

**THE SENATE OF THE STATE OF TEXAS
COURT OF IMPEACHMENT**

Katelyn Daw

AUG 05 2023

CLERK OF THE COURT

IN THE MATTER OF
WARREN KENNETH PAXTON, JR.

**ATTORNEY GENERAL WARREN KENNETH PAXTON, JR.'S
MOTION TO DISMISS ARTICLE IV**

Yet again the House’s fly-by-night impeachment has resulted in an unintelligible Article. The dramatic claim of an Attorney General illegally obtaining files and having them delivered in secret is as fantastical as it is unsupported by evidence. As a consequence, the House has brought an Article that contains no specifics, no dates, and not a shred of legal validity.

Article IV should be dismissed because it fails to allege how, when, or what information Attorney General Paxton purportedly gave to Nate Paul, let alone how the Attorney General would have misused his official powers if he did so. This failure prevents the Attorney General from preparing his defense and prevents this Court and the public from even understanding the charge.

Moreover, Article IV does not state an impeachable offense. As the chief legal officer of this State, the Attorney General necessarily possesses the authority to review case files at the Office of the Attorney General (OAG) in the exercise of his duties—especially when it relates to work product that will be issued under his name. The House’s unexplained and inexplicable statement that the Attorney General “improperly” obtained documents fundamentally confuses the relationship between the Attorney General and *his* office. No court of impeachment has ever suggested that an official’s review of information lawfully held by his office rises to the level of a “grave official wrong.” This Court should not be the first, and Article IV should be dismissed.

STANDARD

“While impeachable offenses are not defined in the Constitution, they are very clearly designated or pointed out by the term ‘impeachment,’ which . . . connotes the offenses to be considered.” *Ferguson v. Maddox*, 263 S.W. 888, 892 (Tex. 1924). Our “Constitution in this matter of impeachment created nothing new. By it, something existing and well understood was simply adopted.” *Id.* An impeachable offense is a “grave official wrong[]” as historically understood in English and early American practice “by an examination of the Constitution, legal treatises, the

common law[,] and parliamentary precedents.” *Id.* It is “emphatically” not an “arbitrary and unrestrained” power to remove an elected official. *Id.* Rather, “[i]mpeachment is used only in extreme cases,” *Ferguson v. Wilcox*, 28 S.W.2d 526, 533 (Tex. 1930), consistent with “such official delinquencies, wrongs, or malfeasances as justified impeachment according to” that historical practice. *Maddox*, 263 S.W. at 892. This Court determines whether an allegation rises to the historical level of an impeachable offense as a matter of law. *Id.* at 893. And this Court has the power to dismiss an Article for failing to rise to that level, and for failing to comply with the Constitution and Texas law. *Id.*; *see also* S. Journal, 88th Cong., 1st Sess. at 40-52 (2023).

ARGUMENT

I. Article IV is Unconstitutionally Vague.

Article IV does not give the Attorney General or this Court the slightest hint as to what conduct forms the basis of the charges against him. The Texas and United States Constitutions require more. The House must “descend to the particulars,” *Russell v. United States*, 369 U.S. 749, 763 (1962) (quotation omitted), of what the House alleges the Attorney General has done wrong. Put another way, the accusations must be described “with sufficient clarity and detail to enable the defendant to anticipate the [prosecution’s] evidence and prepare a proper defense to it.” *Garcia v. State*, 981 S.W.2d 683, 685 (Tex. Crim. App. 1998); *see* Tex. Const. art. I, § 10. This constitutional obligation requires that every charging document must contain on its face all “the elements of the offense and *every fact or circumstance necessary to complete description thereof.*” *Labelle v. State*, 720 S.W.2d 101, 107 (Tex. Crim. App. 1986) (emphasis added); *see also State v. Mays*, 967 S.W.2d 404, 406 (Tex. Crim. App. 1998). Because the Attorney General, this Court, and the public can only guess at what is intended by Article IV, it must be dismissed. *See Swabado v. State*, 597

S.W.2d 361, 364 (Tex. Crim. App. 1980); *Drumm v. State*, 560 S.W.2d 944, 946-947 (Tex. Crim. App. 1977); *Terry v. State*, 471 S.W.2d 848, 852 (Tex. Crim. App. 1971).

This Article is unconstitutionally vague, so the Attorney General must resort to the House General Investigating Committee’s public hearing for the purported details of this Article, because the Articles of Impeachment are so constitutionally deficient in their lack of detail. *See, e.g.*, Attorney General’s Motion to Quash, July 25, 2023. At the hearing, the Committee indicated its belief that Attorney General Paxton “improperly obtained” sealed probable cause affidavits for 2019 search warrants of Nate Paul’s property and gave them to Nate Paul. *See* Ex. A, Transcript of Public Hearing at 44-45, 104, *In re Paxton* (Transcript). The House admitted this was pure speculation on their part because they acknowledged that they had no idea what was in the envelope. *Id.* at 44. This made-for-movies claim was offered without so much as a date for Nate Paul’s request, a date of the alleged handoff, or a date for when Attorney General Paxton had access to the alleged file, whatever it may have been—that is, Article IV was preferred with no proof for this factual theory whatsoever. Criminal charges require more. Article IV should be dismissed on this basis alone.

II. The Constitution Empowers the Attorney General to Review Any Files or Work Product Possessed or Created by His Office.

The Attorney General is Texas’s “chief legal officer” who “has broad discretionary power in carrying out his responsibility to represent the State.” *Perry v. Del Rio*, 67 S.W.3d 85, 92 (Tex. 2001) (citing *Terrazas v. Ramirez*, 829 S.W.2d 712, 722 (Tex. 1991)). That responsibility includes the duties “to render legal advice in opinions to various political agencies and to represent the State in civil litigation.” *Id.* at 92 (citing Tex. Const. art. 4, § 22, and Tex. Gov’t Code § 402.021). Moreover, that power is singularly located with the constitutional officer: “all of the constitutional and statutory authority is vested in *one* Attorney General.” *PUC v. Cofer*, 754 S.W.2d 121, 124

(Tex. 1988). And his exercise of this judgment and discretion “will not be controlled by other authorities.” *Bullock v. Texas Skating Ass’n*, 583 S.W.2d 888, 894 (Tex. App.—Austin 1979, writ ref’d) (citation omitted). Of course, it is true that the Attorney General “need not be personally involved in every case and may properly delegate his duties to his assistants.” *Cofer*, 754 S.W.2d at 124 (citing Tex. Gov’t Code § 402.001). But “[e]ven though he may choose for some reason to remove himself from a case, the Attorney General is still of counsel in every case where an assistant is of counsel.” *Id.* (citing *Langdeau v. Dick*, 356 S.W.2d 945, 959 (Tex. App.—Austin 1962)).

Like every executive officer, the Attorney General’s ability to perform his official duties depends on both the power to retain and the power to control his subordinates. These principles are rooted deeply in both the Texas and United States Constitutions. The Texas Constitution vests constitutional duties *only* in the Attorney General; the Office of the Attorney General is a statutory creation, and it exists exclusively to assist the Attorney General in the performance of his many constitutional and statutory duties. Tex. Const. art. IV, § 22. Indeed, “it is the law in Texas that an elected officer occupies a sphere of authority, which is delegated to him by the Constitution and laws, within which another officer may not interfere or usurp.” *Renken v. Harris County*, 808 S.W.2d 222, 226 (Tex. App.—Hous. [14th Dist.] 1991, no writ) (citing *Pritchard & Abbott v. McKenna*, 350 S.W.2d 333 (1961)). And this includes the unfettered authority to control the matters assigned to him by law. *Cofer*, 754 S.W.2d at 124; *Bullock*, 583 S.W.2d at 894. As Federalist No. 70 points out, the Executive cannot properly function if power, though “vest[ed] ostensibly in one man,” remains “subject, in whole or in part, to the control and cooperation of others.” The Federalist at 423 (Hamilton) (C. Rossiter ed., 1961).

Because the Attorney General is the sole constitutional officer authorized to serve as the State’s chief legal officer, Article IV is an egregious misunderstanding of the nature of executive

power. Practically speaking, the Attorney General possesses the constitutional prerogative to review any OAG files and work product at any time in the exercise of his duties. *Cf. Cofer*, 754 S.W.2d at 124; *Bullock*, 583 S.W.2d at 894; *Langdeau v. Dick*, 356 S.W.2d 945, 959 (Tex. App.—Austin 1962). The Attorney General can never “improperly” obtain information possessed by his office any more than a Member of this Court could “improperly” obtain information held by his Chief of Staff. Thus, when Article IV alleges that the Attorney General “improperly obtained access to information held by his office,” it is a contradiction in terms; the very nature of the Attorney General’s authority allows and requires him to oversee those employed to carry out his constitutional duties, including by accessing any work product or file that he wishes.

III. Article IV Fails to Allege—and the House Cannot Prove—that Any Information was Wrongfully Disseminated.

Article IV fails in two other ways. First, the House has not alleged, and cannot prove, that OAG actually obtained the information at issue (whatever it is). Second, the House has not alleged, and cannot prove, that the Attorney General actually disseminated it to anyone in an unlawful manner. Both omissions are fatal.

First, the House has no evidence that OAG actually possessed the documents that the House believes were wrongly accessed by Attorney General Paxton in March 2020—that is, the probable cause affidavits described during the House’s hearing. The Public Information Act (PIA) requires the Attorney General to assist with many aspects of the State’s open records law, including “maintain[ing] uniformity in the application, operation, and interpretation of this chapter.” Tex. Gov’t Code § 552.011. But the Attorney General is not a repository for *all* public records. When a governmental body receives a public information request, it has ten business days to identify the responsive information, release the information that is disclosable, and if necessary, request an Attorney General ruling that any otherwise responsive information falls within one of

the PIA's exceptions to public disclosure and can be withheld. *Id.* § 552.301(b). The governmental body must then submit written comments explaining why a PIA exception applies and allows the information to be withheld and must also submit all or a *representative sample* of the information it seeks to withhold. *Id.* § 552.301(e).

This final requirement is crucial to Article IV. The House has not alleged, much less provided evidence to demonstrate, that any information which could benefit Nate Paul was even in OAG's possession. The House was not only silent as to which information was at issue, but it also failed to allege—and cannot prove—that the information at issue was even within the agency's possession. If the information at issue was not part of the representative sample, then Article IV could not have occurred as alleged. Moreover, even if OAG possessed whatever information the House is complaining about, it only did so pursuant to its statutory obligation to review and consider it in the course of making an open records decision. In other words, any documents in OAG's possession were *lawfully* in its possession, and any documents reviewed by the Attorney General, under whose authority an open record decision issues, were and could only have been *properly* obtained.

And ultimately, the House has provided no evidence to date—nor can they provide such evidence—that indicates the probable cause affidavits were in the open-records file that was given to Attorney General Paxton in or around March 2020, or that the Attorney General was ever in a position to have improperly disseminated them, even if he wanted to. None of the witnesses that the House interviewed provided any specific factual assertions whatsoever on these matters. Thus, whether as the product of a truncated investigation, a basic misunderstanding of Texas law, or both, Attorney General Paxton is entitled to acquittal as a matter of law on Article IV as preferred by the House, and it must therefore be dismissed.

IV. Article IV Fails to State an Impeachable Offense.

Nor does Article IV, its numerous legal errors and factual omissions aside, even state an impeachable offense. The House is not free to just deem any given thing it dislikes a valid basis for impeachment. As the Supreme Court explained, impeachable offenses under our Constitution include only those “established by the common law and the practice of the English Parliament and the parliamentary bodies in America.” *Ferguson*, 263 S.W. at 893. Historical practices do not support declaring that a public official accessing a file held within his own office rises to the level of an impeachable offense.

Blackstone described the gravity required for an act to become an impeachable offense. In his Commentaries, he described “public wrongs” to historically mean “crimes and misdemeanors.” 4 William Blackstone, *Commentaries* *1. These were “act[s] committed or omitted in violation of a public law,” supplying the truism that a public wrong could not be an act that complied with the law. 4 William Blackstone, *Commentaries* *5. Impeachable offenses were a subset of public wrongs. These included “grave official wrongs” or “high crimes,” which were categories reserved for unique transgressions against the State herself, such as “high treason.” See 4 William Blackstone, *Commentaries* *74–75. When committed by a public official, a “high crime” could constitute an impeachable offense. Indeed, Blackstone ranked the “high court” of impeachment as first among “courts of a criminal jurisdiction” in England because it was “the highest of all” and first in “dignity,” and because it addresses “enormous offenders” among “the representatives of the people.” 4 William Blackstone, *Commentaries* *255-56, 258.

The Founders also understood “high crimes and misdemeanors” to include only particularly grave wrongs. As Alexander Hamilton explained, agreeing with Blackstone’s definition of “high crimes,” impeachable offenses were those that “relate[d] chiefly to injuries

done to the society” of the State. Federalist 65. Even opponents of the impeachment power as drafted concurred that “[e]rrors in judgment, or want of capacity to discharge the duties of the office, can never be supposed to be included in these words, *high crimes and misdemeanors*.” *The Anti-Federalist*, Essays of Brutus XV, 185 (Herbert J. Storing, University of Chicago Press 1985) (emphasis original). Absent that restriction, the unfettered legislature could expel any official from office for any reason it saw fit, and the impeachment power would be “so incompatible with the genius of our institutions, that no lawyer or statesman would be inclined to countenance so absolute a despotism of opinion and practice, which might make that a crime at one time, or in one person, which would be deemed innocent at another time, or in another person.” 1 J. Story, *Commentaries on the Constitution of the United States*, § 797, p. 563 (4th Ed. 1873).

This Court has historically hewed to this approach. It has recognized that direct financial self-interest, fraud, perjury, or an attempt to nullify our Constitution could render an official act an impeachable offense. But it has not gone farther to include any pedestrian exercise of an elected official’s power to supervise the activities of his subordinates. When the House preferred twenty-five articles of impeachment against Land Commissioner McGaughey, it charged that McGaughey’s sale of certain properties violated the land laws—but not that McGaughey violated those laws out of a personal financial interest. This Court concluded that was not enough: as McGaughey’s counsel successfully argued before this Court, “the great State of Texas is pointing her heaviest artillery at something that does not even reach the magnitude of a snowbird.” State of Tex. Senate, Proc. of the High Ct. of Impeachment on the Trial of W.L. McGaughey, Land Comm’r, S. 23, Reg. Sess. at li-lii (1893). The Court conclusively rejected every charge, with at least nineteen of twenty-seven members fully acquitting McGaughey. *Id.* at 169-178.

Likewise, the articles of impeachment against Judge J.B. Price did not allege self-enrichment. Judge Price was impeached on twelve articles. The articles accused him of “gross neglect of duties” when he approved payment reimbursements, like Sheriffs’ mileage requests, that ultimately exceeded verifiable work-related expenses and costs. Judge Price was also accused of writing a literal blank check drawing on State funds for a witness fee. This Court recognized that these charges simply failed to qualify as “grave offenses” requiring the extraordinary remedy of impeachment. S. Journal, 42nd Cong., 2nd Sess. at 429-431 (1931). This Court dismissed six of the articles against Judge Price and acquitted him on the rest. *Id.* at 429-431, 684-691.

This Court has drawn the line at more serious wrongs, such as embezzlement, fraud, perjury, or attempts to nullify the Constitution. And Article IV does not allege, let alone with the requisite specificity, that Attorney General Paxton released public information improperly for his own financial self-interest, or that he attempted to nullify the Constitution in doing so. *See* Art. IV. It does not even allege an ordinary legal violation, as the alleged documents that Attorney General Paxton “improperly” obtained were obtained under his lawful authority as the Attorney General of Texas. Even if Article IV did allege a legal violation, the House does not claim that the Attorney General did this allegedly illegal act knowing that he acted illegally—as the Article must to avoid this Court’s ruling in Price’s impeachment that a grossly negligent legal violation does not suffice. S. Journal, 42nd Cong., 2nd Sess. at 429-431 (1931). If a basic legal error rises to the level of a “grave official wrong,” *Ferguson*, 263 S.W. at 892, then that term lacks any meaning.

Given that the Attorney General unquestionably possesses the constitutional power to review his office’s files and to provide public information, as discussed above, Article IV does not even assert a legal error. At most, the House claims that the Attorney General used a power he

possesses to do something he has the authority to do. This is not an impeachable offense under any historical standard, and Article IV therefore fails.

CONCLUSION

For the foregoing reasons, the Court should dismiss Article IV.

Respectfully submitted.

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CERTIFICATE OF SERVICE

This motion was served via email on the House Board of Managers' counsel, to wit: Rusty Hardin, rhardin@rustyhardin.com, and Dick DeGuerin, ddeguerin@aol.com, on August 5, 2023.

/s/ Christopher D. Hilton
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EXHIBIT A: Transcript of House Committee Hearing *In Re Paxton*

Proceedings before the
Committee on General Investigating
House of Representatives
Austin, Texas

PUBLIC HEARING

PRESENTATION OF THE EVIDENCE

IN THE MATTER OF

WARREN KENNETH PAXTON

(Proposed Settlement with Office of the Attorney General
Whistleblowers and Conduct Related Thereto)

MAY 24, 2023

The committee met pursuant to notice at 8:00 a.m. in E2.010, Capitol Extension, Hon. Andrew S. Murr, Chairman, presiding. The proceedings were reported by Lorrie A. Schnoor, CSR, RDR, CRR, with the firm of Kennedy Reporting Service, 100 E. Whitestone Boulevard, Suite 148, Cedar Park, Texas 78613.

Present: Representatives Murr, A. Johnson of Harris, Geren, Longoria, and Spiller.

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1 PROCEEDINGS: IN RE PAXTON: 05/24/23

2 CHAIRMAN MURR: It is 8 o'clock. The
3 Committee on General Investigating will now come to
4 order. The clerk will call the roll.

5 COMMITTEE CLERK: Chairman Murr.

6 CHAIRMAN MURR: Here.

7 COMMITTEE CLERK: Vice Chair Johnson.

8 VICE CHAIRMAN JOHNSON: Here.

9 COMMITTEE CLERK: Representative Geren.

10 MEMBER GEREN: Here.

11 COMMITTEE CLERK: Representative Longoria.

12 MEMBER LONGORIA: Present.

13 COMMITTEE CLERK: Representative Spiller.

14 MEMBER SPILLER: Here.

15 CHAIRMAN MURR: A quorum is present.

16 Members, today the committee will hear
17 from invited testimony from committee personnel in
18 Matter A. Because the committee's proceedings in Matter
19 A have been confidential under the above authorities, no
20 public testimony or comments will be taken.

21 At this time, the Chair calls chief
22 committee counsel Erin Epley and counsels to the
23 committee Terese Buess, Mark Donnelly, and Donna Cameron
24 to testify on Matter A. Thank you for being here. I'll
25 turn it over to you, and you can continue with

1 introductions.

2 And then the one thing we'll ask is
3 obviously folks can listen from home or wherever they
4 are, so as needed, you will need to move the microphones
5 and speak into the microphone, so thank you.

6 MS. EPLEY: Thank you.

7 Good morning. As you stated, my name is
8 Erin Epley. I'm the chief counsel and director for the
9 House Committee on General Investigating. I recently
10 returned to private practice. In March of this year, I
11 was a federal prosecutor with the United States
12 Attorney's Office in the Southern District of Texas.

13 Prior to joining that office, I worked in
14 private practice, and I also worked at the Harris County
15 District Attorney's Office for over nine years,
16 including -- or approximately nine years, including time
17 in the public integrity division.

18 CHAIRMAN MURR: And would you just tell
19 the committee which U.S. attorney hired you?

20 MS. EPLEY: Yes, Chairman. I was hired by
21 Ryan Patrick.

22 CHAIRMAN MURR: Thank you.

23 MS. EPLEY: For purposes of Matter A, I'm
24 one of a team of five. The team is seated beside me and
25 behind me. It's made up of attorneys and investigators

1 with experience in criminal matters specifically related
2 to public integrity. I would like for them to introduce
3 themselves.

4 MS. BUESS: Good morning. My name is
5 Terese Buess. I am a career criminal prosecutor. I
6 spent 25 years with the Harris County District
7 Attorney's Office handling cases all the way from
8 misdemeanor through the most serious felonies, capital
9 death penalty murder cases. I was twice chair -- not
10 chair but division chief of the public integrity
11 division handling crimes against elected officials and
12 public servants.

13 After my career in Harris County ended, I
14 went to Fort Bend County, and I worked under two
15 district attorneys there. The second one, I worked with
16 him to create their first public integrity division and
17 worked there for five years until my retirement.

18 Retirement didn't last very long. I've
19 done some additional work for Comal County as a special
20 prosecutor handling child abuse sex crime prosecutions,
21 which is another area of my specialty. And I'm here
22 today to assist with this investigation.

23 MR. DONNELLY: Good morning. My name is
24 Mark Donnelly. The past year and a half, I've been in
25 private practice. Prior to that I spent 20 years as a

1 prosecutor. My first eight years were with the Harris
2 County District Attorney's Office, and at various points
3 throughout that tenure, I worked with the incredible
4 women to my left and right in the public integrity
5 division.

6 After my eight years at the district
7 attorney's office, I went to the United States
8 Attorney's Office and served for 12 years as a United
9 States prosecutor for the Southern District of Texas.

10 At one point I was assigned to lead the
11 government fraud division, the white collar division.
12 I've worked in narcotics, gangs, various types of
13 prosecution, including white collar prosecutions.

14 Prior to leaving the United States
15 Attorney's Office, I spent approximately four years as
16 the executive assistant United States attorney and left
17 after serving approximately a year as the senior advisor
18 to the acting United States attorney for the Southern
19 District of Texas. Thank you.

20 MS. CAMERON: My name is Donna Cameron. I
21 was licensed to practice law in 1984, 35-year attorney.
22 I have worked 25 years initially in the Harris County
23 DA's Office. My specialties were public integrity and
24 also white collar along with criminal -- I mean, violent
25 crimes. I was the chief prosecutor over public

1 integrity and major fraud.

2 Additionally, I became first assistant in
3 Galveston County and handled all different cases,
4 including major fraud, public integrity matters.

5 Additionally, I've been a special
6 prosecutor in Montgomery County. So my experience has
7 primarily been prosecuting elected officials and public
8 servants and looking at major fraud cases.

9 CHAIRMAN MURR: And Ms. Cameron, when we
10 talk about your work and experience in Harris County,
11 would that add up over a period of eight different
12 district attorneys?

13 MS. CAMERON: Yes.

14 CHAIRMAN MURR: And I think I had asked
15 you that previously. Thank you.

16 MS. CAMERON: Right.

17 And I would like to introduce the two
18 gentlemen behind me. Dan McAnulty, who I've known since
19 the 80s, he was a -- I don't know did you rise to the
20 level of --

21 MR. McANULTY: Of captain.

22 MS. CAMERON: -- captain with HPD, and he
23 worked numerous cases there, very many high-profile
24 cases. We were lucky enough at the Harris County DA's
25 Office to get him into special crimes where he worked

1 another 20 years for us.

