

January 6th Committee Hearing: June 13, 2022

List of panel members:

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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 morning. Last week, the Select Committee laid out a preview of our initial findings about the conspiracy overseen and directed by Donald Trump to overturn the results of the 2020 presidential election and block the transfer of power, a scheme unprecedented in American history. My colleagues and I don't want to spend time talking about ourselves during these hearings, but as someone who's run for office a few times, I can tell you at the end of a campaign it all comes down to the numbers.

The numbers tell you the winner and the loser. For the most part, the numbers don't lie. But if something doesn't add up with the numbers, you go to court to get resolution, and that's the end of the line. We accept those results. That's what it means to respect the rule of law. That's what it means to seek elective office in our democracy.

Because those numbers aren't just numbers, they are votes. They're your votes. They are the will and the voice of the people. And the very least we should expect from any person seeking a position of public trust is the acceptance of the will of the people, win or lose. Donald Trump didn't. He didn't have the numbers.

He went to court. He still didn't have the numbers. He lost, but he betrayed the trust of the American people. He ignored the will of the voters. He lied to his supporters and

the country, and he tried to remain in office after the people had voted him out and the courts upheld the will of the people. This morning, we'll tell the story of how Donald Trump lost an election and knew he lost an election and, as a result of his loss, decided to wage an attack on our democracy, an attack on the American people by trying to rob you of your voice in our democracy, and in doing so, lit the fuse that led to the horrific violence of January 6th, when a mob of his supporters stormed the Capitol, sent by Donald Trump to stop the transfer of power.

Today, my colleague from California, Ms. Lofgren, and our witnesses will detail the select committee's findings on these matters, but first I will 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. Last week, as the chairman noted, our committee began outlining a seven part plan overseen by President Trump to overturn the 2020 election. Today we will begin looking at the initial part of that plan, President Trump's effort to convince millions of Americans that the election was stolen from him by overwhelming fraud.

A federal court has already reviewed elements of the committee's evidence on this point and said this, "In the months following the election, numerous credible sources, from the president's inner circle to agency leadership and statisticians, informed of President Trump and Dr. Eastman that there was no evidence of election fraud" sufficient to overturn the 2020 presidential election.

The court's opinion methodically documents each of the principal reasons for that conclusion, and I would urge all those watching to read it. Today we will begin to show the American people some of our evidence. Today you will hear much more from former attorney general Bill Barr's recorded testimony, and you will hear in greater detail what others in the department told President Trump, that his claims of election fraud were nonsense.

You will also hear much more from President Trump's own campaign experts, who had also concluded that his fraud claims could not be supported. Let me focus briefly on just three points now. First, you will hear firsthand testimony that the president's campaign advisers urged him to await the counting of votes and not to declare victory on election night.

The president understood, even before the election, that many more Biden voters had voted by mail because President Trump ignored the advice of his campaign experts and told his supporters only to vote in person. Donald Trump knew before the election that the counting of those mail in ballots in several states would not begin until late in the day and would not be complete for multiple days.

This was expected, reported, and widely known. You will also hear testimony that President Trump rejected the advice of his campaign experts on election night and instead followed the course recommended by an apparently inebriated Rudy Giuliani to just claim he won and insist that the vote counting stop, to falsely claim everything was fraudulent.

He falsely told the American people that the election was not legitimate, in his words, "a major fraud." Millions of Americans believed him. Second, pay attention to what Donald Trump and his legal team said repeatedly about Dominion voting machines, far flung conspiracies with a deceased Venezuelan communist allegedly pulling the strings.

This was, "complete nonsense," as Bill Barr said. President Trump's own campaign advisers, his Department of Justice, and his cybersecurity experts all told him the same thing. Here, for example, is White House lawyer Eric Herschmann. His view was shared by many of the Trump team whom we interviewed.

[Begin videotape] ERIC HERSCHMANN: I thought the Dominion stuff was — I never saw any evidence whatsoever to sustain those allegations. [End videotape]

LIZ CHENEY: And third, as Mike Pence's staff started to get a sense for what Donald Trump had planned for January 6th, they called the campaign experts to give them a briefing on election fraud and all the other election claims. On January 2nd, the general counsel of the Trump campaign, Matthew Morgan, this is the campaign's chief lawyer, summarized what the campaign had concluded weeks earlier, that none of the arguments about fraud or anything else could actually change the outcome of the election.

[Begin videotape] MATTHEW MORGAN: Generally discussed on that topic was whether the fraud maladministration, abuse, or irregularities, if aggregated and read most favorably to the campaign, would that be outcome determinative. And I think

everyone's assessment in the room, at least among the staff, Marc Short, myself, and Greg Jacob, was that it was not sufficient to be outcome determinative. [End videotape]

LIZ CHENEY: As is obvious, this was before the attack on the Capitol. The Trump campaign legal team knew there was no legitimate argument, fraud, irregularities, or anything, to overturn the election, and yet President Trump went ahead with his plans for January 6th anyway. Mr. Chairman, hundreds of our countrymen have faced criminal charges.

Many are serving criminal sentences because they believed what Donald Trump said about the election and they acted on it. They came to Washington, DC at his request. They marched on the Capitol at his request, and hundreds of them besieged and invaded the building at the heart of our constitutional republic.

As one conservative editorial board put it recently, "Mr. Trump betrayed his supporters by conning them on January 6th, and he is still doing it." Another conservative editorial board that has long supported President Trump said last week Donald Trump "won't stop insisting that the 2020 — that 2020 was stolen, even though he has offered no proof that that is true." And this: Donald Trump now "clings to more fantastical theories, such as Dinesh D'Souza's debunked 2000 Mules, even as recounts in Arizona, Georgia, and Wisconsin confirm Trump lost." Those are the correct conclusions to draw from the evidence gathered by this committee.

We have much more evidence to show the American people on this point than we can reasonably show in one hearing, but today we will begin. Thank you Mr. Chairman. I yield back.

BENNIE THOMPSON: Without objection — without objection, the chair recognizes the gentlewoman from California, Ms. Lofgren, for an opening statement.

ZOE LOFGREN: Well, thank you, Mr. Chairman. In our opening hearing, we gave an overview of our investigation into the January 6th attack. The plot to overthrow the election was complex and had many parts, which we'll explore in remaining hearings, but today we examine the false narrative that the 2020 election was "stolen." Former President Trump's plan to overturn the election relied on a sustained effort to deceive millions of Americans with knowingly false claims of election fraud.

All elements of the plot relied on convincing his supporters about these false claims. Today we'll demonstrate the 2020 election was not stolen. The American people elected President Joe Biden. We'll present evidence that Mr. Trump's claims of election fraud were false, that he and his closest advisers knew those claims were false, but they continued to peddle them anyway right up until the moments before a mob of Trump supporters attacked the Capitol.

We'll also show that the Trump campaign used these false claims of election fraud to raise hundreds of millions of dollars from supporters, who were told their donations were for the legal fight in the courts, but the Trump campaign didn't use the money for that. The Big Lie was also a big rip off. The former president laid the groundwork for these false claims well in advance of the election.

As early as April 2020, Mr. Trump claimed that the only way he could lose an election would be as a result of fraud.

[Begin videotape] DONALD TRUMP: You know the things with bundling and all of the things that are happening with votes by mail where thousands of votes are gathered. And I'm not going to say which party does it, but thousands of votes are gathered and they come in and they're dumped in a location. And then all of a sudden, you lose elections that you think you're going to win.

The only way we're going to lose this election is if the election is rigged. To remember that. It's the only way we're going to lose this election. This is going to be a fraud like you've never seen. Did you see what's going on? Take a look at West Virginia. Mailmen selling the ballots. They're being sold.

They're being dumped in rivers. This is a horrible thing for our country.

JOE BIDEN: There is no --

DONALD TRUMP: This is not --

JOE BIDEN: There is no evidence of that.

DONALD TRUMP: This is not going to end well. [End videotape]

ZOE LOFGREN: Mr. Trump decided even before the election that regardless of the facts and the truth, if he lost the election, he would claim it was rigged. Mr. Trump was right about one thing. It did not end well. On election night, Mr. Trump claimed even before the votes were counted that his loss was a result of fraud.

Now Thursday, we had testimony from Attorney General Barr about the Department of Justice investigation of Mr. Trump's fraud claims. Barr told Trump directly that his claims were BS. Yet, after hearing the truth and that warning from the AG, Mr. Trump continued to peddle the false claims of fraud. You'll hear detailed testimony from Attorney General Barr describing the various election fraud claims the Department of Justice investigated.

He'll tell you how he told Mr. Trump repeatedly that there was no merit to those claims. Mr. Barr will tell us that Mr. Trump's election night claims of fraud were made without regard to the truth and before it was even possible to look for evidence of fraud. Attorney General Barr wasn't alone. You will see and hear today other Department of Justice officials and senior advisers to Mr. Trump that they told him the claims he was making were not supported by evidence.

The election fraud claims were false. Mr. Trump's closest advisers knew it. Mr. Trump knew it. That didn't stop him from pushing the false claims and urging his supporters to quote, "fight like hell" to quote, "take back their country". After he lost the election, various legal challenges were made. You'll hear testimony today from a renowned Republican election litigation lawyer who explained the normal process by which candidates challenge an election.

