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

DEPOSITION OF: KASHYAP PRAMOD PATEL

Thursday, December 9, 2021

Washington, D.C.

The deposition in the above matter was held Room 4480, O'Neill House Office Building, commencing at 12:07 p.m.

Present: Representatives Lofgren, Aguilar, Cheney, and Kinzinger.

Appearances:

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

[redacted], CHIEF INVESTIGATIVE COUNSEL
[redacted], SENIOR INVESTIGATIVE COUNSEL
[redacted], DETAILEE, TRANSPORTATION SECURITY ADMINISTRATION
[redacted], RESEARCHER
[redacted], RESEARCHER
[redacted], CHIEF CLERK
[redacted], PROFESSIONAL STAFF MEMBER
[redacted], SECURITY DIRECTOR

For the WITNESS:

BRITTANY LOMAX
GREGG SOFER
SCOTT GLABE
JEFF JENSEN
HUSCH BLACKWELL
750 17th Street, NW, Suite 900
Washington, D.C. 20006

Mr. Sofer. Okay. We just -- initially, we did a couple of quick housekeeping matters before we started, but we just wanted to confirm that this is, in fact, a closed hearing, that there's no members of the media or anybody else -- I mean, we obviously saw many members of the media running around right outside the door, but I just wanted to confirm that it wasn't being piped into any other public forum or anything like that.

[redacted] Nope, not at all.

[redacted] No. The rules, Gregg, as we explained by phone, provide this is an executive session of the select committee, so it's not a public proceeding. No press, no one other than the people in the room. I see your lawyer, Mr. Jensen, and --

Mr. Sofer. Well, he's not technically my lawyer. I wish he was.

[redacted] Right, you're correct. So, no, that's correct, no other participants.

Mr. Sofer. Okay. And we're going to have just -- I want to understand the process. We'll have some exhibits, including we want the opening statement obviously to be made part of the record.

[redacted]. Sure.

Mr. Sofer. We'll have some other exhibits we'd like to be made part of the record. Is there -- I'm used to courtrooms, not rooms like this, so tell us what -- how you would like us to proceed procedurally with respect to exhibits.

[redacted]. In terms of you providing us exhibits?

Mr. Sofer. Yeah, I mean, as we go through them, or do you want us to stop and say we'd like this to be -- we've marked them already. I just want to do it in a way that's smooth for the committee.

[redacted]. I'm sure it will be fine. Yeah, we'll coordinate on it. If you've marked your own numbers, that's fine. I'll mark this as 53. I think we're up to

exhibit 53.

Mr. Sofer. Okay.

[redacted]. Okay?

Mr. Sofer. Okay. Great.

[redacted]. Anything else?

Mr. Sofer. No. Anybody else? I think we're ready to proceed.

The Witness. Jeff, do you got anything?

Mr. Jensen. No, I do not. Thank you.

[redacted]. Okay. This is a deposition of Mr. Kash Patel conducted by the House Select Committee to Investigate the January 6th Attack on the United States Capitol, pursuant to House Resolution 503.

Could you all state your names for the record, please?

Mr. Sofer. Sure.

Ms. Lomax. Brittany Lomax with Husch Blackwell.

Mr. Sofer. Gregg Sofer with Husch Blackwell.

The Witness. Kashyap Patel.

Mr. Glabe. Scott Glabe, Husch Blackwell.

Mr. Jensen. Jeff Jensen with Husch Blackwell.

[redacted]. Great. On this side, the select committee members, my name is [redacted]. I'm the senior investigative counsel.

[redacted]. I'm [redacted]. I'm the chief investigative counsel.

[redacted]. I'm [redacted] investigative counsel.

[redacted]. [redacted], researcher.

[redacted]. And also on Webex is [redacted], a staffer, as well as -- I think that's it.

[redacted]. [redacted].

[redacted]. [redacted].

Under the House deposition rules, neither committee members nor staff members may discuss the substance of testimony provided today unless the committee approves release. You and your attorney will have an opportunity to review the transcript.

I should say that there may be members who appear via Webex, and I'll do my best to acknowledge once they are on the Webex platform. They do have the opportunity to ask questions as well.

Let me give you some ground rules. We will follow the House rules that were provided to you as part of the subpoena that you had. Under the House deposition rules, counsel for other persons or government agencies may not attend. You are permitted to have an attorney present, as obviously you do.

There is an official reporter transcribing the record of this deposition. Please wait until each question is completed before you begin your response so there's not overtalk. Obviously, the stenographer cannot record nonverbal responses. We ask that you provide complete answers based on your best recollection, and if my questions are not clear, please ask at me to clarify them.

If you need any time to consult with your attorney, feel free to do so. We'll pause. As I mentioned to Mr. Glabe, there's no rounds of questions. We'll take a break maybe every hour if you need one, and at every kind of turn of topic, I'll see if there's additional questions from staffers or from members.

If you refuse to answer a question based on privilege, staff may either respond with the deposition on seeking a ruling from the chairman on the objection, which is a separate proceeding we can talk about. But I want to remind you that it is unlawful to

deliberately provide false information to Congress.

Since this is a deposition under oath, I'm going to ask [redacted] to swear you in, if you could stand and take that oath.

Court Reporter. Do you solemnly declare and affirm under the penalty of perjury that the testimony you shall give will be the truth, the whole truth, and nothing but the truth?

The Witness. I do. Thank you.

Mr. Sofer. Can I just -- I'm sorry to interrupt already --

[redacted]. Sure.

Mr. Sofer. -- but can I just ask a couple quick questions? Are the two of you the only people that are going to be asking questions in this room other than the potential members who join us?

[redacted]. Yes.

[redacted]. Yes.

Mr. Sofer. Okay. And I just want to warn everyone that we were told this was going to be a 4-hour block, and we're up against a -- my flight in particular, so it's a pretty hard stop.

[redacted]. We should get started.

Mr. Sofer. So we're willing to push as quickly as we can.

[redacted]. Great. Mr. Patel, I see that you have an opening statement that you'd like to provide. I've marked it as exhibit 53, but go ahead and read it or submit it for the record.

[redacted]. If you want to read it, you can, or if you want -- in the interest of time.

The Witness. I'd appreciate it if I could read it into the record. Thank you.

[redacted]. Sure.

The Witness. Members of the select committee and staff, good afternoon. I am here today because I am willing and able to share with you and the American people the truth about the events of January 6th, including the Department of Defense's preparation for and response to the unrest at the Capitol.

I am and will remain proud of my 16 years in public service, including during the Trump administration. Let me say unequivocally that I have no information about and never would have participated in any attempt to improperly maintain power following the conclusion of President Trump's term.

I'm also proud to have been the first person of color to serve in several of the positions that I held in government.

I want to state for the record that I'm here voluntarily, and the subpoena served on me on September 24th was not necessary to secure my appearance. The committee could've contact me -- excuse me -- contacted me privately and asked me to voluntarily provide information as it has done for dozens, if not hundreds, of other witnesses. Instead I --

Mr. Sofer. Slow down for the stenographer.

The Witness. Sorry. I should know that.

Instead, I first learned that I had been issued a subpoena without prior reach from the committee when members of the media contacted me on the evening of September 23rd on my personal cell phone. I had still yet to be served with a subpoena or any notice of it.

I was subsequently the victim of vile, racist, and physically threatening messages. To quote some, "Pack your fucking carpet bag and start swimming, you fucking treasonous bitch. America is going to chew you up and they'll slice that fucking sand

monkey neck of yours in prison on day one. They always need a couple token niggers to use. We may even be able to execute you bastards, cut your fucking head off the way they do in your country. You are a traitor and will pay," end quote.

These threats have been reported to the FBI and marked as exhibit -- our exhibit 1 for entry into the record.

Mr. Sofer. So we have that exhibit here, and it's marked as K. Patel Exhibit No. 1. We'd like to submit it for the record.

[redacted]. Great. Thank you.

Mr. Sofer. I ask that it be made part of the record.

[redacted]. You can just pass it to the reporter. Thanks.

The Witness. I was therefore extremely upset when, after these threats of violence were made known to the committee, Representative Schiff personally attacked me in an October 14th New York Times podcast as a, quote, "evil Zelig," end quote, and part of a group of, quote, "unscrupulous," end quote, advisers.

These inflammatory remarks caused me to question whether I could or would receive a fair hearing before this committee. Nevertheless, my attorneys communicated my continued willingness to appear and answer your questions.

On October 19th, they were told that I had been subpoenaed because the committee had incorrectly assumed that I would not be cooperative. During that meeting, committee staff expressly reclassified me as a cooperative witness and committed to withdrawing the subpoena in connection with my agreement to appear for a voluntary interview.

On November 20th, the committee abruptly reversed course. During a call on November 20th, staff apologized for misleading my lawyers while insisting that I appear under subpoena. The committee then showed extreme reluctance when we tried to

find a mutual -- mutually agreeable date for testimony this week.

On Monday, December 6th, our final preparations were disrupted when we were made aware that the committee had been provided 3,000 additional pages of DOD documents that we were first able to access on Tuesday, just 2 days ago. Additionally, among the exhibits transmitted to my team by the committee on Monday were several documents to which I had not previously been given access.

Much of what has transpired to date, included but not limited to those events I've just described, lead me to question the fundamental fairness of these proceedings. Nevertheless, I am here of my own volition and plan to answer your questions to the best of my ability.

As a former congressional senior staffer, I understand and appreciate the role of this body and the value of congressional oversight. However, to provide additional context, in the extent -- excuse me -- in the event I am unable to answer any of your questions, I wanted to highlight some concerns I have about the proceedings today.

The events about today, which you are inquiring, occurred 11 months ago or more. I do not, as I sit here today, have a clear recollection of these specifics of the -- of that period of time and do not want to speculate or guess when answering your questions. I know that the committee respects my need to ensure that my answers are completely accurate.

As you know, I am no longer a United States Government employee and do not have access to my own government communications or records that relate to your questions to the extent that such records exist. DOD has made available to us certain documents that it has produced to the committee, and these documents likely represent just a small fraction of the official records relevant to the topics you have indicated that you wish to discuss. My attorneys have requested your assistance in facilitating access

to additional records. Without such access, my recollection may be particularly limited.

As you know, I have a deep background in national security matters. My priority has always been the national security of the United States. I believe that many of the communications, records, and facts related to certain lines of inquiry are classified. Specifically, many matters relating to defense, intelligence, and foreign policy, including communications with and among senior White House officials about such matters are classified.

To date, neither I nor my attorneys have been cleared to review or provided with access to any classified information related to this inquiry. Indeed, to the extent that I have knowledge of classified information relevant to this inquiry, I am unable to share or discuss it with my attorneys. As I'm sure you will understand, I must err on the side of protecting classified information, and thus not may be able to answer certain questions that appear to call for a classified answer.

The select committee was authorized by House Resolution 503. Pursuant to section 4 thereof, the committee's functions are to, quote, "investigate the facts, circumstances, and causes relating to the domestic terrorist attack on the Capitol; identify, review, and evaluate the causes of and the lessons learned from the domestic terror attack on the Capitol; and issue a final report to the House containing finding, conclusion, and recommendation for corrective measures," end quote.

Given the legislative purpose set forth in H.R. 503, I was therefore astounded by some of the potential lines of inquiry, many expressly derived, according to staff, from books such as Bob Woodward and Robert Costa's "Peril," that were shared with my attorneys before today's deposition. These topics include but are not limited to personnel changes at DOD in November 2020, 2 months before January 6th; my potential appointments to CIA and/or FBI; a purported directive about withdrawal from Somalia

and Afghanistan.

Although I am here voluntarily to answer as many questions as possible, I request the committee explain how questions on topics --

Mr. Sofer. Slow down.

The Witness. Sorry. I should know this. We used to work together.

I request that the committee explain how questions on topics with no discernible connection to H. Res. 503 serve a, quote, "valid, legislative purpose," end quote, as required by Supreme Court precedent.

Although I was a DOD official on January 6th, I understand the committee may wish to ask me about events that occurred while I was a senior White House official at the National Security Council, as well as about directed communications I may have had with the President and some of his most senior advisers. I am aware that former President Trump has initiated litigation, which is currently ongoing, to block the release of certain records from the National Archives and could take similar action with respect to the testimony of myself and others.

To the extent the committee's questions today implicate core executive privilege concerns, I'm committed to trying to expeditiously resolve any issues, including by consulting with representatives of the current and former President, if necessary.

However, I want to state for the record my serious concerns about how the committee's attempt to bulldoze any and all claims of executive privilege, which is virtually unprecedented, infringes on the separation of powers and will likely have a negative, long-term consequence of the effect -- of the effective functioning of the executive branch.

Because some, including in this room or on video, have mistakenly claimed that I was unqualified for the positions I held or was considered for, I want to briefly describe

my career up to and including my service in the Trump administration.

I have devoted the vast majority of my professional career to public service and the protection of American lives and liberties. I started my legal career as a State public defender, where I safeguarded the rights of individuals' -- charged with serious criminal offenses -- standing for due process.

I then became an assistant Federal public defender representing individuals charged with, among other things, complex international and national security related crimes that included narcotrafficking, arms, human smuggling, and large-scale fraud.

During the Obama administration, I joined the Justice Department's National Security Division where I led investigations and oversaw prosecutions of terrorists aligned with Al Qaeda and other terrorist groups. I also served as DOJ's liaison to Joint Special Operation Command, where I worked closely with our Nation's most elite and effective terrorism -- counterterrorism units.

In 2017, I became a congressional staffer and served as national security advisor and senior counsel for counterterrorism for the U.S. House Permanent Select Committee on Intelligence. In these roles, I conducted oversight of sensitive programs and worked on legislation to authorize funding for intelligence and counterterrorism operations worldwide.

In 2019, I joined the National Security Council, where I held several positions and eventually served as deputy assistant to the President, senior director for counterterrorism.

In early 2020, I was asked to serve on detail as the principal deputy to the Acting Director of National Intelligence, whom I assisted in leading 17 intelligence community agencies. I also worked to prioritize the collection of intelligence to focus on hard targets and global threats.

In November of 2020, I was asked to serve as chief of staff at the Department of Defense, and thereby became a senior member of a leadership team responsible for, among other things, a budget over $700 billion and nearly 3 million employees. It was one of the greatest honors of my life to be able to serve the American people in this capacity. My time at DOD was extremely eventful. In addition to the matters we will discuss today, I was deeply involved in and most of my time was devoted to senior-level operational decisions to counter our adversaries around the globe.

With respect to the events surrounding unrest at the Capitol, I supported the Acting Secretary in my role as his chief of staff. Additionally, I directed the creation of a timeline of events that my lawyers have marked as exhibit 2, I believe, but --

Mr. Sofer. And we'd ask at this time that the committee receive that exhibit into the record. It's a 9-page document marked as K. Patel Exhibit 2.

The Witness. Additionally, I directed the creation of a timeline of events that my lawyers have marked as exhibit 2 and would like to submit for the record. Thank you.

[redacted]. Great

The Witness. This timeline was created and signed off by the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Secretary of the Army, and other sections within the Department of Defense.

Although I look forward to discussing these events in detail, I would like to make three things clear at the outset -- excuse me -- at the outset: One, the actions the DOD took before January 6, 2021, to prepare for the planned protest in Washington, D.C., on January 5th and 6th, 2021, were appropriate, supported by requirements, consistent with the DOD's roles and responsibilities, and compliant with laws, regulations, and other applicable guidance; two, the DOD's actions to respond to the United States Capitol Police request for assistance on January 6th, 2021, were appropriate, supported by

requirements, consistent with the DOD's roles and responsibilities, and compliant with the laws, regulations, and other applicable guidance; and, three, DOD officials did not delay or obstruct the DOD's response to the United States Capitol Police request for assistance on January 6th, 2021.

These are not just my words but, in fact, the findings of the DOD's independent inspector general under President Biden's administration. The IG's November 16, 2021, report has marked -- has been marked as exhibit 3, I think.

Mr. Sofer. Three, uh-huh.

The Witness. And I respectfully request to submit it for the record.

Mr. Sofer. And I'll hand it to the committee for entrance into the record as well, the whole report.

The Witness. In conclusion, thank you for the opportunity to provide these opening remarks, which I respectfully request to enter into the record along with the accompanying exhibits, and I look forward to your questions.

[redacted]. Great. Thanks, Mr. Patel. I'm not going to address each point you made in your statement, but I appreciate the statement. I understand your concerns.

A couple things off the bat. Any question I ask that you think might trigger a classified answer, I'm asking it in a nonclassified way. If you feel you have to -- if it triggers some sort of classified answer, you can let us know, but it's certainly -- this is an unclassified interview, and I don't expect or intend to get into classified information.

As far as the scope concerns, we can address that when a topic that you think is outside the scope of the House resolution when we begin to address such topic.

I just want to spend a minute on your section on executive privilege where you stated you're committed to trying to expeditiously resolve these issues, including by

consulting with representatives of the current and former President. I just want to make sure that you and your counsel were aware of the letter received by DOD counsel from the White House. Do you have this?

Mr. Sofer. I don't know. I'd have to take a look at it.

[redacted]. This is the letter provided from Jonathan Su to Mr. Richards, which states that the -- the second paragraph sentence says, "Despite" --

[redacted]. Excuse me, [redacted]. It's in your binder, I think, Mr. Sofer. Yeah.

The Witness. Yeah. Thank you.

[redacted]. Great. I'll wait until you have it.

Mr. Sofer. Is this -- this is the December 7th letter?

[redacted]. Uh-huh.

Mr. Sofer. Okay. Yeah.

[redacted]. "Despite efforts made to do so, we have been unable to discuss with Mr. Patel's counsel the nature of Mr. Patel's communications with former President Trump and his advisers about the events that are subject of the planned interview. For that reason, we are unable to provide specific guidance regarding any privileges that may be associated with those communications," which seems in contrast to your statement that you would consult with representatives of the current President.

So I just wanted to give you an opportunity to address that, as well as acknowledge that several representatives that have joined us today, including Representative Cheney, Representative Kinzinger, and Representative Aguilar, and Representative Lofgren. And then we can start with your -- with January 6th itself.

Mr. Sofer. Can we just respond? Mr. Glabe would like to briefly respond to your concern regarding the letter of December 7th.

[redacted]. Sure.

Mr. Glabe. Sure. Thanks for bringing the letter to our attention. I think, as we've endeavored to communicate, our position is that, if there are questions or topics that implicate core executive privilege concerns, we'd rather address those in a concrete manner rather than in the abstract. But, that being said, I just want to reiterate that our client is here of his own volition, and our hope and his hope is that he's able to answer as many of your questions as possible today.

The Witness. Can I just say good morning to the Representatives? It's nice to see you all again, and thank you for joining.

[redacted]. Scott, I think the question was, were efforts made to communicate with Mr. Patel's attorneys, and were those efforts met or not met? I didn't get your answer.

Mr. Glabe. Maybe we could touch base on that offline.

[redacted]. Okay. All right. We'll follow up on his efforts to kind of resolve this with the current and former President.

EXAMINATION

BY [redacted]:

Q So I appreciate you going through your career background, Mr. Patel, so I won't go through it as I had planned to. Do you have one kind of highlight that you think, in terms of your 16-year background, that you're most proud of that you --

A I wasn't expecting that. I guess, one that stands out is the night we killed al-Baghdadi when I was senior director for counterterrorism at the National Security Council. It's probably one of the most memorable moments for me in government.

Q I know you started in -- at DOD coming straight from the NSC, is that right, I think in your --

A Yes. Yeah, I think you have that right.

Q And, in the NSC role, were you an advisor to the -- to the President himself, or was there a layer of -- in between you and the President?

A I think if you could help me the navigate what timeline you're referring to because, as I stated in my opening, I served as a couple of roles --

Q Sure.

A -- while I --

Q Right before DOD.

A Right before DOD. Thank you. So I think that's about the summer, fall-ish of 2020, my best estimation. I was the deputy assistant to the President, which means I was a credentialed, designated officer of the President of the United States; and I was the senior director for counterterrorism, which meant I was the individual responsible for the entire counterterrorism directorate, where we had approximately anywhere from, ballpark, 8 to 16 directors under me working on various portfolios. And they reported through me. And depending on the topic, I reported to the -- what's called the APNSA, the Assistant to the President for National Security Affairs, which was Robert O'Brien, Ambassador O'Brien, and then he would report to the President. But, again, depending on what topic, sometimes that system varies.

Q Were there times when you reported directly to the President depending upon what the topic was?

A Yes. Thank you for that clarification. Depending on the topic, and also I was one of the few individuals who were charged with the -- as the what we call national security rep. So I took numerous trips with the President [redacted]

On a lot of those trips, the ambassador was not present. It was usually myself, him, or another one of the few individuals who were read into those programs. So I

might have had contact directly on those flights.

Q Got it. And how long did you have this position where you were a little bit closer to the President than the other -- than the positions that preceded it?

A So I'm not entirely sure. I didn't -- I didn't check those dates before coming in today, but I would -- it -- my best guess would be for most of 2020 or the bulk of 2020 --

Q Got it.

A -- I think, is a fair way to put it.

Q So would you say -- would you estimate you had daily contact with Robert O'Brien and you might have daily contact with the President himself?

A It honestly just depended on the day.

Q Did you feel that you -- it's been described that you were a trusted ally of the President. Do you think that's accurate?

A I'm not sure who said that, but I was told to do a job, and that was to run the counterterrorism portfolio and assist the President on national security matters as they arose during his travels, and I tried to fulfill that to the best of my ability.

Q Did you advise him on issues other than just national security issues?

A As I sit here today, not having looked at any of my work from the National Security Council, emails or logs or anything, I don't believe so. I think he and I probably talked about sports was a common topic. When you're stuck in an airplane for 6, 10, 17 hours, other matters come up.

Q Both New York guys?

A We're both from Queens.

Q Did you work with Chris Miller before the DOD appointment?

A Yes. Former Acting Secretary of Defense Chris Miller and I have known

each other for some years. I don't know exactly how long. We have crossed paths. Acting Secretary Miller was an Army Special Forces officer. I served in JSOC. He served in some elite units other than that, and we've had some crossover on counterterrorism and national security matters going back years, as best as I can recall sitting here today, without having looked at any of the documents to help.

Q Is it -- while you were at NSC, was Chris Miller the head of NCTC? Does that sound right?

A Sorry.

[Discussion off the record.]

The Witness. Yeah, no, that's a good point. Thank you. Okay. So, okay, that timeline is, as best I recall, and, again, I don't recall seeing those -- that material in the documents we reviewed to prepare today, so I'm going to guess as best I can.

When I first got to the NSC, I believe Chris was the senior director for counterterrorism. And, if I recall, he was transitioning out to become the Deputy Assistant Secretary of Defense for Special Operations in Low-Intensity Conflict at the Pentagon. And I was transitioning into that seat, so he and I had a bunch of crossover in those roles.

