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

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11 INTERVIEW OF: EUGENE SCALIA

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Thursday, June 30, 2022

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Washington, D.C.

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The interview in the above matter was held in Room 4480, O'Neill House Office

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Building, commencing at 10:01 a.m.

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Appearances:

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

- ████████████████████, INVESTIGATIVE COUNSEL
- ██████████, SENIOR COUNSEL
- ████████████████████, STAFF ASSOCIATE
- ██████████, CHIEF INVESTIGATIVE COUNSEL
- ██████████, SENIOR COUNSELOR TO THE VICE CHAIR
- ██████████, CHIEF CLERK
- ████████████████████, PROFESSIONAL STAFF MEMBER

For EUGENE SCALIA:

- MICHAEL BOPP
- JASON MANION
- GIBSON DUNN

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2 Mr. [REDACTED]: Good morning. This is a transcribed interview of the former
3 Secretary of Labor, Eugene Scalia, conducted by the House Select Committee to
4 Investigate the January 6th Attack on the United States Capitol pursuant to House
5 Resolution 503.

6 Secretary Scalia, could you please state your full name and spell your last name for
7 the record?

8 Secretary Scalia. Eugene Scalia, S-c-a-l-i-a.

9 Mr. [REDACTED]. I see you're accompanied by counsel.

10 If, counsel, you could please identify yourself for the record as well.

11 Mr. Bopp. Michael Bopp with the law firm Gibson Dunn, B-o-p-p.

12 Mr. Manion. Jason Manion, also at Gibson Dunn. Last name M-a-n-i-o-n.

13 Mr. [REDACTED]. Great. Welcome.

14 My name is [REDACTED]. I'm the chief investigative counsel for the select
15 committee. In the room with me today are [REDACTED], who is the counsel to the vice
16 chair, Ms. Cheney; [REDACTED] -- pronounce your last name for me.

17 Ms. [REDACTED]. [REDACTED].

18 Mr. [REDACTED]. Who is investigative counsel. And [REDACTED], who is
19 professional staff.

20 This will be a staff-led interview. Members of the committee may choose to join
21 and ask questions remotely. I don't see any of them here, but if they do appear,
22 Secretary Scalia, I will note their presence and give them an opportunity to ask questions.

23 There is an official reporter who is transcribing the record of the interview.
24 Please wait until each question is complete before you begin your response. I will try to
25 wait until your response is complete before we ask our next question.

1 The stenographer cannot record nonverbal responses, such as shaking your head,
2 so it's important that you answer each question with an audible verbal response.

3 We ask that you provide complete answers based on your best recollection. If a
4 question is not clear, please ask for clarification. And, obviously, if you don't know the
5 answer, just say so.

6 And I also have to remind you -- this is not specific to you but something we tell all
7 witnesses -- that it is unlawful to deliberately provide false information to Congress and
8 doing so could be a violation of 18 U.S. Code Section 1001 or other statutes.

9 Any questions about this before we get started?

10 Secretary Scalia. No. Thank you.

11 EXAMINATION

12 BY MR. ██████:

13 Q Okay. All right. Thank you again, Secretary Scalia, for being here.

14 Let me say, clarify first, that you are here voluntarily, not pursuant to a subpoena
15 or any legal process. Is that right?

16 A I'm here because I was asked to be here. I was aware that the committee
17 had subpoena power and expected that if I did not come that I would probably be
18 subpoenaed, so I came.

19 Q Okay. And to be clear, we did not issue a subpoena. Appreciate the fact
20 that you appeared short of that step.

21 You understand we received a letter from the White House counsel and that there
22 have been discussions with the White House counsel about the subject matter of your
23 interview today, and that they have indicated that, in light of the unique and
24 extraordinary nature of the matters under investigation, the current President has
25 determined an assertion of executive privilege is not in the national interest, therefore

1 not justified.

2 Do you understand the current White House has communicated their view that an
3 executive privilege assertion would not be appropriate?

4 A Yes, I've read that letter.

5 Q Okay.

6 So you are currently a partner at Gibson Dunn, is that right, the law firm?

7 A That's right.

8 Q And before that, you served as Secretary of Labor in the Trump
9 administration?

10 A Correct.

11 Q What were the dates, Secretary Scalia, that you were in that position?

12 A I believe I was sworn in on September 27th of 2019, and I served through
13 noon -- actually, it was a minute or two before -- but on January 20th, 2021.

14 Q So all the way through the end of the administration?

15 A That is correct.

16 Q Okay. And before you were Secretary of Labor, you were actually Solicitor
17 at the Labor Department, right?

18 A That is correct.

19 Q A few years prior? When were you in that position?

20 A I held the position of Solicitor from approximately January, I believe, 2002
21 until sometime late that year, at which point my recess appointment expired. But I was
22 appointed Acting Solicitor of Labor. And I think I remained in that position probably
23 until about January of 2003.

24 Q Okay. Of 2003?

25 A 2003, correct.

1 Q Yeah.

2 A So I was in that position of Solicitor or Acting Solicitor for a year.

3 Q Got it. Okay. And I'm just curious, the Solicitor of Labor is unique among
4 Federal agencies, no general counsel but a solicitor. Could you just explain to me how
5 that position is unique, the chief lawyer at the Labor Department?

6 A It's not unique. It's the chief legal officer of the Department of Labor. It
7 does have litigating authority as well as a role in providing advice to the Labor Secretary,
8 the heads of the agencies.

9 Not all agency chief legal officers have the amount of litigation authority the Labor
10 Solicitor has. But the Interior Department, for example, has a chief legal officer who has
11 the same title, Solicitor.

12 Q It's the litigating authority, that is why it's a solicitor as opposed to a general
13 counsel?

14 A I don't think so. I think it's an outgrowth of the way in which certain
15 positions that I believe had been at the Justice Department perhaps under the Solicitor
16 General were migrated out to Cabinet agencies as they were created. In some
17 instances, the title of Solicitor from the Solicitor General's Office was retained. That's
18 my understanding.

19 Q I see.

20 A I've never -- I'm not sure I've ever carefully researched it, but that was my
21 impression.

22 Q Yeah. Okay.

23 A I'd never thought there was any significance in the title.

24 Q Yeah. You also graduated from UVA in '85?

25 A That's correct.

1 Q I was a year behind you, '86.

2 Let's talk a little bit about January 6th. You were Secretary of Labor at the time.
3 Right down the street from you is the Capitol.

4 Just did you have any -- did the events at the Capitol have any impact on your, you
5 know, sort of how you carried out your day that day?

6 A I was in my office in the morning of January 6th, but actually left for an
7 out-of-office meeting in the northern Virginia area probably around midday or so. So I
8 was not in my office when the Capitol was stormed on January 6th.

9 Q I see. And then didn't return, I assume, after your northern Virginia?

10 A I didn't. I lived in northern Virginia. So I went from that site in northern
11 Virginia to my home in the late afternoon or very early evening on the 6th.

12 Q Okay. Secretary Scalia, was there any advance notice that you had from
13 any source about the possibility of a mass demonstration or even violence at the Capitol
14 in the days before the 6th?

15 A The reason that the meeting I had was held in northern Virginia was that I
16 was aware that there was expected to be some sort of a march or protest on Constitution
17 Avenue and toward the Capitol, which happens fairly frequently along Constitution
18 Avenue. You have protest demonstrations.

19 I thought it might get a bit noisy and distracting and for that reason took this
20 meeting in northern Virginia. But any knowledge that I had about what was going to
21 happen was from public news reports. And I certainly had not been informed by any
22 senior officials in the administration, for example, that this was expected to happen.

23 Q Yeah. I see. So no advance intel briefings, anything like that, from a law
24 enforcement source about the possibility of unrest or violence?

25 A Not that I can recall.

1 Q Okay. I want to focus your attention primarily on what happened after
2 January 6th.

3 After the events at the Capitol, several of your colleagues in the Capitol resigned,
4 Secretary DeVos and Secretary Chao in particular.

5 Did you have any discussions with them about their resignations, their decisions to
6 resign?

7 A I believe that I did have -- I certainly had a conversation with Secretary Chao
8 about her resignation, and I think that I also spoke to Secretary DeVos about her
9 resignation.

10 Q Let's start with Secretary Chao. Did you speak with her before she made
11 the decision to or announce her resignation, or was it after the fact?

12 A Both.

13 Q Okay. Tell me about the conversation with her before.

14 A My first conversation with Secretary Chao regarding the events of January
15 6th occurred on the evening of January 6th.

16 Q Okay.

17 A And my recollection is that Secretary Chao called me. I took the call at
18 home. I had worked for Secretary Chao as Labor Solicitor and we had been Cabinet
19 colleagues.

20 I recall her saying -- we talked about the events and how horrible that day had
21 been. I recall her saying something along the lines of, "Gene, you're thoughtful about
22 questions of responsibilities of government officials in circumstances similar to these
23 matters that involve responsibility, integrity, and the like. What are your thoughts?
24 I'm interested in your thoughts about what we should do." So she called me with an
25 inquiry of that nature.

1 I told her that I was -- that I wanted to think about that and that I was very
2 disturbed. And I suggested that she let me think about it and we'd talk again the next
3 day.

4 Q Okay.

5 A So that was the conversation I had with Secretary Chao the evening of
6 January 6th. And we did speak again on January 7th.

