

COMMITTEE ON THE JUDICIARY,  
U.S. HOUSE OF REPRESENTATIVES,  
WASHINGTON, D.C.

INTERVIEW OF: GEOFFREY BERMAN

Thursday, July 9, 2020

Washington, D.C.

The interview in the above matter was held in Room 2141, Rayburn House Office Building, commencing at 11:15 a.m.

Present: Representatives Nadler, Scanlon, Cicilline, Swalwell, Dean, Jordan, and Gaetz.

Staff Present: Arya Hariharan, Deputy Chief Oversight Counsel; Aaron Hiller, Deputy Chief Counsel; Sarah Istel, Oversight Counsel; Priyanka Mara, Professional Staff; Anthony Valdez, Staff Assistant; Stephen Castor, Minority General Counsel; Caroline Nabity, Minority Counsel; James Lesinski, Minority Counsel

Ms. Hariharan. Good afternoon. This is a transcribed interview of Geoffrey Berman, former U.S. attorney for the Southern District of New York, on Thursday, July 9th, 2020. Chairman Nadler requested this interview as part of the House Judiciary Committee's investigation of political interference at the Department of Justice by the Attorney General and senior leadership.

Would the witness please state his name and former position at the Department for the record?

Mr. Berman. Geoffrey S. Berman, former United States attorney for the Southern District of New York.

Ms. Hariharan. I want to thank you for appearing here today voluntarily, and we appreciate your willingness to do so. My name is Arya Hariharan. I'm a counsel for the majority staff on the House Judiciary Committee.

I will now ask everyone else who is here in the room to introduce themselves for the record starting with the members present.

Chairman Nadler. Jerrold Nadler, Chairman of the Judiciary Committee.

Mr. Swalwell. Eric Swalwell, member of the Judiciary Committee.

Mr. Cicilline. David Cicilline, member of the Judiciary Committee.

Ms. Scanlon. Mary Gay Scanlon, vice chair of the Judiciary Committee.

Mr. Gaetz. Matt Gaetz, member of the Judiciary Committee.

Mr. Castor. Good afternoon, Mr. Berman. This is Steve Castor with the Republican staff. And my two colleagues are here from our staff. I'll have them introduce themselves.

Ms. Nabity. Caroline Nabity, House Judiciary Republicans.

Mr. Lesinski. James Lesinski, House Judiciary Republicans.

Ms. Hariharan. Arya Hariharan, majority staff.

Mr. Valdez. Anthony Valdez, majority staff.

Mr. Hiller. Aaron Hiller, majority staff.

Ms. Mara. Priyanka Mara, majority staff.

Ms. Istel. Sarah Istel, majority staff.

Ms. Hariharan. The Federal Rules of Civil Procedure do not apply in this setting, but I would like to take a moment to go over the guidelines that will be followed today.

As agreed upon with the committee, and noted in your communication with the Associate Deputy Attorney General Brad Weinsheimer of the Department of Justice on July 2nd, 2020, quote, "The Department does not object to your proposed testimony provided it is limited to the scope agreed upon by the committee. The scope is limited to the immediate circumstances of your termination as U.S. attorney over the course of June 19th and June 20th. In your testimony, you do not intend to answer questions about whether you have any belief as to why you were asked to resign, and you will not answer any questions about criminal cases or other matters handled by the SDNY," end quote.

As previously stated, you agreed to appear voluntarily and in person. Prior to questioning you will have the opportunity to give an opening statement. Our questioning will proceed in 30-minute rounds. The majority will ask questions for one half hour, and then the minority will have the opportunity to ask questions for an equal period of time if they so choose. We will then repeat this for a second round for both the majority and minority.

The interview will end at the discretion of the chair provided that the majority and minority have had an opportunity to question you for an equal amount of time. The majority and minority rounds are controlled by the chairman and ranking member,

respectively.

To maintain a clear record for the official reporter there will be no interruptions by individuals or members not authorized to ask questions. It is also important that we don't talk over one another or interrupt each other if we can help it.

Typically, we take a short break at the end of each hour of questioning, but if you would like to take an additional break apart from that, please let us know. We will also break between majority and minority rounds in order to allow for appropriate health and safety measures.

As you can see, the physical layout of the room is also arranged to comply with the health and safety guidelines from the House Sergeant at Arms and the Attending Physician.

There is an official reporter taking down everything we say to make a written record. So we ask that you give verbal responses to all questions. Do you understand this?

Mr. Berman. Yes.

Ms. Hariharan. As I noted earlier, you're appearing voluntarily. Accordingly, we anticipate that our questions will receive complete responses. If you have any questions or if you do not understand one of ours, please just let us know.

If you honestly don't know the answer to a question or don't remember it, just say so and give us your best recollection. If you learned the information from someone else, please let us know to the best of your knowledge who might be able to provide a more complete answer to the question.

The committee encourages witnesses who appear for transcribed interviews to freely consult with counsel if they so choose. You are not appearing today with counsel, correct?

Mr. Berman. I am not appearing with counsel.

Ms. Hariharan. Mr. Berman, you should also understand that, although this interview is not under oath you are required by law to answer questions from Congress truthfully. Do you understand this?

Mr. Berman. Yes.

Ms. Hariharan. This also applies to questions posed by congressional staff. Do you understand this?

Mr. Berman. Yes.

Ms. Hariharan. Witnesses who knowingly provide false testimony could be subject to criminal prosecution under 18 U.S.C. 1001 for making false statements. Do you understand this?

Mr. Berman. Yes.

Ms. Hariharan. Is there any reason you are unable to provide truthful answers to today's questions?

Mr. Berman. No.

Ms. Hariharan. Finally, as I stated earlier, this interview is transcribed. The committee will provide you with at least 24 hours to review the transcript prior to its release.

This is the end of my preamble. Do you have any questions before we start?

Mr. Berman. No.

Ms. Hariharan. Then I will turn it over to you for your opening statement.

Mr. Berman. Thank you.

I am appearing before this committee at its request to testify regarding the events of June 19th and 20th, 2020, that resulted in my departure as U.S. attorney for the Southern District of New York.

In order to accommodate the committee's desire for information concerning my departure while also ensuring that my testimony does not impact in any way the work of the Southern District, I have, in consolidation with the Department of Justice, established parameters for my testimony that have been shared with the committee.

On June 18, 2020, I received an email from a member of the Attorney General's staff stating that the Attorney General wanted to meet me the next day at the Pierre Hotel in New York. I was not told the purpose of the meeting.

The meeting took roughly 45 minutes and was held in the Attorney General's hotel suite. It began at approximately 12:10 p.m. on June 19. The Attorney General's chief of staff, Will Levy, was present with me and the Attorney General, but he did not speak. There were sandwiches on the table but nobody ate.

The Attorney General began the meeting by saying that he wanted to make a change in the Southern District of New York. He said that there was an opening in DOJ's Civil Division created by the recently announced departure of Assistant Attorney General Jody Hunt. He asked me to resign my position and take that job, saying that it would create an opening for SEC Chairman Jay Clayton to be nominated for U.S. attorney for the Southern District of New York.

I responded that I loved my job and my colleagues at the Southern District and that I was thankful every day for the privilege of being part of that office. I asked the Attorney General if he was in any way dissatisfied with my performance as U.S. attorney. He said that he was not at all dissatisfied. He said the move was solely prompted by Jay Clayton's desire to move back to New York and the administration's desire to keep him on the team.

I told the Attorney General that I knew and liked Jay Clayton, but he was an unqualified choice for U.S. attorney for the Southern District of New York because he was

never an AUSA and had no criminal experience.

I told the Attorney General that I was not interested in overseeing DOJ's Civil Division or in resigning. I said that I would leave whenever a nominee is confirmed by the Senate as set forth in the statute under which I was appointed. I asked the Attorney General why I was being asked to resign prior to a nominee being confirmed. He said it was because the administration wanted to get Jay Clayton into that position.

The Attorney General pressed me to take the Civil Division position saying that the role would be a good resume builder. He said that I should want to create a book of business once I returned to the private sector, which that role would help achieve. He also stated that I would just have to sit there for 5 months and see who won the election before deciding what came next for me.

As part of this exchange he asked if I had done civil work at my prior law firm. I confirmed that I had indeed done civil work, but that I did not want to lead the Department's Civil Division.

I told the Attorney General that there were important investigations in the office that I wanted to see through to completion. I also said that I wanted to help lead the office through the COVID crisis and get the office back to normal functioning.

The Attorney General repeatedly urged me to take the Civil Division position. At one point, I compared his request for my resignation to what happened with the U.S. Attorney's Office in the District of Columbia where the U.S. attorney resigned and was replaced with someone from outside that office instead of the first assistant.

By referring to that resignation, I intended to signal to the Attorney General that I was not going to resign so that he could disregard normal procedure and appoint someone from outside the Southern District as acting head instead of our deputy U.S. attorney.

The Attorney General said that if I did not resign from my position I would be fired. He added that getting fired from my job would not be good for my resume or future job prospects. I told him that, while I did not want to get fired, I would not resign.

The Attorney General said that he was trying to think of other jobs in the administration that might be of interest to me. I said that there was no job offer that would entice me to resign from my position.

The Attorney General asked me to write down my cell phone number so that he could call me later that day to give me some time to mull over the offer. I gave him my personal cell phone number and told him that, while I was always available to talk to him, I did not want to create any inaccurate expectations on his part. I told him that my position would not change this afternoon or in the future.

Immediately after I left the meeting, I called members of my executive staff. I also called attorneys to represent me in a private capacity in case I was fired. I wanted to be ready to challenge the firing in court on the ground that I was appointed by the court of the Southern District of New York and therefore could not be fired by the Attorney General or the President.

At 4:44 p.m., I missed a call from a number with a 202 area code that I did not recognize. The caller did not leave a voice message. At 7:21 p.m., I called that number back and had a conversation with the Attorney General lasting about 3 minutes.

I told the Attorney General that my mind was the same and that I wanted until Monday to have a final conversation with him which would allow me to discuss the situation with my entire executive staff.

The Attorney General then asked me whether I would be interested in becoming chairman of the Securities and Exchange Commission. I told him my position was

unchanged and that I wanted to wait until Monday to have our final conversation.

He asked why I needed to talk to my executive staff.

He said: This is about you.

I said: It is about the office.

He refused my request to call me on Monday and said that he would call me the next day, Saturday, June 20th. He did not give me a specific time for the call. That is the last time I spoke to the Attorney General or anyone on his staff.

Sometime after 9:14 p.m., on Friday, I became aware that DOJ issued a press release that I would be, quote, stepping down, unquote. That statement was false. In addition, the press release said, among other things, that the United States attorney for the District of New Jersey, Craig Carpenito, had been appointed by the President as acting U.S. attorney for the Southern District of New York effective July 3rd, pending Jay Clayton's nomination and confirmation for that position.

