

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

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8 INTERVIEW OF JEFFREY ROSEN
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13 SATURDAY, AUGUST 7, 2021
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17 The interview was convened, pursuant to notice, at 10:00
18 a.m., and was conducted at the Dirksen
19 Senate Office Building, Washington, D.C.
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P R O C E E D I N G S

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

1 States Senator from Connecticut.

2 Mr. Whitehouse. Sheldon Whitehouse, Rhode
3 Island.

4 Ms. Zdeb. The Federal Rules of Civil Procedure do
5 not apply to the Committee's investigative activities,
6 including transcribed interviews. That said, we do follow
7 some guidelines that I will go over now.

8 Our questioning will proceed in rounds. The
9 Majority staff will ask questions for one hour, then Minority
10 staff will have the opportunity to ask questions for an equal
11 amount of time. We'll go back and forth in this manner until
12 there are no more questions.

13 We typically take a short break at the end of
14 each hour. And if you need to take a break at any point
15 before that, please just let us know. And assuming we're
16 still going, we will take a lunch break at some point.

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

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

1 Do you understand?

2 Mr. Rosen. Yes.

3 Ms. Zdeb. We encourage witnesses who appear
4 before the Committee to consult freely with counsel if they
5 choose. You are appearing here today with counsel.

6 Counsel, would you please introduce
7 yourselves for the record.

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

10 Mr. Byrnes. John Byrnes.

11 Mr. Gallagher. Nicholas Gallagher.

12 Ms. Zdeb. Thank you.

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

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

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

22 The minority was unaware that Democratic members
23 would be attending until this morning, about an hour before
24 today's interview. I want to let you know, as a courtesy,
25 that in light of this recent development, Republican members

1 might attend during the course of today's interview. And
2 Senator Tillis just arrived as I was speaking. So, as a
3 courtesy we wanted to make sure you were aware of additional
4 members and their potential attendance.

5 Mr. Rosen. Thank you.

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

9 Mr. Weinsheimer. Brad Weinsheimer,
10 Department of Justice.

11 Ms. Antell. Kira Antell, Department of
12 Justice.

13 Ms. Zdeb. Thank you.

14 Mr. Rosen, we want you to answer our
15 questions in a complete and truthful manner. If you don't
16 understand one of our questions, please let us know. You
17 should understand that, although this interview is not under
18 oath, by law, you are required to answer questions from
19 Congress truthfully.

20 Do you understand that?

21 Mr. Rosen. Yes.

22 Ms. Zdeb. Specifically, witnesses who
23 knowingly provide materially false statements during the
24 course of a Congressional investigation could be subject to
25 criminal prosecution under 18 USC 1001, and this statute

1 applies to your statement in this interview.

2 Do you understand that?

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

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

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

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

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

13 I will take that as a no.

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

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

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

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

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

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

1 record.

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

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

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

20 So I want to affirm at the outset that during
21 my tenure at the Department of Justice, my priority was to
22 ensure that the Department would always proceed on the basis
23 of the facts and the legal merits to enforce the Constitution
24 and preserve the rule of law. We did that. And I was honored
25 to have led and have served alongside the extraordinary team

1 of public servants who always put the best interests of our
2 country first.

3 During my tenure as the Acting Attorney
4 General, which began on December 24 of last year, the
5 Department of Justice maintained the position, publicly
6 announced by former Attorney General William Barr, that the
7 Department had been presented with no evidence of widespread
8 voter fraud in a scale sufficient to change the outcome of the
9 2020 election. We thus held firm to the position that the
10 Department would not participate in any campaign's or
11 political parties' legal challenges to the certification of
12 the Electoral College votes, and that there must be an orderly
13 and peaceful transfer under the Constitution.

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

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

25 Back in April of 2019, when I appeared before

1 the Senate Judiciary Committee at my nomination hearing, I
2 testified, "If the appropriate answer is to say no to
3 somebody, then I will say no." That's exactly what I did.

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

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

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

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

23 It was unfortunate that I ultimately had to
24 seek a meeting with the President on the evening of January
25 3rd, 2021, to persuade the President not to pursue a different

1 path endorsed by Jeffrey Clark, which would have ended my
2 tenure. But with the support of the entire DOJ's senior
3 leadership team, and the White House counsel as well, the
4 President himself decided not to do that, not to pursue that
5 alternative path.

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

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

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

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

23 Ms. Zdeb. Thank you, Mr. Rosen, for that
24 opening statement. We're glad to have the opportunity to
25 speak with you. And as you can imagine, we do have some

1 questions. So it is 10:16, and we will start our first round
2 of questioning.

3 BY MS. ZDEB.

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

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

11 A. May 16 of 2019.

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

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

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

20 A. Right.

21 Q. He -- I believe he made one of those statements on
22 December 1. And then, although he didn't actually resign
23 until the 23rd, he announced on the 14th that he would be
24 resigning. When did you first learn that Attorney General
25 Barr would be stepping aside?

1 A. Well, there's two parts to that. I was aware that
2 he was considering whether he was going to stay to the end or
3 not. But in terms of his actual decision, I learned of it the
4 day he resigned.

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

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

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

12 Good morning, Senator Grassley.

13 BY MS. ZDEB.

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

18 A. I believe so.

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

24 A. I don't think I had any specific discussions to that
25 effect. I think -- when I was aware that Attorney General

1 Barr had not decided to stay until the end, I think it was an
2 obvious question as to would the President go with the normal
3 line of succession or something else. But with regard to my
4 deputy, in particular, I don't think I had any conversation
5 about that.

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

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

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

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

14 Q. Fair enough.

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

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

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

23 Q. So this is an email that Mr. Donoghue, your deputy,
24 sent to the Department's leadership, copying you on November
25 11th, 2020.

1 Do you recall receiving this document at the
2 time?

3 A. Yes. I think we had discussed this.

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

9 If you need a minute to review.

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

15 Q. Yes, that's right.

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

21 A. Well, the general idea was to channel the sensitive
22 communications -- in other words, there are certain things,
23 legislation is appropriate to have staff to staff discussions,
24 but the more sensitive communications, they should be at a top
25 level. On the White House side, the President and the White

1 House Counsel, and on the Justice Department side, the
2 Attorney General, Deputy Attorney General, or, in some places,
3 the Associate Attorney General. And they can deputize others,
4 but they typically should be aware of the communications.

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

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

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

16 A. Right.

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

25 So when I read it, I understand the policy

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

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

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

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

20 Q. I can understand that as well, which is why I
21 imagine it has this language about ensuring the President's
22 ability to perform his constitutional obligations, on the one
23 hand; but then on the other hand, there is also language in
24 the very first -- the very first paragraph of that memo
25 emphasizing that the legal judgments of the Department of

1 Justice must be impartial and insulated from political
2 influence.

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

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

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

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

1 it is the one that Attorney General Barr updated in November
2 of 2020.

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

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

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

12 Ms. Zdeb. And for the record,
13 Senator Klobuchar just walked in.

14 BY MS. ZDEB.

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

22 Does that ring a bell with your
23 understanding?

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

25 Q. As I understand it, the prior policy before Attorney

1 General Barr's memo was that in the post-election period, so
2 essentially starting when voters began to cast ballots and
3 ending when the vote was certified, during that entire period
4 of time, the Department, at least pursuant to the old policy,
5 would avoid -- would generally avoid taking investigative
6 steps that were overt, in order to avoid interjecting the
7 Department into the process.

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

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

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

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

23 (Exhibit 2, memo, was marked.)

24 Mr. Rosen. I'll look it over. But so as to
25 not be inefficient with your time and mine, this is the --

1 Attorney General Barr's changed policy, announced on November
2 9th.

3 BY MS. ZDEB.

4 Q. Yes.

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

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

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

17 A. Okay.

18 Q. So that memo was issued by the Attorney General in
19 November of 2020, about a week or so following the election.
20 And you said earlier that you were in the Department in 2019.

21 And I'm curious whether, to your knowledge,
22 there was any consideration given by the Attorney General or
23 anyone else within the Department to making the policy changes
24 reflected in that memo at some point before the election.

25 A. Well, that might be something that Attorney General

1 Barr would know about. He is the most knowledgeable about it,
2 I suppose. I think -- sorry, I was just trying to be a little
3 precise here.

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

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

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

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

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

24 A. I'm trying to remember when this was announced. And
25 I think that this was something AG Barr was overseeing

1 himself. So I think that, as often happens when there's a new
2 policy like this, there's some friction in the early
3 administration of it. But I don't know that -- I don't know
4 the details of that.

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

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

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

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

24 A. Mr. Pilger, yes. I remember him stepping down, but
25 I don't remember if he said that it was specifically this or

1 some follow-up to this. But I do remember him stepping down.

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

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

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

14 (Exhibit 3, document, was
15 marked.)

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

20 (Discussion off record.)

21 Ms. Zdeb. So Exhibit Number 3 is a document
22 starting on page that is Bates-numbered -425 at the bottom,
23 and it's a December 14 email from Molly Michael, in the
24 Executive Office of the President, to you.
25 And it has a couple of other attachments.

1 BY MS. ZDEB.

2 Q. Do you recall receiving this email?

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

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

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

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

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

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

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

25 And the next day, the 15th, Richard Donoghue

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

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

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

21 A. Not -- yeah, not specifically. I'm not denying that
22 I got it and noticed it. I mean, if you get an email that
23 says from POTUS, you probably notice that. I'm just saying,
24 as I sit here today, did that register, I don't remember it
25 today. I remember it because of the content just described.

1 Q. You mentioned having received at some point an
2 updated or a briefing from DHS about the voting machine
3 allegations reflected in this document.

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

9 A. Yes. That was totally wrong.

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

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

24 But there was -- and I believe that Mr. Cuccinelli
25 had told us -- or maybe it was someone from CISA -- Mr.

1 Cuccinelli just happened to be at this White House meeting.

2 So I was concerned about that inconsistency.

3 But we had become aware there was going to be
4 a hand recount in this county. That had not yet occurred but
5 was in the works. I think we learned in short order -- from
6 memory, I can't say exactly, but I'm guesstimating, say two or
7 three days, something like that. And then in short order, we
8 were advised that a hand recount showed that there was not a
9 differential, or if there was, it was minuscule. Even less
10 than the allowable rate, refuting this report.

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

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

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

25 A. I think it was -- well, I'll speak for myself. It

1 ,was the latter.

2 Q. So let's talk about the meeting that you attended on
3 the 15th. And you said, "you," meaning the Department, were
4 asked to go to the White House.

5 Did I hear that correctly?

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

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

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

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

25 Did that seem strange to you?

1 A. Well, I didn't really know the subject, so I didn't.
2 I, you know, we told AG Barr, and he was okay. I was going to
3 be Acting Attorney General.

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

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

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

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

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

24 Q. Was Chad Mizelle there?

25 A Not at that one. I think that's a subsequent meeting.

1 Q. So it sounds like you didn't know what the purpose
2 of the meeting was as you headed over there.

3 And then at a certain point, it became clear that the
4 President wanted to talk about the election.

5 A. Right.

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

8 A. Yes.

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

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

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

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

1 It's benign."

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

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

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

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

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

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

23 So we just dropped that, and the hand recount
24 was going on. It was not being done by either DOJ or DHS. It
25 would be done, and that will be that.

