

## Re: Call this afternoon

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**From:** "Engel, Steven A. (OLC)" (b) (6)  
**To:** "Hovakimian, Patrick (ODAG)" (b) (6)  
**Cc:** "Murray, Claire M. (OASG)" (b) (6); "Wall, Jeffrey B. (OSG)" (b) (6);  
"Delrahim, Makan (ATR)" (b) (6); "Demers, John C. (NSD)" (b) (6);  
(b) (6); "Burns, David P. (NSD)" (b) (6); "Burns, David (CRM)" (b) (6);  
(b) (6); "Dreiband, Eric (CRT)" (b) (6); "Donoghue, Richard (ODAG)" (b) (6)  
**Date:** Sun, 03 Jan 2021 21:28:11 -0500

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Still at WH But that i correct

Sent from my iPhone

On Jan 3, 2021, at 9:07 PM, Hovakimian, Patrick (ODAG) (b) (6) wrote

I have only limited visibility into this, but it sounds like Rosen and the cause of justice won. We will convene a call when Jeff is back in the building (hopefully shortly). Thanks.

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**From:** Hovakimian, Patrick (ODAG)  
**Sent:** Sunday, January 3, 2021 4:28 PM  
**To:** Murray, Claire M. (OASG) (b) (6); Wall, Jeffrey B. (OSG) (b) (6); Delrahim, Makan (ATR) (b) (6); Engel, Steven A. (OLC) (b) (6); Demers, John C. (NSD) (b) (6); Burns, David P. (NSD) (b) (6); Burns, David (CRM) (b) (6)  
**Cc:** (b) (6)  
**Subject:** Call this afternoon

Apologies for the Sunday reach-out. Please join Rich and me for a call at 4:45 p.m. Dial-in below.

(b) (6), participant passcode: (b) (6)

Patrick Hovakimian

Associate Deputy Attorney General

United States Department of Justice

(b) (6)

Draft – January 3, 2021

Deliberative

Predecisional

E-mail to component heads, Chair/Vice Chair of AGAC, ODAG/OAG staff

Dear all –

Apologies for the impersonal nature of this e-mail.

This evening, after Acting Attorney General Jeff Rosen over the course of the last week repeatedly refused the President’s direct instructions to utilize the Department of Justice’s law enforcement powers for improper ends, the President removed Jeff from the Department.

PADAG Rich Donoghue and I resign from the Department, effective immediately.

Jeff loves the Department of Justice, as we all do. Preserving and defending the institutional integrity of the Department remains Jeff’s paramount concern. The decision of whether and when to resign and whether the ends of justice are best served by resigning is a highly individual question, informed by personal and family circumstances. Jeff asked me to pass on to each of you that whatever your own decision, he knows you will adhere always to the highest standards of justice and act always – and only – in the interests of the United States.

It has been a high honor to serve with each of you.

Best,

Pat

Patrick Hovakimian

Associate Deputy Attorney General

United States Department of Justice

(b) (6)

Chat with (b) (6), (b) (7)(C)

12/23/2020 8:37:12 PM - 1/19/2021 10:20:35 PM

**Export Details:**

Device Phone Number (b) (6)

Device Name Jeff's iPhone

Device ID (b) (6)

Backup Date Friday, January 29, 2021 8:55 AM

Backup Directory G:\ORMP\SLO Records\ODAG\Rosen\ (b) (6)

iOS 14.3

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

**Participants:**

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Not Responsive Records

Sunday, January 03, 2021

Jeffrey Rosen

I need to go over to WH for a 6 pm meeting. Will want to leave by 5:30 pm, possibly a little sooner.

4:50 PM

(b) (6), (b) (7)(C)



We will be ready

4:50 PM

(b) (6), (b) (7)(C)



Sir, Will Acting DAG Donoghue be joining you at the WH?

4:58 PM

Jeffrey Rosen

No. But we will meet at DOJ afterwards.