7 At that point, what I suggested to her was I thought it would be constructive if we
8 could have the President convene a meeting of the Cabinet and explained to her that I
9 thought that could be a good way for the President to publicly demonstrate his
10 commitment to a transition to a Biden administration and that it could also be a way for
11 members of the Cabinet to have interaction with the President post-January 6th and play
12 a role in assuring that smooth transition.

13 So I had a discussion along those lines with Secretary Chao on the morning of
14 January 7th.

15 Q Okay. Did she explain to you the reasons for her decision not to stay
16 through the end of the administration and to resign immediately?

17 A She did. I can't recall exactly what she said except that what Secretary
18 Chao communicated to me was that she was exasperated and didn't have confidence in
19 the President doing all that he should in the time remaining, and she just felt best leaving.
20 It was fairly quick, but that's the capsule that I recall --

21 Q I see.

22 A -- from my conversations with her.

23 Q I appreciate that.

24 And the frustration was not about necessarily what had occurred at the Capitol,
25 but the President's either incitement of it or lack of response to it? It was specifically

1 directed at her dissatisfaction with his leadership?

2 A Well, Secretary Chao didn't say anything to me that I can recall about the
3 incitement of anything by the President. And she was very disturbed, as was I, by the
4 events of January 6th.

5 And I think that she believed that, in one manner or another, the President's
6 conduct prior to the attack on the Capitol had contributed in one way or another to what
7 happened at the Capitol, and that disturbed her. And it was certainly something that
8 was the precipitant of her decision to resign.

9 Q Yeah. How did you feel at the time, Secretary Scalia, on that same issue?

10 A On what issue?

11 Q On the issue of the President's words, actions, or lack thereof on January
12 6th, in terms of what it said about your confidence in him and his leadership.

13 A I was not aware of all the President had done or not done on January 6th. I
14 had been bothered for some time by the President's failure to acknowledge what was
15 clearly the outcome of the election. That had bothered me. And I believed that he
16 should acknowledge that he had not prevailed in the 2020 election.

17 As to January 6th specifically, I think that in the evening of the 6th and on the 7th I
18 was aware that the President had spoken at a rally where he'd continued to question and
19 assail the election results, which I had thought for a long time was a mistake.

20 And I was of the view that, directly or indirectly, things that he'd said and done
21 contributed to the mood and the anger that was exhibited later that day on the 6th.

22 Q Had you ever expressed that to him directly, that view that those words
23 about the election and failure to acknowledge the results were not productive or were
24 dangerous?

25 A I had.

1 Q Tell us about that conversation. Was that one conversation or multiple
2 conversations?

3 A More than one.

4 The first conversation along those lines that I had with the President I believe was
5 on December 14th. That was the day that the State electors met in their capitols to cast
6 their ballots, and it's historically regarded as the day that's determinative of who the next
7 President will be. I don't know that constitutionally it's the very last -- it's obviously not
8 the very last step.

9 My law firm had represented George W. Bush in the Bush v. Gore litigation over
10 that 2000 election. I didn't work on the case, but I'd certainly followed the case. And I
11 had recalled that the parties in that litigation over the 2000 election -- and I think the
12 Supreme Court -- had regarded the day that the Florida electors were to meet as really
13 the date by which litigation needed to be resolved, because it was the date on which the
14 election was truly and formally decided.

15 And so I had put a call in to the President -- I might have called on the 13th; we
16 spoke, I believe, on the 14th -- in which I conveyed to him that I thought that it was time
17 for him to acknowledge that President Biden had prevailed in the election. And I might
18 have mentioned to him how my view of that had been informed by what I had observed
19 in the Bush v. Gore litigation.

20 I believe I would have indicated to him that I did not believe it was wrong for a
21 Presidential candidate to contest legally a reported election result, because that's what I
22 believe both George W. Bush and Al Gore had done. That is a legal process.

23 But I communicated to the President that when that legal process is exhausted
24 and when the electors have voted, that that's the point at which that outcome needs to
25 be expected. And I made two points that I hoped would have some appeal to the

1 President that might get traction with him.

2 One was that there was this Georgia runoff election. There was a runoff for two
3 seats in Georgia. If the Republicans won one of those seats, they would retain control of
4 the Senate. If the Republicans retained control of the Senate, the Republicans would
5 then have a greater ability to influence legislation that was enacted by what I was
6 confident would be a Biden administration, and also judicial appointments in a Biden
7 administration.

8 So I told the President that with the Presidency in the Democrats' hands, that
9 control of the Senate was going to be the most important thing to preserving what I told
10 him I thought was an important legacy he had, and that Georgia voters should know that.

11 And I told him that if Georgia voters were operating under the mistaken belief
12 that there might actually be a second Trump term beginning in 2021, they might not
13 realize how important their votes were to his legacy.

14 And so, on that basis, I urged that he acknowledge so that the focus could be on
15 those Senate elections.

16 And then, secondly, I said to the President that I believed that if -- I told the
17 President that I believed that voters would be reluctant to give the powers of the
18 Presidency a second time to somebody who had not relinquished those powers when he
19 should have the first time. And I said, for that reason, too, I thought it was appropriate
20 for him now to concede that he had lost the election.

21 The only thing, other thing that I recall from that conversation is the President
22 asking me if I was saying that even in a case where there was massive
23 outcome-determinative fraud -- and there plainly was fraud in that circumstance that he
24 was describing to me -- was I saying that even then, after legal processes had been run, it
25 was the President's obligation to concede if, again, there was, in fact, massive

1 outcome-determinative fraud.

2 And I told him that I did believe, yes, that once those legal processes were run, if
3 fraud had not been established that had affected the outcome of the election, that,
4 unfortunately, I believed that what had to be done was concede the outcome.

5 Q What do you recall him saying in response to you explaining these two
6 factors and encouraging him to commit to the transfer of power?

7 A I don't recall anything else the President said in that conversation. It was a
8 very civil, respectful conversation. I think he was probably surprised to hear me saying
9 it. It's probably not what he wanted to hear. But it was a civil, respectful conversation.
10 That's what I recall of it.

11 Q Did he say anything about whether he agreed or disagreed with you that it
12 was time to commit to the transfer of power?

13 A He certainly didn't say, "Gene, you're right and I'm going to concede." So I
14 left that phone call believing that he was not going to follow my recommendation, but I
15 thought it was one that I owed him and that I should provide.

16 Q I see. In that conversation, Secretary Scalia, did he put forth theories of
17 fraud in the election, make statements to the effect of massive fraud, this election was
18 rigged, the election was stolen? Did he talk about that at all in that conversation on the
19 14th?

20 A He might have. The question that he put to me about what a President's
21 obligations were in the case of massive outcome-determinative fraud certainly suggested
22 that he believed that that was the circumstance here. But he did not -- I can't recall
23 whether he said, "Gene, there has, in fact, been massive outcome-determinative fraud in
24 this election," but he was acting as if he believed that was the circumstance he was
25 facing.

1 Q I see. So the predicate for his question to you was that some belief that
2 there had been massive outcome-determinative fraud?

3 A It was not an entirely, I think, in his mind, idle and hypothetical question as
4 he was putting it to me.

5 Q And he was saying it publicly and continued to.

6 Let's talk about the next conversation. So he did not take your advice, obviously,
7 and continued after the electors met in their respective States on December 14th to put
8 forth publicly and repeatedly the election was stolen and put pressure on various officials
9 to -- for him to stay in office.

10 Did that prompt or did you have a second conversation with him on these topics?

11 A [REDACTED], those are your words about what the President might have said
12 or done in interactions with other people. I've certainly read third-party accounts, but
13 I'm not here to affirm or deny what you just said. I really don't have any firsthand
14 knowledge at all.

15 I did have another conversation with the President that was on -- the next
16 one-on-one conversation that I had with the President on these issues was January 11th.
17 So it was the Monday after January 6th.

18 Q All right. Tell us about how -- who initiated that conversation, you or the
19 President?

20 A The President called me in response to a memorandum that I had submitted
21 to him. So he called me on the 11th and said to me, "Mark Meadows tells me that you
22 think we should have a Cabinet meeting." Which was true. I had recommended that
23 the President convene a Cabinet meeting. And the President asked me to explain what I
24 had in mind, and so I did.

25 Q Tell us more about that.

1 A Well, as I mentioned earlier, in connection with the conversation that I had
2 on January 7th with Secretary Chao, after some thought about what was the right thing
3 for me, as a Cabinet Secretary, to do post-January 6th, I thought that the most sort of
4 constructive thing that I could think of would be for the President to convene the Cabinet.

5 And so that's the recommendation that I had made, and that's what the President
6 had heard, and that's what he called me about. And I would have explained to him in
7 this call on January 11th why I believed a Cabinet meeting would be constructive.

8 And I can't recall everything that I said to him, but it was indisputable by anybody
9 on January 11th that Joe Biden was going to be President. And so I thought that
10 convening the Cabinet and demonstrating a commitment to an orderly transition would
11 be a constructive thing for the President to do.

12 I also thought it would be appropriate for the President to express his dismay at
13 the attack on the Capitol on January 6th, which he had done I believe late in the evening
14 on the 6th, or maybe it was on the 7th. I thought that that would be an appropriate
15 thing to do.