1 So I think that -- we'll call that a loose
2 end. But, otherwise, it was just an opportunity -- it turned
3 into an opportunity for us to reiterate what AG Barr had
4 said: There was no evidence of widespread fraud on a
5 substantial scale.

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

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

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

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

25 A. I'm trying to sort out in my mind whether it was at

1 that meeting or -- I think that that may have come up, because
2 it was -- a lot of what was said in this meeting is consistent
3 with what the President was saying publicly; or was in the
4 public domain and reported that the President said it. And in
5 that time frame, my recollection is that he was publicly, I
6 think, tweeting or doing an interview or something, I don't
7 remember the details. But I think he had called for a special
8 election counsel.

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

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

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

25 BY MS. MCCLAIN WALTON.

1 Q. Mr. Rosen, you said that you weren't sure if
2 President Trump at that meeting or at a subsequent time asked
3 that DOJ appoint a special counsel.

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

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

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

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

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

25 Q. Let me ask you a question. When

1 President Trump said "Why isn't the Department doing its job,"
2 can you indicate or clarify further on what exactly he thought
3 the Department wasn't doing that it should be doing?

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

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

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

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

18 BY MS. ZDEB.

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

24 A So I hope I didn't misspeak. I said he was not
25 belligerent.

1 Q. That's right. And my question is is it
2 necessary for the President of the United States to be
3 belligerent in order for him to convey that people are saying
4 these things and he wishes that the Department would, to use
5 your words, to do its job?

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

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

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

16 A. Oh, I --

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

19 A. No. I think I'd say it in the other direction,
20 because I can't control what he says. I can only control what
21 I do from my position. The Department of Justice is going to
22 do its job, whether the President is happy, unhappy, measured,
23 belligerent, that the Department of Justice is going to do
24 what we think is right based on the facts and the law. We're
25 going to be faithful to the rule of law, the Constitution, to

1 the system of government we have. And that's independent of
2 anyone else, including the President of the United States.

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

8 Q. Understood.

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

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

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

1 felt about that.

2 Does that maybe get more at it?

3 Q. It does.

4 It sounds like he was conveying that there
5 were all of these allegations out there that he was hearing
6 that people were talking about. He would perhaps express some
7 frustration that the Department wasn't doing more, and then
8 you responded, as you said you responded, which was to make
9 clear that the Department was doing its job.

10 Is that sort of a fair summation?

11 A. That's consistent with what I said.

12 Q. One more question about this meeting before we move
13 on. You talked about Georgia, Pennsylvania, and obviously,
14 the Antrim County issue. We talked about special counsels.

15 Was there any discussion at this meeting
16 about the prospect of the Department filing some sort of legal
17 action in the Supreme Court or otherwise?

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

19 Q. And just so I'm tracking, what do you recall
20 specifically, at what meeting or on what phone call that it
21 came up?

22 A. So actually -- I'm sorry, I'm trying to listen and
23 make sure I understood. Did you say lawsuit with the Supreme
24 Court about the election?

25 Q. Just about the election.

1 A. Okay. Then, what I said was accurate.

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

7 I think my general position was the
8 department will do its job. If there's information presented
9 that fits the criteria, the people would look into it. If it
10 doesn't fit the criteria -- I mean, there's different levels
11 of proof that it takes to be at different stages of inquiry --
12 then we won't. But you do that on the merits, on the factual
13 and legal merits.
14 And everybody knows what we've seen up to that point. Just
15 days before, DOJ was talking publicly -- because on the 21st,
16 at a press conference, AG Barr had elaborated on what he said
17 previously.

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

23 At first, I don't know that I quite knew what he
24 was talking about, because I originally thought he was talking
25 about Texas, the state was filing a lawsuit. Their case had

1 been rejected by the Supreme Court, as I recall.

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

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

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

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

22 But before I do that, the 27th is almost two
23 weeks, I guess, after that meeting on the 15th that we were
24 just talking about. And I'm curious whether, during that one-
25 and-a-half, two-week period, were there other instances during

1 that period where the President called you, perhaps where the
2 Chief of Staff called you, or you had a meeting related to
3 these issues, at the White House?

4 A. My best recollection is that after that
5 December 15th meeting, I did not hear from the President again
6 until I became Acting Attorney General on the 24th. I don't
7 remember, necessarily,
8 Mr. Meadows, but I don't think so. At least not about the
9 election. It's possible I had a conversation with someone
10 else. But the day that AG Barr left, I got a call from the
11 President.

12 Q. And what did he say on this call?

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

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

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

23 A. I don't. In light of subsequent events, it seems
24 possible that he did, but I just don't remember.
25 I remember the next day.

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

4 A. The afternoon of the 23rd.

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

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

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

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

21 (Discussion off the record.)

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

24 Before I start with my questioning, I want to make sure
25 that the record reflects that Daniel Parker is in attendance.

1 He's an investigator for Senator Grassley and I don't believe
2 he was included in the initial introductions.

3 Sir, thank you, again, for your time today. Let me
4 first start off with -- I'm going to introduce this as Exhibit
5 4, a document that is Bates-stamped -744 to -750. I am not
6 stating the entire number on the bottom of the page, just
7 stating the last three digits.

8 (Exhibit 4, document, was
9 marked.)

10 BY MR. FLYNN-BROWN.

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

12 A. I have it.

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

16 A. Yes.

17 Q. -745?

18 A. Yes.

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

20 A. That's correct.

21 Q. The email says in part, and this refers to the
22 draft letter from Clark, that it would have been sent to the
23 "Governor, Speaker, and President pro temp of each relevant
24 state to indicate that in light of time urgency and sworn
25 evidence of election irregularities presented to courts and

1 to legislative committees, the legislatures thereof should
2 each assemble and make a decision about elector appointment
3 in light of their deliberations."

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

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

12 But with respect to the notes up at the top
13 right corner of this document, it says, "This letter was
14 opposed by A/AG + OLC. Discussed with POTUS on January 3,
15 2021, and he rejected AAG Clark's idea to send it."

16 Are these your handwritten notes?

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

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

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

25 Q. And "OLC" refers to the Office of Legal

1 Counsel; is that correct?

2 A. Yes.

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

6 A. That's right. And the reference to the January 3,
7 2021, is that Sunday night meeting that I requested with the
8 President, that I went through in my preliminary remarks, I
9 guess.

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

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

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

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

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

1 Jeff Clark had.

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

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

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

10 And the best I recall, he didn't even ask me
11 why. He said okay. Called me back and said you're on for
12 6:15.

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

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

23 A. Yes. Mr. Meadows had walked a group of us in, and
24 he didn't stay. So in the room are -- there was seven lawyers
25 and the President of the United

1 States.

2 Q. So if you're sitting in his chair, the President's
3 chair, if you proceed from his left to his right, can you name
4 the individuals that were present for us?

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

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

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

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

22 A. Yes.

23 Q. Regarding this situation; correct?

24 A. That is correct.

25 Q. How long did this meeting last?

1 A. It was long. It was scheduled to start at 6:15.
2 And I think it didn't start on time. So the best estimate is
3 -- to my recollection, I would say probably in the
4 neighborhood of 6:30, give or take, maybe. And it went till,
5 I'm going to estimate, maybe 8:30, a little past 8:30.

6 Q. So approximately two hours?

7 A. Yeah, maybe even a little longer than that.
8 It was long.

9 Q. So the discussion, then, related to voter fraud,
10 election fraud-related allegations?

11 A. Yes.

12 Q. And the draft Jeff Clark letter was also discussed?

13 A. Yes. I mean, as I said, since the meeting was done
14 at my request, it was -- the President said something near the
15 very beginning, "One thing we know is you, Rosen, aren't going
16 to do anything. And you don't even agree that I'm right about
17 these concerns that people are telling me. This other guy has
18 a different plan, you know. Tell me why that's not the better
19 way to go? You've made it clear you're going to do nothing."

20 Q. So the President brought everybody in, then, to
21 allow you, the principals, to debate for him the issues, your
22 positions, and your challenges on those positions?

23 A. Substantively, yes. I mean, there's some other
24 things too. There were people that -- this wasn't me, but
25 other folks wanted to discuss Mr. Clark's qualifications. It

1 was not just his proposals of what to do, but that it was
2 inappropriate for him to even be doing what he was doing. I
3 think at one time or another, all seven of the folks in the
4 room had their say, that's why it went on so long.

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

8 A. Yes, because those were tied together.

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

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

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

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

25 A. That's right.

1 Q. And --

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

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

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

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

12 Q. Say that again, I'm sorry.

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

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

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

1 would be harmful and shouldn't be pursued.

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

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

10 A. Yes.

11 Q. And how did you respond to that?

12 A. How did I respond to that?

13 Q. Yes.

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

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

25 Q. So it's fair to say that you provided advice and

1 recommendations to the President at that time?

2 A. That, we did. Q.

3 That you did --

4 A. Yes.

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

7 A. I think that's accurate.

8 Q. Mr. Donoghue did the same?

9 A. Yes.

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

11 A. Yes.

12 Q. Herschmann?

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

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

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

24 Q. So he explicitly asked for your advice on this matter
25 under discussion?

1 A. Yes.

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

6 A. Ultimately that's correct.

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

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

13 Q. So how did Jeff Clark take that decision?

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

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

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

25 Q. And his decisions were entirely legal; correct? The

1 decision to reject sending the draft letter and the decision
2 to retain you as Attorney
3 General, those were entirely legal?

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

6 Q Did the President discuss BJay Pak at that meeting?

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

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

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

22 And at some point, I think we knew that Mr. Pak
23 had already told us he was resigning, so somebody told the
24 President that this would be ridiculous and unfair and that he
25 was already resigning.

1 And I think that's where it was left. Well,
2 he's resigning.

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

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

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

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

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

17 A. He accepted that BJay Pak was resigning.

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

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

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

25 A. The U.S. Attorneys are Presidential appointees with

1 Senate approval, like I was and many other folks. The
2 President can remove Presidential appointees for any reason
3 and no reason.

4 Q. Mr. Rosen, did you take any action to overturn the
5 2020 election?

6 A. No.

7 Q. Did President Trump fire you?

8 A. He did not.

9 Q. Did President Trump fire Rich Donoghue?

10 A. He did not.

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

14 A. Anyone? Not that I recall.

15 Mr. Flynn-Brown. Let's go to Bates -736.

16 Actually, it starts with -735. It goes to -742.

17 Mr. Rosen. Which page?

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

20 Mr. Blumenthal. I do not have a copy.

21 Mr. Flynn-Brown. Exhibit 5.

22 Yes, thank you. This would be Exhibit 5.

23 (Exhibit 5, notes, was marked.)

24 BY MR. FLYNN-BROWN.

25 Q. Sir, if you need time to review, let me know.

1 A. I think -- I think I've recently looked at this, so
2 I might need to look at specific things, but I know what this
3 document is, having just recently seen it. I don't think I
4 was aware of it at the time, the best I recall, but I've
5 recently seen this.