4:59 PM

(b) (6), (b) (7)(C)



Thank you

4:59 PM

Jeffrey Rosen

Ready to go in 3 min

10:21 PM

(b) (6), (b) (7)(C)



Yes sir

10:21 PM

Not Responsive Records

# Chat with Patrick Hovakimian

1/22/2020 1:36:32 PM - 1/3/2021 10:20:35 PM

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## Export Details:

Device Phone Number (b) (6)

Device Name Jeff's iPhone

Device ID (b) (6)

Backup Date Friday, January 29, 2021 8:55 AM

Backup Directory G:\ORMP\SLO Records\ODAG\Rosen\ (b) (6)

iOS 14.3

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

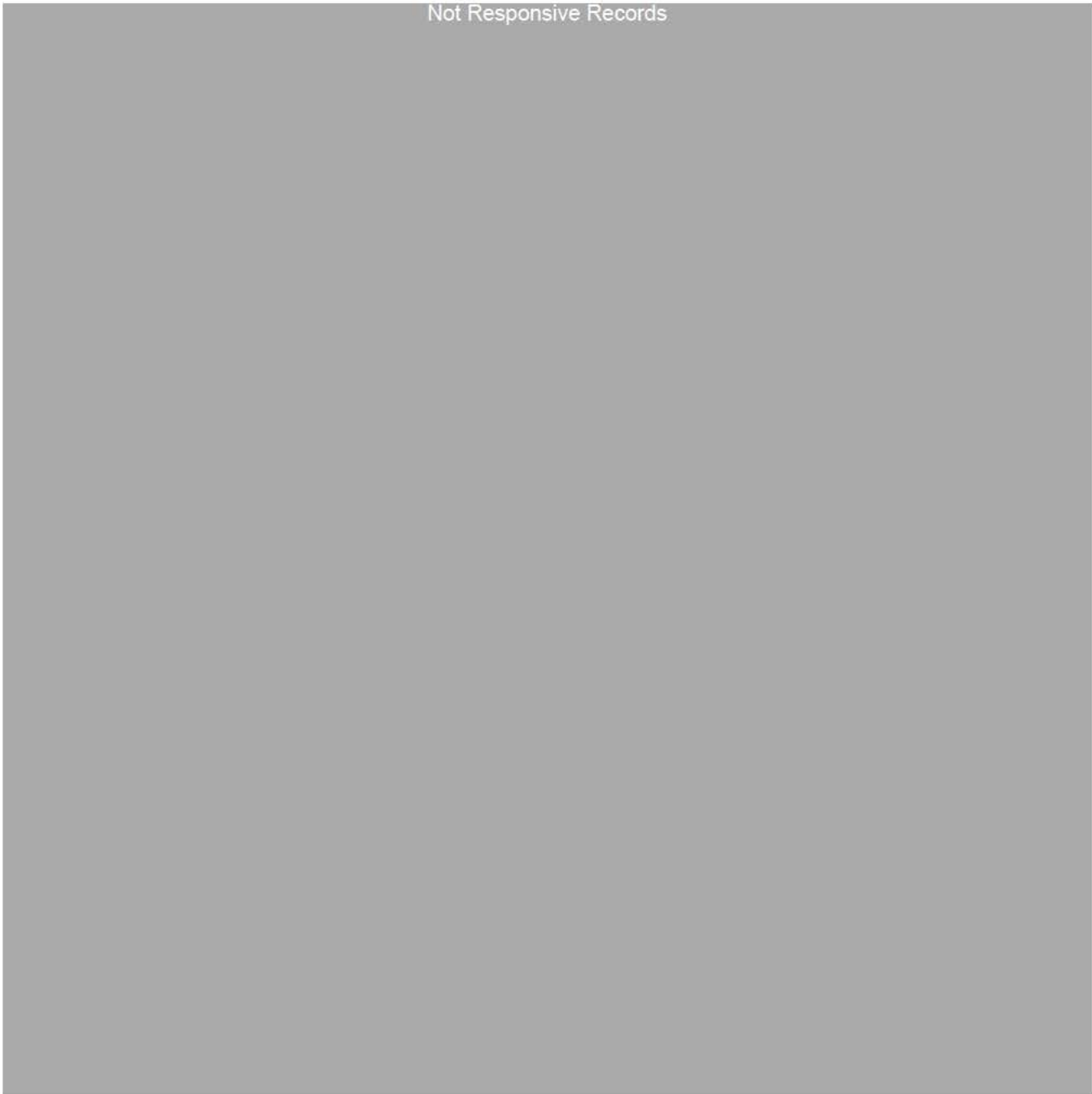
Created with iExplorer v4.4.2.0

## Participants:

(b) (6), Patrick Hovakimian

Not Responsive Records





Sunday, January 03, 2021

Jeffrey Rosen

Will call shortly, but we won.

9:03 PM

Patrick Hovakimian

Thanks. Great. Need to advise AAGs, who have been asking what's going on.

9:04 PM

Jeffrey Rosen

We will convene a call when I get back.

9:05 PM

Patrick Hovakimian

Ok

9:05 PM

Patrick Hovakimian

Great. Thanks.

