SELECT COMMITTEE TO INVESTIGATE THE
JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: CHRIS KREBS

Thursday, December 9, 2021
Washington, D.C.

The interview in the above matter was held in room 1540A, Longworth House Office Building, commencing at 10:01 a.m.

Present: Representatives Lofgren and Raskin.
Appearances:

For the SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

[Redacted], CHIEF INVESTIGATIVE COUNSEL
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For the U.S. DEPARTMENT OF HOMELAND SECURITY:

JOHN LUCE, ATTORNEY ADVISOR, OFFICE OF GENERAL COUNSEL
JACKSON EATON, COUNSELOR TO THE GENERAL COUNSEL, OFFICE OF GENERAL COUNSEL
VICTORIA RAPPAPORT, ATTORNEY ADVISOR, OFFICE OF GENERAL COUNSEL
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ENFORCEMENT, DETAILED TO OFFICE OF GENERAL COUNSEL
For CHRIS KREBS:

JIM WALDEN
Good morning, Mr. Krebs. My name is I'm senior investigative counsel for the select committee investigating the January 6th attack on the Capitol.

With me here -- I'll let counsel that are here introduce themselves.

Good morning, Mr. Krebs. I'm I'm the chief investigative counsel to the select committee.

Good morning. I'm I'm senior investigative counsel on the committee.

And I noticed that at least one of our members, Ms. Lofgren, is on the Webex. I will attempt during the course of the day to keep my eye on that and advise you and recognize the members as they come. Not necessarily as they drop off, because they may be coming and going and that might be a challenge for me, but I'll do my best to make sure that you're clear as to who's here from the select committee.

If I could ask, Jim, could you introduce yourself for the record?

Mr. Walden. Yes. Jim Walden. I'm Chris' counsel.

And John?

Mr. Luce. John Luce with the Department of Homeland Security.

And, John, do we have some of your colleagues on the Webex as well?

Mr. Walden. We do. Jackson Eaton and Victoria Rappaport I see are on Webex.

So, Mr. Krebs, this is -- it's not a deposition, you're not under oath, but everything that we say during this interview is being taken down by the reporter to your right, and there will be a verbatim transcript created after the interview is
completed.

You'll -- we'll send a copy to Mr. Walden. He'll have a chance to go over it with you and make sure that it's accurate. Just wanted you to be aware of that.

Mr. Krebs. Got it.

Because we're creating a verbatim transcript, it's important that a couple of ground -- we follow a few ground rules. One is that we not talk over one another.

Mr. Krebs. Uh-huh.

One is that we have audible responses, not uh-huhs or shakes of the head, and just try and do our best to make sure that the reporter can hear us clearly and create an accurate record of our interview.

Mr. Krebs. Understood.

Okay. You are not -- as I said, you're not going to be placed under oath today or you're not under oath today, but this is a Federal proceeding, and you're required to tell the truth in a Federal proceeding. And if you were to make a knowingly and willfully false statement, you could subject yourself to criminal punishment under Section 10001 of Title 18. Are you aware of that?

Mr. Krebs. I am now, yes.

And that is an admonition we give to all witnesses, not to you specifically because of any expectation that you'll be anything other than truthful.

Mr. Krebs. Understood.

We're going to -- if you need a break at any time to talk to Mr. Walden or otherwise, just let me know. If a question that I ask is not clear and you're not sure exactly what I'm asking, please stop me, ask me to reframe it, rephrase it, and I'll do that. Sound good?
Mr. Krebs. Yes.

Okay. I’m going to be taking the lead with the questioning, but over the course of the interview, others may jump in with their -- or may jump in with questions, and the members may have questions as well.

And from time to time -- and I note that Mr. Raskin has now joined us. I see Ms. Lofgren -- oh, she's still on as well. The list is longer. I have to figure out how to make sure we stay so that we can see the entire list of participants.

The new ones pop up on the top, so we'll be okay.

So Mr. Raskin is here. Ms. Lofgren is here. They may have questions, and other members that join may have questions from time to time. And I'll pause during the course of the questioning to give them an opportunity to raise any questions that they have.

Any questions for me before we start?

Mr. Krebs. I don't have any at this moment.

John, do you have something you want to put on the record before we start?

Mr. Luce. Yes, just one brief statement. Thank you.

The Department has made available to the committee, consistent with requests from the chairman, information and records that the Department would not publicly release. This includes information and records covered under the Privacy Act, personnel, and other personal privacy information, for official use only, intelligence and law enforcement-sensitive records, and raw intelligence information.

While the Department has made this information and records available to the committee, the Department asserts that such information and records provided to the committee and any discussion of such information or records during the course of the
transcribed interview is not intended for public disclosure.

DHS is not waiving any protections, and for the purposes of administrative efficiency and to promote constructive dialogue during the transcribed interview, is making this assertion at the outset of the interview, to preserve all assertions and protection from public release or disclosure over information or records used or discussed during the interview.

The transcript and any attachments are protected from further dissemination to the same extent as the documents and information they are based on. Please consult with the Department prior to any public release or disclosure.

Thank you.

Thank you.

Sorry, one thing before you start. There's a number ending. Can you identify yourself?

Mr. Krebs. This is Elizabeth O'Connor. I'm a colleague of John's at the Department.

Thank you, Elizabeth.

EXAMINATION

BY

Q Mr. Krebs, can we start with just a brief -- some brief background questions. Can you describe your educational background?

A I went to the University of Virginia, graduated in '99, environmental sciences, bachelor of arts. Moved up to D.C., went to George Mason Law School, now the Antonin Scalia Law School, evening programs for 4 years, finished up there in 2007. Passed the bar here in Virginia that summer, sworn in and an associate member of the Virginia Bar.
Q  And can you describe briefly your professional experience before joining the Department of Homeland Security in 2017?

A  So prior -- well, during law school, I was a contractor to the Department of Homeland Security and the predecessor to CISA, the National Protection Programs Directorate, I think, or it was PREP at the time, up until 2007. 2007, then I switched over to Schedule C political appointment within the National Protection Programs Directorate Office of Infrastructure Protection. I was senior adviser to Bob Stephan, the Assistant Secretary for Infrastructure Protection. That ran until January of 2009, with a switchover from the Bush to the Obama administrations.

At that point, I followed Bob, and we set up a consulting firm at Dutko Worldwide. It was Dutko Global Risk Management. Did that for a couple years, and then went to another company called Obsidian Analysis and was there. It was a consultancy risk management company with both private and public sector contracts.

Left there in 2014, went to Microsoft, where I was a cybersecurity policy expert, and stayed in that role until 2017, where I joined the Trump administration as senior counselor to John Kelly, the first Secretary of Homeland Security in the Trump administration. And I stayed in that role till approximately August of 2017, where I went down as the -- where I was appointed by the President as the Assistant Secretary for Infrastructure Protection. But given that role and the succession order of NPPD, I was then a Senior Official Performing the Duties of the Under Secretary of the National Protection Programs Directorate at the Department of Homeland Security. Also --

Q  I'm sorry. Did you say that was a Presidential appointment?

A  Yes, that was a PA.

Q  Appointed by President Trump?

A  Yes, that's correct. Yes.
Q  Sorry to interrupt.

A  It was -- within NPPD at the time, there was a PAS, and so the Under Secretary was a Senate-confirmed PAS. The Assistant Secretary was a PA, so Presidentially appointed with a commission and all that. And the other Assistant Secretary for Cybersecurity and Communications, who's Jeanette Manfra at the time. That was simply a Schedule C. That has since changed due to the Cybersecurity and Infrastructure Security Agency Authorization Act.

So that was 2017. I was then nominated in February of 2018 to be the Under Secretary of NPPD. I was confirmed June 23rd, I believe, of 2018, as the Under Secretary. That job then changed November 16th of 2018, when President Trump signed the CISA Act into -- into law. And then 2 years and 1 day later, November 17th, 7:05 p.m., fired by a tweet.

Q  Thank you for that concise and thorough recitation of your background.

It's very helpful.

When did you start -- I take it that your work at NPPD included things other than election security.

A  That is correct. In fact, when I came in to the Department in 2017, I was really, I don't think, fully appreciative of the amount of work on the election security side that I would be doing. I was thinking more broadly just general cybersecurity, whether it's Federal cybersecurity work, critical infrastructure.

But the mission of NPPD is broader than purely cybersecurity. It's actually risk management for critical infrastructure in general. So that includes physical security, cybersecurity, and emergency communications.

And the threat model that we contend with or they contend with at CISA is all hazards. So it's technology risk, it's man-made risk, and it's natural disasters. In fact, in
2017, as the acting -- or the SOPDUS, the Senior Official Performing the Duties of the
Under Secretary, the majority of my fall from 2000 -- I’m sorry, from August through,
frankly, December, was spent with hurricane response. And so that was Harvey, Irma,
and Maria. And --

Q  Those were colleagues of yours? I’m kidding. I’m kidding.

A  Hurricanes Harvey, Irma, and Maria, and spent a fair amount of time. I
think I actually went to Puerto Rico three or four times. In fact, I was on the ground in
Puerto Rico the Monday after landfall, where the majority of the power was still out
across the island and which continued for some time, and then also led a congressional
delegation down. And, in fact, on that congressional delegation was the now Vice
President.

So it was at that point at the kind of conclusion of hurricane season where I had a
chance to reassess where we were as a component, as an agency. And at the time,
there had been a number of election security-related activities.

In fact, September 21st, I believe it was, 2017, is when I think the -- I’m trying to
get the right adjectives here. It’s when the Department sent out a series of notifications
to State officials about what was then known as the 21 States which were targeted by the
Russians in the 2016 election.

And so through the course of the remainder of 2017 and then into 2018, January
or so, February really is when I think we really ramped up our election security work with
a dedicated task force, dedicated ISAC. Working with a multi-State ISAC in upstate New
York, we hosted a top secret classified briefing with election officials. It was actually the
same day the Department of Justice indicted a series of Russian actors for -- well, it was
indicted or sanctions. Anyway, it was literally, we were sitting outside the intelligence
community campus about to go into a meeting when the Attorney General and the FBI
Director made the announcement. So that was February of 2018.

Q  So is it correct to say that prior to late 2017, election security hadn’t been a professional focus of yours, or am I overstating that?

A  I think that’s accurate. I think in my time at Microsoft, I was tangentially associated with some election security work, because a lot of the activity that was -- some of -- rather, some of the activity associated with the 2016 election interference, targeting the DNC and other things, Microsoft saw some of that through their own visibility and telemetry and research.

So -- but it is, I think, accurate to say that it was not a professional focus.

Q  And NPPD was not -- that was an area -- that was not an area of focus for you at NPPD prior to late 2017?

A  It was -- it was as -- it was an area of focus for NPPD. There in 2016, I believe -- this was, of course, before my time there. But in 2016, the summer of 2016, I think that’s when the prior administration and the leadership under Jeh Johnson and Suzanne Spaulding and others, you know, under -- you know, came to appreciate what was happening. And they started to try to figure out how to work with State and local officials, and then we kind of picked up that mantle. But, again, it was not a -- of the broad set of issues I had to consider coming into that role in August of 2017, it was -- it was one of many, but it did become a significant focus.

Q  And starting from the time that you mentioned in late 2017 into early 2018, from that time forward to the time you left the Agency, would you say it was your primary focus?

A  It became the primary focus over time, particularly as we got closer to 2020.

In the -- in late January-early February of 2019, after the 35-day government shutdown, I issued a set of Agency priorities. And there were five of them: Federal networks,
election security, physical security, control sys -- yeah, control system security and supply chain security. Those were the five areas of focus, and election security was at the -- typically, I would mention that second to emphasize the importance of the issue.

Q And is it possible for you to estimate in that sort of -- after the government shutdown, after you had sort of listed those priorities till the time you left CISA, roughly how many employees within CISA were focused on election security as a primary responsibility?

A So there was the 2018, the midterm election, where we had an election initiative. We had a task force that was focused on those issues. So it was -- it wasn't just 2019 where all of a sudden it became a priority. It was, in fact -- it was in 2018 going forward to the election. And, in fact, Kirstjen Nielsen was a big part of helping build that focus up within the Agency.

I'd say at the time the number of people -- so 2018, we actually ran some numbers around this. I don't have the -- I don't recall the specifics, but it was somewhere on the order of October 2018 in the run-up to the election, over the course of that month anywhere, you know, around about 700 employees within CISA had done some sort of election security work. And that includes field personnel, so the Protective Security Advisors that are distributed across the country, the cybersecurity advisers, the other staff that are out there.

We had elect -- we had exercise personnel that were running a series of tabletop exercises. We had folks in the threat hunting team. So there was a significant amount of people. And so 700 actually probably is about a third. I'd have to go back and double-check those numbers. It was in the multiple hundreds. It was anywhere from 400 to 700, somewhere in that range.

Q And those, you're not counting State and local election officials?
A   No, no, no. That’s CISA Federal employees.
Q   Okay. And did that number -- and, again, I’m not holding you to an exact
number, but did that sort of order of magnitude number persist through the 2020
election?
A   Well, we did after 2018. So at the tail end of 2018 election, the midterms,
there was an Executive Order 13848 signed in by the President that directed the Director
of National Intelligence -- and this is important for two reasons.

The President directed the DNI to conduct a threat assessment of foreign
interference, and then the second piece of that is the 2A and 2B report. So that
executive order directed the Attorney General and the Secretary of Homeland Security to
conduct a materiality assessment, based on that threat assessment and the activities,
what was the material impact upon the election.

So we issued that report in December and January of 2018, in the midst of the
shutdown. Actually, I had to bring people in off furlough or whatever we were calling it
to conduct that. Geoff Hale and -- I’m sorry. I’m thinking back to the letter.
Q   That's okay.
Mr. Luce. That's okay.
Mr. Krebs. So it’s just 14, don’t --
Mr. Luce. Oh, yeah.
Mr. Krebs. Names.
Mr. Luce. Oh, yeah. For names, yes.
Mr. Krebs. Okay. I think he’s a -- okay. So there were personnel. Matt
Masterson who was an SES, he actually led that, led that work.
So we issued that assessment. And then at that time, because of the -- because
of the government shutdown, it was a natural kind of break point to reassess where we
were. And a lot of those detail -- a lot of the people that were doing the election work in 2018 were detailees from other parts of, whether the Agency or NPPD at the time or the Department, including the Intelligence and Analysis.

And so as we got through '18 and we did our own kind of internal hotwash and after action review, and we restructured from the Elections Task Force to the Election Security Initiative. And that launched in '19, much more focused. It resided within the National Risk Management Center.

And some of the -- some of the people were the same, but then we swapped in new -- new personnel, and we had -- again, you know, there were still some I&A folks there as well.

BY

Q But the several hundred -- you estimated 700, but multiple hundreds of folks continued to do election security work through '19, 2019 and 2020?

A So the key here is that, through the course of a workweek, a Protective Security Advisor or a cybersecurity adviser could do a physical assessment of a dam and the then the next day could go meet with an election official to talk about --

Q Sure.

A So I wouldn't say that 100 percent FTE on those issues. Now, I think it's also -- you know, as 2019 ramped up, we were also on the heels of new secretaries of state, new governors coming in, because of their own elections. And so it would have been kind of a sine wave of activity.

But was it at the same pace of 2018? No. It was -- it -- you know, in '19 we kind of, again, reassessed what -- because we had scarce resources, so we had to kind of figure out, all right, what do we need to refocus on? Election security remains a priority. We got additional funding in. We were able to stand up a variety of -- go ahead, sorry.
Q: So I just want to get a sense of whether, in terms of personnel -- and I don't mean down to the FTE sort of numbers, but whether the scope of the effort maintained -- you said the pace slowed down a little bit, but are we dropping down to 50 people or 100 people, or are we still in the several hundred people who are focusing their work on election security, whether as an FTE or not?

A: So let's back off the focusing the work, right?

Q: Okay.

A: Was it a part of a job description among other duties for several hundred? Yes. You know, was it a full-time job? I would say -- again, I'd have to go back and check some of those numbers, but it could be anywhere from, you know, full time, 30-plus people. So it was a step back, reassess where we are, refocus our efforts and restructure our efforts, and then get ready for the push into 2020.

Q: Okay. And did things ramp up towards 2020 or --

A: Absolutely, yes.

Q: In terms of personnel?

A: Yes. Yep. So we would -- so the way it worked is -- and it's not in the materials, but I have a copy of it. I was just flipping through some stuff the other day. We released a strategic plan for Protect2020 in I think it was January 2020.

The way it worked is we actually had an escalation ladder as we got closer to the election. So there was the core team. They would be doing the content development, the regular engagement with NASED, which is National Association of Secretaries of -- or State Election Directors, and the National Association of Secretaries of State. We would have exercise people.

As we got closer to 2020, we started ramping up. So this team would come in and help support a specific effort. But as we got into, for instance, the primaries, we
went to a different posture where there were personnel in the -- what's now the CISA Central and the Integrated Operations Division that were focusing more frequently on election activity. As we backed off of primary season, then they would kind of return to their regular duties. And so it's similar to kind of a military construct where as activities ramp up, we bring more people in. As they ramp back down, we deescalate and they return.

And over the course of the summer, I think we -- again, I'd have to go back and look at the ops plan, but I believe we started going to that more active posture in September of 2020, where we had significant additional support, from a monitoring perspective and a coordination perspective.

Q  Got it. Okay. Let me back up a little bit in terms of the -- you talked a little bit about the predecessor agency and then the creation of CISA. Can you just talk a little bit about your understanding of the impetus for creating CISA as a freestanding agency -- not freestanding, but creating CISA?

A  Operational agency within DHS.

Q  Yes.

A  So it had been, as I understand it, at least an effort that had been underway since probably 2010. Rand Beers, who was the Under Secretary then, you know, that was one of his key recommendations. So they pushed for it.

Suzanne Spalding, my immediate predecessor, came in and she made a big push for it in the 2015 -- '14, '15, '16 time. Couldn't get across the finish line.

For me, it was my top priority coming into the administration, at least into DHS. Worked with the leadership, whether it was Secretary Kelly or then-Secretary Nielsen afterwards, had full support from the administration.

My -- you know, I thought it was critically important for a couple different reasons.
It was recruiting. It was actual public engagement. Showing up and saying, hey, we're with DHS, doesn't always work. When you go to some organizations, like schools and colleges, they don't necessarily like DHS showing up. That's my opinion, by the way.

Others is when you try to work with a private sector partner and you say, hey, I'm with the National Protection and Programs Directorate, they don't know what the hell that means. And so what we really wanted was an organization that clearly and concisely communicated what the mission of the Agency was, and cybersecurity right off the bat.

So I came in --

Q  How would you articulate the mission of the Agency when it was formed?
A  In 2018 or --
Q  Yes.
A  The mission of the Agency --
Q  Of CISA.
A  Yeah. The mission statement, off the top of my head, I don't recall, but it's effectively to help -- help critical infrastructure manage risk.
Q  Okay.
A  From all comers, foreign, domestic, all hazards.
Q  Okay. And what did you understand the role of CISA to be with respect to election security?
A  So when you -- when you look at the intelligence community assessment of 2017, it breaks down the Russian activity in 2016 into three buckets. First is targeting of election equipment; the second is targeting campaigns; and the third is just a broader disinformation, you know, disinformation efforts that the Russians have been doing for a century or more.
In terms of the bidding internal to the U.S. Government on who had lead in those three areas, it was clear, you know, once Jeh Johnson, the prior Secretary in 2017, January of 2017, designated election infrastructure critical infrastructure, it was, you know, CISA had the lead for working with State and local election officials on protecting critical infrastructure -- or election infrastructure. That's the systems. That's the hardware. That's the equipment and the processes associated with conducting an election.

Q    And so can I stop you there for a second?
A    Yes.

Q    Is that primarily protecting against what we would think of as hacking?
A    No, not necessarily. It's, again, critical infrastructure, we had an all-hazards approach. So we worked with election officials to conduct active shooter drills and assessments. We would go look at election warehouses where equipment is stored in the off season, do physical risk assessments.

In the wake of hurricanes, we would work with election officials. In fact, Kyle Ardoin, who's the Secretary of State in Louisiana, in 2000 -- the summer of 2020, I guess, where they got hit pretty hard by an election, we helped him work with FEMA and some of the response efforts there to get resources he needed to be able to conduct the election in 2020.

So it was not just cyber. That tended to be the public -- at least what the public cared about or the media cared about, just because it's 2016, but it was -- again, it was an all hazards. And we did -- I don't want to put numbers on it, because I don't recall, again, off the top of my head, but a significant number of physical assessments of election facilities.

Q    Got it. Got it. And would that include things like -- and I don't know if this
is an EAC issue, but I’ve heard or read about the ballot paper and sort of the security
issues with respect to the type of paper that’s used for ballots and things like that.
Would you put that in the infrastructure context or only physical machines you’re talking
about?

A   From the perspective of, you know, selecting paper, no, that’s not a process
that we were involved with. If it was a -- you know, if an agency asked for advice on
how would we protect a logistics supply chain for paper, then we could give them some
advice --

Q   Got it.

A   -- on how to do that and how to secure the facilities, for instance, that hold
the ballots. But from picking paper or designing paper, things like that, that was not.
That was more of an administration, election administration requirement.

Q   And picking or designing machines, any role that CISA played?

A   So we certainly had risk management opinions about -- or perspectives,
rather, about the types of machines that were in use. And from a risk management and
resilience perspective, we strongly encouraged and, you know, even advocated to the
Congress on behalf of States for machines that had paper trails, so voter verifiable paper
audit trails.

If you recall, in about 2016, there was probably about little under 80 percent,
according to the Center for Election Innovation. The -- I think it was about just under 80
percent of votes cast had a paper record associated with it. There were five States at
the time -- Louisiana, Georgia, South Carolina, Delaware and New Jersey -- that had the
DREs, the direct recording equipment. So you touch the screens, it’s tracked on
removable media.

Over the course of the 4 years between '16 and '20, that number -- I think the
number for 2020, it was around 95 percent of votes cast had a paper trail associated with it. And, you know, our encouragement there was because of the auditability. And auditability is resilience. And so if, you know, Georgia or something got popped, then it'd be harder to -- or there were claims or actual technical interference with the DREs, it would be harder to track.

And I think we were hugely successful in at least helping push that initiative and that transformation across elections from '16 to '20. There was -- in The Washington Post Cybersecurity 202 this morning, in fact, there's a -- the front matter of that piece is about how Louisiana is the only State left that's statewide DREs.

Q That was going to be my question. Do you know in November 2020 which -- there may be small counties here or there, but do you know generally which States had not made the transition to paper ballots?

A Statewide, the --

Q Or, no, just had jurisdictions within the State that were not -- did not have paper ballots.

A So Georgia, South Carolina, and Delaware both made the switch over to, in some cases, ballot marking devices. I know both Georgia and Pennsylvania had those. So New Jersey was a State that had DREs, but due to the pandemic, they switched over to absentee or mail-in balloting.

Louisiana -- so what remained as I understood -- understand it, rather, it was Louisiana statewide, Tennessee, Indiana, Texas, and a handful of others. Now, you may find DREs in a small -- in use in small amounts across the country for accessibility purposes, for people that just can't use paper. But at a larger scale, it's Tennessee, Indiana, Texas, and Louisiana.

Mr. Walden. I'm sorry. He asked you a question. I just want to make sure
your answer is clear. I won't do this very often, but I just want to keep track.

So the ones -- the only ones statewide that didn't have it was Louisiana, Tennessee, Indiana, and Texas. Some locations didn't have it?

Mr. Krebs. Right.

Mr. Walden. But New Jersey, Georgia, South Carolina, and Delaware did?

Mr. Krebs. So in 2020, South Carolina had -- by 2020, South Carolina had switched to a paper trail. Georgia had switched to a paper trail. Pennsylvania had switched to a paper trail. New Jersey just chopped over to absentee. And Delaware had switched as well.

BY [REDACTED]

Q Now, but -- and I understood those were switch-overs for 2020, but it's not to suggest that other States throughout the country that you're not listing, those also were paper. So California, Pennsylvania, Michigan --

A Right.

Q -- those were all -- those were paper as well?

A Yes. So, again, just to restate, for 2020, the States that had a significant or substantial number of DREs, so, again, Louisiana was statewide, and then there were counties or jurisdictions within Tennessee, Indiana, and Texas. Those are the ones that are immediately coming to mind. And there are a handful of others, but those are the -- those are the bigger vats.

Q Got it. So I interrupted your answer earlier to get onto the infrastructure protection. You talked about sort of other -- you talked about a three-pronged --

A Yep.

Q -- concern with respect to what the Russians had done in 2016. Does that sort of track to sort of the three prongs of what CISA was focused on?
A So on the election infrastructure, CISA had lead across the Federal
Government. So we would lead the engagement with State and local election officials
to conduct risk assessments, improve the security of their -- their systems, to conduct
training, coordinate, share intelligence and information. And then FBI supported us.
The intelligence community supported us.

On the second piece with campaigns, FBI generally had the lead where we would
support. We would provide any sort of assistance, but there was not a whole lot of
support requested from any of the Presidential or other Federal campaigns. They
were going to do their own thing and --

Q And when you say campaigns, what are you referring to there? I mean,
what’s the threat or what’s the issue? Infrastructure I think you’ve explained well, sort
of the risks --

A Right.

Q -- and the threats. When you say campaigns, what are you referring to?

A So the DNC, the RNC, the actual -- you know, the Biden campaign, the Trump
campaign.

Q But efforts by some mal actor to steal material?

A Correct. So in 2016, the Russians hacked into the DNC and exfiltrated email
and released those emails through various means. And so our -- you know, the concept
there was, okay, it happened before. This is part of the playbook, so we should offer to
those campaigns support if they need it.

So what we would generally do in a one-for-one bipartisan manner -- so if we
briefed the RNC, we briefed the DNC. If we briefed the Trump campaign, we briefed the
Biden campaign, or we’d at least offer it, and offer them an assessment of what we saw
was happening in the world.
Some of those briefings were classified. I never participated in any of the briefings to -- so I'll say that, as far as I can remember, I think I was in one meeting at the RNC with Ronna McDaniel, where we kind of just talked about elections. But, generally, in -- that was the 2018 timeframe.

For 2020, as we ran up, it was typically -- those briefings were typically led by a career official, for purposes of remaining nonpolitical.

Q With the goal being how to help the campaigns or the party committees protect their information from --

A Yes.

Q -- intrusion?

A Yes.

Q Foreign or domestic? Did you have a -- was there --

A I mean, we would generally brief them because of the intelligence community's, you know, purview, on foreign threats. So if we saw something coming from Russia, Iran, you know, China, whatever, it would be -- you know, we would be able to provide that to them to help them understand the risk landscape. But, again, that's because of the information we had available. I don't think there was any domestic technical information that would have -- would have come up.

Q But did you feel that there was some lane of authority there that you had to observe in terms of where that -- the threat of intrusion might come from? So, in other words, if it was a -- if it was a hacker in his parents' basement in New Jersey, is that a threat that you considered part of your mandate to address and brief the campaigns on?

A So break things apart here. So from a threat modeling perspective, you know, based on the available intelligence, those concepts would be primarily driven by foreign actors. It would be, hey, here's what the Russians are doing. And a lot of that
was informed by things that Cyber Command was doing.

So Cyber Command was doing some foreign operations -- this is unclassified -- foreign operations in Ukraine and other Eastern European countries where they could actually observe in those networks. They'd partner with their own country. They'd partner with those countries, and they'd be able to see Russian GRU activity.

And what we'd be able to do is we'd be able to take the techniques that they were using. We'd be able to take the malware that we found or that the -- and then as well as the targeting sets. And whether it was election night reporting or voter registration, package that up and then turn around and share that with -- with our State election -- State and local election officials.

We also partnered with FireEye and other cyber threat intelligence companies to do the same thing. It was like, hey, this is the activity we're seeing. And because they're a private sector organization, there is no domestic Fourth Amendment issues. And so they were able to pull together any sort of information they saw from threat actors, but they don't get too deep into the attribution game. And we'd share that.

So that's from a threat modeling perspective. But from a defensive posture perspective --

Q Yes.

A -- it doesn't matter. Because, frankly, when you see the activity, you don't know. It takes quite some time to figure out who the bad guy is most of the time. And so it wouldn't have mattered for us if it was a domestic or a foreign actor. We provided security advice from all comers to help them defend from any bad actor.

Q So, from your perspective, there was no bright line that you needed to observe, in terms of advising the stakeholders, whether it's local -- State and local officials, campaigns is what we're talking about now, you didn't feel that you needed to
back off if the perceived threat included domestic actors?

A From a cyber perspective, absolutely not. I mean, look, there are criminals
here domestically that would try to hack in. I mean, there were some investigations
that, I understand it, after the 2016 election related to domestic cybercriminals that were
trying to hack into databases and things like that.

So for us it was -- because the techniques aren't going to change all that much.

They use the same tools. And that's -- so it doesn't matter, right?

Q Okay. Let's -- sorry.

A Sorry. And there's a second piece here is that some of the techniques that
were used in 2016 by the Russians, it continues to today for both Russia and China. But
what they do, it's not like they try to come at you from a Russian IP address.

So you can't just say, oh, block all Russian IP space from connecting to your
network, because what they're doing is they're jumping around the global internet, and
they will pop up in domestic hosting providers. And so they'll use virtual private servers
that are domestic based.

Microsoft just did a blog on this, or FireEye -- or Mandiant and Microsoft, where
they would come into an area -- so let's just use -- I'll just randomly pick, say, Georgia,
because that's where I'm from. If they were trying -- if a bad guy is trying to go after a
target, so if a Russian is trying to go after a target in Georgia, what they will do is they'll
come in and they'll compromise hosting infrastructure in Georgia. So when you see the
traffic, it would look like someone that's a customer in the same city or the same town or
whatever. So that's just one of the techniques.

So you can't tell that it's Russia coming in. So, again, our advice was almost
agnostic to the specific actor and, instead, a defend against all threats.

Q Okay. But not just -- and I think I'm just restating what you said earlier.
But you were agnostic not just because the Russians might be posing as a Georgian in the
State of Georgia, but because there might be someone who actually is an American
citizen within the State of Georgia could be doing the same sorts of things that you’re
worried about?

A  So yes.  And this is not specific to election infrastructure.  This is all critical
infrastructure, right?  So when we work with chemical facilities -- and there’s a
significant chemical security effort at CISA -- we would not just be worried about al-Qaida;
we would be worried about a domestic actor coming in and stealing chemicals that could
be used for nefarious purposes.  So, again, the month -- or the threat actor focus of CISA
is all hazards.

Q  Got it.

A  It is man-made, foreign, and domestic.  It is natural disaster.  It is
technology-driven.

Q  Okay.  Let me get to the third prong of the -- what I think you were
describing as the Russian campaign in 2016.  And I think -- does it also track sort of the
third prong of what you were focused on --

A  Yes.

Q  -- from an election security standpoint?

A  Yes.

Q  And what’s that?

A  So the third prong is just this broader disinformation campaign that in 2016
had -- there was an election-related disinfo piece, but there was also a much
broader -- there continues to be a much broader effort by Russian influence actors to
destabilize the U.S., to undermine confidence in the American people in their leadership.

And so, you know, one of those kind of not related to election issues would be,
you know, they were involved in promoting both Black Lives Matter -- Black Lives Matter and anti-Black Lives Matter protests and counterprotests. They boosted some of the Kaepernick Nike take a knee sort of stuff.

But specific to elections, there was also the -- there was also the disinformation related to, you know, things that were going on. So Tennessee GOP was a Twitter handle, the Ten_GOP was a Twitter handle that the Internet Research Agency based out of St. Petersburg used to promote election disinformation in '16.

So, to step back, we assess that, based on '16, they would continue to use these techniques, and they did. And so as a Federal Government, this is where things are a little bit looser, because disinformation is, I think, generally a more nascent national security risk, that there is not a, for instance, a national security strategy for countering disinformation.

In fact, this is a recommendation that I championed in the Aspen Commission on Information Disorder, that the Federal Government needs a whole-of-government strategy to understand the threat of disinformation, misinformation, and malinformation to the United States.

And so there is no broad countering disinformation strategy. Instead, the way we looked at it -- and this was coordinated through the National Security Council. But the way we looked at it was to break up disinformation threats into a supply and demand sort of approach.

And so on the supply side, again, from an unclassified perspective, you would have the intelligence community, the FBI, that would be looking to understand who the threat actors were. So if it’s the Internet Research Agency coming out of St. Petersburg, they would be able to then identify the accounts, not the content. It’s all content neutral. They’d be able to identify the accounts and then say, hey, we can tie this back to a
disinformation operator that works for the IRA. Hey, Facebook, Twitter, whomever, you

guys -- you ought to go check this out and investigate it.

And so that would then lead to an internal Facebook investigation and that they
could, you know, expose a coordinated unauthentic behavior campaign. So that's
disrupting the supply side.

On the demand side, where CISA sat -- and this is, in part, based on a broader set
of authorities related to the Department of Homeland Security, as I understood them and
as I was counseled consistently and constantly throughout the process, but we had an
awareness and education mission. And so that's the demand side. So, you know,
seeking to help kind of stabilize or diminish demand for disinformation.

So that's what led to, in 2019, the release of the -- the War on Pineapple
campaign, which was -- it was about July, I think, of 2019, where the idea here was we
would educate, based on our understanding of how foreign influence actors worked.
We would help educate the American people in a kind of a noncontroversial way.

So we broke the foreign influence operators' techniques into five steps. First is
identify the issue. And I can send you the graphics, the infographics. First is identify
the issue.

Second is get your accounts into place. So whether it’s Twitter or Facebook.

Sometimes the seasoning of those accounts can take a few months or even a couple
years. You saw in '16 that they had had some Twitter accounts they had been using or
had ready to go for like 5 or 6 years. So, again, the second is you get your accounts into
place.

Third is you start boosting the issue that you want to push. Typically, that
happens on social media platforms and Facebook groups and things like that.

Fourth is you take it mainstream. That’s where you want to take it out of the
social media platform into mainstream news and getting it to land on FOX News or
MSNBC or whatever your target audience is.

And then fifth is you actually take it to the real world.

And in '16, we saw them jump from Facebook groups into FOX and others. And then you actually had real life protests and counterprotests and trying to get the conflict. And, in part, that's what happened with January 6th, right?

Q Well, we're going to get there for sure.

A Yeah.

Q You called it the War on Pineapple campaign. Where does that title come from?

A So, again, the concept here was that we wanted to have an issue that was noncontroversial and understanding that there was a lot of national -- you know, anything Russia could immediately set off potentially half your audience. So we tried to pick something that didn't have any political connotations.

And so the Election Security Initiative team, again, Matt Masterson and a few others, were -- you know, they got everything scoped out and they just had to figure out what the issue was to -- that we would mock up. They went to lunch, had -- they were trying to figure out what's a binary issue. It's like, you know, do you like salt and vinegar chips or something like that. What they actually came down to is whether you like Hawaiian pizza or not, and like it's a very clear-cut --

Q Yes.

A It's like you either love it or you hate it. And he is from New York, so he probably hates it. Yeah.

So what we did was that was kind of the -- you know, it's light, it's fun, it's engaging. And so that was the point of the public awareness campaign. We released
that in, like I said, June or July or so of '19. And then we actually pushed a Twitter -- fake Twitter war. And we got National Association of Secretaries of State and the National Association of State Election Directors to take opposite sides. One side liked it, the other side didn't. So we pushed it. It caught on.

And so to the point now where any time anything happens on Twitter where pineapple, you know, Hawaiian pizza, pineapple and pizza is an issue, I get tagged. And so, you know, it happens at least once or twice a week. So it worked, right? We raised awareness at least that pineapple on pizza is gross.

But to get back to the broader point here, our mission here in the misinformation space was to provide information on how misinformation operations work, but also as certain themes would emerge related to election misinformation, we would work with a range of partners, whether it's at the State level, the Federal level, with the EAC, with the Postal Service, with DOD, to provide authoritative information on what happened.

So I'll give you an example. 2020, October 22nd and 23rd, a series of emails start popping up in people's email in-boxes throughout Florida and elsewhere. The emails claim to be from the Proud Boys, and they are saying, hey -- and they tend to be targeting Democrats and -- registered Democrats at least. And so the claims say, hey, we know you're a registered Democrat. You have to change your registration and vote for Trump. If you don't, we're going to come after you and we'll know who you voted for.

And so we saw these coming in. And we -- you know, the way we would address -- deal with this, with any of these themes or claims is we would just systematically reverse engineer the claim.

So the claim here is that we will know who you voted for. So it's the law of the land in all 50 States of a secret ballot. That's kind of the magic of American elections. And so that was the hook for us, to say, these sorts of emails are coming out. The -- it's
actually untrue that anyone would ever know who you voted for unless you tell them.

There's a secret ballot. So disregard, this is disinfo.

And that was the crux of rumor control, which we launched that Monday or
tuesday of the week of 21, 22, whatever it was, October.

Q Can I stop you there for one second?

A  Yep.

Q Because I know a little bit more about where this story goes, but I want to

pause on this piece of it for a minute.

The threat is a -- it's what you would describe as an influence campaign? This

isn't a physical intrusion into any hardware?

A  Yes, right.

Q  It's an effort to influence voters for some -- someone has an objective here.

They want voters to think a certain thing.

A  So influence is kind of --

Mr. Walden.  I'm sorry, hold on.  What's the question?

BY [Redacted]

Q  Is that how you would characterize this, as an influence operation?

A  Yes. That is an influence operation. I think the -- that's more of a

technical term that lacks the specificity of the objective. The objective here was to

intimidate, intimidate voters, scare voters from voting.

Q  Okay. And, initially, you don't know who's behind this, correct? When

you first learn of these emails, you don't know who's behind these emails? They're

ostensibly from the Proud Boys, right?

A  They're ostensibly from the Proud Boys. We need to walk carefully here.

Q  Okay, understood. But they're ostensibly from the Proud Boys?
A Yes.

Q And you felt that this was something that fit into your mandate, in terms of educating the public and addressing potential influence operations?

A Not only did it fit squarely in our mandate, but it was signed off, not just by DHS leadership, but also White House.

Q Because we've heard from former DHS leadership that there was sort of a jurisdictional issue here, in that CISA or DHS was supposed to be focused on foreign interference and internet issues, foreign influence or internet issues. Is that your understanding?

A Foreign -- so explain foreign influence in this.

Q Well, if there were an influence operation, for example, by a foreign government, the Russians, say, that would be within CISA's mandate.

A Okay.

Q But a domestic actor doing the same sort of thing, like the Proud Boys, for example, would not be within CISA's jurisdiction. Do you agree with that assessment?

A I do not agree with that assessment.

Q And at the time that this Proud Boys -- these Proud Boys emails came up in the fall of 2020, you said that you had sort of -- you were in alignment with DHS leadership and the White House on addressing this false information that was being spread in Florida or elsewhere.

A Absolutely. In fact, we were lauded for our rumor control work that week by White House leadership, including the chief of staff and the National Security Advisor.

Q Now, I don't want you to get into certainly any classified information, but I do think you've spoken publicly or it was disclosed that it turns out it was a foreign actor involved with the Proud Boys emails.
It was Iran. Yes. And we went from first discovery of that email 11 a.m., noonish maybe, when reports came out on Tuesday to standing in FBI headquarters that evening, Wednesday evening about 7 p.m., attributing that attack to Iranian -- that influence operation to Iranian actors. And I was there in that press briefing.

Let me pause here. I don’t see that we have any members on.

or do you have any questions?

I don’t, no.

[Krebs Exhibit No. 1
Was marked for identification.]

BY

Q  Let’s take a look at exhibit 1 in your binder, which is -- these are prepared remarks, testimony that you gave before the Homeland Security and Government Affairs Committee of the U.S. Senate in December of 2020. You’ve obviously seen this document before?

A  I may have written it, yes.

Q  Okay. And did you have a chance to review it again before today?

A  Yes, I’ve reviewed this several times.

Q  So I want to ask you about a couple of points that you make in here.

A  Okay.

Q  And the first one is on this issue of sort of the -- I'm sorry.

Mr. Luce. I have a copy here.

BY

Q  Some of the issues that are raised by these foreign influence campaigns in particular. And on page 2, under "The Initial Challenge," the paragraph says "Initial Challenge," you say in the second sentence referring to interference campaigns by the
Russian Federation, that: "Whatever their other motivations, these Russian campaigns
sought to create chaos and division among Americans, implant disinformation, sow the
seeds of distrust in democratic institutions, and, in this way, degrade America’s standing
abroad."

A    Uh-huh.

Q    Can you talk a little bit about how you came to those conclusions that that's
what they were trying to do -- or the Russians were trying to do in 2016?

A    That is just the broader strategic objective of the Kremlin. And
disinformation operation is not specific to necessarily just the 2016 election, but that's
just their strategic approach. And this is not my -- necessarily just my opinion. This is
the prevailing, I think, academic and, you know, kind of Russia head approach, and it's
informed by, you know, folks like Thomas Rid, who's a professor at Johns Hopkins.

But that is -- that is the -- kind of the asymmetric strategy that they're pursuing.
They have entire units of the GRU that seek to operate in their, you know, European orbit
to conduct assassinations and things like that, again, to just destabilize the Western-level
democratic order.

Q    And specifically with respect to election issues, were you concerned and did
you view it as your role to try to combat those types of disinformation campaigns for the
reasons that you've listed here in the paragraph that we're looking at; that is, to make
sure that an actor was not able to create chaos and division among Americans, sow the
seeds of distrust in democratic institutions and so forth?

Do you need me to repeat that?

A    No. So the answer is yes, that is -- that was part of the integrated
coordinated response to Russian efforts, where there were parts of the Federal
Government that would more directly take on the activities. But under the assumption
that we would not be able to necessarily catch everything and prevent it from happening, there had to be kind of a resilience measure. And that was our role, was to help explain how these things happen and prepare the American people, inoculate, so to speak, from these sorts of attacks.

Q  I'm interested in hearing your perspective on why you think that's important, why the American public needs to be inoculated, and what the stakes were here with respect -- if they weren't.

A  We're in a broader -- okay, so this kind of -- let's step back here again and talk about things like the Aspen Commission on Information Disorder that I co-chair. The challenge is we're in the midst of an information disorder where they're -- misinformation, misinformation, malinformation is flying, due to technology, the prevalence of technology, social media, online, you know, enabled communications techniques, unlike ever before. It's the velocity of information that's happening, and it's being weaponized by all sorts of actors, you know, foreign actors, domestic actors, grifters, those that continue to, you know, seek dominion over others.

And so the point here is that we understood that the -- that the Russians primarily were -- but others were doing it too -- were seeking to destabilize the United States by undercutting the public's confidence in, not just the national security apparatus and the government writ large, but just destabilize or undermine whatever truth is.

And so part of our mission was, when we understood a national security risk that was impacting the United States, it was within the authorities, as we understood it, particularly when it came to critical infrastructure-related issues, like election security, we had a mission and the authorities to engage and provide explanatory and authoritative information to counter, to inoculate, to rebut any of these election-related disinformation claims.
[11:04 a.m.]

Q    And do you feel that that understanding or --

A    So let me -- I want to add one more piece here, again, to explain why this is not just election security, this is also about critical infrastructure protection.

So, in 2020, in probably about April, FEMA actually set up a rumor control site that we contributed content to. There were critical infrastructure -- telecommunications is critical infrastructure, right? Telephones, internet service providers, anything that allows you to communicate. There were claims, disinformation claims, being associated that COVID was being spread by 5G and 5G towers.

It's critical infrastructure. It's disinformation. We worked with scientists and telecommunications experts to provide authoritative information to FEMA that they could then put on their rumor control site that, as far as I know, is still there today on why, scientifically and technologically, that is not possible.

So that is a -- again, it goes to the broader critical infrastructure mission of the Department. Election infrastructure is critical infrastructure. And, as specific election-security-related disinformation claims came up, we felt it was important to provide, again, authoritative information to rebut some of the claims.

Q    Okay.

Can I jump in and just ask -- I appreciate, Mr. Krebs, that the Department did and does a lot to counter disinformation by calling it out, identifying it, providing a counter-narrative.

Are there legal authorities consistent with the First Amendment that the
government, DHS or otherwise, uses to shut down, stifle, prevent the dissemination of misinformation? There are two ways to sort of --

A  Right.

Q  -- combat this. You can either counter the misinformation with more speech, or you can try to shut down the misinformation. Tell me a little bit about the --

A  I can only speak to what I was involved with at CISA --

Q  Yeah.

A  -- but we certainly, as far as I'm aware, took no actions as a government actor to censor, to --

Q  Yep.

A  -- to stop any speech.

Q  You're exactly anticipating my question. There is no authority for the government to censor, to stifle, to prevent foreign or any actors from disseminating this kind of blatantly incorrect misinformation.

A  We -- again, our --

Mr. Walden. I'm sorry. I just want to make sure, because we have a record here, your question is, does he know of any legal authority --

[Redacted] Yeah.

Mr. Walden. -- to shut it down? Okay.

[Redacted] Legal authority or action to do so.

Mr. Walden. Okay.

Mr. Krebs. I am not aware of any action CISA took to shut down speech --

[Redacted]

Q  Right.

A  -- right? -- any direct action we took.
There were circumstances where we connected State officials in the 2018 election, State of Ohio, connected State officials with social media platforms --

Q    Uh-huh.

A    -- so that, if the State official said, hey, there's a video about a -- there's a video on whatever social media platform that seems to show a vote being flipped, we'd like to talk to Facebook or Twitter, whatever -- I can't remember the platform -- about that and share our perspective and our facts on what's happening in the video, we connected them. We had, beyond that, no activity.

Q    Yeah. So the purpose of a conversation like that would be so that the platform could potentially flag, deplatform, or restrict the --

A    Do whatever, right.

Q    Do whatever --

A    Yes.

Q    -- its terms and conditions of --

A    With their terms of services, right?

Q    Exactly.

A    Yes.

Q    Okay.

A    But, again, the Federal Government was not taking direct action --

Q    Yeah, I understand.

A    -- other than connecting parties.

Q    I just want to sort of understand what the various levels are that we, collectively, we, the U.S. Government --

A    Yeah.

Q    -- have to combat this.
A So there are other levers that other -- you know, again, I'm not speaking as a source of authority here, but, based on my understanding of the research, there are other agencies that may have fraud-related -- you know, FTC took action against --

Q Yeah.

A -- some of the pandemic grifters for, you know, alternative therapies early in COVID. But, again, from a CISA perspective, you know, there are no affirmative authorities that we have that we could proactively use.

Q Okay. That's it. Thank you.

Sorry to interrupt.

No. No problem.

Q You reference in this document, exhibit 1, several times taking measures to protect the public's confidence in the election system in this country. Do you understand that to be or did you understand that to be one of the missions of CISA?

A Restate the question, please.

Q Did you understand one of the missions of CISA to be to promote and protect the public's confidence in the elections in this country?

A I believe that is a byproduct of our mission, and the mission being providing authoritative information on the security of elections to the general public.

Q And "mission" probably is the wrong use of words there. Was that a goal, though, of --

A Yes, that was a goal.

Q -- your group? The goal being to bolster and protect the public's confidence in our elections?

A Understanding that there were adversaries that could target or that could
seek to undermine confidence in our elections, we then sought, as a goal, to boost
confidence in the American public's -- of the American public in our elections.

Q   And do you think that goal was controversial within the CISA agency or the
Department of Homeland Security during the time you were there?
A   Within CISA? Not that I -- not that I'm necessarily aware.
Q   How about in the Department?
A   Not that I recall. I mean --
Q   Let me ask you another way.
A   Yeah.
Q   Did anyone from Department of Homeland Security ever tell you that
combating misinformation or seeking to boost the public's confidence in the election
system was inappropriate or outside your --
A   Those are two different things, what you just said.
Q   Okay.
A   Right?
Q   Yes.
A   Countering misinformation and boosting the American public's confidence.
Q   Okay.
A   So, on the boosting Americans' confidence in the elections, absolutely not.
Q   Okay.
A   That was never a question. In fact, on election day, I had Chad Wolf at
DHS -- or at CISA headquarters talking to the American public. We had TV cameras
there, and he said that it was a secure election -- going to be a secure election, right?
So, you know, it wasn't just me. That was the nominee for the Secretary of
Homeland Security. Kirstjen Nielsen, actually confirmed Secretary of Homeland
Security, same thing. Kevin McAleenan, Acting, same thing.

So, you know, as far as I'm concerned, on the maintaining the confidence of the American people in the election, that is part and parcel of the mission, right?

Q: Now, you broke out the combating misinformation. So tell me about why that might be different.

A: So, again, combating mis- and disinformation is a nascent area within the national security community. There are no, you know, clear national security strategies around this. I think it's the -- I greatly respected and valued my advice from my chief counsel and the DHS general counsel team. They were very clear on what was in play and out of play. But I thought it was -- given how we understood the threats would likely materialize, it became increasingly important, even probably more so than just countering the technical threats, that the perception hacks, as they've been called, the disinformation campaigns, would likely be the greatest threat to the 2020 election.

And, you know, this is not just about people on, you know, Twitter and Facebook and whatever making false claims or whatever, but this was actually, as we, you know, came to believe that it would be the -- sorry. It would actually be part of the techniques used by, like, the Iranian actors, that they had, in fact, manipulated -- claimed that they had manipulated the election when, in fact, they had not. But it would be their tactics, because it's hard to rebut. It's hard to disprove a negative.

And so that was part of establishing, here are the security -- we never said, "No, you didn't." We said, "Here are the security controls in place that would protect the electoral process before, during, and after an election that would basically invalidate and obviate any claims that they may make." And I have plenty of examples we can talk about there.

Q: Uh-huh. Okay.
You talked a little bit about -- I'm going to switch gears a little bit here. And I might get to some of those examples in a minute.

A  I'd love to talk about those examples.

Q  Actually, why don't you --

A  All right.

Q  -- tell me about them now.

A  Here we go.

Mr. Walden.  How many days do we have?

Mr. Krebs.  Jim -- I've talked about this. We've talked about this. All right.

So I think the biggest example here was, as I was in the seat at CISA, right, Hammer Scorecard. So it's a claim that was repeated by some of the former President's attorneys. Whether they were attorneys or not is unclear.

But, nonetheless, Hammer Scorecard -- Hammer is the CIA software that -- and then Scorecard was the supercomputer -- supercomputer -- flip it around, whatever -- that was developed by the CIA allegedly to manipulate elections of foreign countries. The claim was that Hammer Scorecard had been flipped around and was being used here in the United States to attack election tabulators.

And so our response here was, again, reverse-engineering the claim. So what's the claim? The claim is that someone's using a software program to change tabulation of the votes. Okay. So --

Q  Stop for 1 second. When did that claim first arise in the context of the 2020 election? I think it might go back before then.

A  I would have to go -- oh, yeah, it does, but I'd have to go back and look -- I mean, honestly, I'd have to go back and look at my Twitter feed, but October, sometime late October.
Q  Before the election. That's --
A  I believe so, but, you know, I don't want to say definitively here.
Q  Okay.
A  It could've been right around -- it was right about that time in November 3rd, but maybe slightly earlier.

So, again -- so, okay, if the claim is that a bad guy comes in and adjusts the tabulation, what is the material impact on an election that has robust safeguards before, during, and after the election?

That ultimately is where we got to the point about paper being important.

Because if you have a paper record of how we all voted in this room and that is virtually immutable as it moves through the process, it doesn't matter if there was a computer that at some point counted all those things and then changed the outcome, because you're also conducting audits on the other side.

So technology is used in elections to increase the accuracy and the efficiency of the process, right? That said, election officials recognize -- this is a concept known as software independence -- that you cannot have a computer or piece of software as a single point of failure through the process.

And that's why in Georgia it was so critical that they did, in fact, move from the DREs to a ballot-marking device that had a paper record. Because even if Hammer Scorecard was correct and the first count of the votes was manipulated by a dead Venezuelan dictator, as was claimed, the subsequent counting of the hard copies, the paper ballots, showed consistency.

That software program could not have actually changed the physical paper ballot. It could only change the digital tabulation. The recounts proved it did not, though.

And so our point was: Okay, this is the claim, this is what's circulating. Here, in
fact, though, are the security controls and the resilience measures in place.

And that is essentially how rumor control worked. We would identify the issue or the theme that's being claimed, unpack it, reverse-engineer it, and then actually provide -- not just say, "And, hey, listen to CISA," but "listen to these experts," the national -- you know, the actual State laws, the Federal laws, whatever that is in place, the best practice, on how that could not actually change the outcome of an election.

Q Okay.

Is there another example you want to share?

A Sharpiegate. So Sharpiegate is another example in Arizona where there were claims that Sharpies were being intentionally passed out in certain voting locations, and they would bleed through the ballot and bleed through and fill in a bubble or be read as to fill in a bubble on the other side of the ballot if they're double-sided.

And, in fact, what -- so, first off, you know, what we would do there, we'd see that, we'd see that it kind of makes national news or it circulates nationally, so we'd contact our -- we either had our on-the-ground people or we would just work with the secretaries of state offices. In that case, it was Katie Hobbs and her team. So this is the team Matt Masterson would lead.

And he'd go talk to Katie and Katie's team and be like, hey, what's going on here? She would say, well, here's the claim, and here's the actual -- the technical specifications that we have here. And, no, a Sharpie cannot bleed through -- first off, Sharpies are approved and have been tested for efficacy. But the second piece here is that, when you look at the ballots, there is actually nothing on the other side. The way the ballots were designed was that, even if it bled through, there was no scannable field on the other side of the bleedthrough. So they were actually offset.

And so, again, that's the sort of information we can provide out and, again,
circulate out to the American public.

Q    And was the -- again, I'm covering something that we've already talked a little bit about. But, on that specific instance, no allegation of a foreign actor involved in the distribution of Sharpies, right?

A    Not that I recall.

Q    Was there an allegation or a concern that foreign actors were spreading the Sharpiegate --

A    Yes.

Q    -- claim?

A    Absolutely.

Q    And is that what you felt gave you the authority to respond in terms of rumor control?

A    I don't think we need -- I don't think we needed that assessment, no. I mean, it was disinformation being, you know, associated with an election, with election infrastructure, with election systems, and, you know, that, in and of itself, election-infrastructure-related disinformation, was sufficient to engage.

Q    So you didn't perceive that as a State issue that was outside the jurisdiction of CISA, to try and address a false rumor about Sharpies?

A    I think it certainly was a State issue, but, you know, it circulates much broader than just Arizona, you know, the way the internet works, right? It's not confined just to the State. It was, at that point, a national issue.

Q    We've heard from DHS leadership, former leadership, that an allegation that's sort of handled by the States would be outside the lane of CISA and, in fact, you were going outside your lane by addressing issues such as Sharpiegate or other issues regarding misinformation regarding the 2020 election.
A  Certainly never told by anyone at DHS leadership that we were going outside
our lane that I recall.

Q  Other -- I don't want to cut you off on other examples regarding rumor
control or misinformation.

A  Oh, we talked about -- you know, we talked about the Hammer Scorecard,
we talked about Sharpiegate, I mean, we talked about secret ballots.

   You know, a lot of the times -- you know, while there were cases where rumor
control was specifically to emerging claims, we had also done a significant amount of,
kind of, scenario development and threat modeling, so we had a prepopulated set of
rumor control entries prior to the election. And we'd actually send them up: You
know, here's what you might expect to hear prior to the election, here's what you'll hear
on election day, and here's what you'll hear after the election. But, as specific claims
came up, we were able to drop in and update new ones.