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

9 A. Right.

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

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

13 Q. Fire away.

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

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

19 So on Sunday morning, he called me from Mar-a-Lago,
20 if I recall, just before he was playing golf. And I remember
21 I took the call, and I started talking to him about golf and
22 sports. And he got me into it a bit. And I was talking to
23 him about when he owned the Tour de New York bike race in New
24 York some years back, and whether he had met Greg LeMond, who
25 was a Tour de France winner.

1 And then -- because we had talked about all
2 that, he had run out of time. And so he said, "I'm running
3 late to get out to the golf course."

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

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

9 "The President wants to talk to you."

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

15 Q. Thank you for that.

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

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

24 A. So here's the thing. It was a somewhat longer call.
25 So this isn't -- as best I can discern, it's not a transcript.

1 These aren't my notes. I think they're Rich Donoghue's. But
2 -- so I don't have any reason to doubt that what Rich put down
3 is accurate.

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

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

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

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

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

22 I remember at that level of generality. As I
23 say, with regard to this particular comment, I don't have any
24 reason to doubt Rich's notes, but I can't say that's the exact
25 words at that level of specificity.

1 Q. The President, you said, did mention on several
2 occasions that he's concerned regarding -- with respect to the
3 American people's confidence in the electoral process?

4 A. Yes.

5 Q. Let's go to -737.

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

8 I note the President's apparent use of the
9 word "legitimate." Now, with the volume of voter fraud and
10 election crime allegations that the President had received at
11 that time and which were reported on publicly at that time,
12 was it unreasonable under the circumstances for the President
13 to have such concerns regarding potentially "legitimate
14 complaints" and
15 "reports of crimes"?

16 A. So two things. At about this same time generally,
17 it's consistent with actual things I remember him saying. I
18 don't know if this is a quote. I just remember he would say,
19 you know, "DOJ needs to do more to respond to this. The
20 people are doubting you, you know."

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

1 accurate that we haven't done that."

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

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

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

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

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

25 Q. So the Justice Department did review voter fraud

1 allegations in the 2020 election?

2 A. Yes.

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

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

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

12 A. Yeah.

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

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

22 Q. Let me ask this on a constitutional level. The
23 President of the United States is the head of the executive
24 branch. It's his job -- he takes an oath, it's his job to
25 work on behalf of the American people and taxpayers to ensure

1 that the Departments and agencies under his control are doing
2 what they need to do for the taxpayers.

3 Would you agree with that?

4 A. For any President.

5 Q. Sure.

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

8 Q. Okay. So the bottom of -737.

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

12 Do you see that at the bottom, sir?

13 A. Yes.

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

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

20 Q. Do you believe that that mistrust, or skepticism as
21 you just noted, contributed to the President's concern about
22 how "legitimate complaints" and "reports of crimes" were being
23 handled by the Justice Department and the FBI?

24 A. Again, I really don't mean to be quibbling over any
25 of this. I just don't think it's my role to try to get in the

1 President's head. I'm just trying to describe who said what
2 when, who did what. So the reality of these type of things, I
3 don't know if they're my role as a factual witness today.

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

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

13 Q. He said it to you often?

14 A. More than once.

15 Q. Let's go to -738.

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

19 Do you see that, sir?

20 Do you remember that?

21 A. Yes.

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

25 A. You know what, I can't remember -- and, again, I'm

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

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

9 Q. What was that?

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

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

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

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

24 Q So to say there -- I am not saying that this is
25 word for word what was said. Just reading the notes.

1 "Will look at whether have more ballots in PA" --
2 Pennsylvania -- "than registered voters - should be able to
3 check on that quickly but understand that the DOJ can't +
4 won't snap its fingers + change the outcome of the election,
5 doesn't work that way."

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

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

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

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

17 Do you see that, sir?

18 A. I see that.

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

23 A. So I think -- again, I'm not going to challenge the
24 accuracy of the notes. They're not mine, but I think what I
25 can say I do remember that the President raised this issue

1 that the -- there's a website in Pennsylvania, I think it was
2 the registered voters website, and then there was the
3 certified vote and there was a discrepancy. He said to look
4 into that. We responded that we would. We kind of kept it at
5 a government-to-government level, nothing public.

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

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

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

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

23 Q. So with respect to the reference of
24 Pennsylvania ballots, I want to ask you this question and make
25 sure the record is clear, sir: Did you ever look at whether

1 there were more ballots in Pennsylvania versus registered
2 voters?

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

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

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

19 Q. Understood. Thank you for that.

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

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

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

25 A. I'm there.

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

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

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

10 Q. Did you?

11 A. I did not.

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

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

20 (Discussion off the record.)

21 Mr. Rosen. So the point I'm trying to
22 clarify is I don't think either Rich Donoghue or I personally
23 went to Fulton County, Georgia. This is a pretty busy time.
24 There were lots of other responsibilities besides these
25 issues.

1 However, the Department has personnel in Fulton
2 County. There's two U.S. Attorneys in Georgia; one that was
3 responsible for Fulton County. And the FBI had a field
4 office.

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

15 BY MR. FLYNN-BROWN.

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

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

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

24 A. As I sit here right now, I don't recall any. But I
25 actually don't recollect this; I'm just saying I don't dispute

1 Rich's notes.

2 Q. So do you have any comments on why you think the
3 President wanted one of his chief law enforcement officers to
4 be boots on the ground, so to speak, and verify fraud
5 allegations personally?

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

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

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

17 FEMALE MAJORITY SPEAKER. Mike Lindell.

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

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

24 And I would agree with you that that is
25 something that he said more than once, regardless of these

1 particular notes.

2 BY MR. FLYNN-BROWN.

3 Q. The President consistently asserted that?

4 A. Well, he asserted them more than once.

5 Q. And he made these assertions with respect to the
6 election system writ large in the United States, he wanted to
7 ensure the proper operation of it?

8 A. I can tell you what he said. I can't tell you what
9 is in his mind. Someone else would have to do that.

10 Q. What did he say with regard to the election system in
11 the United States?

12 A. He said, "The American people are paying great
13 attention to this. You know, people are concerned. I'm
14 hearing that there's fraud in
15 Pennsylvania."

16 I mean, as I alluded to earlier, this was not
17 uncommon that he would say things to us that he also said
18 publicly on national TV or in some form. I can give you a
19 summary, but you probably have a little bit of the flavor.

20 Q. Right. So the President constantly referred to the
21 American people in his context?

22 A. Yeah. I don't mean -- I try not to be semantic with
23 this, but I don't know if he constantly did that, but it was
24 more than once. I mean, he did say that.

25 Q. So, Mr. Rosen, I am coming up on my hour here.

1 We'll get started on another section, and return to it in my
2 second hour.

3 Which units within the Justice Department
4 handle election crime allegations?

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

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

15 A. It does.

16 Q. Who was in charge of that branch during the
17 2020 election?

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

21 Q. Richard Pilger?

22 A. Before the election, it was Richard Pilger.
23 There came a point in November, I think it is, that Mr.
24 Pilger resigned from that position. He didn't resign from
25 the Department, but he resigned from that position.

1 Q. You said he resigned after the election?

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

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

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

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

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

25 Q. So prior to the Barr memo in November of 2020, it

1 was the Justice Department's policy to wait until after
2 certification to begin investigating election-related crimes;
3 is that correct?

4 A. A little bit like the discussion we had earlier.
5 There's a document that sets out what the earlier policy is
6 and what the later one is. So, for accuracy, we should just
7 look at this and characterize it based on the actual one.

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

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

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

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

25 Q. When you say "friction," do you -- can you describe

1 the people involved at DOJ?

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

8 Q. The situations that you did know about, you said
9 "friction." So what do you mean by "friction"?
10 Can you explain that?

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

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

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

23 Q. Do you recall anyone or any units in PIN or ECB that
24 expressed a position where they did not necessarily want to
25 comply with this Barr memo?

1 back on the record. And for the record, Senator Lee has
2 joined us as well.

3 BY MS. ZDEB.

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

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

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

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

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

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

25 So I recall that when we got back from the

1 meeting with the President, Mr. Donoghue and I, I think we
2 needed to be at -- it was some kind of ceremonial event in the
3 Attorney General's conference room. And we went to that.

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

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

13 Q. Did he have any reaction beyond that?

14 A. I think what I just said is the reaction that I
15 remember.

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

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

24 A. If it was cause and effect, he didn't tell me that.
25 So I don't know that that's the case. I just remember he

1 stated it again at the news conference that he did on the
2 21st, which was about the Lockerbie plane crash, the
3 perpetrators being extradited after all these years. And at
4 least the way I remember it, he made this big announcement,
5 and none of the questions were about the Lockerbie case.

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

13 Q. So jumping forward a couple of days -- and I should
14 say I apologize. We've been jumping a little bit back and
15 forth in time. It's just the nature of the question rounds.

16 But I think right before -- right before my
17 last hour ended, you described the call from the President on
18 December 23rd, roughly coinciding with the official departure
19 of Attorney General Barr. And you said it wasn't particularly
20 consequential, you talked about sports, but then you alluded
21 to another phone call from the President the next day on
22 December 24th, and that's where we left off.

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

25 A. Yeah. Yes.

1 I think that's the 24th, the day before Christmas.
2 So it was a Thursday, late December. And many people at the
3 Department of Justice are getting ready for their holiday
4 plans or going places and so forth. I was staying around at
5 holiday season, so I was in the D.C. area.

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

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

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

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

25 And he did it at some length; not as

1 long as he did on the 15th. So I listened to that. And I
2 said, in substance -- this is just the content I remember --
3 "I think we've been through that, but if there's new things,
4 you know, we function on the facts of the law. If there's
5 more facts, then the Department can receive them, but you know
6 what we know, that we told you, we haven't seen any."

7 And so two other things that I remember about
8 that call; one is more in hindsight. At the time, he was
9 saying to me, "I'd like you to make sure the Department is
10 really looking into these things that you may have missed."

11 And I said, "Well, sir, it's Christmas. Today is
12 Christmas Eve. Maybe take a few days off, and we can talk on
13 Monday."

14 He sort of hesitated. "Well, that's four
15 days from now."

16 And I said, "Well, let's start with that."

17 But I wondered if it was going to be Monday.
18 You know, Richard Donoghue's notes that show it wasn't
19 Monday.

20 But the other part that stuck with me was
21 kind of an odd reference. Somewhere in the conversation, he
22 made a reference to Jeff Clark. And, again, I think the way I
23 remember this is that he said, just out of the blue, sort of,
24 "Do you know a guy named
25 Jeff Clark?"

1 And I said, "Yeah, he's the head of Civil Division."
2 Then he moved on.

3 So that struck me as curious as how does the
4 President of the United States know, you know, an Assistant
5 Attorney General. They are important jobs, but I wouldn't
6 expect the President to know all the Assistant Attorney
7 Generals. There are several of them. So it struck me as odd.

8 That's more in hindsight. Now, at the time,
9 that's become more significant, obviously, but at the time, I
10 was just quizzical.