Jeffrey Rosen

Will be back in 10 min

9:29 PM

9:29 PM

Jeffrey Rosen

Ready to go in 2 min

10:20 PM

# Chat with Jeffrey Clark (ENRD)

9/12/2020 10:59:57 AM - 1/3/2021 4:54:37 PM

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## Export Details:

Device Phone Number (b) (6)

Device Name Jeff's iPhone

Device ID (b) (6)

Backup Date Friday, January 29, 2021 8:55 AM

Backup Directory G:\ORMP\SLO Records\ODAG\Rosen\ (b) (6)

iOS 14.3

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

## Participants:

(b) (6), Jeffrey Clark (ENRD)

Not Responsive Records



Sunday, January 03, 2021

Jeffrey Clark (ENRD)

Jeff. Just got off phone with Pat P. Please call me when you're ready for me to come up. Thanks

2:43 PM

Jeffrey Rosen

Am ready now

2:50 PM



Jeffrey Clark (ENRD)

Ok coming up

2:51 PM

Jeffrey Clark (ENRD)

Meadows says 615. He will have someone work on logistics

4:53 PM

Jeffrey Rosen

Got it. See you then.

4:54 PM

Jeffrey Clark (ENRD)

Ok. See you over there.

4:54 PM

# Chat with Jeff Rosen

6/14/2019 7:07:40 PM - 1/3/2021 10:20:35 PM

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## Export Details:

Device Name Hovakimian ODAG 12821

Device ID [REDACTED] (b) (6)

Backup Date Monday, February 22, 2021 3:45 PM

Backup Directory [REDACTED] (b) (6)

iOS 13.7

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

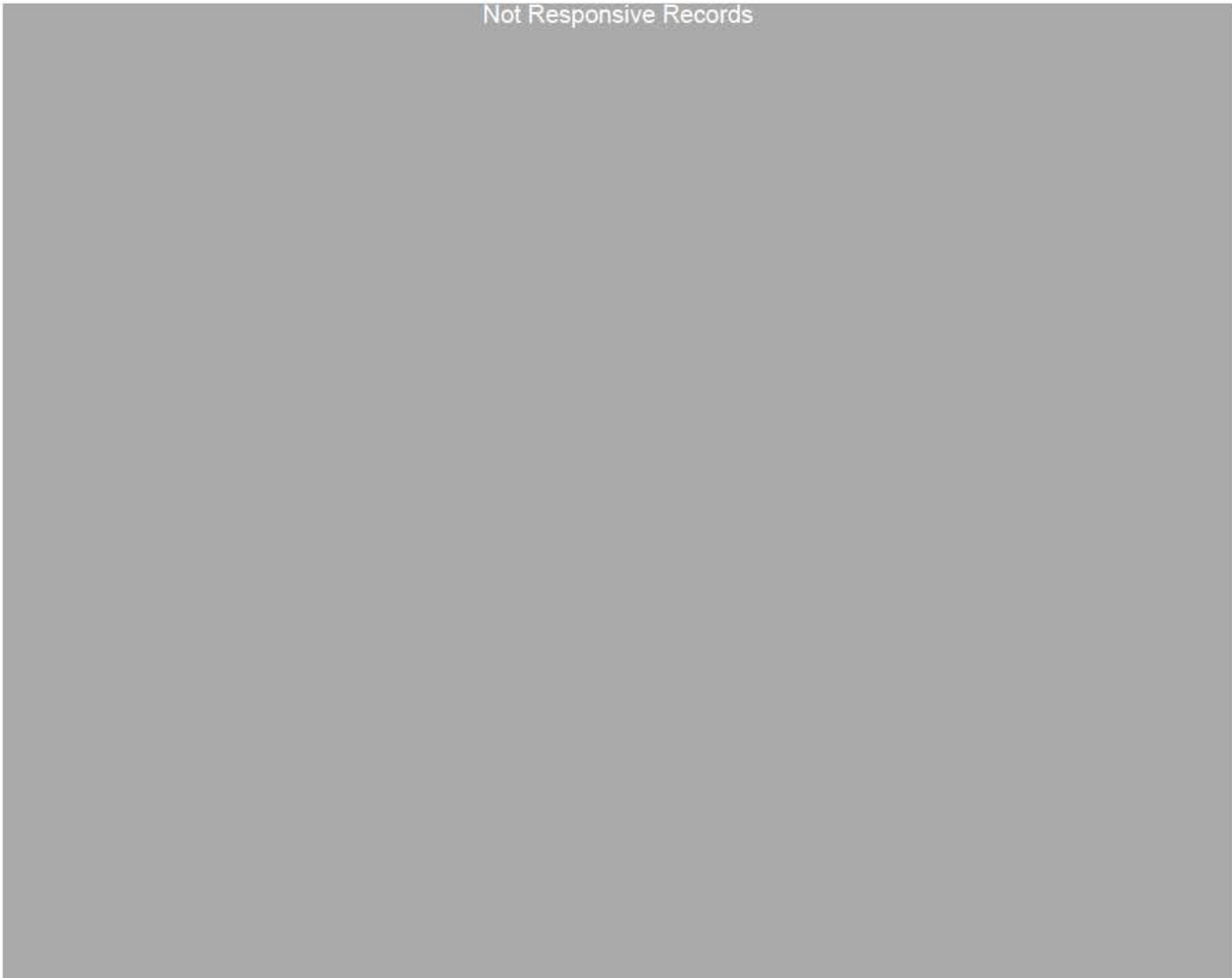
## Participants:

