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THE SENATE OF THE STATE OF TEXAS
SITTING AS A HIGH COURT OF IMPEACHMENT

THE MATTER OF §
WARREN KENNETH §
PAXTON, JR. §

TRIAL
VOLUME 4 - PM SESSION
SEPTEMBER 8, 2023

The following proceedings came on to be heard in the above-entitled cause in the Senate chambers before Lieutenant Governor Dan Patrick, Presiding Officer, and Senate members.

Stenographically Reported by
Lorrie A. Schnoor, CSR, RDR, CRR

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P R O C E E D I N G S

FRIDAY, SEPTEMBER 8, 2023

(1:00 p.m.)

THE BAILIFF: All rise. The Court of Impeachment of the Texas Senate is now in session.

PRESIDING OFFICER: You may be seated. Thank you.

I was asked to do this this morning, so I'll update you now as we go to the afternoon session. Time remaining, the respondents have 16 hours 2 minutes and 19 seconds. The House has 15 hours 33 minutes and 2 seconds. So by the end of today, around 6:00 o'clock, we will likely be past the halfway mark, or close to it, of time.

And I know to both parties, when we met last week and talked earlier this week, I -- I asked for both parties to conduct themselves in an appropriate manner for this historic event. And I want to thank both parties, because I believe everyone has conducted themselves in a very high level of professionalism. And hopefully we finish the second half of the trial doing the same. I have no reason not to believe that will happen.

Mr. DeGuerin.

MR. DeGUERIN: Yes, Mr. President.

1 The House calls former Texas Ranger and
2 former director of law enforcement division of the
3 attorney general's office, David Maxwell.

4 PRESIDING OFFICER: Bailiff, will you
5 bring in Ranger Maxwell.

6 Counsel, there are some documents up here
7 left over. I'm not sure whose they are.

8 MR. COGDELL: I don't know whose they
9 are, but I'll get them, Your Honor.

10 PRESIDING OFFICER: Okay. Thank you.

11 MR. COGDELL: Mitch, I assume these are
12 yours. I don't know.

13 MR. LITTLE: I'll take them.

14 MR. COGDELL: Yes, sir. I'm sorry.
15 Thank you.

16 MR. DeGUERIN: Please don't ask me to
17 control the witness.

18 PRESIDING OFFICER: Mr. Maxwell, did you
19 swear in the other day? You did not.

20 Okay. Repeat after me.

21 (The following oath was given to the
22 witness.)

23 PRESIDING OFFICER: I do solemnly swear
24 and affirm -- I do solemnly swear and affirm -- and
25 affirm as a witness in the impeachment proceeding shall

1 be -- I'm sorry. I read the wrong line. Let me start
2 from the beginning.

3 I do solemnly swear and affirm -- you've
4 read that -- that the evidence I give upon this
5 hearing -- upon this hearing the Senate the State of --
6 the Senate of Texas impeachment charges against Warren
7 Kenneth Paxton, Jr. -- Jr. shall be the truth, the whole
8 truth, and nothing but the truth, so help me God.

9 Please be seated.

10 You may -- you may begin.

11 DAVID MAXWELL,

12 having been first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. DeGUERIN:

15 Q. If you'll move that microphone pretty close,
16 we have a little problem with --

17 A. Okay.

18 Q. -- acoustics in here.

19 Please tell the senators your name.

20 A. My name is David Maxwell.

21 PRESIDING OFFICER: Hit that red button
22 on there.

23 A. There we go.

24 My name is David Maxwell.

25 Q. (BY MR. DeGUERIN) Mr. Maxwell, your last

1 position with the attorney general was as director of
2 law enforcement; is that correct?

3 A. That is correct.

4 Q. I want to ask you some questions about your
5 law enforcement career. Can you tell us where you
6 started and when?

7 A. I started in 1972 with the Texas Department
8 of Public Safety. I went through the patrol school,
9 graduated April 6 of 1973.

10 I spent eight years working highway
11 patrol in Harris County. I promoted to narcotics in
12 1981, and worked narcotics in Harris County for five
13 years.

14 I then promoted to Texas Rangers in 1986.

15 Q. Let me stop you there, just for a second.
16 Those of us who are raised in Texas know a lot about --
17 or think we know a lot about the Texas Rangers. What
18 does it take to become a Texas Ranger?

19 A. First of all, you have to have eight years of
20 experience with DPS to be able to apply for the
21 position. When I applied in 1986, it was a little
22 different than it is now, but we had to take a written
23 examination to qualify to go before an oral interview
24 board. And then they would score the oral interview
25 board and combine the two, and then they took the top

1 five people and put them on a list for one year. If you
2 didn't get promoted in that one year, you went back to
3 the first step and started over.

4 Q. How long did you serve the State of Texas as
5 a Texas Ranger?

6 A. 25 years as a Texas Ranger.

7 Q. And when you left the Ranger service, where
8 did you go?

9 A. I went to the Texas Attorney General's
10 Office.

11 Q. What was your first position there?

12 A. My first position was deputy director of law
13 enforcement.

14 Q. And did you promote to the director of law
15 enforcement?

16 A. I did.

17 Q. I want to pull up for -- please, the
18 organizational chart. It'll be in front of you. Ask
19 you a couple of questions about that.

20 A. Okay.

21 Q. Your name and -- or -- yes, your name has
22 been highlighted, and it appears to be on a level with
23 other deputies. So what was your rank in the attorney
24 general's office as it relates to the deputy attorney
25 generals?

1 A. I was the executive deputy over law
2 enforcement division.

3 Q. Is that an equal rank with the deputies that
4 were deputies over the other divisions of the attorney
5 general's office?

6 A. Yes. And I was the most senior deputy.

7 Q. Most senior how?

8 A. I had more time as an executive deputy than
9 the others who were working with me at that time.

10 Q. How many employees, law enforcement officers
11 and support staff as well as attorneys, did you
12 supervise?

13 A. I had about 350 employees, 205 were
14 commissioned officers, and 19 of them were attorneys.

15 Q. Were those employees spread out across the
16 state, or were they only in Austin?

17 A. We had a majority of them in Austin, but we
18 also had offices around the state.

19 Q. What is and was, when you were director, the
20 authority of the law enforcement division of the
21 attorney general's office?

22 A. The authority was that of other peace
23 officers in the state. We had jurisdiction over any
24 type of crime that would be committed against the State
25 of Texas.

1 Q. Did you have a criteria for opening a case as
2 an investigator to be investigated by the attorney
3 general's office criminal division?

4 A. I did.

5 Q. What was that criteria?

6 A. This is the criteria that I set up for
7 investigating public officials. So I had certain
8 requirements. First of all, I reviewed all the requests
9 that came in for investigations on public officials.
10 And we had a lot of requests, and I didn't approve but
11 just a few every year.

12 We already worked as many cases on public
13 corruption as the Texas Rangers who have statutory
14 authority.

15 MR. COGDELL: Excuse me, Your Honor.
16 Excuse me. Nonresponsive. The question was what was
17 your criteria.

18 Q. (BY MR. DeGUERIN) What was your criteria
19 for --

20 PRESIDING OFFICER: Sustained.

21 Q. (BY MR. DeGUERIN) -- opening an
22 investigation?

23 A. The criteria was at first I had to have a
24 sworn signed statement from the person who was making
25 the allegation. The second thing was that I had to have

1 a letter from the district attorney who had jurisdiction
2 over the possible cases saying that they would prosecute
3 those cases if we were able to prove that a case was
4 viable.

5 Q. Why did you have a criteria such as that,
6 particularly when it comes to investigating public
7 officials?

8 A. I set up the criteria in order not to be
9 pulled into situations that are strictly political in
10 nature. I did not want us to be in a position of
11 investigating public officials when there was really no
12 crime being committed.

13 Q. And did this criteria particularly apply to
14 investigations of public integrity?

15 A. Yes.

16 Q. Do you know who was the district attorney in
17 Travis County in the year 2020?

18 A. Margaret Moore.

19 Q. Did you have a good relationship with
20 Margaret Moore?

21 A. I did.

22 Q. I want to get right to the matters here.

23 Were you asked in some way to meet with a
24 person named Nate Paul?

25 A. Yes.

1 Q. Who asked you to do that?

2 A. Jeff Mateer.

3 Q. Where did -- did Jeff Mateer tell you who had
4 asked -- who had told him to have you meet with Nate
5 Paul?

6 MR. COGDELL: Objection. Hearsay.

7 MR. DeGUERIN: That's not hearsay under
8 803 and 801(e)(2)(D), Your Honor, with respect.

9 MR. COGDELL: Mr. Mateer is not alleged
10 to have been a co-conspirator. Objection. Hearsay.

11 MR. DeGUERIN: It's not --

12 PRESIDING OFFICER: Hold on one moment.
13 Hold on. And we've been doing a really good job of not
14 using a lot of numbers. I have my whole chart here.
15 It's better for you just to say what -- what the answer
16 objection is, but let me -- this is why I have legal
17 counsel here.

18 MR. DeGUERIN: Yes. It's 801(e)(2)(D).

19 PRESIDING OFFICER: Overruled.

20 Q. (BY MR. DeGUERIN) All right. You may state
21 your answer. And the question is: Did Mr. Mateer tell
22 you who ordered him to order you to meet with Nate Paul?

23 A. Yes.

24 Q. What did he say?

25 A. He said General Paxton ordered me to meet

1 with this individual, that he had a story to tell.

2 Q. At about the same time, did you hear from an
3 employee of the Travis County District Attorney's Office
4 about Nate Paul?

5 A. I did.

6 Q. I'm going to ask you about that in a minute,
7 but when you first were asked to meet with Nate Paul,
8 did you do some research of your own?

9 A. I did.

10 Q. And what did you find?

11 A. I found --

12 MR. COGDELL: Excuse me.

13 A. -- on the Internet --

14 MR. COGDELL: Excuse me. With all due
15 respect to Ranger Maxwell, if he's going to recite
16 information that he obtained doing his research, that
17 would be hearsay.

18 MR. DeGUERIN: It goes to his state of
19 mind in conducting the investigation, Your Honor. And
20 thus is not hearsay.

21 MR. COGDELL: It is hearsay.

22 MR. DeGUERIN: Well --

23 PRESIDING OFFICER: Overruled.

24 Continue.

25 Q. (BY MR. DeGUERIN) Okay. So what did you

1 find when you made your initial investigation of Nate
2 Paul?

3 A. I found that Nate Paul is being investigated
4 by the FBI, that they had run search warrants in August
5 of 2019 on his business and his home and a storage
6 facility. I found articles of business journals that
7 talked about lawsuits --

8 MR. COGDELL: Excuse me, Your Honor.
9 Excuse me. Objection. Hearsay. Articles and business
10 journals, that's definitionally hearsay.

11 MR. DeGUERIN: Again, it goes to his
12 state of mind. And it -- it's the same -- he's answered
13 the same question that the Court allowed.

14 MR. COGDELL: With all due respect, he
15 can testify to what's in his mind under this exception.
16 He can't testify as to what the article said.

17 PRESIDING OFFICER: Sustained.

18 Q. (BY MR. DeGUERIN) Nonetheless, did you form
19 an opinion of your state of mind?

20 A. I did.

21 Q. And what was that?

22 A. My opinion that Nate Paul was a criminal and
23 that we should not be associated with Nate Paul.

24 Q. At about the same time, did you receive a
25 communication from the Travis County District Attorney's

1 Office?

2 A. I did.

3 MR. DeGUERIN: Your Honor, we have an
4 agreement on House Exhibit 615, which we move to
5 introduce.

6 MR. COGDELL: Could I see it, Dick, real
7 quick? I'm sure you're right.

8 Yes. Yes, no objection.

9 PRESIDING OFFICER: It's been admitted.
10 Both sides have agreed.

11 (HBOM Exhibit 615 admitted)

12 Q. (BY MR. DeGUERIN) If we could bring up --
13 closer -- yeah, I'm being told to tell you to get closer
14 to the mic.

15 PRESIDING OFFICER: Mr. Maxwell, they
16 just asked you to get closer to the mic when you speak.

17 THE WITNESS: Closer to the mic. Is that
18 better?

19 PRESIDING OFFICER: You can pull that
20 towards you a little bit, if you'd like.

21 MR. DeGUERIN: You can pull the whole
22 outfit closer to you.

23 A. Okay.

24 Q. (BY MR. DeGUERIN) This is the first page.
25 This is the email, and it references a letter. Let's go

1 to the second page, please.

2 A. Yes. It was from Don Clemmer.

3 Q. All right. Here's -- here's a letter from
4 Don Clemmer. It's dated June 10th, 2020. It's to you.
5 And let's just read it into the record.

6 I am forwarding to you the attached
7 complaint which was recently received by my office
8 regarding allegations of misconduct by employees of the
9 State Securities Board, the Federal Bureau of
10 Investigations, the Department of Public Safety, the
11 United States Attorney's Office for the Western District
12 of Texas, and a federal magistrate. My office would
13 typically forward such a complaint to the Public
14 Integrity Unit of the Texas Rangers for review.
15 However, since an employee of the Department of Public
16 Safety is one of the subjects of the complaint, referral
17 to the Rangers would appear inappropriate. I am,
18 therefore, requesting that your agency conduct the
19 review.

20 My first question: Is the word "review"
21 significant?

22 A. Yes.

23 Q. What -- what is its significant?

24 A. In the protocols that we have set forth, we
25 first review the request before we ever make a

1 determination on whether we'd actually open up an
2 investigation.

3 Q. Now, you're familiar with a district
4 attorney's office excusing or recusing itself from an
5 investigation, aren't you?

6 A. Yes.

7 Q. Is that what this was?

8 A. Yes. They were forwarding it to us. They
9 didn't feel like -- that it was up to them to do this
10 investigation.

11 Q. Now, we saw the email that Mr. Clemmer sent
12 about the same time, and it mentions that you should
13 call him if you'd like. Did you call him?

14 A. Yes, I did.

15 Q. And did you talk to him?

16 A. Yes, I did.

17 Q. What did he tell you?

18 MR. COGDELL: Excuse me. Objection.

19 MR. DeGUERIN: When it comes in -- I know
20 he's going to object to hearsay.

21 Under Rule 803.3, it's an expression by
22 Mr. Clemmer of his then-existing motive, intent, and
23 plan.

24 MR. COGDELL: Not only do I have to
25 object, I want to object. Hearsay.

1 PRESIDING OFFICER: Sustained.

2 MR. DeGUERIN: Well, maybe I didn't
3 clearly state my citation of the code or of the evidence
4 rules, Your Honor. 803.3.

5 PRESIDING OFFICER: I've ruled.
6 Continue.

7 Q. (BY MR. DeGUERIN) All right. Whatever --
8 and don't go into the words that Mr. Clemmer said. Was
9 it consistent with what you had already found or the
10 suspicions that you already had?

11 A. Yes.

12 Q. And what were your suspicions?

13 A. That the referral was being requested by
14 General Paxton.

15 Q. And what about the validity of their referral
16 and the complaint?

17 MR. COGDELL: Excuse me. Objection.
18 Conjecture and speculation.

19 MR. DeGUERIN: This is -- this would be
20 his evaluation, which was his job to do.

21 MR. COGDELL: He hasn't done anything
22 yet. Objection. Conjecture and speculation.

23 You're asking him to testify as to the
24 validity of a complaint, which he hasn't investigated
25 yet. That would be conjecture and speculation.

1 MR. DeGUERIN: Let me lay a better --

2 PRESIDING OFFICER: Overruled.

3 Overruled.

4 Q. (BY MR. DeGUERIN) Okay. Go ahead.

5 A. I can answer the question?

6 Q. Yes.

7 A. My evaluation of the allegation that was made
8 by Nate Paul, is that they were absolutely ludicrous
9 without merit, no probable cause, not even reasonable
10 belief that a crime had been committed.

11 Q. Now, let me step aside for just a moment and
12 say -- or ask you: What were the nature of the
13 allegations that Mr. Nate Paul was making?

14 A. The nature of the allegations that he was
15 making were against the FBI, an investigator with the
16 Texas State Security Board, two U.S. attorneys, the
17 federal senior federal magistrate Mark Lane, and others
18 who were involved in the chain of the signing and
19 execution of the search warrants on -- that on his
20 business, his place of storage, and also his home.

21 Q. Now, one of your areas to investigate, one of
22 your duties was to investigate public integrity,
23 correct?

24 A. Yes.

25 Q. If there had been credible allegations

1 against the State Securities Board, the DPS, the FBI,
2 federal magistrate, U.S. attorney, would you have any
3 hesitation of going forward?

4 A. No.

5 MR. COGDELL: Excuse me. Objection.
6 Bolstering and self-serving.

7 PRESIDING OFFICER: Overruled.

8 Continue.

9 Q. (BY MR. DeGUERIN) You may answer.

10 A. No, I would not.

11 Q. Did you have any hesitation even to meet with
12 Nate Paul?

13 A. I did not want to meet with Nate Paul. And I
14 expressed my concerns to Jeff Mateer about that.

15 Q. And what was the reply?

16 A. He said that he was getting a lot of pressure
17 from General Paxton for me to do this.

18 Q. All right. Let's go to July the 21st of
19 2020. Did you have a meeting with Nate Paul and his
20 lawyer?

21 A. I did.

22 Q. And what was the reason you had that meeting?

23 A. I told Jeff Mateer that I would consent to
24 let him tell his story, and that if he made any
25 statements against his interest, I would report it to

1 the FBI.

2 Q. So on July the 21st did you have the meeting?

3 A. I did.

4 Q. Where?

5 A. It was on the first floor of the Clements
6 building. It was in the office of our security office
7 where we have a conference room that has the capability
8 of recording video and sound.