The appointment of Craig Carpenito as acting U.S. attorney, or anyone from outside of the office, would have been unprecedented, unnecessary, and unexplained. The Attorney General further stated, quote, "With tenacity and savvy, Geoff has done an excellent job leading," unquote, the Southern District.

Later, on Friday, I issued a press release saying that I had not resigned and had no intention of resigning, and that I intended to ensure that our office's important cases continue unimpeded.

On Saturday morning and afternoon, I had several calls with members of my executive staff and with my private attorneys. At approximately 3:30 p.m., the Attorney General publicly released a letter addressed to me saying that I had been fired by the President.

The letter also contained a critical concession by the Attorney General. The

Attorney General stated that Audrey Strauss, my handpicked and trusted deputy, and not Craig Carpenito, would be acting U.S. attorney and was expected to serve in that capacity until a permanent successor is in place. With that concession, and having full confidence that Audrey would continue the important work of the office, I decided to step down and not litigate my removal.

Over the course of Friday and Saturday, the interests of the office were my sole concern as I endeavored to serve the immensely talented and dedicated AUSAs and staff of the Southern District in fulfilling their mission.

That completes my opening statement.

[The statement of Mr. Berman follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Ms. Hariharan. The majority will now begin its questioning. The time is 12:30.

Chairman Nadler. Thank you.

Mr. Berman, you just told us that you made clear to the Attorney General on the morning of June 19th that you would not resign. Is that correct?

Mr. Berman. That is correct.

Chairman Nadler. And even after he said you would be fired if you did not resign, you still told him you were not resigning, correct?

Mr. Berman. That's correct, but the meeting was actually in the early afternoon. It started about 12:10 p.m.

Chairman Nadler. But you told him you would not be resigning?

Mr. Berman. That is correct.

Chairman Nadler. And you told him that your mind had not changed when you spoke to him again at 7 o'clock that evening, correct?

Mr. Berman. That is correct.

Chairman Nadler. At any time prior to his 9 p.m. press release, did you convey to Barr in any way that you were going to step down?

Mr. Berman. I did not.

Chairman Nadler. So, when Barr said at 9 p.m. that you were stepping down that was false, correct?

Mr. Berman. Correct.

Chairman Nadler. Sir, what did you understand the Attorney General's motivations to be in issuing that 9 p.m. press release stating that you were stepping down when you had very clearly told him that you were not resigning hours earlier?

Mr. Berman. I do not know what the Attorney General's motives were, but the

irregular and unexplained actions by the Attorney General raised serious concerns for me. The Attorney General offered me two important jobs in the administration and described me as tenacious and savvy and said I had done an excellent job as U.S. attorney.

The Attorney General praised me privately and publicly. Why then did he insist on me resigning during Clayton's confirmation process? Why did the Attorney General say that I was stepping down when he knew I had neither resigned nor been fired?

Why did the Attorney General not tell me the actual reason he was asking me to resign instead of saying that it was to get Clayton into the position? And why did he announce the appointment of Craig Carpenito as acting U.S. attorney when Audrey Strauss was the logical and normal successor?

The appointment of Carpenito as acting U.S. attorney or anyone outside of the office would have been unprecedented, unnecessary, and unexplained, and would have resulted in the delay and disruption of the office's investigations.

Chairman Nadler. Thank you.

#### EXAMINATION

BY MS. ISTEEL:

Q Good morning, sir.

A Good morning.

Q In your opening statement, you wrote that you told Attorney General Barr at an in-person meeting, which you just clarified was early afternoon, that you were not interested in resigning, correct?

A Correct.

Q You stated you would leave whenever a nominee was confirmed by the Senate, correct?

A Correct.

Q You also stated in your opening that he offered you other positions during that meeting, correct?

A He only offered me the position of head of the Civil Division. It was later that afternoon that he offered me the Chairmanship of the Securities and Exchange Commission.

Q Why did he say that you should consider taking the Civil Division position?

A He said it would be good for my resume.

Q What did you understand that to mean?

A Exactly how he presented it.

Q What did he say would happen to you if you did not accept his offer?

A He said that, if I did not resign, I would be fired.

Q And you told -- what did you say in response to that?

A I said that I did not want to be fired, but I would not resign.

Q You wrote on page three of your opening statement this morning that you compared the Attorney General urging you to take the Civil Division position to what happened with the U.S. Attorney's Office in the District of Columbia. What happened in that case?

A In that case the U.S. attorney for the District of Columbia resigned and was replaced with an outsider who was from Main Justice and was not replaced by the first assistant.

Q Why was that concerning to you?

A Because I believe that that was what the Attorney General intended to do in the Southern District were I to resign, and replacing me with someone from outside the district would have resulted in the disruption and delay of the important investigations that were being conducted.

Q You also said that it would disregard normal procedure. Is that correct?

A That is correct.

Q What did you mean by that?

A The proposal to bring in Craig Carpenito from the outside to be acting U.S. attorney, as I said, was unprecedented, unnecessary, and unexplained.

Unprecedented because for about the past 70 years every Southern District of New York U.S. attorney has been succeeded by his or her deputy or the next U.S. attorney and not by an outside acting U.S. attorney, as the Attorney General wanted done with Carpenito.

So, for example, beginning with Ed Lumbard back in 1953, he was succeeded by his deputy Lloyd MacMahon, who was succeeded by -- Paul Williams, the next U.S. attorney, who was succeeded by his deputy, Arthur Christy. Hazard Gillespie, the next U.S. attorney, was succeeded by his deputy, Morton Robson. Bob Morgenthau, the next U.S. attorney, was succeeded by his deputy, Vincent Broderick, and so on. So, for 70 years, that had been the normal and appropriate practice.

In addition, putting in Carpenito from the outside was completely unnecessary. The office's deputy, Audrey Strauss, has a sterling reputation and knows the investigations and cases and would be the logical and normal choice for acting U.S. attorney.

And, finally, putting someone like Craig Carpenito in as acting was unexplained. When I questioned the Attorney General why I was being asked to resign before Clayton was confirmed, he said to get Clayton in the job. He never mentioned Carpenito. The AG has never given a reason for passing over Audrey Strauss.

Q Do you have any reason to believe, as of June 19th, that Audrey Strauss could not have taken over in your place?

A There was no reason that Audrey Strauss could not have taken over. In

fact, she was the logical and normal choice for succeeding me in the position.

Q And, in fact, she did succeed you, correct? The next morning in his letter to you, he wrote that, by operation of law, she would succeed you. Is that right?

A That is correct.

Q And just to be clear for the record, when Barr announced -- what Barr announced in his plan on June 19th to have Craig Carpenito replace you and to have you step down on July 3rd, that went against the normal procedure, correct?

A That is correct.

Q Is that why you told him during that meeting that you would not resign and take the alternative position in the Civil Division, because you did not think that was appropriate?

A That is correct.

Q The Attorney General told you that, if you did not resign you would be fired, but you still told him you would resign. Why were you prepared not to -- that you would not resign. Why were you prepared to take that course of action?

A Because I believed that, were I to resign, an outsider would have come in as acting U.S. attorney, and I was not going to permit that. And I would rather be fired than have that done.

Q During that meeting, would you agree that Barr was acting in his official capacity as Attorney General?

A Yes.

Q You told him there was no job offer that would entice me to resign from my position. That was in your opening statement at page four. Why did you use the word "entice"?

A Because I believe that's what the Attorney General was trying to do. He

was trying to entice me to resign -- and I said that I was having no part of it.

Q So, to be clear, you believed he was offering you an alternate position in the Department to entice you to leave your role as U.S. attorney?

A Correct.

Q Do you believe it was your official duty to remain in that role pursuant to the court order appointing you until the vacancy for your position had been filled or removed by the President?

A Could you repeat that question?

Q Sure. Did you believe it was your official duty to remain in your position as U.S. attorney pursuant to the court order appointing you until the vacancy for your position had been filled or that you were otherwise removed pursuant to the lawful basis?

A Right. I just want to make clear that it was my position that I could neither be fired by the Attorney General nor the President. And so I could be removed by the court, which appointed me --

Q Right.

A -- or I could be removed if a nominee was confirmed by the Senate.

And, by the way, I told the Attorney General in that meeting, you know, even though I said, you know, Clayton was unqualified, I said: Look, if he's nominated and confirmed, I'm stepping away without a peep. I respect the process. I respect the President's prerogatives to nominate and confirm. It was up to the Senate to confirm the candidate. If the Senate passes on a candidate, I'm stepping away, and I told the Attorney General, I won't make a sound.

My primary concern in that meeting was not so much the Clayton nomination and confirmation process. That was going to take a long time. My primary concern was

not to have an acting U.S. attorney from outside the office placed in that position in the near future.

Q Did you believe going along with Attorney General Barr's stated plan in his June 19th press release would go against your official duties?

A My objective was to ensure that the office's investigations would proceed without disruption and delay, and it was to ensure that goal that I opposed the Attorney General's press release on Friday.

Q After that meeting, why did you call your attorneys?

A Because I intended to challenge -- because I believed that there was now a possibility that I would be fired because I was refusing to resign, and the Attorney General told me that if I didn't resign I would be fired, and if I were fired, I wanted to be in a position to immediately challenge that firing in court in order to maintain the ongoing investigations without disruption.

This wasn't about me or my position or me keeping my job. My sole goal was to ensure that the investigations that were ongoing would go forward without disruption and delay. And that's why, when ultimately Audrey Strauss was appointed as acting U.S. attorney and I was confident that those investigations would go forward, I did not challenge my firing and stepped down.

Q Did you believe that part of your official duties included ensuring that the office's cases proceeded without disruption or delay?

A Yes.

Q Did you believe that Attorney General Barr's stated plan in his June 19th press release would impact your ability to ensure that the office's cases would proceed without disruption or delay?

A Yes.

Q Between that meeting and Barr's 9 p.m. press release, you had one additional call with Attorney General Barr, correct?

A Yes.

Q In that conversation, did you convey to him that you had not changed your mind about resigning?

A Yes.

Q At that point, did he offer you any other positions?

A Yes.

Q What were they?

A One position, the chairmanship of the Securities and Exchange Commission.

Q Did you accept that offer?

A No.

Q Did he try to convince you to accept that offer?

A No. It was a very brief conversation, about 3 minutes.

Q What did you understand his motivation to be in offering you that alternative position?

A It was another enticement for me to resign as U.S. attorney.

Q What did you understand would happen if you did not accept his offers?

A Well, let me say that my objective, both in the earlier lunch meeting, in which we didn't eat lunch, and the subsequent phone call, my objective was to oppose the Attorney General's plan and try to convince him to back off that plan. That was my goal and hope. I knew that if that wasn't going to happen, there was a possibility that I would be fired.

Q Did you ask him during that call to wait until Monday to have another conversation on the subject?

