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EIGHTY-EIGHTH LEGISLATURE, REGULAR SESSION

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## SUPPLEMENT

SEVENTY-FIRST DAY — THURSDAY, MAY 25, 2023

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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PROCEEDINGS: IN RE PAXTON: 05/24/23

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

COMMITTEE CLERK: Chairman Murr.

CHAIRMAN MURR: Here.

COMMITTEE CLERK: Vice Chair Johnson.

VICE CHAIRMAN JOHNSON: Here.

COMMITTEE CLERK: Representative Geren.

MEMBER GEREN: Here.

COMMITTEE CLERK: Representative Longoria.

MEMBER LONGORIA: Present.

COMMITTEE CLERK: Representative Spiller.

MEMBER SPILLER: Here.

CHAIRMAN MURR: A quorum is present.

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

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

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

MS. EPLEY: Thank you.

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

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

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

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

CHAIRMAN MURR: Thank you.

MS. EPLEY: For purposes of Matter A, I'm one of a team of five. The team is seated beside me and behind me. It's made up of attorneys and investigators with experience in criminal matters specifically related to public integrity. I would like for them to introduce themselves.

MS. BUESS: Good morning. My name is Terese Buess. I am a career criminal prosecutor. I spent 25 years with the Harris County District Attorney's Office handling cases all the way from misdemeanor through the most serious felonies,

capital death penalty murder cases. I was twice chair – not chair but division chief of the public integrity division handling crimes against elected officials and public servants.

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

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

MR. DONNELLY: Good morning. My name is Mark Donnelly. The past year and a half, I've been in private practice. Prior to that I spent 20 years as a prosecutor. My first eight years were with the Harris County District Attorney's Office, and at various points throughout that tenure, I worked with the incredible women to my left and right in the public integrity division.

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

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

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

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

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

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

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

MS. CAMERON: Yes.

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

MS. CAMERON: Right.

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

MR. McANULTY: Of captain.

MS. CAMERON: – captain with HPD, and he worked numerous cases there, very many high-profile cases. We were lucky enough at the Harris County DA's Office to get him into special crimes where he worked another 20 years for us.

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

And then we've got Brian Benken, who is –

MR. BENKEN: Good morning.

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

MS. EPLEY: Thank you, Donna.

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

MS. EPLEY: Thank you, Chairman.

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

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

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

The whistleblower lawsuit was filed in 2020 .It was filed by four employees of OAG from the year 2020, and it relates specifically and solely to the actions of General Paxton. Government Code Title 5, Chapter 554.002(a) states: A state or local government entity may not suspend or terminate the employment of, or take

adverse personnel action against, a public employee who in good faith reports a violation of law by the employing governmental entity or another public employee to an appropriate law enforcement authority.

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

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

Next, we have Mark Penley. He was the deputy attorney general for criminal justice. Mark Penley was in the United States Air Force. He served five years in active duty. He did 16 years of service to the United States Attorney's Office in Dallas, and he was sought out personally by General Paxton. He joined the office in October of 2019.

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

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

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

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

There are additional results of a settlement. A settlement avoids a trial. A settlement also avoids discovery, the opportunity for both sides of a lawsuit to receive evidence to support or to disprove allegations. As a result of that settlement, neither the terminated employees nor the state of Texas would receive discovery and information related to those charges.

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

So in mid March of this year, the House Committee for General Investigating put together the team of five you were just introduced to. The general investigative committee empowered us to conduct an inquiry. That inquiry was into the settlement itself, the issues related to the lawsuit, and to make an inquiry into the policies, procedures, and actions of OAG in 2020. We were asked only to follow the evidence, to make an independent objective

inquiry. To that end, to avoid any implication of credibility issues as to the complainants, and frankly because it was outside of our purview, we made it clear to every person we interviewed that the question before us was not whether or not the settlement should be funded. We did not have control over that. We were asked not to prove and not to disprove the allegations but to follow the evidence and determine if there was a "there" there.

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

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

CHAIRMAN MURR: Okay. Thank you.

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

The team has reviewed hundreds of pages of records in order to make their presentation before you today. That includes the plaintiffs' amended petition, which just means the allegations as laid out by the plaintiffs, those civil servants who were fired, what they allege happened. We looked at codes, laws, court filings, and the settlement itself. We've reviewed emails, notes, reports, organizational charts, and timelines. We've looked at a draft employment contract, City of Austin permitting department records, or the absence thereof, the state board of Texas records, Texas Ethics Commission records, Texas State Security Board records, and campaign donations. We have reviewed complaints of criminal activity, depositions, and opinion letters. We have reviewed grand jury subpoenas.