16 I was concerned that the President post-election had been receiving bad advice
17 from people who were ill-positioned to give him good advice, and that the people who
18 were appointed in positions to give the President the best advice were not being
19 consulted in the manner that I believed the President should be doing.

20 And for that reason, too, I felt that a Cabinet meeting to indicate the President's
21 commitment to involving his Cabinet on significant decisions, where appropriate, I
22 thought that indicating a commitment to that would be another constructive outcome
23 from a Cabinet meeting if the President were to hold it.

24 Q It sounds like you had reduced some of this to writing in advance of the
25 conversation with him on January 11th. Is this memorandum that you prepared

1 something that outlines some of your thoughts about what a Cabinet meeting -- why a
2 Cabinet meeting was a good idea?

3 A That's correct.

4 Q All right. And had you submitted that through the chief of staff -- or to the
5 chief of staff, to the President through the chief of staff?

6 A I had.

7 Q Okay. You said one page, two pages, just a summary of what you thought
8 the purpose of a Cabinet meeting would be?

9 A That's correct. I submitted to the chief of staff to give to the President a
10 one-page memorandum recommending a Cabinet meeting and explaining why I believed
11 it would be a good thing to do -- and also, by the way, expressing my appreciation to the
12 President for the position I held and otherwise.

13 But, yes, it was a one-page memo, and I think the content was more or less along
14 the lines of what I've described in the explanation I gave to the President when we spoke
15 on the 11th.

16 Q I appreciate that. Beyond what you've already described, if a Cabinet
17 meeting had been convened, what was your recommendation as to what should be
18 discussed? Was it the transfer of power? Was it -- were there other subjects? Best
19 case, had it happened, how would you have structured the agenda?

20 A In terms of the content of the Cabinet meeting that I recommended the
21 President have, I think the description I've already given to you was the virtually sum total
22 of it.

23 I will say that I had been disappointed in the way that the President had spoken to
24 the Vice President leading up to January 6th and I think in the remarks he gave on January
25 6th, because I thought the Vice President had served the President well and had done

1 what he thought was the right thing to do in difficult circumstances. And I thought that
2 it would be good for the President to express appreciation for the Vice President's
3 service.

4 But I can't recall whether I said that to the President or not when we spoke on the
5 11th.

6 Q How receptive was he to the idea of a Cabinet meeting in the conversation
7 with you on the 11th or otherwise?

8 A When I spoke to the President on the 11th of January and recommended a
9 Cabinet meeting, it was a civil, respectful conversation. He had called me because he
10 had been told that this was something I wanted.

11 I laid out to him the reasons I thought it would be a good thing to do. I believe I
12 also expressed to him my deep dismay at what had happened on January 6th.

13 In terms of how he responded to the suggestion of the Cabinet meeting, he
14 indicated that he didn't think that would be a good thing to do.

15 And he said, "Why don't you just come talk to me? Let's you and me meet."

16 And I said, "I think a Cabinet meeting would be better. I think it would be better
17 for you to see all your Cabinet together rather than just have a one-on-one meeting."

18 But he told me he didn't think that was a good idea. I can't recall the particular
19 reason he gave. I think he might have said we've already had our last Cabinet meeting.

20 And he suggested again that I just come and sit down and talk with him further
21 about the concerns that I had. And so we agreed that I would do that on the coming
22 Thursday. I think that was the 14th.

23 Q Did you actually have an in-person meeting with him on the 14th?

24 A I did.

25 Q All right. Before we get there, let me just -- a couple more questions about

1 the conversation on the 11th.

2 When you expressed your deep dismay about January 6th, what, if anything, did
3 he say in response? What did he tell you about his view of January 6th?

4 A I don't recall him saying anything about his view of January 6th. I do recall
5 him asking me if I was suggesting that he had incited an insurrection or something along
6 those lines.

7 And I said, "No, that's not really what I'm saying." And I pointed out to him that
8 there had been an article in The Wall Street Journal, an op-ed in The Wall Street Journal a
9 day or two before by a former prosecutor in which the former prosecutor said that under
10 the law what the President allegedly had done on the 6th was technically not incitement,
11 and I mentioned that piece to him.

12 Apart from that, I don't recall him saying anything about the events of the 6th.

13 Q Did he tell you anything about what he did during that day, his personal
14 experience of January 6th?

15 A No.

16 Q Did you convey to him that you were disappointed in how he had spoken to
17 or about the Vice President during your call with him on the 11th?

18 A I think I did. I'm not sure I did.

19 Q Do you recall his response to the discussion about his treatment of the Vice
20 President?

21 A I do not recall a response by the President. He certainly in that call did not
22 tell me he thought he'd acted appropriately toward the Vice President. He also I'm sure
23 did not tell me he thought he had acted inappropriately toward the Vice President.

24 Q What, if anything, do you remember him saying about the Vice President
25 during that call?

1 A I don't remember him saying anything about the Vice President on the call.

2 Q You indicated, Secretary Scalia, that you thought that he was getting bad
3 advice and that maybe some of the people who were committed to giving him good
4 advice didn't have sufficient access.

5 Tell us more first about your personal views. Who was giving him bad advice and
6 who was not able to give him advice?

7 A A case in point for me of the President getting bad advice was Rudy Giuliani,
8 who had been I think a very good mayor of New York City, had been an effective
9 prosecutor, U.S. attorney for the Southern District of New York, but, particularly at that
10 stage in his life, was not equipped at all to be handling the kinds of legal matters that he
11 was on behalf of the President or to be acting as a principal legal adviser to the President
12 at that time.

13 I've been a lawyer for more than 30 years, practicing in the District of Columbia
14 with some of the country's best lawyers, and Rudy Giuliani, at that stage in his career
15 particularly, did not belong in that company. I did not think that he was equipped to
16 handle the type of matters that he was for the President, and I thought that he was doing
17 a poor job and that -- so that was a case in point for me.

18 I also had gotten the impression from the White House counsel, Pat Cipollone,
19 that he felt that he was having a more challenging time getting the President's ear versus
20 other people getting the President's ear. And so that informed my perception of that
21 dynamic.

22 Q Did you express your opinion about Mr. Giuliani to the President during any
23 of your conversations with him?

24 A I don't believe so.

25 Q Did you talk with the President about Pat Cipollone?

1 A Well, I take that back. When I wrote a memorandum to the President
2 suggesting a Cabinet meeting, I did specifically say that I thought that he had been
3 receiving advice from people who served him poorly. And when I wrote that, I did have
4 Mr. Giuliani in mind.

5 Q I see. Do you recall any discussion with the President himself about Mr.
6 Giuliani or others who were advising him?

7 A I do not.

8 Q All right. Tell me, did you ever talk with the President about Pat Cipollone
9 and his relative status or whether the President was listening to his White House counsel?

10 A I don't believe so.

11 Q Tell me more about what Mr. Cipollone told you about his -- you described
12 that he was having a challenging time getting through to the President or something
13 along those lines. What did he tell you about that, that experience?

14 A I've known Pat Cipollone, the White House counsel to President Trump, for a
15 long time, and it's not uncommon for a Cabinet Secretary to have occasional
16 conversations with the White House counsel.

17 Starting in probably mid-December, I had conversations with Mr. Cipollone from
18 which I got the impression that he was confronting some challenges or situations that he
19 regarded as real challenges as he advised the President, and that was frustrating him.

20 Pat Cipollone is an extremely discreet person. I don't recall Pat ever mentioning
21 to me particularly what challenges he felt he was encountering as he sought to advise the
22 President. But it was clear to me that he was finding it very difficult.

23 Q Yeah. That's very consistent with what we have heard as well.

24 Did he mention anything in particular, any event, meeting, issue on which he was
25 having a hard time getting through to the President? Mr. Cipollone, I'm talking about.

1 A I don't recall Mr. Cipollone mentioning any specific concern that he had. I
2 don't recall a particular subject that Mr. Cipollone indicated to me he was having difficulty
3 advising the President on, in the sense that the President was listening to others and not
4 to Cipollone, except that somehow I got the impression that there was concern in the
5 counsel's office with pardons that the President might give on his way out.

6 I don't know if I got that from Mr. Cipollone or not. I think maybe not, because
7 Pat was always so incredibly cautious and discreet in what he said to me on the
8 substance.

9 Q Separate from the source of that, what do you recall about concern in the
10 counsel's office about pardons? Was it the President was contemplating pardons that
11 were ill-advised? Or what more specifically do you recall on that issue of pardons?

12 A Well, as I said, I don't know that Mr. Cipollone ever actually said anything to
13 me about concerns with pardons, but in one way or another I concluded that that was a
14 concern that was held in the counsel's office.

15 So I don't recall any discussions with the counsel's office about pardons until very
16 late in the day. It would have been on January 14th when I believe that I had a short
17 conversation with Cipollone.

18 Q Okay. And, again, the concern about pardons, was it the prospect of
19 pardons that somehow were not appropriate or -- I'm just trying to get a sense of what
20 you heard the specific concern was.

21 A ██████████, I think I've told you a couple times now that I don't distinctly
22 recall any statement by Mr. Cipollone that he was concerned about pardons.

23 I read in the papers that there was talk of the President making some kind of
24 broad pardons to a number of people. And in one way or another, I deduced that this
25 was something that bothered counsel's office.

