

January 6th Committee Hearing #5: June 23, 2022

BENNIE THOMPSON: The Select Committee to investigate the January 6th attack on the United States Capitol will be in order. Without objection, the chair is authorized to declare the committee in recess at any point. Pursuant to House Deposition Authority Regulation 10, the chair announces the committee's approval to release the deposition material presented during today's hearing.

Good afternoon. In our previous hearings, the Select Committee showed that then President Trump applied pressure at every level of government, from local election workers up to his own vice president, hoping public servants would give in to that pressure and help him steal an election he actually lost. Today we'll tell the story of how the pressure campaign also targeted the federal agency charged with enforcement of our laws, the Department of Justice.

We already covered part of Mr. Trump's effort. We heard from Attorney General Bill Barr tell the story in the committee about the baseless claims Mr. Trump wanted the Justice Department to investigate, and that Mr. Barr viewed those claims as nonsense. Today we'll hear from Jeffrey Rosen, the person Mr. Trump appointed to run the Justice Department after Attorney General Barr resigned.

We'll hear from other senior Justice Department officials also. Together, these public servants resisted Mr. Trump's effort to misuse the Justice Department as part of his plan to hold on to power, and we will show that Trump's demands that the department investigate baseless claims of election fraud continued into January 2021. But Donald Trump didn't just want the Justice Department to investigate.

He wanted the Justice Department to help legitimize his lies, to basically call the election corrupt, to appoint a special counsel to investigate alleged election fraud, to send a letter to six state legislatures urging them to consider altering the election results. And when these and other efforts failed, Donald Trump sought to replace Mr. Rosen, the acting attorney general, with a lawyer who he believed would inappropriately put the full weight of the Justice Department behind the effort to overturn the election.

Let's think about what that means. Wherever you live in the United States, there's probably a local government executive, a mayor, or a county commissioner. There's also an official responsible for enforcing the laws, a district attorney, or local prosecutor. Imagine if your mayor lost a reelection bid, but instead of conceding the race, they picked up the phone, called the district attorney, and said I want you to say this election was stolen.

I want you to tell the Board of Elections not to certify the results. That's essentially what Donald Trump was trying to do with the election for president of the United States. It was a brazen attempt to use the Justice Department to advance the president's personal political agenda. Today my colleague from Illinois, Mr. Kinzinger, and other witnesses will walk through the Select Committees findings on these matters.

But first, I recognize our distinguished vice chair, Ms. Cheney, of Wyoming for any opening statement she'd care to offer.

LIZ CHENEY: Thank you very much, Mr. Chairman. At this point, our committee has just begun to show America the evidence that we have gathered. There is much more to come, both in our hearings and in our report, but I'd like to take just a moment to put everything we've seen in context. We have already seen how President Trump falsely declared victory on November 3rd, 2020, how he and his team launched a fraudulent media campaign that persuaded tens of millions of Americans that the election was stolen from him.

Donald Trump intentionally ran false ads on television and social media featuring allegations that his advisers and his Justice Department repeatedly told him were untrue. We have also seen how Donald Trump launched a fraudulent fundraising campaign that raised hundreds of millions of dollars, again based on those same false election fraud allegations.

We have seen how President Trump and his allies corruptly attempted to pressure Vice President Pence to refuse to count lawful electoral votes and obstruct Congress's proceedings on January 6th, and how he provoked a violent mob to pursue the vice president and others in our Capitol. We've seen how the president oversaw and personally participated in an effort in multiple states to vilify, threaten, and pressure election officials, and to use false allegations to pressure state legislators to change the outcome of the election.

We've seen how President Trump worked with and directed the Republican National Committee and others to organize an effort to create fake electoral slates and later to transmit those materially false documents to federal officials, again as part of his planning for January 6th. We have seen how President Trump persuaded tens of thousands of his supporters to travel to Washington DC for January 6th. And we will see in far more detail how the president's rally and march to the Capitol were organized and choreographed.

As you can tell, these efforts were not some minor or ad hoc enterprise concocted overnight. Each required planning and coordination. Some required significant funding. All of them were overseen by President Trump, and much more information will be presented soon regarding the president's statements and actions on January 6th. Today, as Chairman Thompson indicated, we turn to yet another element of the president's effort to overturn the 2020 election, this one involving the Department of Justice.

A key focus of our hearing today will be a draft letter that our witnesses here today refused to sign. This letter was written by Mr. Jeff Clark with another Department of Justice lawyer, Ken Klukowski, and the letter was to be sent to the leadership of the Georgia state legislature. Other versions of the letter were intended for other states.

Neither Mr. Clark nor Mr. Klukowski had any evidence of widespread election fraud, but they were quite aware of what Mr. Trump wanted the department to do. Jeff Clark met privately with President Trump and others in the White House and agreed to assist the president without telling the senior leadership of the department who oversaw him.

As you will see, this letter claims that the US Department of Justice's investigations have "Identified significant concerns that may have impacted the outcome of the election in multiple states, including the state of Georgia." In fact, Donald Trump knew this was a lie. The Department of Justice had already informed the president of the United States repeatedly that its investigations had found no fraud sufficient to overturn the results of the 2020 election.

The letter also said this. "In light of these developments, the department recommends that the Georgia General Assembly should convene in special session," and consider approving a new slate of electors. And it indicates that a separate "fake" slate of electors supporting Donald Trump has already been transmitted to Washington DC. For those of you who have been watching these hearings, the language of this draft Justice Department letter will sound very familiar.

The text is similar to what we have seen from John Eastman and Rudy Giuliani, both of whom were coordinating with President Trump to overturn the 2020 election. When one of our witnesses today, Mr. Donoghue, first saw this draft letter, he wrote this. "This would be a grave step for the department to take, and it could have tremendous constitutional, political, and social ramifications for the country." This committee agrees.

Had this letter been released on official Department of Justice letterhead, it would have falsely informed all Americans, including those who might be inclined to come to Washington on January 6th, that President Trump's election fraud allegations were likely very real. Here is another observation about this letter.

Look at the signature line. It was written by Jeff Clarke and Mr. Klukowski, not just for Clark's signature but also for our witnesses today, Jeff Rosen and Richard Donoghue. When it became clear that neither Mr. Rosen nor Mr. Donoghue would sign this letter, President Trump's plan necessarily changed. As you will hear today, Donald Trump offered Mr. Clark the job of acting attorney general, replacing Mr. Rosen, with the understanding that Clark would send this letter to Georgia and other states and take other actions the president requested.

One other point, millions of Americans have seen the testimony of Attorney General Barr before this committee. At one point in his deposition, the former attorney general was asked why he authorized the Department of Justice to investigate fraud in the 2020 election at all. Why not just follow the regular course of action and let the investigations occur much later in time, after January 6th? Here's what he said. [Begin videotape]

WILLIAM BARR: I felt the responsible thing to do was to be — to be in a position to have a view as to whether or not there was fraud. And frankly, I think the fact that I put myself in the position that I could say that we had looked at this and didn't think there was fraud was really important to moving things forward.

And I — I sort of shudder to think what the situation would have been if the — if the position of the department was we're not even looking at this until after Biden's in office. I'm not sure we would have had a transition at all. [End videotape]

LIZ CHENEY: I want to thank each of our witnesses before us today for your role in addressing and rebutting the false allegations of fraud at the root of January 6th, and thank you for standing up for the Constitution and for the rule of law. Of course, not all public officials behaved in the honorable way our witnesses did.

At the close of today's hearing, we will see video testimony by three members of Donald Trump's White House staff. They will identify certain of the members of Congress who contacted the White House after January 6th to seek presidential pardons for their conduct. Thank you, Mr. Chairman. I yield back.

BENNIE THOMPSON: Without objection, the chair recognizes the gentleman from Illinois, Mr. Kinzinger, for an opening statement.

ADAM KINZINGER: Thank you. Thank you, Mr. Chairman, and thank you to our witnesses for being here. I'd like to start with a personal story. So, in May of 2009, I returned from service in Iraq and I announced my intention to run for Congress. A big reason I decided to run for Congress was my motivation to ensure freedom and democracy were defended overseas.

I remember making a commitment, out loud a few times and in my heart repeatedly even to today, that if we are going to ask Americans to be willing to die in service to our country, we as leaders must at least be willing to sacrifice our political careers when integrity and our oath requires it. After all, losing a job is nothing compared to losing your life.

Within the halls of power, in the face of a president, that commitment can easily be forgotten. Presidential pressure can be really hard to resist. Today we'll focus on a few officials who stood firm against President Trump's political pressure campaign. When the president tried to misuse

the department and install a loyalist at its helm, these brave officials refused and threatened to resign.

They were willing to sacrifice their careers for the good of our country. The Department of Justice is unique in the executive branch. The president oversees the Department of Justice, yet the president's personal or partisan interests must not shape or dictate the department's actions. The president cannot and must not use the department to serve his own personal interest, and he must not use its people to do his political bidding, especially when what he wants them to do is to subvert democracy.

The president cannot pervert justice nor the law to maintain his power. Justice must, both in fact and law, be blind. That is critical to our whole system of self-governance. During this hearing, you'll hear time and time again about the president's request to investigate claims of widespread fraud. Our witnesses, Mr. Rosen, Mr. Donoghue, and Mr. Engle, stood firm in the face of overbearing political pressure because they understood that their oath was to the Constitution and not to the personal or political interest of the president.

The president and his allies became keenly aware that, with legal challenges exhausted and electoral votes certified, their only hope would be a last ditch scheme to prevent Congress from certifying the win, thus throwing the entire system into constitutional chaos. The president wanted the department to sow doubt in the legitimacy of the election, to empower his followers and members of Congress to take action.

If the Department could just lend its credibility to the conspiracies, people would have the justification they needed to spread the big lie. So, President Trump ultimately wanted the Department of Justice to say the election was "corrupt" and "leave the rest to me and the Republican Congressmen." As you will hear today, the department's top leadership refused.

Not surprisingly, President Trump didn't take no for an answer. He didn't accept it from Attorney General Barr and he wouldn't accept it from Mr. Rosen either, so he looked for another attorney general, his third in two weeks. He needed to find someone who was willing to ignore the facts. That is not the norm.

Let's look at what attorneys general, Democrats and Republicans alike, have said about upholding their oath to the Constitution. [Begin videotape]

JEFF SESSIONS: Attorney general ultimately owes his loyalty to the integrity of the American people and to the fidelity to the Constitution and the legitimate laws of the country. That's what he's ultimately required to do.

ERIC HOLDER: I will be an independent attorney general. I will be the people's lawyer. If, however, there were an issue that I thought were that significant that would compromise my ability to serve as attorney general in the way that I have described it, as the people's lawyer, I would not hesitate to resign.

MICHAEL MUKASEY: As you and I discussed, if the president proposed to undertake a course of conduct that was in violation of the Constitution, that would present me with a — a difficult but not a complex problem. I would have two choices. I could either try to talk him out of it or leave. Those other choices.

LORETTA LYNCH: The attorney general's position as a cabinet member is perhaps unique from all of the cabinet members. Yes, a member of the president's cabinet, but the attorney general has a unique responsibility to provide independent and objective advice to the president or any agency when it is sought, and sometimes perhaps even when it is not sought. [End videotape]

ADAM KINZINGER: Everyone in that video, from Eric Holder to Jeff Sessions, spoke as one about the independence of the department. It's a point of pride at Justice to apply the law without the president's political self-interest tainting its actions or dictating how it uses its authorities. But President Trump did find one candidate at Justice who seemed willing to do anything to help him stay in power.

Let's hear what President Trump's own lawyer, Eric Herschmann, had to say about Jeff Clark's plan to overturn the election. I'd like to advise viewers this video contains some strong language. [Begin videotape]

ERIC HERSCHMANN: And when he finished discussing what he planned on doing, I said good fucking — excuse me, sorry — effing A-hole, congratulations. You just admitted your first step or act you take as attorney general would be committing a felony and violating Rule 6E. You're clearly the right candidate for this job. [End videotape]

ADAM KINZINGER: So, who's Jeff Clarke? An environmental lawyer with no experience relevant to leading the entire Department of Justice? What was his only qualification? That he would do whatever the president wanted him to do, including overthrowing a free and a fair democratic election. President Trump's campaign to bend the Justice Department to his political will culminated in a showdown on January 3rd. Today we will take you inside that early evening Oval Office meeting, where top Justice Department officials met with the president.