[REDACTED] (b) (6) Jeff Rosen

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Not Responsive Records





Sunday, January 03, 2021

Jeff Rosen

Will call shortly, but we won.

9:03 PM

Patrick Hovakimian

Thanks. Great. Need to advise AAGs, who have been asking what's going on.

9:04 PM

Jeff Rosen

We will convene a call when I get back.

9:05 PM

Patrick Hovakimian

Ok

9:05 PM

Jeff Rosen

Will be back in 10 min

9:29 PM

Patrick Hovakimian

Great. Thanks.

9:29 PM

Jeff Rosen

Ready to go in 2 min

10:20 PM

# Chat with Claire Murray

11/13/2019 8:44:27 PM - 1/3/2021 8:41:11 PM

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## Export Details:

Device Name Hovakimian ODAG 12821

Device ID [REDACTED] (b) (6)

Backup Date Monday, February 22, 2021 3:45 PM

Backup Directory [REDACTED] (b) (6)

iOS 13.7

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

## Participants:

[REDACTED] (b) (6) Claire Murray

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Not Responsive Records





Sunday, January 03, 2021

Claire Murray

Team Rosen.

5:30 PM

Claire Murray

Justice is our client.

5:30 PM

Claire Murray

If the DAG gets fired for not publicly espousing a falsehood, I walk.

5:31 PM

Me

I agree. Hands down I'll be gone too. I passed your decision onto DAG Rosen. Thanks Claire.

5:36 PM

Claire Murray

No word?

8:40 PM

Me

None yet. Called Rich twice and he didn't pick up.

8:41 PM

Chat with (b) (6)

1/3/2021 8:07:39 PM - 1/3/2021 8:38:04 PM

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**Export Details:**

Device Name Hovakimian ODAG 12821

Device ID (b) (6)

Backup Date Monday, February 22, 2021 3:45 PM

Backup Directory (b) (6)

iOS 13.7

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

**Participants:**

(b) (6)

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Sunday, January 03, 2021

(b) (6)

Any update?

8:07 PM

Jeff

Patrick Hovakimian

They are still over there.

8:08 PM

(b) (6)

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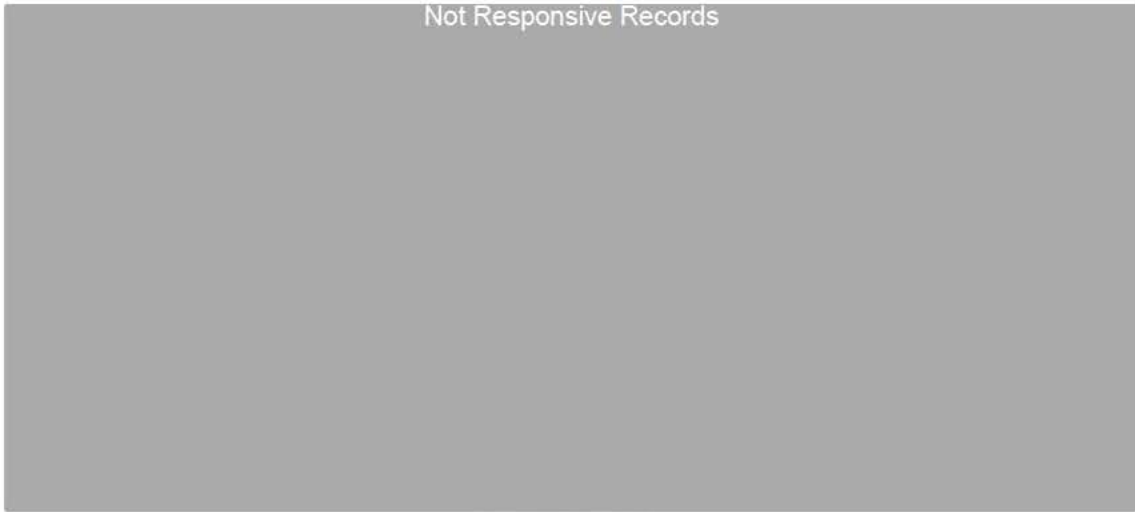
8:36 PM

Patrick Hovakimian

They're still there and no one has called/updated yet.