And then, when I got there, within a couple months, I believe, he and I were both the senior director for counterterrorism while he transitioned out. And then he later became the director of the National Counterterrorism Center at the Office of the Director of National Intelligence.

BY [redacted]:

Q Okay.

A Yeah.

Q Okay. Thanks for that. I want to spend the first part of our interview here

with starting with the preparations for January 6th, then going through the day of.

A Uh-huh.

Q Before I do that, I know you gave us this timeline.

A Yes.

Q Is this similar to exhibit 46 that we had provided to you?

A Can I look? Sorry.

Q Yeah, of course.

A I don't have that one.

Q I know there was a number of different timelines, and we'll talk about it --

A Sure.

Q -- because I know you will be helpful on that front. There's the D.C. National Guard timeline, the Army timeline, the Sec Defense timeline. But this one that you handed me appears to be exhibit 46.

A I mean, I don't want to waste your time so I'm not going to leaf through it.

Q Right.

A I would ask the committee and I to come to an accommodation that, if it's different, that was not my intention, but I believe them --

Q Okay.

A -- to be the same.

Q All right.

A And my memory of these events is largely within the confines of this timeline. I think the only difference between the timeline you have in 46 and the one I provided is a -- there's a date difference, but the header is the big difference, I believe.

We did not want to include that header when we were giving this timeline out to, whether it be Members of Congress or the press or whatever decisions were being made.

That was for internal purposes so we could verify who worked on the timeline, and as you can see, there was 30-some people and seniors that worked on this timeline --

Q Right.

A -- that ultimately came together.

Q Okay.

A Sorry.

[Discussion off the record.]

The Witness. Oh, sorry, my counsel has -- as they should -- highlighted that the 46 one is 3 pages. So I had that confused. Your exhibit 46 is 3 pages.

BY [redacted]:

Q Uh-huh.

A The one I submitted is about nine, give or take.

Q Okay.

A So I believe the difference, off the top of my head, is there was a short-form timeline that, as I look at the signature block, Captain [redacted] who is the executive secretary at the Department of Defense, I believe, from my best recollection, we wanted to put something out because so many Members of Congress were asking for information, as they should, because we wanted to put something out for them.

Q Got it.

A And I believe that's the short-form timeline. I don't believe, in my best estimation, that anything substantive would be different from 46 to what I provided.

Q Okay. Great.

Mr. Sofer. Excuse me, one second.

[redacted]. Sure.

[Discussion off the record.]

The Witness. Yeah, and we had to -- I'd ask we -- actually, that's a great point. So Captain [redacted] was the ExecSec. He put his signature on this because he was the ExecSec and that's standard operating procedure. But he received some substantial death threats when this timeline leaked to the media, so much so that we had a put a personal security detail on him. And, last I checked, he was still in service and uniform, so if we could just --

BY [redacted]:

Q Sure.

A -- protect his name going forward.

Q Great. So you -- as the chief of staff for Acting Secretary Miller at that time, again, and we'll go back in time to the -- your appointment to -- over to the position itself, but just, starting with January 6th, when did the preparations, from your perspective, begin?

A From the DOD's perspective?

Q Yes.

A So, again, I would refer you to our -- the timeline I submitted, and I believe in that exhibit the first date is December 31, 2020. So I would estimate on or about then without having access to other underlying documents, is my -- is what I can best recall now when there was an engagement from Muriel -- excuse me, Mayor Bowser of D.C. and her team with the D.C. National Guard request. There may have been conversations prior to that, I'm just -- I can't recall.

Q Were you aware of the January 6th event prior to the Mayor Bowser event -- letter coming to request D.C. National Guard?

A Was I aware of her request for the National Guard?

Q No, were you aware that the January 6th Joint Session and the rally that was

planned prior to the request for National Guard by Mayor Bowser?

A I believe, from my memory, the best I can recall, is that it had come in to the Department in some format, the Department of Defense. And there was -- we analyzed, as we routinely do, security assistance we could provide. So that's what probably generated it, is my guess, is Mayor Bowser's office or the Capitol Police called the -- someone at the Department of Defense.

And, if it relates to the National Guard, the way the chain of command works is, the National Guard reports to the Secretary of the Army; then he reports into the Office of Secretary of Defense. So, probably in DOD land where you have 3 million people working, someone in the Sec Army's office probably got notified by Mayor Bowser on or before December 31st, and around there it came up to us in the Office of Secretary of Defense, but there could have been a delay. I don't know.

Q What was your understanding of the threat landscape going into January 6th?

A My understanding of the threat landscape going into January 6th, without having really viewed any of that intelligence, and I caveat that the DOD did not have the intelligence capabilities or lawfully permitted to collect on domestic citizens. So we relied on partners in law enforcement, the FBI, Federal Bureau of Investigation, the Department of Homeland Security, the U.S. Postal Service, and others to provide us, as we always do, interagency meetings at medium and senior levels. And I believe there may have been an exchange at those levels of the threat or possible threats of violence.

We had instructed, I believe -- Acting Secretary Miller and I had instructed our team to, as we do with other matters, highlight significant issues, especially in security, for anything, be it the Inauguration or Jan. 6th and bring it up to our attention through the chain of command, which was the process.

Q So what was brought to your attention, if you remember, concerning January 6th?

A I'm not sure as I sit here today. If you have a document I could look at, happy to do that. I'm not saying nothing was or a bunch was, I just don't know, unless -- if you could point to something in the documents, I can take a look.

Q Sure. We can start with -- well, we can start with some of these calls that have occurred in preparation for the January 6th. I think exhibit 15 is a call that was set up for January 2nd, and then exhibit 13 is the mayor's request herself. But, if we could just go back to what you said, that DOD obviously, you explained, does not collect domestic intelligence, and you rely on your law enforcement partners.

A That's correct.

Q Where you were, as the chief of staff, was there one law enforcement partner that was relied on more than the other, meaning did you rely on DHS a lot more than the Bureau or -- based upon -- and I won't -- if you could add some context to your own experience in the intelligence community. Did you feel that the information you were receiving portrayed an accurate picture going into the 6th?

A So I'm going from memory because I haven't had any of the Bureau cables, the FBI's cables to look at in over a year. In my opinion -- and being a former Federal prosecutor, maybe I'm biased -- but I relied on the FBI heavily for law enforcement capabilities and knew they had the relationships with police, i.e., the Capitol Police, the MPD, the Metropolitan Police Department, and the mayor's office to provide law enforcement-related intelligence that they collect to the Department as it was needed.

We also talked to DHS, the Department of Homeland Security, frequently on similar issues, but it would vary upon the subject. So that's a general answer of how I think we approached things to January 6th that I can -- that -- as I can best remember.

Q Do you remember Secretary Miller or Chairman Milley raising any concern about the potential of the Proud Boys or Oath Keepers attending the rally?

A If you have something I could look at that shows me that we had a meeting or something like that, but as I sit here today, I don't recall having those discussions.

Q Secretary Miller stated on a January 4th interagency call publicly and it was reported in the Senate report that he brought this up, that the Proud Boys and the Oath Keepers and the increased political rhetoric had created an atmosphere that he --

A He, Secretary Miller brought it up?

Q Yes.

A And, look --

Q Does that jog your memory?

A -- I've known Secretary Miller a long time. If that's what he said, then that's -- you know, he's been a man of his word the entire time I've served with him. So, if that's what he said, then I believe that's what happened.

Whether I was on that call -- I was on most calls with the Acting Secretary, but we were doing a million other things at that time. So I might not have been. And I'm happy to get into the other activities we were undertaking if you would like.

Q Non Jan. 6th?

A Yes.

Q That's okay, just to be time -- cognizant of time. Were -- did you --

Mr. Sofer. I'm sorry to interrupt, but I guess the point -- and we're not trying to slow this down. We want to move. But the reason that that might be important to you is you might think that that was the -- this was the only thing going on, and there was a tremendous amount of other things going on, at least that's our understanding talking to our client. He could probably, in 10 seconds or 15 seconds, describe sort of the plate

of information that -- and the portfolio that he was dealing with.

BY [redacted]:

Q Sure.

A Yeah, I'll keep it really brief. So DOD's main mission: safeguard the homeland. We were working on numerous theaters of war, including Afghanistan, Somalia, Iraq, Syria, and other places, lots of issues within those theaters. We were working on Operation Warp Speed. DOD was charged with the logistical operation to unload and deploy the vaccine. We were dealing with the National Security Council issues, White House issues, border issues, and also a ton of stuff in space, underwater, and we were also coordinating with our combatant commanders.

But I think the most important thing that we were working on that we were charged with, which I think is relevant here, is the transition. We were charged with handing off the mission from one administration to the other, and I'm sure we'll talk about that, but those are some of the things we were collectively working on.

Q I appreciate that. But, for the interagency calls preparing for January 6th, I believe you said publicly that you were on those calls with the SecDef, Acting Secretary --

A I believe most of them. I don't think I was on every one, but I think it's fair to say most of them.

Q Before we move off this kind of threat landscape issue, was there anything that concerned you, maybe not what you were seeing from what the Bureau or DHS was providing you, but concerned you just as, you know, a citizen going into January 6th about what might occur?

A I had not seen, as best that I can remember, anything provided by law enforcement partners that caused us a great concern. But what we did preemptively was, if law enforcement, as you know, in order to enact the National Guard, you need

two things under the law: You need the President's authorization to do so, and you need a request from a mayor, a Governor, or a Federal law enforcement agency.

So, at some point in time, we undertook -- because it takes time to employ, deploy, and mobilize the National Guard. We're pulling these people out of their daily lives of being doctors, lawyers, and cops. So we preemptively -- I don't know the exact date -- prepared slowly, and as -- ultimately as you see outlined in the outline that I provided -- went to, I believe Mayor Bowser and the Capitol Police and said, "Do you need the National Guard before January 6th?" And I believe -- the timeline is the best record, but I believe the timeline says they said -- they, the mayor and the Capitol Police said, "No, we don't need National Guard."

Q What prompted you -- and we've seen emails where you've -- there was back and forth of make sure they -- that we ask them and get the dates down for creating the timeline as to when Capitol Police was asked. What prompted DOD or yourself to make sure the Capitol Police did not need any additional help?

A Well, it was one of our responsibilities. It was -- we, the Department of Defense, are responsible for the National Guard. And so I believe at the time I was reacting to a number of things that were coming in from FBI and DHS. And I thought, and I believe the Acting Secretary and I believe the Chairman as well, but you'd have to ask them, the DOD's bottom line: Prepare, be prepared, and hope for the best. And we did that across every theater of war and every line of effort we had, including Jan. 6th, as best we could.

Q On -- does anyone have any questions on that point?

On exhibit 15 is, "The chairman has confirmed a call for 13:30 today," so that is January 2nd at 1:30. And it states, "The chairman also recommends that a policy representative like Ken Rapuano and an OGC rep participate based on their prior

experience with this topic."

Do you remember if you were on that call or a part of setting up or discussions after that call?

A Thanks for the exhibit. So what I see is my name on the "To" line with about 20, ballpark-ish, other people. If the Acting Secretary and the Chairman are on the call, there's a good chance I was on the call. I don't have an independent recollection of what was said in that call.

Q Are you familiar with Ken Rapuano?

A Sure, of course.

Q What's his role?

A Mr. Rapuano was a representative in the Under Secretary for Defense for Policy. So, in the structural regime at the Department of Defense, the USDP, is basically, after the Secretary of Defense and the DepSecDef, the USDP is the number three in the chain of command. So it's an important role because they interact -- USDP interacts with the White House and the interagency on all policy level decisions. So I think it was smart to have Mr. Rapuano on that call.

[Discussion off the record.]

The Witness. Yeah, sorry. Right, he wasn't the Under Secretary for Defense. He worked in the Under Secretary's office.

BY [redacted]:

Q Got it. At any time during the discussions, preparations for January 6th, did the issue of the response of DOD to the summer protests ever -- was it ever brought up?

A I'm sorry?

Q The DOD's response to the summer 2020 civil unrest, was that ever discussed while you were present in --

A While I was at DOD, was it discussed --

Q In preparations for January 6th.

A Well, so, yeah, I was not at DOD during the -- I think you're referring to the Lafayette Square stuff, if I'm correct.

Q Correct.

A I was at the White House at that time. At DOD, in preparation for the Jan. 6th stuff, I believe, from the best of my recollection, some of those incidents naturally came up because the Department was heavily involved and in the media at the time of the summer incident.

So I think Chairman Milley was, you know, front and center there, and I think he had expressed not a comparison but a how do we use that past incident to prepare better and apply it as a lessons learned for the Department. So I think there was some conversations from my -- from what I can recall from the Chairman and possibly the Acting Secretary.

Q Were you aware that -- some of the criticism that DOD received as part of their response to the summer?

A I recall reading the media, and, as I said, I was at the White House. So I'm not sure if I was there on the day of, but, yes, I remember.

Q Did -- do you remember any more details as far as those discussions from Chairman Milley or Acting Secretary Miller?

A Yeah, I think same thing. If you have something I could look at --

Q Sure.

A -- that that could jog my memory, sure, I'm happy to; but, independently, not off the top of my head.

Q Well, are you familiar with the report the Army did concerning --

A Which -- sorry.

Q And I believe it's actually in the IG report as well in terms of some of the scrutiny the DOD received, such as the low-flying helicopters.

A Sorry. Do you have the number?

Q Sure. Well, it's in your own IG report there, and then let me give you the Army report. It's exhibit 48.

A Oh, okay.

Q Exhibit 48 is the report of U.S. Army operations. On page 2 there, letter D, lessons learned from civil disturbance in D.C. in June 2020.

A So, sorry, what's the question? I'm reading it, but what's the question?

Q The question is, were you involved in and does that jog your memory as to any additional discussions that were had about the scrutiny DOD received during the summer and how it impacted the preparations for January 6th?

A I don't believe so, but I just want to highlight that this report was produced on March 18, 2021, a few months after I'd left. So I haven't spent too much time looking at this report, but this paragraph does not jog my memory for anything else.

Q Okay.

Mr. Glabe. And let me just state for the record that it appears the referenced paragraph recounts events up to -- that occurred from after the summer of 2020 through approximately November 8, 2020. And Mr. Patel joined Department of Defense just around that time, shortly after the election. So I don't have the day off the top of my head, but point being that these -- these sort of paragraphs refer to events that largely, if not entirely, took place before he joined the Department of Defense.

BY [redacted]:

Q The greater point of the paragraphs are how that summer impacted the

preparations for January 6th. And I understand if you haven't had the opportunity to review it, but that's the point of those paragraphs.

A Okay.

Q Were you involved in the January 5th memo that Secretary Miller drafted in response to the guidelines for the D.C. National Guard?

A Yeah, which memo, the number?

Q I'll show you the number. It would be 51.

A Okay.

Q Do you recognize that?

A Yes, I recognize this document. Thank you. Dated Jan. 4, 2021?

Q Right.

A Yes.

Q Were you involved in drafting that or discussions leading up to that memo?

A From my recollection of what I see here, naturally I would have been involved as the Acting Secretary's chief of staff. And, in summary, I'll let the memo speak for itself, but it's just the limitations that were placed on the D.C. National Guard by the mayor.

And under the law and what the Department of Defense has to do is they cannot go outside the lines of what the request for National Guard was. And, in this instance, the mayor did not want them armed or body guarded or kitted out in any way, and this outlines that. This then gets pushed down to the Secretary of the Army, and the Secretary of the Army then sends it to Commanding General Walker of the D.C. National Guard.

Q Okay. But are you kind of aware of the background or the backdrop about some of these guidelines that were put in place, putting aside what the mayor's request

was for the 340 unarmed guardsmen?

A I'm not sure why the mayor requested that. I'm guessing what you're saying is it relates to the summer incident. It may have, but I didn't have any conversations with the mayor on --

Q Not with the mayor, within DOD. It's been told to us by DOD officials that these guidelines were based in part on a memo that was issued by Secretary Esper that was issued after the summer protests, in response to the summer protests. And this memo came, for example: To employ the -- without my subsequent, personal authorization, the D.C. National Guard is not authorized the following.

A I've not read the Esper memo that you're referencing. I don't believe I've seen it. But, to my memory, I remember the Acting Secretary and I and the Chairman had some discussions about how should we best proceed; are there lessons learned. And we left it to our staff to give us those recommendations who were there at the time, in the summer of 2020, to provide us with those recommendations.

Q Okay. But you don't have any additional context about those -- what those lessons learned were?

A Not that I can recall.

Q Okay. Now, prior to this memo being issued on the --

A Oh, can I just add? Sorry.

Q Sure, of course.

A We were keenly aware of the current -- the belief at that time that people were not to be armed. That was one of the biggest things that we were aware of and trying to adjudicate while assisting and executing Mayor Bowser's request. The Secretary of the Army would have the back and forth discussions, but we know from the summer, as you alluded, that that was one of the concerns. So I do remember that one

concern coming from those conversations.

Q Okay. Before this January 5th memo was issued there was a number of interagency calls. Were you -- do you remember being on a call on January 4th with other -- with the -- with DOJ, DHS?

A So, on the -- on January 4, 2021, the short answer is probably, but I don't -- I haven't seen my call logs. And I think we asked for DOD cables and stuff, but I have no idea.

Q Do you remember any primary concern that was conveyed in terms of the preparations from DOD's perspective as --

A To --

Q To DOJ, DHS, DOI?

A I do remember from those conversations around that time, and my best recollection is that a concern for the Department of Defense was we, DOD, are not the responsive unit under the law for anything related to law enforcement matters.

So I remember the Cabinet Secretaries having those discussions that the FBI and DOJ were the lead law enforcement agency, and I think there was some sort of the proclamation from DOJ that they were, in fact, the lead law enforcement agency, but that's just from my memory.

Q Okay.

A I remember having those conversations.

Q I appreciate that. You stated to the Epoch Times, and I don't have the date of this, that you, quote, "I was on the phone calls on January 4th, 5th, and 6th with the President, the chief of staff, with the Attorney General, with the Department of Homeland Security, and the only person missing from those phone calls was the Director of the FBI. He was nowhere to be found."

A Do you have a transcript for that? Sorry. Or is it in here?

Q Yeah, it's -- I can give you the date of the Epoch Times statement. It would be July 9, 2021.

A So I haven't -- if that's the transcript, you know, if there's a transcript of it, we're happy to look at it. I haven't looked at that.

Q Of your own statement? You don't remember making that to Epoch Times?

A Well, it was 6 months ago. I'm not saying I did not make it or did make it; I'm just saying, outside of what you provided, I don't have any other context for that conversation.

Q Okay.

A But, if I made that statement to the Epoch Times and the transcript shows that, then I would, of course, stand by it. But I haven't had a chance to review it.

Q Sure. We can get it printed for you so you can look at that before. My question is, at that time, in July, apparently, you did have a memory about being on these phone calls and made it a point to say that the Director of the FBI was the only person missing from those phone calls.

A That's accurate. So, from some of the phone calls that I remembered at that time and from my memory today, I don't recall Director Wray being on those phone calls with the interagency Cabinet Secretaries and heads of agencies.

Q And why was that significant to you?

A We -- I believe, from my best recollection, is that after DOJ and FBI had been designated the lead law enforcement agency, I, as chief of staff for Acting Secretary of Defense, wanted him to have a direct line of contact with his counterpart, the Director of the FBI. And we -- if what you're reading is correct, and I have no reason to doubt it, I

believe that he was not on those phone calls based on my memory at that time.

Q Got it. Do you remember who designated DOJ as the lead Federal agency?

A My understanding is only DOJ can make that designation, but --

Q To themselves?

A -- I'm not DOJ anymore.

Q Okay.

Mr. Glabe. Can I ask just one question to go back a minute? You referenced the memo, the Miller memo that's exhibit 51. I think a couple times you called it the January 5th memo, and it's got a January 4 date stamp on it. And I just want to -- [redacted]. It's got a January 4th stamp on it? Is that what you're --

The Witness. Is it two different ones, or is it the same one?

BY [redacted]:

Q It's the same one.

A Okay.

Q Sorry. I misstated the date. Obviously, Mr. Patel, you worked at DOJ, so you're aware that, as you stated in your statement, that the Attorney General was on that call, correct? They're the boss of the Director of the Bureau?

A Yeah, I think at the time -- what was his name?

Q That would have been Rosen.

A Thank you.

Q Sure.

A Rosen, Mr. Rosen was the Acting Attorney General, I believe. And I don't remember all the phone calls off the top of my head, but what we -- the information that the Acting Secretary and the chairman were trying to get from law enforcement was not able to be obtained from the acting AG, just didn't have that level of detail, and that's

why we were seeking what the FBI was doing. And I believe, from the best of my recollection, even the Acting AG said that that would be a matter that the FBI would be aware of; I, the Acting AG, am not aware of those details.

Q But presumably the Acting AG is the head --

A Well, he's his boss, but he admitted to us he didn't know what his subordinate was doing.

Q You remember that on the call?

A In sum and substance, yeah. We were looking for specific law enforcement details, including intelligence, and we couldn't -- and what law enforcement was doing to prepare and the Acting AG didn't provide, as best as I can recall, those details.

Q Got it. I want to shift to a meeting that was held at the White House on January 5th. There's no exhibits that go along with this.

A Oh, okay.

Q Unless you want me to print out the Vanity Fair article for you?

A If you're going to cite from it, sure, but --

Q Sure.

A -- let's see what you're going to do. I don't know.

Q We'll get those. Do you have a memory of the January 5th meeting at the White House with Secretary Miller?

A I have a meeting of -- I -- excuse me, I have a memory of many meetings at the White House with Secretary -- Acting Secretary Miller in and around that time. Sometimes it may have even been twice a day. I just don't know the ins and outs off the top of my head.

Q This is what -- do you remember, I believe few days before, a Vanity Fair reporter was basically embedded with you and Acting Secretary Miller and --

A Yeah.

Q -- went to all the meetings with you all?

A No, no. That's -- I don't think that's accurate.

Q Okay.

A So what we did was the Vanity Fair reporter, through our public affairs shop, asked to be embedded for when we went out West to surveil some of our DOD strategic capabilities that were unclassified, and the Department made the decision to allow him to do so. So I don't believe he was in any meetings with us, unless I have it wrong.

Q I think there was a report of the meetings back, but I can read this for you --

A Sure.

Q -- and we'll get it printed for you. According to the Vanity Fair article, the January 5th meeting with President Trump on an Iran issue is what Secretary Miller told the reporter.

A Okay.

Q "But then the conversation switched gears. The President, Miller recalled, asked how many troops the Pentagon planned to turn out the following day."

A Oh, okay. And the date of that, the meeting?

Q January 5th. It was you, Secretary Miller, and President Trump --

A Thank you. So just --

Q -- and I believe Mark Meadows.

A Sorry. Yeah, I didn't mean to cut you off.

Q Does that jog your memory?

A I believe so, but if I could have the article, and when it's brought in --

Q Sure.

A -- I'm happy to address that. I just want my attorneys to have a second

look at it.