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

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

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

As a caveat I would make the request that you not inquire as to the first and last names of these individuals at this time. They did not put themselves into a public forum. They did not participate in a whistleblower lawsuit. And to have their information in the public opens them up to pressure, political ridicule, harassment. It also has a chilling effect on witnesses going forward.

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

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

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

CHAIRMAN MURR: Thank you.

MS. EPLEY: We also interviewed Margaret Moore. She was the elected district attorney in the Travis County District Attorney's Office in 2020; Don Clemmer, chief – excuse me – chief of special prosecution at the Travis County District Attorney's Office in 2020; Gregg Cox, previous director of public integrity at the Travis County District Attorney's Office.

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

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

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

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

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

Third, we'll discuss the whistleblower lawsuit itself. The lawsuit has four primary allegations, each from different divisions of the office, each, at least at the beginning, involving separate people from one another and all in the exact same time frame of 2020.

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

CHAIRMAN MURR: Would you spell Mitte?

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

CHAIRMAN MURR: Thank you.

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

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

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

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

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

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

As any lawyer will tell you, motive is not something that we're often required to prove in court. How can you know why another person has done what they've done? That said, our focus was on the whistleblower allegations in regards to wrongdoing at the Office of the Attorney General and in regards to General Paxton. We would be remiss not to inquire into the current concerns as articulated by those employees and questions as to the concern and context for what happened.

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

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

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

By 2019, the Austin Business Journal reported at least 18 of Paul's companies had declared bankruptcy. By 2019, Nate Paul was entangled in lawsuits and facing as many as 13 foreclosures by 2020. A great deal of that information is available at a Google search at the time of these relevant events, and you will hear that various staff members inquire as to who Nate Paul is and are able to locate information similar to what I have just described to you.



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

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

In the spring of 2020, an executive staff member was notified that General Paxton was bypassing security detail. Instead of using that security detail to come and go for meetings, they would – he would use a staffer. Additionally, they were notified that Attorney General Paxton would leave meetings off his schedule entirely. The second time this happened, the staffer was asked who General Paxton was meeting with, and the answer was Nate Paul. There were several lunches with the young staffer present between General Paxton and Nate Paul in 2020.

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

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

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

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

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

Not alleged by the whistleblowers, but on the same theme, an inquiry found evidence of a dereliction of duty and of a lack of transparency, specifically a failure to disclose information that General Paxton had a duty to disclose.

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

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

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

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

MS. EPLEY: Thank you, Vice Chairman. It is a \$100,000 donation – excuse me – from another donor specifically to his defense fund, not Nate Paul.

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

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

What's significant here is that the attorney general, as the head of the Office of the Attorney General, and the primary defender of the state of Texas would be involved in that litigation. That investigation began in 2009; therefore, these events were ongoing when the \$100,000 donation was received. That brings us to the securities fraud. Background will be helpful here to help explain why a person in an attorney general's position would understand the law and why his actions are alleged to be a violation of the law.

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

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

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

What is Senate Bill 1060? It's a bill that makes it a felony for a person to render services as an investment advisor or investment advisor representative without being registered. This bill protects transparent – excuse me. This bill protects transparency in the market, provides an understanding of a salesman or investor representative advisor's motive, and protects the public trust in the market. Kenneth Paxton voted on that bill.

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

The relationship is that in exchange for bringing investors to the business, General Paxton receives 30 percent of the management fees for his referrals of investors in regards to the stock. That is legal and perfectly fine. The law simply requires or expects a duty of disclosure. Here the problem is, General Paxton did not tell the investors about the relationship and he did not tell the Texas State Securities Board.

Interviews and records establish this happened in 2004, in 2005, and in 2012. Interviews and records also indicate that General Paxton did not disclose the income on his taxes nor report the connection to the Texas Ethics Commission as required as a state representative. These issues were not corrected nor addressed by General Paxton until after a journalist uncovered the issues.

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

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

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

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

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

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

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

On July 22 of 2011, Paxton brought seven people into the Servery office, potential investors willing to contribute their money if it looked like a good deal.

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

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

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

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

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

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

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

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

CHAIRMAN MURR: Okay. Thank you.

MS. EPLEY: Yes.

The question here is whether or not it was a gift. If it was a gift, there are different disclosure requirements. The argument in regards to the prosecution is that it was a commission. So what is a commission, and was there an agreement?

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

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

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

ADA Gregg Cox was the division chief over public integrity. He reviewed the allegation – allegations and charted a path forward. ADA Cox met with law enforcement, reviewed the documents, and determined that there was sufficient evidence to proceed with the charges.

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

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

An indictment was filed in July of 2015 and later amended. There are three counts currently pending against Attorney General Ken Paxton, two for securities fraud in regards to Servergy. That is the failure to disclose material information to investors. It is a first-degree felony, and it carries a punishment range of 5 to 99 years or life.