1 But I do not recall how I got that impression, and so I don't have anything further
2 to say about what the counsel's office's view on that matter was except, as I say, I had a
3 short conversation with Mr. Cipollone on January 14th about pardons, I believe.

4 Q Before we leave the 11th, anything else at all, Secretary Scalia, that you
5 recall being discussed with the President, either that you conveyed to him or you heard in
6 response?

7 A Sometime around that time, I thanked the President for the vaccine shot
8 that I received, because I thought that Operation Warp Speed was a really great
9 achievement and that it's something that he rightly got credit for.

10 And I think -- so I did thank the President for the fact I had gotten my first shot,
11 but I can't recall whether it was in our call on January 11th or on another phone call.

12 Q Okay. It sounds like after the 11th, you actually went to the White House
13 and had a meeting with him on the 14th?

14 A That is correct.

15 Q Let's talk about that. I think you just said you first actually talked to Pat
16 Cipollone on the 14th. I assume on the same visit to the White House you saw both the
17 White House counsel and the President?

18 A That's correct.

19 Q All right. Let's talk first about your conversation with Mr. Cipollone. What
20 do you recall about that on the 14th?

21 A It's probably easier to talk about my conversation with the President first,
22 because that was the one that happened first in time.

23 Q Let's do that. Tell us about that.

24 A I came, met with the President in the Oval Office. It was the two of us.
25 Most of the time, you know, the Oval Office is always busy. So one or two people came

1 in or out in the course of it. But my recollection is it was just the two of us talking.

2 I brought a book as a gift. My Deputy Secretary, who was a wise man, said get
3 things off on a good note with the President. And so a friend of mine had recently
4 published a book on Abraham Lincoln, which was a book I was giving to different people
5 as a gift at the time.

6 So I brought that to the President, inscribed it. I don't recall what I wrote. And
7 I gave it to him. And I said, "You know, Mr. President, Abraham Lincoln was essentially a
8 one-term President." And so I said, "You know, a one-term President can be a very
9 consequential President."

10 I was quick to say, "I'm not saying you're Abraham Lincoln," but I said that, "You
11 have had a consequential Presidency that's had some really great achievements."

12 But then I then pivoted to the point that a President establishes his legacy until
13 the last day and that how he conducted himself in the time remaining was going to be
14 important to how he was remembered.

15 And so I -- that was why I said that I thought a Cabinet meeting would be
16 beneficial and I think it is important that you continue to -- I said, "I think it is important
17 that in these days remaining that you proceed in an appropriate way, in a way that will
18 leave a good legacy as best you can, not a bad legacy."

19 And, again, I indicated that's why I thought that how he acted in the days
20 remaining were important and that I had concerns that he might take actions that would
21 be inappropriate.

22 Q Were you still encouraging him to convene a Cabinet meeting as of this
23 date?

24 A I don't think so.

25 Q That idea had already been essentially rejected by the President?

1 A By the time I met with the President on January 14th it was clear to me he
2 was not going to have a Cabinet meeting, and so I don't think that I was pressing that
3 point at that stage.

4 Q A good lawyer knows when to give up on a particular argument, right?

5 A Even some bad ones.

6 Q Yeah.

7 Tell me more about your concerns that the President would take particular action
8 in the time he had left. Did you have any discussion with him about that?

9 A Yeah. Again, the particular concern that I had around the time of January
10 14th in terms of improper action the President might take concerned pardons. There
11 had been press reports that the President was considering granting widespread pardons,
12 including potentially to family members.

13 And, as I mentioned, I had figured out one way or another that this was, in fact,
14 something that was of concern in the counsel's office. And so I raised that with the
15 President as an example of something that I thought would be inappropriate for him to
16 do, that I really didn't think he should do it and I was concerned about that.

17 Q Did you specifically, Secretary Scalia, say to the President, "I understand
18 you're considering pardons of your family or others, that that would be a bad idea," kind
19 of give him that direct advice about that specific issue?

20 A I don't think that's exactly what I said. I think I would have framed it in
21 terms of, "I've seen press reports, I've seen talk about your providing a large number of
22 pardons to a number of people close to you, including potentially even family members,
23 and that that would be inappropriate." I think that's what I said.

24 Q How did he respond when you raised the issue of the possibility of pardons?

25 A He responded. He said something along the lines of, "Pardons? Pardons

1 to family members? Widespread pardons? I don't know about that."

2 And so he -- I took it to be that he was certainly aware of the topic and it was
3 probably something that he'd given some thought to, but that in my meeting with him I
4 felt that he was edging away from a little bit and meant to give me the impression that
5 that was not likely to happen.

6 Q It sounds like -- and, again, correct me here if I'm wrong -- that it was clear to
7 you that this had been discussed or he had considered it, but that he was leaning against
8 taking that step.

9 Is that your impression from the discussion with him on the 14th?

10 A Yes. I think -- my impression from the discussion with the President on the
11 14th was that he had been thinking about pardons for a number of people who were
12 close to him, exactly who I don't know, but that he was giving me the impression that he
13 was not likely to go down that path.

14 Q Okay. Was there any discussion of pardons of Members of Congress during
15 that discussion?

16 A I don't recall. I don't -- no, I don't think so.

17 Q How about pardons related somehow to the election or efforts to forestall
18 the transfer of power?

19 A No. We did not get that specific.

20 Q All right. And anything connected to January 6th on the pardon issue,
21 pardons for people engaged in activity on or around January 6th?

22 A I don't recall anything that specific.

23 Q All right. Did January 6th come up during your meeting with the President,
24 your face-to-face meeting on the 14th?

25 A I don't recall. I had already spoken to him about it on the 11th and

1 mentioned it in my memorandum to him, which I think was sent on February -- on
2 January 8th. I don't think that we talked about January 6th when I met with him on the
3 14th.

4 Q What else did you discuss, Secretary Scalia? Besides the pardons, besides
5 your legacy is informed by actions all the way to the end, anything else in particular that
6 you raised or that he raised during that discussion?

7 A The only -- I recall him asking me who his most loyal Cabinet member was.
8 And I thought the appropriate answer was "me." And so I said, "I am, Mr. President."

9 [Laughter.]

10 But then I said, "You know, I think all your Cabinet are loyal." I said, "I have not
11 seen disloyalty in your Cabinet."

12 And then I said -- and I said, "You know who was loyal?" I said, "Bill Barr was
13 loyal to you."

14 And I think he said, "Who?" because he was surprised.

15 And I said, "Bill Barr." I said, "Bill Barr served you well."

16 You know, Bill Barr, of course, had been Attorney General, had resigned. Bill Barr
17 was a friend of mine, somebody who had been my fellow Cabinet Secretary, and I
18 thought he had served the President well. And so I said that to him. But that's all I
19 recall of our discussion on that subject.

20 Q How did he react when you raised Bill Barr as a loyal Cabinet Secretary?

21 A As I said, I think he was surprised that I said that to him. But we didn't
22 argue about it. We moved on.

23 Q Did he criticize Attorney General Barr or disparage him in any way?

24 A I don't believe so. It was a civil, respectful conversation with the President,
25 and I don't recall him saying anything disparaging about Bill Barr in that meeting.

1 Q Did he say anything about the election? Did he continue, for example, to
2 talk about the stolen election during your face-to-face meeting with him?

3 A I don't recall the President saying anything in that meeting about the
4 election having been stolen. The election might have come up because we were there
5 to talk about a transition of power, but I don't recall that we talked about, again, January
6 6th at all or his disagreement with the election outcome.

7 Q Was there any discussion of his potential attendance at the inauguration or
8 facilitation of a transition?

9 A We did not discuss whether he would attend the inauguration. We likely
10 would have discussed the importance of a proper transition of power. That was what I
11 sought to convey to him is an important part of his legacy. When I gave him the book
12 about Abraham Lincoln, talked about his legacy at the end of the term, it was in the
13 context of making it a proper transition.

14 Q Do you remember anything he said about his facilitation of a transition,
15 transition issues in general?

16 A No, no. That's all I recall.

17 Q Did you get a sense of any resistance to a transition, or was it your sense
18 that he was appropriately facilitating it?

19 A It was my impression by the time I met with the President on January 14th
20 that the administration was committed to a transition.

21 We had gotten a directive. I think it might have been from the chief of staff. I
22 think it came toward the end of the prior week, so maybe on the 7th or 8th. We had
23 gotten a directive from the chief of staff to submit resignation letters, which is part of
24 how you go about effectuating a transition.

25 So that was one indication to me that the machinery of Presidential transition was

1 now fully in operation.

2 Q I see. Was there any discussion during that face-to-face, Secretary Scalia,
3 about other possible actions the President might take? You mentioned the pardons. I
4 appreciate that. But military action, declassification of various issues, or any other
5 specific business matters or matters of potential action that were discussed?

6 A I don't believe so. The only one I can recall is pardons.

7 Q All right. You said that there may have been people coming in and out over
8 the course of the meeting. Do you remember anyone specifically joining any portion of
9 the meeting?

10 A I don't remember anybody joining the meeting.

11 Q Did Mr. Meadows or Mr. Cipollone or anyone else potentially participate in
12 the discussion?

13 A No.

14 Q Okay. Anything else about the discussion that you said or that you
15 remember the President saying?

16 A That's all I recall from that meeting.

17 Q About how long did it last?

18 A It might have been 20 minutes, 15, 20 minutes.

19 Q And if you had to characterize his mood or demeanor, how was he seemingly
20 feeling during that meeting?

21 A As I said, it was a civil, respectful meeting. I wouldn't -- I don't think his
22 mood or demeanor in that meeting were any different than in any number of meetings I'd
23 had with him during my time in the administration. His demeanor and behavior in that
24 meeting were not unusual.

