, "Well, isn't it the role,
and indeed, is appropriate, or at least not inappropriate, for
the President to want to have legitimate claims looked into?"

I wanted to just put a finer point on your
response to some of those questions. As I understood you, you
didn't agree at the time that the claims that were being
discussed in the course of that call were legitimate; is that
right?

A. At least, in the big picture, in the sense that I
thought the position that AG Barr had publicly announced
continued to be corroborated. An individual investigation
somewhere, that I cannot comment on -- is there a target, is
there an illegal voter, or something on an individual case.

But in terms of the big-picture evidence, and
as I think I alluded to to Senator Grassley's counsel, I think
the President had raised this thing with the website in
Pennsylvania, the registrations and the certified votes don't
match. So that's an appropriate thing to just figure out, but
I think we still believed there's no indicia of widespread
fraud that would call into question the national election.

Q. In fact, I think -- and this is on page -737 of the
notes. There's a notation there that appears, at least based
on Mr. Donoghue's notes, it was a direct quote from the
President saying, "You guys are not following the Internet the
way I do."

A. Yes.

Q. So I guess I take that as consistent with your
description of the overall flow of this conversation, and
similar conversations with him, in the sense that the
President would raise claims that he had heard or he had seen
and that he would have a dialogue --

A. I think actually -- so I mentioned when Senator
Grassley was here, there are some places in the notes where I
said, "I agree. I remember that."

One of them was my saying, "We can't and
won't just flip a switch and change the election."

Another is I do remember when he said "You
guys are not following the Internet the way I do." That one
registered with me, because it reinforced some of what Rich
Donoghue was saying.

The Department of Justice needs evidence,
needs facts. We rely on the facts and the law. So I don't
know that the President necessarily got what we were doing,
what we actually did. But telling me something is on the
Internet, if you are trying to persuade me, is not actually
very effective.

Q. So, in other words, the fact that the
President may believe that something on the Internet is legitimate does not mean that, in the Department's view, it is legitimate? It may be, but it may not be.

A. The sad reality, we all know, is that the Internet is full of -- some things are true. Some things are totally garbage. Some things are patently false. Some things there are outrageous. It doesn't tell you much to say something is on the Internet. We have to see the actual evidence.

Q. So, for instance, the whole Italygate theory, which we'll go into briefly in a little bit, that was a thing that was on the Internet.

But the mere fact that that was on the Internet, would not, in the Department's view, have meant that it was, "legitimate"?

A. Well, being on the Internet does not tell us that something is accurate or valid or truthful. There's some real trash. There is really no quality control on what people can post.

Q. So along the same lines in terms of the President expressing frustration, displeasure that the Department was, in his view, not looking into things on the Internet, things that he viewed as legitimate. There's this notation in the notes that my colleague asked you about earlier. It starts at the bottom of -738 and it carries over to the top of -739.

And it's a -- the notation following the
exchange in which you indicated you said that "DOJ won't use its authority to flip a switch and change the election."

And then there's this response from the President to the effect of "I don't expect you to do that. Just say the election was corrupt and leave the rest to me and the Republican Congressmen."

What did you take him to mean when he said, "Just say the election was corrupt and leave the rest to me"?

A. So at the risk of repeating what I said earlier, they are not my notes. It was a longer conversation than the notes. I don't have any reason to challenge what Rich wrote down, but I have a more general recollection of the President making the argument, "People are telling me that there is fraud. You say there isn't, but people say there is. Why aren't you finding it? Shouldn't you be more energetic?"

I don't remember exactly what he said, but more vigorous, in some sense, at finding the fraud. And, "You should be out there finding it and saying so."

And my point is, "Well, we have done our jobs appropriately. Any American who knows of any evidence can walk into any FBI field office or a U.S. Attorney's Office or Department of Justice, and we don't see that. So we are not in a position to do it. And so we're not going to just have a
press conference."

I think that's actually what he said, "Just have a press conference."

"No, we can't have a press conference because there isn't a factual foundation to justify that."

I think this now is clearer. So we never had any such press conference or any such public statements saying there was election fraud, because that would not be consistent with the facts.

Q. So it sounds to me, based on your description, that he was almost less concerned about whether the Department actually took steps to and also did uncover election fraud, and it was more that he wanted you to make some sort of public statement indicating that you were looking into it.

Is that the consistent with your recollection?

A. Well, as I said to your colleague, I don't want to get in the posture of trying to say what was in the President's brain. I can more explain what I remember him saying to me.

In terms of what would have satisfied him or not satisfied him, unless he communicated that, I don't think I'm in a posture to claim that I can read his mind and tell you what he's thinking.

I think at different junctures he suggested
public communications, but at other points he asked for a Supreme Court filing. He asked at some juncture about special counsel. So I think there were a mix of actions that he referenced as wanting or at least suggested. Sometimes there were "Other people have said."

But I don't remember him prioritizing, "the thing I want most is this or that." The one consistent theme was there's "I am told and assert that there is fraud, and you guys should have found it. Why aren't you doing your job?"

Q. Fair enough.

Certainly, one of the things -- irrespective of how he may have prioritized it in his own mind, but one of the things that he asked the Department to do was make some sort of public statement.

A. I think that's right, that he said "You should be" — in substance, "You should have found this fraud, and you should say so."

Q. Was he any more specific about what he hoped the Department would say in the press conference?

A. The parts that I remember were just more his emphasizing that he had been told or he heard or he thought or some variation of there's fraud in Pennsylvania and there's fraud in Georgia. You should be looking at that and doing something about it. So doing something about it, as I alluded to earlier, varied at different junctures.
Q. I'd like to move on to the next day.

I think you have a portion of this document already in one of the Minority exhibits, but we'll give you a different copy.

This will be Exhibit Number 6. This will be Exhibit Number 6. And it starts at Bates No. -6697 at the bottom.

(Exhibit 6, email, was marked.)

Mr. Rosen. -697?

BY MS. ZDEB.

Q. -697. Do you have it?

A. Yes.

Q. This is the December 28, 2020, email that you and Mr. Donoghue received from Jeff Clark.

A. It's kind of remarkable, wouldn't you agree?

You don't need to answer that.

Q. I'm not the witness.

But yes. So he sends you this email.

Subject line is "Two Urgent Action Items."

I want to ask you about the first action item before we get to the letter. So he makes this request for a classified briefing from the Director of National Intelligence.

Did you have a sense of the context for that request? What was your reaction to that component of his
1. email?

   A. So as best I recall, this email came somewhat out of the blue, as to its content. I think what happened, the way I remember it, was my assistant told me that Jeff Clark wanted to have a meeting with me. That wasn’t a total surprise, given my weekend conversation. But the content of that meeting turned out to be a surprise.

   So I set up the meeting. And I think I had a busy day and couldn't do it until 6:00, or something like that. And it shows on the email, it says 4:40 p.m.

   This email comes across and it's strange. So Rich Donoghue and I have a discussion about it. And the gist is we should not do these things, and then we had the meeting, which I'll be happy to tell you about.

   But on your specific question about the meeting, the proposal regarding the director of ODNI. Because he was head of the Civil Division, Jeff Clark he did have security clearances, but he didn't have responsibility for election issues. And at least at that point, I was unaware if there was any election-related litigation or something that would justify him having a role in this.

   So I didn't -- at this juncture, my thought was it was not appropriate, and that changed at the meeting we subsequently had.

   But I think you were asking me what was my
reaction to this.

Q. Yes. For instance, there's a line in his email alluding to information in the public domain from hackers that a Dominion machine accessed the Internet through a smart thermostat with a net-connecting trail leading back to China. And I'm just curious as someone who, as you described earlier, had known this guy for quite some time, how did that sort of statement strike you?

A. I was confused, as in, what's going on with Jeff Clark? That this is inconsistent with how I perceived him in the past. And there's a reference in that paragraph you were talking about where it talks about the smart thermostat controlling voting machines. He says "white hat hackers have evidence in the public domain." White hat hackers?

This, again, sounds like Internet theories. He says thermostats; he said they had access to the Internet.

And at the meeting, there were further things he said that were a little off-kilter too. One of them came up. He has some email that he wants his title changed. Oddly enough, he said that multiple times, that he wanted -- he was -- he was actually Senate-confirmed as the head of the Environment and National Resource Division; but at the time, he acted as the Civil Division, the head of the Civil Division in the Department.

And he wanted the "Acting" taken off his title
of the Civil Division. And he had this theory that there was
an old OLC opinion that empowered the Attorney General to do
that. OLC’s head was -- at the time, Steve Engel -- he was
very opposed to this idea. And I was not an expert in the
underlying law. I had very high regard for Steve Engel's
capabilities, but I didn't really want to referee could it be
done or whatever.

We're at December 28. There's less than a
month in the administration, and you want to change
your title. This came up multiple times. That's why it
stayed with me.

So I think we're getting to the point of
we're realizing there is something off-kilter at this time,
yes. It's even more evident in hindsight, but at the time, I
did think he's meeting with the President and now he wants to
be briefed by the DNI on thermostats plus the title change.

Just what is going on here with Jeff Clark?

Q. So to set the stage for this meeting, you had
mentioned a couple of times, of course, that the other thing
that he lays out in the email is his proposal to send a letter
to Georgia and potentially other states.

I think this is implicit in some of your --
the comments that you've made already, but what was your
reaction to that aspect of his proposal?

A. So Rich Donoghue and I had discussed it ahead of
time. We said generally we don't want to do this, but decided
to go ahead and have the meeting in part — what you're getting
at, is to figure out what's going on, and to try to figure out
with Jeff Clark, what's going on with this.