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

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

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

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

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

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

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

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

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

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

MS. EPLEY: That's — yes.

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

MS. EPLEY: That's correct.

CHAIRMAN MURR: Okay.

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

MS. BUESS: Thank you, Ms. Epley.

We're going to now move to the whistleblower complaints, the allegations that they made. I'm going to cover the first two of those. The first one is the open records request.

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

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

There – the OAG receives over 30,000 requests annually to make determinations as to whether information has to be released or if it falls within one of the statutory exceptions for disclosure. And the reason we do that in the government is we want one entity to be responsible for maintaining uniformity in the application of the Public Information Act.

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

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

There's two sets of paperwork when we talk about a search warrant. There's the general form that's handed to a person when you're entering their home, and then there's what we call the affidavit of probable cause. It contains all the details, the facts, the information that's been developed that is presented to a judge, a magistrate, for signature for authorization for that search, and it contains all of the details to get us to that front door. Paul wanted access to that information, but it was under court seal, and it fell under the law enforcement exception under 552.108 of the Government Code.

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

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

The deputy told us that normally when General Paxton was provided with a well-thought-out explanation with legal precedent, he did not push back; but this time, he was not happy with the determination that the records should not be released.

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

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

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

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

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

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

CHAIRMAN MURR: Wait. Hate to interrupt you. Did you just state – I want to be very clear – that the attorney general for the state of Texas said he did not want to use his office to help law enforcement?

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

CHAIRMAN MURR: Okay.



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

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

There was a –

MEMBER GEREN: Mr. Chairman?

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

MS. BUESS: It means that the attorney general's office did not state – it did not abide by the exception that's provided in the law of that law enforcement exception. They didn't go there, but they also didn't order the disclosure. They basically took a neutral position of nothing.

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

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

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

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

MS. BUESS: That's correct.

CHAIRMAN MURR: Thank you.

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

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

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

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

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

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

Two issues of concern were raised in this particular arena of the open records request. First is the fact that Attorney General Paxton, the person who's charged with uniformly applying the law of the Public Information Act, was pushing his staff to ignore the law and legal precedent, and that would have thrown all of law enforcement into unsure territory, including his own office, all to obtain the information sought by his friend and political donor, Nate Paul.

And secondly –

VICE CHAIRMAN JOHNSON: Go ahead.

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

CHAIRMAN MURR: Vice Chair Johnson has a question.

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

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

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

MS. BUESS: We know that the file was delivered to the Attorney General Paxton. We know that he had it for a period of time. We know that during the summer of 2020 that that was – that – that an envelope, a manila envelope, was delivered, and we also know that that was the first time the aide had done that.

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

MS. BUESS: To Nate Paul.

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

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

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

MS. BUESS: That's correct.

Any other questions concerning open records?

CHAIRMAN MURR: Chairman Longoria.

MEMBER LONGORIA: I may have missed it, but is there any when and where it was dropped off? I guess you mentioned it was Nate Paul's office, but was it like during business hours, you know, Monday through Friday, 8:00 to 5:00? Was it on a weekend? I mean, any clarification on that?

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

MEMBER LONGORIA: Okay.

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

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

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

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

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

VICE CHAIRMAN JOHNSON: Thank you.

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

Under the property code, the Legislature provides that state government should aid Texas charitable organizations that are in need. That policy designated the attorney general shall represent the public interest in charitable organizations and is authorized to act to protect that interest.

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

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

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

In 2009 the OAG had been involved in an investigation concerning the Mitte Foundation when it learned that one of its board members had been arrested for a second possession of controlled substance case. Part of their investigation uncovered several financial improprieties, and that board member was removed. Since then there have been no issues with the Mitte Foundation that anyone was aware of.

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

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

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

Four days before that funding date is when the FBI executed the search warrants at Nate Paul's businesses and his home. Paul ultimately defaulted on that settlement. It did not happen.

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

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

Godbey and the executive staffer determined again that there was no need for OAG involvement. They felt that the charity was doing everything that we, as government supervisors, would ask them to do. There was nothing more that the Office of Attorney General could do for them. Their interests were being protected. They had hired well-qualified attorneys for their lawsuit.

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

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

Blake Brickman also agreed that there was no need for OAG involvement in this situation; but on July 6, 2020, while General Paxton was on vacation, he called Blake Brickman, who then was the deputy AG for policy and strategy, and asked him to take a look at that lawsuit.

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

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

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

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

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

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

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

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

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

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

Ray Chester then described ominous pressure, his words, from McCarty. McCarty is Josh Godbey's supervisor. He's the deputy attorney general for civil litigation. Both McCarty and Sheena Paul – this is Nate Paul's sister who is an attorney who was involved with this lawsuit – together McCarty, an employee of the OAG, and Nate Paul's attorney, his sister, pressured Chester to settle even before the mediation began. The Mitte Foundation was being offered less than half of what the original settlement had been that they had reached under mediation earlier. The Mitte board unanimously rejected that offer.