Q According to the article, "We're like, 'We're going to provide any National Guard support that the District requests,' Miller responded. And Trump goes, 'You're going to need 10,000 people.' No, I'm not talking bullshit. He said that."

A Oh, so you remember stuff like that. So, going off just the memory, and we can go back to the article when you bring it up, there was a meeting with the President of the United States, Acting Secretary Miller, and some others -- I can't recall off the top of my head -- where we were discussing, as the article states, something related to Iran.

And, in that same meeting, I believe it was on or around January 4th, 3rd, 4th, or 5th, the -- as I stated earlier, in order for the Department of Defense's National Guard to be activated in any way we needed Presidential authorization. And President Trump at that --

[Discussion off the record.]

BY [redacted]

Q Sure. Go ahead.

A Okay. And so this question appears to implicate core executive privilege concerns. I'm prepared to answer it, but I want the record to reflect my serious concerns about congressional overreaching of this matter.

So what I remember is that we knew, in order to get the National Guard even mobilized, we needed the President to at least say yes first. So what -- my recollection of that meeting is the President preemptively authorized 10 to 20 National Guardsmen and -women around the country -- sorry? 10- to 20,000.

Mr. Sofer. You said 10 to 20.

The Witness. Sorry, 10- to 20,000 National Guardsmen and -women to be utilized around the country. The second part of that, of course, would have to be the

Governors, the Federal agencies, and the mayors would have to ask us for that to satisfy the law.

But what he, I believe, and the Acting Secretary at the time were working out was we would not need to come back to the President should Mayor Bowser or anyone ask for 100, a thousand, 5,000, up to 20,000.

[1:05 p.m.]

BY [redacted]:

Q Okay. Just let me make sure I'm clear with what you are saying. It is your memory that the President authorized to Secretary Miller, understanding the chain of command, 10,000 to 20,000 troops to be on standby? Available? What terminology would you use?

A So, legally -- and I haven't talked to DOD General Counsel in some time, and a lot of the notes that you provided, the DOD General Counsel exchanges, have been completely redacted. But it's not a standard; it's a legal issue that we have to follow.

If we were going to ever utilize the National Guard -- and that's not just during that time; any time, any Secretary of Defense -- the President has to authorize, step one. If he doesn't do so, the Governor of State X can ask for 5 or 5 million, and it doesn't matter how many times he asks, the law forbids -- my understanding -- the Department of Defense from mobilizing the National Guard.

Q So, under that analysis of the chain of command, what action did Acting Secretary Miller take upon hearing this?

A He knew, I believe -- and, you know, you can ask Chris, but my take on that was, we had step one of the two-step legal process from the President to say, I am authorizing X if you need it.

So the Secretary of Defense then makes a decision on whether or not requests come in, and, if they are legally satisfied, talk to the DOD General Counsel, then they come in and work out the numbers.

And I think that's what -- I believe that's what Acting Secretary Miller took away from that conversation.

Q Let me just finish reading the rest of that paragraph. And I have the article here, but --

A Yeah, if you don't mind.

Q -- it says --

A Could we get a copy?

Q Sure.

It states -- let me read the full thing -- Trump says: You're going to need 10,000 people.

Miller responds: Maybe, but, you know, someone is going to have to ask for it.

A Okay.

Q So correct me if I'm wrong, but, in that exchange, it sounds like that's not an order from the President to Acting Secretary Miller --

A Well, I think --

Q -- if the response is, "Maybe, but, you know, someone is going to have to ask for it," meaning "You haven't asked for it, President Trump."

A So what I take away from that --

Q There's the article.

Mr. Sofer. We have it.

[redacted] Oh, okay.

The Witness. What I take away from that is -- I don't know about this issuing orders or not. And having known Acting Secretary Miller and worked for him, was that Acting Secretary Miller -- and he'd be the best person to talk to -- knew that he needed a Presidential authorization per our communication with DOD General Counsel and their communications with the White House Counsel, that unless the President said X number is authorized, then we could not mobilize any number.

So I'm not sure the article is exactly accurate to its verbiage and quoting, but for purposes of this illustration, we'll say it is. And, based on that, I believe Acting Secretary Miller took away that he had one of the two steps satisfied lawfully to mobilize the National Guard if a request was then made by law enforcement or a Governor or a mayor.

[redacted]. So --

The Witness. It's not a -- I don't think it's an order, but that's my estimation.

[redacted]. Okay. So your perception of this conversation wasn't that it was an order for 10,000 -- I'll let your attorney finish talking.

[Discussion off the record.]

The Witness. Yeah. As I said earlier, I don't believe that the verbiage in the Vanity Fair article is accurate word for word. But what you're asking, I believe -- and tell me if I'm wrong -- is whether or not any orders were issued on that day that I can recall.

I don't recall, from the best of my memory, not the article, any orders being issued. But what I recall is authorizations being made for the mobilization of Guard should it be deemed necessary by law enforcement and Governors.

BY [redacted]:

Q Okay. That's helpful.

Do you remember if the President mentioned anything that he may need these troops to protect the Trump people?

A I don't recall him ever saying that.

Q So, just to take what you said about this not being orders, so was there any action that was taken based upon this conversation as you remember it?

A As I remember of what happens when, anytime there's an authorization, as this was, for National Guard from the President of the United States, the chain of command is the Secretary of Defense to the Secretary of the Army. The National Guard

reports to the Secretary of the Army, as does the commanding general of the National Guard.

That information was then, from my memory, taken and given to Secretary McCarthy, who was the Secretary of the Army, so that he would know that if -- because that's where the two points meet. That's where the two authorizations meet. The Presidential authorization meets the authorization from the field. The Mayor, in this case, would call Secretary McCarthy and say, I need -- and I'm making up numbers -- 1,000 guardsmen and -women for X, Y, and Z.

Secretary of the Army McCarthy would then know, I'm authorized up to 20,000; I can go ahead and mobilize that once I get the okay from the Secretary of Defense.

Q Got it.

Do you remember if General Milley was at this conversation?

A Sorry. Which one?

Q The January 5th, this conversation regarding the 10,000 troops.

A To the best of my memory, we usually were in those Oval Office meetings with a number of folks, so it was a -- he could've been. I just don't recall.

Q Do you recall a request for 10,000 troops by President Trump ever being conveyed to Speaker Pelosi?

A Did I do it to Speaker Pelosi?

Q Did you or do you know if anyone --

A I don't believe I ever said that. But, from the best of my memory, there were calls on January 6 between leadership, which I was privy to, and the Speaker. It may have come up. We fielded a lot of calls that day from congressional leadership.

Q Uh-huh.

A It might -- if it's mentioned in the timeline, that's what I would say is the best

recollection. If it's not, there's documents underlying the timeline that the Department has that may have captured the details of those calls.

Q But do you remember ever a request from President Trump for 10,000 troops being conveyed to Speaker Pelosi?

A I wouldn't --

Q It wouldn't make sense given the chain of command that you described, but I'm just asking.

A It's possible that the Acting Secretary and the Chairman, Chairman Milley, informed the Speaker of the House that we were authorized up to X. That's certainly possible. And, having worked with those two individuals, they were prudent men and it seemed that they probably would have notified them. But you'd have to ask them.

[redacted]. [redacted], do you have anything?

[redacted]. Yeah.

The Witness. Do you mind if we take a bio break?

[redacted]. Of course.

The Witness. Thanks.

[Recess.]

BY [redacted]:

Q So, Mr. Patel, let me just pick up where [redacted] left off. And, just putting aside the Vanity Fair article, all the emails, tell us what you remember about that January 5th meeting, or thereabouts, the meeting that started with Iran and then ended up with some discussion of January 6th.

A Yeah. So, just to couch that --

Mr. Jensen. I apologize, I cannot hear.

[redacted] Oh, sorry.

[redacted]. Sorry, Jeff, we had not unmuted. I'll restate.

Mr. Jensen. Thank you.

[redacted]. We're back on the record.

BY [redacted]:

Q Yeah, Mr. Patel, I understand that there's been some reporting about this meeting, and you gave us some helpful information about it. I just want to set that aside and ask you what you recall, not about the Iran stuff, but anything that anyone, the President or others, said about January 6th during that meeting, whatever date it was.

A As best as I can recall, it's what I told co-counsel just before we broke. I don't think that I have any additional memory of that as I sit here, but I'm happy to look at anything you guys want me to.

Q We don't have anything else to show you. I just -- whatever you recall.

There was some reference in the article, for instance, to 10,000 to 20,000 troops. What do you remember about how that came up, who said it, what was discussed?

A Yeah, and I will rely on what I told co-counsel, not to provide a duplicative record, but, basically, the sum and substance is, there was a conversation that there was an authorization by the President of the United States for 10,000 to 20,000. That's what I remember because it's the important step one of the authorization process.

Q Uh-huh. Yeah.

A Outside of that, it was -- I will say this, without getting into details: It was an extensive classified conversation about a number of other topics.

Q I appreciate that.

A We were there for a while.

Q Yeah. Okay. So the topic of 10,000 to 20,000 troops being potentially on the streets the next day or a couple of days later, kind of a big deal, right?

A So, just to clarify, it's 10,000 to 20,000 across America.

Q Okay.

A It was an authorization for anybody --

Q Yeah.

A -- if there was civil unrest anywhere.

Q Yeah. So, again, was there more information as to why that number was appropriate or what might happen that would give rise to the need from anyone during that meeting?

A I don't -- I don't remember. Maybe the Acting Secretary and the Chairman have a different -- maybe.

A lot of times, in these meetings, just for an example, not talking subjects, there would be groups of individuals in the Oval and there would be side conversations sometimes, depending on the topic or depending on what was going on. So I can't pinpoint that one meeting, and I don't know if that happened or not in that meeting. But that's my recollection, is that was the authorization for 10,000 to 20,000.

Q Let's separate it from that meeting. What do you remember at any time the President saying about January 6th, expectations about what might happen in the days before January 6th?

A So, from my understanding and my memory --

[Discussion off the record.]

BY [redacted]:

Q Right. I understand you have a continuing privilege assertion but are nonetheless willing to talk about it.

A Yeah. So, just let me say, I'm prepared -- so the question appears to implicate core executive privilege concerns. I'm prepared to answer it, but I want the

record to reflect my serious concerns about congressional overreach.

Q Appreciate that.

A Thank you.

Q Yeah.

A And so I believe you asked, outside of Jan. 5, any other meetings --

Q Yeah.

A -- that I have a recollection about anything Jan.-6-related, let's say, with the President.

Q Yeah.

A To the best of my memory, my interactions with the President in and about January 6th, around that time period, that I can recall was the authorization for 10,000 to 20,000.

As I best remember, he and I did not have substantive conversations about other things on January 26 that did not involve the Department of Defense's role -- sorry, Jan. 6th, not the 26th.

Q Okay.

Separate from your direct communication with the President, what did you expect, in your role as chief of staff to the Acting Secretary of Defense, was the threat landscape or might happen on January 6th justifying the deployment of the National Guard?

A So, from my opinion, the advice that I would give would be based on the intelligence that was coming in. I haven't seen or looked at intelligence in a long time --

Q I'm just asking you what you remember.

A Yes.

Q What was coming that justified the deployment of National Guardsmen on

the streets of Washington, D.C.?

A What was common?

Q Coming. What was expected to happen that would justify the deployment of National Guard troops?

A We had a request that I remember -- we had a request from late December from the Mayor, so we knew that was coming.

Q Uh-huh.

A And the Department was aware that January 6th was the certification date. And what I remember generally is that law enforcement had said, there may -- could be -- a possibility of some unrest.

And so, in preparation, what I remember is the authorization for up to 10,000 to 20,000. That's not to say we were going to use that many.

Q Tell us more about the unrest. What did you hear about from any source about what that might be?

A I don't recall hearing anything personally about it. And, outside of the intelligence at the time that we were provided, which I can't recall now, I don't remember anything.

Q You have no recollection, as you sit here, of any of the intelligence that gave rise to the request for National Guard on January the 6th?

A Personally?

Q Yes.

A If you could show me, I'm happy to read it, but I don't have an independent memory, other than law enforcement saying there could be unrest. That's what I recall.

Q Just to be clear, that's all? You don't remember anything else about the specifics of what that unrest might entail -- the numbers, the specific groups involved,

anything like that?

A I don't have an independent memory of that, but --

Q Despite the fact that, the next day, people rioted at the United States Capitol, you have no recollection, sir, of --

Mr. Glabe. I think he's answered it, like, three times the same way.

[redacted]. Let me just ask it again.

The Witness. Okay.

BY [redacted]:

Q You have no recollection of any of the intelligence, other than some generalized threat that there could be unrest, as you sit here today?

A How my memory operates, if you showed me the underlying intelligence, I could probably jog my memory. But, a year later, do I have an independent memory of anything outside of what I've stated? I do not remember at this time.

Q How about the summer of 2020? [redacted] asked you some questions about the impact that the summer protests had on preparation. Right now, separate from any email, separate from any document, what do you remember about how what happened in the summer impacted preparations for January 6th?

[Discussion off the record.]

The Witness. So, at that time, in the summer of 2020, I was deputy assistant to the President and senior director for counterterrorism. So that was my focus.

BY [redacted]:

Q I understand.

A So what I remember? I remember the media and the Lafayette Square incident. Of course, I remember the media's portrayal of it, and I remember the video and the walk-across. I don't recall having conversations with intel or DOD at that time,

and --

Q That's not my question. My question is, in January, the first few days of January of 2021 --

A Uh-huh.

Q -- you're the chief of staff to the Secretary of Defense. Was there any discussion that you recall about what happened in the summer impacting preparations, DOD preparations, for what was coming on January 6th?

A So I believe I addressed that, so I'll refer back to that answer. But, to address your question again, I rely on what I previously stated. But do I recall conversations about the summer in early January?

Q Yes.

A I recall some conversations with leadership at the Department that it came up. The specifics I do not recall.

Q Okay. Again, as you sit here today, no recollection of any of the specifics of how the summer protest events impacted the Defense Department's preparation?

A I think as I stated earlier, what I do remember is that the senior leadership that was in place at the Department of Defense reminded senior leadership that was then in place of lessons learned. And whatever those lessons learned were documented by us in our recording -- in our reportings, excuse me. And so, outside of that, I don't have any other independent memory of not using anything else.

Q What were the lessons learned?

A You'd have to ask the people that were there --

Q I'm asking you, Mr. Patel.

A Well, I wasn't there.

Q In your mind, what were the lessons learned from the summer that affected

preparations for January 6th?

A The biggest lesson in my mind --

Q Yes.

A -- looking back at the arc of this entire thing --

Q Great.

A -- is that the Members of Congress did not want an arms display, for lack of a better word, on National Guardsmen and -women ever. That's my recollection.

Q Okay.

A Now, that's what the number one -- I wouldn't call it number one -- that was a lesson learned that I recall other folks saying, but that's about it.

Q And how did that relate to the summer of 2020?

A I'm not sure. What do you mean?

Q What do you recall -- you said Members of Congress didn't want an armed display. How does that in some way -- again, your recollection -- reach back to what happened in the summer of 2020?

A I think it stems from, I believe, Chairman Milley at the time walked across Lafayette Square with a sidearm holstered on his military uniform. I believe that's what that reference was to. And Chairman Milley would have a better idea of those conversations because it impacted him directly.

Q I'm not asking you to look inside of Chairman Milley or anybody else's mind. I'm just asking you, in your role as a high-level official in the Department of Defense, how the summer events affected preparation for the riot at the Capitol.

A Look, I believe I've answered it. I mean, if you would like, we can again look at things that can help to jog my memory, but I believe I've answered your question.

Q You have no independent recollection beyond the stuff, the documents, that

we've provided you --

Mr. Glabe. Respectfully, you've asked him the same question in slightly different ways five or six times. He's testified to what he remembers, his best recollection. He's talked about what he doesn't recall, but -- and I understand that you may wish that he recalled more, but he's answered the question, like, five times.

BY [redacted]:

Q I'm just trying to pinpoint whether you have any independent recollection beyond the documents that you've been provided to review today.

A Beyond the documents that I've been directed to review, beyond whatever was provided, and beyond whatever I've already said, outside of that, I don't have an independent recollection.

Q Okay. I thought that's what you said. Thank you.

BY [redacted]:

Q Okay. Let's start on January 6th, on the day of.

A Uh-huh.

Q When did you first learn about the -- any type of escalation of violence at the Capitol?

A I'm not sure. I think it's detailed in the timeline I provided you, so I would say whatever that timeline says is the appropriate answer.

BY [redacted]:

Q Well, the timeline's not just your memory, though, right? Without the timeline, do you remember when you first learned on that day that there was a breach at the Capitol?

A I believe late morning, early afternoon, from the best of my memory, is that on TV -- and there's TVs on at the Department of Defense, and there was a showing by video cameras that people were marching towards the Capitol. So whenever that was, in and around that time is when we saw it.

Q "We" meaning who?

A Whoever was in the Office of the Secretary of Defense where the TVs were on.

Q And do you remember listening to President Trump's speech that day?

A I don't. I believe I was working on a number of other things.

Q Did you speak to anybody -- after you saw the march up to the Capitol, what happened next, from your memory?

A As best as I can recall, there was a lot of phone call activity that started happening. We tried to divvy up the work as best we could to be responsive to Congress, to public affairs, to the White House.

So I don't have an independent memory of exactly everybody that I did talk to, but, as chief of staff of the Department of Defense, I know I reached out to the chief of staff of the White House at some point during that day.

Q Okay. Do you remember -- Chief of Staff Mark Meadows, do you remember how many times you spoke to him?

A It was at least once, and it was, from my memory, maybe up to three times,

but I'm not sure.

Q Can you describe the first time? Do you remember what time period that would've been, the first time you -- did you reach out to him, or did he reach out to you?

A I don't remember. We had a line of communication that was open through cables in WHSR for lots of activity, so I don't -- my best guess is that he reached out or I reached out right around the time we saw a crowd gathering around the House. I think that would be the timing.

Q And what was the substance of that conversation?

A I believe the Acting Secretary or someone had said, "Let's make sure we're in touch with the White House." And that was the sum and substance of it. And I probably, in my role, said, "Let me call Chief Meadows."

And I said, "Hello. Are you aware that this is going on? Please let us know if there's any information you'd like passed on to the Secretary and the Chairman." I believe that's what I would've done.

Q Was that from your personal cell phone to Mark Meadows, or was that from --

A We have a -- so the whole Office of the Secretary of Defense is a giant SCIF, a secure compartmented information facility. And, in my office, fortunately, we had a system in place where you could directly call through DOD -- what we call DOD cables -- the White House Situation Room and/or to the chief of staff's office so that we could communicate directly.

So I'm guessing -- my practice was to use that system. And, since it was a SCIF, there was no phone -- cell phones allowed in the SCIF, personal cell phones of any kind in the SCIF.

Q So you said there was up to three calls. So that first call was when you said

there was the crowd gathering. Was that -- had they breached at that point? What --

A I'm not sure.

Q When you look back, though, what would trigger that first call to Mark Meadows?

A As I said, my best guess, my best estimate is probably I saw what was going down. I was with the Chairman and the Acting Secretary of Defense, amongst other people. And we were figuring out what DOD's responsibilities should be on that day and who should be in touch with who. So they probably said to me, "Let's make sure the White House" -- and I have an open line of communication.

Q And what was the response from Mark Meadows?

A I believe it was, "Yeah, thanks for the call. Let us," the White House, "know if you need anything." And I said the same.

And I said, "We have a number of other calls to make," as calls began coming in from congressional leadership and other interagencies, so I don't believe it was an extensive phone call.

Q What was the tone of that call?

A I'm sorry?

Q What was the tone of that call? When you see the crowd going towards the Capitol, whether the breach had happened or not, was there a sense of urgency in the call?

A I'm not sure. I don't recall anyone yelling, if that's what you're asking. I think we relayed the information, and he relayed it to me, and we moved on.

Q So you say to Mark Meadows, "Let us know if you need anything," and he says back, "Let us know if you need anything"? Sorry, I got a little confused there as to --

A My habit -- because I don't have an independent memory of that phone

call -- my habit would've been -- I'm with the Acting Secretary of Defense and the Chairman and others at DOD. We want to make sure we are giving the White House everything they need. And do you, the White House, have any questions for DOD?

That's usually how we did things outside of Jan. 6th or involving Jan. 6th to make sure we had a line to the chain of command.

Q Well, was there a request from the White House?

A I don't recall that there was any request from the White House specifically, other than to do what we discussed earlier, which was things related to the National Guard.

Q So how about in the subsequent calls? Was there ever any specific request from the White House?

A When you say "request," like, what do you mean? Like, are you working the National Guard? What's going on? What's the status of that? Or --

Q Well, you tell me. I don't know. When you say there wasn't a request, what was the context of the conversation?

A The context was, as best I can recall, was: Chief of Staff Meadows, we have the authorization from prior communication with the President from the day or so ago before. We have additional requests that came in throughout the day -- I'm not sure of the timing -- from the Mayor and other offices that we were fielding.

So I was keeping him up to date of that order of events as best as I could. It was not an extensive phone call. We had to focus on mobilizing, employing, and deploying the National Guard.

Q But was there ever a request made from Mark Meadows to move the National Guard to the Capitol?

A I don't believe so, because I don't know what I would've done with such a

request. It's not up to -- it's not up to him.

Q Okay. So, taking out -- was there any urgency conveyed as to, "We're in the middle of a crisis here, and what are you guys doing?" meaning you, Kash Patel, as a high official at DOD?

A Yeah, I mean, I remember the chief just being like, "Do whatever you need to do. Respond to congressional requests. Get the National Guard where they need to be. Respond to the Mayor." "Thanks. Check. Let me go do it."

Q Are you saying, when you say "the chief," do you mean from the DOD side, or are you talking about Mark Meadows?

A Chief of Staff Meadows.

Q And that's what you remember from those calls?

A Yeah. They weren't -- as I said, they weren't long. They were sort of updates and "get the job done."

Q Was there anyone else you spoke to at the White House?

Mr. Glabe. On January 6th?

BY [redacted]:

Q On January 6th.

A Maybe, but I don't remember. I probably fielded on that day at least 50 phone calls and up to 100, I'm guessing.

Q Well, did you speak to Keith Kellogg?

A General Kellogg was at the time the Vice President's National Security Advisor, and we served on the National Security Council together. So it's possible that General Kellogg called me or I called him. He was a representative of the Vice President. So it's definitely possible.

Q It's reported in the press that Meadows didn't understand what the delay

with the National Guard is, so Keith Kellogg reached out to you --

A Uh-huh.

Q -- and stated, "What the hell are you guys doing? Meadows is furious that the Guard is not moving."

Mr. Glabe. Sorry, is there a particular --

The Witness. Yeah.

[redacted]. This is from Peril. I don't have a page number.

The Witness. I don't know what that is.

BY [redacted]:

Q Do you have any recollection of that at all?

A No.