2 Additionally, he's done some investigative
3 work. He's come out of retirement. I got him to come
4 down to Galveston County to work a very complex fraud
5 case involving elected officials and that took him a
6 couple years.

7 And then we've got Brian Benken, who is --

8 MR. BENKEN: Good morning.

9 MS. CAMERON: -- a lawyer and an
10 investigator. So he started as a prosecutor with Harris
11 County DA's Office. He was there for eight years. He
12 then went on to become a defense attorney. He then did
13 defense practice until 1991. He became a licensed
14 investigator in 2000. And he has a practice in both
15 areas. He still works as an attorney, has a caseload,
16 and also assists as a investigator. Worked very many
17 high profile cases and especially in Galveston County.

18 MS. EPLEY: Thank you, Donna.

19 CHAIRMAN MURR: Thank you all for being
20 here this morning. And I'll just add, just adding up
21 the years of experience of your service to the public,
22 it's well over 120 years of legal experience sits in
23 front of us today, so thank you for being here. Please
24 continue.

25 MS. EPLEY: Thank you, Chairman.

1 I would emphasize that despite the fact
2 that you heard Harris County District Attorney's Office
3 linked to each and every person up here, our careers
4 have spanned such that there is not overlap in a
5 cohesive way in terms of work product or history. We
6 know and respect one another, and there has been some
7 overlap, but we function as a body here of independent
8 counselors and investigators with independent opinions
9 and a voice. However, we have a collective result to
10 offer to this -- to this House committee.

11 In regards to Matter A, Matter A relates
12 to the Office of the Attorney General. I will say "OAG"
13 for short, as obviously it will be used a number of
14 times over the next several hours.

15 Specifically Matter A relates to the
16 attorney general himself, Kenneth Paxton. General
17 Paxton is now and was at the time of all relevant events
18 the top law enforcement officer in the state of Texas.
19 His main responsibility by oath and per the OAG website
20 is to defend the state of Texas and its duly-elected
21 laws. This includes defending the state of Texas when a
22 state agency wrongfully terminates an employee.

23 The whistleblower lawsuit was filed in
24 2020. It was filed by four employees of OAG from the
25 year 2020, and it relates specifically and solely to the

1 actions of General Paxton. Government Code Title 5,
2 Chapter 554.002(a) states: A state or local government
3 entity may not suspend or terminate the employment of,
4 or take adverse personnel action against, a public
5 employee who in good faith reports a violation of law by
6 the employing governmental entity or another public
7 employee to an appropriate law enforcement authority.

8 So who are the whistleblowers? The
9 whistleblowers include David Maxwell. David Maxwell was
10 the director of law enforcement at OAG. He had an
11 illustrious career at DPS and the Texas Rangers from
12 1972 to 2010. He was hired by Greg Abbott, then
13 attorney general for the state of Texas, and served
14 under him from 2010 until 2016. He remained an
15 investigator and a high-level staff member at OAG under
16 Kenneth Paxton from 2016 until 2020.

17 Next, we have Ryan Vassar, deputy attorney
18 general for legal counsel. Ryan Vassar was recruited to
19 the OAG in 2015 under Attorney General Kenneth Paxton.

20 Next, we have Mark Penley. He was the
21 deputy attorney general for criminal justice. Mark
22 Penley was in the United States Air Force. He served
23 five years in active duty. He did 16 years of service
24 to the United States Attorney's Office in Dallas, and he
25 was sought out personally by General Paxton. He joined

1 the office in October of 2019.

2 Fourth whistleblower is James Blake
3 Brickman, deputy attorney general for policy and
4 strategy. He was a former chief of staff for a
5 Republican governor in Kentucky. He too was sought out
6 and hired by General Paxton.

7 General Paxton refers to these individuals
8 as political appointees, and I suppose that's true; but
9 they're his political appointees.

10 Based on interviews and a look at their
11 resumes, each of these four men is a conservative,
12 Republican civil servant. Interviews showed that they
13 wanted to be loyal to General Paxton, and they tried to
14 advise him well, often, and strongly. And when that
15 failed, each was fired after reporting General Paxton to
16 law enforcement.

17 A settlement was announced in that lawsuit
18 in February of this year. General Paxton agreed to
19 settle on three terms. First, he would apologize to the
20 whistleblowers for calling them rogue. Second, he would
21 publicly accept that these men acted as they thought was
22 right. And third, he agreed that the whistleblowers
23 would receive \$3.3 million.

24 There are additional results of a
25 settlement. A settlement avoids a trial. A settlement

1 also avoids discovery, the opportunity for both sides of
2 a lawsuit to receive evidence to support or to disprove
3 allegations. As a result of that settlement, neither
4 the terminated employees nor the state of Texas would
5 receive discovery and information related to those
6 charges.

7 This agreement was made prior to approval
8 from the Texas Legislature, yet the settlement obligates
9 the taxpayers of Texas, not General Paxton, to pay the
10 \$3.3 million for a settlement related to his actions.

11 So in mid March of this year, the House
12 Committee for General Investigating put together the
13 team of five you were just introduced to. The general
14 investigative committee empowered us to conduct an
15 inquiry. That inquiry was into the settlement itself,
16 the issues related to the lawsuit, and to make an
17 inquiry into the policies, procedures, and actions of
18 OAG in 2020. We were asked only to follow the evidence,
19 to make an independent objective inquiry. To that end,
20 to avoid any implication of credibility issues as to the
21 complainants, and frankly because it was outside of our
22 purview, we made it clear to every person we interviewed
23 that the question before us was not whether or not the
24 settlement should be funded. We did not have control
25 over that. We were asked not to prove and not to

1 disprove the allegations but to follow the evidence and
2 determine if there was a "there" there.

3 CHAIRMAN MURR: And just to summarize real
4 quick, so you just laid out to us the basis of the
5 whistleblower allegations and the litigation and the
6 fact that the Legislature was asked by a state official
7 to fund a multimillion dollar settlement into that
8 matter.

9 MS. EPLEY: That's correct, Mr. Chairman.

10 CHAIRMAN MURR: Okay. Thank you.

11 MS. EPLEY: You'll hear from several
12 members of the team today, but first I'd like to address
13 some housekeeping matters and provide you a general
14 outline.

15 The team has reviewed hundreds of pages of
16 records in order to make their presentation before you
17 today. That includes the plaintiffs' amended petition,
18 which just means the allegations as laid out by the
19 plaintiffs, those civil servants who were fired, what
20 they allege happened. We looked at codes, laws, court
21 filings, and the settlement itself. We've reviewed
22 emails, notes, reports, organizational charts, and
23 timelines. We've looked at a draft employment contract,
24 City of Austin permitting department records, or the
25 absence thereof, the state board of Texas records, Texas

1 Ethics Commission records, Texas State Security Board
2 records, and campaign donations. We have reviewed
3 complaints of criminal activity, depositions, and
4 opinion letters. We have reviewed grand jury subpoenas.

5 We have also reviewed in detail what we
6 have come to refer to as the OAG report. This document
7 is about 370 pages in length. It was posted on the OAG
8 website in the fall of 2020 almost immediately after
9 these events. It's a formalized response from General
10 Paxton and his office regarding the whistleblower
11 allegations of wrongdoing. That report references a
12 commitment for ongoing investigation and
13 supplementation. To date, there have been no amendments
14 and no supplements to that response.

15 This team also conducted three -- excuse
16 me. This team also conducted 15 interviews of people
17 directly involved and many additional conversations to
18 provide context and to provide background.

19 We've interviewed the whistleblowers:
20 David Maxwell, Ryan Vassar, Mark Penley, and Blake
21 Brickman. We've interviewed Josh Godbey, who worked in
22 the open records division, five senior or high-access
23 employees with OAG in 2020.

24 As a caveat I would make the request that
25 you not inquire as to the first and last names of these

1 individuals at this time. They did not put themselves
2 into a public forum. They did not participate in a
3 whistleblower lawsuit. And to have their information in
4 the public opens them up to pressure, political
5 ridicule, harassment. It also has a chilling effect on
6 witnesses going forward.

7 To that end, I will tell you that without
8 exception -- that's not true. I will tell you out of
9 the 15 employees, only one did not express grave
10 concerns as to hostility or aggression in regards to
11 their conversations with us and fears of retaliation.

12 CHAIRMAN MURR: Would you just clarify
13 that again? You said of nearly every single person that
14 your team interviewed as part of this process, that
15 nearly every single person expressed fear and concern
16 about retaliation from Ken Paxton?

17 MS. EPLEY: Independently, based on their
18 own knowledge of the facts and circumstances leading up
19 to their presence in our office or on the phone, that is
20 absolutely accurate.

21 CHAIRMAN MURR: Thank you.

22 MS. EPLEY: We also interviewed Margaret
23 Moore. She was the elected district attorney in the
24 Travis County District Attorney's Office in 2020; Don
25 Clemmer, chief -- excuse me -- chief of special

1 prosecution at the Travis County District Attorney's
2 Office in 2020; Gregg Cox, previous director of public
3 integrity at the Travis County District Attorney's
4 Office.

5 You'll hear that Mr. Cox also returned to
6 the Travis County District Attorney's Office to look
7 into a bribery investigation involving Kenneth Paxton
8 after the whistleblower allegation.

9 We interviewed Ray Chester, an attorney
10 with the Mitte Foundation, a charitable organization
11 that functions here in the state of Texas and that the
12 attorney general's office would have an obligation to
13 protect.

14 Brian Wice, special prosecutor in regards
15 to the security fraud cases, and various attorneys on
16 related matters, various state agencies.

17 By way of an outline, we will first
18 address the concerns as expressed by the whistleblowers,
19 in the suit and in person, as well as concerns from
20 other senior staff who are involved in these events.

21 Next, we'll discuss the current felony
22 indictment pending against General Paxton. That case is
23 still pending after being filed in 2015 and as we all
24 know relates to the security fraud issues.

25 Third, we'll discuss the whistleblower

1 lawsuit itself. The lawsuit has four primary
2 allegations, each from different divisions of the
3 office, each, at least at the beginning, involving
4 separate people from one another and all in the exact
5 same time frame of 2020.

6 Allegation 1 is that General Paxton
7 directed actions against a charitable organization in
8 Texas -- that charity is the Mitte Foundation -- and
9 that these actions were to benefit a donor.

10 CHAIRMAN MURR: Would you spell Mitte?

11 MS. EPLEY: Yes, Chairman. M-I-T-T-E.

12 CHAIRMAN MURR: Thank you.

13 MS. EPLEY: Allegation 2 is that General
14 Paxton directed actions against the standard law
15 enforcement protection afforded to ongoing
16 investigations. He did this to benefit the same donor.

17 Allegation 3 is that General Paxton
18 directed action outside of law enforcement protocol and
19 investigation on baseless allegations that the
20 investigation was done by a person outside the Office of
21 the Attorney General and supervision there, save one
22 that they reported to Attorney General Ken Paxton; that
23 this investigation was outside the Office of the
24 Attorney General's jurisdiction, and that resulted in
25 unlawful actions for the benefit of the same donor.

1 Finally, we will speak to the big picture,
2 how this all fits together, and how it was resolved.
3 We'll take a look not just at the individual actions but
4 at the overall context in which it occurred. I ask that
5 we look at the pattern and deviations from the norm,
6 questions not just of criminal activity but also of
7 ethical impropriety and transparent or in -- not -- or
8 lacking transparency of action. I'd ask that you
9 consider who benefits.

10 We'll address the retaliation by General
11 Paxton towards those that acted as they believed was
12 right. The interviews suggest and the settlement
13 implies that they made a report they believed was
14 necessary, ethically required, and legally obligated to
15 make. And they were fired.

16 Finally, we will provide a sample of the
17 statements from the Office of the Attorney General
18 report that interviews and documents suggest are false
19 or misleading.

20 That brings us to the first piece,
21 concerns of the whistleblowers and other staff related
22 to General Paxton in 2020.

23 As any lawyer will tell you, motive is not
24 something that we're often required to prove in court.
25 How can you know why another person has done what

1 they've done? That said, our focus was on the
2 whistleblower allegations in regards to wrongdoing at
3 the Office of the Attorney General and in regards to
4 General Paxton. We would be remiss not to inquire into
5 the current concerns as articulated by those employees
6 and questions as to the concern and context for what
7 happened.

8 This team's goal was not to judge the
9 personal life of another, especially in this forum, but
10 our role was also not to ignore pressure points,
11 opportunities for compromise, and places where benefit
12 could be derived.

13 All four allegations made by the
14 whistleblower revolve around a person named Nate Paul.
15 He is the donor I referenced in Allegations 1, 2, 3, and
16 4.

17 So who is Nate Paul? Nate Paul is an
18 Austin real estate developer and the CEO of a company
19 called World Class Holdings, World Class Capital, and
20 various iterations of the same. As context, in 2017 a
21 Forbes article estimated that Paul's portfolio of
22 commercial properties was worth over \$800 million. It
23 is possible that that number was overstated.

24 By 2019, the Austin Business Journal
25 reported at least 18 of Paul's companies had declared

1 bankruptcy. By 2019, Nate Paul was entangled in
2 lawsuits and facing as many as 13 foreclosures by 2020.
3 A great deal of that information is available at a
4 Google search at the time of these relevant events, and
5 you will hear that various staff members inquire as to
6 who Nate Paul is and are able to locate information
7 similar to what I have just described to you.

8 Second, Nate Paul contributed \$25,000 to
9 General Paxton's campaign fund in October of 2018.
10 Emails and interviews established that Paul and the
11 Mitte Foundation were headed towards litigation.
12 Portions of the OAG report speculate as to how could
13 Nate Paul possibly have known he was going to end up in
14 litigation. Ms. Buess will talk to this in more detail,
15 but there is an absolute overlap in regards to the
16 direction they're headed and the likelihood for
17 litigation when that donation is made.

18 The OAG must, by law, be notified when any
19 lawsuit impacts a charitable trust, and they were. By
20 December of 2018, Mitte had sued World Class Holdings
21 and Nate Paul. In August of 2019, a search warrant is
22 executed. A criminal search warrant is executed by DPS
23 and the FBI on property belonging to Nate Paul.

24 In the spring of 2020, an executive staff
25 member was notified that General Paxton was bypassing

1 security detail. Instead of using that security detail
2 to come and go for meetings, they would -- he would use
3 a staffer. Additionally, they were notified that
4 Attorney General Paxton would leave meetings off his
5 schedule entirely. The second time this happened, the
6 staffer was asked who General Paxton was meeting with,
7 and the answer was Nate Paul. There were several
8 lunches with the young staffer present between General
9 Paxton and Nate Paul in 2020.

10 The lawsuit also referenced that General
11 Paxton was having an affair and that by 2020, the woman
12 was working for Nate Paul. The inquiry developed
13 evidence, conversations that were overheard, as well as
14 conversations directly with General Paxton that support
15 that an affair was known to staff. I do not say this to
16 sully but to provide context because the woman ends up
17 working for Nate Paul.

18 The affair was not public. There was a
19 desire to keep it private, according to these
20 interviews, and the interviews establish that now
21 Senator Angela Paxton learned of the affair in 2019,
22 that the affair ended briefly, but then it resumed and
23 was underway again by 2020. A deposition of Nate Paul
24 in regards to the Mitte lawsuit also establishes that
25 Paul met the woman through General Paxton.

1 Nate Paul admitted that she worked for one
2 of his companies. However, he did not know how much she
3 was paid and could not identify a single specific
4 project that she worked on.

5 In addition, General Paxton's home was
6 renovated in 2020. Interviews from people who were
7 present at the house and those who corroborate the
8 timing of those original events establish the following:
9 There was water damage in the home that caused a need
10 for repairs. That repair progressed into a full
11 renovation of the home, floors to ceiling.

12 An OAG employee was present for at least
13 two conversations in which General Paxton indicated that
14 he would like upgrades to the home. One conversation
15 was specific to granite countertops. General Paxton
16 relays that now Senator Angela Paxton did not like the
17 counters and wanted to change them. The contractor
18 advises that that upgrade will cost \$20,000. General
19 Paxton indicates that he'd like to proceed, and the
20 contractor, according to the employee there's response
21 was "I'll have to check with Nate."

22 Not alleged by the whistleblowers, but on
23 the same theme, an inquiry found evidence of a
24 dereliction of duty and of a lack of transparency,
25 specifically a failure to disclose information that

1 General Paxton had a duty to disclose.

2 The Texas Ethics Commission is responsible
3 for collecting information that the state of Texas has
4 determined relevant in regards to transparency for
5 public officials. The Texas Ethics Commission records
6 establish that General Paxton had failed to report his
7 connection to boards and his receipt of various gifts.
8 General Paxton has supplemented or amended filings for
9 failure to disclose once those discoveries were made by
10 other parties.

11 The failure to register -- excuse me --
12 the failure to register and securities fraud will be
13 covered as well, but for context, those are related to
14 an additional donation made to General Paxton.

15 Once the securities fraud cases are
16 charged and because they predated his time as attorney
17 general, campaign funds cannot be used for that defense.
18 So attorney general -- Attorney General Paxton creates a
19 defense fund.

20 VICE CHAIRMAN JOHNSON: Ms. Epley, may I
21 ask a question? You said there was another donation,
22 and you said it was related to another amount of money.
23 Is this another amount of money to General Paxton from
24 Nate Paul or from somebody else?

25 MS. EPLEY: Thank you, Vice Chairman. It

1 is a \$100,000 donation -- excuse me -- from another
2 donor specifically to his defense fund, not Nate Paul.

3 The contribution was made to the defense
4 fund in the amount of a hundred thousand dollars. The
5 donor in question was under investigation by state and
6 federal authorities. Attorney General Ken Paxton did
7 not -- he did not decline based on a conflict of
8 interest. General Paxton did not report the donation as
9 required. He later explained there was no duty to
10 report because it was a gift. So the question is: Was
11 there a conflict of interest?

12 That donor later settled litigation. They
13 agreed to pay \$3.5 million on allegations that they
14 improperly billed the state government for Medicaid and
15 Medicare services performed without the appropriate
16 medical supervision, violating state laws according to
17 the United States Attorney's Office for the Northern
18 District of Texas.

19 What's significant here is that the
20 attorney general, as the head of the Office of the
21 Attorney General, and the primary defender of the state
22 of Texas would be involved in that litigation. That
23 investigation began in 2009; therefore, these events
24 were ongoing when the \$100,000 donation was received.

25 That brings us to the securities fraud.

1 Background will be helpful here to help explain why a
2 person in an attorney general's position would
3 understand the law and why his actions are alleged to be
4 a violation of the law.

5 As most prosecutors will tell you, or any
6 prosecutor will tell you, ignorance of the law is not a
7 defense, but I do think -- we collectively think that
8 it's important to look into what General Paxton knew
9 about securities regulation.

10 First, General Paxton graduated from law
11 school in 1991. On August 1 of 2001, General Paxton set
12 for an exam, as required by the state of Texas in
13 regards to security, as regard for his license, and he
14 needed to have a passing grade. Passing grade is 70.
15 General Paxton's score was 92.

16 In 2002 General Paxton was elected to this
17 body, the House of Representatives. And on May 1 of
18 2003, then Representative Paxton was able to vote for
19 Senate Bill 1060.

20 What is Senate Bill 1060? It's a bill
21 that makes it a felony for a person to render services
22 as an investment advisor or investment advisor
23 representative without being registered. This bill
24 protects transparent -- excuse me. This bill protects
25 transparency in the market, provides an understanding of

1 a salesman or investor representative advisor's motive,
2 and protects the public trust in the market. Kenneth
3 Paxton voted on that bill.

4 In July of 2003, Attorney General Paxton
5 registers as an advisor representative indicating
6 knowledge of the law and its requirements. He did this
7 in regards to a company that would later become known as
8 Mowery Capital, but when Paxton's registration ends in
9 December of 2004, evidence suggests that he continues to
10 work as an investment advisor representative. That is
11 to say that General Paxton solicits investors for Mowery
12 without registering with the state board.

13 The relationship is that in exchange for
14 bringing investors to the business, General Paxton
15 receives 30 percent of the management fees for his
16 referrals of investors in regards to the stock. That is
17 legal and perfectly fine. The law simply requires or
18 expects a duty of disclosure. Here the problem is,
19 General Paxton did not tell the investors about the
20 relationship and he did not tell the Texas State
21 Securities Board. Interviews and records establish this
22 happened in 2004, in 2005, and in 2012.

23 Interviews and records also indicate that
24 General Paxton did not disclose the income on his taxes
25 nor report the connection to the Texas Ethics Commission

1 as required as a state representative. These issues
2 were not corrected nor addressed by General Paxton until
3 after a journalist uncovered the issues.

4 There is evidence that in the spring of
5 2014 an investigative reporter poses questions to the
6 Texas State Securities Board about General Paxton's
7 relationship with Mowery, about a failure to register,
8 and about fee-sharing. The reporter provides the Texas
9 State Securities Board with a lawsuit from 2009. That
10 lawsuit was against Attorney General Ken Paxton where
11 investors complained of the very situation I just
12 explained to you, acting as an investment advisor with a
13 fee-sharing relationship without making disclosure and
14 without registering.

15 Soon after questions are posed to the
16 government agency, General Paxton's attorneys arrive or
17 address the Texas State Securities Board in regards to
18 General Paxton and in regards to Mowery Capital. By the
19 time the Texas State Securities Board addresses the
20 matter, the statute of limitations has passed.

21 The statute of limitations is a limitation
22 on prosecution. If a statute has run, prosecutors are
23 unable to proceed with criminal charges regardless of
24 how valid the meeting of those elements or the proof in
25 that case might be.

1 General Paxton has admitted that he had a
2 duty to register and did not meet that duty in regards
3 to the 2012 events. He agreed to a reprimand from the
4 Texas State Security Board and paid a thousand dollars.

5 There are options for people to proceed
6 under purely administrative functions or criminal
7 charges. The question that would be relevant to most
8 prosecutors would be: Did you know better? A formal
9 complaint was then sent to the Travis County District
10 Attorney's Office.

11 At this time a second company is relevant
12 in regards to an investigation into General Paxton and
13 securities fraud. While still in the House of
14 Representatives, Paxton became affiliated with a company
15 called Servergy. The CEO of that company had donated to
16 Paxton's campaign, and by 2011, the two men decided to
17 do business together.

18 In July of 2011, the CEO of Servergy
19 offers General Paxton a 10 percent commission. It's
20 perfectly lawful. The 10 percent commission is on stock
21 sold, and the email response of General Paxton is, "I'll
22 get to work."

23 On July 22 of 2011, Paxton brought seven
24 people into the Servergy office, potential investors
25 willing to contribute their money if it looked like a

1 good deal.

2 General Paxton also had five more
3 investors contacted for a sales pitch by telephone or
4 email that same day, 11 days after saying he would get
5 to work.