8:38 PM

Not Responsive Records



1/3/21 2:43:49 PM EST

Jeff. Just got off phone with Pat P. Please call me when you're ready for me to come up. Thanks

1/3/21 2:50:22 PM EST

Jeff Rosen (b) (6)  
Am ready now

1/3/21 2:51:21 PM EST

Ok coming up

1/3/21 4:53:43 PM EST

Meadows says 615. He will have someone work on logistics

1/3/21 4:54:12 PM EST

Jeff Rosen (b) (6)  
Got it. See you then.

1/3/21 4:54:37 PM EST

Ok. See you over there.

Delivered



**Subject:** WH Meeting

**Start:** Sun 1/3/2021 6:15 PM

**End:** Sun 1/3/2021 6:45 PM

**Recurrence:** (none)

**Organizer:** Rosen, Jeffrey A. (ODAG)

POC:  
Attendees:

*This letter was opposed by A/AG + OLC.*

**Donoghue, Richard (ODAG)**

**From:** Donoghue, Richard (ODAG)  
**Sent:** Monday, December 28, 2020 5:50 PM  
**To:** Clark, Jeffrey (ENRD)  
**Cc:** Rosen, Jeffrey A. (ODAG)  
**Subject:** RE: Two Urgent Action Items

*Discussed w/ POTUS  
on January 3, 2021,  
and he rejected AAG's  
Clark's idea to send it.*

Jeff,

I have only had a few moments to review the draft letter and, obviously, there is a lot raised there that would have to be thoroughly researched and discussed. That said, there is no chance that I would sign this letter or anything remotely like this.

While it may be true that the Department "is investigating various irregularities in the 2020 election for President" (something we typically would not state publicly), the investigations that I am aware of relate to suspicions of misconduct that are of such a small scale that they simply would not impact the outcome of the Presidential Election. AG Barr made that clear to the public only last week, and I am not aware of intervening developments that would change that conclusion. Thus, I know of nothing that would support the statement, "we have identified significant concerns that may have impacted the outcome of the election in multiple states." While we are always prepared to receive complaints and allegations relating to election fraud, and will investigate them as appropriate, we simply do not currently have a basis to make such a statement. Despite dramatic claims to the contrary, we have not seen the type of fraud that calls into question the reported (and certified) results of the election. Also the commitment that "the Department will update you as we are able on investigatory progress" is dubious as we do not typically update non-law enforcement personnel on the progress of any investigations.

More importantly, I do not think the Department's role should include making recommendations to a State legislature about how they should meet their Constitutional obligation to appoint Electors. Pursuant to the Electors Clause, the State of Georgia (and every other state) has prescribed the legal process through which they select their Electors. While those processes include the possibility that election results may "fail[ ] to make a choice", it is for the individual State to figure out how to address that situation should it arise. But as I note above, there is no reason to conclude that any State is currently in a situation in which their election has failed to produce a choice. As AG Barr indicated in his public comments, while I have no doubt that some fraud has occurred in this election, I have not seen evidence that would indicate that the election in any individual state was so defective as to render the results fundamentally unreliable. Given that, I cannot imagine a scenario in which the Department would recommend that a State assemble its legislature to determine whether already-certified election results should somehow be overridden by legislative action. Despite the references to the 1960 Hawaii situation (and other historical anomalies, such as the 1876 Election), I believe this would be utterly without precedent. Even if I am incorrect about that, this would be a grave step for the Department to take and it could have tremendous Constitutional, political and social ramifications for the country. I do not believe that we could even consider such a proposal without the type of research and discussion that such a momentous step warrants. Obviously, OLC would have to be involved in such discussions.

I am available to discuss this when you are available after 6:00 pm but, from where I stand, this is not even within the realm of possibility.