Rather than accept the results of the election and the decisions of the courts, Mr. Trump pursued a different strategy. He tried to convince the American people the election had been stolen. Many of his supporters believed him and many still believe him today. The attack on January 6th was a direct and predictable result of Mr. Trump's decision to use false claims of election fraud to overturn the election and to cling to power.

Mr. Chairman, I yield back.

BENNIE THOMPSON: Thank you very much. I now welcome our first witness. We're joined today by former Fox News politics editor, Chris Stirewalt; Bill Stepien,

President Trump's former campaign manager was subpoenaed to be here and was in Washington this morning prepared to testify, Kevin Marino, Mr. Stepien's attorney is here with us today.

Thank you, Mr. Marino for coming. And he was advised — he has advised us that Mr. Stepien's wife went into labor this morning. Mr. Stepien unexpectedly had to travel to be with his wife and we wish him the best. Due to the depth and rigor of our investigation with several hours of Mrs. Stepien's testimony from when we interviewed him in February and we will be presenting that testimony today.

I'll now swear in our witness. The witness will please stand and raise his right hand. Do you swear or affirm 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 witness answered in the affirmative. I now recognize myself for questions. I want to start by showing a video that tells the story of what was going on in the Trump White House on election night in November of 2020.

[Begin videotape] UNKNOWN: Do you remember where you were on the night of the election November the third?

IVANKA TRUMP: I was at the White House.

UNKNOWN: Do you know where specifically over the course of that night you spent your time within the White House?

IVANKA TRUMP: There was an event that was organized in the residence. So I moved between the residence, a room sort of off the residence where some family members were.

UNKNOWN: I take it, the President was upstairs in the residence?

JARED KUSHNER: He was upstairs. I was — we were kind of on the first floor, so not upstairs we were with — mostly with Ivanka and her brothers and a couple other people who'd be coming in and out.

UNKNOWN: Can you just describe the atmosphere? What were people expecting that night when you got to the White House?

JASON MILLER: I think that there was typically, for people who show up there on election night to be a self-select more positive environment. I think people were a little bit nervous not knowing what was going to happen with the red wave or the red mirage as the debate was being carried out.

UNKNOWN: The Fox News decision desk is calling Arizona for Joe Biden. That is a big get for the Biden campaign. Arizona is called. Do you remember that?

BILL STEPIEN: I do.

UNKNOWN: What do you remember happening — where you were when Arizona was called?

BILL STEPIEN: I — there was surprise at the call.

UNKNOWN: Who is surprised?

BILL STEPIEN: Most — most everyone in the room.

UNKNOWN: Were you being one of them?

BILL STEPIEN: Yes.

UNKNOWN: Did that shift the atmosphere or the attitude in the White House?

JASON MILLER: Completely.

UNKNOWN: How so? Can you describe that?

JASON MILLER: Because Fox News was the first one to go out and say that.

UNKNOWN: And so was it anger kind of directed towards Fox News for making a call more so than a disappointment that maybe the campaign lost Arizona?

JASON MILLER: All of the above.

UNKNOWN: So both? Anger and disappointment?

JASON MILLER: Both disappointed with Fox and concerned that maybe our data or our numbers weren't accurate.

UNKNOWN: Were you in the White House residence during the sort of past midnight into the early morning hours of November 4th?

RUDY GIULIANI: Yes, I'm sure it — it went over beyond midnight. Yes.

UNKNOWN: Do you remember Rudy Giuliani being at the White House on election night and into the early hours the next morning?

BILL STEPIEN: I do.

UNKNOWN: What do you remember about when he came?

BILL STEPIEN: He — he was — there were — I had heard that he was upstairs, you know, in that aforementioned reception area. And he was looking to talk to the President. And it was suggested instead that he'd come talk to several of us down off the map room.

UNKNOWN: You said that Mr. — you had heard that Mr. Giuliani wanted to talk to the President and then he was directed your way. Did you end up talking to Mr. Giuliani when he was directed [inaudible] ?

BILL STEPIEN: I did. I did.

UNKNOWN: What was that conversation?

BILL STEPIEN: A lot of conversations were directed my way. A few of us, myself, Jason Miller, Justin Clarke, Mark Meadows, gathered in a room off the map room to — to listen to whatever Rudy presumably wanted to say to the President.

UNKNOWN: Was there anyone in that conversation who in your observation had had too much to drink?

JASON MILLER: Like — Mayor Giuliani.

UNKNOWN: Tell me more about that? What was your observation about his potential intoxication during that — that discussion about what the President should say when he addressed the nation on election night?

JASON MILLER: And the mayor was definitely intoxicated, but I do not know his level of tox — intoxication when he spoke with the President, for example.

UNKNOWN: Were you part of any discussions with the people I mentioned, Mr. Stepien, Mr. Meadows, or anyone else about whether the President should make any sort of speech on election night?

RUDY GIULIANI: I mean, I spoke to the President. They may have been present, but the President — spoke to the President several times that night.

JASON MILLER: There are suggestions by, I believe it was Mayor Giuliani, to go and declare victory and say that we won it outright.

BILL STEPIEN: It was far too early to be making any calls like that. Ballots — ballots were still being counted. Ballots were still going to be counted for days. And it was far too early to be making any proclamation like that.

JASON MILLER: I remember saying that I — to the best of my memory, and I was saying that we should not go and declare victory until we had a better sense of the numbers.

UNKNOWN: Okay. Can you be more specific about that conversation? In particular, what Mayor Giuliani said your response and then anybody else in the room's response?

JASON MILLER: I think effectively, Mayor Giuliani was saying we want it. They're stealing it from us. Where'd all the votes come from? We need to go say that we won. And essentially to anyone who didn't agree with that position was being weak.

UNKNOWN: What was your view at the time as to what he should or shouldn't say?

IVANKA TRUMP: I don't know that I had a firm view as to what he should say in that circumstance. The results were still being counted. It was becoming clear that the race would not be called on election night.

BILL STEPIEN: My belief, my recommendation was to say that votes are still being counted. It's too early to — to tell. Too early to call the race. But, you know, we are proud of the race we — we run — we ran and, you know, we think — we think we're in a — in good position. And we'll have more to say about this, you know, the next day or the next day whenever we had something to say.

UNKNOWN: And did anybody who is a part of that conversation disagree with your message?

BILL STEPIEN: Yes.

UNKNOWN: Who is that?

BILL STEPIEN: The President agreed with that. I don't recall the particular words. He thought I was wrong. He told me so. And, you know, that they were going to, you know, go in it — he was going — to go in a different direction.

DONALD TRUMP: This is a fraud on the American public. This is an embarrassment to our country. We were getting ready to win this election. Frankly, we did win this election. [applause] [End videotape]

BENNIE THOMPSON: Mr. Stirewalt, did President Trump have any basis to declare victory on November 4th, 2020?

CHRIS STIREWALT: [off-mic]

BENNIE THOMPSON: Thank you. Mr. Stepien also testified that President Trump had no basis for declaring victory at that point in time.

[Begin videotape] BILL STEPIEN: By my belief, my recommendation was to say that votes are still being counted. It's too early to tell. Too early to call the race. But, you know, we are proud of the race we — we run — we ran and we think — we think we're in a in good position. And we'll have more to say about this, you know, the next day or the next day whenever we had something to say. [End videotape]

BENNIE THOMPSON: Thank you. Mr. Stirewalt, after the votes were counted who won the presidential election of 2020?

CHRIS STIREWALT: Joseph Robinette Biden, Jr. of the great state of Delaware.

BENNIE THOMPSON: Thank you. That's the bottom line. We had an election. Mr. Trump lost, but he refused to accept the results of the democratic process. Pursuant to Section 5c8 of House Resolution 503, I now recognize the gentlewoman from California, Ms. Lofgren for questions.

ZOE LOFGREN: Well, thank — thank you, Mr. Chairman. Mr. Stirewalt. I'd like you to explain a term that was thrown around a lot during the election and that's the so-called red mirage. What does that mean?

CHRIS STIREWALT: So in the 40 or 50 years, let's say, that Americans have increasingly chosen to vote by mail or early or absentee Democrats prefer that method of voting more than Republicans do.

So basically in every election, Republicans win Election Day and Democrats win the early vote, and then you wait and start counting. And it depends on which ones you count first, but usually it's Election Day votes that get counted first. And you see the Republicans shoot ahead. And then the process of — of bailing and binding and unbinding all those mail in votes in some states like Pennsylvania refused to count the votes first.

So you have to wait for all of that to come in. So in every election and certainly a national election, you expect to see the Republican with a lead, but it's not really a lead. When you put together a jigsaw puzzle, it doesn't matter which piece you put in first, it ends up with the same image. So for us, who cares?

But that's because no candidate had ever tried to avail themselves of this quirk in the election counting system. We had gone to pains — and I'm proud of the pains we went to — to make sure that we were informing viewers that this was going to happen, because the Trump campaign and the President had made it clear that they were going to try to exploit this anomaly.