9 Q. Who wanted that to be done? That is record
10 by video and sound the meeting with Nate Paul and his
11 lawyer and yourself?

12 A. Me.

13 Q. Are you familiar with a report that was later
14 put out by the attorney general's office claiming that
15 General Paxton wanted that meeting recorded?

16 A. That is false.

17 Q. So have you reviewed the transcript of that
18 meeting?

19 A. I have.

20 Q. Are you aware that the lawyers for General
21 Paxton have been supplied with both the audio and video
22 and transcript of that meeting?

23 THE REPORTER: I didn't get your answer.

24 A. Yes, I'm aware of that.

25 Q. (BY MR. DeGUERIN) Okay. What took place at

1 that meeting?

2 A. Say it again.

3 Q. What took place at that meeting?

4 A. Nate Paul laid out his conspiracy theory
5 about what happened the day of the search warrants were
6 executed. He had complaints about the procedural part
7 that the FBI took when they were securing the scene and
8 conducting the searches. And then he laid out a -- his
9 conspiracy theory that they had originally come to
10 search for, not records, but for drugs and guns.

11 And then in the middle of the search when
12 they didn't find any drugs and guns, they then altered
13 the search warrant to be the search warrant that was
14 executed where it was for records. And he further
15 stated that the people involved in that was the FBI
16 agent, the agent from the Texas Securities Board, Alan
17 Buie who was AUSA, and Mark Lane, the senior magistrate.

18 Q. So according to his complaint, a United
19 States federal magistrate was involved in this
20 conspiracy?

21 A. That's correct.

22 Q. As a law enforcement officer of many years,
23 what did you think of that?

24 A. It was ludicrous.

25 Q. Did you ask for any documentation?

1 A. Yes, I did.

2 Q. What is the -- are you familiar with the
3 crime of obstruction of justice?

4 A. I am.

5 Q. Are you familiar with the crime of
6 interference of a law enforcement investigation?

7 A. Of a federal investigation, yes, I am.

8 Q. What concerns did you have if you had started
9 an investigation based on these claims by Mr. Paul?

10 A. My concerns that we would be interfering with
11 a federal investigation, we could be charged with
12 obstruction of justice, and based on the complaint that
13 has absolutely no merit.

14 Q. And at this time, even at this meeting, had
15 your criteria for opening an investigation been
16 satisfied?

17 A. No.

18 Q. How so?

19 A. It doesn't meet any of my requirements.

20 Q. After that meeting with Mr. Paul -- and his
21 lawyer, by the way, was Michael Wynne?

22 A. Michael Wynne was there.

23 Q. Okay. After that meeting with Mr. Paul, did
24 you have a meeting with the attorney general, General
25 Paxton?

1 A. I did not after that meeting immediately, no.

2 Q. But no, I don't mean that same day. But did
3 you personally talk to Ken Paxton, the attorney general,
4 about what had happened in that meeting?

5 A. No, I did not.

6 Q. What did you tell him about the meeting?

7 MR. COGDELL: I'm sorry. I thought he
8 said he did not meet with Mr. Paxton, and you just asked
9 him what he told Paxton. One of us is confused.

10 PRESIDING OFFICER: Can we clarify that?

11 Q. (BY MR. DeGUERIN) Yeah. Could you clarify
12 that? Did you tell him what you thought about that
13 meeting?

14 A. I told him before the meeting ever occurred
15 what I thought about us being involved with Nate Paul.
16 That happened before the first meeting.

17 Q. And what did you tell him?

18 A. I told him that --

19 MR. COGDELL: I'm sorry --

20 A. -- he was a criminal.

21 MR. COGDELL: Excuse me, Ranger.

22 Objection. Asked and answered. He just
23 got through telling us what he told Paxton.

24 PRESIDING OFFICER: Sustain --

25 MR. DeGUERIN: I don't believe it was

1 asked -- I don't believe he answered fully.

2 What I'm driving at, what did he tell
3 General Paxton.

4 PRESIDING OFFICER: I'll sustain the
5 objection. And you can try one more time, again.

6 MR. DeGUERIN: Or maybe I'm -- maybe I'm
7 not clear on it.

8 Q. (BY MR. DeGUERIN) Did you, at some time,
9 tell General Paxton what you thought about this idea of
10 Mr. Paul that there was a vast conspiracy against him?

11 A. Yes.

12 Q. What did you tell him?

13 A. I told him that Nate Paul was a criminal. He
14 was running a Ponzi scheme that would rival Billie
15 Sol Estes. And that if he didn't get away from this
16 individual and stop doing what he was doing, he was
17 going to get himself indicted.

18 Q. Nonetheless, was there a second meeting
19 between you and Nate Paul and Nate Paul's lawyer and
20 Mark Penley?

21 A. There was.

22 Q. Why was there a second meeting if you felt
23 like you did after that first meeting?

24 A. Because he had talked to Nate Paul -- I mean,
25 he had talked to Mark Penley and told him he wanted him

1 to conduct another meeting with Nate Paul.

2 Q. When you say "he," are you referring to
3 General Paxton?

4 A. General Paxton, that's correct.

5 Q. So General Paxton had told Mr. Penley to get
6 involved in this?

7 MR. COGDELL: Objection.

8 A. That is correct.

9 MR. COGDELL: Excuse me, objection.

10 I'm sorry, Dick.

11 Objection. Asked and answered. Ranger
12 Maxwell will give his testimony, and Dick will ask him
13 to repeat the same thing. Asked and answered.

14 PRESIDING OFFICER: I'm going to overrule
15 that.

16 Continue.

17 Q. (BY MR. DeGUERIN) Yeah, I. Wanted to
18 clarify and make sure that we understand.

19 Mark Penley told you that General Paxton
20 had ordered him to now get involved?

21 MR. COGDELL: This is the third time.
22 Objection. Asked and answered. He literally just got
23 through testifying to that.

24 MR. DeGUERIN: I believe that --

25 PRESIDING OFFICER: Sustained.

1 MR. DeGUERIN: -- he allowed me to ask
2 that.

3 PRESIDING OFFICER: Sustained.

4 Q. (BY MR. DeGUERIN) All right. So did you
5 have a second meeting?

6 A. We did.

7 Q. And was Mr. Penley involved in this one?

8 A. He was.

9 Q. And what was Mr. Penley's role in the
10 attorney general's office? If we could have that
11 organizational chart again.

12 A. Mr. Penley was the executive deputy over
13 criminal prosecution.

14 Q. So in this chart, he's just next to you. And
15 it's now been highlighted for them on -- for the jurors,
16 right?

17 A. That's correct.

18 Q. Was he your superior, or was he an equal of
19 yours?

20 A. He was an equal.

21 Q. And what was Mr. Penley's background briefly?

22 A. He came to us from the U.S. attorney's office
23 out of Dallas where he had been an assistant U.S.
24 attorney.

25 Q. So at this second meeting, where did it

1 happen?

2 A. In the same place as before, the Clements
3 building ground floor, the security office conference
4 room.

5 Q. Was it audio-video recorded?

6 A. It was.

7 Q. Do you -- and is there a transcript of that?

8 A. There is.

9 Q. Have you reviewed that?

10 A. I have.

11 Q. Do you -- are you aware that that has been
12 provided to Attorney General Paxton's lawyers?

13 A. Yes.

14 Q. All right. Why did you -- who wanted that
15 meeting recorded?

16 A. I did.

17 Q. If there's any suggestion that General Paxton
18 wanted that recorded, is that true or false?

19 MR. COGDELL: Objection. Asked and
20 answered.

21 A. False.

22 MR. DeGUERIN: That was the first one.
23 That was the first one that we referred to.

24 PRESIDING OFFICER: Overruled.

25 Q. (BY MR. DeGUERIN) Go ahead.

1 A. It's false.

2 Q. Was there anything new brought up in that
3 meeting, as far as you were concerned? You were in both
4 meetings.

5 A. He again -- he and his lawyer again
6 reiterated the complaints and their conspiracy theory,
7 as they had done in the first meeting. I advised
8 them --

9 MR. COGDELL: Objection. Excuse me --

10 Q. (BY MR. DeGUERIN) What did you advise?

11 MR. COGDELL: Excuse -- excuse me, Dick.

12 The objection is nonresponsive. The
13 question was: Was there anything new? Now they -- now,
14 Ranger Maxwell was going into what he told them. That's
15 a different answer.

16 PRESIDING OFFICER: Sustained.

17 MR. DeGUERIN: That -- it's correct. And
18 I was trying to meet his objection by going to the next
19 question.

20 Q. (BY MR. DeGUERIN) So what -- go ahead. The
21 next question is what happened?

22 A. What happened? So during the meeting, they
23 continued to lay out their objections about what
24 happened in the search warrants and the conspiracy
25 theory about how all these different individuals came

1 together and falsified a search warrant during the
2 middle of the search. And I told them that if that --
3 if they believe that to be true, then why aren't they in
4 the office of the inspector general's office for the
5 federal government, which has the authority to look into
6 any of these complaints. And the FBI, the U.S.
7 attorneys office, the federal magistrate has to
8 cooperate with them. And I asked him why aren't you in
9 that office.

10 Q. Did you get a satisfactory answer to that?

11 A. They danced around the answer, but they said
12 they felt like they were in the right place with us.

13 Q. Did you receive any kind of documents to
14 corroborate or to support that the search warrant had
15 been changed mid search?

16 A. They gave us some documents. They were
17 supposed to give us all the documents, but when we
18 reviewed the documents they gave us, it was not very
19 much. And it certainly wasn't enough for us to really
20 make a determination.

21 Q. Even still, did you submit those documents to
22 some experts within your office?

23 A. I did.

24 Q. And what -- what's the expertise of the
25 people that you submitted these documents to?

1 A. This is by a forensic section who does all
2 the forensics on computers and cell phones for criminal
3 cases. And we do that work not only for ourselves but
4 for the Texas Rangers and others.

5 Q. All right. By this time, which is -- that
6 meeting was August the 5th. By this time, had you
7 become aware yet that General Paxton had ordered Josh
8 Godbey and Mr. McCarty to push a charity to settle in a
9 lawsuit?

10 A. No.

11 MR. COGDELL: Objection. Objection.

12 Q. (BY MR. DeGUERIN) And by that time --

13 MR. COGDELL: Excuse me, Dick.

14 Objection. Leading. And assuming facts
15 not in evidence through this witness.

16 MR. DeGUERIN: I'm just asking if he was
17 aware.

18 PRESIDING OFFICER: Sustained.
19 Sustained.

20 Q. (BY MR. DeGUERIN) Were you aware that Ken
21 Paxton had asked Ryan Bangert to change a State policy?

22 A. No.

23 Q. Were you aware that General Paxton had asked
24 Ryan Vassar to release details of that very ongoing
25 investigation?

1 MR. COGDELL: Objection. That's a
2 misstatement of the record. And it's assuming facts not
3 in evidence through this witness.

4 PRESIDING OFFICER: Overruled.

5 Q. (BY MR. DeGUERIN) You may answer.

6 A. No.

7 Q. Did you later become aware of those things?

8 A. I did.

9 Q. We'll get to that.

10 Let's talk just for a moment about the
11 records of a search. What is the general practice in
12 the -- at least in federal courts for the sealing, that
13 is making private, the affidavit, the application for a
14 search warrant?

15 A. They are sealed to protect people who are
16 involved, may have given information about the crime
17 that's being committed. And also for the purposes of
18 protecting the investigation so it can be ongoing and
19 find the truth.

20 Q. Are you familiar with orders of federal
21 courts to seal documents such as these?

22 A. Yes.

23 Q. In this second meeting, what was Nate Paul
24 and his lawyer's demeanor toward you and Mr. Penley?

25 A. I think that they were maybe not as gracious

1 as they were during the first meeting. I think they
2 understood by this point --

3 MR. COGDELL: Excuse me, Ranger.

4 Object to what he thinks they understood.
5 That's conjecture and speculation.

6 PRESIDING OFFICER: Sustained.

7 Q. (BY MR. DeGUERIN) Well, what my answer is --
8 my question is not what you thought they thought, but
9 what was their demeanor. So what was their demeanor?

10 A. It was a little more animated than the
11 first -- first meeting.

12 Q. Did it -- did anything happen at that meeting
13 to change your initial assessment of whether this should
14 be elevated to the level of an actual investigation?

15 A. No.

16 Q. To clear that up, when you got this, did you
17 start an investigation as that term is understood?

18 A. Ask your question again.

19 Q. Yes. Did you start an investigation -- did
20 you initiate an official investigation?

21 A. No.

22 Q. What do you do when you start an
23 investigation?

24 A. When you start an investigation, you assign
25 it to an investigative group. That is assigned an

1 investigative number and is put into the record.

2 Q. And the reason that even after this second
3 meeting it had not risen to the level of investigation,
4 what's that reason?

5 A. The reason was that the -- the allegations
6 had no merit, and we weren't going to do the
7 investigation if I had anything to say about it.

8 Q. All right. Even though -- did you make that
9 clear to not only now Mr. Paul and his lawyer but also
10 Mr. Penley?

11 A. Yes.

12 Q. Even though that was your position, did you
13 agree to submit their documents to your experts within
14 the office?

15 A. Yes.

16 Q. Okay. So was there a third meeting?

17 A. There was.

18 Q. When was that third meeting?

19 A. It was on August 12th.

20 Q. Was it clear to you by then what General
21 Paxton wanted done?

22 MR. COGDELL: Objection. Conjecture and
23 speculation.

24 Q. (BY MR. DeGUERIN) Was it -- let me clear
25 that up.

1 Was it clear to you from what General
2 Paxton told Mr. Mateer or Mr. Penley what General Paxton
3 wanted done?

4 MR. COGDELL: That's actually worse.
5 That's hearsay and conjecture and speculation.

6 MR. DeGUERIN: Actually no, Your Honor.
7 It's under 801(e)(2)(D).

8 PRESIDING OFFICER: Counselor, you're
9 going to make me look at these numbers, aren't you?

10 MR. DeGUERIN: Yes. Yes, Your Honor.

11 MR. COGDELL: He's just trying to throw
12 you off, Judge.

13 MR. DeGUERIN: 801(e)(2)(E) is -- says
14 that a statement such as this is not hearsay,
15 particularly --

16 MR. COGDELL: With respect --

17 MR. DeGUERIN: When it -- excuse me.

18 MR. COGDELL: I'm sorry, Dick. Go ahead.

19 MR. DeGUERIN: -- particularly when it
20 was made by the party's agent or an employee on a matter
21 within the scope of that relationship. And here it's
22 what General Paxton told to either Mateer or to Penley
23 that was passed to the witness.

24 MR. COGDELL: With respect --

25 MR. DeGUERIN: That is not hearsay.

1 MR. COGDELL: I'm sorry, Dick.

2 With respect, Your Honor, there's a
3 difference between what General Paxton said and what
4 Ranger Maxwell can opine about General Paxton's state of
5 mind. Those are two different things.

6 MR. DeGUERIN: Not asking that.

7 MR. COGDELL: You just did.

8 PRESIDING OFFICER: Sustained.

9 MR. DeGUERIN: Let me ask it again then
10 if that's how it was understood.

11 Q. (BY MR. DeGUERIN) What message was passed to
12 you by either Penley or Mateer that General Paxton had
13 ordered done?

14 A. General Paxton wanted to have a third
15 meeting --

16 MR. COGDELL: I'm sorry, objection. I
17 don't -- objection. Conjecture and speculation.

18 I have no problem with Ranger Maxwell
19 testifying as to what General Paxton said, but there's a
20 difference between what he said and what he wanted. I
21 know it's splitting a hair, but objection,
22 nonresponsive.

23 PRESIDING OFFICER: Sustained.

24 Q. (BY MR. DeGUERIN) What did he say he wanted?

25 A. He wanted us to tell Nate Paul that we were

1 not going to be doing an investigation due to the
2 results of our forensics analysis.

3 Q. So going into that third meeting, is that
4 what you believed it was going to be about?

5 A. Yes.

6 Q. Was that meeting recorded like the first two?

7 A. No.

8 Q. Who was responsible for it not being
9 recorded?

10 A. General Paxton specifically told us that he
11 did not want that meeting recorded.

12 Q. Okay. So as you're going into a meeting in
13 which you believe it's just for you to tell Nate Paul
14 that you're not going to do his bidding, what happened?

15 A. Nate Paul was there along with his lawyer,
16 Michael Wynne. I had my two forensic experts, Mark
17 Penley, myself, and General Paxton. My forensics people
18 explained to Nate Paul the results of their forensics
19 examination.

20 Q. And very briefly, what was that result?

21 A. That the metadata that he was talking about
22 that had changed could have been changed by the fact
23 that there were documents he received had been
24 electronically redacted and encrypted, which would
25 change the metadata.

1 Q. Is that a long way of saying there was
2 nothing there?

3 A. Yes.

4 Q. So your understanding that General Paxton was
5 telling you tell him that you're not going to have an
6 investigation, what was General Paxton's -- what did he
7 say during that meeting?

8 A. During the meeting, he was supporting Nate
9 Paul's position, which was that we need to do an
10 investigation. And he was pretty adamant about it.

11 Q. Was that meeting heated?

12 A. It became heated.

13 Q. Who became heated?

14 A. Nate Paul.

15 Q. Before that meeting started, were you aware
16 of any public statements that Mr. Paul had made about
17 whether there was an investigation?

18 A. Yes, I was.

19 Q. And what were those public statements you
20 were aware of?

21 A. He had done an interview with a business
22 journal and told them that the Texas attorney general
23 was investigating the FBI and their handling of the
24 search warrants on his property.

25 Q. Was that true or not?

1 A. That is false.

2 Q. In fact, you had not started an
3 investigation, correct?

4 A. We had not. And I specifically told Mr. Paul
5 that we were not doing an investigation at this point
6 and our meetings were confidential.