A Yes. I thought that the longer I could put off this kind of final conversation, the better. It would give the Attorney General an opportunity to reconsider his plan and back off, and it would give me an opportunity to prepare the office and my full executive staff for a possible disruption.

Q When you left that call, when did you understand you would speak to Barr next about this subject?

A He told me he would call me the next day, Saturday, June 20th.

Q At any point, prior to his 9 p.m. press release, did you tell the Attorney General that you were stepping down?

A No.

Q At any point during your 7 p.m. call or during the June 19 meeting, did you tell the Attorney General that you were stepping down?

A No.

Q At any point during the 7 p.m., or during the June 19th meeting, did the Attorney General tell you that he was going to announce publicly that evening to the American people that you were stepping down?

A No.

Q At any time after the 7 p.m., call prior to his 9 p.m. press release, did Barr tell you that he was going to announce publicly to the American people that you were stepping down?

A No.

Q Mr. Berman, the Attorney General and his office know how to get in touch with you, correct?

A Yes.

Q In fact, you said in your statement that you wrote down your cell phone

number for him, correct?

A Yes.

Q So, if Barr wanted to reach you after your 7 p.m. call, he could've done so, correct?

A Yes.

Q You said that you were always available to him, correct?

A Yes.

Q Did Barr ever ask you if you would consider stepping down after the 7 p.m., call before the 9 p.m. press release?

A Could you repeat the question?

Q After your 7 p.m. call, prior to his announcing at 9 p.m. that you were stepping down, did he ask you again if you would consider stepping down?

A No.

Q During that time, did he ask your permission to tell the American people that you would be stepping down?

A No. I also want to make clear: I searched my personal phone records for the time period between the 7:21 p.m. call and the date of his -- and about 9:10, which was the time of his press release, I could find no calls on the number that I gave him to contact me from either the Attorney General or anyone on his staff.

I could not search the records from my work cell phone because that was turned off soon after I was fired on Saturday. But I know that there was no email, text message, or voicemail on either my personal phone or my work phone between my conversation with the Attorney General in the afternoon of the 19th and the release of the Attorney General's press release, the evening of the 19th.

Q So, to the best of your understanding, he did not try to contact you in any

way between your 7 p.m. phone call and the 9 p.m. press release. Is that correct?

A That is correct.

Q Mr. Berman, what was your reaction to the 9 p.m. press release?

A Well, in that press release, what he outlined, which was that Craig Carpenito would come in as acting U.S. attorney, someone from outside of the office, immediately was exactly what I thought was going to happen had I resigned based on my conversation with the Attorney General the afternoon of Friday.

And let me just say that the appointment of Craig Carpenito or anyone from outside of the Southern District of New York as an acting U.S. attorney and bypassing Audrey Strauss, the universally respected deputy of the United States Attorney's Office, was something that would cause a disruption and delay in our investigations.

I'm not questioning Carpenito's honesty or integrity, but all of these events were irregular and unexplained and raised serious concerns for me. Firing me and then bypassing my deputy Audrey Strauss to place Carpenito in charge of the office would have caused significant disruption and delay in the investigations the office was handling.

Any abrupt change in leadership in the office to a new person from outside inherently causes disruption and delay while that person gets integrated and up to speed. Also, if Carpenito had come in as acting U.S. attorney after my firing and the unprecedented bypassing of the deputy, it would've been a huge blow to the office's morale and may have resulted in AUSAs resigning, which also would have impacted our investigations.

In addition, Carpenito was retaining his position as U.S. attorney for New Jersey as well as being acting U.S. attorney for the Southern District. The U.S. attorney for the Southern District of New York is not a part-time position. Since Carpenito could not devote 100 percent of his attention to the Southern District, that would have resulted in

further delay and disruption of the ongoing investigations.

Q I'd like to just explore what you said in a little more detail and a little slower. So Barr wrote in his June 19th press release, in his June 20th letter to you that he hoped to ensure a smooth transition. He used those words "smooth transition" in both of his statements.

As you just said, you as U.S. attorney were intimately familiar with the investigations and cases in that office, correct?

A Correct.

Q And, as of June 19th, you had no basis to believe that you could not continue serving in that role, correct?

A Correct.

Q In fact, on your June 19th statement, you stated your intention to do so, to stay in your position pending Senate review of a nominee, correct?

A Correct.

Q And if Barr had really wanted you out, as you've said, your second in command, your deputy, Ms. Strauss, she could've taken over, correct?

A Correct.

Q And you're not aware of any reason why Barr, on June 19th, could have had her replace you, correct?

A Could you repeat that question?

Q Are you aware of any reason why, on June 19th, when Barr announced his plan she could not have served in your place?

A There is no reason she could not have taken over as acting U.S. attorney. In fact, that would have been the normal and proper thing to do.

Q Mr. Carpenito has never worked in the Southern District, correct?

A Correct.

Q He has no personal experience in that office, correct?

A Correct.

Q And you've confirmed that his replacing you would be outside the normal operation, correct?

A Correct.

Q And under Barr's proposed plan, Carpenito would still be in charge of the District of New Jersey, an entirely different office, but also take on the role of U.S. attorney in the Southern District, correct?

A Correct.

Q Have you ever heard of that happening, a U.S. attorney running two offices at the same time?

A I don't know whether it has happened or not. I know that the position of U.S. attorney for the Southern District of New York is not a part-time position.

Q Did Barr ever explain to you, prior to his 9 p.m. statement, why he wanted to have Carpenito, who had no experience in the Southern District and was already running an entirely separate U.S. Attorney's Office, replace you, rather than your deputy, to help ensure a smooth transition?

A That was unexplained.

Q Going back to the evening of June 19th, roughly 2 hours after the Attorney General's statement, you issued your own statement. Why did you feel the need to issue that statement that same evening?

A I wanted to make it clear to the AUSAs in our office and to all interested that I was not resigning, and I had no intention of resigning, and that I was going to ensure that the office's important cases continued unimpeded. That was an important

statement for me to make.

Q Why did you feel it was important for the American public to hear that the office's important cases would continue unimpeded?

A It was important because my duty as U.S. attorney of the Southern District was to ensure that those cases were able to continue unimpeded. And I wanted to let everyone in the office and everyone concerned or interested to know that.

Q What do you mean by unimpeded?

A That they would go forward without disruption or delay.

Q Disruption or delay from what or whom?

A Well, bringing in an outside acting U.S. attorney, as I just explained, would necessarily lead to disruption and delay, and that's what I was referring to.

Q In Barr's June 20th letter to you, the day after your statement, he wrote, quote, "Unfortunately, with your statement of last night, you have chosen public spectacle over public service."

Sir, is that true? Were you choosing public spectacle over public service in your statement?

A No.

Q Why not?

A I'd rather not comment on what Attorney General Barr said.

Q I'm asking you what your intention was in writing that statement and whether you believe it was in the public service?

A I believe that the statement I made on the evening of June 19th was not only consistent but required as a result of the position I held as United States attorney.

Q I'd like to come back to your June 19th statement. In that statement, you wrote you would remain in your position until a Senate nominee was confirmed, and,

quote, "until then, our investigations will move forward without delay or interruption. I cherish every day that I work with the men and women of this office to pursue justice without fear or favor and intend to ensure that this office's important cases continue unimpeded."

When you said "important cases," were you referencing any cases in particular?

A I decline to answer that question because it is outside of the parameters established for the interview.

Q Sorry. Can you repeat that?

A I decline to answer that question because it is outside of the parameters established for the interview. It would require talking about ongoing cases of the Southern District of New York that I will not comment on.

Q Well, without commenting on the substance or existence of any investigations or cases in the Southern District, did you have any reason to believe that Attorney General Barr was trying to impede the office's cases?

A I don't know what the Attorney General's motives were, but the irregular and unexplained actions by the Attorney General raised serious concerns for me. In addition, the imposition of an acting United States attorney from outside of the office, as I explained, would necessarily delay and disrupt the ongoing investigations.

Q You just said that, in addition to your concern about delay or disruption, the Attorney General's actions raised serious concerns for me. Can you describe what those serious concerns were, please?

A I decline to answer that question because it is outside of the parameters established for the interview.

Q Do you believe that you were removed because of your concerns about the office's cases continuing unimpeded?

A I decline to answer that question because it is outside of the parameters established for the interview.

Q Sir, I'm asking about the immediate circumstances of your removal. Do you know whether you were removed because of your concern about the office's cases continuing unimpeded?

A I do not know what the Attorney General's motives were.

Q Did you express to anyone that you believed that you were removed because of your concern for the office's -- that the office's cases would not continue unimpeded?

A I decline to answer that question because it is outside of the parameters established for the interview.

Q In your statement, you wrote that you cherished the ability of the U.S. attorney to pursue justice without fear or favor. Why did you put those words in your statement?

A Because that's one of the credos of the Southern District of New York.

Q The House Judiciary Committee heard those words last month from assistant U.S. attorney for the District of Maryland, Aaron Zelinsky. Mr. Zelinsky testified that the Justice Department treated Roger Stone differently from any other defendant because of his relationship to the President, which was deeply unsettling to Mr. Zelinsky because his job as a prosecutor is to see that, in every case, justice is done without fear or favor.

Is that why you wrote those words in your statement in response to what the Attorney General had just done?

A I decline to answer that question or comment on some other individual's testimony.

Ms. Hariharan. Sir, before we close out the majority's round, at the time of your

meeting with the Attorney General, were you concerned at all with building a book of business, as he put it?

Mr. Berman. No.

Ms. Hariharan. And had you expressed that concern at any point to your staff or to Main Justice?

Mr. Berman. No.

Ms. Hariharan. All right. It is 1 o'clock. We now turn it over to the minority.

BY MR. CASTOR:

Q Let's go back on the record.

Mr. Berman, Steve Castor with the Republican staff. How are you, sir?

A How are you?

Q Good.

We spoke on June 30th and you indicated you really wanted to keep this interview very, very brief, and I believe you asked for a 2-hour time limit?

A Well, given the nature of my testimony, that it was going to be limited to a 30-hour period essentially, I thought that was not an unreasonable request.

Q Okay. You said you were going to drive down here. Did you have a pleasant drive? Did everything go smoothly?

A It was lovely.

Q Okay. Good. And do you have -- are you driving home tonight, or were you trying to get you out for --

A I am driving back as soon as the hearing concludes.

Q Okay. I'll try to be as quick as I can. For that reason, I might jump around only for the sake of covering the questions that we want answered.

A I'm happy to assist.

Q You know, you indicated that the Attorney General was very complimentary of you when you met on the 19th and --

A Not on the 19th. I asked if he was dissatisfied in any way with my job as U.S. attorney, and he said that he was not at all dissatisfied. He was extremely complimentary to me in his press release on Friday evening. And, previously, both publicly and privately, he has been very complimentary of me and the job I was doing as U.S. attorney for the Southern District of New York.