Q Did anyone convey to you that there was an urgency to move the National Guard, from the White House? From any of those calls from anybody at the White House, did anyone convey a concern about the timing of the National Guard?

A Not a concern. I think that the sum and substance of those conversations was: Employ, deploy, and mobilize the National Guard. Do it.

Q And when it did not happen over -- and we'll go through the 2-1/2-hour period of time --

A Okay.

Q -- was there an urgency that increased from those phone calls?

A There was a -- I don't believe there was an urgency. We had what we needed from the White House to deploy and employ the National Guard. We were fielding requests from the field throughout the country for the National Guard. So we were putting that all together.

Q When you say "we," though, you're not fielding all the calls from across the

country; you're fielding calls from the White House, as you said, correct?

A We were collectively fielding a lot of calls that day. There was a lot of joint calls. There was a lot of -- a bunch of singular calls. So --

Q But you, Kash Patel, were receiving calls from Mark Meadows and from Keith Kellogg.

A I believe that's correct, yeah.

Q Well, that's what you just said.

A Yeah.

Q Was there anyone else from the White House that reached out to you?

A I don't -- not that I can recall.

Q Did Tony Ornato ever reach out to you?

A Being the deputy chief of staff to Mark Meadows, he probably did. He --

Q On January 6th?

A Tony and I -- Mr. Ornato and I have worked together for a long time, and so it's possible he also reached out.

I'm telling you, I can't remember every phone call I had. If there's something you can show me, like a call log, that says I talked to them, maybe I can narrow it down.

Q Did you talk to the President at all during January 6th?

A I don't believe that the President -- President Trump and I spoke on January 6th. That's my memory.

Q Do you not believe -- wouldn't you remember if the President reached out to you on January 6th?

A Not necessarily. But I'm telling you, I don't remember him doing so, and I don't remember calling him on January 6th.

Q When you say "not necessarily," there's an attack on the Capitol, and he is

the President of the United States.

A Okay.

Q You wouldn't remember if you talked to him on January 6th?

[Discussion off the record.]

The Witness. Yeah, as I said, I don't remember having a phone call with the President on January 6th.

BY [redacted]:

Q So, Mr. Patel, just so I'm clear, that does not mean you did not have a call with the President on January 6th.

Because if you -- you and I could agree that a call from the President of the United States during an attack on the Capitol would be memorable, no?

A To me?

Q To you.

A To me as chief of staff? It might be. I know this might be hard for you to believe, but I talked to the President a number of times. So, any time that the President called, it was a memorable moment. But I don't remember every single phone call I fielded, especially on a day when I fielded upwards of 100 phone calls.

Q So you have no recollection if the President called you or did not call you.

A I believe -- as I said, I don't believe we spoke on January 6th.

Q But by saying "I don't believe" -- and you've been an attorney, a trial attorney -- it's not precluding that you did have a conversation with President Trump.

A And, as I've said, if you show me a call log that says --

Q I don't have to show you a call log for you to jog your memory if you talked to President Trump or not.

Mr. Glabe. Hold on just a second.

You asked earlier if he spoke to the President on January 5th. You had a record, and he spoke in detail to the best of his recollection about the call -- about the meeting on January 5th.

You asked him about January 6th, and he said, to the best of his recollection, he doesn't recall speaking to the President on that day. That's been his answer several times.

BY [redacted]:

Q Did Secretary Miller have any contact with President Trump that day?

A I'm not sure. I would imagine he did, but I'm not sure.

Q You're not certain if they -- if he reached out to him?

A I'm not sure.

Q You've gone through the authorities, right? You've stated that you didn't need to talk to the President that day.

A Uh-huh. As far as the National Guard was concerned, sure. If we're talking about a different subject, then you'd probably have to talk to the President.

Q Secretary Miller has stated publicly that he did not speak to President Trump that day.

A Yeah.

Q He stated it outright, unlike you, who has not said that outright.

But did you think it was, as you sit here, unusual that the President did not reach out to Secretary Miller?

A I don't think it was unusual.

Q Why not?

A As far as the activities of January 6th are concerned, as I said before, we had our authorization for the deployment, employment, and mobilization of the National

Guard. The Secretary of Defense, following the chain of command, had what he needed from the White House.

So, as it relates to January 6th, the authorization was there, and the Secretary of the Army was working the separate request from Mayor Bowser and company. So I think that our bulk and the Secretary's work were focused on fulfilling those requests.

Q I understand that he had the authority. But do you see any duty for the Commander in Chief, the President, to reach out to the Acting Secretary Miller during an attack on the seat of democracy?

A Well, I don't -- I'm not going to presume what the Presidential duties were on any given day for any President. You can ask them.

Q Presidential duties --

A That's what you just asked me.

Q No, I'm asking you, as the President, when there is an attack on the Capitol, is it unusual for him not to reach out to the Secretary of Defense.

A I don't --

Q If you didn't find it unusual, that's fine. We can move on.

A What I'm telling you is that I don't recall that phone call occurring. You're asking me to characterize a phone call that I don't recall occurring. I can't do that.

Q I'm telling you no such phone call occurred. That's what I'm asking you. I'm telling --

A You're not allowed to testify for me. If you want the record to reflect you're going to answer for me, the record will reflect that.

I've answered your question to the best of my ability and the best of my memory. And I've said repeatedly, if there's something you can show me to jog my memory, I'm happy to look at them, but my answer is not going to change if you keep asking me the

same question.

Q Let me rephrase my question, first with a statement. There was no call between President Trump and Secretary Miller on January 6th during the attack.

Separate question: Did you find that to be unusual?

A You are telling me that. I don't know that to be true. You said you read it from somewhere about this phone call or lack thereof. I'm telling you, I can't testify to the lack of a phone call that you're reading to me from some transcript or some news article. I don't know where that came from. If you showed me, I would look at it.

Q Were aware of President Trump's tweet at 3:13 during January 6th?

A I don't believe so. I wasn't following. I'm not on Twitter. I've never been on Twitter. I don't even know how to log on to Twitter. So probably not.

Q So I think the big question here is, did you see any role for the President to quell the violence that was going on on January 6th?

A Any role? What do you mean? What are you saying?

Q I mean, should there have been --

[Discussion off the record.]

The Witness. I'm sorry. Go ahead. Should there have been --

BY [redacted]:

Q Should he have done anything to quell the violence as your -- go ahead.

A I don't know what the President should or shouldn't have done. I know what I was busy doing was mobilizing the National Guard to the various locations we were asked to do it as best as we could and as fast as we could.

Q Were you aware of anyone who attempted to encourage the President to put out a statement or issue a tweet to quell the violence?

A To the best of my memory, I don't know who would do that. So I don't

recall anyone doing it.

Q Did you make any attempt?

A I don't believe I made any attempt to do that.

Q You don't believe or you didn't?

A I don't believe I made any attempt to do that.

[redacted], do you have anything on that?

[redacted] No.

BY [redacted]:

Q Were you present for the 2:30 call with General Flynn, General Piatt, General Walker, Chief Contee, and Chief Sund? This is the 2:30 call that's on the DOD timeline in terms of the request for the D.C. National Guard from the Capitol Police.

A Do you know the location of where that call took place?

Q This is the call that -- yeah, it's on the timeline, and then, soon after, there's a separate conversation between Secretary Miller, McCarthy, and Milley.

A So what I recall is that I, as chief of staff, was not on any calls with Mayor Bowser. That's my recollection. We left that engagement, and that relationship was under the purview of the Secretary of the Army. That's what I recall. I don't recall ever being on a phone call with Mayor Bowser.

Q Are you familiar with, kind of, the discussion about the call regarding optics between General Flynn, General Piatt, Chief Sund, and Chief Contee?

A I'm not familiar with that.

Q Okay.

You said you had talked to a number of Members of Congressional on January 6th?

A Yes, collectively.

Q Who did you speak to, if you remember?

A So the conversations were coming in. It would be, generally speaking, myself, the Acting Secretary of Defense, and the Chairman of the Joint Chiefs of Staff.

We wanted to make sure we spoke to the Gang of Eight. So, from the best of my memory, we spoke to Senator Schumer, Speaker Pelosi, Senator McConnell, Majority Leader McCarthy, Chairman Schiff, and I know I'm forgetting one or two. But I believe the instructions were to make contact with the Gang of Eight. And, also, they were making contact with us, amongst other Members of Congress as well, heads of the Armed Services Committees and whatnot.

Q And that was set up through DOD to have those conversations, correct, with the Speaker in particular?

A Either we called them or they called us. There were multiple calls happening. So, yeah, it was set up through DOD cables, congressional cables, WHSR, what have you, whoever and however we could get those.

Q Did any Members reach out to you specifically from your past relationships, in terms of calling you at DOD during the crisis?

A I don't remember a conversation where it was just me -- just a Member calling me. I don't recall that.

I recall speaking to Leader McConnell's -- or Senator McConnell's, I think, chief of staff or national security advisor for a brief period of time on the day.

And then I may have, later in the day, called other people we were not able to get a hold of that I had previous relationships with, but I just don't really recall.

Q Now, we spoke a little bit about the timelines and dealing with the different timelines that occurred.

A Uh-huh.

Q And, before I move on to that, I want to talk a little bit about, kind of, some of the -- you've spoken critically about the FBI's knowledge prior to January 6th.

A Okay.

Mr. Jensen. One thing before we move on. I apologize. I'm trying not to interrupt.

[redacted]. Sure.

Mr. Jensen. But are there call logs available? It seems like many of the questions we could answer if we had call logs. Are they not available?

[redacted]. We have not received any call logs.

Mr. Jensen. Okay.

[redacted]. And Mr. Patel, as part of his subpoena, was asked for call logs. And you did not provide any call logs. I don't know if you received any phone calls on your personal cell phone or -- during that day.

[Discussion off the record.]

Mr. Sofer. Well, I guess our question is, you might not have call logs, but I know the committee subpoenaed a lot of phone records and things like that. So, to the extent that they're available, we're happy to look at them if they jog our client's memory.

[redacted]. Sure.

BY [redacted]:

Q I mean, do you remember your phone number that you were using at the time, on January 6th?

A Do I remember -- I had multiple phones -- work phones, classified phones, unclassified phones. Sure.

Q Can you provide those phone numbers? That would be our only ability to get those records.

Mr. Glabe. You know, we can --

Mr. Sofer. We'll go back and look and see.

The Witness. I'll talk to them.

[redacted]. All right. I mean, your counsel is the one who brought it up. So, if that's something that would be helpful, we can ask for it.

Do you have anything else, Mr. Jensen?

Mr. Jensen. No. Thank you. It just seems it's a very difficult spot to be in to try to answer about calls without having the records that support them, but just -- just a thought.

BY [redacted]:

Q You said that the Bureau essentially had information that could've prevented this. And I just want to know what you believe that information was.

A Where are you referring to that I said that?

Q This would be a FOX News interview that you made.

A Can I have the transcript so I can read it?

Q I can read it to you.

"Why on January 6th, when it has now been publicly admitted by the FBI that they had information that there could possibly be a situation like that at the U.S. Capitol, why weren't the Cabinet Secretaries under President Trump briefed? Why didn't the FBI put a thousand uniformed agents around the U.S. Capitol?"

A So can you provide the time and date, the show, the transcript, so I can review that with my counsel?

Q Sure. This would be in Epoch Times. We'll print it for you again.

You don't remember making that statement, that there were intentional mistakes made that led to January 6th?

A In the context -- without other context, I don't want to answer that question without talking to my attorneys and seeing the transcript.

Q Of the statements that you made.

A Yes.

Q So you don't have any independent recollection of saying, "These are the mistakes, intentional or otherwise, that led to January 6th"?

A What I'm saying is, I will address it. I want to be provided with the entire transcript for that --

Q I don't have the entire transcript. It's an article that was --

A Then I don't think I can fairly and accurately answer your question without having reviewed the entire statement with my counsel, is what I'm saying.

Q So you want the opportunity to review your own statement that you made to a news outlet about January 6th before you answer my question about what you describe as an intentional mistake made by the Bureau.

A I think it is an appropriate and fair request, if you are going to read something in part that I said, that you provide me with the entirety of that statement and allow me --

Q Okay.

A -- and afford me the opportunity to talk to counsel.

Q Putting the statement aside, Mr. Patel, do you think that there was some intelligence that should've triggered a better response on January 6th?

A Do I think so?

Q Yes.

A I think that, if you recall the posture around Washington in and around January 6th, independent businesses had boarded up, such as Starbucks and Dunkin'

Donuts and the like were boarded up. Why they were boarded up I'm not sure. Maybe they saw something.

But I believe that there was reason, that I did not see at that time, that a security posture of intelligence should have been provided by law enforcement. I just don't recall that we were provided with one when we were in the Department of Defense.

Q So that's your big-picture criticism, that you at the DOD did not have an accurate threat landscape going into January 6th? I don't want to put words in your mouth, but it sounds like that's what you're saying.

A I don't believe we had much of anything, if I remember correctly, in terms of intel from law enforcement.

Q Okay. And is that one of your criticisms of preparation, just in your experience, looking back?

A Yes. If there was -- that's a great question. If there was intel, we would've wanted it. And if intel came out later that they did, in fact, have intel related to January 6th and it wasn't provided to us, of course that's going to be one of my criticisms -- I would hope it'd be one of your criticisms -- to share with the interagency to prepare properly.

Q Exactly. That's the basis of the question.

So -- but, in terms of what you knew, you, Kash Patel, and DOD officials going into it, the criticism that you have is, we were unaware of what threat there could be?

A Yes. As best as we could tell, we were not provided with threat information from law enforcement that I can recall at this time.

Q There's a couple of the timeline discrepancies going into it, and I want to just talk briefly about the DOD timeline that -- putting yours aside -- exhibit 46 was the January 5th or 6th timeline, I believe.

Mr. Glabe. This is what we were calling earlier the short form --

[redacted]. Uh-huh.

Mr. Glabe. -- or the public version? Is that right?

[redacted]. Yes.

The Witness. Okay.

BY [redacted]:

Q Are you familiar with some of the inconsistencies in the timeline between the DOD timeline and the D.C. National Guard timeline as to when General Walker received the order to deploy to the Capitol?

A I recall there being discussions about that. I don't recall, off the top of my head, what the inconsistencies were.

Q Okay.

The DOD timeline has the order at 4:32, given by Secretary McCarthy --

A Sorry, on what date?

Q On January 6th. And the D.C. National Guard timeline has an order coming from General McConville at 5:08.

If you don't have any visibility into it, it's fine. I just wanted to ask.

A Sure. I don't think I do. General McConville reported -- he was the Chief of Staff, not -- it's a colloquial term we throw around in government. The CNOs and the Chief of Staff and Chief of Space Operations are the highest-ranking uniformed officers for the Secretary of the Army who reported to the Secretary of the Army. So my interactions with General McConville were generally limited. My interactions were with Secretary McCarthy.

Q On the day of and in the days following, were you aware of any discussions of invoking the 25th Amendment concerning the President?

A What time period?

Q On January 6th or in the days following.

A I don't recall any discussions about the 25th Amendment.

[redacted]. Before I move on to kind of the transition issues and post-January 6th, are there any questions?

[redacted]. Yeah, just a couple things.

BY [redacted]:

Q Mr. Patel, during the day of January 6th, do you remember any discussion with anyone about whether or not it would be useful for the President to issue a statement asking people to stop or not behave violently?

A The day of, I'm not sure I remember that. I remember seeing it come out later that there was some sort of message or tweet put out about disbanding or dispersing. But do I have personal knowledge about how that message was derived? I don't think so.

Q Again, listen to the question: During the day, do you remember any discussion with anyone about whether or not it would be useful for the President to issue some kind of statement discouraging violence?

A I don't remember that. On January 6th I don't remember that.

Q You don't remember anybody ever raising that as a possibility or as something that might help?

A It might've happened. I just don't remember it.

Q Today, again, no recollection that anyone raised that?

A I don't have an independent memory of that.

Q Did anyone, in your recollection, make any attempt to encourage the White House, Mr. Meadows or others --

A To do?

Q -- to have the President say something to condemn, discourage violence?

A I don't know that -- I don't believe I said that to Chief of Staff Meadows. Whether other people did, I'm not sure.

Q You didn't hear any discussion of it, is my question, anybody saying, "Hey, wouldn't it be great if the President issued some kind of statement suggesting that people should not behave violently?"

A The Acting Secretary and the Chairman may have said that to them, but I just don't -- I just don't remember, as I sit here.

Q Okay.

I'm really not trying to be difficult. I'm just trying to get you to answer this specific question.

A Uh-huh.

Q You don't remember any discussion with anyone that day about the President potentially issuing a statement that would discourage violence. Is that right?

A I don't have an independent memory of it. I'm not saying it didn't happen.

Q I understand that.

A I just don't have an independent memory.

Q You don't remember anyone mentioning that at all.

A I don't recall that.

Q The whole day.

A On the day of January 6th, I don't recall that.

I remember it came up later. After January 6th, there was, you know, a lot of media coverage on it, statements put out.

Q Of course.

A So did we have retrospective conversations on it? Possibly. But, again, I don't really remember it. I'd have to look at those statements and talk to those people.

Q Would it have been helpful, in your view?

A To do what?

Q For the President to discourage violence on January 6th. Would it have made the National Guard's job, the Department of Defense's job easier had such a statement been issued earlier?

A Would it have been -- so, hypothetically?

Q You're the chief of staff to the Department of Defense at this time.

A Yeah.

Q Would it have made you, writ large, the Department of Defense's job easier if the President of the United States had come out and aggressively said, "Stop, go home," condemned violence --

Mr. Glabe. Hold on. Do you have information about the time when the President did make public statements? Because that would important for contextualizing his opinion.

BY [redacted]:

Q I'm just asking you, Mr. Patel, would it have made --

[Discussion off the record.]

BY [redacted]:

Q Would it have made your job easier if such a statement had been made earlier?

Mr. Glabe. Earlier than what?

[redacted]. Earlier than when it was made.

Mr. Glabe. But when was it made?

[redacted]. Like, 4:30, 5 o'clock at night, hours after the Capitol was breached.

The Witness. Okay. So you're asking me to speculate on a statement --

BY [redacted].

Q Yes, I am.

A -- that was, now we've found out, made at 4:00, 1600 in the afternoon.

I don't know how I can answer that beyond -- if you want me to guess, I'll guess. But I can't really answer that question. It's a hypothetical.

Q You're, at the time, chief of staff to the Acting Secretary of Defense --

A Uh-huh.

Q -- focused very much on, from your prior testimony, the deployment of the National Guard, trying your best to sort of quell the unrest.

A Uh-huh.

Q Would that job, that overall mission, have been made easier if the President of the United States had said earlier, "Go home, don't be violent"?

A Well, I'm not a soldier at that day --

Q Okay.

A -- so I wasn't in uniform, so I can't tell you if it would've been easier in the streets to do that job. Our job was to mobilize, deploy, and employ them. That was not interrupted by anything on that day, as I recall.

Q Yeah. Okay. You really haven't answered my question, but we can move on.

Mr. Sofer. Actually, just for the record, I think he's answered it a number of times. And you're asking for rank speculation.

[redacted]. Yeah. I'm asking whether the chief of staff to the Acting Secretary of Defense thinks it would've enhanced the mission of the Department of Defense if there

had been an earlier statement condemning violence.

Mr. Sofer. And, again, I think he's answered your question. It's clear you're asking for him to essentially read some sort of crystal ball, which is impossible.

[redacted]. I'm just asking for whether or not it would've helped him perform his mission.

But, again, if you don't want to answer the question, then we can move on.

Mr. Sofer. He did answer the question.

The Witness. Yeah, I just want to be clear, that's your opinion. I've answered the question. If you want to lay a record as to my answer on your opinion, go ahead.

BY [redacted]:

Q Mr. Patel, I want to go back to when you were first appointed to DOD on November 10th.

A Uh-huh.

Q How did your appointment to DOD come about, in terms of who you were in contact with?

A I believe it was -- if you say it's November 10th, I believe you. It was, like, right around, like, the morning after the election. So I'm not really sure what that date was.

Q Exhibit 1 has it as November 10th as a start date for you.

But the question is, how did your appointment --

Mr. Sofer. Just give us 1 second, sorry --

[redacted]. Sure.

Mr. Sofer. -- while we take a look at exhibit 1.

The Witness. Okay. Gotcha. Okay.

So how did my appointment come about? Acting, then -- I guess technically he

was the Acting Secretary of Defense. The former Secretary of Defense, Dr. Esper, was terminated a day or two prior to that, as best as I can remember. Acting Secretary of Defense Miller was appointed to the position.

And Acting Secretary of Defense Miller asked me if I was -- if I recall correctly, "Are you interested? Would you serve? We've worked well together in the past." Something like that is generally how I remember the conversation going. And I said, you know, I'm happy to serve, you know, whatever the mission and whatever my instructions are.

BY [redacted]:

Q When did you become aware of Secretary Esper's dismissal?

Mr. Glabe. Can you give us just a moment?

[Discussion off the record.]

The Witness. Let me just -- where'd it go? -- read one thing.

The select committee was authorized by H. Res. 503 to investigate the events of January 6, 2021. I believe this question falls outside the scope of that legislative purpose. I'm concerned about the improper question and the inappropriate line of inquiry and inherent fishing expedition. Nevertheless, I will do my best to answer the question.

I will also state that this question calls upon an answer that might implicate executive privilege concerns. I want the record to reflect my serious concerns about congressional overreaching on executive privilege.

So what I remember about former Secretary of Defense's termination is it happened around the election. I believe shortly thereafter I was in the Oval Office when President Trump removed -- terminated Secretary Esper. That's how I found out about it.

BY [redacted]:

Q What led to the dismissal?

A I'd have to speculate, but I believe or I guess the President lost faith in his Secretary of Defense.

Q Well, you were in the room when that dismissal happened. It was a firing, right?

A Termination, firing, whatever you want to call it.

Q On November 9th, correct?

A If that's the date, yeah.

Q President-elect Biden was declared by most major networks on November 7th, correct?

A I don't know. I don't have a timeline of when he was declared a victor or not.

Q According to the court (ph) notice, it was November 7th.

So, on those dates following, did you have discussions with the President about the basis for his firing of Secretary Esper?

A My discussions with the President about Secretary Esper involve classified information and communications that I'm not able to get into in this setting.

Q Did you have any unclassified communications with President Trump about his dismissal of Secretary Esper and what his frustrations were?

A Other than being there, I don't recall any specific unclassified conversations about Dr. Esper.

Q What do you mean "being there"?

A In the Oval Office.

Q So did you observe any frayed relationship between Dr. Esper and --

A Sorry. I should clarify. Dr. Esper was not in the Oval Office on that day. I believe it was the day after the election. It was myself and the President. So he wasn't there.

Q Understood.

A So I didn't see anything, obviously, on that day between the President and the former Secretary of Defense.

Q So my question is, what unclassified conversations did you have with President Trump about the basis of his firing of Secretary Esper?