7 Q. And the response?

8 A. Oh, yeah, he responded.

9 Q. What was his response?

10 A. He was -- he was very angry. And he said
11 that he still has a First Amendment right. And I told
12 him that all you're doing is using the power and the
13 prestige of this office for your own purpose, and I'm
14 not going to allow that.

15 Q. Whose side in that dispute between you and
16 Nate Paul did General Paxton take?

17 A. Nate Paul.

18 Q. So what was the significance of Nate Paul
19 making a public statement that the attorney general's
20 office was investigating a federal magistrate and the
21 federal authorities and the State authorities that the
22 attorney general was investigating, what's the
23 significance of that kind of public statement?

24 MR. COGDELL: Excuse me. Objection.
25 Conjecture and speculation.

1 and the tattoo. I'm sorry.

2 Objection. Leading.

3 MR. DeGUERIN: Well, I'll -- I'll
4 reverse -- I'll take the --

5 PRESIDING OFFICER: Sustained.

6 MR. DeGUERIN: -- tattoo out of it.

7 PRESIDING OFFICER: Sustained.

8 MR. COGDELL: Take the tattoo out.

9 MR. DeGUERIN: If I take the tattoo out
10 of it, may I ask the question again?

11 PRESIDING OFFICER: I just sustained
12 that. You can try whatever you like to and see what he
13 objects to or not.

14 Q. (BY MR. DeGUERIN) Is there a danger to a
15 public official's reputation by publicizing an
16 investigation by the attorney general, and especially
17 when it's not true?

18 A. Yes, very much so.

19 Q. Is that the reason you're very careful about
20 having a criteria for starting an investigation?

21 MR. COGDELL: Objection. Leading.

22 PRESIDING OFFICER: Sustained.

23 Q. (BY MR. DeGUERIN) What is the reason you're
24 careful about that?

25 A. We're careful -- we're careful because we

1 don't want to put a stain on anyone's reputation. It
2 has to be an investigation that is viable, has probable
3 cause, and could move forward. This was not that.

4 Q. All right. So let's ask -- let's talk about
5 what happened after that meeting. Did you ever have any
6 further conversations with Attorney General Paxton?

7 A. No. Attorney General Paxton stopped talking
8 to me.

9 Q. And your assessment at that time of whether
10 General Paxton was angry with you?

11 MR. COGDELL: Excuse me. Conjecture and
12 speculation.

13 MR. DeGUERIN: It's his state of mind.

14 PRESIDING OFFICER: Sustained.

15 You can ask it differently if you'd like.

16 MR. DeGUERIN: All right.

17 Q. (BY MR. DeGUERIN) Your state of mind after
18 General Paxton and you left that meeting, was what about
19 General Paxton?

20 MR. COGDELL: Unless he said anything,
21 conjecture and speculation. He's got nothing to base it
22 on.

23 PRESIDING OFFICER: Overruled.

24 Q. (BY MR. DeGUERIN) You may answer.

25 A. I know his state of mind because in the

1 meeting he threatened to fire me. So I knew then what
2 his commitment was to Nate Paul, and he was not going to
3 be deterred from continuing to try and do things that
4 benefit Nate Paul.

5 Q. During this period of time with these three
6 meetings, had you called upon any of your subordinates,
7 any of your other investigators, to -- other than to
8 look at the -- this metadata, had you called on anyone
9 to assist you in this review?

10 A. No.

11 Q. Why not?

12 A. I told my people that this was going to get
13 me fired. I was going to take the stand, and I was not
14 going to jeopardize any of their careers by involving
15 them.

16 Q. Why did you think it was going to get you
17 fired?

18 MR. COGDELL: Excuse me.

19 A. He demonstrated his commitment to Nate Paul.

20 PRESIDING OFFICER: Witness, hold on a
21 moment.

22 MR. DeGUERIN: State of mind.

23 PRESIDING OFFICER: Your objection?

24 MR. COGDELL: Objection. Conjecture and
25 speculation.

1 PRESIDING OFFICER: Overruled.

2 MR. DeGUERIN: State of mind.

3 Q. (BY MR. DeGUERIN) Yes, you may answer.

4 A. He had already told me that if I conducted my
5 business as the FBI does he was going to fire me. So I
6 know that he was angry with me because I was not buying
7 in to the big conspiracy theory that Nate Paul was
8 having him believe.

9 Q. And at this time did you know that there was
10 some action within the attorney general's office to hire
11 an outside counsel to do what you refused to do? That
12 is conduct an investigation into Nate -- into the
13 federal authorities that were hounding Nate Paul?

14 MR. COGDELL: I'm sorry, Dick.

15 Q. (BY MR. DeGUERIN) Take out "hounding." That
16 were conducting their investigation on Nate Paul.

17 MR. COGDELL: Objection. Vague. When is
18 this time? I'm not sure where we are.

19 MR. DeGUERIN: Okay. I'll clarify.

20 PRESIDING OFFICER: Sustained.

21 Clarify, please.

22 Q. (BY MR. DeGUERIN) At this time. We're now
23 talking about the end, after the third meeting. Did you
24 know that there was some movement for General Paxton to
25 demand the hiring of a special counsel or an outside

1 counsel? Did you know about it at that time?

2 A. No.

3 Q. As far as you were concerned, was the
4 attorney general's office involvement in Nate Paul's
5 complaint about how he had been treated, or mistreated
6 in his words, by the investigation into his activities,
7 was the attorney general's office involvement over?

8 A. No. I didn't think it was because I knew
9 that he was probably going to fire me and hire somebody
10 who would --

11 MR. COGDELL: Excuse me. Excuse me.
12 Nonresponsive. And conjecture and speculation. With
13 all due respect to Ranger Maxwell, he's not The Amazing
14 Kreskin. He can't see everything in the future.

15 MR. DeGUERIN: I'm asking for his state
16 of mind.

17 PRESIDING OFFICER: Overruled.

18 Q. (BY MR. DeGUERIN) You may answer.

19 A. Yes, I did not believe that General Paxton
20 was going to stop pursuing this investigation.

21 Q. Did you, at that time, though, know about the
22 hiring, or attempted hiring, of Brandon Cammack, the
23 young lawyer from Houston?

24 A. No.

25 Q. Did you find out about it later?

1 A. I did.

2 Q. I want to jump ahead now to the very end of
3 September and the beginning of October. Did you go on a
4 vacation toward the end of September?

5 A. Yes.

6 Q. And where'd you go?

7 A. We went to Colorado.

8 Q. Did you learn -- don't tell us what was said
9 yet. But did you learn that there was a crisis of sorts
10 among the deputies, your fellow deputies, in the
11 attorney general's office?

12 A. I did.

13 Q. How did you learn it?

14 A. They contacted me.

15 Q. And did you -- even being in Colorado, they
16 have -- they have phones up there last time I checked.
17 Were you able to communicate with your fellow deputies?

18 A. I had to drive down the mountain to do it,
19 but, yes, I did communicate with them by phone.

20 Q. What did you learn?

21 A. I learned that all the executive deputies,
22 including Jeff Mateer, were going to stand shoulder to
23 shoulder with me and confront Nate -- confront General
24 Paxton with what he has been doing to the agency for the
25 benefit of Nate Paul.

1 Q. What about a plan to go to the Federal Bureau
2 of Investigation to report what they believed were, and
3 what you believed, I believe, were crimes being
4 committed?

5 MR. COGDELL: Objection. Leading.

6 Q. (BY MR. DeGUERIN) What did you learn?

7 MR. COGDELL: And, again, what time frame
8 are we talking about? Your question was late September.

9 MR. DeGUERIN: Time frame is the end of
10 September.

11 PRESIDING OFFICER: Sustained.

12 Re-ask.

13 Q. (BY MR. DeGUERIN) Time frame is the end of
14 September. And your conversations with your fellow
15 deputies, what did you learn the plans were?

16 A. I learned that they were going to report the
17 activities to the FBI. I learned that they had written
18 a letter to General Paxton. I was not present so I
19 could not sign it. And I told them that I would also
20 contact Lieutenant Colonel Randy Prince with the Texas
21 Department of Public Safety. And also tell him what was
22 going on, and that we were going to request an
23 investigation.

24 Q. So by you -- you knew Lieutenant Colonel
25 Prince as a fellow Ranger, didn't you?

1 A. Yes. I broke him in.

2 Q. And so by reporting to the Department of
3 Public Safety, Lieutenant Colonel Prince, where was he
4 in the hierarchy of the Department of Public Safety?

5 A. He is number two. Or he was number two in
6 the department. He's now retired.

7 Q. And at the time that you did that, were you
8 making a report to law enforcement about General Paxton?

9 A. Yes.

10 Q. What did you think would happen to you as a
11 result of you reporting General Paxton to authorities?

12 MR. COGDELL: Conjecture and speculation,
13 Judge.

14 MR. DeGUERIN: State of mind.

15 MR. COGDELL: Judge, everything doesn't
16 get to come into evidence as state of mind.

17 PRESIDING OFFICER: Overruled.

18 Q. (BY MR. DeGUERIN) You may answer.

19 A. I was going to be fired.

20 Q. What happened on -- I believe it was
21 October 2nd, two days after the report. What happened
22 on that date regarding you?

23 A. I received notification by text message from
24 Greg Simpson, the division chief over human resources,
25 notifying me that I was placed on investigative leave.

1 Q. As a result of being placed on investigative
2 leave, what did that do to your responsibilities in the
3 attorney general's office?

4 A. At that time I had no responsibilities, had
5 no access.

6 Q. And how long did that situation last?

7 A. For one month.

8 Q. What happened then?

9 A. On November 2nd, 2020, I met with Brent
10 Webster and he terminated me.

11 Q. Stop you. Who was Brent Webster by that
12 time?

13 A. Brent Webster was the new first assistant
14 hired by General Paxton.

15 Q. Would you describe for the Senate and the
16 senators what happened when Brent Webster fired you
17 on -- was it -- did you say November the 2nd?

18 A. Yes.

19 Q. Go ahead.

20 A. I was told to show up at 9:00 a.m. in the
21 conference room next to human resources, and that he --
22 I would be meeting with Brent Webster.

23 Q. Were you still a law enforcement officer?

24 A. Yes.

25 Q. Were you told anything about whether to bring

1 a weapon or not?

2 A. My division chief over criminal investigation
3 division had called me on the telephone when I was in
4 route to the office. And he told me that Brent Webster
5 said that I was not allowed to be in the building if I
6 was armed.

7 Q. So what happened after you went to this -- or
8 showed up at the time you were supposed to show up?

9 A. I got there at -- before 9:00. I was pretty
10 much always early. And I waited till about 11:30 before
11 Brent Webster showed up.

12 Q. What happened then?

13 A. Brent Webster and Anne Weiss came together,
14 and they first asked me if I was recording this meeting,
15 and I said no.

16 Q. And you were not?

17 A. I was not.

18 Q. Did you ask them?

19 A. I asked them if they were recording the
20 meeting, and they said they were not.

21 Q. Then what happened?

22 A. Then Brent Webster told me that he was
23 conducting an investigation.

24 Q. Did you believe that?

25 A. No.

1 Q. And, in fact, did his actions confirm your
2 nonbelief?

3 A. Yes.

4 Q. What happened then?

5 A. So he attempted to interview me in a very
6 vague and an inept way. And I told him just ask the
7 question. I'll answer it or I won't answer it. Just
8 give me a direct question and I'll give you what you
9 want to know.

10 We never got to the point where he asked
11 me really direct questions.

12 Q. All right. How did it end?

13 A. He told -- he left, and he told me to be back
14 at 1:00 o'clock. And so I went to have some lunch and I
15 came back to the office at 1:00 o'clock.

16 Q. Did he show up?

17 A. No.

18 Q. What happened?

19 A. About 4:30, members of human resources showed
20 up with my paperwork. And I signed the paperwork and I
21 was fired.

22 Q. I want to talk just a moment about what I'll
23 call "retaliation." Were you retaliated against for
24 what -- your actions that you took in this case?

25 A. Yes.

1 Q. Tell the members of the Senate briefly how
2 you were retaliated against.

3 A. That he retaliated against me, was what
4 you're asking.

5 Q. Yes.

6 A. Well, in firing me at the time I was 71 years
7 old and had risen to a top level of law enforcement. In
8 effect when he fired me and then berated me in the news,
9 he ended my career.

10 Q. By that time your career had taken up how
11 many years?

12 A. It was 48 years.

13 Q. Were you proud of your career?

14 A. Absolutely.

15 Q. What is an F-5 form, as in -- F as in "Frank"
16 5, the number?

17 A. It's a TCOLE form.

18 Q. TCOLE means what?

19 A. Texas Commission on Law Enforcement.

20 Q. What -- what's the importance of TCOLE?

21 A. TCOLE is the regulatory agency for all peace
22 officers in the state of Texas.

23 Q. And so what happened with -- at first with
24 regard to your TCOLE license and the F-5 form?

25 A. The F-5 form is a form that is required for

1 the agency to fill out any time they separate from a law
2 enforcement officer. There are three things that you
3 can mark on the F-5. It can be an honorable discharge,
4 it can be dishonorable, or it can be a general
5 discharge.

6 Q. Is a general discharge good or bad?

7 A. Bad.

8 Q. Did you contest that?

9 A. I did.

10 Q. Did you join in the filing of a whistleblower
11 lawsuit?

12 A. I did.

13 Q. We've called it that.

14 Why did you sue?

15 A. I sued because he ended my career in a very
16 unjust manner.

17 Q. Eventually, partly as a result of the
18 lawsuit, was the general discharge reversed and you got
19 an honorable discharge?

20 A. Yes.

21 Q. Is that important?

22 A. Yes.

23 Q. Why?

24 A. Because it's important to me to show that I
25 had an honorable discharge and that I did nothing wrong

1 by standing up for right.

2 MR. DeGUERIN: Pass the witness.

3 PRESIDING OFFICER: Mr. Cogdell.

4 MR. COGDELL: Thank you.

5 Give me just a minute to set up.

6 PRESIDING OFFICER: Take as much time as
7 you need.

8 MR. COGDELL: Thank you. You good, Dick?

9 MR. DeGUERIN: Yeah.

10 CROSS-EXAMINATION

11 BY MR. COGDELL:

12 Q. Good afternoon, Ranger.

13 A. Good afternoon, Counselor.

14 Q. How are you?

15 A. I'm good.

16 PRESIDING OFFICER: Mr. Cogdell -- I'm
17 sorry -- since you're a little taller, you're going to
18 need to get closer to that microphone so we can --

19 MR. COGDELL: Wait, I'm taller than Dick?

20 PRESIDING OFFICER: -- or raise that up.

21 There you go.

22 MR. COGDELL: All right.

23 Q. (BY MR. COGDELL) It's been a minute, has it
24 not?

25 MR. DeGUERIN: I confess.

1 MR. COGDELL: Sir?

2 MR. DeGUERIN: I confess. He is taller,
3 and in fact -- well --

4 Q. (BY MR. COGDELL) It's been a minute since
5 you and I have seen each other.

6 A. It has.

7 Q. Let me go into sort of your preparation for
8 this hearing. And, Ranger, I know you as Ranger Dave
9 Maxwell, so I'm going to call you that whether you want
10 it or not because it's just in my brain.

11 A. I'm good with that.

12 Q. That -- good.

13 What have you done in preparation for
14 testifying here today, Ranger Maxwell?

15 A. I've consulted with the attorneys. I've
16 reviewed the material that has been turned over that I
17 would be speaking about.

18 Q. And is your lawyer here?

19 A. Yes.

20 Q. Tell me his name.

21 A. TJ Turner.

22 Q. And he's in the room?

23 A. He is.

24 Q. Now, when you say -- when you say that you
25 have consulted the material -- let me make sure I'm on

1 the same page with you.

2 A. Okay.

3 Q. I'm aware, Ranger Maxwell, that there are
4 transcripts of your original meeting with -- with the
5 Board of Managers back in February. You've read that
6 transcript, I assume.

7 A. Yes.

8 Q. There is the July 21st, 2020 interview by you
9 of Mr. Wynne and Mr. Paul, right?

10 A. Yes.

11 Q. You -- I assume you've read that transcript?

12 A. I have.

13 Q. There is the August 5th, 2020, interview by
14 you and Mark Penley of Mr. Wynne and Mr. Paul, correct?

15 A. Yes.

16 Q. There are also videotapes. I think the first
17 one is about an hour, the July one. And the second one
18 is an hour and a half or so.

19 A. Hour and 17 minutes, and hour and 54 minutes.

20 Q. Your memory is not lacking, I'll give you
21 that. At least so far.

22 But have you seen the videos as well,
23 Ranger?

24 A. No.

25 Q. Okay. Well, let -- I may ask you some

1 specific questions about those meetings. So let me give
2 you copies of the transcript, Ranger. Just so if I --
3 if I get down in the weeds and you need them, you'll
4 have them. Okay?

5 MR. COGDELL: May I approach, Your Honor?

6 PRESIDING OFFICER: Yes, you may.

7 Q. (BY MR. COGDELL) This is, Ranger, the Board
8 of Managers.

9 A. All right.

10 Q. The July and the August. We good?

11 A. Okay. Good.

12 PRESIDING OFFICER: He was not on mic,
13 but he was simply pointing out to the witness what the
14 different folders were.

15 Q. (BY MR. COGDELL) Let's go back to, I guess,
16 the first -- your first involvement, Ranger, with this
17 particular investigation in terms of your testifying,
18 okay?

19 A. Okay.

20 Q. And by -- what I mean by that is when you
21 were interviewed back in February I think by
22 Terese Buess and Dan McAnulty?