So we met with him. He came to my conference
room, and he more or less repeated things that are in the
email. He wanted to -- I think he also wanted me to have a
press conference and say there was corruption. And both Rich
Donoghue and I -- I think this is after Rich and I had talked.
Rich sent an email back to Jeff that said that this is not
going to happen.

I remember Mr. Donoghue gave Mr. Clark a bit of a hard
time about the meeting he had with the President. He was
still maintaining he had been sort of inadvertently conned
into it. And I rejected, at that time, the request for the
DNI briefing.

On the letter, I think there were so many
problems with that, but part of it was it's not the Justice
Department's responsibility. We're not election officials.
We're not the global Secretary of
State or something; "Georgia, you should be doing this.
And, Arizona, you have to do this."

It's almost independent from the legal
arguments, which was not -- it's just not our role. So we had
some discussion about that. So I remember I was trying to
draw him out, "Why do you want to do this? Why do you think this is a good idea? Why?"

And I think it was somewhat unproductive. I thought there was a chance that he might say that he was working with other folks or tell me, but he basically said, "These are my ideas. I think these are good ideas."

And so the meeting was a little bit -- not a little bit, actually -- parts of it were contentious. I had given him a little bit -- I had given him my dissatisfaction with the fact that he met with the President without my knowledge and not even told me about it after that. I think Rich Donoghue reinforced that strongly. And I think Jeff Clark took that less well the second time. But that's neither here nor there. It was ridiculous.

We spent a fair amount of time on this. He wanted to do these things and we told him no. But the one thing in my mind that was consequential was when we told him we didn't want to do this, he basically accepted it at that time.

Q. Did he seem --

A. He seemed accepting. Like, "Oh, these are my ideas. I think they are good ideas. You don't like them. Okay. Then, I guess we won't do it."

So at this juncture -- separating what he did then versus what he did later -- at the time, it still seemed as
though he was recognizing that there's a change of command, that his suggestions would be rejected, and he should just do his job in a proper way. So he appeared to be accepting. He wasn't pushing back, saying "I have right to meet the President," or something like that. He was -- at that point, he said, "You don't have to tell me six times. I don't want to have a meeting." And "Okay. You don't want to do the briefing. I really think, you know, it would be useful, but okay."

So it was kind of a first phase. He was suggesting that, you know, he heard the direction he was receiving.

The next couple of days, he kind of did. You may remember -- it was during that week that Congressmen Gohmert filed a lawsuit suggesting the Vice President would overturn the election. And we opposed that and filed a motion to dismiss -- I referenced this in my preliminary remarks. The Civil Division did actually file that brief. And my recollection is that the acting head of the Civil Division is on the brief. So for a little bit, it looked like someone had --

Q. When you discussed the letter with him at this meeting, did he indicate which other states he proposed sending it to? Was the letter styled as a proof of concept --

A. Yes.
Q. -- in reference to replicating it outside of Georgia?

A. I think he did. I think it was five other states. Pennsylvania. It was Georgia. It was Pennsylvania, Michigan, Wisconsin, Arizona, and then Nevada, if I recall correctly.

Q. Did he give any indication during this conversation as to whether he had discussed the proposal with the President?

A. Not at this juncture.

Q. And you mentioned trying to get a sense from him of whether he was working with anyone else or just working as a solo operator, essentially.

Do you know who Kenneth Klukowski is?

A. I don't recognize that as somebody that I know. I have come to learn, through preparing for today, he was at the Department of Justice. At the time, I don't think that name registered with me.

Q. So you had no sense one way or the other as to whether he is someone that may have been working with Clark on this?

A. Right. I don't know.

As I alluded to earlier, at least from my vantage point, there's some unknowns about both the direction of causality and who else might have been involved. But what I know of it really just came from Jeff Clark and a couple
brief references from the President.

And then when I met with Jeff Clark, both this Monday, December 28th, and the subsequent meeting, he never referenced these people or how a meeting got brought up. You know, "I got a team working on it," or something like that.

Q How about Douglas Smith? Is that a name that rings a bell?

A. It does. That was Jeff Clark's Chief of Staff in the Civil Division. But I don't have any awareness of -- at the time, he didn't come with Jeff Clark to the meetings, and Jeff Clark did not reference Doug Smith.

Q. I want to move on to the next day, the 29th. Do you recall a meeting at the White House that day? This was the day after you got this letter from Jeff Clark.

A. Do I recall a meeting at the White House? Yes. I had lunch with Pat Cipollone, who was White House counsel, who is a long-time social friend, as well as a one-time colleague. So we met in December together during the holidays.

But at that time, I did fill him in on that something odd was going on with Jeff Clark. And I told him a few of the things we talked about, that Jeff Clark was apparently in some kind of meeting with the President shortly before Christmas and these proposals that
he's making.

I said, you know, "This is odd."

And I think it's then that I asked Pat Cipollone, "Are you aware that the head of the Civil Division met with the President of the United States?"

He was not.

Q. And just so I am clear, is this a one-on-one conversation between you and Pat Cipollone, or was it part of a meeting that also included Rich Donoghue, Steven Engel, Mark Meadows?

A. I think what happened was part of -- I think Pat Cipollone and I had lunch. It was either alone or possibly Pat Philbin, his deputy chief, and who was someone I knew for a long time. But there was a meeting subsequently scheduled for the same day that afternoon, because Mr. Meadows, Chief of Staff Meadows, wanted to talk to us about some oversight requests that Congress had been asking for. And at least as Mr. Meadows communicated it, AG Barr had said that the accommodation he worked out was done, but members of Congress, representatives -- were contacting Mr. Meadows and saying it's not resolved. And so he wanted to have a discussion about what are you guys doing to address this with regard to -- I think this specific subject isn't really the election-related issue, but it was about an oversight request.

Q. And so when you -- when you had this meeting, did
the topic of the election also come up?

A. My recollection is that the meeting was primarily of
the oversight issues. But in some manner, before we left, Mr.
Meadows raised a couple of election items.

Q. Do you recall what those items were?

A. I think one of them was the Pennsylvania -the idea
that the United States file a Supreme Court case. And I think
Steve Engel and I, maybe Rich
Donoghue too, said "That's not viable."

Q. And how did that come up? Was the inquiry from the
Chief of Staff?

A. I think so.

Q. And what did that inquiry consist of? Was it a
status update? Was it suggesting that this is something that
the Department should do?

A. So the specifics -- what I remember is the meeting
is about the oversight things. I think at this juncture, the
draft brief, or whatever it was, had come over, had already
happened. So I don't think it was a new thing. I think he
was saying something like, "Well, what are you guys doing with
that?"

And the thing I remember is I was just saying
it's not viable. I don't remember if we went into in that
great a detail or not. So at least to my recollection, that
wasn't what the meeting was for. It was something he had kind
of thrown in.

And I'm trying to remember it. I think there may have been something else that was in the same category of "Are you guys following up on something, or are you assembling a plan for this?" There may be records or something that would help me with that.

Because my recollection of that discussion was so dominated by the oversight issue, which let's say, with respect to the Senators present, it's not really my favorite thing to spend time on.

It's important, and --

Q. Don't tell Senator Whitehouse that.

Ms. Zdeb. I see that I've reached the end of my hour. I've actually gone a little bit over, so why don't we hit "pause" here and we can go off the record.

Mr. Rosen. Before we break, let me just say for the record, even though I'm no longer a public official, I did believe that I was a government official, that being responsive to Congress was a significant responsibility. So I mean no disrespect in that in any way.

I just mean that you hope that you tell your staff, please be responsive and get these things done. So having to spend some time with the White House Chief of Staff on that wasn't my preferred use of time, but it's what we needed to do, I think.
MALE SPEAKER. Before we go off, I think we were joined by another Senator; is that right?

Ms. Zdeb. Yes, I'm sorry. For the record,

Senator Sasse has entered the room.

(Discussion off the record.)

Mr. Flynn-Brown. We'll go back on the record

at 2:28.

BY MR. FLYNN-BROWN.

Q. Mr. Rosen, I'm going to quickly go back to the January 3rd meeting that we discussed. So you've discussed a lot of phone calls and emails and conversations leading up to January 3rd. So January 3, 2021, that meeting with the President was the culmination of a lot of different communications and, say, frustrations with respect to how the Justice Department was handling election allegations, is that correct?

A. I think that's right.

Q. Okay. So when the President decided ultimately to reject sending the draft Clark letter and decided to keep you on as Acting Attorney General -you went into this a little bit in the previous hour. The meeting adjourns. The decisions have been made. Everybody knows what needs to be done.

Did you talk with Cipollone afterwards?

I don't just mean immediately; maybe a day or two later or
hours later? Or was it simply literally understood, at that point, the President made his decision and there was nothing to talk about?

A. So the meeting ended, and we were heading out. Pat Cipollone invited Pat Philbin and Rich Donoghue and me to just walk up to his office for a couple minutes. I remember seeing Jeff Clark as we were leaving, and he said something odd, like "Can I join you," or "Best wishes to all," or something like that. And we did not invite him to join us. And he headed out.

But then I spoke briefly afterwards to the two from White House counsel, and Rich Donoghue and me. And we all had the same thought, which is "Well, this is now resolved. It's done." And I think I did not get called by the President in the next few days.

Q. When you say "White House counsel," you mean Cipollone and Philbin; right?

A. Yes.

Q. And there was a sense of relief among you that it was finally decided?

A. I'm sorry, say it again.

Q. There was a sense of relief among the four of you that it was finally decided?

A. I suppose. I mean, we were pleased that the President had made what I regarded as the correct decision.
Even though, as I said, he opened the meeting by saying "One thing we know is Jeff Rosen leading the Justice Department, nothing is going to get done in trying to overturn the election."