At stake, the leadership and integrity of the Department of Justice. [Begin videotape]

RICHARD DONOGHUE: The meeting took about another two and a half hours from the time I entered. It was entirely focused on whether there should be a DOJ leadership change. I was sitting directly in front of the president. Jeff Rosen was to my right. Jeff Clark was to my left.

JEFFERY ROSEN: He looked at me, and I underscored, well, the one thing we know is you're not going to do anything. You don't even agree that the concerns that are being presented are — are valid. And you're someone who has — has a different view. So, why shouldn't I do that? You know, that's how the discussion then proceeded.

ERIC HERSCHMANN: Jeff Clark was proposing that Jeff Rosen be replaced by Jeff Clark. And I thought the proposal was asinine.

UNKNOWN: What were Clark's purported bases for why it was in the President's interest for him to step in? And what would he do? What would — would things change according to Mr. Clark in the meeting?

RICHARD DONOGHUE: He repeatedly said to the President that if he was put in the seat, he would conduct real investigations that would in his view uncover widespread fraud. He would send out the letter that he had drafted and that this was a last opportunity to sort of set things straight with this defective election and that he could do it. And he had the intelligence and the will and the desire to pursue these matters in the way that the President thought most appropriate.

ERIC HERSCHMANN: And he was making a pitch. And every time he'd get clobbered over the head, he would like say like, you know, he would call to order, you know the President, your decision, you get a chance to make this decision. And you know, you've heard everybody and you can make your determination. And then we jump back in. And no, no, they clobber him.

RICHARD DONOGHUE: I made the point that Jeff Clark is not even competent to serve as the Attorney General. He's never been a criminal attorney. He's never conducted a criminal investigation in his life. He's never been in front of a jury, much less a trial jury. And he kind of retorted by saying, well, I've done a lot of very complicated appeals in civil litigation, environmental litigation, and things like that.

And I said, that's right. You're an environmental lawyer, how about you go back to your office and we'll call you when there's an oil spill. And Pat Cipollone weighed in at one point. I remember saying, you know, that letter that this guy wants to send, that letter is a murder suicide pact. It's going to damage everyone who touches it. And we should have nothing to do with that letter.

I don't ever want to see that letter again. And so we went along those lines.

ERIC HERSCHMANN: I thought Jeff's proposal — Clark's proposal was nuts. I mean this guy, at a certain point, listen, the best I can tell is the only thing you know about environmental and elections challenges is they both start with E. And based on your answers tonight, I'm not even certain you know that.

RICHARD DONOGHUE: The President said, suppose I do this. Suppose I replace him, Jeff Rosen with him, Jeff Clark. What do you do? [End Videotape]

ADAM KINZINGER: Well, we know these men before us did the right thing, but think about what happens if these justice officials make a different decision. What happens if they bow to the pressure? What would that do to us as a democracy as a nation? Imagine a future where the President could screen applicants to the Justice Department with one question, are you loyal to me or to the Constitution?

And it wouldn't take long to find people willing to pledge their loyalty to the man. We know many of President Trump's vocal supporters on January 6th, also wanted the Justice Department to do whatever he asked as long as it meant he could stay in power. They made sure Justice Department officials heard his message as they protested loudly in front of the department on their way to the Capitol on January 6th. [Begin Videotape]

UNKNOWN: Do your job! Live in DC, we're marching to the Capitol. We are at the Department of Justice right now telling these powers to do their job! We're going to check the Capitol. [End Videotape]

ADAM KINZINGER: I want to take a moment now to speak directly to my fellow Republicans. Imagine the country's top prosecutor with the power to open investigations, subpoena, charge crimes, and seek imprisonment. Imagine that official pursuing the agenda of the other party instead of that of the American people as a whole.

And if you're a Democrat, imagine it the other way around. Today, President Trump's total disregard for the Constitution and his oath will be fully exposed. Now, let's get this hearing underway so we can do our part to protect the freedoms that we often take for granted, so that we can see how close we came to losing it all.

I now yield back to the Chairman.

BENNIE THOMPSON: We're joined today by three distinguished witnesses who each served in the Trump administration in the months preceding January 6th. Mr. Jeffrey Rosen served at the Department of Justice from May 2019 until January 2021. With President Trump's nomination and the confirmation of the United States Senate, he became the United States deputy attorney general.

In December 2020, he took the mantle of acting attorney general. Mr. Richard Donoghue has served in the Department of Justice for over 14 years. Mr. Donoghue was a United States attorney for the Eastern District of New York, then became Mr. Rosen's principal associate deputy attorney general and finally acting deputy attorney general.

Mr. Donoghue also served more than 20 years in the United States military, including the 82nd Airborne and the Judge Advocate General Corps. We are also joined by Mr. Steven Engel, the former assistant attorney general for the Office of Legal Counsel. He was nominated by the former President and confirmed by the Senate during the Trump administration.

He served from November 2017 to January 2021 and has now returned to private practice. I will now swear in our witnesses. The witnesses will please stand and raise their right hands. Do you swear on form [ph] on the penalty of perjury that the testimony you're about to give is the truth, the whole truth, and nothing but the truth.

So help you God.

UNKNOWN: [off-mic]

BENNIE THOMPSON: Thank you. You may be seated. Let the record reflect the witnesses all answered in the affirmative. I now recognize myself questions. First of all, gentlemen, thank you for being here today. All of you served at former Presidents Trump's pleasure at the Department of Justice and top leadership positions with tremendous responsibilities.

Former Attorney General Bill Barr told the select committee that before he left the department in December 2020, he told President Trump on at least three occasions there was no evidence of widespread election fraud that would have changed the results of the Presidential election and refuted numerous specific claims of election fraud the President was making.

Mr. Rosen, after Mr. Barr announced his resignation, did Donald Trump continued to demand that the Department of Justice investigate his claims of election fraud?

JEFFREY A. ROSEN: Yes, he — he asserted that he thought the Justice Department had not done enough.

BENNIE THOMPSON: Thank you. From the time you took over from Attorney General Barr until January 3rd, how often did President Trump contact you or the department to push allegations of election fraud?

JEFFREY A. ROSEN: So between December 23rd and January 3rd, the President either called me or met with me virtually every day with one or two exceptions like Christmas Day. And before that because I had been announced that I would become the acting attorney general before

the date I actually did, the President had asked that Rich Donoghue and I go over and meet with him I believe on December 15th as well.

BENNIE THOMPSON: So after you had some of these meetings and conversations with the President, what things did the President raise with you?

JEFFREY A. ROSEN: So — so the common element of all of this was the President expressing his dissatisfaction that the Justice Department in his view had not done enough to investigate election fraud, but at different junctures other topics came up at different intervals. So at one point he had raised the question of having a special counsel for election fraud.

At a number of points, he raised requests that I meet with his campaign counsel, Mr. Giuliani. At one point, he raised the — whether the Justice Department would file a lawsuit in the Supreme Court. At a couple of junctures, there were questions about making public statements or about holding a press conference.

At one of the later junctures was this issue of sending a letter to state legislatures in Georgia or other states. And so there were different things raised at different parts or different intervals with the common theme being his dissatisfaction about what the Justice Department had done to investigate election fraud.

I will say that the Justice Department declined all of those requests that I was just referencing because we did not think that they were appropriate based on the facts and the law as we understood them.

BENNIE THOMPSON: Thank you. So, Mr. Donoghue, on December 15th, the day after Attorney General Barr announced his resignation, the President summoned you and Mr. Rosen to the White House. At this meeting with the President, what did he want to discuss?

RICHARD DONOGHUE: There were a number of topics of discussion that day, Mr. Chairman. Much of the conversation focused on a report that had been recently released relating to Antrim County in Michigan. I believe on December 13th, an organization called the Allied Security Group issued a report that alleged that the Dominion voting machines in that county had a 68 percent error rate.

The report was widely covered in the media. We were aware of it. We obtained a copy of it on the 14th of December, the day prior. We circulated to the US attorneys in Michigan for their awareness. And we had a number of discussions internally. But the conversation with the President on that day, the 15th, was largely focused on that.

And he was essentially saying, have you seen this report? He was adamant that the report must be accurate, that it proved that the election was defective, that he in fact won the election, and the

department should be using that report to basically tell the American people that the results were not trustworthy.

And he went on to other theories as well, but the bulk of that conversation on December 15th focused on Antrim County, Michigan. And you saw the report.

BENNIE THOMPSON: Thank you. Mr. Engel, we know that Attorney General Barr announced on December 1st, 2020 that the Department of Justice had found no evidence of widespread fraud that could have changed the outcome of the election. So from December 1st, 2020 until today as you sit here, have you ever doubted that top line conclusion?

STEVEN ENGEL: No, I've never had any reason to doubt Attorney General Barr's conclusion.

BENNIE THOMPSON: Thank you. Pursuant to Section 5c8 of House Resolution 503, the Chair now recognizes the gentleman from Illinois, Mr. Kinzinger, for questions.

ADAM KINZINGER: Thank you, Mr. Chairman. In the weeks leading to January 6th, the Department of Justice was fielding almost daily requests from the President to investigate claims of election fraud. Each claim was refuted time and time again, an effort Attorney General Barr described as whack a mole. When each of the President's efforts failed, he resorted to installing a new attorney general to say the election was illegal and corrupt simply so he could stay in power.

President Trump started leaning on the Justice Department the first chance he got. On November 29th, his first television interview after the election. [Begin Videotape]

UNKNOWN: Where is the DOJ and the FBI in all of this, Mr. President? You have laid out some serious charges here. Shouldn't this be something that the FBI is investigating?

DONALD TRUMP: Missing in action.

UNKNOWN: Are they? Is the DOJ investigating?

DONALD TRUMP: Missing in action. Can't tell you where they are. [End Videotape]

ADAM KINZINGER: Republican Congressman echoed the President just two days later. They wrote a letter to Attorney General Barr laying into the Justice Department for a, quote, "shocking lack of action" in investigating the claims of election fraud. That same day Attorney General Barr stated publicly that President Trump's claims had no merit.

Ignoring the top law enforcement officer in the country, Republican Congressman amplified the stolen election message to the American public. Let's listen. [Begin Videotape]

LOUIE GOHMERT: And so there's widespread evidence of fraud cause people haven't done their jobs. Durham and Barr will deserve a big notation in history when it's written of the rise and fall of the United States. If they don't clean up this mess, clean up the fraud, do your jobs, and save this little experiment in self- government.

ANDY BIGGS: Again, I join my colleagues in calling on Attorney General Bill Barr to immediately let us know what he's doing.

PAUL GOSAR: We're already working on and challenging the certified electors. And then what about the courts? How pathetic are the courts?

MATT GAETZ: January 6th, I'm joining with the fighters in the Congress. And we are going to object to electors from states that did run clean elections. [Applause] Democracy is left undefended if we accept the result of a stolen election without fighting with every bit of vigor we can muster.

JIM JORDAN: The ultimate date of significance is January six. This is how the process works. The ultimate arbiter here, the ultimate check and balance is the United States Congress. And when something is done in an unconstitutional fashion, which happened in several of these states, we have a duty to step forward and have this debate and have this vote on the 6th of January.

MO BROOKS: Today is the day American patriots start taking down names and kicking ass. [End Videotape]

ADAM KINZINGER: Mr. Donoghue, on December 27th you had a 90 minute conversation with the President where he raised false claim after false claim with you and Mr. Rosen. How did you respond to what you called a quote, "Stream of allegations?"

RICHARD DONOGHUE: The December 27th conversation was in my mind an escalation of the earlier conversations. As the former acting AG indicated, there were a lot of communications that preceded that. As we got later in the month of December, the President's entreaties became more urgent. He became more adamant that we weren't doing our job.

We need to step up and do our job. And he had this arsenal of allegations that he wanted to — to rely on. And so I felt in that conversation that it was incumbent on — on me to make it very clear to the President what our investigations had revealed, and that we had concluded based on actual investigations, actual witness interviews, actual reviews of documents that these allegations simply had no merit.

And I wanted to try to cut through the noise. Because it was clear to us that there were a lot of people whispering in his ear, feeding him these conspiracy theories and allegations. And I felt

that being very blunt in that conversation might help make it clear to the President these allegations were simply not true.