23 A. Yes.

24 Q. You remember that interview?

25 A. I do.

1 Q. You've read it?

2 A. I have.

3 Q. And in reviewing that transcript, Ranger,
4 did -- in your review, did you see anything that -- that
5 was in error or a mistake?

6 A. I see some things that may be misconstrued.

7 Q. What are those things?

8 A. About Drew Wicker and -- and what he may or
9 may not be able to testify.

10 Q. Gotcha. Now, let me put you on pause there.

11 You weren't here obviously during the
12 opening statement --

13 A. No.

14 Q. -- so you don't know what was said or what
15 wasn't said about Drew Wicker and your statements about
16 Drew Wicker. You weren't here, right?

17 A. No, that's correct.

18 Q. Have you met with Mr. DeGuerin or anybody
19 from the Board of Managers' team in anticipation of your
20 testifying?

21 A. Yes.

22 Q. Who did you meet with?

23 A. I met with Mr. DeGuerin, Rusty Hardin. I met
24 with the other attorneys that are helping prosecute this
25 case.

1 Q. Okay. And was that topic brought up in the
2 meeting? That is what you said in the February meeting
3 about Drew Wicker?

4 A. Yes. They did ask me about that.

5 Q. Okay. Now, you know Mr. DeGuerin personally?

6 A. Yes.

7 Q. And to jump way back in time, which is one of
8 the first times I met you, Mr. DeGuerin famously walked
9 into the Branch Davidian compound during the siege in
10 1993?

11 A. '3, '93.

12 Q. Were you escorting him in and out? Was that
13 you?

14 A. No, I did not.

15 Q. But the Rangers did have a significant role
16 in the investigation of that -- that incident, that
17 tragedy, whatever we want to call it. Right?

18 A. Yes. I was one of the lead investigators.

19 Q. Yes, sir. And if my memory serves me,
20 Ranger, correct me if I'm wrong, but I think you helped
21 a much younger me get access to my client in that
22 ordeal, did you not?

23 A. I did.

24 Q. Thank you, sir.

25 Now, I mean this sincerely and

1 respectfully, Ranger. You're an icon with the Texas
2 Rangers, right?

3 A. I don't see myself that way.

4 Q. Well, a lot of folks do. You'd agree with
5 me?

6 A. I've heard a lot of people say that, yes.

7 Q. You are in the Texas Ranger Hall of Fame,
8 right?

9 A. Well, at some point.

10 Q. What do you mean at some point? You are now.

11 A. I'm not an official member of the ones they
12 recognize as being in the Hall of Fame. My picture has
13 been there. It was once an exhibit on being in the Hall
14 of Fame.

15 Q. Well, let's see. You joined the DPS in 1972?

16 A. That's correct.

17 Q. You became a Ranger in 19 -- 1986?

18 A. Yes.

19 Q. You left the DPS -- and I'm sure 95 percent
20 of the people in the room know this, but some folks
21 watching on TV may not. All of the Texas Rangers, the
22 genesis of being a Ranger, you hail from the Department
23 of Public Safety. That's the outfit through which you
24 become a Texas Ranger, right?

25 A. Yes, because the Rangers are a part of the

1 Texas Department of Public Safety.

2 Q. Yes, sir. So all told with the DPS and the
3 Rangers, your career lasted 38 years?

4 A. 38 years.

5 Q. Now, you made some statements to Mr. DeGuerin
6 about how ludicrous it was to be investigating judges or
7 assistant United States attorneys in this particular
8 case, right?

9 A. Yes, in this particular case.

10 Q. Yes, sir.

11 A. That's correct.

12 Q. But certainly you would agree with me,
13 Ranger, that in your experience, you have been part of
14 investigations, even prosecutions, of assistant United
15 States attorneys or judges. Right?

16 A. I have investigated and prosecuted public
17 officials. I've never investigated a senior federal
18 magistrate or an AUSA.

19 Q. Well, let's go back to the Waco incident.
20 One of the fallouts, tragically, for one of the
21 assistant United States attorneys in that case, a fellow
22 who I actually respect a lot so I'm not going to mention
23 his name, but I think you know who I'm talking about.

24 A. I do.

25 Q. He was charged with a federal offense after

1 that ordeal, was he not?

2 A. He was.

3 Q. Now, you mentioned OIG, which is the Office
4 of Inspector General. Right?

5 A. Yes.

6 Q. And they are kind of like -- I don't know
7 what you'd call them -- OPR -- or what is it in the --
8 in local law enforcement when you have a complaint
9 against a law enforcement officer? What -- help me with
10 the verbiage?

11 A. I don't think we, on the state level, have an
12 equal to the Office of Inspector General because they
13 cover all of the federal agencies, as far as being able
14 to inspect them. We don't have that in Texas. We don't
15 have oversight over AGs.

16 Q. Okay. Fair enough. But would you agree with
17 me that in your experience as a Texas Ranger, you've
18 seen, well, wrongful prosecutions of DPS agents?

19 A. Yes.

20 Q. One of those was a fellow by the name of
21 Sergeant Bob Nesteroff. Remember that?

22 A. I do remember Bob, yes.

23 Q. He was a -- I think head of DPS narcotics
24 enforcement?

25 A. He and I were in narcotics at the same time.

1 Q. And he was charged by an AUSA in Florida, if
2 I remember --

3 A. Yes.

4 Q. -- for perjury and obstruction.

5 A. He was.

6 Q. Came here and went to trial in Houston in
7 front of Lee Rosenthal, right?

8 A. Yes.

9 Q. You remember his lawyer, right?

10 A. I don't remember who his lawyer was, no.

11 MR. DeGUERIN: Objection for a moment,
12 Your Honor. Relevance.

13 MR. COGDELL: Well, my point is this. No
14 one --

15 MR. DeGUERIN: Relevance.

16 PRESIDING OFFICER: Overruled.

17 Let him continue.

18 Q. (BY MR. COGDELL) Let's just say his lawyer
19 looked like a 27-year younger version of me, but that's
20 not really the point. The point is even AUSAs can make
21 mistakes, right?

22 A. You're talking about one individual.

23 Q. Yes, sir. One individual that charged a
24 compatriot of yours for something he didn't do?

25 A. Yes.

1 Q. Okay. My point is it is not beyond the realm
2 of possibility for anyone, including an assistant United
3 States attorney, to make an error in judgment or
4 whatever that ends up being criminal. Agree with me?
5 It's rare, but it happens.

6 A. It rare, but it happens.

7 Q. Now, let's talk about the resources through
8 your 38-year career, Ranger, that you've been exposed
9 to. You would agree with me as a general rule that you
10 have seen the tools and the resources available to law
11 enforcement grow exponentially in your time?

12 A. Absolutely.

13 Q. There are kinds of investigative tools that
14 weren't around when you started with the DPS, or when I
15 started practicing law, that are around today. Agree
16 with me?

17 A. There is no comparison.

18 Q. Yes, sir. Things like CrimeStar?

19 A. Yes.

20 Q. Things like CLEAR for law enforcement? It's
21 a public records database, right?

22 A. Yes.

23 Q. Accurint for law enforcement. Again, another
24 public records database, right?

25 A. Yes.

1 Q. TLO by TransUnion, another law enforcement
2 public records database, right?

3 A. Yes.

4 Q. Cellebrite, a cell phone analytics tool,
5 right?

6 A. Say that again.

7 Q. Cellebrite, it's a cell phone analytics tool?

8 A. Yeah. Uh-huh.

9 Q. GrayKey, another cell phone analytics tool?

10 A. Yes.

11 Q. PenLink, another phone analysis tool?

12 A. Yes.

13 Q. Obviously TCIC, NCIC searches, right?

14 A. Yes.

15 Q. Criminal history checks, driver's license
16 checks, right?

17 A. Yes.

18 Q. Access to some utility companies' databases,
19 right?

20 A. Yes.

21 Q. Open source data, like YouTube, Facebook,
22 Twitter, X, all those sorts of things?

23 A. Yes.

24 Q. And 95 percent of that just wasn't around
25 when you started your career, right?

1 A. Absolutely.

2 Q. So you would agree with me, I think, Ranger,
3 that you -- if you don't know how to use those tools,
4 you could certainly find somebody that could help you
5 use some of those tools if you wanted to use them.
6 Agree with me?

7 A. Agree.

8 Q. Now, the DPS and the Rangers have all kinds
9 of teams at their disposal, right?

10 A. Yes.

11 Q. They have a reconnaissance team, agreed?

12 A. Yes.

13 Q. A special response team, agreed?

14 A. Yes.

15 Q. A public corruption unit team, agreed?

16 A. Yes.

17 Q. They have -- it is not unusual at all for DPS
18 or the Rangers to participate in internal
19 investigations, right?

20 A. That's correct.

21 Q. DPS from time to time, I am told, triple
22 hearsay uses hypnosis?

23 A. We used to. I think it's been phased out
24 now.

25 Q. Did you yourself?

1 A. No, I didn't want --

2 Q. You never did?

3 A. I didn't want to do that.

4 Q. I'm -- your legend has been diminished by
5 just a bit. I thought you used hypnosis. All right.

6 A. No, sir.

7 Q. Now, you yourself, Ranger, you have taught
8 all kinds of courses, right?

9 A. Yes.

10 Q. You have taught on -- you personally taught
11 on how to conduct investigations?

12 A. Yes.

13 Q. Agree?

14 You have taught on interrogation
15 techniques. Agree?

16 A. Yes.

17 Q. You have taught on how to testify in court?

18 A. How to what?

19 Q. Really? You just did that?

20 Come on. You have taught on how to
21 testify in court?

22 A. Yes.

23 Q. And -- and no disrespect to anyone. This is
24 not your first rodeo. You have testified a few times,
25 right?

1 A. That's correct.

2 Q. Can you estimate for us, Ranger, how many
3 times you have testified in courts across this state or
4 across this country?

5 A. Hundreds.

6 Q. Okay. Now, simply put, Ranger David Maxwell
7 knows how to conduct an investigation if he wants to,
8 right?

9 A. Yes, that's correct.

10 Q. And you have literally conducted probably
11 thousands of investigations?

12 A. Yes, thousands of investigations.

13 Q. I guess, Ranger, anything from traffic
14 tickets to capital murderers and everything in between
15 you've investigated, right?

16 A. Yes.

17 Q. Now, let's talk for a minute about the good
18 traits of an investigator, see if we can agree on a few
19 good basics.

20 One, they should have the training and
21 the mental tenacity to be a good investigator, right?

22 A. Say that again.

23 Q. They got to be smart enough to know what
24 they're doing.

25 A. Yes.

1 Q. They should have an open and objective mind?

2 A. Yes.

3 Q. They should go into an investigation without
4 bias or predisposition?

5 A. Yes.

6 Q. They should be willing to follow the
7 evidence?

8 A. That's correct.

9 Q. And they shouldn't make assumptions that
10 aren't based on sufficient evidence, right?

11 A. Yes.

12 Q. Now, it is also important, is it not, to
13 follow up on any leads or information given to them by
14 others?

15 A. I lost that. Say it again.

16 Q. And I couldn't help but notice you got a
17 hearing aid.

18 A. I do. So it's a little hard for me.

19 Q. Yes, sir. And if I don't speak up enough --

20 A. All right.

21 Q. -- please let me know.

22 A. Thank you.

23 Q. It's important for a good investigator to
24 follow up on any leads or information that's been given
25 to them, right?

1 A. Yes.

2 Q. Would you agree with me, Ranger, that a good
3 investigator understands that, you know, we're kind of
4 all equal under the eyes of the law in terms of
5 everybody's entitled to have an investigation if -- at
6 least if it's warranted by the facts, investigated,
7 right?

8 A. Yes.

9 Q. An inmate, or a president, or anything in
10 between. Agree with me?

11 A. Yeah.

12 Q. An investigation should be thorough?

13 A. Yes.

14 Q. And accurate records and reports should be
15 generated and maintained?

16 A. Yes.

17 Q. And that's important, not only for the
18 investigator that's involved in the case, but really for
19 the future of the case, right?

20 A. Yes.

21 Q. I mean, investigators leave. They get fired.
22 They quit. But the case may still be going on. Right?

23 A. That's correct.

24 Q. So once again, you have the experience, the
25 training, the assets, the knowledge, and the

1 relationships, and the contacts to do a great
2 investigation if you were inclined to do that. Right?

3 A. Yes, I do.

4 Q. All right. Let me ask you -- and I think
5 Mr. DeGuerin touched on it briefly, but let me do it as
6 well.

7 I think he mentioned the search warrant
8 and a probable cause affidavit, right?

9 A. Yes, he did.

10 Q. Where is the --

11 MR. COGDELL: May I have just a minute,
12 Your Honor?

13 While he's looking for what he should
14 have had, Erick.

15 (Laughter)

16 Q. (BY MR. COGDELL) While he's looking for
17 that, let me cover a couple of things with you, Ranger.

18 First off -- first off, the quantum of
19 proof that a search warrant must satisfy before a judge
20 or a magistrate signs off on it is probable cause,
21 right?

22 A. Yes.

23 Q. And the lower standard of proof is scintilla.
24 And then we go into probable cause. Then we go into
25 clear and convincing. And then we go proof beyond a

1 reasonable doubt. You're aware of all of those things,
2 right?

3 A. Yes.

4 Q. Now -- thank you. I'm going to show you,
5 Ranger -- I don't know that if you have seen this or
6 not. But I'm going to show you, without offering it for
7 obvious reasons, the underlying affidavit in support of
8 the search warrant for Mr. Paul's properties and the
9 search warrant itself. Okay?

10 A. Okay.

11 MR. COGDELL: May I approach, Your Honor?

12 PRESIDING OFFICER: Yes, you may.

13 Q. (BY MR. COGDELL) So what you have in one
14 hand is a search warrant, which is pretty thick, right,
15 Ranger?

16 A. Yes.

17 Q. You should have -- and if you'll pull
18 forward, Ranger, because we got to have your voice --
19 pull forward.

20 A. I'm sorry.

21 Q. That's all right.

22 A. All right.

23 Q. You should have two different things. One is
24 a part of the other. But one is the greater search
25 warrant, which is several inches thick, right, the

1 entire search warrant?

2 A. Yes.

3 Q. And then included in that, which we've
4 excerpt -- excerpted out is the search warrant affidavit
5 in -- or the affidavit in support of the search warrant,
6 right?

7 A. Okay.

8 Q. Now, you have prepared -- estimate for us,
9 Ranger -- how many search warrant affidavits?

10 A. I couldn't tell you. I mean, it's a lot.

11 Q. A lot. Like thousands?

12 A. Yeah, a lot.

13 Q. Now, you would agree with me that the content
14 that goes into a search warrant affidavit is meant to do
15 really one thing and one thing only, and that content
16 that is to go into a search warrant affidavit is to
17 convince a magistrate judge that there is probable cause
18 for the issuance of a search warrant to search a given
19 premises or a given location at a given time, right?

20 A. Yes.

21 Q. And what's important is not the personalities
22 of the judge or anything to do with the prosecutor or
23 anything to do with anything other than what information
24 would establish probable cause, right?

25 A. That's correct.

1 Q. Now --

2 MR. DeGUERIN: Excuse me. Objection.
3 And I object to any further reference to this affidavit
4 as it was not part of his review, and he's not seen it
5 before.

6 MR. COGDELL: I'm happy for the Ranger to
7 take a few minutes to look at it, but these are -- Dick,
8 I think they're going to be pretty global questions.
9 But if the Ranger needs time to look at it, I'm happy to
10 stand down for a few minutes.

11 MR. DeGUERIN: I would also object to
12 it -- also object to relevance.

13 MR. COGDELL: The relevance is what
14 Mr. Hardin has suggested time and time and time again
15 about how -- how the search warrant affidavit could
16 endanger the lives of judges and prosecutors and all
17 this. That's -- I'm going there. I'll show you the
18 relevance.

19 PRESIDING OFFICER: I'll overrule the
20 objection.

21 But, Ranger, do you need some time?
22 Would you like five or ten minutes to look at it?

23 THE WITNESS: Yes.

24 PRESIDING OFFICER: It's a good time to
25 break.

1 Members, be back in -- at 2:45.

2 (Recess: 2:27 p.m. to 2:49 p.m.)

3 PRESIDING OFFICER: Okay. Be seated.

4 MR. COGDELL: Just let me know when to
5 proceed.

6 PRESIDING OFFICER: You may resume.

7 MR. COGDELL: Thank you.

8 Q. (BY MR. COGDELL) Ranger Maxwell, I asked
9 you -- sort of gave you a hint at the break of where I'm
10 going on this document, so let's go there.

11 Back up just a second. We're talking
12 about the search warrant affidavit in the Nate Paul
13 case, but really the questions kind of apply affidavits
14 generally speaking, not just here. Okay?

15 A. All right.

16 Q. Would you agree with me, Ranger, that in your
17 training in terms of law enforcement that you are
18 trained that if charges are filed, that ultimately the
19 defendant who is charged will get a copy of the search
20 warrant affidavit?

21 A. That's correct.

22 Q. And the basis for that, to bore us all a
23 little bit, is whether the search warrant affidavit is
24 sufficient or not is often argued by defense lawyers as
25 a basis for trying to suppress the search -- an illegal

1 search. That's the typical argument, right?

2 A. Yes, correct.

3 Q. So anybody that fills out a search warrant
4 with any experience is going to know at some point this
5 could well end up in the hands of the defendant or his
6 lawyer. You agree with me?

7 A. Yes, sir.

8 Q. So as a habit, custom, and practice, Ranger,
9 it's true, is it not, that you would not put anything in
10 a search warrant affidavit, or really allow anything to
11 be put in a search warrant affidavit, that could
12 cause -- come back to haunt somebody from a personal
13 safety perspective, right?