6 There are allegations that Representative
7 Paxton used pressure tactics to sell the stock; for
8 example, that he called a potential investor late at
9 night he wanted -- who had passed on the opportunity.
10 General Paxton calls. The purpose is to try to get this
11 individual to invest, to change his mind. And General
12 Paxton tells him that he expects the prices are about to
13 go up.

14 There are allegations that General Paxton
15 was included in conversations or emails where the
16 company made misleading or false statements in order to
17 induce potential investors.

18 Representative Paxton was successful in
19 recruiting investors. SEC filings show that Paxton sold
20 \$840,000 worth of stock in Servergy in a month. Per the
21 terms of that prior addressed email, that would be a
22 Commission of \$84,000.

23 On August 5, 2011, General Paxton received
24 100,000 shares of stock valued at \$100,000 from the CEO
25 of Servergy. That is okay and perfectly legal.

1 But these facts, according to the special
2 prosecutors, are material to investors. And Attorney
3 General Paxton failed to disclose that he would be
4 compensated by Servergy in the form of a hundred
5 thousand shares of Servergy stock and that the defendant
6 Kenneth -- Attorney General Paxton had not and was not
7 investing his own funds in Servergy, Incorporated.

8 CHAIRMAN MURR: Ms. Epley, can I interrupt
9 you? Just a summation. So you just told us -- and I
10 don't want to dwell on it because y'all have a lot of
11 material, but you just told us that there were multiple
12 instances that now the statute has passed where
13 Mr. Paxton did not register with the State Securities
14 Board, actually acknowledged that, paid a fine, and then
15 turned around and proceeded to continue with the same
16 pattern of behavior of not registering and interacting
17 in those transactions for personal gain?

18 MS. EPLEY: Yes. I would -- one
19 qualifier. There's evidence that he did this in 2004
20 and 2005, was put on notice of the violation in 2009
21 because of a lawsuit, and did it again in 2012.

22 CHAIRMAN MURR: Okay. Thank you.

23 MS. EPLEY: Yes.

24 The question here is whether or not it was
25 a gift. If it was a gift, there are different

1 disclosure requirements. The argument in regards to the
2 prosecution is that it was a commission. So what is a
3 commission, and was there an agreement?

4 There was a written agreement signed by
5 General Paxton which provided that shares, or an
6 ownership interest in the business, would be provided in
7 exchange for, quote, services. General Paxton later
8 says the stock was a gift. Did not report that to the
9 Texas Ethics Commission as a gift.

10 Also, the storyline, though, in regards to
11 the difference between a commission and a gift, or the
12 version of facts put forth, is that General Paxton met
13 the CEO at a Dairy Queen. He intended to pay for and to
14 buy the stock, the 100,000 shares; however, the CEO
15 stated that God had directed him to give the stock to
16 Attorney General Paxton, therefore substantiating that
17 it was, in fact, a gift. However, Servergy documents
18 created at or after the issuance of the stock indicate
19 that the stock was again for, quote, services.

20 That brings us to the Travis County
21 District Attorney's Office and the referral mentioned
22 earlier.

23 ADA Gregg Cox was the division chief over
24 public integrity. He reviewed the allegation --
25 allegations and charted a path forward. ADA Cox met

1 with law enforcement, reviewed the documents, and
2 determined that there was sufficient evidence to proceed
3 with the charges.

4 ADA Cox had a belief that he could prove
5 the elements of this offense beyond a reasonable doubt.
6 However, a change in state law meant that Travis County
7 could not prosecute the offense. The law required that
8 it be prosecuted, if at all, in Attorney General Ken
9 Paxton's home county. That is Collin County. So a
10 referral was made to that venue.

11 In January of 2015, the same month that
12 General Paxton was sworn in as attorney general, the
13 case was referred to Collin County. By then, General
14 Paxton was not only the chief law enforcement officer,
15 he was also friends and business partners with the
16 elected DA in that jurisdiction. The Collin County DA
17 appropriately recused himself; that is, he said that
18 someone else needed to prosecute the case because of his
19 connections to Attorney General Paxton. It's for this
20 reason that in 2015, special prosecutors Kent Schaffer
21 and Brian Wice were appointed to represent the state of
22 Texas.

23 An indictment was filed in July of 2015
24 and later amended. There are three counts currently
25 pending against Attorney General Ken Paxton, two for

1 securities fraud in regards to Servergy. That is the
2 failure to disclose material information to investors.
3 It is a first-degree felony, and it carries a punishment
4 range of 5 to 99 years or life.

5 I recently learned that one of the
6 complaining witnesses in that case has passed away. The
7 state of Texas can and will decide how to proceed in
8 regards to those matters, but I would point out to this
9 body there were other individuals who could have been
10 listed as the complainants on those cases because it
11 wasn't done at the time -- again, the statute of
12 limitations has run, but it doesn't change the
13 underlying facts of what we're explaining to you.

14 Count 3 is failure to register. This is
15 in regards to Mowery Capital. There's a failure to
16 notify the Texas State Securities Board the 30 percent
17 management fee discussion. The punishment range on the
18 third-degree felony is two to 20 years in prison. Those
19 cases are still pending eight years later.

20 CHAIRMAN MURR: Well, whoa. Those cases
21 are pending eight years later. Could you explain to
22 this committee just briefly why those cases are still
23 pending eight years later?

24 MS. EPLEY: Yes, Chairman, I can make an
25 attempt to do that.

1 If you look at the case filings in regards
2 to the securities fraud, it is clear that the defense
3 makes many filings. A defense attorney's job is to
4 zealously advocate for their client, and in no way am I
5 besmirching them for having made the filings; but each
6 one of those filings creates the need for a response, if
7 any, a potential hearing and a ruling, and they come one
8 after another.

9 Of particular interest are two different
10 lawsuits. Those are not by defendant or his counsel.
11 But information suggests that a donor and friend of
12 Attorney General Ken Paxton is responsible for a lawsuit
13 challenging the fees paid to the special prosecutors.
14 Those issues are still outstanding.

15 CHAIRMAN MURR: Was there also some
16 challenges with venue and they moved the venue back and
17 forth from a couple of different counties?

18 MS. EPLEY: Yes, Chairman. If I were to
19 recap that situation, the investigation begins in Travis
20 County, who does not have venue. It's not proper to
21 prosecute there, so it is sent to Collin County. The
22 Collin County District Attorney recuses himself, says
23 that they shouldn't proceed, and special prosecutors are
24 appointed.

25 Documents would show and conversations

1 show that the special prosecutors believe they cannot
2 get a fair trial in Collin County given General Paxton's
3 connections there, and they move for a change of venue
4 to Harris County. That is granted. It proceeds.
5 Litigation is filed again saying that venue is proper
6 back in Collin County. That is ultimately granted, case
7 is returned to Collin County, and then additional
8 litigation in regards to the fact that special
9 prosecutors still believe the proper venue is Harris
10 County. Both those issues, venue and payment, are
11 pending before the Court of Criminal Appeals.

12 CHAIRMAN MURR: So the issue has always
13 been about payment and venue, and they haven't ever had
14 an opportunity to get to those facts in those cases?

15 MS. EPLEY: That's -- yes.

16 CHAIRMAN MURR: And more succinctly,
17 Mr. Paxton has never testified or offered deposition
18 testimony or other sworn testimony in eight years of
19 those litigated matters?

20 MS. EPLEY: That's correct.

21 CHAIRMAN MURR: Okay.

22 MS. EPLEY: And next I would turn it over
23 to Terese Buess.

24 MS. BUCESS: Thank you, Ms. Epley.

25 We're going to now move to the

1 whistleblower complaints, the allegations that they
2 made. I'm going to cover the first two of those. The
3 first one is the open records request.

4 And I know that all of you, as people that
5 work within government, are familiar with the
6 requirements of the Texas Public Information Act, which
7 is Government Code Chapter 552, and the fact that the
8 Office of the Attorney General is the agency tasked with
9 the responsibility of determining ultimately what
10 information has to be turned over.

11 So we all know typically we'll receive a
12 request for particular information. If it's something
13 that we, as government employees or agency affiliated
14 folks, don't want to turn over for various reasons, all
15 of that information gets bundled up and sent to the
16 Office of Attorney General. There are strict timelines
17 that apply to getting that information to the OAG. The
18 OAG is under guidelines as far as a time frame for their
19 response back.

20 There -- the OAG receives over 30,000
21 requests annually to make determinations as to whether
22 information has to be released or if it falls within one
23 of the statutory exceptions for disclosure. And the
24 reason we do that in the government is we want one
25 entity to be responsible for maintaining uniformity in

1 the application of the Public Information Act.

2 One standard exception to the requirement
3 for transparency in government is the law enforcement
4 exception. It shields information that is developed and
5 held by law enforcement agencies or prosecutors. It
6 deals with the detection, the investigation, or
7 prosecution of crime, and that release of information
8 would interfere with the detection, investigation, or
9 prosecution of criminal activities. Obviously, law
10 enforcement agencies working on these kinds of things
11 don't want the targets of their investigations to know
12 what they know.

13 In December of 2019, General Paxton asked
14 his deputy attorney general for legal counsel about a
15 disputed open records request that had come from a
16 Dallas law firm on behalf of Nate Paul. The Texas State
17 Securities Board, in cooperation with the FBI, DPS, and
18 other federal and state law enforcement officials, had
19 executed search warrants at the businesses and the
20 residence of Nate Paul in August of 2019. Paul wanted
21 access to the search warrant affidavit of proximate
22 cause.

23 There's two sets of paperwork when we talk
24 about a search warrant. There's the general form that's
25 handed to a person when you're entering their home, and

1 then there's what we call the affidavit of probable
2 cause. It contains all the details, the facts, the
3 information that's been developed that is presented to a
4 judge, a magistrate, for signature for authorization for
5 that search, and it contains all of the details to get
6 us to that front door. Paul wanted access to that
7 information, but it was under court seal, and it fell
8 under the law enforcement exception under 552.108 of the
9 Government Code.

10 So Attorney General Paxton brought that
11 file to his deputy attorney general for legal counsel.
12 He asked him to look into it. General Paxton told him
13 he thought it was unfair that Nate Paul could not have
14 access to his own search warrant information. He stated
15 that he too had experienced unfair treatment from law
16 enforcement.

17 The deputy Googled Nate Paul, because he
18 was curious why the interest in this, and he realized
19 that he was under investigation from the FBI. He read
20 about the execution of the search warrants. He also saw
21 that Nate Paul's businesses had multiple bankruptcies,
22 and he was concerned.

23 The deputy told us that normally when
24 General Paxton was provided with a well-thought-out
25 explanation with legal precedent, he did not push back;

1 but this time, he was not happy with the determination
2 that the records should not be released.

3 He asked for a copy of the open records
4 handbook. That's something that's online and available
5 for anyone to take a look at. He also had a lengthy
6 meeting with the open records chief. Ultimately, the
7 determination was made not to release those records,
8 which was the correct one under the law.

9 While it was not uncommon for General
10 Paxton to ask about an opinion, this was the first time
11 that he had ever taken such a directive interest in an
12 open records request file, according to this deputy.
13 There would be two more times, each involving the same
14 type of information underlying the search warrants that
15 were executed in Nate Paul's businesses and property and
16 which pertained to that ongoing criminal investigation.

17 In March of 2020, Attorney General Paxton
18 requested that Ryan Vassar, then the new deputy attorney
19 general for legal counsel -- he was over the open
20 records division -- he asked that he obtain a particular
21 open records file. It was a request that had been made
22 to DPS for their records concerning the search of Nate
23 Paul's properties. I'm going to call this the second
24 request.

25 The FBI, since their information was also

1 contained within the DPS records, also filed a joint
2 request not to have that information released because
3 their investigation was still ongoing. So both DPS and
4 the FBI sought to shield from disclosure any of that
5 information that's -- and they provided unredacted
6 copies of what they wanted shielded as a part of that
7 process. As part of that process, a redacted copy of
8 that information is sent to the requestor.

9 Over the course of several meetings
10 concerning this matter, Vassar informed General Paxton
11 that the law enforcement exception was pretty black and
12 white, and the documents were not subject to disclosure.
13 To release them was going to violate the terms of the
14 law and years and years of legal precedent, it was going
15 to force law enforcement agencies to sue to try to
16 protect upcoming information, and it would also impact
17 the attorney general's -- the Office of the Attorney
18 General, which on its own also has some responsibilities
19 for conducting criminal investigations in certain areas
20 as well.

21 General Paxton told him that he had spoken
22 with Nate Paul and that he was being railroaded. He
23 said he did not want to use his office, the OAG, to help
24 the feds or DPS.

25 CHAIRMAN MURR: Wait. Hate to interrupt

1 you. Did you just state -- I want to be very clear --
2 that the attorney general for the state of Texas said he
3 did not want to use his office to help law enforcement?

4 MS. BUESS: That is exactly what was
5 relayed to us.

6 CHAIRMAN MURR: Okay.

7 MS. BUESS: At a subsequent meeting
8 concerning the second open records request, General
9 Paxton requested that file from Vassar, and the full
10 file was handed over to the attorney general's aide to
11 deliver to him. Paxton maintained control and custody
12 of that file for seven to ten days, and that file
13 included the unredacted documents.

14 Ultimately, General Paxton ordered that
15 his office make a ruling of no decision concerning that
16 second request. That was issued on June 2 of 2020.
17 That type of a position had not been taken since the
18 1980s. Very unusual.

19 There was a --

20 MEMBER GEREN: Mr. Chairman?

21 As the only nonlawyer up here, would you
22 explain to me what the no decision means, please?

23 MS. BUESS: It means that the attorney
24 general's office did not state -- it did not abide by
25 the exception that's provided in the law of that law

1 enforcement exception. They didn't go there, but they
2 also didn't order the disclosure. They basically took a
3 neutral position of nothing.

4 MEMBER GEREN: Okay. Thank you, ma'am.

5 CHAIRMAN MURR: And, Ms. Buess, I want to
6 clarify: You explained to us earlier that about 30,000
7 of these requests for determinations come in annually
8 through -- to the OAG?

9 MS. BUESS: That's a very conservative
10 estimate, yes, sir.

11 CHAIRMAN MURR: And out of 30,000 of them,
12 for the first time in decades, this ruling was made.

13 MS. BUESS: That's correct.

14 CHAIRMAN MURR: Thank you.

15 MS. BUESS: Also, of those 30,000, it was
16 not unusual for Attorney General Paxton to ask about an
17 opinion but not to be this involved in it.

18 There was a third open records request
19 that was received in late May of 2020 from Nate Paul's
20 attorney. It was made directly to the Office of
21 Attorney General itself. They were now in possession of
22 that FBI brief, and this third request wanted an
23 unredacted copy of that brief that had been filed by the
24 FBI in the second open records request.

25 The FBI was notified of the request being

1 made. They did not respond within the required time
2 frame. However, despite that, the attorney general's
3 office could have fallen back to that law enforcement
4 exception and denied that information. Vassar was
5 ordered to find a way to get it out, and ultimately that
6 was done. The Attorney General Paxton said to him, "We
7 are not helping them," the FBI.

8 During the summer of 2020, General
9 Paxton's aide was asked to deliver a manila envelope
10 concerning several sheets of paper to Nate Paul at his
11 business in Austin.

12 I want to go back for just a moment to
13 that second request. Not taking a position at all is
14 still a decision because that requestor is not going to
15 get the records, not without an appeal, and that appeal
16 actually goes to a district court.

17 That did not happen. The executive staff
18 reasoned and told us they believed that there would be
19 no need to follow up if you already have the information
20 that you are trying to get.

21 Two issues of concern were raised in this
22 particular arena of the open records request. First is
23 the fact that Attorney General Paxton, the person who's
24 charged with uniformly applying the law of the Public
25 Information Act, was pushing his staff to ignore the law

1 and legal precedent, and that would have thrown all of
2 law enforcement into unsure territory, including his own
3 office, all to obtain the information sought by his
4 friend and political donor, Nate Paul.

5 And secondly --

6 VICE CHAIRMAN JOHNSON: Go ahead.

7 MS. BUESS: -- secondly, the directing of
8 his office staff to not assist the feds or DPS is not a
9 tenable position for the top law enforcement officer of
10 Texas.

11 CHAIRMAN MURR: Vice Chair Johnson has a
12 question.

13 VICE CHAIRMAN JOHNSON: Is there any
14 indication -- I know you've talked about this envelope,
15 this -- in that envelope, staff confirms that it's the
16 unredacted version of the FBI search warrant into Nate
17 Paul?

18 MS. BUESS: We don't know what was in that
19 envelope.

20 VICE CHAIRMAN JOHNSON: Okay. Is there
21 any indication or is there any connection of how
22 Mr. Paul could have gotten access to that information?

23 MS. BUESS: We know that the file was
24 delivered to the Attorney General Paxton. We know that
25 he had it for a period of time. We know that during the

1 summer of 2020 that that was -- that -- that an
2 envelope, a manila envelope, was delivered, and we also
3 know that that was the first time the aide had done
4 that.

5 VICE CHAIRMAN JOHNSON: The aide delivered
6 the manila envelope to who?

7 MS. BUESS: To Nate Paul.

8 VICE CHAIRMAN JOHNSON: So a staff
9 person -- so Ken Paxton asked an aide to take a manila
10 envelope and give it to Nate Paul?

11 MS. BUESS: That's correct. And it was
12 delivered at his business here in Austin, directly to
13 Nate Paul.

14 VICE CHAIRMAN JOHNSON: And then after
15 that manila envelope is delivered to Nate Paul, Nate
16 Paul's lawyer stop asking for the FBI information into
17 the search warrants?

18 MS. BUESS: That's correct.

19 Any other questions concerning open
20 records?

21 CHAIRMAN MURR: Chairman Longoria.

22 MEMBER LONGORIA: I may have missed it,
23 but is there any when and where it was dropped off? I
24 guess you mentioned it was Nate Paul's office, but was
25 it like during business hours, you know, Monday through

1 Friday, 8:00 to 5:00? Was it on a weekend? I mean, any
2 clarification on that?

3 MS. BUESS: All I know it was during the
4 daytime, and it was to his business.

5 MEMBER LONGORIA: Okay.

6 MS. BUESS: Across from the governor's
7 mansion.

8 VICE CHAIRMAN JOHNSON: Was this normal
9 activity, or did the staffer think that this was
10 abnormal?

11 MS. BUESS: This particular delivery was
12 abnormal enough that it was discussed with his
13 supervisor at the time.

14 VICE CHAIRMAN JOHNSON: And what happened
15 with that discussion with the supervisor?

16 MS. BUESS: It was information that kind
17 of percolated as part of the unusual things that were
18 happening in 2020.

19 VICE CHAIRMAN JOHNSON: Thank you.

20 MS. BUESS: The next item I'm going to
21 discuss concerns the Mitte Foundation lawsuit.

22 Under the property code, the Legislature
23 provides that state government should aid Texas
24 charitable organizations that are in need. That policy
25 designated the attorney general shall represent the

1 public interest in charitable organizations and is
2 authorized to act to protect that interest.

3 There's a financial litigation and
4 charitable trust division within the OAG. They receive
5 notice of litigation involving nonprofit charitable
6 organizations. And there are attorneys within that
7 division that review the situation for each of those to
8 determine if the charity is capable of handling the
9 lawsuit or if they -- their interests need to be
10 protected, and in those situations, the Office of the
11 Attorney General intervenes and assists or supervises.

12 In a typical year, there may be hundreds
13 of notices, and of those, only two dozen might warrant
14 the time and investment of the Office of the Attorney
15 General.

16 The Roy F. and Joann Cole Mitte Foundation
17 was created in 1998 to promote historical, cultural,
18 educational, and family activities in and around the
19 Dean Porter Park in Brownsville. They initially awarded
20 cash scholarships to high school graduates to go onto
21 college expenses. They have built a library and most
22 recently have become involved in developing the
23 Brownsville cultural district.

24 In 2009 the OAG had been involved in an
25 investigation concerning the Mitte Foundation when it

1 learned that one of its board members had been arrested
2 for a second possession of controlled substance case.
3 Part of their investigation uncovered several financial
4 improprieties, and that board member was removed. Since
5 then there have been no issues with the Mitte Foundation
6 that anyone was aware of.

7 In 2011 the Mitte Foundation invested
8 about \$3 million with World Class Holdings, a company
9 owned by Nate Paul. And I'm going to -- I refer to it
10 as one. It's actually multiple entities and subgroups
11 within that. They were involved as limited partners.
12 The commercial properties involved in the partnership
13 had been scheduled to be sold, and in the 2010s, that
14 failed to happen.

15 When the Mitte Foundation asked to view
16 the partnership books, which they were legally entitled
17 to do, Nate Paul refused.

18 Litigation began in December of 2018.
19 There eventually was an agreed settlement worked out
20 through arbitration that Paul would buy the Mitte
21 Foundation out for 10 and a half million dollars with a
22 funding date of August 20, 2019.

23 Four days before that funding date is when
24 the FBI executed the search warrants at Nate Paul's
25 businesses and his home. Paul ultimately defaulted on

1 that settlement. It did not happen.

2 In December of 2019, the Mitte Foundation
3 notified the attorney general's office of the pending
4 lawsuit. In January of 2020, those attorneys within
5 that charitable division, the charitable trust division,
6 looked at that lawsuit and determined there was no need
7 for their involvement. On January 31 of 2020, they
8 filed a written notice with the district court that was
9 hearing that lawsuit that they were not going to be
10 involved.

11 Early in 2020, Attorney General Paxton
12 asked an executive staff member to evaluate that Mitte
13 Foundation and World Class Holdings situation to see if
14 there should be an intervention. At that point, that
15 executive recognized that World Class Holdings belonged
16 to Nate Paul. He spoke with Josh Godbey, who was the
17 division chief at that time of the financial litigation
18 and charitable trust division. They both looked at the
19 file. Godbey learned that the Department of Justice was
20 investigating World Class entities and that they
21 considered the Mitte Foundation to be the victim in
22 their scenario.

23 Godbey and the executive staffer
24 determined again that there was no need for OAG
25 involvement. They felt that the charity was doing

1 everything that we, as government supervisors, would ask
2 them to do. There was nothing more that the Office of
3 Attorney General could do for them. Their interests
4 were being protected. They had hired well-qualified
5 attorneys for their lawsuit.

6 General Paxton disagreed with that
7 assessment. He insisted on intervening in the lawsuit.
8 Godbey was instructed to intervene, and the executive
9 and Godbey determined that the way they would present
10 that was to facilitate a settlement. In other words,
11 the OAG's involvement was to help Mitte facilitate a
12 settlement. That petition and intervention, that formal
13 notice to the district court, was filed on June 8 of
14 2020.