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

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

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

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

24 Q. About how long did this call last?

25 A. I want to say 10 to 15 minutes, maybe. If I was to

1 guess, to the extent I can remember, I would say probably in
2 the order of 10 or 15, give or take. Slightly shorter;
3 slightly more.

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

8 A. Yes.

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

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

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

22 And we had a little bit of a back-and-forth. But
23 then he, at some point in the conversation, acknowledged that
24 he had had a meeting with
25 President Trump. And I was flabbergasted.

1 And I said, "Excuse me? When was this? How
2 did that happen?"

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

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

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

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

25 And so I had known him for a long time in a

1 professional capacity. We had both been in a prior
2 administration. We both had been at the same law firm. We had
3 actually worked together at some point and worked together at
4 the Justice Department. So he said he wouldn't do it again.
5 And, initially, I accepted that.

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

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

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

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

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

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

1 sort of popped up again.

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

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

12 Q. When you had this initial call with Mr. Clark on the
13 26th, did he give you a sense of what had transpired at the
14 Oval Office meeting?

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

20 That's the initial stage though it becomes more
21 concerning as the events developed. But at that early part,
22 I'm questioning, as I said, how does the President know who
23 Jeff Clark is. And he's telling me, you know -- he's probably
24 asking who I am because he heard my name and met me. I wonder
25 if it was more, but that's what he told me.

1 Q. So Clark didn't say to you "I got swept into this
2 meeting and we had a discussion about was the election
3 stolen." It was just more "I got swept into this meeting" --
4 and what?

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

9 Q. Fair enough.

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

13 A. Yeah.

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

16 A. Sure.

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

19 MALE SPEAKER. Excuse me, which exhibit?

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

22 Mr. Rosen. I have Exhibit 5.

23 BY MS. ZDEB.

24 Q. So for the time being, those are just mostly for
25 your reference in case you wanted to consult them. And

1 recognizing that they're not your own notes, I want to ask
2 about the discussion of Jeffrey Clark that I understand took
3 place on that call.

4 So you had had this call with the President
5 on the 24th where you had this curious exchange in which he
6 mentioned Jeffrey Clark. You spoke to Clark himself on the
7 26th. And then the 27th, you had this call with the President
8 that you patched Mr. Donoghue into.

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

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

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

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

1 this in the notes.

2 Q. So putting the notes aside, do you have any
3 independent recollection of the President saying something to
4 the effect of "People tell me Jeff Clark is great and that I
5 should put him in"?

6 A. I remember at a slightly greater level of
7 abstraction that "People are really very mad with the Justice
8 Department. They tell me that there's fraud and the Justice
9 Department hasn't been addressing it and is the Justice
10 Department doing its job."

11 And I think Rich Donoghue and I were both
12 saying to the President, "You can rest comfortably.
13 The Justice Department is doing its job."

14 I think that there was some kind of reference
15 to Jeff Clark, but I don't think it was -- as I said, I think
16 it didn't have great significance at the time. In hindsight,
17 it's a little bit of a clue that, well, what comes next.

18 But at the time, it was the President met
19 some guy three days ago, he asked me who he is or something
20 like that. Shrugged, like -- if the President wants to
21 replace the Justice Department, and he can do whatever he
22 wants, but the Department is going to maintain its position.
23 Because, at this time, I don't know if Jeff Clark has a
24 different point of view.

25 So to me it's -- we're all in the same place,

1 which, as you know, ultimately, is true except for Jeff Clark.
2 In the Department leadership, we worked very much together.
3 But at the time, I didn't register Jeff Clark when the
4 President says -- and, again, I don't know if the notes are
5 exactly the way I can remember it. I don't dispute it. So
6 that's -- in hindsight, that's a tipoff. But after time, it's
7 more clear.

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

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

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

17 If I remember, I saw something in the notes
18 saying you should have the leadership you want. It's not
19 going to change where the Department is. And I think that --
20 again, I don't remember that as a quote, but I think that
21 point was one of that both
22 Mr. Donoghue and I had made.

23 Q. Along similar lines and on the topic of the
24 suggestion it sounds like the President made that the
25 Department was not doing its job, there was some discussion

1 with my colleague on Senator Grassley's staff before the break
2 about a notation in the notes about the President making
3 reference to looking into "legitimate claims" of election
4 fraud. And some discussion about, "Well, isn't it the role,
5 and indeed, is appropriate, or at least not inappropriate, for
6 the President to want to have legitimate claims looked into?"

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

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

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

24 Q. In fact, I think -- and this is on page -737 of the
25 notes. There's a notation there that appears, at least based

1 on Mr. Donoghue's notes, it was a direct quote from the
2 President saying, "You guys are not following the Internet the
3 way I do."

4 A. Yes.

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

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

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

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

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

25 Q. So, in other words, the fact that the

1 President may believe that something on the Internet is
2 legitimate does not mean that, in the Department's view, it is
3 legitimate? It may be, but it may not be.

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

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

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

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

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

25 And it's a -- the notation following the

1 exchange in which you indicated you said that "DOJ won't use
2 its authority to flip a switch and change the election."

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

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

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

17 I don't remember exactly what he said, but
18 more vigorous, in some sense, at finding the fraud.

19 And, "You should be out there finding it and
20 saying so."

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

1 press conference."

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

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

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

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

15 Is that the consistent with your
16 recollection?

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

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

25 I think at different junctures he suggested

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

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

10 Q. Fair enough.

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

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

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

20 A. The parts that I remember were just more his
21 emphasizing that he had been told or he heard or he thought or
22 some variation of there's fraud in Pennsylvania and there's
23 fraud in Georgia. You should be looking at that and doing
24 something about it. So doing something about it, as I alluded
25 to earlier, varied at different junctures.

1 Q. I'd like to move on to the next day.

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

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

8 (Exhibit 6, email, was marked.)

9 Mr. Rosen. -697?

10 BY MS. ZDEB.

11 Q. -697. Do you have it?

12 A. Yes.

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

15 A. It's kind of remarkable, wouldn't you agree?
16 You don't need to answer that.

17 Q. I'm not the witness.

18 But yes. So he sends you this email.

19 Subject line is "Two Urgent Action Items."

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

24 Did you have a sense of the context for that
25 request? What was your reaction to that component of his

1 email?

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

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

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

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

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

25 But I think you were asking me what was my

1 reaction to this.

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

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

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

17 And at the meeting, there were further things
18 he said that were a little off-kilter too. One of them came
19 up. He has some email that he wants his title changed. Oddly
20 enough, he said that multiple times, that he wanted -- he was
21 -- he was actually

22 Senate-confirmed as the head of the Environment and National
23 Resource Division; but at the time, he acted as the Civil
24 Division, the head of the Civil Division in the Department.

25 And he wanted the "Acting" taken off his title

1 of the Civil Division. And he had this theory that there was
2 an old OLC opinion that empowered the Attorney General to do
3 that. OLC's head was -- at the time, Steve Engel -- he was
4 very opposed to this idea. And I was not an expert in the
5 underlying law. I had very high regard for Steve Engel's
6 capabilities, but I didn't really want to referee could it be
7 done or whatever.

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

12 So I think we're getting to the point of
13 we're realizing there is something off-kilter at this time,
14 yes. It's even more evident in hindsight, but at the time, I
15 did think he's meeting with the President and now he wants to
16 be briefed by the DNI on thermostats plus the title change.
17 Just what is going on here with Jeff Clark?

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

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

25 A. So Rich Donoghue and I had discussed it ahead of

1 time. We said generally we don't want to do this, but decided
2 to go ahead and have the meeting in part -what you're getting
3 at, is to figure out what's going on, and to try to figure out
4 with Jeff Clark, what's going on with this.

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

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

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

23 It's almost independent from the legal
24 arguments, which was not -- it's just not our role. So we had
25 some discussion about that. So I remember I was trying to

1 draw him out, "Why do you want to do this?

2 Why do you think this is a good idea? Why?"

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

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

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

20 Q. Did he seem --

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

24 So at this juncture -- separating what he did then
25 versus what he did later -- at the time, it still seemed as

1 though he was recognizing that there's a change of command,
2 that his suggestions would be rejected, and he should just do
3 his job in a proper way. So he appeared to be accepting. He
4 wasn't pushing back, saying "I have right to meet the
5 President," or something like that. He was -- at that point,
6 he said, "You don't have to tell me six times. I don't want to
7 have a meeting." And "Okay. You don't want to do the
8 briefing. I really think, you know, it would be useful, but
9 okay."

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

13 The next couple of days, he kind of did. You
14 may remember -- it was during that week that Congressmen
15 Gohmert filed a lawsuit suggesting the Vice President would
16 overturn the election. And we opposed that and filed a motion
17 to dismiss -- I referenced this in my preliminary remarks.
18 The Civil Division did actually file that brief. And my
19 recollection is that the acting head of the Civil Division is
20 on the brief. So for a little bit, it looked like someone had
21 --

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

25 A. Yes.

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

2 A I think he did. I think it was five other states.

3 Pennsylvania. It was Georgia. It was Pennsylvania,

4 Michigan, Wisconsin, Arizona, and then

5 Nevada, if I recall correctly.

6 Q. Did he give any indication during this conversation

7 as to whether he had discussed the proposal with the

8 President?

9 A. Not at this juncture.

10 Q. And you mentioned trying to get a sense from him of

11 whether he was working with anyone else or just working as a

12 solo operator, essentially.

13 Do you know who Kenneth Klukowski is?

14 A. I don't recognize that as somebody that I know. I

15 have come to learn, through preparing for today, he was at the

16 Department of Justice. At the time, I don't think that name

17 registered with me.

18 Q. So you had no sense one way or the other as to

19 whether he is someone that may have been working with Clark on

20 this?

21 A. Right. I don't know.

22 As I alluded to earlier, at least from my

23 vantage point, there's some unknowns about both the direction

24 of causality and who else might have been involved. But what

25 I know of it really just came from Jeff Clark and a couple

1 brief references from the President.

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

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

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

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

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

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

1 he's making.

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

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

6 He was not.

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

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

25 Q. And so when you -- when you had this meeting, did

1 the topic of the election also come up?

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

5 Q. Do you recall what those items were?

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

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

12 A. I think so.

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

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

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

1 of thrown in.

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

7 Because my recollection of that discussion
8 was so dominated by the oversight issue, which let's say, with
9 respect to the Senators present, it's not really my favorite
10 thing to spend time on.
11 It's important, and --

12 Q. Don't tell Senator Whitehouse that.

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

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

21 I just mean that you hope that you tell your
22 staff, please be responsive and get these things done. So
23 having to spend some time with the White House Chief of Staff
24 on that wasn't my preferred use of time, but it's what we
25 needed to do, I think.

1 MALE SPEAKER. Before we go off, I think
2 we were joined by another Senator; is that right?

3 Ms. Zdeb. Yes, I'm sorry. For the record,
4 Senator Sasse has entered the room.

5 (Discussion off the record.)