Q. Sorry?

A. I'm saying of course I was pleased because it's my position -- I had acknowledged -- he had said early in that meeting, "One thing we know is you, Rosen, aren't going to do anything to overturn the election."

I said, "That's true. But sometimes that's the best course because it's based on the law and the facts. It's consistent with what's in the best interest of the country."

And so he had said initially -- it wasn't necessarily a very encouraging moment earlier. It's "One thing we know you're not going to do this, and this other guy might," but it didn't get to that point.

So I think you were asking were we pleased. Well, yeah, of course. Because I thought it was the right outcome. And as I told you, I think all six of the participants, other than Mr. Clark, were in that posture.

Q. Are you aware of the draft complaint, the United States of America versus the states of Pennsylvania, Georgia, Michigan, Wisconsin, Arizona, and Nevada?

A. Say that again.
Q. The draft complaint of the United States of America versus the Commonwealth of Pennsylvania, State of Georgia --

A. Yes, sir. That's right. I testified before the break, yes, that this draft was prepared, I guess, by someone outside, because it wasn't prepared by the Department of Justice, yeah, there's a whole chapter about that, which I'm happy to tell you about.

Q. Please do.

So you talked to the President about this draft; correct?

A. Yes, but this mostly occurred about two days -- maybe a day or two before then, but it was sent over, I think to several of us. Maybe Jeff Wall, the Solicitor General. And we thought, "What is this?" Because we didn't write it.

And as I alluded to, we felt this is not something we're going to do. But I got an inquiry. It was this sort of passing reference at the meeting with Chief of Staff Meadows. "What do you guys think? What are you doing here? Let's follow up. What he said doesn't appear believable."

And then the President, at one point, I think that day, asked me "Have you seen any writing," or something, maybe it was -- maybe that was Mr. Meadows.

I don't know exactly.

But then there was this odd piece, which is
an outside lawyer by the name of Kurt Olsen made these almost all day-long efforts to get me in a meeting. I had a general practice that I wasn't just going to be meeting with anybody who was in the campaign. I didn't think that that was my role.

So I had previously declined. I think the President asked me if I could talk to Mr. Giuliani and some others, and I said no. But this lawyer kept leaving me messages with the Solicitor General, my chief of staff, with others, that it's urgent.

And I basically said I'm not going to do it. But at some point in the afternoon, I think this is that Tuesday the 20th, my cell phone, my DOJ cell phone, started ringing with a number I didn't recognize. And when that happens, like, three times in a row, it didn't occur to me that's him. Because he would call at my desk office and was calling all around the Department.

So I picked up. And it's Kurt Olsen saying, "Have you seen the draft, the Pennsylvania brief? It's extremely important that this get done."

And initially, yes, I was annoyed that -- it's like I answered a phone solicitor or something. But -- so I initially I had some small talk with him. And then he was pushing that he claimed that the President wanted this brief.
And I said, "How do you know the President wants this? Who are you?"

He said, "Oh, we're working very closely with the states that have filed a somewhat similar case previously that the Supreme Court had declined to take."

So I said, "Well, you know, in that case, there was no standing. So this doesn't work."

He said, "Well, I can show otherwise."

That it was, I recall, it was like a polite brushoff. That's how the first call ended.

The next day -- so in the meantime, knowing that I was probably going to have to discuss that with the President at some point, I asked the Solicitor General's Office to prepare kind of a bullet list of various points on this thing. I knew we wouldn't do it, but I had a strong feeling that it's better to be able to explain that.

So I asked them to do the list. And they did a good list for lawyers, but it wasn't in plain English. So I asked Steve Engel, who was head of OLC, who was generally at my side since the day I became Attorney General, "Steve, can you help me sort of put this in plain English?"

So he then prepared some brief points. But while I was waiting on those so I could deal with it, telling the President not to do it, Kurt Olsen calls again. I don't remember how he got me. It was kind of the same thing. He
would leave messages. But to my surprise, he's aggressive.

"The President wants you to file this brief by noon today."

"Oh, yeah? He didn't tell me that."

And "I had sent you some of the authorities that show there is standing."

I said, "Well, I'm not discussing the substance of this with you. If the President has something he wants, he and I will discuss it with him.

You're no longer in this conversation."

And he got sort of aggravated by that. He said, "You're going to force me to call the President and tell him you're recalcitrant," or whatever it is. I said, "This conversation is over."

And so that told me -- I think I challenged him on that. "How do I know you have ever even spoken with the President? Just because you are saying it?"

And he didn't like that. He said, "I've told you who I represent."

So I figured this needs to get called up to the President. I am not talking to outsiders. I rejected further discussion with him. To the best of my recollection, that episode was the only time, and it's the last time I spoke to someone on the outside about these things. I tried not to engage, but I did make it -- even today, I think it's the
proper thing to do. Although, I did tell him -- I told him "I will tell the President DOJ’s position, not you."

So at that point -- I'm trying to sort out did the President call me or did I call him. I think he called me. Or it may have been, if I called him, it was because I got a message that he wanted to talk to me.

Q And what is the exact date, for the record?

A. This is Wednesday afternoon, the 30th of December.

And I know I didn't initiate calls to the President to talk about election stuff, but it's possible that I got word "He wants to call you. Or he wants to hear from you. You know, he's in Mar-a-Lago. Be at this number at 3:00," or something like that.

I don't think that's very material. But I just can't say who actually placed the call.

But I spoke to him that afternoon, and I told him this idea of filing the Supreme Court case was a bad idea, doesn't work. The Department of Justice can't do it.

And I had taken the outline that Steve Engel had given me. I didn't use it literally. I relied on it. But I sort of said, "There's five different reasons." I laid those out for him.

And he went "Okay."

So then he accepted it. And that was the
end. That was kind of the end of that, which is why I think in the earlier conversation I had with your colleague about the December 31 meeting, I think the discussion about the Supreme Court brief had already been resolved. I can't say, definitively, if it came back the next day, but I don't think so. I think it was resolved in that phone call. Things came up, and we just said we're not doing it. And that was it.

Q. So the President yet again took your advice?
A. Well, he accepted the Department's position that we weren't going to do that. He didn't resist it or deliver an ultimatum or try to overrule us.

Q. So after you gave him the list of five reasons against filing the complaint --
A. Yes.

Q -- his literal response was "Okay," or did he say anything else? Did he challenge you on any of the five?
A. No. No. He accepted that we were not going to file that, and that was that.

Q. Was that the last time that you discussed this draft complaint with the President?
A. To the best of my recollection, it was.

Again, I'm not trying to split hairs here, it's possible that it briefly came up the next day, at this point, in passing. I don't think so. My best recollection is that was the last time. I'm acknowledging the flaws of human
memory, I guess.

Mr. Flynn-Brown. For the record, Senator Blackburn is here.

Mr. Rosen. Senator Blackburn, nice to see you.

BY MR. FLYNN-BROWN.

Q. Okay. So we talked about the January 3 meeting. We talked about the draft complaint. We talked about the Clark-related matters.

I'd like to turn to the exhibit that I was going to turn to in the first hour. We started to talk about the Public Integrity Unit at the DOJ and the Election Crimes Branch. So please go to Bates -751 to -754.

A. All right. I have the exhibit.

Mr. Flynn-Brown. Just to keep track of the Exhibits, let’s check to make sure what number we’re on.

Ms. McClain Walton. I have the next exhibit as Exhibit 7. Yes, the next number is Exhibit 7.

(Exhibit 7, email, was marked.)

BY MR. FLYNN-BROWN.

Q. Sir, let me know if you need to review this or if you're ready.

A. Well, I'm ready, because I've looked at it and I've spent time on it.

And so, I guess, we will see what your question is,
but I suspect I'm not -- the best one to address it.

Q. Fair enough.

And one of the reasons why I want to introduce it as an exhibit is the context with respect to some of the tension in the Public Integrity Unit and the FBI and Main Justice.

So this is a December 7, 2020, exchange between Rich Donoghue and Dave Bowdich, who was the Deputy Director at the FBI at that time.

Do you see in the email here Donoghue references the State Farm Arena allegations? Do you see that in that first paragraph?

A. Yes.

Q. Do you recall what those were?

A. I don't. I don't remember. State Farm Arena allegations? It's possible you could refresh me on that, but right now I don't remember what that is.

Q. So this email chain originated with a gentleman by the name of Corey Amundson, who was the Chief of the Public Integrity Section.

He says, in part, in this email "As explained below, PIN," the Public Integrity Section, "does not concur in any overt investigative activity, including the proposed interviews."

We got into this a little bit in the first
hour, and I want to try get through it to the extent that we can.

Are you aware of how many times the Public Integrity Section provided a non-concurrence to potential investigative activity related to the 2020 election prior to the election certification?

A. So this correspondence is from Rich Donoghue, as is the one attached at the back. I think it probably would be better to ask Mr. Donoghue about it.

I'm not going to say, I don't specifically recall the incident about State Farm Arena allegations. So I'm not sure I'm the most helpful one to go through this.

Q. Okay. Well, let's move on.

So in the email -- excuse me, the document states, "Unfortunately, this is a continuation of a policy disagreement between the Election Crimes Branch, PIN," which is the Public Integrity Unit, "and the AG," the Attorney General.

I believe the reference to the AG may be Barr because of his memo, the November memo that we had discussed previously.

A. That seems like a reasonable assumption.

And, again, that date, December 7, AG Barr is the AG and has not announced his resignation at that point.

Q. So what I'm interested in here is the word
"continuation."

So when Donoghue says -- at the time of this, you're the deputy attorney general at that point?