And we knew it was going to be bigger because the percentage of early votes was higher, right? We went from about 45 percent of the votes being early and absentee to — because of the pandemic that increased by about 50 percent. So we knew it would be longer, we knew it would be more. So we wanted to keep telling viewers, hey,

look, the number that you see here is sort of irrelevant because it's only a small percentage of these votes.

ZOE LOFGREN: So this red mirage, that's really what you expected to happen on election night.

CHRIS STIREWALT: Happens every time.

ZOE LOFGREN: Thank you, Mr. Stirewalt. I'd like to play a clip — a clip of Attorney General Bill Barr, who also explains what was expected to happen on election night.

[Begin videotape] WILLIAM BARR: Right out of the box on election night, the President claimed that there was major fraud underway. I mean, this happened as far as I could tell before there was actually any potential of looking at evidence. And it seemed to be based on the dynamic that — that at the end of the evening a lot of Democratic votes came in which changed the vote counts in certain states.

And that seemed to be the basis for this broad claim that there was major fraud. And I didn't think much of that because people had been talking for weeks and everyone understood for weeks that that was going to be what happened on election night. [End videotape]

ZOE LOFGREN: Mr. Stepien obviously could not be with us today and it's proper for him to be with his wife as they welcome their child.

But he also had discussions with the President about the red mirage. That is that it would be a long night and that early votes would favor him, but that lots more votes would be counted over the course of the night and the days after. So let's play clip one from our interview with Mr. Stepien.

[Begin videotape] BILL STEPIEN: I — I recounted back to that conversation with him in which I said — just like I said in 2016 it was going to be a long night. I — I told him in 2020 that, you know, there were — it was going to be a — a process again. As, you know, the early returns are going to be, you know, positive. Then we're gonna, you know, be watching the returns of — of ballots as, you know, they rolled in thereafter.

UNKNOWN: Isn't it fair to say you're trying to present a — a — what you thought would be a realistic picture of what might happen over the course of that night, being election night?

BILL STEPIEN: That night in the days that followed. Yeah. I — I — I always — I always, you know, I always told the President the truth. And, you know I — I, you know, I think he expected that from me. And I told him it was going to be a process. It was going to be, you know — you know, we're gonna have to wait and see how this turned out. So I — I — just like I did in 2016, I did the same thing in 2020. [End videotape]

ZOE LOFGREN: So let's watch a short clip of President Trump speaking after he received that information from his campaign advisers.

[Begin videotape] DONALD TRUMP: We want all voting to stop. We don't want them to find any ballots at 4:00 in the morning and add them to the list. [End videotape]

ZOE LOFGREN: So when former President Trump said that it contradicted what his advisers had warned would happen. We all know that mail in ballots played an important role in the 2020 election. However, President Trump continuously discouraged mail in voting. Mr. Stepien was so concerned about the President's position on mail in voting that in the summer of 2020 he met with President Trump along with House Minority Leader Kevin McCarthy. Let's play clip four.

[Begin videotape] BILL STEPIEN: Meeting that was had in particular, I invited Kevin McCarthy to join the meeting. He being of like mind on the issue with me in which we made our case for — for why we believed mail in balloting — mail in voting not to be a bad thing for his campaign. But, you know, the — the President's mind was made up and you understand, you know, how many times to, you know, go to the well on a particular topic.

UNKNOWN: Yeah, I understand. Tell me a little bit more about the argument that you and Mr. McCarthy made to the President in that meeting as to why it wasn't a bad thing that mail in voting was available.

BILL STEPIEN: Lar — largely two pillars to that argument, both of which I've previously mentioned. One, you know, leaving a good deal to chance. Pushing or urging your voters to vote only on Election Day leaves a lot to chance. That's that's A. And B, also previously mentioned, the fact that the Trump campaign, the Republican National Committee, the Republican Party had an advantage of — of grassroots workers and volunteers on the ground that would allow, you know, an — an advantage to enhance return rates of — of ballots that were mailed.

Those were the two pillars of the argument.

UNKNOWN: I see. And what if anything do you recall Representative McCarthy saying during that meeting?

BILL STEPIEN: We were — we were echoing the same argument. I mean, his — his words echoed — echoed mine and vice versa on those — on those two topics. [End videotape]

ZOE LOFGREN: Mr. Stirewalt, you were at the decision desk at Fox News on election night and you called Arizona early for President Biden, which was controversial. How did you make that call and where did you think the race stood in the early hours of the next day?

CHRIS STIREWALT: Well, it was really controversial to our competitors who we beat so badly by making the correct call first. Our decision desk was the best in the business and I was very proud to be a part of it. Because we had a — we had partnered with The Associated Press and the National Opinion Research Center at the University of Chicago thanks to my colleague and friend, Arnon Mishkin, had built a wonderful device for forecasting the outcomes of elections.

So we had a different set of data than our competitors did. We had more research and we had a better system and we had a great team. So what you're waiting to see is do the actual votes match up with the expectations in the poll. The real votes are testing the quality of your poll in targeted precincts and in targeted places.

And let me tell you, our poll in Arizona was beautiful, and it was doing just what we wanted it to do. And it was cooking up just right. And at some point — and I forget exactly who — but at some point it became clear that Arizona was getting ready to

make a call. So we — around, you know, my boss Bill Sammon said we're not making any call until everybody says yes, cause that was always our policy: [unanimity]. And you have to understand in this room you have, you know, the — the best.

People from academia, Democrats, Republicans, a broad cross-section of people who had worked together for a decade who are really serious about this stuff. So we knew it would be a consequential call because it was one of five states that really mattered, right? Wisconsin, Michigan, Pennsylvania, Georgia, Arizona were the ones that we were watching.

We knew it would be significant to call any one of those five, but we already knew Trump's chances were very small and getting smaller based on what we had seen. So we were able to make the call early. We were able to beat the competition. We looked around the room, everybody says yea, and on we go. And by the time we found out how much everybody was freaking out and losing their minds over this call we were already trying to call the next state.

We had already moved on. We were into Georgia. We were into North Carolina. We were looking at these other states. So we thought it was — we were pleased but not surprised.

ZOE LOFGREN: I see. You know, after the election as of November 7th, in your judgment, what were the chances of President Trump winning the election?

CHRIS STIREWALT: After that point?

ZOE LOFGREN: Yes.

CHRIS STIREWALT: None. I mean, I guess there — you could — you — it's always possible that you could have, you know, a — a truckload of ballots be found somewhere I suppose. But once you get into this space, you know, ahead of today I thought about what are the largest margins that could ever be overturned by a recount and the normal kind of — the kind of stuff that we heard Mike Pence talking about sounding like a normal Republican that night when he said, you know, we'll keep every challenge.

Nothing like that. In a recount you're talking about hundreds of votes. When we think about calling a race, one of the things that we would think about is, is it outside the

margin of a recount? And when we think about that margin, we think about in modern history you're talking about a thousand votes, 1,500 votes at the way, way outside.

Normally you're talking about hundreds of votes, maybe 300 votes that are going to change. So the idea that through any normal process in any of these states — remember, he had to do it thrice, right? He needed three of these states to change. And in order to do that, I mean, you're at — you're at an infin — you're better off to play the Powerball than to have that come in.

ZOE LOFGREN: On November 7th, the other major news outlets called the race for President Biden. Now, Mr. Stepien told the committee that he thought the odds were, and this is a quote, "Very, very, very bleak," and held a meeting with the President that same day. Let's show clip eight, video clip eight.

[Begin videotape] BILL STEPIEN: With each day that wore on, I mean the — the trajectory of the race, you know, on election night Trump ahead in — in many states. And as that week wore on as the third became the fourth became the fifth and so on and so forth and the vote by mail ballots were tabulated, you know, Trump's — Trump's lead, you know, grew more narrow.

And — and in — and in some places Biden surpassed, you know, Trump in — in the vote totals. So as — as the week wore on, as we paid attention to those numbers every single — multiple times a day, you know, internally, you know, I — I was feeling less confident for sure.

UNKNOWN: What was your view on the state of the election at that point?

BILL STEPIEN: You know very, very, very bleak. You know, I — I — I — we — we told him, you know, the group that went over there outlined, you know, my belief in — in — in chances for success at this point. And then we pegged that at, you know, five maybe — maybe 10 percent based on recounts that were — that — that, you know, either were automatically initiated or — or — or could be — could be initiated based on, you know, realistic legal challenges, not all the legal challenges that eventually were pursued. But, you know, it was, you know, my belief is that it was a very, very — I mean, 5 to 10 percent is not a very good optimistic outlook. [End videotape]

ZOE LOFGREN: Now as President Trump and others continued to claim that the election was stolen, there were lawyers who were a part of the campaign, campaign lawyers, who were responsible for investigating the fraud claims. That includes Alex Cannon, who could not validate the claims that were being made including those being made by the President.

Let's roll video 15. 13.

[Begin videotape] UNKNOWN: This is an email. It's two emails actually. The first is from Alex Cannon to you and Faith McPherson and then you forward that email on to Mark Meadows, Justin Clarke, and Jason Miller, the subject being AZ Federal ID voters. If you look at the original email there it says, "Bill, we completed the AZ analysis you requested." I assume that's about Arizona.