6 Mr. Flynn-Brown. We'll go back on the record
7 at 2:28.

8 BY MR. FLYNN-BROWN.

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

17 A. I think that's right.

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

24 Did you talk with Cipollone afterwards?

25 I don't just mean immediately; maybe a day or two later or

1 hours later? Or was it simply literally understood, at that
2 point, the President made his decision and there was nothing
3 to talk about?

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

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

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

18 A. Yes.

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

21 A. I'm sorry, say it again.

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

24 A. I suppose. I mean, we were pleased that the
25 President had made what I regarded as the correct decision.

1 Even though, as I said, he opened the meeting by saying "One
2 thing we know is Jeff Rosen leading the Justice Department,
3 nothing is going to get done in trying to overturn the
4 election."

5 Q. Sorry?

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

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

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

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

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

25 A. Say that again.

1 Q. The draft complaint of the United States of America
2 versus the Commonwealth of Pennsylvania, State of Georgia --

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

8 Q. Please do.

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

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

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

21 And then the President, at one point, I think
22 that day, asked me "Have you seen any writing," or something,
23 maybe it was -- maybe that was Mr. Meadows.
24 I don't know exactly.

25 But then there was this odd piece, which is

1 an outside lawyer by the name of Kurt Olsen made these almost
2 all day-long efforts to get me in a meeting. I had a general
3 practice that I wasn't just going to be meeting with anybody
4 who was in the campaign. I didn't think that that was my
5 role.

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

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

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

21 And initially, yes, I was annoyed that --
22 it's like I answered a phone solicitor or something.
23 But -- so I initially I had some small talk with him.
24 And then he was pushing that he claimed that the
25 President wanted this brief.

1 And I said, "How do you know the President wants
2 this? Who are you?"

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

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

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

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

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

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

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

1 would leave messages. But to my surprise, he's aggressive.

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

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

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

7 I said, "Well, I'm not discussing the
8 substance of this with you. If the President has something he
9 wants, he and I will discuss it with him.
10 You're no longer in this conversation."

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

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

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

20 So I figured this needs to get called up to
21 the President. I am not talking to outsiders. I rejected
22 further discussion with him. To the best of my recollection,
23 that episode was the only time, and it's the last time I spoke
24 to someone on the outside about these things. I tried not to
25 engage, but I did make it -- even today, I think it's the

1 proper thing to do. Although, I did tell him -- I told him "I
2 will tell the President DOJ's position, not you."

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

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

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

10 And I know I didn't initiate calls to the President
11 to talk about election stuff, but it's possible that I got
12 word "He wants to call you. Or he wants to hear from you.
13 You know, he's in Mar-a-Lago.

14 Be at this number at 3:00," or something like that.

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

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

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

24 And he went "Okay."

25 So then he accepted it. And that was the

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

8 Q. So the President yet again took your advice?

9 A. Well, he accepted the Department's position that we
10 weren't going to do that. He didn't resist it or deliver an
11 ultimatum or try to overrule us.

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

14 A. Yes.

15 Q -- his literal response was "Okay," or did he say
16 anything else? Did he challenge you on any of the five?

17 A. No. No. He accepted that we were not going to file
18 that, and that was that.

19 Q. Was that the last time that you discussed this draft
20 complaint with the President?

21 A. To the best of my recollection, it was.

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

1 memory, I guess.

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

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

6 BY MR. FLYNN-BROWN.

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

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

14 A. All right. I have the exhibit.

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

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

19 (Exhibit 7, email, was marked.)

20 BY MR. FLYNN-BROWN.

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

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

25 And so, I guess, we will see what your question is,

1 but I suspect I'm not -- the best one to address it.

2 Q. Fair enough.

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

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

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

13 A. Yes.

14 Q. Do you recall what those were?

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

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

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

25 We got into this a little bit in the first

1 hour, and I want to try get through it to the extent that we
2 can.

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

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

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

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

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

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

22 A. That seems like a reasonable assumption.
23 And, again, that date, December 7, AG Barr is the AG and has
24 not announced his resignation at that point.

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

1 "continuation."

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

4 A. That's right.

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

8 Is that something that you can comment on?

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

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

20 A. The -- again, I think I alluded to this earlier.
21 There are some processes where there are disputes that are
22 elevated to the Deputy Attorney General. I don't have any
23 recollection of having this issue brought to me for some kind
24 of resolution. So as I sit here, I don't have recollection of
25 people telling me the things you're getting at.

1 I was not part of the equation. I think
2 the Department works these things out. I don't think I'm in a
3 position to really create a record on that.

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

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

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

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

23 To the extent that there are allegations
24 pursuant to the authorization that are actually from the White
25 House, those are things that he's been authorized to talk

1 about.

2 Mr. Flynn-Brown. I believe I had five objections
3 in the first interview and that's one today. Four more to go.

4 BY MR. FLYNN-BROWN.

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

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

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

15 BY MR. FLYNN-BROWN.

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

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

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

24 Q. So what was the intake process at the Justice
25 Department? What was the main method or mechanism by which

1 the Department received allegations? Did it start from the
2 FBI field offices? Did it come from
3 Main Justice?

4 A. All the above.

5 Q. Okay.

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

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

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

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

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

1 related allegations?

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

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

12 Q. Thanks, sir.

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

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

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

25 Is that the general process?

1 is, per se.

2 Next, the notes say, "Cobb County - woman who
3 worked at facility testified at the Georgia Senate Hearing
4 that she saw shred trucks at election location."

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

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

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

18 But my recollection is that either Thursday
19 night, New Year's Eve, December 31, or Friday morning, New
20 Year's Day, I had either a meeting or a conversation with Jeff
21 Clark. And at that time, he shared with me that he had had
22 another meeting with the President, and that -- which was
23 contrary to this assurance to me that that wouldn't happen
24 again. And he had not told me in advance that he was going to
25 a meeting with him.

1 And he said at that time that the President
2 wanted him to consider whether he would be willing to take
3 over my job if the President wanted him to. It wasn't to say
4 that it would happen, but if the President wanted -- according
5 to Jeff Clark -- and I did not hear that from the President.
6 But according to Jeff Clark, the President was targeting
7 Monday for Jeff Clark to let him know whether he would be
8 willing to entertain the possibility of replacing me and
9 implementing a different approach.

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

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

21 So this is a challenging assessment. He does
22 have the clearance. And my thought is he's going to advise
23 the President, whether I like it or not. I don't think that's
24 appropriate. But maybe the best thing is for him to know
25 something, because maybe he'll come to his senses and join

1 what I believe is the overall department position -- that
2 there's no facts that create a proper foundation for saying
3 the election results should not be certified.

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

9 Q. Are those reasons because they are classified?

10 A. Yes. Yes.

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

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

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

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

25 To my surprise, as I heard at this meeting,

1 he never called the U.S. Attorney. He did his own inquiry
2 where he called someone who had testified at a Georgia
3 legislature hearing the week before and was telling these
4 tales, but they -- at least, as it was reported to me, they
5 were tales that didn't add up.

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

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

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

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

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

1 Attorney General, I don't have that authority.

2 So we had this Saturday morning discussion,
3 and I think Rich's notes partly captured the concept that --
4 yeah. The notes indicate that he did not, let's say, come
5 around to the position that I had.

6 And he wanted -- I think he used the word "due
7 diligence" or some such. So it was a very difficult,
8 challenging meeting. I see the notes say a rather difficult
9 meeting. Well, that was accurate, consistent with what I am
10 saying. But it would have been understated.

11 And so I think at this point, we shift from,
12 as I was alluding to earlier in the week, this was somebody I
13 had known for a long time. He says he won't do it again. He
14 did it again. And he seems to be on a very different course.

15 So that sets up what happens at another
16 meeting with him on Sunday. And then that sets up the Sunday
17 night where you know the final piece of that.

18 But these notes relate to that Saturday
19 morning meeting. And so when you asked me -- this is really -
20 - sorry. Just trying to give your sense of how it developed.

21 I don't think you can just circle, like, a
22 section and say "What about these allegations or whatever?"
23 Because this was some rogue activity.

24 Q I appreciate your explanation. I appreciate the
25 detail.

1 I can certainly understand that with
2 complicated records like this, but we have to ask questions
3 that drill down to see exactly what happened and what did not
4 happen.

5 Mr. Flynn-Brown. So let's move on to Bates
6 No. -598 to -601. This will be Exhibit 9. (Exhibit
7 9, email, was marked.)

8 Mr. Rosen. Which one is this?

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

10 Mr. Rosen. I have it. BY

11 MR. FLYNN-BROWN.

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

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

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

1 was a campaign piece.

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

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

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

24 Q. Thank you, sir.

25 Mr. Flynn-Brown. So let's turn to Bates

1 -675, Exhibit 10 at this point.

2 (Exhibit 10, email, was marked.)

3 BY MR. FLYNN-BROWN.

4 Q. So here we have Mark Meadows' email of January 1,
5 2021. He says, in part, "Can you forward this list to your
6 team to review the allegations contained herein."

7 These allegations related to New Mexico
8 ballot security issues, according to the email subject line.

9 Are you aware of whether or not these
10 allegations were reviewed and investigated by the
11 Justice Department or FBI?

12 A. I think somewhat analogously. There's a mix in
13 there of things that are being litigated by the campaign and
14 those are not appropriate for the Justice Department. We're
15 -- at that point, we weren't involved in election disputes
16 between parties, campaigns, whatever. They do their things in
17 the court, but the Justice Department is staying out of that.

18 So for some of this, I think it was, "It's not
19 our issue."

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

24 Mr. Flynn-Brown. So, for now, my questioning
25 is done, and we can talk with my colleague on this, about how

1 much more time they will use. We do have some time left. I
2 think about 15 minutes for this hour, and we reserve that time
3 in case we have to step back in and ask you additional
4 questions.

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

6 And it is 3:14.

7 (Discussion held off the record.

8 Chair Durbin enters.)

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

11 BY MS. ZDEB.

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

22 I want to jump ahead maybe two days in time
23 to December 31st and ask about a White House meeting that I
24 understand took place on that date. But before I do, I just
25 want to ask, the intervening day, December 30, were there any

1 meetings or phone calls with the President or the White House
2 on the topic of the election?

3 A. So as I think I alluded to earlier, I think on the
4 30th is when I had the call with the President to tell him
5 that we were not going to do this, the court case.

6 Q. That's right, okay.

7 A. So I don't recall another call that day.

8 Q. So then fast-forward again to the 31st. I know that
9 there was a meeting in the Oval Office that afternoon.

10 Was there a meeting, an internal meeting,
11 with you and Mr. Donoghue and Mr. Clark at some point earlier
12 in the day?

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

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

24 A. Okay.

25 Q. We have seen the official White House photograph of

1 that meeting. We understand from one of your emails, that
2 you requested it. So we know from that photo, that you, Mr.
3 Donoghue, Mr. Meadows, Mr. Philbin and Mr. Cipollone attended
4 and were present.

5 Was there anyone else?

6 A. I think the photo accurately captures this.
7 Rich Donoghue and me for DOJ. It's Pat Cipollone,
8 White House counsel. Mark Meadows, Chief of Staff. And I
9 don't think he's in the picture, Chad Mizelle, who was the
10 general counsel of DHS, was there as well.

