

In conclusion, the available evidence illustrates that President Trump's focus was not on directing the DOJ or the FBI to take certain investigative action; rather his focus was on making sure that they were *aware* of election allegations and that they were doing their job to properly investigate them. It also appears that the President's concerns centered on his distrust and skepticism of the DOJ and FBI, which does not appear unfounded in light of the FBI's now-debunked Crossfire Hurricane investigation and the Robert Mueller Special Counsel investigation which, as noted in earlier in this report, saw the DOJ and FBI investigate the Trump campaign, transition team, and administration based on fabricated evidence and evidence infected with Russian disinformation.¹⁶⁷

Lastly, as noted, Donoghue testified that President Trump had "no impact" on DOJ's election investigation activities.¹⁶⁸

As discussed in the next section, the President's skepticism about the DOJ's efforts to investigate election fraud allegations appears to be well-founded in light of the historically passive investigative posture of the DOJ's Public Integrity Section and Election Crimes Branch.¹⁶⁹

VI. THE PUBLIC INTEGRITY SECTION AND ELECTION CRIMES BRANCH WERE HISTORICALLY PASSIVE IN THEIR REVIEW OF ELECTION-RELATED ALLEGATIONS AND ONE OF ITS LEADERS, RICHARD PILGER, UNDERMINED THE DEPARTMENT'S ELECTION-RELATED EFFORTS.

On November 9, 2020, then-Attorney General Barr issued a memorandum that said, in part, "I authorize you to pursue substantial allegations of voting and vote tabulation irregularities prior to the certification of elections in your jurisdictions in certain cases."¹⁷⁰ Barr's memorandum noted that the standard protocol for the Public Integrity Section was to wait until after elections were certified to proceed with overt investigative activity.¹⁷¹ Donoghue noted under questioning, "the general practice of the Department, per ECB, Election Crimes Branch, was to wait until the certification was done because, in their view, what the Department should be doing is prosecuting things after the fact in an attempt to deter misconduct in future elections."¹⁷² Barr noted that this "passive and delayed enforcement approach" could result in matters that "cannot be realistically rectified."¹⁷³ During questioning, Pak confirmed, with

¹⁶⁷ "IG Footnotes: Serious Problems With Dossier Sources Didn't Stop FBI's Page Surveillance" (April 15, 2020), <https://www.grassley.senate.gov/news/news-releases/ig-footnotes-serious-problems-dossier-sources-didn-t-stop-fbi-s-page-surveillance>.

¹⁶⁸ Richard Donoghue Testimony at 127.

¹⁶⁹ Exhibit D.

¹⁷⁰ Memorandum for United States Attorneys, the Assistant Attorneys General for the Criminal Division, Civil Rights Division, National Security Division, Director, Federal Bureau of Investigation, (Nov. 9, 2020), <https://int.nyt.com/data/documenttools/barr-memo-elections-fraud/9bf5cac375012c4c/full.pdf>.

¹⁷¹ *Id.*

¹⁷² Richard Donoghue Testimony at 68.

¹⁷³ Memorandum for United States Attorneys, the Assistant Attorneys General for the Criminal Division, Civil Rights Division, National Security Division, Director, Federal Bureau of Investigation, (Nov. 9, 2020), <https://int.nyt.com/data/documenttools/barr-memo-elections-fraud/9bf5cac375012c4c/full.pdf>.

respect to the Barr memorandum, that the existing investigation policy needed to be fine-tuned and more focused.¹⁷⁴

During the 2020 election, Corey Amundson was the head of the Public Integrity Section (PIN), which is located within the DOJ's Criminal Division, and Richard Pilger was head of the Election Crimes Branch (ECB), which is a unit within the PIN.¹⁷⁵ Based on DOJ policy, the PIN is to be consulted on opening election fraud-related cases. PIN does not have veto power over whether a case is opened, although the testimony from witnesses and records from the DOJ indicate that the PIN attempted to assert that power.¹⁷⁶ For example, in a December 7, 2020, email from Amundson to redacted FBI officials, Amundson states, with respect to the investigation of election fraud allegations at State Farm Arena in Georgia, "[a]s explained below, PIN does not concur in any overt investigative activity, including the proposed interviews."¹⁷⁷ David Bowdich, then-Deputy Director of the FBI, was forwarded that email and he then sent it to Donoghue, who responded by saying, in part:

Unfortunately, this is a continuation of a policy disagreement between the Election Crimes Branch (ECB) of PIN and the AG. While I understand ECB's concerns and the reasons for their historic practice, the AG simply does not agree with what he termed their "passive and delayed enforcement approach" (11/9/20 AG Memorandum) and has clearly directed that Department components should undertake preliminary inquiries and investigations of election-related allegations in certain circumstances even if election-related litigation is still ongoing. While this may be different from ECB's traditional approach (which was essentially to allow election fraud to take its course and hope to deter such misconduct in future elections through intervening prosecutions), the AG gets to make that call.¹⁷⁸

Donoghue proceeded to say,

While PIN says below that they do not "concur" in proceeding with interviews, their concurrence is not required by the Justice Manual, nor has it ever been required. That is language they use to imply that they have approval/disapproval authority when, in fact, they do not.¹⁷⁹

¹⁷⁴ BJay Pak Testimony at 50.

¹⁷⁵ Richard Donoghue Testimony at 66.

¹⁷⁶ Exhibit D; Richard Donoghue Testimony at 69.

¹⁷⁷ Exhibit D.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

Notably, the conflict between the PIN and FBI with respect to the State Farm Arena allegations was brought to Donoghue's attention, in part, because Bowdich raised it, which raises the possibility that if he had not, the DOJ's leadership may not have been aware of the issue and potentially other cases where the PIN could have asserted authority that it didn't have. To that point, Donoghue testified to the following:

17 Q. I see. So when the FBI does the interfacing with
18 the Public Integrity Section and the ECB, in the process you
19 just described, if the FBI does not go around PIN and ECB to
20 apprise you, as was done here with Bowdich in the December 7,
21 2020, email, is there a chance that you, up the food chain,
22 the leadership chain at DOJ, are not going to be aware of some
23 of the FBI's frustrations downstream with the Public Integrity
24 Section?

25 A. It's possible. But I would say that Dave Bowdich,
1 as the deputy director, was very hands on. And Dave and I
2 worked very closely together. We spoke probably every day,
3 often several times a day. And he understood the AG's memo
4 and -- though, there was a lot of back-and-forth there, but
5 it's certainly possible that could be.

Testimony by former Principal Associate Deputy Attorney General Richard Donoghue¹⁸⁰

¹⁸⁰ Richard Donoghue Testimony at 80-81.

When AG Barr's November 9, 2020, memorandum was released, Richard Pilger resigned his position at ECB, and his resignation letter was later leaked to the press.¹⁸¹ According to Donoghue, his resignation "raised concerns because it left the perception that the Department was somehow doing something improper when, in fact, all along, what AG Barr wanted to make sure was that we were in a position to assess whether or not the election had been affected by fraud."¹⁸² Donoghue also responded to questioning concerning the impact on DOJ of Pilger's decision to resign:

5 Q. Did Mr. Pilger's decision to resign and the
6 subsequent leak -- obviously, I don't know who leaked the
7 document -- but the subsequent leak of his resignation, did
8 that frustrate the Department's ability to properly operate
9 the Election Crimes Branch consistent with AG Barr's November
10 memo?
11 A. Yes, it definitely did. It put the AG in a poor
12 light publicly, which was totally unwarranted. People
13 misunderstood the memo. They misunderstood what the AG was
14 trying to do. And the immediate leak of the email, the memo
15 and the related documents was not helpful to what the
16 Department was trying to do at that time.