Q The Attorney General is your supervisor?

A The Attorney General --

Q Ultimately?

A My boss is the deputy Attorney General, and the Attorney General is my boss' boss.

Q Right. But the Attorney General is ultimately your supervisor, right?

A He's my boss' boss.

Q Right. And if he decides that he wants to make a change, he has that prerogative?

A Well, I told the Attorney General that I would not make a peep, not make a noise if the normal process was adhered to, which would be a nomination and confirmation of a candidate for the United States attorney. Under the statute that I was appointed under, which I was appointed by the court, I could only be removed by the court or by a confirmed candidate for that position.

Q Okay. But, you know, there's two ways you get to be a U.S. attorney. It's either through presidential nomination, Senate confirmation, or you're appointed by the AG.

A I wasn't appointed by the AG.

Q Who were you appointed by?

A The court appointed me.

Q But ultimately you were appointed by the Attorney General Sessions to begin with, right?

A I was an interim United States attorney --

Q And you served your 120 days and then you --

A -- for a period of 120 days. And then, under the statute, under the normal process of things, the court could appoint whoever the court wanted as U.S. attorney and the court appointed me. And, under the statute, my term was indefinite until an individual was nominated and confirmed by the Senate or if I were going to be removed by the court.

Q Okay. So it's your legal position that you could not be removed outright by the Attorney General or the President?

A Yes. And let me just say that it's not only my position that I couldn't be removed by the Attorney General, the Office of Legal Counsel has issued an opinion saying that a court-appointed U.S. attorney cannot be fired or removed by the Attorney General. It was my position and the position of the counsel that I spoke with that I could not be fired by the President either.

Q Right. Right. But if the attorney general made the recommendation to the President, ultimately, did you agree that you could be removed by the President?

A No.

Q There's a case out of the Southern District in 1963 that said the President gets to remove a court-appointed U.S. attorney. There's a, you know, OLC opinion from 1979. There's a first circuit case from Maine. You don't believe that is binding authority?

A Well, certainly it's not binding authority on the Southern District of New York. And I think those two cases you cited were wrongly decided.

Q Okay.

A And I think the OLC's opinion finding that I could not be fired by the Attorney General but I could be fired by the President, I think its conclusion with respect to the President was incorrect. And I don't believe the OLC decision has any binding authority on a court.

Q Okay. So your legal position was that you left your job on Saturday, the 20th, because you agreed to go. And then, if you wanted to litigate it, you believe that you would have prevailed over the President of the United States trying to remove you?

A My goal on the 20th was to do what was best for the Southern District of New York, for the office. And once I was confident that the investigations could go on unimpeded under deputy U.S. attorney, who would now be acting U.S. attorney, Audrey Strauss, I stepped away. This was never a fight about me or for me or for me to keep my position. My sole goal was to ensure that the investigations would not be impeded.

Q Okay. But you genuinely believed there's a legal position that you had the authority to stay as long as you wanted until you were -- until Mr. Clayton was confirmed?

A Not as long as I wanted. As I said, I had full respect for the nomination process and for the Senate confirmation process. And I told expressly the Attorney General in that meeting he would not hear a peep out of me. I wouldn't make a sound. I would step down once the nominee was confirmed or certainly if I were removed by the court.

Q But you know how tricky it is to get some of these nominees through the Senate, right?

A Well, that's why I testified earlier that my primary concern in my afternoon meeting with the Attorney General was not the nomination confirmation of Mr. Clayton. My concern was that there would be an acting United States attorney placed from the outside, bypassing normal procedure of Audrey Strauss, and that the imposition of that acting U.S. attorney from outside the office would cause a delay in our investigations.

Q So you have no reason to think that Mr. Carpenito is somebody without integrity or independence if he was put in that spot, do you?

A I am not questioning Carpenito's honesty or integrity, but all of these events were irregular and unexplained and raised serious concerns for me. Firing me and then bypassing my deputy, Audrey Strauss, to place Carpenito in charge of the office would have caused significant disruption and delay to the investigations the office was handling.

Q How many people work in the Southern District U.S. Attorney's Office?

A About 230 AUSAs and an equal number of staff.

Q And how many cases are going on at any given time?

A Hundreds.

Q Okay. And these cases are handled by the AUSAs and their supervisors for the most part, correct? Like how does your, you know, activity -- not being there -- impose a delay on something if Mr. Carpenito steps in? I mean, U.S. attorneys come and go all the time, right?

A Well --

Q Every couple years. I mean, this is a fact of life.

A Well, this was not a normal change of command in the Southern District of New York. In fact, it was extraordinary and unprecedented. Any abrupt change in leadership of the office to a new person from the outside inherently causes disruption and delay while the person gets integrated and up to speed.

As I said previously, if Carpenito had come in as acting U.S. attorney after my firing and the unprecedented bypassing of the deputy, it would've been a huge blow to the office's morale and may have resulted in AUSAs resigning, which also would have impacted our investigations.

Finally, Carpenito was retaining his position as U.S. attorney for New Jersey as well as being acting U.S. attorney for the Southern District. And his inability to devote 100 percent of his attention to the Southern District would have resulted in further delay and disruption of the ongoing investigation.

Q Okay. We don't know if the Attorney General would put someone in that job on the 22nd, I mean, for all we know.

I want to move on real quick just to try to get you out of here as quickly as we can. I want to go through some things that did not occur on June 19th and 20th, okay. The decision to put Jay Clayton, you know, up for nomination and the decision to move you out of that office had been made, correct, on June 19th?

A I'm not aware of that.

Q So you think that you could have negotiated your way into staying?

A My sole goal in that meeting with the Attorney General was to convince him to back off the plan.

Q Okay.

A And that was further my goal in our conversation later that evening, and it would've been my goal right up until the final conversation with him. I wanted him to back down.

Q Okay. The Attorney General did not raise any pending cases with you, did he?

A No.

Q The Attorney General didn't bring up Jeffrey Epstein case. He didn't bring up any Rudy Giuliani-related case, whether it's Lev Parnas or Igor Fruman. He didn't bring up any case at all. Is that correct?

A I am not commenting on any specific cases.

Q No. I'm just talking about on the 19th.

A He did not bring up any case.

Q And he didn't give you instructions about how you could do something different to keep your job, did he?

A I don't understand the question.

Q When you met with him at the hotel on the 19th, he didn't give you an opportunity to take a set of actions that would result in you keeping your job, did he?

A No.

Q Okay. So he didn't ask you to do anything differently with any of your cases or with any of the personnel on the cases, correct?

A No.

Q Okay. There was no quid pro quo proposed, correct --

A You know, he wanted me to resign to take a position. I assume you could call that a quid pro quo. You resign and you get this, that would mean quid pro quo.

Q Okay. But the operation of the office with, you know, specific cases, there was nothing that you could have done inside of the Southern District of New York, your office, to keep your job?

A I don't understand that question.

Q He didn't tell you any of that during the 19th or 20th, right?

A Could you rephrase the question?

Q Okay. When you met with the Attorney General on June 19th, he did not

invite you to take a set of actions, whether it's on a case or whether it's with the operation of your office, and that doing that action would end up in you keeping your job?

A He did not mention anything to that effect.

[1:17 p.m.]

BY MR. CASTOR:

Q So there was no quid pro quo for you getting to keep your job by doing something with respect to your office or one of the cases involved in the office?

A There was no discussion to that effect.

Q Okay. And there was no discussion on the 19th of anything involving the President. Is that correct? Why the President wanted you to be removed or if the President wanted you to be removed?

A No.

Q Was there any discussion of any particular witness that was appearing before the Southern District of New York, whether it was in the Epstein case or anything like that?

A There was no discussion of any witness.

Q So Prince Andrew wasn't brought up?

A I'm not going to discuss any particular witness in any particular case.

Q Okay. But I think you already had established that nothing like that was discussed on the 19th and the 20th, which is squarely within the parameters of the interview here.

A I'm sorry, could you repeat your question?

Q You already stated that no particular witness or particular case was mentioned by the Attorney General on the 19th.

A Correct.

Q Okay. So I think you can, you know, go ahead and confirm that for me, that, you know, there was no discussion about any particular witnesses, any particular cases on the 19th?

A I thought I confirmed that prior, but I'm happy to confirm it again.

Q I want to turn to U.S. attorneys, when they leave the office, aren't always -- I mean, you went through the Southern District of New York's history. But that's not always the case. Isn't that true?

A For approximately the past 50 years every United States attorney in the Southern District of New York has been a former AUSA in the Southern District of New York.

Q Okay. But that's not what you said. You said that every -- every successor was the top deputy in the office at the time.

A This is a new point. The prior point I was making was the normal and proper course of things would be for the deputy to succeed the U.S. attorney.

I was making another point just now, which is that for the past 50 years every United States attorney who was appointed had served as an AUSA in the Southern District of New York.

Q Did you say had served or did you say was the top deputy at the time?

A Two separate points. For the past approximately 70 years, which is as far as I went back, there was never an instance of an outside person coming in to be acting U.S. attorney, as was being proposed by the Attorney General with Craig Carpenito and the Southern District of New York. That's one point.

Totally separate point, which I thought you had asked about, which maybe you had not. I thought you were asking whether -- because you talked about my experience as a former AUSA in the Southern District of New York, and I thought your question was, is that a tradition? And my answer to you is that for the past 50 years, it has been a tradition.

Q Do you know who replaced Rudy Giuliani in the late '80s?

A Yeah. I think that's Benito Romano, who was his deputy.

Q Okay. And he came from a law firm.

A He came from a law firm, but he was a deputy U.S. attorney prior to becoming acting U.S. attorney after Mr. Giuliani left.

Q Right. Okay. So somebody can come in from outside the office then?

A What I'm saying is that -- could you repeat the question?

Q I'm just making the point that Benito Romano came in from an outside law firm to replace --

A No, but prior to his becoming acting he was of the office. He was a deputy United States attorney, completely familiar with all the investigations that were going on in that office. So that when Mr. Giuliani left, everything continued without disruption or delay.

Q He came in from a law firm. He wasn't at the Southern District of New York.

A He was deputy U.S. attorney, is my understanding.

Q He was a former assistant U.S. attorney from the office, but when he became -- when he replaced Mr. Giuliani, he was at the law firm of Dewey Ballantine. So, anyway.

Separately, you know, just recently in the Eastern District of Texas, Joseph Brown was replaced by Stephen Cox, who was not a lawyer. He was not an AUSA in the Eastern District. Are you aware of that matter?

A I am not.

Q Tim Shea, you know, in the U.S. Attorney's Office in D.C., I think you mentioned him, and he replaced Jessie Liu.

A That was of great concern to me, and I raised that in my meeting with the

Attorney General, because I didn't want what happened in the D.C. U.S. Attorney's Office to occur at the Southern District of New York, namely, an outsider coming in as acting U.S. attorney and bypassing the first assistant in the case of the U.S. Attorney's Office in D.C.