And so as he went through them and what for me was a 90 minute conversation or so, what for the former A — Acting AG was a two hour conversation. As the President went through them I went piece by piece to say no, that's false. That is not true. And to correct him really in — in a serial fashion as he moved from one theory to another.

ADAM KINZINGER: Can you give me an example of one or two of those theories?

RICHARD DONOGHUE: So, one that was very clear at that point was the Antrim County — the ASOG report that I mentioned earlier. Allied Security Operations Group released this report that said 60 percent error rate. There was in fact in Antrim County a hand recount. Had nothing to do with the Department. The Department did not request that.

That was pursuant to litigation brought by other parties, but there was a hand recount. So they were able to compare the hand recount to what the machines had reported. And for the ballots that were actually counted by machine, more than 15,000, there was one error, one ballot. And I did a quick calculation and came up with .0063 percent error rate, which is well within tolerance.

And so I made it very clear to the President because he was so fixated on the ASOG report in the December 15th conversation that in fact our investigation revealed that the error rate was .0063 percent. So that, Mr. President, an example of what people are telling you that is not true, and that you cannot and should not be relying on. So that was one very explicit one.

And I think you see that reflected in my notes. We went through a series of others. The truck driver who claimed to have moved an entire tractor trailer of ballots from New York to Pennsylvania. That was also incorrect. We did an investigation where the FBI interviewed witnesses at the front end and the back end of that — that trailer's transit from New York to Pennsylvania.

We looked at loading manifests. We interviewed witnesses including of course the driver, and we knew it wasn't true. Whether the driver believed it or not was never clear to me, but it was just not true. So that was another one that I tried to educate the President on. There were a series of others mostly in swing states of course.

He wanted to talk a great deal about Georgia, the State Farm Arena video which he believed for various reasons was as he said it — fraud staring you right in the face.

ADAM KINZINGER: Were any of the allegations he brought up found credible? Did you find any of them credible?

RICHARD DONOGHUE: No.

ADAM KINZINGER: So during this conversation, did — did you take handwritten notes directly quoting the President?

RICHARD DONOGHUE: I did. And to make it clear, Attorney General Rosen called me on my government cell phone, said he'd been on the phone with the President for some time. The President had a lot of these allegations. I was better versed in what the Department had done just cause I had closer contact with the investigations.

And the AG asked me to go on the call. Of course I agreed. And I began taking notes only because at the outset the President made an allegation I had not heard. I had heard many of these things. I knew many of them were investigated. But when the President — at least when I came to the conversation when he began speaking, he brought up an allegation I was completely unaware of. And of course that concerned us. So I simply reached out and grabbed a notepad off my wife's nightstand and a pen and I started jotting it down.

That had to do with an allegation that more than 200,000 votes were certified in the state of Pennsylvania that were not actually cast. Sometimes the President would say it was 205, sometimes he would say it was 250. But I had not heard this before and I wanted to get the allegation down clearly so that we can look into it if appropriate.

And that's why I started taking those notes. And then as the conversation continued, I just continued to take the notes.

ADAM KINZINGER: Let's take a look at the notes if we could right now. As we can see on the screen, you actually quote President Trump asking where is DOJ just like we heard him say in his first television interview. How did you respond to that?

RICHARD DONOGHUE: So both the Acting AG and I tried to explain to the President on this occasion and on several other occasions that the Justice Department has a very important, very specific, but very limited role in these elections. States run their elections. We are not quality control for the states. We are obviously interested in and have a mission that relates to criminal conduct in relation to federal elections.

We also have related civil rights responsibilities. So we do have an important role. But the bottom line was if a state ran their election in such a way that it was defective, that is to the state or Congress to correct. It is not for the Justice Department to step in. And I certainly understood the President as a layman not understanding why the Justice Department didn't have at least a civil role to step in and bring suit on behalf of the American people.

We tried to explain that to him. The American people do not constitute the client for the United States Justice Department. The one and only client of the United States Justice Department is the United States government. And the United States government does not have standing as we were repeatedly told by our internal teams, OLC led by Steve Engle, as well as the Office of the Solicitor General researched it and gave us thorough clear opinions that we simply did not have standing.

And we tried to explain that to the President on numerous occasions.

ADAM KINZINGER: Let's take a look at another one of your notes. You also noted that Mr. Rosen said to Mr. Trump quote, "DOJ can't and won't snap its fingers and change the outcome of the election." How — how did the President respond to that, Sir?

RICHARD DONOGHUE: He responded very quickly and said essentially that's not what I'm asking you to do. What I'm just asking you to do is to say it was corrupt and leave the rest to me and the Republican Congressmen.

ADAM KINZINGER: So let's now put up the notes where you — where you quote the President as you're speaking to that. He said the President — the President said just say the election was corrupt and leave the rest to me and the Republican Congressmen. So Mr. Donoghue, that's a direct quote from President Trump, correct?

RICHARD DONOGHUE: That's an exact quote from the President, yes.

ADAM KINZINGER: The next note shows that even the — even the — that the President kept pressing. Even though he had been told that there was no evidence of fraud, did the President keep saying that the department was quote, "Obligated to tell people that this was an illegal corrupt election."

RICHARD DONOGHUE: That's also an exact quote from the President. Yes.

ADAM KINZINGER: Let me just be clear. Did the Department find any evidence to conclude that there was anything illegal or corrupt about the 2020 election?

RICHARD DONOGHUE: There were isolated instances of fraud. None of them came close to calling into question the outcome of the election in any individual state.

ADAM KINZINGER: And how would you describe the President's demeanor during that call?

RICHARD DONOGHUE: He was more agitated than he was on December 15th. The — the President throughout all of these meetings and telephone conversations was adamant that he had

won and that we were not doing our job. But it did escalate over time until ultimately the — the meeting on January 3rd, which was sort of the most extreme of the meetings and conversations.

ADAM KINZINGER: So I want to make sure we don't gloss this over. Just say it was corrupt and leave the rest to us. The President wanted the top Justice Department officials to declare that the election was corrupt even though as he knew there was absolutely no evidence to support that statement. The President didn't care about actually investigating the facts.

He just wanted the Department of Justice to put its stamp of approval on the lies. Who was going to help him? Well, Jeff Clark. Mr. Rosen on Christmas Eve, your first official day as the Acting Attorney General, President Trump called you. What did he want to talk about?

JEFFREY A. ROSEN: The same things he was talking about publicly. He — he wanted to talk about that he thought the — the election had been stolen or — or was corrupt and that there was widespread fraud. And I had told him that our reviews had not shown that to be the case. So we had an extended discussion, probably 15, maybe 20 minutes, something like that with — with him urging that the Department of Justice should be doing more with regard to election fraud.

ADAM KINZINGER: Did he mention Jeff Clark's name?

JEFFREY ROSEN: Yes. It was just in passing. He made what I regarded as a peculiar reference. I don't remember the exact quote, but it was something about did I know Jeff Clark or did I know who he was or something like that. And I told him I did. And then re — the conversation just moved on. But when I — I hung up, I was — I was quizzical as to how does the President even know Mr. Clark?

JEFFREY A. ROSEN: I was not aware that they had ever met or that the President had been involved with any of the issues in the civil division.

ADAM KINZINGER: So it was a bit of a surprise when he brought his name up?

JEFFREY ROSEN: Yes.

ADAM KINZINGER: So Mr. Clark was the Acting Head of the Civil Division and Head of Environmental and Natural Resources Division at the Department of Justice. Do either of those divisions have any role whatsoever in investigating election fraud, Sir?

JEFFREY A. ROSEN: No. And — and to my awareness, Jeff Clark had had no prior involvement of any kind with regard to the work that the Department was doing that Attorney General Barr has talked about to this committee.

ADAM KINZINGER: So let's take a minute and explain why the President mentioned Jeff Clark's name to Mr. Rosen here on Christmas Eve. On December 21st, some Republican members of Congress met with President Trump in the White House to talk about overturning the 2020 election. Let's hear Representative Marjorie Taylor Greene talk about how this meeting got set up. [Begin Videotape]

MARJORIE TAYLOR GREENE: I was the only new member at the meeting. I called President Trump on Saturday and — and said we've got to have a meeting. There's many of us that feel like this election has been stolen. [End Videotape]

ADAM KINZINGER: So on the screen you'll see that President Trump's Chief of Staff Mark Meadows tweeted about that meeting right after it happened. He said quote, "Several members of Congress just finished a meeting in the Oval Office with President Donald Trump preparing to fight back against mounting evidence of voter fraud. Stay tuned."

On the same day he met with these Republican members of Congress, President Trump called in to a conservative political convention and he used the opportunity to pressure the Department of Justice to investigate his bogus claims. [Begin Videotape]

DONALD TRUMP: The problem is we need a party that's going to fight. And we have some great Congressmen and women that are doing it. And we have others, some great fighters. But we won this in a landslide. They know it. And we need backing from, like, the Justice Department and other people have to finally step up. [End Videotape]

ADAM KINZINGER: The Select Committee obtained records from the National Archives that show that Scott Perry was one of the Congressmen who joined that meeting. We learned from White House records that you'll now see on the screen that the very next day Representative Perry returned to the White House. This time, he brought a Justice Department official named Jeffrey Clark.

Representative Perry provided the following statement to his local TV affiliate. He said quote, "Throughout the past four years I've worked with Assistant Attorney General Clark on various legislative matters. When President Trump asked if I would make an introduction, I obliged." But why Jeff Clark? Let's hear Mr. Giuliani explain the kind of person that he and the President wanted at the top of Justice. [Begin Videotape]

UNKNOWN: Remember ever recommending to anybody that Mr. Clark, meaning Jeffrey Clark at DOJ, be given election related responsibilities?

RUDY GIULIANI: You mean beyond the President?

UNKNOWN: Correct.

RUDY GIULIANI: Well, beyond the president, I do recall saying to people that somebody should be put in charge of the Justice Department who isn't frightened of what's going to be done to their reputation, because Justice Department was filled with people like that. [End videotape]

ADAM KINZINGER: Should put somebody that's not frightened of what's going to be done to their reputation. Mr. Donoghue, when you told the president that you wouldn't pursue baseless claims of fraud, was it because you were worried about your reputation?

RICHARD DONOGHUE: No, not at all.

ADAM KINZINGER: Mr. Clark's name was also mentioned in the White House in late December and early January, as described by a top aide to Mark Meadows, Cassidy Hutchinson. [Begin videotape]

UNKNOWN: Was it your understanding that Representative Perry was pushing for a specific person to take over the department?

CASSIDY HUTCHINSON: He wanted Mr. Clark, Mr. Jeff Clark, to take over the Department of Justice. [End videotape]

ADAM KINZINGER: Mr. Rosen, after your call with President Trump on December 24th, you spoke with Mr. Clark on December 26th about his contact with the president. Can you tell us about that conversation?

JEFFREY A. ROSEN: Yes. Because I had been quizzical about why his name had come up, I called him and I tried to explore if he would share if there was something I ought to know. And after some back and forth, he acknowledged that shortly before Christmas he had gone to a meeting in the Oval Office with the president. That, of course, surprised me, and I asked him how did that happen.

And he was defensive. He said it — it had been unplanned, that he had been talking to someone he referred to as General Perry, but I believe is Congressman Perry. And that, unbeknownst to him, he was asked to go to a meeting and he didn't know it, but it turned out it was at the Oval — he found himself at the Oval Office.

And — and he was apologetic for that. And I said, well, you didn't tell me about it. It wasn't authorized, and you didn't even tell me after the fact. You know, this is not — not appropriate. But he was contrite and said it had been inadvertent and it would not happen again, and that if anyone asked him to go to such a meeting, he would notify Rich Donoghue and me.

ADAM KINZINGER: Is there a policy that governs who — who can have contact directly with the White House?

JEFFREY A. ROSEN: Yes. So, across many administrations for — for a long period of time, there's a policy that, particularly with regard to criminal investigations, restricts, at both the White House and in the Justice Department and those more sensitive issues, to the highest ranks. So, for criminal matters, the policy for a long time has been that only the attorney general and the deputy attorney general from the DOJ side can have conversations about criminal matters with the White House, or the attorney general and the deputy attorney general can authorize someone for a specific item with their permission.

But the idea is to make sure that the top rung of the Justice Department knows about it and is in the thing to control it and make sure only appropriate things are done.

ADAM KINZINGER: Mr. Engel, from your perspective, why is it important to have a — a policy like Mr. Rosen just discussed?