Testimony by former Principal Associate Deputy Attorney General Richard Donoghue¹⁸³

Donoghue also testified that "ECB routinely implied that they had approval authority" for investigative steps to be taken or not to be taken, which was incorrect and frustrated the proper effectuation of DOJ efforts to investigate because the "District Election Officers in the U.S. Attorney's Office were extremely reluctant to proceed without the approval of ECB" and "FBI agents were, again, extremely reluctant to proceed without ECB's explicit approval" – approval which they didn't need.¹⁸⁴ Donoghue also stated that the PIN provided a non-concurrence to potential investigative activity relating to the 2020 election "several times" but could not remember exactly which incidents they involved.¹⁸⁵ However, Donoghue did note one example in Florida where Rosen limited some action by the U.S. Attorney.¹⁸⁶ The DOJ counsel in the interview objected to Donoghue answering clarifying questions about which instructions were

¹⁸¹ Richard Donoghue Testimony at 66.

¹⁸² *Id.* at 66-67.

¹⁸³ *Id.* at 67.

¹⁸⁴ *Id.* at 69.

¹⁸⁵ *Id.* at 73.

¹⁸⁶ *Id.* at 74.

provided by Rosen.¹⁸⁷ With respect to additional issues with ECB and their speed at which they investigated election allegations, Donoghue also said:

14 explicit approval. And since ECB was not on the same page
 15 with AG Barr and they clearly disagreed with AG Barr's
 16 determination, they were, at best, dragging their feet and
 17 maybe more to keep these investigations from going forward, in
 18 my view.

*Testimony by former Principal Associate Deputy Attorney General Richard Donoghue*¹⁸⁸

Pak also agreed with Donoghue's assessment of the PIN's passive approach to investigating matters:

8 And then this email in full, I believe, was forwarded
 9 by Mr. Donoghue to you. So when the AG -- so when Donoghue
 10 said, "The AG simply does not agree with what he termed
 11 their" -- as in PIN and ECB[] -- "passive and delayed
 12 enforcement approach," do you agree with Attorney General
 13 Barr's assessment that the Public Integrity unit and the
 14 Election Crimes Branch had a passive and delayed
 15 enforcement approach?
 16 A. I think so, yeah. I would agree.

Testimony by former Assistant U.S. Attorney, Northern District of Georgia

*Byung J. "BJay" Pak*¹⁸⁹

Even with that view, Pak testified, in part, that he deferred investigations because the Georgia Special Election had yet to occur:

¹⁸⁷ Richard Donoghue Testimony at 74.

¹⁸⁸ *Id.* at 69.

¹⁸⁹ BJay Pak Testimony at 57.

8 Q. Okay. And then could you describe how if in
9 any way this policy change manifested in your work as a
10 U.S. Attorney? Were you approached by Main Justice at any
11 point to take a more forward-leaning approach to election
12 fraud investigations?

13 A. Apart from the memo, no, they have not. You
14 know, we took a -- internally at the U.S. Attorney's Office
15 that I was leading, I took the approach of being
16 conservative, of not -- of deferring every case that we
17 can, particularly because, as I noted before, there was yet
18 another election coming up.

19 By early December, the general election had been
20 completed. It would not be an open polling place type of
21 investigation that people are very sensitive to. But we
22 just wanted to make sure that we don't do anything that
23 would leave the public with an impression that we give some
24 kind of substance to any type of allegation or otherwise.
25 And so we were very sensitive to that.

Testimony by former Assistant U.S. Attorney, Northern District of Georgia

*Byung J. "BJay" Pak*¹⁹⁰

¹⁹⁰ BJay Pak Testimony at 30.

And when asked what the risks were to postponing initiating investigations, Pak testified:

22 Q. So, sir, what do you think the -- let me say it
23 this way then. What are the risks attendant to not taking
24 investigative steps prior to certification?

25 A. It depends on what the allegation is. I think
1 you ultimately, for example, if there is spoliation of
2 evidence or destruction of evidence or threat of physical
3 harm to particular people, I think you would consider doing
4 something before the actual certification or completion of
5 the election process. And it would be fact-intensive.

6 So loss of evidence and also physical harm I think
7 would be two examples I could think of that may justify
8 doing something prior to the final certification.