Q But these things do happen with some frequency, isn't that the case?

A It is not my understanding that they happen in the Southern District of New York.

Q Okay. So under the 28 United States Code Section 546 authority of the Attorney General to name an interim U.S. attorney, I just want to be clear here, you're of the position that the AG, if he's naming a U.S. attorney under the 546 authority, he must do it from inside the office?

A What I'm saying is that it has been the normal practice in the Southern District of New York to allow the -- for the U.S. attorney in the Southern District of New York to be succeeded by the deputy U.S. attorney and not by an outsider.

Q So it's just the practice. The Attorney General was well within his rights.

A I would call it a tradition.

Q Tradition, practice. The Attorney General was well within his authority to bring in somebody from outside, correct?

A I'm not commenting on that.

Mr. Gaetz. Why are you so concerned -- when you say an outsider, you define an outsider as any person that does not work in the office of the Southern District, right?

Mr. Berman. An outsider I would define as anyone who is not the logical and normal successor, which would be the deputy United States attorney.

Mr. Gaetz. So any person other than the one person who is your handpicked deputy is an outsider, pursuant to your definition? There is only one person who's an insider, every other human on the Planet Earth is an outsider.

Mr. Berman. As I said, that, you know, with respect to Carpenito, you know, I'm not questioning Carpenito's honesty or integrity.

Mr. Gaetz. No, I'm asking about your definitions in answering these questions. As you answer these questions, you describe people as being outsiders. I'm trying to understand that definition.

Mr. Berman. Yeah, an outsider is someone --

Mr. Gaetz. Anyone other than the one person you selected.

Mr. Berman. Anyone who would be coming in as an acting U.S. attorney who is unfamiliar with the ongoing investigations would be an -- and not from internally the U.S. Attorney's Office -- would be an outsider.

Mr. Gaetz. So other people who work at the Department of Justice you view as outsiders, correct?

Mr. Berman. That's correct. When Tim Shea came into the U.S. Attorney's Office in the District of Columbia, I viewed Tim Shea as an outsider coming into --

Mr. Gaetz. Why did you fear outsiders?

Mr. Berman. -- coming into that office and bypassing the first assistant.

Mr. Gaetz. And why did you fear outsiders? What was the harm they were going to do, in your mind?

Mr. Berman. The problem with someone coming in as acting and bypassing the normal process of the deputy, the problem with that, it would inevitably cause disruption and delay in the ongoing investigations.

Mr. Gaetz. Which ongoing investigations were disrupted following your departure?

Mr. Berman. There was not a single investigation that was disrupted following my departure, because I only stepped down once I knew that Audrey Strauss, the deputy

United States attorney, would be in charge.

Mr. Gaetz. Is Mr. Carpenito corrupt, in your mind?

Mr. Berman. I am not questioning Carpenito's honesty or integrity, but all of these events were irregular and unexplained and raised serious concerns for me.

Mr. Gaetz. Do you have any basis to testify to the committee today that Mr. Carpenito's service would have disrupted a single investigation?

Mr. Berman. I just testified at length as to why it would have disrupted investigations.

Mr. Gaetz. But what is the evidence that he would have?

Mr. Berman. I can go through the points again, if you would like. Obviously, there's no -- because he was never appointed, I can't point to an investigation that was impeded or delayed, because his appointment never occurred.

But any abrupt change in leadership in the office to a new person from outside inherently causes disruption and delay while the person gets integrated and up to speed.

Mr. Gaetz. So there's nothing about Mr. Carpenito that made you believe that he would cause that disruption. You believed any other human being other than the people who worked at the Southern District would have inherently caused these investigations to have been harmed, any human?

Mr. Berman. Cause the investigations to be disrupted or delayed, any outsider, as opposed to the normal process of allowing the deputy to take over.

Mr. Gaetz. I'll yield back to Mr. Castor.

BY MR. CASTOR:

Q Could you give us a list of everyone you spoke to about this matter on June 19th and 20th? You said you contacted some lawyers and the people in your office. Could you just check off a list of people you spoke to?

A Yeah. I'm going to decline to identify those individuals.

Q Okay. Can you give me --

A That is confidential.

Q Like, how many people in your office then?

A I'm going to decline to answer that question.

Q Will you tell me whether it's one or five or ten? I mean --

A I'll tell you that I spoke to more than one person on my executive staff and more than one private attorney, but I'm not going further than that. I'm not going to identify them.

Q How many people outside the office?

A I spoke to more than one person outside the office as a private attorney, because, as I said, I was preparing to litigate my removal.

If I was fired and replaced by an outsider such as Craig Carpenito, I would have litigated my removal. But because the Attorney General appointed Audrey Strauss ultimately as my successor, there was no reason to litigate. It was never about me or me retaining my position. It was about -- I was concerned about the ongoing investigations not being disrupted or delayed.

Q Outside of your family, the only -- and outside of your office -- the only -- you said you spoke to two lawyers. Is that the number?

A It's more than one, but I'm not identifying how many.

Q And are they only lawyers that you spoke to?

A Yes.

Q More than one, less than five? I mean, can we narrow it down?

A I'm not going to give you a number except to say that it's more than one.

Q Did anyone tell you that you had a great likelihood of success on the merits if

you were to litigate?

A I liked my chances.

Q But did any of these lawyers that you talked to tell you that you had a great chance of success?

A I'm not going to talk about my discussions with my counsel. I will tell you that I believed my chances were good and that I would prevail.

Q How does the supervision work at the Justice Department between -- you said you report directly into the DAG. What does that mean, for all intents and purposes? Like, at Main Justice, I mean, they have supervisory authority over the U.S. attorneys nationwide, right?

A Well, the powers of the U.S. attorneys are statutory, and it's provided by 28 U.S.C. Section 547, where the Attorney General has delegated responsibility and authority to U.S. attorneys over matters in their districts. It states that the U.S. attorneys may make reports to the Attorney General as he or she may direct.

Q Right. But in your day-to-day, without looking at the statute, in your just day-to-day experience, what type of supervision were you given by the Justice Department? Like, what was your obligation to your boss?

A The relationship between the Southern District of New York and Main Justice is complex and very much specific to the matters being investigated. And so this discussion would be outside the scope of my testimony.

Q And you said your boss was the DAG?

A Yes.

Q And did he have somebody on his staff assigned to you?

A He had several people on his staff.

Q Like, who did you work with in the DAG's office, in terms of supervision?

A I really don't want to get into names, so I'm going to decline to answer that, because it relates to --

Q What types of activities did they do?

A There were many reports, many reports --

Q Reports?

A -- and discussions between our office and Main Justice. But I'm not going to get into that, because it's far afield of the parameters established for this testimony.

Q You're not making any assertions of wrongdoing by anybody at Main Justice, though, right, about supervising your cases or trying to impede anything?

A I'm not going to respond to that question.

Q Your testimony here today, you are not making today any assertion of wrongdoing by any particular official at the Justice Department who supervised you on any of your cases?

A In my testimony today, I have made no reference to that.

Q Okay. So you're not making any specific assertion of wrongdoing of anyone at the Justice Department, you just don't like what happened on the 19th?

A It's not a question of not liking what happened on the 19th. It was going -- what the Attorney General proposed to do would have caused disruption and delay of ongoing investigations, and it was my duty as the United States attorney to not allow that.

So it was not because I didn't like what was going on. It was much broader than that and went to my very oath that I took when I assumed the position.

Q So it was your position that the Attorney General couldn't remove you for no reason or any reason? You talk about, like, people that are appointed in the Federal Government, I mean, they can be removed for any reason or no reason, for the most part,

and you deny that that's the case?

A Well, let me just say, as far as for cause, the Attorney General extolled my performance in his press release on Friday night. He complimented me privately and publicly several times on the job I was doing as U.S. attorney. So there's no question about, you know, whether there was a for-cause dismissal. There could be no for-cause dismissal.

So if your question is, could the Attorney General dismiss me for no cause, my answer would be the same answer that the Office of Legal Counsel has given the Attorney General, which is he cannot.

Q So you hadn't done anything on any case that made the Attorney General disappointed, and there was no reason that he was coming in to lay you off for anything you had done at your job?

A I'm not commenting on any specific case or investigation.

Q Okay. But I think you just made a statement that the Attorney General talked about your high performance and the Attorney General liked you.

A I never said the Attorney General liked me. What I said was he had told me I was doing an excellent job as U.S. attorney and, in fact, the Southern District of New York was doing an excellent job in prosecuting cases.

Q So the Attorney General didn't give you any critiques about things you could do differently about certain cases?

I mean, the implication here --

A I'm not getting into a discussion of specific cases.

Q But, you know, the specter of your statement on Friday night and your statement today is that you were removed for some reason that's nefarious, that removing you was to delay a case, it was to --

A I do not know -- I do not know what the Attorney General's motives were, but the irregular and unexplained actions by the Attorney General raised serious concerns for me.

Mr. Castor. I think my time is up.

Ms. Istel. I'm going to break now, 10 minutes. We'll come back for the majority round.

[Recess.]

Mr. Berman. Before we begin with the questioning, I just have something I'd like to say for the record.

The issue of Benito Romano came up earlier, and I just wanted to make clear that it's my understanding that Benito Romano was handpicked by U.S. Attorney Giuliani to succeed Giuliani as acting U.S. attorney, and that Romano was the chief of the Corruption Unit under Mr. Giuliani and that Mr. Romano was not an outsider. That's all I have to say.

Ms. Istel. The time is now 1:52 p.m., and we're going to continue with the majority's second round of questioning.

Are you ready, sir?

Mr. Berman. Yes.

BY MS. ISTEEL:

Q Mr. Berman, you just told us -- without mentioning names, when you spoke to your executive staff or anyone other than the President's lawyers or anyone other than your personal lawyers, did you discuss your reaction to Barr's statement with them that evening?

A I'm not going to discuss my conversations with my executive staff or my personal lawyers.

Q Did you express to anyone that you were angry with what the Attorney General had done?

A I'm not going to discuss anything I said to my executive staff or my personal lawyers.

Q What about anyone else, aside from your executive staff and your personal lawyers? Did you have any conversations with anyone else about what had happened that evening?

A I'm not going to discuss any other conversations.

Q On the evening of June 19th, did you make any attempts to communicate to the employees in the Southern District of New York that you would not be resigning?

A Could you repeat the question?

Q On the evening of June 19th, did you make any attempts to contact the employees in the U.S. Attorney's Office to tell them you would not be resigning, as Barr had stated in his 9 p.m. press release?

A I sent an internal email to the staff, to the AUSAs and staff, either late Friday evening or early Saturday morning.

Q Why did you feel the need to send that email?

A I thought it was appropriate. I was concerned about the morale of the office.