STEVEN ENGEL: Well, it's critical that the Department of Justice conducts its criminal investigations free from either the reality or any appearance of political interference. And so, people can get in trouble if people at the White House are speaking with people at the department. And that's why the purpose of these policies is to keep these communications as infrequent and at the highest levels as possible, just to make sure that people who are less careful about it, who don't really understand these implications, such as Mr. Clark, don't run afoul of the — of those contact policies.

ADAM KINZINGER: Thank you. So, the Select Committee conducted an informal interview with the White House counsel, Pat Cipollone, and his deputy Pat Philbin about their contact with Mr. Clark, though neither has yet agreed to sit for transcribed and videotaped interviews. But Pat Cipollone told the Select Committee that he intervened when he heard Mr. Clark was meeting with the president about legal matters without his knowledge, which was strictly against White House policy.

Mr. Cipollone and Mr. Philbin, like Mr. Rosen, told Mr. Clark to stand down, and he didn't. On the same day Acting Attorney General Rosen told Mr. Clark to stop talking to the White House, Representative Perry was urging Chief of Staff Mark Meadows to elevate Clark within the Department of Justice. You can now see on the screen behind me a series of texts between Representative Perry and Mr. Meadows.

They show that Representative Perry requested that Mr. Clark be elevated within the department. Representative Perry tells Mr. Meadows on December 26th that "Mark, just checking in as time continues to count down. 11 days to January 6th and 25 days to inauguration. We've got to get going." Representative Perry followed up and says, "Mark, you should call Jeff.

I just got off the phone with him and he explained to me why the principal deputy won't work, especially with the FBI. They will view it as not having the authority to enforce what needs to be done." Mr. Meadows responds with, "I got it. I think I understand. Let me work on the deputy position." Representative Perry then texts, "Roger."

Just sent you something on Signal, just sent you an updated file. Did you call Jeff Clark?" Mr. Donoghue, Representative Perry called you the next day, on December 27th. Who — who told him to call you?

RICHARD DONOGHUE: My understanding is the president did. At the outset of the call, Congressman Perry told me that he was calling at the behest of the president.

ADAM KINZINGER: What did — what did he want to talk about?

RICHARD DONOGHUE: He wanted to talk about Pennsylvania in particular. He gave me some background about, you know, why he in particular doesn't trust the FBI and why the American people don't necessarily trust the FBI. And then he went into some allegations specific to Pennsylvania, which included, amongst others, this allegation that the secretary of state had certified more votes than were actually cast.

ADAM KINZINGER: Did you direct that local — the local US attorney's office to investigate that claim?

RICHARD DONOGHUE: So, Mr. Perry said that he had a great deal of information, that investigations had been done, that there was some sort of forensic type report that would be helpful to me. And I didn't know Congressman Perry, had never heard of him before this conversation. But I said, sir, if you've got something that you think is relevant to what the Justice Department's mission is, you should feel free to send it to me. And he did, and I was in route from New York to Washington.

I got it. I looked at it on my iPhone. Obviously, I couldn't read the whole thing in that — in transit like that. But I looked at it to get a feel for what it was, and then I forwarded to the United States attorney for the Western District of Pennsylvania.

ADAM KINZINGER: Did they get back to you? What did they conclude?

RICHARD DONOGHUE: Scott Brady looked at it. He was the Western District Pennsylvania US attorney. Took him a couple days, but he got back in relatively short order with a pretty clear explanation for why there was no foundation for concern. The Secretary of State had not certified more votes than were actually cast. The difference between the 5.25 that was actually certified by the Secretary of State and the 5 million that was on a public facing website was that the information on the website was incomplete because four counties had not uploaded their data.

ADAM KINZINGER: So, no credibility to that claim. There was zero to that, right. During that call, did Scott Perry mention Mr. Clark? And what did he say about him, if so?

RICHARD DONOGHUE: He did. He mentioned Mr. Clark. He said something to the effect of I think Jeff Clark is great, and I think he's the kind of guy who could get in there and do something about this stuff. And this was coming on the heels of the president having mentioned Mr. Clark in the afternoon call earlier that day.

ADAM KINZINGER: I'd like to yield to the gentlewoman from Wyoming, Vice Chair Cheney.

LIZ CHENEY: Thank you very much, Mr. Kinzinger. I thank the gentleman for yielding. As we discussed earlier, at the center of Mr. Clark's plan to undo President Trump's election loss was a letter. Mr. Donoghue, on December 28th, Mr. Clark emailed you and Mr. Rosen a draft letter that he wanted you to sign and send to Georgia state officials.

You testified that this could have "grave constitutional consequences." Mr. Donoghue, can you tell us what you meant by that?

RICHARD DONOGHUE: Well, I had to read both the email and the attached letter twice to make sure I really understood what he was proposing, because it was so extreme to me I had a hard time getting my head around it initially. But I read it and I did understand it for what he intended. And I had to sit down and sort of compose what I thought was an appropriate response.

I actually initially went next door to the acting AG's office, but he was not there. We were both on that email. I knew we would both have probably a very similar reaction to it. He was not in his office. So, I returned to my office and I sat down to draft a response, because I thought it was very important to give a prompt response rejecting this out of hand.

There were — in my response, I explained a number of reasons. This is not the department's role to suggest or dictate to state legislatures how they should select their electors. But more importantly, this was not based on fact. This was actually contrary to the facts as developed by department investigations over the last several weeks and months.

So, I respond to that. And for the department to insert itself into the political process this way, I think would have had grave consequences for the country. It may very well have spiraled us into a constitutional crisis. And I wanted to make sure that he understood the gravity of the situation, because he didn't seem to really appreciate it.

LIZ CHENEY: And what was Mr. Clark's reaction when you sent this email to him?

RICHARD DONOGHUE: He didn't respond directly to the email, but we met shortly after that, after I sent the email. The acting AG returned. I went to his office. He had just read it. He had a

very similar reaction to me. He was exasperated, and he told me that he had told one of his administrative assistant to get Jeff Clark up here.

We wanted to talk to him face to face about this. And so, the three of us then had a meeting, probably around 1800 that night, in the deputy attorney general's conference room.

LIZ CHENEY: And one of the things that you said to Mr. Clark is "What you are doing is nothing less than the United States Justice Department meddling in the outcome of a presidential election." And I assume you conveyed that to him as well in your meeting that evening.

RICHARD DONOGHUE: Yes, in those very words. It was a very contentious meeting. But yes, that was said, amongst other things.

LIZ CHENEY: And despite this contentious meeting and your strong reaction to the letter, did Mr. Clark continue to push his concept in the coming days?

RICHARD DONOGHUE: He did, yes. We had subsequent meetings and conversations. The acting AG probably had more contact with him than I did. But between the 28th and the 2nd, when we had another in-person meeting, he clearly continued to — to move down this path. He began calling witnesses and apparently conducting investigations of his own, and he got a briefing from DNI about purported foreign intelligence interference.

And we thought perhaps, once it was explained to him that there was no basis for that part of his concern, that he would retreat. But instead, he doubled down and said, well, Ok. So, there's no foreign interference. I still think there are enough allegations out there that we should go ahead and send this letter, which shocked me even more than the initial one, because you would think after a couple of days of looking at this he, like we, would have come to the same conclusion, that it was completely unfounded.

LIZ CHENEY: And when you learned that he had been calling witnesses and conducting investigations on his own, did you confront him?

RICHARD DONOGHUE: Yes.

LIZ CHENEY: And what was his reaction?

RICHARD DONOGHUE: He got very defensive. You know, as I said, there were a series of conversations through that week. I — I certainly remember very specifically the conversation in the meeting on January 2nd. That got even more confrontational. But he was defensive. And, you know, similar to his earlier reaction when I said this is nothing less than Justice Department meddling in an election, his reaction was I think a lot of people have meddled in this election.

And so, he kind of clung to that, and then spewed out some of these theories, some of which we'd heard from the president, but others which were floating around the Internet and media, and just kept insisting that the department needed to act and needed to send those letters.

LIZ CHENEY: The committee has also learned that Mr. Clark was working with another attorney at the department named Ken Klukowski, who drafted this letter to Georgia with Mr. Clark. Mr. Klukowski had arrived at the department on December 15th with just 36 days left until the inauguration. He was specifically assigned to work under Jeff Clark.

And Mr. Klukowski also worked with John Eastman, who we showed you at our hearing last week, was one of the primary architects of President Trump's scheme to overturn the election. The Georgia letter that we've been discussing specifically talks about some of Dr. Eastman's theories, including "The purpose of the special session the department recommends would be for the General Assembly to determine whether the election failed to make a proper and valid choice between the candidates, such that the General Assembly could take whatever action is necessary to ensure that one of the slates of electors cast on December 14th will be accepted by Congress on January 6th." The committee has also learned that the relationship between Dr. Eastman and Mr. Klukowski persisted after Mr. Klukowski joined the Justice Department.

Let's take a look at an email recommending that Mr. Klukowski and Dr. Eastman brief Vice President Pence and his staff. Other recipients of this email included the chief of staff to Congressman Louie Gohmert. And the email says, as stated last week, I believe the vice president and his staff would benefit greatly from a briefing by John and Ken. As I also mentioned, we want to make sure we don't overexpose Ken, given his new position.

This email suggests that Mr. Klukowski was simultaneously working with Jeffrey Clark to draft the proposed letter to Georgia officials to overturn their certified election and working with Dr. Eastman to help pressure the vice president to overturn the election. I want to thank all of our witnesses for being here today and — and for answering our questions about this letter and other issues.

We asked Mr. Clark some of the same questions that we've asked you and here's how he answered. [Begin videotape]

UNKNOWN: Did you discuss this draft letter to Georgia officials with the president of the United States?

JEFFREY CLARK: Fifth and executive privilege. Again, just restated for the abundance of caution.

UNKNOWN: Ok. If you look again at this draft letter, in the first paragraph, second sentence, it says the department will update you as we are able on investigatory progress. But at this time, we have identified significant concerns that may have impacted the outcome of the election in multiple states, including the state of Georgia.

Isn't that in fact contrary to what Attorney General Barr had said on December 1st, 2020?

JEFFREY CLARK: Fifth. [End videotape]

LIZ CHENEY: Mr. Chairman, I yield back.

ADAM KINZINGER: Mr. Chairman, I reserve.

BENNIE THOMPSON: Pursuant to the order of the committee of today, the chair declares the committee in recess for a period of approximately 10 minutes. The committee will be in order. The chair recognizes the gentleman from Illinois.

ADAM KINZINGER: Thank you, Mr. Chairman. Mr. Chairman, around the time Mr. Clark was pushing for the department to send the Georgia letter, the president and his supporters were pressuring the Justice Department to take other actions to change the outcome of the 2020 election. Mr. Engel, were — you were the head of the Office of Legal Counsel.

Can you first off explain your role? What is that?

STEVEN ENGEL: Sure. One of the attorney general's most important responsibilities is to provide the legal advice to the president and to the executive branch.

STEVEN ENGEL: As a practical matter, given the responsibilities of the attorney general, the assistant attorney general for the Office of Legal Counsel exercises that — that job on a day to day basis. And so in — in addition the head of OLC often functions as a — a general counsel essentially to the Attorney General. And so he's often, you know, the chief legal advisor to the AG as well as, you know, the — the White House and the executive branch more broadly.

ADAM KINZINGER: So given that role, can you describe your relationship with the President?

STEVEN ENGEL: Well, I, you know, in connection with my role at OLC, over the course of my tenure there there were a number of instances in which folks at the White House would — would seek to bring me in to provide legal advice to the President sometimes discussing the legal options that could be pursued among various policy to — to reach various policy objectives.

Sometimes to advise the President that I — a course of action that they had been discussing was not legally available.

ADAM KINZINGER: So I want to ask about two things the President asked you and the Department to do. The first is reflected in this email that we're going to put on the screen. The President sent a draft lawsuit to be filed by the Department in the Supreme Court. He wanted you, Mr. Rosen, and Mr. Cipollone specifically to review it. You and the Department opposed filing it. We see on the screen here that the tal — the talking points that you actually drafted on that.

So you stated that there is no legal basis to bring this lawsuit. Anyone who thinks otherwise simply doesn't know the law much less the Supreme Court. Why was this the Department's position?