A. That's right.

Q. So when Donoghue says "continuation," it seems to imply repeated conduct with respect to the Public Integrity Unit.

Is that something that you can comment on?

A. I don't think so. I think I alluded to earlier that I have a situational awareness of some friction, but when you start getting into who said what to who, or what position Corey Amundson had or Dave Bowdich, I don't think -- I don't think I have a degree of granularity to testify specifically to that.

Q. Other than this email exchange about the Public Integrity Unit when Attorney General Barr altered the policy with respect to taking investigative steps prior to certification, are you aware of any Justice Department personnel or units that did not comply with that directive?

A. The -- again, I think I alluded to this earlier. There are some processes where there are disputes that are elevated to the Deputy Attorney General. I don't have any recollection of having this issue brought to me for some kind of resolution. So as I sit here, I don't have recollection of people telling me the things you're getting at.
I was not part of the equation. I think the Department works these things out. I don't think I'm in a position to really create a record on that.

Q. So aside from the State Farm Arena allegations, are you aware of whether or not the Public Integrity Section and the Election Crimes Branch opened any election crime cases before the 2020 election was certified?

A. I think that I may need to refer you to the DOJ folks that are here as to the authorization for my appearance today was very explicit about the topics we've covered. It was a reservation of talking about individual cases that existed or are pending. I try to stay within the confines of the guidance, so I --

Q. Since DOJ is here, do you want to offer any comment on this issue? My questions are based on the documents that the Department provided.

Mr. Weinsheimer. Yeah, they offered -- they commented on many things. As the witness has indicated, he's limited with respect to the authorization. He can't talk about prosecutorial decisions in particular cases. He doesn't know anything about this particular case. He cannot talk about specific cases.

To the extent that there are allegations pursuant to the authorization that are actually from the White House, those are things that he's been authorized to talk
Mr. Flynn-Brown. I believe I had five objections in the first interview and that’s one today. Four more to go.

BY MR. FLYNN-BROWN.

Q. What FBI unit does the Public Integrity Unit interface with regarding election crimes?

Mr. Rosen. [To DOJ counsel:] Internal DOJ organization, do you have any problem with that?

Okay. The FBI has a counterpart called the Public Integrity Unit. So, ordinarily, that would be the relation. There can be variants to that because the information could come into the FBI field office in a way that this needs -- someone might need to call that number or vice versa. But the FBI does have a Public Integrity Section.

BY MR. FLYNN-BROWN.

Q. So I'd like better to understand the Department's process to receive and vet these voter fraud and election-related allegations.

Are you generally aware of the processes in play in the 2020 election?

A. In a big picture, maybe in a managerial way. I'm not working individual cases with special agents in the field, but in a managerial kind of way.

Q. So what was the intake process at the Justice Department? What was the main method or mechanism by which
the Department received allegations? Did it start from the FBI field offices? Did it come from Main Justice?

A. All the above.

Q. Okay.

A. There's multiple ways. There's 55 FBI field offices, and an American citizen who knows of wrongdoing can certainly report it to the FBI at either a field office or headquarters. Sometimes wrongdoing is learned by state authorities who decide that there's Fed issues at stake. They report it to the FBI, to the local police. It could be election officials.

There's not a single formula that says "This is the only way that information about potential wrongdoing is addressed." There's multiple ways.

Q. During the 2020 election, do you recall whether most of the allegations came through the FBI first or whether they went through the DOJ proper?

A. I think that we're getting into a quantitative area that, you know, something that would require more consultation with staff and others to be able to answer your question in an accurate manner.

Q. So with respect to the Justice Department, and specifically the Justice Department proper, how many personnel were responsible for vetting voter fraud and election crime-
related allegations?

A. Well, “potentially” responsible makes it a pretty sizeable number across the FBI investigator offices and the Criminal Division. And, of course, if it is someone else that gets a report, they will work with the FBI and channel it to the appropriate location.

So if you're in the Drug Enforcement Administration, you would still have responsibility to pass on information. But I don't have an exact number, but it's a considerable number of people that potentially are able to address those issues.

Q. Thanks, sir.

So the general process, though, with respect to the FBI, an allegation is vetted at the Field Office level and eventually, if it’s good enough, for lack of a better phrase, it moves up the leadership chain. Then, the Justice Department becomes involved at that point?

A. I apologize, but I missed the beginning of the question.

Q. So the general process is the FBI does the intake first. They vet it and they investigate it, and then they move it up the chain. And eventually the Justice Department is supposed to receive some sort of notification about the allegation.

Is that the general process?
A. It's one of the potential processes. I do think, to the extent you really want to understand those processes, I would like to suggest that the FBI and the Criminal Division could provide greater detail. For me, I rely on them to brief me as needed, and follow up if I need to ask.

But as I said, I'm not responsible for individual cases, if I understand the big picture of the process. And the Department of Justice has 115,000 people. I'm just the Acting Attorney General. So it's a big organization.

Mr. Flynn-Brown. So let's turn to Bates stamp -714. I believe this is going to be Exhibit 8.

(Exhibit 8, notes, was marked.) Mr. Rosen. Okay.

BY MR. FLYNN-BROWN.

Q. The top says "Meeting with DAG + Jeff Clark - 6th floor."

"DAG" refers to you, sir; is that correct?

A. That would be my interpretation. These are not my notes. I think from the handwriting it's maybe Rich Donoghue's notes. I don't think I took notes of this meeting or the other meeting.

Q. So in the middle of the page, I believe it says, "Thinks he saw trucks move ballots to shredding location."

It's not clear based on the notes who "he"
is, per se.

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."

Are you aware of whether or not these allegations were investigated by the Justice Department or FBI?

A. So my understanding is these are things that's been previously investigated by both the Georgia authorities and DOJ authorities. I think this needs a half step back.

So this is a Saturday, January 2, meeting with Jeff Clark. I don't think that the notes are comprehensive. I'm not saying they're inaccurate as to what they say. Again, they're not my notes, but I remember this meeting. And so we should take a half step back as to where did this meeting come from. We haven't talked about that.

But my recollection is that either Thursday night, New Year's Eve, December 31, or Friday morning, New Year's Day, I had either a meeting or a conversation with Jeff Clark. And at that time, he shared with me that he had had another meeting with the President, and that -- which was contrary to this assurance to me that that wouldn't happen again. And he had not told me in advance that he was going to a meeting with him.
And he said at that time that the President wanted him to consider whether he would be willing to take over my job if the President wanted him to. It wasn't to say that it would happen, but if the President wanted -- according to Jeff Clark -- and I did not hear that from the President. But according to Jeff Clark, the President was targeting Monday for Jeff Clark to let him know whether he would be willing to entertain the possibility of replacing me and implementing a different approach.

So to say that I was disappointed to hear that he had another meeting with the President, without telling me, was a significant understatement. Guessing you can probably gather how I felt about it and it wasn't positive.

So at that point, he renewed his request to have a DNI briefing. And I had to consider, he says he is meeting with the President, but he's telling me that he just wants to do some due diligence because, if he agrees with me and Donoghue that there isn't corruption, malfeasance, he may just tell the President no.

So this is a challenging assessment. He does have the clearance. And my thought is he's going to advise the President, whether I like it or not. I don't think that's appropriate. But maybe the best thing is for him to know something, because maybe he'll come to his senses and join
what I believe is the overall department position -- that there's no facts that create a proper foundation for saying the election results should not be certified.

So I contacted the DNI Director and asked him if he would be amenable to give Mr. Clark the briefing that I had previously had. He agreed. And I'm not going to talk about the substance of it for obvious reasons, but Clark had that --

Q. Are those reasons because they are classified?
A. Yes. Yes.

And so Clark had the briefing on New Year's Day, and then in the meeting that Saturday, to get an understanding of whether he would now say "I'm done with this."

So it was a second step. I thought maybe he just needs an illustration of why Donoghue and I and others think that these stories that they told are debunked. Maybe that would help.

So I knew of one where there had been a suggestion raised the ballots were being destroyed in Atlanta. And it was being attributed to a State Senator, but it was debunked. And the U.S. Attorney in Atlanta knew of this, this story.

So I told Jeff Clark, "You can call the U.S. Attorney and ask about the ballots."

To my surprise, as I heard at this meeting,
he never called the U.S. Attorney. He did his own inquiry where he called someone who had testified at a Georgia legislature hearing the week before and was telling these tales, but they -- at least, as it was reported to me, they were tales that didn't add up.

So he had this meeting. It was Rich Donoghue and I and Jeff Clark on that Saturday morning. The real purpose -- it was really twofold. One is to see if having done a little bit, you know, "Knock yourself out, see a little bit of the facts."

To see if he now says, "I see where you guys are coming from. I'll get with the program," or what is his posture.

And either way it was harkening back to, again, say "this is not okay to be going behind my back and talking to my boss."

So we had a session -- and by the way, I will give this quick digression. Because he was a Presidential appointee with Senate confirmation, I could not fire him. Only the President could fire him.

So sometimes I think the issue, why didn't I just tell him, "You said you're not going to do this again. You did it again. You're fired," because that's what I might do in the past with people. But a Presidential appointee with a Senate confirmation, even as
Attorney General, I don't have that authority.

So we had this Saturday morning discussion,

and I think Rich's notes partly captured the concept that --

yeah. The notes indicate that he did not, let's say, come

around to the position that I had.

And he wanted -- I think he used the word "due
diligence" or some such. So it was a very difficult,

challenging meeting. I see the notes say a rather difficult

meeting. Well, that was accurate, consistent with what I am

saying. But it would have been understated.

And so I think at this point, we shift from,

as I was alluding to earlier in the week, this was somebody I

had known for a long time. He says he won't do it again. He

did it again. And he seems to be on a very different course.