And because of the un — the substantial uncertainty surrounding the databases, this is a highly unreliable way to identify ineligible voters. Can you explain the task that you gave to Ms. Cannon for this Arizona analysis?

BILL STEPIEN: Sure. Previously, I described some of my frustration with some of the — the claims that people would throw at President Trump regarding, you know, you know, you need to look at this. You know, this happened in this state or that happened in that state. And it would be, you know — those would flow to us to — to — to look into.

I — I talked about that before I think.

UNKNOWN: Yep.

BILL STEPIEN: You know, this is an example of that. I recall — I recall in Arizona someone had thrown out, I believe this to be the claim, that there were thousands of illegal citizens, people not eligible to vote, kind of cast their ballots in Arizona. Someone had thrown out that claim to President Trump. And with, you know, the margins being as close as they were as previously described, you know, that could potentially matter.

So, this — this wild claim is thrown out, which, you know, on its face didn't seem, you know, realistic or possible to me. I asked Alex to look at the — you know, the — the claim. And I — I haven't read his full email, but I recall that the response to that,

the reality of that was not illegal citizens voting in the election, I think it was like overseas voters voting in the election. I — I — so, obviously, you know, people who were eligible to vote. [End videotape]

ZOE LOFGREN: When these findings were passed up the chain to President Trump, he became frustrated and he replaced the campaign's legal team. Let's play clip 14.

[Begin videotape] BILL STEPIEN: You know, I think the president, it was during second week where things like you displayed were occurring, where he was, you know, growing increasingly unhappy with, you know, his team, you know, me less so because I was less involved at this point, but still me; growing increasingly unhappy with Justin Clark. And that — that kind of, you know — you know, paved the way for, you know, Justin to be moved out and Mayor Giuliani be moved in as the person in charge of, you know, the legal side of the campaign and, for all intents and purposes, the campaign at that point. [End videotape]

ZOE LOFGREN: Now, when Mr. Stepien became campaign manager, he was the second Trump campaign manager for the 2020 race, and there were only about 115 days until Election Day. So, let's play the video.

[Begin videotape] BILL STEPIEN: I inherited a campaign that was — the day I was hired was, I believe, President Trump's low point in the 2020 daily average polling against President Biden. It was — it was a campaign at a low point in the polls. It was structurally and fiscally deficient. You know, I — you know, there was a great deal wrong with the campaign in — in — in both of those — in — in both of those areas. So, most of my day was spent fixing what — and I think I took over with 115 days left in the campaign. Most of my time was spent fixing the things that could be fixed with 115 days left in the campaign. [End videotape]

ZOE LOFGREN: Now, Mr. Stepien has been in the campaign field for a long time, and he worked for lots of different candidates in campaigns. He testified to this committee about his concerns, given the claims that Mr. Giuliani and Ms. Powell and their team were making publicly. Let's play a clip 15.

[Begin videotape] UNKNOWN: Ok. And it was important for you, Mr. Stepien, to sort of pull back just for your own professional reputation. You didn't want to be

associated with some of what you were hearing from the Giuliani team and others that — that sort of stepped in in the wake of your departure.

BILL STEPIEN: I didn't mind being categorized. There were two groups of them. We called them kind of my team and Rudy's team. I — I didn't mind being characterized as being part of Team Normal, as — as reporters, you know, kind of started to do around that point in time. You know, I said, you know, hours ago, early on, that, you know, I've — I've been doing this for a long time, 25 years, and I've spanned, you know, political ideologies from Trump to McCain to Bush to Christie, you know.

And, you know, I can work under a lot of circumstances for a lot of varied, you know, candidates and politicians. But a situation where — and I think along the way I've built up a pretty good — I hope a good reputation for being honest and — and professional, and I — I didn't think what was happening was necessarily honest or professional at that point in time. So, again, that led to me stepping away. [End videotape]

ZOE LOFGREN: So, the president did get rid of Team Normal. And I'd like to play a clip showing that the president found the people he needed to perpetuate his claims of fraud.

[Begin videotape] RUDY GIULIANI: They saw a big truck bringing in 100,000 ballots in garbage cans, in wastepaper baskets, in cardboard boxes, and in shopping baskets. And every single one of them was for Biden, because they were being notified by Smartmatic in Frankfurt that Biden was way behind and they better come up with a lot more ballots.

And we can prove every single thing I just said. If you gave me the paper ballots, I could probably turn around each one of these state. I'm absolutely convinced if you — if you let me examine each one of those ballots, I'd pull out enough that were fraudulent that it would shake the hell out of the country.

SIDNEY POWELL: It can set and run an algorithm, that probably ran all over the country, to take a certain percentage of votes from President Trump and flip them to President Biden, which we might never have uncovered had the votes for President Trump not been so overwhelming in so many of these states that it broke the algorithm.

I remember that one of the things Mark said at some point was you can't show an actual vote was flipped, which I found at the time to be a remarkable assertion, because — because you don't have to have the gun to see the body lying on the floor bleeding out with five bullet holes in it was killed by a gun.

ERIC HERSCHMANN: What they were proposing I thought was nuts. You know, the theory was also completely nuts, right? I mean, it was a combination of Italians and Germans. I mean, different things have been floating around as to who was involved. I remember Hugo Chavez and the Venezuelans. She has an affidavit from somebody who says they wrote a software in and something with the Philippines, just all over the radar.

UNKNOWN: Did you ever share, Mr. Kushner, your view of Mr. Giuliani? Did you ever share your perspective about him with the president?

JARED KUSHNER: I guess yes.

UNKNOWN: Tell me what you said.

JARED KUSHNER: Well, basically not the approach I would take if I was you.

UNKNOWN: Ok. And — and how did he react? How did President Trump react when you shared that view with him?

JARED KUSHNER: Oh, he said, you know, I — I have confidence in Rudy.

MATT MORGAN: I think I had conversations with probably all of our counsel who were signed up to assist on Election Day as they disengaged with the campaign. The general consensus was that the law firms were not comfortable making the arguments that Rudy Giuliani was making publicly. I seem to recall that I had a similar conversation with most all of them.

WILLIAM BARR: I made it clear I did not agree with the idea of saying the election was stolen and putting out this stuff, which I told the president was b*****. And, you know, I didn't want to be a part of it. And that's one of the reasons that went into me deciding to leave when I did. [End videotape]

ZOE LOFGREN: Even Sidney Powell, defending herself in a defamation lawsuit brought by Dominion Voting Systems, argued that "no reasonable person would conclude that her statements were truly statements of fact." Mr. Chairman, I yield back.

BENNIE THOMPSON: I thank the witness for joining us today. The first panel is now dismissed. Without objection, the chair recognizes the gentlewoman from California, Ms. Lofgren.

ZOE LOFGREN: Thank you, Mr. Chairman. Last week, we presented the testimony of former Attorney General Bill Barr, who testified before this committee. Today, we present additional evidence, including his testimony that former President Trump started making claims of election fraud immediately after the election and that Barr concluded the claims were untrue.

Now, due to the length of Attorney General Barr's testimony, we're only going to include relevant portions at the hearing today. So, let us play the video.

[Begin videotape] WILLIAM BARR: The department, in fact, when we received specific and credible allegations of fraud, made an effort to look into these to satisfy ourselves that they were without merit. And — and I was in the posture of trying to figure out — there was an avalanche of all these allegations of fraud that built up over a number of days.

And it was like playing Whac-A-Mole, because something would come out one day and then the next day it would be another issue. Also, I was influenced by the fact that all the early claims that I understood on — were — were completely bogus and silly and usually based on complete misinformation. And so, I — I didn't consider the quality of claims right out of the box to give me any, you know, feeling that there was really substance here. [End videotape]

ZOE LOFGREN: For the — for the first time since the election, the attorney general spoke personally with the president on November 23rd, and this was at the White House. Let's play the video please.

[Begin videotape] WILLIAM BARR: So, on November 23rd, I — I hadn't spoken to the president since the election, and, in fact, as I said, since the middle of October

roughly. And it was a little — getting awkward because obviously he had lost the election and I hadn't said anything to him. And so, Cipollone said, you know, I think it's time you come over here.

And so, I came over to meet with the president in the Oval Office. And — and Meadows were — and Cipollone were there. And the president — and — and this is leading up to this conversation with Kushner. The president said there had been major fraud and that, as soon as the facts were out, the results of the election would be reversed.

And he went on on this for quite a while, as he is prone to do. And then he got to something that I was expecting, which is to say that apparently the Department of Justice doesn't think that it has a role of looking into these fraud claims. And I said, you know, that has to be the campaign that raises that with the state.

The department doesn't take sides in elections, and the department is not an extension of — of your legal team. And our role is to investigate fraud. And if — and we'll look at something if it's — if it's specific, credible, and could have affected the outcome of the election. And — and we're doing that, and it's just not — they're not — they're just not meritorious.

They're not pan — panning out. And as I walked out of the Oval Office, Jared was there with Dan Scavino, who ran his — ran the president's social media and who I thought was a reasonable guy, and believe is a reasonable guy. And I said, how long is — how long is he going to carry on with this stolen election stuff?