15 Until this point, Attorney General Paxton
16 had never gotten involved to this degree in any of
17 Godbey's cases. The executive staff member was
18 extremely concerned because this was the second incident
19 of General Paxton pushing to do something against the
20 recommendations of highly qualified people all for the
21 benefit of Nate Paul. The executive staff member
22 eventually was moved out of that position. The issue
23 fell into the lap of Blake Brickman.

24 Blake Brickman also agreed that there was
25 no need for OAG involvement in this situation; but on

1 July 6, 2020, while General Paxton was on vacation, he
2 called Blake Brickman, who then was the deputy AG for
3 policy and strategy, and asked him to take a look at
4 that lawsuit.

5 Brickman learned at that point that the
6 intervention had already happened and that the Attorney
7 General had directed that it be done.

8 Brickman knew at that point that Nate Paul
9 was a donor. He was also aware about the federal
10 investigation. He advised General Paxton to have
11 nothing to do with Nate Paul and strongly advised
12 against the OAG getting involved in this lawsuit, in
13 fact, in anything concerning Nate Paul's business.

14 General Paxton in return told Brickman
15 that he believed Paul was wronged by law enforcement,
16 specifically again going back to that search warrant.
17 Brickman told him that there are many avenues for a
18 citizen who feels that they've been wronged by law
19 enforcement to go to attempt to have their hearing and
20 get things done, that the OAG's office was not the
21 proper place for that.

22 Brickman also pointed out to Attorney
23 General Paxton the various bankruptcies that Nate Paul
24 was involved in and strongly advised that General Paxton
25 not involve the office in Nate Paul's lawsuit.

1 Approximately two weeks later, four senior
2 executive staff members of the Office of Attorney
3 General met with General Paxton who was insisting at
4 that point that he appear in district court to
5 personally argue the Mitte lawsuit. According to these
6 executive staff members, General Paxton never argued in
7 court. He left the courtroom work to his litigation
8 experts.

9 There were concerns -- at this point in
10 time, COVID was a high -- a high priority. There was a
11 high influx of COVID-related litigation that the OAG was
12 attempting to deal with, and yet these staffers saw
13 General Paxton spending resources and time on a
14 charitable case for a man who is under federal
15 investigation who had defaulted on the previous
16 settlement when the charity itself had the lawsuit well
17 in hand.

18 Joshua Godbey not only filed the
19 intervention at the direction of General Paxton, he also
20 complied with General Paxton's order to file a motion to
21 stay the pending lawsuit to force the parties into
22 mediation. That motion basically holds and stops the
23 lawsuit. Nothing further concerning the litigation in
24 the district court would go forward until mediation had
25 happened.

1 Ray Chester, who's the attorney
2 representing the Mitte Foundation, said that such a move
3 was highly unusual as the parties had both gone through
4 arbitration and mediation already at that point, and the
5 Mitte Foundation was ready to go to trial to get this
6 thing over with. They had exercised every option that
7 they could at this point to reach a resolution.

8 There is no requirement under the law and
9 typically litigation doesn't have to stop if you want to
10 go back to mediation. In other words, there's no reason
11 to tell the Court, "Everything has to stop, we're going
12 to go mediate." That mediation can happen regardless of
13 the lawsuit. So one is not required for the other.

14 He said the halting of litigation -- and
15 this is Ray Chester. He said the halting of litigation
16 hurt the Mitte Foundation, the entity that the Office of
17 Attorney General Paxton claimed to be assisting.

18 Ray Chester then described ominous
19 pressure, his words, from McCarty. McCarty is Josh
20 Godbey's supervisor. He's the deputy attorney general
21 for civil litigation. Both McCarty and Sheena Paul --
22 this is Nate Paul's sister who is an attorney who was
23 involved with this lawsuit -- together McCarty, an
24 employee of the OAG, and Nate Paul's attorney, his
25 sister, pressured Chester to settle even before the

1 mediation began. The Mitte Foundation was being offered
2 less than half of what the original settlement had been
3 that they had reached under mediation earlier. The
4 Mitte board unanimously rejected that offer.

5 CHAIRMAN MURR: Ms. Buess, I want to
6 interrupt you briefly. I'm wrapping my head around
7 that.

8 So you have told us that -- and we are all
9 familiar with the fact that state policy for the state
10 of Texas in regards to charities is to look out for
11 their best interest. We treat them as something that is
12 benevolent, and they're out there to help many different
13 causes. And when they get into a lawsuit, there is
14 actually a framework in place where the OAG is notified
15 of that lawsuit and they determine whether or not this
16 charity needs assistance, for the benefit of the
17 charity.

18 And what you have just told us is not only
19 was policy not followed, but then the attorney general's
20 office got involved and immediately worked against the
21 charity --

22 MS. BUESS: That is --

23 CHAIRMAN MURR: -- to try to mediate
24 something for less than half of what was already
25 mediated?

1 MS. BUESS: That is what the evidence
2 shows.

3 CHAIRMAN MURR: And when you say, Ray
4 Chester -- I want to clarify -- that is the attorney --

5 MS. BUESS: Yes.

6 CHAIRMAN MURR: -- that was actively
7 involved in the litigation for this nonprofit
8 organization?

9 MS. BUESS: Ray Chester represented the
10 Mitte Foundation for this lawsuit. That's correct.

11 CHAIRMAN MURR: Thank you.

12 Chairman Longoria.

13 MEMBER LONGORIA: Quick question. Was
14 there a docket control order in place already on this
15 case?

16 MS. BUESS: I don't know about a docket
17 control order. I know it had been a very lengthy
18 process and there had been multiple lawsuits, multiple
19 appeals, so it had been going on for a long time.

20 MEMBER LONGORIA: Okay.

21 CHAIRMAN MURR: Please continue.

22 MS. BUESS: General Paxton told Godbey
23 that he believed World Class was more in the right than
24 his staff was telling him. He expressed frustration
25 with the fact that he thought investors were using

1 litigation as their first response when their
2 investments don't turn out the way they wanted, and he
3 said he too had been looked at by the securities board.

4 The reality of this particular situation
5 was that Nate Paul and World Class were stalling -- and,
6 again, Ray Chester, the attorney for Mitte, felt very
7 strongly about that -- they were stalling any settlement
8 and would drag things out as long as they could.

9 At the ordered mediation, Nate Paul
10 refused to participate. He refused to allow his
11 attorney to participate in negotiations. And the
12 negotiations ended up being between the Office of the
13 Attorney General and the Mitte Foundation. They should
14 have been on the same side. The Mitte Foundation
15 received no benefit from the intervention of the OAG,
16 and the involvement of the OAG ordered by Paxton solely
17 benefited Nate Paul.

18 CHAIRMAN MURR: And just to come back to
19 it, the feds and Godbey and others identified the
20 charity as the alleged victim in this matter. They also
21 identified the fact that they had the resources to
22 litigate as an investor with this series of companies,
23 and yet the OAG showed up and essentially was adverse to
24 them at mediation.

25 MS. BUESS: That's correct.

1 CHAIRMAN MURR: That was forced by the
2 OAG.

3 MS. BUESS: That's correct.

4 CHAIRMAN MURR: Thank you.

5 MS. BUESS: The OAG withdrew from this
6 litigation in October of 2020 immediately before the
7 whistleblower letter became public.

8 As part of the ongoing trial
9 preparation -- so these are things that are happening
10 after that, so the litigation is now proceeding -- Nate
11 Paul was deposed by the Mitte Foundation attorney. It
12 was established at that time that the -- that Attorney
13 General Paxton had recommended, and Paul had hired, a
14 woman who was identified by the executive staff as being
15 General Paxton's mistress. Nate Paul was later held in
16 contempt concerning this lawsuit and sentenced to a jail
17 sentence for violating the Court's order of financial
18 disclosure as well as court-imposed spending limits were
19 being violated and lying under oath about that.

20 The Mitte Foundation ultimately went to
21 trial, and Ray Chester advised us that they cleared
22 21 million dollars from the forced sale of their
23 properties.

24 You'll recall the \$25,000 Nate Paul
25 donation to Ken Paxton's campaign. That occurred in

1 October of 2019. I mention it again in this context
2 because the timing of it would have been when the World
3 Class Holdings and the Mitte Foundation were heading
4 towards litigation.

5 General Paxton in this instance, charged
6 with protecting Texas charitable foundations,
7 disregarded his duty and improperly used his office, his
8 staff, his resources, to the detriment of the Mitte
9 Foundation and to the benefit of a single person, Nate
10 Paul.

11 CHAIRMAN MURR: Speaker Geren.

12 MEMBER GEREN: Mr. Chairman, thank you.

13 When y'all were looking at this, obviously
14 the \$25,000 contribution to the Paxton campaign came up.
15 Was that an unusual amount from Mr. Paul, or did y'all
16 look into his political contributions to other people?

17 MS. BUESS: He made multiple contributions
18 to a variety of people, and I think I'll just leave it
19 at that. There were -- there were smaller donations
20 that we saw.

21 MEMBER GEREN: Did you see any in the
22 25,000 and up range, which is a -- and that's -- that
23 obviously is a large contribution.

24 MS. BUESS: I don't recall at this moment.

25 MEMBER GEREN: Thank you, ma'am.

1 MS. BUESS: I do recall a lot of smaller
2 donations being made.

3 MEMBER GEREN: Okay. Thank you.

4 MR. DONNELLY: Good morning. I'm going to
5 pick up from here and discuss two issues with y'all,
6 first of which is what we'll refer to as the Office of
7 the Attorney General informal opinion letter regarding
8 foreclosure sales. The second of which will be what we
9 had referred to as the Brandon Cammack investigation, so
10 I'd first like to start with the informal opinion
11 letter.

12 Please keep in mind that during the time
13 at issue here, COVID-19 guidance was being issued by
14 government entities, and the consistent message from the
15 state of Texas was to achieve the least restrictive
16 means to combat COVID while still, quote, unquote,
17 opening Texas.

18 Late on Friday, July 31, 2020, General
19 Paxton contacted a senior staff member to research
20 whether in-person foreclosure sales violated COVID
21 restrictions. General Paxton wanted the opinion done by
22 the end of the weekend, which was extremely abnormal.
23 In other words, he wanted this opinion drafted and put
24 out within two days.

25 When asked if anybody had made the

1 request, General Paxton provided a phone number for a
2 person. This also violated procedure, codified
3 procedure, because any request for opinion must be made
4 in writing. It cannot be made orally. And it can only
5 be made by certain individuals, certain qualified
6 individuals.

7 The senior staff member took it upon
8 himself to contact the individual who General Paxton
9 provided a phone number for. That person was completely
10 unfamiliar with the matter or the issue.

11 As there was no official requestor for
12 this opinion, it is our understanding based on the
13 investigation that a staff member reached out to Senator
14 Bryan Hughes and asked him to serve as the official
15 requestor. This however circumvents the reason for the
16 requirement that an official request be made and that it
17 be made in writing. We also learned that this was done
18 in name only and in appearance only and that the
19 information was generated internally from the Office of
20 the Attorney General. In other words, the request was
21 generated from the Office of the Attorney General rather
22 than by a -- an official requestor.

23 The deputy attorney general for legal
24 counsel, Mr. Vassar, was tasked with working up an
25 opinion letter as to whether or not public foreclosure

1 sales constituted gatherings for the purposes of COVID
2 regulations then in place.

3 Mr. Vassar worked with another senior
4 staff member to determine that the foreclosure sales
5 could proceed and did not violate COVID restrictions.
6 Vassar's opinion was shared with others in the staff who
7 agreed with him. Soon thereafter -- after, excuse me --
8 Mr. Vassar was instructed that General Paxton wanted to
9 find a way to stop the foreclosure sales and that the
10 opinion needed to change.

11 Mr. Vassar did as he was instructed and
12 re-worked the opinion. In the early morning hours,
13 approximately 1 to 2 a.m. on Sunday, August 2, 2020, the
14 Office of the Attorney General issued an informal
15 opinion letter advising that public foreclosure sales
16 are subject to the ten person attendance limits and
17 therefore holding one would not comply with the property
18 code requirement for a public sale.

19 CHAIRMAN MURR: Mr. Donnelly, I want to
20 interrupt you real quick. So I think we're all familiar
21 with the fact that qualified requestors can seek an AG
22 opinion, and that can come from different agencies, that
23 can come from prosecutors around the state of Texas,
24 that can come from chairs of legislative committees.
25 And how long does that typically -- that time frame,

1 what is the statutory time frame for when that occurs
2 from the request to an opinion being issued?

3 MR. DONNELLY: Yes, Chairman, normally --
4 not normally. The process is allowed 180 days.

5 CHAIRMAN MURR: 180 days. So we're
6 talking a long time, six months.

7 MR. DONNELLY: That's correct.

8 CHAIRMAN MURR: And what you just told us
9 occurred in how many days?

10 MR. DONNELLY: Two days.

11 CHAIRMAN MURR: In two days' time over the
12 weekend, and you said it was, what, 1 a.m. on a Sunday
13 morning or essentially a Monday morning?

14 MR. DONNELLY: Into Sunday morning,
15 correct, Your Honor. Excuse me, Your Honor. Chairman
16 Murr.

17 CHAIRMAN MURR: So --

18 MR. DONNELLY: Force of habit.

19 CHAIRMAN MURR: No problem.

20 So we're talking about the fact of a
21 request for turning around an attorney general opinion
22 within hours.

23 MR. DONNELLY: That's a fair statement,
24 Chairman. And I'll also cover in my remarks here a
25 little bit more about how the procedure normally

1 unfolds.

2 CHAIRMAN MURR: Please do. And then
3 Chairman Longoria has a question.

4 MEMBER LONGORIA: So the request came in
5 on the first of July. Right?

6 MR. DONNELLY: The request came in on
7 July 31st.

8 MEMBER LONGORIA: July 31.

9 MR. DONNELLY: Correct.

10 MEMBER LONGORIA: And the opinion was
11 issued out?

12 MR. DONNELLY: On the 2nd of August.

13 MEMBER LONGORIA: Second of August.

14 MR. DONNELLY: In the very first hours of
15 the 2nd of August.

16 MEMBER LONGORIA: And when would have been
17 the first Tuesday of the month of August?

18 MR. DONNELLY: It would have been the 4th
19 then.

20 MEMBER LONGORIA: Okay. All right.

21 MR. DONNELLY: And an excellent point
22 because those public foreclosure sales are held on
23 the first Tuesday --

24 MEMBER LONGORIA: On the first Tuesday of
25 the month. That's what I was kind of --

1 MR. DONNELLY: That is correct.

2 MEMBER LONGORIA: Okay.

3 MR. DONNELLY: Correct.

4 CHAIRMAN MURR: Please proceed.

5 MR. DONNELLY: Thank you.

6 General Paxton, upon learning of -- excuse
7 me -- upon being informed of the final opinion letter
8 that was issued requested that a press release issue but
9 was ultimately dissuaded by his staff and was told that
10 was not a good idea.

11 Now, as we've discussed here briefly and
12 as your questions have intimated, there is a process in
13 place for opinion letters, and that process was
14 completely thwarted here. The only logical reason that
15 the whistleblowers in the evidence would show was that
16 General Paxton wanted the opinion letter complete before
17 the foreclosure sale of certain properties related to
18 Nate Paul entities occurred that following Tuesday.

19 The things that stood out as conflicting
20 with established process and procedures are, one, the
21 request ostensibly came from a phone call. And as we
22 mentioned, there is a requirement that it be in writing
23 and be by an authorized person. Again, there was no
24 documented requestor.

25 The opinion had no RQ number -- in other

1 words, no tracking number -- so there was no way to
2 internally track both from the original request to the
3 final opinion, also extremely abnormal. There was no
4 cover sheet related to the opinion.

5 The deputy first assistant and the deputy
6 first assistant attorney general alone signed this
7 opinion letter. Usually there is a writer who is
8 initially assigned who signs off, the opinion committee
9 chair signs off, the deputy attorney general for legal
10 counsel signs off, the first assistant -- excuse me --
11 first assistant attorney general and the attorney
12 general. Now, mind you these are not formal signatures
13 that they actually write out, but they are signature
14 blocks from each one of them showing that they would be
15 approved. Those five were not present in this case. It
16 was only the first assistant attorney general.

17 And, of course, as I've mentioned, the
18 speed in which this was turned around was incredibly
19 fast. As I mentioned, they normally get a request
20 letter and assign it to a writer. They have
21 approximately 180 days to turn around that opinion.
22 Normally, the writer seeks input from other subject
23 matter experts in the area in order to make sure that
24 the opinion that they are turning out is valid, is based
25 on logic, common sense, reason, and the law.

1 CHAIRMAN MURR: Vice Chair Johnson.

2 VICE CHAIRMAN JOHNSON: Just to clarify,
3 so there is a finding of a 21-million-dollar judgment
4 that is to be executed on behalf of the Mitte
5 Foundation. In the same space and time, there is a
6 foreclosure on Nate Paul properties to potentially fund
7 that award.

8 Does Nate Paul use this foreclosure
9 opinion to stop the foreclosure of any of his
10 properties?

11 MR. DONNELLY: Nate Paul -- let me clarify
12 a couple things. The properties are Nate Paul
13 controlled entity properties, okay, for which he is the
14 personal guarantor on these 13 properties.

15 There were -- there were properties that
16 were set for foreclosure that following Tuesday. This
17 opinion letter was not directly used to stop those
18 foreclosure -- those foreclosure sales at that moment
19 because Mr. Paul proceeded in a bankruptcy proceeding
20 related to those properties.

21 During the month of August 2020, the
22 opinion letter was used by Nate Paul attorneys to
23 attempt to stop foreclosures on some 12 to 13
24 properties.

25 VICE CHAIRMAN JOHNSON: Additional

1 properties.

2 MR. DONNELLY: That's correct.

3 VICE CHAIRMAN JOHNSON: All right. So
4 this opinion letter effectively is Ken Paxton at a time
5 using COVID as an excuse to say, "You can't have ten
6 people outdoors. We're going to shut that down," in
7 contradiction to every other statement that was being
8 made statewide about keeping businesses and things open
9 during COVID.

10 MR. DONNELLY: That's our understanding.

11 VICE CHAIRMAN JOHNSON: A complete and
12 total contradiction of state policy and a complete
13 violation of the processes that is to be followed and
14 issued within two days solely to the benefit of Nate
15 Paul.

16 MR. DONNELLY: That's our understanding.

17 CHAIRMAN MURR: And I believe that
18 Mr. Spiller has a question, but before he does that, you
19 said that this was an informal opinion, or something
20 similar to that. Is that right?

21 MR. DONNELLY: That is correct.

22 CHAIRMAN MURR: So if I go to the AG's
23 website right now, which I'm familiar enough that I can
24 go and search for attorney general opinions because they
25 provide guidance, and not necessarily the letter of the

1 law, but they provide guidance and can be relied upon by
2 local governmental entities, for example, could I find
3 that informal opinion on their website right now?

4 MR. DONNELLY: You could not, Chairman.
5 Additionally, you could not find the original request
6 referenced back to my comment about the lack of an RQ
7 tracking number.

8 CHAIRMAN MURR: I could not find the
9 original request, and I could not find the informal
10 opinion.

11 MR. DONNELLY: That's correct.

12 CHAIRMAN MURR: Okay. Mr. Spiller?

13 MEMBER SPILLER: Thank you, Mr. Chairman.
14 And I appreciate that. That's what I was going to
15 follow up on as well because -- so what you're telling
16 us back -- previously, we've already dealt with this
17 issue with a no decision rendering on the prior thing,
18 which is a complete distancing of the protocols. And
19 I've dealt with AG opinions for 35 years. I've never
20 heard of a no decision. And now we get into a situation
21 completely -- I guess this is unprecedented -- to have
22 not even a request, not even a written request, but also
23 have an informal opinion where that opinion is not even
24 available, and it's used to stop multiple foreclosures.
25 Were these -- were these foreclosures tied in to this

1 other judgment or other debt-related issues unrelated?

2 MR. DONNELLY: I believe that they were
3 different as our investigation -- our investigation
4 reveals they were different properties.

5 MEMBER SPILLER: And were they -- if you
6 know, were those nontraditional foreclosures scheduled,
7 or were they through a judicial proceeding, or do we not
8 know that?

9 MR. DONNELLY: I don't know the answer to
10 that at this very moment, but it is information we
11 looked into. I apologize, I don't have that.

12 MEMBER SPILLER: That's fine. That's
13 fine. Thank you.

14 CHAIRMAN MURR: But I'll follow-up on
15 Mr. Spiller's questions real quick. This informal
16 attorney general opinion that contradicted probably a
17 lot of other state policy that you could have outdoor
18 functions continue during COVID restrictions, it was
19 used by Nate Paul for his benefit.

20 MR. DONNELLY: That is correct.

21 CHAIRMAN MURR: Thank you. Please
22 continue.

23 MR. DONNELLY: And, Chairman, as
24 Representative Longoria -- and I apologize. Do you have
25 a question, sir?

1 CHAIRMAN MURR: Oh, Chairman Longoria.

2 MEMBER LONGORIA: Go ahead. Go ahead.

3 MR. DONNELLY: As you mentioned, these
4 sales occur monthly. They occur on -- in open spaces in
5 the -- generally in the steps of the courthouse. There
6 are a number of foreclosure sales that occur throughout
7 the state regularly and are planned on this first
8 Tuesday of the month, so it had the potential of
9 impacting a substantial number of foreclosures.

10 CHAIRMAN MURR: So the ripple effects -- I
11 guess is what you're saying is while this was used for
12 Nate Paul's personal benefit at the direct action of
13 Mr. Paxton, this rippled through the entire state of
14 Texas and affected foreclosure sales on courthouse steps
15 all across 254 counties potentially.

16 MR. DONNELLY: I'm always careful with my
17 words. I don't want to testify that that occurred, but
18 I would say that that has a possibility --

19 CHAIRMAN MURR: There were certainly
20 effects. I understand.

21 MEMBER LONGORIA: I want to ask: How many
22 COVID-related opinions were issued out by the Attorney
23 General during COVID? Do you know?

24 MR. DONNELLY: I apologize, I don't have
25 that number, but I believe a substantial amount.

1 MEMBER LONGORIA: Substantial amount. Do
2 you know what the turnaround time on those opinions was?

3 MR. DONNELLY: What I can say, sir, is
4 that keeping in mind the abnormal speed in which this
5 decision was rendered, the normal process of taking up
6 to 180 days as allowed was commonplace, was the norm,
7 and was the standard practice.

8 MEMBER LONGORIA: Okay. My other question
9 is: Did you see or find by any chance, did Nate Paul or
10 any of his entities try, you know, filing TROs or
11 anything to stop the sale prior to the opinion?