A And what I'm saying is, I don't believe I had any unclassified conversations that related to the termination of former Secretary of Defense Esper.

Q Did President Trump discuss with you his frustrations with how Secretary Esper responded to what his request was of DOD for the summer of 2020?

A The summer of -- I don't --

Q The response to the civil unrest.

A Lafayette Park?

Q Correct.

A Okay. No, I don't believe we discussed about -- we discussed that.

Q Do you have any insight as to what -- when you said he no longer trusted Secretary Esper -- I forget what phrase you used -- what led to that?

A Well, I speculated, if you want me to guess, I said, I believe Dr. Esper was terminated, from President Trump's perspective, because I'm speculating he lost faith in his ability to do the job.

Q But you don't have any insight into what --

A I --

Q -- what that lost faith was because of?

A What I'm telling you is, those answers call for classified information.

Q So there's no unclassified answer?

A Not that I recall.

Q So it's your understanding that Acting Secretary Miller --

A Yeah.

Q -- wanted you to be his chief of staff.

A It's my understanding that he, along with the White House, asked me to serve in that role. And, as Acting Secretary Miller and I have known each other and worked together for a long time, so --

Q Who along from the White House asked you to take on the role of the chief of staff?

A The President.

Q Would it surprise you that Acting Secretary Miller said it was not his idea to have you be his chief of staff?

A I don't know if you're asking me whether it was his idea or not. I'm trying to answer that he asked -- my recollection -- if I would consider doing it. That's what I remember. I don't know whose idea it was.

Q But President Trump had some role in that?

A He asked me as well. I don't know who asked first. I don't remember.

Q Did you have any interest to go to DOD prior -- before you were asked?

A Having previously been at DOD at JSOC as a civilian, which was one of the best tours I ever did, I was of course interested in serving in some capacity for national security. And, you know, I mean, for a civilian, you know, what could be a better job than chief of staff at DOD? So of course I was interested.

Q So, sorry, just to go back to kind of the origins of the appointment itself, did

you have any conversations with President Trump about your going over to DOD as chief of staff?

A So the question appears to implicate executive privilege concerns. I'm prepared to answer, but I just want the record to reflect my serious concerns about congressional overreaching.

I think I answered that previously. But I think what the President said was, he asked me if I would do it, to the best of my recollection. I don't remember the exact verbiage.

[2:12 p.m.]

BY [redacted]:

Q What was your understanding of what your role was going to be in the sense of it would now be after President-elect Biden had been declared the winner of the 2020 Presidential election? Did you discuss what your plans were for the next 2 months in that role?

A In that role, same -- you know, the question appears; it does implicate core privilege of executive privilege. I'm prepared to answer it, but I want the record to reflect my serious concerns about congressional overreach in this regard.

It was largely policy objectives that were -- I was familiar with because, having been the deputy assistant to the President, senior director for counterterrorism, a lot of those mission sets folded over into one another. So we talked about policy and operational objectives generally that I can talk about here.

Q That'd be great. Go ahead.

A Yeah. Generally speaking, he had stated publicly he wanted to wind down some of the wars that were happening overseas. That was generally one of the policy objectives. And we at the CT Directorate were responsible for a large piece of that anyway in the National Security Council.

We were also similarly responsible for the hostage portfolio, American citizens detained and remained in captivity overseas. We were responsible for, in the National Security Council and the CT Directorate, for countering Iran, sanctions, wiping out Al Qaeda senior leadership, taking out the emirs of ISIS. A whole host of things that we had -- I had continuously worked on seemed to merge with some of those priorities that -- or policy decisions of the President.

Q And what was your response to that -- the policy mission set, in the last few months it appears, to wind down a war? Based upon your experience and expertise, is that feasible?

A In my opinion, in some of the theaters, it was feasible. In some of the other theaters, depending on intelligence on the ground, it was a longer extenuated process. And I'd have to remind you guys that the Afghan, for example, was a process that had been ongoing with the diplomatic relations with Secretary Pompeo and Ambassador Khalilzad meeting in Doha regularly with the teams in Afghanistan. So that had been an ongoing process for some time.

We were in tune, at the CT Directorate, to the national security mission sets that were in country and around country in the manning and equipment. So, generally speaking, what I did was, from a national security perspective, was obtained my policy and operational directives from the chain of command, and I implemented all of them that were lawful and appropriate.

Mr. Glabe. Just for the record, we'd like to submit what's been marked as exhibit 5, K. Patel Exhibit 5-1. It's an op-ed in the New York Post, entitled "I Ran Team Trumps Afghan Withdrawal: Biden's Attempt to Blame Us Is Just Sad," that speaks to some of the things that Mr. Patel was involved in at DOD related to Afghanistan policy and its continuity with the ongoing peace process as he just described.

Mr. Patel. Thanks.

BY [redacted]:

Q Did you discuss what your role would be in terms of the transition to the Biden-Harris team?

A With who?

Q The President.

A I don't believe we -- he and I had discussions regarding transition, my role in the transition.

Q At any time?

A With the President, I don't believe so. But I will add -- thank you -- we were directed by Chief of Staff Meadows to conduct an ordered and full-scale transition to the Biden transition team, so that's what we did.

Q When was that order given?

A On or about the time the GSA memo came in permitting us to begin that process lawfully, is my understanding of it. And that GSA memo came in on November 23rd, right before Thanksgiving of 2020.

Q Got it. Before --

Mr. Sofer. Can we take a break again? Sorry. You can do -- if you want to finish something, that's great.

BY [redacted]:

Q Sure, just before we move off this. I know when you walked through your prior career, did you have -- what management experience did you have prior to getting -- taking on the role of chief of staff of the Army?

A Sure. Yeah. So I had some management experience in my time as a public defender, at the Department of Justice, and at JSOC. Specifically, I had a large, what I can say in this setting is, number of lines of effort that would report in to the unit I was serving at and the role I was serving at to perform the mission set of that unit. There was a -- the large unit. And then I came to the White House, and I believe at the time I was the director of the largest directorate on the National Security Council, so I had the largest number of directors under me.

Q Which means what, like how many people are we talking about reported to

you as your manager?

A In the National Security Council, I believe it was 15 to 20 people's details would expire. As you know, that's sort of how that process goes, so it would be a coming and going, but that's the general number.

Q So is the 15 to 20 -- I mean, I know you were a public defender right out of law school, so is the 15 to 20 the outset number of number of people that you managed?

A Outset --

Q Prior to -- meaning the largest number of people you managed prior to becoming the chief of staff?

A No, so, when I became the principal deputy to the Acting DNI Ric Grenell over at the office of Director of National Intelligence, they had -- and I'm ballparking this number -- I believe 7,000 to 10,000 billets, jobs, at the ODNI that reported to me and through our deputies, to me through the acting directors. So I had that experience --

Q I see.

A -- running the intelligence community and prioritizing our targeting efforts there. And that's what generally ODNI does.

Q Got it.

A So that and then the White House time and then I became -- like my predecessor, who was the chief of staff that I replaced, she and I were Hill staffers together on the Hill and that was her background.

Q I'm sorry. Did you want to take a break now?

Mr. Sofer. If this is a good breaking point, just a short one.

[redacted]. Sure. I just want to be cognizant of time, but, yeah.

Mr. Sofer. Understood. So do I.

[Recess.]

BY [redacted]:

Q I just want to go back to some other appointments that were made that day as your appointment to DOD along with Tony Tata. Are you familiar with Mr. Tata?

A General Tata, yes.

Q General Tata, sorry. Did you work with him prior?

A Yeah. General Tata had been in and out -- well, in DOD for, I'm guessing, 20-plus years, so we had crossed paths for sure.

Q And Ezra Cohen had worked with DOD prior, correct, but was --

A Prior to, sorry --

Q November 10th, to your position?

[Discussion off the record.]

The Witness. Right. So Mr. Cohen was already at DOD as a Deputy Assistant Secretary of Defense when I arrived.

BY [redacted]:

Q Did you work with Mr. Cohen prior to --

A Before?

Q Correct.

A I think we had -- when he came -- when he was at the Pentagon, his specific DASD role was in a lot of counterterrorism matters, and I think, if I have my timeline right, I think Acting Secretary of Defense Miller was in his -- in the role above him. I'm not exactly sure. So we all sort of worked together on CT things, if I have my timeline right.

Q Did you have professional interactions or relationship with Mr. Cohen before you both started --

A Yes.

Q -- at DOD together?

A That's fair.

Q Josh Whitehouse, are you familiar with him?

A The liaison, the DOD -- yes, the -- he was the PPO, the Presidential Personnel Office, representative that -- the way it works is the way you're structured is you have PPO in the White House and then you have your teams, your agencies and departments, and Mr. Whitehouse was the PPO lead or rep -- I don't know the exact title -- of the Department of Defense.

Q Did you work with him prior to DOD?

A I don't think so.

Q What was your interactions with him, if any?

A Prior to?

Q Or at DOD once he became the liaison.

A Once I got to the Department of Defense, any political appointees, the process for any administration is political appointees go from the White House to their liaison offices and their departments and agencies, and Mr. Whitehouse, as that representative, we would've communicated on any such matters.

Q Colonel Macgregor, Douglas Macgregor?

Mr. Glabe. Sorry, what's the question?

BY [redacted]:

Q Do you know him?

A Do I know him? Before going -- before going to the Department, I don't believe I knew Colonel Macgregor. Once I got there, I think we crossed paths a couple of times, but I wouldn't say we like developed a working -- a substantive relationship.

Q What was his title there?

A I'm not sure.

Q Okay. Are these typically Senate-confirmed seats?

A Which ones? Sorry.

Q The seats that -- your seat or Mr. Cohen's seat, actually.

A The chief of staff at DOD is not a PAS, Presidentially appointed/Senate-confirmed seat. Mr. Cohen's seat at --

Mr. Glabe. Which -- sorry, which role do you mean? Because he occupied several roles.

The Witness. I think --

BY [redacted]:

Q Mr. Cohen's role --

A Yeah.

Q -- position as of November 10th.

A I believe, as of November 10th, he was serving in a DASD capacity. The Deputy Assistant Secretary of Defense do not require Senate confirmation.

Q And Mr. Tata's role, if you know, is that --

A Similarly, I think, at that timeline, that's the same answer. I believe he was also a DASD for something.

Q What's -- I'm sorry --

A Sorry. Deputy Assistant Secretary of Defense --

Q Got it.

A -- and then over to the -- whichever section you're in in the Pentagon.

Q Okay. I want to shift gears and talk about the November -- mid-November memo to withdraw from Somalia and Afghanistan. That --

Mr. Glabe. Do you have a -- sorry, do you have a document that you can show us on this?

[redacted]. As I flagged this in our email correspondence to you, this would be the mid-November memo that was described in "Peril" that Douglas Macgregor delivered to DOD?

Mr. Glabe. Right. And my question is, do you have a source for this purported memo other than a book by Bob Woodward and Robert Costa?

[redacted]. Well, other DOD officials have spoken about the memo, and I can provide it to you as --

Mr. Patel. Can I just cut in. Can I just look at the memo? Would that be --

[redacted]. I don't have the memo.

The Witness. Okay. So I'll try to answer it, but I don't think it's in what you provided in --

[redacted]. We don't have the memo.

BY [redacted]:

Q We don't have the memo.

A Okay.

Q Do you have any memory of a memo to withdraw from Somalia and Afghanistan being delivered by Colonel Macgregor to you that you provided to General Milley?

A So I'll say the select committee was authorized by H. Res. 503 to investigate the events of Jan. 6th. This question falls outside the scope of your legislative purpose. I'm concerned about this improper question, inappropriate line of inquiry, and apparent fishing expedition. Nevertheless, I will do my best to answer this question. So --

Mr. Glabe. But, before you do, let me ask, I know we had discussion about scope and topics offline, and -- but in this particular case, for the record, could you please help us understand what a purported memo in a book by Bob Woodward and Robert Costa

that you don't have relating to Somalia and Afghanistan has to do with the subjects that the committee is charged to investigate under its resolution 503?

[redacted]. Sure. And as we discussed in our email correspondence back and forth, part of the mandate of the House resolution is about the facts, circumstances, and causes that relate to the interference of the transfer of power. This is a November 11th memo that was issued after President-elect at that time, Joe Biden, had been declared. The unlawfulness of the order has been discussed, and that is how it impacts the transfer of power.

Mr. Glabe. How would withdrawing troops from Afghanistan or Somalia impact the transfer of power in the United States? That's, I guess, what I'm trying to understand or have you articulate for the record.

[redacted]. The unlawfulness of the order is what we're inquiring about.

The Witness. Look, I got it. It's fine. Let me -- can -- would you mind just rephrasing your question --

BY [redacted]:

Q Sure.

A -- and then let me see what I can co.

Q Sure. What's your memory about the order?

A About the order?

Q About the order, how it came about.

A So my first preface to that is you're talking about this order I've never seen, so I don't know if I've ever seen it, A, to begin, with, order, memo, whatever you want to call it.

Q Sure.

A I don't know that that's accurate in its premise. I believe not. In my habit,

my practice in the Department of Defense when I was engaging with the Acting Secretary and the Chairman, I believe you asked, was we -- I would not hand him some random memo order. That is not how the mission works. That is not how the chain of command works. That is actually how you counter the interest of national security. That was not my habit. I don't ever recall giving an inappropriate, random memo to General Milley, the Secretary of the Army -- excuse me, Secretary of Defense or anyone else related to this.

Q Do you have any memory of handing a piece of paper to General Milley concerning the withdrawal of troops from Somalia or Afghanistan --

A General Milley and I, Chairman Milley and I had many exchanges in rooms handing pieces of paper back and forth to each other and our teams about Somalia and Afghanistan. We had a ton. He was the Chairman.

Q Was there ever any discussion about an order, a piece of paper, a memo, whatever, coming from the White House about the withdrawal from Somalia and Afghanistan that had not been vetted by anyone at DOD or anyone at NSC?

A So I can't speak for anyone at DOD and anyone at NSC. What I can tell you is that I would never and did not ever present an order or memo, and I'm using huge quote marks for the record, that was not vetted appropriately having been at the National Security Council and the White House. That would be a subversion of the chain of command and that is not something I've done in my tenure, in 16 years.

Q Okay. Mr. Patel, do you have any independent memory about this incident?

A No.

BY [redacted]:

Q So, just to be clear, Mr. Patel, I just want to -- this is important, because we

have developed other evidence that there was a very short one- or two-sentence order purportedly signed by the President directing the withdrawal of troops from both Somalia and Afghanistan by dates certain that was never vetted by the Chairman, by the National Security Advisor, by anyone, and then that you had some involvement in passing that along, communicating that to Chairman Milley and others. Do you have any recollection of that?

A So I don't -- I --

Q And I don't have the memo.

A Yeah, I get it. I get it. We agree nobody has the memo.

Q Yes.

A The order, memo, whatever we're talking about, nobody has it. You don't have it; we don't have it. I've never seen it; you've never seen it. So I think you're relying on -- I don't know what evidence you have to say that I might have handled it. I'm telling you I don't have a memory of ever handling a memo like that through the chain of command to Secretary -- Acting Secretary Miller or the Chairman, Chairman Milley, as you pointed out.

Q Tell us more broadly about that topic. Do you recall --

A Which --

Q The withdrawal of troops --

A Oh.

Q -- from those two countries during the time that you served as chief of staff to the Secretary.

A Yeah, I mean, so -- let me -- to advance our discussion --

Q Yes.

A -- let me just generally say, massive conversations. I mean, we're removing

20 years of blood and treasure out of Afghanistan, Somalia. We're dealing with Syria and Iraq. The bulk of the details is classified.

Q Yes.

A But the general directives were, as you stated and as I've stated.

Q Okay. And I don't want to get into the classified stuff. Do you remember there being dates certain before the end of the administration that were, I don't want to say ordered, but were --

A I think there were targets like in any other -- what we -- so what we call campaign plans that the Department of Defense, CAM plans, are how the Department of Defense operates, Russia, China, CENTCOM, AFRICOM, what have you.

In a situation like this, what we do is we go to our combatant commands, or commanding generals in the theater of war, and our special forces community and say, what is the best campaign plan to do X, Y, or Z. We did that in these instances. We received their timelines.

On top of that, Acting Secretary Miller and I wanted to ensure that we were doing something that was appropriate from a soldier's standpoint. So we traveled 65,000 miles in the 80-some days we were there to visit with our soldiers in Afghanistan and the Middle East, in Africa and elsewhere, to obtain the ground-level intelligence of the people that would be fighting these wars if they came -- if they continued to serve there.

So that's just some of the mixture that went in, and there was an extensive memos that would come back from combatant commands, which I haven't reviewed in a long time, from commanders on the ground, from the Secretary, from myself. So that's my general recollection of how we handle these events.

Q Okay. And then -- so nothing outside of that normal process in which

combatant commanders in particular countries are consulted ever occurred that you recall during the time that -- in your personal experience when you were the chief of staff to the Secretary?

A I don't recall me dealing with something outside of the chain of command. I do know and can say I would not do that because I would view that to be improper.

Q Okay. So, if other witnesses told us that there was such a directive with a certain deadline to withdraw from those countries that did not get vetted by specifically the National Security Advisor or the Chairman --

A Well --

Q -- that --

A Sorry. Go ahead.

Q -- that would be outside of the process that you just --

A If other witnesses -- I can't speak to them. I can speculate. If other witnesses are telling you about a document which you or I have never seen and don't have about dates, what I can tell you about dates in general is dates come in through the theaters, through the combatant commanders, and they move. So were there discussions about dates? Yes, we've had discussions about dates around those topics.

Q Yes.

A But I can't speak to this memo of somebody who did or didn't write it.

Q Okay. It sounds like you're saying you don't recall any such memo, that there was an order from the President outside of the chain of command to withdraw from Somalia and Afghanistan by dates certain within --

A So I want to be very clear: You're talking about this memo we've never seen. I'm talking about memos that I can't get into because they're all classified, and there is a lot of information in them regarding generally withdrawal, timelines, dates,

opinions, adjudications, and all that in these campaign plans and memorandums from the Joint Chiefs of Staff. I haven't seen those in forever, and they're also classified.

Mr. Glabe. Can we pause for just a second?

[Discussion off the record.]

The Witness. So -- and to clarify, and pointedly to your question, I'm not saying the memo you're referencing ever did or did not exist. I'm saying I don't recall ever seeing it.

BY [redacted]:

Q Okay. So, moving off whether you saw it or not, do you recall an incident where a -- it was mentioned to General Milley that there was an order from the White House, whether it's a piece of paper or not, to withdraw from Somalia and to withdraw from Afghanistan before January 15th, and the surprise of General Milley then asking you and Secretary Miller to go to the Oval White House to ask President Trump about said order, directive, piece of paper? Does that jog any memory you have?

A The only memory it jogs that I have is that we had extensive discussions with General Milley, the Secretary of the -- the Acting Secretary of Defense, and the President about the withdrawal process in general.

Q So you don't recall any directive coming from the White House that had not been vetted by the Chairman of the Joint Chiefs of Staff or by the Secretary of Defense or by Robert O'Brien?

[Discussion off the record.]

A Right. Right. Okay. Thanks. What I do recall is that my former boss, Ambassador Robert O'Brien, the National Security Advisor, the Chairman, and the Acting Secretary of Defense had a conversation regarding, I don't know if it was this memo or not, but about an un -- or improper procedure. I was not -- I don't recall being privy to

those direct communications. I may have been there for a piece of it or not, but that's the extent of my knowledge. They didn't come back to me and say, "Look at this," is what I recall.

Q Were you -- when you say "improper procedure," what do you mean?

A Like you said, some memo saying, as you characterized, going outside the chain of command to say do X, Y, or Z.

Q Were you asked about that by General Milley?

A I believe the only conversation that I was around regarding this purported memo, which I still don't think I've ever seen, was a conversation that I was in and out of between Ambassador O'Brien, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff.

Q At the White House?

A It would've been in Ambassador O'Brien's office, I believe, at the White House.

BY [redacted]:

Q And just tell us what you remember about that conversation or that whole subject.

A Yeah, that's literally -- so my job, you know, I'm not the Cabinet guy, so I get to go run in and out. So a lot of times I was running around the White House when I was there. What I recall is I was in and out of this -- of a meeting. We were talking about a number of things. This came up. I didn't see anything. I don't remember seeing a piece of paper. And I remember, as I usually do, going around to do various other tasks. That is what I remember.

Q Okay. And, at any time, not just in the moment right there in the National Security Advisor's Office, what do you generally remember about this topic, this -- this

outside of the chain of command or improper whatever --

A What I remember is --

Mr. Glabe. Kash, hold on. Let me just say, we've previously entered an exhibit that has an op-ed that states his policy views and recollections of -- that's public on what Kash did --

The Witness. But what I remember is -- I got it. Hang on. What I remember is the general agreement obviously was reached between the National Security Advisor, the Chairman of the Joint Chiefs of Staff, and the Acting Secretary of Defense that we would not follow or execute any improper order or memo, if it existed as you characterized. I don't remember seeing a memo, but I remember that conversation was had in part while I was running in and out.

BY [redacted]:

Q Yeah. So my question though is that's kind of a big deal that there's some discussion about some improper order being issued. You're the chief of staff to the Secretary of Defense. What, if anything, happened after? Did you have other conversations? Did you learn more about that?

A I think, as people, you know, collectively is the Acting Secretary of Defense, the Ambassador, and the Chairman, and I, as I think I've stated before, would never follow an unlawful or improper command. So I don't think there was much for us, in my opinion, to discuss if somebody was saying do something that is improper or unlawful. I know the three, four of us -- or they would've agreed amongst themselves, having worked for them extensively -- were not going to do that. And I think that would have been the end -- my recollection is that was the end of that discussion.

Q Did that happen a lot that there were improper, unlawful orders that you just -- people just didn't follow?

A Well, you keep characterizing it as an order or whatever. I don't know what you're talking about. Neither do you because you haven't seen it, and I don't recall seeing it. But in a situation where an improper, unlawful order was even discussed, none of us would have executed it because that's not who we are and signed up for. And, on this occasion, you asked did I recall other times when I was chief of staff at DOD; I don't recall other times that discussion like that coming up.

Q Mr. Patel, I completely appreciate that you wouldn't execute an unlawful order because you're duty bound to follow procedure. So, when the topic comes up, and I think I heard you say a few minutes ago that it did, that there was some discussion with the Chairman of the Joint Chiefs of Staff, the National Security Advisor, and your boss, the Acting Secretary of Defense, about the existence of such an order and an unlawful, whatever you want to call it. That's kind of an unusual and big deal. Is that right?

A Is it unusual?

Q Yeah.

A Yeah. I would agree with you that if, again, agreeing to call it whatever it is since we've never seen it he, if any time it was unlawful or improper, we wouldn't do it. If, on this one instance, when we did discuss this matter and I was in and out, I agreed with my bosses obviously, that's not what we're going to do. And what I'm telling you is, I don't remember revisiting that issue with those individuals ever again.