25 Q Okay. And did it end in a positive way, a cordial way?

1 A Yes.

2 Q A handshake and a wishing you well?

3 A I think that's right.

4 Q Is that the last time you saw or spoke to him before you stepped away from
5 your position at the end of the administration?

6 A Yes.

7 Q Okay. You said you also spoke to Pat Cipollone on the 14th of January.
8 Can you tell us about that conversation? It sounds like you said it was after your
9 meeting in the Oval with the President.

10 A Right. On my way out of the White House, I stopped by the counsel's office
11 to see if Pat Cipollone was around, because, again, the White House counsel was an old
12 friend of mine and I just wanted to check in, say hello. And I think I wanted to let him
13 know about my meeting.

14 I don't recall much from that meeting with Mr. Cipollone except that I believe I
15 told him that I got the impression from the meeting or at least the President meant to
16 communicate to me that he was not going to proceed with widespread pardons, including
17 pardons of family members.

18 And I told Pat that was my -- that's what the President seemed to convey to me.
19 And I recall Pat indicating that he believed that's the course they were on at the moment
20 as well, although I think he also communicated that it was possible things could change,
21 but at the moment he was hopeful that's where they were.

22 Q So Mr. Cipollone, your sense was, shared your view that pardons,
23 widespread pardons of family members and others would not be wise, would be a bad
24 idea?

25 A Yes, I think that that's correct. That was my sense of Cipollone's feeling.

1 Q Okay. Did you get any more information from Pat Cipollone, either on the
2 14th or otherwise, about more specifically who or what categories of people were being
3 discussed for possible pardons?

4 A No.

5 Q Beyond family members, do you recall discussion of who else might be sort
6 of under consideration for possible pardons?

7 A No.

8 Q Any discussion, again, about Members of Congress or specific individuals?

9 A No.

10 Q What else do you recall from the discussion with Pat Cipollone on the 14th
11 beyond the pardon issue?

12 A My sense when I spoke to Cipollone on the 14th was that his spirits were a
13 little better than they had been in days or weeks prior, that he seemed a little bit more
14 relaxed and I think optimistic about the trajectory that things were on at that time.

15 Q Again, don't want to put words in your mouth, but optimistic that the
16 President was accepting the notion of a transition and was moving forward appropriately
17 to facilitate that?

18 A Yeah, you are putting words in my mouth.

19 Q I don't mean to. I don't mean to.

20 A Maybe I'll just repeat myself. But my impression in talking to Mr. Cipollone
21 on the 14th was that he was more relaxed than he had been in days, weeks before that,
22 and that he was more optimistic that we were on a course for a smooth transition to the
23 new administration.

24 And I think I had the impression that Pat felt more confident that he was having a
25 good rapport with the President, had the President's ear in a way that he would want,

1 and that some of the harebrained ideas that had been out there were not interfering with
2 Pat's job in the way that they might have been interfering before.

3 Q You described before the sense that maybe Mr. Cipollone was having
4 challenges getting access to the President and there were these outside ideas.

5 Did you have a sense by the 14th that he no longer was having as many of those
6 challenges, did have the President's ear, in contrast to the way it had been somewhat
7 earlier?

8 A I want to clarify something. I did not say that I thought that Mr. Cipollone
9 was having problems getting access to the President. I don't know that I ever had that
10 impression.

11 Q Okay.

12 A My impression was that Mr. Cipollone was finding it harder to fulfill what I
13 would regard as his role of being the President's principal legal adviser and that there
14 were people not in the administration who were competing for him with that
15 responsibility that made it harder for him to have his ideas get traction with the President
16 and the President was being distracted by other people who were giving him bad advice.

17 That was my impression pre-January 14th about a concern that Cipollone had.
18 January 14th, I just got the sense that Pat felt better about how his discussions with the
19 President were going.

20 Q I appreciate the clarification. So Cipollone never, in your view, had access
21 issues. It was more he was competing with I think you called them "harebrained ideas"
22 coming from outside advisers. That's a better characterization of what you'd heard from
23 him prior to the 14th?

24 A I don't think Pat put it that way to me, but it was my impression that that's
25 what he was dealing with, given the prominent role, for example, that Rudy Giuliani was

1 playing and things that he was saying, which just didn't seem to be sensible at that time.

2 Q I understand.

3 Okay. Anything else about your conversation with Mr. Cipollone on the 14th?

4 A No.

5 Q Did you ever talk to Mark Meadows about this, about the possibility of a
6 Cabinet meeting, what the President should or shouldn't do in the days after January 6th?

7 A I had transmitted to Mr. Meadows my memorandum for the President
8 suggesting a Cabinet meeting. So he had that. But I don't believe that I ever spoke
9 directly to Mark Meadows about a Cabinet meeting.

10 Q I see. Did you talk to him about anything in the wake of January 6th?

11 A I did.

12 Q Tell us about that, your discussions, one or more, with Mark Meadows.

13 A I called Mark Meadows on the evening of January 6th, after I got back home
14 and caught up on what had happened, because I had been out of the office. So I called
15 Mark Meadows and spoke to him.

16 And I just called to let him know that I was very disturbed by what had happened
17 at the Capitol and that I thought it was a very, very serious, bad thing, and I was troubled
18 by it, and I wanted him to know that.

19 And my point in calling him was to indicate that we needed to think about the
20 appropriate way to respond to what happened on the 6th. And my point in calling him
21 on the 6th was also to let him know that I was really bothered by it. But I did not on that
22 call make any particular suggestion to him except that this had to be taken very seriously.

23 And I don't recall what he said to me. I think more he just listened to what I was
24 saying. I think that he acknowledged that that had been a very, very bad day, didn't
25 argue with me over that. But I don't recall him saying much in that call.

1 Q When you say you conveyed to him that you were very disturbed by what
2 happened, were you disturbed by what the President had done or not done on January
3 6th?

4 I mean, everyone is concerned about violence, but I'm wondering if you conveyed
5 specifically, felt or conveyed that the President had somehow contributed to or had a role
6 in how disturbed you were.

7 A I had spoken with the President back in mid-December to let him know that I
8 thought that when the electors voted in their States as to the new President, I had had a
9 conversation with him back then saying that I thought that it was time to accept that Joe
10 Biden had been elected President.

11 And I was bothered by his continued resistance to that election outcome, and I
12 thought that the totality of his treatment of the election prior to January 6th had
13 contributed in one way or another to the attack on the Capitol.

14 So, in that sense, I thought that the administration bore responsibility for what
15 happened on the 6th. What was the direct cause of that? What was the immediate
16 cause of that? Was there incitement?

17 I didn't have a theory about that. But I thought that, one way or another, the
18 actions that had been taken and statements by the President leading up to January 6th
19 had contributed to that, and I felt that that was something that we needed to react to
20 after the event.

1

2 [11:01 a.m.]

3 BY MR. [REDACTED]:

4 Q What specifically did you believe needed to be the appropriate reaction, or
5 what sort of reaction were you encouraging in that conversation with Meadows on the
6 night of January 6th?

7 A As I said, when I spoke to Meadows on the 6th, I did not have a particular
8 suggestion, a particular action item that I proposed to him.

9 Q Uh-huh.

10 A I was calling him to let him know that I was one Cabinet Secretary who was
11 really bothered by what had happened and to let him know that I thought we needed to
12 do something. But I didn't have a -- an affirmative proposal for him at that time.

13 Q When you say we needed to do something, did you suggest something in
14 particular? Was it a statement? Was it a --

15 A That's what I'm saying. No, I did not.

16 Q I see. And what, if anything, do you recall from his reaction? Did he agree
17 with you that it was appropriate to take some action and discuss anything in particular?

18 A Meadows, in our conversation, again -- and I said, this -- you know, he
19 mostly listened. I think -- I certainly got the impression from him that he shared my
20 view that what had happened on January 6th was terrible. But that's -- I don't really
21 recall him conveying anything beyond that to me.

22 Q Okay. Did you talk to anyone else, reach out to anyone else on the night of
23 the 6th, given that you were one Cabinet member very disturbed by what had occurred?

24 A I called Bill Barr, the former Attorney General.

25 Q Tell us about that conversation. He was no longer Cabinet Secretary, I

1 understand, but had already resigned.

2 A Well, as I said, I had known Bill Barr a long time. I had considered Bill Barr a
3 friend. We had been Cabinet Secretaries together. I thought Bill was a thoughtful
4 person.

5 Q Uh-huh.

6 A Of course, he had resigned previously. And I just called Bill to say, Bill,
7 what's your advice? What should I do? I was interested in what he had to say.

8 Q Were you considering resigning yourself at that time, Secretary Scalia?

9 A You know, at that time, I did not give resignation serious consideration.
10 But I recognized it as the kind of thing that people might consider in that circumstance,
11 and Bill did tell me you should resign. That was Bill's advice. And that's what I recall
12 from that call.