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

So you have told us that – and we are all familiar with the fact that state policy for the state of Texas in regards to charities is to look out for their best interest. We treat them as something that is benevolent, and they're out there to help many different causes. And when they get into a lawsuit, there is actually a framework in place where the OAG is notified of that lawsuit and they determine whether or not this charity needs assistance, for the benefit of the charity. And what you have just told us is not only was policy not followed, but then the attorney general's office got involved and immediately worked against the charity –

MS. BUESS: That is –

CHAIRMAN MURR: – to try to mediate something for less than half of what was already mediated?

MS. BUESS: That is what the evidence shows.

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

MS. BUESS: Yes.

CHAIRMAN MURR: – that was actively involved in the litigation for this nonprofit organization?

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

CHAIRMAN MURR: Thank you.

Chairman Longoria.

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

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

MEMBER LONGORIA: Okay.

CHAIRMAN MURR: Please continue.

MS. BUESS: General Paxton told Godbey that he believed World Class was more in the right than his staff was telling him. He expressed frustration with the fact that he thought investors were using litigation as their first response when their investments don't turn out the way they wanted, and he said he too had been looked at by the securities board.

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

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

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

MS. BUESS: That's correct.

CHAIRMAN MURR: That was forced by the OAG.

MS. BUESS: That's correct.

CHAIRMAN MURR: Thank you.

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

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

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

You'll recall the \$25,000 Nate Paul donation to Ken Paxton's campaign. That occurred in October of 2019. I mention it again in this context because the timing of it would have been when the World Class Holdings and the Mitte Foundation were heading towards litigation.

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

CHAIRMAN MURR: Speaker Geren.

MEMBER GEREN: Mr. Chairman, thank you.

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

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

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

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

MEMBER GEREN: Thank you, ma'am.

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

MEMBER GEREN: Okay. Thank you.

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

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

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

When asked if anybody had made the request, General Paxton provided a phone number for a person. This also violated procedure, codified procedure, because any request for opinion must be made in writing. It cannot be made orally. And it can only be made by certain individuals, certain qualified individuals.

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

As there was no official requestor for this opinion, it is our understanding based on the investigation that a staff member reached out to Senator Bryan Hughes and asked him to serve as the official requestor. This however circumvents the reason for the requirement that an official request be made and



that it be made in writing. We also learned that this was done in name only and in appearance only and that the information was generated internally from the Office of the Attorney General. In other words, the request was generated from the Office of the Attorney General rather than by a – an official requestor.

The deputy attorney general for legal counsel, Mr. Vassar, was tasked with working up an opinion letter as to whether or not public foreclosure sales constituted gatherings for the purposes of COVID regulations then in place.

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

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

CHAIRMAN MURR: Mr. Donnelly, I want to interrupt you real quick. So I think we're all familiar with the fact that qualified requestors can seek an AG opinion, and that can come from different agencies, that can come from prosecutors around the state of Texas, that can come from chairs of legislative committees. And how long does that typically – that time frame, what is the statutory time frame for when that occurs from the request to an opinion being issued?

MR. DONNELLY: Yes, Chairman, normally – not normally. The process is allowed 180 days.

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

MR. DONNELLY: That's correct.

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

MR. DONNELLY: Two days.

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

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

CHAIRMAN MURR: So –

MR. DONNELLY: Force of habit.

CHAIRMAN MURR: No problem.

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

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

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

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

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

MEMBER LONGORIA: July 31.

MR. DONNELLY: Correct.

MEMBER LONGORIA: And the opinion was issued out?

MR. DONNELLY: On the 2nd of August.

MEMBER LONGORIA: Second of August.

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

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

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

MEMBER LONGORIA: Okay. All right.

MR. DONNELLY: And an excellent point because those public foreclosure sales are held on the first Tuesday—

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

MR. DONNELLY: That is correct.

MEMBER LONGORIA: Okay.

MR. DONNELLY: Correct.

CHAIRMAN MURR: Please proceed.

MR. DONNELLY: Thank you.

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

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

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

The opinion had no RQ number—in other words, no tracking number – so there was no way to internally track both from the original request to the final opinion, also extremely abnormal. There was no cover sheet related to the opinion.

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

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

CHAIRMAN MURR: Vice Chair Johnson.

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

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

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

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

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

VICE CHAIRMAN JOHNSON: Additional properties.

MR. DONNELLY: That's correct.

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

MR. DONNELLY: That's our understanding.

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

MR. DONNELLY: That's our understanding.