12 MR. DONNELLY: I don't know the answer to
13 that as far as prior to the opinion. After the opinion,
14 the opinion was used as --

15 MEMBER LONGORIA: Was the basis for the
16 stopping, yes, but I wanted to see if anything was done
17 prior.

18 MR. DONNELLY: I apologize, I don't have
19 that.

20 MS. EPLEY: May I interrupt -- excuse me.
21 May I interrupt briefly?

22 I think Mr. Donnelly said this correctly a
23 moment ago, but I wanted to clarify just --

24 CHAIRMAN MURR: Can you use the microphone
25 so we can all hear?

1 MS. EPLEY: Yes. Thank you.

2 I believe that Mr. Donnelly said this
3 correctly a moment ago, but I'd like to clarify just to
4 ensure.

5 The letter opinion was signed by Ryan
6 Bangert. All of the other things that were just
7 explained to you in terms of what was lacking are still
8 accurate, but it was Ryan Bangert who signed it.

9 And then the second thing I would clarify
10 is that we cannot establish that the letter was offered
11 13 times. What we can establish is that he had 13
12 properties in foreclosure at the time. Thank you.

13 CHAIRMAN MURR: Speaker Geren, did you
14 have a question?

15 MEMBER GEREN: Yes. Thank you,
16 Mr. Chairman.

17 Mr. Donnelly, was this informal -- I guess
18 informal opinion, is that a good way to describe this
19 opinion?

20 MR. DONNELLY: Informal attorney general
21 opinion letter.

22 MEMBER GEREN: Would -- was it used by
23 Mr. Paul's attorneys to stop other foreclosures which
24 would have happened the first Tuesday in September, or
25 do you know?

1 MR. DONNELLY: They were used in
2 subsequent -- the opinion was used in subsequent filings
3 by Nate Paul's attorneys to attempt to stop --

4 MEMBER GEREN: So but after --

5 MR. DONNELLY: -- to attempt to stop
6 action.

7 MEMBER GEREN: After the first Tuesday in
8 August.

9 MR. DONNELLY: Correct.

10 MEMBER GEREN: So looking forward in
11 September, October, November, something like that.

12 MR. DONNELLY: Correct, for future --
13 future actions.

14 MEMBER GEREN: All right. Thank you, sir.

15 MR. DONNELLY: Any other questions I can
16 answer on that?

17 CHAIRMAN MURR: No. Please proceed.

18 MR. DONNELLY: So, again, just to recap,
19 senior staff members learned that Nate Paul had 13
20 properties set for foreclosure in that August 2020 time
21 frame and that they -- the whistleblowers believe that
22 the only logical reason was that General Paxton wanted
23 the opinion complete before the foreclosure sale related
24 to those Nate Paul controlled entity properties.

25 During our inquiry, we were able to

1 establish that those Nate Paul controlled entities had
2 properties for which Nate Paul, as I mentioned, was a
3 personal guarantor that were slated for foreclosure sale
4 the Tuesday following the Office of Attorney General
5 informal opinion, and that Nate Paul in a deposition on
6 January 19, 2021 admitted in a request for production or
7 request for answer, while under oath and while
8 represented by counsel, that one or more representatives
9 from World Class contacted the attorney general
10 regarding foreclosure sales in Texas before the issuance
11 of the attorney general opinion.

12 When specifically asked "Did you, Nate
13 Paul, contact Attorney General Ken Paxton regarding
14 foreclosure sales in Texas before the issuance of the
15 attorney general letter," his answer was "Yes, I had. I
16 had contact with him before that, yes." And when
17 followed up with "To your knowledge, did anyone again
18 associated with World Class contact the attorney general
19 besides you," his answer was "No, not that I'm aware
20 of."

21 Are there any questions that I can answer
22 on the foreclosure issue that I haven't already
23 addressed? Thank you.

24 I'll proceed then to what we have
25 referenced as the Cammack investigation. I'd like to

1 begin with the premise that hiring of outside counsel
2 not a common occurrence at the attorney general's office
3 or was not previously a common occurrence. It is almost
4 unheard of in recent memory to hire outside counsel for
5 criminal matters, and this reason, as you can imagine,
6 is quite simple.

7 The Office of the Attorney General employs
8 an impressively credentialed team of criminal
9 assistants, including an entire white collar criminal
10 division. Those over 800 assistants will often serve as
11 deputized assistant district attorneys who work with
12 local district attorney's offices or prosecutors pro tem
13 when a district attorney's office was recused or a judge
14 has made an appointment of that individual for a
15 prosecutor pro tem.

16 In the time frame of May and June of 2020,
17 General Paxton contacted the Travis County District
18 Attorney's Office on behalf of Nate Paul and requested a
19 lunch where Nate Paul would be present in attendance to
20 discuss a complaint.

21 The evidence will show that the Attorney
22 General's level of involvement or interest in a
23 complaint of this size and of this issue is irregular as
24 is the personal introduction of a complainant to a
25 district attorney's office.

1 In June of 2020, two senior staff members
2 with the Travis County District Attorney's Office
3 attended that meeting, that luncheon, and reported back
4 to their elected district attorney that there was no
5 matter, that there was no issue. Yet Nate Paul was
6 insistent, so they proceeded per their protocol to
7 direct him to organizations that might be better
8 equipped to assist, specifically the Office of the
9 Inspector General, the federal Office of the Inspector
10 General, civil rights divisions at the United States
11 Attorney's Office, and others. Mr. Paul declined.

12 They offered him the opportunity to fill
13 out a complaint form. This is a compliant form which is
14 standard and filled out by anybody who comes into a
15 district attorney's office to complain about a wrong
16 that is committed upon them or some crime that they
17 believe has been committed.

18 It is also assigned, by course and
19 conduct, an investigation number. This is merely an
20 internal method of documenting -- of documenting the
21 complaint and confers absolutely no special status on
22 that complaint. The forms are a standard way of
23 gathering information regardless of the merits of the
24 claim and are not pursued for reasons such as statute of
25 limitations, lack of credibility, or lack of

1 jurisdiction.

2 Mr. Paul filled out and submitted an
3 initial unsworn written complaint. I emphasize unsworn
4 because it is -- it is supposed to be sworn to as a
5 precaution against taking false or vindictive action.
6 This initial request or this initial complaint was not.

7 The Travis County District Attorney's
8 Office was unmoved and found no merit to the complaint,
9 no actionable or credible crime, but feel that because
10 the request came from the Attorney General himself, that
11 they would take the -- take the complaint.

12 Travis County District Attorney's Office
13 then formed the opinion that the allegations did not
14 have any merit and that the Attorney General himself had
15 the authority to do his own investigation, if desired.

16 So this brings us to the point that at the
17 time that this had been reviewed by the Travis County
18 District Attorney's Office and the time they sent it
19 back -- in other words, to the attorney -- to the Office
20 of the Attorney General -- the district attorney's
21 office, Travis County District Attorney's Office, had
22 not recused itself. They did not request assistance.
23 They did not maintain control or management of any
24 investigation or any file or anyone related to Nate Paul
25 after sending an email. They had no investigation.

1 CHAIRMAN MURR: And why is that
2 significant under Texas law --

3 MR. DONNELLY: That's significant.

4 CHAIRMAN MURR: -- Mr. Donnelly?

5 MR. DONNELLY: I apologize.

6 CHAIRMAN MURR: But just generally, why is
7 that significant under Texas law?

8 MR. DONNELLY: It's significant, Chairman,
9 because the way that I have described previously the
10 Office of the Attorney General prosecutors, assistant
11 attorney generals getting involved in cases, the
12 deputized DA or the prosecutor pro tem has certain
13 requirements to it. And, generally speaking, when a
14 district attorney asks for assistance in a case -- in
15 other words, they have a case, they have an
16 investigation, they have a matter that's pending and
17 they ask for assistance and they request that assistance
18 from the Office of the Attorney General, they receive
19 what's called an assist, which is in the form of a
20 deputized district attorney.

21 CHAIRMAN MURR: And so --

22 MR. DONNELLY: So that individual -- I
23 apologize.

24 CHAIRMAN MURR: Well, and I'll interrupt
25 you. So -- and I think -- I think the public takes for

1 granted, because we don't obviously talk about it, but
2 the state of Texas is set up with a diffused system
3 where our local prosecutors have primacy over criminal
4 cases.

5 MR. DONNELLY: That's correct.

6 CHAIRMAN MURR: And the attorney general's
7 office, except in very limited circumstances under state
8 law, does not have any authority in criminal cases
9 unless this request is made.

10 MR. DONNELLY: Correct.

11 CHAIRMAN MURR: So they are there as a
12 backstop for resources for when a local prosecutor
13 doesn't have those resources.

14 MR. DONNELLY: That is correct.

15 CHAIRMAN MURR: I think is a better way to
16 say that.

17 MR. DONNELLY: That's a fair summary of
18 that.

19 And also as a deputized DA, they come in
20 to assist on a case. If it is a prosecutor pro tem,
21 again, the district attorney has recused themselves or
22 their office or a judge has made the appointment of a
23 prosecutor pro tem, and there you take an oath, there is
24 a process involved, and then there is the final option,
25 which is a special prosecutor. When a special

1 prosecutor is invited in by the district attorney, the
2 district attorney, as a matter, they keep care, control,
3 and management of that case, and they can hire on any
4 licensed attorney in the state of Texas; but, again, it
5 is their case. They're the ones in charge of it. They
6 maintain control and management.

7 CHAIRMAN MURR: So could I summarize by
8 saying the local prosecutor always has to take some type
9 of action in order for the attorney general's office to
10 participate, but that is also the explanation of why
11 there are literally hundreds of staff with the OAG that
12 work in various specialties of criminal law.

13 MR. DONNELLY: That is accurate.

14 CHAIRMAN MURR: Thank you.

15 MR. DONNELLY: So General Paxton assigns
16 senior staff members Mark Penley, who at the time was
17 the deputy attorney general for criminal justice, and
18 David Maxwell, who is the director of law enforcement,
19 to review the complaint made by Nate Paul sometime
20 around June of 2020.

21 The complaint stemmed from the FBI search
22 warrant, which has already been discussed here, but
23 stemmed from the FBI search warrant of Nate Paul's home
24 and businesses based on a search warrant that was
25 approved by a federal judge. The Department of Public

1 Safety and the FBI were also involved in the searches
2 and executing the searches. The staff members arranged
3 a meeting with Nate Paul at the Office of the Attorney
4 General.

5 As an underlying issue involved in the
6 federal investigation, there were federal entities who
7 were capable of receiving a complaint regarding the
8 actions of federal agents. As I mentioned before,
9 there's a federal Office of the Inspector General, FBI
10 legal, and various other agencies who would have been
11 well equipped to handle these complaints. However, Nate
12 Paul told the staff members that General Paxton had
13 advised him that the Office of the Attorney General
14 could assist.

15 Both Penley and Maxwell explained to
16 General Paxton that there was no evidence of a crime and
17 there was no state interest, yet General Paxton remained
18 critical of their review and decision. As a result of
19 that, the staff members relented and agreed to another
20 meeting with Nate Paul.

21 Nate Paul at this point had failed to
22 disclose the very documents he claims supported his
23 allegations of tampering by federal entities.

24 Nate Paul did ultimately produce some
25 documents, which were presented to Office of Attorney

1 General forensic experts for analysis. Those experts
2 reviewed the documents and concluded that there was no
3 evidence of tampering.

4 General Paxton was informed of this
5 decision and was again warned about Nate Paul, his
6 suspect business dealings, and the dangers of pursuing
7 this issue that Nate Paul has presented. Undeterred,
8 General Paxton set up yet another meeting with senior
9 staff and Nate Paul. General Paxton attended this
10 meeting.

11 The staff members explained that there was
12 no evidence of a crime and that the Office of Attorney
13 General was closing its case. Senior staff had
14 previously notified General Paxton of this decision, and
15 he indicated that they simply needed to tell Nate Paul
16 this. However, at the meeting both General Paxton and
17 Nate Paul reacted negatively. Nate Paul was so
18 incensed, according to witnesses, that he dressed down
19 the Office of Attorney General senior staff as if they
20 were his own employees.

21 A few weeks later, staff members learned
22 that General Paxton was looking for outside counsel.
23 Keep in mind, the process of hiring outside counsel
24 requires multiple reviews and approvals throughout the
25 upper echelons of the Office of the Attorney General.

1 It's codified at Section 402.0212 of the Texas
2 Government Code, and underlying that section is the
3 basic premise that a valid contract for services exists.
4 If anyone along the chain disapproves, the process
5 stops.

6 There is no witness that had memory of
7 General Paxton ever personally hiring outside counsel
8 without following the established procedure.

9 General Paxton vetted two individuals for
10 the outside counsel contract, one with decades of
11 federal and state prosecutorial experience and one with
12 approximately five years experience as a lawyer and
13 absolutely no prosecutorial resume.

14 CHAIRMAN MURR: Speaker Geren has a
15 question.

16 MEMBER GEREN: Thank you, Mr. Chairman.
17 Mr. Donnelly, would you go back through
18 what the normal process is? I want to make sure that
19 I -- that all that sunk in for me.

20 MR. DONNELLY: Of course. The normal
21 process is that a contract is developed -- individuals
22 are vetted for the position. A contract is developed.
23 That contract is supposed to be approved along various
24 chains up the chain of command within the attorney
25 general's office. And if -- I apologize.

1 MEMBER GEREN: So it will be highly
2 unusual for it to go directly to the General. Is that
3 right?

4 MR. DONNELLY: As I mentioned, it is
5 unheard of in any witnesses' memory that we spoke to
6 that the Attorney General himself went and created a
7 contract by himself.

8 MEMBER GEREN: Thank you, sir. I
9 appreciate it.

10 Thank you, Mr. Chairman.

11 MR. DONNELLY: So again, Mr. Paxton
12 General Paxton -- excuse me -- chose the latter of those
13 two options, Brandon Cammack who is a five-year attorney
14 out of Houston. Through our investigation, we
15 determined that the source of the referral of Brandon
16 Cammack was through Nate Paul.

17 CHAIRMAN MURR: Would you say that again?

18 MR. DONNELLY: Yes. Our investigation has
19 determined that the source of the referral of Brandon
20 Cammack to be vetted for this position for this contract
21 was Nate Paul.

22 CHAIRMAN MURR: Chairman Longoria has a
23 question.

24 MEMBER LONGORIA: Thank you, Chairman.
25 Can you explain kind of the connection to

1 Mr. Paul?

2 MR. DONNELLY: There was an attorney who
3 was representing Nate Paul who provided information --
4 our understanding has provided information to General
5 Paxton concerning Brandon Cammack. That attorney, we
6 understand, represented Nate Paul.

7 MEMBER LONGORIA: Any idea how much
8 outside counsel was paid?

9 MR. DONNELLY: There was a budget set
10 aside for \$25,000, is my understanding.

11 And I know we're a little pressed on time,
12 so I'll --

13 CHAIRMAN MURR: No. You take your time.
14 Please continue with explaining to us how you -- I think
15 where we last interrupted you with questions is that a
16 determination had been made by General Paxton to arrive
17 at retaining Mr. Cammack --

18 MR. DONNELLY: Mr. Cammack.

19 CHAIRMAN MURR: -- as some type of outside
20 counsel.

21 MR. DONNELLY: That is correct.

22 CHAIRMAN MURR: Walk us through that.

23 MEMBER GEREN: I don't want to stop this,
24 but there's no -- we have -- this committee has
25 permission to meet while the House is in session. Is

1 that correct?

2 CHAIRMAN MURR: On May 1, 2023, permission
3 was granted to the General Investigating Committee to
4 meet while the House is in session. While the House is
5 convening today at 10 a.m., the committee will continue
6 to hear invited testimony.

7 MEMBER GEREN: Okay. So there's no reason
8 for us to shut it off at ten o'clock?

9 CHAIRMAN MURR: That is correct.

10 MEMBER GEREN: I plan to leave at about 10
11 to 10:00, get us gaveled in and come back, if that's
12 okay with the Chair.

13 CHAIRMAN MURR: Absolutely, Mr. Speaker.

14 MEMBER GEREN: Thank you, sir.

15 CHAIRMAN MURR: Please continue.

16 MR. DONNELLY: Thank you.

17 As directed by Attorney General Paxton, a
18 draft contract is developed by Mr. Vassar who takes it
19 upon himself to limit the scope of the investigation.
20 In other words, he is allowing for the contract to
21 authorize investigation only and exclude prosecution.
22 Vassar, despite his reservations, signs that limited
23 contract in the approval chain on September 15, 2020.

24 Senior staff members along the line of
25 authorization previously discussed refused to approve

1 the outside counsel contract because there was, in
2 various opinions, no valid matter for investigation, and
3 it is further against prosecutorial ethics to proceed
4 with an investigation that lacks merit.

5 Additionally, it was their opinion that
6 Cammack, even if a valid investigation existed, was not
7 qualified to handle the investigation.

8 CHAIRMAN MURR: Chairman Longoria.

9 MEMBER LONGORIA: Thank you, Chairman. I
10 hate to interrupt you, Mr. Donnelly.

11 MR. DONNELLY: Please.

12 MEMBER LONGORIA: So how would anyone even
13 know that the AG's office was seeking outside counsel?
14 I mean, was there like -- was this posted like on
15 Craigslist? I mean, I'm just trying to get my head
16 wrapped around --

17 MR. DONNELLY: I think oftentimes -- and I
18 can't speak to -- I don't want this to be taken as
19 gospel of the way that it normally occurs, but
20 oftentimes known attorneys are vetted for various
21 positions. Those who might have expertise in a
22 particular area, those who might be particularly suited
23 for a contract, those individuals are vetted, the
24 contract is developed, and then it's taken up the chain.

25 MEMBER LONGORIA: And you mentioned, I

1 think, there was two individuals that were interviewed
2 as possible outside counsel. And the first one had he
3 or she served as outside counsel before, the one with
4 decades of experience?

5 MR. DONNELLY: That's a question that I
6 don't know the answer to. I apologize.

7 MEMBER LONGORIA: All right. And the
8 other individual was not the one that was ultimately
9 hired? He had never served as outside counsel in any
10 type of capacity?

11 MR. DONNELLY: That's my understanding.
12 And please don't apologize for
13 interrupting me with questions. That's what we're here
14 for. Thank you.

15 So, again, the senior staff members had
16 refused to approve the contract. Mr. Penley explained
17 to General Paxton again that outside counsel was not
18 needed, that there were ample in-house assistant
19 attorney generals who could review the complaint.

20 He further pressed that even though they
21 had advised that there was no criminal conduct that they
22 were able to see, that they would continue to review the
23 complaint if Mr. Paul provided all documents to support
24 his claim.

25 On September 23, 2020, Mr. Cammack called

1 the Office of the Attorney General and asked for
2 something official to show that he was working for the
3 Office of the Attorney General. He was told that his
4 contract was not approved. General Paxton contacted
5 Mr. Vassar and asked why the contract was not approved.

6 At this same time, Don Clemmer of the
7 Travis County District Attorney's Office special
8 prosecution unit had sent Cammack the second Nate Paul
9 complaint. Per the Office of the Attorney General, the
10 second complaint, again on that general form that we
11 discussed earlier for gathering information, that that
12 does not confer a direct investigation with the Travis
13 County District Attorney's Office, the second complaint
14 is not referenced in any internal Office of the Attorney
15 General databases or emails of which we are aware.

16 The next day, on September 24, 2020,
17 General Paxton called and told Penley to sign the
18 contract. Penley again refuses because the Office of
19 the Attorney General cannot investigate what is -- what
20 has become aware to him as federal judges and assisting
21 United States attorney or others who might be involved
22 in a federal investigation.

23 VICE CHAIRMAN JOHNSON: I'm sorry. Can
24 you say that again?

25 MR. DONNELLY: Yes. Penley refused to

1 sign the contract because he had advised that the Office
2 of the Attorney General could not investigate the
3 federal officials who Nate Paul complained were involved
4 in this -- as part of his complaint.

5 VICE CHAIRMAN JOHNSON: So Brandon Cammack
6 is being hired off the books to use the Office of the
7 Attorney General to investigate the potential federal
8 officials and court officials who were looking into Nate
9 Paul?

10 MR. DONNELLY: There were two complaints
11 one of which involved financial dealings with Nate Paul,
12 and the other involved the FBI raid -- a search warrant
13 on his home and businesses. And I want to be -- I want
14 to be clear, if I may. I don't want to say that the
15 contract was off the books. It was a contract that was
16 authorized by the Attorney General completely outside of
17 the norms, but it was one that was authorized by the
18 Attorney General and one for which a budgeted amount was
19 set aside.

20 CHAIRMAN MURR: Mr. Spiller.

21 MEMBER SPILLER: Thank you, Mr. Chairman.

22 Briefly, and you may have touched on it.
23 Mr. Cammack, I think you said he was an attorney with
24 five years of experience. Is there any indication that
25 he had any prosecutorial experience whatsoever?

1 MR. DONNELLY: None.

2 MEMBER SPILLER: Thank you.

3 VICE CHAIRMAN JOHNSON: Just to also
4 clarify: At this point, there are other people in the
5 OAG's office that recognized that this person is being
6 hired to conduct an investigation into the feds, and
7 they say, "Hey, we're not doing this"?

8 MR. DONNELLY: I want to be -- again, I
9 just want to be clear with my words there. Not others
10 who are aware that he's been hired. There are others
11 that are aware that there is this contract potentially
12 being floated for approval as outside counsel, and they
13 disapproved.

14 VICE CHAIRMAN JOHNSON: And do they know
15 that the outside counsel is being brought in for the
16 purposes of trying to go after the feds?

17 MR. DONNELLY: It's my understanding, and
18 I believe through our investigation we would establish
19 that several did know that the substance of the
20 investigation dealt with those matters.

21 VICE CHAIRMAN JOHNSON: And they are not
22 in support of this. Is that right?

23 MR. DONNELLY: We did not find an
24 individual we spoke to who was in support of this
25 investigation.

1 CHAIRMAN MURR: Chairman Longoria.

2 MEMBER LONGORIA: Thank you, Chairman.

3 I may be jumping ahead of myself, but did
4 Cammack produce any work product? Was there anything
5 done?

6 MR. DONNELLY: There were -- there were
7 some things done, and I will cover those in just one
8 moment.

9 MEMBER LONGORIA: Okay.

10 MR. DONNELLY: And I appreciate your
11 patience on it.

12 So, again, Penley has refused to sign the
13 contract on September 24, 2020.

14 And, again, to your point, Vice Chairman
15 Johnson, at this point, several senior staff members had
16 expressed concern about the substance of Nate Paul's
17 complaints, about Nate Paul himself, and about any
18 contract for Cammack to work -- to perform any work. As
19 no contract at this point had been signed or approved
20 through normal procedure, there was a belief that no
21 action had been taken. General Paxton, however,
22 continued to pressure staff to approve the contract.

23 On Saturday, September 26, 2020, General
24 Paxton asked Penley to meet him in McKinney. General
25 Paxton again pressured Penley to sign the contract.

1 Penley at this point had outlined several pages and
2 multiple bullet points concerning the dangers of the
3 path that the Attorney General Paxton was on and warned
4 General Paxton that he was exposing himself to potential
5 criminal liability.