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

16 But that, I did receive those pictures.

17 Q. Why was Chad Mizelle there?

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

23 Q. So you said a second ago that you didn't organize
24 the meeting. Does that mean that somebody at the White House
25 called the meeting?

1 A. Yes. My recollection is that the President had been
2 at Mar-a-Lago, but he had come back on the afternoon of what
3 would be New Year's Eve, and that I received some kind of
4 notification from the White House that the President had
5 returned and he wanted a meeting. And so Rich Donoghue and I,
6 we went over.

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

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

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

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

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

24 And I think he -- his comments were that
25 people continue to tell him that there is fraud, so how can it

1 be that, if the Justice Department is "doing its job," you
2 haven't find this widespread fraud. And it was somewhat
3 repetitive of our earlier discussions.

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

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

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

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

23 Q. Did he raise the Jeff Clark letter?

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

25 Q. Did anyone at the meeting raise the Jeff

1 Clark letter?

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

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

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

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

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

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

25 A. So my best recollection is it had been put to rest

1 on the call, but -- that's to my best recollection. I can't
2 say definitively that it didn't come up on that Thursday White
3 House meeting, but I don't think so.

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

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

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

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

24 And so I think, by that Thursday, I'm
25 developing a little bit of a frustration of how do we get

1 through that our actions are premised on the evidence that the
2 Department develops.

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

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

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

16 I think I've said this before, but I want to
17 make sure that I'm clear because I'm talking about what's my
18 reaction on that Thursday evening. I'm not the issue -- the
19 Department's position and its integrity is what matters. And
20 if the President wants to make a change, have Rich Donoghue or
21 Steve Engel replace me, that would be fine with me. But I
22 certainly would have felt comfortable that either of them, or
23 someone like them, just maintain the same course, fine. But I
24 am concerned that we are functioning on the basis of the facts
25 and the law.

1 Q. So the conversation that you had with Jeff
2 Clark around this same period of time, how did that go?

3 A. Well, that's what I referenced earlier. He said
4 that he had had another either meeting or conversation with
5 the President. Notwithstanding his assurances that he made
6 over the weekend that, A, that it wouldn't happen again; and
7 B, if he got a request, he would notify me or Rich Donoghue.
8 Neither of those happened.

9 But he said that he had had a discussion with
10 the President and that the President wants him to let him know
11 on Monday if he's willing to be considered. At that point, it
12 wasn't framed as the President is going to be making a change,
13 but it is framed as he, Jeff, is now -- Jeff Clark is going to
14 think about it, whether he would be willing to do it. And he
15 wants to do some due diligence to see if maybe he would see
16 things the same as Rich Donoghue and me.

17 Q. So I think I may just be getting confused by the
18 sheer number of the different communications involving Jeff
19 Clark. I know from the calendars and that you have alluded
20 to, I think on January 2nd, there is -- there's another
21 meeting with you and Mr. Clark and Mr. Donoghue.

22 But just so I'm clear, the conversation
23 you're talking about right now in which he reveals to you
24 that, notwithstanding your prior discussion, he did have a
25 conversation with the President. That is separate from the

1 January 2nd?

2 A. Yes. The January 2 is the follow-up to that, where
3 he has been permitted to get that and to talk to the U.S.
4 Attorney in Atlanta, which he didn't actually do. And so the
5 January 2nd is the follow-up from the earlier request of he
6 has to get an answer by Monday so he would like to have access
7 to some information.

8 Q. I see.

9 A. And that Saturday, he tells us he's had that access,
10 and here is where he stands. It's really -- he tells us where
11 he stands, but he doesn't say "I'm going to tell the President
12 I'm available. I'm still sorting this out."

13 I think one of the things he raised is now,
14 at this juncture, he would be willing to sign a letter instead
15 of me, and he can answer no "if you'll do the things that I'm
16 suggesting."

17 And I said "No, I'm not sending that letter
18 to the Georgia legislature."

19 I knew that wasn't likely to result in his
20 standing down, but that's when I say, we were not releasing
21 that letter.

22 Q. So Jeff Clark framed it as a choice he was
23 giving you, to essentially either go along with the letter
24 that you had previously rejected and sign it under your own
25 name, or he will presumably take the President up on his offer

1 to be installed in your place. Is that how you understood it?

2 A. Close to that. That he was saying that having done
3 some due diligence as he requested, that he wasn't satisfied
4 where Rich Donoghue and I were on this, but that he still
5 wasn't sure what his answer would be on it. And he raised
6 another thing that he might point to, that he might be able to
7 say no, is if -- that letter, if I reversed my position on the
8 letter, which
9 I was unwilling to do.

10 Q. I'd like to jump to the January 2nd conversation in
11 just a minute. But before we do, I wanted to just briefly ask
12 you about two emails that you received on January 1st from Mr.
13 Meadows. And I think -- my apologies. We passed them out
14 already.

15 So the first one is the document that is Bates
16 numbered -678 at the bottom. And that would be
17 Exhibit No. 11.

18 (Exhibit 11, email, was marked.)

19 BY MS. ZDEB.

20 Q. So this is an email on January 1st. It's an email
21 chain from January 1. It starts off at 3:00 in the afternoon
22 with Mark Meadows and you, and you then forward that to Mr.
23 Donoghue. He responds "Pure insanity."

24 And then you respond to him with some
25 additional color around this issue.

1 Can you just give me a sense of how this Italygate
2 issue was presented to you? What you took this email from Mr.
3 Meadows with the YouTube link to mean?

4 A. Yeah. So I think he had sent us an affidavit of
5 somebody that has been described as being in protective
6 custody in Italy who was a witness. And I didn't know what
7 that was.

8 But then he provided this Internet link, sort
9 of out of the blue. He wasn't saying, "I'm going to send you
10 other things," but this email came across. And sort of the
11 curiosity got the better of me (given my general thoughts on
12 the reliability of the Internet). But I clicked on it and it
13 didn't work. So I asked him to send the right link or
14 something to that effect.

15 He sent it. And I started to watch it, and I said,
16 "You have got to be kidding me."

17 So this was I think on a Friday night. Yeah,
18 Friday, January 1. It's been a long day at the end of a long
19 week. And my normal practice would have been to forward
20 something and then talk about it. But a little bit of fatigue
21 set in, and we had this email exchange of "Can you believe
22 this?"

23 His response was "Pure insanity."

24 And I thought that would be the end of it, as I
25 alluded to. Some of these we would just push aside and so

1 forth. But then I actually got a call on this one saying,
2 "Are you doing any follow-up?"

3 And I said, "I think somebody had run down
4 that this individual" -- and, again, keeping it within the
5 government, nothing overt that might appear to give it
6 credence. Someone figured out that "protective custody" was
7 that the person was in prison after a conviction.

8 So I think when I got a call, I said, "This
9 one is another one that's debunked."

10 And I was asked, "Well" -- I don't think I
11 realized that this was coming from Mr. Giuliani and the
12 campaign, but on this call, I did find out -- "There's more to
13 it. Would you meet with Mr. Rudy Giuliani?"

14 I had refused to meet with Rudy Giuliani
15 multiple times over, during the month of December, so I said
16 no. I said, "If he has evidence, he can do what any American
17 can do. He can walk into an FBI field office and present his
18 evidence, but I'm not meeting with him, no."

19 And Mr. Meadows seemed to accept that. But
20 then he called me back and he said Mr. Giuliani is insulted
21 that you think he should have to walk into a FBI office. And
22 so the email reflects I declined to do it.

23 I can't remember if I headed home or if there
24 was some reason there was an email. But in frustration, I
25 sent this note to share with Rich. As the email reflects, I

1 got a little more animated than usual, at the end of the week.

2 Q. I think I just heard you indicate this, but just for
3 the record, it was Mark Meadows who made this call to you?

4 A. That's my recollection.

5 Q. And on the previous occasions when you had been
6 asked to speak with Mr. Giuliani, was that also by Mark
7 Meadows?

8 A. These things started to blur. I know I received
9 requests to meet with Mr. Giuliani. I declined. They
10 accepted it, as they didn't say, "You must do this," or
11 "You're expected to do it." But the request came back, and I
12 said I'm not going to do that.
13 And so I never did meet with Mr. Giuliani.

14 So I remember the request. This particular
15 one, I think, was Mr. Meadows, but he did accept my position.
16 I said I'm just not doing it.

17 Q. And the earlier requests may have been Mr.
18 Meadows, but you're not 100 percent certain, at this
19 point?

20 A. I'm confident I got the request. Whether it was the
21 President, Mr. Meadows, or both is where I'm a little hazy.

22 Q. Tell me -- about how many times were you asked to
23 meet with Rudy Giuliani?

24 A. I don't think I can quantify it. I'm just telling
25 you what I remember is I got that request -- it was more than

1 once. I can't quantify it. And it was not -- I don't want to
2 overstate it. It was not every 10 minutes or something
3 ridiculous.

4 Q. And it's possible they were from Mr. Meadows. It's
5 possible they were from the President. But sitting here
6 today, you're not certain which of those two?

7 A. As I said previously.

8 Ms. Zdeb. Let's turn to the second exhibit,
9 I believe you have it over there. It starts with Bates -673
10 at the bottom, and this will be Exhibit 12.

11 (Exhibit 12, email, was marked.)

12 Mr. Rosen. I have it.

13 BY MS. ZDEB.

14 Q. So this seems to -- sorry.

15 This seems to be a follow-up to his outreach
16 with the Italygate YouTube link. He then sends this
17 additional note at 4:13 p.m. on January 1st, Mr. Meadows
18 does. And he writes, "There have been allegations of
19 signature match anomalies in Fulton County, Georgia. Can
20 you get Jeff Clark to engage on this issue immediately to
21 determine if there is any truth to this allegation."

22 And then you and Mr. Donoghue have an
23 exchange in response to that.

24 I think it is somewhat implicit in the
25 exchange that you and Mr. Donoghue have, but can you give me a

1 sense of how you reacted to this particular request?

2 A. Well, the -- I had two reactions. One is the
3 signature match anomalies, I think is something that we spoke
4 about earlier today, that their colleague raised in one of the
5 calls. So I think I had an impression that, perhaps, this was
6 just the Chief of Staff responding to his boss having said
7 something about it and he sent it over.

8 And so my reaction to it, what got my
9 attention more was having Jeff Clark engage on this issue.
10 Jeff Clark, of course, was in the Civil Division, and
11 signature match anomalies would not be his responsibility. So
12 common sense would tell you this, at this juncture, that that
13 looked a little bit corroborative of Jeff Clark having just
14 told me earlier that day or the night before that the
15 President wants to know if he's willing to replace me. So it
16 seemed, in some way, corroborative. It doesn't actually say
17 that.

18 So Rich and I had this exchange. I think
19 that's sort of indicative of what I was saying earlier. By
20 this point in the week, there was some fatigue and being ready
21 to have everything be over with has set in.