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

MR. DONNELLY: That is correct.

CHAIRMAN MURR: So if I go to the AG's website right now, which I'm familiar enough that I can go and search for attorney general opinions because they provide guidance, and not necessarily the letter of the law, but they provide guidance and can be relied upon by local governmental entities, for example, could I find that informal opinion on their website right now?

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

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

MR. DONNELLY: That's correct.

CHAIRMAN MURR: Okay. Mr. Spiller?

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

MR. DONNELLY: I believe that they were different as our investigation – our investigation reveals they were different properties.

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

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

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

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

MR. DONNELLY: That is correct.

CHAIRMAN MURR: Thank you. Please continue.

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

CHAIRMAN MURR: Oh, Chairman Longoria.

MEMBER LONGORIA: Go ahead. Go ahead.

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

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

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

CHAIRMAN MURR: There were certainly effects. I understand.

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

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

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

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

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

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

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

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

MS. EPLEY: May I interrupt – excuse me. May I interrupt briefly?

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

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

MS. EPLEY: Yes. Thank you.

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

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

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

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

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

Mr. Donnelly, was this informal – I guess informal opinion, is that a good way to describe this opinion?

MR. DONNELLY: Informal attorney general opinion letter.

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

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

MEMBER GEREN: So but after –

MR. DONNELLY: – to attempt to stop action.

MEMBER GEREN: After the first Tuesday in August.

MR. DONNELLY: Correct.

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

MR. DONNELLY: Correct, for future – future actions.

MEMBER GEREN: All right. Thank you, sir.

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

CHAIRMAN MURR: No. Please proceed.

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

During our inquiry, we were able to establish that those Nate Paul controlled entities had properties for which Nate Paul, as I mentioned, was a personal guarantor that were slated for foreclosure sale the Tuesday following the Office of Attorney General informal opinion, and that Nate Paul in a deposition on January 19, 2021 admitted in a request for production or request for answer, while under oath and while represented by counsel, that one or more representatives from World Class contacted the attorney general regarding foreclosure sales in Texas before the issuance of the attorney general opinion.

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

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

I'll proceed then to what we have referenced as the Cammack investigation. I'd like to begin with the premise that hiring of outside counsel not a common occurrence at the attorney general's office or was not previously a common occurrence. It is almost unheard of in recent memory to hire outside counsel for criminal matters, and this reason, as you can imagine, is quite simple.

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

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

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

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

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

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

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

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

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

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

CHAIRMAN MURR: And why is that significant under Texas law –

MR. DONNELLY: That's significant.

CHAIRMAN MURR:– Mr. Donnelly?

MR. DONNELLY: I apologize.

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

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

CHAIRMAN MURR: And so –

MR. DONNELLY: So that individual – I apologize.

CHAIRMAN MURR: Well, and I'll interrupt you. So – and I think – I think the public takes for granted, because we don't obviously talk about it, but the state of Texas is set up with a diffused system where our local prosecutors have primacy over criminal cases.

MR. DONNELLY: That's correct.

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

MR. DONNELLY: Correct.

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



MR. DONNELLY: That is correct.

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

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

And also as a deputized DA, they come in to assist on a case. If it is a prosecutor pro tem, again, the district attorney has recused themselves or their office or a judge has made the appointment of a prosecutor pro tem, and there you take an oath, there is a process involved, and then there is the final option, which is a special prosecutor. When a special prosecutor is invited in by the district attorney, the district attorney, as a matter, they keep care, control, and management of that case, and they can hire on any licensed attorney in the state of Texas; but, again, it is their case. They're the ones in charge of it. They maintain control and management.

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

MR. DONNELLY: That is accurate.

CHAIRMAN MURR: Thank you.

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

The complaint stemmed from the FBI search warrant, which has already been discussed here, but stemmed from the FBI search warrant of Nate Paul's home and businesses based on a search warrant that was approved by a federal judge. The Department of Public Safety and the FBI were also involved in the searches and executing the searches. The staff members arranged a meeting with Nate Paul at the Office of the Attorney General.

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

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

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

Nate Paul did ultimately produce some documents, which were presented to Office of Attorney General forensic experts for analysis. Those experts reviewed the documents and concluded that there was no evidence of tampering.

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

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

A few weeks later, staff members learned that General Paxton was looking for outside counsel. Keep in mind, the process of hiring outside counsel requires multiple reviews and approvals throughout the upper echelons of the Office of the Attorney General. It's codified at Section 402.0212 of the Texas Government Code, and underlying that section is the basic premise that a valid contract for services exists. If anyone along the chain disapproves, the process stops.

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

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

CHAIRMAN MURR: Speaker Geren has a question.

MEMBER GEREN: Thank you, Mr. Chairman.