Q  So, for example, I think you had a rumor control topic on dead people voting
and how that is not a thing and wouldn't be something that could move an election.

A  I don't think that's how we characterized the response. I think --

Q  That was a gross oversimplification of what was there.

A  So, as we -- yes, there were claims about dead people voting that came
through. And, again, we don't move to disavow and say, that's not a thing, it doesn't
happen. The disinformation or the rumor control entry -- and this was coordinated with
State officials -- was, here are the security controls that are in use to identify dead people
and remove them from the voter rolls. And, you know, it's including coordination with
Social Security Office and, you know, the filing of the notice of a death and things like
that.

Q  Likewise, I think there was a rumor control topic on changes in reported
unofficial results in the days and weeks following the election, sort of warning people that
that might be something that they would see and that they shouldn’t be -- they shouldn’t
take too much from that. Again, I’m mischaracterizing --

A  No, this is --

Q  -- a lot of the information that went into the rumor control, but was that a
topic for you guys?

A  Yeah, we had --

Mr. Walden.  Yeah, I’m sorry. I’m getting a little bit lost, so I apologize for this.

Maybe it’s just me. But it seems to me that you’re asking about two different things,
and I want to make sure you’re that --

Mr. Krebs.  Okay.

Mr. Walden.  -- you’re answering the right way -- the correct way.

One is whether or not the risk assessment for the issue was within his mandate.
The other one was whether the rumor control about the issue was within his mandate.

Do I understand your question correctly, or am I misunderstanding --

Yeah. Sorry. It was probably a bad question. I’d sort of moved
off the mandate issue. Mr. Krebs was going through some examples and sort of racking
his brain, I felt, looking for them, and I’m giving him some -- I’m trying to jog his
memory --

Mr. Walden.  Yeah.

-- on things that I’d seen on the rumor control website.

Mr. Walden.  Right. But examples of things that CISA actually dealt with from a
rumor control perspective is what --

Yes.

Mr. Walden.  Okay.
Q. And is that true? Are these things that were dealt with, the things that I'm mentioning?

A. To the best of my recollection.

Q. Okay.

Okay. Let me -- you've talked a lot about, sort of, your relationship with State and local election officials. Was that an important part of CISA's work, to coordinate, facilitate, assist State election officials in running their elections?

A. To assist in securing their elections, to helping them conduct elections in a secure manner, providing them security advice, technical cybersecurity assistance, training, education, communications, support.

Q. You talked earlier about the infrastructure and protecting that. How did you work with State officials to make sure that their -- to help them ensure that their equipment was safe and secure?

A. We had a number of different offerings that we had. There's an entire catalog. There's an election security catalog. It's not in here because it's thick. But we would go out and conduct things like security and vulnerability assessments. We could do red team. We could do fairly in-depth assessments of voter registration database configurations.

We had a, what's known as cyber hygiene scan that they would sign up for and we'd do a regular scan to see if anything touching the internet was mis-- well, not misconfigured, but running an old vulnerable version.

We developed in the summer before the election a product called -- or tool called Crossfeed, which was a little bit more in-depth of assessing vulnerabilities of systems and websites that are touching the internet. And then we would provide them reports and
technical assistance on how they might secure things.

And, you know, as they received money, we worked, through Federal grant
dollars, Help America Vote Act, we worked with the sector and government coordinating
councils to provide grant guidance on, you know, things they may want to invest in. And
that included things like hiring cybersecurity navigators, cyber navigators, that they could
put on staff and, you know, provide more technical -- you know, actual their
headcount -- cybersecurity technical advice.

Q    Did all 50 States and the District of Columbia participate or coordinate with

you and work with you on infrastructure security?

A    All 50 States participated in some way, some fashion. And it’s typically

through the election infrastructure ISAC in all 50 States. We had thousands of

jurisdictions -- counties, cities, things like that.

In terms of, did all 50 States take a security capability? No. But that’s not
dispositive, right? States have different investment levels. They have different organic
capabilities. They have different requirements. Some States, you know, didn’t see a
need to, because they actually didn’t have a lot of electronic or a lot of computer
infrastructure. They were fairly analogue or fairly remedial. And I think New
Hampshire is probably a good example of that.

Other States took every single service we offered, down to mandating it at the
State level all the way down to the county level. So Ohio, for instance, required every
single State to take a -- not just sign up for cyber hygiene but also participate in
a -- effectively it’s a red team assessment. I can’t remember what it’s called at this
point.

Mr. Walden. I think you said State. You meant county, right?

Mr. Krebs. I’m sorry. At the county level. Every single county had to sign up,
not just for cyber hygiene but also down to the red team level.

Q  Okay.  What I'm trying to get to is whether you were able, based on the
work that you did with the States and the hygiene testing and otherwise, form any
conclusions, heading into the 2020 election, as to the States' preparedness from an
infrastructure security standpoint?

A  So our assessment of the security posture of elections was that, to the
extent that we could get as many States, counties, jurisdictions, whatever you want to call
them, on paper, voter verifiable paper audit trails, that was ultimately the most resilient
posture that we could have, so that any sort of technical interference would be
moot -- mooted by, again, the immutable, auditable record of the paper ballots.

And --

Q  Sorry.  I didn't want to cut you off.

A  So that was the -- that was one of the most significant pushes, was
courage and get them the resources necessary to make that switch.

Q  Understood.

A  Yeah.

Q  Were you also able to form any assessment of where the States stood in
terms of security against a direct hack, for example?

Mr. Walden.  So, I'm sorry, you're asking a very broad question.  I just want to
make sure that I'm clear so that he's clear.  You're asking him for his opinion about all
the States, not whether there's a particular State that's an outlier or there were particular
States that were vulnerable?

Fair question.

What I'm trying to get a sense of is whether you had the ability to make an
assessments --

Mr. Krebs. Right.

Mr. Krebs. -- regarding all the States. I'm not looking for the assessment yet, but --

Mr. Krebs. Right.

Mr. Krebs. -- I can envision the answer that, well, you know, we never really got into New Hampshire, so I can't tell you about New Hampshire.

But, you know, were you able to form impressions -- yeah, go ahead, John.

Mr. Luce. I guess one thing I was trying to understand is if you're asking, like, if the Department established that or if you're asking, like, for his personal assessment.

At some points, it's getting a little bit confusing as to whether you're asking, like, his opinion, like, almost like an expert-type opinion on something, or whether we're getting to, like, what the Department knew or thought at the time.

So I just wanted to make that point and try and clarify for the record where we are.

Great. Thank you, John. I will try and clarify that.

BY

Q It appears from your prior answer that -- or answers -- that it was critical, from CISA's perspective, to try and move as many of the jurisdictions as possible to paper ballots for all the reasons that you've said.

A Uh-huh.

Q Am I right on that?

A That was -- yes.

Q Okay.

I know it was also, based on your answers earlier, a goal of CISA to assist States in
ensuring that their -- not just States, but the jurisdictions -- that their equipment was safe
and secure, right?

A    Right.

Q    And you talked about hygiene tests and other opportunities that you
presented to these various jurisdictions they could avail themselves of or not to sort of
test the equipment and make sure that they were as secure as they could be from an
infrastructure standpoint, correct?

A    So, to step back, our job here was to build relationships with State and local
election officials who were, under the Constitution, as delegated by their State
legislatures, responsible for administering elections. We were there to help them do so
in a secure way.

So we'd build the relationship; we'd provide the resources that they need,
understanding that they have other resources. A lot of other States, counties, had, for
instance, FireEye and CrowdStrike and other things like that. If we determined or they
asked, "Hey, we don't have this capability," we could provide that.

Now, am I going to say right now that I have a full understanding of all 50 States
and whether they were an A or a B or a C or an F? No. That's not -- you know, I don't
have that understanding right now today.

So, all of that said, we also -- we're in the risk management business. So
100 percent security was never the objective here. The objective was a resilient election
so that, even if a technical attack by the Russians, by the Iranians, was successful and they
could infiltrate a voter registration database or whatever, it wouldn't matter, because,
again, the security safeguards in place would protect the integrity of the vote, the ballot,
all the way through the certification process. We had the utmost confidence in that
workflow.
Understood. I'm going to --

I know -- all right.

-- go a little more -- I'm going to push you a little more just to see if I can get
an estimate from you on this. But what I'm interested in understanding is, from a CISA
perspective, not Chris Krebs as an individual, whether your level of penetration, level of
cooperation, from the various jurisdictions with respect to this, these testing measures
that you offered, sort of how broad that reach was, to the point where you could say, for
example, in 50 percent -- I'd say, you know, in half the States in the country, you know,
we worked with them and we're pretty confident, based on the work that we did, that
their systems were not impervious but pretty secure against a direct hack, but a lot of the
States didn't avail themselves of that, so I don't have visibility.

I mean, that's the kind of assessment I'm trying to get in terms of what CISA's
visibility was or confidence level with respect to the security of the infrastructure in these
States.

Yeah. And I don't want --

And if this is impossible, then just tell me, and I'll move on.

Yeah, I don't want to be a stick in the mud here, but maybe it'd be
a good time to take a little bit of a break. Are you talking about while he was there
before the 2020 election?

Yes.

Okay.

Do you want to take a break? We can. Talk about it?

Yeah, why don't you let us talk about it.

That's fine.

Okay.
That's fine.

Mr. Walden. By the way, is there any place around here that has coffee, like, immediate to this room?

There's a place in the basement.

Mr. Walden. Oh, no, no.

But it's not --

Mr. Walden. It's not, like, there.

No, unfortunately.

, can you click this over there --

Yeah.

-- if you remember how to do that?

Okay. We're going to go off the record now.

[Recess.]

Okay. We're back on the record with Mr. Krebs.

Q So, Mr. Krebs, we've talked a lot about efforts made by the Department, or the Agency -- excuse me -- heading into the 2020 election. I want to talk a little bit now about your perceptions and understanding of how things went from a security standpoint with respect to the 2020 election.

Do you -- let me ask this way. We've talked about the various measures that CISA took and the work it did with State and local election officials in attempting to secure the election. Do you have a view as to whether your efforts were successful in terms of preventing cyber intrusion in connection with the 2020 election?

A So I believe three things. First is that we improved the security of the systems across the country in general, through providing technical assistance and
services, tools, education, and awareness. So that's point one.

Point two is, I think we, more importantly, helped to improve the resilience of the system where, even if there was a successful attack, that it would've not fundamentally had an impact. Paper, again, resilience, the systems, that was the ultimate objective there.

And I think, third, and probably, you know, most significantly as we came around to understand, is that I don't ultimately believe that it was the objective of any adversary to change a single vote in the election. I think their objectives were more to sow chaos and undermine confidence in the process.

Q  Are you able to form any conclusions as to whether there was a cyber intrusion in connection with the 2020 election?

A  Yes. In fact, we released alerts on these things throughout. There were both Russian and Iranian actors that were able to gain access to election-adjacent systems. The Iranians, in one case, I think, had access to a voter registration database. But we're not aware of any instance where they were in a system that would've been directly connected or, you know, involved in casting, counting, certifying of votes.

Q  You're speaking specifically of the Russians in that last answer?

A  Both. Anyone, any actor --

Q  Okay.

A  -- that would've been able to change a vote or change the tabulation of a vote.

And there are CISA and FBI alerts on both Russian and Iranian actors. I think those are sequentially dated, like, the 27th and 28th of October, something like that.

Q  And with the Russians, I think the public information was that they gained access to voting records or some sort of voting registration records?
A The -- again, this is over a year -- they had access in a county in the Midwest and a county on the Pacific Coast, at a county level, in a voting office, but it was effectively derivative work product. So I would think about it more along the lines of, they had access to a merge mail file for voter -- it effectively would be like sending a voter postcard, like, "Remember, here's your voting location," that sort of thing.

Q And had there been public reporting of some sort of intrusion by the Iranians before the election?

A That was associated with the Proud Boys campaign. I would think about this less of a single action, of a set of emails, but more of a coordinated campaign. You know, I'd point you again to the joint CISA-FBI alert that talked about how they had access into a State level -- again, I'd have to go back and look at the alert of exactly what the system it was. But, again, it had nothing to do with the actual process of casting, counting, or certifying the vote.

Q Have you seen any evidence of cyber interference along the lines of casting, counting the votes, with respect to the 2020 election?

A No.

Q Have you heard any reputable scientist or electronic voting expert conclude that there was cyber interference or manipulation of votes with respect to the casting or counting of votes in the 2020 election?

A No.

Q In your binder, at exhibit 2, there's a November 16, 2020, statement --

A Yes.

Q -- signed by 59 -- not signed but sort of electronically or listed as having been signed by 59 different specialists in election security.

Have you seen this document before?
A I have.
Q Okay. Do you know some of the people who are listed on the second and third pages of this document?
A I do. I know a number of them.
Q Okay. And is your understanding that these are, indeed, experts in the area of election security?
A These are the experts in election security and computer security in the United States.
Q Did you see this statement at the time that it was issued?
A I did.
Q Is there anything in it that you disagree with?
A Nothing at all.
Q Did you play any part in the preparation of this document?
A Preparation, no.
Q How about distribution?
A I tweeted about it.
Q Okay.
A In fact, I quoted a line.
Q Do you remember what line that was?
A Yes. I think the tweet was something along the lines of, you know: election security experts all agree, in every case of which we are aware, these claims either have been unsubstantiated or technically incoherent.

Mr. Walden. The first page in the fifth paragraph.

Mr. Krebs. Yeah. Sorry. Halfway through. Starts with "however."

BY
Q: Got it. Thank you.

Let me step back again to before the election. Were you keeping others within the government apprised of CISA's efforts to help secure the 2020 election?

A: Within the Department?

Q: Within the U.S. Government.

A: Oh, absolutely.

Q: Were there interagency meetings on those topics?

A: There were frequent interagency meetings.

Q: Which -- and, again, I'm going to tread carefully here. I certainly don't want to get into any classified information, but let's just start with who -- if you can say, which agencies participated in the frequent briefings or --

A: Okay.

Q: Maybe a better way to ask that is: Which agencies did you brief on election security efforts leading up to the 2020 election?

A: So I think there was -- let me put a real quick, kind of, framing around those meetings. There were separate meetings through separate channels.

So there's a National Security Council process that's run by an SPM-4 (ph). And that starts with a -- whatever -- a PCC, so a policy coordinating committee, or a sub-PCC, that works its way up to a deputies committee meeting and then goes to a principals committee meeting.

So, at the PCC level, it's typically assistant secretary level -- supposed to be, but it's probably a little bit below that. Deputies committee meeting is either deputy secretaries of departments or, in some cases, agency heads that are sub-department. And at the principals committee meeting, that is as established in the National Security Act, and that tends to be agency heads.
So that is the formal process that's run by the White House through the National Security Council.

There is a separate coordinating process from an operational agency perspective that was -- and you had in some of the production that I saw, some of the calendar invitations that talked about principals commit- -- or principals -- I don't know if you have it in here.

Q  I don't think it's in the binder.

A  So it was principals SVTC.

I don't know if I see it in here, but --

Q  Yeah.

A  -- it was definitely in some of the stuff that I saw.

So, anyway, in the principals SVTCs, those were coordinated or run by the Director of National Intelligence, ODNI.

Mr. Walden.  Can we just stop --

Mr. Krebs.  Yeah.

Mr. Walden.  SVTC?

Mr. Krebs.  SVTC, secure video teleconference.

Mr. Walden.  Thank you.

Mr. Krebs.  Didn't you work at DOJ?

Mr. Walden.  Yeah, I did.  I just like to have a clean record.

Mr. Krebs.  Right.

And those would happen -- again, I'd have to refresh my memory, but those started in 2019 to 2020, early, and then ran through maybe about the summer or so, or the late summer.  And those were -- so the principals committee -- or the, sorry, the principal SVTCs were run by whoever was leading the Office of the Director of National
Intelligence.

Now, when Rick Grenell came in, those meetings dropped off. We didn't do them anymore. Nor did we do the deputies level, which was -- so the principals were about every month, and the deputies meetings were about every other week, so every 2 weeks.

And so those started with, at the deputies level, Coats and Sue Gordon. It really, I think -- yeah, it started at the tail end of Coats' and Sue Gordon's tenure, and then Joe Maguire and Andrew Hallman. And then, when they left in late February, which is about when they were shown the exit, and Grenell and Kash Patel came in, we didn't -- I don't recall ever being in a meeting with Rick Grenell or Kash Patel about election security stuff.

So that was -- but they were still happening at kind of the lower staff level. And Shelby Pierson was leading those discussions on behalf of the DNI with Bill Evanina, who had been tapped at the tail end of the -- you know, in the interregnum, basically, after Coats and Maguire, that period.

Q And, just to stop you there, in the context of these DNI-type briefings, were you sharing CISA's efforts on election security and what the agency was doing?

A Absolutely. We were sharing -- I mean, we had a very prominent role in updating what we were doing at the State level, the sorts of meetings that were happening. There was a big roll-out and a communication strategy. There were public events. You know, this was at the level of -- you know, in February of 2020, I'm going to San Francisco to keynote the RSA conference, the largest cybersecurity conference. Like, that's the sort of detail, as well as, well, we've got a tabletop exercise, we have this sort of meeting.

But it was not just those were updated in the meetings; there was a tracker that
was maintained at the staff level across the agencies, as well back up to the National Security Council through the PCC. I think they actually called it an IPC, but it doesn’t matter.

So that was that operational coordination piece that, over time, as we got closer to the election, I think the responsibility of leading the regular engagement shifted from this DNI-driven effort to a National Security Council coordinated effort at the sub-PCC level. And so those were run by -- the name escapes me right now, but it was a -- I believe it was a DHS detaillee to the National Security Council Resilience Directorate, which, at the time, the senior director was Brian Cavanaugh.

Q Okay.

And it sounds like, either through the briefings or the tracker or other mechanisms or maybe just, you know, operational collaboration, you were keeping other agencies in the executive branch pretty well informed as to the measures and the initiatives that CISA was undertaking.

A Yes. And they shared back with us. And it was DNI, FBI, Cyber Command, Department of Defense, the CIA, and anyone else in the intelligence community that wanted to share. Those were generally the players in that DNI-led effort.

And then, as that transitioned over to National Security Council, it was a similar cast of characters.

Q How about the White House directly? Were you keeping the White House, through a liaison or otherwise, apprised of the initiatives and measures that you had underway, so tabletop exercises that you’ve talked about, rumor control, things of that nature?

A My -- because I did not -- you know, my team, staff, worked directly with the National Security Council through the PCC process, and I was not involved in those
conversations. They were staff-level, weekly. I think it was, like, every Tuesday, they would have meetings with the White House. But those conversations had all the information. And there were, as far as I know, White House representatives, you know, politicals, that had access to that information.

Q Did I directly update the White House? No.

Q Did you ever get feedback, either directly or through your staff, about concerns that the White House had about efforts that CISA was undertaking in the election security area before the election?

A So the concerns that I heard -- again, nothing came directly to me from the White House. In point of fact, I made it clear that if there were concerns they had to come to me. But that there were some concerns through the, kind of, the political apparatus, and whether it was from the White House or the White House liaison at DHS, but there were concerns about a product we released in June or July of 2020 about security -- oh, a risk assessment of mail-in voting and the security controls that were in place.

Q What did you understand the concern to be?

A So, as it was fed back up to me from staff is, why are we providing guidance on whether a form of voting that the President has said is insecure -- why are we saying that here are security controls for it?

And my response to that was, if someone has a concern with that product, they will come talk to me about it and we’ll have a discussion about whether it stays up or stays down. Nobody ever came to me.

Q So you heard that concerns had been raised. They were described to you. But you didn’t take any action with respect to those, and you never heard directly from the people who were concerned. Is that --
A That is accurate.

Q -- fair? Okay.

A I was -- you know, I had the -- as the Senate-confirmed Director of the Agency, it was my responsibility to make decisions of what was up and what was down. And I was not going to, you know, put that decision authority in subordinates' hands. That was mine.

Q Do you know that -- I'm going to ask the question this way. Did you know that, in fact, some information regarding mail-in voting was taken down or redirected?

A After the fact, I was informed that stuff may have been taken down, but it was, as I understand, put back up.

Q Other than this concern that got to you indirectly regarding the mail-in-voting directive, any other concerns that were raised with you --

A Let me add one more little addendum to that last statement.

So I made it completely clear that I was the one in the Agency that was making decisions on what stayed up and what stayed down -- or what stayed up or what came down. And so I think, as that percolated through, perhaps that's what led to, oh, this goes back up.

Q Okay.

Other than the concern that got back to you regarding mail-in voting, any other concerns ever brought to your attention, either directly or through staff, that the White House had about election security efforts being undertaken prior to the election?

A Not that I recall.

Q Or any concerns about statements that CISA was making publicly in anticipation of the election?

A Not that I recall. In fact, many of our statements were encouraged by the
White House, like encouraging voters to be patient, that results may take time to come in and the official results are not until December.

Q Were there other aspects of CISA's work that you were encouraged by the White House to more broadly publicize?

A In fact, we had a campaign known as "Be a 3P Voter." Be prepared, you know, because things are changing with COVID, know where you're supposed to vote. The second is be a participating voter, because there were a lot of concerns about elderly voters or elderly election volunteers, because of COVID, not being able to volunteer. So they wanted to get people to volunteer to work polls.

And the third is be a patient voter, purely because the increase in mail-in voting would take a longer lead time and it would take more time to work through.

And so that point specifically, be a patient voter, was briefed out numerous times in White House meetings and with full endorsement to continue pushing that message.

Q I think I've heard somewhere that, at one point, the President suggested to someone who worked for you that there should be more publicity of the successes that were --

A Yes.

Q -- generally of the successes of the Agency. Correct?

A I believe that was expressed to Matt Masterson in the Oval Office on Friday, February -- what was that -- 14th? I was in Munich, so I don't know. But --

Q And specifically with respect to the positive trend that you've talked about towards paper ballots, correct?

A The President, in his own public statements, encouraged paper, yes.

Q But was there a request that CISA be more outspoken about this accomplishment, with respect to the encouraging and facilitating the move to paper
around the country?

A  What are you -- are you asking that we get out there and talk -- that we were
to get out there and talk about how we've increased the resilience, or how the President
was responsible for increasing paper?

Q  Either.

A  So, you know, that -- I was not in that meeting. Matt Masterson was. It
was not a surprise to us; he had been a constant supporter of paper ballots. And that
message kind of, I think, trickled through the White House, that, you know, as a
government, we need to get out there and talk about our successes in making the
election secure. And we did that.

Q  So you had a specific, very specific, recollection in mind in terms of the date,
time, and place and individuals. Are there other examples of that that you're aware of
where word got back that the President wanted you to promote or tout a particular
success of the Agency?

Mr. Krebs.  Do you have any concerns?

I don't want to --

Mr. Luce.  Can we just have a quick --

Yeah. Let's go off the record.

[Recess.]
[12:13 p.m.]

BY [Redacted]

Q  Okay. There may have been a question pending, but I'll withdraw it. Let's move on.

A  All right.

Q  Mr. Krebs, in your last -- one of your recent answers, you mentioned sort of issues raised by the pandemic and COVID concerns. Was that -- did the pandemic in the -- leading up to the November 2020 election create certain challenges, from an election standpoint?

A  Yes, there were a number of challenges introduced. One, you had delays in holding of primaries. You had, you know, certain safety measures introduced at polling locations, like baffles, masks, pencils, separation 6 feet, things like that. There were concerns about whether COVID could be transmitted on paper ballots and things of that nature.

And so one of the -- again, consistent with that kind of all-hazards mission of CISA in the critical infrastructure protection and resilience space, we early on both worked with our State and local election officials and the HHS and CDC, so that they could provide election-specific guidance to election officials, so COVID election-related specific guidance.

We also connected State and local election officials with the post office to talk about some of the security -- or the concerns about potential COVID impact on the election process. And, I mean, I think that's generally it in the spring.

Q  Are you familiar with the term "swimlane documents"?

A  Now that I -- that you mention it, I haven't heard -- I haven't heard that term
in a while, but yes.

Q. What were swimlane documents?

A. I -- those documents, as I recall, were for staff to have a clear understanding between -- actually, I'm going to -- I don't believe I have a recollection that I would be -- feel comfortable, you know, recalling exactly what that document was, because I don't remember if it was for specifically the election side or the interagency side.

Q. Okay. Prior to the election, did you become aware of any -- what -- and this is a Chris Krebs personally question. Did you become aware of any information that you would consider misinformation regarding the upcoming election that was being disseminated by the White House, by the President or his spokespeople?

A. What's the timeframe again?

Q. Leading up to the election, at some time prior to November 3rd.

A. I think generally the -- the mail-in ballots would be rife for foreign interference, that foreign actors could mail in a bunch of fake mail-in ballots. I mean, that's just one example.

Q. There was a press conference that I'm recalling, I can't give you the date, where an issue of ballots being found in a river in Wisconsin came up. I think the President might have said that. Don't hold me to it. But I know his spokesperson addressed that issue prior to the election. Do you remember that?

A. I recall the instance. I don't recall exactly what -- when that was or what we said about it, if anything.

Q. Okay. Well, the last part is what I was most interested in, is whether there were any efforts within CISA to address claims that had been made by the President regarding the upcoming election that people within your agency might have believed to be false?
A Again, when you go to the philosophy of rumor control, it was to identify themes. It was not rebutting specific examples or statements by any individual.

Q We've seen some documents that were produced by DHS relating to efforts to connect with social media platforms, Twitter, for example, to working with State and local officials to try to address claims that were being made on Twitter that were false.

A Uh-huh.

Q Are you familiar generally with that initiative?

A I think generally, yes. And I gave an example of the 2018 election, at least, how we were able to connect I think it was Ohio with one of the platforms.

Q And it seemed as if that was a fairly robust -- I was going to say operation. That's probably too strong a word. But there was a fairly -- it looked to be, from the documents I've seen, a fairly well-coordinated effort to put State officials in touch with the social media platforms and try to provide the information necessary to address what were false claims in their respective jurisdictions.

A I think certainly the efforts to make those connections was a priority. We had frequent -- I think it was monthly -- at least monthly -- I think monthly, let me put it that way -- meetings between interagency partners, so FBI, DNI, and CISA, with representatives from the social media platforms. And we sometimes did those out in California. You know, I would attend every now and then some of those meetings.

Now, State and local partners were not there. This was just making sure the Federal Government and the social media platforms were connected and were sharing kind of our understanding of how things were playing out, what our concerns were.

Q Were you generally -- are you aware of the general process if, for example, a tweet was posted about a particular claim in a particular State, what the process was to try to -- that might lead to either addressing it or deplatforming the person who had --
A  No.
Q  -- made the tweet?
A  No.  I was not -- I didn't have kind of visibility into the mechanics at that level.
Q  Okay. Do you know whether CISA played any role, for example, in helping secretaries of state formulate a rumor control type of response to those -- those instances?
A  Meaning their own responses at the State level to -- I -- I don't know for certain.  I wouldn't be surprised, but I don't know for certain.
Q  I mean, I can see that those types of responses -- when I say types of responses, there were responses coming out of various State -- from various State election officials akin to what you've described with rumor control.
A  Right.
Q  So not necessarily debunking, but sort of promoting sort of true facts that the public should be aware of.  And I'm wondering whether CISA played a part in that or that was just sort of training and they would sort of do their own thing.
A  I don't believe -- I don't recall any specific training to States in advance of elections on, you know, how to counter.  Rumor control kind of came up more organically than that.
    I do recall -- I can't give you a specific here, but if there was a State-specific claim that I would ask or I would be asked -- it's in the bits here -- about, hey, this -- I'm seeing reports of this, what -- what's going on?
    And so what we would tend to do is ask the State officials, say, hey, what's happening in this issue, is there anything you can share, do you have a statement?  And then I could take that statement and send it to the Acting Secretary or the White House.
We would send it to the White House.

Q  Okay.  Did you ever interact with a person named Josh Whitehouse?
A  Yeah.  He was the White House liaison before he went -- for DHS before he went to DOD, yes.

Q  Did you have personal interactions with him?
A  I talked to him a handful of times.  He interviewed me, and I tried to get him to not take personnel action against some of my employees.

Q  He interviewed you in what context?
A  So in the press they've been dubbed loyalty tests, but he -- in the -- throughout the course of 2020, as I understand it, at various departments the White House liaisons were to interview staff to, you know, in part say, hey, what do you want to do next term.  But, you know, there were other cases where I think they were asking about operational issues and, you know, what your coworkers are like.

Q  What types of questions were you asked?
A  I don't recall other than, you know, it was a fairly -- so I don't think -- actually, Josh was not in my interview.  It was Troop something that was -- Cooper something, I don't know, that was -- he conducted the interview.  And it was background questions, you know, what do you want to do, and things like that.  It was --

Q  So with Mr. Whitehouse, did you ever have discussions with Mr. Whitehouse in which he expressed concerns to you about any aspect of what CISA was doing?
A  Not that I recall about any of our actions.  He had concerns about people that worked for CISA as politicals.  I don't know if I'm -- is this in play?

Mr. Luce.  I think at this level --
Mr. Krebs. Okay, okay.

Q Concerns about people who worked under you?

A Yes.

Q And their loyalty to the President?

A I think it was -- that's, you know, one way to characterize it. I think it was just general -- yes, loyalty to the administration.

Q Did anyone -- prior to the election, did anyone from DHS leadership ever tell you that your job was in jeopardy?

A It wasn't so much that I recall specific instances. It was just that there was -- so just stepping back, and you see it here in this. I'm holding the Krebs strategy that was posted publicly on Twitter by Jonathan Karl.

You can see in here that there's a line that says -- you know, assuming this is, in fact, real, it's consistent with my understanding of how the White House personnel office under John McEntee viewed -- "Maintains a close and personal relationship with Nielsen."

So there's just this broader theme that we were part of the John Kelly-Nielsen cabal, and that was a bad thing.

So I was aware that there was, you know, some skepticism of my loyalty to the President.

Q How did you become aware of that? You didn't have this document, the one that you just --

A I didn't have that document. I think -- again, I can't tell you specific people. It was just kind of the whisper net. I knew that, for instance, that they wanted to fire Bryan Ware, and they did fire Bryan Ware.

Q "They" being who?
A  The PPO, White House. Not Josh Whitehouse, but he was the vessel for that, but it was the Presidential Personnel Office. In fact, they tried to fire him the summer of 2020, and then I was able to convince them that it would be in the President’s best interest to keep him on until after the election.

Q  But with respect to you personally, you had a sense that you maybe were perceived as less than completely loyal to the President?

A  I think it was -- again, I can't point to any specific conversation or person, but it was, you know, the profile. Nielsen, Bush administration, you know, didn't serve on the campaign or anything like that. And, you know, so that kind of led up to it. And, again, I think there were comments made over periods of time, but I can't say it was any specific person.

Q  Were you ever told that there were -- other than -- we talked about the mail-in voting piece. I'm not even sure this would fall into that category, but were you ever told that there were concerns at the White House about how you were running the agency?

A  Never.

Q  Were there any specific measures or actions that you took that you received feedback that was -- that those actions were not well received at the White House, other than what you mentioned before about the mail-in voting guidance?

A  So after Claire Grady left, which was 2018 -- what was that, March of 2018?

Q  Who is Claire Grady?

A  Claire Grady was the Acting Deputy Secretary. She was the Senate-confirmed Under Secretary for Management who was -- who served as Kirstjen Nielsen's deputy.

A  After Claire left, I didn't have any formal performance evaluations. So I went,
you know, 2-plus years, 2 and a half years without a formal performance evaluation.

And there was no other mechanism that I received any feedback on my job performance, how I was managing the agency, other than laud, you know, very confident feedback, in fact, from Kevin McAleenan, from Chad Wolf, that, you know, we were doing -- you know, we're -- they don't have to worry about us, basically, because we're running a tight ship.

Q  So -- I'm not just confining this to sort of a formal job evaluation, but did Mr. Wolf ever tell you on any particular issue, you know, there are concerns about how you've handled that issue, concerns at the White House?

A  What issue?

Q  On any issue.

A  I am not -- I don't recall any specific conversation I had with Chad that I could pin back, point back to. I think there was, again, a general sense that, you know, I wasn't necessarily perceived very positively in the new PPO.

Q  Based on your background profile and former sort of affiliations, but not necessarily based on particular work you had done or decisions you had made, as you understood it?

A  That's as I understood it, right. I just don't think there was necessarily a science to any of this. I think it was all very vague and --

Q  Okay. And I'm not asking you to sort of read what other people were thinking or that. I'm focused here on whether you were ever told specifically there is a concern about how you handled this or that situation?

A  I was never -- as far as I can recall, never counseled on any specific issue or decision I made. I had a general sense, though, that I was not on -- viewed as being on the team.

Q  And I asked specifically about Mr. Wolf. I want to also ask specifically
about Mr. Cuccinelli. Did he ever share with you that there were concerns about how
you were handling any particular issue at CISA?

A Any particular issue? No.

Q Or concerns that the White House is not happy with the way you handled a
particular issue?

A On any particular issue, no.

Q How about the general concept -- this is from Mr. Cuccinelli -- the general
idea that you were getting outside of your lane in some actions you were taking on behalf
of CISA?

A I was never informed or told or counseled or advised, to my recollection,
that I was getting outside of my lane.

Q I want to turn my attention now to election sort of -- this is sort of leading up
to the election. Now I want to talk about election day a little bit.

What was CISA's role on election day?

A We hosted at -- at CISA headquarters in Arlington the -- kind of the war
room. In fact, we had -- so that was November 3rd, Tuesday. I think we spun it up.
The virtual room was up and running the week before, I think Thursday -- no, maybe
actually like Tuesday, Wednesday, Thursday before. We had people in the office
physically, even in the middle of COVID but in COVID safe protocols, on I think starting
Monday, maybe even Sunday night. And that ran through Wednesday.

We kept the virtual where virtually I think every State. We may have had like 47
or 48 States dial in throughout, but that went on. That was like a week or two in
advance to a week or two after, almost I think through certification.

But on election day, we had operational representatives from the FBI, the
intelligence community, State and local election officials. I think we had representatives
from social media companies, and we had representatives from election equipment
vendors. Cuccinelli was there. So Chad Wolf was there in the morning. We did a
press conference. There was press there. Cuccinelli came in the afternoon.

Throughout the day, I think every 3 or 4 hours, we did press calls where national
media would call in and ask us questions. But it was, as I said at the time, just another
Tuesday on the internet.

Q What was the role of -- you had this structure set up. Talked about sort of
who was there. What were you -- what were your -- what do you perceive as your role
that day or night?

A So -- all right. Generally, we were coordinating massive amounts of
information as they were flowing across the country. So, you know, hey, there's an
issue in whatever county, Georgia, what's going on there? It's hitting national news.

So it's basically like a watch function. It's like, hey, we're seeing reports that this
thing happened. And then we make a call down to the State and say, hey, getting
reports here, what's happening? Oh, a backhoe cut a fiber line going into an election
precinct and they've lost internet connectivity. Okay, all right, let us know when it's
back up.

Q And the goal of that -- the local jurisdiction is obviously aware of it, that's
who you're getting your information from. They're dealing with it. What's
CISA's -- why is it important that CISA be advised of --

Mr. Krebs. Hanging in there?

Mr. Walden. Yeah, yeah. I'm going to need a break for a minute to just walk
down the hallway. I apologize. I don't mean to -- finish this line of questioning. I just
need to walk for a minute.

Mr. Krebs. Decision support, in part, to leadership at DHS or at the White House.
Second is operational, you know, informing operations if there's anything suspicious.

You know, what we really wanted was that if any State or local government saw something suspicious happening, that they would immediately inform us.

And so there was a case where a State -- it's in your tracker that I was provided, one of the exhibits that had the kind of the day of. And I think this was one that Melika passed to Cuccinelli that -- anyway, it's a tracker. It's an Excel spreadsheet.

And there was a State, Delaware observed an unknown actor trying to exploit an Oracle database vulnerability that they had had patched. So what we were able to do is Delaware let us know. We said, that's interesting. But because we were integrated with the FBI and the intelligence community and others, we could actually say, hey, guys -- so it wasn't just for our benefit, like I said, decision support. We were able to share it with our operational partners for them to go do whatever they need to do.

So it was a functional operational watch cell, also coordinating situational awareness, coordinating action. And that was -- and that was the day.

Let's go off the record.

[Recess.]

Okay. We're back on the record.

Q Mr. Krebs, did you make any public statements -- and this is you personally -- make any public statements regarding election security in the days following the election?

A While I was still a CISA employee or after?

Q Yes, in the days immediately following the election.

A So on the -- obviously, November 12th was the joint statement, the GCC-SCC
Q    Let me stop you right there. I'm talking about before that. On the 3rd, 4th, 5th, were you making -- did you make any public statement?

A    I think -- yeah, I think even on election day, as I just -- I just said, you know, we've said that it was just another Tuesday on the internet. So we didn't see any activity on that Tuesday on the immediate aftermath that would have suggested there was any sort of security issue associated with the election.

Q    Just another Tuesday, that was a tweet from you?

A    No. I said that on the press call that was then quoted in an article. I don't recall exactly -- I don't remember who exactly quoted it, but it was to a -- we did all those calls on background. So it didn't get attributed to me, but it was me.

Q    How about Mr. Wolf, was he -- did he make statements either on election night or in the immediate days following?

A    As I recall, you know, that morning, he said that it was a secure election. I think even afterwards I think he said it was the -- you know, echoed my statements of it being a secure election.

Again, I don't know the -- I can't tell you the specific day or venue or -- we did have that week, though, I don't know if it was the next day, but -- oh, shoot, I'd have to go back. But he mentioned just how secure the election was at the DHS event, like the State of the Homeland event or whatever that was held at St. Elizabeth's. It was about that time.

Q    Take a look at exhibit 4 in your binder.

A    Uh-huh.

Q    It looks like this version of this document came out of a court file. That's that writing on the top. But have you seen this statement before?
A  I have.

Q  What is it?

A  This is a statement that was issued on the 12th of November by the Joint -- or by the Joint Executive Committees of the Sector Coordinating Council and the Government Coordinating Council. So every critical infrastructure sector has a GCC and an SCC. SCC is Sector Coordinating Council. GCC is the Government Coordinating Council.

And those groups are comprised for the government, any State or Federal Government partners that may be involved in the critical infrastructure protection mission in that sector. The Sector Coordinating Council is the private sector side or the nonprofit side. The Executive Committees' membership are voted in or selected by the participating organizations in the councils.

And they came together in the wake of the 2020 election and they developed the statement that says, as you see in this last line, "There is" -- or not this last line, but the bolded line: "There is no evidence that any voting system deleted or lost votes, changed votes, or was in any way compromised."

That was the assessment of the practitioners. The frontline practitioners included election directors at the State level, secretaries of state, voting system executives, government -- Federal Government employees.

I did not draft this. It came to me after it was drafted. I looked at it. I said, this is a consensus statement built by the practitioners. I don't have anything to counter or disagree with this, so -- and they asked me for approval to release it. And I said, yeah, sure, I approve.

Q  Do you know who did draft it?

A  It was built by committee. The CISA representative to the Executive
Committee was Bob Kolasky, the career employee that’s the Assistant Director of the
National Risk Management Center.

Do I know who put each word in there?  No.

Q  And was Mr. Kolasky, not just for the purposes of this statement, but
generally the CISA representative on the Coordinating Council?

A  He was the senior representative, but the Coordinating Councils are
supported and facilitated by CISA employees as a part of the Critical Infrastructure
Protection Advisory Council structure, which is a statute that allows for, you know,
collaboration in an antitrust-free space.  And CISA has the statutory authority to
facilitate and monitor.  But, like I said, Kolasky was the senior here.

Q  So you were not part of the council?

A  I was not part of the council, no.  I’m not part of any councils.  I chair the
Federal Senior Leadership Council, which is a -- all the Federal Government partners that
sit on top of these structures.

Q  Do you know why the statement of this -- of the Coordinating Council was
issued on CISA letterhead?

A  Because it was a statement from the Coordinating Committees, and CISA is
the convening authority for the committees and -- or the councils and the committee.
So it would not have been out of the ordinary to host a statement as a member of the
committee.  And I suspect that National Association of Secretaries of State, as a member
of the committee, NASED, as a member of the committee, would have similarly hosted
and promoted.

Q  I know you said you didn’t draft this document.  Are you aware of the
impetus for this document?  Do you know what caused the Council to convene to issue
such a document?
A The specific impetus I know. I think I may have asked Masterson, Matt
Masterson and Kolasky, you know, are the committees going to put anything out?
Might they put anything out? And then there was a resulting document.
Q Were you personally of the view that a statement regarding the security of
the election should be put out?
A I was of the view that a statement from the practitioners that had the
visibility into how the election was conducted, that gave their perspectives, you know,
whether it was CISA, from viewing the intelligence and operational activity from the
election equipment, yes, that that would be helpful.
Q Why did you think it would be helpful? What was going on at the time that
caused you to think that a statement like that would be helpful?
A There are significant -- there were a bunch of claims that votes -- that
machines had been compromised and votes were being flipped and things of that nature.
Q And I know the various constituents here have their own perspective and
what’s important to them as to why they might have participated. But from CISA’s
standpoint, did you consider it part of CISA’s mission to try to address the concerns that
were -- address at some level the concerns that were being raised that you just
described?
A Again, I think where there’s disinformation associated with the secure
conduct of an election, where there are claims that, without any sort of support or
evidence, that were catching -- not just catching but that were fairly pervasive, again, I
thought it would be part -- it’s part of the critical infrastructure protection mission to
provide factual authoritative information about how things actually worked.
Q At the time that you reviewed this statement, did you believe that that
bolded sentence -- and I didn’t do that bolding. I’m not sure -- let me ask you this: Do
you know if that was a bolded --

A  I think we did that. Well, "we," I think the committee did that.

Q  So the statement that was issued you believe had that sentence in bold?

A  Yes.

Q  Okay.

A  That's my recollection.

Q  When you read that statement, did you believe that that was true, from your perspective?

A  Yes, yes.

Q  Did you believe it was controversial?

A  I --

Q  That's maybe a bad question. I'm going to withdraw that because -- yes, I'm going to withdraw that.

Mr. Walden.  Thank you.

BY MR. KREBS:

Q  It's certainly contrary to what you had been seeing or hearing in media or on the internet?

A  It was certainly contrary to things like HAMMER SCORECARD.

[Discussion held off the record.]

BY

Q  I'm sorry, do you remember the question, because I don't?

Mr. Walden.  Yes. You had just withdrawn a question about whether or not he thought the bolded statement was controversial.

[Discussion held off the record.]

A  Yes, and then I -- I did do that.
Q  And then I said that certainly there were statements being -- that were out in the media or on the internet that were contrary to this. And I think you were just starting to say something.

A  Yes, specifically HAMMER SCORECARD was one of the claims out there, that there was a supercomputer and software program that was changing votes.

Q  As you sit here today, do you have any -- you know, with a year -- more than a year sort of hindsight, do you have any doubts about the accuracy of that bolded statement?

A  Absolutely not. In fact, I'm more convinced that it's true, if that's possible.

Q  Has anyone ever presented you with evidence that you think would undermine that conclusion?

A  No, none.

Q  Were you ever told by anyone within DHS leadership that that bolded statement was inaccurate?

A  The only thing that I recall is a statement that, well, what if evidence comes along later that may disprove that statement? So why would you issue that statement if something down the road could be contrary?

Q  Who made that statement to you?

A  That was Chad Wolf.

Q  When?

A  Right around the time of the 12th or the 13th, I think.

Q  What was your response?

A  If additional evidence or information becomes available, we'll investigate, and we can amend and -- as necessary. But based on available information now, what
we know, what we see, this is accurate. And it has held up.

Q Did you discuss with Mr. Wolf your view that it was important in terms of
CISA's mission, as you just described a few minutes ago, to try to address misinformation
that was out in the public sphere?

A Specifically, I don't recall. I think that was generally part of the game plan
and approach to the 2020 election. It was not just the technical piece, but the
perception hack, the disinformation in providing accurate information about what we
know happened with the election to the American people.

Q I guess what I'm getting at, and I don't want to put words in your mouth, but
when he raised concerns about other information maybe coming out that would render
this inaccurate, did you push back along the lines of, yeah, but this is important, I mean,
this is helpful to address what's going on out there and to try and deal with
misinformation; you know, words to that effect?

A No, I -- so, to just kind of be a little bit more, you know, perhaps charitable to
Chad, I mean, he was asking, you know this to be true -- as I understood it, you know this
to be true. What if something -- you know, what if it ends up not being true?

He wasn't challenging us necessarily. He was just trying to work through the
decision process. And my point was, you know, here's our game plan. If there's
additional information, we will investigate and we will work with, you know, our partners,
certainly in the FBI, and issue -- you know, continue to keep the American people
updated. But in the meantime, it is important to put out the perspective of people that
actually conduct elections on what happened, in the face of these -- the growing claims
that, absent evidence, something did happen.

Q What was Mr. Wolf's response to that?

A Okay.
Q: Did you sense that he was on board and understood and accepted your explanation or justification for the statement?

A: He didn't give any indication otherwise at the time, that I recall at least. But, again, I was exceedingly confident in the authority of the agency and my authority as the director that I wasn't looking for authorization or approvals. We were executing the game plan.

Q: Did Mr. Cuccinelli raise concerns with you about this statement after it was issued?

A: I don't recall. I don't know if I saw Ken after election day again.

Q: That was going to be my next question. Do you recall any conversation with Mr. Cuccinelli after election day but before you left the agency?

A: Not that I recall. I mean, I think -- hold on. So, no. The answer is still no.

Q: I think you mentioned --

A: Can we go -- can I talk to them real quick? This is off -- can we go off the record?

[Discussion held off the record.]

We are off the record.

We’re back on the record.

BY

Q: Again, I forgot what question was pending.

A: So it's a combination of kind of try stay in your lane stuff and, you know, what Ken -- again, I did not talk to Ken, as I recall at least. There may have been a phone conversation or seen him in passing, but I don't specifically recall a meaningful conversation about any of this stuff between election night and my termination.
You know, the one observation I have is that Ken was -- you know, election night
he was guest appearing on conservative radio shows from the CISA building, you know, at
least three or four different ones. And then about this time or -- again, I'm not
attributing this to Ken exactly, but there were leaks coming out from the Department to
media -- CNN, Newsmax, CBS -- about CISA. And I don't recall if it was directly me, but,
you know, what CISA's mission was. And that continued after I was fired.

Q Negative --

A Yes.

Q -- stories?

A To your point of stay in your lane, that's -- you know, fraud -- domestic fraud
is not CISA's mission, which the clear response there is that nor did we ever claim it to be.

Q And in the statement that we're looking at, do you understand that to be
making statements or reference to --

A Nope.

Q -- election fraud?

A Nope.

Q Okay. It does say: "no evidence that any voting system deleted or lost
votes, changed votes, or was in any way compromised." What do you understand
"voting system" to refer to there? I know you didn't draft this document, but what's
your understanding?

A The technology. But -- I did not, but the actual people that conduct
elections. And so, in their parlance, voting systems are the technologies, equipment,
machines, computers, devices that are associated with the workflow of conducting an
election from, you know, the casting, the counting, and the certification of the process.

And that's exactly what that means.
Q I'm going to jump -- I'm trying to stay roughly chronological, but jumping a
little bit out of order in terms of subject matter, because we're going to come back and
talk about the fallout from the statement in a moment. But take a look at exhibit 6,
because I think chronologically it's probably our next -- next in order.
So this looks like, starting at the bottom -- and I think this is complete. I don't
think I cut off any part of the relevant discussion. So the first email in the chain is
November 13th at 10:14 a.m. Do you see that?
A Uh-huh.
Q It's from AS1. Who do you understand that to be?
A Acting Secretary. S1 is Secretary. A is Acting. Chad Wolf.
Q Okay. So this is from Chad Wolf to you on Friday, November 13th?
A Uh-huh.
Q Do you recall this email?
A I do.
Q And is the document that's behind -- the immediate -- the document that I
have immediately behind this --
A Right.
Q -- which we're calling 6A, it's a two-sided page that's sort of fuzzy. The
image is somewhat fuzzy, but a November 13th letter from two Michigan State Senators
to Jocelyn Benson, the Secretary of State. Do you recall, was that the attachment to the
November 13th email?
A That is my recollection, yes.
Q Do you know Jocelyn Benson?
A I do.
Q Is she a person that you worked with in connection with your election
security efforts at CISA?

A She was one of the senior election officials throughout the country, one of
the many secretaries of state. And, yes, she was one of the secretaries of state that we
worked with. I didn't work with her particularly closely before the election, but the
team worked with her team. My team worked with her team.

Q Okay. And I can see that you responded to Mr. Wolf within 3 minutes or so
of getting his email. And you say that: "We are aware of many of those claims and
have discussed with Michigan over the last week, with Michigan addressing most of
them."

A Uh-huh.

Q Tell me about your discussions with Michigan authorities leading up to the
receipt of this -- or, you know, prior to the receipt of this email and letter.

A So, basically, what would happen is, as any -- as I already mentioned, as any
sort of issues would pop up or be, you know, noticed, detected in the news,
we -- someone at the Matt Masterson level or down would reach out to the State, their
designated point of contact or his relationship, and say, hey, seeing this is getting
reported, what's going on, and do you have anything that you've issued, any statements,
are you going to issue a statement? And so that would then feed back to us, and, you
know, okay, great.

And generally, where we're trying to end every one of those engagements was, is
there something that we need to be worried about here? And in the case of Antrim
County and the -- specifically point one and the database issue, no, they caught it. It
was a database configuration issue. They didn't update for that precinct. It was
detected. They reconfigured and the votes are accurately counted.

Q And you had had that Antrim County discussion before you ever got the
email from Mr. Wolf?

A Yeah. I mean, that was November 7th. It actually happened earlier than
that, but -- I don't recall specifically what the certification deadline is for Michigan, but
they caught it fairly early on.

And, again, it was -- it was just sloppiness at the programming level with the
database. They saw, oh, basically the way that -- they were counted accurately, but
when they were deposited into the database for tracking purposes, they had
not -- basically, the columns were not appropriately set. Went back through, said, oh,
didn't update this database. Updated it. Boom, the votes come, as unofficial but
accurate.

Q And -- sorry.

A And that sort of process happens through canvassing. You catch if there
are mistakes, but there was no malicious intent here.

Q And it looks as if, based on the next email in the chain, and you say it got
stuck in your outbox, so maybe you can help me on sort of when you think you drafted it,
you know, relative between Friday and Monday.

A It was either -- either Friday afternoon or over the weekend.

Q So I guess what I'm getting at is, I'm not going to -- you know, the exact time
or day even doesn't really matter, but I'm curious as to whether -- how promptly
generally you were able to track down the information that you needed to address the
concerns in that letter.

A I got what I needed from Masterson probably within a matter of an hour.

Again, we were aware of these things. Some of them fell outside of, you know,
the -- the -- you know, I'll -- you know, when you talk about official intimidation and
interference with lawful election challengers and poll watchers, I would -- I would say
that -- you know, if we're talking about lanes, I would say that that's not something that
we would typically track, because it's -- it's not directly related to the infrastructure. But
it was in the -- it was in the -- it was in the letter. So based on what we understood,
based on what Michigan has posted, what they gave to us, we provided it back.

And I think really what happened here more than anything probably is that the
White House sent this to Chad, said, Chad, what's going on? I want all of these things
addressed. We gave them the information back.

Q  And you think that the body of that Monday, November 16 email probably
came to you from Matt Masterson, in terms of tracking down the PDFs?

A  Yeah, I mean, if I -- do I think that -- you know, I think what happened is I got
the one, two, three, four links, that content from Matt or the team, the Election Security
Initiative team, and then I dropped a preface on and the front matter and sent it up.

Q  Okay. And I can see -- as we were talking about the other issues, you were
flipping through, and you can see what we're calling 6B is the posting regarding Antrim
County.

A  Right.

Q  And 6C is a more general posting regarding the absentee ballot process.

A  Right.

Q  That my understanding is, although it's not dated, that this --

A  The TCF Center thing, yeah.

Q  This information was on the State of Michigan's website on November 16th.

It existed at the time.

A  Right.

Q  The link I think in your letter is dead at this point, but --

A  Okay.
Q -- that's my understanding.
A Okay.
Q So do you think you saw these two documents, 6B and 6C, before you responded to Mr. Wolf?
A Yes.
Q And from your perspective, did it resolve the -- other than the observing of intimidation of poll watchers and things that I think you said might be outside the lane of CISA or are outside the lane, did you feel that this material you got from the Secretary of State's office or their website addressed the other -- the sort of cybersecurity claims that were being made?
A I was confident that the matter was closed. But whether that addressed the conspiracy theorists out there, that's a different matter.
Q Did Mr. Wolf respond at all to your --
A Not that I recall.
Q -- Monday email?
A Not that I recall. Certainly not with any followup.
Q My understanding is the next day you were terminated.
A Sounds right.
Q Okay. Take a look at back at exhibit 5. It's a letter dated November 17th from John McEntee to you. Have you seen this before?
A You know, in the exhibits that were provide --
Mr. Walden. I just want to say, could you clarify, before today or at the time?

BY

Q Before today, have you seen this document?
A So I saw -- you know, I saw this yesterday or Tuesday. And I'll admit that
when I saw it then, it was like, I don't know if I've seen this before. So I know that in the exhibits provided that it was in an attachment to an email that was sent to me from someone, but you have to keep in mind, even whenever that was dated, that email was -- the date stamp on that, I probably got a thousand emails that night.

And I actually put down my work device and wasn't using my -- I mean, I considered myself terminated. So I don't know if I actually even looked through all my email that evening.

Q  Got it. So it's possible that this termination letter was transmitted to you on December -- on November 17th, 2020, but you don't recall or you did not see it then?

A  Not that I recall.

Q  Okay. How did you learn that you had been terminated?

A  Someone sent me a text that said, You just got fired on Twitter. And my immediate reaction was like, nah, nah, you're thinking about -- you read that article last week from Natasha Bertrand in Politico. And lo and behold, I pull up Twitter and there it is, 7:05, 7:06 p.m.

Q  What did you pull up on Twitter?

A  The President's tweet. It was two tweets, and it says basically because I, you know, made statements that were untrue that I'd been terminated as Director of CISA.

Q  And did you sort of take that as sort of actionable or did you seek out some confirmation from one of your superiors in the Agency or the Department?

A  I immediately called Chad Wolf. He was not available. So I put a call in, I guess -- as I've been refreshed from the exhibits, I guess I called the watch -- the DHS NOC, the Ops Center, and said, hey, trying to get ahold of the Secretary. Called him.

He called me back.
Fairly soon after, also -- you know, you'd have to look at -- I don't recall the actual sequencing, but then I called my chief of staff. I called -- talked to Matt Travis, and I think I also probably talked to Brandon Wales.

Q    So you determined that the tweet was actionable, that you had, in fact, been terminated? There have been examples of Presidential tweets that I've read or heard about that were actually --

A    There was zero ambiguity, zero ambiguity from the tweets.

Q    And you were a Presidential appointee, so presumably the President has the authority to fire you whenever he wants.

A    And from past practice, you know, under -- even -- yes. So I had enough to understand that I was fired.

Q    Okay.

Mr. Walden. Just so the record is clear, did you have a conversation with Chad Wolf where he confirmed it?

Mr. Krebs. Yes. And he said, oh -- something to the effect of, oh, god, that wasn't supposed to happen like that.

Q    Okay. Did he give you any explanation as to why it happened? Not why the tweet happened, but why you were being terminated.