Testimony by former Assistant U.S. Attorney, Northern District of Georgia

*Byung J. "BJay" Pak*¹⁹¹

In conclusion, and with reference to the above information, the available evidence shows that there appears to be some factual basis for President Trump's concerns about the vigor with which the DOJ investigated election fraud allegations. Most relevant to his underlying concerns was the fact that the PIN was deemed by DOJ's leadership to be a passive entity with respect to election fraud investigations and the fact that the ECB's chief lawyer resigned in protest to the AG Barr memorandum which had instructed the DOJ to be more forward-leaning in its response to election fraud-related matters. In addition, Donoghue believed that Pak's employees "were dragging their feet a little bit in investigating" election fraud allegations.¹⁹² Some witnesses were unaware whether certain allegations had been investigated.¹⁹³ Incredibly, DOJ objected to many questions related to the role PIN had during the 2020 election as well as actions DOJ may or may not have taken with respect to investigating election fraud claims.

¹⁹¹ BJay Pak Testimony at 50-51.

¹⁹² Richard Donoghue Testimony at 167.

¹⁹³ BJay Pak Testimony at 65, 68; Donoghue at 63, 125.

VII. THE BIDEN JUSTICE DEPARTMENT INTERFERED IN THE INVESTIGATION AND PREVENTED WITNESSES FROM ANSWERING RELEVANT QUESTIONS PERTAINING TO THE DEPARTMENT’S ROLE IN INVESTIGATING ELECTION FRAUD ALLEGATIONS.

In a January 23, 2021, letter to DOJ outlining the scope of the Committee’s investigation, Committee Democrats stated that their focus would be on “deeply troubling questions regarding the DOJ’s role in Trump’s scheme to overturn the election.”¹⁹⁴ By framing their request in this way, Democrats placed questions concerning DOJ and the manner and extent to which it responded to allegations of election fraud at the center of the Committee’s investigation and therefore made it a relevant line of inquiry. In their letter to DOJ, Democrats cited to an article containing details about President Trump’s conversations with Acting Attorney General Jeffrey Rosen regarding DOJ’s response to allegations of election fraud.¹⁹⁵ They also requested materials from DOJ pertaining to those conversations and asked Rosen to testify before the Committee.¹⁹⁶

The records and testimony that the Committee gathered in response to Democrats’ requests show that President Trump repeatedly raised concerns with Rosen that the DOJ and FBI were not doing enough, in his view, to investigate allegations of election fraud.¹⁹⁷ The available evidence show that President Trump wanted to ensure that the DOJ and FBI were doing their job on behalf of the American people.¹⁹⁸ Moreover, as the preceding sections illustrated, President Trump’s focus was on making sure DOJ was *aware* of allegations and that DOJ was doing their job to properly investigate them, rather than ordering a course of conduct.

During interviews, minority staff asked Rosen, Donoghue, and Pak logical follow-up questions about DOJ’s response to election fraud allegations in order to establish whether or not the concerns President Trump raised with Rosen and others were well-founded. However, Biden Administration DOJ officials who were present in the interviews consistently interfered in order to prevent witnesses from answering these extremely relevant questions.¹⁹⁹

Through the repeated objections made by DOJ officials, it became clear that President Biden’s ostensibly broad waiver of executive privilege was not, in reality, broad at all. In effect, it was narrowly construed by DOJ officials to allow the release of information that was more likely in line with the Democrats’ public narrative but not the release of information that could help establish factual context about existing election allegations under review.

For example, minority staff asked former Acting Attorney General Rosen “whether or not the Public Integrity Section and the Election Crimes Branch opened any election crime cases before the 2020 election was certified.”²⁰⁰ In response, Rosen deferred to the DOJ official who was present at the interview. The official stated that under the terms of President

¹⁹⁴ January 23 Letter.

¹⁹⁵ *Id.*; January 22 New York Times Article.

¹⁹⁶ Letter from Chairman Richard J. Durbin, Chair, S. Comm. on the Judiciary, to Reginald Brown, Kirkland and Ellis LLP (May 18, 2021); January 23 Letter.

¹⁹⁷ Jeffrey Rosen Testimony at 63.

¹⁹⁸ *Id.* at 72.

¹⁹⁹ Richard Donoghue Testimony at 74, 76, 81-82, 84; BJay Pak Testimony at 21, 41-42, 46, 53, 60, 81, 82.