STEVEN ENGEL: Well, I mean, I think the — it was — the memo sort of speaks to this, but essentially this was a draft lawsuit that apparently was prepared by people outside the Department. It would be styled as brought by the United States and by the — the Acting Solicitor General as an original jurisdiction matter in the Supreme Court.

It — it was a meritless lawsuit that was not something that the Department could or — or would bring. You know, somebody obviously prepared it to the — handed it to the President and he — he forwarded it on for our review. But that memo explains why the Department of Justice, as Mr. Donoghue said earlier, doesn't have any standing to bring such a lawsuit.

The lawsuit would have been untimely. The states had chosen their electors. The electors had been certified. They'd cast their votes. They'd been sent to Washington, DC. Neither Georgia nor any of the other states on December 28th or whenever this was was in a position to change those votes. The — essentially the election had happened.

The only thing that hadn't happened was the formal counting of the votes. And so obviously, you know, the person who drafted this lawsuit didn't really understand in my view, you know, the law and or how the Supreme Court works or the Department of Justice. So it was just not something we were going to do. And the Acting Attorney General asked me to prepare a memo with talking points so that he could explain our reasons when he spoke with the President about this.

ADAM KINZINGER: So would you say it was a unusual request?

STEVEN ENGEL: It was certainly an un — you said the — the request that — that the Department file a lawsuit from — drafted by outside lawyers was certainly an unusual request.

ADAM KINZINGER: There was another issue you were asked to look into. In mid-December did the White House ask Attorney General Barr to consider whether a Special Counsel could be appointed to look into election fraud issues?

STEVEN ENGEL: I — yes. I mean, the — the — I mean, I think the President was probably vocal at the time that he believed that Special Counsel was something that should be considered to look into election fraud. And there is a specific, you know, request where the Attorney General sought my legal advice in — in the middle of December.

ADAM KINZINGER: And what was your conclusion? What conclusion did you reach?

STEVEN ENGEL: So — so this — this request was whether the — whether the Attorney General could appoint as a Special Counsel a — a state Attorney General to conduct an investigation. I mean, as — as a legal matter, under federal law the Attorney General actually has fairly wide discretion to delegate prosecutorial authority including to state prosecutors which happens to assist the Department.

You know, and not uncommonly, obviously a state Attorney General exercising prosecutorial authority on behalf of the Department of Justice would be fairly uncommon. When we looked at the issue what we saw is actually that the state law — the state was Louisiana — that the state law precluded the Louisiana Attorney General from accepting any position — any official position on behalf of the United States government.

So that — that answered the question that it was not legally available.

ADAM KINZINGER: So during your time at the Department, was there ever any basis to appoint a Special Counsel to investigate President Trump's election fraud claims?

STEVEN ENGEL: Well — well neither Attorney General Barr nor Acting Attorney General Rosen did appoint a Special Counsel. We — you would appoint the Special Counsel when the Department — when there's a basis for an investigation and the Department essentially has a conflict of interest. It's important to get someone who's independent outside the Department to handle such an investigation.

Neither Attorney General Barr nor Acting Attorney General Rosen ever believed that that was appropriate or necessary in this case.

ADAM KINZINGER: In fact, Attorney General Barr had already told the President that there was no need for this Special Counsel. He actually stated that publicly. And we'll see that here in a video from December 21st. [Begin Videotape]

WILLIAM BARR: To the extent that there's an inve — investigation, I think that it's being handled responsibly and professionally. Currently within the — the Department and to this point I have not seen a reason to appoint a Special Counsel and I have no plan to do so before I leave. [End Videotape]

ADAM KINZINGER: So remember that December 21st was the same day President Trump met with Republican members at the White House to strategize about how to overturn the election while his Attorney General is out telling the public again that there was no widespread evidence of election fraud.

And yet two days later we have President Trump tweeting again publicly pressuring the Department to appoint a Special Counsel. He said, quote, "After seeing the massive voter fraud in the 2020 Presidential election, I disagree with anyone that thinks a strong, fast, and fair Special Counsel is not needed immediately." "This was the most corrupt election in the history of our country and it must be closely examined." The Select Committee's investigation revealed that President Trump went as far as to promise the job of Special Counsel to now-discredited former Trump campaign lawyer Sidney Powell at a late night meeting on December 18th. [Begin Videotape]

SIDNEY POWELL: I know on — on Friday he had asked me to be Special Counsel to address the election issues and to collect evidence. And he was extremely frustrated with the lack of, I would call it law enforcement, by any of the government agencies that are supposed to act to protect the rule of law in our republic. [End Videotape]

ADAM KINZINGER: So let's think here. What would a Special Counsel do? With only days to go until election certification it wasn't to investigate anything. An investigation led by a Special Counsel would just create an illusion of legitimacy and provide fake cover for those who would want to object including those who stormed the Capitol on January 6th. All of President Trump's plans for the Justice Department were being rebuffed by Mr. Rosen, Mr. Donoghue, Mr. Engel, and others.

The President became desperate entering into the new year with January 6th fast approaching. President Trump rushed back early from Mar a Lago on December 31st and called an emergency meeting with the Department's leadership. Here's Mr. Donoghue describing the last minute meeting held at the White House on New Year's Eve. [Begin Videotape]

RICHARD DONOGHUE: The President was a little more agitated than he had been on the meeting — in the meeting on the 15th. He discussed a variety of election matters. He did say this sounds like the kind of thing that would warrant appointment of a Special Counsel. There was a point at which the President said something about why don't you guys seize machines?

[End Videotape]

ADAM KINZINGER: Mr. Rosen, the President asked you to seize voting machines from state governments. What was your response to that request?

JEFFREY A. ROSEN: That we had — we had seen nothing improper with regard to the voting machines. And I told him that the — the real experts that had been at DHS and they had briefed us, that they had looked at it and that there was nothing wrong with the — the voting machines. And so that was not something that was appropriate to do.

ADAM KINZINGER: There would be no factual basis to seize machines. Mr. Donoghue --

JEFFREY A. ROSEN: — I — I don't think there was legal authority either.

ADAM KINZINGER: Yeah. Mr. Donoghue can you explain what the President did after he was told that the Justice Department would not seize voting machines?

RICHARD DONOGHUE: The President was very agitated by the Acting Attorney General's response. And to the extent that machines and — and the technology was being discussed, the Acting Attorney General said that the DHS, Department of Homeland Security, has expertise in machines and certifying them and making sure that the states are operating them properly.

And since DHS had been mentioned, the President yelled out to his Secretary get Ken Cuccinelli on the phone. And she did in very short order. Mr. Cuccinelli was on the phone. He was the number two at DHS at the time. It was on the speakerphone, and the President essentially said, Ken, I'm sitting here with the Acting Attorney General.

He just told me it's your job to seize machines and you're not doing your job. And Mr. Cuccinelli responded.

ADAM KINZINGER: Mr. Rosen, did you ever tell the President that the Department of Homeland Security could seize voting machines?

JEFFREY A. ROSEN: No, certainly not.

ADAM KINZINGER: Mr. Donoghue during this meeting did the President tell you that he would remove you and Mr. Rosen because you weren't declaring there was election fraud?

RICHARD DONOGHUE: Toward the end of the meeting the President again was getting very agitated and he said people tell me I should just get rid of both of you. I should just remove you and make a change in the leadership. Put Jeff Clark in, maybe something will finally get done. And I responded as I think I had earlier in the December 27th call, Mr. President you should have the leadership that you want.

But understand, the United States Justice Department functions on facts, evidence, and law, and those are not going to change. So you can have whatever leadership you want, but the Department's position is not going to change.

ADAM KINZINGER: The President's White House Counsel Pat Cipollone was also present. Do you remember what his position was?

RICHARD DONOGHUE: Pat was very supportive. Pat Cipollone throughout these conversations was extremely supportive of the Justice Department. He was consistent. I think he had an impossible job at that point, but he did it well and he always sided with the Justice Department in these discussions.

ADAM KINZINGER: So let's pause for a second. It's New Year's Eve. President Trump is talking about seizing voting machines and making the same demands that had already been shot down by former Attorney General Barr on at least three occasions and by Mr. Rosen and Mr. Donoghue on multiple other occasions. Claim after claim knocked down.

But the President didn't care. The next day, Chief of Staff Mark Meadows sent a flurry of emails to you, Mr. Rosen, asking that the Department look into a new set of allegations. We're going to put those emails here on the screen. Here we see three requests made on January 1st. One e-mail is a request from Mr. Meadows to you, Mr. Rosen, to send Jeff Clark to Fulton County.

What did you — what did you do with this request?

JEFFREY A. ROSEN: Well, really — really nothing. Certainly didn't send Mr. Clark to Fulton County. But that email was the first corroboration I had seen of — Mr. Clark had told me at that point that the President was considering making the change by Monday, January 4th. So Mr. Meadows' email was something of a corroboration that there were discussions going on that I had been — not been informed about by Mr. Clark or anybody else.

ADAM KINZINGER: Interesting. The second request that you have is to have the Department of Justice lawyers investigate allegations of fraud related to New Mexico. Mr. Rosen, did you have concern about these emails?

JEFFREY ROSEN: Yes. Really two concerns about that one. One was that it was coming from a campaign or political party.

JEFFREY A. ROSEN: And it was really not our role to function as — as, you know, an arm of any campaign for any party or any campaign. That wasn't our role. And that's part of why I had been unwilling to meet with Mr.

Giuliani or any of the — the campaign people before. And the other part was it was another one of these ones where lots of work had already been done.

And I thought it was a rehash of things that had been debunked previously.

ADAM KINZINGER: So the final email here included a completely baseless conspiracy theory that an Italian defense contractor uploaded software to a satellite that switched votes from Trump to Biden. The Select Committee investigation found that this wild, baseless conspiracy theory made it from the recesses of the internet to the highest echelons of our government.

On December 31st, Mr. Meadows received this internet conspiracy theory from Representative Perry. On the screen now is the text that Representative Perry sent to Mr. Meadows copying a YouTube link with the message quote, "Why can't we just work with the Italian government?" The next day the President's Chief of Staff sent the YouTube link to Mr. Rosen who forwarded it to Mr. Donoghue.

Mr. Donoghue, did you watch this video?

RICHARD DONOGHUE: I did, Congressman.

ADAM KINZINGER: How long was the video?

RICHARD DONOGHUE: Approximately 20 minutes.

ADAM KINZINGER: Let's just take a look at a excerpt of that video, if we may. [Begin Videotape]

BRADLEY JOHNSON: What's being said out of Rome, out of Italy is that this was done in the US embassy. That there was a certain State Department guy whose name I don't know yet. I guess this is probably going to come out

in Italy at some point. And he was the mastermind — not the mastermind, but the — but the — anyway, the guy running the operation of changing the votes.

And that he was done — doing this in conjunction with some support from MI6, the CIA, and this Leonardo group. [End Videotape]

ADAM KINZINGER: Mr. Donoghue, what was your reaction when you watched that entire 20 minute video?

RICHARD DONOGHUE: I emailed the acting attorney general and I said pure insanity, which was my impression of the video which was patently absurd.

ADAM KINZINGER: Mr. Rosen, you were asked by Mr. Meadows to meet with Mr. Johnson, who is the person in that video, what was your reaction to that request?

JEFFREY A. ROSEN: So ordinarily I'd get an email like this and there was no phone call. It would just come over the transom. But this one he — he called me, Mr. Meadows, and asked me to meet with Mr. Johnson. And I told him this whole thing about Italy had been debunked and that should be the end of that. And I certainly wasn't going to meet with — with this person.

And he initially seemed to accept that. He said, you know, why won't you meet with them? I said because if — if he has real evidence which this video doesn't show, he can walk into an FBI field office anywhere in the United States, there's 55 of them. And he said, Ok. But then he called me — me back a few minutes later and complained, and said, I didn't tell you, but this — this fellow Johnson is working with Rudy Giuliani.

And Mr. Giuliani is really offended that you think they have to go to a FBI field office. That's insulting. So couldn't — couldn't you just have the FBI or you meet with these guys? And by then I was somewhat agitated and told them that there was no way on Earth that I was going to do that. I wasn't going to meet with Mr. Johnson.

I certainly wasn't going to meet with Mr. Giuliani. I'd made that clear repeatedly. And so that's — that's the end of that. You know, don't — don't raise this with me again. And so, because Mr. Donoghue and I had been exchanging our views about this, I think it was, you know, 7:13 on a Friday night of New Year's Day, I had run out of patience.