A    I don't recall specifically what any sort of -- but I think it was fairly obvious, and obvious being that, you know, we were providing factual information about the security of the election.

Q    In your mind -- because you're saying it was obvious to you, in your mind, was it tied to this November 12th statement that we were looking at or something else or an aggregation or accumulation of such statements?
A: I would not attribute it to any single event.

Q: Okay. Did anyone ever tell you, you know, that November 12th statement, that -- you shouldn't have sent that out, that's the reason you got fired?

A: Not that I recall.

Q: And it's not your understanding that it was that -- standing alone, it was not that statement?

A: I don't have any information. I was never provided any information that that was a --

Q: Okay. I said I was going to try and proceed chronologically, but I realize I have an exhibit in here that is a bit out of order, and it's just sort of a random question for you. It's exhibit 7.

A: Uh-huh.

Q: This appears to be an email from AS. And my understanding is that the redaction inadvertently deleted the number 2. So it should be from AS2.

A: Uh-huh.

Q: Do you know who AS2 is?

A: AS2 would be Ken Cuccinelli.

Q: And you can see it's signed "See you shortly. Ken."

A: Right.

Q: Do you have any recollection of getting this email from Mr. Cuccinelli on November 3rd?

A: I do not.

Q: Do you have any understanding of what this email refers to?

A: One query I picked up from the congressional call was regarding the CISA.gov/rumorcontrol page.
So throughout the -- the congressional call, I will stipulate that I don't know specifically there, but throughout the day, in addition to the press calls, we were doing updates to congressional members and staff.

And we had actually been -- I had been providing briefings to Congress for months about our preparation. And those sort of died off as an interagency prior to, you know, I'd say right around August, but we continued as an agency to give those on a biweekly basis probably. And, you know, we'd open it up to -- we do a House call and then we do a Senate call. And, you know, again, still in the middle of COVID. We'd be kind of doing these all over the place.

So on the day of the election, it may have even been -- I think there was at least one the day of the election, and we were just kind of talking about, here's what we're seeing out there. And we knew the issues that were popping up on that day, and they were, you know, like poll book issues or power outages or things like that. And we'd say, hey, look, these are the key things we're seeing. But other than the adversary -- you know, other than that, we're not seeing any adversary activity. It seems to be actually a pretty quiet and calm election.

And I don't recall specifically what the question is or who asked it, but I assume something came up like, hey, I'm hearing about this rumor control thing, tell me about that. And --

Q  Okay.

A  That's my understanding -- my recollection, rather.

Q  You don't have a recollection of a specific aspect of a rumor control page that was being inquired of, just --

A  Not that I recall.

Q  Okay.
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[1:16 p.m.]

Q Okay.

Okay. I want to go through a couple of points here with you just to get a sense of your familiarity and understanding and what your, sort of, state of knowledge is on this.

There have been questions raised about Dominion voting machines. You referenced dead foreign dictators --

A Right.

Q -- and so forth. Are you generally familiar with the testing or evaluation that is done on Dominion voting machines by the various States that have used them?

A Yeah, so my -- it's been a year or so since I've actually jumped into the details of what States do and what the standards are. But, yes, generally speaking, there is a set of voluntary standards that the Election Assistance Commission publishes, there are labs that the EAC accredits, and then there are, in some States, State-specific accreditation labs.

And so, you know, virtually every State has some kind of testing standard. They're not all the same. Some are more rigorous than the Federal guidelines, and some States, you know, just kind of follow whatever the Federal Government recommends, the EAC recommends. But it's all -- it's kind of a mixed bag across the landscape.

Q And are you apprised of and typically -- a bad question. Is CISA apprised of whether a particular voting machine has met or not met various State standards, or it's just sort of up to the States to do what they do?
A: The States generally do what they do.

Q: Have you ever been apprised of particular issues that have come up with respect to State testing or State evaluation of Dominion Voting Systems?

A: Specifically Dominion, I can’t recall any specific issue necessarily. I know there was something in Texas about, Texas had a rigorous -- it's not rigorous, but Texas had a set of State requirements that some machines -- I don't recall if it was Dominion or ES&S, but that a system may not have passed the State certification process. But it wasn't necessarily because of any sort of security standard. But I believe, in this case, they did issue -- Texas issued some sort of assessment and decertification of a system. Again, I don't recall if it was Dominion or ES&S.

Q: Okay. And are you able to say with any degree of certainty that, if -- because it may vary State by State, but that, if a Dominion voting hardware -- because I know there's -- is there software and hardware that's created by Dominion?

A: Yes. There's machines, and then there's the software that actually sits on top of, in many cases, like, a Windows operating system that's specific to --

Q: Are you able to say with any level of confidence that -- the fact that Dominion Voting Systems could not have been used in the United States had they not gone through some -- the respective testing protocols of the States in which they're used?

A: I -- so I --

Q: Terrible question.

A: Yeah. So States have certification processes. And, to use the equipment in a State, you have to follow their regime, as I understand it.

Q: Okay.

A: Generally speaking. Could there be individual State-by-State exceptions?
You know, I don't --

Q  Yeah.  Yeah.  Okay.

Have you ever had any interactions with a person named Russell Ramsland?

A  I never have, no.

Q  Do you know whether Mr. Ramsland ever presented to folks within CISA concerns that he had about electronic voting?

A  So whether Mr. Ramsland specifically -- and Mr. Ramsland is with ASOG, Allied Security Operations Group.  I don't know specifically if Mr. Ramsland briefed any CISA employees, but I believe representatives from ASOG briefed CISA and other DHS employees in the State of Texas.

And then, subsequently, as I understand it, he briefed, as encouraged by the Senate Homeland Security Committee, majority staff at the time, under Chairman Ron Johnson -- the Senate staff directed CISA -- requested CISA headquarters personnel, I guess, meet with ASOG personnel to review whatever findings they had.

Q  Were you part of those meetings?

A  Absolutely not.  I never heard about it until well after I was relieved of duty.

Q  Would that have been Matt Masterson most likely?

A  I don't believe so.

Q  Who do you --

A  I believe they may have brought in probably some -- there was probably some lower-level career staff and then also some outside consultants that are experts in election technology.

Q  Okay.

So, before we wrap up, I want to ask you about some, sort of, reflections on the
2020 election and maybe your thoughts on certain recommendations. I know, in your Senate testimony that we looked at earlier, exhibit 1, you had some bullet-point recommendations that you thought should be considered by the Senate.

A Uh-huh.

Q And I want to give you a chance to talk about some of that.

A Okay.

Q There are -- several recent polls have shown that a large percentage of Americans believe that the 2020 Presidential election was stolen. Are you generally familiar with that sentiment?

A Yes, I am.

Q Do you have a view as to what accounts for that?

A My personal, Chris Krebs, belief that the reason particularly that that number is much higher skewed in Republican circles is because Republican officials, senior officials, including the former President, lied to the American people about the security of the 2020 election, that it was stolen. So it’s a self-reinforcing cycle.

Q Does it concern you, as someone who spent a good part of your professional career dealing with risk generally and election security risk, does it concern you that there’s a substantial portion of the American population that thinks that the Presidential election in 2020 was stolen?

A Yes.

Q Why?

A If you don’t have confidence in the processes by which we choose our elected officials, those that represent us, then you start to doubt other mechanisms of democracy.

And democracy is a -- unfortunately, a contact sport, but also requires active
engagement and participation. And so what I fear is that we will see disengagement
from democracy that will lead us into, you know, antidemocratic forms of government.

Q In your view, what could have been done or can be done to combat the type
of disinformation that you're talking about?

A So --

Q Or keep it from taking hold as it has?

A So I'd separate the actual disinfo, in and of itself, but we need to improve
upon the structures by which we conduct elections. And I'm specifically talking about
the electoral count, or the Electoral Count Act.

And Ben Ginsberg had a pretty good op-ed, I think, in the National Review Online
last week where he ticks through about a dozen or so things that need to be clarified
from that law from the 1860s or whatever it was, you know, including clarifying the role
of the Vice President and whether the Vice President is, in fact, just a ceremonial role or
not.

And, in part, the point that he makes is that, you know, Republicans, in this case,
should be careful what they wish for, because in 2024 Kamala Harris is going to be the VP.
And so, if they -- you know, they've given a game plan. And, while Pence didn't follow it
in 2020, if Kamala Harris followed it in 2024, that obviously wouldn't work to the
Republicans. So it's in everybody's interest to actually clarify how the electoral college
mechanism works.

So, again, start with clarifying the Vice President's role; clarifying how
disagreements are adjudicated between the House and the Senate if they have a
disagreement; clarify at the State level who the executive is that's responsible for
certifying the slate -- because you could see a Republican and Democrat from
different -- you know, one serving Governor, the other serving as a secretary of state, and
they could each claim to be the executive, and you could have those dueling slates. So clarify who the State executive is; you know, perhaps look at things like increasing the number of Congresspeople that can object to a slate from a State, instead of just one, actually raise the threshold there.

   So, again, Ginsberg’s got a pretty solid list. I encourage every -- you know, that that's in everyone's interest. That's point one.

   So I think there are a few other things. I think, you know, when you look at all of our ilk, as lawyers, there were a number of attorneys that were involved in filing, as we've seen in Michigan and elsewhere, at least sanctionable lawsuits, but 60-plus that were thrown out. I think we need, you know, to reinforce some of the societal norms in particularly those bodies like bar associations and even, if you look at COVID, with medical licensing boards. There are actually some self-policing and self-reinforcing mechanisms that we're not going to tolerate this and we can police ourselves. So that's number two.

   Number three, I think -- and these are some recommendations from the Aspen Commission -- you know, some regulation around social media platforms, not in a managing or moderating content perspective, but just from a transparency in how these platforms, you know, enforce their own terms of service and inconsistency. Because there's not necessarily a whole bunch of consistency in how they do things from country to country.

   And then, you know, lastly, when you just think about -- and this is the hardest part. The hardest part, as I see it is -- this goes back to that point about democracy. You know, democracy and elections require both parties commit to the democratic process and that they commit to honoring the outcome of a legitimate election. If one decides not to participate in that, then that's not much of a democracy. So actually
reinforcing committing to elections.

Now, how do you enforce that? Obviously we see, right now, we’re not getting a whole lot of enforcement. There’s no mechanism to hold those that are making these claims, other than at the ballot box. But even that’s not good enough, because those structures here are not exactly holding some of these elected officials accountable for continuing to propagate claims.

So this is hard. You know, a lot of, kind of, the Speech and Debate Clause gives a lot of coverage for, you know, Members of the Congress to make these claims. So I think we have to continue investigating and, you know, developing options to help to hold these folks, particularly elected officials, accountable.

And the last thing I’ll say is that, you know, this is a -- not only, you know, it’s a contact sport, but it’s also requiring whole of society to recommit. So, you know, something to the order of, you know, business leaders tend to be more higher respected, regarded, whatever, and so businesses need to take a hard look at, you know, from a political -- you know, post-Citizens United, you know, if they’re contributing to political campaigns, that, you know, they should not be contributing to campaigns of candidates for office that continue to promote baseless conspiracy theories about the theft of election. I think they’re contributing to the downfall of America.

Q Do you think the government or we, as a society, or maybe the government, in terms of CISA, has done enough to counter the false information that’s come out with respect to the 2020 election?

A I think that, under the constructs of the First Amendment, there is only so much the government can do besides provide accurate information on how elections are conducted and, you know, what has happened in the past and what will happen going forward.
But you don't overcome disinformation with more information, with truth. You have to get it at a much, much, much more foundational level and undercut some of the structural incentives for those that continue to promote it and those that want to.

Q But -- and I appreciate your thoughtful comments on this, and I don't want to sort of belabor it, but, you know, we started the discussion today, or this interview, talking about, sort of, some of the threats from Russia to sow distrust and so forth. Did you ever in your wildest, sort of, imagination think in 2017, when you were thinking about how to deal with disinformation and how it might -- I think you called it a cancer that could sort of grow and erode American values -- that we'd get to a point where two-thirds of one of the major political parties in the country don't believe in elections anymore or don't believe they can be trusted?

I mean, it seems as that -- I mean, if the Russians were doing this and got to that level of penetration, would that be alarming --

A Of course it's alarming. But even if it is Russian disinformation that an American citizen picks up and then promotes on Twitter, it's still an American citizen expressing their First Amendment views. And that's --

Q I guess what I'm asking --

A -- permissible.

Q -- is: Have your worst fears, when you set out on this mission of trying to sort of protect the integrity of elections, in some sense been --

A It's worse than I thought.

Q Okay. Because the level of penetration, or just the --

A Active participation by the political class in American democracy.

Q And do you think that creates greater challenges than even dealing with, sort of, a malign foreign actor?
Much, much, much, much, much harder because of the First Amendment issues, because there's no accountability measures, there's nothing we can, again, do right now to -- you know, there are things that, if it was a Russian doing what the former President continues to do to this day, then there are mechanisms in place to intercept and intervene in that information. But the fact that it's an American citizen promoting their own view, which is their right under the First Amendment, even if it's cancerous and contrary to democracy, there's not a whole lot to do, other than -- sorry.

Mr. Walden. No, no, you're okay. You misread me.

Mr. Krebs. But this is -- you know, as soon as you get, you know, an interested party as the target of the defamation, like Dominion Voting Systems, they have legal recourse. They can sue for $1.3 billion, as they are. But the problem here is that it's going to take multiple years to settle that, or not settle, but actually come to, you know, some finality if it makes it that far. And, by then, the damage is done.

Well, on that somewhat depressing note, I think we'll --

Mr. Krebs. Welcome to my life.

I'm sorry?

Mr. Krebs. Welcome to my life. Yeah.

-- we'll call it a day.

So let's go off the record.

[Whereupon, at 1:34 p.m., the interview was concluded.]
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.

Witness Name

Date
SELECT COMMITTEE TO INVESTIGATE THE
JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
U.S. House of Representatives,
Washington, D.C.

Interview of: Stephen Ayres

Friday, June 17, 2022
Washington, D.C.

The interview in the above matter was held via Webex, commencing at 1:36 p.m.
Appearances:

For the SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

[REDACTED], SENIOR ADMINISTRATIVE ASSISTANT

[REDACTED], INVESTIGATIVE COUNSEL

For STEPHEN AYRES:

EUGENE OHM
Mr. [ ], Good afternoon. This is the transcribed interview of Mr. Stephen Ayres, conducted by the House Select Committee to Investigate the January 6th Attack on the United States Capitol, pursuant to House Resolution 503.

At this time, I would ask the witness to please state your full name and spell last name for the record.

Mr. Ayres. Stephen Michael Ayres, A-y-r-e-s.

Mr. [ ], Thank you, Mr. Ayres.

This will be a staff-led interview. And members of the committee, of course, may join and ask questions if they choose to do so. But, right now, all you have on is [ ]. That's me. I'm an investigative counsel. There are no other investigative counsel and no members in the room right now.

At this time, could counsel for Mr. Ayres please state their name for the record?

Mr. Ohm. Eugene Ohm on behalf of Mr. Ayres. For the court reporter, E-U-G-E-N-E. Last name, O-H-M.

Mr. [ ], Thank you, Mr. Ohm.

There is an official reporter transcribing the record of this interview, so I'm going to ask that you please wait until each question is completed before you begin your response. And we will try to wait until your response is complete before we ask our next question. The stenographer cannot record nonverbal responses, such as shaking your head. So it's important that you answer each question with an audible, verbal response. I'll help you out with that. If I see you shaking your head, I'll say positive response from the witness or negative response from the witness.

We ask that you provide complete answers based on your best recollection.

That's it, just your best recollection. If the question's not clear, just ask me for a
clarification. If you do not know the answer, please just let me know.

Mr. Ayres. Okay.

Mr. [redacted]. First, it's important you understand that this interview is voluntary. If at any time you would like to stop speaking with us, that is your choice. Similarly, if at any point you need to discuss something with your attorney in private, please let us know, and we'll take a break so you can have that conversation.

This interview is not under oath, but because this is a formal congressional investigation, you are obligated under Federal law to tell the truth, the same as if you were speaking to the FBI or DOJ. It's unlawful to deliberately provide false information to Congress. So, for this interview, providing false information could result in criminal penalties for false statements.

Do you understand that?

Mr. Ayres. Yes, I do.

Mr. [redacted]. Okay. Third, you're not obligated to keep the facts of this interview and what we discuss confidential. You are free to tell whomever you wish that you met with us, including the prosecutor or judge on your case, or you can tell no one at all. It's your decision.

Mr. Ayres. Okay.

Mr. [redacted]. The select committee is separate and independent from the DOJ. So we have no involvement with the prosecutions, and the DOJ is not a partner to the select committee and our investigation. We're also not a party to your criminal case. And we're not agreeing to submit anything on your behalf to the judge. We also can't make any representations whether if you tell the judge you met with us, if the judge would be more favorable for you during sentencing.

Do you understand that?
Mr. Ayres. Yes, I do.

Mr. [ ]. And then, last, we have agreed with your attorney not to share
the substance of what you say with the DOJ prior to your sentencing. There are two
exceptions, though. So, if you tell us about evidence about a crime we thought law
enforcement was unaware of or if we had reason to believe that you lied during the
interview, then we would be obligated to tell DOJ or another appropriate law
enforcement agency. And, if you tell the judge you met with us, please understand that
that may prompt questions from the judge about what you said and whether it’s
consistent with your prior statements and acceptance of responsibility. If the judge
starts asking questions, we may get asked to respond and divulge what you said.

But those are the only exceptions, so is that clear?

Mr. Ayres. Yes, I understand.

Mr. [ ]. So, again, before we get into the meat of the questions, let us
know if you need any breaks or if you would like to discuss anything with Mr. Ohm, we’ll
make sure we accommodate that.

And, again, I’m the only investigative counsel on right now, but some might join.

If so, there may be multiple people asking questions at that point. So, if you need
someone to repeat something, please just say that, and we will repeat the question or
rephrase the question.

Mr. Ayres. Okay.

EXAMINATION

BY MR. [ ].

Q. So can you tell us a little bit about yourself? So like, how old are you?

Where are you from? How long have you lived there?

A. Stephen Ayres, obviously, 39 years old. Currently reside in the State of
Ohio.  Been over here on and off 5 years here and there.  I grew up in Pennsylvania
right on the other side of the border.  So Ohio, Pennsylvania is right here; the line's right
here.  So people bounce back and forth for work and whatnot.

Q  Okay.  Western PA, eastern Ohio, that Allegheny, Pitt area?
A  Yeah, about an hour north of Pittsburgh, about an hour south of Cleveland,
like dead center of them two so.

Q  Okay.  What's your educational background?
A  I graduated from high school.  Went to votech while I was there for
carpentry.  Got out of high school, and I started my -- I worked at KraftMaid Cabinetry
for 20 years, up until this stuff came about, as a supervisor there for 4 years.  Had 25
people working for me.  That's really about it right now.

Q  Are you currently employed?
A  Not currently.  I'm starting my own construction company.  You know, this
kind of -- all this Capitol stuff kind of put a -- for lack of better words, damper on kind of
really the work outlook since all this stuff started.  So I do know the construction
industry pretty well, so I'm getting in business with a buddy of mine and getting a
construction company going right now.

Q  Understood.  So let's go back then to the election of 2020, leading up
through January 6th.  So we're going to ask you pretty much just questions of what you
were thinking or what you were seeing or what you were feeling leading up to
January 6th.  And then we'll go through January 6th as well.  Then we'll end it with kind
of your views now in retrospect.

A  Okay.

Q  So, going back to the 2016 election -- or 2020 election -- not 2016.  We're
not going back that far -- but to the 2020 election, how would you describe your level of
political engagement throughout former President Trump’s term?

A It was a lot more -- I wasn’t very political until I got on -- well, really social

media I feel that’s what really got me more political, more following politics and whatnot. Facebook, Instagram, Twitter, you know, with that -- that whole outlook on there, you know, it’s very easy. Everyone’s expressing their views and opinions, and it gets very, you know, fired up. A lot of people get very fired up about it. But, up until that point, up until the social media and stuff, I really didn’t follow politics, you know, all that well so.

Q Was it fair to say, though, that you started following on social media when President Trump became President?

A Not specifically. I just didn’t follow politics as hard until President Trump, you know, took office I think.

Q What made the change? So why did you start following it more hard when President Trump became in office?

A Sorry. I’m not sure if it was just social media, or if I just liked the way, you know, he presented himself with, you know, his views and beliefs. I kind of think that’s kind of what made me start following a little bit more. Because I was a little bit following them a little bit here and there back when Obama was in office, but not as much. It’s like, once Trump got in office, kind of seemed like it was like a lot. I started watching it and following it a lot. I was reading up on it every day, researching stuff every day. But it definitely took off, I would say, when he probably, you know, became President.

Q And you started following it -- and just let me know if this is wrong -- because you personally liked President Trump and his style of leadership?

A Yes. Yeah. That’s basically, you know, a way to sum it up.

Q I’m going to touch on some of the social media stuff actually very shortly,
but before I get to that, did you read like traditional print media, like the Wall Street Journal and New York Times about politics?

A  No, not really. I always strayed away from the mainstream media. I'm one of them people that research everything. I research it all, then I form my own opinion, but I kind of try to stay away from the mainstream media because in my opinion they're going too far left, too far right. I like to research and form my own opinion.

Q  Okay. Did you watch any television news? I know you said mainstream media. I don't know what you consider mainstream media. So I'm just going to make sure I ask everything.

Did you watch any television channels to get your information?

A  I would watch Fox News, you know, ABC, CBS, NBC, you know, the main media, you know, news outlets. I'd watch them, but mainly it would be like Fox News and then alternative channels on like YouTube. I watched a lot of -- follow a lot of political commentary on YouTube. That's where I get a lot of it.

Q  Okay. So, on YouTube then, what channels, if you can just give us a few you watched to get your information?

A  I would check out Fox News on there. There was some conservative channels on there. I really can't even think of their names off top -- once all this stuff started, I just quit following politics all together. So I have trouble even remembering. There was just a couple talking heads on there basically that, you know, they put their opinions out every day. I can't really narrow it down to just any one particular person. It was a little bit of everything, watching a little bit of everybody.

Q  Did you watch Alex Jones?

A  I've seen some of his stuff, but I wasn't a real big fan of him.

Q  Can you give me one example, then, just a name of one person at least that
you were watching on YouTube?

A  Like Candace Owens, I’d follow her. Charlie Kirk, I’d follow him now that I think about it. Some of Ben Shapiro’s stuff, but I don’t think he was quite as big then as he is now. So, mainly, like, most of the conservative people that are on there, the bigger ones.

Q  Yeah. Got it.

So, going back to the social media, which social media applications did you use mostly to read about politics or did you follow politics on?

A  I would say it was probably Facebook. That was like my main one that I was on and reading up on politics and all that. I’d say Facebook was the number one.

Q  What about Parler? Did you follow anybody on Parler?

A  No. I just -- I think -- I’m not sure if I got on that one or not, or if I did, if it was brand new. I remember hearing about it. I don’t know if they put that out after Trump got banned on Twitter and Facebook, if that’s the one. I joined it, but I didn’t mess around with it because the whole layout and everything, I just really wasn’t big -- I think I did try getting on there, but I didn’t do much with it after, you know, I got in there and seeing how it was and whatnot.

Q  What about Reddit?

A  Yeah. I follow Reddit. I liked Reddit, but I wasn’t -- didn’t -- I just found Reddit just recently. I haven’t had Reddit up until within the last probably year and a half, 2 years. Other than that, it was Facebook, Instagram, and Twitter were the three main that I really was on.

Q  Okay. So I hear -- I’m still going to go through a few to make sure.

Telegram?

A  Nope. I don’t think I have any -- I’ve heard of it, but I don’t think I’m on
There or had even been on there.

Q. You just mentioned Twitter, right?
A. Yes.
Q. So you follow things on Twitter?
A. Yup.
Q. GETTR, G-E-T-T-R?
A. No. I've never even heard of that one.
Q. You mentioned YouTube already.
A. Yes. Correct.
Q. TheDonald.win, did you ever get on that website?
A. No. I never heard of that one.
Q. Gab, G-A-B?
A. Nope, never heard of that one.
Q. And the last one is Wimkin, W-i-m-k-i-n?
A. Nope. I don't believe I've heard of that one as well.
Q. All right. I think you might have touched on this so just to make sure we have it clear: If you had to pick one or a couple of these sources, which sources did you rely on the most?
A. They would have been -- it would have been Facebook and Twitter would have been like the top two.
Q. And YouTube as well? Because I know you mentioned some of the shows --
A. Yeah. Following them, yeah, and the videos from there. I usually just watch videos. I wasn't real active on YouTube. I just watched videos and comment very seldomly. Facebook and Twitter, I'd post stuff every day and stuff like that.
Q And did you get to the YouTube links through Facebook a lot, or would you just get on YouTube separately?
A I think a little bit of both, you know, because a lot of times, you could just tag the YouTube videos right into Facebook. So, you know, if you watch a video, it's gonna carry you right over into YouTube. So probably a lot of times I caught it right from Facebook and then, you know, maybe got shifted over to YouTube from there, from the link.
Q Makes sense.
I'm assuming, but correct me if I'm wrong, that you followed former President Trump on these social media apps?
A Yes. Yeah, I did.
Q And, just to be clear, which site did you follow him on?
A I followed him on Facebook, Twitter and probably Instagram. Those were the three that I think I had him on.
Q So, right after the general election 2020, so right after November and the days afterwards, did you believe that the election had been stolen from former President Trump?
A Oh, yeah definitely. I definitely did.
Q What made you think that the election was stolen? And, if you can pinpoint, I guess, when did you start to believe the election was stolen?
A Probably that night when they saw that huge drop for Biden in the middle of the night when everybody was sleeping. That's where it just, you know, it looked crazy to me that that was even possible. I think it was that night myself.
Q Was there anything else, I guess, as the weeks continued after this that made you -- I guess even more confirmed your thoughts that the election was
stolen?

A  Yeah.  Sorry.  Yeah.  Just from posts I follow online talking about the voting machines, how certain voting machines were used in bigger districts.  When they turned around, they used smaller voting machines or like a smaller company.  Then, in certain, you know, big, you know, big districts, that the bigger districts seemed like they were using certain voting machines there.  I don't know.  That's the stuff I seen a lot that kind of got me thinking, oh, maybe the thing was rigged, you know?

Q  Did you participate in any rallies or anything after the election?

A  No.  I've only been to that one rally, and that was January 6th.

Q  So you didn't go to any "stop the steal" rallies in Ohio or Pennsylvania, anything like that?

A  Nope.  That was the first one I've ever been to.

Q  Did you follow the "stop the steal" movement?  So like Ali Alexander?

A  No.  Nope.  I just found out about it with my friend, Matthew Perna, when they were going down there.  He's like:  If you want to go, we've got room.  That's when I rode down.  I've never been to a Trump rally before that.  And I figured that was going to be his last one, him leaving, you know, from the Presidency.  So I wanted to go to at least one Trump rally before he was out of the Presidency.

Q  And I didn't want to make this assumption; Mr. Perna was your friend, a personal friend?

A  Yes.

Q  I'm sorry to hear about Mr. Perna's death.

A  Thank you.

Q  I thank you for talking to us, and even, I know it can be difficult probably to talk about a friend that's been lost.
If you don't mind me asking you, how has that impacted you, Mr. Perna's recent death?

A  It messed with me a lot, you know?

Q  Sorry. I'm sorry to hear that. Yeah.

A  Thank you.

Q  If you don't mind, when we get to the end when we're thinking about things in retrospect, I might ask you just a few questions of how it might have impacted you and how -- if it might have changed you. If the answer's no, feel free to say that. But just want to highlight, I might get to that later on in this interview. Okay?

A  Yup.

Q  So you didn't attend the November 14th rally in Washington, D.C.; that's correct?

A  No. Huh-uh.

Q  And you didn't attend the December 12th rally in Washington, D.C., either?

A  Nope.

Q  So walk us through, then, the factors that influenced your decision to come to DC on January 6th. I know you came down on January 5th.

But what were you thinking about when you came?

A  I basically was just coming for the rally because, you know, the President was: Hey, come down to D.C., stop the steal rally. Like I didn't even put it into perspective the actual name of it. I was basically going down just to see, you know, the President speak. And, you know, like I said Mr. Perna -- and he had some friends and family going down. I was like: Oh, that would be sweet. I want to go.

You know, he's like: Come on, we got room.

You know, that was only the thing, going down there to see that.
Like I had no idea -- I don't know if it was planned to walk over to the Capitol afterwards. I don't recall ever hearing that, but like we didn't plan on going to the rally, then straight over to the Capitol. Like, I don't remember ever hearing or nothing about it or talk about it. I was just going for the rally. Then, at the end, when, you know, Mr. Trump's like "let's march over to Capitol and show our support" or whatever, this and that, that's when we decided to walk over. So it wasn't like I even planned out, that I recall remembering back then.

Q Did you think that former President Trump was going to join you all at the Capitol?

A I don't know if I thought he was going to or not. I just -- we stuck around for 10, 15 minutes after the actual rally ended. And then we walked over there. I don't know if I thought he was going to actually be over there or anything like that.

Q Okay. We'll get to the day of a little later.

Is it fair to say you came to D.C. with Mr. Perna and his family and friends because President Trump was going to be speaking?

A Yeah. Yeah. I'd say so.

Q And was there anything specific that former President Trump said in the lead up to January 6th that made you want to come to D.C.?

Like, was there something he said? Was there a tweet, anything that really made you want to come?

A Nothing that I can think of. You know, I just saw that it was going on. I was like, you know, it would be cool to go watch him talk. That's my, you know, personal view. I don't remember ever hearing or seeing anything where I felt like, oh, I need to be there. You know what I'm saying?

Q Do you remember the December 19th tweet where he said, "Will be wild"?
A    Me or him?
Q    Do you remember the tweet from President Trump on December 19th
     where he said, "Be there, will be wild"?
A    No. No. I know I put out something like that: It would be cool to be
     there. It's going to be wild.
     Like I didn't think of it being like something crazy was gonna happen. I just
     meant, like: Hey, it's going to be cool. You know?
Q    So, when you said, when you put out there "will be wild," I'm just going to
     ask you, what were you thinking? What was going to be wild about it?
A    Just how many people were going to be there, the rally, and all that. Like, I
     never -- never like pre-gamed or planned anything leading up to that. I was just like,
     cool, we're going there, just like if I was going to a concert; it's going to be wild. That's
     like my way of saying it's gonna be fun; it's gonna be cool. You know what I'm saying?
     Something like that. I didn't mean it like in -- suggest something like what happened at
     the Capitol was going to take place. It was more like: Hey, this is gonna be a good
     time.
Q    Okay. Other than Mr. Perna, who did you travel to D.C. with?
A    I don't even barely know them that well. His aunt, his uncle, couple
     buddies. I don't even remember their names. What is his name? I can't --
Q    If you don't remember, that's fine.
A    Yeah. Like, I didn't hang out with those guys. I knew Perna from school
     and sports and stuff. But the people that went with him, I never met them before in my
     life.
Q    So Mr. Perna was kind of like the center, and you were friends with him, and
     he had other friends that came down with you all?
A: Yeah. Yeah. Yeah. I was kind of like the last addition add on to them going down there. Kind of like: Hey, if you want to go, you can come.

Q: If you had to put a date on it, when did you decide you were going to come to D.C. on January 6th? Was it around Christmas? Around New Year's?

A: It was a few weeks before. I'm not sure exactly how long. Could have been 6 weeks before, maybe a month. I don't know like the exact time when I was like -- I want to say it was like a few weeks before, but I can't remember exactly.

Q: So well in advance, though?

A: Yeah. I would say, at the latest, probably like 6 weeks before, I believe, at the latest. But I'm thinking it was closer like a couple weeks beforehand, but I'm not a hundred percent.

Q: I guess, how were you tracking information for the rally? Were you tracking it on Facebook as well?

A: I would have just -- yeah. If I would have been following any of it, it would have been on Facebook.

Q: Were you aware of any buses or caravans taking people to D.C. for the rally?

A: I think I remember seeing or hearing about that.

Q: You didn't know anyone personally who used these caravans or buses to come down?

A: No, I didn't personally.

Q: Did any elected officials have any impact on your desire to travel to D.C. other than President Trump?

A: Did any other I guess elected Congressman or State officials impact your decision?

A: No, not really. I don't recall like hearing someone saying, like, "you should
be down there on January 6th or anything that would have impacted my decision, you know, to go down there for the rally.

Q I guess another just piggyback on that question, though, were there any politicians during this time period other than President Trump that you really followed and thought highly of, I guess, while this "stop the steal" or certification challenges were going on?

A I mean, I followed the -- like the big conservative, like, talking point heads really. Like Ted Cruz, and -- I don't even know their names off the top of my head. But I'd follow the ones that were always speaking out kind of in his favor because there wasn't very many. But I would probably say I followed them on, you know, Facebook and stuff and whatnot.

Q Ultimately, what was your goal, right?

You decided to come on January 6th; what was your goal or what were you coming to D.C. for, right?

It's a little bit of a drive; 5, 6 hours from Ohio?

A Yeah.

Q So what was your goal in coming?

A My goal was just to go -- my personal goal was just go see him speak at his rallies. I always seen him on TV. I've seen the rallies on, you know, YouTube and stuff. They were huge. My perspective, I just wanted to see him speak one time before he was out of office.

Q So you viewed this as almost as like his last speech?

A Yeah. Yeah. That's how I looked at it. I figured he was leaving office; I wasn't going to get a chance. I wanted to make one that was like up here in Erie, but I never got a chance. And I didn't even try that hard. But I figured this was going to be
his last one, so I definitely want to see it.

Q I know we’ve heard former President Trump talking about a big reveal on January 6th, leading up to it.

So, in your mind, though, when you came, you thought he was going to be leaving office, or did you think there was a chance he could remain in office?

A I’m not even really sure. Like, I know it was like -- they called it the "stop the steal" rally and stuff, but I didn’t really think that it was going to be like, "hey, I’m not leaving"; you know what I’m saying? I’m not sure what it really would have been, what his big reveal was going to be; you know what I’m saying? You know, he kind of built things up quite a bit. So I don’t know. I’m not sure if he -- like I thought he was going to be, like, "Oh, guess what, I’m staying," or something like that. So I’m not -- not real sure.

Q Okay. So going more to January 6th itself.

You left on January 5th, right?

A Uh-huh. Uh-huh. Yes.

Q That was a yes. Okay. Perfect.

And you traveled by car?

A Yes.

Q With Mr. Perna and others?

A Yes. Yup.

Q Where did you all stay? Did you stay in the city, or did you stay in the surrounding area?

A We stayed at a hotel in the city, handful of blocks away. Like, it was walking distance but probably took 15 or 20 minutes to walk that far.

Q To the Ellipse I’m assuming?
A What's that?
Q To the place where the rally was, about a 15-minute walk to where the rally was?
A Yeah, 15 to 30 minutes at most, depending how fast you're walking I would say.
Q When you same to D.C. on the 5th, right, for the 6th, were you expecting there to be violence on January 6th?
A No. I didn't expect it.
Q You weren't expecting any violence with antifa or anything like that?
A Well, Mr. Perna did say that, like, antifa rides around. You got to keep your eyes open for them because they'll come up and jump you, stuff like that. Other than that, none like -- he never -- Mr. Perna or his buddies never once said: Hey, we're going to go out looking for violence or look for violence.
   But he said: You got to watch for antifa because they'll come up on ya and jump ya and stuff like that.
Q So, while you're preparing for that threat, how did you prepare, if at all?
A What's that last part?
Q I guess if at all?
A No. Like, I didn't prepare anything differently. I mean, I kept my -- if we went out walking -- I know they had like a little thing going on, on the 5th. Once we got down there, we went out and got like lunch or something, or, later on in the evening, we did. But we went down, they had Freedom square or Plaza I think.
Q Freedom Plaza?
A Yeah. They had something going on there, so we walked down there and watched and stuff. And then, you know, we got -- when that was all ending, we stopped
and got a bite to eat and went back to our hotel room.

Q  But you went to the rally at Freedom Plaza on January 5th?
A  Yeah.  Yeah.

Q  Okay.  How would you describe the environment during that rally?
A  It was good.  You know, upbeat, playing music and stuff.  And we were
just hanging out, looking around, walking around.  We ended up walking over to the
Lincoln Memorial, seeing the Vietnam Memorial as well.  So we spent a little time there,
and then we walked around for a while.

Q  Are you a military veteran?  I forgot to ask at the beginning.
A  No.

Q  Was Mr. Perna?
A  Not that I know of.  I don't believe so.

Q  And was there any speakers on the 5th that you were particularly excited to
see or that you were happy that you got to see after the fact?
A  On the 6th?

Q  On the 5th, at Freedom Plaza.
A  No.  I know there was some speakers going on.  The only person that I
remember that I thought was pretty cool was the rapper.  He made the rap song.  I
remember hearing that.  That was pretty cool.  But, other than that, I'm not sure who
the speakers were, I mean, off the top of my head.

Q  I guess, the night of January 5th leading into January 6th, do you recall the
President talking about Vice President Pence at that time or what he could do on the 6th?
Do you recall any conversations about that?
A  I remember hearing about it, how he can -- I don't know if he can say not
accept the electoral votes or something.  That had been about the only thing, you know,
that I would remember hearing that could have possibly happened.

Q  Was that something that you were tracking or thinking about?
A  I don't recall. But, I mean, I probably -- as much as I followed politics, I
probably would have been watching for that or looking into that.

Q  Only reason why I ask is because, as we get into the 6th, right, so Vice
President Pence then puts out the letter that he's not going to act on the certification of
the vote.

Did that disappoint you?
A  Yeah, it did.

Q  Okay. Why? I guess, help me understand.
A  I think I was -- at that point, I think I was believing, you know, it was basically
the whole system was rigged, you know? At that point, I was definitely believing it after
seeing so much information put out that, whether it be true or not, you know, I was
believing at that time that, you know, it wasn't a legit election. I was hoping that he
maybe was going to do that, but that's, you know, from the top of my head. That's what
I can kind of remember I think.

Q  So let's move to January 6th.

Approximately, what time did you arrive at the Ellipse, if you remember?
A  What's that? Is that where the rally was held?
Q  That's where the rally was held. I'm sorry. I'm talking like a D.C. local.

What time did you arrive at the rally?
A  I want to say we got there -- I'm not sure. What time did the rally start, at
11? I want to say 11, 12.

Q  So President Trump spoke later in the morning, but the rally started much
earlier. I'm trying to understand when you arrived.
I want to say we maybe got there maybe a half hour, maybe 45 minutes -- like, I'm not even remembering a hundred percent right now. I would say it wasn't long -- we weren't there -- we were standing around for a half hour, 45 minutes I would say, maybe even a little bit longer until Trump come on because we were looking at T-shirts and stuff like that.

So you guys were outside of the security perimeter?

Yeah. We weren't up inside where they had the perimeter up for the President.

Did you stay for all of President Trump's speech?

Yeah. We were there, and I think he stopped right around 1 o'clock.

Was -- anything about his speech stand out to you?

Nothing I can think of. The only thing I really remember is him saying, "Hey, let's go down and show our disdain," or whatever. I can't remember the exact words. You know: Let's march on down to the Capitol and, you know, show your support or something like that. Other than that, it just seemed like the same stuff that he was repeating from his previous rallies and stuff like that that I've seen online.

Before this, though, you weren't tracking that people may be marching to the Capitol?

No. Huh-uh. I don't remember hearing anything about that.

When you heard this, what did you think the point of going to the Capitol was?

I thought, you know, people were going to just go down there, stand around, and basically be like a peaceful protest.

Well -- and I understand the peaceful protest. What were you protesting in
your mind at this time?

A At that time, I don't know if it would have been from stopping the steal, or if they were, you know, hoping that the Vice President wouldn't accept the electorals. I'm not really sure technically what it would have been.

Q But, in your mind, you were going to protest the election, right, just to put it in very broad terms?

A Yes. Yeah. Basically.

Q So, when did you leave the rally, about 15 minutes after President Trump finished speaking?

A Yeah. We basically stood around for anywhere from 10 to 20 minutes, I'd say 15 because that's probably ball park before we even started to head down there.

Q And do you remember the path you marched down to the Capitol Building?

A Yeah. We walked down that main road right there that was right in front of the security perimeter. That road right there.

Q Pennsylvania Avenue?

A If that's what it was. I don't know. Where the stage was set up, then you had the security perimeter where everybody was sitting like in there, and then there was a road. And then you had the big field and the Washington Monument. That road right there, we followed that down.

Q Were you following the crowd? Is that basically --

A Yeah. We were just following the crowd down, after we were, you know, obviously done standing around talking.

Q When did you come to understand that the Capitol Grounds might have been breached, like the fencing or even the Building --

A When I --
Q -- later in the afternoon --
A Yeah. When I got down there, it was -- that whole place was overrun with people when we got down there.
Q Right. So you knew this before you got there, or did you see it as you were walking up?
A I seen it as we were walking up.
Q I guess, what were you thinking as you were walking there? What was running through your mind as you saw that scene?
A Me, personally, I was just like more like a shock and awe, like holy, you know, holy crap. Kind of crazy, you know, there's people everywhere, you know. I was more shocked than anything.
Q I'm just going to ask one followup, I guess.
Why were you shocked?
A Just to see what it looked like. Like, once we start getting down there, then like -- from what I came up walking straight up, you seen people kind of clashing with the cops over to the far -- it would have been my far right at the time, and I was just more shocked to see what was going on.
Q Did people appear angry as you were walking to the Capitol?
A Yeah. A lot of people -- a lot of people seemed like they were very upset.
Q Tell us some of the things they were saying, if you recall?
A They were saying all types -- you know, people were screaming all types of stuff. They were mad that Vice President Pence was going to accept the electorals. I mean, it was -- it was -- if you could think it up, you were hearing it.
Q Did you hear "hang Mike Pence"?
A I don't know if I heard that or not, but I wouldn't be surprised if I did because
it was pretty crazy.

Q  And I'm just going -- were you angry as well when you were marching

towards the Capitol?

A  Did you share some of that anger?

A  Yeah.  I had some, like, sentiment like that.  But I wasn't like some of the

people there.  Yeah.  I was like, "Oh, man, this," you know, I was like, "This stinks," you

know, using different wordage obviously.  But there was a lot of people that -- there was

people completely fired up, acting crazy, and there was other people that are just like me

kind of like bummed out, more or less bummed out.  Not really mad.  I was more or

less bummed out I'd say.

Q  And why were you bummed out?

A  Just because, you know, it kind of got all pumped up like -- maybe Mr. Trump

or President Trump was gonna end up staying in office.  Then you find out he's doing

that -- or the Vice President Pence was, you know, approving it or whatever.  So I

personally can remember feeling bummed out.  I wasn't really so much mad or cheated,

I don't recall.

Q  Right.  So, when you get to the Capitol, were there any barriers up when

you arrived at the Capitol?

A  When I got down there, I -- where we come in at, I don't remember seeing

barriers.  There was just so many people flooding the whole entire area.  So it would

have been hard to see anything.  And then, once you started walking in there, you

started getting sandwiched in like sardines, and you were getting forced forward.  So it's

like, if you were walking up and you started getting up in there, you got pushed forward

anyways because it was packed pretty tight.

Q  I guess, you said you saw people clashing with the law enforcement, like you
said, as you were walking up.

Did you see violence after you got on the Capitol Grounds approaching the Capitol?

A Approaching the Capitol Grounds -- walking up to the actual Capitol Grounds, just mainly people walking.

Q Yeah.

A Once I got there -- that -- I seen people kind of clashing with the police and stuff, but it was up like a hundred yards up ahead of me, 150 yards up ahead of me, but they were almost like up on top of the Capitol Building it itself.

Q Gotcha. And, when you got on the Capitol Grounds, did you see any violence?

A Yeah. I did see people clashing with them then, once I got up closer.

Q With the law enforcement officers?

A Yes. Yeah.

Q When you got close to the Capitol, were people instructing you about going towards the Capitol or how to get in the Capitol?

Did receive any instructions from any people?

A There was a bunch of people with, like, bullhorns hollering stuff: Hey, do this. Go that way. Do this.

There was quite a few people that had bullhorns. So, on top of that -- and you know, people talking and people were chanting. And they were, you know -- people were singing patriotic songs. It was kind of a really hectic situation. So it was kind of hard to take it all in, even to understand if somebody was trying to direct people any which way.

Q Do you recall anything specific about the people with the blow horns?
A: They were just yelling, you know, basically, you know, the system's rigged and stuff. I remember hearing stuff like that I want to say. But I don't know if I heard anything like say: Hey, go through this door. Do that door. Do this. You know what I'm saying? I don't remember hearing that. But I'm willing to bet there probably was because, you know, of how crazy the day was.

Q: Right. I guess, I forgot to ask this earlier.

Are you aware -- or, at this time, were you aware of groups like the Oath Keepers or Proud Boys?

A: I don't know. I remember seeing them, but I didn't really put like two and two together. I saw people wearing like patches and stuff, but you seen people wearing like bulletproof vests and stuff mixed in all through, and then some people wearing like -- what they were wearing riot gear like themselves. They had a helmet on, maybe not a shield on their face. People had gas masks and stuff. I wasn't really aware of them, other than maybe seeing someone here and there.

Q: You had never seen them in person before -- maybe or was it on the internet?

A: Oh, on social media and online, yeah. I seen them online. Not like in life or you know?

Q: So then just walk me through how you came to get inside the Capitol, and then also answer why you left the Capitol.

A: Well, we -- as we walked up to it, like I said, it's a lot -- cans of sardines. Everyone's forcing up. We're walking up, and people are saying: Keep pushing forward, keep pushing forward.

We got up to where I -- which I say is my left-hand side walking down from the Washington Monument was the far left side. I remember getting up top. There was
some people climbing up on some -- I don't know -- I forget what you call them -- can't think of them offhand -- scaffolding is going up the building. I remember watching some people going up scaffolding on that.

Over towards the right, I seen people clashing with police officers. And then, when we were over on the left, after you -- I don't know. I can't remember what it looks like offhand, but once we got up top where it's like flat where the door is on the left-hand side where we walked through, it was packed crazy tight in there. And then I remember -- you know, I was basically -- I had my phone out, and I was recording. And I pulled my phone out just to basically record what was happening, what was taking place.

I remember we went through the door right there. There was four police officers standing in there when we went in. We stood there. People were chanting all types of stuff. They were singing like patriotic songs. I think they were saying, "who's House, our House," stuff like that, U.S.A. I stood there for a couple minutes recording my phone like this, just panning around, showing what was taking place. And then I walked right down -- I believe -- is it called the rotunda I think it's called?

Q   Yes.

A   Which is basically like that long hallway that went out to the other very end of the Capitol that had velvet ropes on each side, and there was police officers lined up on each side. I walked right down that and right out the other side of the building. So I was in there like a total of 9 minutes, 10 max, and then I just --

Q   What were you hoping to accomplish by going into the Capitol, if anything?

A   I remember -- well, when we got up there, I remember we were all standing around there, and then the doors opened. I didn't know if the police opened it or someone maybe broke it open. But, when I walked through the doors, I remember seeing like there were three or four cops standing in there. So, you know, I was thinking
they're letting us walk through. We walked in, and we stood there, chanted. Then we walked out the very end. Like, my -- I was just -- me, personally, I was like: Oh, cool, we can walk through.

And then, like I said, we walked out down the other end, and that was it.

Q So, again, just to make sure, you stay in the Capitol for about a total of 10 minutes?

A Yeah, 9 to 10 minutes from what the video footage I've seen.

Q And why exactly did you just walk out of the building instead of staying in?

A I wasn't like -- me, personally, I wasn't there to like do any destruction or fight with cops or none of that. I just wanted to walk through just to walk through basically.

Q You weren't trying to get to the House Chambers or Senate Chambers --

A No. I never --

Q -- or the --

A Nope. I'm sorry. I didn't mean to interrupt you.

I never left the velvet ropes that were there. There was velvet ropes down that whole hallway. I stayed right in them and walked right out the other end. But I didn't have no goal to get anywhere else in there.

Q Were you following President Trump's tweets throughout that afternoon?

A I don't think so. I was -- basically had my phone out recording until it died. I was trying to record and post videos. I was taking pictures. So I don't know -- I don't recall seeing his tweets or anything.

Q I'm going to read one specifically, and just tell me if you remember this. So, at 2:24, President Trump tweeted that: Mike Pence didn't have the courage to do what should have been done to protect our country and Constitution.
The tweet goes on, but do you recall this tweet?

A No. I don’t remember seeing it. I mean, I may have, but I don’t recall because I think I was doing a lot of just basic recording myself and posting pictures and videos. So I don’t recall -- I don’t recall seeing that.

Q Okay. And do you recall President Trump’s tweet video -- it was like a video tweet message at 4:17 where he told the rioters to go home?

Do you remember this video message?

A I don’t recall seeing it on my phone myself, personally, but I remember hearing people talking about it.

Q Tell me more about that.

So people at the Capitol were talking about it?

A Yeah. I remember once that was -- excuse me -- once that was, his tweet or whatever that was, his post come out, I remember hearing people talking about it and letting other people know that it was put up.

Q And what was the reaction?

A I think -- I want to say, but I’m not a hundred percent, I want to say it was kind of calming down a little bit, except for a few handful of people that were going -- still going hard and trying to fight with the cops and all that stuff. I don’t -- but I can’t -- I remember hearing about it, but I don’t know if it changed the outlook, if it effected any change, made people calm down, or if it affected anything.

Q Well, I’m not thinking big picture.

I’m thinking of the people that you saw talking about the tweet message to go home. Did it influence you to go home?

A Yeah. Definitely. I think so. Like I’m not even sure what time we walked out of there. I know it was getting dark. So, you know, he put that out -- what is that,
January? So the sun's going down 4:30, 5 p.m., so that could have been roughly when we started pulling out because the sun -- it wasn't dark yet when we left. The sun was going down.

Q But why did the 4:17 tweet message, though, why did that influence your decision to go home?

A You know, that's basically your President, you know, asking you, you know -- that's how I look at it, like: Hey, chill out.

Even though I wasn't really doing anything, kind of following that order. Because he said: All right, guys let's cool it out.

I wish he would have done it, you know, 10 minutes after he seen what started and what was going on. But kind of following that as like, you know, let's get out of here, which I wish it would have been done a little earlier honestly.

Q So after leaving -- let me -- why do you wish it would have been done a little earlier? I should --

A Because I didn't know that was going to break out the way it did. I wish the moment -- my personal opinion, I wish the moment he saw what was happening, I wish he would have come out and he would have posted something like that or did something like that, you know, half-hour after his rally was over because it was getting insane down there.

Q Do you think it would have -- and just by what you saw, you think it might have calmed things down if he would have tweeted a little earlier?

A Personally, I believe so. I mean, unless the people that were really there hell bent on causing trouble; you might not have got them people to calm down. But, for people that were like me that were there -- we weren't there to cause trouble; we were there to basically be a peaceful protester -- I think that would have really swayed
people like me, you know, the guys that were kind of on the sidelines watching the stuff take place. I don't know what it would have done for the people that were there, you know, hell bent on causing problems. I don't know if it would have done anything for them. Maybe. It might have. But, you know, we don't know that right now.

Q   But, for the people like you, the words "go home" really mattered?
A   Oh, yeah. I think so. I bet it played a big role with a lot of people, you know? Your President's telling you, you know: Hey guys, chill out. You know?
I'm willing to bet it would have done a lot.

Q   So where did you go after you left the Capitol?
A   We basically -- we walked home. I think they put out -- the D.C. mayor put out a -- I can't think of what it's called off the top of my head, basically shut everything down. We were trying to get some food on our way home, and we couldn't. We just basically left there and walked back to the hotel room.

Q   What were you guys thinking or feeling when you got back to the hotel room?
A   I was more like shocked more than anything. You know, I seen some people fighting at doors as -- after I walked out of the Capitol and walked around, I remember seeing people going at one of the front doors there. I stood there, watched them. Then I walked around the other side, almost working on my way back around to the original entrance I went in. And I saw people going at it there. Stood there for a while.

Like I said, I was pulling my phone up, putting it down. Pulling my phone up because I ended up losing battery service right there on that last door I was just speaking about. I seen the cop get drug out, down to the ground, and people started jumping on him. But then my phone died right then and there, and I ran over -- I was going to help
pick him up. Other people picked him up and ushered him back into the building because there was some people that were trying to hurt him, and there was some -- other people helping to get him up and get him back in the building so he didn't get hurt.

Q Did you leave to go back to Ohio the next day?
A Yeah. That next morning, we left and headed back.
Q With the same group, right?
A Yeah. Yup.
Q So this might be a question more appropriate for Mr. Ohm. Just, can you give me a current status of your case? I understand that you've entered a guilty plea, but just current status of your case.
Mr. Ohm. Yes. Mr. Ayres, he pleaded guilty with the sentencing, I believe, is on -- September 13th, he pleaded guilty to the 1-year misdemeanor, entering and remaining in a restricted building.

Mr. Ohm. Thank you.

BY MR. [REDACTED]:

Q So I now want to talk about, kind of, your feelings looking back on it. I know you've had a lot that's happened since then, including the death of Mr. Perna. So, believe me, I'm very sensitive to the changes.

But can you just help me understand what changes, if any, have occurred in your life since January 6th?

A Talking to me?
Q Yes, for you.
A Oh, I'm sorry. I'm sorry. I thought you were still talking to --
Q No worries.
A I was kind of zoning out there when I heard that. Yeah. I’ve had a lot of changes in my life. I lost my job that I worked with -- worked at for 20 years. My wife had a baby boy 2 months later. You know, I had a lot of changes, especially when I’ve been at a company for 20 years, you know? Then with Matt.

Q Have your feelings changed about the election since January 6th?

A Yeah. I don’t follow politics as much as I did.

Q Why not?

A Just because of everything that happened.

Q With Mr. Perna in particular?

A Well, him, and the riot itself.

Q Yeah. So help me understand, why do you believe that the riot on January 6th occurred, if you have thoughts looking back now?

A My personal opinion is just I think it was just building up, building up, you know? I think a lot of people thought the election was stolen or rigged or whatever you may say. I think just people got mad, and, you know, they didn’t know how else to voice their opinion or anything like that.

Q So I understand that individuals might have been mad, including yourself. I think that’s normal, right, within our country?

But I guess, what led to the spark, if you had to put a reason?

A The spark for -- what do you mean? The Capitol thing?

Q Yeah, that led to the Capitol thing. What was the spark, right?

It’s one thing to be mad, and it’s one thing to actually go into the Capitol. So what was the spark?

A I would say that it just had to be the election results itself honestly. You know, I think people felt like, you know, they were being left behind by the system or
whatever it may be. I just think maybe, you know, after, you know, how many votes
were out there versus, you know, how well he did on his first election, I think, you know, I
think people feel like, you know, not really maybe -- if they’re being betrayed or if they
feel like they’re being left behind.

And, you know, I think that’s kind of what helped build it up. Plus, I, you know,
Mr. Trump or President Trump was always online tweeting too, you know? So, when
you got millions upon millions of followers, you know, that look on -- there’s probably a
lot of people that look on every word he says -- excuse me one second -- on every word
that he says, you know, they’re going to follow and do as he says, you know? He puts a
lot of -- he used to put a lot of fiery -- fiery tweets out there and posts and stuff, and I’m
sure it probably -- it probably helped build up to all of that. It probably helped build and
added fuel to all that fire.

Q You just said he would tweet, and a lot of people would do what he says
when he tweeted.

Is that kind of going back to your point about President Trump saying "go home"
sooner, how it could have maybe helped?