So that sets up what happens at another

meeting with him on Sunday. And then that sets up the Sunday

night where you know the final piece of that.

But these notes relate to that Saturday

morning meeting. And so when you asked me -- this is really --

- sorry. Just trying to give your sense of how it developed.

I don't think you can just circle, like, a

section and say "What about these allegations or whatever?"

Because this was some rogue activity.

Q I appreciate your explanation. I appreciate the
detail.
I can certainly understand that with complicated records like this, but we have to ask questions that drill down to see exactly what happened and what did not happen.

Mr. Flynn-Brown. So let's move on to Bates No. -598 to -601. This will be Exhibit 9. (Exhibit 9, email, was marked.)

Mr. Rosen. Which one is this?

Mr. Flynn-Brown. -598 to -601.

Mr. Rosen. I have it. BY MR. FLYNN-BROWN.

Q. Okay. So this is a December 30, 2020, email. It includes an email from Cleta Mitchell to Mark Meadows in which she sent the petition filed in Georgia and a press release. And then Meadows then forwards the email to you. And in that email, Mark Meadows says, "Can you have your team look into these allegations of wrongdoing. Only the alleged fraudulent activity. Thanks, Mark."

So are you aware of whether or not the Justice Department and the FBI reviewed and investigated these allegations?

A. My recollection on this was this had two difficulties. One was that it involved allegations that had already been the subject of some review; and the other was it
was a campaign piece.

So I think the general way we approached suggestions of "Here is the problem," or "Here are some facts," is to assess if we already know enough to know that it's inaccurate. If we don't know, can we keep it internal. In other words, in government. Sometimes it's a State government and we can figure out what the situation is so we can address the concept.

And, in part, I alluded to this earlier, because I do want to be in the position to make sure the President of the United States -- and I would say this about any President of the United States -- is provided with information to know that something that he's being told by others is not accurate. And I think any President should know that his cabinet officials, including Justice, will tell him something that he might repeat isn't true.

So that's the process that -- so this particular one, I think didn't actually involve anything new or useful. And so my best recollection is it was kind of a -- we pushed it aside, we'll say. Not because we didn't care about allegations of election fraud, but because these situations were -- had already been, in some manner, addressed.

Q. Thank you, sir.

Mr. Flynn-Brown. So let's turn to Bates
BY MR. FLYNN-BROWN.

Q. So here we have Mark Meadows' email of January 1, 2021. He says, in part, "Can you forward this list to your team to review the allegations contained herein."

These allegations related to New Mexico ballot security issues, according to the email subject line. Are you aware of whether or not these allegations were reviewed and investigated by the Justice Department or FBI?

A. I think somewhat analogously. There's a mix in there of things that are being litigated by the campaign and those are not appropriate for the Justice Department. We're -- at that point, we weren't involved in election disputes between parties, campaigns, whatever. They do their things in the court, but the Justice Department is staying out of that. So for some of this, I think it was, "It's not our issue."

Other parts, again, had been considered, assessed, addressed previously. And I think that, again, it was not one that raised new information that needed to be processed in a substantive way.

Mr. Flynn-Brown. So, for now, my questioning is done, and we can talk with my colleague on this, about how
much more time they will use. We do have some time left. I think about 15 minutes for this hour, and we reserve that time in case we have to step back in and ask you additional questions.

For the time being, we can go off the record.

And it is 3:14.

(Discussion held off the record.
Chair Durbin enters.)

Ms. Zdeb. It is 3:24, and we can go back on the record.

BY MS. ZDEB.

Q. So I think as we were concluding my last round, we talked a bit about the meeting on December 27th, and then -- I'm sorry, a call on December 27th. And then we talked about the meeting at the White House with the Chief of Staff and the White House Counsel on December 29th. That was the one where you primarily recall the discussion about oversight, maybe a little bit about the election, and I think you subsequently explained to my colleague on Senator Grassley's staff that there was this swirl of activity involving Kurt Olsen that day.

I want to jump ahead maybe two days in time to December 31st and ask about a White House meeting that I understand took place on that date. But before I do, I just want to ask, the intervening day, December 30, were there any
meetings or phone calls with the President or the White House on the topic of the election?

A. So as I think I alluded to earlier, I think on the 30th is when I had the call with the President to tell him that we were not going to do this, the court case.

Q. That's right, okay.

A. So I don’t recall another call that day.

Q. So then fast-forward again to the 31st. I know that there was a meeting in the Oval Office that afternoon. Was there a meeting, an internal meeting, with you and Mr. Donoghue and Mr. Clark at some point earlier in the day?

A. No. I think it was later. I'm not totally sure if it was a meeting or a call. My recollection is that that evening, Thursday the 31st, so New Year's Eve, or the next morning -- the best I can do is approximate that it's in that window -- I had a conversation with Mr. Clark. But whether it was a call or a meeting, unfortunately, after seven months, I have displaced it in my memory. But I think the communications occurred either that Thursday night or Friday morning.

Q. So I want to talk about the White House meeting first.

A. Okay.

Q. We have seen the official White House photograph of
that meeting. We understand from one of your emails, that
you requested it. So we know from that photo, that you, Mr.
Donoghue, Mr. Meadows, Mr. Philbin and Mr. Cipollone attended
and were present.

Was there anyone else?

A. I think the photo accurately captures this.

Rich Donoghue and me for DOJ. It's Pat Cipollone,
White House counsel. Mark Meadows, Chief of Staff. And I
don't think he's in the picture, Chad Mizelle, who was the
general counsel of DHS, was there as well.

As an aside, if you will bear with me, I have
just a standard practice if I know I'm photographed at events
at DOJ or at the White House, if they're going to be in the
Archives, I ask can you send me a copy of the picture? So
that's a standard practice.

But that, I did receive those pictures.

Q. Why was Chad Mizelle there?

A. Well, of course, I didn't organize the meeting so I
can't say definitively, but I think it's somewhat similar with
the earlier meetings where Ken Cuccinelli had been there. The
President wanted to talk about election machines and DHS had
some responsibility.

Q. So you said a second ago that you didn't organize
the meeting. Does that mean that somebody at the White House
called the meeting?
A. Yes. My recollection is that the President had been at Mar-a-Lago, but he had come back on the afternoon of what would be New Year's Eve, and that I received some kind of notification from the White House that the President had returned and he wanted a meeting. And so Rich Donoghue and I, we went over.

I don't think we had necessarily received a clear notice of what it was about, but we had enough of a track record that I knew -- that I could approximate what it was going to be about.

Q. Did -- well, if you wouldn't mind, maybe just giving us a sense of the overall tenor of the meeting.

A. I think the President seemed unhappy that it was now late December 31st. And I'm going to put this not as how I would see it, but in some sense, it was described as "you still haven't found the fraud," that "Here we are. You're saying -- you, DOJ -- that there's still not significant or substantial evidence of widespread fraud."

Q. You said "he seemed unhappy." What gave you that impression? Did he say, "I'm unhappy with the Department"?

A. Not in those exact words, but more, "You guys have said that there wasn't any, but that you remained open that the facts had changed."

And I think he -- his comments were that people continue to tell him that there is fraud, so how can it
be that, if the Justice Department is "doing its job," you haven't find this widespread fraud. And it was somewhat repetitive of our earlier discussions.

And as I alluded to earlier in our conversation today, I think the President's observations were somewhat similar to what he was -- they were very similar to the things he was saying publicly or the media were attributing to him as to his dissatisfaction about the assessment of the validity of the election.

Q. Did he raise the idea of the Department making a public statement again?

A. One of the challenges is trying to parse what was said when exactly. That was something that he was interested in as in you should -- you should find the fraud that people are telling him was there, and that he knew you should say so. Whether that was specifically discussed at that meeting, that meeting, in some ways, doesn't register as fully on me as this Sunday night one.

So I'm not aware of it at the meeting, but if there's some other record, that might help me sort it out. But, conceptually, I think there's some continuity of what his concerns were.

Q. Did he raise the Jeff Clark letter?

A. I don't think so. Not that I recall.

Q. Did anyone at the meeting raise the Jeff
Clark letter?

A. I don't think so. Because, at that juncture, Rich Donoghue and I had told Jeff Clark, "We're not interested in this."

I don't think that to my awareness at that time, it had gone outside the Department. I think Jeff Clark had presented to me and Rich Donoghue, and we said, "No thank you," or something like that (that’s more polite than the actual language). I don't recall the actual words.

And so I think at that juncture, I thought that probably might have the entirety of my awareness of the letter going outside the Department and being proposed elsewhere. I think that came later.

Q. Putting the letter aside, was there any discussion at the meeting about the prospect of replacing you with Jeff Clark, or did that come later?

A. As I was alluding to previously, I remember some conversation with Jeff Clark that I think it was that evening. It might be Friday morning. But it was right after -- close in time after that meeting at the White House. But I can't rule out some allusion to it, but I don't think so.

Q. Did the idea of filing that Supreme Court action come up again during this meeting, or had that essentially been put to rest in your call the day before?

A. So my best recollection is it had been put to rest
on the call, but -- that's to my best recollection. I can't say definitively that it didn't come up on that Thursday White House meeting, but I don't think so.

Q. How did you end the meeting? Did you have a particular impression about how things stood? What the President expected of you?

A. Because that meeting turned out to be less significant than the Sunday one, when I look back at that Thursday meeting, my recollection of it is not quite as good. I remember generally that it was what I regarded as more of the same.

But my reaction to it was more, generally, "We've been trying. We've been trying to say the Department will look at real evidence. The Department is going to do its job down the middle, straight up. But we don't see evidence. We don't see it. And our obligation is to say, 'This is the law.'"