Q Right. That's exactly my question. So that, despite the fact that this was so unusual and you're in such a prominent position, there's never any other discussion with Secretary Miller, with Chairman Milley, about this issue?

A We're not going to -- we're just not going to act on it. If it's improper or unlawful, the Secretary and the Chairman, we -- so you might find this hard to believe,

but we don't waste time with improper and unlawful orders. What we were busy doing was preparing the transition, handing off -- and securing -- what people forget is we had to secure the inauguration of President Biden. That was a DOD responsibility.

We were -- also had to continue to issue the -- what people don't know is the National Command Authority. That flows from the President to the Secretary of Defense. No one else. The mission sets in there are almost wholly classified, but we had to continue to operate those operations and policy.

Whether someone else was coming in or not, we ran through the echo of the whistle. That's what we did every time. When those guys were in uniform, when I was downrange with them serving, we ran until the mission said stop running.

Q Yeah. It's just hard to imagine, Mr. Patel, if somebody gave me an unlawful order or I even heard about anyone giving me an unlawful order, I would talk to people about that. That would be kind of a big deal, and there --

A I'm telling you, I mean, I don't know who else you want me to talk to. We spoke to the National Security Advisor to the President of the United States, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff. That's who you want to talk to if there's an improper or unlawful order. There isn't any other person that I would say would want to be -- need to be in the room to have that discussion. We had it. They had it without me in and out of the room, came to a decision, and we moved on because we had other stuff to do.

Mr. Sofer. Can we have just one second?

[Discussion off the record.]

The Witness. Thanks. Sorry.

BY [redacted]:

Q Yeah, Mr. Patel, again, I don't want to belabor this, I just -- anything at all

that you remember about whatever this improper action was we would really appreciate anything at all you can remember, any conversation, any information about that subject.

A I think I've answered to the best of my recollection what I recall about this.

Q You were in and out -- just to make sure I'm understanding, you were in and out of a conversation, don't remember anything anybody said, don't remember any of the subject matter, other than it was about some improper withdrawal of troops from those two countries?

Mr. Glabe. Just to note, "improper" is your characterization; it's not his characterization.

[redacted]. Well, you tell me. What's the characterization?

[redacted]. No, I think he used the word "improper."

BY [redacted]:

Q I think you used the word "improper."

A What I -- and I'll rely on my previous testimony that my normal pattern of conduct when I went to the White House with the Secretary was I was running around doing a lot of things. I'm saying, as a pattern of habit, in this meeting, it would have been the same. I was rarely just sitting in one location with Cabinet officers. And, in this instance, this conversation came up, as I've testified. That's my knowledge of it. I don't have any other recollection of it.

Q And you just kept running in and out and didn't have any other involvement in that whatsoever?

A Well, the conversation ended. And, as I told you, no action was taken and we moved on to other important matters that we at the Department of Defense had to address, including but not limited to Operation Warp Speed, Afghanistan, Syria, Somalia, Iraq, the border, everything else you can think of, intelligence, NSA matters, the

Inauguration, transition.

Q Yeah, I understand all that. So you didn't alert anyone. You didn't talk to anybody else outside of the people that were in that room?

A Well, right. The people that were alerted were the people who made the decisions. The individual who is in the National Command Authority, the individual who is the highest ranking uniformed military officer in the land, and the individual that is the National Security Advisor to the President of the United States, they were informed and made a decision.

Q Yeah, well --

[redacted] I just -- go ahead.

[redacted]. No, you go ahead.

BY [redacted]:

Q I just wanted to be clear that you keep saying that you haven't seen this memo. We haven't seen this memo.

A Neither have you.

Q We -- but -- and it's clear to you that based on your memory here you've never seen the memo either?

A I don't recall ever seeing -- I can't recall seeing a memo that describes what you and I have been talking about. I can't recall if you -- I don't think it's unfair to ask me a question that says, do you recall seeing a memo that no one can produce?

Q Do you have any memory of providing it to General Milley?

A I do not.

Q We have -- as you know, we've talked to many officials over at DOD, and the memory of DOD officials is that this memo, directive, piece of paper was provided to you and you directly handed it to General Milley.

A Is that what Chairman Milley said?

Q That is what Chairman Milley said.

A Okay. Well, I don't recall ever doing that.

Q Okay.

A So, if you showed me this memo, you keep talking about this memo and if Chairman --

Q We do not -- as I mentioned, we do not --

A But hang on. But, if Chairman Milley said that, and I take your word that that's what he said, you could've asked him to produce this memo that I handed him, and I'm sure General Milley is not in the habit of throwing things out that are especially improper, and you could've shown me that production today. You chose not to do that.

I'm answering to the best of my recollection about a memo that may or may not exist. What happens if the memo that Chairman Milley had talks about something entirely different? I don't know. I've handed Chairman Milley, as I said, a ton of memos, lots of memos.

Q Were any of them unlawful or improper directives from the White House?

A I would not ask Chairman Milley to follow any improper or unlawful activity --

Q That's not the question.

A -- activities.

Q That's not the question. I'm not asking you that. My question is, do you have any memory of handing this particular memo, directive, piece of paper to General Milley?

A I do not have any memory of that.

BY [redacted]:

Q Let me just read you what General Milley said in discussing --

A Which you could've provided to us ahead of time but chose not to, but go ahead.

Q It's a November 11th memo directing the withdrawal from Somalia and Afghanistan. And General Milley said: When he -- Mr. Patel -- slid the paper across the desk for me, I said, "Are you behind this?" He said, "No, no. I just saw it. It just came into my inbox. I just saw it."

A Okay.

Q And that doesn't jog your memory or refresh your recollection about giving General Milley --

A Me sliding something to the general across the desk, probably happened 150 times.

Q A November 11th memo purporting to order the withdrawal of troops from Somalia and Afghanistan by January -- a date certain before the end of the administration?

A I don't remember that occurring.

Q Is the improper order that we've been discussing -- and, again, I think "improper" was your word -- is that something having to do with the withdrawal of troops from Somalia and Afghanistan? Is that what triggered this conversation in which you were in and out with Mr. O'Brien, General Milley, and Secretary Miller?

A At the White House?

Q Yes.

A Is that what triggered it? I'm not sure what triggered it. We were over there for a number of matters.

Q What was it that was improper that you -- that was being discussed when

you were in and out of this meeting?

A No, I think what I said was, and I'll let the record reflect, that it would have been improper and unlawful for us to follow any improper or unlawful order from the chain of command. And these gentlemen, decidedly so, made the decision not to follow any improper orders, and you can ask them --

Q Right.

A -- what they talked about in that room.

Q So we have, and that's what I'm asking about.

A Yeah, you've asked one gentleman about some memo that no one's ever seen. I'm not -- I'm telling you, from the best of my memory, I don't remember that. If you have the memo, I would take a look at it.

Q Okay.

A You don't. You could've asked Chairman Milley for the memorandum. You are the United States Congress. You have access to all these memorandums. You apparently interviewed him, so he could've provided it to you had you asked, and you could have provided it to me.

Q He told us --

A You chose not to.

Q -- he got it from you. You're saying you don't remember?

A I don't remember that.

Q Okay. I just wanted to be clear that you don't remember Chairman Milley handing you this illegal or unlawful memo about withdrawing troops from --

A You keep saying, you know, that -- that's your characterization. I'm telling you, I don't remember this incident with the memo you're characterizing. I'm telling you I remember many incidents where I handed Chairman Milley memorandum.

Q Okay. I think we've established the record. Thank you.

BY [redacted]:

Q Did you have any discussion -- before this incident happened, whether you handed it over, you do remember going to Robert O'Brien's office and discussing this in and out; they discussed it in and out. But the bottom line is it was improper; you weren't going to follow it?

A Yeah, other than what I've testified, no.

Q Prior to that conversation, did you have any conversation with anyone at the White House that this type of improper order, any discussion from Somalia or Afghanistan was coming over to DOD?

A Not that I recall.

Q Not that you recall?

A Uh-huh.

Q Does that mean, no, you did not have any conversations with anyone at the White House?

A No, it means not that I recall.

Mr. Glabe. Wait, any conversations with the White House about what?

BY [redacted]:

Q About the improper order, as he's described it.

A You keep saying I've described it as an improper order.

Mr. Glabe. I believe --

BY [redacted]:

Q Whatever it is.

A What would make this easier --

Q Improper withdrawal.

A -- is if you produced it, but you failed to produce it. And I want the record to be abundantly clear you're asking me about a document you say exists based on a book that I don't know and haven't seen.

Q Well, it's not just a book, Mr. Patel, but let me just --

A No, don't cut me off. Let me finish my answer. I want the record to be abundantly clear what you're trying to do is say I may or may not have had my hands on an order that may or may have never existed. If you can show it to me, I can answer the question better. I'm doing the best to answer the question from the memory I have about something that happened over 1 year ago.

So, if you have other lines of question -- we can do this, but if you want to talk about the truth about what happened on January 6th, as is your directive, or do you want to talk about Afghanistan and Somalia, you choose. But we're leaving at 4 o'clock because my counsel has a flight to catch.

Mr. Glabe. Let me just say two things for the record on this topic. One, we talk about the memo, a memo. I want the record to be clear that my -- I want -- I want the record to be clear that my client has testified that he was involved in many discussions about Afghanistan, including Afghanistan withdrawal, with General Milley and others, but doesn't have the specific recollection of the purported memo referenced in the Woodward book.

Two, I believe, and we can pause and go back -- read back the record if we need to, I believe that improper or unlawful was originally your characterization, counsel, and that jogged my client's memory that he recalled Ambassador O'Brien, General Milley, and Acting Secretary of Defense Miller discussing something that they might have thought was improper or unlawful. I do not believe that it is my client's testimony that he has made a judgment as to whether this purported memo was unlawful or improper insofar

as he doesn't recall ever seeing it.

And I guess, just as an addendum, remarkable to me that the testimony -- how close the testimony of General Milley is to what was in Bob Woodward and Robert Costa's book, which makes one wonder whether he was speaking to those authors, but I'll stop at that.

Mr. Sofer. Yeah, I think the most important point, the general point I think we all can agree on is this would be a lot easier if someone had provided us with the actual memo that could help our client. He's made very clear he doesn't recall, and since it's not around, it's very difficult for us to have a conversation about something that we can't see.

[redacted]. Yeah, you're right, Mr. Sofer, it is, and we don't have it either, as we've said. This is not --

Mr. Sofer. I'm not suggesting the committee is holding it back. I just think it makes the conversation exceedingly difficult.

[redacted]. To be clear, the point of the -- the basis of the question is not simply the Woodward book. It is the testimony of General Milley and evidence developed from other witnesses about a memo, as we have described, that is directing the withdrawal of troops from Iraq and -- excuse me, from Somalia and Afghanistan, and the testimony about your client's direct involvement in that -- passing that memo along to the people who would be in a position to act on it. That's the basis of the question. I wish I had the memo to give you and show you; I do not.

Mr. Sofer. As do we. I'm just saying, and, again, I think the record is clear, he doesn't recall.

[redacted]. Okay.

Mr. Sofer. It would be very helpful to his recollection obviously --

[redacted]. I understand.

Mr. Sofer. -- if someone could present to him the critical piece of data or evidence, if you will, that we're talking about. Without doing it, we're stuck in this world where everybody is speculating.

Mr. Glabe. And it's not his testimony, as I've heard it, that he did not pass along a purported memo in the manner that other witnesses may have described. I believe it is his testimony that he does not have a specific recollection of doing so.

[redacted]. We're hopeful that there will be some documents coming from the National Archives that would include this memo, and, at some point, we may very well want to bring Mr. Patel back and ask him about that. As of now, we are showing our cards and telling you exactly the basis of the question.

Mr. Sofer. Understood. The last thing we want to do is come back.

[redacted]. I understand.

Mr. Sofer. And we want to get this done today, so --

Mr. Glabe. There's no question --

Mr. Sofer. -- I would hope that that wouldn't happen.

Mr. Glabe. Yeah, there's no questions we haven't answered, and it is our intent to answer all of your questions.

[redacted]. It's hard to finish when we keep getting speeches from counsel as opposed to testimony from the witness.

The Witness. Carry on.

Mr. Sofer. Well, then let's go on.

[redacted]. Okay.

BY [redacted]:

Q I want to shift towards your role for the transition team at DOD. How did

you get that position?

A It's not a position one seeks. The Department of Defense regulations, as I understand it, have been in place for many, many years, and the Department of Defense's regulations designate as a head the chief of staff for all administrations for any Presidential transition. So I was designated the head of the transition, but the operational work was done completely separately.

Q And who did the operational work?

A So Mr. Muir, Tom Muir, a decorated Army officer and civilian now at the Pentagon, led what we call the Washington Headquarters Services. He was designated by the Acting Secretary of Defense, I believe, to be the ART, the transition director.

So his team is a group of career staffers that work on Presidential transitions and transitions time and time again, and they are -- they were responsible to interact with the Biden transition team, the beachhead team as we call it, to come in and provide all of the transition work.

Me as the -- I don't know what the right word is -- quote/unquote, head was not involved in the day-to-day operations. We entrusted that to Tom Muir because he was excellent at that job, had been doing it for some time.

Q When is it supposed to begin, the transition from the old administration to the new?

A So, as best as I understand it from -- and, again, I just need to add for the record, we reviewed many, many documents in which I had conversations with general counsel at the Department of Defense, and they were all completely redacted. So we asked for those redactions to be lifted, but I believe you also haven't been able to see them. So --

Q That's correct.

A -- a lot of conversations that would help -- a lot of the material that would help me recollect details on this may be contained in those materials as well because it involved transition, because they were answering the legal questions of, as you said, when does a transition begin. My understanding is a transition begins, my understanding, is when the GSA memorandum was issued for the transition to begin, and I believe we cited that earlier happening on or around November 23, 2020.

Q Right. So I believe it's November 24th. Did you have any conversations with the White House from the time period of your appointment, November 10th, until GSA green lit the transition about the --

A My general recollection from Chief of Staff Meadows is pretty clear. I'm uncertain of the exact date, but he said: You at the Department of Defense are to conduct a full-scale transition to the Biden team immediately and forthright and give them the access that they need and the documents that they need to prepare so we can hand off the national security mission to the incoming administration.

Q But what was the delay from the November 7th declaration until November 24th, if you know?

A Well, so you say declaration on November 7th. I'm not sure entirely what you're referring to, whose declaration. We, the Department of Defense, as best as I recall, could prepare for the transition pursuant to the decisions that would have been made by the Office of General Counsel at DOD once the order from GSA came in to do the transition. I don't know if -- I wouldn't characterize in any way, shape, or form that we delayed the transition material, I think, quite the opposite.

Q That wasn't my question. My question was if you had any insight as to what was going on for that period.

A Oh, I don't -- yeah, sorry, I don't have insight on that.

Q Was Mark Meadows your only point of contact at the White House concerning the transition, or did you have others?

A I would say he was my main point of contact for the transition.

Q Were you in contact with anyone at GSA about the ascertainment, I think is the word?

A I don't think I've ever contacted anyone at GSA regarding this. I just don't believe I have. Maybe OGC, general counsel, did and we were there, but, again, I wasn't able to review those records.

Q Who was the Biden-Harris lead that you were in contact with?

A The appointed lead changed a couple of times, but the day that they named Kat Hicks -- Ms. Hicks is currently, I believe, the Deputy Secretary of Defense. At the time, she was named the head of the Biden ART transition team, and her point of contact would have been Mr. Muir.

As I recall, as best I recall, as soon as that appointment was made -- I don't know the date; we were visiting a Fifth Fleet in Bahrain to feed them for Thanksgiving. I called Ms. Hicks on my phone. I believe it was my work phone, because that was the one that would've worked over there, and said -- I welcomed her, and I said: Congratulations. This is my cell phone. This is my email. Please let me know if you are not getting anything you need. Our instructions for transition are very clear. We are to help you with transition. And I never heard from Ms. Hicks again.

Q So that would have been around the November 23rd, 24th timeline?

A Yeah, right around Thanksgiving because I remember us going there to feed the troops.

Q There's a couple of exhibits where there's a -- the Pentagon -- there's reporting about the Pentagon blocking visits to military spy agencies by the Biden

transition team, and your reaction to those press reports is exhibits 3 and 4. Was there any accuracy in the reporting that there were any challenges posed to the Biden-Harris transition team?

A I don't believe so.

Q So did you ever learn of any complaints during your time as the head of transition from Biden-Harris folks?

A So, Ms. Hicks, later Ms. Magsamen -- sorry, the current chief of staff; I'm unsure how her last name is pronounced -- were the people I attempted to communicate with. As I said, I called, I believe, Ms. Hicks. I tried to call the -- my successor, the current chief of staff, and I emailed them continuously when things were needed. But I never heard back from them, and Mr. Muir kept me up to date to make sure that the transition process was going as smoothly as possible.

Q Did Ezra Cohen have a role during the transition process?

A Most every member at Mr. Watnick's level would have a role in the transition process. He would have been instructed through Mr. Muir to meet with his counterpart or the person the Biden transition team had designated as the incoming individual into that role or into that section of the Department of Defense. So I don't have any particular insight into what that was, but he should have, I believe, just given his position.

Q I just wanted to ask you about exhibit 4 there. Again, this is about the response to the press story.

Mr. Sofer. Can you give us a page number, please?

[redacted]. Sure. This is going to be Bates No. 2376. It's a whole email string.

The Witness. Yeah.

Mr. Sofer. Okay.

BY [redacted]:

Q And apparently it's you going -- asking has someone called Kath -- I'm assuming that's Kath Hicks --

A Yes.

Q -- about it.

A Uh-huh.

Q And, at the top of that page, "Tell Kath that if her or any ART team continues these total fake narratives, I will shut it all down." What does that mean?

A Yeah, thank you. So this was, in my exceedingly large frustration to see damaging, false information publicized in the media that would hurt the mission of the Department of Defense and the transition, so I took great umbrage to seeing false information leaked out to the media and the media reporting that.

So my team, knowing me and my -- and how I operate, I wanted to express to them the severity and the impact of such fake narratives in the media because the world was watching our transition process, and our instructions were to do it as smoothly as possible. So, when I said that, it was in part hyperbolic statement to make sure my team understood the severity in which I wanted this matter adjudicated and the record corrected.

Q You mentioned some emails back with the general counsel. What was the role of the general counsel during the transition?

A A lot. The general counsel would have been in each -- a member of the general counsel would have been in each interview of the hundreds if not thousands we gave -- I don't remember off the top of my head -- to protect the equities of the Department and also protect classified information, make sure the right people were

there and the right people were getting the right subject matter.

They would also be in contact with the incoming counsel throughout government to address matters that they needed to address. So Mr. Ney's role was extensive and his team -- I think there's, I don't know, I'm guessing 300-plus lawyers at the Department of Defense who were involved in the transition in some way.

Q And Mr. Ney was an appointee for -- at DOD general counsel?

A He was the general counsel. I don't know that process, but I think he's an appointee.

Q Was it a typical process for the GC to be present at every interview that's --

A Well, the -- he, the GC, was not, right. A representative from the General Counsel's Office would be present to make sure there was no spillage of classified information, the people were coming in had the right clearances, and there was nothing shared that should not be shared with people who didn't have the subject matter requirements.

Q Were you familiar that the GC or the representative from the GC's Office would read a card establishing the guidelines at the start of every one of those interviews with the Biden-Harris transition team?

A That sounds familiar. In my recollection with Mr. Muir and his team and the general counsel's team, they wanted to, in the interest to protect the Department, sort of lay out the parameters of what the discussion would be about, and if there were any things that the folks who were meeting wanted other information, those requests were brought back to Mr. Muir.

Q Were you involved in establishing those guidelines that were set forth at the beginning?

A I think, generally, I was -- you know, we had meetings regularly about how to

conduct the transition process. And this was a team of, you know, 25 high-level DOD leadership folks including the Deputy Secretary of Defense, who was more the day-to-day lead on the transition than myself. And so we had many, many, many SVTCs and meetings on this -- sorry, video teleconferences, on this. So I probably shaped some of those when the discussions came up.

Q But as this part of kind of investigating kind of the transition aspect that happened at this agency and others, this presence of the general counsel and this card being read by general counsel's representative was viewed as not -- was viewed as unusual requirement as part of a transition process.

A So I'm not familiar in that level of detail, whether or not it was or wasn't unusual. The recommendation was made that that was appropriate, given the amount of information and people we were dealing with. We gave, from my understanding, the largest Presidential transition in DOD history was conducted under our watch. And so, you know, I relied on the career officials to make recommendations, and I usually went with them.

Q So, just so I'm clear, it wasn't your recommendation to have this presence or this card --

A No, I'm not saying that. I'm saying if it was -- you know, I'm saying there was many discussions on this and other matters, and what happened was we usually just came to an agreement. Whether it was my independent recommendation or somebody at OGC first say said, "Hey, maybe we want to do this," I don't know what instigated the matter, but I do remember it being a part of the transition.

Q But it wasn't relayed to you at any time that this was a challenge in terms of -- from the perspective of the Biden-Harris team, that the presence of the GC during each of these interviews or a GC representative --

A That wasn't relayed to me, and I don't think the premise of your question is entirely accurate. We didn't require it for high-level folks, such as the Chairman. The Chairman and others were allowed to meet and talk with their representatives after discussing the matter with the General Counsel's Office because we didn't want to hold the high-level folks up because of their scheduling requirements.

Q How about the budget? When was the budget shared with the Biden-Harris team?

A That would be entirely Deputy Secretary -- former Deputy Secretary Norquist's lane. He is the budget guru of the Department of Defense, and we left that to him.

Q So you didn't have any role in when the budget was shared with the Biden-Harris team?

A We -- it probably came up in the many conversations we had, but I don't have an independent recollection of saying, "This is the date we're going to do the budget," or -- I don't even remember when the Biden-Harris team asked for, quote/unquote, the first.

And, when we do budgets, just as a caveat, at the Department of Defense, we don't just present the DOD budget. Each respective budget is broken down into the separate Under Secretaries and their Deputy Secretaries so that the right people can consume those budgets.

Q You'd agree this is a huge part of the transition, is understanding the budget?

A Yeah, the budget was.

Q The budget, as we understand it, wasn't shared until well into January with the Biden-Harris team.

A As I sit here today, I don't know if that's the case. I'm not sure what the interactions were regarding when to and not to share the budget and who made those decisions. I'd have to go back and look at a whole host of documents to figure it out.

Q But who, other than you, as the head of transition would've made those decisions?

A No. So, when you say I'm the head and I'm making sort of the balls and strikes call, I was not. We left that in place for Washington Headquarters Services and Tom Muir and his team to make those calls. They would inform me and keep me up to date, and a lot of the decisions were adjudicated by Deputy Secretary Norquist because, especially with the budget, he was the guru. I was far from the budget guy, and when they felt it was prepared enough to present, I left it to them to make that decision.