6 General Paxton responded at that point
7 that Brandon Cammack had been working on the case for
8 two weeks and needed to be paid. This was the first
9 time that any senior staff member had learned that.

10 CHAIRMAN MURR: Now say that one more
11 time. I think that bears repeating.

12 MR. DONNELLY: Correct. So General Paxton
13 responded, after being warned of the dangers of the
14 pursuing this course of action, that Brandon Cammack had
15 been working on the case for two weeks prior to
16 September 26, 2020 and needed to be paid.

17 CHAIRMAN MURR: Chairman Longoria.

18 MEMBER LONGORIA: Thank you, Chairman.
19 What was he doing those two weeks?

20 MR. DONNELLY: I'll get to that in just
21 one second.

22 MEMBER LONGORIA: I'm trying to figure
23 this out.

24 MR. DONNELLY: I apologize. No, no,
25 that's fine.

1 Penley told General Paxton to fire Cammack
2 immediately. Penley refused to be a part of the process
3 and would not supervise Cammack, and General Paxton
4 said, "Don't worry. I will."

5 Maxwell continued to warn General Paxton
6 that Nate Paul was seeking to use the criminal process
7 to gain leverage in a civil matter, and General Paxton
8 nonetheless pushed forward with Brandon Cammack.

9 On the Monday following the revelation
10 that Cammack had been working on the case for two weeks
11 without a procedural -- procedurally approved contract,
12 the staff learned that Cammack was using the title
13 "Special Prosecutor" -- going back to your questions
14 from earlier, Chairman -- and had obtained 39 grand jury
15 subpoenas related to Nate Paul complaints. Some of the
16 subpoenas were served on banks that had no direct
17 relation to the criminal investigation complaints Nate
18 Paul had lodged with the Office of the Attorney General.

19 It's important again to note at this point
20 that Cammack was not a deputized assistant district
21 attorney, was not a prosecutor pro tem, and was not a
22 special prosecutor since he was not hired by the Travis
23 County District Attorney's Office, who, again, did not
24 even have an open investigation.

25 The Office of the Attorney General staff

1 wrote Cammack and directed him to take no action.

2 The staff members then took it upon
3 themselves to work to quash the subpoenas given the
4 legal fact that Cammack was not a special prosecutor and
5 therefore lacked authority to seek the subpoenas.

6 When General Paxton had failed to act, his
7 deputy stepped up and acted for him.

8 On one of Penley's motions to quash, he
9 said, and I quote, The Texas Code of Criminal Procedure,
10 Article 20.03, sets out who may appear before a grand
11 jury and by extension issue grand jury subpoenas. Only
12 an attorney representing the state may do so. Article
13 20.03 sets forth that only the attorney general,
14 district attorney, criminal district attorney, or county
15 attorney may be the attorney representing the state.
16 Mr. Cammack is none of those, period. Thus, he has no
17 authority to appear before the grand jury or issue grand
18 jury subpoenas.

19 CHAIRMAN MURR: Chairman Longoria.

20 MEMBER LONGORIA: Was anyone at the AG's
21 office working with Cammack to, I guess, draft those
22 documents?

23 MR. DONNELLY: There is nobody that we
24 have talked to that has indicated they worked with
25 Mr. Cammack to draft --

1 MEMBER LONGORIA: All right. Have you had
2 the opportunity to kind of review those documents?

3 MR. DONNELLY: I have seen a couple.

4 MEMBER LONGORIA: Were they standard, or
5 was it something where you think was carefully drafted?

6 MR. DONNELLY: They're fairly standard,
7 the grand jury subpoenas. Obviously the specifics of
8 what was requested are unique, but overall, they're
9 fairly standard.

10 CHAIRMAN MURR: Vice Chair Johnson has
11 questions.

12 VICE CHAIRMAN JOHNSON: I know that each
13 of you have been in this position as a lawyer that's
14 been -- taken an oath and been brought in under the
15 ethics of a prosecutor. Can you explain to other people
16 the significance of what it means to actually issue a
17 grand jury subpoena?

18 MR. DONNELLY: Well, going back to a
19 comment that we discussed earlier, you are ethically --
20 your duty as a prosecutor is to seek justice, and you
21 are ethically held to a standard by which you should not
22 and must not pursue an action which you know lacks
23 merit, is made for the purposes in a criminal proceeding
24 of influencing a civil proceeding, and you must only
25 pursue meritorious action.

1 So by issuing and requesting grand jury
2 subpoenas for actions which very well credentialed, very
3 well qualified individuals have reviewed and determined
4 was improper, baseless, lacking in merit, you have asked
5 a grand jury, an independent body, to take some action
6 that could affect, and did, in fact, affect, multiple
7 entities across the state.

8 VICE CHAIRMAN JOHNSON: And if I recall
9 correctly, you mentioned not only did the assistant or
10 the prosecutors who understand that obligation and that
11 oath to Travis County, multiple of them had said this is
12 not okay and this cannot be done; multiple, again,
13 established, ethical prosecutors in the Office of the
14 Attorney General said this cannot be done; and it is Ken
15 Paxton himself that goes and hires somebody who has
16 never been a prosecutor to put his name on those grand
17 jury subpoenas to attempt to issue information that
18 lawfully should never have been obtained.

19 MR. DONNELLY: That's correct.

20 MS. EPLEY: Can I -- can I clarify? It is
21 correct, the distinction being, though, no one other
22 than Brandon Cammack and his supervisor, if any, General
23 Paxton, knew about the issuance of the grand jury
24 subpoenas. So no one inside of OAG could have told
25 Brandon Cammack not to do it because no one inside of

1 OAG believed Brandon Cammack was affiliated with the
2 organization other than General Paxton.

3 And in terms of the Travis County District
4 Attorney's Office, they do, by virtue of the process,
5 receive the request and facilitate the documentation,
6 but that, at least in Harris County, is a well-oiled
7 machine in which even if a prosecutor has touched it and
8 reviewed it, they're not familiar with the offense
9 report number, the purpose or the parties. So they look
10 it, they have technical knowledge in regards to its
11 contents but not its import because no one there had
12 management or control because they were not
13 investigating.

14 VICE CHAIRMAN JOHNSON: And you said --
15 for lack of a better phrase, when you said "well-oiled
16 machine," you're talking about the entity of a public
17 office of people hired, people vetted, have to go
18 through background checks, to determine whether or not
19 they are worthy of the badge that comes with being a
20 prosecutor in those offices with supervision and a
21 process to follow, and you're telling us that there was
22 an individual that never passed those checks, never had
23 that responsibility, never felt the weight of that
24 ethics in his referral to the Attorney General for that
25 job was Nate Paul?

1 MS. EPLEY: Yes. And further, they were
2 signed Special Prosecutor of the Office of the Attorney
3 General, which is a title that does not exist, and under
4 the authority of Ken Paxton himself as attorney general.

5 VICE CHAIRMAN JOHNSON: So is it fair to
6 say the OAG's office was effectively hijacked for an
7 investigation by Nate Paul through the Attorney General
8 Ken Paxton?

9 MS. EPLEY: That would be my opinion.

10 MR. DONNELLY: And Vice Chair Johnson --
11 oh, I apologize.

12 CHAIRMAN MURR: Mr. Spiller has a
13 question.

14 MR. DONNELLY: Just to clarify as, again,
15 my colleague, Ms. Epley, has noted, following up on your
16 question, as I understood, was General Paxton warned
17 many times that the pursuit of this action could lead to
18 dangerous consequences, and the answer that I intended
19 to provide was yes, that is, in fact, the case.

20 VICE CHAIRMAN JOHNSON: And despite those
21 warnings, he went forward with it anyway?

22 MR. DONNELLY: That is correct.

23 CHAIRMAN MURR: Mr. Spiller.

24 MEMBER SPILLER: Thank you, Mr. Chairman.

25 So in short, you're telling this committee

1 that Attorney General Paxton insufficiently and in an
2 unauthorized way allowed someone to act on behalf of the
3 Office of the Attorney General and the state of Texas,
4 and that person issued subpoenas on behalf of -- grand
5 jury subpoenas in a legal process on behalf of the
6 attorney general and the state of Texas in this criminal
7 investigation?

8 MR. DONNELLY: That individual represented
9 himself, as mentioned, as a Special Prosecutor for the
10 Office of the Attorney General acting under the
11 authority of the Office of the Attorney General to seek
12 and obtain grand jury subpoenas.

13 MEMBER SPILLER: With no written
14 authorization that we know of at that time.

15 MR. DONNELLY: To be clear, no properly
16 approved -- no -- I don't want to use the word properly.
17 Let me -- let me change that. No approval based on
18 standard operating procedure.

19 MEMBER SPILLER: Okay. Thank you.

20 CHAIRMAN MURR: So you want to tell us a
21 little bit more about what approval there might have
22 been?

23 MR. DONNELLY: The approval was directly
24 from the -- from General Paxton himself. It's our
25 understanding through our investigation that the

1 approved contract was authorized by the Attorney
2 General, was not authorized by any individuals along
3 that chain, which is, of course, the normal procedure
4 and, again, stands out as unique in this situation.

5 The motions to quash that were presented
6 on all 39 subpoenas were reviewed by an independent
7 judge, who took action immediately and quashed all
8 subpoenas.

9 The senior staff took it upon themselves
10 to then provide that information that the quashed
11 subpoena ruling to those who were affected by the grand
12 jury subpoenas that were sought.

13 And, again, there were two general targets
14 of the grand jury subpoenas: One were the financial
15 institutions and individuals related to Nate Paul's
16 civil litigation and civil litigation concerning Nate
17 Paul controlled entities; and number two, law
18 enforcement related to the federal investigation
19 including a magistrate judge and other law enforcement
20 personnel.

21 The first part, the financial
22 institutions, some of those banks were associated with
23 the Mitte litigation, the Mitte Foundation lawsuit and
24 litigation.

25 The second part, the law enforcement

1 related information would have been information that
2 could have been part of the open records request that
3 was initially sought and covered by Ms. Buess.

4 CHAIRMAN MURR: So just -- I want to
5 summarize really succinctly. And I'm not trying to put
6 words in your mouth, but what your investigation of
7 allegations by whistleblowers tells us is that the
8 Attorney General himself chose to hire an attorney with
9 five years experience based on the recommendation of
10 Nate Paul's attorney, give that attorney some job title
11 that doesn't even exist with Office of the Attorney
12 General, and somehow give him the authority to issue 39
13 subpoenas to go after business interests for an
14 individual and law enforcement that is conducting an
15 investigation on that individual.

16 MR. DONNELLY: That's correct.

17 CHAIRMAN MURR: And part of that goes
18 right back to the charitable organizations, which state
19 policy says the Office of the Attorney General is there
20 to protect and shelter and look after them because
21 they're doing generally good for the state of Texas.

22 MR. DONNELLY: There was a connection
23 between those banks and the Mitte Foundation lawsuits.

24 CHAIRMAN MURR: Wow.

25 Vice Chair Johnson has questions.

1 VICE CHAIRMAN JOHNSON: In addition to the
2 financial records with regard to the civil litigation,
3 you said law enforcement, magistrate judge, and it was
4 not clear to me. Are you suggesting that the requested
5 information from Nate Paul about the unredacted FBI file
6 as to the entities and the people that were
7 investigating him and executing that search warrant --
8 so normally we may redact information as described to
9 protect witnesses, to protect agents who are involved in
10 an investigation. Are you saying that the grand jury
11 subpoenas were attempting to obtain information that
12 only could have been known if you had seen the
13 unredacted FBI file?

14 MR. DONNELLY: What I will say is this,
15 Vice Chairman Johnson. Having done this for a number of
16 years, and my colleagues as well, it would be extremely
17 difficult, extremely difficult, to find out the
18 information concerning the magistrate who signed off on
19 a search warrant, specific individuals involved in the
20 process leading up to the authorization of a search
21 warrant, without having some sort of knowledge about the
22 inside information of that agency.

23 VICE CHAIRMAN JOHNSON: And I just want to
24 circle back to something that was said almost a couple
25 of hours ago. That unredacted file was put in an

1 envelope and given to Ken Paxton that was kept in his
2 personal possession for a few days?

3 MR. DONNELLY: I will let Ms. Buess cover
4 that, but I don't think we can say that that is, in
5 fact, the case, that that document was in the manila
6 envelope. What we can say is that the unredacted memo
7 was in the possession of General Paxton for a period of
8 time.

9 VICE CHAIRMAN JOHNSON: So two different
10 things. One, the unredacted memo gets directly to
11 General Ken Paxton.

12 MS. BUESS: Correct.

13 VICE CHAIRMAN JOHNSON: At some point, Ken
14 Paxton gives a manila envelope to an aide that then
15 drives that manila envelope to Nate Paul's business in
16 Austin and hands it over to him.

17 MS. BUESS: That is correct, to him
18 personally, yes.

19 VICE CHAIRMAN JOHNSON: To him personally.
20 And then at some other point, grand jury subpoenas, 39,
21 are issued asking for information related to the people
22 that would have potentially been in that report.

23 MS. BUESS: That is correct.

24 MR. DONNELLY: That's correct.

25 VICE CHAIRMAN JOHNSON: What kind of

1 information were they wanting on the magistrate or the
2 police officers that were involved in investigating Nate
3 Paul?

4 MR. DONNELLY: I don't have the specifics
5 of that, but it's our understanding it's been explained
6 to us that it included information including personal
7 cell phone information, cell phone records.

8 MS. BUSS: IP addresses.

9 MR. DONNELLY: IP addresses. But I don't
10 have the entirety of the scope.

11 CHAIRMAN MURR: Chairman Longoria.

12 MEMBER LONGORIA: Thank you, Chairman.

13 Did you have the opportunity to review
14 that DocuSign or that document with Special Prosecutor
15 Cammack and the AG's office? Like on the terms, was it
16 hourly? Was it salary? What was this?

17 MR. DONNELLY: We --

18 MS. EPLEY: May I respond? There is a
19 draft contract that would have included --

20 CHAIRMAN MURR: Use the microphone.

21 MS. EPLEY: Thank you. Sorry, Chairman.

22 There was a draft contract that would have
23 included additional information, for example, the hourly
24 rate or the scope in terms of employment. That as
25 drafted by Ryan Vassar limited what Brandon Cammack even

1 if hired would have been able to do to purely
2 investigative. He cannot be the prosecutor. That's --
3 that's first.

4 Second, you'd asked if we were able to
5 review the DocuSign documents. We do not and cannot get
6 access to that until or unless the attorney general's
7 office willingly provides it or until this Legislature
8 forces them to provide it subsequent to a subpoena. But
9 what I can tell you is that portions of the document for
10 the DocuSign are included in the OAG report response.
11 It can provide, for example, when the document was
12 created, when it was last touched.

13 If you would allow me some latitude, I'd
14 like to come back to Vice Chair Johnson's question.

15 Some of your questions have involved
16 whether or not there was a valid contract. Two things.
17 Can the Attorney General hire a lawyer himself on the
18 back of a napkin if he wants to? That is not part of my
19 job description to decide, but I would presume there can
20 be a colorable argument the answer is yes.

21 So there's two questions. One, they did
22 not follow the internal policies and procedures designed
23 to protect Ken Paxton to authorize payment of an
24 employee and to document what proceeds, but second, the
25 draft they do receive is signed and not dated, which is

1 very important because just because it was provided upon
2 request with both signatures does not establish when
3 that occurred.

4 And what we know is that Brandon Cammack
5 was working for at least two weeks before Ken Paxton
6 told Penley, "You need to sign this document,"
7 suggesting no contract exists, because Brandon Cammack
8 is already working.

9 So I want to say when we refer to
10 contract, we're not establishing its validity. We're
11 referencing what we know from Attorney General Ken
12 Paxton.

13 CHAIRMAN MURR: Vice Chair Johnson.

14 VICE CHAIRMAN JOHNSON: If I may, what
15 bothers me is not the idea of whether or not he can hire
16 or not hire. What bothers me is the fact that not
17 everybody gets to be a prosecutor. Not everybody is
18 qualified to be a prosecutor. Not everybody can pass
19 the credentials, the criminal history, or the vetting to
20 determine whether or not that person is an ethical
21 lawyer that is entitled to the power that comes with
22 being a prosecutor.

23 And what it sounds like you're telling us
24 is that all those people that were on that frontline of
25 defense of ethics in the OAG office were telling Ken

1 Paxton, "You may not do these things and you may not
2 hire this person because they don't reach our standard,"
3 and he did it anyway.

4 MR. DONNELLY: That's correct.

5 MEMBER LONGORIA: Was Cammack -- you
6 mentioned 25,000 was allocated for this spot. Was he
7 paid? Do you know?

8 MR. DONNELLY: He did submit invoices. I
9 don't have the information on whether or not he was
10 ultimately paid on it, but he did submit invoices even
11 after the motions to quash had been filed.

12 MEMBER LONGORIA: Okay. Multiple invoices
13 because you say "invoices."

14 MR. DONNELLY: Yes.

15 CHAIRMAN MURR: Mr. Donnelly, do we know
16 if Mr. Cammack challenged the subsequent actions of
17 high-ranking OAG folks to quash the subpoenas?

18 MR. DONNELLY: We have no information that
19 that occurred.

20 CHAIRMAN MURR: They haven't provided any
21 information that he, you know, showed up one day or made
22 a phone call and said he was upset by what they've done?

23 MR. DONNELLY: That's accurate.

24 CHAIRMAN MURR: Okay.

25 MR. DONNELLY: So, again, Mr. Cammack

1 submitted those invoices. General Paxton took no action
2 to halt or postpone the actions taken by Brandon
3 Cammack.

4 General Paxton, as Vice Chair Johnson
5 indicated, inserted himself into this matter directly,
6 hired outside counsel in a manner outside established
7 and codified procedure. The actions were grossly
8 outside of the line of established norms. And as we've
9 been able to determine, based on our investigation, the
10 only beneficiary of the fruits of the investigation,
11 notwithstanding its lack of legal or credible basis,
12 would have been Nate Paul.

13 MS. EPLEY: Any questions on those topics
14 for Mr. Donnelly?

15 CHAIRMAN MURR: I don't think we have
16 questions right now, though, just some very serious
17 facts.

18 MS. EPLEY: Thank you.

19 In that case, I'm going to turn our
20 attention to the retaliation component. I have
21 structured it in a timeline, so it should move quickly,
22 but please step in if you have questions.

23 The facts as you have just heard in
24 regards to Mitte open records, the letter foreclosure
25 and the investigation all functioned in individual

1 silos. They had line prosecutors, then mid management,
2 and ultimately senior level Office of the Attorney
3 General employees involved increasing as the level of
4 concern or pressure progressed. But very few senior
5 leaders in OAG had the landscape of what was occurring.
6 They were not involved in each silo. They did not have
7 the full scope.

8 That comes to a head on September 28 of
9 2020, the first Monday that a grand jury subpoena is
10 received. When that happens, questions begin to be
11 asked as to why someone named Brandon Cammack is
12 alleging that he's a special prosecutor with the Office
13 of the Attorney General.

14 I would advise this panel that senior
15 staff at the time who would have been responsible for
16 overseeing a special prosecutor in the criminal
17 investigation division had no idea who Brandon Cammack
18 was.

19 When looked in the internal database,
20 there was no reference to an individual named Brandon
21 Cammack. When his LinkedIn or Google profile were
22 reviewed, there was nothing familiar about his face.

23 So the senior level advisor decides to
24 start contacting other leadership to find out what's
25 afoot, why they weren't looped in, and why, despite a

1 very deep, experienced, well-funded roster of criminal
2 prosecutors and investigators in the Office of the
3 Attorney General, they would ever need outside counsel.
4 Couldn't recall a time that had been necessary before.

5 This is the first two days of that week.

6 By the time the second grand jury subpoena
7 is notified, leadership falls into what I think they
8 would tell you is not just grave concern but chaos.
9 They're concerned that Brandon Cammack has gone rogue.
10 They do not know under what authority he has acted.
11 Attorney General Ken Paxton is not present in the
12 office, so per law the first assistant is the acting
13 attorney general.

14 They decide to reach out to Attorney
15 General Paxton and let him know what is going on. The
16 response is that he had hired -- he, Ken Paxton -- had
17 hired Brandon Cammack to the surprise of every other
18 employee at the Office of the Attorney General. No
19 internal documentation, no checks and balances against
20 other individuals, no requests as to the limitations of
21 power, no reference to the fact that he had actually
22 been hired.

23 At that point Penley sends a cease and
24 desist letter to Brandon Cammack. He states that he has
25 no authority and that his actions may be illegal.

1 The staff emails General Paxton to notify
2 him of Cammack's actions. Paxton responds that he heard
3 Cammack -- excuse me -- responds that he had hired
4 Cammack without telling them. Again, no documentation
5 and no DocuSign.

6 I would point out next that Cammack sends
7 an invoice for his services as relayed my Mr. Donnelly a
8 moment ago. The staff asks for a copy of that contract.
9 Brandon Cammack cannot provide it at that time. This is
10 Wednesday, September 30, of 2020.

11 When that contract arrives, it is signed
12 but not dated. Despite evidence internal to the
13 organization that there were still questions on behalf
14 of the Attorney General as to whether or not he had the
15 authority to sign outside counsel, a question that would
16 be irrelevant if an actionable contract was already in
17 place.

18 Staff at the Office of the Attorney
19 General contacts Don Clemmer at the Travis County
20 District Attorney's Office. Clemmer says they did not
21 hire Cammack.

22 CHAIRMAN MURR: Vice Chair Johnson has a
23 question.

24 MS. EPLEY: Yes.

25 VICE CHAIRMAN JOHNSON: So how long is his

1 supposed employment between the time that Ken Paxton
2 says "I'm hiring him," gets somebody to sign off, issues
3 grand jury subpoenas, and then he gets blown on
4 September 28 to September 30?

5 MS. EPLEY: The only possible people who
6 could answer that question would be the attorney general
7 Ken Paxton and Brandon Cammack. What I can tell you is
8 that he used information he could not have had until
9 September 23 in making the request to the grand jury
10 subpoena. That is the only anchor of a time frame we
11 can give you until that Monday, the 28th.

12 VICE CHAIRMAN JOHNSON: So we're talking
13 about a couple weeks?

14 MS. EPLEY: According to the General
15 himself, Brandon Cammack had been working for several
16 weeks and needed to be paid, and that conversation was
17 had on September 28.

18 VICE CHAIRMAN JOHNSON: And for several
19 weeks, the Attorney General authorized \$25,000 in
20 taxpayer funds to go to some kid that's never been a
21 prosecutor to do a couple weeks' worth of work?

22 MS. EPLEY: Yes. I do not want to state
23 that there was an agreement for the full 25,000. There
24 was an allotment. I don't know how that agreement would
25 be structured.

1 VICE CHAIRMAN JOHNSON: Okay.

2 MS. EPLEY: There's evidence that it was
3 \$300 an hour, but that was the official draft contract
4 if hired per standard procedures in the attorney
5 general's office. We have no way of knowing what
6 agreements, if any, existed between the parties
7 otherwise.