13 Q Barr's advice was, it's time for you to resign immediately.

14 A Yes. Right. You know, Bill didn't say, Gene, you have a responsibility to
15 resign. He said, you know, if I were you, I'd resign. Get out of there.

16 Q Why did you not take that advice, and rather, stay through the end of the
17 administration?

18 A Well, Bill was one of a number of people that I was speaking to after the
19 events of January 6th, trying to figure out what the right course of action was. I
20 continued to think about what the right thing to do was. And on the morning of the 7th,
21 the decision that I arrived at was that the most constructive thing I could think of was to
22 seek a meeting of the Cabinet.

23 Q Uh-huh.

24 A I thought that trying to work within the administration to steady the ship
25 was likely to have greater value than simply resigning, after which point I would have

1 been powerless to really affect things within the administration.

2 I had also gotten the impression from Pat Cipollone, the White House counsel,
3 that he valued my being around and in the administration as somebody that he could talk
4 to and as somebody who was there to express concerns when they arose. And so, I got
5 the sense that Pat wanted me around.

6 And so I thought that, one, value that I could provide by remaining was just
7 whatever value Cipollone saw in my being around, I was happy to provide at least at that
8 time.

9 Q It sounds like Mr. Cipollone was another person with whom you consulted as
10 you were mulling actions after January 6th including resignation? Is that right?

11 A I might have spoken to Pat on the evening of January 6th. I can't recall. I
12 certainly talked to him on the 7th.

13 Q Uh-huh.

14 A I don't know that I ever talked to Pat Cipollone about my resigning, but I
15 definitely had gotten the impression that Pat thought it would be helpful to his purposes
16 for me to remain in the administration.

17 Q Yeah. Did you mention the possibility of your resignation to Mr. Meadows
18 when you spoke to him on the night of the 6th?

19 A No.

20 Q Okay. You mentioned that you spoke at length to Secretary Chao. What
21 about Secretary DeVos? Did you speak to her about -- either on the 6th or otherwise
22 about her decision to resign?

23 A Yeah, I think that Betsy called me to let me know that she was resigning, and
24 so, we had that conversation. I had had an earlier conversation with her where I
25 suggested a Cabinet meeting to her.

1 Q Uh-huh.

2 A In the course of the day, she decided to resign. We spoke again.

3 Q Okay. Tell us more about that conversation. What did she convey to you
4 as to the reason for her decision to step away at that time?

5 A Not much. I mean, Secretary DeVos, the impression I got was that she
6 resigned because of what had happened on January 6th, and because of her sense that
7 the President had not acted appropriately in connection with and in the events leading up
8 to January 6th. We didn't get into a big discussion about it.

9 Q Did she encourage to you to think of doing the same, to resign?

10 A No. I was aware of resignation as something that people might consider in
11 that circumstance. I did not give it serious consideration at that time.

12 Q Okay. What about other Cabinet members? Did you talk with any of
13 them about either their or your possible resignation in the wake of January 6th?

14 A I did not talk to any other Cabinet members about the possibility of my
15 resigning because it was not something that I gave serious consideration to at that time.

16 Q Okay.

17 A I did talk to other members of the Cabinet about the possibility of a Cabinet
18 meeting.

19 Q Yeah. Who exactly?

20 A Can we take a break?

21 Q Sure. Of course, I should have said in the beginning we can --

22 A I've been in depositions. I know the rules.

23 Q Okay. Yes. Let's go off the record.

24 [Discussion off the record.]

25 Mr. ██████. So we'll go back on the record.

1 BY MR. [REDACTED]:

2 Q So I think when we left off, Secretary Scalia, I was asking you about
3 discussions that you may have had with other Cabinet officials, not specifically about
4 resignation, but more broadly the need for a Cabinet meeting or post January 6th
5 activities.

6 A Tim, I'm sorry to interrupt. But I did want to make one statement for the
7 record --

8 Q Please.

9 A -- real quick.

10 Q Yes.

11 A I wanted to note for the record that, prior to my coming to speak to you
12 today, my counsel, Mr. Bopp, who is here with me, contacted President Trump's lawyers
13 to ask whether they wished to assert executive privilege as to my speaking to you today.
14 And they have not done that. But I did want to note for the record that --

15 Q No, I appreciate that.

16 A -- that's a request that we did make --

17 Q Great.

18 A -- of the former President.

19 Q Thank you.

20 Let's talk, if we can, for a minute about discussions with other Cabinet officials,
21 particularly Secretary of State Pompeo. Do you remember having any conversation with
22 him on or after January 6th about things that might need to be done to ensure successful
23 completion of the administration?

24 A Yes, I did speak with Secretary Pompeo.

25 Q To the extent you can recall, what did you talk about with

1 Secretary Pompeo?

2 A I, on the morning of the 7th, called Cabinet Secretaries that I knew
3 particularly well to talk to them about the possibility of a Cabinet meeting. I had spoken
4 to Secretary Azar, who initially was receptive but then called me back later that day to say
5 that he had spoken to Secretary Pompeo, and he was now thinking that might not be a
6 good idea.

7 And so I believe that, as a result of that, I called Secretary Pompeo, let him know
8 that I thought this would be a good idea, that I'd heard from Secretary Azar that
9 Secretary Pompeo did not think it was a smart thing to do, and I wanted to understand
10 Secretaries Pompeo's view and, if I, could bring him around to my view.

11 Q Did you have that discussion with him about the utility of a Cabinet meeting
12 in the days remaining?

13 A We did.

14 Q Tell us about that conversation.

15 A I would have told him why I thought it was a good idea, but I don't recall the
16 specifics of sort of the case that I made for having a Cabinet meeting.

17 I already knew from Secretary Azar that Pompeo thought that a Cabinet meeting
18 or requesting one could backfire. And so the call, I remember Secretary Pompeo
19 expressing his concern that if we were to ask for a meeting and have a meeting, he
20 thought it was more likely to actually to anger the President and to force him to -- or
21 Secretary Pompeo indicated to me that he thought that asking for a Cabinet meeting or
22 having one was more likely to annoy, maybe anger the President, and result in him taking
23 some improper action than if we didn't go down that road.

24 So I thought it could backfire and have negative outcomes.

25 Q Did he discuss any particular negative action it could prompt?

1 A I don't recall any specifics that he raised.

2 Q Did he indicate that he had had any discussions with the President that
3 informed his view that a request for a meeting could backfire?

4 A Secretary Pompeo certainly didn't indicate to me he had had any discussions
5 with the President about January 6th that made him think that asking for a Cabinet
6 meeting could backfire. He indicated to me that he'd been in the Cabinet since virtually
7 day one. He had had a lot more interaction with the President than I had, including on
8 some difficult matters involving foreign policy and potential military action, I would think.

9 And in one way or another, he communicated to me that, just based on his
10 interactions over that period of time with the President, this was his judgment, that it
11 could -- it was -- it could backfire.

12 Q Did he have any other thoughts, different ideas beyond a Cabinet meeting
13 for things to do in the remaining 2 weeks of the administration to ensure things were
14 handled appropriately?

15 A I'm sure that he did. I don't recall discussing that with him.

16 Q Do you remember discussions with Secretary Pompeo or anyone else about
17 encouraging the President to resign?

18 A I never had any such discussions.

19 Q All right. Did you discuss with Secretary Pompeo that somebody should go
20 to the President, somebody should speak to the President directly?

21 A Yeah, there have been press reports that I told Pompeo I thought we should
22 tell the President to resign. It's false. I never said such a thing.

23 Q Okay.

24 A And my proposal to Pompeo was the one that I put forth in my memo to the
25 President the next day. It's what I had discussed with Secretary Azar, Secretary DeVos,

1 and that was urging the President to convene a Cabinet meeting.

2 Q I see.

3 Other Cabinet Secretaries with whom you spoke, you said Secretary Azar,
4 Secretary Pompeo, DeVos, and Chao. Anyone else that you recall? And I don't mean
5 generally. Just on the issue of, Hey, what are we going to do for the last couple of weeks
6 after January 6th.

7 A I spoke to the Acting Attorney General, Jeff Rosen, about the possibility of a
8 Cabinet meeting. He was supportive of that idea. I spoke to -- I believe it was the
9 Secretary for Veterans Affairs, Robert Wilkie, about the possibility of a Cabinet meeting.
10 And he thought that that was a good idea. He thought it made sense.

11 Q Okay. Anyone else?

12 A Those are the Cabinet Secretaries that I believe that I spoke to about that.

13 Q Okay. During any of those discussions, did the subject of the 25th
14 Amendment come up, either you raising it or them raising it?

15 A Not at all.

16 Q Do you remember any discussions with anyone about the prospect of the
17 invocation of the 25th Amendment?

18 A I never had any discussions with any members of the Cabinet about use of
19 the 25th Amendment, and I was not aware of any discussions amongst the Cabinet about
20 use of the 25th Amendment.

21 Q How about conversations with the Vice President or his staff? First of all,
22 did you speak to Vice President Pence at all in the days after January 6th, before the end
23 of the administration?

24 A I -- I'm sorry. In the days after January 6th?

25 Q Yeah.

1 A Yes.

2 Q On or after?

3 A Yes.

4 Q Tell us about your communications with him.

5 A The first was on the 7th. I had, again, the morning of the 7th, I had
6 concluded that, first, I needed to do something. And then I -- second, I concluded the
7 best thing I could think was to seek a Cabinet meeting.