Mr. Donnelly, would you go back through what the normal process is? I want to make sure that I – that all that sunk in for me.

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

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

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

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

Thank you, Mr. Chairman.

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

CHAIRMAN MURR: Would you say that again?

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

CHAIRMAN MURR: Chairman Longoria has a question.

MEMBER LONGORIA: Thank you, Chairman.

Can you explain kind of the connection to Mr. Paul?

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

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

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

And I know we're a little pressed on time, so I'll –

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

MR. DONNELLY: Mr. Cammack.

CHAIRMAN MURR:– as some type of outside counsel.

MR. DONNELLY: That is correct.

CHAIRMAN MURR: Walk us through that.

MEMBER GEREN: I don't want to stop this, but there's no – we have – this committee has permission to meet while the House is in session. Is that correct?

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

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

CHAIRMAN MURR: That is correct.

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

CHAIRMAN MURR: Absolutely, Mr. Speaker.

MEMBER GEREN: Thank you, sir.

CHAIRMAN MURR: Please continue.

MR. DONNELLY: Thank you.

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

Senior staff members along the line of authorization previously discussed refused to approve the outside counsel contract because there was, in various opinions, no valid matter for investigation, and it is further against prosecutorial ethics to proceed with an investigation that lacks merit.

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

CHAIRMAN MURR: Chairman Longoria.

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

MR. DONNELLY: Please.

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

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

MEMBER LONGORIA: And you mentioned, I think, there was two individuals that were interviewed as possible outside counsel. And the first one had he or she served as outside counsel before, the one with decades of experience?

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

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

MR. DONNELLY: That's my understanding.

And please don't apologize for interrupting me with questions. That's what we're here for. Thank you.

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

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

On September 23, 2020, Mr. Cammack called the Office of the Attorney General and asked for something official to show that he was working for the Office of the Attorney General. He was told that his contract was not approved. General Paxton contacted Mr. Vassar and asked why the contract was not approved.

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

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

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

MR. DONNELLY: Yes. Penley refused to sign the contract because he had advised that the Office of the Attorney General could not investigate the federal officials who Nate Paul complained were involved in this – as part of his complaint.

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

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

CHAIRMAN MURR: Mr. Spiller.

MEMBER SPILLER: Thank you, Mr. Chairman.

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

MR. DONNELLY: None.

MEMBER SPILLER: Thank you.

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

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

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

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

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

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

CHAIRMAN MURR: Chairman Longoria.

MEMBER LONGORIA: Thank you, Chairman.

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

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

MEMBER LONGORIA: Okay.

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

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

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

On Saturday, September 26, 2020, General Paxton asked Penley to meet him in McKinney. General Paxton again pressured Penley to sign the contract. Penley at this point had outlined several pages and multiple bullet points concerning the dangers of the path that the Attorney General Paxton was on and warned General Paxton that he was exposing himself to potential criminal liability.

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

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

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

CHAIRMAN MURR: Chairman Longoria.

MEMBER LONGORIA: Thank you, Chairman.

What was he doing those two weeks?

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

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

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

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

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

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

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

The Office of the Attorney General staff wrote Cammack and directed him to take no action.

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

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

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

CHAIRMAN MURR: Chairman Longoria.

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

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

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

MR. DONNELLY: I have seen a couple.

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

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

CHAIRMAN MURR: Vice Chair Johnson has questions.

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

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

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

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

MR. DONNELLY: That's correct.

MS. EPLEY: Can I – can I clarify? It is correct, the distinction being, though, no one other than Brandon Cammack and his supervisor, if any, General Paxton, knew about the issuance of the grand jury subpoenas. So no one inside of OAG could have told Brandon Cammack not to do it because no one inside of OAG believed Brandon Cammack was affiliated with the organization other than General Paxton.

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



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

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

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

MS. EPLEY: That would be my opinion.

MR. DONNELLY: And Vice Chair Johnson – oh, I apologize.

CHAIRMAN MURR: Mr. Spiller has a question.

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

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

MR. DONNELLY: That is correct.

CHAIRMAN MURR: Mr. Spiller.

MEMBER SPILLER: Thank you, Mr. Chairman.

So in short, you're telling this committee that Attorney General Paxton insufficiently and in an unauthorized way allowed someone to act on behalf of the Office of the Attorney General and the state of Texas, and that person issued subpoenas on behalf of - grand jury subpoenas in a legal process on behalf of the attorney general and the state of Texas in this criminal investigation?

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

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

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

MEMBER SPILLER: Okay. Thank you.

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

MR. DONNELLY: The approval was directly from the – from General Paxton himself. It's our understanding through our investigation that the approved contract was authorized by the Attorney General, was not authorized by any individuals along that chain, which is, of course, the normal procedure and, again, stands out as unique in this situation.