8 At that point, Wednesday, September 30 --
9 yes. At that point Wednesday, September 30 of 2020, the
10 leadership in that office goes to the FBI.

11 I want to emphasize where we started at
12 the beginning. Four individual silos functioning
13 independently, each with concerns. Each staff or
14 leadership has pushed back on General Ken Paxton,
15 advised why this is ill-advised. We have at least three
16 specific conversations in which parties who otherwise
17 have not compared notes warn General Paxton about the
18 appearance of bribery, the implication of compromise on
19 the office, and advise him to cease his actions. And
20 that doesn't happen. At that point, the senior staff
21 goes to the FBI and makes an account as to what's
22 occurred.

23 This brings us to October 1 of 2020, a
24 Thursday. The seven employees text General Paxton to
25 notify him that they have reported his violations to the

1 appropriate law enforcement authority.

2 To harken back to what brings us here
3 today, those people acted, as the evidence and their
4 testimony would provide, in a way they believed to be
5 loyal to General Paxton for as long as they could and
6 then were obligated to make a report, the same type of
7 report that would be protected by a whistleblower
8 lawsuit or a whistleblower action.

9 The whistleblowers provided in that notice
10 letter to the Office of the Attorney General human
11 resources quote, We have a good faith belief that the
12 Attorney General is violating federal and/or state law,
13 including prohibitions related to improper influence,
14 abuse of office, bribery, and other potential criminal
15 offenses.

16 It is for other bodies to determine
17 whether or not those allegations are valid, but what it
18 without question exists is if those individuals acted on
19 good faith when they made the violation, they are to be
20 protected. And as we will walk through in a moment,
21 each one of them was fired or resigned on their own
22 principles or suspended and then terminated at the
23 conclusion.

24 October 1, 2020. Cammack returns the
25 draft contract for outside counsel signed by General

1 Paxton and without a date as to when it was executed. I
2 think we covered this earlier, so I'm going to keep
3 moving on unless there are questions.

4 Darren McCarty directs the charitable
5 trust division to nonsuit or withdraw from the Mitte
6 case. What this means is that the Office of the
7 Attorney General has intervened, which is a neutral
8 action. Their actions, according to testimony, is
9 contrary to Mitte. And at the time they do the nonsuit,
10 they've withdrawn their involvement in the lawsuit, so
11 they removed themselves as a party.

12 I would like to clarify something earlier.
13 Ms. Buess had recounted to you that there was an
14 agreement and a settlement in regards to the properties
15 for \$21 million. That is accurate. We're criminal
16 lawyers, however, and not civil, so what I will let
17 you -- or what I would advise is the time for appeal on
18 those properties has not concluded, so it is not final
19 for other purposes, but that is the agreement and the
20 expectation.

21 Still October 1, 2020. Penley writes
22 Clemmer -- that is Office of the Attorney General
23 reaches out to Travis County DA's office -- to tell him
24 that Cammack has no authority, so the grand jury
25 subpoenas are improper.

1 There have been allegations and debate as
2 to whether or not there is some sort of violation for
3 providing those grand jury subpoenas. There was no
4 jurisdiction on the part of the Office of the Attorney
5 General to issue those grand jury subpoenas. They did
6 not have validity on their face. If, to backdate
7 validity, the Travis County District Attorney's Office
8 agreed they had control and management, then there is a
9 colorable argument that has been corrected. That does
10 not and never did exist. The Travis County District
11 Attorney's Office did not confer that privilege on
12 Brandon Cammack. They didn't know he was working on
13 these matters.

14 At that point Clemmer collects the grand
15 jury subpoenas and directs the Office of the Attorney
16 General to file a motion to quash, legal speak to say
17 pull back or withdraw to end the ability to use those
18 subpoenas.

19 October 2, 2020 is a Friday. Travis
20 County District Attorney's -- district -- excuse me --
21 court judge signs the motion to quash ending the 39
22 subpoenas.

23 Jeff Mateer, first assistant, resigns on
24 principle given the actions of the attorney general's
25 office and General Paxton himself.

1 Penley and Maxwell are placed on
2 administrative leave as a direct result of the events
3 from the preceding week and the report that they have
4 made to law enforcement in regards to the actions of
5 Attorney General Ken Paxton.

6 Near this time, another senior employee
7 decides that they have put their job at risk by
8 asking -- acting as they believed to be appropriate.
9 They send an email to the human resources division
10 notifying them of their involvement in the motion to
11 quash and expressing concerns about adverse personnel
12 actions. That person stays on staff for at least
13 another year, doesn't move forward, loses scope of
14 power, loses authority, and ultimately is about to be
15 demoted and believes the only reason they were allowed
16 to stay for that year was because they had documented
17 their concerns as to adverse personnel actions.

18 October 5 of 2020, Monday. Brent Webster
19 dismissed Brickman from an important legislative meeting
20 with General Paxton.

21 CHAIRMAN MURR: Would you clarify who
22 Brent Webster is? That's the first time I've heard that
23 name.

24 MS. EPLEY: Yes, I will. Brent Webster
25 comes in on the -- first assistant leaves, and by that

1 Monday, Brent Webster has been recruited to be the new
2 first assistant of the Office of the Attorney General.

3 There is evidence based on interviews and
4 phrasing in the document referred to as the OAG report
5 that he was the person who conducted that investigation,
6 attempted to clear the attorney general's office, and
7 wrote the report. It is an unsigned document, the OAG,
8 so I cannot establish for you who ultimately decides
9 they want to take credit for that other than the
10 Attorney General has posted it on his website.

11 CHAIRMAN MURR: Do you believe that
12 Mr. Webster is an internal promotion, or did he come
13 from outside the agency?

14 MS. EPLEY: He came from outside the
15 agency. We have very limited information in regards to
16 the fact that he might have previously been affiliated
17 with a lawsuit on behalf of Nate Paul. I have no
18 personal knowledge of that.

19 CHAIRMAN MURR: Okay.

20 MS. EPLEY: But would be remiss not to add
21 it.

22 CHAIRMAN MURR: Thank you. I know I
23 interrupted you, but Speaker Geren, did you have --

24 MEMBER GEREN: No, that was the question I
25 was going to ask.

1 CHAIRMAN MURR: All right. Please
2 continue.

3 MS. EPLEY: Within a few days, Ryan Vassar
4 is placed on investigative leave.

5 October 9th of the 2020. The Travis
6 County District Attorney's elected district attorney
7 Margaret Moore sends a letter to Attorney General Ken
8 Paxton. I would like to read it here despite its
9 length, if you would allow me: Dear Attorney General
10 Paxton, on June 10, 2020, my office sent to David
11 Maxwell -- that is the investigator internal to OAG -- a
12 letter referring a request to investigate RTI filed in
13 our office by Nate Paul. The RTI was received by us
14 after you asked my office to hear his complaints. The
15 referral of the Office of the Attorney General was made
16 with your approval. We did not conduct any
17 investigation into the merits of the matters complained
18 of.

19 In referring the matter to OAG, we
20 concluded that ours was not the appropriate office to
21 either address the matters raised in the complaint or to
22 conduct an investigation into them. The referral cannot
23 and should not be used as any indication of a need for
24 investigation, a desire on the Travis County DA's part
25 for an investigation to take place, or an endorsement of

1 your acceptance of the -- excuse me -- or an endorsement
2 of your acceptance to the referral. My office has
3 closed this file and will take no further action.

4 Furthermore, I have instructed my
5 employees to have no further contact with you or your
6 office regarding this matter. Any action you have
7 already taken or will take pursuing this investigation
8 is done solely on your own authority as provided by
9 Texas law.

10 The newly surfaced information raises
11 serious concerns about the integrity of your
12 investigation and the propriety of your conducting it.

13 That is from the district attorney Travis
14 County to Attorney General Ken Paxton himself.

15 October 15 of 2020. Brent Webster extends
16 the administrative leave for another two weeks in
17 regards to David Maxwell and Mark Penley.

18 October 20, 2020. Blake Brickman and
19 Lacey Mase are terminated. They were fired from their
20 employment at the Office of the Attorney General.

21 October 28. Ryan Bangert resigns.

22 November 2, 2020. David Maxwell and Mark
23 Penley are terminated. They're fired from their
24 positions at the Office of the Attorney General.

25 And by November 10 or thereabout of 2020,

1 Ryan Vassar is terminated.

2 I would point out, as it's relevant here,
3 that throughout the interviews that we had done, it was
4 clear that outside counsel in the criminal
5 investigations unit was unnecessary at that time frame.
6 There is then a loss of personnel in terms of body
7 count. There is also a loss of personnel in terms of
8 experience and depth. And at this stage, the Office of
9 the Attorney General spends approximately \$40 million a
10 year on outside counsel in an office that previously was
11 well funded and had a deep roster.

12 At this point, I would turn your attention
13 to Gregg Cox. You'll remember him because he was
14 related to the securities fraud investigation in Travis
15 County.

16 Moving forward to 2020, Margaret Moore is
17 still the elected district attorney, the whistleblower
18 actions have blown up, and Gregg Cox is asked to return
19 to the Travis County District Attorney's Office given
20 his experience in special prosecutions and to look into
21 the allegations of bribery. He makes headway, begins to
22 substantiate allegations and claims, and ultimately is
23 asked to step back or to stop because there would be a
24 pending federal investigation.

25 As I think people would expect, we defer

1 in respect to federal authorities, but it also means
2 that progress for other purposes ceases because of their
3 investigation being ongoing.

4 CHAIRMAN MURR: Can I interrupt you?

5 MS. EPLEY: Yes.

6 CHAIRMAN MURR: Would you clarify a little
7 bit, if you can, who asked him to stop. Is that DA
8 Moore that asked him to stop, or is that the Department
9 of Justice stepping in saying, "Hey, we're working on
10 something. Please halt your investigation"?

11 MS. EPLEY: Thank you for that question,
12 Chairman. No, the District Attorney herself had asked
13 him to look into -- not to prove or disprove, but to
14 follow the evidence as to whether or not there was
15 sufficient evidence to proceed on bribery concerns and
16 investigations and to other offenses.

17 It was the federal authorities and law
18 enforcement, either prosecutorial or investigative, who
19 asked him to step back.

20 CHAIRMAN MURR: Thank you.

21 MS. EPLEY: Yes. Before we conclude --

22 VICE CHAIRMAN JOHNSON: May I just to
23 clarify, when did federal authorities say, "Hey, hold
24 off on your bribery charges"?

25 MS. EPLEY: That is absolutely included in

1 our records, but I did not include it on this, and I
2 don't want to speculate --

3 CHAIRMAN MURR: But that wasn't just
4 within a few days of their work.

5 MS. EPLEY: No.

6 CHAIRMAN MURR: That was after weeks or
7 months of work had occurred?

8 MS. EPLEY: That's correct.

9 CHAIRMAN MURR: Okay.

10 MS. EPLEY: Before we conclude, I had
11 mentioned that I would like to highlight some
12 information from the Office of the Attorney General
13 report.

14 Now, the document -- the references that
15 come from me are attributed directly to evidence we have
16 received in either documentation or in conversations
17 with people relevant to the specific events. So the
18 opinion that they're false or misleading is based on
19 contrary evidence.

20 CHAIRMAN MURR: And we're talking about
21 the 400-page document that was submitted online as a
22 response to all of this?

23 MS. EPLEY: Yes, Chairman Murr.

24 CHAIRMAN MURR: By the Office of the
25 Attorney General?

1 MS. EPLEY: That's correct.

2 CHAIRMAN MURR: Thank you.

3 MS. EPLEY: When I reference as false or
4 misleading, it's not my personal opinion. It is what
5 appears to be the case based on testimony and evidence,
6 but for brevity, I will refer to it that way.

7 I am also not going to give you an
8 exhaustive list. There is frankly not time and, some of
9 them are repetitive, but some highlights.

10 First, there is a quote, As this
11 investigation remains ongoing, this report will be
12 updated and supplemented as further interviews are
13 conducted and if any additional evidence is obtained.

14 There have been no supplements and no
15 amendments or additions.

16 I have organized these by theme to aid, so
17 I'm going to give you a prompt first.

18 In regards to the first allegation for
19 this list that will be an open records request, false
20 statement: Paxton's actions were lawfully taken,
21 Page 46. False.

22 In regards to the second claim for this
23 list, that will be the Mitte Foundation. Quote, Ken
24 Paxton's involvement was consistent with his predecessor
25 and in line with his required duties and legal

1 obligations as Attorney General, Page 5. False.

2 Quote, position taken by the Attorney
3 General in this litigation was adverse to Nate Paul and
4 in support of a higher settlement to be paid by Nate
5 Paul. This is referencing a letter from an attorney for
6 Nate Paul. That's on Page 5. False.

7 This investigation revealed that the
8 Office of the Attorney General's intervention worked to
9 the Foundation's advantage in mediation, page 49.
10 False.

11 In regards to the third allegation for
12 this list, it will be the foreclosure letter, or what
13 some internally call the midnight letter. Informal
14 guidance letter regarding foreclosure sales written by
15 Bangert was made in response to a request for disaster
16 counsel advice from Texas Senator Bryan Hughes, Page 5.
17 Misleading. It did come from Senator Bryan Hughes after
18 drafted and provided by the Office of the Attorney
19 General.

20 No crime is alleged and no evidence of any
21 crime is articulated, Page 49. False.

22 It cannot reasonably be argued that this
23 was an unusual or unwarranted result, meaning the
24 position taken by the Office of the Attorney General on
25 the foreclosure letter, Page 50. False.

1 The fourth claim in regards to special
2 prosecutor and the investigation by Brandon Cammack, in
3 regards to Cammack, knowingly appointed as special
4 prosecutor by Travis County District Attorney's Office,
5 Page 6. False.

6 Brandon Cammack legally and properly
7 exercised authority delegated to him by the Attorney
8 General Paxton, Pages 5 and 6. False.

9 Referral No. 2 was never investigated by
10 any other OAG staff, Page 42. False. This statement is
11 not only false based on the evidence acquired by this
12 inquiry but is directly controverted by another quote in
13 the same document.

14 No one at OAG was then aware of the
15 existence of Referral No. 2 -- which was true -- with
16 the exception of Paxton and Cammack -- also true. Only
17 Cammack had access to the contents of Referral No. 2.
18 Paxton read Referral No. 2 after OAG's internal
19 investigation had begun.

20 In regards to the Travis County District
21 Attorney's Office control or management of the
22 investigation, Clemmer and Montford independently
23 approved a criminal complaint and referred it to OAG for
24 assistance in the investigation for the reasons
25 discussed in the report, Page 52. False.

1 Claims against the potential defendants in
2 Referral No. 1 and Referral No. 2 were never ruled out,
3 Page 7. Misleading. You can't prove a negative. They
4 were determined on the face by the Travis County
5 District Attorney's Office present at the lunch and by
6 the investigators and assistant attorney generals in the
7 first meeting at that office to be meritless and not
8 worth proceeding on their face.

9 Quote, Travis County District Attorney's
10 Office did initially investigate and referred the matter
11 to OAG, Page 39. False.

12 Travis County District Attorney's Office
13 requested OAG's assistance with this investigation,
14 Page 39. False.

15 Quote, therefore under Texas law, Travis
16 County retained legal care, custody, and control of the
17 OAG investigation. False.

18 Montford and Clemmer -- ellipses for move
19 to center -- oversaw the special prosecutor, Page 39.
20 False.

21 Referral No. 1 and Referral No. 2
22 undeniably indicated a need to investigate, Page 39.
23 False.

24 They expressed Travis County's desire that
25 an investigation take place. False.

1 They constituted Travis County's
2 endorsement of the referral. False.

3 In regards to the subpoenas, Travis County
4 District Attorney's Office assistants with subpoena
5 confers special prosecutor status. False.

6 As a side note, Article 20.03 regarding
7 the use of the grand jury as indicated earlier by
8 Mr. Donnelly is quoted as reading: The attorney
9 general, district attorney, criminal district attorney,
10 or county attorney may be the attorney representing the
11 state, Page 8, which makes it intellectually dishonest
12 to say that the Travis County District Attorney's Office
13 subpoena conferred special prosecution status from their
14 office.

15 Continuing the quotes: Travis County
16 District Attorney's Office presented Cammack as a
17 special prosecutor, implying with the Travis County
18 District Attorney's Office upon providing grand jury
19 subpoena requests to the judge. That's false.

20 Cammack had authority pursuant to Travis
21 County District Attorney Office appointment, Page 34.
22 False.

23 Do you want me to keep going?

24 CHAIRMAN MURR: Please.

25 MS. EPLEY: Thank you.

1 Quote, the Travis County District
2 Attorney's office -- ellipses because there's commentary
3 in between -- held control over all decisions regarding
4 the subpoenas presented to the Court. That is false.

5 An attorney for Nate Paul was present and
6 that may have been required to waive any objection to
7 releasing the information if Paul, his client, was a
8 party or owner of the subpoenaed bank records, Page 52.
9 False.

10 Also in Texas code is the requirement that
11 parties not be present for the service of a subpoena. I
12 add that because the attorney's presence with the
13 outside counsel Brandon Cammack in service of criminal
14 subpoenas related to civil process is concerning.

15 Quote, beyond that, the complainants
16 articulate no theory of a criminal act, much less a
17 theory that Attorney General Paxton sought or accepted a
18 bribe or otherwise improperly exercised his official
19 influence, Page 56. That is false.

20 CHAIRMAN MURR: Vice Chair Johnson has
21 questions.

22 VICE CHAIRMAN JOHNSON: Have all of you
23 been involved in the interviews with the people from the
24 OAG's office or the whistleblower on some level?

25 MS. BUESS: Yes.

1 MS. EPLEY: Yes.

2 VICE CHAIRMAN JOHNSON: Do you get a sense
3 of -- from them their feelings about what the actions of
4 the Attorney General have done on the institution of the
5 attorney general's office?

6 MS. EPLEY: Yes.

7 VICE CHAIRMAN JOHNSON: Can you share it?

8 MS. EPLEY: Of course. Does anybody else
9 want to field it? I've been talking for a minute.

10 MR. DONNELLY: Fair enough.

11 The thing that I think struck all of us in
12 our investigation, not only in speaking with
13 whistleblowers but other high-ranking officials at the
14 Office of the Attorney General, is that these are
15 individuals who are extremely well-credentialed and
16 qualified. These are individuals who have taken upon
17 their role as public servants to do what their oath is,
18 what their oath asks them to do, to uphold the laws of
19 the state of Texas, to uphold the Constitution.

20 Many of the people that we spoke with,
21 specifically some of the whistleblowers, are known
22 outside of the Office of the Attorney General's circle.
23 They are well-respected former law enforcement. They
24 are well-respected attorneys. They're individuals who
25 are considered subject matter experts in fields. They

1 are oftentimes the cream of the crop. They rose to the
2 positions that they are in because of their work ethic
3 and because of their dedication.

4 And the feeling was shared almost
5 universally that the actions that they were being asked
6 to take, the positions that they were being put in, the
7 decisions made by the Attorney General sullied the
8 office and sullied their commitment and their careers.

9 CHAIRMAN MURR: Chairman Longoria first.

10 MEMBER LONGORIA: Thank you, Chairman.

11 You mentioned early on something about
12 water damage at a home. Can you elaborate on that?

13 MS. EPLEY: I certainly can. In the
14 summer of -- thank you.

15 In the summer of 2020, a home belonging to
16 General Kenneth Paxton and to Senator Angela Paxton was
17 being renovated. As we understand it, those renovations
18 began because there was water damage in the house. So
19 like anyone, you want to fix cosmetic and damaging
20 issues in the home but evolved into a full-scale
21 renovation. The quote to us was involving everything
22 from tearing out the floors all the way up to the
23 ceiling.

24 We have evidence that there were upgrades
25 requested to both the countertops and the cabinets. I

1 don't mean that as a limitation to other things. I mean
2 it as to the two items I can specify information
3 specifically related to.

4 And in regards to the counters, General
5 Paxton was observed and overheard having a conversation
6 with a person who was functioning as the contractor
7 on-site. During that conversation, General Paxton
8 relays that he wants an upgrade to the granite
9 countertops, specifically that his wife doesn't like
10 them and she would like different countertops. The
11 contractor relays that will cost an additional \$20,000,
12 and the response from General Paxton is that they should
13 proceed. He wants to do it.

14 And then the information available to this
15 inquiry and intimated in the allegations by the
16 whistleblowers themselves was an implication of
17 impropriety. Specifically in regards to the \$20,000
18 upgrade, the contractor's response was, "I'll have to
19 check with Nate."

20 MEMBER LONGORIA: Nate being Nate Paul?

21 MS. EPLEY: My job here is to provide you
22 the information that I can. The evidence supports Nate.
23 I don't know of another Nate that is relevant to any
24 portion of the inquiry in any way. I know that Nate
25 Paul has ties to commercial real estate and real estate

1 in the Austin area and that he was relevant in other
2 silos of information in regards to the same time frame.

3 MEMBER LONGORIA: And where was this
4 property located?

5 MS. EPLEY: I don't want to give the
6 address.

7 MEMBER LONGORIA: Well, not the address
8 but what county or --

9 MS. EPLEY: Austin and Travis County.

10 MEMBER LONGORIA: Was there any permits --

11 MS. EPLEY: No.

12 MEMBER LONGORIA: -- obtained?

13 MS. EPLEY: Thank you for asking that
14 question.

15 Attempts were made by this inquiry to find
16 out greater detail in regards to the contractor
17 themselves. We have a first and last name of an
18 individual who's been subpoenaed. We have information
19 in regards to a business owned by Nate Paul that was
20 alleged to have been included, and subpoenas have gone
21 there. We have looked into the permitting, and no
22 permits were pulled for the property in the year of
23 2020.

24 MEMBER LONGORIA: You mentioned water
25 damage. And I hate to assume, but was there an

1 insurance claim filed, or was this private pay? I mean,
2 how was this --

3 MS. EPLEY: I do not have information in
4 regards to that.

5 Thank you. I wanted to clarify something
6 else to ensure not to go on a tangent, but no, that's
7 all we have on that. Thank you.

8 CHAIRMAN MURR: You did mention that it
9 was a home. In the course of your inquiry and
10 investigation, is that the only home for the Paxtons?

11 MS. EPLEY: No. And I invite the team to
12 contribute here as well.

13 I know that there are at least two houses
14 in the Travis County area that are attributed to the
15 Paxton family, a condo and the home under renovation;
16 that there is a house in College Station, Texas.
17 There's information in regards to at least two other
18 properties, one in Collin County -- and we're in the
19 middle of getting additional information in regards to
20 those pieces.

21 CHAIRMAN MURR: So there is a lot of
22 different homes?

23 MS. EPLEY: That's correct. And
24 potentially two currently under Texas Homestead
25 exemption when the expectation is that there be one.