Q Did you say anything in that email that went beyond what you said in your public statement?

A I don't recall.

Q Earlier, when you were testifying before Mr. Castor, you said that you assumed that what happened could be described as a quid pro quo. What did you mean by that?

A Let me just be clear. The use of the word "quid pro quo" was not my term. It was foisted upon me, and I was asked to comment on it. And I simply noted that a quid pro quo means this for that.

And when he said there was no quid pro quo during my conversation with the Attorney General, I said that a quid pro -- it could be a quid -- it could be seen as a quid pro quo, his offering me a job in exchange for my resignation.

Q At any point during the time period of June 19th at 9 p.m. when Barr issued his press release and Barr's -- and when you received Barr's letter to you the next day, did the President personally convey to you that you would be stepping down or that he had fired you?

A No.

Q Did you tell anyone in your office, the Southern District, or anyone else what you would do if Barr did not change his mind and agree to follow the normal operation of law, as you understood it?

A I'm not going to discuss any conversations between me and members of my former office.

Q What would you have done if Barr had not agreed the next day to follow the normal operation of law, as you understood it?

A If the next day I was fired and there was an outside acting U.S. attorney placed in our office, bypassing the normal and proper procedure of Audrey Strauss taking over as acting, if that had happened, I would have litigated my removal and maintained that the firing by the President was null and void.

Q Why were you prepared to take such action?

A Because to do otherwise would have threatened with delay and disruption the ongoing investigations of the office.

Q In the last sentence of your June 20th statement, you wrote that you knew under Ms. Strauss' leadership, the office would continue to, quote, "safeguard the Southern District's enduring tradition of integrity and independence." In your opening statement today, on page 7, you added that you had full confidence she could continue the office's important work.

Why did you add those words to your statements?

A Because it was so critical to me that the normal procedure be recognized and Audrey Strauss take over as acting, because there would be no delay or disruption in any of our investigations.

Q Sir, what is the office's enduring tradition of integrity and independence? Independence from what?

A Independence signifies that we make decisions based on the facts and the law and the merits, irrespective of improper outside influences.

Q Why did you feel the need to add that into your statement?

A I thought it was appropriate.

Q Did you have concerns that Barr's stated plan would impact the office's tradition of integrity and independence from political or undue influence?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q Well, sir, I'm asking you about your statements, because something about Barr's initial press release and actions made you so uncomfortable that you issued two public statements in response and in both statements felt the need to state clearly your intention and Ms. Strauss' capacity to, quote, safeguard the office's long history of independence and integrity.

If this was just about responding to the Attorney General, why add that language?

Why not just respond to Barr directly?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q When testifying to Mr. Castor, you said you had a, quote, "grave concern that what happened with the removal of the U.S. attorney in D.C. could happen here."

So based on the Attorney General Barr's prior practice of removing U.S. attorneys, you had concerns that he might go against the normal operation here in removing you, correct?

A Correct.

Q And, in fact, as you testified, what happened was exactly what you feared. Later that night, after you had already told Barr twice that day that you would not resign, he told the American people that you were stepping down and Craig Carpenito was replacing you.

You already testified, sir, that you believed Barr's proposal went against the normal operation, correct?

A Correct.

Q Did you understand Barr's actions announcing you were stepping down when you had already twice told him that you were not to be an attempt to force your hand and accept your proposal?

A I don't know what the Attorney General's motives were, but the actions were irregular and unexplained.

Q But prior to that 9 p.m. press release, had Barr ever told you of his plan to appoint Carpenito on an interim basis?

A No.

Q If all Barr wanted to do was have Clayton appointed and confirmed as U.S.

attorney, are you aware of any reason to have Carpenito rather than you or your deputy Ms. Strauss replace you, which would have been the normal course of operations?

A I am not aware of any reason that could not occur.

Q Can you think of any reason why he would want to appoint Carpenito on an interim basis unless it was to ensure that neither you or your deputy Ms. Strauss were in charge of the office's important cases?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q On June 19th, the very same day Barr announced to the public that you would be stepping down, the Justice Department issued a letter to New York City Mayor Bill de Blasio criticizing the city's enforcement of social distancing rules. It was signed by Eric Dreiband, the head of DOJ's Civil Rights Division.

Did the topic of that letter, or stay at home orders generally, come up during your discussions with Barr on June 19th?

A No.

Q Were you ever, by Barr or anyone else, asked to sign that letter?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q Sir, I'm sure you're aware of the public reports that you were asked to sign that letter and refused the very day before Barr announced that you would be stepping down. Would you tell us if those reports were untrue?

A Is the premise of your question that, hypothetically, my refusal to sign that letter might have played some role in the Attorney General's decision to have me fired?

Q Not hypothetically. Do you know whether --

A I'm asking you. Please answer my question, because I could only answer

this in a hypothetical way.

Q Sure, in a hypothetical way.

A Then the whole premise of your question seems -- seems problematic, because had I -- had that letter played any role in the Attorney General's thinking, why would he have offered me to be chief of the Civil Division, which oversees all such letters?

Q Does the Civil Division oversee criminal investigations?

A What you were talking about was a letter sent out by Mr. Dreiband, who is chief of the Civil Rights Unit. And he is overseen by the chief of the Civil Division, which is the position I was offered by the Attorney General.

Q I'm asking about a request by political leadership to take an action that you refused.

A I have no comment.

Q Let's get back to the criminal investigations.

On June 17th, 2 days before Barr announced you were stepping down, excerpts from John Bolton's book were released. For the record, John Bolton is the President's National Security Advisor.

In Bolton's book, he claims that the President -- that President Trump offered to help Turkish President Erdogan get charges against one of his Turkish-owned banks, Halkbank, dropped, but that first Trump needed to put his people into the Southern District.

The exact quote from Bolton's book is: "Trump then told Erdogan he would take care of things, explaining that the Southern District prosecutors were not his people but were Obama people, a problem that would be fixed when they were replaced by his people."

Were you aware of that report?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q Do you know whether the President wanted to replace you with his people, as reported by John Bolton?

A Same answer.

Q When you were U.S. attorney in October of last year, the Southern District did bring charges against Halkbank, the Turkish-owned bank referenced in Bolton's book. And, sir, you, as U.S. attorney, issued the press release for and oversaw that investigation, correct? It's a public press release.

A Correct.

Q Under Barr's June 19th plan, Carpenito and, if confirmed, Clayton would oversee that investigation instead of you, correct?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q Clayton had never worked in the Southern District before, correct?

A Correct.

Q In fact, he'd never been a criminal prosecutor, correct?

A Correct.

Q He had no experience in the Southern District at all, correct?

A He had never worked in the Southern District of New York.

Q Carpenito also had no experience in the Southern District of New York, correct?

A Correct.

Q Are you aware that Clayton testified before Congress on June 25th that he has played golf with the President on multiple occasions? Are you aware of that

testimony?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q So the President's former National Security Advisor writes a book that DOJ is now trying to prevent from being published saying the President wants Southern District attorneys out of the office to replace them with his people, and 2 days after that gets leaked Barr announces late Friday night that you are leaving and Carpenito and Clayton, who have no experience in the Southern District, are replacing you.

Mr. Berman, are you aware that the Turkish-owned bank we've been discussing, the prosecution of which the President allegedly agreed to get fixed by replacing Southern District attorneys with his people, that bank's stock rose by over 7 percent between Friday, when Barr announced you would be stepping down and Clayton would replace you, and Monday, when the market reopened. Are you aware of that public report?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q Sir, were you ever told that the President was unhappy with you pursuing criminal investigations that in any way related to him?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q Well, let me ask it further. The President's lawyer, his personal attorney, suggested on June 20th, the day of your removal, that you may have been removed for pursuing what he characterized as baseless investigations.

The exact quote from the article is that on Saturday, June 20th, when asked why you were fired in a phone interview after your removal, Mr. Giuliani suggested, quote,

the reason may lie in the fact that Berman's office got involved in what Giuliani described as baseless investigations.

Did you know Mr. Giuliani said that?

A I decline to answer that question.

Q Well, sir, he is saying that that was the basis for your removal. So did you know that he said that?

A I decline to answer that question.

Q You recused yourself from the Michael Cohen case, correct?

A Correct.

Q There are multiple public reports that the President wanted you not to recuse yourself. Are those reports true?

A I decline to answer.

Q After you recused yourself, the Southern District indicted Michael Cohen, including charging him with making illegal payments, quote, "in coordination with and at the direction of individual one."

When asked about this case by the Senate, Barr admitted that individual one refers to the President. Are you aware of the Attorney General's testimony?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q Were you aware that the President made public comments attacking the Southern District's investigation of Mr. Cohen, saying it should not have been brought?

A Same answer.

Q On December 13th, the President stated about the investigation of his personal attorney: Because what he did was all unrelated to me except for the two campaign finance charges that are not criminal and shouldn't have been on there. They

put that on to embarrass me. "They" refers to the Southern District, your former office.

Did you see the President's comments attacking your office?

A Same answer.

Q The President stated in that interview I just read that campaign finance violations are, quote, "not criminal." On October 10th, 2019, you personally in a public press release announced that the Southern District was bringing charges against Lev Parnas and Igor Fruman, two associates of Mr. Giuliani, the President's personal attorney.

Those criminal charges brought against Mr. Giuliani's associates were for campaign finance violations, correct? It's a public press release.

A Well, you put a lot of stuff in there that's not in the public record. But I will say that the Parnas and Fruman indictments related to campaign finance violations.

Q Given the President's public comments attacking your office, did you have concerns you would be removed if you continued to pursue cases that the President said he didn't like?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q On March 9th in a press conference, when asked about undue influence of that investigation, particularly in Washington, you stated, quote: "The Southern District of New York has a long history of integrity in pursuing cases and declining to pursue cases based only on the facts and the law and the equities, without regard to partisan political concerns. My primary commitment is and has been to maintain those core values, and that's how our office is operating."

Why did you say that?

A Because I was asked a question about how the office was operating, and I thought it appropriate to answer the question in that way.

Q Had DOJ attempted to influence your investigation of the President's personal attorney's associates?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q Sir, the political partisan concerns were that Parnas, one of the defendants, had stated in a letter to the Senate and on live TV that he was acting at the direction of Mr. Giuliani and on behalf of the President in his criminal scheme. Were you aware he made those public statements?

A Same answer.

Q Do you know whether your pursuit of that investigation, which implicated both the President and his Attorney General, was the basis for your removal? Do you know one way or another?

A I do not know what the Attorney General's motives were.

Q In the same interview, Mr. Giuliani suggested you might have been fired for pursuing baseless investigations. He also expressed anger at what he claims are false reports that your office is investigating him, not just his associates.

Without commenting on the existence or status of any such investigation, are you aware of public reports that your office was investigating Mr. Giuliani while you were U.S. attorney?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q There have also been public reports that your name appeared on a subpoena to the President's inaugural committee in February.