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

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

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

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

The second part, the law enforcement related information would have been information that could have been part of the open records request that was initially sought and covered by Ms. Buess.

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

MR. DONNELLY: That's correct.

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

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

CHAIRMAN MURR: Wow.

Vice Chair Johnson has questions.

VICE CHAIRMAN JOHNSON: In addition to the financial records with regard to the civil litigation, you said law enforcement, magistrate judge, and it was not clear to me. Are you suggesting that the requested information from Nate Paul about the unredacted FBI file as to the entities and the people that were

investigating him and executing that search warrant – so normally we may redact information as described to protect witnesses, to protect agents who are involved in an investigation. Are you saying that the grand jury subpoenas were attempting to obtain information that only could have been known if you had seen the unredacted FBI file?

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

VICE CHAIRMAN JOHNSON: And I just want to circle back to something that was said almost a couple of hours ago. That unredacted file was put in an envelope and given to Ken Paxton that was kept in his personal possession for a few days?

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

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

MS. BUESS: Correct.

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

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

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

MS. BUESS: That is correct.

MR. DONNELLY: That's correct.

VICE CHAIRMAN JOHNSON: What kind of information were they wanting on the magistrate or the police officers that were involved in investigating Nate Paul?

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

MS. BUESS: IP addresses.

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

CHAIRMAN MURR: Chairman Longoria.

MEMBER LONGORIA: Thank you, Chairman.

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

MR. DONNELLY: We –

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

CHAIRMAN MURR: Use the microphone.

MS. EPLEY: Thank you. Sorry, Chairman.

There was a draft contract that would have included additional information, for example, the hourly rate or the scope in terms of employment. That as drafted by Ryan Vassar limited what Brandon Cammack even if hired would have been able to do to purely investigative. He cannot be the prosecutor. That's – that's first.

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

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

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

So there's two questions. One, they did not follow the internal policies and procedures designed to protect Ken Paxton to authorize payment of an employee and to document what proceeds, but second, the draft they do receive is signed and not dated, which is very important because just because it was provided upon request with both signatures does not establish when that occurred.

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

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

CHAIRMAN MURR: Vice Chair Johnson.

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

And what it sounds like you're telling us is that all those people that were on that frontline of defense of ethics in the OAG office were telling Ken Paxton, "You may not do these things and you may not hire this person because they don't reach our standard," and he did it anyway.

MR. DONNELLY: That's correct.

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

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

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

MR. DONNELLY: Yes.

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

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

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

MR. DONNELLY: That's accurate.

CHAIRMAN MURR: Okay.

MR. DONNELLY: So, again, Mr. Cammack submitted those invoices. General Paxton took no action to halt or postpone the actions taken by Brandon Cammack.

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

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

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

MS. EPLEY: Thank you.

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

The facts as you have just heard in regards to Mitte open records, the letter foreclosure and the investigation all functioned in individual silos. They had line prosecutors, then mid management, and ultimately senior level Office of the Attorney General employees involved increasing as the level of concern or

pressure progressed. But very few senior leaders in OAG had the landscape of what was occurring. They were not involved in each silo. They did not have the full scope.

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

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

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

So the senior level advisor decides to start contacting other leadership to find out what's afoot, why they weren't looped in, and why, despite a very deep, experienced, well-funded roster of criminal prosecutors and investigators in the Office of the Attorney General, they would ever need outside counsel. Couldn't recall a time that had been necessary before.

This is the first two days of that week.

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

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

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

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

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

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

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

CHAIRMAN MURR: Vice Chair Johnson has a question.

MS. EPLEY: Yes.

VICE CHAIRMAN JOHNSON: So how long is his supposed employment between the time that Ken Paxton says "I'm hiring him," gets somebody to sign off, issues grand jury subpoenas, and then he gets blown on September 28 to September 30?

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

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

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

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

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

VICE CHAIRMAN JOHNSON: Okay.

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

At that point, Wednesday, September 30 – yes. At that point Wednesday, September 30 of 2020, the leadership in that office goes to the FBI.

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

This brings us to October 1 of 2020, a Thursday. The seven employees text General Paxton to notify him that they have reported his violations to the appropriate law enforcement authority.

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

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

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

October 1, 2020. Cammack returns the draft contract for outside counsel signed by General Paxton and without a date as to when it was executed. I think we covered this earlier, so I'm going to keep moving on unless there are questions.

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

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

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

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

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



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

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

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

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

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

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

MS. EPLEY: Yes, I will. Brent Webster comes in on the – first assistant leaves, and by that Monday, Brent Webster has been recruited to be the new first assistant of the Office of the Attorney General.

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

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

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

CHAIRMAN MURR: Okay.