14 A. That would not be my first choice, but
15 sometimes judges don't give you a choice.

16 Q. Well, certainly there have to be names,
17 right?

18 A. There'd have to be a name, yeah.

19 Q. But they don't have home addresses of the
20 cooperator or where their kids go to school. That just
21 doesn't happen. Agree with me?

22 A. That's correct.

23 Q. All right. Now, this particular search
24 warrant, I'm assuming you've never seen this particular
25 search warrant or the affidavit in the -- in support of

1 the search warrant before. This is the first time, I
2 think, you've seen this.

3 A. It is.

4 Q. And did Nate Paul ever indicate to you in any
5 of your meetings with him that he had a copy of the
6 affidavit of the search warrant?

7 A. He told me very directly and positively that
8 he knew who signed the affidavit for the search warrant.

9 Q. That he what?

10 A. He -- he knew who was the officer who signed
11 the search warrant on the probable cause affidavit.

12 Q. He knew who signed it?

13 A. He knew who signed it, yes.

14 Q. Okay. All right.

15 A. Who the affiant was.

16 Q. Sir?

17 A. Who the affiant was.

18 Q. And who the affiant was is often discoverable
19 on the search warrant itself, right? Not the affidavit
20 but sometimes it's on the -- the affidavit and the
21 warrant. Agree with me?

22 A. Maybe, but he -- he referred to the probable
23 cause affidavit.

24 Q. Okay. The affiant is the person who signs
25 off on the search warrant?

1 A. That's correct, yes.

2 Q. So what he told you, if I'm understanding you
3 right, Ranger, is that he knew who the affiant was,
4 right?

5 A. That's correct.

6 Q. He did not say, I have a copy of the search
7 warrant affidavit. Rather he said, I know who the
8 affiant is, right?

9 A. Yes, he did.

10 Q. Okay. Now, let's get to the matter at hand a
11 little more directly.

12 You received the referral from the Travis
13 County DA's office on I think June 10th of 2020? I
14 think Mr. DeGuerin showed you that in your direct?

15 A. Well, it was -- it was created on June 10th.
16 It went through regular mail, so I didn't get it on
17 June 10th.

18 Q. Okay. You got it within a few days?

19 A. I got it through the mail.

20 Q. Okay. But you had gotten an email from Don
21 Clemmer telling you that the referral was on its way,
22 right?

23 A. Yes.

24 Q. And I think that is the point in time where
25 you did what a Ranger Dave Maxwell would do, you Googled

1 around and figured out, at least in your world view,
2 this guy is up to no good, I don't want anything to do
3 with him, right?

4 A. Yes.

5 Q. And you really began the investigation
6 believing that Nate Paul was a criminal, right?

7 A. Not just because of what you said. I felt he
8 was a criminal because of all that I saw.

9 Q. Fair enough.

10 But my point is, when you began your
11 review -- I'm not going to say investigation because it
12 never got that far, okay. So I don't want to step on
13 your verbiage.

14 A. Right.

15 Q. But when you began your review, you began it
16 with the conclusion that this guy is a, quote, criminal
17 and you want nothing to do with it, right?

18 A. When I began the review, my thought process
19 was I wanted to see what it was that he had to say.

20 Q. We'll get there.

21 A. And that was what I told my boss, Jeff
22 Mateer, that I would take a look at it. And when I read
23 it, the allegations of conspiracy among so many
24 professionals.

25 Q. Let me slow you down just a little bit,

1 Ranger, because we're going to get there.

2 A. All right.

3 Q. But will you agree with me at least right
4 here that you didn't exactly go into those meetings with
5 a positive mindset about Mr. Paul, right?

6 A. No.

7 Q. Okay. Now, if I'm understanding it right,
8 the Travis County DA's office decides it's not the
9 appropriate agency to review or investigate this
10 complaint because the Travis County DA's office deals
11 regularly with DPS and with the Rangers, right?

12 A. That's not exactly true.

13 Q. That's part of it.

14 A. That's what was in the -- in the email, but
15 that's not exactly the case.

16 Q. Okay. But that's at least what's in the
17 email. You'll give me that part?

18 A. That's correct.

19 Q. Now, does it strike you as ironic at all,
20 Ranger, that they say, We're not going to investigate
21 this because we're too close to the Rangers or -- or to
22 the DPS, and that -- and yet they refer it to a -- a
23 Ranger that's in the Hall of Fame that had a
24 40-plus-or-minus-year career with the DPS? That doesn't
25 strike you as ironic?

1 A. I -- I can explain that answer, if you'd
2 like.

3 Q. Well, first answer my question and then I'll
4 let you explain it. I'll give you that much, Ranger.

5 A. No, it doesn't strike me as ironic.

6 Q. Okay. Doesn't -- doesn't sound like Mickey
7 Mantle investigating the Yankees?

8 A. Say it again, please.

9 Q. It doesn't sound like Mickey Mantle
10 investigating the Yankees?

11 A. I'm sorry, I still couldn't understand you.

12 Q. I'm sorry. And I don't know if it's the
13 microphones or what.

14 A. Not really good.

15 Q. I'm trying to be cute but I'm really trying
16 to make a point.

17 A. Okay.

18 Q. It's kind of like Mickey Mantle investigating
19 the Yankees.

20 A. Okay.

21 Q. Doesn't exactly jump off the page as an
22 objective review. That's my point.

23 A. I would say you talked about my
24 professionalism. I always look at things objectively.

25 Q. And let me stop you, Ranger.

1 At no time, sir -- I may disagree with
2 what you did or didn't do. But at no time am I going to
3 suggest to you that I think you're a liar or you're
4 unprofessional or you're not a man of great character.
5 That ain't where I'm going.

6 A. Okay.

7 Q. We good?

8 A. I'm good.

9 Q. All right.

10 So it was Clemmer that you had the
11 conversation with, Don Clemmer, Ranger?

12 A. I did.

13 Q. And I think you knew him from back in the day
14 at the Harris County DA's office?

15 A. Actually I knew him when he worked for the
16 AG's office because he was the executive deputy over
17 prosecution when I was there in the law enforcement
18 division.

19 Q. Gotcha.

20 A. So we were colleagues at that point.

21 Q. You were also friendly with him, I guess?

22 A. Yes.

23 Q. So there's nothing in your personal history
24 that would be a source of conflict or tension between
25 you two?

1 A. No.

2 Q. So when you caught -- when you -- when was
3 this first call? Was the call between the time you got
4 the email and you got the referral?

5 A. No. I called him after I got the referral in
6 the mail.

7 Q. Okay. And -- and did you express to Don at
8 any time, Ranger -- Mr. Clemmer, that is -- did you,
9 Ranger Maxwell, express to Don Clemmer, you know, I'm
10 probably not the right guy to investigate this? I don't
11 like Nate Paul. I don't trust him. I think he's a
12 criminal. I think the world of the Rangers?

13 Did anything like that come up in that
14 conversation?

15 A. No. My language was much stronger than that.

16 (Laughter)

17 Q. (BY MR. COGDELL) Okay. But you communicated
18 those thoughts?

19 A. I communicated my thoughts in an unequivocal
20 term.

21 Q. And four-letters words were involved I'm
22 imagining, Ranger?

23 A. I probably won't use the same language in the
24 court that I'd used that day.

25 Q. I wouldn't -- I wouldn't ask you to, sir,

1 certainly. There may be some courts somewhere, but this
2 is not the one I'll ask you to use the language in.

3 All right. So it is true, is it not,
4 Ranger Maxwell, that typically as the -- are you deputy
5 director? Are you director of law enforcement? Give me
6 your title again at the --

7 A. Director of law enforcement.

8 Q. Okay. Typically as the director of law
9 enforcement, Ranger Maxwell, you didn't often get
10 personally involved in investigations, right?

11 A. Yes. I oversee them.

12 Q. Yes.

13 A. And sometimes I actually personally get
14 involved.

15 Q. But that's my point. The majority of the
16 time you oversee?

17 A. Yes, absolutely.

18 Q. Okay. And you certainly would -- would you
19 typically, Ranger, assign something like this if a -- if
20 a player like Nate Paul was involved, would you
21 typically assign a referral like this to someone lower
22 than you on the food chain?

23 A. I would assign it to my major, who was over
24 special investigations and have him assign a team to
25 investigate the allegations.

1 Q. Gotcha. And you told -- I think you told us
2 the reason why you didn't assign it any place else, but
3 regardless, you kept this one for yourself, right?

4 A. I did.

5 Q. All right. Now, you got the referral in
6 mid-June, right?

7 A. Yes.

8 Q. And you had the first meeting with Nate Paul
9 and Mr. Wynne, Michael Wynne, July 21st?

10 A. That's correct.

11 Q. Now, let's set the stage in terms of --
12 forget about how -- your thoughts about Nate Paul.
13 Forget about your thoughts about Paxton's involvement
14 with him. And focus, if you can, on just the otherwise
15 oddity of having something -- a conversation with a
16 fellow who is under investigation for federal offenses.
17 Right?

18 A. Yes.

19 Q. And he comes in to you, a known quantity,
20 shall we say, in the law enforcement community. And he
21 and his lawyer are sitting down with you opening
22 themselves up to ask you -- asking them any question you
23 want to. Right?

24 A. That's correct.

25 Q. I'm going to go out on a limb here, Ranger,

1 and suggest that, despite your storied career, something
2 like this may not have ever happened. Would you agree
3 with me?

4 A. Possibly.

5 Q. Okay. Now -- and when I say something like
6 this never happened, let's just say it -- I don't know
7 many defense lawyers that would have taken the same
8 position as Michael Wynne and walked their client into
9 that meeting. Agree with me?

10 A. Okay.

11 Q. Now, did -- before that meeting started, did
12 Ken Paxton ever come up to you -- did General Paxton,
13 Ranger, ever come up to you and say, Hey, I want you to
14 give him immunity. You can't use those statements
15 against him. He gets a free pass for anything he says?

16 I mean, there was no condition put on
17 your being able to ask Nate Paul questions. Agree with
18 me?

19 A. That's correct.

20 Q. And likewise, from Mr. Wynne, he never
21 likewise asked you, Hey, everything is off the record
22 here. You're not going to go anywhere. That didn't
23 happen either?

24 A. No.

25 Q. In fact, I think you told -- was it Mateer

1 that, Yeah, I'll have this meeting. And what I'm going
2 to do if they say anything that incriminates him, I'm
3 going to mail it right over to the U.S. Attorney's
4 Office, right?

5 A. Well, no, I was going to contact the FBI.

6 Q. Okay.

7 A. And give that information to them. I also
8 told General Paxton the same thing.

9 Q. Okay. So the point is you went into it with
10 the mindset that if Nate Paul, or I guess even his
11 lawyer, said anything that was incriminating about any
12 criminal activity, that you were going to pass that
13 information on to the appropriate agency?

14 A. Yes.

15 Q. And it's true, is it not, Ranger, that never
16 happened? That is, they never said anything that
17 incriminated them or that you passed on to another
18 agency, right?

19 A. Right.

20 Q. I want to make sure --

21 MR. COGDELL: I don't know frankly,
22 Mr. President.

23 I want to offer, if it's not in, the
24 House Board of Managers Exhibit 149, which is the video
25 of the 7/21 interview as well as the Board of Managers

1 151, which is the transcript of that same interview.

2 MR. DeGUERIN: No objection.

3 MR. COGDELL: Okay. And likewise while
4 I'm doing that, I want to offer into evidence 156 and
5 158, which are the video of the August 5th interview
6 that Ranger Maxwell and Mr. Penley had of Mr. Paul and
7 Mr. Wynne, as well as the transcript, which is 158.

8 PRESIDING OFFICER: And let me --

9 MR. DeGUERIN: No objection.

10 PRESIDING OFFICER: We're looking at
11 those numbers.

12 Yes, Mr. DeGuerin?

13 MR. DeGUERIN: No objection to the
14 introduction of those -- of the video, audio, and
15 transcript.

16 MR. COGDELL: Thank you.

17 PRESIDING OFFICER: Make sure I have the
18 numbers right. Hold on, Counselor.

19 MR. COGDELL: Yes, sir.

20 PRESIDING OFFICER: We're going to enter
21 151, 149, 156, and 158 into evidence?

22 MR. COGDELL: Yes, sir.

23 PRESIDING OFFICER: No objection. Show
24 them being entered into evidence. Go ahead.

25 (HBOM Exhibits 151, 149, 156, and 158

1 admitted)

2 Q. (BY MR. COGDELL) All right. Now, Ranger, do
3 you still have the three little --

4 A. I do.

5 Q. And -- and I'm not going to try to give you a
6 pop quiz and ask you if every single word that I'm
7 saying -- I hope you'll trust me far enough to say if I
8 say it it's in there. But if you want to check me,
9 please check me and I'll point you to the citation.
10 Okay?

11 A. Okay.

12 Q. I think early on in your House interview,
13 which is also in front of you, I think that's the orange
14 folder, that you said his main allegation -- when you
15 were -- back up.

16 When you were being interviewed -- I
17 jumped from your interview with him to their interview
18 of you. But in your interview with the Board of
19 Managers, you said his main allegation of why he didn't
20 like the raid that they conducted was he was alleging
21 that a copy of the search warrant had been altered.
22 Right?

23 A. Right.

24 Q. And that's true, right?

25 A. Right.

1 Q. That's true in terms of that was what Nate
2 Paul was claiming to you, right?

3 A. Right.

4 Q. And that at some point in the first
5 interview, I think Nate Paul told you, Ranger, that he
6 didn't even think they had a search warrant for at least
7 one of the properties being searched, which was the
8 storage unit. You recall him telling you that?

9 A. Yes. Uh-huh.

10 Q. And he went way deep. That is, Nate Paul
11 went way deep into metadata, right?

12 A. Yes, he did.

13 Q. Do you know as little about metadata as I do?

14 A. Maybe less.

15 Q. All right. Metadata, at least as far as you
16 and I know, is sort of the -- the fingerprints that any
17 electronically created documents leave, right?

18 A. Yes.

19 Q. Now, you said that -- and I hear you. You
20 said a couple of times to Mr. DeGuerin that his -- his
21 accusations were so ridiculous and so conspiratorial --
22 I'm characterizing -- that it was just absurd to you to
23 even hear them, right?

24 A. Right.

25 Q. Would you agree with me, Ranger, that

1 Mr. Wynne, his lawyer, through both of those things did
2 say words to the effect, Ranger, that he doesn't think
3 they're evil people. Maybe they just relied upon poor
4 information and they don't know how to back out. Do you
5 remember that verbiage that Mr. Wynne --

6 A. No.

7 Q. If you will look, Ranger, on Page 63, Line 22
8 of the 7/12 interview. And for the color-coded
9 challenge, that is going to be in the green.

10 PRESIDING OFFICER: In the green. He's
11 looking in the orange right now. The green or the --

12 MR. COGDELL: David. Ranger.

13 PRESIDING OFFICER: Ranger.

14 Q. (BY MR. COGDELL) The 7/12, which should be
15 in the green folder.

16 A. Yeah. Oh, in the green folder.

17 PRESIDING OFFICER: Yes.

18 Q. (BY MR. COGDELL) Yes, sir. I'm sorry 7/21.
19 If you'll look on Page 63.

20 A. 63, okay.

21 Q. At the very bottom of 63, do you recall
22 Mr. Wynne telling you -- I'll wait for you to get there,
23 Ranger.

24 A. Okay. Okay.

25 Q. At the bottom of 63, Ranger, Mr. Wynne says,

1 That's the problem. I don't think they're evil people
2 from the core.

3 You see that?

4 A. Well, mine doesn't have all the words.

5 Q. Yours doesn't have all the words?

6 A. It says -- I have, That's the problem. I
7 don't think they're -- and it's blank.

8 Q. Well, the next line is, I don't think they're
9 evil people from the core.

10 You see that?

11 A. Right.

12 Q. And make sure you keep that microphone close
13 to you, Ranger.

14 A. Sorry.

15 Q. No, sir. That's fine.

16 And then the next page, it says at the
17 top of Page 64, Ranger, They just got -- they listened
18 to the wrong people and it got it wrong and they just
19 can't come forward and say oops.

20 Right?

21 A. That's what he said.

22 Q. Now, again, not suggesting that you should
23 buy that description, but that is certainly what
24 Mr. Wynne is telling you in this first meeting, right?

25 A. Yes, that's right.

1 Q. Okay. Now, you told, Ranger, this jury in no
2 uncertain terms that you never had any intention of ever
3 investigating this. It was nonsense from the beginning.
4 And you just wanted nothing to do with it.

5 Again, I'm paraphrasing what you told us,
6 right?

7 A. That's correct.

8 Q. Ranger, it's true, though, that you never
9 said that to Mr. Wynne and Mr. Paul?

10 A. That's correct.

11 Q. Okay. Instead, what you told them -- and
12 this is probably the sly investigator coming out in
13 you -- I don't mean to diminish your skill set. But
14 what you told them was, Maybe I can get some answers for
15 you.

16 Right?

17 A. Right.

18 Q. And you said, I can look at this and talk to
19 the DA's office and see where we get.

20 Right?

21 A. Right.

22 Q. Told them, I'll look at the metadata just to
23 see what our people tell me about it because I pay a lot
24 of money to those people to get them trained, meaning
25 your metadata people?

1 A. That's correct.

2 Q. Right?

3 A. Yes.

4 Q. And I will sit down with the DA, and if we
5 have something, we do. And if we don't and they say no,
6 that's as far as I can go.

7 Right?

8 A. Right.

9 Q. So -- and, again, I think I get the reason
10 why. But what you're telling us about your opinions
11 about their story or their position is certainly
12 different than what you were telling them, right?

13 A. Say that last part.

14 Q. Yes, sir. What you're telling us -- your
15 opinion of their description of what may have happened,
16 your opinion that you shared with us is a very different
17 opinion than what you shared with them.