And I sent the email that you're — you're talking about where I — I made pretty clear that I had no interest in doing anything further with this.

ADAM KINZINGER: Just to button this up, Mr. Donoghue, did you receive a follow up call from a Department of Defense official about this conspiracy?

RICHARD DONOGHUE: I did. I believe it was that same day.

ADAM KINZINGER: Can you give details on that at all?

RICHARD DONOGHUE: I received a telephone call from Kash Patel, who I know was a DOD official at that time, worked for, I believe, Acting Secretary of Defense Miller. And he didn't know much about it. He basically said, do you know anything about this Italy thing and what this is all about? And I informed him that the chief of staff had raised the issue with us in his office on December 29th, that we had looked into it a little bit, we had run the name that was provided to us by the chief of staff.

I learned that that individual is in custody in Italy. He had been arrested for a cyber offense of some sort in Italy. The allegation was that he had been exfiltrating data from his company. He was either an employee or a contractor of that company and he was in custody, that the whole thing was very, very murky at best, and the video was absurd.

But that we — we — the department were not going to have anything to do with it. And DOD should make up its own mind as to what they're going to do. But I made it clear to him that I didn't think it was anything worth pursuing.

ADAM KINZINGER: So you called the video absurd and despite the absurdity of that conspiracy theory, we learned that Mr. Meadows discussed it frequently in the White House and Mr. Meadows didn't let the matter go. The request went from the Department of Justice to the Secretary of Defense, Christopher Miller. As you'll hear, Secretary Miller actually reached out to a high ranking official based in Italy to follow up on this claim. [Begin Videotape]

CHRISTOPHER MILLER: The ask for him was can you call out the defense attache Rome and find out what the heck's going on? Because I'm getting all these weird crazy reports and probably the guy on the ground knows more than anything. [End Videotape]

ADAM KINZINGER: The Select — Select Committee confirmed that a call was actually placed by Secretary Miller to the attache in Italy to investigate the claim that Italian satellites were switching votes from Trump to Biden. This is one of the best examples of the lengths to which the President — President Trump would go to stay in power, scouring the Internet to support his conspiracy theories shown here, as he told Mr. Donoghue in that December 27th call, quote, "you guys may not be following the Internet the way I do". President Trump's efforts to this point had failed.

Stonewalled by Mr. Rosen and Mr. Donoghue, President Trump had only one option, he needed to make Clarke acting attorney general Mr. Rosen, during a January 2nd meeting with Mr. Clark, did you confront him again about his contact with the President? And if so, can you describe that?

JEFFREY A. ROSEN: So at this point, Mr. Clark had told us that the President had asked him to consider whether he would be willing to replace me supposedly on a timetable by Monday the fourth. And so I had told Mr. Clark, I thought he was making a colossal error in judgment, but I also hoped to persuade him to be more rational and to understand what we had understood that there's not a factual basis for the fraud assertions that are being made.

So at this meeting, Mr. Donoghue and I met with Mr. Clark. And I guess my — my hopes were disappointed and that Mr. Clark continue to express the view that he thought there was fraud even though he had not been a participant in the department's review of that. And that he was dissatisfied that we knew what we were doing.

So — but he had acknowledged that he had had further, I don't know if it was meeting or phone calls or what, but further discussion with the President despite having, you know, a week earlier

said that if he, A, wouldn't do that and if he did, he — if he got an invitation to do that. He would let Richard Donoghue or me know.

So we had a — it was a contentious meeting where we were chastising him that he was insubordinate. He was out of line. He had not honored his own representations of what he would do. And he raised again that he thought that that letter should go out. And we were not receptive to that.

ADAM KINZINGER: Did he tell you in that the President had offered him the job of acting attorney general?

JEFFREY A. ROSEN: That was a day later on — on the second. He said that the President had asked him to let him know if he'd be willing to take it. Subsequently, he told me that on the Sunday, the third, he told me that the timeline had moved up and that the President had offered him the job and that he was accepting it.

ADAM KINZINGER: Well, that's what that — what was your reaction to that?

JEFFREY A. ROSEN: Well, you know, on the one hand I wasn't going to accept being fired by my subordinate. So I wanted to talk to the President directly. With regard to the reason for that is I wanted to try to convince the President not to go down the wrong path that Mr. Clark seemed to be advocating. And it wasn't about me. There's only 17 days left in the administration at that point.

I would have been perfectly content to have either of the gentlemen on my left or right replace me if — if anybody wanted to do that. But I did not want for the Department of Justice to be put in a posture

where it would be doing things that were not consistent with the truth, were not consistent with its own appropriate role, or were not consistent with the Constitution.

So I did four things as soon as Mr. Clark left my office on that Sunday, the third. Number one, I called Mark Meadows and said I need to see the President right away And he was agreeable and set up a meeting for 6:15 that Sunday, so about 2 hours away. Two, I called Pat Cipollone, the White House counsel.

I told him what was going on and he said he would go into the White House to make sure he was at the meeting and he would be supporting the Justice Department's position as he had been doing consistently. Three, I called Steve Engel, who was — I was at the department. It was a Sunday, but there had been some reasons I needed to be there.

Mr. Engel, I called at home and asked him if he would come in and go to the meeting which he did and proved to be quite helpful. And then number four, I asked Rich Donoghue and Pat Hovickmeon [ph], who had previously been my chief of staff to get the department's senior leadership on a call and let them know what was going on and — which they did.

And then Eric Herschmann called me to tell me that he was going to go to the meeting and that he would be supporting the Department of Justice position as well. So I knew that the meeting was on course and that I would have a number of people supportive of the Department of Justice's approach and not supportive of Mr. Clark's approach.

ADAM KINZINGER: Did Mr. Clark ask you to continue to stay at the department?

JEFFREY A. ROSEN: At that Sunday meeting, when he told me that he would be replacing me, he said that he had asked to see me alone because usually he had met with me and Mr. Donoghue because he thought it would be appropriate in light of what was happening to at least offer me that I could stay on as his deputy. I thought that was preposterous.

I told him that was nonsensical and that there was no universe where I was going to do that to stay on and support someone else doing things that were not consistent with what I thought should be done. So I — I didn't accept that offer, if I can put it that way.

ADAM KINZINGER: And during that meeting did Mr. Clark ask you to sign the Georgia letter?

JEFFREY A. ROSEN: That was on the — the Saturday meeting, January 2nd that Mr. Donoghue and I had with him. He again raised with both of us that he wanted us to both to sign that letter actually.

ADAM KINZINGER: So in that meeting did Mr. Clark say he would turn down the President's offer if you reversed your position and signed the letter?

JEFFREY A. ROSEN: Yes.

ADAM KINZINGER: Did Mr. Clark — so you still refuse to sign and send that letter, I take it?

JEFFREY A. ROSEN: That's right. I think Mr. Donoghue and I were both very consistent that there was no way we were going to sign that letter. And it didn't matter what Mr. Clark's, you know, proposition was in terms of - - of his own activities. We were not going to sign that letter as long as we were in charge of the Justice Department.

ADAM KINZINGER: Thank you for that. By the way, Mr. Donoghue, were you expecting to have to attend a meeting at the White House on Sunday, January 3rd?

RICHARD DONOGHUE: No. As the acting AG indicated, we had a meeting that afternoon that related to preparations for January 6th. So I was at the department, but I had no expectation of leaving the department. It was a

Sunday afternoon and I was there in civilian clothes, as we both were, and expected to have that meeting, do some other work, but I had no expectation of going to the White House that day.

ADAM KINZINGER: So let's ask, so prior to that Oval Office meeting, did you set up a conference call with senior leadership at the department. And if so, tell us about that call?

RICHARD DONOGHUE: Yes. So obviously it was a bit of a scramble that afternoon to prepare for the Oval Office meeting. We had discussed on several occasions, the acting attorney general and I, whether we should expand the circle of people who knew what was going on. It was very important that Steve Engel know and that's why I reached out to Steve on December 28th because if Mr. Rosen were removed from the seat and the President did not immediately appoint someone else to serve as Attorney General, just by function of the department's chain of succession, Mr. Engel would be in the seat.

We wanted to make sure he knew what was going on should that occur. So the three of us knew. We also brought — brought Pat Hovickmeon [ph], so the four of us now, but no one else aside from Jeff Clark of course knew what was going on until late that Sunday afternoon. We chose to keep a close hold because we didn't want to create concern or panic in the Justice Department leadership.

But at this point, I asked the acting AG, what else can I do to help prepare for this meeting at the Oval Office? And he said, you and Pat should get the AAGs on the phone and it's time to let them know what's going on. Let's find out what they may do if there's a change in leadership because that will help inform the conversation at the Oval Office.

Pat Hovickmeon [ph] subsequently set up that meeting. We got most — not all, but most of the ages on the phone. We very quickly explain to them what the situation was. I told them I don't need an answer from you right now. I don't need an answer in this phone call. But if you have an answer, I need it in the next few minutes.

So call me, email me, text me, whatever it is. If you know what you would do if Jeff Clark is put in charge of the department and immediately Eric Dreibend, who was the AAG of the Civil Rights Division said I don't need to think about it, there's no way I'm staying. And then the other AAGs began

to chime in and in turn it all essentially said they would leave, they would resign in mass if the President made that change in the department leadership.

ADAM KINZINGER: Incredible. I'd like to look at the assistant attorney generals on the screen if we can pull that, have their pictures. Did every assistant attorney general you spoke to, as you said, agree to resign?

RICHARD DONOGHUE: Makan Delrahim was not on the call only because we had some difficulty reaching him. But yes, the other people on the screen were on the call and all without hesitation said that they would resign.

ADAM KINZINGER: So as part of the Select Committee's investigation, we found that while Mr. Rosen, Mr. Donoghue, and Mr. Engel were preparing for their meeting at the White House, Jeff Clark and the president were in constant communication beginning at 7:00 AM. White House call logs obtained by the committee show that by 4:19 PM on January 3rd, the White House had already begun referring to Mr. Clark as the acting attorney general. As far as the White House was concerned, Mr. Clark was already at the top of the Justice Department.

Two hours later, DOJ leadership arrived at the White House. The select committee interviewed every person who was inside the room that — was inside the room during this Sunday evening Oval Office meeting. Mr. Cipollone told the committee that he was "unmistakably angry" during the meeting and that he, along with Eric Herschmann and Mr. Donoghue, "forcefully challenged Mr. Clark to produce evidence of his election fraud theories." Mr. Rosen, can you describe how that meeting started?

JEFFREY A. ROSEN: Yes. So, after some preliminaries, so we — we — Mr. Meadows had ushered us all in and then he left. So, Mr. Cipollone did some introductions and things. So, after some preliminaries, the president turned to me and he said, well, one thing we know is you, Rosen, you aren't going to do anything. You don't even agree with the — the claims of election fraud, and this other guy at least might do something.

And then I said, well, Mr. President, you're right that I'm not going to allow the Justice Department to do anything to try to overturn the election. That's true. But the reason for that is because that's what's consistent with the facts and the law, and that's what's required under the Constitution. So, that's the right answer and a good thing for the country, and therefore I submit it's the right thing for you, Mr. President.

And that kicked off another two hours of discussion, in which everyone in the room was in one way or another making different points but supportive of my approach for the Justice Department and critical of Mr. Clark.

ADAM KINZINGER: So, at some point, Mr. Donoghue comes in the room. Can you explain what led to him coming in the room?

JEFFREY A. ROSEN: Oh, I forgot about that. So, initially, in part I think because he was underdressed, we — and we had not arranged — we had not yet told the president that he was going to come in — the White House had had a list of who would be there. That did include Mr. Engel and the White House counsel and the deputy White House counsel, Mr. Herschmann.

We went in, and then we told the president, you know, maybe 10 minutes into the meeting or something, I forget how far in, that Mr. Donoghue was outside. And he said, well, bring him in. And then — then Mr. Donoghue came in and joined the meeting.

ADAM KINZINGER: So, Mr. Donoghue, you — you enter that room. Can you set the scene for us and describe the tone you walked into?

RICHARD DONOGHUE: Yes. But if I could just back up one moment, Congressman, because you put the pictures up on the screen of the AAGs. I just want to make clear, one of the AAGs who was not on the screen was John Demers. John was the National Security Division AAG. John was on the call, but I prefaced a call by saying, John, we need you to stay in place.