Where is this going to go? And by that time, Meadows had caught up with me and — leaving the office, and caught up to me and — and said that — he said, look, I — I think that he's becoming more realistic and knows that there's a limit to how far he can take this. And then Jared said, you know, yeah, we're working on this. We're working on it. [End videotape]

ZOE LOFGREN: Even after his attorney general told him his claims of election fraud were false, President Trump continued to promote these claims.

[Begin videotape] WILLIAM BARR: I felt that things continued to deteriorate between the 23rd and the weekend of the 29th. And then on November 29th, he

appeared on Maria Bartiromo's show, *Sunday Futures*, I believe it was. And he said that the department was missing in action.

DONALD TRUMP: Well, no, we had glitches where they moved thousands of votes from my account to Biden's account, and these are glitches. So, they're not glitches. They're theft. They're fraud, absolute fraud. This election was over, and then they did dumps. They call them dumps, big massive dumps in Michigan, in Pennsylvania, and all over.

How the FBI and Department of Justice — I don't know, maybe they're involved, but how people are allowed to get away from this stuff — with this stuff is unbelievable. [End videotape]

ZOE LOFGREN: Now, spurred by what he saw or told The Associated Press on December 1st, that there was no evidence of election fraud, and immediately after Attorney General Barr's statement went public, Mr. Trump berated and he nearly fired Barr.

ZOE LOFGREN: But Barr persisted telling the President that there was no evidence to support the fraud claims.

[Begin videotape] WILLIAM BARR: This got under my skin, but I also felt it was time for me to say something. So on — I had — so I set up a lunch with the AP reporter, Mike Balsamo, and I told him at lunch — I made the statement that to date we have not seen fraud on a scale that could have affected a different outcome in the election.

I had a later meeting scheduled at the White House at 3:00 with Meadows. This was previously scheduled. So I knew this was gonna to come up. And I went over there and I told my secretary that I thought I would probably be fired and told not to — to go home. [laughter] — I mean, not to go back to my office, so I said you might have to pack up for me. And so when I got over there, I met with the chief of staff.

He said the President was angry. He didn't really go — get into the issue of the fraud. And then I went up to Pat Cipollone's office and we were talking with each other. And word came down that he wanted us both to go to the Oval and the President was as mad as I've ever seen him and he was trying to control himself.

And the President said, well, this is, you know, killing me. You didn't have to say this. You must have said this because you hate Trump. You hate Trump. Then he raised the — the big vote dump as he called it in Detroit. And that, you know, he said people saw boxes coming in to the counting station at all hours of the morning and so forth.

And I explained to him that I — at that point, I knew the exact number of precincts for Detroit. I think it was 630 something. I said, Mr. President, there are 630 precincts in Detroit. And unlike elsewhere in the state, they centralize the counting process. So they're not counted in each precinct, they're moved to counting stations.

And so a normal process would involve boxes coming in at all different hours, so there's nothing — and I said, did anyone point out to you — did all the people complaining about it point out to you, you actually did better in Detroit than you did — you did last time? I mean, there's no indication of fraud in Detroit.

And I told him that the stuff that his people were shoveling out to the public were bull — was b*****. I mean that the claims of fraud were b***** And, you know, he was indignant about that. And I reiterated that they've wasted a whole month on these claims — on the Dominion voting machines and they were idiotic claims.

And I specifically raised the Dominion voting machines, which I found to be among the most disturbing allegations. Disturbing in the sense that I saw absolutely zero basis for the allegations. But they were made in such a sensational way that they obviously were influencing a lot of people — members of the public that there was this systemic corruption in the system and that their votes didn't count and that these machines controlled by somebody else were actually determining it, which was complete nonsense?

And it was being laid out there. And I told them that it was — it was crazy stuff and they were wasting their time on that. And it was doing a great, grave disservice to the country. [End videotape]

ZOE LOFGREN: Ok. So the very next day, the President released a video rehashing some of the very same claims that his chief law enforcement officer had told him were quote, "nonsense".

[Begin videotape] DONALD TRUMP: Here's an example. This is Michigan. At 6:31 in the morning, a vote dump of 149,772 votes came in unexpectedly. We were winning by a lot. That batch was received en hara [ph]. We have a company that's very suspect. Its name is Dominion. With the turn of a dial or the change of a chip, you can press a button for Trump and the vote goes to Biden. What kind of a system is this? [End videotape]

ZOE LOFGREN: Barr again told the President that there was nothing to these claims on December 14th.

[Begin videotape] WILLIAM BARR: When I walked in, sat down, he went off on a monologue saying that there was now definitive evidence involving fraud through the Dominion machines and a report had been prepared by a very reputable cybersecurity firm, which he identified as Allied Security Operations Group. And he held up the report and he had — and then he asked that a copy of it be made for me. And while a copy was being made, he said, you know this is absolute proof that the Dominion machines were rigged.

The report means that I am going to have a second term. And then he gave me a copy of the report. And as he talked more and more about it, I sat there flipping through the poor report and looking through it. And to be frank, it looked very amateurish to me, didn't have the credentials of the people involved, but I didn't see any real qualifications.

And the statements were made very conclusory like this — these machines were designed to, you know, engage in fraud or something to that effect, but I didn't see any supporting information for it. And I was somewhat demoralized because I thought, boy, if he really believes this stuff he has, you know, lost contact with — with it — he's become detached from reality if he really believes this stuff.

On the other hand, you know, when I went into this and would, you know, tell him how crazy some of these allegations were. There was never — there was never an indication of interest in what the actual facts were. And my opinion then and my opinion now is that the election was not stolen by fraud and I haven't seen anything since the election that changes my mind on that, including the *2,000 Mules* movie.

[laughter]

UNKNOWN: [off-mic]

ZOE LOFGREN: So maybe you can assess that *2000 Mules* and people are talking about that?

WILLIAM BARR: Well, I mean, just in a nutshell, you know, I just think that the GBI was unimpressed with it and I was similarly unimpressed with it because I think if you — because I was holding my fire on that to see what the photographic evidence was because I thought, well, hell, if they have a lot of photographs of the same person dumping a lot of ballots in different boxes, you know, that's hard to explain.

So I wanted to see what the photographic evidence was, but the cell phone data is singularly unimpressive. I mean it basically, if you take 2 million cell phones and — and figure out where they are physically in a big city like Atlanta or wherever, just by definition you're going to find many hundreds of them have passed by and spent time in the vicinity of these boxes.

And the premise that, you know, if you go by about, you know, five boxes or whatever it was, you know that that's a mule is just indefensible. If — by definition you're going to have a lot — hundreds of this. I mean when I saw one contractor said, we figured out that our truck alone would account for six cell phone signals.

This was a, you know, a some kind of contractor. And you know our route would take us by these things on a regular basis. So I — but then when the movie came out, you know, I think the photographic evidence and it was completely black — I mean it was — there was a little bit of it, but it was lacking.

You know it didn't — it didn't establish widespread illegal harvesting. The other thing is people don't understand is that it's not clear that even if you can show harvesting that that changes the — or the results of the election. The courts are not going to throw out votes and then figure out what votes were harvested and throw them out.

You'd still — the burden on the challenging party to show that illegal votes were cast, votes were the result of undue influence or bribes or there was really, you know, the person was non compos mentis. But absent that evidence, I just didn't see courts throwing out votes anyway. I felt that before the election it was possible to talk sense to the President.

And while you sometimes had to engage in a big wrestling match with them, then it was possible to keep things on track. But I was — felt that after the election, we didn't seem to be listening and I didn't think it was, you know, that I was inclined not to stay around if he wasn't listening to advice from me or his other cabinet secretaries. [End videotape]

ZOE LOFGREN: So on December 14th, Barr quit. Now the Attorney General wasn't the only person who told the President that his claims were false. Other officials and close advisers told him the same thing.

[Begin videotape] JEFFREY ROSEN: Rather than try to address a counterfactual or a hypothetical, let me just say, there were instances where the President would say "People are telling me this" or "I heard this" or "I saw on television", you know, this — this impropriety in Atlanta or Pennsylvania or something. And we were in a position to say our people already looked at that.

And we know that you're getting bad information. That's — that's not correct. It's been demonstrated to be incorrect from our point of view it had been debunked.

DEREK LYONS: Month and a half or so after the Election Day and at that meeting, you know, various allegations of fraud were discussed and you know Eric and Pat didn't, you know — told the group, the President included, that none of those allegations had been substantiated to the point where they could be the basis for any litigation challenge to the election. [End videotape]

ZOE LOFGREN: President Trump's own Vice President and his top advisers also knew that there wasn't evidence to support the claims that the President was making.

[Begin videotape] UNKNOWN: Anyone else other than Mr. Meadows who asked you about the status, outside of your legal group, you know, Mr. Morgan and the others you mentioned. Anyone else who asked you the status of what you were finding in your assessment of it?

ALEX CANNON: Yes, sir.

UNKNOWN: Who's that?

ALEX CANNON: Peter Navarro.

UNKNOWN: When did you talk to Mr. Navarro?

ALEX CANNON: Mid-November.

UNKNOWN: Around the same time as Mr. Meadows?

ALEX CANNON: Yes, sir.

UNKNOWN: And tell me about that conversation.