²⁰⁰ Jeffrey Rosen Testimony at 123.

Biden’s authorization, Rosen was not authorized to speak about “prosecutorial decisions in specific cases.”²⁰¹ It is not clear why a question about whether any election crime cases were opened warrants an objection relating to prosecutorial decisions concerning a specific case.

Similarly, when minority staff asked Pak “how many election-related reports regarding 2020 were sent up [the] reporting chain,” a DOJ official responded, “[t]he scope of the authorization deals with the circumstances on which [Pak] left and about pressure that was placed on him from the White House or DOJ leadership offices to investigate specific instances of alleged voter fraud.”²⁰² DOJ’s contention that only testimony relating to “pressure” from the White House or Department leadership was authorized reinforces the fact that the Biden Administration was not candid when it claimed it would allow witnesses to provide unrestricted testimony within the scope of the Committee’s investigation.

DOJ also prevented Pak from testifying about whether his office opened any election related cases (other than the State Farm Arena allegations) before the 2020 election was certified, whether it looked into any voter fraud or election crime related allegations with respect to the 2020 election before the election was certified, and whether it opened any voter fraud or election crime related cases after the election was certified.²⁰³ Of course, the number of election reports that DOJ looked into is squarely within the scope of the Committee’s investigation and plainly relevant to the matter at hand. The answers to these questions are directly related to questions regarding DOJ’s response to allegations of election fraud and questions regarding the accuracy and relevance of concerns that President Trump repeatedly raised with Rosen as well as President Trump’s concern that DOJ and FBI were not doing enough to investigate allegations.

As mentioned in the preceding section, DOJ also repeatedly intervened to prevent witnesses from answering questions about a dispute between the ECB and PIN and former Attorney General Barr. In response to Democrats’ January 23, 2021, request letter, DOJ produced a series of e-mail exchanges to the Committee that had been forwarded by Donoghue to Pak on December 7, 2020.²⁰⁴ The exchanges included correspondence between Donoghue and Deputy FBI Director David Bowdich, as well as an e-mail that had been sent by Public Integrity Chief Corey Amundson to a redacted list of recipients. The e-mails documented the existence of a policy disagreement between the ECB, which adhered to a traditional approach that was labeled “passive,” and according to the e-mail, “was essentially to allow election fraud to take its course and hope to deter such misconduct in future elections through intervening prosecutions” and a different approach that had been outlined by then-Attorney General Barr in a November 9, 2020, memorandum.²⁰⁵ That memorandum had advocated for a more forward-leaning approach to investigating allegations of election fraud. Based upon this documentary evidence produced by DOJ, Committee staff attempted to ask Donoghue questions about the nature and extent of the disagreement and any efforts by former ECB head, Richard Pilger, who resigned his position on November 9, 2020, to frustrate Barr’s policy guidance with respect to

²⁰¹ Jeffrey Rosen Testimony at 123.

²⁰² BJay Pak Testimony at 41-42.

²⁰³ BJay Pak Testimony at 61-62.

²⁰⁴ Exhibit D.

²⁰⁵ *Id.*

investigating allegations of election fraud.²⁰⁶

The questions Committee staff asked were directly related to responsive documents that had been produced to the Committee by DOJ. They were also fully within the scope of the Committee's inquiry, since they dealt with questions pertaining to DOJ's policy and response to allegations of election fraud. Nevertheless, DOJ officials objected on the grounds that the questions addressed issues that were beyond the scope of President Biden's authorization.²⁰⁷

I. Donoghue Interview

1. Questioning by Minority Staff (Page 74)

[Concerning Acting Attorney General Rosen's instructions to U.S. Attorney Larry Keefe regarding how to proceed in a case involving a non-concurrence from PIN]:

20 Q. So Rosen provided him instructions to perform some
21 actions, but not other actions?

22 Mr. Weinsheimer. On behalf of the
23 department, I'm indicating that at this point, we've gone
24 beyond the authorization, and the witness has already
25 indicated it may relate to an ongoing matter. He's just not
1 authorized to speak about ongoing matters.