18 A. Absolutely.

19 Q. That is --

20 A. Absolutely.

21 Q. Now, did you, though, early on, Ranger, tell
22 them that it was up to the DA's office ultimately to
23 accept charges or not?

24 A. Yes.

25 Q. Okay. So when Mr. DeGuerin said had the DA's

1 office recused themselves -- and that's a term of art
2 we'll probably get to. But when he said had they
3 recused themselves, you said yes, but you certainly
4 never told or suggested that to Mr. Paul or Mr. Wynne.
5 That is, the Travis County DA's office had recused
6 itself. Right?

7 A. I go back to the protocol I testified in the
8 first place, which is I require --

9 Q. Ranger, I can't hear you. I don't mean to
10 step on you, but I want to hear you.

11 A. I'm sorry. I go back to my first statement
12 where we talked about the protocols I have in place that
13 I require a letter from the DA, and that jurisdiction
14 that they'll either prosecute or recuse themselves and
15 let us prosecute.

16 Q. Okay. And correct me if I'm wrong, but I
17 don't think you ever got a letter from the DA in this
18 case that they had recused themselves. Margaret Moore
19 never wrote you a letter and said, We are recusing
20 ourself from this investigation?

21 A. There is no investigation at this point.

22 Q. Okay.

23 A. There was not going to be an investigation,
24 and there's nothing for them to review.

25 Q. Okay. I hear you. But if they didn't recuse

1 themselves from an investigation because there was no
2 investigation, they didn't recuse themselves from
3 anything?

4 A. No, not the investigation. They had to -- if
5 they wanted to recuse theirsself and have us prosecute.

6 Q. Yes, sir.

7 A. They either have to agree to prosecute the
8 case or recuse themselves and allow our -- our people to
9 prosecute.

10 Q. And neither one of those things happened, if
11 I'm understanding what you're saying right now.

12 A. Neither one were going to happen, no.

13 Q. Gotcha. And that's my point.

14 A. Yeah.

15 Q. That didn't happen.

16 And maybe you know this and maybe you
17 don't, but I'll go out on a limb and ask you. Do you
18 know sort of the condition precedent for a prosecutor
19 pro tem? Do you know what that -- that term means? And
20 you may not, Ranger.

21 A. No. I'm not going to try and define that.

22 Q. Sir?

23 A. I won't try and define that.

24 Q. Fair enough.

25 Now, what is the WebPass system, the

1 WebPass system?

2 A. I'm not sure.

3 Q. Well, as I understood it, and I could be
4 wrong, law enforcement division maintains what is called
5 a WebPass system, which has an offense report or a case
6 file in it.

7 A. I'm still not understanding what that is.

8 Q. Well --

9 A. What -- what's the purpose of it?

10 Q. Let me just put it this way. You never
11 created any memorandum, right?

12 A. No.

13 Q. No memorandum of interview, right?

14 A. No.

15 Q. No report of an investigation or review?

16 A. That's correct.

17 Q. No note to the file, right?

18 A. Right.

19 Q. You didn't -- you didn't initiate so much as
20 a Post-it note, if I'm understanding you right -- I'm
21 sorry if you can't hear me. I think you're the only one
22 in the world that can't hear me right now, Ranger. But
23 you didn't even create a Post-it note about this case,
24 if I'm --

25 A. I did not take any notes or even create a

1 Post-it note about it, that's correct.

2 Q. All right. Now, Operation Longhorn.

3 MR. COGDELL: May I have just a minute?

4 May I approach?

5 Mr. DeGuerin, I think I showed you this.

6 PRESIDING OFFICER: Yes, you may.

7 MR. DeGUERIN: I've seen what he's
8 offering, Your Honor. And my objection is that it's not
9 only -- if it's offered for the truth of the matter, we
10 think it's false and we don't want it, so we object to
11 it, but -- and I don't know what the offer is.

12 MR. COGDELL: Well, I thought at the
13 break that he told me he wasn't going to object to it,
14 but whatever. That's fine.

15 PRESIDING OFFICER: Go to your mic so we
16 can all hear the conversation.

17 MR. COGDELL: From my understanding with
18 Mr. DeGuerin at the break, he told me he wasn't going to
19 object to it, but that's all right. People can change
20 their mind, Dick. I've been married a few times. It's
21 okay.

22 PRESIDING OFFICER: Mr. DeGuerin.

23 MR. DeGUERIN: Let me clarify that. I
24 told him I didn't object to it. But I don't agree that
25 it should be admitted for the truth of the matters

1 stated. It's something that was prepared by Nate Paul
2 and his lawyers to show to Mr. Maxwell. We think it's
3 hogwash, but it can be admitted.

4 MR. COGDELL: Is that an objection, Dick?

5 MR. DeGUERIN: Yes, that's an objection.

6 MR. COGDELL: Objection. Hogwash?

7 MR. DeGUERIN: Objection. Hogwash.

8 (Laughter)

9 MR. COGDELL: All right. You best not
10 sustain that one, Your Honor.

11 PRESIDING OFFICER: Wait a minute. Which
12 one of those rules is that one, Mr. DeGuerin? 802 or
13 803? Got them all up here.

14 MR. DeGUERIN: 803.75.

15 PRESIDING OFFICER: If it's not, we're
16 writing a new one.

17 MR. COGDELL: It is not, Mr. President,
18 being offered for the truth of the matter asserted but
19 only to show that Ranger Maxwell, and I think
20 Mr. Penley, actually were presented with a copy of this.
21 We're not suggesting it's true or it's the letter of the
22 law but only that it was given to them. That's the
23 limited scope of the offer. All right?

24 PRESIDING OFFICER: We'll overrule --

25 MR. COGDELL: All right. Mr. --

1 PRESIDING OFFICER: -- because it's not
2 being offered as truth of the matter asserted.

3 MR. COGDELL: Mr. Arroyo, are you with
4 me?

5 And it's marked. I didn't think -- I
6 don't think I said this for the record, Your Honor.
7 It's AG 1005. So we're offering AG 1005.

8 Q. (BY MR. COGDELL) And, Ranger, can you see
9 that screen in front of you?

10 A. I see it, yes. We're up on screen.

11 Q. Thank you.

12 PRESIDING OFFICER: This is your exhibit?

13 MR. COGDELL: Yes, sir. It's the
14 electronic copy of what I'm holding in my hand, Judge.

15 PRESIDING OFFICER: For the same ruling,
16 we'll admit this into evidence.

17 (AG Exhibit 1005 admitted)

18 MR. COGDELL: Yes, sir.

19 All right. Mr. Arroyo, could you go to
20 the first page? Next page, yep. Next page, please,
21 Erick. And if you could highlight the first sentence
22 for me, please. Blow it up.

23 PRESIDING OFFICER: Can you go back to
24 the microphone, please?

25 MR. COGDELL: Oh, I'm sorry. It's a big

1 room.

2 If you could blow that up for us, Erick.

3 Q. (BY MR. COGDELL) It says that there were
4 three search warrants that were executed simultaneously
5 on Wednesday, August 14th. You see that, Ranger?

6 A. I do.

7 MR. COGDELL: And if we go down, Erick,
8 to the second-to-last paragraph.

9 Q. (BY MR. COGDELL) It says, Since the search
10 warrants were sent as PDF files via email, after the
11 searches we were able to analyze the metadata of the PDF
12 documents that were emailed.

13 Right?

14 A. I see that.

15 Q. And finally, Ranger, it says, According to
16 the filings with the Court in the Western District of
17 Texas, each of these search warrants was signed and
18 issued by Judge Mark Lane on Monday, 10:00 a.m.
19 August 12th.

20 But if we look at the first sentence and
21 the last sentence, what they are alleging is that the
22 search warrants were -- per the filings, per what you
23 and I could see if we looked at them, the search
24 warrants would have been issued at 10:00 a.m., but -- on
25 Monday the 12th. But in reality, the documents were

1 created on Wednesday, the 14th, two days later. Right?

2 That's their claim.

3 A. No. What it says is that the three search
4 warrants that were executed simultaneously on --
5 9:00 a.m. on Wednesday, August 14th --

6 Q. I gotcha. And the filings say -- you're
7 right. I stand corrected. They were executed on --

8 A. The 14th.

9 Q. -- the 14th, right?

10 And then -- and on the next page --

11 MR. COGDELL: Erick, if we'll go to the
12 next page.

13 Q. (BY MR. COGDELL) And I think were there a
14 total of six warrants, Ranger?

15 A. Well, there were three warrants that were
16 executed. They had three more warrants that they did
17 not execute.

18 Q. Gotcha.

19 So you spent a long time listening to
20 Mr. Paul's description and Mr. Wynne's description of
21 this contigo, this search of a storage facility.

22 A. Yes.

23 Q. You spent probably 30, 45 minutes listening
24 to that.

25 A. Yes.

1 Q. And the net-net of their suggestion to you,
2 Ranger, was that the search warrants for the -- for that
3 facility were created after the search, right?

4 A. That's what they're alleging.

5 Q. Okay. And according to them -- and, again, I
6 don't know metadata. But according to them, Ranger, it
7 was through the forensic analysis of a PDF that was sent
8 to -- by Alan Buie to one of their prior lawyers, Chuck
9 Meadows and Aaron Borden. That's how they say they
10 broke the code on this. You with me?

11 A. I am.

12 Q. And you agree with that summary?

13 A. What's that?

14 Q. You agree with the summary that that's their
15 claim? I'm not asking you --

16 A. That's the claim.

17 Q. -- legal fact.

18 A. That's the claim.

19 Q. If we go to the next page.

20 And, again, they are saying that the
21 document metadata reveals information that is
22 inconsistent with looking at the -- the documents on
23 their face. You with me?

24 A. Uh-huh, I am.

25 Q. Okay. And I'm not going to bore us all, but

1 this is what they gave you back on August 5th, right?

2 A. I see it.

3 Q. And they also gave you a thumb drive.

4 Correct?

5 A. Yes.

6 Q. Now, I think one of the things that would be
7 a condition precedent was whether or not the condition
8 precedent for involvement by the attorney general's
9 office of the State of Texas would be a violation of
10 state law, right?

11 A. Okay. Yes.

12 Q. I mean you -- you can't investigate --
13 review, investigate, or prosecute federal cases, right?

14 A. That's correct.

15 Q. Will you at least agree with me that if what
16 they were saying was true, that these actions by federal
17 prosecutors would be a violation -- would be, if they
18 were true, a violation of state law. Right?

19 A. The state law -- and this is one of the only
20 reasons why I agreed to hear him out -- was falsifying a
21 government document would cover a federal document.

22 Q. Yes, sir.

23 A. Even though we don't have jurisdiction over
24 anything else about it.

25 Q. Gotcha. And I think we're saying the same

1 things. You probably better than me.

2 But if a federal law enforcement agent or
3 prosecutor or judge or whatever, if they knowingly
4 entered false information into a document with the
5 intent to deceive someone else, not only would that be a
6 federal crime, it would be a state crime. I think it
7 would be tampering with governmental records, right?

8 A. That's correct.

9 Q. Now, would you agree with me, Ranger, that
10 despite your concern or belief or hope that Mr. Wynne or
11 Mr. Paul would say something incriminating or say
12 something that would cause them exposure criminally,
13 neither Mr. Wynne nor Mr. Paul ever asked you to do
14 anything illegal?

15 A. Yes. They asked me to interfere with a
16 federal investigation, which is absolutely illegal.
17 It's also obstruction of justice.

18 Q. Show me, Ranger, in the first hour or the
19 second two hours on the investigation or the interview
20 of July 21st or August 5th. You've got the transcript
21 there for both of those.

22 A. Counselor, you are showing me the evidence
23 right here. This is -- it's a map of how he wanted the
24 investigation to be done and to have the AG's office
25 follow how this was to be investigated along with

1 targeting six individuals.

2 Q. Okay. Where does he -- excuse me, Ranger.

3 A. Go through it and you'll see it.

4 Q. Show me --

5 A. I don't have a copy of it.

6 Q. I'm sorry?

7 A. I don't have a copy of it.

8 Q. You do. You've got a copy of the entire
9 transcript of July 12th, Ranger.

10 A. No, no. I'm talking about the document you
11 have up on screen right now.

12 Q. Show me, Ranger.

13 A. I don't --

14 Q. Where they say -- you say you reviewed the
15 transcripts of the July 12th interview, and you have
16 reviewed the transcripts of the August 5th interview.
17 Show me the language where in either one of those
18 interviews, Ranger, that they asked you to commit a
19 crime.

20 A. They're not in the interviews, Counselor.
21 They are in the documents you are looking at right now.
22 He lists six people as a person of interest to be
23 targeted in this investigation.

24 Q. Where does -- I'm sorry --

25 A. It's in Operation Longhorn.

1 Q. I'm sorry, I'm talking over you. I
2 apologize, Ranger.

3 Where in this PowerPoint -- show me,
4 Ranger, where in this PowerPoint that Mr. Wynne asked
5 you to commit a crime or Mr. Paul asked you to commit a
6 crime. Where?

7 MR. DeGUERIN: Objection, Your Honor. He
8 doesn't have a copy of this in front of him. May I give
9 him my copy so he can answer that question?

10 MR. COGDELL: I'll give him mine.

11 PRESIDING OFFICER: Providing a copy now.

12 MR. COGDELL: I'm sorry, I thought you
13 had one.

14 A. No, I don't.

15 Q. (BY MR. COGDELL) My apologies. I thought
16 you had one.

17 MR. DeGUERIN: Your Honor, may we
18 approach about some --

19 PRESIDING OFFICER: Yes, you may.

20 MR. DeGUERIN: -- addresses.

21 PRESIDING OFFICER: Yes, you may.

22 (Bench conference off the record)

23 MR. COGDELL: Judge, can we get a minute?
24 Can we get a minute so they can do what they need to do
25 with the world famous Erick?

1 PRESIDING OFFICER: We are going to let
2 Erick go to work here.

3 MR. COGDELL: Yes.

4 PRESIDING OFFICER: We'll take a stretch
5 break for five minutes. Stand at ease.

6 (Off the record)

7 PRESIDING OFFICER: Members, just to let
8 you know, we are redacting some personal information
9 from a file, and that's what we're taking some time to
10 do here.

11 Exhibit 1005.

12 (Off the record)

13 PRESIDING OFFICER: Members, if you can
14 retake your seats.

15 Erick has resolved the issue. And I know
16 I mentioned his name a few times.

17 Stacey, I just want to be sure, we
18 appreciate all of your work too. Okay.

19 MR. COGDELL: For the record, she has no
20 GoFundMe page set up.

21 PRESIDING OFFICER: I think they both
22 have a page out there.

23 MR. COGDELL: All right.

24 PRESIDING OFFICER: Ready to resume.

25 Q. (BY MR. COGDELL) We good, Ranger?

1 A. Yes.

2 Q. All right. So what happened there is that
3 someone noticed that there were names and home
4 telephone -- home numbers or home addresses and
5 telephone numbers. We've redacted those names, right?

6 A. Yes.

7 Q. Now, what crime is Mr. Wynne or Mr. Paul
8 asking you to commit by tendering this PowerPoint to
9 you?

10 A. They entered the PowerPoint and gave it to us
11 to map out how they felt our investigation that they
12 wanted to be created should go.

13 Q. Okay. We have a transcript, do we not, of
14 exactly what they said?

15 A. Transcript of?

16 Q. Exactly what they said when they were meeting
17 with you on August 5th when they gave you this
18 PowerPoint.

19 A. Yes.

20 Q. Okay. And you've reviewed that transcript,
21 you say?

22 A. Yes.

23 Q. And where in the transcript -- what words do
24 they use to describe to you that they desire a crime to
25 be committed?

1 A. They obviously did not say that they wanted a
2 crime to be committed. What they wanted was an
3 investigation.

4 Q. Okay. And your position, Ranger, is two
5 private citizens coming in and asking for an
6 investigation into whether or not search warrants were
7 illegally created, asking for that investigation is a
8 crime?

9 A. Following through on the investigation is a
10 crime.

11 Q. What crime would it be to investigate the
12 legal -- if that's a crime I'm going to be on death's
13 row. I investigate the legality of search warrants all
14 the time. That's what I do.

15 What crime is it, Ranger, for them to ask
16 you to investigate the legality of a search warrant?

17 A. The only purpose --

18 Q. No, sir.

19 MR. COGDELL: Objection. Nonresponsive.

20 Q. (BY MR. COGDELL) What crime is submitted --

21 PRESIDING OFFICER: Sustained.

22 MR. DeGUERIN: Objection. He didn't
23 allow him to finish so we could see whether it's
24 responsive or not. I believe it was going to be
25 responsive. Objection to interrupting the witness.

1 MR. COGDELL: I'll restate.

2 PRESIDING OFFICER: Overruled --
3 sustained, but...

4 MR. COGDELL: I'll ask again.

5 PRESIDING OFFICER: Ask again. Take a
6 pause.

7 MR. COGDELL: And I'll calm down.

8 PRESIDING OFFICER: And you can raise the
9 mic too.

10 MR. COGDELL: And I will calm down and
11 raise it up. Okay.

12 Q. (BY MR. COGDELL) I'll try again, Ranger.

13 A. All right.

14 Q. Even at my age, I get excited every now and
15 then.

16 What crime is committed, Ranger, by them
17 asking you to investigate the legality of a search
18 warrant? What crime is that?

19 A. In my professional opinion, to create this
20 investigation and follow through it will be obstruction
21 of justice and interfering with a federal investigation.

22 Q. Okay. In fact, doesn't Mr. Wynne say over
23 and over and over in the transcript he does not want to
24 interfere with the federal investigation. He does not
25 want to obstruct justice. Doesn't he say that?