ALEX CANNON: I recall him asking me questions about Dominion. And maybe some other categories of allegations of voter fraud. And I remember telling him that I didn't believe the Dominion allegations because I thought the hand recount in Georgia would resolve any issues with a technology problem and with Dominion or Dominion flipping votes.

And I mentioned at that time that the CISA, Chris Krebs [ph], had recently released a report saying that the election was secure. And I believe Mr. Navarro accused me of being an agent of the Deep State working with Chris Krebs [Ph] against the President. And I never took another phone call from Mr. Navarro.

UNKNOWN: Anyone else besides Mr. Meadows, Mr. Navarro, Mr. Hershman that you had discussions with inquiring about what you were finding in your review of the allegations that were pouring in?

ALEX CANNON: I believe I had about a 15 second conversation with the Vice President about it as well.

UNKNOWN: When was that?

ALEX CANNON: During one of the visits to the White House? I don't know which one. I think it was the first one in November. I was — I had met him briefly at the campaign and he remembered me and saw me. And he asked what I was doing on the campaign and I told him that we were looking into some of the issues related to voter fraud.

And he asked me, I don't remember his exact words, but he asked me if we were finding anything. And I said that I didn't believe we were finding it or I was not

personally finding anything sufficient to alter the results of the election. And he — he thanked me. That was our interaction. [End videotape]

ZOE LOFGREN: At a later hearing, you'll hear live testimony from the former acting deputy attorney general of the Department of Justice, Rich Donoghue. But now I'd like to play a portion of his testimony.

[Begin videotape] RICHARD DONOGHUE: I tried to again put this in perspective and to try to put it in very clear terms to the President. And I said something to the effect of sir, we've done dozens of investigations, hundreds of interviews. The major allegations are not supported by the evidence developed. We've looked at Georgia, Pennsylvania, Michigan, Nevada.

We're doing our job. Much of the info you're getting is false. And then I went into for instance this thing from Michigan this report about 68 percent error rate. Reality is it was only 0.0063 percent error rate, less than one in 15,000. So the President accepted that. He said, Ok, fine, but what about the others?

And again, this gets back to the point that there were so many of these allegations that when you gave him a very direct answer on one of them, he wouldn't fight us on it, but he would move to another allegation. So then I talked about — a little bit about the Pennsylvania truck driver. This is another allegation that had come up. And this claim was by a truck driver who believed, perhaps honestly, that he had transported an entire tractor trailer truck full of ballots from New York to Pennsylvania.

And this was again out there in the public and discussed and I essentially said, look, we looked at that allegation. We looked at both end, both the people who load the truck and the people unload the truck. And that allegation was not supported by the evidence. Again, he said, Ok. Then he said, no, I didn't mention that one.

What about the others? And I said, Ok, well, with regard to Georgia, we looked at the tape, we interview the witnesses, there is no suitcase. The President kept fixating on this suitcase that supposedly had fraudulent ballots and that the suitcase was rolled out from under the table. And I said, no, sir, there is no suitcase.

You can watch the video over and over. There is no suitcase. There is a wheeled bin where they carry the ballots and that's just how they move ballots around that facility.

There's nothing suspicious about that at all. I told him that there was no multiple scanning of the ballots — one the one part of that allegation was that they were taking one ballot and scanning it through three or four or five times to rack up votes presumably for Vice President Biden.

I told him that the video did not support that. Then he went off on double voting the top of the next page. He said dead people are voting. Indians are getting paid to vote. He meant people on Native American reservations. He said there's lots of fraud going on here. Told him flat out that much of the information he's getting is false and or just not supported by the evidence. We looked at the allegations, but they don't pan out.
[End videotape]

ZOE LOFGREN: Mr. Barr and his advisers were not the only ones who determined that the presence allegations regarding Dominion voting machines were false. So Mr. Chairman, I ask unanimous consent to include in the record of this hearing reports issued by the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency, otherwise known as CISA, that addressed and rejected the claims of manipulation of voting machines in the 2020 election.

BENNIE THOMPSON: Without objection, so ordered.

ZOE LOFGREN: Thank you, Mr. Chairman. I also ask unanimous consent to include in the record a report prepared by the Michigan Senate Oversight Committee that disprove claims of election fraud in Michigan as well as a statement by 59 of the country's leading election security scientists noting the absence of any credible evidence that the 2020 election had been altered through a technical compromise and five other reports from organizations and individuals confirming there was no widespread fraud in the 2020 election or describing the spread of the former President's lies.

BENNIE THOMPSON: Without objection, so ordered.

ZOE LOFGREN: Thank you, Mr. Chairman. And I yield back.

BENNIE THOMPSON: Pursuant to the order of the Committee for the day, the Chair declares the committee in recess for a period of approximately 10 minutes.

BENNIE THOMPSON: The committee will be in order. I now welcome our second panel of witnesses. We're joined today by BJay Pak, Al Schmidt, and Ben Ginsberg. Mr. Pak is the former United States attorney for the Northern District of Georgia. Mr. Schmidt is a former city commissioner for the city of Philadelphia, where he served for more than ten years.

Mr. Ginsberg is one of the leading election law attorneys in the country, and has represented Republican presidential candidates in election litigation dating back to 2000 — 2000, where he represented George W. Bush in the Bush v Gore litigation. I will now swear in our witnesses. Please stand and raise your right hand.

Do you swear or affirm under 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? Thank you. Please be seated. Let the record reflect the witnesses answered in the affirmative. Pursuant to Section 5C8 of House Resolution 503, I now recognize the gentlewoman from California, Ms. Lofgren, for questions.

ZOE LOFGREN: Thank you, Mr. Chairman. Before the break, I think you all heard Mr. Barr and Mr. Donoghue talk about the false claims that Mr. Trump and his supporters made about suitcases of fake ballots in Georgia. We have a witness here today who thoroughly investigated that issue. Mr. Pak, I want to thank you for appearing before us today.

You were appointed by President Trump to serve as the US attorney for the Northern District of Georgia, and you served from 2017 until January of 2021. You were the lead federal prosecutor there and worked for the Department of Justice under then-Attorney General Bill Barr. Now, were you ever asked by Attorney General Barr to investigate claims of voter fraud in the 2020 election?

And if so, what were those claims?

BJAY PAK: Thank you, Congressman Lofgren. Thank you for the question. Approximately December 4th, I believe, of 2020, Attorney General Barr and I had a conversation about an unrelated case to the case at issue. At the end of the conversation, Mr. Barr had asked me if I had seen a certain videotape that was being reported in the news, where Mr. Giuliani in a Senate subcommittee hearing that was held the day before, May 3rd, showed a videotape of a — purportedly a security tape

at the State Farm Arena in Atlanta, which is also in Fulton County, in the city of Atlanta.

I'm sorry, city of — yes. At the time, Mr. Barr asked me that — he had made a public statement that he had not seen any widespread election fraud that would question the outcome of the election. And because of the videotape and the serious allegation that Mr. Giuliani was making with respect to the suitcase full of ballots purported in the — the video, he asked me to find out what I could about it because he had envisioned that, in some days after our call, that he was going to go to the White House for a meeting and then that issue might come up. He asked me to make it priority to get to the bottom of — to try to substantiate the allegation made by Mr. Giuliani.

ZOE LOFGREN: Thank you. I understand the Georgia Secretary of State's office investigated those State Farm Arena allegations and didn't find any evidence of fraud. What did you find when your office convected — conducted its own investigation?

BJAY PAK: We found that the suitcase full of ballots, the alleged black suitcase that was being seen pulled from under the table, was actually an — an official lockbox where ballots were kept safe. We found out that there was a mistake in terms of his misunderstanding that they were done counting ballots or tallying ballots for the night, and the — the partisan watchers that was assigned by each of the respective parties were announced and sent home.

But once they realize the mistake, someone from the Secretary of State's office had indicated that no, no, no, we're not done for the night, you need to go ahead and — and continue counting. So, once they packed up the lockbox full of ballots, they brought back the official ballot box again and continue to tally the ballots from that — from that — the lock box.

Unfortunately, during the Senate hearing, Mr. Giuliani only played a clip that showed them pulling out the official ballot box from under the table and referring to that as a smoking gun of fraud in — in Fulton County, when in actuality in review of the entire video, it showed that that was actually an official ballot box that was kept underneath the — the tables.

And then they — we saw them pack up because of the announcement that — they thought they were done for the night. And then once the announcement was made that

you should continue counting, they brought the ballot box back out and they continued to count. We interviewed — the FBI interviewed the individuals that are depicted in the — the videos that purportedly were double, triple counting of the ballots, and determined that nothing irregular happened in the counting and the allegations made by Mr. Giuliani were false.

ZOE LOFGREN: Thank you very much. I'd like to play again a testimony from Mr. Donoghue, who appeared before the committee before today.

[Begin videotape] LIZ CHENEY: Mr. Donoghue you — we talked at some length about whether or not the White House and the president was informed that the interim report on the results of the investigations, the interviews that have gone on on Fulton County. How would those results have been communicated to the White House, to the president?

RICHARD DONOGHUE: I don't know how they were initially communicated. I do know that they came up in subsequent conversations with the president, and Dan Rose and I essentially told them we looked into that and it's just not true.