Rich

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**From:** Clark, Jeffrey (ENRD) <JClark@ENRD.USDOJ.GOV>  
**Sent:** Monday, December 28, 2020 4:40 PM

To: Rosen, Jeffrey A. (ODAG) <jarosen@jmd.usdoj.gov>; Donoghue, Richard (ODAG) <ricdonoghue@jmd.usdoj.gov>  
Subject: Two Urgent Action Items

Jeff and Rich:

(1) I would like to have your authorization to get a classified briefing tomorrow from ODNI led by DNI Radcliffe on foreign election interference issues. I can then assess how that relates to activating the IEEPA and 2018 EO powers on such matters (now twice renewed by the President). If you had not seen it, white hat hackers have evidence (in the public domain) that a Dominion machine accessed the Internet through a smart thermostat with a net connection trail leading back to China. ODNI may have additional classified evidence.

(2) Attached is a draft letter concerning the broader topic of election irregularities of any kind. The concept is to send it to the Governor, Speaker, and President pro temp of each relevant state to indicate that in light of time urgency and sworn evidence of election irregularities presented to courts and to legislative committees, the legislatures thereof should each assemble and make a decision about elector appointment in light of their deliberations. I set it up for signature by the three of us. I think we should get it out as soon as possible. Personally, I see no valid downsides to sending out the letter. I put it together quickly and would want to do a formal cite check before sending but I don't think we should let unnecessary moss grow on this

(As a small matter, I left open me signing as AAG Civil — after an order from Jeff as Acting AG designating me as actual AAG of Civil under the Ted Olson OLC opinion and thus freeing up the Acting AAG spot in ENRD for Jon Brightbill to assume. But that is a comparatively small matter. I wouldn't want to hold up the letter for that. But I continue to think there is no downside with as few as 23 days left in the President's term to give Jon and I that added boost in DOJ titles.)

I have a 5 pm internal call with (b) (5)  
(b) (5) But I am free to talk on either or both of these subjects circa 6 pm+.

Or if you want to reach me after I reset work venue to home, my cell # is (b) (6)

Jeff

Pre-Decisional & Deliberative/Attorney-Client or Legal Work Product  
Georgia Proof of Concept

[LETTERHEAD]

The Honorable Brian P. Kemp  
Governor  
111 State Capitol  
Atlanta, Georgia 30334

Draft letter from  
Jeff Clark. Rejected  
by OAG, ODA, + OLC.

The Honorable David Ralston  
Speaker of the House  
332 State Capitol  
Atlanta, Georgia 30334

The Honorable Butch Miller  
President *Pro Tempore* of the Senate  
321 State Capitol  
Atlanta, Georgia 30334

December 28, 2020

Dear Governor Kemp, Mr. Speaker, and Mr. President *Pro Tempore*:

The Department of Justice is investigating various irregularities in the 2020 election for President of the United States. The Department will update you as we are able on investigatory progress, but at this time we have identified significant concerns that may have impacted the outcome of the election in multiple States, including the State of Georgia. No doubt, many of Georgia's state legislators are aware of irregularities, sworn to by a variety of witnesses, and we have taken notice of their complaints. See, e.g., The Chairman's Report of the Election Law Study Subcommittee of the Standing Senate Judiciary Committee Summary of Testimony from December 3, 2020 Hearing, [http://www.senatorligon.com/THE\\_FINAL%20REPORT.PDF](http://www.senatorligon.com/THE_FINAL%20REPORT.PDF) (Dec. 17, 2020) (last visited Dec. 28, 2020); Debra, Heine, *Georgia State Senate Report: Election Results Are 'Untrustworthy; Certification Should Be Rescinded*, THE TENNESSEE STAR (Dec. 22, 2020), available at <https://tennesseestar.com/2020/12/22/georgia-state-senate-report-election-results-are-untrustworthy-certification-should-be-rescinded/> (last visited Dec. 28, 2020).

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In light of these developments, the Department recommends that the Georgia General Assembly should convene in special session so that its legislators are in a position to take additional testimony, receive new evidence, and deliberate on the matter consistent with its duties under the U.S. Constitution. Time is of the essence, as the U.S. Constitution tasks Congress with convening in joint session to count Electoral College certificates, *see* U.S. Const., art. II, § 1, cl. 3, consider objections to any of those certificates, and decide between any competing slates of elector certificates, and 3 U.S.C. § 15 provides that this session shall begin on January 6, 2021, with the Vice President presiding over the session as President of the Senate.