8 And so, I put a call in to the Vice President to propose that, and he called me back.
9 We spoke on the morning of the 7th. I know that I talked to him initially about the
10 events of the day before and his own personal experience, I think if only for me to tell him
11 that I appreciated what he had done, and that I recognized it must have been a very, very
12 hard day for him but I thought he had done well and that I regretted he'd been put in a
13 really difficult situation.

14 So I think I conveyed that. You know, the Vice President in my experience has
15 been a very low-key, unassuming person. So, I don't -- you know, he certainly -- I don't
16 recall him saying anything to me, lamenting that it had been tough for him or anything
17 like that. He just sort of listened to me on that point.

18 And then I suggested to him I thought it would be good to have a Cabinet meeting
19 to, as I've explained earlier in this interview, I thought it would be good to have a Cabinet
20 meeting to have the President bring the Cabinet together, express his commitment to a
21 smooth transition, and that other things could be done in that Cabinet meeting.

22 So I ran that idea by the Vice President in this conversation, the morning of
23 January 7th. He didn't say no. He didn't say yes. He said, you know, interesting, let
24 me think about it, something like that.

25 Q Were you seeking his assistance in sort of facilitating such a meeting, his

1 support for such a meeting?

2 A I wanted to sell him on the idea. I don't know that I made a specific ask,
3 but I proposed it to him.

4 Q Okay. Did he ever, after saying he wanted to think about it, get back to
5 you? Was there a subsequent discussion about a Cabinet meeting with Mr. Pence?

6 A I did not have a subsequent discussion with Mr. Pence about a Cabinet
7 meeting.

8 Q How about his staff?

9 A I spoke to the Vice President's Chief of Staff, Marc Short, on the morning of
10 January 7th about the possibility of the Cabinet meeting, that I suggested that the
11 President convene one. I think I did that because I intended to have that conversation
12 with the Vice President, or I already had had that conversation with the Vice President,
13 and my practice generally was to let the Vice President's Chief of Staff know what was I
14 talking to the Vice President about.

15 Q Yeah.

16 A So I had that conversation. I don't recall his reaction. Certainly interested
17 to speak to me.

18 Q Uh-huh.

19 A But I don't recall how he responded to that proposal.

20 Q Mr. Short has testified before the select committee, and he described this
21 conversation with you and let me just read you a couple of things that he said and can see
22 if it's consistent with your recollection.

23 He said that you were concerned about the way the events of the 6th had
24 occurred, and you were concerned with the way the White House was functioning.

25 Is that accurate to your state or mind or your perspective when you spoke to

1 Mr. Short on the morning of the 7th?

2 A Yes, those were concerns I had.

3 Q Uh-huh. You indicated, this is Mr. Short, he felt, he, Secretary Scalia, felt
4 the Cabinet had not been consulted on several important decisions and he was of the
5 mindset that there should a request from the Cabinet that no further decisions be made
6 in the final 2 weeks without Cabinet consultation.

7 Tell us, first of all, is that consistent with your recollection of the conversation?
8 And what prompted you to say the Cabinet had not been consulted on several important
9 decisions? What important decisions?

10 A Yeah, that doesn't quite describe how I saw things at the time, although my
11 concerns were sort of in that general area.

12 Q Uh-huh.

13 A I was certainly concerned by January 7th that the President was getting
14 advice from people outside the administration that I did not believe were a good source
15 of advice, and I believed that the President was much better served relying on the
16 capable people he had around him, including the White House counsel.

17 You know, I thought that Bill Barr had been right back in December when he had
18 stated publicly that -- let me -- let me correct that.

19 The Attorney General had stated publicly in, I think, early, mid-December that he
20 was finding no evidence of widespread election fraud that would have been outcome
21 determinative. For Attorney General Barr to make that kind of public statement said to
22 me that Bill was very certain of the fact, and that he was worried that the President was
23 proceeding down a different path as if there were evidence of overwhelming election
24 fraud.

25 That further indicated to me that the President was getting advice from other

1 people, not his Attorney General, not his Justice Department, on that set of issues. And
2 I thought that was a -- I thought that was a bad choice for the President, for the
3 administration. So that's a concern I had at the time.

4 I did not believe going forward that it was the President's obligation to consult the
5 Cabinet on every single thing he did. But I thought on the major decisions or any major
6 decisions the President was likely to make in that last week that it was appropriately the
7 Cabinet or his senior White House staff, such as the White House counsel, that were his
8 principal advisers on that, not people outside the White House who weren't particularly
9 qualified to advise the President on those kinds of matters. That was my view of the
10 situation.

11 Q I see. So fair to say, big picture, your sense, Secretary Scalia, was the
12 Cabinet could be used to essentially reassert some -- some more robust role in advising
13 the President as opposed to the outside voices that, in your view, had led him in the
14 wrong direction.

15 A My sense on January 6th was that the President had been listening less to,
16 for example, the principal lawyers closest to him, namely, the Attorney General and the
17 White House counsel. And my impression was that he had been listening more to
18 people outside the White House who I didn't think were particularly qualified legal
19 advisers. And I thought, going forward, he was much better served relying on really
20 capable people that he had around him.

21 I had a lot of respect for Pat Cipollone, White House counsel. I knew Jeff Rosen,
22 the now Acting Attorney General. I had respect for him. And I thought that these
23 people and others in the Cabinet were going to give the President better advice and I felt
24 the President owed it to them to for their service to him to involve him in any really big
25 decisions he had relating to him.

1 Q Yeah. Attorney General Barr, when he provided testimony to the select
2 committee, called the outside legal advisers, Mr. Giuliani and others, a clown car. Was
3 that consistent with your impression of them and the advice they were giving the
4 President in the post-election period?

5 A I never used that term.

6 Q When Bill Barr used it, did that -- was that consistent with your impression of
7 them and their advice to the President?

8 A You know, those are Bill Barr's words. I never used the words. I don't
9 recall hearing the words. I didn't say it before, and I'm not going to say it now.

10 Q Yeah. When Bill Barr, when Attorney General Barr announced publicly no
11 widespread fraud in the election that they had found sufficient to undermine confidence
12 in the outcome, did you agree with that, trust that conclusion?

13 A Well, to say I agreed with it wouldn't be quite accurate because I didn't have
14 an independent basis to form a view on it. But it's pretty remarkable for an Attorney
15 General to step forward and make a statement like that. And I knew Bill Barr well
16 enough to know he would not do that unless he had a very strong belief, which would
17 require for him really strong evidence, that there was not evidence of an outcome
18 determinative election fraud. So for Bill to say that said to me, This ain't even close and
19 it's time to move on.

20 Q I see. And did that then -- it sounds like that informed, Secretary Scalia,
21 your own view of the election and the utility of the President's rhetoric and your
22 subsequent communications with him on that issue.

23 A That was one significant input. There was also the fact that the litigation
24 the President had brought had gone nowhere, and I think by the time the electors voted
25 it was more or less done.

1 Q Okay.

2 A And based on my own pretty close knowledge of the litigation over the Bush
3 v. Gore election dispute, my view was -- my view was that when your election efforts,
4 your litigation efforts have failed and the electors have voted, you know, unfortunately,
5 that's the end of the road and the election outcome has to be accepted.

6 Q Yeah. Did you have any discussions with anyone about John Eastman and
7 his theories of the power of State legislatures, the alternate slates of electors, that sort of
8 thing?

9 A Yeah, I mean, I gathered from public reports that John Eastman is somebody
10 that was advising the President around January 6th. I wasn't aware of that.

11 Q But was he in the category of people that in your view were
12 giving -- outsiders that were giving the President bad advice?

13 A Again, I wasn't aware of Mr. Eastman's involvement at all at the time.

14 Q All right. Did any of your deputies think about resigning in the wake of
15 January 6th at the Department of Labor?

16 A I'm not sure what you mean by deputies.

17 Q People that worked within the department at a senior presidential
18 appointment level within the Department. Do you remember any discussions with them
19 about their personal decisions to resign or not?

20 A Yeah, I can't recall anybody in a presidentially appointed position at the
21 department discussing resignation with me or resigning.

22 Mr. [REDACTED]. All right. Let me ask [REDACTED] for a couple follow-ups.

23 BY MS. [REDACTED]:

24 Q Secretary Scalia, thank you for your time today.

25 I just had a couple of questions from some things that you said earlier today.

1 And correct me if I'm wrong. I believe in connection with your recommendation that
2 the Cabinet -- Cabinet meeting would be convened, you said that one of the topics that
3 could be discussed would be to express I think the word you said was dismay at the
4 events at the Capitol on the 6th.

5 And I was wondering if you could explain a little bit more why you thought that
6 would be something that should be discussed during a hypothetical Cabinet meeting.

7 A No. I thought January 6th was a very bad day for the country, very
8 dismaying what happened. And I thought it was, you know, the attack on the Capitol
9 was an event that should be condemned and that the President had expressed serious
10 concerns about it. I thought it was appropriate to continue to treat that violent attack
11 on the Capitol during the midst of one of the most important exercises in our democracy.

12 Q Did you think that President Trump had not sufficiently condemned the
13 attack on the Capitol?

14 A No, I don't think I formed a view that the statement the President had made,
15 whether it was the end of the 6th or on the 7th, I can't recall, I don't think I formed a view
16 that that was not enough. I just thought that something that bad deserved some
17 condemnation again.