1 A. He does.

2 Q. Okay. So the fact that he's saying he
3 doesn't want that done, even though he says he doesn't
4 want that done, you think it's a crime because?

5 A. His actions belie his words.

6 Q. Okay. Well, you are Dave Maxwell, Hall of
7 Fame Ranger. If they would have committed that offense
8 right there literally on videotape, the Dave Maxwell I
9 know would have stuffed and cuffed them right there.
10 You would have arrested them, right?

11 A. No.

12 Q. Okay. All right. In fact, Ranger, what did
13 you tell them?

14 A. I told them that -- what I said in the
15 beginning that we would have the forensic people look at
16 the metadata. And they promised to give us all the
17 documents they had in order for us to do an examination.

18 Q. Let me try again, Ranger. Instead of saying,
19 You've committed a crime, I'm going to arrest you. What
20 you say on Page 143, Line 24 is, We're going to look
21 every which way into this.

22 Right?

23 A. That is exactly right, as far as the
24 metadata.

25 Q. Okay. You -- Mr. Penley says, quote, We're

1 going to look into these allegations.

2 Right?

3 A. He may have said that.

4 Q. Okay. Mr. Penley says, Thank y'all for
5 coming in today. We appreciate it. Thank you for the
6 handout and the -- and for the documents. We'll look
7 into this.

8 Are those -- Mark Penley is an
9 experienced prosecutor. Right?

10 A. Yes.

11 Q. He was with the U.S. attorneys in the
12 Northern District of Dallas division by my recall 15, 18
13 years?

14 A. Something like that, yeah.

15 Q. Do those words, Ranger, sound like the words
16 of an 18-year experienced federal prosecutor that
17 believes a crime has been committed?

18 A. No.

19 Q. Thank you for the handout and for the
20 documents. We'll look into this?

21 A. What -- what is your question about what you
22 just said?

23 Q. My question is: Do the words spoken by
24 Mr. Penley suggest in any shape, form, or fashion,
25 Ranger, that he, Mark Penley, believes that a crime has

1 been committed in his presence by the tendering of the
2 very documents we've just discussed?

3 A. Absolutely not.

4 Q. Do you think Mr. -- Mr. Penley's a pretty
5 straightforward guy most of the time?

6 A. I'm sure he is.

7 Q. Well, you worked with him, didn't you?

8 A. Yes.

9 Q. I assume, Ranger, that if he exhibited any
10 characteristics of deceit or deception, you would have
11 picked up on them.

12 A. Who would have picked up on the deceit?

13 Q. You, Hall of Famer, Dave Maxwell.

14 A. What -- how I answer that is that he and I
15 both knew that the only thing we're going to do was look
16 at the metadata, period.

17 Q. Okay. Well, since you know what he knows,
18 did he think he'd been asked to commit a crime?
19 Mr. Penley?

20 A. Mr. Penley did not believe that a crime had
21 been committed by these officers or the magistrate or
22 the U.S. attorney's office.

23 Q. My question probably wasn't a good one,
24 Ranger.

25 Did Mark Penley believe that Mr. Wynne

1 and Mr. Paul, by asking for this investigation, did he
2 think that was a crime by the simple asking of the
3 legality of search warrants to be investigated was a
4 crime?

5 A. He believed, as I did, that if we followed
6 through with what they were asking, it would definitely
7 be a crime.

8 Q. Okay. And that's why he continued to work on
9 this case? That's why he continued to do an
10 investigation? That's why he told Ken Paxton, I've got
11 more work to do. There's more things I need. I need to
12 do some more research.

13 Does that make sense, Ranger?

14 A. I didn't tell Paxton that.

15 Q. No, he did. Are you aware of that?

16 A. Who did?

17 Q. Mark Penley.

18 A. Oh, I don't know what he told him.

19 Q. Ranger, when is it, sir, that you first heard
20 the name Brandon Cammack?

21 A. When I was on vacation in Colorado.

22 Q. And I think Mr. DeGuerin had us -- or had you
23 in late September?

24 A. Late September. I -- I was traveling to
25 Colorado on the 26th of September 2020.

1 Q. Okay. And was it -- you learned of that name
2 how?

3 A. Through Mark Penley.

4 Q. Okay. So do you have an independent recall,
5 Ranger, of the date of that? Like 25th, 26th, 27th?
6 Just ballpark it for me.

7 A. It was on the 26th of September --

8 Q. September.

9 A. -- 2020 when I -- Mark Penley told me about
10 what was happening with Cammack.

11 Q. Okay. So Penley calls you. You're in
12 Colorado at the top. And you got to come down and
13 that's --

14 A. Well, actually I was driving at that time, so
15 I had him on speaker phone.

16 Q. Okay. But anyway --

17 A. Yeah.

18 Q. -- you're in Colorado?

19 A. Right.

20 Q. He's here.

21 A. Right.

22 Q. And he's upset and annoyed, whatever, because
23 Brandon Cammack has been hired?

24 A. I think at the time he had not been hired,
25 that -- on that particular date he had a meeting with

1 Ken Paxton, and Ken Paxton tried to get him to sign the
2 EAM so Cammack could be hired.

3 Q. Let me -- let me slow you down.

4 A. Okay.

5 Q. Stepping on pronouns.

6 A. All right.

7 Q. When you say "he" tried to get, who is "he"?
8 You just said?

9 A. He tried -- Ken Paxton.

10 Q. Yes, sir.

11 A. Tried to get Mark Penley to sign off on our
12 EAM, which is a protocol that various people have to
13 sign in order to hire and spend money, that type of
14 thing.

15 Q. We've unfortunately heard a little too much
16 about an EAM. But for purposes of this exchange,
17 Ranger, are you aware that the attorney general has the
18 authority to hire outside counsel himself statutorily?

19 A. The way the system works is

20 MR. COGDELL: Nonresponsive. Objection.
21 Nonresponsive.

22 PRESIDING OFFICER: Sustained.

23 Q. (BY MR. COGDELL) Are you aware, Ranger,
24 statutorily, the attorney general has the authority for
25 he himself to hire outside counsel?

1 A. The -- I was told by --

2 Q. That's a yes or a no. Are you aware?

3 A. I do not know that's a fact, no.

4 Q. Okay. You don't know one way or the other?

5 A. It's not my bailiwick.

6 Q. Yes, sir.

7 All right. Now, when we talked earlier,
8 Ranger, about some potential mistakes that you may have
9 made when you met with the House committee about your
10 recollections -- and to be fair to you, Ranger, this was
11 a meeting this year in February. Right?

12 A. Yes. Yes, it was.

13 Q. And what had happened happened back at least
14 two years ago?

15 A. Yes.

16 Q. Maybe two and a half, right?

17 A. Yes.

18 Q. So I'm not harping at your memory. I just
19 want to make sure we're all on the same page now as to
20 what's accurate and what's not.

21 A. Okay.

22 Q. Okay? Do you remember telling the -- I think
23 we've already discussed sort of globally, at one point
24 you told the House committee that Drew Wicker delivered
25 documents in a back alley in the dark of night. Right?

1 A. I did say that.

2 Q. And I'm the last person, Ranger, to strike at
3 another about hyperbole, but that's what that was, that
4 was just an exaggeration on your part. Right?

5 A. No. It was -- it was actually what I had
6 been told by numerous other people.

7 Q. Okay.

8 A. I had no direct knowledge.

9 Q. All right. So who was it, Ranger, that --
10 I'm sorry. Who was it, Ranger, that told you that Drew
11 Wicker delivered these documents in the dark of the
12 night in a back alley somewhere? Who told you that?
13 You said you were told that by numerous people, so give
14 me two.

15 A. Counselor, I would -- in being very honest
16 with you, there's probably five or six people who told
17 me that in passing. And I couldn't tell you who it was.
18 It's three years ago.

19 Q. Okay. Well, if it's five or six people that
20 told you that, can you give me one of them?

21 A. I -- I -- if I testified today who it was
22 that gave me that information, I would not be able to
23 say honestly that that person did.

24 Q. Okay. Well, you certainly told the House
25 committee that, right?

1 A. I absolutely did.

2 Q. And when was it, Ranger, that you decided
3 that that statement to the House committee was
4 incorrect?

5 A. I didn't know whether it was correct or
6 incorrect. I passed it on to the House.

7 Q. Let me back --

8 A. That's their job.

9 Q. Let me back up, Ranger.

10 A. Yeah.

11 Q. I thought two hours ago, or whenever it was
12 when you and I started this dance, sometimes friendly,
13 sometimes not so friendly, I asked you if there was
14 anything in reviewing your statements to the House
15 managers that you believed was inaccurate, and you
16 pointed out this dirty statement, that is the Drew
17 Wicker dark of night, back alley statement. And you had
18 indicated that you had I think come to that conclusion
19 after meeting with either Mr. DeGuerin or Mr. Hardin.
20 Is that right?

21 A. Yes. It was one of my attorneys asked me did
22 I make that statement on that date. And I said yes,
23 that I was passing on information that I received from
24 someone else.

25 Q. Okay.

1 A. I had no direct knowledge.

2 Q. All right. So are you relying upon
3 Mr. DeGuerin or Mr. Hardin now for the truth or falsity
4 of something?

5 A. I'm not sure I understood your question.

6 Q. Okay. Well, you told the House back in
7 February that Drew Wicker, dark of night, back alley.
8 Now you're saying that's a mistake.

9 When did you determine it was a mistake?

10 A. I don't know whether it's a mistake or not.
11 I passed on the information. I was asked by our
12 attorneys did I say that, and I said yes. And I
13 explained to them that I passed on to them to
14 investigate it.

15 Q. Okay.

16 A. So I don't know what testimony would be or
17 would not be. I don't know the truth.

18 Q. So you don't know if what you were saying to
19 the House managers is true or not?

20 A. What I was saying to the House managers was
21 that somebody needed to talk to Drew Wicker. That was
22 my only purpose in bringing it up.

23 Q. Well -- but when you tell the House managers
24 your statement, you would agree with me, Ranger, you
25 don't say, I heard from five or six people that his

1 travel aide, who was with him at all times outside the
2 office, went with him to have meetings and also in one
3 instance carried documents and gave them to Nate Paul in
4 a dark alley one night in the middle of the night. You
5 don't say you heard that from five or six people. You
6 say that as a fact. Right?

7 A. In my mind, I said it for them to be a lead
8 to go talk to Drew Wicker.

9 Q. Okay.

10 A. I didn't say it was a fact because I have no
11 personal knowledge.

12 Q. You're saying you didn't suggest you had
13 personal knowledge of that?

14 A. I do not have any personal knowledge about
15 what Drew Wicker would or would not testify to. I was
16 relaying what I was told by others so the committee
17 could find Drew Wicker and find out what the truth is.
18 It's part of an investigation.

19 Q. So how do we know, Ranger, when we look at
20 your statements that have been made to the investigating
21 committee, how do we know that those are statements
22 based on your own personal knowledge or based on
23 something that you've heard?

24 A. I will certainly tell you if you ask me.

25 Q. But you didn't tell them. You didn't say I

1 heard this from five or six people. You said it
2 emphatically. First person. In fact. So how can we
3 tell when it's you you're relying upon and your memory
4 or unnamed people? How do we know?

5 MR. DeGUERIN: Objection. Objection to
6 Mr. --

7 MR. COGDELL: Cogdell.

8 MR. DeGUERIN: -- Cogdell. Sorry.
9 Objection to Mr. Cogdell stating --

10 MR. COGDELL: Have I showed you
11 nothing -- nothing?

12 MR. DeGUERIN: Well, we've known each
13 other for at least 30 years.

14 But my objection is to Mr. Cogdell making
15 a statement of what the record says and then asking him
16 a different question about it. It's a statement by
17 counsel rather than proper cross-examination.

18 Q. (BY MR. COGDELL) Look on Page 18,
19 Mr. Maxwell, of your --

20 PRESIDING OFFICER: I'll sustain the
21 objection.

22 You can rephrase it.

23 MR. COGDELL: Yeah. Thank you.

24 And I'm sorry I call you "Judge." It's
25 just reflex, Your Honor.

1 PRESIDING OFFICER: You can call me
2 anything. It's fine. I'm just here for --

3 MR. COGDELL: Let's don't get carried
4 away.

5 PRESIDING OFFICER: I just have this job.

6 Q. (BY MR. COGDELL) If you will look, Ranger,
7 on Page 18, I believe Line 3, would you read out loud
8 what you tell the House managers on Page 18, Line 3?

9 A. Yes. Yeah, his travel aide, who was with him
10 all the time outside the office, went with him to -- and
11 there's a hyphen -- would have meetings with him. And
12 also in one instance carried some documents and gave
13 them to Nate Paul in a dark alley one night in the
14 middle of the night.

15 Q. Okay. So you would agree with me and to
16 satisfy Mr. --

17 MR. COGDELL: What's the name?

18 MR. DeGUERIN: Touche.

19 (Laughter)

20 PRESIDING OFFICER: Both of you need your
21 names in the hat right there.

22 Q. (BY MR. COGDELL) To satisfy Mr. Touche, you
23 would agree that you didn't qualify this statement,
24 Ranger, that it was told to you by five or six people,
25 right?

1 A. What are you asking me to agree to?

2 Q. You would agree to me that when you told the
3 House committee this story about Drew Wicker, you never
4 said you had heard it from someone else?

5 A. I did not.

6 Q. Okay. So my question remains the same.
7 Since you didn't qualify or explain your answers that
8 were based on hearing it from someone else, how do we
9 know, Ranger, when you're telling us something that you
10 know from your own personal knowledge as opposed to
11 hearing it from someone else?

12 A. There is no comparison between giving an
13 investigative committee a lead to go and investigate. I
14 never said that I had any personal knowledge of that.

15 Q. Okay. Let's try -- let's try again.

16 What's the answer to my question, Ranger?

17 A. Which is?

18 Q. Third time: Since you don't qualify your
19 explanations and explain to us whether they are based on
20 first-person knowledge or you heard it from somebody
21 else, how do we know what you are basing your
22 explanations on?

23 A. My explanations of what? Now, what are you
24 referring to when you say what did I base my
25 explanations on?

1 MR. DeGUERIN: My objection was asked and
2 answered.

3 MR. COGDELL: Actually, he hasn't
4 answered.

5 PRESIDING OFFICER: Overruled.

6 Q. (BY MR. COGDELL) Now, so that you and I are
7 clear, Ranger --

8 A. Okay.

9 Q. -- you are a fellow that's taught folks how
10 to testify, right?

11 A. Say that -- say it again.

12 Q. Why is it that every time I ask you if you've
13 taught folks to testify, you suddenly can't hear the
14 question?

15 A. Actually, my testifying I learned by
16 experience.

17 Q. Okay. And is that one of the things you've
18 learned by experience, Ranger, to pause and act like you
19 haven't heard the question?

20 A. Maybe.

21 (Laughter)

22 Q. (BY MR. COGDELL) Fair enough. What did you
23 learn?

24 A. I learned that it throws you off.

25 Q. Does it? Does it?

1 Okay. And that's your intent, Ranger?
2 Rather than testifying to the truth and giving direct
3 answers, your game is to throw people off? Is that
4 where we're going, Ranger? Is that where we're going?

5 A. No.

6 Q. That's what you just said. That's what you
7 just suggested.

8 A. I just said that I do sometimes pause.

9 Q. Ranger, you also told the House committee
10 that Ken Paxton met with the Travis County DA and
11 requested that the Travis County DA's office refer the
12 case to him. Do you remember telling him that?

13 A. They referred the case to who?

14 Q. To him, Ken Paxton.

15 A. Yes.

16 Q. Okay. Who told you that?

17 A. Don Clemmer.

18 Q. Okay. That's really interesting. Because
19 are you aware, Ranger, that it was Don Clemmer who told
20 Mindy Montford and Ms. Moore, Hey, I don't want to deal
21 with this. Let's give it back to the AG's office. It
22 was him that came up with the idea?

23 Are you aware of that?

24 A. I know that Don Clemmer, when I made the
25 phone call -- call to him, and I was chewing him out

1 about sending that over to me, that he told me it's not
2 his fault that Ken Paxton requested it be sent to him.

3 MR. COGDELL: Objection. Nonresponsive.

4 PRESIDING OFFICER: Sustained.

5 MR. DeGUERIN: Excuse me, Your Honor, but
6 he --

7 MR. COGDELL: No. He's not answering the
8 question, Mr. Touche. He's not.

9 MR. DeGUERIN: My objection -- my
10 objection is that Mr. Cogdell cut off his answer when
11 the answer was responsive to what Don Clemmer told him.

12 MR. COGDELL: No. That wasn't the
13 question.

14 Q. (BY MR. COGDELL) The question was --

15 PRESIDING OFFICER: Overruled.

16 And rephrase the question.

17 MR. COGDELL: Yes, sir.

18 PRESIDING OFFICER: Make it clear.

19 MR. COGDELL: Yes, sir.

20 Q. (BY MR. COGDELL) The question is,
21 Mr. Maxwell, are you aware that it was actually Don
22 Clemmer's idea to refer the case to the attorney
23 general's office, not Ken Paxton's? He wasn't even
24 aware that he could -- that process could occur. It was
25 Clemmer's idea, not Paxton's. Are you aware of that?

1 MR. DeGUERIN: Objection to the form of
2 the question, inserting what Ken Paxton knew.

3 PRESIDING OFFICER: Sustained.

4 Q. (BY MR. COGDELL) Are you aware that the idea
5 to refer the case to the -- to the AG's office came not
6 from Ken Paxton but from Don Clemmer? Are you aware of
7 that, yes or no, Ranger?