LIZ CHENEY: Ok. So, he was — he was informed.

RICHARD DONOGHUE: I told the president myself that several times in several conversations, that these allegations about ballots being smuggled in in a suitcase and run through the machine several times, it was not true, that we looked at it. We looked at the video, we interviewed the witnesses, that it was not true. [End videotape]

ZOE LOFGREN: Mr. Pak, after you left the US Attorney's Office on January 4th, 2021, did the next US attorney there — I think Mr. Trump's personal pick, Bobby Christine, did he investigate any remaining claims of fraud? And if so, did he find any evidence that supported the president's claims of voter fraud?

BJAY PAK: It is my understanding that Mr. Christine continued any investigations that were pending at the time of my departure, but he was unable to find any evidence of fraud that affected the outcome of the election.

ZOE LOFGREN: So, after investigating the president's and Mr. Giuliani's claims about voter fraud in Georgia, is it your view today that there was no evidence of

widespread fraud sufficient to undermine confidence in the outcome of the election in Georgia?

BJAY PAK: That is correct.

ZOE LOFGREN: Thank you, Mr. Pak. And I want to thank you also for the service that you've given to our country. We appreciate that. Next, I'd like to turn to President Trump's false allegations about election integrity in Philadelphia. The attorney general discussed these allegations at some length. [Begin videotape]

WILLIAM BARR: You know, the idea the president has repeatedly suggested that there was some kind of outpouring of unexpected votes in inner city areas like Philadelphia as recently as January 13th when he walked off the NPR set. He was asked by the interviewer, you know, what's — you know, what's your evidence of fraud?

And he said more people voted in Philadelphia than there were voters. And that was absolute rubbish. The turnout in Philadelphia was in line with the state's turnout and in fact it was not is as — as impressive as many suburban counties. And there was nothing strange about the Philadelphia turnout. It wasn't like there was all these unexpected votes that came out in Philadelphia.

So, you know, I think once you actually look at the votes and then if there's an obvious explanation, he — you know, for example, in Pennsylvania, Trump ran weaker than the Republican ticket generally. He ran weaker than two of the state candidates. He ran weaker than the Congressional delegate — delegation running for federal Congress, and he ran weaker than the — the Republican — I think, I haven't looked at this recently, but he generally was a weak element on the Republican ticket. So, that does not suggest that the election was stolen by fraud.

UNKNOWN: How about Pennsylvania and Bill McSwain? You were talking with the US attorney in Philadelphia about an alleged discrepancy between the number of absentee ballots issued and the number of ballots cast.

WILLIAM BARR: Right. So, I — I — you know, that was a — a — one of the big ones for a period of time. I think — I think that was raised in Gettysburg by Giuliani or something like that, but it kept on being repeated. And I found it annoying because

it didn't seem that it was right. So, I called — I called McSwain and he got back to me. He said no, the problem is that Mastriano, threw out a — threw out this number.

And what he did was he mixed apples and oranges. He took the number of applications for the Republican primary and he compared it to the number of absentee votes cast in the general election. But once you actually go and look and compare apples to apples, there's no discrepancy at all. And, you know, that's one of the — I — I think at some point I covered that with the president.[End videotape]

ZOE LOFGREN: We have another witness here today who has detailed knowledge about the election process in Philadelphia. Mr. Schmidt, at the time of the 2020 presidential election, you were serving as the only Republican member of Philadelphia's three member city commission, which is responsible for overseeing elections throughout the city.

Is — is that correct?

AL SCHMIDT: That's correct, Congressperson.

ZOE LOFGREN: So, President Trump made numerous claims regarding fraudulent voting practices in Philadelphia, including the claim that dead people were voting. In fact, Mr. Giuliani told Pennsylvania state legislators that 8,000 dead people voted in Pennsylvania. You investigated those claims of voter fraud. Can you tell us what you found?

AL SCHMIDT: Not only was there not evidence of 8,000 dead voters voting in Pennsylvania, there wasn't evidence of eight. We took seriously every case that was referred to us no matter how fantastical, no matter how absurd, and took every one of those seriously including these.

ZOE LOFGREN: As it turns out, even Mr. Trump's campaign lawyers knew that the dead voter claims weren't valid.

[Begin videotape] RUDY GIULIANI: I guess the crooks in Philadelphia are disappointed in this. They only submitted 8,021 ballots from dead people — mail in ballots for dead people. Probably easier for dead people to submit mail in ballots than it is to vote in person.

ERIC HERSCHMANN: Rudy was at this stage of his life and the same ability to manage things at this level or not. And obviously, I think Bernie Kerik publicly said it. They never proved the allegations that they were making and they were trying to develop. [End videotape]

ZOE LOFGREN: Mr. Schmidt, on November 11th, 2020 President Trump tweeted about you, saying — and here's a quote, "A guy named Al Schmidt, a Philadelphia commissioner and so-called Republican or RINO, is being used big time by the fake news media to explain how honest things were with respect to the election in Philadelphia."

"He refuses to look at a mountain of corruption dishonesty. We win." As a result of that tweet and the CNN interview you gave where you stated the dead voter claims in Pennsylvania were false, you and your staff were subjected to disturbing threats. Can you tell us about that?

AL SCHMIDT: The threats prior to that tweet — and on some level it feels almost silly to talk about a tweet — but we can really see the impact that they have. Because prior to that the threats were pretty general in nature. Corrupt election officials in Philadelphia are going to get what's coming to them. You're what the second amendment is for.

You're walking into the lion's den. All sorts of things like that. After the President tweeted at me by name, calling me out the way that he did, the threats became much more specific, much more graphic, and included not just me by name but included members of my family by name, their ages, our address, pictures of our home.

Just every bit of detail that you could imagine. That was what changed with that tweet.

ZOE LOFGREN: Behind me are redacted threats that you received that you provided to the committee. Now we redacted portions of the text to protect your family. Mr. Schmidt, I — I think I speak for all of my colleagues when I say we are deeply sorry for what you and your loved ones have been through. And I also want to thank you for your service to your country and for standing up for the rule of law.

I want to thank both Mr. Pak and Mr. Schmidt for their service, their testimony, and for standing up for the rule of law. Now I'd like to turn to another subject. The courts in our country provide a legitimate venue for campaigns to challenge what they view as irregular election practices. Now courts have the final say on how the law applies to those challenges.

We have a renowned legal expert here to address the Trump campaign's activities in court. Mr. Ginsburg, you've spent your entire career representing Republicans in election related litigation. You served as the National Council on Republican Presidential Campaigns in 2000, in 2004, and in 2012. You played a key role in the 2000 Florida recount that led to the Supreme Court's decision in *Bush v Gore*.

You served as the co-chair of the Presidential Commission on Election Administration. I think it's fair to say you're the most prominent Republican lawyer who's litigated in the election field. Now you've analyzed the Trump campaign's litigation pretty carefully. What's the, like, normal process for post-election litigation?

How is the Trump campaign's different from the kinds of post-election litigation you've been involved in and know about?

BENJAMIN GINSBERG: In the normal course of things, any campaign on the night of the election and in the days after will do a couple of different things. One is that they'll analyze precinct results to look for abnormalities in the results, and they'll send people to those precincts to ask more questions. Secondly, all campaigns will have poll watchers and poll work — workers and observers in the polling place.

And so campaigns will talk to those people if they saw any irregularities that could cause problems in the election. Now the Trump campaign talked pre-election about having 50,000 poll workers. So presumably they did have eyes on the ground in all these places. And so in the normal course of things, a campaign will analyze the reports that come in. Trump campaign had a couple of basic problems however.

Number one, the 2020 election was not close. In 2000, that was 537 and close. In this election the most narrow margin was 10,000 and something in — in Arizona. And you just don't make up that — those sorts of numbers in recounts. And when the claims of fraud and irregularities were made — you've heard very compelling testimony from Mr. Stepien, from Matt Morgan, from Alex Cannon about those claims and how they

didn't believe them. And so that put the Trump campaign on sort of a process of bringing cases without the actual evidence that you have to have and which the process is designed to bring out.

ZOE LOFGREN: So are you aware of any instance in which a court found the Trump campaign's fraud claims to be credible?

BENJAMIN GINSBERG: No. There was — there was never that instance. In all the cases that were brought, and I've looked at the more than 60 that include more than 180 counts. And no, the simple fact is that the Trump campaign did not make its case.

ZOE LOFGREN: The Select Committee has identified 62 post-election lawsuits filed by the Trump campaign and his allies between November 4th, 2020 and January 6th, 2021. Those cases resulted in 61 losses and only a single victory which actually didn't affect the outcome for either candidate. Despite those 61 losses, President Trump and his allies claim that the courts refused to hear them out and as a result they never had their day in court.

Mr. Ginsburg, what do you say about the claims that Mr. Trump wasn't given an opportunity to provide the evidence they had of voter fraud? Did they in fact — did they have their day in court?

BENJAMIN GINSBERG: They did have their day in court, About half of those cases that you mentioned were dismissed at the procedural stage for a lack of standing. The proper people didn't bring the case or there wasn't sufficient evidence and it got dismissed on a motion to dismiss. But in the other, there was discussion of the merits that was — that was contained in the complaints.