Without commenting on the existence of the investigation, are you aware of those public reports?

A Same answer.

Q On June 25th, The New York Times reported, quote: "Mr. Barr's unexpected involvement in such politically sensitive case," referring to the Cohen investigation, "suggested that he planned to exert influence over prosecutors in the United States Attorney's Office for the Southern District of New York, long known for operating independently of Washington. Mr. Barr and other officials have told aides and other United States attorneys that the Southern District needs to be," quote, "'reined in.'"

Were you aware of that report?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q What's your reaction to that report, that the Attorney General told aides that he wanted to rein you and your office in?

A Same answer.

Q Do you know one way or another whether you were removed because the Attorney General wanted to rein you in?

A I do not know what the Attorney General's motives were.

Q Do you know whether you were removed for bringing charges against the President's current personal attorney's associates?

A Same answer.

Q Do you know whether you were removed because the President's current personal attorney thought your office was investigating him?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q Well, do you know one way or another whether a basis for your removal was

that the President's personal attorney thought your office was investigating him?

A I decline to answer that question.

Q Did you convey to anyone else that you believed a reason for your removal was your pursuit of criminal investigations without regard to partisan political concerns?

A I decline to answer that question, because it is outside of the parameters established for the interview.

Q The President's former campaign, that operated in the Southern District of New York, correct?

A I'm not going to answer any questions relating to investigations conducted by the office.

Q The special counsel affirmed that while a sitting President may not be prosecuted, a criminal investigation during the President's term may be permissible.

Had you not been removed, any decision about whether to investigate the President for anything in the Southern District, absent your recusal, would have fallen to you as U.S. attorney, correct?

A I'm not going to answer that question.

Q That's just a fact, sir. You had --

A I'm not going to talk about any question relating to any possible investigation being undertaken by the Southern District of New York.

Q The special counsel also affirmed that a President does not have immunity after he leaves office. So if President Trump lost the election and the Senate had not yet confirmed a nominee, the decision of whether to charge President Trump for any activity in the Southern District would have fallen to you, correct?

A I'm not going to answer that question.

Q Do you know one way or another whether Attorney General Barr removed

you so that you would not be making the decision whether to investigate the President prior to the 2020 elections or whether to indict him after the 2020 elections? Do you know one way or another?

A I do not know what the Attorney General's motives were, but the irregular and unexplained actions by the Attorney General raised serious concerns for me.

Q Have you ever consulted the Ethics Department regarding any directive, order, pressure, or other interference related to an ongoing investigation in your office?

A I'm not going to -- I'm going to decline to answer that question, because it is outside of the parameters established for the interview.

Q If Strauss were to be forced out and a non-SDNY outsider was put in her place, what safeguards exist inside SDNY to preserve the integrity of investigations in that office?

A I'm not going to address hypotheticals like that.

Q Well, what safeguards exist to prevent undue interference in the Southern District of New York?

A I decline to answer that question, because it is outside of the parameters established for the interview and it's hypothetical.

Q You said that on June 19th you sent an email to the attorneys in your office to ensure that morale would be preserved. What did you mean by that?

A There had been a press release by the Attorney General Friday night, followed by a press release from me Friday night, and it was a lot for the office to take in in a period of a couple hours. And I wanted to send a reassuring message to the people of the office, who I have the utmost respect for.

Q What did you think they were going to be concerned about?

A The whole situation was concerning and -- and might involve a disruption of

the office. And I wanted to make sure that I spoke to the office.

Q Thank you.

Ms. Istel. Just a minute, sir.

[Pause.]

Ms. Istel. That concludes the majority's questioning, sir.

[Pause.]

Mr. Castor. We're back on the record.

BY MR. CASTOR:

Q You indicated Jay Clayton wouldn't be a good pick to be the U.S. attorney for the Southern District of New York because he didn't have experience with the office, but you would agree that having -- that he had sophisticated financial experience, correct?

A I don't dispute that.

Q And you agree that he's got significant management experience?

A I don't dispute that.

Q I mean, he runs the SEC, which has a lot of complicated financial, regulatory, and enforcement proceedings, correct?

A Agreed.

Q And he practiced law for a number of years in Manhattan, correct?

A Agreed. Look, he's a distinguished practitioner. My issue with Mr. Clayton was that he had no prior criminal experience, either on the government side or the defense side. But, as I told the Attorney General, nominate him, have him confirmed, you won't hear a peep out of me. I'll leave without a sound.

Q So, in your mind, the pool of acceptable replacements for you, if a decision was going to be you were going to be removed, whether it was by the AG, the President, or the district judges of the Southern District, like, who is the -- like, who are the

acceptable replacements for you other than Ms. Strauss?

A Anyone who's nominated and confirmed by the Senate is acceptable to me. That's the normal process. I am fine with it, would never dispute it. I respect the process. I would step down without a sound.

Q From an interim perspective, though, what's the acceptable pool?

A You know, the acceptable pool is the normal process, as the Attorney General recognized in his own letter, where he said, under operation of law, it would be Audrey Strauss, the deputy. That would be normal operation of law.

Q But under 546, you know, 28 United States Code 546, the Attorney General also has the legal authority to name an interim U.S. attorney, correct?

A But the Attorney General named Audrey Strauss. I didn't name Audrey Strauss. The Attorney General named Audrey Strauss.

Q No, but if he wanted to go with Carpenito?

A I don't think -- I'm not sure whether Craig Carpenito was being appointed pursuant to 546.

Q He was going to serve as the interim U.S. attorney. Was that your understanding?

A No. My understanding was that Craig Carpenito was coming in as acting U.S. attorney, and the normal process for acting would be the deputy.

Interim is a different process, and you can appoint someone from the outside. So, for example, I was an interim U.S. attorney appointed in January by Attorney General Sessions. And then in April, when my term was up as interim, I was appointed by the court as U.S. attorney.

Q So if the Attorney General had suggested that he was going to name an interim, pursuant to 28 United States Code 546, would that have been acceptable to you?

A I don't think that that process was applicable. That's what I'm saying. I can't answer that question, because I'm not sure Section 546 even applies to this situation.

Q So the only way you could be removed is by the judges of the Southern District?

A I could be removed by the judges of the Southern District or --

Q Absent a confirmation. Sorry.

A -- or by a confirmation of a candidate nominated by the President, which I was happy to do.

Q You didn't report to the judges of the Southern District. So, you know, in your own mind, you reported to nobody, nobody could remove you except the judges, absent confirmation?

A No, not at all. I reported to the Deputy Attorney General and I reported to the Attorney General. There were plenty of reports of me to Main Justice. I did not -- I did not at all report to the court.

But the court appointed me, pursuant to statute, and that statute provided that I could only be removed when someone is nominated and confirmed by the Senate.

Q Do you believe that you were supervised by the DAG and the Attorney General? I mean, were they your supervisors or just your reports? I mean, were you only responsible for sending paperwork to them?

A No. I was supervised by them.

Q And that -- but you -- you contend that they couldn't remove you if they decided they didn't like what you were doing or if they decided they wanted to put another person in the job?

[2:29 p.m.]

Mr. Berman. Right. But I do want to be clear, when you say, "If they didn't like what I was doing," I mean, there was no indication to me at any point that I was performing in any other way than excellent in my job as U.S. attorney.

BY MR. CASTOR:

Q They didn't give you any negative feedback about your job performance?

A None.

Q How long were you in your job as the U.S. attorney, was it January --

A January -- I was interim from January to April, and then, in April, I was U.S. attorney appointed by the court up until a few weeks ago, so in total about 2 and a half years.

Q Two and a half years. I gave you The New York Times article. We can mark it if we want, but Romano had been gone from the office for 18 months.

A I see that here. My point when I began the -- after the break, I wanted to put on the record that I didn't recall -- first of all, I know Benito Romano. He's a wonderful person and great lawyer. I did not recall that he actually had a period where he left the office briefly and returned, but my understanding was that he was the handpicked successor by Mr. Giuliani, and that, as the article confirms, he was the chief of the corruption unit under Mr. Giuliani, and that is one of the most important units in the office. So I --

Q Nobody is saying Mr. Romano wasn't qualified, but --

A No. No. But he was not an outsider, is my point. He was not in any way an outsider from the office.

Q You know, your testimony today, you talk about if you were subbed out, if you were replaced, there would be significant delays and disruptions to cases. That was

your concern, right?

A Yes.

Q Okay. I mean, you were on the job for 2 and a half years. Were there significant delays when you took over and disruptions?

A I'm going to decline to answer that question because it's outside the parameters established for the interview.

Q By the way, I mean, you essentially set the parameters for today.

A Well --

Q Did you not?

A -- the parameters --

Q I mean, you told us on the 29th, and you established the -- I mean, this is a voluntarily interview so you can obviously -- nobody is compelling you to answer stuff.

A Listen, I try to be very fair about it. As you know, I brought in majority counsel and minority counsel to talk about it, and we discussed the parameters, and there are things that you requested that I complied with.

Q Right. We wanted you here in person. We didn't want a time limit. I mean --

A So I tried to approach it fairly and -- but remember, you know, it was also in consultation with the Department of Justice. So the parameters were established with agreement of the committee, and I have that email here that was read into the record. And through not only, you know -- it wasn't just by me, but it was through consultation with the Department of Justice to get their signoff for my testimony.

Q In fairness though, you raise these amorphous concerns you had about, you know, irregular and unexplained actions by the Attorney General. You talk about delays that -- if you were replaced, or disruptions.

But what you haven't told us is you haven't provided any instance where the Attorney General or Mr. Rosen gave you negative feedback, told you to do something differently with a case, with a witness, with a defendant. You haven't provided anything more than these amorphous concerns.

And then, when you're asked by my colleagues on the Democratic staff, you know, about all these cases, you know, you read off the, you know, these scope limitations of your interview and like essentially you established the terms of this interview.

A Through consultation with the Department of Justice.

Q So, you know, don't you think that coming here and lodging, you know, amorphous claims about the Attorney General -- I mean, do you think that's fair? You're talking about, you know, irregular and unexplained.

A My testimony was requested by the committee. I'm here voluntarily because I want -- it's a civic duty, I felt, to appear. But it was at the request of the committee, and I'm just here to answer the questions that fall within the parameters that were established through consultation with the Department of Justice.

Q You don't have any concerns -- you hadn't testified about any concerns you have about the Attorney General's integrity, correct?

A I don't know what the Attorney General's motives were.

Q Do you have any concerns about his integrity?

A I don't know what the Attorney General's motives were.

Q But you have not testified -- you have not provided any testimony here today that signals you have concerns about the Attorney General's honesty or integrity or fitness to serve, fitness to make decisions that he's empowered to make under the statutes, correct?

A I do not know what the Attorney General's motives were.