So by this point, as I've alluded to, we had a number of these small episodes of "Here's one we're not doing. Here is one we're not doing. Here's one we're not doing," but we are doing our job. This is not like an ideological thing that "We're just not interested in the evidence." It's "Our position is driven by the evidence."

And so I think, by that Thursday, I'm developing a little bit of a frustration of how do we get
through that our actions are premised on the evidence that the
Department develops.

And I guess the one other thing is, because I
don't remember well in sequence of where the Jeff Clark
collection comes in, at another meeting, the Thursday
meeting, I asked Rich Donoghue and Pat Hovakimian, who was one
of my senior advisers. He had been my chief of staff, but he
was getting ready to leave the Department shortly.

So I had asked the two of them, "Let's get
together and kind of figure out where we go from here."

But it's in that same time frame that I
learned from Jeff Clark that there's, at least to me, new
developments, which is the President wants an answer by noon
Monday as to whether he's going to be considering him as a
replacement.

I think I've said this before, but I want to
make sure that I'm clear because I'm talking about what's my
reaction on that Thursday evening. I'm not the issue -- the
Department's position and its integrity is what matters. And
if the President wants to make a change, have Rich Donoghue or
Steve Engel replace me, that would be fine with me. But I
certainly would have felt comfortable that either of them, or
someone like them, just maintain the same course, fine. But I
am concerned that we are functioning on the basis of the facts
and the law.
Q. So the conversation that you had with Jeff Clark around this same period of time, how did that go?

A. Well, that's what I referenced earlier. He said that he had had another either meeting or conversation with the President. Notwithstanding his assurances that he made over the weekend that, A, that it wouldn't happen again; and B, if he got a request, he would notify me or Rich Donoghue. Neither of those happened.

But he said that he had had a discussion with the President and that the President wants him to let him know on Monday if he's willing to be considered. At that point, it wasn't framed as the President is going to be making a change, but it is framed as he, Jeff, is now -- Jeff Clark is going to think about it, whether he would be willing to do it. And he wants to do some due diligence to see if maybe he would see things the same as Rich Donoghue and me.

Q. So I think I may just be getting confused by the sheer number of the different communications involving Jeff Clark. I know from the calendars and that you have alluded to, I think on January 2nd, there is -- there's another meeting with you and Mr. Clark and Mr. Donoghue.

But just so I'm clear, the conversation you're talking about right now in which he reveals to you that, notwithstanding your prior discussion, he did have a conversation with the President. That is separate from the
January 2nd?

A. Yes. The January 2 is the follow-up to that, where
he has been permitted to get that and to talk to the U.S.
Attorney in Atlanta, which he didn't actually do. And so the
January 2nd is the follow-up from the earlier request of he
has to get an answer by Monday so he would like to have access
to some information.

Q. I see.

A. And that Saturday, he tells us he's had that access,
and here is where he stands. It's really -- he tells us where
he stands, but he doesn't say "I'm going to tell the President
I'm available. I'm still sorting this out."

I think one of the things he raised is now,
at this juncture, he would be willing to sign a letter instead
of me, and he can answer no “if you'll do the things that I'm
suggesting.”

And I said "No, I'm not sending that letter
to the Georgia legislature."

I knew that wasn't likely to result in his
standing down, but that's when I say, we were not releasing
that letter.

Q. So Jeff Clark framed it as a choice he was
giving you, to essentially either go along with the letter
that you had previously rejected and sign it under your own
name, or he will presumably take the President up on his offer
to be installed in your place. Is that how you understood it?

   A. Close to that. That he was saying that having done
   some due diligence as he requested, that he wasn't satisfied
   where Rich Donoghue and I were on this, but that he still
   wasn't sure what his answer would be on it. And he raised
   another thing that he might point to, that he might be able to
   say no, is if -- that letter, if I reversed my position on the
   letter, which
   I was unwilling to do.

   Q. I'd like to jump to the January 2nd conversation in
   just a minute. But before we do, I wanted to just briefly ask
   you about two emails that you received on January 1st from Mr.
   Meadows. And I think -- my apologies. We passed them out
   already.

   So the first one is the document that is Bates
   numbered -678 at the bottom. And that would be
   Exhibit No. 11.

   (Exhibit 11, email, was marked.)

   BY MS. ZDEB.

   Q. So this is an email on January 1st. It's an email
   chain from January 1. It starts off at 3:00 in the afternoon
   with Mark Meadows and you, and you then forward that to Mr.
   Donoghue. He responds "Pure insanity."

   And then you respond to him with some
   additional color around this issue.
Can you just give me a sense of how this Italygate issue was presented to you? What you took this email from Mr. Meadows with the YouTube link to mean?

A. Yeah. So I think he had sent us an affidavit of somebody that has been described as being in protective custody in Italy who was a witness. And I didn't know what that was.

But then he provided this Internet link, sort of out of the blue. He wasn't saying, "I'm going to send you other things," but this email came across. And sort of the curiosity got the better of me (given my general thoughts on the reliability of the Internet). But I clicked on it and it didn't work. So I asked him to send the right link or something to that effect.

He sent it. And I started to watch it, and I said, "You have got to be kidding me."

So this was I think on a Friday night. Yeah, Friday, January 1. It's been a long day at the end of a long week. And my normal practice would have been to forward something and then talk about it. But a little bit of fatigue set in, and we had this email exchange of "Can you believe this?"

His response was "Pure insanity."

And I thought that would be the end of it, as I alluded to. Some of these we would just push aside and so
forth. But then I actually got a call on this one saying, "Are you doing any follow-up?"

And I said, "I think somebody had run down that this individual" -- and, again, keeping it within the government, nothing overt that might appear to give it credence. Someone figured out that "protective custody" was that the person was in prison after a conviction.

So I think when I got a call, I said, "This one is another one that's debunked."

And I was asked, "Well" -- I don't think I realized that this was coming from Mr. Giuliani and the campaign, but on this call, I did find out -- "There's more to it. Would you meet with Mr. Rudy Giuliani?"

I had refused to meet with Rudy Giuliani multiple times over, during the month of December, so I said no. I said, "If he has evidence, he can do what any American can do. He can walk into an FBI field office and present his evidence, but I'm not meeting with him, no."

And Mr. Meadows seemed to accept that. But then he called me back and he said Mr. Giuliani is insulted that you think he should have to walk into a FBI office. And so the email reflects I declined to do it.

I can't remember if I headed home or if there was some reason there was an email. But in frustration, I sent this note to share with Rich. As the email reflects, I
got a little more animated than usual, at the end of the week.

Q. I think I just heard you indicate this, but just for the record, it was Mark Meadows who made this call to you?

A. That's my recollection.

Q. And on the previous occasions when you had been asked to speak with Mr. Giuliani, was that also by Mark Meadows?

A. These things started to blur. I know I received requests to meet with Mr. Giuliani. I declined. They accepted it, as they didn't say, "You must do this," or "You're expected to do it." But the request came back, and I said I'm not going to do that. And so I never did meet with Mr. Giuliani.

So I remember the request. This particular one, I think, was Mr. Meadows, but he did accept my position. I said I'm just not doing it.

Q. And the earlier requests may have been Mr. Meadows, but you're not 100 percent certain, at this point?

A. I'm confident I got the request. Whether it was the President, Mr. Meadows, or both is where I'm a little hazy.

Q. Tell me -- about how many times were you asked to meet with Rudy Giuliani?

A. I don't think I can quantify it. I'm just telling you what I remember is I got that request -- it was more than
once. I can't quantify it. And it was not -- I don't want to 
overstate it. It was not every 10 minutes or something 
ridiculous.

Q. And it's possible they were from Mr. Meadows. It's 
possible they were from the President. But sitting here 
today, you're not certain which of those two?
A. As I said previously.

Ms. Zdeb. Let's turn to the second exhibit, 
I believe you have it over there. It starts with Bates -673 
at the bottom, and this will be Exhibit 12.

(Exhibit 12, email, was marked.)

Mr. Rosen. I have it.

BY MS. ZDEB.

Q. So this seems to -- sorry.

This seems to be a follow-up to his outreach 
with the Italygate YouTube link. He then sends this 
additional note at 4:13 p.m. on January 1st, Mr. Meadows 
does. And he writes, "There have been allegations of 
signature match anomalies in Fulton County, Georgia. Can 
you get Jeff Clark to engage on this issue immediately to 
determine if there is any truth to this allegation."

And then you and Mr. Donoghue have an 
exchange in response to that.

I think it is somewhat implicit in the 
exchange that you and Mr. Donoghue have, but can you give me a
sense of how you reacted to this particular request?

A. Well, the -- I had two reactions. One is the
signature match anomalies, I think is something that we spoke
about earlier today, that their colleague raised in one of the
calls. So I think I had an impression that, perhaps, this was
just the Chief of Staff responding to his boss having said
something about it and he sent it over.

And so my reaction to it, what got my
attention more was having Jeff Clark engage on this issue.
Jeff Clark, of course, was in the Civil Division, and
signature match anomalies would not be his responsibility. So
common sense would tell you this, at this juncture, that that
looked a little bit corroborative of Jeff Clark having just
told me earlier that day or the night before that the
President wants to know if he's willing to replace me. So it
seemed, in some way, corroborative. It doesn't actually say
that.

So Rich and I had this exchange. I think
that's sort of indicative of what I was saying earlier. By
this point in the week, there was some fatigue and being ready
to have everything be over with has set in.