And in no instance did a court find that the charges of fraud were real. And it's also worth noting that even if the Trump campaign complained that it did not have its day in court, there have been post-election reviews in each of the six battleground states that could have made a difference. And those range from the somewhat farcical cyber ninjas case in Arizona to the Michigan Senate report that was mentioned earlier, the hand recount in Georgia that Mr. Pak addressed.

And in each one of those instances there was no credible evidence of fraud produced by the Trump campaign or his supporters.

ZOE LOFGREN: Thank you. You know, as Mr. Ginsburg has explained, there are no cases where the Trump campaign was able to convince a court that there was widespread fraud or irregularities in the 2020 election. Over and over judges appointed by Democrats and Republicans alike directly refuted this false narrative.

They called out the Trump campaign's lack of evidence for its claims. And the judges did that even in cases where they could have simply thrown out the lawsuit without writing a word. You can see behind me a few excerpts from the decisions in these 62 cases. The Trump campaign's lack of evidence was criticized by judges across the political spectrum.

In Pennsylvania, a Trump appointed judge concluded quote, "Charges require specific allegations and proof. We have neither here." Another Trump appointed judge warned that if cases like these succeeded, quote, "Any disappointed loser in a Presidential election able to hire a team of clever lawyers could flag claimed deviations from election results and cast doubt on election results." The list goes on and on. Allegations are called, quote, "An amalgamation of theories, conjecture, and speculation." In another strained legal arguments without merit, unsupported by evidence, derived from wholly unreliable sources, a fundamental and obvious misreading of the constitution.

The rejection of President Trump's litigation efforts was overwhelming. 22 federal judges appointed by Republican Presidents, including 10 appointed by President Trump himself and at least 24 elected or appointed Republican state judges dismissed the President's claims. At least 11 lawyers have been referred for disciplinary proceedings due to bad faith and baseless efforts to undermine the outcome of the 2020 Presidential election.

Rudy Giuliani had his license to practice law suspended in New York. And just this week, a newly filed complaint will potentially make his suspension from practicing law in DC permanent. And as we've just heard from perhaps the most preeminent Republican election lawyer in recent history, the Trump campaign's unprecedented effort to overturn its election laws in court was a deeply damaging abuse of the judicial process as stated by US District Court Judge David Carter.

This was quote, "A coup in search of a legal theory." 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 those questions. Without objection, members will be permitted 10 business days to submit statements for the record, including opening remarks and additional questions for the witnesses.

The second panel of witnesses is now dismissed. Without objection, the Chair recognizes the gentlewoman from California, Ms. Lofgren for a closing statement. Thank you.

ZOE LOFGREN: Thank you. Thank you, Mr. Chairman. Now that we understand the litigation efforts by President Trump and his allies, I'd like to present additional actions taken by the Trump campaign during this time. President Trump continued to push the stolen election narrative even though he and his allies knew that their litigation efforts making the same claim had failed.

It's worth pointing out that litigation generally does not continue past the safe harbor date of December 14th. But the fact that this litigation went on, well that decision makes more sense when you consider the Trump campaign's fundraising tactics. Because if the litigation had stopped on December 14th, there would have been no fight to defend the election and no clear path to continue to raise millions of dollars.

Mr. Chairman, at this time I'd ask for unanimous consent to include in the record a video presentation describing how President Trump used the lies he told to raise millions of dollars from the American people. These fundraising schemes were also part of the effort to disseminate the false claims of election fraud.

BENNIE THOMPSON: Without objection so ordered. [Begin videotape]

AMANDA WICK: My name is Amanda Wick and I'm Senior Investigative Counsel at the House Select Committee to investigate the January 6th attack on the United States Capitol. Between Election Day and January 6th, the Trump campaign sent millions of fundraising emails to Trump supporters, sometimes as many as 25 a day. The emails claimed the quote, "Leftwing mob was undermining the election,"

implored supporters to quote, "Step up to protect the integrity of the election," and encourage them to quote, "Fight back." But as the select committee has demonstrated, the Trump campaign knew these claims of voter fraud were false.

AMANDA WICK: Yet they continued to promote small dollar donors have e-mails encouraging them to donate to something called the Official Election Defense Fund. The select committee discovered no such fund existed.

HANNA ALLRED: I don't believe there was actually a fund Called the Election Defense Fund.

UNKNOWN: Is it fair to say that the Election Defense Fund was another — I think we can call that a marketing tactic?

GARY COBY: Yes.

UNKNOWN: And tell us about these fund's marketing tactics.

GARY COBY: Just the topic matter where money could potentially go to be — how money could potentially be used.

AMANDA WICK: The claims that the election was stolen were so successful President Trump and his allies raised \$250 million, nearly \$100 million in the first week after the election. On November 9th, 2020, President Trump created a separate entity called the Save America PAC. Most of the money raised went to this newly created PAC, not to election related litigation.

The Select Committee discovered that the Save America PAC made millions of dollars of contributions to pro-Trump organizations, including \$1 million to Trump Chief of Staff, Mark Meadows' charitable foundation, \$1 million to the America First Policy Institute, a conservative organization which employs several former Trump administration officials, \$204,857 to the Trump Hotel Collection, and over \$5 million to Event Strategies Inc, the company that ran President Trump's January 6th rally on the Ellipse.

DONALD TRUMP: All of us here today do not want to see our election victory stolen by emboldened radical left Democrats, which is what they're doing.

AMANDA WICK: The evidence developed by the Select Committee highlights how the Trump campaign aggressively pushed false election claims to fundraise, telling supporters it would be used to fight voter fraud that did not exist. The emails continued through January 6th, even as President Trump spoke on the Ellipse.

UNKNOWN: [inaudible]

AMANDA WICK: 30 minutes after the last fundraising email was sent, the Capitol was breached.

UNKNOWN: [inaudible] [End videotape]

ZOE LOFGREN: Every American is entitled and encouraged to participate in our electoral process. Political fundraising is part of that. Small dollar donors use scarce disposable income to support candidates and causes of their choosing to make their voices heard. And those donors deserve the truth about what those funds will be used for.

Throughout the committee's investigation, we found evidence that the Trump campaign and its surrogates misled donors as to where their funds would go and what they would be used for. So not only was there the big lie, there was the big rip off. Donors deserve to know where their funds are really going. They deserve better than what President Trump and his team did.

Mr. Chairman I yield back.

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

LIZ CHENEY: Thank you very much, Mr. Chairman. Mr. Chairman, I would like to thank all of our witnesses today and I'd also like to in particular wish Mr. Stepien and his family all the best on the arrival of a new baby. Today's hearing, Mr. Chairman, was very narrowly focused. And in the coming days you will see the committee move on to President Trump's broader planning for January 6th, including his plan to corrupt the Department of Justice and his detailed planning with lawyer John Eastman to pressure the Vice President, state legislatures, state officials, and others to overturn the election.

Let me leave you today with one clip to preview what you will see in one of our hearings to come. This is the testimony of White House lawyer, Eric Herschmann. John Eastman called Mr. Herschmann the day after January 6th. And here is how that conversation went.

[Begin videotape] ERIC HERSCHMANN: I said to him, are you out of your f-ing mind. I said I could — I only want to hear two words coming out of your mouth for now on, orderly transition. [End videotape]

LIZ CHENEY: Thank you, Mr. Chairman. I yield back.

BENNIE THOMPSON: At the conclusion of last week's hearing, we showed you a video of rioters explaining why they had come to Washington on January 6th. It was because Donald Trump told them to be here. Today, we heard about some of the lies Donald Trump embraced and amplified when it became clear he didn't have the numbers of votes to win the election.

We heard about how officials at different levels of government exploit claims of fraud and found no evidence. Yet, the former President continued to repeat those false claims over and over again. Today, we'll end things where we did on Thursday, back on January 6th, hearing words of individuals who wanted to stop the transfer of power.

We know they were there because of Donald Trump. Now we hear some of the things they believed. Without objection, into the record a video presentation.

[Begin videotape] UNKNOWN: I know exactly what's going on right now. Fake election. They think they're going to fucking cheat us out of our vote and put communist fucking Biden in office. It ain't fucking happening today, Biden. You voted? Yes, sir. How'd it go? Voted early, it went well except for the can't — can't really trust software — Dominion software all over it. We voted.

And right in the top right hand corner of the Dominion voting machine that we used there was a Wi-Fi symbol with five bars. So that most definitely connected to the internet, without a doubt. So they stole that from us twice. We're not doing it anymore. We're not taking it anymore. So we're standing up. We're here.

Whatever happens, we're not laying down again. I'm from Pennsylvania. It didn't work. It absolutely — It worked — It didn't work — You voted. No! Trust the system. 200,000 people that weren't even registered voted. 430,000 votes disappeared from President Trump's tally. And you can't stand there and tell me it worked. I don't want to tell you that what we're doing is right, but if the election's being stolen what is it going to take? [End videotape]

BENNIE THOMPSON: The chair requests those in the hearing room remain seated until the Capitol Police have escorted members from the room. Without objection, the committee stands adjourned.