²⁰⁶ Richard Donoghue Testimony at 74, 76, 81-82.

²⁰⁷ *Id.*; Richard Donoghue Testimony at 84.

2-3. Questioning by Minority Staff (Page 76)

8 Q. So specifically, sir, you know, as we focus here on
9 the Public Integrity Unit and Barr's November memo altering
10 this policy to be more aggressive and forward-leaning, are you
11 able to specifically mention or name any specific department
12 personnel that worked to frustrate the Barr memo, the November
13 Barr memo?

14 Mr. Weinsheimer. On behalf of the
15 department, I object. He shouldn't be getting into specific
16 individuals other than those that he's already mentioned.

17 Mr. Flynn-Brown. Okay. So he's mentioned
18 Richard Pilger. Can he get into more detail in his actions
19 in potentially undermining the November Barr memo?

20 Mr. Weinsheimer. Again, I would object. I
21 think that's outside the scope of the authorization at this
22 point.

23 Mr. Flynn-Brown. No, I do think it's in
24 scope, so we'll put a pin in that.

4-5. Questioning by Minority Staff (Pages 81-82)

[Concerning the relationship between PIN Chief Corey Amundson and former ECB head, Richard Pilger]

13 Q. So how did those two interact? Did those two get
14 along, or did they often have disagreements with respect to
15 how things should proceed forward?

16 And I see I'm going to get another
17 objection here from DOJ.

18 Mr. Weinsheimer. I'm going to object. I
19 think that is beyond the scope and talks about prosecutorial
20 deliberations. Outside the scope.

21 BY MR. FLYNN-BROWN.

22 Q. So I'll say it this way, then. With respect to
23 Richard Pilger and the public complaints that are attributed
24 to him with respect to the Barr memo, were those complaints,
25 those feelings, those concerns that

1 Pilger had, did they permeate through the Public
2 Integrity Unit, or were they specific to Mr. Pilger?

3 Mr. Weinsheimer. Again, same objection. I
4 don't think it's within the scope of the opposition.

5 Mr. Flynn-Brown. I think it might be within
6 the scope because the DOJ provided records relating to the
7 questions that I am asking.

8 Mr. Weinsheimer. With respect to the
9 communications between Corey Amundson and then Dave Bowdich
10 and Mr. Donoghue. So those are what's within the scope.

6. Questioning by Majority Staff (Page 84)

[Concerning former ECB head Richard Pilger's reputation at DOJ]:

1 Q. And is it fair to say he is viewed as an expert on
2 election crimes within the Department?

3 Mr. Weinsheimer. I think, once again, we're
4 going outside the scope of the authorization. I'd object to
5 further questions about Mr. Pilger.

6 Ms. Zdeb. Well, I'm sticking to the scope of
7 the questions that my colleagues in the minority just asked.
8 And I have a few -- I have a few questions pertaining to
9 questions to which you did not object.

10 Mr. Weinsheimer. That one, I don't think is
11 within the scope in terms of whether or not he's an expert.

II. Rosen Interview

7. Questioning by Minority Staff (Pages 123-124)

4 Q. So aside from the State Farm Arena allegations, are
5 you aware of whether or not the Public Integrity Section and
6 the Election Crimes Branch opened any election crime cases
7 before the 2020 election was certified?

8 A. I think that I may need to refer you to the DOJ
9 folks that are here as to the authorization for my appearance
10 today was very explicit about the topics we've covered. It
11 was a reservation of talking about individual cases that
12 existed or are pending. I try to stay within the confines of
13 the guidance, so I --

14 Q. Since DOJ is here, do you want to offer any comment
15 on this issue? My questions are based on the documents that
16 the Department provided.

17 Mr. Weinsheimer. Yeah, they offered -- they
18 commented on many things. As the witness has indicated, he's
19 limited with respect to the authorization. He can't talk
20 about prosecutorial decisions in particular cases. He doesn't
21 know anything about this particular case. He cannot talk
22 about specific cases.

23 To the extent that there are allegations
24 pursuant to the authorization that are actually from the White
25 House, those are things that he's been authorized to talk
1 about.