A Oh, yeah. I believe it definitely would have helped. You know, if he would
have come out a half-hour, you know, at 1:30 -- because I heard that the commotion kind
of got started down there around 1 or a little before 1. If he would have been out and
on there at 1:30 saying, "Guys, this is not what we stand for, this is not what we’re here
to do," you know, I think it would have played a huge part.

Q Looking back now, what do you think we can do differently as a country to
prevent a situation like January 6th from ever occurring again?

So that's one of the things we're doing as a committee, right? We're trying to
make recommendations to prevent another January 6th.
So what can we do differently as a country to prevent this from ever happening?

A I don't know if it's so much as a country because, you know, I think it's the political divide in this country has gone to a whole new level. I really -- I think that one of the biggest things that really made Trump supporters mad was the way Facebook and Twitter banned him. When you can ban, you know, the President of one of -- the free nation of the world, when you can try to silence somebody with -- the President of the United States, whether it be a Democrat or Republican, you know, I think that's what fired up a lot of people, is that you're trying to -- whether you want to call it opposition or what, you're trying to silence people that way. I think that's -- my personal opinion, I think that's what really got people really mad and fired up, was the way Facebook and Twitter silenced him, which -- and I know it angered me at the time. But I kind of feel like that's what really got people really fired up, was when they silenced him. You know, yeah, he's on there. He's tweeting. He's posting. You know, people aren't -- you know, he's going to have stuff that people don't like. There's going to be stuff that he posts that people do like, but to silence somebody for a view or a belief considering we're considered a free nation, I think that's what got people fired up.

Q So that came afterwards, right? The silencing came after January 6th. He was kicked off Twitter on January 7th.

A Okay. Yeah. I was thinking that beforehand. I apologize.

Q No worries.

A Yeah. I don't know. I'm not sure. You know what? I'm not real sure. I just don't know if it was just the political divide, you know, and most of the political divide I seen was through social media. And I think that's what got me fired up, was the social media. The social media I felt like just intensified everything.

Q Is there anything that I didn't ask about that you think I should know about?
A  Nothing that I could really think of offhand.

Mr. Ohm, anything you think we should add to the record?

Mr. Ohm. You mind if I jump on with Mr. Ayres real quick?

Mr. Ohm. That's fine. We'll recess in place.

Mr. Ohm. Okay.

[Recess.]
[2:35 p.m.]

Ms. [445] Was there anything, Mr. Ohm, you wanted to add to the record or Mr. Ayres?

Mr. Ayres. I know one of the -- one of the things I was thinking about previously was basically how -- I felt like -- me personally, I felt like we were kind of led astray, for lack of better words, you know. I just felt like, with the whole January 6th thing, the Capitol thing, I kind of felt like we were kind of -- basically were kind of played on, you know, from -- from the President telling us we need to march down there, we should march down there and, you know, show your support or disdain or whatever his words were, you know, that is one of the things that bothers me the most. Because I kind of feel like personally he used us as kind of -- I don't know, a pawn or chess piece. That is one of the things that bothers me the most is how I feel like we were basically kind of used as a strategic positioning or something. I don't know how to really word it myself. That is one thing I feel the most out of all this. You know, I lost my job. You know, my wife just had a baby, you know, basically bought a new house because of all this stuff, you know. And it is just like I feel as though we were basically kind of used in a situation -- used in the situation the way everything played out, you know. That is my personal belief.
Q: And part of that being used was, you know, for example, former President Trump not trying to deescalate that situation that day? Just letting it --

A: Yeah.

Q: -- rage on. Is that fair?

A: Yeah, yeah. That's what I said, I wish -- I just wish he would have come out 1:30 and said: Look, this is not what we are about.

Peaceful protesting. I am all about being a peaceful protester, you know. But, when there is people getting hurt, you know, fighting -- a young lady lost her life, plus numerous people, you know, later on from this as well. You know, I really wish he would have just come out a lot sooner, you know, 3 hours earlier. If he had come out at, what, 4:20 I believe you said, or 4:30, I really wish he would have come out 3 hours earlier and said: Look, this is not what we are about. And that is just one of my biggest -- my personal feelings is how I, you know, I feel like we were used and abused as a -- like I said, like a pawn in the situation. And that is my biggest feeling about it.

Q: When did you start to feel that you might have been used on January 6th?

A: Probably, like -- I consider myself to be a fairly intelligent person. I felt like, within a couple of days, maybe even that day, I feel like we were kind of used to try to swing that agenda or push that agenda or whatever it would be considered. I don't know how you would look at it or consider it, but I kind of feel like that is the way we ended up being used as in the position. I didn't like that, you know. I come down there just to see the rally because that is my only reason I really wanted to go down there, is just to see him talk, see all the people together, and stuff like that. And, for
that to be -- for having a good thing, a good fun time, to be spun into what it was spun
into, you know, it is not good.

Q  We have heard from other witnesses that they felt that some of President
Trump's words on January 6th was -- and this is quotes, "pouring gasoline on fire."

A  Yeah, I --

Q  What are your thoughts after hearing that?

A  I mean, it doesn't -- it didn't take much. When you get that many people in
an area, whether it is a small area or a big area, it doesn't take much, when you are in
that position of power, whether you are the President of the United States or you are a
rock star, it is very easy to swing people the way you want them to go, or it is very easy to
manipulate people in masses to get them to do whatever you want or whatever, you
know. So him having that -- I don't know how many people ended up being there. It
looked like a million people to me. There was a lot of people. If you are there and you
are firing everybody up and saying, like, "the election was rigged, the election was
stolen," and then "head on over to the Capitol," I mean, you had -- my personal opinion,
you had to know what was going to happen, you know.

Q  Okay.

A  There is no way you get people fired up and then say "go over here" and
then not expect something to happen.

Q  So then what is your response then? You just said, right, you had to know
what was going to happen. So what is your response then to the 2 or 3 hours in
between him then telling you to go home?

A  Yeah. It just makes me mad, you know. Because you should have seen
that. If you didn't -- there is no way, you know -- he is a pretty intelligent man, you
know. He is the President of the United States. He's got, you know, businesses. He is
a very -- obviously, he is a very intelligent man. You have to be -- I am sorry, but there is no way you don't know something's going to happen, especially after you get them all worked -- people worked up and fired up, and then you send them on their way. I mean, you know.

Q Thank you for providing that perspective.

Mr. [ ] Is there anything else, Mr. Ohm, Mr. Ayres, that you think we might be missing?

Mr. Ohm No, not from me.

Ms. [ ] All right.

Mr. Ayres Well, my biggest thing is miss -- you know, my buddy Matt, you know. He felt there was no other way out, you know. It is sad. Very sad, because he was a good person, you know. He used to travel all over the world to help kids learning English, speak English, you know. He was just a good person.

Mr. [ ] And, look, all right, this is -- believe me, I empathize with you with the death of a friend. I know it is -- I can't even imagine how hard it is.

When you said Mr. Perna didn't feel like there was any way out, what do you think he meant by that?

A I just think he felt that way with the -- with the judicial system and maybe the DOJ. I mean, I know everything takes time; it takes processes. And, you know, you have got to -- I understand, you know, working out pleas. And then you have got the charges going through. And you can't charge -- you can't say: Hey, you get a year probation and you get 6 years for the same charges.

I understand -- so I don't know. I understand you have to work those all out. It has all got to be coordinated properly so everybody is treated fairly. I don't know if, you know, waiting got to him, you know. The fear of the unknown, you know.
Q  Right, right.
A  But I understand the situation that, you know, they are in and the judges, that they are in and stuff like that. I understand that, just to be as fair as possible.
Q  Again, I appreciate you providing these perspectives and taking the time to speak with us today. Part of our investigation is to try to understand the why, which you have provided --
A  Uh-huh.
Q  -- information about and understand what we can do now, which you have also provided information for. And, for us to be able to make recommendations on policy and legislation, it is important for us to hear from individuals like you who were there --
A  Uh-huh.
Q  -- about what we can recommend. So, on behalf of the committee, I thank you for taking time to meet with us today.
A  No problem. I appreciate it.
Mr. [Name]  All right, we will go off the record at 2:43.
[Whereupon, at 2:43 p.m., the interview was concluded.]
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.

Witness Name

Date
SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

CONTINUED INTERVIEW OF: STEPHEN AYRES

Wednesday, June 22, 2022

Washington, D.C.

The interview in the above matter was held via Webex, commencing at 12:00 p.m.
Appearances:

For the SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

INVESTIGATIVE COUNSEL

DEPUTY COMMUNICATIONS DIRECTOR

INVESTIGATIVE COUNSEL

SENIOR INVESTIGATIVE COUNSEL

For STEPHEN AYRES:

EUGENE OHM
Let's go on the record at noon.

Good afternoon. This is the continuation of a transcribed interview of Mr. Stephen Ayres that's being conducted by the House Select Committee to Investigate the January 6th Attack on the United States Capitol, pursuant to House Resolution 503. We conducted the first part of the interview on Friday, June 17th.

Present for the interview today, we have myself, investigative counsel; we have [redacted], senior investigative counsel; [redacted], investigative counsel. And I believe that's it. There are no members present. And then we also have Mr. Stephen Ayres and his counsel, Mr. Eugene Ohm.

Would you like to put anything on the record, Mr. Ohm?

Mr. Ohm. Nope. I'm good.

EXAMINATION

Q Okay. So, Mr. Ayres, we just wanted to ask you a few followup questions specific to some of the statements that we saw on your filings just to see where you are and what your feelings are about it today.

One question I did have that I failed to ask last week regarding January 6th specifically, do you recall people protesting at the Department of Justice building that day?

A No, I don’t remember hearing anything or seeing anything. I’m not even sure where that building is at myself.

Q Okay. So you don’t remember even like walking by it or seeing anything at all?

A If I did, I wouldn’t have known what -- I don’t think I would’ve known what
building it was because I don't remember -- I don't remember hearing or seeing anything about that -- the DOJ building itself.

Q. Okay. Thank you. That's helpful.
A. Uh-huh.

Q. We also looked at the video that was in your criminal complaint.
A. Uh-huh.

Q. By the way, just letting you know, so we are also joined by [redacted] who is our deputy comms director for the committee; and [redacted] who is also an investigative counsel for the committee.
A. Uh-huh.

Q. So we reviewed a video. It was mentioned in the affidavit in support of your criminal complaint. Do you know what video I'm talking about?
A. Yeah, I do. Yes, I do.

Q. When did you all record that video? I believe it was right after January 6th?
A. Yeah, that was like right after we got back to the hotel, like, literally like minutes.

Q. So that night? That evening?
A. Yes, correct.

Q. And, in the video, it's Mr. Matthew Perna and a friend; I believe her name is Ashley. What's her last name?
A. I -- I don't even know. We just -- that was one of Matthew's friends. We ran into her up at the Capitol literally like a half-hour before we walked back to the hotel room. He knew her. I didn't know her up until that point right there.

Q. So Mr. Perna was the connection with her and you all --
A. Yes.
Q -- kind of being in the room together for that video?
A Yes, correct.
Q Okay. So the video is titled "It was all antifa breaking into the Capitol on 1/6/2021." I guess the question that just naturally arises is, do you believe today that antifa led the attack --
A No, I --
Q -- at the Capitol?
A No, I don't. That wasn't really my -- I didn't even want to do the video to begin with. We posted it on my account. For whatever reason, I can't remember Mr. Perna's. I don't know if his account was already shut down or whatever the case may be. That was basically, he wanted to get it up and going right then and there.
I personally was just agreeing with everything he said because he was kind of running the video. I don't know if you could tell. But I personally don't remember seeing like antifa there or anything like that. I was just kind of going along and just basically agreeing with, you know, his statements.
Q So, sitting here in June of 2022, who do you think was responsible for attacking the Capitol on January 6th?
A Oh, I definitely believe, you know, it was the Trump supporters, you know. Not all of them were there to be bad and cause problems and drama, but definitely there was, you know, definitely was some troublemakers in the mix that definitely got it all started. I think there's a handful of people that got it started, and it just got out of control --
Q Right.
A -- honestly.
Q Right. And you include yourself in the group of Trump supporters that
went in the Capitol that day?

A Yeah, yep. Yep, I was there.

Q Also in the video, it's discussed that the police let you all into the Capitol. So, just another followup question, do you believe that it was the police that let the rioters into the Capitol on January 6th?

A No. When I got down there, the place was already overrun. And, when we went in through that door there was no -- I believe from where I could -- where I was seeing, there was -- I don't think there was any officers there. But then, once we got in there, officers showed up. So they basically pushed through and got through the door themselves, and I think some people were breaking the windows right there as well.

Q Right. Because you came in through the Senate door, so there was like a broken window and --

A Yeah, I think there was some broken windows there.

Q Okay.

A And then that door, that door right there, they pushed through.

Q And I think I touched on this a little bit on Friday, but I just want to go back on it. You recall seeing violence as you were walking to the Capitol and approaching the Capitol, correct?

A Yeah. When we were down on the ground, like the actual the ground level before you start going up any steps there, I remember seeing up in the far -- it would've been my far right corner up above the, you know, the scaffolding, and they had the whole setup for the inauguration, I remember seeing skirmishes up on that far right corner when I first got there with -- you know, they were -- police were using tear gas and stuff towards people.

Q And, I guess, what made you continue walking towards the Capitol? Help
us understand why you still continued even though you witnessed what you saw.

A  I think it was just everybody was pushing through. You know, like I said, there was a bunch of people that had bullhorns kind of like directing traffic, and just -- we were just kind of going with the flow. You kind of got packed in like sardines right there. And everything -- you know, if you're going that way, you're kind of stuck going that way as well, you know --

Q  Right.

A  -- just following the herd basically.

Q  Yeah. One of the witnesses in the affidavit is cited as saying like you were screaming and yelling, I guess, on your live stream inside the Capitol.

A  Uh-huh.

Q  Do you think that's accurate?

A  No, I wasn't screaming and yelling. I think that was the people around me; there was a lot of screaming and yelling. I was more standing there like in shock and awe with my phone in my hand just showing what was taking place.

Q  Gotcha. I guess, looking back to -- just help summarize it for me. Looking back on you going in the Capitol, how would you describe that experience, and how would you feel about your actions looking back on that day?

A  Me, personally, I'm embarrassed, you know, from the whole situation. Like I didn't realize, you know, when -- it took me for about a year before I realized just how bad it was, before it like sat in. And I even told my attorney, I didn't realize how bad it actually was until I saw one of the documentaries that were put out on like Netflix or on TV or HBO or something, that I actually sat and watched the whole thing, and it kind of like all sunk in just how bad it really was.

Because like, even up to that point, even after like the year, I was like, man,
they're really blowing this thing out of proportion. But then, when I sat and watched
that documentary -- I'm not sure whose it was, who put it out -- but that's when I -- really
kind of like sunk in. I was like, you know, that was pretty bad, you know.

And that's -- you know, like I'm embarrassed about it, you know. You know,
I'm -- you know, I was -- when I was younger, I had problems with, you know, drugs and
alcohol, and I finally got my name cleared up, and I've been doing good for so long, and
it's like, you know, I had -- then I get in this trouble. It's just like, for me, it was
embarrassing, shameful and, you know, kind of disgusting at the same time, you know --

Q  Right.

A  -- personally.

Q  We also touched on this a little bit Friday, but I want to ask it more directly, right. So, looking back to the -- you said the weeks before January 6th when you made
the decision to come --

A  Uh-huh.

Q  -- what inspired you to actually travel to Washington, D.C., and attend the
rally on January 6th?

A  Me, personally, you know, I had in my head at the time that, you know, with
everything the President was putting out, President Trump was putting out, the election
was rigged, and, you know, the votes were wrong and stuff, you know. And I was on
social media a lot back then, you know, I'm talking hours a day. I think it just got into my
head and eventually, you know, got into my head and being in my head, oh, you know, it's
not good, you know. The President is calling on us to come. You know, we need to get
down there and, you know, show up basically.

Q  So I know it was like the messages on social media, but President Trump,
was that kind of the singular person that was inspiring you to come or --
A Yeah, oh, for sure, for sure, because I probably wouldn't have -- you know, I wanted to see one of his rallies, and that's like one of the reasons I went down there, but him saying you must be there, get down there, be there, that's kind of like my thing of like, you know, I need to make sure I'm down there.

Q After the election, even today, right, so President Trump is still making claims that the 2020 election was stolen. I guess, for you, Mr. Ayres, what is your view today about the election being stolen?

A Honestly, you know, after seeing some of the evidence, you know, all of his filings, all the filings being put in, they're all one after another being shot down, you know, saying there's no evidence, there's nothing to support this, and, you know, I kind of feel like maybe I got caught up in all of it with, you know, the social media and everything. Now, you know -- you know, I think that's all it really was because I don't feel the same way now, you know. I'm the complete opposite, you know. I think I just got caught up with the social media and the news and over -- you know, basically overtaken by all that. And now that I'm outside of it and I could sit back and look at it all, it's kind of like, all right, maybe I was a little clouded, kind of a little clouded judgment on the whole thing, you know.

Q Right. So is it fair for me to say that you don't believe the election was stolen sitting here today?

A No, no. I think I was all caught up in the -- all the hype on the social media. I think it just really got to me, honestly.

Q When -- and just to follow up on that, you said when you kind of got outside of it. When --

A Uh-huh.

Q When did you get outside, and I guess how did you -- how did you get
yourself where you were outside and able to start kind of considering things independently?

A    I think, once I started getting away from the social media, all within
like -- like I said, about the year -- I'd say right around the year mark is when I'm like, you
know, I started looking around, started reading up on stuff because I like to research
everything, and I'm just like everything that he -- him and his attorneys put in just kept
getting shot down.

I'm like, you know, if there was any evidence or prudence to the whole thing,
someone would've taken the case on, like, okay, we have something we could hear, we
have something we could see, but everything was being shot down, you know. So that's
basically like where I kind of felt like, okay, maybe it was just a big sham and a bunch of,
you know, stories being pushed on social media.

Q    I understand.

[THEY JUST CAME ON CAMERA. DO YOU HAVE A QUESTION, [THEY]]

[THEY]

Q    Yeah. Thanks, Mr. Ayres. Thanks for speaking with us. I'm curious,
you're talking about the decision to travel to D.C. for January 6th, and then, in thinking
about your experience that day, did you think at any point during the day that your
presence or something you would do on that day would make a difference to help
President Trump?

A    I think just being there and like showing support was supposed to -- kind of
how I felt like, you know, my President called on me; I'm here, you know what I'm saying.
That's kind of how I -- I feel like how I took it. I don't think I, per se, myself individually
could've made a change or made a difference, but I felt like as a collective, if I was there,
you know, I'm another person there to show some support.
Q: Yeah. And I get that. And it sounds like your, you know, being on social media and seeing all of that affected your perception of this. And I guess I'm just curious if you could remember what you might have thought about what the importance of having so many people there on January 6th might have been.

A: You know, like if you can -- maybe a different way to ask this is, putting yourself back in your shoes that morning when you're going there to the rally, like what did you think the best-case scenario was going to be having all these people in -- on January 6th in Washington?

A: I thought it was just showing support because, you know, Trump kept saying there's a big reveal coming and this and that. So I thought maybe they were going to say, hey, the election, you know, is getting turned around or, you know, Vice President Pence was not, you know -- I'm not sure how to say it -- you know, agreeing with the electorals or something. I thought, you know, he made it seem like there was something big coming, and that's kind of like why I felt like maybe I needed to be down there, you know.

Q: And then, if you could remember, as that morning progressed into the afternoon and you made your way down to the Capitol and ultimately ended up inside the building, do you remember having any thoughts as that was happening about what you were --

A: I'm sorry; you're breaking up.

Q: Oh, sorry. Can you hear me? Maybe I should --

A: I was hearing bits and pieces.

Q: Sorry. Can you hear me now?

A: Not yet. I don't know if it's me. Am I lag -- am I lagging?

Q: Can you hear me now?
A    Yeah, I can.
Q    So I'm curious if -- my question was, on the day of, as that progressed from
the rally towards people walking down the Capitol and ultimately you go in the building,
do you remember -- remember thinking what the purpose of that was, what was the
purpose of going into the Capitol?
A    You broke up a little bit in the beginning, but I think I heard it all. I don’t
think I really had a purpose. I was just following the crowd really. I don’t think I really
had -- I don’t think there was -- I didn’t personally think there was going to make a
difference.
Q    Okay. Thank you.
A    I was just basically following the crowd and, you know, trying to walk
through myself. I just was like I wanted to walk through.
Q    So this is a good followup that I -- so basically, you're talking about following
the crowd. I guess, why did you go to the Capitol and march towards the Capitol after
President Trump's speech in the first place?
A    I'm sorry; you were breaking up again.
Q    Oh, okay.
A    I'm not sure if I'm having connection issues or if --
Q    We can do a --
A    -- everybody is.
Q    Let's recess in place real quick.
[Recess.]
Q    We'll go back on the record.
Mr. Ayres, I guess, what led you to actually go to the Capitol? What -- what caused you to leave the Ellipse and walk towards the Capitol?

A Oh, I was -- I basically walked down there after Trump said, let's walk, you know -- everybody head over to the Capitol and show your support or, you know, your disdain or however he put it. That's basically why I walked over there, is I was just, you know, basically, you know, he said let's -- when the rally is over, let's head over down to the Capitol and show your support for me, or however he put it. I can't remember exactly. That's why we walked down.

Q Were you tracking the Capitol even being an event until President Trump said that in his speech?

A What was that? You said something about --

Q Were you even tracking that the Capitol would be an event until President Trump said it in his speech?

A Yeah, I wasn't planning on walking down there until I heard that. We stood around for 10, 15 minutes afterwards, maybe even a little bit longer, talking and stuff before we even headed down there. But I don't -- we -- I do not recall ever talking about having plans on heading down there prior to that -- to him saying: Head on down to the Capitol.

Q Do you remember how or what route you walked to get to the Capitol?

A I didn't hear that last question thoroughly.

Q Do you remember the route you took to get to the Capitol?

A Yeah. I'm not sure what exact road it was. It was right behind the security, where everyone was. Everyone that was sitting in front of the stage, there's a road right there where the security detail started, that road that led -- we took that road and walked straight down.
Q  Okay. And then, also, we talked about this a little bit last week, can you describe again President Trump's 4:17 message to go home, what you recall about that?
A  I kind of caught pieces of that.
Q  Okay.
A  I think you said describe Trump's 4:17 message to go home?
Mr. Ohm.  And, Mr. -- I don't know if this is going to mess things up, but, you know, you can do the closed captioning thing. There's a cc on the bottom, and I think maybe if you can't hear us, then if you could read it. It's on the bottom left-hand corner.
Mr. Ayres.  Okay. Where -- let me see. Is it under "more options" maybe?
Mr. Ohm.  On mine, it's right to the left of the mute button.
Another option is for us to --
Mr. Ayres.  Where would that be at?
-- call --
Mr. Ayres.  Oh, I see it on bottom left corner. There we go.
So you can use your phone in addition to video if there are internet problems.
Mr. Ayres.  I got the closed captions on now, it looks like.
Q  Okay. Great. So my question was, do you remember President Trump's 4:17 message telling the rioters to go home, and if you do, what was your reaction to that message?
A  Yeah. When we heard it, that's basically when, you know, we started getting out of there. We -- you know, we were hanging around watching at that time, but I remember people started bringing it up, and then that's when we actually left.
When we saw his tweet and we heard about his tweet, that's when we actually decided to leave.

Q  Was it a group of people that were discussing this video around you?
A  I remember hearing it because there was so many people everywhere. So it's like when something got out, it got out and spread very fast because everybody was kind of on social media watching that as well. But I remember hearing about it, and it seemed like it started to clear out pretty good. Once that come out, it seemed as though it started to clear out pretty good.

Q  Where were you? Do you remember where you were on the Capitol when you saw the message?
A  Yes. I was down on the very end. So the door that we went in, if you're looking at that door on, you said -- I believe you said it was the Senate wing --

Q  Yes.
A  -- instead of -- if we would've took a left and went around the side of the building right there, we were standing right on that end down over there where -- the initial door I walked through.

Q  Gotcha. The west side of the Capitol. Perfect. Okay. That's good to know.

And then I just want to ask you kind of an overarching question. And I'm sorry if this is a tough summary, but sitting here today, right, what are your views about President Trump and any -- anything that he may have had to do with January 6th and what happened at the Capitol Building?

A  Me, personally, I'm upset with the whole thing because I basically feel like I was used like a pawn in a chess match or something. That's how I feel. I feel like I was used to basically do his dirty work, you know. He got everybody all hyped up at the rally
itself, and then he kind of like sent everybody on their way, you know. So I personally
feel like I was used in the situation, and, you know, I don’t feel happy about it. I got in
trouble for it, you know.

Q. Do you think President Trump could've done anything before the 4:17 tweet
message to maybe diffuse the situation?

A. Yeah. Oh, yeah. I think I said it previously, I wish he would've come out
like at 1:30, because they said the stuff at the Capitol kind of started around 1 or a little
bit before 1, if I remember what I've seen on the news if that's correct or not. I mean, at
1:30, the place was probably overrun.

By time we got down there, you know -- if we stood around for 15, 20 minutes, by
the time we walked down there -- it took 10, 15 minutes -- by 1:30, 1:35, when we got
there, the place was completely overrun at that point, I believe. So, I mean, in my
opinion, he should have -- as soon as he saw that taking place, he should have come out
and said: Look, this is not what we're about. Yeah, we're here to rally and peacefully
protest, but this is not what we're about.

I wish he would've come out sooner and said, "Hey, guys, look, this is not -- we're
not here for this, you know," and said, you know, send people on their way or stand there
and peacefully protest. I wish he would've come out and done something like that.

Three hours later or 4 hours later, whatever it ends up being, 3 and a half, you know,
that's -- a lot of damage got done in that, you know, 3, 3 and-a-half hour window.

Q. I want to go back to something I touched on last week, but -- I just want to
make sure we're clear, do you remember President Trump's December 19th tweet about
the rally on January 6th?

A. I wouldn't be able to remember it offhand unless I like seen it or something,
or like I could look back through my phone and stuff, but I don't even have those accounts
Q: Another thing I meant to ask -- I actually didn't ask you this on Friday, I meant to ask it though, do you consider your -- did you consider yourself in this time as like a follower of QAnon or anything like that?

A: I was a little bit. I didn't follow it like hard core like some people did. I was looking at some of it, and I was watching it and trying to see if any of it would happen. I was kind of like on the fence. You know, it seems a little farfetched, but at the same time, it was kind of interesting.

But I wasn't like 100 percent on it. I was like 50/50 on the fence and seeing if any of that stuff was actually happening, which like a lot -- 99.9 percent of the time, nothing ever happened from what they said anyway. So, you know, I was watching it, but I wasn't like deep in it.

Q: Okay. So you kind of touched on this. What are your views about QAnon today then? I know you kind of touched at end of your answer, but what are -- what are your views about QAnon today?

A: Oh, I think it -- you know, excuse me language, I think it's total BS now, you know, after seeing it, you know. I don't see none of the stuff that ever -- was said in there ever come to light. So, you know, I think it's nothing but, you know, hearsay or whatever they want to call it, I don't know.

Q: Before I move on to another -- a different topic completely, I want to make sure no one else on the call has any followup questions?

Q: Yeah, I just have one quick question. You talked about your views of President Trump and what you wish he had done differently. I know that you're accepting responsibility for what you have done individually, and I can appreciate that
and how important that is for you to move on. I'm curious if you have thought at all about sort of how you balance those two things, about what your individual responsibility versus what you wish leadership had done that might have prevented this, if you've thought about that at all?

A  Yeah. You know, I, myself, like I said earlier, I'm embarrassed over the whole situation, you know, but at the same -- you know, at the same time, I was provoking it too, I feel like, you know, with the social -- my social media posts leading up to all that. You know, I was on there basically just copying stuff I was seeing and hearing off of TV and YouTube channels and stuff. So I probably hyped up a lot of stuff too, and, you know, at the same time, it makes me mad that I let myself get so deep into it that I couldn't realize or see what I -- what I was actually doing, you know.

I consider myself to be fairly intelligent, and it makes me mad that I let myself get so deep and so, you know, indulging into it when I should have took a step back and say, look, I really need to open my eyes and look at this stuff, you know. I don't know, I just feel like I kind of was just following the pack, man, like basically following the pack, you know, and -- I don't know.

Q  Yeah. Well, no, I appreciate that. And I think that there's -- obviously there's a lot of people who fall into that boat too, you know. But I just -- that's helpful insight. I appreciate that.

A  Thank you.

Q  Thanks, [BLANK]

Q  So, again, Mr. Perna -- I -- look, we understand that -- Mr. Ayres, that Mr. Perna took his life early in February. I'm sorry if I said Mr. Perna. I meant to say Mr. Ayres. I was thinking about Mr. Perna when I said that. And I just wanted to ask
you a few followup questions about that event. So we are tracking the website JusticeForMattPerna.com. Are you familiar with that website?

A  No. I -- I didn't know about it until when I was talking to my attorney.

Q  Okay. Gotcha. So that website, like others that -- like in other statements we've seen where Mr. Perna's family is kind of, you know, advocating about the justice system and other things that Mr. Perna was struggling with. I guess, what are your views overall about what the family's statements have been since his death?

A  I mean, those are their views. I mean, obviously, they're probably very angry right now. You know, when you go through grief, you go through a lot of different emotions. They say you go through all the emotions. I, personally, I just stand back, you know. I'm sad from the situation, and usually every time his name gets brought up, it breaks me down. But I don't know -- I can't speak for them and, you know, how they feel. I just -- you know, it's a sad situation, so I can't imagine what they're going through.

Q  Right.

A  I don't know.

Q  I understand. And, look, I understand, and like I said last -- on Friday, I know it's very difficult for you to talk about. Like it's reasonably your friend, right, who has --

A  Uh-huh.

Q  -- passed away, so that's why I'm -- look, I try to bring this up as sparingly as possible, but I do appreciate your candor in answering these questions about Mr. Perna, because I know it can be tough.

And the last question I wanted to ask you about that is, let's say you were to be -- have a more public statement about January 6th. I guess, what do you think
Mr. Perna's family, to the best of what you know about them, what they might say or how they might feel about that?

A  I'm not real sure. His aunt -- his aunt is pretty, you know, pretty fiery.

Q  She's a good lady, but she's pretty fiery. I'm not sure how, you know, she would respond or feel or, you know.

A  Yeah.

Q  So it's really that Ms. Geri, I believe, is that her name?

A  Yeah.

Q  Okay.

A  Yeah.

Q  So that's the main individual that you kind of think of who might actually speak out or something if you were to have a more public-facing testimony of some sort?

A  Oh, yeah, probably. Yeah, because she's -- I believe she's been on a couple shows already, you know, talking and stuff, so she's kind of -- I think she's kind of like the -- she's kind of like the one spearheading the, you know, website and stuff and whatnot.

Q  And, from what I've seen, it seems like her grievances are mostly with the Department of Justice's system. Is that fair?

A  Yeah. I think that's kind of how I was taking it too. I don't talk to her.

I've talked to her a couple times since all this, so I -- you know, but from what I've seen on TV and, you know, the shows that she's been on and whatnot, it kind of seems that way.

Q  Okay. Does that trigger any followup from any other counsel or individuals on the call?

A  All right. Any other questions in general that I might not have touched on?

Mr. [REDACTED], I have a question.

A  Yep.
Hi, Mr. Ayres. Thank you so much for being here. I apologize, my camera isn't set up. But I'm just curious for your personal opinion, you know, given everything that happened on January 6th and what you've learned since, you know, if Donald Trump ran for President in 2024, do you think you would support him?

Honestly, I -- I don't even -- I don't -- I couldn't say yes; I couldn't say no. Right now, where I feel, like right now at this moment, I would say probably not because I'm kind of upset with, you know, the way he kind of handled the situation. Like I said, I'm an adult; I take my full responsibility. But, when you have that type of power and that type of control and that type of following from people, I feel like you should definitely be more careful with your words and the things you do and say and post because a lot of people are looking to you and following you. So I don't know. Right now I would say no. Right now I would say, no, I wouldn't.

Got it. That's really helpful. Thank you.

Uh-huh.

If there's no other questions, Mr. Ayres, again, I just want to say thank you --

if I might, I apologize.

Yes, please. Yep.

Mr. Ayres, nice to meet you. My name is

And, Gene, it's been some years, but it's good to see you too.

So, picking up on where you left off, Mr. Ayres, on talking about the words that the President used, you said earlier today that, at the rally, that he was getting people hyped up. Do you remember what in particular, the types of things he was saying, that
was having people have that reaction?

A I think it was basically just the same stuff that he was just repeating online, you know. Everything that he said online he basically covered in that rally as well, you know -- you know, the election was taken, and, you know, the votes weren't right here, the votes weren't right there. It was just like a little bit of everything. Everything that he was putting out he basically covered in that rally, if I believe -- from what I can remember. It didn't seem like there was anything new that I heard from him that I didn't already know or heard him say prior to that rally.

Q Sure. One of the things that at least was new was his public statements about Vice President Pence. You know, he had started tweeting about the Vice President in the day or two before and particularly that morning of the rally and directing people's attention to the Vice President and what he could do. Do you remember hearing that in --

A Yeah. Yeah, I remember seeing that stuff because I think he was saying that he was part of the deep state or -- or I don't know, maybe I'm making -- hearing -- not hearing it correctly, but I remember hearing stuff about him. He did get pretty -- you know, start talking about him quite a bit prior to the rally as well, you know, like you said.

Q And what was your feeling about Mike Pence that day and hearing the President talk about him and then also walking towards the Capitol where he was presiding over the joint session?

A Once we started hearing about -- when we were walking down there is when they were saying that -- if I remember correctly, we were walking down there, and people had like radios playing of what was being said into the Capitol and stuff, and they were saying he ain't -- he's not doing what he was gonna -- supposed to do or this or that. I
remember it getting a lot of people mad from that. I think it just caused more anger amongst people, you know, him highlighting Vice President Pence that way.

Q And it certainly seemed like the focus of that anger trained on Pence by that point, in terms of that was the man that people were thinking about, at least is what you were hearing as you were going toward the Capitol. Is that fair?

A Yeah, definitely, even before. On my way walking down there, I remember hearing people hollering, you know, obscenities and whatnot about Mike Pence on the way down. So they were already fired up as we were getting down there.

Q Had you ever seen that anger towards Vice President Pence before January 6th --

A No.

Q -- became an issue?

A No, huh-uh, I don't recall, you know. I thought everybody was kind of like on his side up until all that -- you know, until, you know, President Trump started going his way or putting the words out there towards him.

Q There are a lot -- thousands of people who did not go in the Capitol, who walked down to the building, stayed around the building, even stayed on the outside close to but didn't go in. And so I understand that you were part of a large crowd. Can you help us better understand why you kept making your way towards the building?

A Me, personally, like I just wanted to walk through. That was -- I mean, as plain Jane as that sounds, I just wanted to -- that was my thinking. I just wanted to walk through. I didn't care about, you know, the Vice President being in there or any of those people. I just wanted to walk through.

And then, once we got up top towards where we actually went in, me and Matt kept getting separated, so we kept finding each other, losing each other, finding each
other, losing each other. And I was just standing out there. Next thing you know, I see everybody flooding through that door. I’m like, oh, they’re letting people in, so I started walking towards the door.

Q  Okay.

A  I didn’t know at that time that they pushed through at that time.

Q  Right.

A  I wasn’t sure at the time then.

Q  So certainly we have a lot of footage from that day from a lot of people who were in the crowd. And, as you approached the building, and it’s a mile and a half, were you hearing people say that folks were actually going into the Capitol itself before you even --

A  Oh, yeah.

Q  -- got up there?

A  Yeah, yeah. I thought they were already in the building by the time we got up there. I thought people were going through by the time we were already getting up there.

Q  All right. And so, while I understand that you were part of a crowd, it sounds like you made the choice at the time to keep going because you had heard people were going in and you wanted to get up close and see if you could do that yourself?

A  Yep. Yep, basically.

Q  Okay. And, in terms of thinking that they were letting people in, I think went over it earlier, but no officer ever said or waved you into the building that you saw. It’s just you didn’t get any opposition as you moved up.

A  Yes.

Q  Is that fair?
A  Yes, that's correct. Yeah, I didn't see -- I didn't see anybody like say "hey, come on over this way" or nothing like that. By the time I got down there, all the barricades were overrun and everything. And then like I said, I didn't see any officers like literally say "you can come in" or nothing like that.

Q  Yeah. Now, the media coverage of the -- of that day was immediate and quite a lot. And I know you said earlier today that it took about a year for you to realize how serious it was. I mean, what about what you had been seeing right after the fact didn't strike you as serious about that day?

A  I'm not sure if maybe I was just a little bit -- I'm not sure if I -- if my brain getting in the way of it, you know. Even some of the stuff I saw, you know, I seen some people fighting with the cops there at one of the doors while I was standing back just watching and recording and stuff, but -- I've seen it, but it's like it didn't set in or something, you know.

And then, once I watched that video a few months ago, maybe a little longer ago, that whole -- that whole documentary, I sat there and watched the whole thing myself, and I'm like, wow, this thing was really a lot worse than I really like thought it to be. I don't know if the media -- because, you know, watching them -- some -- you know, you get -- depending what media or what social media or what news network you're watching, some are downplaying it, and some are showing -- you know, telling you what it is, what it really was.

And, you know, I don't know if maybe the people that I'm watching or was seeing were downplaying it, so it was down -- I was downplaying it myself in my head, but it's like, once I saw that -- the documentary on it, I was like, wow, that's pretty crazy, you know. I realized just to the extent of just how bad it really was.

Q  And, on that, you know, almost immediately that day, that afternoon, after
the Capitol was breached, certain people, social media started saying it was antifa -- I mean, it was quick -- that these weren't Trump supporters. And so that night that you -- when you filmed the video with Mr. Perna, had you been seeing some of those early takes, you know, kind of the defensive "this couldn't have been us, it had to have been antifa," and is that what you were picking up on?

A I don't recall seeing it. I was -- you know, Mr. Perna was a real big like podcast guy. He did podcasts and stuff on Facebook and like on QAnon and healthy living. He did a podcast on everything. As soon as we got back to the hotel room, you know, he wanted to get up and do it. I didn't like putting videos out on myself. I think I had like five in the whole 10 years I ever done.

And then we got on then, and, you know, he basically said it was antifa. But I don't -- and I was just agreeing with him. I didn't recall seeing people down there I could've pointed and said that's antifa right there. So I personally don't recall seeing anybody that was actually antifa there or that I could look at them and say that's an -- you know, somebody from antifa. I think I was -- I was basically just going along with his statements in the video because I didn't recall seeing anyone I could prove was antifa or even thought was antifa.

Q And you talked earlier about how you like to research things and that you're spending several hours on social media a day. What about what you were seeing prior to January 6th was most compelling to you about why the election was stolen? What were some of the supposed facts or theories that were convincing you that President Trump had won?

A The biggest one was that one where like there was a whole bunch of Biden votes dropped in the middle of the night, you know, and Trump was winning, and then, all of a sudden, he's losing. Then all -- you know, and then that and then, you know, they
were talking about a lot of the voting machines. They were run by one company while
the rest of the State was using a certain brand of machines, and, you know, all the -- that
was basically the stuff that I was seeing online that was kind of changing my perspective
in thinking it was, you know.

But, you know, I look at it this way, when you're sitting there and you're seeing
that type of stuff, and my whole -- my entire social media is covered with this stuff, it kind
of gets, you know -- you start believing it more, you know. If you say it enough, it
becomes the truth kind of thing, and I think that's kind of what happened.

Q  Okay. And you, yourself, did you vote in the election?
A  Yes.

Q  And did you vote in person or by mail?
A  I voted in person.

Q  Did you have any views on mail-in voting prior to that day, and had you been
hearing the President's messaging about that?
A  Yeah. Oh, yeah. Yeah, I did hear about that. And, you know, that was
one of the big things I thought about too, now that you mention it. I forgot all about
that. Yeah, you know, and I thought that was another thing that made me think, you
know, there was stuff going on with all the mail-in votes, because I remember receiving
like three or four at my house alone for me. I don't think they were actually ballots. I
think they were just invitations to get your ballot or something, you know. So that was
part of it that got me, you know, thinking that way as well.

Q  Okay. I think that was -- I think -- well, let me ask this, in terms of -- I know
you might have covered this with [REDACTED] on Friday, so apologies, but in
understanding the context of Mr. Perna's family and talking about their views of how he
was treated, what is your view as how you've been treated through your case and the
process that it has gone through, just so we understand, you know, what your perspective
is on this? You've now been in this for over a year, I believe.
A Uh-huh.
Q So what are your views on how you've been treated by the system?
A Oh, by the system?
Q Yeah.
A Oh, yeah, I was going to ask that. I wasn't sure if you meant like the people
in the community or, yeah. No, I mean, I understand how the system works. You
know, there's over like 800-some people I think I've heard last time. I understand it
takes time to put this stuff together. And, you know, the biggest thing I recognize is, you
know, if you have two people with the same charges, obviously, you know, you've got to
treat them, you know, fairly the same way.
So I understand why it's taken so long, why some cases -- you've got to wait for
some cases to go through and stuff. So I understand why it takes so long, and, you
know, there's not going to be any quick answers, you know. I think I've been treated
fairly. I haven't had no issues.
Q Okay.
A Yeah. I mean, I have -- I think I've been treated fair. I don't have no
gripes.
That was it for me. I don't know if anybody else has any other
questions. Sorry to interrupt.
Q I had one followup from [redacted]. You mentioned kind of, I guess, not
believing or not really seeing the violence after January 6th until you watched something
about a year later. What news sources were you watching though immediately after
January 6th, if you recall?

A  Probably like FOX News. I started watching Newsmax, but I’m not sure if they were out by then or not. If they were, that’s kind of like a new place I watch because I’ve been trying to stay away from all like the mainstream stuff. Even now to this day, I watch -- I try to get -- I watch a lot of stuff on YouTube and, you know, or I’ll research it myself on my phone if I hear something that I’m interested in. I try to stay away from the mainstream media now completely.

Q  But even in -- right -- right after January 6th, right, of 2021, FOX News and, is it fair to say, other conservative outlets?

A  Yeah, I’d say FOX -- I was watching FOX pretty hard core around that time.

Q  Okay.

A  And then, like I said, Newsmax I was watching, but I’m not sure if they were even out then. I know they’re kind of a newer network. I started watching them. So, if they were out then, I was probably watching some of them as well.

Q  And you mentioned that you like to listen to Ms. Candace Owens and Mr. Charlie Kirk before January 6th?

A  Yeah.

Q  So you’re probably -- were you watching them right after January 6th as well?

A  Probably. I was following them, Charlie Kirk, Candace Owens, pretty regularly, then a couple of the other bigger ones. I can’t think of their -- off the top of my head their names off the top of my -- their head -- my head, but that’s usually who I watched the most.

Does that trigger any followup from anyone else?

Mr. Ohm. Hey, there was one question I wanted to jump in with.
Of course.

Mr. Ohm. In terms of -- Mr. Ayres, in terms of Mr. Perna and how he -- his experience in the criminal justice system, do you have any sort of views as to what was frustrating for him and how he might have been challenged by the circumstances?

Mr. Ayres. You're talking about Matthew?

Mr. Ohm. Yeah.

Mr. Ayres. My -- I think the biggest thing with him, and this is just my personal opinion, and I believe it was just maybe the way he was led by his attorney. You know, I think that we've been treated fairly. I don't know if maybe Matt couldn't handle the length of all this and stuff, because I know with his aunt coming out towards DOJ and stuff like that.

I, personally, you know -- I -- me, why I think he did what he did is I blame his attorney for it myself, letting him -- having him charge -- you know, plead guilty to all those charges and then, you know, not maybe trying to direct him better, maybe, you know, plead not guilty and hope for lighter sentences and stuff like that. That's kind of how I feel about it. I don't know if -- if I -- did I answer that correctly? Is that kind of what you were asking?

Mr. Ohm. Yeah. I just wanted everybody to know that, you know, that, from your perspective, it wasn't the DOJ so much as --

Mr. Ayres. Oh, yeah.

Mr. Ohm. -- how the case was handled.

Mr. Ayres. Yeah, no, I don't think that -- my personally, I -- I don't have an issue with it. I think it's being handled as well as you can when you have 800-some people or whatever the number is, and it's still growing or whatever. I think it's being handled as well as it possibly can with the outcomes and the circumstances that they're dealing with,
with multiple cases and, you know, multiple people being charged with the same charges. You know, I understand they’ve got to treat everybody as fairly as possible. So I understand why they have to -- some cases have to wait before they could go through and whatnot. So I think, you know, the DOJ has been basically doing their job as the way it should be done.

Mr. Ohm. You all could assume that I didn't tell him to say that about the United States Department of Justice.

Noted, Mr. Ohm. Noted.

Well, thank you again, Mr. Ayres, for, on such short notice, sitting down with us for another transcribed interview. We really appreciate it.

Mr. Ayres. No problem.

And, like I said on Friday, when we’re reading filings, we only can judge what we saw off the paper, and so it is very helpful for us to hear your perspective directly from you. And so we appreciate you taking the time to sit with us twice in less than a week.

And, with that --

Mr. Ayres. No problem.

With that, we will go off the record at 12:45.

[Whereupon, at 12:45 p.m., the interview was concluded.]
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.

Witness Name

Date
SELECT COMMITTEE TO INVESTIGATE THE
JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: MARK ESPER

Friday, April 1, 2022
Washington, D.C.

The interview in the above matter was held via Webex, commencing at 3:04 p.m.
Appearances:

For the SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

[Redacted], STAFF ASSOCIATE
[Redacted], INVESTIGATIVE COUNSEL
[Redacted], SENIOR INVESTIGATIVE COUNSEL
[Redacted], STAFF ASSOCIATE
[Redacted], PROFESSIONAL STAFF MEMBER
[Redacted], CHIEF INVESTIGATIVE COUNSEL
[Redacted], CHIEF CLERK
[Redacted], PROFESSIONAL STAFF MEMBER
[Redacted], INVESTIGATIVE COUNSEL

For the DEPARTMENT OF DEFENSE, OFFICE OF GENERAL COUNSEL:

EDWARD RICHARDS
So good afternoon, Dr. Esper.

This is a transcribed interview of Dr. Mark Esper conducted by the House Select Committee to Investigate the January 6th Attack on the United States Capitol pursuant to House Resolution 503.

Dr. Esper, could you please state your full name and spell your last name for the record?

Dr. Esper. My full name is Mark T. Esper. My last name is spelled E-s-p-e-r.

It appears, Dr. Esper, that you are not represented personally by counsel, though counsel for the Department of Defense is present for the interview.

Mr. Richards, if you could identify yourself for the record and spell your last name -- although I think it's pretty easy -- for the court reporter.

Mr. Richards. Yes. Edwards Richards with the Department of Defense, Office of General Counsel, R-i-c-h-a-r-d-s.

Thank you.

Thank you.

My name is [Redacted]. I'm the chief investigative counsel for the select committee. In the room with me today is [Redacted], she's a senior investigative counsel to the select committee, and [Redacted], who is an investigative counsel as well.

This will be a staff-led interview, and members, of course, may choose to also ask questions. I believe we have at least one member of the select committee, Mr. Kinzinger, who has joined us thus far. And if others join, I will note their presence and periodically turn to them if they request it. I'll try to announce their presence when they join so you know who is in the meeting.
There is an official reporter who is transcribing the record of the interview.

Please wait until each question is completed before you begin your response, and we will try to wait until your response is complete before we ask our next question.

The stenographer can't record nonverbal responses, such as shaking of your head, so it's important that you answer each question with an audible verbal response.

We ask, Dr. Esper, that you provide complete answers based on your best recollection. If the question isn't clear, please say so and ask for clarification. And if you don't know the answer, then just simply say you don't recall.

I also want to remind you -- and this isn't specific to you, this is something we tell all witnesses -- that it is unlawful to deliberately provide false information to Congress and to do so would be in violation of 18 U.S.C. Section 1001 or other statutes.

Do you understand what I've just gone over and prepared to proceed?

Dr. Esper. I do.

Okay. Great.

And if at any point you need a break, just let us know, we can certainly do that.

And if you ever need to confer with Mr. Richards, again, just say the word, and we'll facilitate that.

Dr. Esper. Okay.

So, Dr. Esper, I understand you have some introductory remarks that you want to make. Now would be a good time for you to do that.

Dr. Esper. I do. Thank you.

Well, good afternoon.

I want to begin by commending the committee for the important work it is doing to bring transparency, understanding, and accountability to the tragic events of January 6th, 2021.
As someone who worked on Capitol Hill for several years and had an office in the Capitol itself when I worked for the Senate Majority Leader, I was both horrified and saddened by what happened that day.

As such, it is important for the country -- and indeed our democracy -- that the American people have a full and complete history of what prompted and fueled the violent insurrection that seemed determined to prevent the peaceful transfer of power from one administration to the next after a legitimately certified election.

As you are aware, I was removed from office on November 9th, 2020, merely a week after the election and nearly 2 months prior to the assault on Capitol Hill.

I appear before you today willingly with the hope that I might provide some insights over the next hour consistent with our agreement that I would speak to, quote, "my experiences in June 2020 that are directly related and relevant to what happened on January 6th, 2021," end quote, and to the events of that tragic day.

Though we're now nearly 2 years removed from June 2020, I will answer all relevant and related questions based on my recollections and to the best of my ability.

For example, I'm prepared to speak to the internal discussions regarding the Defense Department's response to events in Washington, D.C., in June 2020, the actual deployment and employment of military personnel during that time, and what the Department learned from these actions.

With that, I stand ready to answer your questions. Thank you.

Thank you, Dr. Esper, very much for that.

I will note again, as you just indicated, that you're here voluntarily, not pursuant to any sort of subpoena.

We have gotten a letter from the White House, and I just want to put that in the record. I believe it's exhibit 13.
And, [redacted], if you can put it up on the screen, we'll just -- oh, we don't have that one.

Well, I assume -- it's addressed to you, Mr. Richards, and I assume that you've shared it with Dr. Esper. It's the March 30th letter from Jonathan Su, the deputy counsel to the President.

Mr. Richards. Yes, I have. Thank you.

Great. And I'll just quote briefly. It says, "In light of the unique and extraordinary nature of the matters under investigation, President Biden has determined that an assertion of executive privilege is not in the national interest and, therefore, is not justified with respect to particular subjects within the purview of the select committee."

And as you've indicated, Dr. Esper, we've sort of hashed out those subject matters in advance.

So to be clear, the current White House counsel and the current administration, President Biden, has indicated that it would not be appropriate to assert executive privilege.

EXAMINATION

Q So with that understanding, let me just jump right into the questions.

Dr. Esper, tell us where you went to college.

A I went to the United States Military Academy at West Point.

Q When did you graduate from West Point?

A I graduated in 1986.

Q Did you -- I assume as a West Point graduate, you enlisted or you joined the United States Army as an officer at that point?
A That's correct. I was commissioned a second lieutenant on May 28th, 1986.

Q All right. And did you serve as an infantry officer during the Gulf War?

A I did.

Q What was your role during the Gulf War?

A I was an operations officer with the 3rd Battalion, 187th Infantry of the 101st Airborne Division.

Q What did you do upon the completion of your military service, your Active-Duty military service?

A That's correct. I served 10 years on Active Duty after commanding in Europe and then working in the Pentagon. After my -- after departing Active Duty in 1996, I joined the Reserves and spent another 11 years in the National Guard and Army Reserve.

At the time that I joined the Guard and Reserve, I had also begun work on Capitol Hill -- I'm sorry. I first began work at the Heritage Foundation in Washington, D.C., and then later Capitol Hill in a variety of different jobs after that, leading up to my return to the Pentagon, my fifth -- fourth return to the Pentagon in 2017.

Q All right. And in 2017, Dr. Esper, were you appointed by President Trump as Secretary of the Army?

A I was, after being confirmed by the Senate.

Q Yep. And how long did you serve as Secretary of the Army?

A I served from November of 2017 until I was named Acting Secretary of Defense in June of 2019, and I was confirmed a month later, in July 2019.

Q I see. And then you served as the Secretary of Defense, the Senate-confirmed Secretary of Defense until November the 9th of 2020. Is that right?
A That is correct.

Q Okay. And we’ll get into the circumstances of your departure from that position a little bit later.

When you were appointed as Secretary of Defense, Dr. Esper, did you discuss with President Trump his priorities for the Department of Defense? Did he give you any sort of specific priorities or marching orders that he wanted you to pursue when you began in that position?

A No, nothing that I recall.

Q Did you have discussions with President Trump over time about the role of the military in domestic affairs?

A No, not that I recall.

Q Was it -- we talked before, Dr. Esper, before today about the President being enamored with generals or believed very strongly that the military had a potential role to play in various domestic issues. Do you recall that discussion?

A I don’t. If you can restate that and help me understand the relevancy to January 6th, 2021, that would be helpful.

Q Yeah. I’m just going back to our previous conversation where you indicated there were times where he periodically would raise a military solution to things like border enforcement or logistics support for COVID relief or things that were happening exclusively domestically.

A Well, again, relevant to January 6th, 2021, and civil unrest in June 2020, that tended to be the case, with regard to my experience in June 2020, that the President was inclined to use the military.

Q Yeah. Yeah, I guess I’m just talking more broadly about whether or not you had concerns, based on not just what happened in June of 2020 and leading up to
January 6th, about the President's sort of perception of the appropriate role of the military in domestic affairs.

Mr. Richards. So, if I could just interject here.

I just want to be clear about what our conversations with White House counsel regarding executive privilege were, and that was based on the expectation that this interview be about the summer June 2020 civil unrest and lessons learned from that and actions taken specific to that.

So I just want to be clear that, as far as going beyond that scope, we have not engaged any coordination with the White House counsel's office regarding any potential assertion of privilege. So I just want to be clear that that, those issues, have not -- we will have to defer on as far as specific Presidential conversations beyond June summer 2020 civil unrest issues.

Over.

Yeah. And to be clear, Ed, I'm not looking to develop conversations about border security or COVID. I'm sort of laying a foundation for discussions about the appropriateness of the use of military resources for particular tasks that informs the summer 2020 response and very relevant to the preparations for January 6th.

Mr. Richards. Understood. Thank you.

And just if we could keep it specific to the June events, I think that's the safest area [inaudible].

Over.

Q Okay. All right. Well, let's talk about the summer protests then, Dr. Esper.
Just by way of context, the murder of George Floyd occurred on May the 25th of 2020.

On May the 28th, the Minnesota National Guard was activated. Governor Tim Walz in Minnesota activated it.

Then, on May the 29th, Friday, President Trump tweeted about "thugs" in Minnesota and warns, "When the looting starts, the shooting starts," and the protests turned violent in Minnesota.

On May the 30th, there were protests that spread around the country and continued into May the 31st.

And then on June the 1st, that's when I want to start asking you about your specific involvement, on June the 1st.

When did you first talk to President Trump about the potential use of military assets in response to the summer protests around the country in the wake of the murder of George Floyd?

A    On the day of June 1st, my recollection of the first time that this was discussed was in an Oval Office meeting with him that morning.

Q    Okay. Tell us, if you could, about the conversation that you had with President Trump on June the 1st?

A    Relevant with regard to January 6th, 2021, the President's inclination was to deploy up to 10,000 troops, Active-Duty forces, to the Capitol to quell the protests.

Q    Okay. Did you have a reaction to that, Dr. Esper, when the President raised the potential deployment of Active-Duty troops to quell the protests?