Q So did you respond to any request to have the budget provided to the Biden-Harris team earlier?

A Did I personally?

Q Correct.

A Not that I can remember.

Q Were you involved in the decisionmaking regarding the -- kind of the ceasing of engaging with the Biden-Harris team in mid-December?

A So I think I know what you're talking about, and I appreciate you providing that document. I forget what number it is, but --

Mr. Glabe. Can you point us to a particular exhibit to --

The Witness. They can look for it, but let me just try to answer your question --

BY [redacted]:

Q Uh-huh.

A -- in the interest of time here. What I think you're referring to is there was

a half-day, 1-day pause on transition. And what happened was the Acting Secretary of Defense and I felt that the transition team was working crazy hours, 24/7 to make the transition happen, and I believe what we decided, what the Acting Secretary and others decided was to give the team a night off and return to their duties either in the next day or so, because we thought it was the holidays and people needed a break. If you're not referring to that, I'm sorry, but that's my recollection of this break.

Q So your recollection it was a 1-day break?

A I believe it was like, yeah, it was a night, morning, something. That's what we were trying to give our team just a breather, and I believe it was misconstrued in the media as a halting to the transition process. That was not our take --

Q So --

A -- but I talked about it in my op-ed, which I think we're going to enter, right?

Mr. Glabe. Yeah. So, for the record, we have K. Patel Exhibit 4, "Kash Patel: Defense Department Fully Cooperating With Transition to Biden Administration," published January 13 --

The Witness. And I think it's addressed in there.

[redacted]. I'll take a look at it, but I'm just curious, your recollection is it is about a day. The Biden-Harris folks' recollection is it was a 3-week stoppage of any transition occurring from mid-December and not reengaging until after January.

The Witness. So if there's a --

Ms. Lomax. What was the question?

The Witness. Sorry. Yeah, if there's something you could show me, point me to to talk about that?

BY [redacted]:

Q I have nothing to point to you. So what --

A Yeah. I don't --

Q So --

A I don't believe we ever entertained a month-long delay in the transition. That would've contravened the orders we received from the White House, so I just don't think it's something we would've done.

Q You don't believe it's something that you would have done?

A Would have done, would have stopped the transition for that period of time that you stated, approximately 1 month, because the instructions of the White House were clear: Go. What I believe is I gave my guys and gals a day off, and I do remember it coming out in the media that we were stopping transition, and that just wasn't the case. As the chief of staff, I have to take the temperature of the men and women that are doing the work, and I thought they needed to take a knee.

Q So the people who we -- who as part of the investigation said that there was no engaging with the Trump DOD from mid-December until January, that in your mind is just not accurate?

A I don't believe so, because the -- one of the priorities for the transition was Operation Warp Speed, and there was no way we could get that done and hand it off if we took a 3- to 4-week break. And, in fact, my recollection is, specifically on Warp Speed, since it was so prominent at the time, we had yet to roll out or were rolling out the vaccination program, there was constant communication at least in that part of the transition. So I don't see how we would have turned one on and stopped another. I just don't recall that.

Q I want to go on to your appointments, their potential appointments to -- first, to the CIA. Let's start with that one. How did you became -- become aware of it?

A Yeah, I got it. So the select committee was authorized by H. Res. 503 to investigate the events of Jan. 6th. The question falls outside the scope of your legislative purpose. I'm concerned about this improper question, inappropriate line of inquiry, and apparently fishing expedition. I'm not sure what the CIA has to do with Jan. 6th. I will do my best to answer this question.

So, sorry, go ahead?

[3:20 p.m.]

BY [redacted]:

Q How did you become aware of your own potential appointment to the CIA?

A Which -- what are you specifically referring to when you say my "appointment"?

Q Were you ever aware of any potential appointment to the position of Deputy Director at CIA in the time period from November 10th till January 20th?

A Yes. In that time period, I do recall that happening.

Q Can you tell us who told you that?

A I believe it was a representative of PPO and that it was a possibility and a representative --

Q Let me stop you there. Who was the representative from PPO?

A Without having seen any of the emails we probably would've had going back and forth on such a matter, I'm guessing it would've been Mr. McEntee, who's the head of PPO, and probably, as the way the White House works on Presidential personnel decisions is no personnel decisions can be made that aren't done in conjunction with PPO and their chief of staff's office -- which would've been Chief of Staff Meadows. So I probably would've talked to either Chief of Staff Meadows or some representative in his office about that.

That's what I remember.

Q Meaning Mr. McEntee or somebody other than Mr. McEntee?

A Yeah, I'm saying I believe it was Mr. McEntee.

Q Okay.

A I'm not limiting it to him because PPO is an enormous office. It has over 50 employees. And then there was also the chief of staff's office, which is also quite large.

Q And you also said possibly Mr. Meadows. Is that right?

A Yeah, yeah. Right.

Q Did you have any discussion with President Trump about your potential appointment to the CIA?

A My potential appointment -- well, yeah. The question appears to implicate core executive privilege concerns. I'm prepared to answer it, but I want the record to reflect my serious concerns about congressional overreaching.

What I recall is, it was discussed amongst the people we already stated about the Deputy Director position at the White House.

Did I have a separate discussion with the President, I believe is what you're asking, about that role? I think it came up in one of our conversations. I don't know if it was before the election or after. I'm just not sure.

Q So, before your appointment to DOD, you could have had that conversation with the President?

A Maybe. Yeah, I just don't have any timeline in front of me to remember the date of that conversation.

Q Understood, but that's a pretty big deal, right? That would've been a huge position, as the Assistant Director at the CIA.

A To be Deputy Director --

Q Deputy.

A -- would've been a great promotion. I think it would've been an honor to serve in that capacity. With my intel background, I would have, of course, considered it.

Q So what happened, from what you were aware of? If you had the discussion with Mr. --

A I was never made the Deputy Director of the CIA. It did not happen, as we

all know.

Q Were you told why?

A Was I told why --

Q Correct.

A -- that I wasn't given --

Q Correct. If you have a discussion with Johnny McEntee and possibly Mark Meadows and the President himself that this could happen --

A Yeah. They said this could happen, and we'll let you know. You know, I'm using loose terms here, you know, generalizing their statements. And it did not happen.

I don't think I -- you know, we were doing a ton of stuff at DOD. I was not concerned with why appointments did or did not happen. I said, "I serve at the pleasure of, you know, the President. Let me know. Until then, I'm going back to work."

Q What about the Deputy Director for the FBI? Did you have a conversation with Johnny McEntee or Mark Meadows or the President about that position?

A I think we -- yeah. We had a conversation -- again, I'm not sure of the exact date -- about, similarly, about the Deputy Director role at the FBI. But, again, I don't know the exact timeframe on that one.

Q You had the conversation with the same three people? Was it the same conversation? Was it just a conversation of, "Hey, Kash, we're thinking about moving you here, we're thinking about moving you there"?

A It could've been two separate conversations, or it could've been both at once. Are you interested? As how government operates, especially before or around an election, people are trying to plan ahead. There was a lot of work that the PPO office was doing to, if President Trump had won, place their selectees across government, and so -- that was their job -- they asked if I was interested in doing either of those jobs. I

said, "I would be interested. Let me know."

Q But it appears that some of these conversations occurred after President Trump had lost the election. Did that impact you in any way in terms of your timeline?

A In terms of my timeline? What do you mean?

Q Well, if the job was ending on January 20th.

A No. As I said -- I think I said it before. If I didn't, I'll say it now. I was happy to serve in whatever capacity the White House wanted me to serve in until they said, "Your time is done here." That's the mission.

Q Was there ever a discussion that that Deputy Director position would then turn into the Director of the CIA, had President Trump fired Gina Haspel?

A I'm not -- so somebody's going to have to go do the legal gymnastics on that. I don't even think that's possible. But I'm not sure, because I don't know that -- I believe the Director of the CIA, it's a PAS, a President-appointed, Senate-confirmed position. So I haven't looked at the --

Q Well, there were many non-Senate-confirmed positions that were appointed during that time, right?

A Yeah. I mean -- you're right. You're asking me to speculate. I'm not really sure what would've happened if Ms. Haspel was terminated and I was given the Deputy Director role.

Q No. My question was, was there a discussion that it could lead to a Director position with President Trump? Did you have that discussion?

Mr. Glabe. I'm sorry. What was the question?

BY [redacted]:

Q Did you have a discussion with President Trump that if you were appointed to -- go ahead.

[Discussion off the record.]

The Witness. So I don't know if that's even technically possible, but I don't remember a separate conversation with President Trump on me becoming whatever form of director of the Central Intelligence Agency.

BY [redacted]:

Q You don't remember, or it didn't happen?

A I'm saying I don't remember a conversation about that.

Q How about as Director of the FBI?

A No, I don't believe a conversation about that was had.

Q So the answer to the Director of FBI is "no," but the answer --

A No. I said I don't believe --

Q Okay.

A -- a conversation about that was had.

Q But the answer about the Director of CIA was "I don't remember." I just want to make sure I'm clear on both your answers.

A Yeah. I don't recall the CIA one. I recall not having, to the best of my recollection, a conversation with the President about being the Director of the FBI.

Q But wouldn't it be something significant to remember, if you had a conversation with President Trump about becoming the Director of the CIA?

A And, again, I know you guys try to think this is improbable, but I was in one of those positions for a 2-year period of time, approximately, where I had many conversations with the President impacting things that I would only read about or watch in movies. So, after a certain period of time, they tend to stack up and you just do the mission. And that's what I was focused on.

So, if you have something to show me, I'm happy to look at it, but --

Q Nothing to show you.

A -- I've answered as best as my memory allows.

[redacted]. Do you have anything on that?

[redacted] Yeah.

BY [redacted]:

Q Was he dissatisfied with the people that were in those positions at the time? I'm talking about the deputy positions at CIA or FBI.

A Was "he," the President?

Q Yeah. Did you, either from him or from any other source, get the sense that he was displeased with those --

A I don't believe I can answer that question, because I don't believe I know what he, the President, was or was not about that.

Q Okay. I'm asking you whether you have any personal knowledge from any source that he may have been displeased with those people which prompted him to consider you or others as replacements.

A Well, caveat, when you say "any source" --

Q Any source.

A -- there's media reporting that said that. I don't know what that media reporting was in reference to. That -- I'm trying to be open with you. I've read that media reporting. So I want to say that that media reporting, I have read it, and it speaks to that.

Q Beyond the media reporting, no discussions with Mr. McEntee, with the President, with anyone in the White House, about the President being displeased with the people at CIA or FBI?

A Which positions?

Q Any positions.

A Yes. There was conversations about -- similarly like I had conversations with the President about his displeasure about Dr. Esper --

Q Yeah.

A -- there was conversations in general about specific, again, operations that we had undertaken under President Trump, which are classified, to accomplish those goals. We had some conversations about the displeasure of not accomplishing those national security goals.

Q I see. So that's helpful. So there was discussion that you recall -- correct me if I'm wrong -- about the President being displeased with the CIA or the FBI's role in accomplishing policy goals.

A I think maybe, generally speaking, I would characterize it as operational versus policy, but I don't know that I can get --

Q Well, just tell me what you remember. What was the source of the displeasure?

A Well, I can't get into those details, because those operational goals and decisions were and, as I remember, are classified.

Q So all of it, all of the displeasure of which you're aware, has to do with classified information?

A Well, when you're talking about the Director of the Central Intelligence Agency and the Director of the Federal Bureau of Investigation, yeah, they live in the classified space, as I did for most of my career -- or all of it, I think, at the White House.

So I'm telling you we had conversations about it, and I'm telling you it was specific to operations. But I'm telling you I'm not going to disclose -- and you've asked me not to --

Q We don't want you to.

A -- classified information.

Q Okay.

So, if somebody talked to me about a job and I didn't get it, I'd be curious about why. Did you ever have conversations with anyone about why you were not ultimately, if given, offered either of those jobs in those two agencies?

A I think I spoke to Mr. McEntee about it, like --

Q What did he say?

A -- in passing, like, he said the President just decided not to do it or something like that.

Q Did he say why?

A We never got into the details that I can remember.

Q And you just never asked?

A No, because, as I said before, we were busy. I wasn't going to spend time, when I had to execute the mission of the Department of Defense, worrying about the job. I knew I could worry about all of it on January 21st --

Q Okay.

A -- because I knew I'd no longer be there. So it might be hard for you to believe, but I put the mission first and made sure that mission was accomplished.

Q Okay. So, to be clear, you never had any conversation with anyone about why that didn't work out for you, other than Mr. McEntee saying it's not going to work out.

A That I can recall. Other than Mr. McEntee, maybe a representative in PPO under him? Maybe? But I just -- I don't know.

Q Was it your sense that Mr. McEntee generally was tasked with sort of

identifying people across the executive branch that were or were not acting in a way that was consistent with the policies of the administration?

A I can't guess to that. I can tell you what the role of PPO is.

Q No, I don't need the role of PPO. Very familiar with that. And I don't want you to guess.

I'm asking whether you had conversations with anyone, had any knowledge about Mr. McEntee essentially evaluating the loyalty of people across the executive branch, loyalty to the President and the administration.

Mr. Glabe. Can we take a break?

[Discussion off the record.]

The Witness. So I've heard -- or, excuse me, I've read media reportings that speak to that.

BY [redacted]:

Q Beyond the media reporting, do you have any other information, heard from any source, about Mr. McEntee, again, as sort of evaluating the loyalty of various executive branch officials?

A Not beyond the media reporting that I can recall.

Q No conversations with anyone that you recall? Just the media reporting? That's it?

A Well, that's pretty much it, because the role of political appointees wasn't in my wheelhouse --

Q Okay.

A -- as chief of staff of Department of Defense. That was in PPO.

Q I understand, Mr. Patel. We keep coming back to this. We're just trying to get a sense as to whether or not you had general knowledge about stuff that, again,

seems to us to be significant --

A Okay.

Q -- seems to us to be unusual, and things that would logically prompt discussion and questions. And we've sort of had four or five of those exchanges.

A Let me outline it this way.

Q Yeah, please.

A So, generally, did I have -- these were conversations that were happening before and after the election, but --

Q Yes.

A -- generally, the PPO office was contacting people, that I'm aware, and looking for who would serve if President Trump, you know, were to win the election, who would serve in the next administration.

So people were having those conversations --

Q Yeah.

A -- sure. Do I have any in-depth or even detailed knowledge about how that political-appointed process worked within PPO and Mr. McEntee? No, I don't believe so, and -- outside of what we've talked about in the roles, you know, we've discussed.

Q Uh-huh.

A But I have, as I said, read a bunch of media reporting on what --

Q Yeah.

A -- you're talking about.

Q So have we. I'm not interested in you recounting media reporting or your general --

A I don't want to.

Q -- your general description of PPO. I'm asking you whether you had any

personal knowledge about the criteria that informed the consideration of various people --

A Oh.

Q -- for jobs.

A Yeah, when you're talking about criteria, something like that, no, I don't recall that.

Q Criteria specifically being loyalty to -- perceived loyalty to --

A Right. I don't recall having those conversations for jobs, as you said.

Q At all?

A I don't recall that.

Q Okay.

BY [redacted]:

Q Mr. Patel, do you know who Mike Lindell is?

A The TV guy?

Q Yes, the My Pillow guy.

A Yeah, I mean, I don't know Mike Lindell. I've never talked to Mike Lindell. We've never emailed or chatted. But, I mean --

[Discussion off the record.]

The Witness. My lawyers are reminding me, the question appears to be outside the scope of H. Res. 503, to investigate the events of Jan. 6, falls outside of the scope of your legislative purpose. I'm concerned about it -- the improper line of questioning and inquiry in an apparent fishing expedition. But I will, nevertheless, do the best to answer this question.

Q Thank you.

So, on January 15th, Mike Lindell was photographed by The Washington Post

coming out of the White House with your name in the CIA post.

A You'd have to ask Mike Lindell. We've never spoke.

Q You've never met him? You've never had a discussion with him?

A No.

If he was on White House grounds -- I just want to be clear, because I know this happened to similar people when they were testifying in the past, especially coming out of Congress. Was he on the compound at the same time I was at the compound? Probably, you know. But I've never spoken to Mike Lindell.

Q Okay. And that --

A That I recall.

Q And that was on January 15th when that photograph occurred, so --

A Well --

Q -- my question is, do you remember speaking to the President around that time about a position at the CIA, which would've been 5 days before the end of his term?

A Not that I recall.

Mr. Sofer. Can we take our last quick break?

[redacted]. If we're going to go past 4 o'clock, yeah.

Mr. Sofer. Sure. Can you give us an idea of how much time you're going to need so I can decide how quickly I have to go to the bathroom?

[redacted]. I mean, probably, like, a half an hour more at the best.

Mr. Sofer. Altogether?

[redacted]. I hope so, but I can't promise.

Mr. Sofer. Well, can we take a 2-minute break for me to go to the bathroom?

[redacted]. Sure.

Mr. Sofer. And then we'll come right back.

[Recess.]

[redacted]. And we're back on.

BY [redacted]:

Q Mr. Patel, I wanted to talk briefly about some of the actions that President Trump and his allies took to investigate their claims of election fraud.

A Okay.

Q Did you have any conversations with anyone at the White House about these efforts?

Mr. Glabe. Could you define --

The Witness. Yeah, I --

Mr. Glabe. -- a little more what you're asking?

BY [redacted]:

Q Specifically, are you familiar with the theory about two men in Italy that had confessed to rigging the U.S. election and they were currently in jail?

A I don't recall -- two men in Italy doing what? Sorry.

Q That they had confessed to rigging the U.S. Presidential election and they had confessed to it. It's known as Italygate.

A Is there, like, an article or something on that?

Q There might be, but other witnesses have testified about this theory.

A Yeah, I -- I recall hearing about that. Do I recall any instructions from President Trump about that? No, I don't recall that.

Q Did you take any action --

A From President Trump?

Q No, you, independently of President Trump or from President Trump -- well, from President Trump first.

A Are you --

Q Did you have any discussion with President Trump about taking action to investigate the claims of these two men in Italy?

A Sorry.

[Discussion off the record.]

The Witness. I don't remember having anything to do with that.

BY [redacted]:

Q With what? Anything with any -- do you remember anything having to do with the claim of two men in Italy rigging the U.S. election and taking any steps to investigate such a matter?

A I'm telling you I don't recall that, based on your description.

Q Do you have any memory of talking to Mark Meadows about such a theory?

A I don't recall that.

Q You don't remember Mark Meadows asking you to investigate?

A I don't recall that.

Q Do you remember calling Richard Donoghue, the Assistant Attorney -- Deputy Attorney General at DOJ, about the two men in Italy?

Mr. Glabe. Sorry, do you mean the Acting Deputy Attorney General?

BY [redacted]:

Q Sure. Acting.

A We called the Department on lots of matters. I think we started talking to Mr. Donoghue when he came online, but I'm not sure what date that was. And --

BY [redacted]:

Q I'm not asking for a date. Did you ever talk to Mr. Donoghue about asking DOJ to investigate two claims -- the two men in Italy?

A I don't recall that.

Q Okay.

Mr. Patel, did you make a request of Lieutenant General Scott Berrier to investigate the theory of two men in Italy?

A I don't -- I don't think I know who Scott Berrier is, unless you can help me remember him.

Q The Defense Intelligence Agency.

A Without more information, I'm afraid I don't have independent recollection of who Mr. Berrier is.

Q Okay. But just, before we move on from this, you have no memory of asking -- of any investigation regarding men in Italy rigging this election?

Mr. Glabe. Do you have anything that could refresh his recollection? Because --

[redacted]. I don't have anything.

Mr. Glabe. Because, on Afghanistan, we went around for 20 minutes and then there was a transcript, so --

[redacted]. I don't intend to --

Mr. Glabe. -- is there anything you can show us that might trigger his recollection?

The Witness. I'm just saying I don't recall.

BY [redacted]:

Q Okay.

So, as you know, we've talked to other witnesses, and --

A Okay.

Q -- it was stated by Mr. Donoghue that you, Mr. Patel, reached out to him and

asked him, "What is the situation with the guy in Italy?"

A Okay. Didn't my counsel just ask if you have something you could provide us?

Q This is a transcript.

A And you can't provide it to us?

Mr. Glabe. So, if there's any transcripts that would --

[redacted]. We can't --

Mr. Glabe. -- refresh his recollection, would you provide that?

The Witness. And you said you would provide us with everything you would ask questions about today. That was the agreement between you and counsel.

[redacted]. Mr. Patel, as a former House staffer, you know we cannot provide you the transcripts of other witnesses.

The Witness. Okay. Well, fair enough. If you can't --

[redacted]. I am attempting to refresh --

The Witness. If you --

[redacted]. -- your recollection with the statement from another witness.

The Witness. Yeah. And if all you're going -- and if I can't see a transcript, but hear you read a piece of a quote, I'm telling you, I'm not saying it did not happen, I'm saying I don't recall.

[redacted]. And I'm attempting to refresh your recollection.

The Witness. Based on a statement of seven words? I don't recall.

Mr. Glabe. And I just want to state that your record -- your statement, as we understood it, was categorical, that you would provide us ahead of time any documents that you would reference.

[redacted]. As you know, Mr. Glabe, we cannot provide you transcripts that

are committee confidential to outside witnesses. You know that. You've had this talk before.

The Witness. We don't need all the transcript. You could have provided what you wanted to use.

BY [redacted]:

Q I'm going to read it to you. If your memory's not jogged, it's not jogged. Then that's what the record will reflect.

A Okay.

Q "Did you have" -- Mr. Rich Donoghue: "Did you have any conversations with the chief of staff for Mr. Miller, Kash Patel, at that time or any time?"

"I don't know if he was on this call. I did have conversations with Kash Patel separately, in part in relation to that Italy allegation that we discussed a few hours ago."

"Was Mr. Patel at DOD at that time, end of December?

"I believe he was, because I think that the chief of staff brought that up first in his office on December 29th, and, as part of the conversation, he referred it to us. He said, 'Check it out.' I think at some point he said, you know, 'Maybe you could have FBI agents go over there and just interview this guy,' and we said, 'No, it doesn't work that way.' And, as you know, we cannot put FBI agents on a plane, send them to a foreign country, and have them interview people. You have to go through the MLAT procedure. It'll take months. And someone said, 'Well, DOD's got people on the ground. Maybe they could do it.' And we didn't weigh in on that. It was like, that's a DOD issue. If you want to talk to them, so be it. And then I ended up on the phone with Kash Patel a couple days later, maybe January 1st. He called me and said, 'What is the situation with the guy in Italy?' And I told him what I knew, and he said, 'Okay, thanks,' and we hung up, and that was it. I've never met him in person. I think that was the only

conversation we had on the phone."

Do you have a memory of that conversation asking the number-two at DOJ to investigate the claims of the men in Italy?

A I do not recall that.