22 I think we were attuned to this thing was
23 supposed to be some kind of focal point that we better be
24 ready and be considering how we persuade the President that
25 some of the things other people are telling him aren't right,

1 that he's not listening to the right people. And that's when
2 I started to continue to try to think through what's the best
3 way to get this to an appropriate outcome.

4 Ms. Zdeb. We're going to tag-team on our side,
5 Mr. Rosen, so my colleague Ms. Walton is going to ask you
6 some questions.

7 BY MS. McCLAIN-WALTON.

8 Q. Mr. Rosen, I'll just give you a brief road map here.
9 I'm going to direct the questions now to January 2nd --
10 Saturday, January 2nd, and then what you've described as the
11 culmination of events on Sunday, January 3rd.

12 A. Okay.

13 Q. You've already spoken a little bit about the lead-up
14 to January 2nd and this meeting that you and Mr. Donoghue and
15 Mr. Clark are having on Saturday, the 2nd. And you've
16 described, I think it's fair to say, at this point, tensions
17 are rising with respect to these issues; is that fair?

18 A. Yes. Because we started to hear things that, from
19 my vantage point, they are unfounded. And I just don't think
20 it's appropriate for an Assistant Attorney General to meet
21 with the President alone.

22 Q. And so at this point on January 2nd, I think you
23 described that the purpose of the meeting with Mr. Clark was
24 twofold. It was, one, to say "Stop meeting with the President
25 behind my back"; correct?

1 A. That's the short form of what I alluded to
2 earlier.

3 Q. And, two, to see if Mr. Clark was going to get on
4 the same page, essentially, as everyone else in the Justice
5 Department; is that correct?

6 A. Yes. What I said is -- yours is the summary, but I
7 provided a little bit more push and pull of the conversation
8 as I said earlier.

9 Q. Absolutely.

10 A. You heard that.

11 Q. Absolutely.

12 And so at the meeting on January 2nd, Mr. Clark
13 had said that he had been briefed by ODNI at that point;
14 correct?

15 A. On Saturday the 2nd, I believe so.

16 Q. And what was Mr. Clark's reaction to the briefing
17 from ODNI?

18 A. Well, what I remember is that he was just
19 dissatisfied in some way.

20 Q. And at that point as well, you had provided Mr.
21 Clark the phone number for the U.S. Attorney in
22 Georgia, U.S. Attorney Pak; is that correct?

23 A. Yes.

24 Q. Did you ask Mr. Clark if he reached out to U.S.
25 Attorney Pak to get more information about what was going on

1 in Georgia?

2 A Yes.

3 Q. And had Mr. Clark reached out to U.S.
4 Attorney Pak?

5 A. No.

6 Q. Okay. And what was your reaction to him not
7 reaching out to U.S. Attorney Pak, as you had instructed him
8 to do?

9 A. I was disturbed. And I told him.

10 Q. And during the course of this conversation, Mr.
11 Clark indicated, essentially, that he was still thinking about
12 the President's offer to assume the role of Acting Attorney
13 General; is that correct?

14 A. With a small correction. The way I remember it is
15 he was considering the President's offer, whether he would be
16 willing to consider. It's perhaps a small difference, but
17 meaning he had not actually been offered "Here is the job.
18 Will you take it?" But more "I wanted to know if I decide to
19 make a change, are you willing to be considered as the
20 recipient of the change?" Slightly softer, to say.

21 Q. Understood.

22 And so -- and during this conversation, in
23 mulling this over, he asked, "Would you be willing to now sign
24 that proof of concept letter?" And you said you were still
25 unwilling to do that.

1 That's right.

2 Q. And I assume at that point, things kind of came to a
3 head and the meeting was over, or did you have further
4 discussions?

5 A. No. The meeting took a while. I don't remember
6 exactly how long. My sense of it would have been 45 minutes.
7 And so there's obviously more discussion than just the things
8 we could do in 45 seconds, but I think they're just more
9 specifics of those topics.

10 I think the meeting ended with a little bit
11 of conflict. Nobody being really satisfied, but "let's talk
12 about this later or tomorrow, or you know, let's figure out
13 where this goes."

14 And so it all came to a kind of closure.

15 I certainly do remember Rich Donoghue
16 reinforcing where I was coming from in a very aggressive way
17 that you went behind your boss's back, and you're proposing
18 things that are outside your domain and you don't know what
19 you're talking about, basically.

20 Q. And so when the meeting ended and Mr. Clark left --
21 I would say, the room, wherever you are -- what is the
22 conversation that you have with Mr. Donoghue at that point?
23 Did you discuss next steps, what your strategy is?

24 Yes. One of the things, to take a half step
25 to give you a context. Obviously, this is not the only thing

1 going on. It's an important thing, but there is departmental
2 business to deal with. And there's what I'll call regular
3 department business, as in just the press of work. And, you
4 know, I can remember, just as an example, there was a -- I
5 think a status conference coming up in the Google antitrust
6 litigation. And so it was regular and important department
7 business that we still had to attend to, and it was an
8 important part of our business.

9 And it was the transition. And so it was the
10 transition-related work. Much of that, in terms of what I'll
11 call a formal transition, is on a staff level. There are
12 people who are retiring. There are people who want to get 15
13 minutes to talk to you before their last day. And so there
14 are some things that don't happen -- that happened more than
15 they would regularly happen.

16 So there's both work to do, and, of course,
17 the transition was to culminate on January 20th. So there's
18 preparations for that. That's itself a big and important
19 process.

20 So Rich Donoghue and I were first things
21 first: The Department's business has to get done. But we
22 were also then talking with ourselves and figuring out who
23 else might have some insight.

24 Mr. Steve Engel of OLC was someone that I
25 thought very highly of. And in his OLC role, he was a very

1 important counselor.

2 So I think the way you characterized it is right, we
3 tried to strategize as to where do we go with this. We want
4 to ensure that the right things are done for the right
5 reasons.

6 Q. And so at that point, that's going to the next
7 morning, the morning of Sunday, January 3rd, or that day. I
8 understand you continued to have these conversations about the
9 business of the Department with Mr. Donoghue.

10 But at some point, do you and Mr. Donoghue
11 decide that Mr. Clark should come back in and discuss more
12 things? Do you speak with Mr. Clark again, you and Mr.
13 Donoghue, before that Oval Office meeting later on Sunday
14 night?

15 A. What happens is late that morning, maybe around noon
16 -- I don't know if it's a little before or a little after --
17 but in that time frame, I get a call from Jeff Clark saying he
18 wants to talk further and it's important.

19 And I said, "Okay. You know, I actually have
20 some things I have to do. So let me address the things I have
21 to do, and we'll get together in the afternoon."

22 He was telling me it was time urgent. I said,
23 "I'll do the best I can do."

24 It turned out to be around 3:00. He was in
25 the building. I was at my office that day. And he came down

1 to my office. My recollection is that, at that point, he
2 wanted to talk to me alone. He didn't want Mr. Donoghue
3 there.

4 That was something I needed to think about. But I
5 decided having known him for a long time, I would do that. I
6 would see if I could -- my hope was that I would persuade him,
7 that he should stand down basically from the path that he was
8 advocating. And so I took the meeting with him.

9 We met that afternoon. And he told me, at
10 that point, the reason it was time-sensitive when he called me
11 earlier was that he had talked earlier with the President, and
12 the schedule -- the schedule had moved up and that the
13 President had decided to offer him the position, and he had
14 decided to take it. So that I would be replaced that Sunday,
15 and the Department would chart a different path.

16 And somewhat remarkably in this conversation, he told
17 me that part of why he wanted to talk alone was he wanted me
18 to stay on as the deputy, but Rich Donoghue would be replaced
19 by me, which I told him made no sense, and there was no
20 universe I could imagine in which that would ever happen.

21 And he said he just thought that it was the
22 right thing to offer. And --

23 Q. During this conversation, did Mr. Clark mention at
24 all about what the New York Times had reported that President
25 Trump had reached out to the Secretary of State in Georgia,

1 Secretary Raffensperger, the day before, to talk about getting
2 a certain number of votes?

3 A. I don't have any recollection of that. I remember
4 this was a very unhappy conversation. I told him that from
5 my vantage point this wasn't about me. It was about what was
6 the right thing for the country, that I thought he was making
7 a colossal error in judgment, and that I really encouraged
8 him that he should rethink this while there was still time.

9 And we talked a little bit -- in both directions.
10 Me telling him that I've known him a long time, and I couldn't
11 understand how he was pursuing this path, and him saying it
12 was because we knew each other that he had hoped that I would
13 understand what he was doing, which I did not.

14 So after some of that conversation, I told
15 him, "Well, here's the thing, Jeff Clark, my subordinates
16 don't get to fire me. So I'm not accepting what you're
17 telling me, that you're going to replace me. I'm going to
18 contact the President and tell him I need to talk with him."

19 And he didn't object to that.

20 And I said, "So I will let you know what the
21 next steps are, but for now, we're done."

22 And after he left my office, which was in the
23 neighborhood of 4:00, give or take, I called over to the White
24 House and asked Mr. Meadows that I need to see the President
25 and it needs to be today. He said he would arrange it, and he

1 called me back very quickly and said "You're on for 6:15
2 tonight."

3 And I also called Pat Cipollone, who was out
4 of the office. I left him a message. And he said he would
5 plan to be at the meeting, and figure out who else should be
6 there. I think he was going to address that. And he did
7 highlight -- I think it was Mr. Cipollone -- that it would be
8 helpful to know that this is not just two people at the
9 Justice Department who do things differently, but that this is
10 the whole Department is with you, Rosen. So I believed the
11 answer to that is yes, but we needed to figure out a way to
12 confirm that.

13 So after that I spoke with Rich Donoghue and
14 Patrick Hovakimian, who was, as I said, was my previous chief
15 of staff. He was serving as a senior counselor.
16 That's his function.

17 And said, "Can you guys" -- we talked and
18 collectively came up with a concept that they would organize a
19 call with the group of senior leaders of the Department, which
20 they did. I was not on it. The concept was people should be
21 able to communicate freely and honestly.

22 So while they did that, I worked with -- I
23 contacted Steve Engel and told him what was going on and that
24 I would appreciate it if he could come in on this. And he and
25 I and Rich Donoghue would ride together to the White House.

1 An aside right there, when we were getting
2 ready to leave, Jeff Clark came by and asked if he could ride
3 with us. And maybe this was ungracious of me, but I declined.

4 Q. I understand.

5 Two just quick follow-up questions about
6 that. Notwithstanding the fact that you told Mr. Clark "I do
7 not accept my subordinate telling me that I'm fired," was it -
8 - did Mr. Clark communicate to you that the President had made
9 his decision, the decision was done, and that he would be
10 installed as the Acting Attorney General at that point? Is
11 that why you followed up with the President directly?

12 A. Yes.

13 Q. And as part of that decision that he would be the
14 Acting Attorney General that he communicated to you, did he
15 also communicate to you that that the proof of concept letter
16 would, therefore, be sent as that was what his plan was for
17 the next steps of the Department?