A    Yes. My reaction was that Active-Duty forces are not the means by which this should be addressed. My view was that this is a law enforcement action and that law enforcement should lead, and that if there's any use of the military, it should be the
National Guard in support of the law enforcement, the D.C. Metro Police in particular.

Q  I see.  Okay.

How did the President react when you conveyed this, the National Guard and
domestic law enforcement are the right forces to respond to the unrest around the
country?

A  I think he and I, along with Attorney General Barr alongside me, went back
and forth on multiple times on this issue until we were able to persuade him that the use
of law enforcement was the best way forward, supported by National Guard that would
be -- that would come from both D.C. and from outside of Washington, D.C.

Q  Tell us who else was present for the conversation.

A  I recall, obviously, the President, myself, Attorney General Barr, General
Milley, and the Vice President.  There were others present, but I just don’t recall who
they were.

Q  I see.

And of the folks that you just named, Dr. Esper, was everyone else in the room
supportive of the position you took?  In other words, there isn’t yet a predicate for the
deployment of Active-Duty troops, this is a National Guard and law enforcement matter.

A  That was the position taken by myself, Attorney General Barr, and General
Milley.

Q  All right.  And the three of you were unified in that position?

A  Yes.

Q  And did all three of you convey that view, consistent view, to the President?

A  Yes.

Q  How about the Vice President, did he have a position, or was he just
evaluating the information you provided?
A I don't recall him speaking on this matter during that meeting.

Q Okay. Was there specific discussion during that meeting about the Insurrection Act?

A Yes, the Insurrection Act did come up during the discussion.

Q Tell us who brought it up and what was -- tell us more about the discussion specifically about that provision of law.

A I cannot recall exactly who brought it up when, but I know that the discussion was about -- and it could have been that Attorney General Barr and I both raised it or discussed it at various points -- that if there was a use of the Active-Duty military, it would require invocation of the Insurrection Act to deploy them into the District of Columbia.

And I had tried to make -- address the distinctions between the various authorities and capabilities between Active-Duty forces and National Guard forces.

Q Yeah. Did General Barr have some experience, prior experience with the Insurrection Act from his prior service as Attorney General that he conveyed during that meeting?

A I have -- I don't recall. But I do know that he did based on my understanding of his previous tenure in government during the 1992 Los Angeles riots.

Q Okay. So he had some direct experience about sort of the conditions that would justify the invocation of the Insurrection Act?

A That was my sense, yes.

Q All right. How about General Milley, what was his position on this, the Insurrection Act specifically?

A General Milley supported my position as my senior adviser and also recommended that law enforcement be the lead and that if there was a need for
additional support, if there was insufficient law enforcement, then that should come from
National Guard troops as I had proposed in the meeting.

Q  Yeah.  And I appreciate that, Dr. Esper, and I understand that was the
consistent position.

But maybe take a step back and just sort of explain, if you can, for us, for a lay
audience, why that's important or why, in your view, it's appropriate for National Guard
and domestic law enforcement to respond in a domestic mass demonstration versus
Active-Duty troops, just as a matter policy-wise, that that is the right response.

A  I think there are a number of reasons.  I likely won't get them exactly right.

But it's fair to say that they, obviously, operate under different authorities, whether
they're under Federal control, under invocation of the Insurrection Act, and there are
scenarios in which that happens, or if they're under State control in which that happens.

Secondly, they are -- "they" being the National Guard -- are trained in this mission
and have more experience in this mission than would Active-Duty forces.

And, thirdly, I always like to add that typically the National Guard is employed in
the community in which they live and, therefore, have a better understanding of the
community and what is happening at the time.  So it makes them better attuned to
what is happening in the area in which they are operating.

Q  I see.  So fair to say a unit like the 82nd Airborne, they're warfighters, they
are trained for a very different mission than the National Guard, who are equipped and
trained to respond to situations like a mass demonstration?

A  Yes.

Q  Sort of the right tool for the job is the Guard, not a warfighting unit like the
82nd Airborne?

A  Yes.
Q  I see.  Okay.

And the National Guard, do they generally around the country train for this kind of
response working with domestic law enforcement to deploy during the middle of a sort of
free speech demonstration activity?

A  Well, again, if I want to answer as accurately as possible, I'd have to go back
and understand what the training plans of all these various Guard units across the United
States and the territories are.

But generally, yes, the Guard trains on this as what we call a mission-essential task
to deal with civil unrest or other type of activities.

But, again, I would defer to the State, the Adjutant Generals or the head of the
National Guard, to give you a more complete response.

Q  Yeah, I understand.

So what kinds of conditions, in your view, would have to exist hypothetically to
justify the invocation of the Insurrection Act and the deployment of an Active-Duty unit in
the middle of a domestic disturbance?

A  Well, I think it would be -- you know, a lot of is speculation.  It's situational
dependent.

As I recall, I believe, in the 1992 Los Angeles riots, the use of outside National
Guard was requested by the Governor.  So that is one scenario.

Again, I think, as I said during my public statement on June 3rd before the Nation,
that it would have to be a very dire and urgent situation that would justify deploying
Active-Duty forces to supplement law enforcement.

Q  And, in your view, there was not a sufficiently dire, urgent situation existing
in the summer of 2020 in Washington or elsewhere that would justify the invocation of
the Insurrection Act?
A: That's correct.

Q: Okay.

I want to call your attention to, I believe, a call that you had with the Nation's Governors on that very same day, June the 1st?

Do you recall participating in a call that the President convened for all of the Nation's Governors to discuss the unrest that was beginning to occur around the country?

A: I do.

Q: Was that before or after this meeting in the Oval Office at which you discussed with the President the Insurrection Act?

A: That was immediately after the meeting in the Oval Office on the morning of Monday, June 1st.

Q: Okay. Who was present for the call with you in the White House?

A: Well, there were -- of the persons that I can recall, again, clearly the President, the Attorney General, myself, and General Milley. There were numerous other persons in the room, but I just cannot recall who the others were.

Q: All right. And who spoke during the call, if you remember?

A: The President, the Attorney General, myself, and General Milley.

Q: Okay.

A: And, of course, the Governors who were on the line spoke. Several Governors spoke as well.

Q: Do you remember anything in particular that the President said? I assume he opened the call.

A: He did. I think, you know, we both have the transcript, and so it's all accurate. At least the one I sent you, I believe, is the most accurate accounting of that conversation.
Q    Okay. Good. Well, let's turn to it. It's exhibit No. 3, and I think we can
actually share it on the screen. And I don’t want to go through the whole thing with you
but just a couple of things.

In the very beginning it looks like President Trump did open the call, and he
indicated at the very to, "It shouldn’t be hard to take care of it. We’re going to take care
of it," speaking about response to the violence. "And we’ve got a number of people
here that you’ll be seeing.

"General Milley is here, who's head of Joint Chief of Staff, a fighter, a warrior, had
a lot of victories and no losses. And he hates to see the way it's being handled in the
various States. And I just put him in charge."

Do you recall the President at the beginning of the call saying that General Milley
was in charge?

A    Yes, I do.

Q    And how did General Milley react, either in real time or tell you later that he
interpreted that or his reaction to that statement?

A    Well, this matter came up in the Oval Office meeting just prior to this call
with the Governors. General Milley said in response to the President that he is not in
charge, he has no command authority, he is an adviser. I agreed with him and
supported his statement because it is accurate under the law.

And so at the conclusion of the Oval Office meeting, the President actually put
Attorney General Barr in charge of this matter. So we thought we had clarified it and
concluded it properly upon departure from the Oval Office that morning.

Q    I see. So before the call, there's a discussion in the Oval Office about who's
in charge. The consensus seems to you to be it's Attorney General Barr, given that it'll
be largely domestic law enforcement. Yet on the call, the President says, I've just put
General Milley in charge, in contrast to that understanding?

A     Yes, that's what happened.

Q     Okay. And just explain to us, why is it that General Milley doesn’t have command authority? What in terms of the chain of command -- you called him an adviser. Explain that to us.

A     Well, we would have to dig into the law, the exact text of the law. But under the law -- it may be Goldwater-Nichols -- but the Chairman of the Joint Chiefs of Staff is identified as a senior adviser to the Secretary of Defense, to the President of the United States, and also to the National Security Council.

And it may be as explicit to say that he has no command authority, but he is able to communicate direction from me to the chain of command. Again, the Chairman of the Joint Chiefs of Staff is not in the chain of command.

Q     Understood. And Attorney General Barr, who is the Attorney General of the United States, does he have supervisory authority over all of the Federal law enforcement agencies within the Department of Justice?

A     Under the law, I don’t know, but I would presume that he has authorities over law enforcement to some degree.

Q     Yes. Okay.

Now, when you had your opportunity to speak, Dr. Esper, just tell us generally what was your intention. What message you were trying to convey when the conversation turned to you?

A     And just for context, help me understand the angle here with regard to January 6th, 2021.

Q     Well, all of this, this whole line about the summer of 2020, is important because, in a very similar preparation for what everyone understood to be a mass
demonstration event, the lessons learned, particularly the lessons learned or not learned by the President and others close to him, directly inform the events of January 6th. So the questions about what happened in the summer with respect to the demonstration events then, the use of the Guard, the potential use of Active-Duty forces bear upon the preparation and response at the Capitol on January 6th.

A Can you be more specific in terms of what you’re asking me to answer then in that context?

Q I’m just asking you about when you were called upon in the meeting with the Governors and you have a chance to convey to them, they all command National Guard units in their States, what was your message? I mean, we can go right to the transcript, but I just wanted your general sense of your intention when you had your opportunity to address the Governors.

A Right. My attention was that, obviously, law enforcement should lead, but that they all had more than enough -- most of them, many of them had enough National Guard under their control within their States available to support law enforcement in their States if they felt that was necessary.

And I encouraged them to use their National Guard if that was the case, and, of course, offered whatever support that we could help from the Department of Defense, and actually cited the performance of Governor Walz, I recall, from Minnesota, who had actually employed his Guard and was able to calm the situation so that peaceful protestors can express their concerns and dissatisfaction without being -- without their lives and property being risked in the process.

Q Understood.

Page 4, if you can scroll down.

It looks at 14:03 of the call is when Dr. Esper first begins speaking. So the
transcript here, it's really the second paragraph that I wanted to read.

"And so at my urging, I agree, we need to dominate the battlespace. You have deep resources in the Guard. I stand ready, the Chairman stands ready, and the head of the National Guard stands ready to fully support you in terms of helping mobilize the Guard in doing what they need to do.

"Again, most of the Guard has not been called up. There's only a few States -- I count two States where more than 1,000 troops have been called up. I think the sooner that you mass and dominate the battlespace, the quicker this dissipates and we can get back to the right normal."

So your reference to dominate the battlespace, tell us more what you meant by that.

A "Dominate the battlespace" is a common phrase within the Pentagon. It's a phrase we use often. It's about the three-dimensional geographical boundaries in which a military unit operates.

As you'll see, if you look at General Milley’s comments, going down another 10 or 15 minutes, General Milley also uses the phrase "dominate the battlespace" and other terms that I use as well. So it's a very common phrase.

Obviously, in retrospect, it was not the appropriate -- it was not appropriate to bring military lexicon into this context, and it was something that I regretted.

But, nonetheless, it's about, again, understanding the three-dimensional box in which you employ a military force.

Q Understood. And it sounds like very clearly, you even say, at my urging, hey, Governors, you have this tool at your disposal, the National Guard, that is the appropriate place to find help and support, and we will do -- we at DOD will do all we can to support you if you choose to activate your Guard.
That's essentially your bottom line message?

A Yes, because my sense was that if they were unable to get control of the streets with law enforcement, they had their own resources available to them, the National Guard, that that would be a far better way forward than the President considering invocation of the Insurrection Act and either trying to deploy Guard from other States or, worse, trying to deploy Active-Duty forces into a State.

And so I was trying to urge them to consider using their own Guard so that we could avoid that situation.

Q Yeah. I see Ms. Lofgren has just joined us as well.

Now, you're anticipating my very next question, Dr. Esper. It sounds like this direct urging to the Governors that they consider deployment of their respective National Guards is entirely consistent with the advice you had given the President in the Oval Office about the appropriate use of the Guard, not appropriate at this point to have Active-Duty troops.

Is that fair to say?

A That's correct. Consistency is important. And I'm, again, familiar with what I believed, given my time from West Point through my many years in the military and then my multiple assignments at the Pentagon, what the appropriate role of the military is when it comes to civilian -- support the civilian authorities and the proper use of the Armed Forces.

Q Right. And was it your hope at this point, Dr. Esper, that if the Governors did take your good advice and deploy their Guard units that the situation would stabilize and then obviate the discussion or the need to continue to talk about the Insurrection Act or the deployment of troops?

A Well, yes. My hope was, first and foremost, that they could do that
through the use of law enforcement only. And as we would often discuss internally, law
enforcement meant, you know, local, county, and State law enforcement and, if need be,
if additional law enforcement was necessary, then preferably call upon Federal law
enforcement. My view was that the military should be last in line, and last in the end of
that line should be Active-Duty military.

So the bottom line was I was urging them, as best I could, given the context of just
coming out of the meeting with the President in the Oval Office with regard to this topic,
that they would call up additional law enforcement or, if need be, their own National
Guard so we could avoid anything that might suggest the need for invocation of the
Insurrection Act and deployment of either Guard or, worse yet, again, Active-Duty forces
into a State.

Q  Yeah.  Understood.  So there’s sort of a cascade of potential responses that
start with local police, that move on to State, to Federal law enforcement, all civilian.

Then we get to the National Guard if the situation demands it. And only
thereafter, in an extreme situation, would there be a predicate for Active-Duty troops to
respond in a domestic disturbance situation, is generally the sort of spectrum what you
believe was appropriate?

A   That is typically how we discussed it, both internally and with the President
and other members of the Cabinet.

Q   Okay.  So at the end of the Oval Office meeting and the phone call, was it
your understanding that the issue was at least temporarily resolved, that the President
had not invoked the Insurrection Act or made any order with respect to Active-Duty
troops, or was it still unresolved?

A   There was no immediate decision to invoke the Insurrection Act, although I
felt that the issue had -- was hanging heavily in the air, in the sense that if we were
unable to get sufficient Guard into the city by the evening, and if the law enforcement
under Attorney General Barr's direction was unable to get sufficient law enforcement into
the city by the evening, and if the protests continued and violence erupted like it had in
the previous nights, that we could find ourselves back in the Oval Office and faced with
another consideration of invocation of the Insurrection Act to call up additional forces.

I see.

I see Mrs. Luria has joined us as well?

So it sounds like the resolution of your conversation with the President was sort of
situational? You convinced him that at the moment there wasn't the predicate to
invoke the act but that it was going to be an ongoing fluid situation and conditions would
dictate that decision?

I think Attorney General Barr and I were successful in convincing him that
Attorney General Barr could call up sufficient law enforcement, numbering up to 5,000
folks, and that I could do the same with regard to the Guard, the combination of D.C.
National Guard and out-of-State National Guard, to match, if need be, the Attorney
General's number of folks, and that would be sufficient to keep the peace, if you will, in
D.C. for that evening and for any subsequent evenings.

And so my immediate task after the call with the Governors was to get quickly
back to the Pentagon, begin working with the head of the National Guard, and begin
reaching out to Governors to get Guard units into D.C. for the evening.

I understand. Okay.

So you're focused not just on the nationwide protests in various cities,
Minneapolis included, but a very specific situation in Washington, D.C., around Lafayette
Park?

Well, we're focused on D.C. at this point.
Q  Okay. And it sounds like their numbers suggested in this conversation or these conversations on June 1st, 5,000 was the number that Attorney General Barr indicated, the number of law enforcement that he believed could be deployed, and the equal number of National Guard troops, both the D.C. Guard and some other States, in your view, could also be brought to bear on the situation in Washington, D.C.?

A  Yes.

Q  Okay. So did you take steps then to essentially mobilize those 5,000 Guard troops in the wake of those discussions with the President?

A  Yes. Well, we already had several hundred D.C. National Guardsmen deployed on the streets of D.C. in support of Metro PD, I think, as I recall. So the key was to call up the remainder of those troops.

And then, of course, with the aid of General Lengyel, the head of the National Guard, I began reaching out to the Governors who were -- of neighboring States. So Virginia, Maryland, Pennsylvania, New York. I had made phone calls to three of those. I did not end up calling New York because it was my understanding that they were deploying Guard to assist already.

Q  All right. So the D.C. National Guard -- in which I believe you served yourself at some point. Is that right, Dr. Esper?

A  I did, that's correct.

Q  They have a limited number. What is it, around a thousand guardsmen that are available max at D.C. National Guard?

A  I think it's 1,200 personnel, roughly.

Q  Okay.

A  You would have to get the actual numbers from the commander.

Q  Yeah. So it was important -- it was necessary then to hit the 5,000 target
for other States to -- for Governors in other States to deploy their Guards to support the 
D.C. Guard at Lafayette Square? Is that right?

A Yes. If in support to law enforcement, Attorney General Barr thought he 
needed up to 5,000, we would have to go outside of D.C. to mobilize those numbers.

Q I see.

And was the decision to actually mobilize them because there was a necessity or 
to have them available if needed?

A No. The decision was made to mobilize -- to ask that the Governors 
mobilize elements of their Guard and to deploy them to D.C. to support law enforcement.

Q I see. Okay.

And then did that happen? Were you successful in getting those Governors in 
other States to mobilize the Guard and get those guardsmen to D.C.?

A It depends. We had -- I had different responses from different States.

But I think, at the end of the day, we were successful in getting a sufficient number of 
troops, National Guard troops, in D.C. in enough time to support law enforcement.

Q I see.

So did you take any steps at this time to prepare to move the 82nd Airborne from 
where they're stationed closer to Washington?

A Again, I'm just trying to understand the relevance here to January 6th, 2021, 
because my understanding is that no Active-Duty troops, et cetera, were involved in 

Q No, they weren't, exactly, Dr. Esper. But, again, the preparations that you 
took and the discussions you had and the efforts you took to placate the President in the 
summer directly inform decisions made on January 6th.

So the way in which you managed his persistent desire in the face of your advice
that the Insurrection Act wasn't appropriate is directly relevant to the issues we're
examining.

A      Yeah.  So if you can give me some more information, because, obviously, I
wasn't there on January 6th.  You made -- you alluded to decisions that President Trump
made.  If you could help me, I can sharpen my responses and maybe help you better.

Q      Well, my understanding is that you took action to actually move the 82nd
Airborne closer to the city to essentially placate the President, to stall him, to let him
know that you were actually taking some step in the hope that it would buy time and
stabilize the situation with the Guard and law enforcement.  It was a management, in
the midst of your discussions with him, about the use of Active-Duty troops in the city.

Is that accurate?

A      That's generally accurate.

Q      Tell us more specifically how you did that.

A      Well, I directed General Milley, after we left the Governors call, to begin
moving those forces to bases outside of D.C. and that they were not to make any further
movement without my personal explicit permission -- or authorization, I should say.
And that included -- that was, you know, the 82nd Airborne and the alerting of the 3rd
Infantry at Fort Myer.

Q      Okay.  And was that, Dr. Esper, motivated by the discussion you had had
with the President earlier or meant to be a demonstration to him that you were acting
upon or preparing for something that he wanted to do, despite the fact that it was
against your advice?

A      I -- there reached -- there came a point in the White House -- in the Oval
Office discussion that I felt that we were on the precipice of the President ordering
Active-Duty troops into the District of Columbia to quell the protests.
And so my proposal was to begin immediately deploying National Guard troops and, if necessary, I could -- I would move the 82nd outside the city in case we were unable to get the Guard there in time.

I thought that move would obviate his decision or a decision by him to actually order the deployment of Active-Duty forces into the city.

And so that proposal worked and we were able to avoid a worse situation.

Q I see. Did you convey to him the fact that the 82nd Airborne had been moved to Fort Belvoir in the event that they were needed?

A I don't recall doing that. Like I said, once I left the Governors call on June 1st, I returned to the Pentagon and don't recall having other conversations with the President after that with regard to the movement of forces.

Q Okay. That was my next question.

Did you ever have any further discussions after that June 1st meeting in the Oval Office with the President about the deployment of Active-Duty troops in the summer protests? And I mean across the country. Did it come up again in discussions with him?

A I don't recall so.

Q Okay. Now -- and you indicated, I believe, just in response to my previous question, that you placed a condition on the troops that were moved to Fort Belvoir that they not be deployed without your personal approval. Is that right?

A That's correct.

Q Why did you add that particular condition of your personal approval before they could be moved?

A Because I was aware of the gravity of such a movement, and I wanted to make sure that authority to do that resided with me and not with a lower-level
commander or anybody else.

Q    Okay.

A    That was one thing I did not want to happen.

Q    And it didn't happen, correct? They never were deployed, they stayed at Belvoir, and the situation was stabilized by the combination of the law enforcement and the National Guard troops?

A    It did not happen. And as soon as I felt that I could, I began the redeployment of Active-Duty forces.

Q    Let's talk about later on in the evening of June 1st, the 6 o'clock walk that you took with some others, with the President and others, to Lafayette Square.

Do you recall the circumstances that led to you being with the President and General Milley in Lafayette Square that evening?

A    Yeah. With regard to timeline, it did not happen at 6 o'clock. I was en route to the FBI command post.

At around 6:20 or so, I got a call that the President wanted an update on the employment of forces to support law enforcement that evening in the city. General Milley was already downtown at the FBI command post and was en route back to the White House, I was told.

So I immediately had my vehicle turned around, and I went back to the White House, arriving sometime, I don't know, around 6:30 p.m. or so.

Q    Okay. And what was your understanding as to why you were needed at the White House at 6:30 or so that evening?

A    I was told that General Milley and I were supposed to update the President on the plans to deploy or to use forces that evening in the city to support law enforcement, consistent with the discussion earlier in the day.
Q. I see. So you expected a continuation of the discussion you'd had in the
Oval Office that morning about security in the district that day?

A. Yes.

Q. What happened when you arrived?

A. When I arrived, there was -- I went into the outer office -- what's called the
outer Oval, which is where the President's assistants sit and handle, you know, his
calendars, et cetera. There was a large gathering of people.

And I immediately inquired as to, when does the meeting begin? Somebody
spoke up and said, "There is no meeting." I said, "Well, if that's the case, then I'm
returning back out to -- return back to the FBI command post to prepare for the evening."

And at that point, since I was already there, somebody said, "No, don't do that.
The President wants you -- wants you to join him to go check out the damage at the
church in Lafayette Park."

Q. Okay. So did you then proceed to walk toward the church with the
President?

A. Well, some time passed, in which case I did some other work, if you will,
talking to others in the room.

Eventually, I guess the President was doing a press conference, it concluded, we
were asked to line up and then join him in the room that faces Lafayette Park in the
White House.

Q. What happened next?

A. The President greeted us. I asked him, "Where are we going?" something
like that, or, "What are we doing? Where are we going?" He didn't respond. He
turned and began walking across -- walking out off the Portico toward Lafayette Park.

Q. Did you follow?
A We were told to follow the President at a distance, "we" being myself, Attorney General Barr, and General Milley.

Q Told by whom?

A I can’t recall. It was probably somebody from the communications team or something like that.

Q I see. Okay.

So walk us forward. Just describe for us what occurred as you walked toward Lafayette Park.

A Well, you know, obviously, we walked on the -- I think it's a gravel road, if you will, toward the exterior fence of the White House. And once we emerged from the White House we were greeted by a throng of reporters and others in the park. And I think that was our first sense that something was amiss with regard to this checking out the damage at the church in Lafayette Park.

Q Yeah. Did you feel like that was inappropriate, that the presence of the press or that something was amiss? Tell us more specifically what was, in your view, amiss and what troubled you about what was occurring.

A I thought it was inappropriate that I was there, and I know that General Milley felt the same.

Q Why?

A Because this was a domestic law enforcement action, and the presence of a senior -- the senior military officer and the Secretary of Defense is, I think, inappropriate in that context. It was particularly so for General Milley, being a uniformed officer.

For me, I’m a political appointee, so there are times at which I have to be discerning with regard to where I involve myself. My aim was always to remain apolitical. But in this context I felt that it was inappropriate for me to be there.
Q    I see.

So where did you go? Just tell us how the event unfolded and ultimately concluded.

A    Well, we wrapped our -- we wound our way through Lafayette Park, eventually ending at the road opposite the church. The throng stopped there. President Trump stepped forward across the street. And that's when, you know, he took those photos with regard to him holding the Bible and said a few words to the press.

I was not there in the front. I was moving toward the back, actually, of those gathered.

Q    Purposely, so that you would not be --

A    Yes, I was trying to avoid the situation.

Q    Understood.

And then at that point walked back to the White House and the crowd dispersed and you eventually did get a chance to do what you were there to do and meet with members of the National Guard?

A    Well, as soon as we walked out of the gate, I had actually determined before I actually left the White House, the Oval Office, that if there was going to be a walk to the park, I wanted to at least go see the National Guardsmen and talk to them and make sure they were prepared for the evening, get a sense of how they were feeling about their mission, so forth and so on. So as we walked through the park, I tried to locate them visually and was unable to.

After the President raised the Bible and spoke to the group and we began the walk back, I actually peeled off from the throng and tried to move westward in the park to find the National Guard again and was unable to locate them. Before I was concerned I
might not be able to make my way back into the White House compound, so I had to
quickly rejoin the group.

Q  Okay. And then did you actually get back to the White House compound
before you departed?

A  I did.

Q  Okay. Now, after this occurred, Dr. Esper, did you feel the need to issue an
apology or to clarify that the military should not have a role in domestic law
enforcement?

A  At that point in time, I felt the important thing was to get to the FBI
command post and prepare for the evening and make sure that we were in a position to
support law enforcement that evening given what was -- given what had happened that
day and what was expected that night.

Q  Okay. So is it fair to say that over the next couple of days the situation was
stabilized, with the combination of law enforcement and the National Guard, and by June
the 3rd, a couple of days later, things were, again, generally stabilized?

A  So later that night on June 1st, I had been out on the streets by myself, with
Attorney General Barr and with General Milley at different moments, checking on the
troops, talking to them, assessing the situation, making sure that everybody understood
their mission and was set for the evening.

I returned to the FBI command post later that night, roughly around 11 p.m., and
had the chance to sit down with my team and discuss what was happening. It was our
first chance to really step back and assess the situation as a team.

At that point in time I realized, upon the advice of my staff, that it was important
to send a message to the force, with regard to DOD support to civilian law enforcement,
what it meant, to talk about our oath to the Constitution.
So I asked my head of public affairs that evening to immediately return home to begin drafting a message to the Department that would go out the next day. I wanted to get it out before most of our forces in the United States left home the next day.

And so he returned home, he began crafting, and then the next morning I reviewed a draft. And then that afternoon, after lunch, the memorandum was issued to all DOD personnel.

If you don’t have a copy, I’d like to submit it for the record.

Q Please, yeah.

First of all, tell us why you felt it was important, Dr. Esper, to issue a memorandum to the joint force.

A I thought it was important to make sure, given a combination of what was being reported in the media, what was being seen, the optics of the situation, that I issue a very, very clear statement from the civilian -- senior civilian head of the Department about what the role was in the military with regard to support to civil authorities, our oath to the Constitution, and the importance we place in the proper civil-military affairs.

So in five paragraphs I laid this out. I would say the most important paragraph I'll read to you briefly.

Q Please, please.

A In the third paragraph I say, quote, "Department of Defense personnel have taken an oath to defend the Constitution of the United States. I, myself, have taken it many times in my military and civilian careers and believe strongly in it.

"As part of that oath, we commit to protecting the American people's right to freedom of speech and to peaceful assembly. I, like you, am steadfast in my belief that Americans who are frustrated, angry, and seeking to be heard must be ensured that opportunity. And like you, I am committed to upholding the rule of law and protecting
life and liberty so that the violent actions of a few do not undermine the rights and
freedoms of law-abiding citizens."

And then I, in the final paragraph, I remind everybody of the importance of being
apolitical.

I wanted to send that message out to send, again, a clear message from the
Department's senior civilian about our role. And importantly as well, I wanted to send
out the first message to set the tone and tenor so that General Milley, my service
secretaries, and my service chiefs could send out a cascading series of letters and
messages to the field as well reinforcing this message.

I wanted to go first so that if there was any fallout it would be -- it would rest on
my back and not theirs.

And so, again, I directed that message. It came out the next day. I think
General Milley's came out later, after mine, if not the day after that. And my
understanding is that others sent out messages following that as well.

Q I understand.

You mentioned the potential fallout. When you issued that memorandum to the
joint force, did you expect that there would be fallout or that the President, in particular,
would be critical of that statement or might have a negative reaction?

A I estimated that that could be the case, yes.

Q Tell us more. Why? What informed your sense that he might have a
negative reaction?

A It was just my sense, from having worked with him at that point for nearly a
year and hearing his views with regard to the employment of the military in situations like
this, and it was just my sense, given my experience, that that might strike him as
inappropriate or maybe undermining his message or his approach toward dealing with
protests in the streets.

But I thought it was more important that I send a clear message to the
Department with regard to where I stood and what our responsibilities were both to the
Constitution, given our oath, and at least certainly for the military, for those uniformed
personnel, as a member of the profession of arms.

Q Yeah. Did then you get any pushback or reaction from the President after
you issued the memorandum?

A Not that was conveyed to me.

Q Okay. Did you at any point -- I know not in that memo, but sometime soon
thereafter -- publicly provide your perspective on the appropriateness of the Insurrection
Act in situations like the one at Lafayette Square?

A I'm sorry, I didn't understand the question.

Q Well, just 2 days later there was a press conference in which you talked a
little bit about the situations that would justify the invocation of the Insurrection Act.

Do you recall that press event where you talked about the Insurrection Act?

A Well, yes, most notably. On June 2nd, as turmoil continued in the country
and talk of the invocation of the Insurrection Act continued, I became very
concerned -- also as protests and unrest continued across the country in, I think,
hundreds of cities -- that the Republic, if you will, was getting a little wobbly, as I would
say.

And I felt the need to get out there and send a clear message with regard to
where I stood on the issue of invocation of the Insurrection Act and, further, with regard
to where I stood on a variety of issues, from the tragic, awful murder of George Floyd to a
variety of things.

And my sense was I wanted to make that statement in the hopes that it would
stabilize the situation across the country and that we could turn the temperature down somewhat.

Associated with this was a plan to begin some de-escalatory actions to signal to the American people that DOD, at least, was trying to dial things back and, again, stabilize the situation so that we could have a more rational approach to it.

Q And what form did that take, your effort to deescalate, to clarify your comments on the Insurrection Act? Was that in not the memo, but in a press statement that you gave on June the 3rd?

A I gave a live -- made a live statement before the country from the Pentagon on the morning of June 3rd. And, obviously, you have the transcript, so --

Q Yeah.

A That was the approach I decided to take so that my words would be clear and clearly coming from me with regard to my view on these matters.

Q Yeah. And just reading from the transcript, Dr. Esper, of your comments from the Pentagon on June the 3rd, you said, "I've always believed and continue to believe that the National Guard is best suited for performing domestic support to civil authorities in these situations, in support of local law enforcement. I say this not only as Secretary of Defense, but also as a former soldier and a former member of the National Guard."

"The option to use Active-Duty forces in a law enforcement role should only be used as a matter of last resort and only in the most urgent and dire of situations. We are not in one of those situations now. I do not support invoking the Insurrection Act."

And I believe [redacted], yeah, putting that up on the screen.

So it sounds like, Dr. Esper, you very intentionally wanted to make clear to the Nation that we were not in the summer of 2020, in Washington or elsewhere, in a
situation, a dire situation in which the Insurrection Act would have been appropriate. Is that right?

A  That’s correct.

Q  And did this statement then prompt a negative reaction from the President?

A  Yes, it did.

Q  Tell us more about what was conveyed to you by him or others on his behalf.

A  I was immediately summoned over to the White House to appear before the President and to discuss this, my statement, with him.

Q  Tell us about that conversation. What did he say?

A  It was a very direct conversation between him and me. And he was quite upset and yelling. And I tried to respond to all his questions and point out what I said and did not say, et cetera, reminding him that my position remained unchanged from where it was on Monday and that I stood by what I said at the podium just a half hour earlier.

Q  Okay. Do you remember anything in particular that he said? What specifically made him angry? Was it the timing or the statement being not cleared, or was it the underlying position that you expressed?

A  I think it was a number of things. I think the most memorable was that he thought that I took away his authority, that I was acting as President and that I took away his authority to invoke the Insurrection Act.

Q  I see. And what did you say in response, Dr. Esper, in the face of that reprimand?

A  I can’t recall the timing. As you all know, I have a memoir coming out that, given the time to think through it, I was able to catalog in detail as best as I could recall.

But at one point we had a disagreement about what I said. And so I pulled out a
copy of my transcript and put it on the table and pushed it over to him to show him exactly what I said.

And then at another point, again, he asserted that I took away his ability to invoke the Insurrection Act, which legally I did not, but I was not inclined to disabuse him of that notion given where things stood.
[4:05 p.m.]

Q. I see. His interpretation was that you had essentially prevented him then from thereafter invoking it given the position you took in this public statement?

A. Yes.

Q. Okay. Now, after this difficult conversation with the President, did he continue between then and the end of your service as Secretary of Defense to raise the Insurrection Act or the use -- possible use -- of Active-Duty troops in domestic disturbance situations? Did it come up again?

A. It came up at least a few times throughout the summer with regard to deployment of the Guard to other cities, such as Portland and Seattle.

I don't recall talk of the Active-Duty deployment because I think I was successful in ending that inclination on June 3rd.

But, obviously, with regard to the deployment of National Guard troops to Seattle and Portland, would likely require invocation of the Insurrection Act, because you might be ordering the deployment of Guard from one State into another State without the Governors' permission on either end.

Q. I see. So in the context of continuing unrest in Portland and Seattle, the use of other Guard assets would have required invocation of the act, and that was something discussed with the President?

A. Well, again, I -- you need to get the lawyers in here who understand the law very well. But my recollection is that you have to have the consent of both States' Governors to deploy the Guard, or you have to invoke the Insurrection Act.

Q. Right. Fair to say, Dr. Esper, that your position on the possible invocation
of the act never wavered, you never reached a point where conditions in your view rose
to the level where it would be appropriate to invoke the act throughout the rest of your
term as SecDef?

    A    That's correct.
    Q    And you conveyed that consistently to the President?
    A    That's correct.
    Q    Did he continually push back or challenge that or raise again the prospect of
the potential invocation of the act?
    A    He continued through the summer of 2020 to push for, at times, the
deployment of National Guard troops into cities such as Portland and Seattle -- those are
the two notable -- to -- again, to address the protesters.

    Q    Yeah. And much like Lafayette Square, did it ever become necessary to do
that or were the combination of law enforcement -- civilian law enforcement and the
State National Guard troops able to quell the violence and stabilize those situations
ultimately?

    A    I never thought so. I think -- I thought that Department of Homeland
Security did a good job, maybe at times supported by DOJ. I just can't recall. But I
thought Federal law enforcement did a good job in terms of defending.

    And, of course, again, the law is important here, but at least for the deployment of
Guard, it is limited to the defense of Federal persons, property, and functions, as I recall.

    And I think that Federal law enforcement arrived in places like Portland, for sure,
and maybe Seattle, to do those things. And so there was, again, never a need. I'm not
even sure that the Governors called up their own Guard to support in those cities.

    Q    It was strictly the Federal law enforcement or State, local, Federal law
enforcement agents that were able to stabilize those situations?
A    Yes, and that is the appropriate response, to use law enforcement. And,
again, as I had said to you all today, and I had said multiple times in the past, that it
should be -- it should work its way from the lowest level up in terms of using law
enforcement.

Q    Yep. Understood. So let me just finish my portion before I ask [ ]

[ ] to have a few more questions.

Did this in part lead to your termination as SecDef later that year in November,
this dispute that you had, an ongoing dispute with the President about his power under
the Insurrection Act?

A    I suspect it was one of several things and maybe the most notable of those
things.

Q    Let's just talk briefly about your termination. How were you notified about
it? And what, if any, explanation were you given?

A    I think this is outside the scope of what we agreed to, but I'll deviate for a
moment because it's a very simple answer.

I was informed by Chief of Staff Mark Meadows on the -- around lunchtime on
November 9th. And his basic message was something along the lines that I was being
terminated because I was insufficiently loyal or not loyal to the President. And I
responded that my oath was to the Constitution and not to the President.

Q    I understand.

All right. Thank you, Dr. Esper.

I think [ ] has a few more?

[ ]

Q    Hi, Dr. Esper. I just want to talk briefly. And I'm cognizant of time, and
I've also reviewed the testimony you provided to the House Armed Services Committee
about the events of the summer.

And I want to talk -- ask you to just explain briefly, if you could, about some of the lessons learned that you spoke about then, starting with that the troops should only be used as a last resort in direct civilian law enforcement roles.

Obviously, that wasn’t a lesson learned from that summer, in particular, but how did that play out during the summer?

A  You’re right, that wasn’t a lesson learned. I think that was a rule of thumb that I took into all these discussions, as did General Milley. And that continued to be the push that we would have, is that you should exhaust your law enforcement resources first before calling up the military, any parts of the military.

Q  It sounds like you had multiple conversations with the former President about that topic, that the military’s a secondary role, particularly, for domestic civil disturbance protests. Did he ever seem to understand that concept?

A  I don’t think he ever embraced it because we would, at subsequent meetings, come back with his inclination to use, again, the military first, the Guard later.

Q  Did he understand the difference between the Active-Duty military versus the National Guard, as you described it?

A  I don’t know. A lot of people don’t understand the differences between Active Duty, National Guard, and Federal Reserves. It’s a little complicated. But I’m not sure. I would be speculating.

Q  You also spoke about that the police -- there was an issue with law enforcement not wanting distinct uniforms during that summer versus when the military is present. And that was one of the issues that came out from the summer. Do you remember that?

A  Yes, we learned a few things that I think caused confusion, certainly, in the
minds of some in the media and certainly as a result in the minds of Americans.

The images of law enforcement using shields that said military police or in some cases law enforcement wearing uniforms that were kind of a green fatigue or camouflage confused people and led many to believe that the National Guard had been deployed against protesters in Lafayette Park, which was not the case.

And it led to some other allegations, that the Guard employed PepperBalls and tear gas and other things that just were not accurate based on the reporting given to me within days by Major General Walker, the commander of the D.C. National Guard, and Secretary of the Army McCarthy.

So I had directed Secretary McCarthy within days to conduct what we call an after-action review in the Army to get to the bottom line about lessons learned from the events of the week of June 1st. And I told him that once he had done that, I wanted him to sit down with law enforcement and do the same. I mentioned this to Bill Barr, and I told him I wanted to do this, and he agreed.

And so I left that task to Secretary McCarthy to begin accumulating lessons like the two that you mentioned so that we could do better the next time.

Q Right. I think one I didn’t mention was about the equipment being lent to civilian law enforcement that was labeled military. You alluded to that as well. And I think you described in the hearings that the National Guard cross-leveled its riot shield. Are you familiar with that testimony?

A The report I had heard within days of Lafayette Park actions on June 1st was that some members of law enforcement who were going to be facing the protesters in the park had no -- didn’t have shields. And so our servicemembers, the National Guard, lent them their shields. They were going to be staying behind, I guess, guarding, again, Federal property.
So they lent them their shields, which I understand why they did it. It was good to share the commitment of protective equipment, if you will. But now you had civilian law enforcement carrying around shields that said military police, and that confused the situation with regard to who was doing what on the ground in Lafayette Park.

Q. And is it fair to say that left a visual that the National Guard was in charge of that civil disturbance protest that was not accurate?

A. I don't know if it was -- I don't know if it left the impression that they were in charge, but it certainly left the impression that they were participating. And, again, both would be inaccurate based on reports given to me not long thereafter by General Walker and Secretary McCarthy.

And I believe that I testified to this. And I also believe that the DOD IG report that you all sent me affirmed it as well.

Q. One of the lessons learned that Secretary McCarthy told us, told the committee about, was that from the summer it was clear that because he and General Walker were collated with each other, that there was a lot of verbal back and forth between them, and that kind of sped up the response time.

Whereas, and I'll quote what he said, that, "What we learned in the process was we were not capturing a lot of the information in writing in the orders process, which is fundamental because of the stress of the situation and the speed of the situation."

General Piatt also told the committee that, "From the summer the breakdown showed that one of the lessons we learned is we do not have clear, established operational procedures for use of the National Guard soldiers in civil disturbance."

Is that an accurate assessment by both General Piatt and Secretary McCarthy that you agree with?

A. I don't know. They never conveyed that to me, that communications or
lack of written orders was an issue. So I don’t want to speculate on it.

Q  Did you feel that there was -- did you get more involved in the request for
the D.C. National Guard before the time -- before you left?

A  I was not involved beforehand. Typically, that went -- as I recall, I think it
came into the Department and would go straight to the Secretary of the Army as the
designated civilian lead.

I think the only further involvement I had -- and, of course, a lot of this discussion
ended after the summer -- was to adopt our lessons learned from the events of June 1st
and make sure that we didn’t repeat them.

So we talked about, for example, not sharing shields unless they were -- the
markings were removed or covered, things like that. I made the request of law
enforcement, the Acting Secretary of DHS, in particular, to make sure his people were not
using military-style uniforms.

So we tried to implement the lessons learned from the summer to make sure that
should this arise any time in the future that we would be in a better situation, if you will.

Q  And was that memorialized in some way?

A  You know, I can’t recall. I know we discussed it in the meeting a week or
two after. But I can’t recall how it was memorialized or if it was memorialized.

Q  I think General Milley told the committee that he along with you contributed
to writing some of the lessons learned in terms of -- in the form of a letter of some sort.

Do you remember discussing that with General Milley in terms of writing down
what occurred over the summer and making sure it didn’t happen again?

A  I don’t recall physically writing a letter or a memo. I do recall discussing
these things in a larger meeting with -- I think General Milley was there. I know
Secretary McCarthy was there. I know General Walker was there and others. And this
was a week or 2 -- like I said, sometime within the first 2 weeks, I want to say, of the
events of June 1st. And we discussed these things, again, uniforms, shields, things like
that.

Q I just want to show you briefly exhibit 4. If we can bring that up. And this
appears to be -- it was an attachment to exhibit 11, which was a November 3rd email.
You're not on that email. However, I just want to pull it up.

And this is a memo that's directed for the Secretary of Army, which broadly
discusses some of the issues that we've discussed.

Do you remember seeing this memo in this form?

A I don't.

Q Okay. Do you remember kind of discussing some of these concepts,
though, in terms of the last paragraph itself? "My expectation is that the D.C. National
Guard will only be employed as a last resort, and, if so, will be clearly marked and/or
distinguished from law enforcement entities."

A Well, again, I don't recall this memo. I don't know -- I see that it was sent
to the Secretary of the Army. I don't know who it was sent from. And so I don't recall
a specific paragraph.

I will say, though, that the thrust of the last paragraph is consistent with what I've
been telling you all, that my view was that the military should be the last -- should be at
the back of the queue, behind law enforcement, and that at the front of the military
queue should be the National Guard and in the rear of the military queue should be
Active-Duty forces.

So that is consistent. And as I told you, I thought it was very important as a
lesson learned from June 1st that the military be distinguished from law enforcement and
that the way to do that was to get law enforcement to use nonmilitary style uniforms.
And I guess in some cases, if we could clearly identify our own folks, that that would be a
good thing, too.

Q. And just so I'm clear, was there ever any such guidance issued to the D.C. National Guard, regardless of whether you've seen this memo or not, that memorialized these lessons that you just talked about?

A. I don't know. I would not have issued that to the D.C. Guard. I would have given guidance to Secretary McCarthy to give that guidance to the D.C. Guard. But I never did that I can recall.

Q. Was any guidance issued to the Secretary of the Army about employment guidance for the D.C. National Guard in your --

A. I know I gave -- go ahead. I'm sorry.

Q. Before the summer events, did any such guidance exist for the Secretary of the Army issued by the Secretary of Defense?

A. Prior to June 1st?

Q. Correct.

A. Not by me, and I'm not sure that there were any standing orders either.

Not that I recall.

Q. Okay. We're wrapping up, Dr. Esper. I just have one question about the summer events.

Were you aware of an effort by the White House to federalize the Metropolitan Police Department?

A. No.

Q. And were you aware that the Joint Chief, General Milley's office, was kind of tracking the violence and monitoring it across the country and were receiving daily data reports?
A    Yes. I know General Milley kind of carried these stats around with him on a daily basis.

Q  Right. I tended to get reports from my -- up from my Assistant Secretary for Homeland Defense Ken Rapuano. He was -- and to be clear, because this was often the question, it was not any information that was gathered by the military, as I was told, because -- but it was information conveyed to him from, I think, either DHS, DOJ, or both.

A    Right. And it showed kind of these three or four cities where there was rioting, but nothing nationwide that would have been the predicate for the Insurrection Act. That was General Milley's general substance to us.

Q  Do you agree with that?

A    I think we tried to track and understand what was happening in all the cities, at least the major cities across the United States, in terms of how people were protesting, how violent was it, or was it not.

Q    And, again, it was not -- my understanding was it was law enforcement information, that's who was -- that was who was collecting it and providing it.

A    The information provided, however, didn't show anything that would have triggered, in your mind or General Milley's mind, the need for the Insurrection Act?

Q    Right, I understand that, that it was law enforcement. The information General Milley's mind, the need for the Insurrection Act?

A    No. Again, I never felt the need to invoke the Insurrection Act.

Q    And just in terms of the discussions that you had after June 1st events with Secretary McCarthy, General Walker, and General Milley, with just in looking back now, was it your intent for the Secretary of the Army or the Secretary of Defense to be more involved in the deployment of the D.C. National Guard?

A    Let me answer this a few ways.

Q    I think given what happened the week of June 1st and some of the events that
happened -- so we, for example, we were surprised that a helicopter was used on the evening of June 1st. And within an hour of being informed, I immediately directed an investigation. We were later surprised that another National Guard aircraft was used and conducted another investigation.

So I think there were a number of things that surprised us during the course of the week of June 1st that prompted us to get more involved in these types of deployments. And so we took a more active -- I certainly did. I know Secretary McCarthy did.

And I think the thing is this was a unique event. It's fair to say protests and civil unrest like this probably hadn't happened in decades, a couple generations. And so we were no longer dealing with the normal requests that would come through the system for additional National Guard support for a July 4th celebration or a National Guard traffic control support for a parade, or something like that.

We were in a completely new situation now. And I think, as a result, we all took a more active interest in what was happening down to the tactical level to make sure that we were, again, abiding by kind of the core principles of civil-military relations, the military support to civilian authorities, et cetera, et cetera.

Q It's fair to say there was more scrutiny involved in some of the requests for the D.C. National Guard?

A Yes.

Let me turn it over to see if any of our members have any questions. I see Mrs. Luria is on. I know Ms. Lofgren was on earlier.

Anyone else have any?

Mr. Kinzinger. No questions --

Mr. Kinzinger? No questions here.
Okay. Thanks.

Mrs. Luria. This is Elaine. No questions right now. I just want to say thank you to the Secretary for joining our conversation.

Q Dr. Esper, the only other question I have, just looking back over my notes, is just to briefly go back to the discussions you had with President Trump around the June events.

Did he ever during those discussions talk about his desire to look tough or the desire for how the deployment of troops would -- the message it would send, or the optics, or the sort of look that it would convey? Was that part of his -- sort of his discussion or his case, so to speak, for using Active-Duty troops?

A If memory serves me correct, on -- at the June 1st meeting he thought that what was happening in the country with regard to the civil unrest made the United States look weak, made him look weak. There was talk along those -- rhetoric along those lines.

I think, again, you have the transcript there. I think he said similar things in the call with the Governors that same day.

Q Yeah, he does. Exactly. And I'm trying to get a sense -- and I don't want to you to speculate -- but whether his point or in the discussion was motivated more by looking strong versus tactically what would be the best solution to safely quell the violence, if you have a sense as to which of those priorities, whether they conflicted, or what he mentioned as his reason for wanting the Active-Duty troops.

A Yeah, I don't want to speculate as to why he leaned toward Active-Duty, and if not Active-Duty, then the military Guard. There could be a number of explanations, that maybe he thought that that would be a more effective force. I just don't know
which of those that I would -- it would be, again, speculation.

Q    Yeah. No, again, I don't want you to speculate. I'm just really asking what he said. Did he say, "We have look strong, this looks terrible, we look weak"? It sounds like both from the call with the Governors and from your recollection of the conversation in the Oval Office that how things looked was part of the conversation.

A    Well, yes, as I said, he thought that we looked weak abroad. And I think in the call with the Governors he expressed that he looked or that the -- he and the Governors looked weak or the Governors looked weak by not responding more forcefully to the protests.

Q    Yeah. Okay. All right.

Q    Just one more question along that line.

Along with the conversations about the Insurrection Act, it was reported that several high-level Pentagon officials threatened to resign if the President did invoke the Insurrection Act.

A    Are you familiar with that? Was that ever communicated to the President?

Q    I don't recall that at all, frankly. I'd love to know who you heard that from, but I just don't recall that.

Q    Oh, it was in The New York Times. I didn’t hear it.

A    Well, there was, as I said, there was a lot of inaccurate or incomplete reporting that was going on during that timeframe. And so, you know, as you'll see in my transcript of June 3rd, I think in the first paragraph I say there's been some reporting, some good, some bad.

And another reason why I wanted to give the press conference on June 3rd was to clarify some things that were in the press that just simply were not accurate. And so I
tried to address them as well.

So I appreciate you conveying the source, but I just don’t recall anybody -- I don’t recall it ever being reported, and I don’t recall it ever being talked about within the Pentagon.

Q And, ultimately, do you believe that the 5,000 National Guard that ultimately came for the summer protests, did that prevent the President from invoking the Insurrection Act once he saw that presence in the District?

A So I'll give a long-winded answer. I think that, first of all, I think there is credit due to Attorney General Barr for pulling in a lot of law enforcement folks to be there on the scene in D.C. on June 1st and getting them there in a timely manner.

You know, whether or not the additional forces provided by the D.C. Guard and others was needed, I don't know. But needless to say, we did not have violence the evening of June 1st or June 2nd like we had in the previous nights.

As you probably know, there were National Guardsmen injured, there were Secret Service injured, there were Park Police injured, there was a lot of destruction going on.

So we did not see the level of violence the evening of June 1st that we had in the previous nights.

So I think the proposal to -- that Bill Barr and I put forward, that he call up law enforcement and I would call in Guard, was successful in tamping the violence down. But it was certainly successful in terms of obviating the President's inclination to or desire to deploy Active-Duty troops into the city, which, again, I was opposed to for the reasons I stated.

Q Dr. Esper, is there anything else that you think is relevant? Is there anything that we haven't asked you that -- I appreciated your opening statement. But
upon reflection and our conversation, anything else you think we should know, the
committee should know?

A  I think with regard to January 6th, 2021, again, it was a tragic day. It was
terrible. What we saw, what we witnessed, you know, I made a statement that
afternoon about these things that if you don't have for the record we can share with you
for the record, probably my first public statement since leaving office.

But, anyways, I don't think I have anything further to add at this point in time.

Q  You did issue a series of tweets that afternoon, and I'll just read them into
the record.

You say, "As this transition plays out over the next 2 weeks, I am confident the
U.S. military will stay out of politics and remain true to its sworn oath to support and
defend the Constitution and the American people as the most trusted and respected
institution in the country."

You say, "This must end now for the good of the Republic. I commend
congressional leaders for meeting tonight to complete their constitutional task of
counting the electoral college votes that will affirm Joe Biden as the next President of the
United States.

"This afternoon's assault on the Capitol was appalling and un-American. This is
not how citizens of the world’s greatest and oldest democracy behave. The
perpetrators who committed this illegal act were inspired by partisan misinformation and
patently false claims about the election."

It's a series of three tweets that I think I read out of order. But is that what you
recall, Dr. Esper, is the statement that you just referenced that you issued on
January 6th?

A  Yes. That is.
Q. And consistent, I take it, still with your views on the events at the Capitol that day.

A. Yes. It is.

All right. Well, we really appreciate your willingness to speak with us. Again, you did this voluntarily and took time to provide this useful information. So thank you very much.

Thank you, Mr. Richards, for your help as well.

Mr. Richards. Thank you.

Dr. Esper. Thank you all very much as well.

All right. Thank you. Have a good afternoon.

Dr. Esper. You, too. Goodbye.

[Whereupon, at 4:33 p.m., the interview was concluded.]
Certificate of Dependent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

__________________________________________
Witness Name

__________________________________________
Date
SELECT COMMITTEE TO INVESTIGATE THE
JANUARY 6TH ATTACK ON THE U.S. CAPITOL,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

DEPOSITION OF: KEN KLUKOWSKI

Friday, June 10, 2022
Washington, D.C.

The deposition in the above matter was held in room 5480, O'Neill House Office
Building, commencing at 10:27 a.m.
Appearances:

For the SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

[Redacted] SENIOR ADMINISTRATIVE ASSISTANT
[Redacted] SENIOR INVESTIGATIVE COUNSEL
[Redacted] PROFESSIONAL STAFF MEMBER

For the WITNESS:

PAUL BROTHERS
EDDIE GREIM
Let's go on the record.

All right. This is a resumed deposition of Mr. Ken Klukowski, conducted by the House Select Committee to Investigate the January 6th Attack on the U.S. Capitol pursuant to House Resolution 503.

At this time, Mr. Klukowski, could you please reintroduce yourself?

The Witness. My name is Kenneth Allen Klukowski.

And, Counsel, first in the room, why don't you introduce yourself.

Mr. Brothers. Yeah. Paul Brothers with Graves Garrett.

Excellent. And we do have counsel joining on the Webex platform as well. If you could please introduce yourself.

Mr. Greim. Eddie Greim from Graves Garrett, dialing in from Kansas City, Missouri.

Great. I'd like to just thank you all for being here in person and virtually.

So we have met before, and the same rules are going to govern, but I do want to go over some of them again just to remind you.

This is going to be a staff-led interview like before. Members do have the opportunity to join, and if they do, we'll try to announce their presence so you know that they're there.

My name is [redacted] I'm a senior investigative counsel for the select committee. And with me in the room today is [redacted], a professional staff member for the committee.

Under the House deposition rules, neither committee members nor staff can discuss the substance of the testimony you provide today unless the committee approves
its release. And you and your attorney will have an opportunity to review the transcript afterwards.

I understand that you have reviewed the existing transcript from last time. So we'll make that opportunity available for the future transcript from today.

There is an official reporter transcribing the record of the deposition. Please wait until each question is completed before you begin your response, and we'll try to wait until your response is complete before we ask our next question. And, of course, the stenographer can't record nonverbal responses, such as shaking your head, so please do answer with an audible, verbal response.

Like before, we ask that you provide complete answers based on your best recollection. And if the question is not clear, please ask for clarification. If you don't know the answer, please simply say so, but you may only refuse to answer a question to preserve a privilege recognized by the select committee.

And if you do refuse to answer a question based on a privilege, then staff can either proceed with the deposition or seek a ruling from the chairman on the objection. And if the chairman overrules such an objection, you would be required to answer the question.

I do want to remind you that it's unlawful to deliberately provide false information to Congress. And since this deposition is under oath, providing false information could result in criminal penalties for perjury or providing false statements.

Do you understand all of that that we went over?

The Witness. Yes, sir.

All right. Very good. Thank you.

At this time, I'd ask that you stand and raise your right hand to be resworn.