I think we were attuned to this thing was
supposed to be some kind of focal point that we better be
ready and be considering how we persuade the President that
some of the things other people are telling him aren't right,
that he's not listening to the right people. And that's when I started to continue to try to think through what's the best way to get this to an appropriate outcome.

Ms. Zdeb. We're going to tag-team on our side, Mr. Rosen, so my colleague Ms. Walton is going to ask you some questions.

BY MS. McCLAIN-WALTON.

Q. Mr. Rosen, I'll just give you a brief road map here. I'm going to direct the questions now to January 2nd -- Saturday, January 2nd, and then what you've described as the culmination of events on Sunday, January 3rd.

A. Okay.

Q. You've already spoken a little bit about the lead-up to January 2nd and this meeting that you and Mr. Donoghue and Mr. Clark are having on Saturday, the 2nd. And you've described, I think it's fair to say, at this point, tensions are rising with respect to these issues; is that fair?

A. Yes. Because we started to hear things that, from my vantage point, they are unfounded. And I just don't think it's appropriate for an Assistant Attorney General to meet with the President alone.

Q. And so at this point on January 2nd, I think you described that the purpose of the meeting with Mr. Clark was twofold. It was, one, to say "Stop meeting with the President behind my back"; correct?
A. That's the short form of what I alluded to earlier.

Q. And, two, to see if Mr. Clark was going to get on the same page, essentially, as everyone else in the Justice Department; is that correct?

A. Yes. What I said is -- yours is the summary, but I provided a little bit more push and pull of the conversation as I said earlier.

Q. Absolutely.

A. You heard that.

Q. Absolutely.

And so at the meeting on January 2nd, Mr. Clark had said that he had been briefed by ODNI at that point; correct?

A. On Saturday the 2nd, I believe so.

Q. And what was Mr. Clark's reaction to the briefing from ODNI?

A. Well, what I remember is that he was just dissatisfied in some way.

Q. And at that point as well, you had provided Mr. Clark the phone number for the U.S. Attorney in Georgia, U.S. Attorney Pak; is that correct?

A. Yes.

Q. Did you ask Mr. Clark if he reached out to U.S. Attorney Pak to get more information about what was going on
in Georgia?

A. Yes.

Q. And had Mr. Clark reached out to U.S. Attorney Pak?

A. No.

Q. Okay. And what was your reaction to him not reaching out to U.S. Attorney Pak, as you had instructed him to do?

A. I was disturbed. And I told him.

Q. And during the course of this conversation, Mr. Clark indicated, essentially, that he was still thinking about the President's offer to assume the role of Acting Attorney General; is that correct?

A. With a small correction. The way I remember it is he was considering the President's offer, whether he would be willing to consider. It's perhaps a small difference, but meaning he had not actually been offered "Here is the job. Will you take it?" But more "I wanted to know if I decide to make a change, are you willing to be considered as the recipient of the change?" Slightly softer, to say.

Q. Understood.

And so -- and during this conversation, in mulling this over, he asked, "Would you be willing to now sign that proof of concept letter?" And you said you were still unwilling to do that.
That's right.

Q. And I assume at that point, things kind of came to a head and the meeting was over, or did you have further discussions?

A. No. The meeting took a while. I don't remember exactly how long. My sense of it would have been 45 minutes. And so there's obviously more discussion than just the things we could do in 45 seconds, but I think they're just more specifics of those topics.

I think the meeting ended with a little bit of conflict. Nobody being really satisfied, but "let's talk about this later or tomorrow, or you know, let's figure out where this goes."

And so it all came to a kind of closure.

I certainly do remember Rich Donoghue reinforcing where I was coming from in a very aggressive way that you went behind your boss's back, and you're proposing things that are outside your domain and you don't know what you're talking about, basically.

Q. And so when the meeting ended and Mr. Clark left -- I would say, the room, wherever you are -- what is the conversation that you have with Mr. Donoghue at that point? Did you discuss next steps, what your strategy is?

Yes. One of the things, to take a half step to give you a context. Obviously, this is not the only thing...
going on. It's an important thing, but there is departmental
business to deal with. And there's what I'll call regular
department business, as in just the press of work. And, you
know, I can remember, just as an example, there was a -- I
think a status conference coming up in the Google antitrust
litigation. And so it was regular and important department
business that we still had to attend to, and it was an
important part of our business.

And it was the transition. And so it was the
transition-related work. Much of that, in terms of what I'll
call a formal transition, is on a staff level. There are
people who are retiring. There are people who want to get 15
minutes to talk to you before their last day. And so there
are some things that don't happen -- that happened more than
they would regularly happen.

So there's both work to do, and, of course,
the transition was to culminate on January 20th. So there's
preparations for that. That's itself a big and important
process.

So Rich Donoghue and I were first things
first: The Department's business has to get done. But we
were also then talking with ourselves and figuring out who
else might have some insight.

Mr. Steve Engel of OLC was someone that I
thought very highly of. And in his OLC role, he was a very
important counselor.

So I think the way you characterized it is right, we tried to strategize as to where do we go with this. We want to ensure that the right things are done for the right reasons.

Q. And so at that point, that's going to the next morning, the morning of Sunday, January 3rd, or that day. I understand you continued to have these conversations about the business of the Department with Mr. Donoghue.

But at some point, do you and Mr. Donoghue decide that Mr. Clark should come back in and discuss more things? Do you speak with Mr. Clark again, you and Mr. Donoghue, before that Oval Office meeting later on Sunday night?

A. What happens is late that morning, maybe around noon -- I don't know if it's a little before or a little after -- but in that time frame, I get a call from Jeff Clark saying he wants to talk further and it's important.

And I said, "Okay. You know, I actually have some things I have to do. So let me address the things I have to do, and we'll get together in the afternoon."

He was telling me it was time urgent. I said, "I'll do the best I can do."

It turned out to be around 3:00. He was in the building. I was at my office that day. And he came down
to my office. My recollection is that, at that point, he wanted to talk to me alone. He didn't want Mr. Donoghue there.

That was something I needed to think about. But I decided having known him for a long time, I would do that. I would see if I could -- my hope was that I would persuade him, that he should stand down basically from the path that he was advocating. And so I took the meeting with him.

We met that afternoon. And he told me, at that point, the reason it was time-sensitive when he called me earlier was that he had talked earlier with the President, and the schedule -- the schedule had moved up and that the President had decided to offer him the position, and he had decided to take it. So that I would be replaced that Sunday, and the Department would chart a different path.

And somewhat remarkably in this conversation, he told me that part of why he wanted to talk alone was he wanted me to stay on as the deputy, but Rich Donoghue would be replaced by me, which I told him made no sense, and there was no universe I could imagine in which that would ever happen.

And he said he just thought that it was the right thing to offer. And --

Q. During this conversation, did Mr. Clark mention at all about what the New York Times had reported that President Trump had reached out to the Secretary of State in Georgia,
Secretary Raffensperger, the day before, to talk about getting a certain number of votes?

A. I don't have any recollection of that. I remember this was a very unhappy conversation. I told him that from my vantage point this wasn't about me. It was about what was the right thing for the country, that I thought he was making a colossal error in judgment, and that I really encouraged him that he should rethink this while there was still time. And we talked a little bit -- in both directions. Me telling him that I've known him a long time, and I couldn't understand how he was pursuing this path, and him saying it was because we knew each other that he had hoped that I would understand what he was doing, which I did not.

So after some of that conversation, I told him, "Well, here's the thing, Jeff Clark, my subordinates don't get to fire me. So I'm not accepting what you're telling me, that you're going to replace me. I'm going to contact the President and tell him I need to talk with him."

And he didn't object to that.

And I said, "So I will let you know what the next steps are, but for now, we're done."

And after he left my office, which was in the neighborhood of 4:00, give or take, I called over to the White House and asked Mr. Meadows that I need to see the President and it needs to be today. He said he would arrange it, and he
called me back very quickly and said "You're on for 6:15 tonight."

And I also called Pat Cipollone, who was out of the office. I left him a message. And he said he would plan to be at the meeting, and figure out who else should be there. I think he was going to address that. And he did highlight -- I think it was Mr. Cipollone -- that it would be helpful to know that this is not just two people at the Justice Department who do things differently, but that this is the whole Department is with you, Rosen. So I believed the answer to that is yes, but we needed to figure out a way to confirm that.

So after that I spoke with Rich Donoghue and Patrick Hovakimian, who was, as I said, was my previous chief of staff. He was serving as a senior counselor. That's his function.

And said, "Can you guys" -- we talked and collectively came up with a concept that they would organize a call with the group of senior leaders of the Department, which they did. I was not on it. The concept was people should be able to communicate freely and honestly.

So while they did that, I worked with -- I contacted Steve Engel and told him what was going on and that I would appreciate it if he could come in on this. And he and I and Rich Donoghue would ride together to the White House.
An aside right there, when we were getting ready to leave, Jeff Clark came by and asked if he could ride with us. And maybe this was ungracious of me, but I declined.

Q. I understand.

Two just quick follow-up questions about that. Notwithstanding the fact that you told Mr. Clark "I do not accept my subordinate telling me that I'm fired," was it - - did Mr. Clark communicate to you that the President had made his decision, the decision was done, and that he would be installed as the Acting Attorney General at that point? Is that why you followed up with the President directly?

A. Yes.

Q. And as part of that decision that he would be the Acting Attorney General that he communicated to you, did he also communicate to you that that the proof of concept letter would, therefore, be sent as that was what his plan was for the next steps of the Department?

A. I think that was implicit. And at the meeting we subsequently had, he did advocate that he wanted to send it.

Q. With respect to Mr. Donoghue, and I believe you said perhaps Mr. Engel following up with the rest of DOJ leadership to kind of clue them in on what was going on, I assume you're referring to the other Assistant Attorney Generals; correct?