8 MR. DeGUERIN: Objection. That's a fact
9 not in evidence.

10 MR. COGDELL: I'm trying to get it in
11 evidence.

12 MR. DeGUERIN: But it's a lawyer
13 testifying.

14 MR. COGDELL: I'm --

15 PRESIDING OFFICER: Overruled.

16 Q. (BY MR. COGDELL) Fifth time, Ranger: Are
17 you aware that it was the idea of Don Clemmer to refer
18 this matter to the AG's office? Are you aware of that,
19 yes or no?

20 A. No. That's not what he told me.

21 Q. Thank you. Okay.

22 You've told the House committee, Ranger,
23 that -- actually it was your lawyer, Mr. Turner -- is he
24 here today? Did you say that?

25 A. Mr. Turner?

1 Q. Yes, sir.

2 A. Yes.

3 Q. Where is he?

4 A. He's in -- somewhere. I think he's in the
5 chambers.

6 Q. Okay. But he was with you while you were
7 being interviewed by the House Managers, right, back in
8 February?

9 A. That's correct.

10 Q. So you were present when your lawyer told the
11 House committee that Paxton drafted the contract to
12 Cammack and Paxton took Cammack over to the DA's office?

13 A. Yes, I was there.

14 Q. Okay.

15 A. You said that.

16 Q. Yes, sir. Look at Page 49, Ranger, of your
17 Board of Managers' interview.

18 If you'll look, Ranger, at, I think,
19 Line 3 down, your lawyer says, What David's talking
20 about is after David and Mark refused to approve hiring
21 of outside counsel, Attorney General Paxton actually
22 drafted and sent a contract to this guy, Cammack.

23 That's what your lawyer tells the Board
24 of Managers. Right?

25 A. Yes.

1 Q. Where did he get that from?

2 A. I don't know.

3 Q. Did you hear that from somebody?

4 A. Yeah.

5 Q. Who'd you hear that from?

6 A. Say it again. Who what?

7 Q. Really.

8 A. No. I'm -- I'm being serious.

9 Q. We're going to be here all day.

10 Who did you -- who did you hear that
11 from, Ranger? Who did you hear that Paxton drafted and
12 sent the contract from?

13 A. I don't know who has that information. I
14 wasn't involved with Cammack.

15 MR. COGDELL: Objection. Nonresponsive.

16 A. Okay.

17 PRESIDING OFFICER: Sustained.

18 Q. (BY MR. COGDELL) Ranger, I'm asking you who
19 told you that Ken Paxton drafted and sent the contract
20 to Brandon Cammack? What is the name of the human that
21 told you that?

22 A. I don't know that.

23 Q. I -- I'm not asking you if you know that.
24 I'm asking you who told you that. Those are two
25 different things.

1 A. I think the statement was made by my
2 attorney.

3 Q. And you said, after I pointed out, Ranger,
4 that your attorney made that statement, you were the one
5 that said I had heard that. And I am asking you who
6 told you that.

7 A. I would think it was Mark Penley.

8 Q. Mark Penley. Okay.

9 A. Because Mark Penley was involved with that.

10 Q. Okay. And your lawyer, Mr. Turner, Ranger,
11 goes on to say, And then -- referring to Paxton -- and
12 then took him over to the DA's office and introduced
13 them -- introduced him to them where he went to the
14 grand jury in the auspices of being his special
15 prosecutor for the attorney general's office and
16 obtained somewhere around 40 subpoenas.

17 So your lawyer is telling the committee
18 that Ken Paxton took Brandon Cammack to the Travis
19 County DA's office, to the grand jury, introduced
20 Cammack to the Travis County DA's office grand jury, or
21 the Travis County grand jury, and Ken Paxton got Cammack
22 to get the 40 subpoenas.

23 That's what your lawyer told you?

24 MR. DeGUERIN: Objection. The objection
25 is he's trying to cross-examine the witness from another

1 person's statement, the lawyer. He's only recited what
2 the lawyer said, not what the witness said in that
3 statement.

4 MR. COGDELL: I didn't think there was
5 any confusion about that.

6 Q. (BY MR. COGDELL) You were sitting right
7 there when your lawyer is telling the DA's office --

8 PRESIDING OFFICER: Sustained. Try a
9 different approach.

10 Q. (BY MR. COGDELL) You were sitting right
11 there when your lawyer is telling the committee that Ken
12 Paxton took Brandon Cammack over to the Travis County
13 DA's office, right?

14 A. Right.

15 Q. Was that your understanding of what happened,
16 that Ken Paxton took Brandon Cammack to the DA's office?

17 A. Like I said, I have no direct knowledge of
18 it. I talked to Mark Penley a lot. He may have told me
19 that.

20 Q. Okay. And your lawyer goes one step further
21 and says that Paxton introduced Cammack to the grand
22 jury. Is that your understanding of what happened?

23 MR. DeGUERIN: Objection.

24 A. I don't know. I don't know if that happened
25 or not.

1 Q. (BY MR. COGDELL) Okay.

2 MR. DeGUERIN: Objection to
3 cross-examining from what the lawyer said, not what
4 Mr. Webster -- Mr. Maxwell said.

5 MR. COGDELL: I am certainly free to test
6 this witness's memory about what happened and what
7 didn't happen. And if this lawyer is making falsehoods
8 while he's sitting there, I can cross-examine him about
9 that all day long.

10 PRESIDING OFFICER: Sustained.

11 MR. COGDELL: Okay.

12 Q. (BY MR. COGDELL) Did you tell your lawyer --
13 where did your lawyer learn from this -- where did your
14 lawyer learn this claim that Paxton took Mr. Cammack to
15 the grand jury?

16 MR. DeGUERIN: Objection. This -- Law
17 School 101 says you can't ask a client what he told his
18 lawyer. Object to that.

19 MR. COGDELL: I'm not asking him. Law
20 School 101 would also teach you to listen to the
21 question.

22 Q. (BY MR. COGDELL) Where did your lawyer learn
23 that Paxton took Cammack to the grand jury?

24 MR. DeGUERIN: I have an objection
25 pending as to inquiring about conversations between

1 Mr. Maxwell and his lawyer.

2 MR. COGDELL: They're not privileged.
3 They're in front of the House Committee.

4 PRESIDING OFFICER: Can both of you come
5 to the bench?

6 (Bench conference off the record)

7 PRESIDING OFFICER: Can you both come
8 back, Mr. DeGuerin, Mr. Cogdell?

9 (Bench conference off the record)

10 PRESIDING OFFICER: Jurors, if you'll
11 take your seats again, please.

12 Hopefully we've worked this out.

13 MR. COGDELL: I think so.

14 Q. (BY MR. COGDELL) Let me try it this way,
15 Ranger. You with me? Can you hear me?

16 A. Yes.

17 Q. Okay. Do you know how your lawyer knew, or
18 supposedly knew, that it was Paxton that ostensibly took
19 Brandon Cammack to the DA's office? Do you know how
20 your lawyer --

21 A. I do not.

22 Q. Do you know how your lawyer learned that
23 Paxton took him to the Travis County grand jury?

24 A. No, I don't know how he knows that.

25 Q. Do you know how your lawyer learned that

1 Paxton was with Cammack when he obtained these grand
2 jury subpoenas?

3 A. No.

4 Q. Well, when those statements were being made,
5 Ranger, did you, David Maxwell, stand up and say, Whoa,
6 whoa, whoa, whoa, whoa, whoa. Where'd you learn that
7 from? Where'd that come from? What are you basing that
8 on?

9 Did you say anything to suggest to the
10 committee that those statements weren't accurate?

11 A. I don't know if they're accurate or not.

12 Q. You don't know if they are or they aren't
13 apparently.

14 A. You're right. I don't. I don't have any
15 knowledge of it.

16 Q. Okay. So that I'm clear, are you suggesting
17 to this jury, to these 31 senators, that it's perfectly
18 permissible for you if your lawyer makes a statement to
19 the House committee and you have no personal knowledge
20 whether it's true or not? You're fine with that?

21 A. I am fine with somebody making a statement
22 that they know something about. It doesn't -- because I
23 don't know doesn't mean it's not true.

24 Q. Okay. Well, do you think, Ranger, that Ken
25 Paxton took Brandon Cammack to the DA's office?

1 A. I don't know the answer to that.

2 Q. Okay. Do you think, Ranger, that Ken Paxton
3 took Brandon Cammack before a grand jury?

4 A. I don't have any direct knowledge.

5 Q. Okay. Do you think, Ranger, that Ken Paxton
6 was with Brandon Cammack and helped him get those
7 subpoenas? Do you think any of those things are true?

8 A. I don't know the answer to it.

9 Q. Okay. So when you left the interview with
10 the Board of Managers, did -- after that point in time,
11 did you learn that any of the information that you had
12 been provided, or that your lawyer had provided, was
13 incorrect? Did you ever find out anything that was said
14 was untrue or inaccurate?

15 A. No.

16 Q. Okay. And, of course, had you, you would
17 have brought that to their attention?

18 A. I would.

19 Q. Okay.

20 MR. COGDELL: May I have just a minute,
21 Your Honor?

22 PRESIDING OFFICER: I'm sorry, say that
23 again.

24 MR. COGDELL: It's catching now.
25 Everybody's got it. Can I have just a second?

1 PRESIDING OFFICER: Yes, yes. The
2 acoustics in here are not the best.

3 (Pause)

4 Q. (BY MR. COGDELL) Ranger, you never had any
5 intention of investigating any of this, did you?

6 A. When I read the allegations, I never had any
7 intention to open up an investigation, that's correct.

8 Q. You never had any intentions of finding out
9 whether or not Mr. -- well, Mr. Cammack and Mr. Winward
10 telling you -- you never had any intentions of doing any
11 investigation. Right?

12 A. I plainly stated I was not going to do an
13 investigation.

14 Q. Okay. You didn't so much as make a phone
15 call, right? You didn't make a phone call to
16 investigate. You didn't get on PACER. You didn't do
17 TCIC. You didn't do -- all that litany of accessible
18 tools that you had at your disposal, you didn't do
19 anything. Right?

20 A. I did not run him through any of our
21 databases.

22 Q. And you never had any intention of conducting
23 an objective, fair, reasonable, thorough investigation,
24 did you?

25 A. There was no investigation to be done.

1 MR. COGDELL: Objection. Nonresponsive.

2 PRESIDING OFFICER: Sustained.

3 Q. (BY MR. COGDELL) Do you remember, Ranger,
4 when we looked -- went through the litany of
5 characteristics of a good investigator in the beginning
6 of your direct examination?

7 A. Yes.

8 Q. They should have an open and an objective
9 mind, right?

10 A. Yes.

11 Q. They should act without bias or
12 predisposition?

13 A. Yes.

14 Q. They should be willing to follow the
15 evidence?

16 A. Yes.

17 Q. Should conduct an investigation timely,
18 right? Should conduct an investigation timely?

19 A. Yes.

20 Q. And that they would know that no person is
21 more or less deserving of their best efforts than
22 another person, right?

23 A. Yes.

24 Q. The investigation should be thorough, right?

25 A. They should be, absolutely.

1 Q. And they should keep -- generate and keep
2 accurate records and reports, right?

3 A. I didn't quite get the last part.

4 Q. Now I couldn't hear you, that's a first.

5 A. I'm sorry.

6 Q. That's all right.

7 A. I didn't quite catch the last part of the
8 question.

9 Q. Yes, sir. That if someone's going to do a
10 legitimate investigation, they should keep accurate
11 records and reports.

12 A. Absolutely.

13 Q. Okay.

14 A. Yes.

15 Q. And you never had any intention of doing any
16 of that, right?

17 A. There was no investigation.

18 Q. That's a no, you never had any intention of
19 doing any of that?

20 A. Right.

21 Q. Okay.

22 MR. COGDELL: That's all I have, Ranger.
23 Thank you.

24 THE WITNESS: Okay.

25 PRESIDING OFFICER: Redirect.

1 REDIRECT EXAMINATION

2 BY MR. DeGUERIN:

3 Q. Once you were told that Nate Paul was the
4 person that General Paxton wanted you to meet with, did
5 you find out who Nate Paul was?

6 A. I did.

7 Q. And once you found out --

8 MR. COGDELL: This is asked and answered
9 on direct. Same -- same question.

10 PRESIDING OFFICER: Sustained.

11 Q. (BY MR. DeGUERIN) Did that -- when you found
12 out what he was and who he was, did that make the --
13 back all that other stuff that Mr. Cogdell talk about
14 unnecessary?15 MR. COGDELL: Leading and asked and
16 answered.17 Q. (BY MR. DeGUERIN) Whether or not, did it
18 make it unnecessary?19 MR. COGDELL: Asked and answered on
20 direct.

21 PRESIDING OFFICER: Sustained.

22 Q. (BY MR. DeGUERIN) All right. Mr. Cogdell
23 asked you several questions about your conversation with
24 Don Clemmer, the man in the Travis County District
25 Attorney's Office. So what did he tell you about this?

1 MR. COGDELL: Objection. Hearsay.

2 MR. DeGUERIN: He opened the door, Your
3 Honor.

4 MR. COGDELL: No, I didn't suspend the
5 rules of evidence. Objection --

6 MR. DeGUERIN: Starting on Page 78,
7 Line 15, there were a number of questions asked about
8 the conversation with Mr. Clemmer, even to the point of
9 what Mr. Maxwell said to Clemmer. I believe the door
10 has been opened. I believe it's admissible. And I'm
11 asking that the Court allow it.

12 MR. COGDELL: "Open the door" is not a
13 hearsay exception.

14 PRESIDING OFFICER: Overruled.

15 Q. (BY MR. DeGUERIN) Go ahead.

16 A. Yes, Don Clemmer told me that Ken Paxton
17 requested the investigation be sent to me.

18 Q. And what did he tell you about his opinions
19 about the review?

20 MR. COGDELL: Objection. Hearsay. I
21 didn't ask him about that, even though I continue --

22 PRESIDING OFFICER: Sustained.

23 Q. (BY MR. DeGUERIN) In the presentation, this
24 PowerPoint presentation, was there a part of it that
25 listed six people to make targets of an investigation

1 Mr. Paul wanted you to conduct?

2 A. Yes.

3 Q. What -- what was your opinion about whether
4 that was proper?

5 A. If we followed the PowerPoint he created and
6 conducted that investigation, we would have committed
7 several federal crimes.

8 Q. What are they? What are the crimes that --

9 A. Obstruction of justice, interfering with a
10 federal investigation.

11 MR. DeGUERIN: That's all. Thank you.

12 PRESIDING OFFICER: Recross.

13 MR. COGDELL: Yes.

14 RECROSS-EXAMINATION

15 BY MR. COGDELL:

16 Q. Let me get this straight, Ranger. So if the
17 feds break into my house, break the door down, hold my
18 wife at gunpoint, kick my dog, cut off my Internet,
19 search my house without a warrant, and I want that crime
20 to be investigated, you're telling this jury with a
21 straight face that that's obstructing justice and
22 interfering with a federal investigation? That's your
23 position?

24 Ranger, you're smarter than that.

25 A. They did have a search warrant. And they did

1 execute it. And it was lawful.

2 Q. You don't know if the search warrant is
3 lawful -- was lawfully issued or not. You don't have a
4 clue, do you?

5 A. Mr. Nate Paul --

6 MR. DeGUERIN: Object to argument.

7 (Simultaneous crosstalk)

8 PRESIDING OFFICER: Witness, please.

9 MR. DeGUERIN: Arguing with the witness.

10 Objection.

11 PRESIDING OFFICER: Sustained.

12 Q. (BY MR. COGDELL) Have you ever analyzed the
13 search warrant affidavit to see if it establishes
14 probable cause for each of the search warrants that were
15 issued?

16 A. Mr. Paul did not provide us the document.

17 MR. COGDELL: Objection. Nonresponsive.

18 PRESIDING OFFICER: Sustained.

19 Q. (BY MR. COGDELL) Ranger, you're smart enough
20 to know what question I'm asking and whether or not to
21 answer it.

22 A. We --

23 MR. DeGUERIN: Objection to the sidebar
24 remark.

25 Q. (BY MR. COGDELL) Ranger, are you --

1 MR. DeGUERIN: Hold on. There's an
2 objection.

3 PRESIDING OFFICER: Slow down, gentlemen.
4 Slow down.

5 I sustained your objection before.

6 MR. COGDELL: Yes, sir.

7 Q. (BY MR. COGDELL) Ranger, are you smart
8 enough to understand my question, and are you smart
9 enough to answer my question?

10 A. We analyzed the material he gave us. That's
11 all I have.

12 MR. COGDELL: Nonresponsive.

13 PRESIDING OFFICER: Sustained.

14 MR. COGDELL: I think we're done here
15 Ranger. Good luck, sir.

16 PRESIDING OFFICER: Witness may step
17 down.

18 Can the witness be excused, both parties?
19 Both parties, witness excused? Yes?

20 MR. COGDELL: I don't think we'll need
21 the Ranger on recall, but I have no problem excusing
22 him, no, sir.

23 Good luck.

24 PRESIDING OFFICER: Both parties, come up
25 a moment.

1 Mr. DeGuerin, Mr. Cogdell, come up for a
2 second.

3 (Bench conference off the record)

4 PRESIDING OFFICER: Yes. Why don't y'all
5 take a ten-minute break, stretch your legs, and be back
6 at 4:40.

7 (Brief Recess)

8 PRESIDING OFFICER: Members -- Members,
9 after talking with both parties, they've decided to call
10 it a day. So we will adjourn until Monday morning at
11 9:00 a.m.

12 (Proceedings recessed 4:28 p.m.)
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C E R T I F I C A T E

STATE OF TEXAS)

COUNTY OF TRAVIS)

I, Lorrie A. Schnoor, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomat Reporter and Certified Realtime Reporter, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me this 8th day of September, 2023.

/s/ **Lorrie A. Schnoor**

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