The Reporter. Mr. Klukowski, do you swear or affirm under the penalty of
perjury that the testimony you’re about to give in this deposition shall be the truth, the
whole truth, and nothing but the truth?

The **Witness.** I do.

The **Reporter.** Thank you.

Thank you, sir. And then, if at any time you need any breaks or
would like to consult with your counsel, please just let us know, we’re happy to do so.

And just as a reminder, this is being recorded through the Webex platform and
also this camera. So if you do need to consult, we’ll figure out a way to do that, because
this doesn’t stop recording.

All right. At this point, I understand that either you, Mr. Greim, or you,
Mr. Brothers, would like to make preliminary remarks.

Mr. **Brothers.** Yes. We’d just like to note for the record before we begin the
resumed deposition, at the beginning of this deposition some months ago, Mr. Klukowski
raised numerous objections. I will not recite them for the record again, but the
objections include, but aren’t limited to, matters dealing with the composition of the
committee, the authorization of the committee to issue a subpoena for Mr. Klukowski’s
deposition testimony based on the composition issues, whether the subpoena is
supported by a legislative purpose and a pertinent committee function.

There were also numerous objections raised in Mr. Klukowski’s document
production. And we preserve all of those objections and are not waiving any of them by
appearing to resume the deposition today. And we also continue to preserve all
constitutional and common law privileges.

Thank you for that. Your objections are noted. And I’ll just, for
the record, and simplicity, hopefully, also incorporate, in addition to what you said, the
objections that are reflected in the transcript from December 15th, which is the first time
we met.

Mr. Brothers. That would be great.

Excellent.

EXAMINATION

BY [Blank]

Q Okay. So this is going to be a more targeted deposition than last time.

There's a few issues we wanted to bring you back to discuss.

The first I'll start with is going back to Mr. Jeffrey Bossert Clark. And we understand that you began working for him on December 15th at the Department of
Justice.

A That is my recollection.

Q Okay. Do you know whether Mr. Clark ever communicated with Rudy Giuliani?

A I do not recall ever being told one way or the other on that. So I have no recollection of anything responsive to that.

Q Did he ever tell you anything that suggested he was in touch with Mr. Giuliani or anybody from his legal team?

A Not that I recall.

Q Did Mr. Clark ever tell you about communications or meetings he had with Sidney Powell?

A Not that I recall.

Q Did Mr. Clark ever tell you about any communications or meetings he had with Jenna Ellis?

A Not that I recall.

Q Did he tell you about any communications or meetings he had with Bernie
Kerik, Katherine Friess, or Cleta Mitchell, any of those?

A  What were those names again?

Q  Yeah, sure.  Bernie Kerik?

A  Not that I recall.

Q  Katherine Friess or Friess?

A  Not that I recall.

Q  Cleta Mitchell?

A  Not that I recall.

Q  Okay.  Did Mr. Clark ever tell you he had meetings or communications with anybody associated with the President's campaign?  Or what was left over from the campaign at that December through January period?

A  Could you clarify?  It's -- that's -- that's -- you say anyone affiliated with the campaign?

Q  That's correct.  Who was representing the President in his personal capacity or on behalf of the campaign in the period from December 15th up and through January the 20th.  Do you remember Mr. Clark saying that he had been in touch with anybody like that?

A  I do not recall any conversation in which he mentioned a name that I either knew or that he represented to me was someone representing the campaign.

Q  Did he say -- did Mr. Clark say to you that he had been in touch with representatives from the President's campaign or his individual counsel -- the President's individual counsel?

A  I do not recall any conversation that was characterized in words similar to what you just said.

Q  Okay.  Other than the President or White House staff, do you remember
Mr. Clark saying anything to you indicating that he had been in touch with -- well, I'll rephrase that later as we go through some of this.

Did Mr. Clark ever tell you about communications or meetings he had with Mark Meadows?

A Not that I recall.

Q Okay. And when we last met, we asked you about communications or meetings that you had with those people, but it was limited to January. Did you have any meetings or communications with Rudy Giuliani between the election, November 3rd, and January 20th?

A Not that I recall.

Q How about Sidney Powell?

A Not that I recall.

Q Jenna Ellis? Same period.

A Not that I recall.

Q Cleta Mitchell? That same period.

A And, again, we're asking conversations, or can you repeat the question in full?

Q Yeah, sure. And I'm looking for communications.

A Right.

Q So whether in person, over the phone, over email, text message, any communications with those people I've listed. And I'm happy to do so again.

A Not that I recall.

Q Okay. Did you ever have any conversations, communications, meetings with Jeff Clark about John Eastman?

A Not that I recall.
Q You're pausing there. Is there --

A No. I'm just -- I'm trying to think through carefully each -- you know, each aspect of what you're saying.

Q Okay.

A I'm being deliberative and careful to try and be precise in my answers.

Q Very good. I appreciate that.

A And this is all -- this is all in the distant past, and I'm trying -- so there are names I have not thought about in a long time, and I want to take a moment to think if I could recall anything.

Q Okay. Understood. And take all the time you need, and we appreciate your being deliberate and careful.

Did Mr. Clark ever tell you that he spoke with John Eastman at any point during the post-election period, so between November 3rd and January 20th?

A It's -- before we go that to my previous answers regarding those individuals, if I was in like a large group setting, it might've have been in the same room with someone and might have said hi to them. I might not recall that exchange, but it's -- so I wanted to make clear, I'm not saying that -- I can't say I was never in the same place as any of them. I just -- I don't recall any conversations with those individuals.

Q Okay.

A With each -- with each of those individuals.

Q That we just listed?

A That's right. I mean, there were large campaign-related events and whatnot, and I don't know necessarily who was in the room each time or whether I might've said hello to someone as I passed by them. I do not recall any conversations.

Q Understood. So to --
A     So can you repeat the question we're on now?
Q     Yes, of course. So my question now is, did Mr. Clark ever tell you that he spoke with John Eastman in the post-election periods? And when I say spoke, electronically, in person, over the phone, or otherwise.
A     Not that I recall.
Q     When we last met, we did discuss with you your interactions with John Eastman. I will say that you withheld, as your counsel has represented last time, and this time again, and throughout the period, that you withheld a number of documents on attorney-client, First Amendment privilege claims.

Did you, Mr. Klukowski, review those claims before asserting them to the committee?

Mr. Greim. I'm going to -- I'm going to object here. I mean, I think it's inappropriate to ask a witness about, you know, his interaction with counsel and the preparation that went into positions that we take.

Okay. And to be clear, I'm not going to ask about any communications with counsel that he had.

I just want to make sure, Mr. Klukowski, did you review your documents and ultimately decide and agree with the decisions to produce or withhold certain documents on objection grounds?

Mr. Greim. You know, I think I -- I understand the -- I understand the question, but I don't think it's appropriate to try to tease out -- I mean, I think the relevance would be to show that there was a difference between the witness and counsel, and I just don't think that's an appropriate question here.

I mean, I think we will just stipulate that the positions that we took are the positions we took.
Understood. And to the extent they’re any different, that’s what I want to understand. Some of these objections, I just want to make sure that Mr. Klukowski -- ultimately, his production to the committee is his, and so I want to make sure that he looked at what was provided and understands the nature of what was in his possession.

And ultimately, again, the First Amendment objection, in particular, is something that is uniquely situated to Mr. Klukowski.

Mr. Greim. Okay. I’m just -- I’m not sure that answers -- I’m not sure that answers our concern, though. I mean, you know, it's one thing at a deposition when counsel, you know, instructs someone not to answer as privileged, and then you turn to the witness and say, you know, do you agree with that, that it’s privileged.

But I just don’t -- I mean, maybe there’s a different way, you know, to say, you know, did he review the entire set of materials that were given to counsel. I'm just trying to think -- I'm just trying to think how to get to the -- I'll step back. Maybe I’ll -- maybe just ask the question again. I’m sorry.

Yeah, sure. And I’ll ask it again, and we can work through this as we move along.

But we received privilege logs based on First Amendment objections as well as attorney-client objections, and so I just want to know, Mr. Klukowski, did you review those objections before the documents were provided to the select committee?

Mr. Greim. Yeah. And I think, guys -- I think I will object, because this is going to the means by which we -- I mean, you know, whether he reviewed it or not is going to reveal the way that we communicate with our client and sort of the process we go through in making the production.

Okay.
Mr. Greim. I think you could ask him whether he stands by those, but I think to
then probe where he reviewed them himself or not is going too far.

[Redacted] Okay. I’m fine with that.

Do you stand by the objections that you have submitted to the select committee
in the First Amendment privilege logs and attorney-client privilege logs?

The Witness. Yes, I do.

[Redacted] Okay. And we’re going to go through some of those. The logs,
for your benefit, are included in the binder as exhibit No. 22 and 23.

And, Eddie -- Mr. Greim, for your purposes, exhibit No. 22 is the attorney-client
privilege log. Exhibit No. 23 is the First Amendment privilege log that you provided to
us.

Mr. Greim. Okay. I didn’t see those in either of the boxes. I mean, I’m sure I
can pull them up in my system, but --

[Redacted] Yeah, these are documents that you provided --

Mr. Greim. -- this is not a matter we talked about or that we [inaudible], so --

[Redacted] These are the documents you produced to us, so we did not
re-produce them to you today.

Mr. Greim. Yeah, I understand that, but it's going to take some time. I mean, I
don't have all this stuff, you know, quickly at hand. I'm going to go into an online file
that I can access from where I am now.

[Redacted] That’s fine. We're not going to go through this line by line.

BY [Redacted]

Q Just for purposes, we are going to recall back to it, so your knowledge of
what these exhibits are hopefully will help.

But if we do go to exhibit No. 24, this is an email that was produced to us, I’ll
represent to you, as part of ongoing litigation, and it was produced over certain
attorney-client work product and other objections.

The first thing I'll ask you is -- one person on this is Chuck DeVore. Do you know
who Chuck DeVore is?

A  Not to my recollection.

Q  So the day after the election, on November 4th -- it's at the bottom of this
e-mail -- John Eastman wrote to Chuck DeVore, saying, I'm on a plane to Philly, can't call,
but can do email.

And then Chuck DeVore responds, November 4th at 7:25 p.m., says, If Biden ends
up 270 to 268, consider this. Of the 270 electors, 171 are in States that allow faithless
electors. I believe that's 55 in California where there is a penalty, but you can do it
anyway. Decent odds he loses one, especially if he starts deteriorating in the coming
weeks under the stress.

Mr. Eastman then responds one email further up the chain on November 4th, at
7:12 p.m., saying, So throws it to the House. How likely one of our Rep delegations goes
south on us. Lots of never Trumpers there.

Mr. DeVore then, moving up one, responds November 4th at 6:13 p.m., saying,
We may be up to 27. Iowa went from 3 to 1 Dem and might go 3 to 1 Rep.

Republican, I'm assuming.

And then Mr. Eastman, at the very top of this email chain, on Friday, November
6th, says to Mr. DeVore, I'm in a conference but can do email. Already been in touch
with Ken Klukowski on the legislative override for violations of existing State law option.

John.

Do you recall Mr. Eastman reaching out to you in this period, so before November
6th and after the election, about what he calls the State legislature override?
I recall communicating with Dr. Eastman in the days following the election. I’m not sure exactly what dates.

Q. Okay. And tell us about the communications you had with this, that’s reflected in this email, the legislature override.

Mr. Greim. Okay. Now, at this point, we’re going to jump in. And I understand you’re probably asking about a period of which we’ve been very clear that Mr. Klukowski was counsel on the campaign. You may be trying to argue for some sort of subject matter waiver.

And what we can do, [redacted] is we can -- you know, Mr. Klukowski can testify as to whether, you know, he was, in fact, in touch with Eastman about the subject in this email. But we are not going to use this, the fact that this email was pried loose in this other litigation, to have Mr. Klukowski testify now to everything he spoke with Mr. Eastman about, you know, while he was in the midst of working on the campaign. We just -- we can't do that.

And what's -- if you could just, please, clearly put the basis of the objection on the record.

Mr. Greim. Attorney-client privilege.

BY [redacted]

Q. And is it your understanding that Mr. Eastman was working for the campaign between November 4th and November 6th, Mr. Klukowski?

A. My understanding was, when I was working as a volunteer attorney on the campaign, that my communications with Dr. Eastman during that window were when he would also have been providing legal advice to a client or prospective client, in evaluating potential legal issues and whether he would engage on the matter.

Q. And his client being the campaign or Mr. Trump individually as a candidate
for President?

A I was -- I can't speak to Dr. Eastman's state of mind. For my part, I was representing the President's campaign.

Q But you're suggesting here that you're on the same legal team, is that right, with Dr. Eastman at this period between November 4th and November 6th?

A What I'm saying is that any communications I would've had on that subject matter during that window would have been of a nature that, as a practicing attorney, I have with other attorneys numerous times in terms of I'm working on a matter and want to consult with another attorney who may or may not formally join the campaign, but it is a consultation in contemplation of potential representation of anticipated litigation.

Q Okay. So your objection is noted. I will go back to one thing that Mr. Greim raised, which was, do you remember talking to Mr. Eastman about this legislative override that's referenced in the email that I'm showing you as exhibit No. 24, between November 4th and November 6th?

A I do recall conversations about identifying potential legal issues that could be raised in litigation as part of a post-election challenge.

Q Okay. And that's somewhat different than this legislative override which would be about electors and the legislative -- based on the context of this email -- a State legislature's authority to choose electors. So do you remember discussing that, the legislative override that involves a legislature, a State legislature choosing its own electors, with Dr. Eastman in this period between November 4th and November 6th?

A In some of -- I was working on the campaign in Pennsylvania. To the best of my recollection, in the public filings that were made in that Pennsylvania litigation, it included a discussion of the Electors Clause.

Q Do you dispute --
A In the litigation.

Q I'm sorry.

Do you dispute that you had this conversation that Dr. Eastman references in his email of November 6th?

A The way he characterizes it are his words, not mine. In the litigation that was filed, I believe it was in the middle district of Pennsylvania, in the days following this timestamp, it did include, to the best of my recollection, included substantive material regarding the meaning of the Article II Electors Clause and the role of State legislatures.

Q Outside of litigation, this email at exhibit 24 doesn't reference litigation. Did this come up outside of litigation? I don't want to get into your discussions about litigation.

A I do not recall having -- I do not recall having conversations with Dr. Eastman during this window where what I was talking about was not litigation or potential litigation.

Q So then, there wouldn't be conversations about going directly to State legislatures and asking them to choose their own electors is what you're saying. Is that correct?

Mr. Greim. Well, and here's where I'm going to jump in, okay, because, you know, he can answer whether he had this discussion. I guess the problem, though, is we don't know what John Eastman means here. And so I'm afraid that by continuing to probe, did he mean this, did he mean that, did you have a conversation about this or that, it's becoming a wedge to ask about other, you know, discussions other than what he's referencing.

Okay. The way I just understood Mr. Klukowski's answer was that he did not have conversations in this period, November 4th through November 6th, or
didn't recall having conversations with John Eastman about the legislative override option, outside of the litigation context, in which case there would be no privileged communications, so to speak. Is that correct? Is my understanding correct?

The Witness. I do not recall conversations on that subject matter that were unconnected to existing or anticipated litigation.

Okay.

The Witness. I do not recall them.

Q Okay. All right. If we go to exhibit No. 25, this is an email that you are copied on, from a person named Coleman Hopkins, to John Eastman on November 10th, 2020. Subject line is availability to chat this afternoon, evening.

Who's Coleman Hopkins?

A Coleman Hopkins is a gentleman who, I believe, served in the White House and who I believe, to the best of my understanding and belief, was also volunteering with the campaign.

Q You say that you believe and to the best of your understanding. He says that, Our mutual friend, Ken Klukowski. Is that not an accurate description of your relationship, was a friendship with Mr. Hopkins?

A Mr. Hopkins and I were not particularly close, but it was certainly a friendly relationship.

Q And he said that you introduced Mr. Eastman -- excuse me -- Dr. Eastman to Mr. Hopkins. Is that correct?

Mr. Brothers. Objection. Misstates the evidence.

Q All right. So what it says, Our mutual friend, Ken Klukowski, I added him to
the email, shared your email with me and suggested you as a potential resource.

Did you share your email with Mr. -- or excuse me -- Dr. Eastman's email address
with Mr. Hopkins and suggest Dr. Eastman to Mr. Hopkins as a potential resource, as it
says?

A  I believe I shared Dr. Eastman's email with Mr. Hopkins.

Q  Why?

A  I do not recall the -- the conversations I was having with Mr. Hopkins at the
time.  I see how this email -- I see how this email describes -- describes it.  Dr. Eastman
is both a Ph.D. and a lawyer.  He has expertise in statistical analysis, or at least that is my
understanding.

I do not recall exactly what the conversation would've been in the context in
which his name would've come up.

Q  Did Dr. Eastman ask you to introduce him to somebody in the White House?

A  Not that I recall.

Q  Do you remember any reason that you would've had this thought to
introduce Dr. Eastman to Mr. Hopkins?

Mr. Greim.  I'm going to object here again.  Suggesting to the witness that he
did introduce him to Mr. Hopkins.

I'm sorry.  Connect him with Mr. Hopkins.  That's fair.

The Witness.  Could you repeat the question?

Mr. George.  I'd be happy to.

Q  Do you have any recollection of why you chose to connect Dr. Eastman with
Mr. Hopkins around November 10th?

A  I do not recall.
Q  Is Mr. Hopkins an attorney?
A  I do not know.
Q  So you withheld this document, I understand, as an attorney-client privilege
document. I believe it's on your attorney-client privilege log in an entry on page 4,
dated November 10th at 4:37 p.m.
     It says the sender is another attorney, slash, professional, to another attorney,
copying you. And the reason for the -- I think the time difference is 1 hour, based on
time zones.
     Mr. Brothers. One moment, [redacted] You're getting -- again, if we
would've had this in advance, we would've been more prepared for these questions, but
because you elected not to do that, we're going to need some time for you to point us to
the exact line. So if you could help with that, I'd appreciate it.
     [redacted] Of course. And we did provide, obviously, the documents in
advance, understanding you had the documents that you withheld, as well as the
privilege logs, for some time since our original engagement. But this is on page 4 of the
attorney-client privilege log.
     [redacted] Which is exhibit No. 22.
    The Witness. Page 4, line what?
     [redacted] And it's an entry dated November 10th at 4:37 p.m.
    The Witness. 4:37 p.m. That would've been sender. So the sender would've
been Mr. Hopkins and the recipient would've been Dr. Eastman.
     [redacted] I will give you an opportunity, after this deposition as well, to go
back through and confirm. It sounds like, to the best of my understanding, Mr. Hopkins
is not an attorney. And this is helpful if there are other documents as well that are
relevant and that are being withheld.

Mr. Greim. You know, I'm going to -- I'm going to jump in here. I've been trying
to pull up my own electronic version of this, and I'll -- this is my own fault because I'm not
used to the complexity of our files on the system.

I can see our transmittal emails and I can see a draft, but I cannot see the final log.
So I'm going to go mute and call my paralegal to try to help me find this on our own
system. Because right now, I'm not able to follow along with the questions. So just 1
second.

And we'll put it up on the screen for you as well, Mr. Greim.

So this is page 4 of exhibit No. 22, and we'd be looking at the entry for November
the 10th at 4:37 p.m.

I think you're on mute, Mr. Greim, if you're speaking.

Mr. Greim. Sorry. I was, yeah.

Okay. So 4:37, the very, very middle column, can we just scroll so I can see what
that says?

Of course.

The justification column?

Mr. Greim. No. It's the two in front -- actually, I'm going to pull up my draft
log. I bet the categories are the same.

That's a different witness.

While you're pulling that up, Mr. Greim, what I'll ask is for
Mr. Klukowski to just tell us about your conversations with Mr. Coleman, the White
House employee of Presidential Personnel, in the lead-up to the introduction -- or excuse
me -- connection with Dr. Eastman.

Mr. Greim. And I'm just going to caution the witness here that, you know,
discussions with a nonlawyer can be privileged. And so if they're logistical, that's fine. If they're about what some other lawyer has tasked Mr. Coleman to do, then, you know -- and conveying legal issues, then those are privileged. And so that's the best I can do.

Go ahead, Mr. Klukowski.

The Witness. I regarded Mr. Hopkins as an agent of the campaign.

BY [Redacted]

Q Why is that?

A He was actively working with the litigation.

Q Did you know him to be a volunteer for the campaign?

A It was my impression that he was volunteering time with the campaign.

Q Based on what?

A Based on there were campaign activities that he was involved with in a way indistinguishable from other volunteers.

Q And as a volunteer, you perceived him as an agent such that the attorney-client privilege could apply based on your discussions?

A For the --

Mr. Brothers. I'm going to object to asking the witness about his opinion as to the application of the attorney-client privilege. Once again, [Redacted], you're wandering into the area that could implicate discussions between Mr. Greim and I and Mr. Klukowski.

I think if you want to discuss the basis for privilege objections, that's something that's appropriate for counsel to engage in, not something that's appropriate to put this witness on the spot about.

[Redacted] Mr. Klukowski's understanding of Mr. Hopkins and his role, I think,
goes directly to a claim. I'm not asking for any privileged communications between

Mr. Klukowski and Mr. Hopkins or Mr. Klukowski and you guys.

Mr. Brothers. No. That's correct. But you are doing one thing. You're going
beyond asking him about his impression of Mr. Coleman's role. He answered that
question.

Now you are inserting legal analysis by asking Mr. Klukowski if that impression to
him would satisfy the legal requirements of attorney-client privilege. That is where I'm
drawing the line.

And he did assert that in his privilege log, that he was speaking with
Mr. Coleman -- Mr. Hopkins, who is described as another attorney, slash, professional.
So I'm trying to understand that.

Mr. Brothers. The log is -- again, we're getting back into this. We're not going
to get into conver-- -- we're not going to get into testimony under oath between you and
Mr. Klukowski about the privilege log, the analysis that went behind the privilege log,
when decisions were made about the privilege log.

I'm not asking for that information. I'm asking for Mr. Klukowski's
understanding of Mr. Hopkins' role on the campaign.

Mr. Greim. Okay. I think that's fair. I think that question's fair. Sorry to
jump in.

The Witness. Sure. The conversations I'm referring to where I was under the
impression that he was acting as a volunteer, those were conversations about the
ongoing aspects of ongoing litigation.

In theory, you could have a conversation with anybody about
litigation, right? Doesn't have to be somebody who's part of the campaign necessarily.
Would you agree with that?
The Witness. Would I agree that it's possible for one person to have a conversation with another person about litigation that is not part of a campaign? Yes, I think that's a correct statement.

I do want to be careful here. I mean, we want to respect your assertions, but it is helpful to understand Mr. Hopkins and who he is and his role as a professional or an attorney, as well as his role on the campaign. So that is something that I will follow up with Mr. Brothers and Mr. Greim about afterwards.

If we could go to exhibit No. 26, please. And this is one, Mr. Greim, that you should have from the -- what we gave you today.

Mr. Greim. Yep. Thank you, sir.

Q This is an email, again, produced in ongoing litigation over -- that involved claims of various privileges and work product from somebody named Samuel Dewey to you and Mr. Eastman. The subject is simply forward, and the attachment is Bognet.docx.

So who is Mr. Dewey?

A Mr. Dewey is an attorney who was doing volunteer work with the campaign.

Q At this point on November 17th, I understand your period of dedicated volunteer to the campaign was over. Is that correct?

A I'm not sure exactly which date. I was on two different types of leave. First I took dedicated leave to work on the campaign, both before and after election day. Then coming back from the campaign, and I was put on leave. So I was again on leave from the White House.

I do not recall -- I do not recall the date on which my leave ended and I was back on duty, though even after that point, I continued to volunteer when I was
outside what I referred to in my previous testimony as Hatch Act territory.

Q   Okay.

A   Such as on private property, outside business hours, unless I took a lunch break, et cetera.

Q   I don’t want to get in -- based on your assertions, this is a document that’s on your log as being withheld as legal strategy. I don’t want to get into that legal strategy, but Bognet, can you just tell me what Bognet is? And if you can do so without revealing legal strategy.

A   Yes. Bognet was a Federal lawsuit that raised Elections Clause issues. It was being actively litigated at that time.

Q   Understood.

A   I believe out of the State of Pennsylvania.

Q   Okay.

A   So the jurisdiction that I had worked in primarily as a -- as a volunteer attorney.

Q   Were you involved in that litigation as counsel of record?

A   Bognet?

Q   Yes.

A   Not to my recollection.

Q   Were you involved in any litigation as counsel of record in Pennsylvania?

A   Counsel of record? Not to my recollection. Not that I recall.

Q   If we go to exhibit 27 -- we are moving through these rather efficiently, so hopefully we won’t be here all too long.

But exhibit 27 is an email from Mr. Eastman to you on November the 9th. The subject is motion to intervene, and the attachment is, quote, Texas v. Pennsylvania, et al.,
dash, Trump motion to intervene.pdf.

If you go to 28, that is the attachment to the email in exhibit 27. And it looks like a motion of Donald J. Trump, President of the United States, to intervene in his personal capacity in the Texas v. Pennsylvania lawsuit with counsel of record John C. Eastman.

Did you discuss Texas v. Pennsylvania with Professor Eastman around this time, December the 9th, 2020?

A    I do not recall conversations with Dr. Eastman on that case.

Q    This lawsuit raises a number of issues, but did you have any role in Texas v. Pennsylvania either with Dr. Eastman or any of the other plaintiffs, including the State of Texas?

A    Not that I recall.

Q    Had you discussed with Professor Eastman the idea of filing suit to four State legislators to select electors before the election in November?

A    Did I have a conversation with Dr. Eastman prior to November 3rd?

Q    Correct.

A    Not that I recall.

Q    Did you have a conversation with anybody about filing suit to four State legislators to select electors before the election, so before you were a volunteer for the campaign?

A    Not that I recall.

Q    If we go to page 17 of this lawsuit -- or at least the attachment -- in the prayer for relief --

A    I’m sorry, could you repeat where I am?

Q    Of course. Page 17. And the page numbers are at the top of this document.
A    Yes. Yes. Thank you.

Q    Sure.

A    I'm there. Yes, I'm there.

Q    All right. So in the prayer for relief, B, it says, Declare that any electoral college votes cast by such electors appointed in the defendant States -- Pennsylvania, George, Michigan, and Wisconsin -- are in violation of the Electors Clause and cannot be counted.

So my question is, had you discussed the idea of filing suit to, quote, declare that any electoral college votes, end quote, in States that Trump might lose, before the election? Did you have that discussion before the election?

A    Not that I recall.

Q    This relief, particularly in D, which is at the bottom of page 17, if any of the defendant States have already appointed electors to the electoral college using the 2020 election results, direct that such States' legislatures, pursuant to statute in the Constitution, have the authority to appoint a new set of electors in a manner that does not violate the Electors Clause or to appoint no electors at all.

That is somewhat similar to the letter that you drafted for Mr. Clark on December the 28th and that we covered in your last deposition. Did you discuss the December 28th letter that you drafted with John Eastman?

A    Not that I recall, nor would I say that the two are similar.

You're referring there, if I am correct in understanding, that you're referring to a letter for Jeff Clark that was after December 14th?

Q    Correct, yeah. So in our last meeting, we discussed the December 28th letter that you drafted for Mr. Jeffrey Clark while at the Department of Justice as a proof of concept letter to the State of Georgia, asking them to look into election-related issues.
A    Yeah. Rather than call that similar, I would characterize that as fundamentally different.

Q    Okay. And, obviously, this document and that document will speak for itself. I'm not here to necessarily argue with you on the merits of that, Mr. Klukowski. Did you speak to anybody that you knew to be affiliated with the Trump campaign or Trump campaign legal team about the December 28th letter that you drafted for Mr. Clark?

A    Not that I recall.

Q    Do you know if Mr. Clark did?

A    Not that I recall. Not that I know of. Not that I can recall knowing of.

Q    Do you know whether Mr. Clark ever discussed filing Texas v. Pennsylvania or the relief in Texas v. Pennsylvania with Dr. Eastman?

A    I have no recollection of any reference being told to me about that.

Q    We understand that Mr. Eastman and Mr. Clark may have had at least one conversation or communication in very early January, perhaps as early as January 1st or the 2nd. Do you remember Mr. Clark ever telling you about communications that he had with Dr. Eastman?

A    I do not recall being told of any such communication.

Q    If we can go to exhibit No. 29, please. And just for timeline purposes, the email we just looked at where Mr. Eastman sent you Texas v. Pennsylvania motion to intervene, that was at 8:33 Mountain Standard Time, and exhibit No. 29 looks to be December the 9th, same day, at 8:37 UTC minus 7.

A    Yeah. So both in the evening.

Q    The subject of this email in exhibit No. 29 is legislator T -- excuse me -- legislators TPs with an attachment, Congress TPs Trump electors. That attachment
is at exhibit No. 30.

A Yes, I see it.

Q Why did you send this to Dr. Eastman?

A I do not recall -- I don't recall why it was sent. I do -- I do see it.

Q Do you remember sending it to Dr. Eastman?

A I do not recall sending it to him. I see -- I see the email record. I do not recall sending that email, but I do see the record of it here.

Q Do you remember talking to Dr. Eastman around this time when -- around the time he sends you a motion to intervene in Texas v. Pennsylvania and around the same time that you then sent to him these legislators TPS with the attachment in 30?

A I had a number of conversations with a number of individuals. I do not, sitting here in, what is this, June of 2022, I don't recall which -- which dates certain conversations or points may have been made or discussed -- or topics discussed.

Q Fair enough. Do you ever remember talking to Dr. Eastman about this document that you sent, or the ideas conveyed in this document, legislators TPS?

A I do not recall specific conversations, though I do see the substance of the document in front of me.

Q Okay. So let's look at the substance of it. Why did you draft this document -- or did you draft this document?

A I recall writing something similar to this.

Q Why?

Mr. Greim. And I'm going to jump in here. This -- the problem is this: This is a document over which we would be asserting privilege. Obviously, it's been produced by Eastman. And so we're prepared to talk about the substance of the document, in other words, you know, what has been waived, which is what's in the document, but I
think we are not prepared to go beyond in terms of, you know, why it was produced, who requested it, what his own thoughts and beliefs are, and other conversations that are like the document.

And so while we recognize that you have it now, it is privileged, and I think the questions need to be limited to the document and what’s in it.

Well, we’re going to explore some of those privileges in just a minute, Mr. Greim, and point taken.

BY [Speaker]

Q So you said you remember drafting a document like this?

A Yes.

Q Does this look like the document that you drafted?

A Yes.

Q In the summary points, this talks about Article II of the Constitution, making legislatures the final authority on Presidential electors, State law makers appoint electors, Congress accepts them.

In the second paragraph, below the summary points is a very short paragraph. It says, Republican legislatures should do likewise and summon Trump electors to vote on December 14th. On January 6th, Republicans in Congress should fight to count those elector certificates.

What is it that you’re saying here, if you could just boil it down to --

A Sure. The "likewise" refers to the previous paragraph, the one we skipped over there. And it was to say that the relationship of -- of sections reflected in Federal law, in that this accepts, as a premise, that this is a document built on the premise that 3 U.S.C. Section 1 says that States can choose -- State legislatures can choose to participate in a national election day the same day that Members of Congress are chosen; in that that
is the general -- that is the general and typical framework through which the legislature
appoints electors for the electoral college in a Presidential election; in that the following
section of Federal law, 3 U.S.C. Section 2 is Congress' recognizing the reality, not
conveying the power, because it's not theirs, but to recognize that Article II empowers
State legislatures that if the election process -- if a State chooses to participate in a
national election day, and if the framework for that day fails on election day to produce a
result, then legislatures can, if they don't want to be opted out, to miss their chance to
participate in the electoral college, that then they can appoint electors in a manner that
they see fit; in that this is what was reflected in various opinions in Bush v. Gore, which
was decided at this time, making reference to the historical fact that the Republican
legislature was debating a form of legislation, I believe but not sure, that it was a joint
resolution or a concurrent resolution, where the legislature was -- would've passed a joint
measure saying that the election had failed in Florida in November of 2000, and that it
was the legislature's determination that George W. Bush of Texas had -- was the lawful
winner of the States, I believe it was 25 electoral college votes, while that legislation or
resolution -- whatever the proper term would be for it -- while that measure was being
debated, that's when the Supreme Court handed down Bush v. Gore. And so the
legislative action then became -- became moot. It was never brought then for a final
vote.

And so in the following paragraph, the one that you referenced, it says that
Republican legislatures, so a legislature acting in official session on a majority vote basis, a
majoritarian basis, could, in advance of December 14, because Article II specifies that
Congress picks the day when electors are appointed, and that under 3 U.S.C. 7, that date
would've been December 14 in 2020, that legislatures could pass the same kind of joint
measure, summoning Trump electors to actually be appointed on December 14, if -- if the
legislature determined that because of the irregularities and violations of State election
law in the numbers reflected in the subsequent paragraphs, that in each of those States it
was, in fact, a failed election, and, therefore, that the legislature would have the option of
shifting from the 3 U.S.C. Section 1 framework, to the 3 U.S.C. Section 2 framework, so
long as they acted by the day specified in 3 U.S.C. Section 7, which, again, is December
14th.

Q  Okay.  Do you recall working on this document or a document like this
before -- well, let me rephrase that.

When, to the best of your recollection, did you begin working on this document?

A  I'm thinking through whether that is -- I'm thinking, processing through
whether that is envelope information.

Mr. Greim.  As am I.  As am I.

You know, I think it's fair -- I think the problem is this.  That question is trying to
understand the campaign's legal strategy.  I think it's fair -- I think it's fair to ask when
this document was prepared.  I think asking about how long it took to prepare it, when
did it start, how many drafts did it go through, I think that is not appropriate because
we're trying to get at the campaign's legal strategy.

So this document obviously was produced to us in litigation.  You
can tell that from -- well, I'll just represent that to you.

I'll also say that this was not included on your attorney-client privilege log.  It was
included on your First Amendment log.  So there has been no assertion, at least as far as
withholding this document from the committee, on the basis of any kind of
attorney-client or work product privilege, and that makes sense particularly to the
committee in light of the fact that we received it through separate litigation where it did
not protect the document as well.
Mr. Greim. Well, but we are asserting attorney-client privilege. I mean, obviously, it's been produced because -- I don't know this, but I think a judge in California found that there's a crime fraud exception. I'm not sure if that's where this was produced, but --

It was not.

Mr. Greim. Okay. Okay. Well, nonetheless, I mean, this is a -- this is a document produced by the campaign, and I -- we can tell you that, and we assert the attorney-client privilege.

Q Do you agree with what Mr. Greim just said?

A I don't know any aspect of that that I disagree with.

Q Okay. Some of the theory in here, and what you just explained in this document, is similar to the letter that you drafted for Mr. Clark on December the 28th. Do you agree with that?

A No.

Q In what ways are they different?

A December 14th. Congress sets the day by which electors are to be appointed. December 28 is after December 14th.

Q And both of those, both letter and the document we just looked at, talk about State legislatures having the authority to choose their own electors. Do you agree with that?

A My recollection of the December 28 letter was the authority of legislatures to convene, not whether on December 28 they had power to appoint electors after December 14.
[11:28 a.m.]

BY [redacted]

Q    I will say this. The letter is at exhibit No. 2 in your binder we went over at length. On page 3, it does say that "we," meaning the Department of Justice, "share with you," in this letter, meaning the State of Georgia, "our view that the Georgia General Assembly has implied authority under the Constitution of the United States to call itself into special session for the limited purpose of considering issues pertaining to the appointment of Presidential electors."

A    Which paragraph?

Q    That's page 3, the bottom paragraph.

A    Yes. That paragraph does not say they still had the authority to appoint new electors. It's saying they have the authority to convene to discuss the appointment of electors. That would include electors that were already appointed and could not be changed.

Q    Okay. If we go to page 5, this letter that you drafted says, middle paragraph, "The Georgia General Assembly accordingly must have inherent authority granted by the U.S. Constitution to come into session to appoint electors regardless of any purported limit imposed by the State constitution or State statute requiring the Governor's approval."

Do you agree that I just read that correctly?

A    Yes. And that's consistent with what I said, because I'm referring to there's no mention there to the Federal Constitution or the Federal Constitution empowering Congress to set a date beyond which electors cannot be appointed. That's only a reference to State statutes and State constitutions.
Q. Do you see on the second line it says U.S. Constitution?

A. No. Authority granted by the U.S. Constitution to come into session to appoint electors and that that is not limited -- that appointment process is not limited by State statutes or by State constitutions, yes.

Q. So this document, as well as the document we were looking at before, does talk about State legislatures' authority to choose their own electors, correct, under the U.S. Constitution?

A. It refers to their authority through the date specified by Congress, which in 2020 was December 14 --

Q. Okay.

A. -- to appoint electors.

Q. Okay.

A. -- either through the national election process, if they're under 3 USC 1, or if that becomes a failed election under 3 USC 2.

If there is a failed election, then through December 14, through the date set by 3 USC 7, they have authority to directly appoint rather than forego participation in the electoral college for that cycle.

Q. When we met the first time, you discussed the process by which you were selected to join the Department of Justice.

Did conversations about State legislatures and their powers to choose electors come up at any point during your process of being selected to join the Department of Justice?

A. Not that I recall.

Q. It could have, though, or you just don't recall it?

A. I do not -- normally in deposition I like to stay with "not that I recall." I will
categorically say I have no recollection, no inkling that there was any sort of conversation prior to the time that I was on leave and an attorney with the campaign.

Q    Okay. And I appreciate that. And, of course, in deposition you are under oath. So if there is something that you do recall, you would have to tell us.

A    Absolutely. So it's my standard formulation is "not that I recall," but I'm trying to be as emphatic as I can in terms of -- the first conversation I recall about my going to the Justice Department was July of 2020, the first conversation I had in terms of formally pursuing it.

The first conversation I had with DOJ personnel being interviewed to come over to the Department, that was in September. I believe the date of the interview was -- and that process started while Mr. Hunt, Joseph Hunt, who goes by Jody Hunt, was the assistant attorney general in charge of the Civil Division.

I believe by the time I was interviewed, it was September 10th, I believe it was Camellia Delaplane, if I'm recalling her name correctly, and no conversation of this nature came up at any point in that process.

Q    Okay. So like I said before, you withheld this document on the basis of the First Amendment. It's not on the attorney-client log to the best as I can tell. And in your comments you said that this is an email regarding electors clause in democracy, parentheses, (no discussion of Vice President or Congress' role).

A    Which communication are we speaking about now? Which document?

Q    Thank you for clarifying. It's the document attached at exhibit No. 30.

A    Okay. So we're on 30 now.

Yes. Okay. Go ahead.

Q    And this, of course, does talk about Congress, and it says, "On January 6th, Republicans in Congress should fight to count those elector certificates."
A Right. Elector certificates that were appointed on December 14 that the legislature appointed through joint legislative action on December 14.

Q So you do agree this document involves the discussion of Congress' role on January 6th? And I'll just refer back to the second paragraph there, right in the middle, it says, "On January 6th, Republicans in Congress should fight to count those elector certificates."

Mr. Greim. I mean, counsel, the document says what it says, and you can ask the witness to agree that it says those words. But you've heard the context in which this was drafted. This is not about alternate electors. This is not about the issues that arose later on where people began to talk about the role of Congress.

Right now I'm just focused on the representation to the select committee that this document doesn't include discussion of Congress' role. And I just want to make sure that we're on the same page, because it does, in fact, mention, "On January 6th, Republicans in Congress should fight to count those elector certificates," and these, of course, are relevant issues to the select committee.

Mr. Greim. Well, I'm trying to understand what is the point about what the document represents or what it doesn't. I mean, it says what it says. Why does that have a special -- I guess I'm missing the relevance of it.

Yeah. I mean, if Mr. Klukowski's objection to the select committee getting this is a First Amendment assertion with the justification that it doesn't include a discussion of the Vice President or Congress' role, issues that are core to the select committee's investigation, we just want to make sure that he understands that this document does, in fact, include that and that we would ask for a careful look of other documents being withheld on that justification.

Mr. Klukowski. Congress' role in what? I just want to make sure I --
This is your assertion of the First Amendment privilege. It says, "No discussion of Congress' role." And it does, in fact, include the sentence, "On January 6th, Republicans in Congress should fight to count those elector certificates."

Mr. Klukowski. And that would have been responsive to what? When the committee put the role of Congress on the table, what was that referring to, alternate electors?

I mean, if you're asking about the relevance, that's for the committee to determine. I'm just trying to understand the basis for your withholding.

Mr. Greim. Yeah, I'll just jump in here.

I mean, I understand -- thank you, -- I understand the last point you made. However, this is not -- the question of Congress' role came into play when it turned out that legislatures did not call anyone back, did not call electors in, and there were no alternate electors that were chosen in that manner.

And so this is prospective, this is before December 14th had come and gone, and this is about a role that Republicans in Congress could have had, but ultimately did not.

I mean, so I don't think this is -- I understand it has the words Republicans in Congress on January 6th, I understand that, but it's not relating to the situation that actually occurred, that was actually presented, and that the committee's actually investigating. So I think we have a disagreement on that.

I hear what you said. The committee's investigation obviously is not entirely public. And so I will say that the committee's determination of relevance is different than what your understanding seems to be, Mr. Greim. So I'm just trying to make sure that I understand the basis for withholding in the First Amendment context, particularly this document that's now been produced to the committee.

But that's something I'm happy to take up with you and Mr. Brothers afterwards.
as well to understand these assertions.

Mr. Greim. Okay. I mean, I can't say it any better than I just did. But in our view, this is not -- I mean, this is describing a scenario that never took place. And so I just don't -- I don't understand how that's within the purview of what the -- the committee's investigating what did take place. I'm sorry. I'm wasting time. Go on ahead.

[Redacted] No. That's okay. I do want to get on the record your objection to talking about this, though. Is it a relevance objection that you're making?

Mr. Greim. No. I mean, I'm addressing -- I mean, look, we've said that he can talk about what's in the memo. You've got it, we've said he can talk about it. My objection is moving beyond the memo, and the objection is attorney-client privilege and First Amendment objection.

And so everything we were just talking about was one prong of your attempt to show relevance to get around the First Amendment privilege.

[Redacted] And I'm not --

Mr. Greim. But you can go fully into what's talked about in this memo.

[Redacted] I'm not trying to show relevance. At this point, we've talked about this memo. I'm trying to understand the withholdings from the select committee of relevant documents, particularly where the explanation is that there's no mention of Congress.

But that is something I'd be happy to address with you after this as well.

BY [Redacted]

Q Did you ever show this document to Jeffrey Clark?

A Not that I recall.

Q Did you ever discuss the contents of this document or the theories in this
document with Jeffrey Clark?

A    Not that I recall. My conversations with Mr. Clark that I can recall are all after December 14, after that memo would have become moot.

Q    And your conversations about this included your discussion about the letter you drafted on December 28th for Mr. Clark, the Georgia letter.

A    If I understand your question correctly, yes, I do not recall any mention of this memo pertaining to what could happen on December 14. I recall no mention of that in any discussion that we had on December 28th.

Q    One of the things that Mr. Greim just mentioned is this idea about alternate electors meeting and casting votes in States that President Trump had lost.

Were you aware of that effort to have alternate electors, the Republican electors, meet and cast votes in any State that Trump had lost?

A    Electors that had not been appointed by the legislature?

Q    Correct.

A    No, I do not recall any conversation up to that time on that.

Q    Up to what time?

A    It is, as I referenced in my -- the first part of this deposition, on the previous date, I did become aware at some point later in December that, in fact, on December 14, which was then in the past, that individuals had gotten together and executed papers that they claimed were electoral college certificates, but I became aware of that at some date in the future.

I had no knowledge, I don't recall any conversation or recall having any awareness of that either before December 14 or on December 14. It was some point after December 14.

Q    Do you remember ever discussing those alternate electors after
December 14th with John Eastman?

A    Not that I recall. I do not recall discussing those.

Q    Do you remember discussing those alternate electors after December 14th
     with Jeff Clark?

A    Give me a moment. I’m thinking through conversations here.

Q    Of course. Take your time.

A    I do believe at some point in the day on December 28 I did discuss with him
     what had happened in Hawaii in 1960 that we discussed in the first part of my
     conversation. So it would have been relevant -- it would have been relevant to that
     conversation point at that time, that Hawaii -- and I understand DOJ has waived all
     privilege regarding -- I can just answer.

     Acknowledged the historical fact about it and that, if I recall correctly, and I’m
     trying to be as forthcoming as I can, if I recall correctly, that I had found no case law
     support to support the effectiveness of what had been done in 1960.

     So it had happened as a historical fact and that Vice President Nixon had not
     objected to it, but that there was -- but that I did not identify any legal authority saying
     that those pieces of paper would have any constitutional empowerment.

Q    What was Jeff Clark's reaction to that?

A    I don’t recall if he reacted at all.

Q    Do you remember --

A    Nor do I recall precisely how I phrased it, if it’s -- if it’s -- you know, it’s we
     just spent a few seconds on Hawaii. I don’t recall what my word choice was and I don’t
     recall anything about the substance of his reaction or whether he reacted at all.

Q    Did Jeff Clark ever mention anything to you about using -- let me start over.

Did Jeff Clark ever mention anything to you about the fact that these alternate
slates of electors might be used on January the 6th even if a legislature or a court hadn't
ratified or adopted them?
   A  Not that I recall. Can you repeat it again, because I want to make sure I'm
listening to every aspect of what you're saying? I'm saying not that I recall, but ask it
again.
   Q  Okay. And I'll try to do my best to repeat it.
But do you recall any conversations with Jeff Clark about using or anybody using
these alternate slates of electors on January 6th even if they had not been ratified by a
State legislature or adopted by a court?
   A  I do not recall such an exchange.
   Q  How about any use of the alternate slate of electors on January 6th? Do
you have any conversations with Jeff Clark about that?
   A  Not that I recall.
   Q  Did you discuss after December 15th, when you started at the Department
of Justice, alternate electors with anybody from the President's campaign or personal
legal team?
   A  Discussed the idea that alternate electors could be inserted into the mix and
impact? Not that I recall.
   Q  Just relevant at all, that somehow these alternate slates of electors --
   A  Would be relevant to the outcome of the 2020 election?
   Q  Correct.
   A  Not that I recall.
   Q  So you don't remember having conversations with anybody from the
President's personal legal team or campaign legal team about alternate electors after?
   A  Not that I recall.
Q. Okay. I'll go to exhibit No. 31. This is a December 28th email, again, produced to us in litigation over -- that included claims of various privileges and work product assertions.

This is from a person named Edward Corrigan and Connie Hair, copying both you and Mr. Eastman, from Ken Blackwell. This subject is, "VP briefing on January 6th, 2021, meeting."

First, I'll ask you, who is Ed Corrigan?

A. Ed Corrigan is, to the best of my knowledge, a private citizen who works here in Washington, D.C.

Q. Do you have any kind of friendly or professional relationship with Mr. Corrigan?

A. I would say that we are friends.

Q. Did you work on issues related to the November 2020 election together?

A. I do not recall working with Mr. Corrigan on the election.

Q. And Connie Hair, we went over last time, is Mr. Gohmert's chief of staff, at least at the time. Is that correct? That's what you understood?

A. Yes. Correct. That was and is my understanding.

Q. John Eastman, we've been talking about him. And who's Mr. Blackwell?

A. Mr. Blackwell is a friend of mine and a former elected official and former presidentially appointed official, previous administrations.

Q. In this email Mr. Blackwell says, "As I stated last week, I believe the Vice President and his staff would benefit greatly from a briefing by John and Ken."

Did you have a conversation in the week before this email with any of these participants about briefing the Vice President?
A I do not recall having a conversation with any of these individuals about briefing the Vice President.

Q Do you remember Mr. Blackwell saying anything about the Vice President’s role on January the 6th at any point after December 15th?

A I do not recall conversations with Ambassador Blackwell on that topic.

Q And conversations, to be clear, would include any communications, meetings, text messages, phone calls. You don’t remember any of those things with Mr. Blackwell about the Vice President?

A I see this email right here and I do not recall any communications other than this email. I don’t recall being consulted beforehand about this. I do not recall any subsequent action that took place.

I will say emphatically, even though I’m saying not that I recall, I do not recall ever briefing the Vice President or members of his -- or, like, his legal counsel or chief of staff or, you know -- I do not recall any such briefing or meeting taking place.

Q Do you remember ever hearing after December 15th about the idea that somebody should brief the Vice President about what could happen on January the 6th?

A So many people were saying so many things in the media and in news reports and in rooms with bunches of people where I might be at some point. I do not recall that point being made at any given point.

Q Okay. So this email, in the first sentence it says, "As stated last week, I believe the Vice President and his staff would benefit greatly from a briefing by John and Ken."

You don’t remember anything about conversations --

A Yeah.

Q -- about briefing the Vice President with you and John Eastman?
A    In whatever communication is being referenced in that first clause where it says, "As stated last week," I have no recollection of anything happening. I mean, this is December 28. So I have no recollection of anything in whatever that window would be, December whatever to whatever. What that's referencing there, I have no recollection about what that would be.

Q    Did you ever speak to John Eastman about him potentially briefing the Vice President or after briefing the Vice President what he discussed?

A    I do not -- I'll answer those as separate questions. I do not recall anything pertaining to the former, nor do I recall him ever telling me that he briefed the Vice President.

Q    Mr. Blackwell said in the next line, "As I also mentioned, make sure we don't overexpose Ken given his new position." At that point, you had only a week or two before joining the Department of Justice.

Do you know what Ken Blackwell's concerns were with you and your new position?

A    I do not know. It is -- I do not know. I don't know what he is referring there. I had made known in my friend circles, which would include Ambassador Blackwell, that I was looking forward to joining the Department and that once I was there I would be in a fundamentally different role. I saw myself as a straight G-man and just seeking to get some respectable DOJ litigation credentials under my belt before I went on to the private market in January 20 looking for a job.

So I had told everyone that I thought I was moving on from campaign-related activity, because I was going to keep my head down and focus on my government job.

I don't recall specific conversations, but I said them to so many people so many times that I would be confident that the ambassador was in at least one of those
conversations.

Q  Do you know why Mr. Blackwell would suggest that you and John Eastman brief the Vice President?

A  I do not. I do not know. Ambassador Blackwell has frequently recommended me for, like, my Federal judicial clerkship. He was one of my recommenders for that. So he is -- he has frequently recommended me for things. He and I did publish a law review article more than a decade prior, Yale Law and Policy Review, about voting rights. And he and I had worked on election law issues through the years. And we had done so both as legal academic scholars and in active litigation.

So I believe he regards me -- he has described me to other people as an election law expert and as a constitutional law expert. So that that is -- that is the background. But I don't know with regards to this specific assertion. So I'm obviously trying to be as forthcoming as I can.

Q  Do you know why he would recommend you to talk about the Vice President? And the context of this to me suggests it's about the joint session. Obviously, it doesn't state that. But what about your qualifications makes you the person to brief a Vice President?

A  I do not know and I do not recall sharing my views with him regarding what the Vice President could do on January 6th. I do not know exactly -- I did not know at the time what Dr. Eastman's views were of it, the views that were later -- that later came to light in that memo that we discussed in my earlier deposition.

If he was aware of both of our views -- and, again, I don't recall having a conversation with him on it -- but if he was aware of both of our views, then he would have known that we had very different views regarding January 6th. So I don't know if
he would have wanted the Vice President to hear different perspectives.

Q. And when you say very different views, what do you mean?

A. I know it came up earlier in my deposition that I expressed -- that I did not express support for what Dr. Eastman said in his memo and that I had explained the positions I had pressed or that I was supportive of with the Department of Justice in terms of filing a motion to dismiss in litigation that was seeking to implement something in that vein.

So I've recounted the historical facts of my activities related to those things that I've been cleared to do.

To go from that to discussing what my personal views are on the underlying legal issues, I would see that more as asking for my expert opinion than asking a fact question.

Q. You just said that perhaps the Vice President might benefit from having different views between you and John Eastman, and so I guess I'm trying to understand --

A. No, no. You had asked me why Ambassador Blackwell might have mentioned my name.

Q. Right.

A. And I made clear that I didn't recall even conversations and that I was trying to be as forthcoming as possible in terms of teeing up. But it's -- for that matter I shouldn't even -- I shouldn't speculate regarding -- I guess it's -- I'm trying to be helpful, but it's, I guess, if I'm a fact witness, I just won't -- I won't speculate.

Q. Okay.

Mr. Greim. And I let the witness go on at great length. You know, the committee's here for facts and not speculation. So you've said it yourself. I'll pass back out.

BY
Q  Did Ms. Hair -- I guess -- let me start over.

Did you ever talk to Ms. Hair about sensitivities about your situation with the
Department of Justice and being able to do things like briefing the Vice President?

A  Well, those are two separate questions. Let's break those out.

I have no recollection of anything pertaining to the Vice President. I referenced
in my earlier conversation that I wasn't sure what I spoke with her about on the phone
record that we saw on December 28. And I told you that while I couldn't recall the exact
conversation, that I would be -- that to the best of my recollection the substance was that
now that I know there is litigation here with the United States as an adverse party, that I
should not be communicating about this.

And so I don't recall if that was a, "You can't be calling me on this. I can't be
answering your questions. Don't email me things. Make sure I'm not copied on things.
I can't have any part of this." I don't know what was conveyed in that phone call.

But I do know that was the fact of the matter, is that I'm now seeing that I had
just -- I was seeing something indicating to me that I was in an adverse position and so I
just shouldn't be having communications on this.

I do not recall what I conveyed or how I conveyed it.

Q  So this email is on the same date as the email you received from Ms. Hair --

A  Yes.

Q  -- about Gohmert v. Pence?

A  Yes.

Q  Was there any connection between what's being suggested in this email and
Ms. Hair sending the Gohmert v. Pence lawsuit to you?

A  Not that I know of. Not to my knowledge.

Q  Were you surprised by this? I mean, somebody's suggesting to you that
you're going to brief the Vice President and it sounds like you wanted nothing to do with that. Do you remember being surprised or pushing back?

A I recall being surprised when I saw the email. I don't recall whether I responded at all or if it was I just need to be totally, you know, I need to be a hole in the water on this.

I can't remember that I responded at all. I could well have just been, "I'm not even going to reply to say stop. It's just nothing. And if someone calls me, tell them we can't have this phone conversation, get off the phone."

So I do not recall responding on this.

Q You said you were surprised, though. What specifically do you recall being surprised about?

A I'm surprised, given that I would be at the Department of Justice, that it's just -- that's just not the kind of thing that I saw as consistent with the role I was having for our limited remaining weeks in the administration, that I was just being a straight G-man lawyer, and that for me things pertaining to the 2020 election were just for me that they were done, that it was -- that I have a job description now and I had a full plate, and that there was not a role to be in ongoing efforts regarding the aftermath of the 2020 election, that that wasn't what I was doing -- with the glaring item there of Mr. Clark having tasked me with helping in the drafting of a letter to write out points on that subject matter that he dictated be written. But that that was nothing that I volunteered for or that I was voluntarily engaging in.

Q So --

Mr. Greim. I'm sorry to jump in here, but we've been going -- I know we've had some discussions with counsel, but we have been going now for quite a while straight. Can we take just a short break to let the witness walk around and drink
some water, go to the bathroom, or are you, like, almost done?

We're getting to be done here and I do want to finish just a line of questioning. I'm happy with a quick break in a few minutes, though.

Mr. Greim. Okay.

Q I do want to draw your attention, in front of you is a transcript of your prior testimony.