The Constitution mandates that Congress must set the day for Electors to meet to cast their ballots, which Congress did in 3 U.S.C. § 7, and which for this election occurred on December 14, 2020. The Department believes that in Georgia and several other States, both a slate of electors supporting Joseph R. Biden, Jr., and a separate slate of electors supporting Donald J. Trump, gathered on that day at the proper location to cast their ballots, and that both sets of those ballots have been transmitted to Washington, D.C., to be opened by Vice President Pence. The Department is aware that a similar situation occurred in the 1960 election. There, Vice President Richard Nixon appeared to win the State of Hawaii on Election Day and Electors supporting Vice President Nixon cast their ballots on the day specified in 3 U.S.C. § 7, which were duly certified by the Governor of Hawaii. But Senator John F. Kennedy also claimed to win Hawaii, with his Electors likewise casting their ballots on the prescribed day, and that by January 6, 1961, it had been determined that Senator Kennedy was indeed the winner of Hawaii, so Congress accordingly accepted only the ballots cast for Senator Kennedy. *See* Jack M. Balkin, *Bush v. Gore and the Boundary Between Law and Politics*, 110 YALE L.J. 1407, 1421 n.55 (2001).

The Department also finds troubling the current posture of a pending lawsuit in Fulton County, Georgia, raising several of the voting irregularities pertaining to which candidate for President of the United States received the most lawfully cast votes in Georgia. *See Trump v. Raffensperger*, 2020cv343255 (Fulton Cty. Super. Ct.). Despite the action having been filed on December 4, 2020, the trial court there has not even scheduled a hearing on matter, making it difficult for the judicial process to consider this evidence and resolve these matters on appeal prior to January 6. Given the urgency of this serious matter, including the Fulton County litigation's sluggish pace, the Department believes that a special session of the Georgia General Assembly is warranted and is in the national interest.

The Electors Clause of the U.S. Constitution provides that “[e]ach State shall appoint, in such Manner as the Legislature thereof may direct,” electors to cast ballots for President and Vice President. *See* U.S. Const., art. II, § 1, cl. 2. Many State Legislatures originally chose electors by direct appointment, but over time each State Legislature has chosen to do so by popular vote on the day appointed by Congress in 3 U.S.C. § 1 to be the Election Day for Members of Congress, which this year was November 3, 2020. However, Congress also explicitly recognizes the power that State Legislatures have to appoint electors, providing in 3 U.S.C. § 2 that “[w]henver any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by [3 U.S.C. § 1], the electors may be appointed on a subsequent day in such a manner as the legislature of such State may direct.”

The purpose of the special session the Department recommends would be for the General Assembly to (1) evaluate the irregularities in the 2020 election, including violations of Georgia election law judged against that body of law as it has been enacted by your State’s Legislature, (2) determine whether those violations show which candidate for President won the most legal votes in the November 3 election, and (3) whether the election failed to make a proper and valid choice between the candidates, such that the General Assembly could take whatever action is necessary to ensure that one of the slates of Electors cast on December 14 will be accepted by Congress on January 6.

While the Department of Justice believes the Governor of Georgia should immediately call a special session to consider this important and urgent matter, if he declines to do so, we share with you our view that the Georgia General Assembly has implied authority under the Constitution of the United States to *call itself into special session* for the limited purpose of considering issues pertaining to the appointment of Presidential Electors. The Constitution specifies that Presidential Electors shall be appointed by the *Legislature* of each State. And the Framers clearly knew how to distinguish between a state legislature and a state executive, so their disparate choices to refer to one (legislatures), the other (executive), or both, must be respected.<sup>1</sup> Additionally,

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<sup>1</sup> *See, e.g.,* U.S.C., art. IV, § 4 (“The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of *the Legislature, or of the Executive* (when *the Legislature* cannot be convened) against domestic Violence.”) (emphases added); *id.* art. VI (“The Senators and Representatives before mentioned, and the Members of the *several State Legislatures, and all executive and judicial Officers*, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution ....”) (emphasis added); *id.* XVII amend. (“When vacancies happen in the representation of any State in the Senate, *the executive authority of such State* shall issue writs of election to fill such vacancies: Provided, That *the legislature of any State* may empower

**Pre-Decisional & Deliberative/Attorney-Client or Legal Work Product**

when the Constitution intends to refer to laws enacted by the Legislature and signed by the Governor, the Constitution refers to it simply as the “State.” *See, e.g.*, U.S. Const., art. I, § 8 (“[Congress may] exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, *by Cession of particular States*, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of *the Legislature of the State* in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards and other needful Buildings”) (emphasis added) (distinguishing between the “State,” writ large, and the “Legislature of the State”). The Constitution also makes clear when powers are forbidden to any type of state actor. *See, e.g.*, U.S. Const., art. I, § 10, cl. 1 (“No State shall enter into any Treaty, Alliance, or Confederation ....”). Surely, this cannot mean that a State Governor could enter into such a Treaty but a State Legislature could not, or *vice versa*.