A. The Assistant Attorney Generals and the Principal Deputy who is running the Associate AG's office -- Claire
Murray, I didn't actually compile the list to know exactly who was on the call, that would be Mr. Hovakimian. But the concept was the Assistant Attorney Generals of the Litigating Divisions and the Solicitor General. Jeff Wall was the Solicitor General that was on that.

So it was what I would call senior leadership. I don't mean any disrespect to anybody who wasn't on the call, some folks were unavailable, some were career people. Included was the senior non-career DOJ leadership.

Q. And before walking into the Oval Office, driving over, did you get feedback, I guess, from Mr. Donoghue as to what senior leadership's position was in all of this?

For example, did Mr. Donoghue communicate to you that senior leadership was going to essentially walk with you at that point?

A. Yes.

Q. And so you knew that going into the meeting with the President, that senior leadership had all expressed that? Essentially, if you go, they go?

A. Yes. Mr. Donoghue was very clear on that.

Q. So when you get to the Oval Office, is it fair to say that tensions -- you have uninvited Mr. Clark from your ride over -- they are pretty high at this point.

A. Well, it's -- the lines have been drawn. He's made
his choice that he was willing to accept the appointment to
be the Acting Attorney General and pursue what he thinks was
-- or, at least, he's asserted was his preferred course. And
I've been clear that if it means -- if that course is going
to happen, I can be fired or resign, it doesn't really
matter, because I'm not going to do that.

Q. And I think you mentioned when our colleagues on
Senator Grassley's side were asking questions, the meeting,
ultimately, in the Oval Office, lasted for some time, about
two hours or longer?

A. Yes.

Q. And so -- and, essentially, in that meeting, it was
the seven lawyers, I believe?

A. That's correct.

Q. And it was six against one; that "one" being
Mr. Clark?

A. That's true.

Q. And you mentioned also that you were concerned
because one of the first things that were said when you walked
into the meeting was that President Trump said to you, "Well,
we know as long as you're running the Department, nothing is
going to happen here."

A. That's right.

Q. So would you characterize, then, the next two hours,
or however long it was, that the six of you, who are on your
side of things, were trying to convince President Trump not to
go with the course of action that Jeffrey Clark had stated,
which was installing him as the AG?

A I'm sorry, I missed the beginning. Could you repeat
that?

Q. So for about that two-hour time, what were you and
the other six members, who are on your side of things, doing,
we'll say?

A. This is a wide-ranging discussion of both the letter
and course of action. The -- well, just generally, the path
that Jeff Clark was advocating. His view was that that letter
itself, actually, that if he sent it to multiple places, it
would set off multiple steps of action. At least, that's what
he said. I don't know for sure what he was thinking, but
that's what he said.

And each of the others of us were opposed to
that, but, as I said, other people also wanted to address the
qualifications. In addition to that's a bad course, I think --
- Mr. Herschmann, I can recall in great detail, was highly
critical of Mr. Clark's qualifications and capabilities. And,
again, I'm putting that in a relatively polite manner. He was
aggressive.

So there was some extensive discussion on
those lines. I -- to some extent, those things I let others
do the talking. I didn't think I needed to address what my
qualifications are, something like that.

So I saw, at some point -- I've seen some
press-reporting on this. It was pretty accurate. But the one
thing I differed was I saw the characterization that said it
was "Celebrity Apprentice."

As if Jeff Clark and I each have to bid on it and
advocate our credentials. It wasn't that. There was no
effort on my part to try to compare the capabilities of either
of us to run the Department. Even if he didn’t do that. But
other people did want to speak to that. Not in the way that
I'm pejoratively addressing it, but people just saying "The
Department is well led. This is not -- if you make a change,
this is not the way you should do it or who you should do it
with," and some of that was to say quite aggressive.

But I think more of the conversation was
about the imprudence of going down the path Jeff Clark was
advocating. And it was lots of discussion on why that was
bad, legally, why it was bad for the country, why it was
inconsistent with the Justice Department's role.

And I heard -- not just for me, but from the
other five people that were there, some very persuasive and
articulate discussion of that. And I think other folks also
made the point that the Department is unified on Rosen's
position. So this is not a, you know, "He said this. He said
this. He said that."
(Discussion off the record.)

BY MS. McCLAIN WALTON.

Q So just to put a finer point on it, I want to be true to my word about five minutes here. I know lawyers always say five minutes, and they don't mean that.

A. No judge will ever believe that.

Q. The discussion in your mind, while some are focused on the qualifications of who is better qualified to be Acting Attorney General, the discussion for you and for much of this is just what is the path that the Department of Justice is taking from here; right? The path of Jeffrey Clark, or the path of Jeffrey Rosen; correct?

A. I think that's a good way to put it.

Q. And because this conversation went on for two hours and you had six legal minds discussing this issue, seven including Mr. Clark, it's fair to say that you were receiving some pushback from the President as to which path he should be taking as you were assessing it?

A. Well, as I alluded to earlier, the meeting proceeded in different ways at different points. The President at some points was just listening, he was just sitting back and inviting people to debate and say what they wanted to say. There were other parts where he engaged or asked questions. I can remember several places where he asked questions. I was just thinking about this. He did ask Mr.
Engel to weigh in. Steve Engel had been in the OLC for most of the administration, so I think the President was familiar with Steve from past instances of seeking his advice.

Q. At some point in this conversation, did the President -- I think you did allude to this earlier with my colleagues -- mention that he wanted to fire the U.S. Attorney in Georgia --

A. Yes.

Q. -- the Eastern District of Georgia, U.S. Attorney Pak?

A. So as I referenced before, I would say during the meeting, that wasn't an issue. I think after the meeting had been -- had resolved the questions that the President was not going to make the change to Jeff Clark, there was this sort of tail end of the meeting in which -- as you might expect, it was a pretty significant couple of hours. When the President said he's not going to make the change, that was an important moment in terms of what I needed to do.

So it was some time after that, we were thinking it's time to get out of here, that that came up. And as I alluded to before, my recollection is I know that Rich Donoghue and I were defending that Mr. Pak not be fired. And my recollection is there wasn't a single person in the room recommending that he should be fired. I think
everybody who spoke was against it.

Q. And do you recall if, during this meeting, everyone
told the President that U.S. Attorney Pak is resigning anyway,
making the point kind of moot; correct?

Ms. McClain Walton. And just for the record,
Mr. Rosen nodded his head to that question.

Mr. Rosen. Well, yeah. I should just say
what I said before, which is, this part of the meeting, I
don't have as clear a recollection of each step of the way. I
think I was thinking at that point it's time to go.

So I somewhat need to defer to others’
recollections. But, in general, I refer back to what I said
earlier.

BY MS. McCLAIN WALTON.

Q. And then my very last question: Do you recall
President Trump stating that he wanted to go outside of the
normal line of succession for who would replace U.S. Attorney
Pak and have U.S. Attorney Bobby Christine moved over to that
office and take over?

A As I stated, I think that that did come up, which I
think that is what happened. Although, it didn't change
anything substantively. I think Mr. Pak did resign and U.S.
Attorney Christine became the acting head of that office, but
my recollection is the assessment remained the same.

Ms. Zdeb. Josh, excuse me, but before you
enter your exhibits, I have one follow-up to that question.

BY MS. ZDEB.

Q. Do you recall the President indicating, as part of his discussion about whether he would go outside the line of succession, that he liked Bobby Christine and thought that if he installed him, instead of the First Assistant U.S. Attorney, that maybe Bobby Christine would do something about the election fraud allegations?

A. I think that's more -- more detailed than the way I remember this breaking up. I do remember Bobby Christine came up, but I don't -- I think I need some documents or things to sort this one out.

Ms. McClain Walton. Thank you.

Mr. Flynn-Brown. Mr. Rosen, thank you for your time today. I'm going to introduce two exhibits into the record.

You do not need to comment on these at all. They are one -- two press releases, both on January 6, 2021, from Senator Grassley.

So Exhibit 13 will be -- this one is titled "America Must Be Better Than This."

(Exhibit 13, press release, was marked.)

Mr. Flynn-Brown. The second one is titled "Grassley's Statement on Electoral College
Certification," and that will be Exhibit 14. (Exhibit 14, press release, was marked.)

Mr. Flynn-Brown. So that's it for me today. And I want to thank you again for your time. You've been here a long time today to talk with us, and we really do appreciate it. So thank you very much.

Mr. Rosen. Anything further from the Majority?

Ms. Zdeb. Just to add my thanks to my colleagues. We sincerely appreciate your making yourself available voluntarily. We appreciate your doing so on Saturday.

The same goes for your counsel and Department counsel.

I also want to extend my sincere thanks to my colleagues on Senator Grassley's staff for making themselves available on a Saturday, and also being very accommodating with respect to some last-minute logistical changes.

Mr. Blumenthal. I would add my thanks as well having been here for just about all day and you made a real effort to be forthcoming. Thank you.

Mr. Rosen. Thank you, Senator.

Thank you.

The only other thing I would like to say is it's the nature of these things to be focused on the person
who, in essence, assumed the role of AG. But as I maintained, and still do, that the Department of Justice acted with integrity and sought to do the right things.

I really want to underscore the people that worked on the leadership team and many others throughout the Department. Some of them I've identified here today, but I considered myself, then and now, very fortunate to have been able to work with them in that time frame on their behalf and with appreciation of their public service.

Ms. McClain Walton. Thank you.

Ms. Zdeb. Thank you, Mr. Rosen. We can go off the record.

(Discussion off the record.)
Certificate of Deponent/Interviewee

I have read the foregoing ___ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

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