And, Mr. Greim, for your benefit, I believe you still have access to it, but I'll also read the portion that I want to ask Mr. Klukowski about.

If you turn to page 118, starting on line 23. This is a conversation that we were having about Ms. Hair. And you said, starting on line 23, "When we do see each other it's, 'Hi, how it's going?' And it's genuine. But we're not, like, in regular communication or work on things."

So my question for you is, this is now the second email from the 28th about the election -- or seemingly about the election, at least on its face -- that you received from Ms. Hair. And to a layperson it could suggest that you were, in fact, working on things together. So --

A One moment. Let me --

Q Yeah.

A Stand by one moment. I'll let you know when I've reviewed this. I'll let you know as soon as I'm done. It looks like we went on at great length on this.

Okay. I think -- we went on for quite some length, and I think I've got the exchange in terms of the prior part of the deposition.

Go ahead, sir.

Q Okay. So if we look at page 118 of your prior deposition transcript, lines
23, talking about Ms. Hair, you said, "When we do see each other it's, 'Hi, how's it going.' And it's genuine. But we are not, like, in regular communication or work together on things."

A Yes.

Q So my question for you in light of that is that on December 28th we know of at least these two emails that included Ms. Hair about the election in particular. So were you working on issues related to the election with Ms. Hair?

A Not that I recall.

Q Do these emails, seeing them, this, and the fact that you got the Gohmert v. Pence lawsuit from her the same day and you discussed at length your communications with her on the 28th, refresh your recollection as to what you were doing with Mrs. Hair around that time?

A No. I do not believe I was doing -- to the best of my recollection, I had not seen Mrs. Hair during any of my time at DOJ. I'm not sure how long it had been even prior to that since I had seen her.

Q And you said you weren't in regular communication. So were both of these kind of news to you, out of the blue, all of a sudden Ms. Hair pops up twice in one day?

A To the best of my recollection, yes.

Now, obviously, that's not -- those are not two isolated things. Someone mentioned my name to her. So, I mean, it's -- there's content from the communication we just looked at indicating that there were other conversations going on, conversations that I have no recollection being a part of.

Q When you spoke to Ms. Hair on the 28th, did she raise this idea about somebody briefing the Vice President, potentially you?

A Not that I recall.
Q  Were you ever, in fact, asked to brief the Vice President?
A  Not that I recall.
Q  Do you think that's something you'd remember, if you had to brief the Vice President about something?
A  I'm trying not to speculate, but I think it'd be hard for me to forget being asked to brief someone of that high of rank.
Q  Did you help prepare any materials or information that were used to brief the Vice President or intended for use to brief the Vice President?
A  Not that I recall.
Q  You mentioned earlier that Mr. Eastman may have had a differing view on it than you and, of course, he sent you on January the 3rd a short two-page memo that we discussed in the prior deposition.
Do you recall receiving that from Mr. Eastman?
A  I recall what we previously discussed a number of months ago about that, that's reflected in the deposition here.
Q  Okay. Fair enough. And were you at the time -- so this is now December 2020, January 2021 -- aware of Mr. Eastman's views on what the Vice President could or couldn't do at the joint session?
A  I do not recall being aware of those views prior to seeing that memo. I recall being surprised by -- yeah.
Q  And you have no recollection or understanding of why Mr. Blackwell would want -- suggest that you brief the Vice President with John Eastman, who eventually did brief the Vice President and said that he had the authority to not count certain electoral votes or even delay the session?
A  No. I do not know and it would be speculation. All I know is the historical
pattern of how frequently he has recommended me -- recommended me for the
administration, recommended me for my clerkship, recommended me for an adjunct
faculty position -- there's a long list over the years of things that the ambassador has
recommended me for.

Q    And when you say "he" and "the ambassador," you're referring to Mr. Blackwell?
A    Ambassador Blackwell, correct.
Q    So do you recall having any conversations with John Eastman about the joint
session of Congress after December 15th, 2020?
A    I do not recall any such conversation.
Q    Do you remember discussing the joint session of Congress with any of these
people -- Edward Corrigan, Connie Hair, Ken Blackwell -- after December 15th, 2020?
A    I do not recall such conversations.
Q    So they could have happened, you just don’t recall them?
A    Someone like Mrs. Hair I don’t see often. People like Ambassador Blackwell and Mr. Corrigan, we’re at the same
cocktail hours. I mean, we’re together an awful lot of places. And at events of that
nature, upcoming big events are frequent topics of conversation.
I do not recall being part of any such conversation during that window.
Q    Do you remember ever discussing with Ms. Hair Representative Gohmert
objecting at the joint session?
A    I do not recall such a conversation.
Q    Do you remember talking to Ms. Hair about any objections during the joint
session?
A    I do not recall such a conversation.
Q  Did you know in this period, around December 2020 and January 2021, that
John Eastman was, in fact, going to brief the President or the Vice President about the
joint session?
A  I do not recall being told that regarding either POTUS or VPOTUS.
Q  How about any White House staff, including the President’s staff or the Vice
President’s staff?
A  I do not recall being told about such a briefing.
Q  And my question specifically would be whether you were told about the
briefing or an intended briefing beforehand or after the fact of it occurring?
A  Yeah, I do not recall any such conversation.
Q  Originally, this document you withheld as being about an email regarding
scheduling and logistics of a private meeting.  Would you characterize a meeting with
the Vice President to brief him as a private meeting?
A  Well, it would not be a public meeting.  So by principle of noninclusion, I
think that -- I think someone could characterize the default alternative as a private
meeting.
Q  But a meeting with the Vice President, a meeting with a government official
about the joint session of Congress, a public event, that’s still in your mind a private
meeting?
A  It is not a public meeting.
Q  Are you friendly with the Vice President?
A  I have met the Vice President at points in the past.  We do not have what I
would call any sort of interpersonal relationship.
I don't even know if he would know my name if he were to see me.  He might
recognize a familiar face.  I would not count on him to even remember my name.
I do just want to ask a couple more people. If you want to take a quick, I think we maybe have 15 or 20 minutes left. So we can power through or take a quick break. It’s entirely up to you.

Mr. Greim. Well, why don’t we take a very quick break?

Sure. Absolutely. And just as a reminder before we go that this camera will stay on.

Mr. Brothers. Can we take us back to that empty room?

That’s fine with me. And maybe we’ll reconvene then in 7 minutes, 12:30, or 10 minutes, 12:33?

Mr. Brothers. Let’s just do ten. I like round numbers.

We’ll go off the record.

[Recess.]

Let’s go back on the record. It’s 12:34, and we’re resuming the deposition of Mr. Ken Klukowski.

BY

Q Just a few follow-ups.

Are you familiar with a person named Ken Chezbro (ph) or Cheesebro (ph), depending on how you pronounce it?

A How is it spelled?

Q C-h-e-s-e-b-r-o.

A I have no recollection of ever seeing or hearing that name.

Q Okay. Do you know an individual named Mark Martin?

A Mark Martin?

Q Correct. Former North Carolina Supreme Court judge.

A I have no recollection of a person by that name.
Q: How about James Troupis, T-r-o-u-p-i-s?

A: I do not recall ever meeting a person by that name.

Q: Okay. Not necessarily meeting, but talked with them, communicated with them?

A: No. I am unaware of any communication I had with someone of that name, by that name.

Q: And just I'll represent to you that Mr. Chesebro is somebody who also was a lawyer doing work with the campaign in the post-election period. I believe he was based out of, at least for part of the time, Boston, Massachusetts.

Does that refresh your recollection?

A: No. It -- no.

Q: Okay. Do you know who Ginni Thomas is?

A: Yes.

Q: Who do you know her to be?

A: Ginni Thomas is a prominent figure in the conservative movement and the wife of Justice Clarence Thomas.

Q: Did you have any communications with her after the election, November 3rd, 2020, up and through January 20th, 2021?

A: I do not recall any substantive communication. We end up at a lot of the same Christmas parties and whatnot. So I do not recall any conversations with her, but I could easily have seen her during that time and exchanged pleasantries at some sort of social event like a Christmas party. I have no recollection.

Q: Fair enough. And we're not so interested in those pleasantries.

A: Right. Absolutely. I just want to make clear I'm being very forthright with you in my answer.
Q: Yes. I appreciate that. So just for clarity in the record, do you recall ever having any conversations about the 2020 election with Ms. Thomas after the election?

A: I do not recall such a conversation.

Q: Do you remember any conversations you had with Ms. Thomas about the joint session of Congress?

A: I do not recall any such conversation.

Q: Earlier, before we broke, I asked you about any briefings that you're aware of for the Vice President or the President. And just to be clear, did you ever discuss or communicate with any White House staff about the joint session of Congress?

A: Not that I recall.
[12:37 p.m.]

Q    How about the Vice President's staff? Same question.

A    Not that I recall.

Q    And given your role, do you think you'd remember if you were to brief the White House staff or Vice President's staff about the Joint Session of Congress after the election?

A    If it were a meeting in something like the Oval Office, I think I would recall something like that. It's -- it's -- I'm not going to speculate regarding my recollection, but certainly if it was something -- if it was the kind of moment you'd think you'd have a photographer present for to capture, that would be something I would expect to remember.

Q    Is there anything that you've said today that you'd like to go back and change or amend before we break?

A    Not that I think of at this time.

[Speaker]

Okay. Is there anything else that you, Mr. Brothers, or you, Mr. Greim, would like to put on the record before we break?

Mr. Brothers. Nothing from me.

Mr. Greim. No.

[Speaker]

Okay. Then at this time, we are going to leave the deposition open, subject to the call of the chair, in order to work through some of the objections that we've discussed today, and mainly those that were asserted on the privilege logs for First Amendment and attorney-client privilege reasons. But other than that, I think we're done, and we can go off the record.
Whereupon, at 12:39 p.m., the deposition was adjourned, subject to the call of the chair.]
Certificate of Dependent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

________________________________________

Witness Name

________________________________________

Date
SELECT COMMITTEE TO INVESTIGATE THE

JANUARY 6TH ATTACK ON THE U.S. CAPITOL,

U.S. HOUSE OF REPRESENTATIVES,

WASHINGTON, D.C.

INTERVIEW OF: SARAH MATTHEWS

Tuesday, February 8, 2022

Washington, D.C.

The interview in the above matter was held in Room 4480, O’Neill House Office Building, commencing at 10:08 a.m.

Present: Representatives Luria, Schiff, Lofgren, and Cheney.
Appearances:

For the SELECT COMMITTEE TO INVESTIGATE
THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:

[REDACTED], STAFF ASSOCIATE

[REDACTED], DEPUTY STAFF DIRECTOR

[REDACTED], INVESTIGATIVE COUNSEL

[REDACTED], PROFESSIONAL STAFF MEMBER

[REDACTED], SENIOR COUNSELOR TO THE VICE CHAIR

[REDACTED], CHIEF CLERK

[REDACTED], PROFESSIONAL STAFF MEMBER

[REDACTED], OF COUNSEL TO THE VICE CHAIR

For SARAH MATTHEWS:

TIM BELEVETZ
We'll go on the record.

Good morning. My name is I'm a senior investigative counsel for the House Select Committee to Investigate the January 6th Attack on the Capitol and also have a second title, which is of counsel to the vice chair of the committee, Representative Liz Cheney.

This is a transcribed interview before the House Select Committee, and we have with us by video some members. It looks like Mrs. Luria and Ms. Lofgren and Mr. Schiff are on right now. They may drop off if they need to and other members may join during the course of this interview. We'll try, if we notice their names come up here on the screen, to note that for the record.

We're not going to try to mention every time that they leave just because it's too hard to keep track of. So the record may not be complete at all times as to exactly who's on, but we'll try to mention the members, at least when they join, and why don't we go around and have the other staff members introduce themselves.

Good morning. I'm investigative counsel for the select committee.

My name's I'm a professional staff member on the committee.

Good morning, Ms. Matthews. I'm the chief investigative counsel.

And we have by video, whose title, I believe, is senior counsel to the vice chair, Representative Cheney.

Ms. Matthews, can you state your name and spell your last name for the record, please?

Ms. Matthews. Yes. Sarah Matthews. And Matthews is M-a-t-t-h-e-w-s.
Okay. And could counsel introduce himself.

Mr. Belevetz. Yes. Tim Belevetz, B-e-l-e-v-e-t-z. And I'm counsel to Ms. Matthews.

Okay. So Ms. Matthews, as you can see, we have a court reporter here who will be making a transcript which will be the official record of this interview. In addition to that, we are doing a video and audio recording, but it's the transcript that is the official record of this proceeding. This is being done -- oh, and the Vice Chair Representative Cheney has just joined us as well.

Ms. Cheney. Good morning, everybody. Thank you, Sarah, very much for joining us.

So this is being conducted in executive session, which means that it is not public, but it is at the chair's discretion to make all or part of this public if he so chooses.

You're not under oath, but as I'm sure you know, you do have an obligation to tell the truth. So just as if you were under oath, it would be illegal for you to knowingly make a false statement to us. We also recognize we're going to be asking questions about things that happened a little bit over a year ago, so you can only answer to the best of your recollection.

If you don’t understand a question, just say so. We want to make sure you understand the questions and that we get the most accurate answer possible. So if anything is unclear, just speak up and say so. Similarly, if you want to consult with your counsel, we'd be happy to take breaks any time you request. Also breaks at other times if you would like. So just speak up and let us know any time.

EXAMINATION

BY
Q  So with that said, I'd like you -- if you could just tell us a little bit about your
professional background.  So maybe just start, you know, what year did you graduate
from college and tell us about each of the jobs you've had since college?
A  Okay.  So I graduated from college in 2017, moved out to Washington, D.C.
right around that time, and my first job was on the House side with the Committee on
Homeland Security, where I was doing communications for them.  I was digital
managers and communications aide.  Spent a year there.
From there moved over to the House Energy and Commerce Committee, where I
was a press secretary, and spent another year there.  While I was working there,
someone from the Trump re-election campaign approached me, asked me if I'd be
interested in going over to the campaign.
Q  Who was that?
A  Her name's Erin Perrini.  She had been working for Leader McCarthy at the
time, so we had a close relationship from that experience.  And then she went over to
the campaign to be a deputy communications director for Trump's 2020 re-election
campaign.
So I was one of the first communications staffers hired on his re-election
campaign, and that was in June 2019.  And then spent a year there.  While working on
the re-election campaign, I met Kayleigh McEnany.  We formed a close relationship.
Q  Was she working on the campaign at the time?
A  She was working on the campaign at the time as press secretary, and I was
deputy press secretary, and we formed a close relationship.  Then in, I believe,
April 2020, they wanted to move her over from the campaign to the White House to kind
of reshape the communications team over there.
So she moved over there in April of 2020, and once she was settled there, she
approached me and asked if I would be interested in joining her at the White House. So I moved over from the re-election campaign to the White House in June 2020 and started as deputy press secretary there.

Q Did you also have an additional title, like a special assistant to the President or something like that?

A Yes. I was the special assistant to the President as well.

Q And to whom were you reporting?

A To Kayleigh McEnany.

Q So in a moment, I'm going to kind of walk through things chronologically, but since we're talking about your career positions, when did you resign from the White House?

A I resigned on the evening of January 6th.

Q And why did you resign?

A I resigned because, as you can see from my background, I spent my career on Capitol Hill, so I think that the attack that day had -- it felt personal. I had friends who were in the building, and I think in my role specifically, too, being a spokesperson for the President, you know, you're asked to defend a lot, and to me, the way that he handled that day and reacted felt indefensible.

Q In what way?

A I think that, you know, in times of crises, you want your leaders to meet the moment, and to me it felt like he didn't meet the moment. And I -- I wanted to see from him a stronger condemnation of the violence that we saw, but I think -- I kind of had gone throughout the day hoping that he would meet the moment and I kept thinking, Okay, well, maybe he'll get this tweet right, or maybe he'll say this and get this right. And I think when the video was posted on Twitter, that was a breaking point for me.
Q   Why was that a breaking point?
A   I think that in the video he said, you know, We love you, you're very special. And to me, there was no distinction between those who were peacefully protesting and those who were causing violence. And it felt purposeful, and to me, it just didn't settle with me right.

And so it was kind of in that moment I started having, you know, reporters come up to me because reporters are able to walk into the press offices in the West Wing. They have unfettered access. So reporters are asking me, you know, about this. I had reporters texting me, and kind of in that moment, I just felt like I can't defend this. So I kind of knew that I was going to resign after that.

Q   When you said it felt purposeful that the President in the video statement didn't distinguish between the peaceful protesters and the rioters, what makes you think it was purposeful?
A   I think just -- I think that I thought that, you know, there would be a stronger condemnation of the violence, which there wasn't in the video. And then to say We love you, you're very special, and not distinguish it, it just felt purposeful, but that's just me reading, I guess, into the situation.

Q   Okay. And we'll come back. As I said, we're going to go through things chronologically, so when we get to that point, I'll ask about communications you had with others and the White House staff about the video statement. So we'll get to that.

Now, I'm just going to sort of step back a little bit. So after the November 2020 election, did you form a view as to who won the presidential election?

Mr. Belevetz. If I can just interrupt, we want to make sure this is limited to sort of legislative-type questions. I don't mean her personal views. I'm not sure that's really relevant, so I just kind of flag that.
Okay.

Mr. Belevetz. What happened on the 6th, what did you hear, what did you see, but her own personal views, did he win the election, did he -- is that really relevant to the committee's --

I'll skip over it for now. It may be relevant to some of the questions I'll ask later. But I'll skip over it for now.

BY

Q  Did the White House press office take a position on who won the 2020 presidential election?

A  The White House press office was not designated to talk about the election because of the Hatch Act. So we refrained from speaking on it. All that we would talk about was the transition.

Q  Okay. And what, to your recollection, did the White House press office say about the transition?

A  What I would share with the reporters was typically off the record, but I would say whenever we were asked about it, that the President was pursuing litigation, and that our belief was that if the litigation failed that he would engage in a peaceful transition.

Q  And who determined that that would be the position?

A  I think that was just the consensus among the press team that that was about -- as limited of what we could say legally on the election, and that everything else we just kicked over to the campaign folks to talk about, but that we could say, you know, he's pursuing this path, and that there will be a peaceful transition if it fails. But I don't know -- I mean, I guess -- Kayleigh McEnany was the lead of our team, but I don't know if she got that exact phrasing from someone else. So I can't really speak to that, though.
Q  That's okay. So that was going to be my next question.

So you have no knowledge of whether Mark Meadows or the President himself or anybody else above the press office approved that?

A  Yeah. I can't confirm that.

Q  Okay. Did you have any interactions with the President, or witness any statements by the President where he expressed a view as to whether he had won or lost the 2020 presidential election?

A  I did not have any personal interactions with him on that.

Q  Okay. Did anybody tell you about their interactions with him about that?

A  Yes. Alyssa Farah, the former communications director said to me that behind closed doors, that she had witnessed him kind of acknowledge the next administration, and it seemed like he would slip up and, you know, privately acknowledge that there was going to be an incoming administration.

Q  Do you know roughly what the time frame was when the President acknowledged that in front of Alyssa Farah?

A  I think it was like a couple weeks after the election, but I can't remember exactly the exact timing.

Q  So to the best of your recollection, what did Alyssa Farah tell you that the President said?

A  Just that he acknowledged that there was an incoming administration.

Q  And aside from that, were there any times where you heard that the President expressed a view as to whether he won or lost the election, aside from his public statements?

A  Like I said, I did not have any personal interactions with him, or I had very limited interactions with him after the election, and -- but, yeah, I think that he had kind
of communicated to some staff that he thought that the election was stolen and that he
had won.

Q  Okay. So did his position seem to change over time or was he just being
inconsistent in the same time frames?

A  It felt that it changed over time.

Q  Do you know roughly when? I know it's hard to pinpoint something like
that.

A  I think early December it felt like it changed, because I would say there was a
press conference at the RNC with Rudy Giuliani and Sidney Powell, and that was kind of
when it felt like there was a shift -- because he had been -- the President had been
listening to them. And then, the RNC held this press conference where they talked
about some of their, you know, theories on the election. And it felt like, from that day
forward, a shift where he might have been -- the President might have been
acknowledging privately that he had lost without really saying that he had lost, like I said,
kind of acknowledging, you know, maybe there was an incoming administration, but then
it felt like around early December that he started to get bad advice from some folks
who -- and then his view on it started to shift.

Q  Okay. So this is a question that, I think, sort of goes back to why I was
asking whether you had formed a view about who won the election. Did the President
ever ask you to make any public statements that you were -- regarding the 2020 election
that you were uncomfortable with?

A  Like I said, I did not have any -- I had minimal interaction with him after the
election, and it was not focused on that when I did interact with him or him, you know,
directly asking me to say something or do something, that wasn't the case.

And then -- and as I mentioned earlier, I would not have been able to in my
capacity as deputy press secretary because of the Hatch Act.

Q   And you did not make public statements, like, in a private capacity regarding
the 2020 elections, did you?
A   No.
Q   But your boss Kayleigh McEnany did?
A   Yes. She would, I guess, during her personal time, did some media where
she didn't use her official White House title.
Q   So, even though she was making those statements in a personal or private
capacity rather than in her government position, did she ever discuss with you statements
she was making or anything the President was asking her to say?
A   Yes.
Q   Okay. What did she tell you?
A   She -- during that time, she was going on Sean Hannity's show, I think, nearly
nightly, and she mentioned that she wanted to talk about some of the affidavits and
some of the things that the lawyers had filed in regards to the litigation that the President
was pursuing, and that she felt comfortable using the affidavits during those interviews to
point to as, you know, I guess what they saw as legitimate concerns about the outcome of
the election, but that she felt uncomfortable promoting the Dominion conspiracy theory,
and that the President had asked her to talk about that during her interviews.
Q   Okay. So, to the best of your recollection, can you tell us what Ms.
McEnany told you about what the President asked her to do?
A   Yeah. That's about the best of my recollection, just that she had
mentioned that he wanted her to go out and talk about the Dominion conspiracy theory.
Q   Okay. And what was your understanding what the Dominion conspiracy
was?
A    That the machines had been hacked and -- but it didn't feel like there was strong proof of that.
Q     Didn't feel that way to you or to Ms. McEnany or --
A     Myself, but I know that Kayleigh did not feel comfortable talking about it, and that's why she wanted to talk about the affidavits because it was -- there was tangible proof of a legal document that she could point to in an interview and say, Hey, you know, we have this, rather than -- the Dominion theory felt that there wasn't hard tangible evidence, so she did not --

Mr. Belevetz. May I have a quick word with her?

Sure.

Ms. Matthews. Something else. He wanted her to also do briefings from the White House podium on this.

Q     Regarding Dominion?
A     Yes, and the election in general.
Q     Okay.
A     But she did not feel comfortable doing that because it would be, you know, a blatant violation of the Hatch Act to do that from the White House podium. But he did request her to do briefings on it as well, but we did not. And -- but, yes, like I said, she was doing media interviews in her personal capacity at that time as well, which she felt comfortable doing because she could, I guess, make the divide between her government position and doing things in her personal capacity.
Q     Now regarding the President's request that Ms. McEnany talk on television about the Dominion theory, did Ms. McEnany tell you what she said in response to the President's request, if anything?
A I can't recall what, you know, she said back to him. I think -- yeah, I can't recall what she said.

Q So what did she end up doing?

A She did not talk about it, as far as I know, though. I didn't watch every interview and she was going on Hannity nearly nightly.

Q And do you know why Hannity, in particular?

A They had a close relationship, so --

Q From when she worked at Fox previously or --

A I'm not sure. I'm not sure the nature of it, but they were close.

Q And then with regard to the President's request that Ms. McEnany make statements about Dominion or the 2020 presidential election from the White House briefing room, did Ms. McEnany tell you what she said to the President about that request?

A To do briefings from the White House briefing room?

Q Yes.

A I think she tried to dissuade him from that.

Q Okay.

A But I'm not sure how. I'm not sure what was said.

Q Do you know if she was successful?

A Well, we never held one, so --

Q And do you know whether that's because the President backed down or she just decided to disregard his request or whatever?

A I'm not sure, yeah.

Q Okay. Was there anything else that you can recall that the President asked Ms. McEnany to do that she was uncomfortable with?
A: I can't recall at this time.

Q: So at some point -- and correct me if I'm not characterizing this accurately, but my understanding is that at some point around, say, mid-December of 2020, Ms. McEnany was not appearing on television as frequently in her personal capacity, and not making as many statements in her personal capacity. First of all, is that consistent with your understanding, and if so, do you know the reason why?

A: I -- I can't recall how frequently she was going on TV at that time. We weren't holding White House briefings, so she certainly wasn't going on TV in that regard, but I'm not sure how frequently she was going on Hannity at that point. I can't recall, to be honest.

Q: Okay. Did she ever say anything to you about, like, avoiding doing media appearances?

A: No, I don't think so. I think it was more focused on the briefings, and not being able to do them because they would have been -- the focus would have been campaign-related, which she couldn't talk about from the podium.

Q: At some point we understand around mid-December, Ms. McEnany went to Florida for a couple of weeks to the extent that that's for, you know, personal or family reasons, we don't need to know about that, but do you have any reason to think that there was some professional reason why she did not want to be either at the White House, or going on television in her personal capacity to make statements about the 2020 election?

A: Well, her family lives in Florida and so -- and she has a young daughter, and so I think that she wanted to go home to spend time with her daughter. I do think that -- I will say that -- I know that post-election, she did try to actively avoid the
President.

Q Tell us about that.

A Because he wanted her to do the briefings from the podium about the campaign, and wanted her to talk about Dominion. And so, I think she tried to limit her interactions with him, but I can't recall -- like, I honestly don't remember how long she was in Florida during December. I would chalk that up to being home for the holidays, I'd imagine, but I do know that she did say to me privately that she was trying to avoid him for that reason, because he was making those requests.

Q Do you remember roughly when that was?

A Unfortunately, I do not.

Q Do you remember anything else about what she said about that?

A No.

Q And do you know how she went about doing that? I would think as White House press secretary, it would be kind of difficult to avoid the President? Do you know how that manifested itself?

A So he never came over to the press offices in the West Wing because, as I mentioned earlier, the press offices, the media has unfettered access to. And so, if she stayed -- this is my theory of maybe how she went about that, not that she said this to me explicitly, but the President would never come over to the press offices because of that. And, so, I think she tried to stay in that area knowing that he wouldn't walk over that way.

Q Did you and others have a meeting with the President, whether formal or informal, on January 5th, 2021?

A Yes.

Q Can you tell us how that came about?
A: Yes. So on the evening of January 5th, I was sitting at my desk in the West Wing, and one of the President’s personal aides, Nick Luna, approached me and some others who were sitting there, two of my colleagues, Jalen Drummond and Brian Morgenstern, and he approached us and said that the President wanted the press team assembled in the Oval.

And by the time that we were -- walked over there, the entirety of the press team was already assembled in there. And I had kind of noticed that people were leaving the press offices one by one, and so, I had noticed that people were trickling out and so then when I walked into the Oval and everyone was there, it made a little bit more sense, but I walked in, and, like I said, the entirety of the press team was assembled in there, those of who were still on staff at that point because we had had a couple members who had moved on to other opportunities, but -- and if you want, I’m happy to name the names of the folks who were there, but it was the press team, then the President, Dan Scavino, and Nick Luna.

And we walked -- we walked in and when we walked in, the staff was kind of standing up and assembled along the wall. And the President was at the desk, and Dan Scavino was on the couch, and the President was dictating a tweet that he wanted Scavino to send out. I can’t recall what the tweet was verbatim, because I missed kind of majority of that conversation, but it was something where I think at the end of it he tagged, or he requested that Scavino tag like @FBI, @DOJ. So if you guys have the record of what his tweets were on the evening of January 5th, it would've been about that timing when I walked into the room.

So then after they sent out that tweet, then the President started talking about the rally the next day. He had the door of the Oval opened to the Rose Garden, because you could hear the crowd already assembled outside on the Ellipse, and they were playing
music and it was so loud that you could feel it shaking in the Oval.

And he was in a very good mood, and I say that because he had not been in a good mood for weeks leading up to that. And then it seemed like he was in a fantastic mood that evening. And he was so excited. He was, you know, talking about the crowd that was assembled and how, you know, excited he was for the following day. And then he did look to the staff and ask for ideas of how, if I recall, he said that we could make the RINOs do the right thing, is the way he phrased it.

And no one spoke up initially because I think everyone was trying to process what he meant by that. And so -- and then how we could make the next day, you know, a big day.

And then, one of my colleagues spoke up and said that the focus should be his speech and that --

Q  Do you remember who that was?
A  Yes. It was one of the other deputy press secretaries, Judd Deere.
Q  Okay.
A  And I think that he said, you know, the focus for tomorrow should be your speech. And then the President kind of seemed to drop whatever else he was trying to get at, because I don’t think many of us knew what he meant by trying to get them to do the right thing.

I mean, we knew what he meant in regard to trying to get them to send back the results, but I think we didn’t know what he meant by ideas for how to get them to do that.

And, so, yes, then my colleague Judd said, you know, the focus for tomorrow should be your speech. And then after that, we were just kind of standing around talking with the President. And then because we had the entire press team assembled
there, Kayleigh suggested that we do a photo with him. And so then, we took a team
photo and left.

Q And was that the purpose of the meeting was to do the photo, or why was
the press team brought in?

A The purpose was not to do the photo. Kayleigh jumped at the opportunity
to do a photo because we had not done a team photo with him, and she noticed that he
was in a good mood that evening, and so she thought it was the right opportunity to ask
him because we had discussed, you know, in the weeks, I guess, leading up to that day
that she had been wanting to ask him, but she didn't find the right time, because, as I had
mentioned, he wasn't in the best mood.

Q So what was your understanding of what the purpose of the meeting was?

A So, like I said, I kind of got brought in at the last second. The entire press
team was assembled there other than me and two of my other colleagues, and we kind of
got brought in at the tail end. So I'm not sure what else was discussed before I entered
the room, but as I mentioned, I had noticed people trickling out for a while, and so they
were in there for -- I couldn't tell you how long, but enough time that I assume that other
things were discussed prior to myself entering the room.

Q Okay. So I think it would be helpful if you can just mention the names of
the people you recall who were there.

A Uh-huh. So it would have been Kayleigh McEnany, Chad Gilmartin, Lindy
Rose, Judd Deere. Then Margo Martin, potentially Gaby Hurt -- trying to think who else
would have been there. Davis Lamb, I think, is his last name. May need corrected on
that. And then -- and then myself, Jalen Drummond, and Brian Morganstern were the
last ones to walk in.

Q Did anybody after the meeting tell you anything about what happened in the
meeting before you joined?

A  No.  And I didn’t ask.

Okay.  I’m going to pause here before we turn to January 6th event and see first, if any, members have any questions?  Mrs. Luria?

Mrs. Luria.  Hi.  Good morning, and thanks for being willing to come talk to the committee.  I was just curious, was this a frequent occurrence that the whole team would be called together into the Oval Office?  If so, how frequently did that happen?

Ms. Matthews.  No.  That was not a frequent occurrence.

Mrs. Luria.  Was this the only time you recall that happening?

Ms. Matthews.  I believe so.

Mrs. Luria.  Okay.  Thank you.

Any other members have questions?

Thank you.

Q  Ms. Matthews, anything else you remember President Trump saying at that meeting?  You mentioned how to make the RINOs do the right thing.  Were there any other phrases that he used at any point during the meeting that you recall?

A  I can’t recall.  That one stuck out to me, though.

Q  Okay.  Did he make reference to this crowd?  Did he point to it, talk about it?

A  Uh-huh.

Q  Tell me more about that.  What did he say about the crowd?

A  So, yeah, like I mentioned, he had the door open to the Oval, so we could hear the crowd, hear the music.  It was a freezing night in January, so it was -- the fact that the door was open made the room absolutely frigid, but he was so excited that, you
know, just to be able to listen to their energy, and you could tell how excited he was that
the crowd was already assembled and ready for the following day.

And just -- yeah, he, I guess, was kind of just talking about it in that sense. I can't
remember anything specifically he said, but just that he was excited that there was this
crowd there.

Q Okay. So you're sort of anticipating my question. Was it, in your view, his
excitement tied to the presence of the crowd and the energy of the crowd?

A Yeah. That's what I think.

Q Okay. What, if anything, do you recall him saying about the next day?

About what was going to happen or what this crowd was going to do, or where they
would be the next day?

A I don't think there was any acknowledgement of that. Not that I can recall.

Q Okay. Did he say anything about the Capitol?

A No.

Q Okay. And when he asked for advice, how to make the RINOs do the right
thing, you recall Judd Deere speaking up and talking about the speech. Anyone else --

A No.

Q -- provide any suggestions? No?

A No.

Q Okay. So nothing else that he said about that that you recall from that
meeting?

A Yeah. Nothing else from the time I entered the room --

Q Okay.

A -- was said about that.

Q Appreciate that. I want to take you back to something you said earlier
about Ms. Farah and her statements to you that there were times that the President would, I think, you said slip up.

Do you remember her ever telling you a specific story about something that he said along those lines?

A Just that he would acknowledge that there was an incoming administration, I think, was how he kind of slipped up.

Q Okay.

A I can't -- oh, sorry.

Q I'm sorry to interrupt you. No, go ahead.

A I can't recall, though, in what context it was said.

Q So was it a general description of sometimes he slips up or was it he just slipped up or he said this? Was it a story specifically about him saying something, or was it a broader observation?

A I think a broader observation.

Q Okay. So she didn't say, Hey, I was in the dining room with him and he just said this? It was nothing like that?

A No.

Q Okay. Last thing, you also talked about the Hatch Act. Tell me how it was when you were a White House staffer that you got any guidance, training, information about the restrictions of the Hatch Act?

A I don't know if I can recall, but I think it was kind of just an obvious thing where -- I'm sure there might have been some sort of, when I was on-boarded about it, but just -- I already kind of knew what the line was of what I could and couldn't talk about, you know.

Q Okay.
A With not being able to speak on the campaign.

Q Right. Fair to say that the general rule is that professional staff in the White House or other government agencies cannot do campaign-related stuff when they're on duty?

A Yes.

Q Is that your general understanding of the main provision of the Hatch Act?

A Yes.

Q Okay. Was there a process by which things would need to be cleared, or if someone like you or Ms. McEnany wanted to do something political, they'd have to get clearance or permission?

A Yes. And I think that Kayleigh did go through that process talking to the White House counsel's office about how she could legally go about doing media interviews in her personal capacity. And I think what they settled on was that she needed to not use her government title during those interviews, and then obviously, do it during not office hours, and not from the White House grounds either.

Q Okay. Sounds like three restrictions: Can't use your title, can't do anything from the White House grounds, and you can't do anything during the business day?

A Yes.

Q Okay. How do you know that those were the restrictions? Did Ms. McEnany tell you that, or did you hear that from some other source?

A Yeah. That was discussed between Ms. McEnany and I.

Q I see. Were there other people in the White House besides Ms. McEnany during your time, this post-election period, who were doing election-related things?

A Not that I recall.
Q She was the only one that you remember going through this Hatch Act evaluation process?
A Yes. I think that -- yeah. I can't recall anyone else doing any other interviews.
Q Okay. No one else in the press office was doing anything like Kayleigh --
A No. No.
Q And White House counsel's office, were they sort of the source of information or guidance about Hatch Act-related things?
A Yes. And I think that she did seek their guidance from what I recall --
Q Okay.
A -- about how to do this.
Q Do you remember ever having any contact with Pat Cipollone or any of the other lawyers in that office about Hatch Act-related stuff?
A No, not myself.
Q Okay. And do you remember whether there was ever -- was there a document or guidance or something that you could consult White House specific about this Hatch Act and the rules?
A No, I don't think so.
Q Okay.
[Redacted] Okay. That's all I have, [Redacted] Thanks.
BY [Redacted]
Q Okay. So unless any members have any questions, we'll turn to January 6th now.
A Okay.
Q Okay. So I'd like if you could just kind of walk us through your day in as much detail as
you can regarding January 6th, 2021.

So roughly, what time did you get to the White House?

A I think I got there a little later than I usually would, probably like 9:30.

Q Okay. And as you came in, were the -- did you see crowds assembled or anything like that?

A Not from the entrance that I came in.

Q Okay. What were your sort of expectations as far as what was going to happen on January 6th?

A So I thought -- I thought that this day would be almost a celebratory day in the fact that it would be the President's last rally as President. And so, I -- yeah. I guess that --

Q Did you have any role in preparing the President's remarks for the Ellipse rally?

A No.

Q Did you have any role in planning the event --

A No.

Q -- the rally itself?

Okay. Did you go to the rally?

A I did.

Q Okay. So tell us what you saw when you got there.

A Yeah. So a couple of my colleagues and I walked over from the West Wing to the Ellipse to watch the rally, and we stood on the side of the stage and watched the President's remarks.

Q Okay. So if you can look at exhibit 1 in your binder --

A Uh-huh.
Q: -- this is a tweet from the President at 6:00 a.m., January 6th, 2021?
A: Okay.
Q: Starts off: "If Vice President @Mike Pence comes through for us, we will win the presidency." And then it ends with: "Mike can send it back, exclamation point."

So first of all, did you have any involvement in the preparation of that tweet?
A: No.
Q: Do you know who, if anybody, besides the President did?
A: No.
Q: Do you remember whether you saw that tweet?
A: When I saw it?
Q: Do you remember whether you saw it?
A: Oh, honestly, I don't think so, but I think he had tweeted something probably similar to this before.
Q: Okay. And then if you look at exhibit 2, it doesn't look like this has the time of date on it, but it was January 6th, 8:17 a.m., pretty similar.

Second one says: All Mike Pence has to do is send it back to the States and we win.

Same question on that: Would you have any involvement in preparation of that?
A: No.
Q: Any idea who was involved other than the President himself?
A: No.

BY

Q: Before you leave that, you mentioned, Ms. Matthews, that the night before that Dan Scavino was actually typing out a tweet or something like that during the
meeting at which the press staff came to the Oval. Is that right?

A  Yes.

Q  Was that a typical pattern that Scavino would be typing something that the President was talking about or dictating?

A  Yes.

Q  Was that, in your understanding, generally how the President's Twitter account was managed that Scavino was the person often doing the actual typing and transmission?

A  From my understanding, I think that Scavino and the President were the only two people with access to the account.

Q  Okay. So if you're in the press office and your job, you and the others, is to be in charge of the President's communications, did you have any visibility into, preview of him tweeting stuff or was that a totally separate process?

A  We could make recommendations on tweets, either going to the President directly, or to Scavino and -- but it wasn't like every tweet that got sent out was cleared by the communications team prior.

Q  I see. So sometimes you and the communications team would just see a tweet issued that you had nothing to do with?

A  Yes.

Q  You're laughing as if that happened a lot?

A  Yes.

Q  Okay. But there were times where you all would say, Hey, let's tweet this or let's put this out and you had to go to Scavino or the President himself to seek that?

A  Uh-huh. Yes.

Q  Okay. Okay. In terms of the ratio overall of tweets that were suggested
or prompted by the communications team versus the ones that you were surprised at, 
what were the sort of relative ratio over all his Twitter account?

A    I think more surprised than anything, but we didn't -- we would only

recommend something if it felt completely necessary.

Q    Right. I see. That was rare. Most of the time his tweets were just things

that you didn't have any visibility into, the press office didn't prompt or script or anything

like that?

A    Correct.

Q    Okay.

That's fine. Thank you. I'm sorry to interrupt.

BY    

Q    Do you know whether the President ever typed them up himself on the

phone and send them out, or did they all go through Dan Scavino?

A    I don't know that actually, but I assumed that there was some way that he

was typing them out himself.

Q    Okay. What led you to assume that?

A    Sometimes you could tell when a tweet was written by him.

Q    Like typos or what -- what made you think that?

A    Just painfully obvious.

Q    What would make it obvious?

A    The phrasing of it, the capitalization of letters. It just -- sometimes Dan's

seemed a little bit more grammatically correct.

Q    Okay.

BY    

Q    And did you -- I'm sorry to belabor this, but were there times where there
was a hard copy that was given to him that he would mark on and then end up giving to Dan to type out.

A I think that when we would give recommendations, we would usually have a hard copy written out, show that to him. And then if he would sign off, then it would get sent out, but I think usually then it would be sent to Dan to be the one to send out.

Q Okay. And do you ever remember him tearing those drafts up or other -- destroying other documents upon his completion of review of them?

A No, I don't recall. Usually, I wasn't there for when it was presented to him. Kayleigh would be the one who would bring a tweet idea to him.

Okay. Thanks.

BY

Q So when you got to the Ellipse on the morning of January 6th, tell us where you went and what you saw?

A Yeah. So we were on the side of the stage -- I guess if I was facing the crowd, I would have been on the right-hand side of the stage, and, yeah, there was a massive crowd assembled. Those that, you know, we could see at the forefront of the crowd seemed excited, happy, peaceful, and -- yeah.

And then I remember that there was some other White House staff there. Like I said, I walked over with a group, but there were some other staffers there as well, and then there were also some campaign staffers there as well. And -- because I had been at the campaign previously, I knew some of them. And so talked with some of them.

And then -- yeah, honestly, the President's speech I wasn't, I guess, paying attention to the entire time because a lot of it was stuff I had heard him say before. And then, like I mentioned, I run into some old friends from the campaign, was talking with folks, et cetera.
Q The President, during his remarks, did make some comments about Vice
President Pence similar to the tweets. He said things like all Vice President Pence has to
do is send it back to the States to recertify and we become President, and you're the
happiest people. And he said: And I actually just spoke to Mike. I said, Mike that
doesn't take courage. What takes courage is to do nothing. That takes courage. And
then we're stuck with a President who lost the election by a lot and we have to live with
that for 4 more years. We're just not going to let that happen. And then he made
some other comments about the Vice President.

So first of all, do you have any knowledge of whether that was the comments
about the Vice President were in the prepared remarks?

A No, I did not see the prepared remarks prior to the speech.

Q Okay. Did anybody afterwards say anything about whether the President
had ad-libbed it versus being in the prepared remarks?

A No, but I do remember that we knew -- I believe that morning, maybe, as the
President's speech began is when the Vice President's letter went out about what he was
planning to do that day. And so, the President was on stage so we knew that he did not
know about that.

Q How did you learn about the Vice President's statement?

A I think a colleague of mine, like, showed me the news. We were
not -- sorry. We were not, I guess, told by the Vice President's communications team
that that was coming from my understanding, at least I was not told. Maybe, you know,
others were clued in, but I was not told to expect that.

Q But did you know what the Vice President's position was regarding his role at
the joint session of Congress?

A Yes.
Q  Did you know that from public reports or internal communications at the
White House or both?
A  I think both.
Q  Okay. What do you recall hearing internally within the White House about
it?
A  I think just that the Vice President had made clear that he thought that he
didn't have the constitutional authority to do that.
Q  Do you remember who told you that?
A  I can't recall.
Q  Okay.
A  No.
Q  And when you said made clear, did you hear that the Vice President said that
to the President?
A  No. All I know is that I just knew that he was not going to be doing that.
Q  In advance of the President's speech at the Ellipse, did you have any
understanding as to whether the President was or was not going to go to the Capitol that
day?
A  I did not expect him to go to the Capitol, nor was that discussed prior, to my
knowledge, but I remember when he said it during the speech, a colleague and I talked
about it and we were, like, there's no way he's walking to the Capitol. It's too cold.
And Secret Service would never let him.
So it was -- it did stick out to me during the speech that he said it, but it
was -- yeah. Assumed that there was no chance of that actually happening.
Q  Okay. And then do you know after the speech, were you involved in any
discussions about whether the President would, in fact, go to the Capitol?
A  I was not involved in any discussions about that.

Q  Okay.  Going back to the comments the President made about the Vice President.  What was your reaction when you heard those comments?

A  Yeah.  I was disturbed.

Q  Why?

A  Because I think that Mike Pence is a good man, and that he was very loyal to the President and so, it felt wrong for the President to attack him.

Q  So what did you do after the rally?

A  So after the rally, I walked back to the West Wing with some of my colleagues and went back to the press office.  And we sat down, were trying to get warm and then started watching the TV coverage.  And about that time, I think, you started seeing some of the protesters arriving to the Capitol.

Q  Okay.  And what happened next?

A  So, I think we started seeing -- yeah, the initial images and videos of, like, these crowds of people arriving, and I remember saying to some of my colleagues that I thought that this could escalate quickly.

Q  Why did you think that?

A  Because it just -- I think, you know, them marching to the Capitol, the crowds of people, it looked like the police presence was lacking.  I mean, there was bike rack around the Capitol, and so I thought this could escalate quickly if, you know, you get some bad apples who want to cause violence.

And I was nervous about the bike rack and thinking that -- and then, I think, a little bit after that, you started seeing, like, images and videos of people pushing up against the bike rack.  And so --

Q  Did you think that the President had gotten the crowd riled up in his speech?
A So like I said, a lot of what he had said was things that I heard him say before. I was also unaware of -- I did not watch the speeches prior to the President. So I think it was like Don Jr. and Rudy Giuliani, and so, I did not, I guess, know that going into watching the rally either that, you know, maybe some of the rhetoric that was used that could've potentially riled up the crowd.

But yeah. We started seeing the images of, you know, some of the protesters pushing up against the bike rack and thought that -- talked with colleagues about how this wasn't good, this could escalate quickly.

Q Who were the colleagues?

A The two that I was mainly speaking with were Ben Williamson and Roma Daravi.

Q And Ben Williamson was deputy chief of staff?

A He was the senior adviser to the chief of staff, Mark Meadows.

Q Thank you. And the other person you mentioned was who?

A Roma Daravi. She was the -- I believe her title was, like, deputy strategic comms director, but she -- her role primarily focused on broadcast bookings. So if someone in the West Wing was doing a media interview, she was the one working with the producer, you know, TV network to schedule.

Q And where were you?

A We were in the West Wing in an area called Upper Press. So there are two press offices, one is called Lower Press and that is directly beside the briefing room. And kind of right off the Rose Garden. And then I sat in an area called Upper Press that was directly beside where the White House press secretary's office was and around the corner from the Oval.

Q Okay. So go back to telling the story of what happened. You all were
watching what was happening.

Do you remember what network or networks you were watching?

A No. I don’t remember the network, but if I had to guess, CNN, but we -- yeah. So we were watching. I know that we -- I expressed to my colleague that I thought that, you know, it was bad, and that this could escalate quickly. And I think around that time, Kayleigh popped in to tell us to not comment on what we were seeing.

Because as I mentioned earlier, the media can walk back to our offices and has unfettered access.

Q So I just want to understand, what did -- I’m sure you don’t remember the exact time, but what had happened? Like, had you seen people breach the bike racks, as you referred to them, perimeter and got closer to the Capitol at that point?

A I cannot recall, yeah, when that was -- when Kayleigh relayed that message.

Q Did she say anything about why you weren’t supposed to say anything to the media?

A I think that she said that Meadows, the chief of staff, did not want us to comment on it at the time.

Q Did she say anything about what Meadows had said as far as why you weren’t supposed to comment?

A I know that later -- I don’t think it was in that moment -- and apologies, I can’t recall the exact timing of when this was said, but there was an acknowledgement of, Well, it could be antifa, and so we don’t want to comment on this right now because we don’t know what’s happening. We don’t know who these people are or what’s happening.

Q Do you remember who suggested it could be antifa?

A Kayleigh mentioned it, but I don’t think it was in that moment when we were
given the order of, you know, don't comment on this right now. I think initially we were
given that order of don't comment on this because we don't know what's happening, but
then, I think a little bit later in the day is when she mentioned that, you know, it could be
antifa.

Q  When she mentioned it could be antifa, did she say whether somebody else
had suggested to her that it could be antifa?

A  No.
[11:05 a.m.]

Q  Okay. So what happened next?

A  So, then, you know, we had all talked about -- at that point about how it was bad and, you know, the situation was getting out of hand. And I know Ben Williamson and I were conferring and we thought that the President needed to tweet something and tweet something immediately. And I think when Kayleigh gave us that order of "don't say anything to the media," I told her that I thought the President needed to tweet something.

And then I remember -- then I remember getting a notification on my phone. And I was sitting in a room with Roma and Ben, and we all got a notification, so we knew it was a tweet from the President. And we looked down, and it was a tweet about Mike Pence.

Q  Okay. So we'll turn to that in just a moment, but before we do that -- so, when you said to Ms. McEnany that you thought the President needed to tweet something --

A  Yeah.

Q  -- what was her reaction?

A  I think she was in agreement. She was receptive to the idea.

Q  Do you remember what she said?

A  I can't recall what she said exactly.

Q  Okay. Did she say what she was going to do with the suggestion, if anything?

A  Not at that moment.

Q  Later did she?
A: Yes.

Q: What happened?

A: So --

Q: Or is that, then, getting to later in time after the Pence tweet?

A: Yeah, so after the Pence tweet.

Q: Okay. So maybe we'll talk first about the Pence tweet.

A: Okay.

Q: And that is exhibit 4 --

BY [redacted]

Q: So, at the time of the Pence tweet, Ms. Matthews, was it clear from the television images that there was violence at the Capitol, that people had breached the Capitol? Had that already occurred, that you could see on television, when you got the alert on your phone and the Pence tweet came out?

A: I can't recall exactly, but from what I think happened, was that they had breached past the initial perimeter and they were at the Capitol, like, on the steps.

Q: Yeah.

A: And so, yeah, it was clear that it was escalating and escalating quickly.

And so, then, when that tweet, the Mike Pence tweet, was sent out, I remember us saying that that was the last thing that needed to be tweeted at that moment. I said that to Roma and Ben.

BY [redacted]

Q: So we've heard from other witnesses that before the Pence tweet Ben Williamson went and spoke to Mark Meadows. Do you know whether that's accurate?

A: Yeah, I think that that sounds accurate. Because I think that Ben and I had been sitting there, and I was like, I should go talk to Kayleigh, and he was like, I'm going to
go talk to Mark.

And so I think that was when, you know, I said something to Kayleigh about, you know, something needed to be sent out by the President. And then Ben went to track down Mark Meadows to relay that to him as well.

But then I remember that he came back and we were together when the Mike Pence tweet was sent out.

Q And did Mr. Williamson say anything to you about what he said to Mark Meadows?

A He didn't, I guess, tell me in detail what his recommendation was, but --

Q Did he say anything in general about it?

A I don't know what he said exactly.

Q Okay. Did he say anything before he went about why he was going to go talk to Mark Meadows?

A I think that, yeah, we both just knew that something needed to be said.

Q Okay. By the President?

A By the President.

Q Okay.

And so then there's the tweet that's at tab 4. As you can see, it was January 6, 2021, at 2:24 p.m.

Is this what you thought needed to be tweeted by the President?

A No.

Q Okay.

The President tweeted, "Mike Pence didn't have the courage to do what should have been done to protect our Country and our Constitution, giving States a chance to certify a corrected set of facts, not the fraudulent or inaccurate ones which they were
asked to previously certify. USA demands the truth!"

Do you have any knowledge of how that tweet was prepared?

A    No.

Q    What was your reaction to the tweet?

A    Like I mentioned, the situation was already bad, and so it felt like he was
pouring gasoline on the fire by tweeting that.

Q    And did you have a conversation with anybody about that tweet?

A    Ben Williamson and Roma Daravi and I all received the notification and read
the tweet at the same time, and I think it was verbalized that that was the last thing that
was needed in that moment. And then Ben said that he was going to go talk to
Meadows, and I said, I'm going to go find Kayleigh. And so then --

Q    This is -- sorry, just so I understand, this is the second time he was going to
go see Meadows? Had he already seen Mr. Meadows before the tweet?

A    I think.

Q    Okay. It's fine. I mean, you can --

A    I was gonna say, it's like --

Q    -- only tell us what you recall.

A    Yeah. I think. But --

Q    Okay.

A    -- I can't recall exactly how many times, you know, he went to Meadows and
when. But -- but, yes.

So, then, this tweet, I went to Kayleigh. We were talking in the press office, and I
said to her that the President needed to tweet something about the violence and needed
to tweet it immediately, and that my recommendation was that he needed to tweet
something about that the protestors needed to be peaceful and that there was no place
for violence and that -- I'm trying to think -- and -- be peaceful, no place for violence, and -- sorry.

Q: Was it anything about people should leave the Capitol or not?

A: I didn't suggest that at that moment.

Q: So, at that point, did you even know whether people had actually gotten inside the Capitol?

A: I don't think I knew at -- I was aware or not at that time.

Q: Okay.

A: Sorry. Hold on. Can I have one moment to think?

Q: Yeah, of course.

A: Okay.

Oh, I remember. The other suggestion that I had was -- so, like I said, stay peaceful, no place for violence, and that we're the party of law and order and that, you know, this is not how, you know, we should be behaving.

Q: And how did Ms. McEnany respond?

A: She seemed receptive. And so she said that she would go talk to the President.

And so she went -- I'm not sure if it was in the Oval or -- there's a dining room just off the Oval that he liked to spend time in. So wherever he was -- I think it was one of those two places -- she walked over there. She went in, came back maybe 10 minutes later, and basically told me that they were able to get him to agree to tweet something.

It was her -- there might've been others gathered in the room, but she shared with me that it was definitely herself, Ivanka Trump, and Mark Meadows, and that they got him to send a tweet, but at the end of the tweet he said, quote, "Stay peaceful."

And she said that he did not want to put that in and that they went through
different phrasing of that, of the mention of peace, in order to get him to agree to include it, and that it was Ivanka Trump who came up with "stay peaceful" and that he agreed to that phrasing to include in the tweet, but he was initially resistant to mentioning peace of any sort.

Q    Did she say anything more about what he said as far as why he didn’t want to ask people to be peaceful?
A    No.
Q    Okay. Did she say anything about what anybody else said in the meeting?
A    No.
Q    Okay.

If you’ll look at exhibit 5, a tweet -- it doesn’t have the time on it, but it was at 2:38 p.m. from Donald Trump. "Please support our Capitol Police and Law Enforcement. They are truly on the side of our Country. Stay peaceful!"

Is that the tweet you were referring to?
A    Yes.
Q    Okay. Do you know anything else, other than what you just told us, about conversations related to preparation of that tweet?
A    No.

Do you have anything?

BY

Q    Did Ms. McEnany say anything about her own encouragement to the President or Mr. Meadows with respect to the wording, particularly the "stay peaceful" part of that tweet?
A    Yeah. I think that they were in agreement with Ivanka on there needed to be some sort of mention of peace and that they went through different, I think, phrasing
of that and that he settled on "stay peaceful" --

Q    Okay.

A    -- and agreed to include that.

Q    So you got a sense from Ms. McEnany that all three of them kind of agreed,

"Hey, you need to say something about stay peaceful."

A    Correct.

Q    And did you hear anything else about the alternate phraseology that was

proposed or other words that may have been considered?

A    No.

Q    Okay.    Thanks.

A    Uh-huh.

BY

Q    Did Ms. McEnany describe in any way how resistant the President was to

including something about being peaceful?

A    Just that he didn't want to include it, but they got him to agree on the

phrasing "stay peaceful."

Q    Okay.    Do you know whether he typed this up himself versus Dan Scavino

or somebody else sending it out?

A    No, I don't.

Q    Okay.

Okay.    If you'll look at exhibit 6, it looks like the same tweet there being

retweeted by Ivanka Trump at 3:15 p.m.    It says, "American Patriots - any security

breach or disrespect to our law enforcement is unacceptable.    The violence must stop

immediately.    Please be peaceful."