Clearly, however, some provisions refer explicitly to state legislatures — and there the Framers must be taken at their word. One such example is in Article V, which provides that a proposed Amendment to the Constitution is adopted “when ratified by the Legislatures of three fourths of the several States,” which is done by joint resolution or concurrent resolution. Supreme Court precedent makes clear that the Governor has no role in that process, and that his signature or approval is not necessary for ratification. *See, e.g., Coleman v. Miller*, 307 U.S. 433 (1939). So too, Article II requires action only by the Legislature in appointing Electors, and Congress in 3 U.S.C. § 2 likewise recognizes this Constitutional principle.

The Supreme Court has explained that the Electors Clause “leaves it to the legislature exclusively to define the method” of appointing Electors, vesting the Legislature with “the broadest possible power of determination.” *McPherson v. Blecker*, 146 U.S. 1, 27 (1892). This power is “placed absolutely and *wholly* with legislatures.” *Id.* at 34-35 (emphasis added). In the most recent disputed Presidential election to reach the Supreme Court, the 2000 election, the Supreme Court went on to hold that when a State Legislature appoints Presidential Electors—which it can do either through statute or through direct action—the Legislature is not acting “solely under the authority given by the people of the State, but by virtue of a direct grant of authority made under Art. II, § 1, cl. 2, of the United States Constitution.” *Bush v. Palm Beach Cty. Canvassing Bd.*, 531 U.S.

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*the executive thereof* to make temporary appointments until the people fill the vacancies by election *as the legislature may direct.*”) (emphases added).

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70, 76 (2000). The State Legislature's authority to appoint Electors is "plenary." *Bush v. Gore*, 531 U.S. 98, 104 (2000) (per curiam). And a State Legislature cannot lose that authority on account of enacting statutes to join the National Election. "Whatever provisions may be made by statute, or by the state constitution, to choose electors by the people, there is no doubt of the right of the legislature to resume the power an any time, for it can neither be taken away nor abdicated." *McPherson*, 146 U.S. at 125.

The Georgia General Assembly accordingly must have inherent authority granted by the U.S. Constitution to come into session to appoint Electors, regardless of any purported limit imposed by the state constitution or state statute requiring the Governor's approval. The "powers actually granted [by the U.S. Constitution] must be such as are expressly given, or given by necessary implication." *Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304, 326 (1816). And the principle of necessary implication arises because our Constitution is not prolix and thus does not "provide for minute specification of its powers, or to declare the means by which those powers should be carried into execution." *Id.* Otherwise, in a situation like this one, if a Governor were aware that the Legislature of his State was inclined to appoint Electors supporting a candidate for President that the Governor opposed, the Governor could thwart that appointment by refusing to call the Legislature into session before the next President had been duly elected. The Constitution does not empower other officials to supersede the state legislature in this fashion.

Therefore whether called into session by the Governor or by its own inherent authority, the Department of Justice urges the Georgia General Assembly to convene in special session to address this pressing matter of overriding national importance.

Sincerely,

Jeffrey A. Rosen  
Acting Attorney General

Richard Donoghue  
Acting Deputy Attorney  
General

Jeffrey Bossert Clark  
(Acting) Assistant Attorney  
General  
Civil Division



# Chat with Claire Murray

10/7/2020 6:43:59 PM - 1/3/2021 10:24:24 PM

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## Export Details:

Device Phone Number +1 (b) (6)

Device Name pmdavis's iPhone

Device ID (b) (6)

Backup Date Friday, January 29, 2021 12:13 PM

Backup Directory G:\ORMP\SLO Records\OAG\ (b) (6)

iOS 14.1

Current Time Zone (UTC-05:00) Eastern Time (US & Canada)

Created with iExplorer v4.4.2.0

## Participants:

+1 (b) (6), Claire Murray

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Wednesday, October 07, 2020  
Not Responsive Records



Sunday, January 03, 2021

Steve Engel

Call in 5 min?

9:46 PM

Claire Murray

Yes please

9:47 PM

Steve Engel

Dial in coming round.

9:47 PM

Claire Murray

Great outcome. Congrats, and thanks for everything you did to push things in the right direction.

10:12 PM

Steve Engel

Thanks! Glad I was able to help. We need to get points for the things that are not done.

10:21 PM

Claire Murray

Seriously.

10:24 PM