National security is too important. We need to minimize the disruption. Whether you resign is entirely up to you, obviously, and we'll respect your decision either way. But I'm asking you, please stay in place, and he did. So, I don't want to leave the impression that he was not willing to resign, because I think he was.

ADAM KINZINGER: Great. Thank you. Thank you for that.

RICHARD DONOGHUE: So, with regard to entering the Oval Office, I was sitting in the hallway. An administrative assistant passed by. She asked me are you supposed to be in this meeting with the president? I said no, I'm simply here in case questions come up that other people don't have the answer to. And she walked away, and then came back probably 30 seconds later and said the president wants you in the meeting.

I proceed into the Oval Office. I took probably two or three steps in and I stopped because I was, as the AG said, not exactly properly attired. I was wearing jeans and muddy boots and an Army t-shirt, and I never would arrive in the Oval Office this way. I said Mr. President, I apologize. I'm sorry, I didn't know I was going to be here.

And he said no, no, no, just come in, come in, come in. And so, I went in. I attempted to take a seat on one of the couches that are behind the chairs arrayed in front of the president's desk. And he said, oh, no, no, no, you're going to be up here. And everyone kind of laughed and they moved the chairs a little bit.

Someone from the White House counsel's office picked up a spare chair and put it directly in front of the president, and I took that seat.

ADAM KINZINGER: Was it — was there discussion about Mr. Clark? Can you — can you kind of enlighten some of what that discussion was?

RICHARD DONOGHUE: Yes. So, the conversation at this point had moved beyond the specific allegations, whether it was State Farm Arena or Antrim County or Pennsylvania or whatever. We had discussed those repeatedly and the converse — that was backdrop to the conversation. But the conversation at this point was really about whether the president should remove Jeff Rosen and replace him with Jeff Clark.

And everyone in the room I think understood that that meant that letter would go out. So, that was the focus. It was about a two and a half hour meeting after I entered. And so, there were discussions about the pros and cons of doing that. Early on, the president said what do I have to lose? And it was actually a good opening because I said, Mr. President, you have a great deal to lose.

And I began to explain to him what he had to lose and what the country had to lose and what the department had to lose, and this was not in anyone's best interest. That conversation went on for some time. Everyone essentially chimed in with their own thoughts, all of which were consistent about how damaging this would be to the country, to the department, to the administration, to him personally.

And at some point, the conversation turned to whether Jeff Clark was even qualified, competent to run the Justice Department, which in my mind he clearly was not. And it was a heated conversation. I thought it was useful to point out to the president that Jeff Clark simply didn't have the skills, the ability, and the experience to run the department.

And so, I said, Mr. President, you're talking about putting a man in that seat who has never tried a criminal case, who has never conducted a criminal investigation. He's telling you that he's going to take charge of the department, 115,000 employees, including the entire FBI, and turn the place on a dime and conduct nationwide criminal investigations that will produce results in a matter of days.

It's impossible. It's absurd. It's not going to happen and it's going to fail. He has never been in front of a trial jury, a grand jury. He's never even been to Chris Wray's office. I said at one point, if you walked into Chris Wray's office, one, would you know how to get there? And two, if you got there, would he even know who you are?

And do you really think that the FBI is going to suddenly start following your orders? It's not going to happen. He's not competent. And that's the — the point at which Mr. Clark tried to defend himself by saying, well, I've been involved in very significant civil and environmental litigation. I've argued many appeals in appellate courts and things of that nature.

And then I pointed out that, yes, he was an environmental lawyer, and I didn't think that was appropriate background to be running in the United States Justice Department.

ADAM KINZINGER: Did anybody in there support Mr. Clark?

RICHARD DONOGHUE: No one.

ADAM KINZINGER: Mr. Rosen, it was you he was going to replace. So, what was your view about the president's plan to appoint Mr. Clark?

JEFFREY A. ROSEN: Well — well, as I alluded to earlier, the issue really wasn't about me. It was — it would have been fine, as I said, to have had Rich Donoghue replace me. I would have said great, I — I get 17 days vacation or something. But the issue was the use of the Justice Department, and it's just so important that the Justice Department adhere to the facts and the law.

That's what it's there to do, and that's what our constitutional role was. And so, if the Justice Department gets out of the role that it's supposed to play, that's really bad for our country. And I don't know of a simpler way to say that. And when you damage our fundamental institutions, it's not easy to repair them.

So, I thought this was a really important issue, to try to make sure that the Justice Department was able to stay on the right course.

ADAM KINZINGER: Mr. Donoghue, did — did you eventually tell the president that mass resignations would occur if he installed Mr. Clark and what the consequences would be?

RICHARD DONOGHUE: Yes. So, this was in line with the president's saying what do I have to lose? And along those lines, he said, so suppose I do this. Suppose I replace him, Jeff Rosen, with him, Jeff Clark? What would you do? And I said, Mr. President, I would resign immediately. I'm not working one minute for this guy, who I had just declared was completely incompetent.

And so, the president immediately turned to — to Mr. Engel. And he said, Steve, you wouldn't resign, would you? And he said absolutely I would, Mr. President. You leave me no choice. And — and then I said, and we're not the only ones. No one cares if we resign. If Steve and I go, that's fine. It doesn't matter.

But I'm telling you what's going to happen. You're going to lose your entire department leadership. Every single AAG will walk out on you. Your entire department leadership will walk out within hours. And I don't know what happens after that. I don't know what the United States attorneys are going to do. We have US attorneys in districts across the country, and my guess would be that many of them would have resigned.

And that would then have led to resignations across the department in Washington. And I said, Mr. President, within 24, 48, 72 hours, you could have hundreds and hundreds of resignations of the leadership of your entire Justice Department because of your actions. What's that going to say about you?

ADAM KINZINGER: Wow. Mr. Engel, what was — can you describe what your reaction was to that?

STEVEN ENGEL: Yeah. No, I — I think when the president — my recollection is that when the president turned to me and said, Steve, you wouldn't leave, would you, I said, Mr. President, I've been with you through four attorneys general, including two acting as attorney general, but I couldn't be part of this. And then the other thing that I said was that, you know, look, all anyone is going to sort of think about when they see this — no one is going to read this letter.

All anyone is going to think is that you went through two attorneys general in two weeks until you found the environmental guy to sign this thing. And so, the story is not going to be that the Department of Justice has found massive corruption that would have changed the result of the election. It's going to be the disaster of Jeff Clark.

And I think at that point Pat Cipollone said, yeah, this is a murder suicide pact, this letter.

RICHARD DONOGHUE: And I would — I would note too, Congressman, that it was in this part of the conversation where Steve pointed out that Jeff Clark would be left leading a graveyard, and that — that comment clearly had an impact on the president. The leadership will be gone. Jeff Clark will be left leading a graveyard.

STEVEN ENGEL: Again, the — the premise that — which, as Mr. Donohue has said, was that Mr. Clark could come in and take over the Department of Justice and do something different was just an absurd premise. And all he was doing, Mr. Clark, by putting himself forward was blowing himself up. And, you know, if the president were to have gone that course, you know, it would have been a grievous error for the president as well.

ADAM KINZINGER: Mr. Cipollone, the White House counsel, told the committee that Mr. Engel's response had a noticeable impact on the president, that this was a turning point in the conversation. Mr. Donohue, towards the end of this meeting, did the president ask you what was going to happen to Mr. Clark?

RICHARD DONOGHUE: He did. When we finally got to the — I would say the last 15 minutes of the meeting, the president's decision was apparent. He announced it. Jeff Clark tried to scrape his way back and — and asked the president to reconsider. The president doubled down, said no,

I've made my decision. That's it. We're not going to do it. And then he turned to me and said, so what happens to him now, meaning Mr. Clark.

And he understood that Mr. Clark reported to me. And I — I didn't initially understand the question. I - - I said Mr. President? He said, are you going to fire him? And I said I don't have the authority to fire him. He's a Senate confirmed assistant attorney general. And he said, well, who has the authority to fire him?

And I said only you do, sir. And he said, well, I'm not going to fire him. I said Alright. Well, then we should all go back to work.

ADAM KINZINGER: Did you get a call from the president later that night?

RICHARD DONOGHUE: I did, I don't know, probably 90 minutes later or something like that.

ADAM KINZINGER: What was that about?

RICHARD DONOGHUE: The president — at this — at this point, we left the White House, reconvened at the department. I left the department. I was back in my apartment. My cell phone rang. It was the president, and he had information about a truck supposedly full of shredded ballots in Georgia that was in the custody of an ICE agent whose name he had.

I told him that ICE was part of Department Homeland Security. I hadn't heard about this. If Department of Homeland Security needed our assistance, we of course would provide it. But it was really up to DHS to make a call if their agent was involved. And he said fine, I understand. Can you just make sure that Ken, meaning Ken Cuccinelli, knows about this?

I said fine, I would pass that along to him. I eventually contacted Ken Cuccinelli later that evening. And I said this is what the president told me. If you guys have anything you think should be brought to our attention, let me know. And he said thank you, and that was it.

ADAM KINZINGER: Mr. Cipollone left the meeting convinced the president would not appoint Mr. Clark, but he didn't think the president had actually accepted the truth about the election. Sure enough, all the same debunked theories appeared in his speech at the Ellipse three days later. [Begin videotape]

DONALD TRUMP: In the state of Arizona, over 36,000 ballots were illegally cast by non-citizens. 11,600 more ballots than votes were counted, more than there were actual voters. You see that? In Wisconsin, corrupt Democrat run cities deployed more than 500 illegal, unmanned, unsecured drop boxes, which collected a minimum of 91,000 unlawful votes. [End videotape]

ADAM KINZINGER: Mr. Donohue, Mr. Rosen, Mr. Engel, and others stopped President Trump's efforts at least temporarily. Yet the message President Trump and his Republican allies pushed throughout December made its way to his supporters anyway, and they keep up the pressure campaign on the way to storming the Capitol on January 6th? Mr. Rosen, were you at the Department of Justice on January 6th?

JEFFREY A. ROSEN: Yes, I was there all day.

ADAM KINZINGER: Once the Capitol was under attack, I understand that you communicated with fellow Cabinet members and Capitol Hill leadership. Can you tell us who you spoke to?

JEFFREY A. ROSEN: Yeah, I was basically on the phone virtually nonstop all day, some calls with our own DOJ folks, some with cabinet counterparts at DHS and — and Defense and Interior, some with senior White House officials and with a number of Congressional leaders. I received calls from Speaker Pelosi, from Leader McCarthy, from Leader Schumer.

I believe Leader McConnell's chief of staff called, a number of other members of Congress as well. And the — you know, the basic thrust of the calls with the members of Congress was there's a, you know, dire situation here and — and can you help? And I reported to them that we were, on a very urgent basis, sending help from the department.

We — we wound up sending over 500 agents and officers from FBI, ATF, and the U.S. Marshals to assist with restoring order at the Capitol. So, had a number of calls. As I say, it was more or less nonstop all afternoon.

ADAM KINZINGER: Did you speak to the vice president that day?

JEFFREY A. ROSEN: Yes, twice. The --

ADAM KINZINGER: No. Please, go ahead.

JEFFREY A. ROSEN: Well, I was gonna say, the — the first call was a one on one discussion, somewhat akin to the Congressional leadership calls, updating him on what we were doing to assist. And the — the second call was a conference call around 7:00 with the vice president, Congressional leaders, senior White House staff, some other cabinet officials to address that order appeared to be close to being restored, or restored but security still being determined, and the question being what time could the Congress reassemble.

And the answer was 8:00. And thankfully, Congress did reassemble and complete its constitutional duty. There was one highlight of that second call with the vice president, which is Mr. Donoghue had gone to the rotunda of the Capitol to be able to give firsthand account, and

was able to tell the — the folks on the call, including the vice president, that we thought 8:00 would work.

ADAM KINZINGER: Did you speak to the president on January 6th?

JEFFREY A. ROSEN: No. I spoke to a number of senior White House officials, but not the president.

ADAM KINZINGER: Mr. Donoghue, on January 6th, we know from Mr. Rosen that you helped in the effort to reconvene joint session — the joint session. Is that correct?

RICHARD DONOGHUE: Yes, sir.

ADAM KINZINGER: We see here in a video that we're going to play now you arriving with your security detail to help secure the Capitol. Mr. Donoghue, 30 minutes after you arrived at the Capitol, did you lead a briefing for the vice president?