So this strikes me as a stronger statement.    Now, admittedly, it's, you know, a
little more than a half an hour later. But, in addition to "please be peaceful," it says, "The violence must stop immediately," something that the President didn’t say.

Do you have any understanding as to why Ivanka Trump felt the need to send her own tweet?

A  No. I didn’t speak to her that day.

Q  Okay. Did Kayleigh McEnany or anybody else say anything to you about this tweet?

A  No.

Q  Okay.

So what happened next? Kayleigh McEnany told you about that tweet that's at exhibit 5, the conversation, I guess, she had about the preparation of that tweet. What happened next?

A  So then I think the images that we started to see unfold just continued to get worse and --

Q  In what way?

A  I think they -- the rioters had actually breached the Capitol at that point and --

Q  And by "breach," you mean not the bike racks but the windows.

A  Were in the building, yeah.

And so I went to her and said that -- if I recall that correctly. I’m not confident on the timing of that, but I think that, if they hadn’t breached yet, they might’ve been breaking windows or something. But it escalated from the time that, you know, they got him to send out the tweet with "stay peaceful" and when she came back.

And so then I relayed to her that I thought he needed to tweet again and that it needed to have a forceful condemnation of the violence, because there was no
condemnation of the violence, and that I thought there needed to be a call to action, that
he needed to tell people to leave the Capitol.

Q    Okay. And you said that to Kayleigh McEnany. Was anybody else there?
A    So I think that -- there was a roomful of people there. But she was, again,
receptive to what I said and, I think, went back to the President, and then another tweet
was sent.

Q    Okay. And is that tweet what you see at tab 7, just -- from Donald Trump.
Doesn't have the time on here, but it was at 3:13 p.m.

He wrote, "I am asking for everyone at the U.S. Capitol to remain peaceful. No
violence! Remember, WE are the Party of Law & Order -- respect the Law and our great
men and women in Blue. Thank you!"

A    Correct.

Q    Did Ms. McEnany tell you anything about her conversation with the
President about that tweet?

A    No.

Q    Okay. Did she say anything about who was in the room when she went
back in there?

A    No.

Q    Okay.

What was your reaction -- well, did you hear from anybody else about -- anything
about the preparation of that tweet?

A    No.

Q    Okay. What was your reaction to the tweet?

A    I thought, again, it didn't meet the moment, because I thought there needed
to be a forceful condemnation of the violence that was already occurring and a call to
action. And so I relayed that message to Kayleigh again.

Q  Do you know whether Ms. McEnany had conveyed that message to the
President before he issued this tweet?

A  I'm not sure what her exact recommendation was, but she seemed receptive
to what I was saying. But I can't tell you exactly what the --

Q  Okay.

A  -- advice she gave him was.

Q  So, then, when you talked to her about this 3:13 p.m. tweet, which is at
exhibit 7, what was her reaction? Ms. McEnany's reaction, that is.

A  After I said that -- after this tweet where he said the --

Q  Right.

A  -- "WE are the Party of Law & Order"?

Q  Yes.

A  So, yes, so then I relayed again that I thought it needed to have a forceful
condemnation of the violence and that there needed to be a call to action to ask people
to leave the Capitol.

And it was in a room in the press office where others were gathered. And a
colleague of mine suggested that he not condemn the violence.

Q  Who was that colleague?

A  Chad Gilmartin.

Q  Okay.

A  There is a reasoning behind that, but --

Q  Okay.

A  His reasoning was that he felt like by -- condemning the violence

acknowledged that these were his supporters and that it would let the media, quote,
"win," end quote, because what he expressed was that, over the summer, we had seen violent protests across the country by Black Lives Matter protestors and that Democrats were never asked to condemn that violence. And so he thought that by the President condemning, you know, what looked as if were his supporters causing violence that the media would, quote, "win," end quote.

Q  Okay.

A  And I disagreed with that assessment.

Q  What did you say?

A  And I think at this point, too, there was a conversation of, "Well, it could be antifa," you know.

Q  Do you remember who said that?

A  I don’t remember if it was him or -- I can’t recall. But I think that was another thing that was being floated.

And so then I spoke up and suggested that it doesn’t matter if it is antifa or not because we should be condemning violence no matter what, no matter what side it’s coming from, and that if it comes out that these are antifa protestors posing as MAGA supporters, then all the better that we condemned it, because we should just be condemning violence, you know, whether it’s coming from the left or the right, in my opinion.

And so I conveyed that to Kayleigh, at which point Chad disagreed and, you know, said that the media would win, in his eyes, if we did that and, because of what he thought was hypocrisy by the media, you know, that Trump would be asked to condemn this but Democrats weren’t asked to condemn the Black Lives Matter protestors who caused violence over the summer, to which I responded -- I pointed at the TV and said, I guess yelled, "Do you think we’re winning right now?"
And it was about at that moment I was very frustrated, I got emotional, and I decided to walk away from that room. And I went down to the area called Lower Press, which was down the hallway, where some of my other colleagues were seated.

Q: Actually, I may have already asked you this, but I want to make sure I don't miss it.

Going back to the first of these tweets about being peaceful, the one that was exhibit 5, so this is the 2:38, and you said Ms. McEnany told you about her going into the area around the Oval Office, whether it was the dining room or the Oval Office, and the President’s reluctance to say anything about being peaceful. When Ms. McEnany told you that, was there anybody else there with you?

A: There were others in the room, but I can’t recall who exactly.

Q: Okay.

A: But she said it kind of directly to me.

Q: To you. And you were in this --

A: But there were others in earshot. We were sitting in Upper Press, and there were other desks around, but --

Q: Okay.

A: -- it was kind of stated more to me directly.

Q: Do you remember who else was in earshot?


Q: Okay. But you don’t know whether --

A: Maybe Ben Williamson.

Q: You don’t know whether anybody else heard it?

A: No.

Q: Okay. Did you have any conversations with anybody else about what
Ms. McEnany had told you?

A Not that I can recall.

Q Okay.

So what was Judd Deere's reaction to all of this, if you recall?

A So he sat down in Lower Press, so I didn't see him for, like, I guess the majority of the day until I stormed out of Upper Press after that conversation between Kayleigh, Chad, and myself. And when I went down to Lower --

Q Sorry. Before you get to that -- sorry to interrupt you, but I just want to make sure I cover this.

So you said what Mr. Gilmartin said and what you said in response. Did Kayleigh McEnany say anything in response to what Mr. Gilmartin said?

A No. I think she was just more listening.

Q Okay. All right. Sorry. You can continue then.

A No, you're good.

So then I went down to Lower Press, where some of our other colleagues were seated, one of which was Judd, and we had a conversation about how, you know, that this was not good, essentially. And then I think I said to him that I thought the -- I said to him and, I think, others who were seated down there that I thought the President wasn't meeting the moment.

And then I went and sat in Judd's office for a little bit. And it was at that time when I was down there that a Secret Service agent popped in to let the press office know that he was going to be -- the President was going to be recording a video.

Q Okay.

So I'll pause now, before we turn to the video, to see if any members have any questions on anything we've covered so far.
Yes, Mrs. Luria?

Mrs. Luria. All right. So I kind of wanted to go back to the beginning of the day and then compare this day to other normal days in the press office.

I would assume, on a given day, you start out the day with a schedule, a plan. Maybe there’s some sort of briefing among the staff, okay, this is what we’re going to communicate about today, if there are any press releases or press appearances that are going to be happening.

Would you -- first of all, was that a routine? Was there some sort of routine like what I described? And, if so, what did you start out the day on January 6th with as your plan?

And, then, were there things that you intended to do during the day that fell by the wayside or were no longer executed or carried out because of the events that unfolded?

The Witness. Yeah. No, that’s a good question.

So I think that, typically, pre-election, that was how a lot of our days went, but after the election, that there wasn’t, I guess, much of a communications plan, because a lot of what the President wanted to be talking about was in regards to the election. And so we, you know, in our role at the White House, were not able to speak on it.

And so, you know, that kind of, I guess, prevented us from having, you know, briefings or -- and there wasn’t much policy that we were pushing. Because, obviously, that was more of our role at the White House, was to be pushing different policies or positions. And that kind of seemed to fall by the wayside because his focus became entirely focused on the election.

And so, yeah, I guess, pre-election, though, that would’ve been the normal, sort of, day-to-day routine, but then, post-election, it seemed to change.
And so, specifically on January 6th, I thought of it -- I didn’t even think of it as, like, oh, what message are we pushing today? I went into the day thinking, wow, this might be the last Trump rally I’m ever going to see, at least with him as President. And so there wasn’t, I guess, any sort of, like, predetermined communications plan going into that day.

Mrs. Luria. Okay.

And so you said he devoted the majority of his efforts as far as communications to, you know, talking about the election after the election. But I would just assume, you know, in the final days of an administration, that there would be a big push to highlight all of the great accomplishments that have happened during that administration.

Did you guys have a plan where you, kind of, really -- did you have a focus on trying to, sort of, frame how people remembered the accomplishments of the administration? And, if so, did that either fall by the wayside or he wasn’t interested in it?

The Witness. Yes. So that was something that was communicated to him, that he should be out there promoting his legacy. Different ideas were presented to him about things he could highlight or tell, you know, different events or speeches, et cetera, and he was disinterested in all of it.

Mrs. Luria. Were there other times when you worked at the White House that similar things, similar events that were happening overshadowed the work you were trying to do and it really -- was it most of the time just driven by him? Or did you guys on a, sort of, routine basis, before the election and before this timeframe, were you the main drivers of the communication?

The Witness. I think that it was a little bit of a combination of both. You know, there were certainly plans that were laid and things that, you know, we wanted to, you
know, highlight, but then those plans could also get derailed occasionally by, you know, the news cycle or potentially something the President said or tweeted. So I guess there was a plan, but occasionally we would have to adapt to the situation.

Mrs. Luria. Okay.

And you mentioned your conversations with Ms. McEnany and the fact that she went in and talked to the President. And earlier on in the conversation, we were talking to you about the process about how tweets were generally drafted and presented to the President, you know, and that sometimes they'd come from the communications office if there was a thought that there was, like, a real need to communicate something.

Do you recall or know on that day if any, like, direct language was presented to the President? Or do you feel that your conversations were more just about the tone and content of the tweets that needed to go out?

The Witness. Yeah. I think, you know, typically, when tweets were presented to him, they were written out so he could see them, and printed and shown him. But I don't recall Kayleigh printing anything that day. I think that she went to him just -- I don't think there was time for that.

And so I think she went to him, you know, directly and communicated that he needed to, you know, tweet something and address the situation that was unfolding. And I can't -- I can tell you what I recommended her to say to him, but I'm not sure what her exact recommendation was to him.

Mrs. Luria. Okay.

And I assume, you know, throughout this, while you're having in-person conversations with the people in the room, you're also hearing a lot of things from outside. You have a lot of connections with, you know, reporters and different people in
government from your time on the Hill. What kind of communications were incoming to you that you recall that were notable on that day?

The Witness. So mainly the reporters that were -- I was talking to were in person. Because, as I mentioned, they could come and walk back to my desk at any time, and so, you know, if I don’t text them back or email them back, they could come find me.

So I did -- I can’t recall -- I’m sure I got plenty of emails and texts that day from reporters, as well, asking for what the President was doing, if he was going to make a statement on the violence that was unfolding. But, as I mentioned, we were not allowed to talk about it.

And so I think that -- I think I may have told reporters off the record that, you know, a statement was coming from him, or a tweet was coming, just to kind of, you know, tell them to keep an eye on that.

But I didn’t, I guess, try to engage too much about what my, you know, personal position was about what was happening. Just tried to keep them updated on, you know, updates from the White House.

Mrs. Luria. So did you feel uncomfortable personally? Like, the fact that you’re watching this on TV, you can see the violence, you personally have told her that you felt something stronger should be said, but reporters were coming to you and you were essentially just saying "no comment" or "keep an eye out for a statement later." Like, how did that make you feel, like, in the role that you were supposed to be speaking for the White House?

The Witness. Yeah. I think that that started to make me feel uncomfortable. Because I can recall texting some reporters back, especially after the video -- he said, you know, the "we love you, you’re very special." And I remember a specific reporter asking
me about that line and trying to defend it off the record. And I was just -- I remember thinking to myself, "What are you doing? Like, this is indefensible."

And so I think, yeah, I -- and I was definitely -- yeah, I mean, the events, like, leading up to that moment, I was upset that, you know, I was being asked by reporters, you know, to comment on air, you know, even some of them trying to engage me, you know, off the record, because we had relationships, of, you know, how I was feeling about it. And I think I was clearly distraught and -- but, obviously, was prevented from really saying anything to them.

And then, yeah, I think when that video was tweeted out, that was kind of the breaking point for me, because it felt, like, in my role as a spokesperson, indefensible. Mrs. Luria. And what about language -- like, I made a note here. We were talking about the text that went out at 3:15, which I think is in exhibit 6, and this was the text from Ivanka -- like, just even using the words "American Patriots." Like, did you feel, as spokesperson for the White House, that it was appropriate to be calling people doing the things you were watching on TV "patriots" at that moment in time?

The Witness. No, I didn't think it was appropriate.

Mrs. Luria. Okay.

I don't have any other questions right now. Thank you.

Okay.

Do any other members have questions?

Okay.

Do you have a question?

Yeah, just a couple things.

BY

Q Ms. Matthews, I want to go back to the conversation with Chad Gilmartin.
What was his specific position in the press office?

A He was the principal assistant press secretary. So the structure of the comms team was, there was press secretary, three deputy press secretaries -- I was one of them -- and then four assistant press secretaries. But I guess Chad was elevated because he was the principal assistant press secretary. And then we had three press assistants below that.

Q I see. So he was on the level beneath you as a principal assistant press secretary.

A Correct.

Q So, in terms of the hierarchy, McEnany is sort of the head of this operation. You're one of three of her immediate deputies?

A Uh-huh.

Q And then -- and, sorry, you have to say "yes" or "no."

A Oh. Yes.

Q And then under you, Ms. Matthews, is Chad Gilmartin and three -- two or three other assistant press secretaries.

A Correct.

Q So, in the conversation that you describe where Mr. Gilmartin is talking about "the media will win," he is underneath you in the hierarchy. Is that right?

A Correct.

Q Okay. Is it just the three of you present -- you, Gilmartin, and McEnany?

A I believe Jalen Drummond, who was an assistant press secretary, might have been present, and potentially Lindy Rose. Lindy Rose was Kayleigh's assistant.

Q Sort of her administrative assistant?

A Correct.
Q  Like, answering phones --
A  Like, her scheduler.
Q  Gotcha.  Okay.

And did anyone else besides Chad Gilmartin express that perspective or anything similar to that perspective of, hey, the Democrats didn't have to condemn BLM; they'll win if he condemns violence?
A  No, no one in that room, I guess, conveyed that same sentiment, as far as I was aware.
Q  I'm getting the sense that it was, kind of, Mr. Gilmartin said this and you disagreed, and it was, sort of, the two of you have this argument, this disagreement.

But no one else is on either side?  Is that right?
A  Correct.
Q  Ms. McEnany, she's the boss, right?
A  Uh-huh.
Q  What's her reaction as this unfolds?
A  She was just more observing and listening, I think, at that point and just kind of listening to both of our perspectives.

I would say that Chad and I were two of the people that she listened to the advice of the most in the office --

Q  Uh-huh.
A  -- and so we both had very close relationships with her.
Q  Uh-huh.
A  So I think she was just listening to both of our points of view.
Q  Did she say anything during this back-and-forth between you and Mr. Gilmartin?
A Not that I can recall.
Q Ask a question? Make an observation? Say "uh-huh," "yes," anything like that?
A She might have, to be honest, but I think I was so heated in that moment that I can't really recall what her exact reaction was.
Q Okay.
A But from what I recall, it was more just her, kind of, taking in everything we were both saying.
Q All right.
And did you get a sense at any point that it resolved, like, that one perspective won and the other did not? You storm out and say, "Hey, does this look like we're winning" --
A Uh-huh.
Q -- and leave, but did that end it? Or did you get a sense of resolution?
A So, no, I don't think there was much sense of resolution, from what I gathered.
And I guess it wasn't a, you know, dramatic storm-out exit, but I think just, like, I just kind of removed myself from that situation, where I thought, okay, I just need to walk into a different room, talk to other people, and calm down a bit.
And so -- but, yeah, so I'm not sure, yeah, what, I guess, she did with that info after that conversation, but I did not -- yeah. So I'm not sure.
Q Okay. So you don't know whether or not Ms. McEnany sort of picked a side or agreed with either you or Mr. Gilmartin ultimately?
A Correct. But I do think that she was -- it was clear to me just that she was visibly shaken by what was happening --
Q: Yeah.

A: -- and that she knew it was bad too.

Q: Separate from that conversation, was there anyone else inside the White House that day that expressed a similar perspective as Mr. Gilmartin, that, hey, we shouldn't -- we can't condemn violence or the media will win, or push back against what you -- your perspective?

A: No, not that I'm aware of.

Q: Not just in the press office, but in the chief of staff's office or any other part of the White House staff?

A: Yeah, not that I'm aware of.

Q: Okay.

Is Mr. Gilmartin personally close to Ms. McEnany? Does he babysit for her daughter or spend time with her family, something along those lines?

A: They are related. He is the cousin of her husband --

Q: Uh-huh.

A: -- and, yes, spent a lot of time with her family.

Q: Okay. Fair to say closest, outside of the office, to her than anyone else in the --

A: Yes.

Q: -- White House?

A: Yes.

Q: And does that continue to this day, as far as you know?

A: Yes.

Q: Okay.

You mentioned earlier also that you were told early in the day not to say anything,
right, that that came to you from Ms. McEnany, who indicated that Mr. Meadows had
directed that? Is that right?

A  Yes.

Q  Did you ever push back at that and say, "Hey, we've got to say something,"
or, "I'm getting these calls from the reporters; can we engage?"

A  I think I didn't ask for myself to engage necessarily, but just that it was more
me saying that the President needed to be out there saying something.

Q  Okay.

A  And so that was the recommendation I kept giving throughout the day.

Q  Uh-huh.

A  And then -- but I did mention to her that we were getting bombarded with
media requests.

Q  Understandably. Did you feel hamstrung or somehow prevented from
doing your job because of that early directive that you not have a comment?

A  Yeah, I mean, I guess I thought that -- it felt strange for us to go radio silent
in that moment. And so it felt like, yes, we needed to be out there saying something,
more specifically the President himself. And so, yes, it did feel strange to go radio silent.

Q  Okay. And, given that it felt strange, again, did you, Ms. Matthews, ever
say to Kayleigh or anyone else, "We're getting bombarded. Can I, even off the record,
say something?" Like, did you seek permission to respond, yourself, more forcefully
when you got these inquiries?

A  No, I don't think I asked permission. But, like I mentioned, I think I just told
reporters off the record that, you know, a statement is coming, a tweet is coming --

Q  Okay.

A  -- a video is coming. And so it was more of, that's what I had just decided
to do.

Q I understand.

So the directive that "we shouldn't comment," did that cover off-the-record communications? In your view, could you not talk to a reporter with whom you had a relationship, not for attributions but off the record? Would that have violated this directive that you got not to say anything?

A I don't think so. I think it was more just, like, publicly.

Q I see. Okay. So you could still talk to reporters that you knew, trusted.

A Correct.

Q Just couldn't go on the record or say anything for --

A Correct.

Q Okay.

A And I think most of my interactions that day with reporters were for planning purposes --

Q Yeah.

A -- of, "Hey, there's going to be a video coming," that kind of thing.

Q Got it. Okay.

BY [REDACTED]

Q And your recommendation that the President say something more forceful, was that at all because you thought that doing so might actually have an effect on what was happening at the Capitol?

A Correct. I thought that he was the only person who could maybe get them to leave.

We've been going for a while. Do you want to take a break or --

Mr. Belevetz. Sure.
Mr. Belevetz. Yeah.

Take a break? Do you want to do 5 minutes? Ten minutes?

Mr. Belevetz. Five should be good.

The Witness. Yeah.

Okay. Five minutes. So we'll go off the record.

[Recess.]

Okay. We'll go back on the record.

Q Ms. Matthews, I had just a few questions to follow up what we were discussing before the break.

I was struck by how you said you went to Ms. McEnany a few times on January 6th to provide her your thoughts about what you thought President Trump should tweet and, afterwards, your understanding is she went and she talked to President Trump to convey some sort of advice.

Were you concerned that if you did not share your thoughts about what you thought President Trump should be tweeting that no one would be providing him that advice?

A No, I had faith that I thought that Kayleigh was in similar -- a similar mindset to me. But I wanted to make it explicitly clear what I thought needed to be said. Because, like, as I mentioned, I had specific things that I thought needed to be said in his tweets.

Q Okay.

What about others around President Trump besides, you know, Ms. McEnany, what advice they would provide, did you have, like, similar faith?
A  I think a majority of the staff, yes.

Q  Okay.

A  Yeah.

Q  Could you explain a little bit more what you mean by that?

A  I think it was clear the atmosphere in the White House was generally that people were disturbed by what was happening.

Q  Okay. And what gave you that impression?

A  That people were just in shock and kind of, like, silently sitting there watching the coverage and watching the attack unfold.

Q  So seriously disturbed on January 6th, what was happening?

A  Correct.

Q  Could you just describe a little bit more the atmosphere? Was it, you know, the whole press shop, you all were in a room watching TV? People were in their office -- and, excuse me, I don't know how the White House is set up, but people were in their different offices watching TV? From, you know, your vantage point, what was the atmosphere like? What were people doing?

A  Yeah. So there are two different, I guess, press offices, and there are multiple TVs everywhere within those offices. And people were sitting there just watching the coverage unfold and -- yeah. And I was sitting in the Upper Press most of the day.

Q  Okay.

And I know you mentioned earlier that you saw the events unfold -- or as it was unfolding on TV. Do you recall if the TV was already on and you looked up and you saw it? Or was there, like, some sort of notification on your phone that, you know, prompted someone to turn on the TV?
A  No, the TVs were always on.

Q  Okay. So, to the best of your recollection, you might've -- the TV was already on, and that's when you saw what was happening at the Capitol?

A  Yes.

Q  Okay.

And I know you mentioned you had several conversations with members of the White House press shop that day. Did you have any conversations with anyone from Vice President Pence's staff on the 6th?

A  I did not.

Q  Would you normally interact with them as part of your duties?

A  If it was relevant, yes.

Q  So, to your knowledge, were there any conversations with Vice President Pence’s shop about what messages should be put out as the attack was unfolding?

A  I did not have any, I guess, direct interactions with them, so, to my knowledge, no.

Q  Okay.

That's it for me. Thank you.

[Great. And can we go off the record for just a moment?]

[Discussion off the record.]

[Okay. We'll go back on the record.]

Q  Okay. Ms. Matthews, I'm going to ask you in a moment to resume the chronology, which was -- I think where we left off was you saying that a Secret Service agent had said that the President was going to do the video statement from the Rose Garden.
But before we do that, just to try and keep things roughly chronological, if you look at exhibit 12, this appears to be a text message or series of messages between you and somebody named Alyssa, and it says "A.F." I assume that's Alyssa Farah. Is that correct?

A  Correct.

Q  And who is Alyssa Farah?

A  Alyssa Farah was the former White House communications director.

Q  And on January 6, 2021, was she still working in the government?

A  No.

Q  Okay. Do you know roughly when she left?

A  I think mid-December.

Q  Okay. So you overlapped.

A  Yes.

Q  Okay.

So I don't know if there's anything before 4:08 in this chain. If so, I assume it's not relevant. So the first one here chronologically on the page appears to be at 4:08 p.m., and it appears to be from you to Ms. Farah.

What prompted you to send the text message to Ms. Farah?

A  Alyssa and I were very tight during our time at the White House. And we weren't just colleagues, we were very good friends. And I looked to her as, like, a mentor. And so I knew that we held similar beliefs oftentimes on things, and I felt that she would feel the same way I did about what was transpiring. So I sent her a text.

Q  Okay.

So, at 4:08 -- let's just, to put this in the chronology -- is, I think, something like 9 minutes before the President's statement, video statement, was released. So I don't
know if you recall whether this was before or after the Secret Service agent told you that
the President was going to the Rose Garden.

A    I think it would've been after.

Q    Okay. But presumably shortly after. Is that right?

A    I'm actually not sure.

Q    Okay.

So, just to keep things chronological, I'll ask about what the Secret Service agent
said to you, and then we'll come back to the texts. Tell us what the Secret Service agent
said.

A    He didn't say it to me, but I was in earshot of it. He walked in to tell one of
the press assistants -- I believe it was Margo Martin -- that the President was going to be
doing an on-camera video in the Rose Garden, which was something normal for them to
come in and notify the press team of.

And so that was how I knew then that, you know, he was going to be doing an
on-camera appearance.

Q    Okay. And do you know what prompted him to do the on-camera
appearance?

A    I'm not sure. I assume that he was being advised to do it, though.

Q    Okay. So you don't have any personal knowledge.

A    No.

Q    Okay. Do you know who went with him?

A    No.

Q    Okay. Do you know who was involved in drafting his remarks?

A    No.

Q    Okay. But you were not?
A: No.
Q: Okay.

So what happened after you heard that from the Secret Service agent?
A: Then we knew that the video was being filmed and then uploaded to Twitter. And so then I was down in that area called Lower Press and was sitting there with my colleague Judd Deere when it was tweeted out.
Q: Okay.
A: And that's how we knew it was being sent out. We were not involved in the filming or anything of it.
Q: Okay. So at some point roughly in that chronology you sent the text to Ms. Farah --
A: Yes.
Q: -- at 4:08.

BY [REDACTED]
Q: And before you leave that, is the Lower Press area where the briefing room is adjacent to the Rose Garden, essentially, like, right in the same small area?
A: Yes. So, basically, when there's a press briefing and the door that the, you know, press secretary walks through to enter the room, that door leads directly into Lower Press. And then there's the briefing room.
Q: Uh-huh.
A: And then behind the briefing room are all the offices for the media. They have desks back there. And so they work from there. But, like I said, they have access to walk through the briefing room to Lower Press.

And then, when you exit Lower Press, there is -- if you exit the door to Lower Press, to your left is the door to go out to the Rose Garden -- or a door to go out to the
Rose Garden. And then to your right is a ramp. And if you go up the ramp, it would lead you to Upper Press. And --

Q So when this --

A Oh, sorry. Go ahead.

Q No, I'm sorry. You --

A And if you go up that ramp, then you can either turn right and go to Upper Press or you can go straight, and that hallway takes you down to where the Oval is.

Q Okay. I'm just trying to get a sense of, the Secret Service is letting you know about the President's anticipated movement because it's, sort of, close to your workspace? Is that right?

A Yes. I think because, as I mentioned earlier, the media can walk, like, through those areas, and so -- and they usually are able to see the Rose Garden. And so, if there was going to be a filming of a video there, the media could potentially see that. And so they were kind of doing it, I think, as more of a heads-up on his movements so that we would be aware.

Q I see. And were any steps taken to make sure the Rose Garden was secure or the press or anyone else couldn't get into it during the President's presence there filming this video?

A Not that I'm aware.

Q Okay.

All right. That's all. Thanks.

Q Could you see the President when the video was being filmed?

A No. I didn't try to, so --

Q Okay.
So, if we turn back to the text, 4:08 p.m., you wrote to Ms. Farah, "I'm sick to my stomach, Alyssa, and absolutely horrified what is going on. POTUS is supposed to do an on-camera statement, but no idea what he's planning to say/if it'll be strong enough. Sorry, I just need to vent. This is to someone who I know is rational-thinking and sees things the way I do. Ugh."

So what prompted you to write that?

A I think that I felt frustrated because I felt like he was continually not meeting the moment.

Q Okay.

A And so I was concerned that, even though I knew an on-camera statement was coming, I didn't think that, again, it would meet the moment of what needed to be said.

Q And was that based on any knowledge of what he was going to say or just purely based on what had transpired up until that point?

A Yeah, just purely based on what had transpired.

Q And by that, does that mean his previous tweets or also things you had heard about his reluctance to make a more aggressive statement?

A I think a combination of both, just the tweets and then knowing that there was reluctance with that first initial tweet with the mention of "stay peaceful."

Q Did you have any knowledge of the President's reluctance other than that one episode that you've already told us about?

A No.

Q Okay.

So, then, Ms. Farah responded. Can you tell on your phone what time she wrote back?
A Yes. She wrote back at 4:09 and sent those two messages that you see.
Q Okay.

And she wrote, "Thinking about you. This is heartbreaking and terrifying. My only advice would be to give the best counsel you can," and then an emoji. "I know Ben is feeling the same way. He just seems detached from how serious this." And then the next tweet is, "Someone is going to get hurt."

Text. You said tweet.
Did I say tweet? I'm sorry. Thank you. A text.
BY
Q So this largely speaks for itself. I assume "Ben" is Ben Williamson. Is that your understanding?
A Yes.
Q And did she ever tell you how she knew that Ben Williamson was feeling the same way?
A She did not.
Q Okay. But was it your understanding that Ben Williamson was feeling the same way?
A Yes.
Q Okay.

And then she wrote, "He just seems detached from how serious this is." What did you understand that to mean?
A If I had to speculate, I think probably just that he was maybe in shock, and I think when people are in shock, sometimes they don't understand the gravity of the situation.
[12:07 p.m.]

BY [Redacted]

Q: Okay. You think he there refers to Mr. Williamson?
A: That's what I would assume based on reading that, but I'm not sure.
Q: Got it. Okay. And then you wrote back, thank you.

Do you know what time that was?
A: Actually, is it okay if we go back to your previous question?
Q: Yes. Of course.
A: I think there's -- re-reading that, I think there's a chance she could have been referring to POTUS.

Q: Okay.
A: So I don't know if I can definitively say whether or not she was referring to Ben or to President Trump because I had conversations with Ben, and he was disturbed by what was happening.

Q: Okay. So you think if this was referring to Ben Williamson, it's not consistent with your understanding of how Ben Williamson was treating the situation?
A: Correct. If I had to guess, if it was referring to Ben, like I said, I think it would be maybe that he was in shock, and that's what she meant by it. But I cannot definitively say who I think she was referring to in that text.

Q: If it was referring to the President, was the statement that the President just seems detached from how serious this, presuming this is, consistent with your understanding of the President's reaction?
A: Yes. Based on what I shared with the peaceful tweet, I felt like he might not understand the gravity of the situation.

Q: Okay. And then when you wrote back with a text starting with "thank you,"
what time was that?

A  4:12.

Q  Okay.  So 4:12.  So, again, still before the President’s video statement was released, you wrote, "thank you," it looks like two emojis of prayer hands.  Ben, Roma, and I are just sitting in a room together at a loss for words at what is happening.  I know Ben is pushing Meadows, and I’ve been pushing Kayleigh about the need for a stronger condemnation, so hopefully he does that in the video.

So, first, on the Ben is pushing Meadows, what did you mean by that?

A  I knew that Ben and I had had conversations about him wanting to talk to Meadows to have Meadows talk to the President, and then I was going to do the same in regard to Kayleigh.

Q  Okay.  And then Ms. Farah wrote back.  "Wish I could be there with you guys, this is so scary, have so many people I care about inside, and it’s only going to get worse at night, I worry."  And then you wrote back, "Wish you were here too.  I’m so terrified for everyone at the Capitol and for what’s going to happen when it gets dark."

What time was that tweet -- I’m sorry -- that text that she sent?

A  Alyssa’s was sent at 4:14 p.m., and mine was sent at 4:15 p.m.

Q  Okay.  And then why were you concerned about what would happen when it got dark?

A  I think because over the summer, we had seen violence at the White House during the Republican National Convention when they hosted it at the White House. And things got really ugly when people were trying to leave the White House grounds because there were crowds of people.  And so, I was concerned about the safety of the staff and lawmakers who were at the Capitol, and them trying to leave the premises.

Q  Okay.  And then Ms. Farah wrote back, "Be safe.  This is the worst," "Any
idea what Mark is thinking? I've been trying to reach him."

Do you know what time those texts were sent?

A  Yes. The be safe text was sent at 4:30, and the text about Mark was 4:31.

Q  Okay. So those were a few minutes after the President's statement, video statement, that is. And when she wrote, "Any idea what Mark is thinking," did you understand that to refer to Mark Meadows?

A  Yes.

Q  And what do you think she meant by that, any idea what Mark is thinking?

A  I think just on how he was reacting to the events that were unfolding.

Q  Did you interpret this as her suggesting that Mark was not -- Mark, meaning Mark Meadows, was not doing enough?

A  I think I interpreted it as she just did not know his thinking because she had not been in touch with him.

Q  Okay. She said, I've been trying to reach him. Do you know, did she tell you ever whether she eventually reached him that day?

A  No.

Q  Okay. Meaning no, she didn't tell you, as opposed to no, she didn't?

A  No. She didn't tell me, correct.

Q  Okay. Then you wrote, "I haven't talked to Ben or seen him for like 20 minutes. Think he's with Mark."

What time was that text?

A  4:32, and the next two messages were also sent at 4:32.

Q  Great. And so the next ones are, "I'll keep you posted," and "I told Ben Mark should tweet too."

Okay. So the first one where it says, "I haven't talked to Ben or seen him for like
20 minutes. Think he's with Mark." Do you know if Ben Williamson was also with the President?

A I'm not aware of that.

Q Okay. But this would have been roughly the timeframe when the filming of the video statement would have occurred, correct?

A Yeah. I think it was around that time.

Q Okay. But you don't know whether Ben Williamson went to the Rose Garden for the filming?

A No. I'm not sure.

Q You said, "think he's with Mark." What made you think he was with Mark Meadows?

A I think just because we had had a conversation about, like, wanting to talk to our direct bosses about the need for the President to, you know, say certain things. And I hadn't seen him, so I assumed he was with Mark.

Q Okay. And you've already told us -- have you already told us everything you recall about that conversation where you and Mr. Williamson said you were going to talk to your respective bosses?

A Yes.

Q Okay. And then it said -- the last one here is, "I told Ben Mark should tweet too."

Can you tell us what you recall about that conversation with Mr. Williamson?

A I don't recall what exactly I said that Mark Meadows should tweet, but I think I must have just said that it was important, probably, for other senior members of the White House to be out there condemning the violence as well.

Q And do you know whether Mark Meadows did end up tweeting?
A I can't recall if he did tweet something.

Q Okay. So then, did you learn anything other than what you've already told us about the video statement before you saw it?

A No.

Q Okay. And how did you learn that the video statement had come out?

A When I got the tweet notification.

Q Okay. And we'll go ahead and -- and do you remember, roughly, when that was? I mean, it would have been -- in other words, were you getting the President's tweets, and so, did you learn about it --

A Yeah.

Q -- basically as soon as it was --

A Correct.

Q -- public? Okay. So -- and the time, as we understand it, was 4:17, I think, p.m. when the tweet was issued. So why don't we go ahead and play it.

[Video shown.]

A I was bothered that it started with talking about the election. Then as it went further into the video, I felt a little sense of relief that there was finally some sort of call to action where he said, you know, Go home. Go home in peace. But then the we love you, you're very special, at the end really bothered me.

Q Why did it bother you?

A I think I mentioned this previously, but that I felt like there wasn't a distinction between those that were peacefully protesting versus those that were causing violence.
Q: Did you ever, even after the fact, hear about whether there were any disagreements about what the President should say or the President in any way being reluctant to say anything in that video statement?

A: No. I was not privy to any information regarding that, the filming of the video or any remarks leading up to it.

Q: And you don’t know who was with him during the filming?

A: No.

Q: Did you hear anything after the fact, Ms. Matthews, about any disagreement over the words to be used in the video?

A: No.

Q: You described earlier some back and forth about language in a tweet that you got I think from Ms. McEnany. Did you get anything similar, sort of a readout after the fact about how he ultimately arrived at those words versus others?

A: I did not.

Q: Okay. Thanks.

Q: Did you ever hear whether there were multiple takes of the video or if he did it on the first take?

A: I saw that in press reportings, but I was not told, I guess, that day or in the days following about it.

Q: Okay. Did you discuss the press reporting with anybody who would have knowledge as to the accuracy of the press reporting?

A: No.

Okay. I’ll pause. Do any members have any questions?
Q: Ms. Matthews, do you know if there was any editing done to the statement?

A: The video?

Q: The video. Excuse me. Yes, the video.

A: No. I’m not aware.

Q: If any -- is there a place in the White House where videos would be edited, or any person who would be responsible for that?

A: My guess would be the digital team.

Q: Okay. So there’s a digital team separate from your communications team?

A: Correct.

Q: Who was on the digital team that you recall?

A: Well, like, Dan Scavino -- his title obviously was Deputy Chief of Staff for Communications, but he -- you know, his background was from digital, so he did kind of oversee that team. And then they had multiple other people on that team, but I only ever interfaced with -- I believe her name was Kate Carnes (ph).

Q: Okay.

A: I might be getting that last name incorrect or pronouncing it incorrect. It's something like that.

Q: Yeah.

A: But Kate was the only other person from the digital team that I ever really spoke to.

Q: And, generally, what did digital do versus what communications and your team did?

A: Yeah. So they operated the different social media channels. You know, when you would think of Twitter, for example @POTUS, @WhiteHouse, things of that
nature, and they also did, you know, filming of videos that he would do, and things like that.

Q    Got it. So you guys were more sort of focused on traditional media, networks, print journalists, that sort of thing. They were focused more on sort of messaging through social media or audio-visual type stuff --

A    Correct.

Q    -- generally? Okay. And did you hear anything specifically about who filmed that, who edited it, who may have been involved in its production? I'm talking that about the video statement from 4:17 on January 6th.

A    No.

Q    Okay. Thanks.

BY     [Redacted]

Q    If you look at Exhibit --

[Redacted] Mrs. Luria.

[Redacted] Mrs. Luria, do you have questions?

Mrs. Luria. Yes.

I had a question about the synchronization of those two teams, because I would assume you'd have -- you'd want to have a unified message. You know, you're doing some of the traditional coms, and they're doing the digital with their person. Was there a key link between the two teams to make sure that you were communicating the same message?

Ms. Matthews. I don't know if there was a person that I would designate as the key link. I don't think so.

Mrs. Luria. So it was more just informal or, like, watching what each other was doing to make sure you were echoing each other's message?
Ms. Matthews. I think --

Mrs. Luria. There was nothing like between Scavino and McEnany at that level to be on the same page?

Ms. Matthews. Yeah. I think there were -- you know, if there was a rollout for, say, a policy or initiative or an event or something, there would be, you know, meetings prior between the press team, the digital team, the communications team that would take place, and there would be some sort of planning but -- about what the messaging was but not on this day.

Mrs. Luria. Okay. So in a general rapid response type event, which I would assume there were other things that kind of happened rapidly and weren’t planned like a natural disaster, some particular thing that was not planned in the news cycle that you would respond to on the day of in a quick manner, were there communications that happened on this day and how you coordinated inside the White House in between those two teams similar to previous times when something happened, you know, that needed to be responded to immediately, or were they very different? Was this normal, kind of what was happening that day as far as, like, how there was kind of -- it seems to me, and this is my word, no one in charge, no one taking the lead. It was all just kind of trying to pressure one person, the former President, to make a comment?

Ms. Matthews. Yeah. I think that this day seemed a little bit more haphazard than usual in terms of trying to get -- the main focus was trying to get the President to put out, you know, a tweet or a video rather than it being, you know, maybe on a normal day, a typical coordinated effort of, you know, different senior members of the White House, you know, tweeting out things in a unified way, if that makes sense.

Mrs. Luria. Yes. Would you say that’s because those people were not unified, or the message from the top wasn’t clear.
Ms. Matthews. No. I think that the entirety of the focus was just on that the
President needed to be the person out there, that his voice was the only one that
mattered in that moment. That would -- that was my assumption.

Mrs. Luria. Okay. Thank you.


Q If you could look at exhibit 8. These are text messages that you're not on
between Kayleigh McEnany and Jason Miller. It looks like it's just shortly before 4:30
p.m. on the 6th. Jason Miller wrote to Ms. McEnany, "Call me crazy, but ideas for two
tweets from POTUS. First is bad apples, likely antifa or other crazed leftists infiltrated
today's peaceful protest over the fraudulent vote count. Violence is never acceptable,
exclamation point. MAGA supporters embrace our police and the rule of law and should
leave the Capitol now, exclamation point."

Was this idea, whether this text itself or the idea, ever shared with you?

A No.

Q Okay. You did make reference earlier to somebody, possibly Ms. McEnany,
suggesting that antifa could be involved. Did you hear anything about Jason Miller
having suggested antifa could be involved?

A No.

Q And it says here in the last part that I read, it ended with "should leave the
Capitol now, exclamation point."

Did anybody mention to you that Jason Miller was pushing for the President to say
that the -- his supporters should leave the Capitol now?

A No.

Q All right. If you look -- well, actually, let's just continue, then. So after the
statement, you saw the statement. What happened -- the video statement, that is.

What happened next?

A So I watched the video statement with my colleague, Judd Deere, and

was -- I did not think that the video said what it needed to say and was upset by it. And

then I think I just chatted with some colleagues downstairs. I eventually made my way

back.

Q Do you remember which colleagues?

A Judd. Maybe some others.

Q Do you remember what their reactions were to the video?

A Judd seemed to have a similar reaction to me.

Q Okay. Do you remember anybody else's reaction?

A I don't think I asked anyone else their reaction. And then I think I had

popped up between Lower Press and Upper Press a couple times during that period of

time. But I think after the video, I went back up to Upper Press and was there for the

remainder of the day, and then just kind of -- as I mentioned, it was after the video came

out that I felt that I was going to resign, but I didn't communicate that to anyone at the

office.

Q Okay. So what did you do?

A So eventually, someone from Mark Meadows' team, Cassidy Hutchinson,

came over to the press office, Upper Press, and communicated to us that Secret Service

wanted everyone who was non-essential out of the White House before 6 p.m.

Q Okay. What's your understanding as to why?

A I think they were worried about safety concerns.

Q Specific to the White House or just generally? As I understand, the Mayor

issued a curfew at some point.
Yes. So I think just generally they were concerned, and, so, they wanted all non-essential people out, Cassidy communicated that to me. I asked if that included Kayleigh, and she said that she thought that Kayleigh should also go home. And so I had not spoken to Kayleigh since that previous conversation that I highlighted between Chad, myself, and her, but I did pop into her office and -- because she was inside her office with a couple other people. And I popped into her office and relayed the message from Cassidy that had come from the chief, that they wanted to get people out of the complex by that time. And so that was, I think, all that I said, and then I popped back out, gathered my things, tried to collect as many things as I could from my desk because I knew that I would not be returning the next day, and then went home.

Q Okay. Roughly, what time did you go home?

A Maybe 5:30.

Q Okay. And while you were at the White House, did you tell anybody that you were going to resign?

A No, I did not tell anyone at that moment.

Q Okay. If you look at exhibit 8 -- I'm sorry, exhibit 9 --

A Uh-huh.

Q -- there's a tweet from President Trump at 6:01 p.m. on the 6th. He wrote, these are the things and events that happen when a sacred landslide election victory is so unceremoniously and viciously stripped away from the great patriots who have been badly and unfairly treated for so long. Go home with love and in peace. Remember this day forever, exclamation point.

Do you have any knowledge about the preparation of this tweet?

A No.

Q What was your reaction when you saw the tweet?
A Remember this day forever stuck out, and it felt like he was being celebratory about the occasion which bothered me.

Q Okay. And did it impact at all your decision to resign?

A At that point, I had already decided I wanted to resign, but I wanted to talk with my loved ones about my decision before doing so. And so I had already made up my mind, but that further cemented my decision.

Q Okay. And did you talk to Ben Williamson about your decision?

A I did.

Q What did you say to him, and what did he say to you?

A I told him that -- he gave me a ride home that evening from the White House, and he knew I was pretty upset. And I believe -- I can't remember if I now mentioned this in the car or maybe if I -- I gave him a call later that evening, so I'm not sure when I mentioned that I was planning to resign. But if I gave him any sort of heads up, I can't recall. But I did call him that evening once I had, you know, conferred with loved ones about what I was planning to do. And I called him and told him that I was going to be resigning and asked if he could relay that info to Mark Meadows.

Q Okay. And what did he say?

A Just appreciated me giving him a heads up, and it was more just a casual conversation, but I think he was -- he understood my decision is what I gathered.

Q And did you ever talk to Mark Meadows about it?

A I did not.

Q Did you ever talk to Mark Meadows about the events of January 6th?

A No.

Q Okay. And then who else did you tell about your resignation decision?

A I had consulted Alyssa Farah for advice on the matter prior, and she helped
me phrase my actual resignation. It wasn’t a letter; I guess more of a statement. She helped me -- she looked over, read over what I had put together.

And then prior to calling Ben, I believe I called Kayleigh McEnany first, since she was my direct boss and informed her about my decision.

Q   And what was her reaction?
A   It was a short conversation, and she said thank you for letting me know, and she wished me well.

Q   Did you ever talk to the President about your resignation?
A   No.

Q   Have you spoken to President Trump since January 5th, 2021?
A   No.

Q   We've recently learned that Ms. McEnany had a call with President Trump sometime a little after 9 p.m. on the 6th. Did Ms. McEnany ever tell you about that conversation with the President?
A   No. Ms. McEnany and I have not spoken since that phone call when I resigned.

Q   Is that because she was angry at you?
A   I don’t think she was thrilled with my decision.

Q   Did she express that in some way when you had the conversation with her?
A   Just her tone and that it was a short phone call and -- yeah.

Mr. Belovertz. Can I interrupt just a second?

Ms. Matthews. Yes. In addition to that, I did send a text message to her when I saw it was her last day at the White House. It might have been a week or two after the events of the 6th, and just touched base and said, you know, Hey, I saw it was your last day. Hope you get some well-deserved time off and, like, thanks again for this
opportunity at the White House. I'm sorry for the way things ended, and did not receive a response.

Q Okay. And did you have any further texts, emails, any kind of communication with her after that?

A No.

Q So I'll pause here and see. I've sort of gone through, I think -- well, before I go to see if any members have any questions, is there anything else you can recall from January 6th itself?

A No.

Okay. Do any members have questions about January 6th? Okay. Staff?

Ms. Cheney.

Yes.

Ms. Cheney. I want to say one thing. I have to actually jump off, but I want to just make a statement to the witness.

And, Ms. Matthews, I just wanted to thank you. The honor and the integrity that you're showing are impressive and important for the country. And I just wanted to say thank you for being honest and straightforward and, again, just showing such integrity and being here today.

Ms. Matthews. Thank you.

Ms. Cheney. Thank you very much.

BY

Q So, Ms. Matthews, I'm going to now go back in time a little bit. On December 1st, 2020, Attorney General Bill Barr made a statement to the Associated Press, something to the effect of that there was no evidence of widespread fraud
sufficient to overturn the results of the 2020 presidential election.

Were you aware in advance that the Attorney General was going to make a
statement along those lines?

A I don’t know if I was personally aware, but I can’t speak if others in the press
office were tipped off to that. But I -- from what I recall, I think we were generally
surprised by it.

Q Okay.

A We did not anticipate that interview.

Q Do you know whether the President was surprised by it?

A I believe he was.

Q Okay. Do you know anything about what his reaction was?

A No. I did not speak to him on that, but I think I recall hearing that he was
upset.

Q Do you remember where you heard that?

A No.

Q Do you remember if you heard it from the media or somebody on the White
House staff?

A Yeah. It could have been either.

Q And then later that month, meaning December 2020, Attorney General Barr
resigned. I think the effective date was December 23rd. Do you have any information
about why Attorney General Barr resigned?

A No.

Q Do you know what the reaction within the White House was to his
resignation?

A I think there had been assumptions prior to that that he might resign.
Q  Why?

A  I believe there was a meeting where Attorney General Barr came in, and I can't recall when that meeting was, but I remember hearing that it was heated, and that Ben Williamson mentioned to Kayleigh McEnany and I there was a chance that Barr might resign.

Q  Do you know what the heated meeting was about?

A  I think it was about that interview and his statements.

Q  Do you know whether Ben Williamson was in that meeting?

A  I'm not sure. I don't think he was, though. I think he got a readout from it from the Chief of Staff, Mark Meadows.

Q  You've probably seen, at least in the news, about the President having considered replacing Acting Attorney General Jeff Rosen with somebody named Jeff Clark from the Justice Department. Did you hear anything about that other than through the media?

A  No. I didn't hear anything about it.

Q  Okay. Do you have any knowledge regarding the President's meetings with an attorney and law professor named John Eastman?

A  No. I have no knowledge of it. I knew from, I think, media reports that those -- that that man was meeting with the President, but I don't know anything the details of those meetings or when or what was said.

Q  So it's been reported that Dr. Eastman advised the President and the vice president that the vice president had the authority either to reject electors from certain contested States, or to postpone the joint session of Congress and send the issue back to the States.

A  Uh-huh.
Q. Do you know whether the White House counsel's office had any opinion on that?

A. I can't recall, but now that you mention that, it -- I remember hearing that that was the advice that he was giving. And I -- but I kind of -- I think I recall that there was some sort of consensus in the White House that that wouldn't be possible.

Q. Okay. Do you know who had the view that it was not possible?

A. I think counsel's office.

Q. Do you remember where you heard that?

A. Potentially from Kayleigh.

Q. Do you know whether Mark Meadows had a view as to what the Vice President could or could not do about the election results?

A. No.

Q. Do you have any knowledge regarding efforts in seven States to get Trump electors to meet and certify themselves as an alternate slate of electors to the ones certified by the governors?

A. No. I have no knowledge in the planning of that.

Q. Do you know, did the President carry a cell phone?

A. I'm not sure.

Q. Do you know -- obviously, he tweeted, and I earlier conflated tweeting and texts, so I know he tweeted, and we've talked about that. Do you know whether he also sent or received text messages?

A. No, I don't.

Q. Do you know whether he ever used email?

A. I don't.

Q. So we talked a little bit about Dan Scavino's role in the digital team in terms
of, you know, sending out messages, but do you know what they did in terms of following
what was going on on social media?

A   I'm not sure what their procedures were.

Okay. I think that's all I have. Do any members have any other
questions?

I have a couple things,

Okay.

Q  To go back, Ms. Matthews, to the circumstances of your resignation
statement, what was your plan for releasing, or not releasing the statement that you
worked on with Ms. Farah and ultimately released about YOUR resignation?

A   Yeah. So like I mentioned, I wanted to talk to my loved ones about my
decision before ultimately going through with it, because I knew that as a spokesperson
for the President that I would probably -- all the reporters have my phone number, so
they can bombard me with requests. And so I wanted to have a pre-prepared
statement of what led me to make that decision.

And so, yes, after then talking with my loved ones, getting advice from Alyssa
about the phrasing of the statement, I ultimately decided on a reporter that I trusted
to -- and after I made my phone calls as well to Kayleigh and Ben, I decided on a reporter
who I trusted, and that I had a good relationship with to give him my statement. So that
way, it would speak for itself, and I wouldn't have to engage with any reporters, and so I
shared the statement with John Roberts of Fox News.

Q  And was that intended to be the one and only thing that you would say
about your resignation?

A   Yes.
Q  By giving a statement to Fox through Mr. Roberts, that would then be -- you could point to that, or that would be the words to which you'd refer other questions?
A  Exactly.
Q  There are a couple words in the statement itself that I just wanted to ask you about.  You say -- I think you might have it.
A  Yeah.  What number is it?
Q  I think it's exhibit 10 --
A  Okay.  Thank you.
Q  -- if you could turn to that.
A  Okay.
Q  You say, "I was deeply disturbed by what I saw today."
Why was it important to you, Ms. Matthews, to put your personal feelings of being disturbed about the events at the Capitol in your resignation statement?
A  Because, you know, as someone who had worked for Congress, started out my career there, you know, I look at the Capitol as a sacred place.  And so to watch it be under attack, to know I had friends in that building, it deeply disturbed me, and -- yeah.  So I would say that's why I mentioned that in my statement.
Q  Yeah.  You actually referenced it as someone who worked in the Halls of Congress, I was deeply disturbed.  So I see you actually, that's all one sentence, connect your prior service to being deeply disturbed.
A  Uh-huh.
Q  You also say, "Our Nation needs a peaceful transfer of power."
That's the last line of your statement.  Tell us more why you felt like it was important to use those words, peaceful transfer of power, or make that part of your statement.
A  Yes. Because I felt like what had unfolded that day, you know, was an
attack on our democracy, and I felt that in my resignation statement, I wanted to make
clear that I felt that we needed to have that peaceful transfer of power and that the
President should -- President Trump needed to do so.
Q  Is it fair to say -- or, actually, what time, do you remember, that you gave
this to John Roberts?
A  It might have been around 8 p.m.
Q  Okay. So it was right around the time that Congress was reconvening after
the riot had been suppressed?
A  I'm not sure when they reconvened, but it sounds about right.
Q  They reconvened at 8.
A  Okay.
Q  So it was around that time?
A  Yeah.
Q  Okay. And, also, fair to say that the President hadn't issued any sort of
statement using those words, peaceful transfer of power --
A  No.
Q  -- before you did?
A  No.
Q  Okay. And was it -- I don't want to put words in your mouth, but were you
essentially saying things that you thought he should say or should have said in your
resignation statement?
A  Yes.
Q  Over the course of the day, when you were talking with Ben and with Ms.
McEnany about encouraging the President to say things, did you talk about others who
might be helpful, other people that might have his ear or who he would listen -- he, the
President, would listen to?

A No.

Q Was there ever any reference to his family, for instance, his daughter or his
sons as some people that could get through to him or help the effort in which you were
engaged?

A No.

Q Were there ever any discussions of people that were on the other side or
people that might be telling him inconsistent advice to that which you and
Mr. Williamson were encouraging your bosses to give him?

A Not that I was aware of.

Q Okay. I'm just trying to get a sense of your personal knowledge that day
about who you thought beyond you might be involved in influencing him and on what
side.

A Yeah. The only people that I knew that were directly, I guess, giving him
advice, directly to the President, were the ones that Kayleigh had mentioned that were in
there when she went in there which was Mark Meadows, Ivanka Trump, and Kayleigh
McEnany.

Q Okay.

A But I'm not aware of who else was in there and who also may have been
conveying a similar sentiment.

Q I see. Okay. That's all I have. Thank you.

[Redacted] Does anybody else have anything?

BY [Redacted]

Q Okay. So I'll just ask one last question. Is there anything else that you can
think of that the committee should know? You have a sense of the kinds of things that we’re interested in. Is there anything that we have not asked about that you think we should?

A: There was some sort of conversation that I can’t remember the details of, but I remember Kayleigh and Mark Meadows talking about the National Guard. And I believe Kayleigh tweeted something out from her @presssec Twitter account, and I know they had some sort of conversation about the calling of the National Guard. I’m not really sure of the details of it, but that’s something else that I think is relevant, but I don’t have that much insight into it. I just know that that -- there was a conversation that took place that led her to tweet something about the National Guard.

Q: Do you know whether there was any kind of dispute or disagreement about whether the National Guard should be deployed?

A: I think there was more confusion about what was happening with the National Guard than anything.

Q: As to whether it had already been deployed or whether they were on their way as opposed -- rather than whether they should be called?

A: Something like that, yes.

Q: Okay.

A: But that’s the only other thing that I can think of.

Q: Okay. Great.

And that took place on January 6th itself?

Ms. Matthews: Correct. Okay.

Great. Thank you very much for your time. The committee greatly appreciates your cooperation, and with that, we will go off the record.

[Whereupon, at 12:48 p.m., the interview was concluded.]
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.

________________________
Witness Name

________________________
Date