18 A. I think that was implicit. And at the meeting we
19 subsequently had, he did advocate that he wanted to send it.

20 Q. With respect to Mr. Donoghue, and I believe you said
21 perhaps Mr. Engel following up with the rest of DOJ leadership
22 to kind of clue them in on what was going on, I assume you're
23 referring to the other Assistant Attorney Generals; correct?

24 A. The Assistant Attorney Generals and the Principal
25 Deputy who is running the Associate AG's office -- Claire

1 Murray, I didn't actually compile the list to know exactly who
2 was on the call, that would be Mr. Hovakimian. But the
3 concept was the Assistant Attorney Generals of the Litigating
4 Divisions and the Solicitor General. Jeff Wall was the
5 Solicitor
6 General that was on that.

7 So it was what I would call senior
8 leadership. I don't mean any disrespect to anybody who wasn't
9 on the call, some folks were unavailable, some were career
10 people. Included was the senior non-career DOJ leadership.

11 Q. And before walking into the Oval Office, driving
12 over, did you get feedback, I guess, from Mr. Donoghue as
13 to what senior leadership's position was in all of this?

14 For example, did Mr. Donoghue communicate to
15 you that senior leadership was going to essentially walk with
16 you at that point?

17 A. Yes.

18 Q. And so you knew that going into the meeting with the
19 President, that senior leadership had all expressed that?
20 Essentially, if you go, they go?

21 A. Yes. Mr. Donoghue was very clear on that.

22 Q. So when you get to the Oval Office, is it fair to
23 say that tensions -- you have uninvited Mr. Clark from your
24 ride over -- they are pretty high at this point.

25 A. Well, it's -- the lines have been drawn. He's made

1 his choice that he was willing to accept the appointment to
2 be the Acting Attorney General and pursue what he thinks was
3 -- or, at least, he's asserted was his preferred course. And
4 I've been clear that if it means -- if that course is going
5 to happen, I can be fired or resign, it doesn't really
6 matter, because I'm not going to do that.

7 Q. And I think you mentioned when our colleagues on
8 Senator Grassley's side were asking questions, the meeting,
9 ultimately, in the Oval Office, lasted for some time, about
10 two hours or longer?

11 A. Yes.

12 Q. And so -- and, essentially, in that meeting, it was
13 the seven lawyers, I believe?

14 A. That's correct.

15 Q. And it was six against one; that "one" being
16 Mr. Clark?

17 A. That's true.

18 Q. And you mentioned also that you were concerned
19 because one of the first things that were said when you walked
20 into the meeting was that President Trump said to you, "Well,
21 we know as long as you're running the Department, nothing is
22 going to happen here."

23 A. That's right.

24 Q. So would you characterize, then, the next two hours,
25 or however long it was, that the six of you, who are on your

1 side of things, were trying to convince President Trump not to
2 go with the course of action that Jeffrey Clark had stated,
3 which was installing him as the AG?

4 A I'm sorry, I missed the beginning. Could you repeat
5 that?

6 Q. So for about that two-hour time, what were you and
7 the other six members, who are on your side of things, doing,
8 we'll say?

9 A. This is a wide-ranging discussion of both the letter
10 and course of action. The -- well, just generally, the path
11 that Jeff Clark was advocating. His view was that that letter
12 itself, actually, that if he sent it to multiple places, it
13 would set off multiple steps of action. At least, that's what
14 he said. I don't know for sure what he was thinking, but
15 that's what he said.

16 And each of the others of us were opposed to
17 that, but, as I said, other people also wanted to address the
18 qualifications. In addition to that's a bad course, I think -
19 - Mr. Herschmann, I can recall in great detail, was highly
20 critical of Mr. Clark's qualifications and capabilities. And,
21 again, I'm putting that in a relatively polite manner. He was
22 aggressive.

23 So there was some extensive discussion on
24 those lines. I -- to some extent, those things I let others
25 do the talking. I didn't think I needed to address what my

1 qualifications are, something like that.

2 So I saw, at some point -- I've seen some
3 press-reporting on this. It was pretty accurate. But the one
4 thing I differed was I saw the characterization that said it
5 was "Celebrity Apprentice."

6 As if Jeff Clark and I each have to bid on it and
7 advocate our credentials. It wasn't that. There was no
8 effort on my part to try to compare the capabilities of either
9 of us to run the Department. Even if he didn't do that. But
10 other people did want to speak to that. Not in the way that
11 I'm pejoratively addressing it, but people just saying "The
12 Department is well led. This is not -- if you make a change,
13 this is not the way you should do it or who you should do it
14 with," and some of that was to say quite aggressive.

15 But I think more of the conversation was
16 about the imprudence of going down the path Jeff Clark was
17 advocating. And it was lots of discussion on why that was
18 bad, legally, why it was bad for the country, why it was
19 inconsistent with the Justice Department's role.

20 And I heard -- not just for me, but from the
21 other five people that were there, some very persuasive and
22 articulate discussion of that. And I think other folks also
23 made the point that the Department is unified on Rosen's
24 position. So this is not a, you know, "He said this. He said
25 this. He said that."

1 (Discussion off the record.)

2 BY MS. McCLAIN WALTON.

3 Q So just to put a finer point on it, I want to be true
4 to my word about five minutes here. I know lawyers always say
5 five minutes, and they don't mean that.

6 A. No judge will ever believe that.

7 Q. The discussion in your mind, while some are focused
8 on the qualifications of who is better qualified to be Acting
9 Attorney General, the discussion for you and for much of this
10 is just what is the path that the Department of Justice is
11 taking from here; right? The path of Jeffrey Clark, or the
12 path of Jeffrey Rosen; correct?

13 A. I think that's a good way to put it.

14 Q. And because this conversation went on for two hours
15 and you had six legal minds discussing this issue, seven
16 including Mr. Clark, it's fair to say that you were receiving
17 some pushback from the President as to which path he should be
18 taking as you were assessing it?

19 A. Well, as I alluded to earlier, the meeting proceeded
20 in different ways at different points. The President at some
21 points was just listening, he was just sitting back and
22 inviting people to debate and say what they wanted to say.
23 There were other parts where he engaged or asked questions.

24 I can remember several places where he asked
25 questions. I was just thinking about this. He did ask Mr.

1 Engel to weigh in. Steve Engel had been in the OLC for most
2 of the administration, so I think the President was familiar
3 with Steve from past instances of seeking his advice.

4 Q. At some point in this conversation, did the
5 President -- I think you did allude to this earlier with my
6 colleagues -- mention that he wanted to fire the U.S. Attorney
7 in Georgia --

8 A. Yes.

9 Q. -- the Eastern District of Georgia, U.S.
10 Attorney Pak?

11 A. So as I referenced before, I would say during the
12 meeting, that wasn't an issue. I think after the meeting had
13 been -- had resolved the questions that the President was not
14 going to make the change to Jeff
15 Clark, there was this sort of tail end of the meeting
16 in which -- as you might expect, it was a pretty significant
17 couple of hours. When the President said he's not going to
18 make the change, that was an important moment in terms of what
19 I needed to do.

20 So it was some time after that, we were
21 thinking it's time to get out of here, that that came up.
22 And as I alluded to before, my recollection is I know that
23 Rich Donoghue and I were defending that Mr. Pak not be
24 fired. And my recollection is there wasn't a single person
25 in the room recommending that he should be fired. I think

1 everybody who spoke was against it.

2 Q. And do you recall if, during this meeting, everyone
3 told the President that U.S. Attorney Pak is resigning anyway,
4 making the point kind of moot; correct?

5 Ms. McClain Walton. And just for the record,
6 Mr. Rosen nodded his head to that question.

7 Mr. Rosen. Well, yeah. I should just say
8 what I said before, which is, this part of the meeting, I
9 don't have as clear a recollection of each step of the way. I
10 think I was thinking at that point it's time to go.

11 So I somewhat need to defer to others'
12 recollections. But, in general, I refer back to what I said
13 earlier.

14 BY MS. McCLAIN WALTON.

15 Q. And then my very last question: Do you recall
16 President Trump stating that he wanted to go outside of the
17 normal line of succession for who would replace U.S. Attorney
18 Pak and have U.S. Attorney Bobby Christine moved over to that
19 office and take over?

20 A As I stated, I think that that did come up, which I
21 think that is what happened. Although, it didn't change
22 anything substantively. I think Mr. Pak did resign and U.S.
23 Attorney Christine became the acting head of that office, but
24 my recollection is the assessment remained the same.

25 Ms. Zdeb. Josh, excuse me, but before you

1 enter your exhibits, I have one follow-up to that question.

2 BY MS. ZDEB.

3 Q. Do you recall the President indicating, as part of
4 his discussion about whether he would go outside the line of
5 succession, that he liked Bobby Christine and thought that if
6 he installed him, instead of the First Assistant U.S.
7 Attorney, that maybe Bobby Christine would do something about
8 the election fraud allegations?

9 A. I think that's more -- more detailed than
10 the way I remember this breaking up. I do remember Bobby
11 Christine came up, but I don't -- I think I need some
12 documents or things to sort this one out.

13 Ms. McClain Walton. Thank you.

14 Mr. Flynn-Brown. Mr. Rosen, thank you for
15 your time today. I'm going to introduce two exhibits into the
16 record.

17 You do not need to comment on these at all. They
18 are one -- two press releases, both on January 6, 2021, from
19 Senator Grassley.

20 So Exhibit 13 will be -- this one is titled
21 "America Must Be Better Than This."

22 (Exhibit 13, press release, was
23 marked.)

24 Mr. Flynn-Brown. The second one is titled
25 "Grassley's Statement on Electoral College

1 Certification," and that will be Exhibit 14. (Exhibit 14,
2 press release, was marked.)

3 Mr. Flynn-Brown. So that's it for me today. And I
4 want to thank you again for your time. You've been here a
5 long time today to talk with us, and we really do appreciate
6 it. So thank you very much.

7 Mr. Rosen. Anything further from the
8 Majority?

9 Ms. Zdeb. Just to add my thanks to my
10 colleagues. We sincerely appreciate your making yourself
11 available voluntarily. We appreciate your doing so on
12 Saturday.

13 The same goes for your counsel and Department
14 counsel.

15 I also want to extend my sincere thanks to my
16 colleagues on Senator Grassley's staff for making themselves
17 available on a Saturday, and also being very accommodating
18 with respect to some last-minute logistical changes.

19 Mr. Blumenthal. I would add my thanks as
20 well having been here for just about all day and you made a
21 real effort to be forthcoming. Thank you.

22 Mr. Rosen. Thank you, Senator.

23 Thank you.

24 The only other thing I would like to say is
25 it's the nature of these things to be focused on the person

1 who, in essence, assumed the role of AG. But as I maintained,
2 and still do, that the Department of Justice acted with
3 integrity and sought to do the right things.

4 I really want to underscore the people that
5 worked on the leadership team and many others throughout the
6 Department. Some of them I've identified here today, but I
7 considered myself, then and now, very fortunate to have been
8 able to work with them in that time frame on their behalf and
9 with appreciation of their public service.

10 Ms. McClain Walton. Thank you.

11 Ms. Zdeb. Thank you, Mr. Rosen. We can go
12 off the record.

13 (Discussion off the record.)

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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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Date

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