18 Q And did you think for in this meeting the condemnation should come from
19 the President, from all members of the Cabinet?

20 A I think what I had in mind was the President saying, again, that he deplored
21 that kind of conduct.

22 Q Earlier you had recalled a conversation with the President post January 6th
23 where I believe he asked you who you thought his most loyal Cabinet member was. Did
24 he say why he was asking you that question?

25 A No. The President, at times, would ask questions that surprised you. It

1 could be part of the pleasure of working for him. And he asked a question that surprised
2 me, but I was happy to answer it.

3 Q Had he asked you that question before?

4 A No.

5 Q Do you know whether he --

6 A But I thought it was important to affirm to the President that he had a good
7 Cabinet and they were serving him well, and he should, you know, he should trust us.

8 Q Do you know whether President Trump was considering firing any Cabinet
9 members at that time?

10 A I had no knowledge of that.

11 Q And earlier, you had mentioned a memo that you drafted and transmitted
12 to, I believe -- I believe you said Mark Meadows. Why did you draft that, that memo,
13 after January 6th?

14 A The suggestion of a Cabinet meeting had been put forward either to
15 Mr. Meadows or to the President by the morning of January 8th. It might have
16 happened on the 7th. By midday on the 8th of January, I had no indication that there
17 was going to be a Cabinet meeting or that there was going to be any sort of response the
18 request.

19 And so, I wanted to intensify the request by putting it in writing at that point so
20 that it would not be ignored.

21 Q Did you feel that the President or his staff around him did not think -- were
22 not taking this seriously enough, your concerns or other members of the Cabinet?

23 A You know, I wanted to be heard. And the request for a meeting that I
24 presented, I wasn't hearing anything. I did not want more time to pass, and so, I
25 decided that submitting a memo was, at that point, the best thing that I could do to get a

1 reaction. But I did not have a view that the President, for example, was ignoring me. I
2 did not know what had been passed on to the President personally, or, for that matter,
3 how the President had responded personally.

4 I just knew that it didn't look like there was movement toward a meeting and
5 there wasn't a lot of time, and so I thought I need to do a little more here.

6 Q Did you --

7 A So I put the request in writing which is sort of the natural thing to do when
8 you're trying to up the intensity of the request you've made.

9 Q Did you get any reaction to putting this request into -- in writing such as any
10 pushback?

11 A No, I didn't ask permission. I submitted the memo.

12 Q Do you think it did, in fact, intensify the discussion, that you put it in writing,
13 the request?

14 A Can you repeat the question?

15 Q Yeah. Do you think that you -- did you intensify or succeed in kind of
16 elevating the issue by putting your request in writing?

17 A I -- you know, I think so. You know, I have thought that the reason the
18 President called me on Monday, January 11th, is because I made a written request on the
19 prior Friday for a Cabinet meeting.

20 Q Do you know whether any other Cabinet Secretaries submitted similar
21 memos to anyone in the White House with recommendations on a path forward?

22 A I don't know whether any other secretaries did that.

23 BY MR. [REDACTED]:

24 Q Did you just email it to Mr. Meadows, like an attachment in an email? How
25 did you convey it, if you recall?

1 A Yeah. I believe I emailed the memorandum to Mr. Meadows.

2 Q To him at his EOP, his White House email address?

3 A That's correct.

4 Q Okay. The only other thing I wanted to make sure we completed was:

5 Anything else you recall about the conversation with Vice President Pence on the 7th?

6 You indicated he -- did he give you any information about his personal experience on the
7 6th?

8 A You know, he didn't need to. So I don't recall him doing that. And I
9 remember him telling me that his call to me was his first call of the day, which I thought
10 was flattering. You know, I wasn't sure that was exactly right, but I appreciated his
11 saying so. And he did he call me pretty early in the morning. Of course, I knew he'd
12 been up late the night before.

13 Q Yeah. What, if anything, do you remember about that conversation beyond
14 what you've described? Anything else that he said in the midst of the discussion?

15 A I don't recall anything about that January 7th conversation with the Vice
16 President other than what I've told you. His sort of general demeanor and mood were, I
17 thought, relatively upbeat. I don't recall him complaining, criticizing. He was, from
18 what I could tell, just looking forward --

19 Q Yeah.

20 A -- to what needed to get done.

21 Q Did you have any subsequent conversations with him about these issues, the
22 transition, January 6th, anything beyond the one on the morning of the 7th?

23 A I did.

24 Q Tell us about those additional -- was there one? Were there several
25 additional calls or meetings with the Vice President?

1 A I had an appointment with the President on January 14th. Met with him in
2 the Oval Office. Knowing that I was going to be meeting with the President, I believe I
3 scheduled a visit to the Vice President, too. And so I, after meeting with the President,
4 went by and met with the Vice President.

5 And I had worked pretty closely with the Vice President because I served on the
6 Coronavirus Task Force. I had gotten to know him. I traveled with him. You know, I
7 liked him. And just as I'd said goodbye to the President in a meeting with him, I wanted
8 to say goodbye to the Vice President and thank him for his service.

9 I don't know that in my meeting with the Vice President on January 14th we talked
10 at all about January 6th. I think we did talk about how the transition was going. He, of
11 course, was aware that I had asked for a Cabinet meeting.

12 And I got the sense from him that he thought that -- he seemed to be in a good
13 mood. And I got the sense that he thought that things were proceeding in a sort of
14 appropriate, professional way toward passing the reins to President-elect Biden was my
15 sort of takeaway from the meeting. But it was also just personal, you know, him
16 thanking me for my service, me thanking him for his, that sort of thing.

17 Q Were you aware of any time a personal breach between the President and
18 the Vice President as a result of the January 6th, the state of their relationship in the
19 wake of those events?

20 A Well, obviously, I knew the President had criticized the Vice President on, I
21 think, January 6th, or at least a day or two before. And but apart from that, I did not
22 know the exact state of the relationship between the Vice President and the President
23 when I met with the Vice President on the 14th.

24 Q Did you ever discuss with either man, the President or the Vice President,
25 the extent of their relationship, their personal relationship, their working relationship,

1 again, all after January 6th?

2 A No.

3 Q Did you ever hear about efforts others made that others made to bring them
4 together to sort of repair the breach that had arisen between them?

5 A I might have seen a press account, but I don't remember that.

6 Q Yeah. Not from press accounts, just any personal discussions about their
7 relationship?

8 A Yeah, I just have no knowledge about those kinds of discussions other than
9 what I might have read in the newspaper.

10 Q All right. And, Secretary Scalia, even after you left the administration, have
11 you spoken to the President, former President, or former Vice President about
12 January 6th, gotten any -- had any additional conversation with them in the months and
13 years since about those events?

14 A Yeah, I spoke to the Vice President this January.

15 Q Uh-huh.

16 A I called him on January 6th, 2021, just to thank him for how he had
17 conducted himself on January 6th -- I'm sorry.

18 I called the Vice President on January 6th, 2022, to thank him for how he had
19 conducted himself on January 6th, 2021. He called me back on January 7th.

20 You know, I thanked him for his service. I told him that I thought the actions he
21 had taken on the 6th of 2021 I'm sure were very difficult, but that he had performed a
22 service for the Nation. So I thanked him for that, and so we chitchatted.

23 So it was a brief conversation, but it was an important day. I wanted to call him
24 and commend him for something I thought was hard to do. He did the right thing.

25 Q Did he convey to you any -- his personal experience that day or share with

1 you any response when you thanked him for his --

2 A No, he didn't. You know, in my experience he was somebody who I think
3 tended to give credit to others and the like. And I just don't recall him saying anything
4 about his own experience that day, you know. Thanked me for calling, and we
5 chitchatted.

6 Q Have you ever heard him criticize the President for the events before and on
7 January 6th?

8 A Not in conversations with me and that I can recall and, you know, I mean, I'm
9 aware he gave a speech I think in Florida where he defended the steps he took on
10 January 6th, for example. But I'm not aware. The answer's no. I mean, I've not kept
11 track of all the Vice President's statements. He never said anything to me that I can
12 recall, criticizing the President's conduct.

13 Q I'm really interested in his direct communications with you, not his public
14 statements.

15 How about the other way? Did you ever, in any of your discussions with the
16 President about the Vice President's authority, the election, January 6th, did he ever
17 criticize the Vice President? And, again, I'm not talking about publicly. I'm talking
18 about to you personally.

19 A I don't believe so. You know, I think that I expressed to the President that I
20 didn't believe that he should criticize the Vice President for what he'd done. But I don't
21 recall the President then criticizing the Vice President to me --

22 Q Yeah.

23 A -- or even arguing with me about that.

24 Q All right. Secretary Scalia.

25 Mr. [REDACTED]. [REDACTED] do you have anything?

1 Mr. [REDACTED]. No.

2 Mr. [REDACTED]. So anything that I haven't asked you or that we haven't asked you
3 that you think is relevant or you think the committee should know?

4 Secretary Scalia. No. I'm here to answer your questions. So --

5 Mr. [REDACTED]. Well, you have done so. And we really appreciate it. Thank you
6 for coming in.

7 Secretary Scalia. Thank you.

8 Mr. [REDACTED]. We're off the record.

9 [Whereupon, at 11:50 a.m., the interview was concluded.]

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Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date