RICHARD DONOGHUE: I'm not sure exactly what the timeframe was, but I did participate in the call and participate in briefing the vice president, as well as the Congressional leadership that night, yes.

ADAM KINZINGER: Where'd you conduct that call at?

RICHARD DONOGHUE: I was in an office. I'm not entirely sure where it was. My detail found it because the acoustics in the rotunda were such that it wasn't really conducive to having a call, so they found an office. We went to that office, and I believe I participated in two phone calls, one at 1801 and one at 1900 that night from that office.

ADAM KINZINGER: What time did you actually end up leaving the Capitol?

RICHARD DONOGHUE: I waited until the Senate was back in session, which I believe they were gavelled in a few minutes after 8:00 PM. And once they were back in session and we were confident that the entire facility was secured and cleared, that there were no individuals hiding in closets or under desks, that there were no IEDs or other suspicious devices left behind, I left minutes later.

I was probably gone by 8:30.

ADAM KINZINGER: And Mr. Donoghue, did you ever hear from President Trump that day?

RICHARD DONOGHUE: No. Like the AAG — the acting AG, I spoke to Pat Cipollone and Mark Meadows and the vice president and the Congressional leadership, but I never spoke to the president that day.

ADAM KINZINGER: So, in today's hearing, we've showcased the efforts of the Americans before us to stand up for democracy. Mr. Rosen, Mr. Donohue stayed steadfastly committed to the oath they take as officials in the Department of Justice. On January 6th itself, they assisted during the attack while our commander in chief stayed silent.

Their bravery is a high moment in the sorted story of what led to January 6th. My colleagues and I up here also take an oath. Some of them failed to uphold theirs, and instead chose to spread the big lie. Days after the tragic events of January 6th, some of these same Republican members requested pardons in the waning days of the Trump administration.

Five days after the attack on the Capitol, Representative Mo Brooks sent the email on the screen now. As you see, he emailed the White House "Pursuant to a request from Matt Gaetz, requesting a pardon for Representative Gaetz himself and unnamed others." Witnesses told the Select Committee that the president considered offering pardons to a wide range of individuals connected to the president.

Let's listen to some of that testimony. [Begin videotape]

UNKNOWN: And was Representative Gaetz requesting a pardon?

ERIC HERSCHMANN: I believe so. The — the general tone was we may get prosecuted because we were defensive of, you know, the president's positions on these things. The pardon that he was discussing requesting was as broad as you can describe, from beginning — I remember he's — from the beginning of time up until today for any and all things.

Then he mentioned Nixon. And I said Nixon's pardon was never nearly that broad.

UNKNOWN: And are you aware of any members of Congress seeking pardons?

CASSIDY HUTCHINSON: I guess Mr. Gaetz and Mr. Brooks, I know, have both advocated for there'd be a blanket pardon for members involved in that meeting, and a — a handful of other members that weren't at the December 21st meeting as the presumptive pardons. Mr. Gaetz was personally pushing for a pardon, and he was doing so since early December.

I'm not sure why Mr. Gaetz would reach out to me to ask if he could have a meeting with Mr. Meadows about receiving a presidential pardon.

UNKNOWN: Did they all contact you?

CASSIDY HUTCHINSON: Not all of them, but several of them did.

UNKNOWN: So, you mentioned Mr. Gaetz, Mr. Brooks.

CASSIDY HUTCHINSON: Mr. Biggs did. Mr. Jordan talked about Congressional pardons, but he never asked me for one. It was more for an update on whether the White House was going to pardon members of Congress. Mr. Gohmert asked for one as well. Mr. Perry asked for a pardon, too. I'm sorry.

UNKNOWN: Mr. Perry? Did he talk to you directly?

CASSIDY HUTCHINSON: Yes, he did.

UNKNOWN: Did Marjorie Taylor Greene contact you?

CASSIDY HUTCHINSON: No, she didn't contact me about it. I heard that she had asked White House Counsel's Office for a pardon from Mr. Philbin, but I didn't frequently communicate with Ms. Greene.

UNKNOWN: Are you aware of any conversations or communications regarding the possibility of giving Congressman Matt Gaetz a pardon?

JOHN MCENTEE: I know he had asked for it, but I don't know if he ever received one or what happened with it.

UNKNOWN: How do you know that Congressman Gaetz asked for a pardon?

JOHN MCENTEE: He told me.

UNKNOWN: Tell us about that.

JOHN MCENTEE: He told me he'd asked Meadows for a pardon.

UNKNOWN: Were you involved in or did you witness any conversations about the possibility of a blanket pardon for everyone involved in January 6th?

JOHN MCENTEE: I had heard that mentioned, yeah.

UNKNOWN: Do you know whether the president had any conversations about potentially pardoning any family members?

JOHN MCENTEE: I know he had hinted at a blanket pardon for the January 6th thing for anybody. But I think he had for all the staff and everyone involved not with January 6th, but just before he left office. I know he had talked about that. [End videotape]

ADAM KINZINGER: The only reason I know to ask for a pardon is because you think you've committed a crime. Thank you, Mr. Chairman. I yield back.

BENNIE THOMPSON: I want to thank our witnesses for joining us today. The members of the Select Committee may have additional questions for today's witnesses, and we ask that you respond expeditiously in writing to these questions. Without objection, members will be permitted ten business days to submit statements for the record, including opening remarks and additional questions for the witnesses.

Without objection, the Chair recognizes the gentleman from Illinois for a closing statement.

ADAM KINZINGER: Thank you, Mr. Chairman. The Justice Department lawyers are not the president's personal lawyers. We count on them to be on the side of the law and to defend the best interest of the United States, not the best interest of any political campaign. That's how it's been since the department was founded soon after the Civil War. Justice Department lawyers are supposed to play it 100 percent straight.

President Trump tried to erase his loss at the ballot box by parachuting an unqualified man into the top job at Justice. It was a power play to win at all costs with no regard for the will of the American people. It was about ignoring millions of votes, ignore them, throw them out, label them fraudulent, corrupt, illegal, whatever.

Facts were clearly just an inconvenience. From the Oval Office, President Trump urged others to bring his big lie to life. He begged just say the election was corrupt and leave the rest to me and the Republican Congressmen. He didn't care what the department's investigations proved. What good were facts when they would only confirm his loss?

And it's no surprise that all the far out, fully fabricated whack job conspiracy theories collapsed under even the slightest scrutiny. That insanity went from the Internet to the highest levels of government in no time. The bottom line, the most senior leadership of the Justice Department, from Attorney General Bill Barr to Jeff Rosen, his successor, and his deputy, Rich Donoghue, everyone except Jeff Clark was telling President Trump the very same thing.

The conspiracy theories were false. The allegation of a stolen election was a lie. The data left no room for doubt, nothing to question, and the Constitution left no room for President Trump to change the outcome of the election. But we're here today because the facts were irrelevant to President Trump. It was about protecting his very real power and very fragile ego, even if it

required recklessly undermining our in — our entire electoral system by wildly casting baseless doubt upon it. In short, he was willing to sacrifice our republic to prolong his presidency.

I can imagine no more dishonorable act by a president. We owe a great debt of gratitude to these men you've heard from here today, real leaders who stood for justice when it was in grave peril, who put their country first. When the leader of the free world demanded otherwise, they threatened to resign rather than corrupt our democracy.

And thanks largely to each of them, President Trump's coup failed. Contrast that to Jeff Clark, who would do exactly what the president wanted, say there was massive fraud, forget the facts and leave the rest to President Trump's Congressional friends. Mr. Clark refused to cooperate with this committee. He pled the fifth over 125 times.

Why risk self in criminal — in — incrimination? And President Trump's Congressional friends, some of them are angling for pardons? They knew that every bit of what they did was a lie and it was wrong. That's all the more reason to respect those who came here to testify today. We thank them for their unflinching service in the face of incredible pressure.

As it's said, the only thing necessary for evil to succeed is good men to do nothing. Thankfully, there were good people in the Department of Justice. You heard from other good people too on Tuesday. They too defended us. But I'm still worried that not enough has changed to prevent this from happening again.

The oath that we take has to mean something. It has to cut to the core of who we are and be the driving force of our service to this nation. We on this committee, we may be able to shine light on the darkness, but that is not enough.

ADAM KINZINGER: It's now up to every American, now and in the future, to stand for truth, to reject the lies wherever we confront them. And our towns, and our capitals, and our friendships, and our families, and at the ballot box, and within our own minds and hearts. Thank you, Mr. Chairman. I yield back.

BENNIE THOMPSON: Without objection, the Chair recognizes the gentlewoman from Wyoming, Ms. Cheney, for a closing statement.

LIZ CHENEY: Thank you very much, Mr. Chairman. And — and I again want to thank the witnesses for being here today. After today, I suspect that there will be some who label you agents of the Deep State or something else conspiratorial or nonsensical meant to justify ignoring what you said today. Ignoring the facts. That maybe the short term cost of acting honorably and telling the truth.

But your actions should have an important long term impact. They will help keep us on the course set by the framers of our Constitution. Let me paraphrase the words of John Adams and others: whether ours shall continue to be a government of laws and not of men is ultimately for the American people to decide.

And let me also today make a broader statement to millions of Americans who put their trust in Donald Trump. In these hearings so far, you've heard from more than a dozen Republicans who've told you what actually happened in the weeks before January 6th. You will hear from more in the hearings to come. Several of them served Donald Trump in his Administration, others in his campaign.

Others have been conservative Republicans for their entire careers. It can be difficult to accept that President Trump abused your trust, that he deceived you. Many will invent excuses to ignore that fact. But that is a fact. I wish it weren't true, but it is. Thank you, Mr. Chairman. I yield back.

BENNIE THOMPSON: Again, I thank our witnesses and thank my colleagues for this hearing. As we conclude our fifth hearing in this series, I want to remind the American people of a few things the committee has shown. Donald Trump lost the 2020 election. Top Republican officials who supported Trump knew that he lost and told him he lost.

Trump knew he lost. Those who say the election was affected by widespread voter fraud are lying. They were lying in 2020, they were lying in 2021, and indeed they are lying today. Donald Trump went to court. That's the right any candidate seeking to challenge the outcome of an election must do. Donald Trump lost in court dozens and dozens of [times]. He lost in part because there was no evidence that voter fraud had any impact on the results of the election.

To borrow a phrase from our witness earlier this week, Mr. Bowers, all he had was theories and no evidence. As I've said, if you're running for office in the United States that's the end of the line. You accept the court's judgment, you concede the race, you respect the rule of law and the will of the voters.

But for Donald Trump that wasn't the end of the line. Not even close. The voters refused to keep him in office. The courts refused to keep him in office. But he continued to lie. And he went in search of anyone who would go along with his scheme. And we have shown today he pressured the Justice Department to act as an arm of his reelection campaign.

He hoped law enforcement officials would give the appearance of legitimacy to his lies so he and his allies had some veneer of credibility when they told the country that the election was stolen. Earlier this week we showed how Donald Trump brought the weight of the presidency down on local and state officials who were trying to do their jobs and ultimately did.

They investigated his claims and found them to be false. In the end, they endured Trump's pressure campaign at great risk to themselves and their loved ones. And of course there was a scheme to get the former Vice President, Mike Pence, to violate the law and the Constitution by rejecting the Electoral College votes on January 6th and blocking the peaceful transfer of power.

I mentioned the former Vice President last because as we showed, when he refused to bow to the pressure in those critical moments on January 6th, there was a backup plan for stopping the transfer of power: the mob and their vile threats. Up to this point, we've shown the inner workings of what was essentially a political coup, an attempt to use the powers of the government from the local level all the way up to overturn the results of the election.

Find me the votes. Send fake electors. Just say the election was corrupt. Along the way we saw threats of violence. We saw what some people were willing to do. In the service of the nation? The Constitution? No. In service of Donald Trump. When the Select Committee continues this series of hearings, we're going to show how Donald Trump tapped into the threat of violence, how he summoned the mob to Washington, and how after corruption and political pressure failed to keep Donald Trump in office, violence became the last option.

Our investigation is ongoing. Those hearings have spurred an influx of new information that the committee and our investigators are working to assess. We are committed to presenting the American people with the most complete information possible. That will be our aim when we reconvene in the coming weeks.

The Chair, however, requests those in the hearing room remain seated until the Capitol Police have escorted members from the room. Without objection, the committee stands to adjourned.