Q "And Kash Patel called me and said, 'I heard you were given some information by the chief of staff about this Italy thing. Can you tell me what this is all about?' And I relayed to him what I knew at that point."

A Which was?

Are you going to keep reading --

Q "The chief of staff told us this" --

A -- pieces of this thing, or are you going to try to refresh my memory by reading the entire --

Q If your memory's not refreshed from something as unique as you calling the number-two at DOJ to investigate election fraud claims by two men in Italy in jail, I don't know what will.

A Okay. Well, then you've answered your own question, so we can move on.

Q Did you have any -- going back to your potential appointments to the CIA or FBI, did you have any belief that General Milley prevented those appointments?

A I don't believe so.

Q I want to go back to exhibit --

Mr. Sofer. One second, please.

[Discussion off the record.]

The Witness. Okay. Thanks.

Mr. Sofer. Sorry. Go ahead.

BY [redacted]:

Q I just want to make sure you have no memory about this either.

"Saturday, January 2nd, Miller and Patel together called the Director of the Defense Intelligence Agency, Lieutenant General Scott Berrier, and made the same request Patel had made to Mr. Cohen."

Did you ask Ezra Cohen to take any investigative steps about these two men in Italy?

A Based on what you're reading me, my memory is not refreshed and I don't recall doing this.

Q You have no memory of asking Ezra Cohen to assist you --

A As I sit here today, based on your reading of piecemeal statements, I do not have an independent recollection of this matter.

Q How about without my reading of piecemeal statements, you have no memory as well?

A I believe I've answered that previously.

Q I just want to go back to exhibits 7 and 9. You have an email with Marc Short. Did you have a relationship with Mr. Short prior to coming to DOD?

A Sure. Mr. Short was the chief of staff to the Vice President of the United States, so we knew each other from our time -- my time at the National Security Council and, you know, I knew Marc.

Q Did you talk to Marc Short at all during January 6th?

A I don't know.

Q Did you talk to anyone involved with the Vice President's detail?

A We talked to the Vice President.

Q On January 6th?

A Yes.

Q And were those the evening calls, if you remember?

A I don't know what time of day it was. It was, in part and parcel, my best estimation, that we were trying to get the -- what's it called?

Mr. Glabe. The certification?

The Witness. Yeah, the certification back on at the Capitol. And that, I think, is what we were talking to the Vice President about. I don't know what time of day it was.

BY [redacted]:

Q Exhibit 9, if you could turn to that one, this is a December 18th email from Monica Block, who I believe is at the White House.

A Uh-huh.

Q "Kash, I'm sorry to ping you again, but I was hoping you could help me with something."

A Yeah.

Q Can you explain what this request was? It appears that the White House was trying to, quote, "grow the DCNG footprint on campus."

And also on that email is Tony Ornato.

A Thank you for pointing it out. I'm reading the email and --

Mr. Glabe. Was the question what was this about?

[redacted]. Correct.

The Witness. Well, yeah. I'm sure --

BY [redacted]:

Q Did you take any action as a result of this request?

A What I can see from my email is, "I'm adding my team. Thanks much."

So, as was not an infrequent occurrence as chief of staff, people would ask lots of things, and I would try to be professional and at least have somebody on my team

address it. I don't remember anything coming of this or what it was really about.

Q So you don't have any memory about what happened with an additional request for D.C. National Guard on December 18th for the White House campus?

A I don't have an independent memory, but I'm sure if there was a request, there's a document for a request for D.C. National Guard that would've been made by Secret Service for protection of the White House.

Q And it looks like you emailed to -- that it would be with ExecSec?

A So there's these ExecSec, the Office of -- well, the Office of the Secretary of Defense is "SD," as it says there, and other recipients in the administrative group. I don't -- like, I can't see if that's -- who's in that chain or not exactly.

[redacted]. I'm just checking through everything. Go ahead.

BY [redacted]:

Q Yeah, I just want to -- you just, I think, Mr. Patel, said that you talked to the Vice President on January 6th?

A Well -- sorry. I should've been -- thank you for letting me clarify.

Me, personally, I was on the phone with the Chairman and the Secretary of the -- the Acting Secretary of Defense in the Secretary of Defense's office when that call came in.

Q I see. It's a group call.

A It's a group call. Thank you.

Q Okay. Tell me more of what you remember from the call.

A The Vice President, just what I remember, was asking the status. We asked if the Vice President was secure. Being in the Presidential succession, it was one of our responsibilities. He said he was secure somewhere, I think in the Capitol, but I'm not sure.

Q Okay.

A And then we said we were trying to meet the needs of the Representatives of Congress to restart the certification. I believe he asked for, do you have a ballpark timeline? That was a frequent question. We said, we're doing the best we can, and we think we'll have it back on, I believe at the time "within hours" was what we --

Q Okay.

A -- informed him.

Q So, then, roughly, that took place in the evening of January 6th before Congress reconvened to --

A Well, yeah, it would've had to have taken place before.

Q And who else do you recall being on the call besides the Vice President? I think you said the Chairman and the Secretary --

A Yeah. I'm not sure who was on on his end.

Q Yeah.

A I'm not really even sure of the room or who was in it, but --

Q Okay.

A -- I imagine there was other people there.

Q Yeah. How about on your end?

A Yeah, there was probably -- you know, on that day, when we were -- the Office of the Secretary of Defense is pretty huge, and, you know, we had people coming in and out, performing duties -- the ExecSec, the senior military advisor, general counsel. So, you know, I don't have an accounting for that exact moment, but those people were rolling through.

Q Were you present for any other conversations with the Vice President on January 6th besides that group call?

A I believe that's the only one I was present for. I don't know if there were others.

Q Yeah. Did you hear about others or anything conveyed to you about others with the Vice President specifically on --

A Not that I believe I was informed about.

Q Okay.

How about Mr. Short? Any conversations with him?

A I don't -- I may have called Mr. Short. I just --

Q Don't recall.

A -- don't know.

Q Okay.

Okay.

BY [redacted]:

Q Exhibit No. 40 is an inquiry from Eric Schmidt at The New York Times.

A Uh-huh.

Q "We're also hearing that on January 6th Rudy Giuliani called Kash Patel and requested a military escort for some of the protestors from the Ellipse to the Capitol."

A Thank you.

Q Do you -- your email response is, "Go on the record for me if needed. 100 percent false. I have not spoken to him in nearly 1 year."

A And so -- sorry. Do you have a question?

Q Nope. If you want to comment, go ahead.

A Do you have a question?

Q Yeah. The question is, was there any accuracy in the question itself concerning Rudy Giuliani's --

A I don't believe so. And I'm not trying to make light of the situation, but this was, as the email chain shows -- and I'll let the email chain speak for itself -- that this was another example of totally false information being put out into the media. It was determined that the "Kash," quote/unquote, that Mr. Giuliani was talking about was a completely different Kash. And that was proven by the media in this tweet, which we're going to enter into the record.

And so I think that's what this chain is about. But, again --

Q Right.

A -- around the time of this chain, I wanted to make sure that false information from the Department of Defense was not being leaked out and/or was being corrected when it was shown.

Q Uh-huh.

Mr. Sofer. And the tweet and the correction is found in K. Patel Exhibit No. 7, which we'll ask to be added into the record.

The Witness. Thank you. Could you just read the guy's name? I think it was Kash Kelly.

Mr. Sofer. It was a different Kash. Kash Lee Kelly.

BY [redacted]:

Q Did you have any contact with Mr. Giuliani in the days before January 6th?

A No. I don't think so.

Q How about with Mr. -- with Steve Bannon? Did you have any interaction or conversations with Steve Bannon?

A Not that I recall.

Mr. Glabe. Sorry. During what time period?

The Witness. Same period?

BY [redacted]:

Q The same period, prior to January 6th.

A No. Sorry.

Q The end of December, going into January 6th.

A Not that I recall, no.

Q I know we had mentioned the phone records or the phone requests your counsel Mr. Jensen mentioned. I just want to make sure that we'll be able to get those phone numbers from you?

Mr. Sofer. To the extent that he remembers them and we can figure that all out now -- because a lot of those phones are gone -- I don't see why not.

The Witness. I had many DOD --

Mr. Sofer. We'll have to discuss it internally.

The Witness. -- and many DOD lines.

Mr. Sofer. We'll have to discuss it internally, but I --

[redacted]. Well, the issue is, we have to ask the question and put it on the record, unless we have a commitment that we'll get that information from you. That doesn't have to, then, go on the transcript. We just want the information.

Mr. Sofer. Understood.

Mr. Glabe. I'm sorry? What's the question?

[redacted]. Phone numbers used by Mr. Patel.

Mr. Glabe. But what's the question about?

[redacted]. We want them, the actual numbers.

Mr. Sofer. From what period of time to what period of time?

[redacted]. The period of time from, what, November through January, November 20th through January -- the end of his time as an executive branch --

[redacted]. So it would be November 10th to January --

Mr. Sofer. So you're talking about his work --

Mr. Glabe. His personal numbers?

Mr. Sofer. -- his work telephone numbers, correct?

[redacted]. Personal cell phone and any numbers -- again, I don't want the classified stuff. If there's anything that's classified, I don't want it. But numbers that Mr. Patel used.

Mr. Sofer. I don't think we'll commit to providing his personal telephone number. He's already had a number of threats. The committee's already outed him, in some ways. I don't think we commit to that. I'm not saying we wouldn't do it. We'd have to talk about it. So I won't commit to it now.

His work telephone numbers, absolutely. I don't see a problem with us providing those. Those seem to me to be available through DOD anyway. In fact, I would assume that those phones were surrendered at the time of his --

The Witness. They were, yeah.

Mr. Sofer. -- of his leaving government service. And the phones themselves are probably available as well.

Personal cell phone or cell phone numbers, we're going to have to discuss, given the security threats he's faced.

[redacted]. I understand. Don't want to exacerbate any security threats.

BY [redacted]:

Q Mr. Patel, let me just ask you, did you use your personal phone in any way to conduct official business?

A I tried to make it a habit of not doing that. Did I ever do it? Possibly. I just don't --

Q Yeah.

A Over the course of the years, I don't remember.

Q I carry two phones for that reason -- one is official and one is personal -- but sometimes official stuff happens on my personal phone.

A Sometimes your phone doesn't work.

Q Exactly. And I'm just --

A And I'm telling you, it could've happened. I just, my habit was -- I had, like, six phones.

Q Yeah.

A I used the work ones for the appropriate medium to use them in.

Q Yeah. Totally appreciate that. And the only reason I'm asking about the personal phone is to the extent that there were communications that were official --

A I'll talk to counsel.

Q Okay.

I just want to ask you about a number, [redacted]. Is that a number that you have ever used?

A Have I ever used it?

Q Yes.

A I used to live in Miami for 8 years. [redacted] is a Miami area code, so --

Q Yeah. Do you recall that specific --

A I don't recall it specifically.

Q Okay. Okay. Well, we'll follow up with you. I completely appreciate the security issue and don't want to exacerbate that.

A Are you saying that's one of mine or --

Q Just wondering if it is.

A Where did you get it from?

Q I can't tell you where we got it from. I can --

A Well, it's hard for us to track down.

Q Well, I just want your recollection as to whether or not --

A Okay.

Q -- it was a number that you used.

A Fair enough.

Mr. Sofer. Could we just repeat the number again?

[redacted]. Sure.

Mr. Sofer. And, again -- oh, you have it? Okay.

So, to the extent, again, that that might be his number --

[redacted]. We'll take it off.

Mr. Sofer. -- we would want it out of the public record here.

[redacted]. Understood.

The Witness. Yeah, I just don't -- I don't remember.

[redacted]. Okay.

Ms. Lomax. Could I ask the last four digits really quick, just to be make sure?

[redacted]. [redacted].

Ms. Lomax. Thanks.

Mr. Sofer. I mean, again, as you can appreciate all the publicity connected to this and the threats we have described, we're sensitive to these kinds of things.

[redacted]. I understand, and, as I keep saying, we don't want to exacerbate it. We just want to know the numbers used so that we can do our work as well.

Mr. Sofer. Understood.

[redacted]. I'm wrapping up.

The Witness. Sure.

[redacted] I just have one more question.

BY [redacted]:

Q I know in the binder there was an email exchange between you and Mr. Ken Cuccinelli. That's exhibit 43.

How do you -- and I'm not asking about the email itself.

A Oh.

Q How do you know Mr. Cuccinelli?

A From my time in government. Mr. Cuccinelli and I have crossed paths and served together for some time.

Q And there was, I believe, exchanges about Secretary Ryan McCarthy and --

A Are you asking me about it, the document? Sorry.

Q Yes.

Mr. Sofer. Is that the exhibit you just referenced?

[redacted]. Uh-huh, 43.

The Witness. What is the question?

BY [redacted]:

Q It looks like there was a press statement from therichmond.com about "The FBI fears 'insider attack.'"

A Uh-huh.

Q And your response was, "Just Ryan doing too much media."

A Yeah.

Q What -- and there was other emails, which I don't want to spend time getting into, about Secretary McCarthy leaking the DOD timeline.

Was there a concern about Secretary McCarthy that was shared by you and Ken

Cuccinelli at that time?

[Discussion off the record.]

The Witness. Outside of what's in this email, I don't recall calling Mr. Cuccinelli on that day.

BY [redacted]:

Q Okay. My question was about Secretary McCarthy, though.

A Did I call Secretary McCarthy on this day?

Q No. That wasn't my question.

Was there -- this email exchange, did you -- did you know that it was Secretary McCarthy who was providing that information about the FBI insider attack?

A Just looking at this email alone, I don't think I can answer that. Maybe if I was provided other documents. But, on that day, I was probably looking at other stuff.

Q Okay.

There's -- I believe it is exhibit 12. It's a proposed statement concerning the transition.

A Okay.

Q "Vice President Biden has repeatedly been provided false information by his staff about the DOD transition effort."

Mr. Sofer. Can you just point to the page, please?

[redacted]. Sure. It's the first page.

The Witness. Okay. What about it? What's the question?

BY [redacted]:

Q Was this ever issued by DOD?

A I'm not sure. Possibly. But as I sit here just looking at this, I don't know.

Q Okay.

[redacted]. I think that covers everything.

Mr. Glabe. So I think we had a few closing matters.

Did you want to get them on the record, Greg, or --

Mr. Sofer. Yeah. We just wanted to -- just 1 second, please.

[Discussion off the record.]

Mr. Glabe. Just for the record, we'll -- reference was made to the date of GSA ascertainment, November 23rd. This isn't marked, but we'd like to include that in the record.

[redacted]. Sure.

Mr. Glabe. This is a reference to --

Mr. Sofer. We're up to No. 8, to the extent that that matters.

I think we have mostly housekeeping questions that we want to make sure we understand.

Will we have an opportunity to supplement the record? Let's say Mr. Patel remembers something that he forgot while he was here or didn't recall when he was here and he wakes up in the middle of the night, calls us and says, hey, I remember something, he wants to clarify something. Do we have the ability to do that?

[redacted]. Yes.

Mr. Sofer. And how would we go about doing that?

[redacted]. You should let --

Mr. Sofer. Contact you?

[redacted]. Yes.

Mr. Sofer. Okay.

[redacted]. -- let us know. And if it's something we can cover informally, we will. If there's a need to do another proceeding, then we can do that as well.

Mr. Sofer. Okay.

Are we going to be afforded an opportunity to review the transcript of this? And how will that occur?

[redacted]. Yes. The House rules provide that a draft transcript is generated. We will give it to you -- or make it available to you. I don't believe that we're able to provide an electronic copy. It may be sort of an old-school, you have to review it and mark changes.

But before it's final, yes, Greg, you'll have an opportunity --

Mr. Sofer. Okay.

[redacted]. -- and Mr. Patel as well, to look at it.

Mr. Sofer. And approximately what kind of timeframe are we looking at?

[redacted]. Shortly.

Mr. Sofer. Days? Weeks? Months?

[redacted]. Yeah, we -- days, I believe.

Mr. Sofer. Okay.

[redacted]. It should be in the coming days, although we're generating a lot of work for the court reporters, and --

Mr. Sofer. Understood.

[redacted]. -- I don't want to commit for them.

But, bottom line, just to finish this, before the transcript is finalized, you will have had a chance to read it and make any edits, clarifications that you want.

Mr. Sofer. Okay.

Can we have your assurances that we won't be called back here?

[redacted]. No, unfortunately, we can't give you that assurance. We are still waiting on document production that is tied up in litigation.

Our hope is not. Let me just, from the start, say that our hope is that we will not. But it just sort of depends on whether or not some of that production or other information developed would prompt that.

Mr. Sofer. I just want the record to reflect that I don't believe we refused to answer a single question here today and that we didn't assert any kind of arguments about privilege. We've made our statements about them.

But I want the record to be clear that my client sat here for 4 hours, answered every single question to the best of his ability. And, to the extent that that's considered when deciding whether to bring us back, that we've distinguished ourselves from other folks who have been subpoenaed by the committee and came in here voluntarily to do what we said we were going to do.

So I hope that the committee will consider that before dragging us back here, which, obviously -- and, again, if there are other questions and you want to communicate them to us, we're happy to do that. But we don't want to come back for another round of the deposition.

[redacted]. Appreciate that.

Mr. Glabe. And let me ask the question a different way, which is: Understanding that none of us can predict the future or what the committee might potentially be interested in in the future, is it fair to say and are you able to represent that the terms of the subpoena issued on September 23rd have been satisfied?

[redacted]. The deposition needs to remain open.

I appreciate, Mr. Sofer, your statement about there has not been any privilege assertion that has prevented an answer.

That said, this is an ongoing -- fast-moving and ongoing investigation. There may be additional documents or additional witnesses that provide information that prompt us

to come back. It could be that we can come back to counsel and answer those questions without the need to have it an on-the-record proceeding. I just don't know.

Mr. Sofer. Okay. Well, pursuant to our previous discussions, we'd request that you withdraw the subpoena. And, again, the idea was -- and the reason, as I understood it, why you did not withdraw the subpoena was because of these privilege issues. We've not asserted the privilege. I think you can see that we've answered all of these questions.

So I'd request that the committee withdraw the subpoena now, the one that's already been issued, number one, and, number two, to the extent there are further questions, that they not be sought by a subpoena.

[redacted]. Okay. We can't withdraw it now. We may need to reconvene, and the compulsion is necessary for that. It is not our current intention to do that.

And all I can do is tell you that we are moving fast and do not want to belabor this. I appreciate the desire for completion. We share that. I just don't know what is in the archives production or with other --

The Witness. Can I just say --

[redacted]. Yes?

Mr. Glabe. Let me say one thing. And, hopefully, this is the last thing I have to say, at least on the record this afternoon.

I understand you're wanting to prepare for contingencies. It was also the case that, when we had a discussion, lengthy discussion, about our client's willingness and ability to appear voluntarily and withdraw the subpoena before the interview, Mr. Heaphy, you stated in a phone call on November 22nd that one of the reasons that you weren't able or willing to withdraw the subpoena is because it was unacceptable to the committee to have multiple proceedings, that you did not have the time for multiple

interviews, and, therefore, you wanted to get everything done in one interview so that any privilege issues could be adjudicated in or immediately after that interview.

There were no privilege issues raised today, no questions that our client refused to answer, and so, therefore, I don't understand why we can't close out the September 23rd subpoena, particularly understanding that you said that it was your wish not to have two separate proceedings.

[redacted]. It remains my wish not to have two separate proceedings. I just need to keep the option open to compel Mr. Patel's return if that becomes necessary. I hope it does not.

Mr. Glabe. And if you need to compel Mr. Patel to return, you could issue a subpoena.

[redacted]. Yeah.

Mr. Glabe. But I think, in light of the participation that our client showed, it would be the respectful, appropriate, and professional thing to do to withdraw or otherwise represent that the September 23rd subpoena is closed out, completed, and satisfied.

[redacted]. Yeah. I appreciate your perspective, but we just need to keep the subpoena in place and leave this open. Our hope is that it does not have any practical --

The Witness. Could you give us 1 second?

Mr. Sofer. Well, just for the record again, I don't think that's supported by our previous conversations. And, again, I don't want to repeat myself, but, as Mr. Glabe points out, the reasons that their subpoena wasn't withdrawn -- you know, we had email traffic about that between us -- those have been removed at this juncture.

And we are willing to provide information to the extent that we can, and I think we've shown ourselves to not in any way obfuscate the process. So all of the

justification for keeping the subpoena in place is gone, in my judgment.

And I just don't think it's fair. It's not fair to keep Mr. Patel under the coercive power of potential of being subpoenaed and dragged back in here, given what he's done here. It's not good for the committee, not good for us. When you have a cooperative witness and you keep their thumb on their neck, it's not right.

[redacted]. There's no thumb on anyone's neck.

Mr. Sofer. Well, the subpoena -- you know, you know this as well as I do, that a subpoena, for anybody, is a -- you know, you said this a couple times -- a big deal.

[redacted]. Yeah.

Mr. Sofer. It's a big deal. Particularly in this particular context, when the whole world is watching it, it's highly problematic. It doesn't make him feel good, it doesn't make us feel good, it probably doesn't make you feel good.

I'd just ask you to reconsider and think about it.

[redacted]. Yeah.

Mr. Sofer. You don't have to answer the question now, but please think about the fact that we came in here in good faith, answered all these questions, did not assert a privilege, and are simply requesting that the subpoena be withdrawn or considered to be fulfilled.

If you find some need at some later date, as far as I know, there's nothing that stops you from issuing another subpoena.

[redacted]. Yeah. I completely understand. I don't -- staff doesn't have the ability unilaterally to withdraw the subpoena. I will convey that request --

Mr. Sofer. I appreciate that.

[redacted]. -- to Chairman Thompson and the committee.

But I can represent that it is certainly not their intention to keep anybody's -- the

thumb on anybody's neck, to belabor this. Our hope is that this is the one and only time that we ask Mr. Patel to honor the subpoena.

I will convey the request to withdraw it. It would, to some extent, not matter, because if we need --

Mr. Sofer. Withdraw it or officially consider it as having been satisfied.

Mr. Glabe. Or allow us to represent the --

[redacted]. I just need to check with the chairman on that, and will do so.

[redacted]. Let me just say one thing, not about the subpoena issue, but we have asked every witness, and I want to ask you also, as part of this -- part of our mandate, prospectively, going forward, is offer recommendations, what Mr. Patel thinks as far as what could be -- could've prevented January 6th from happening.

The Witness. I'll speak to counsel.

Mr. Sofer. Yeah, that's something, I think, that we could -- would happily discuss and potentially submit to you, the committee, in writing.

[redacted]. Great.

The Witness. Can I have 1 second?

[Discussion off the record.]

The Witness. Thank you all for your time.

[redacted]. Great.

Mr. Sofer. Thanks. Appreciate it.

[redacted]. Okay. Thanks.

[redacted]. Thanks.

[Whereupon, at 4:15 p.m., the deposition was concluded.]

Certificate of Deponent/Interviewee

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

_____

Witness Name

_____

Date