Q Okay. When you took over as the interim U.S. attorney in the beginning of 2018, were there any delays to the cases of the Southern District?

A I'm going to decline to answer that question because it's outside of the parameters.

Q Okay. Any disruptions?

A I'm going to decline to answer that question.

Q Okay. You know, you have a lot of knowledge about the history of the Southern District of New York. Do you know if, when Mr. Romano took over after he had been gone from the office for 18 months, whether, you know, that or any other, you know, case where a U.S. attorney was replaced led to significant disruptions or delays?

A I don't know what happened with respect to Mr. Romano. That was before I joined the office.

Q Okay. During our first round, we went through your testimony about what happened on June 19th, and I just want to be clear that no witness was discussed between you and the Attorney General. He didn't raise any particular defendant, any particular case. He didn't raise anything about the President. He didn't raise anything about a suspect. He didn't raise anything about any ongoing case with you when he met with you on the 19th?

A That is correct.

Q And your concerns about delays, disruptions, and what you characterize as an irregular and unexplained, you know, decision to remove you, you don't have any testimony that you're prepared to offer here today relating to a specific case that sort of puts meat on those bones?

A That would be outside the parameters established for the interview.

Q And then, you know, forgive me if you can, but, you know, if there was a

decision to remove you, to replace you, to give you an opportunity to move along, the pool of acceptable candidates in your mind, would that just be Ms. Strauss, or would it -- could it have been, you know, other individuals in Manhattan that had experience with the office?

A No. In this context, where I was being fired, the appropriate person would've been the deputy.

Q Okay. So she's the only person in your mind?

A Well, that's what the Attorney General said in his letter to me, that by operation of law, it was Audrey Strauss, so anything would be outside of the operation of law.

Q So, in your mind, there's sort of two options, if the Department or the President wanted you to move along, it would be to work the political process to get a Senate-confirmed nominee, or it would be to install Ms. Strauss?

A Could you repeat the question?

Q Absent a Senate confirmation, Ms. Strauss was the only person in your mind who could take over if the President or the Attorney General wanted you to move along?

A That was appropriate to take over.

Mr. Jordan. That was what?

Mr. Castor. Appropriate to take over, he said.

Mr. Berman. Yeah.

BY MR. CASTOR:

Q And you're not willing to offer us any tangible testimony about delays or disruptions that the office encountered when you took over as the U.S. attorney?

A That would be outside the parameters established for the interview.

Q Can you testify whether that was a concern when you took over?

A Same answer.

Q Can you tell us whether anybody in the office articulated to you that there were any delays or disruptions in any cases?

A That would be outside the parameters established for this interview.

Q There was some discussion about whether, you know, the Attorney General, you know, wasn't truthful with his statement of Friday night, June the 19th?

A I said in my opening statement that the statement in the press release that I was stepping down was false.

Q I mean, isn't it the case that, all around the world, when a boss wants to make a change, the boss oftentimes offers platitudes to the incumbent and tries to facilitate a way to make the departure, the separation amicable?

A I'm not aware of that. I believe that, when you issue a press release, everything in the press release should be accurate.

Q You seem a little disappointed that the Attorney General on one hand was saying positive things about you, but behind closed doors, he was essentially trying to replace you, and you were -- you seem concerned about the dichotomy.

A I --

Q It's like you're missing the whole point that when people get --

A I was not concerned with the dichotomy.

Q But it seems like you're missing the whole point that, when a boss is trying to engineer a separation of an employee, of a report, that oftentimes the best way to facilitate that is amicably. And you meet with the employee and you say: Thanks for your service.

And that's, you know, essentially what happened here, and yet, you know, your statement makes it seem like you're, you know, identifying, you know, false statements

that the Attorney General made when he was just giving you some platitudes and he was trying to engineer an amicable departure.

A I disagree with that characterization.

Q Do you believe the Attorney General was trying to engineer an amicable departure?

A I don't know what the Attorney General's motives were.

Q But he offered you, you know, another senior post in the Justice Department. He subsequently on Saturday raised the prospect of the Securities and Exchange Commission.

A No. Actually, that was later on Friday. It was a noontime meeting with the Attorney General where he offered me the chief of the Civil Division, which I declined. And then it was later that day that he offered me the Chairmanship of the Securities and Exchange Commission.

Q Okay. My point is, the Attorney General was trying to engineer an amicable separation, and, you know, isn't that a thing that we ought to strive for in government and in life?

A I believe the Attorney General was trying to entice me to resign so that an outsider could be put into the acting U.S. attorney position at the Southern District of New York, which would have resulted in the delay and disruption of ongoing investigations.

Q You said that's your belief, but, you know, when we established the terms of this interview that largely you dictated, you said: I'm not going to talk about my beliefs.

So now you just did.

A No. I --

Q And you raise them in a very amorphous way.

A I said I wouldn't talk about what the Attorney General's motives were, what he was trying -- what he wanted to do.

Q Well, at least on our phone call on the 29th and 30th, that you wouldn't talk about your belief.

A But what he was trying to do -- forget about his motives. What he was trying to engineer, which I have made clear previously, was my resignation, and putting in an acting U.S. attorney from the outside. And, in fact, my belief as to what he was trying to engineer actually proved to be correct when he issued his press release Friday night.

Q So, when the Attorney General indicated he wanted to meet with you on the 19th, you said you got a communication from his office the day before?

A Yes.

Q It seems from your testimony that, you know, the Attorney General had made up his mind that he wanted to replace you. He wanted to do it amicably. He wanted to do it with, you know, with the gentleman in charge of the U.S. Attorney's Office for New Jersey.

A I disagree. I was trying my very best, as I said in the meeting with the Attorney General and later in the phone call with the Attorney General, to talk him out of this plan, to back out of the plan. That was my sole goal in that meeting.

Q Was there any evidence the Attorney General had not made up his mind and that he was still mulling this decision?

A Look, in my mind, he had room to back out up until our final conversation. And that's why if I could push off that final conversation as long as I could, if I could push it off even much longer than I did, it would give him additional time to reconsider.

Q When we spoke earlier, you really didn't identify any meaningful supervision that occurs in your mind between Main Justice and the Southern District.

A Completely incorrect. There is meaningful supervision that goes on frequently.

Q And how did your bosses supervise you then? What were the things that they did to supervise you?

A It's frequent. It's detailed. It's very case specific. So I really can't go into the specifics. But the communications between the Deputy Attorney General's Office and the Attorney General's Office in the Southern District of New York are frequent. And just as one example, and it doesn't involve any particular case, but for example, there are urgent matter reports that we file that are frequent.

Q Now, let me just raise this with you. Let's say they didn't like dealing with you. Let's say they thought you were a difficult person and wished they could have a different U.S. attorney in that post. How would they engineer that? It was nothing about the cases, nothing about anything case specific or office specific. It was just they didn't like dealing with you. What are they supposed to do?

A I'm not going to answer hypotheticals like that.

Q Are you telling us -- is it your testimony that there really is no recourse for the Attorney General for the deputy Attorney General, that they're stuck with you?

A I'm not telling you that. What I'm saying is, I'm not answering those kind of hypotheticals.

Q Is there anything that you left out of your statement regarding the 19th or 20th about your interactions with the Attorney General --

A Look --

Q -- that were left on the cutting room floor?

A -- I had a meeting that lasted 45 minutes. I thought that my opening statement was kind of a fair summary of that. I'm sure there are things that went on

beyond what was in my opening statement, but the opening statement is a fair summary of the entirety of the meeting with the Attorney General and my subsequent conversation with the Attorney General.

Q Did you ask the Attorney General for any feedback of anything that you were doing that you could've done differently or should be doing differently to keep your job or stay in a higher regard of your supervisors?

A I don't recall. I was never in low regard of my supervisors. He never --

Q Well, he was just trying to suck you out, right?

A Can I answer the question, please?

Q Sure.

A Both publicly and privately, he told me I was doing a great job as the U.S. attorney. So there was no need for me to ask him in what ways I could improve the job. In fact, I asked him during the meeting was he dissatisfied in any way with my performance, and he said no.

Mr. Castor. We're going to go off the record for a second.

[Discussion off the record.]

Mr. Castor. Back on. Sorry about that. We're just trying to wrap up, conferring amongst ourselves.

BY MR. CASTOR:

Q So, just as we wrap up here today, I just want to make crystal clear in my mind and in the mind of our members, if your supervisors at the Justice Department wanted to make a change in leadership in the Southern District of New York U.S. Attorney's Office, there were essentially two options for them, one was to work the political process and to put a nominee up and get that nominee confirmed, as was the hope with Mr. Clayton, or it was to remove you and put in Audrey Strauss?

A I'm not going to speculate as to what their options were. I don't know what their options were.

Q What do you think the options are then?

A I'm not going to speculate as to what their options were. I don't know what they were thinking. I don't know what their motives were.

Q Okay. But you did think about possible litigation, and you thought you'd prevail if this had gone forward?

A If I had been fired and there was an outsider coming in as acting United States attorney, which would cause delay and disruption of our investigations and would bypass the normal process, then, yes, I would have litigated.

I did not litigate because my interest was solely in what's best for the office. And once I knew that Audrey Strauss would be in place as acting United States attorney, I had full confidence and therefore stepped down.

Q So you've provided no testimony here today about any specific delays that you thought would occur with any particular cases. You've provided no testimony that the Attorney General, anybody at the Justice Department, anybody at the White House, tried to influence -- the office of the Southern District of New York U.S. Attorney's Office tried to influence any official decisions with regard to witnesses, defendants, cases, suspects --

A Are you talking solely about the meeting on Friday, or are you talking --

Q I'm saying --

A -- or are you talking -- is your question throughout the course of my tenure as United States attorney, or are you limiting it to my Friday conversation with the Attorney General?

Q What I'm saying is you have provided no testimony here today about specific

allegations of wrongdoing or about -- relating to any particular witness, any particular defendant, any particular case, any particular suspect, or even about any particular President.

A Right. My testimony today was limited to the events of the 19th and 20th, and none of that was mentioned by the Attorney General during our discussions on the 19th. We didn't have any discussions on the 20th.

Q Or ever?

A Our last discussion was his phone call to me -- I mean, was our phone call at approximately 7:21 p.m. on Friday where he told me that he would call me the next day, Saturday, the 20th, and instead, I learned of a press release at about 9:15 p.m. on Friday.

Q Okay. But you're not providing any specific testimony here today about anybody trying to influence you or your office with regard to witnesses, defendants, cases, suspects, any aspect of your office. You're providing no testimony here today?

A Again, my testimony today is limited to the 19th and 20th, and there was no discussion regarding any of those things during the 19th and 20th.

Mr. Castor. Okay. Our 30 minutes is up.

Ms. Hariharan. That concludes the interview today. Thank you.

[Whereupon, at 2:56 p.m., the interview was concluded.]