1 CHAIRMAN MURR: That's duly noted.

2 Members, do you have any questions about
3 what we've covered so far? I know we have some other
4 topics.

5 Speaker Geren.

6 MEMBER GEREN: Yes. Ms. Epley, could --
7 the report that you were discussing, true and false, who
8 generated the report that you were quoting from?

9 MS. EPLEY: The best answer I can provide
10 you for that is policy allows that no one beneath the
11 first assistant of the Office of the Attorney General
12 has permission to publish on their website. So the best
13 I can tell you is Brent Webster or General Paxton
14 authorized the publication.

15 The second thing I will tell you is that
16 because it was posted on the Office of the Attorney
17 General website under the authority of Ken Paxton,
18 there's an admission of adoption argument in regards to
19 the veracity of that information from his perspective.
20 It was not signed.

21 MEMBER GEREN: But the report was
22 generated by the Office of the Attorney General,
23 somewhere in the office, and put on the OAG's website.
24 Is that correct?

25 MS. EPLEY: Yes, sir.

1 MEMBER GEREN: Thank you, ma'am.

2 CHAIRMAN MURR: Now just to summarize, you
3 have downloaded to us and to the public a great deal of
4 information that we, as a committee, had requested
5 regarding the whistleblower allegations. From your
6 professional point of view, and I'm not trying to put
7 words in your mouth, but you spent hours visiting with
8 various individuals, their attorneys were present,
9 everything was handled very professionally. The
10 allegations that are contained and that were made as
11 part of the litigation for the whistleblower lawsuits,
12 do you feel like there's a lot of evidence there to
13 support those allegations?

14 MS. EPLEY: I do. Yes, Chairman, I do.

15 MS. BUESS: I do as well.

16 MS. CAMERON: Yes.

17 MR. DONNELLY: I do.

18 CHAIRMAN MURR: Okay. And as part of
19 that, I know part of our inquiry then would go from your
20 professional point of view, when we talk about what
21 violations may have occurred, can you enlighten us in
22 the course of your investigation as to what those might
23 be?

24 MS. EPLEY: Yes, Chairman, I may; but if
25 you would indulge me, I'd like to respond in two pieces.

1 CHAIRMAN MURR: Please.

2 MS. EPLEY: First, the scope of our
3 inquiry was related to malfeasance, which is, you know,
4 unlawful criminal activity; misfeasance, so lawful
5 activity taken in an illegal way, and we have responses
6 in regards to both.

7 But given Donna Cameron's extensive
8 experience as division chief in public integrity and her
9 work specific to this area on behalf of the inquiry, I
10 would like to pass the mic to her.

11 MS. CAMERON: After you've heard all the
12 allegations of misconduct and malfeasance, I would like
13 to briefly summarize violations of the law that we feel
14 like the evidence shows that it would meet the elements
15 of the crimes.

16 CHAIRMAN MURR: I'm going to get you to
17 pull your microphone close for those of us that are
18 listening.

19 MS. CAMERON: Okay. And we're also
20 talking about violations of the oath.

21 So the first would be gift to a public
22 servant. And that is a misdemeanor, and that could
23 relate to the home remodeling. It could potentially
24 relate to the campaign donations.

25 Another thing that I want to talk about,

1 which is a little -- a lot more serious, the abuse of
2 official capacity. And this is when you have somebody
3 in the -- someone in the office of the attorney general
4 who, in his position, comes in to the custody of all
5 this personnel, all the, you know, property that the OAG
6 has access to.

7 And what he -- what the allegation is is
8 that there is over \$72,000, and that is very
9 conservative, of the time and efforts that these really
10 high-ranking respected employees were not just diverted
11 to but basically demanded by the Office of the Attorney
12 General to divert their time to. And that would be a
13 third-degree felony.

14 You've heard about the securities fraud.
15 That's from 2011. That's a felony in the first degree
16 and a felony in the third degree. We also have
17 securities fraud that has been mentioned from 2004,
18 2005, 2012.

19 The other issue is third-degree felony of
20 misuse of official information. So if nonpublic
21 information comes to you by virtue of your position,
22 such as, you know, the unredacted documents that came
23 from the FBI when the --

24 CHAIRMAN MURR: That's a really good
25 example, such as files from the FBI.

1 MS. CAMERON: Right. Right.

2 CHAIRMAN MURR: Okay.

3 MS. CAMERON: When you are getting highly
4 sensitive information in your position and you then
5 release that to not just the public, but you can release
6 it to one person. And the circumstantial evidence shows
7 that that information was obtained and was perhaps given
8 to Nate Paul.

9 Let's talk about the retaliation and
10 official oppression. And what we have here is the kind
11 of actions that were taken by the Office of the Attorney
12 General towards his most senior employees and -- and
13 subjecting them to all kinds of retaliation that you've
14 heard, and that is a third degree and a misdemeanor.

15 Now I want to talk about -- excuse me --
16 misapplication of fiduciary property, because the
17 easiest way for me to think about this is here is the
18 Office of the Attorney General, and he's in the position
19 of a fiduciary. So he has the entire budget that gets
20 provided to him and his office, and he makes decisions
21 on how to expend those monies. And I wanted to look
22 particularly at the hiring of Brandon Cammack.

23 That contract was entered into for a year.
24 And that money that was set aside, \$25,000, we don't
25 know how much has been paid out, we don't know what the

1 invoices were, but it was subjected to substantial risk
2 of loss. We don't know that it's gone. The \$72,000
3 regarding the employees who were, you know, diverted,
4 they're -- that's gone. That's gone. And that's
5 conservative.

6 But this \$25,000 was specifically
7 earmarked. And, you know, the things that -- when you
8 say intentionally, knowingly, or recklessly misapply,
9 the kind of reckless, you know, things that I believe
10 that the Office of the Attorney General did was
11 basically, as the other people have told you, he was a
12 third -- I mean, a five-year lawyer. No prosecutor
13 experience. And this contract was entered in to give
14 him \$300 an hour. So, you know, that to me is at the
15 very least reckless.

16 He was also encumbering \$25,000 of the
17 state's money.

18 He was also told that, you know, all
19 people in the office that were required to sign and
20 approve this DocuSign had not done it.

21 He was also told by his high personnel
22 that this could be criminal activity, that this was only
23 for the benefit of Nate Paul, and not just for the
24 benefit of Nate Paul but for the harm of entities. So
25 we're not just talking about benefit but we're talking

1 about harm.

2 VICE CHAIRMAN JOHNSON: May I ask about --
3 you mentioned retaliation or -- and I wanted to ask, for
4 those of you that talk about the whistleblowers, is
5 there a direct connection -- when they talk about or
6 y'all have described in them a fear or concern of
7 retaliation, is that emotional? Is that mental? Is
8 that physical? Is that employment? What kind of
9 retribution did they describe?

10 MS. CAMERON: I think it's a combination
11 because they felt like they were harassed, that there
12 were false statements put out, that it affected their
13 reputation, that it affected their ability to get
14 another job. These were people that had high-level
15 respectable jobs, and then they went down for less money
16 somewhere out of a job with, you know, six kids,
17 whatever. But it was just --

18 VICE CHAIRMAN JOHNSON: So there was real
19 realized harm to the whistleblowers?

20 MS. CAMERON: Yes.

21 MS. EPLEY: May I interrupt just briefly.
22 Sorry to interrupt you.

23 MS. CAMERON: Yeah.

24 MS. EPLEY: We didn't spend -- we didn't
25 spend a great deal of time on this area because it's

1 their personal lives, but to your question, the
2 retaliation isn't just the suspensions. It's not just
3 the firing, although that is the most salient in regards
4 to the whistleblowers and the most significant for
5 today, but there are also people on staff who, for
6 example, found out about the affair and confronted
7 Attorney General Ken Paxton who ended up with a pay
8 raise but moved out of their scope of employment with
9 less access with less control. So --

10 VICE CHAIRMAN JOHNSON: Wait. So there
11 were people within the office that when they found out
12 about the affair -- I don't know. Can you explain that
13 to me again?

14 MS. EPLEY: Yes.

15 VICE CHAIRMAN JOHNSON: I'm not sure I
16 caught it.

17 MS. EPLEY: Yes. So there were people in
18 the office who, once they found out about an affair --
19 not that they'd sought it out, they received information
20 or acquired information in regards to an affair, the
21 allegation is that they have conversations with Attorney
22 General Paxton about that, about the appearance of that,
23 about implications in terms of opening the office or
24 himself up to concerns of blackmail or bribery or
25 impeachment. Right?

1 And so as a result of that conversation,
2 that person is not terminated or suspended. That person
3 is promoted and given a pay raise, but they're moved in
4 terms of their access and they're moved in terms of
5 their scope of employment to have less access to
6 Attorney General Ken Paxton, to the staff at large, and
7 to policies and procedures in the office.

8 VICE CHAIRMAN JOHNSON: So somebody
9 discloses to him, "Hey, you're busted on the affair.
10 This looks bad for the office." And his response is to
11 move them, give them more money, and give them less
12 responsibility?

13 MS. EPLEY: Yes.

14 VICE CHAIRMAN JOHNSON: Did they want that
15 or did -- was that okay with them?

16 MS. EPLEY: I mean, I don't know how to
17 answer that question. I know that in regards to what
18 harm came to you in regards to conversations or
19 confrontations with General Paxton, this was an answer
20 that was provided. So to them, it was negative. Who's
21 going to decline money for a job that you love in an
22 environment that you care about before you realize that
23 you're being moved out and punished.

24 CHAIRMAN MURR: So when you say moved out,
25 that meant isolated?

1 MS. EPLEY: Correct.

2 MS. CAMERON: Yes.

3 CHAIRMAN MURR: I want to be very clear
4 with that. That's not like just a transfer. It's "I'm
5 going to move you off to a dark corner in the office,
6 and you're not going to talk to anybody anymore."

7 MS. EPLEY: Yes, Chairman.

8 I'm sorry, Donna. Please go ahead.

9 MS. CAMERON: Yeah. The next one would be
10 violation of the whistleblower statute, party to
11 simulating legal process. And I would describe this as
12 recklessly causing a document to simulate a summon or
13 another court process. And this relates to Cammack.

14 Party to impersonating a public servant.
15 Again, this relates to Brandon Cammack, you know,
16 identifying himself as a special prosecutor.

17 We talked about the appearance of bribery,
18 like a quid pro quo, that if, you know, you get money,
19 you get benefits, then you'll use your discretion for my
20 benefit.

21 Another was dereliction of duty. You
22 know, to be negligent is one thing, you know, but
23 malfeasance when you are actively and intentionally
24 doing things to the detriment of the office and to your
25 oath and to the responsibility that you have to the

1 state of Texas and the public.

2 CHAIRMAN MURR: And that would include
3 failure to look out for the best interest of a
4 charitable organization?

5 MS. CAMERON: Most definitely.

6 CHAIRMAN MURR: Okay.

7 MS. CAMERON: And then, you know, loss of
8 trust. I know you talk about breach of trust. And I
9 think almost universally when we were talking to our
10 prime -- the whistleblowers, it was like I, you know,
11 needed to leave if I resigned, and it was a total loss
12 of trust. And these were people who had known him for a
13 while, but after all they went through and observed,
14 they said, "The trust is gone."

15 And then the false statements. You know,
16 false statements put out in a derogatory manner about
17 the whistleblowers making a statement, a public
18 statement, saying that Travis County had given him this
19 complaint. It's like it originated from them as opposed
20 to it originated from him because he hand-carried Nate
21 Paul over to the Travis County DA's office.

22 So, you know, I could go on and on, but...

23 MR. DONNELLY: I would add one thing,
24 Chairman Murr. I think in relation to many of these
25 crimes, there is, of course, the aiding and abetting

1 portion of it, he's acting with other individuals, and
2 conspiracy to commit crimes and that violate both the
3 state of Texas laws and federal laws.

4 CHAIRMAN MURR: That is a pretty
5 comprehensive list of concerns. That's alarming to
6 hear. It curls my mustache.

7 Mr. Spiller has questions.

8 MEMBER SPILLER: Briefly. Thank you,
9 Mr. Chairman.

10 On -- and I know some of these may be
11 criminal offenses that are alleged that General Paxton
12 may have violated. Some of them may be just related to
13 the breach of his duty and oath --

14 MS. CAMERON: Yes.

15 MEMBER SPILLER: -- in and to the office.
16 You mentioned the classification. And I'm familiar with
17 the punishment -- on abuse of official capacity, the
18 securities fraud, the retaliation or official
19 oppression. What about on misuse of official
20 information? Is -- do you know what classification that
21 would be if that is a --

22 MS. CAMERON: Misuse of official
23 information is a third-degree felony.

24 MEMBER SPILLER: All right. Two to ten?

25 MS. CAMERON: I'm sorry?

1 MEMBER SPILLER: The range of punishment
2 is two to ten years?

3 MS. EPLEY: Two to ten years, yes.

4 MEMBER SPILLER: And then what about on
5 the -- and it may be related to the dollar amount, at
6 least as to the 25,000 that we don't know whether it was
7 expended or not, but was the misapplication of fiduciary
8 property?

9 MS. CAMERON: The misapplication is the
10 state jail felony.

11 MEMBER SPILLER: Okay. Thank you.

12 MS. CAMERON: Thank you.

13 MS. EPLEY: Can I clarify just to further
14 up -- on your question, the punishment range for a state
15 jail felony would be six months and a minimum of two
16 years in a state jail facility.

17 VICE CHAIRMAN JOHNSON: Early on, you
18 mentioned something about a hundred-thousand-dollar
19 donation from somebody. Whatever happened with that
20 allegation?

21 MS. EPLEY: My understanding is that it
22 was investigated, substantiated, believed to be
23 actionable -- I'm going to dance a little because I
24 don't -- I don't want to make implications about someone
25 I've not met and don't understand.

1 When it arrived in the actual
2 jurisdiction's concerns as to whether or not those
3 allegations should proceed and at the conclusion,
4 presentation was made that it wasn't valid and law
5 enforcement's impression was the statute of limitations
6 had run, so it wasn't actionable anyway. It was not an
7 absence of facts or evidence sufficient to support the
8 elements underlying an improper gift to a public
9 official.

10 VICE CHAIRMAN JOHNSON: Thank you.

11 MEMBER GEREN: Can we --

12 CHAIRMAN MURR: Speaker Geren.

13 MEMBER GEREN: Can we stay on this hundred
14 thousand dollars for just a minute?

15 CHAIRMAN MURR: Your button didn't click.

16 MEMBER GEREN: I'm sorry.

17 The hundred thousand dollars was not
18 reported as a campaign contribution but was described as
19 a gift. Is that correct?

20 MS. EPLEY: That's correct. As a campaign
21 contribution, there would have needed to be a notice or
22 disclosure to the Texas Ethics Commission as a donation.
23 That does not occur.

24 MEMBER GEREN: Right. Was it disclosed to
25 the ethics commission as a gift?

1 MS. EPLEY: Thank you. No, sir, it was
2 not, not until it was caught.

3 MEMBER GEREN: Not until it was caught.

4 MS. EPLEY: The question was asked.

5 MEMBER GEREN: So assuming then the
6 General made a corrected return to report the hundred
7 thousand dollars as a gift?

8 MS. EPLEY: I frankly at the point in
9 which there was illumination and a correction, I did not
10 look for substantiation in regards to cleaning up the
11 mess that had already been aired, so I don't know.

12 MEMBER GEREN: So basically they just said
13 it was a gift. And, I mean, who told you it was a gift?

14 MS. EPLEY: The -- let me -- let me
15 clarify.

16 MEMBER GEREN: Okay.

17 MS. EPLEY: The -- I'd rather get to my
18 notes to make sure that I don't get over my skis.

19 Okay.

20 MEMBER GEREN: And was this hundred
21 thousand dollars for his legal defense fund or --

22 MS. EPLEY: That's what I was trying to
23 distinguish. If we're talking about the hundred
24 thousand dollars in regards to Servergy, the answer is
25 different than if we're talking about the hundred

1 thousand dollars for the defense fund. The answer to
2 both, upon a lack of disclosure, is, oh, it was a gift.

3 MEMBER GEREN: Okay.

4 MS. EPLEY: But the explanations as to how
5 that happened are different.

6 MEMBER GEREN: Thank you, ma'am.

7 MS. EPLEY: Yes.

8 CHAIRMAN MURR: Did that clear up your
9 questions? Were you asking about the securities issues,
10 or are you asking about I guess contributions in order
11 for him to pay for his legal defense?

12 MEMBER GEREN: I'm just -- I guess where
13 I'm trying to come from is not many people walk up to me
14 and give me a hundred thousand dollars. It doesn't
15 happen very often. In fact, I don't believe it's ever
16 happened. And so -- and we, as electeds, have to report
17 gifts. We have to report campaign contributions. And
18 I'm trying to get it straight in my mind where this
19 hundred thousand dollars -- where both the hundred
20 thousand dollars, where they actually fit.

21 I mean, we just filed personal financial
22 statements, which, you know, for the last year. I'm
23 just -- I'm just trying to figure out where the hundred
24 thousand dollars -- the two \$100,000 where they showed
25 up and where they should have showed up. And now I'm

1 still confused.

2 CHAIRMAN MURR: I understand.

3 MS. EPLEY: I would love to illuminate
4 that for you, but there is an absence of information
5 specific to that available to this inquiry.

6 MEMBER GEREN: That's why I'm going to
7 stay confused.

8 MS. EPLEY: Yes.

9 MEMBER GEREN: Thank you.

10 CHAIRMAN MURR: Other questions right now?
11 And I know we haven't finally wound up, but is there any
12 other areas of your investigation that you would like to
13 share or any other observations or conclusions?

14 MS. EPLEY: I would like to add that it
15 has been an honor to work for and with these people but
16 also to emphasize that as we have gone through and there
17 are questions or concerns and decisions to be made, to
18 the extent that anything is wrong, it is my
19 responsibility; to the extent that it was well done, it
20 is the team that was incredible.

21 CHAIRMAN MURR: Can I make a comment? You
22 know, you were assembled here because of the -- what
23 we've now referred to as the whistleblower litigation
24 and the fact that those parties arrived at a mediated
25 settlement agreement that totaled \$3.3 million.

1 And, Speaker Geren, I've never seen
2 \$3.3 million. It sounds like a lot of money, and it is.
3 Part of that --

4 MEMBER GEREN: I thought the hundred
5 thousand was a lot of money.

6 CHAIRMAN MURR: That's right.

7 Part of that, however, the request was
8 made that the Legislature fund that amount. So I have a
9 couple of questions.

10 One, in the course of that litigation, to
11 the best of your knowledge, Mr. Paxton has never been
12 deposed or appeared in court and offered sworn testimony
13 in any way. Does that sound accurate?

14 MS. EPLEY: That is consistent among any
15 lawsuit in regards --

16 CHAIRMAN MURR: Consistent with --

17 MS. EPLEY: -- to General Paxton as I
18 understand it; but, yes, in regards to the lawsuit, no
19 discovery and no depositions.

20 CHAIRMAN MURR: Let me just clarify.

21 MS. EPLEY: Well --

22 CHAIRMAN MURR: That is consistent with
23 every lawsuit that you're familiar with that
24 Mr. Paxton's been involved in, he has not provided sworn
25 testimony in some way?

1 MS. EPLEY: That is correct.

2 CHAIRMAN MURR: Okay.

3 MS. EPLEY: I would like to clarify my
4 statement a moment ago. When I said there had been no
5 depositions, there were depositions on preliminary
6 matters but not the facts of the case.

7 CHAIRMAN MURR: Gotcha.

8 The second part is trying to get to the
9 basis of the claims of the whistleblowers involved in
10 that of, you know, hearing all this information and
11 hearing good people who have provided years of public
12 service. And you all sit here having done that both at
13 the federal and the state level can empathize and
14 sympathize with someone who is trying to do their job,
15 trying to do it the right way, and then found themselves
16 to be on the outs for doing the right thing. And it
17 seems that's very clear.

18 It is alarming, I said earlier, and very
19 serious as to having this discussion why millions of
20 dollars have been asked in taxpayer dollars to remedy
21 what has alleged to be some wrongs by various people.
22 So that is -- that's something that we have to grapple
23 with. That is challenging. I'm still soaking in many
24 of the facts that you have provided us with your level
25 of detail and many hours that you have spent visiting

1 with folks, visiting with these whistleblowers, visiting
2 with witnesses and reviewing hundreds of documents.

3 Do y'all have anything else that y'all
4 would like to add or ask questions of?

5 MEMBER GEREN: I would just like to thank
6 this panel, this group of people, for the excellent job
7 that they've done and the hours and very detailed
8 information they've provided to us.

9 MEMBER SPILLER: Thank y'all.

10 MS. CAMERON: Thank you, sir.

11 CHAIRMAN MURR: On behalf of the entire
12 committee, we appreciate each and every one of you and
13 the efforts that you have put forward to bring us
14 information.

15 And as you've stated at the beginning,
16 Ms. Epley, so eloquently, that your task was not to pass
17 judgment. Your task was to figure out what the facts
18 were and where they led you. And behind you, you have
19 qualified investigators to help you do that as well.
20 And for all of that, you should be commended. You have
21 a lot of work that you put together today.

22 Seated to my right and your left is a
23 court reporter who has taken down each and every word
24 that has been provided. It is the intent that that will
25 be transcribed.

1 Members, do you have any other questions
2 for our invited witnesses here today?

3 (No verbal response)

4 CHAIRMAN MURR: Then we appreciate that.
5 And for that purpose, we excuse you.

6 MS. EPLEY: Thank you.

7 MS. CAMERON: Thank you. It's been a
8 pleasure.

9 MEMBER GEREN: Thank you again.

10 CHAIRMAN MURR: Without objection, the
11 committee will now enter into an executive session under
12 Subchapter B, Chapter 301 of the Government Code, the
13 House Rules of Procedure, the Housekeeping Resolution,
14 and the committee's rules.

15 The time is 11:08 a.m. It is the intent
16 of the committee to allow the public to remain in this
17 room while the committee retires in executive session to
18 an empty room behind the committee.

19 (Executive Session: 11:08 a.m. to 12:06
20 p.m.)

21 CHAIRMAN MURR: The Chair calls the
22 committee to order in open session. It is 12:06 p.m.
23 The Chair notes for the record that no decisions were
24 made or voted upon in executive session.

25 Members, is there any further business to

1 be discussed?

2 (No verbal response)

3 CHAIRMAN MURR: The Chair hears none. The
4 Committee on General Investigating is now adjourned.

5 (Proceedings adjourned at 12:06 p.m.)

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C E R T I F I C A T E

STATE OF TEXAS)
COUNTY OF WILLIAMSON)

I, Lorrie A. Schnoor, Certified Shorthand Reporter in and for the State of Texas, Registered Diplomate Reporter and Certified Realtime Reporter, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control, and that the foregoing pages are a full, true, and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 25th day of May, 2023.



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