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

CHAIRMAN MURR: Thank you. I know I interrupted you, but Speaker Geren, did you have –

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

CHAIRMAN MURR: All right. Please continue.

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

October 9th of the 2020. The Travis County District Attorney's elected district attorney Margaret Moore sends a letter to Attorney General Ken Paxton. I would like to read it here despite its length, if you would allow me: Dear

Attorney General Paxton, on June 10, 2020, my office sent to David Maxwell – that is the investigator internal to OAG - a letter referring a request to investigate RTI filed in our office by Nate Paul. The RTI was received by us after you asked my office to hear his complaints. The referral of the Office of the Attorney General was made with your approval. We did not conduct any investigation into the merits of the matters complained of.

In referring the matter to OAG, we concluded that ours was not the appropriate office to either address the matters raised in the complaint or to conduct an investigation into them. The referral cannot and should not be used as any indication of a need for investigation, a desire on the Travis County DA's part for an investigation to take place, or an endorsement of your acceptance of the – excuse me – or an endorsement of your acceptance to the referral. My office has closed this file and will take no further action.

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

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

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

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

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

October 28. Ryan Bangert resigns.

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

And by November 10 or thereabout of 2020, Ryan Vassar is terminated.

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

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

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

As I think people would expect, we defer in respect to federal authorities, but it also means that progress for other purposes ceases because of their investigation being ongoing.

CHAIRMAN MURR: Can I interrupt you?

MS. EPLEY: Yes.

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

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

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

CHAIRMAN MURR: Thank you.

MS. EPLEY: Yes. Before we conclude –

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

MS. EPLEY: That is absolutely included in our records, but I did not include it on this, and I don't want to speculate –

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

MS. EPLEY: No.

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

MS. EPLEY: That's correct.

CHAIRMAN MURR: Okay.

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

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

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

MS. EPLEY: Yes, Chairman Murr.

CHAIRMAN MURR: By the Office of the Attorney General?

MS. EPLEY: That's correct.

CHAIRMAN MURR: Thank you.

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

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

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

There have been no supplements and no amendments or additions.

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

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

In regards to the second claim for this list, that will be the Mitte Foundation. Quote, Ken Paxton's involvement was consistent with his predecessor and in line with his required duties and legal obligations as Attorney General, Page 5. False.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Montford and Clemmer – ellipses for move to center – oversaw the special prosecutor, Page 39. False.

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

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

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

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

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

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

Cammack had authority pursuant to Travis County District Attorney Office appointment, Page 34. False. Do you want me to keep going?

CHAIRMAN MURR: Please.

MS. EPLEY: Thank you.

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

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

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

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

CHAIRMAN MURR: Vice Chair Johnson has questions.

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

MS. BUESS: Yes.

MS. EPLEY: Yes.

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

MS. EPLEY: Yes.

VICE CHAIRMAN JOHNSON: Can you share it?

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

MR. DONNELLY: Fair enough.

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

Many of the people that we spoke with, specifically some of the whistleblowers, are known outside of the Office of the Attorney General's circle. They are well-respected former law enforcement. They are well-respected attorneys. They're individuals who are considered subject matter experts in fields. They are oftentimes the cream of the crop. They rose to the positions that they are in because of their work ethic and because of their dedication.

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

CHAIRMAN MURR: Chairman Longoria first.

MEMBER LONGORIA: Thank you, Chairman.

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

MS. EPLEY: I certainly can. In the summer of – thank you.

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

We have evidence that there were upgrades requested to both the countertops and the cabinets. I don't mean that as a limitation to other things. I mean it as to the two items I can specify information specifically related to.

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

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

MEMBER LONGORIA: Nate being Nate Paul?

MS. EPLEY: My job here is to provide you the information that I can. The evidence supports Nate. I don't know of another Nate that is relevant to any portion of the inquiry in any way. I know that Nate Paul has ties to commercial real estate and real estate 134 in the Austin area and that he was relevant in other silos of information in regards to the same time frame.

MEMBER LONGORIA: And where was this property located?

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

MEMBER LONGORIA: Well, not the address but what county or –

MS. EPLEY: Austin and Travis County.

MEMBER LONGORIA: Was there any permits –

MS. EPLEY: No.

MEMBER LONGORIA: – obtained?

MS. EPLEY: Thank you for asking that question.

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

MEMBER LONGORIA: You mentioned water damage. And I hate to assume, but was there an insurance claim filed, or was this private pay? I mean, how was this -

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

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

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

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

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

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

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

CHAIRMAN MURR: That's duly noted.

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

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

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

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

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

MS. EPLEY: Yes, sir.

MEMBER GEREN: Thank you, ma'am.

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



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

MS. BUSS: I do as well.

MS. CAMERON: Yes.

MR. DONNELLY: I do.

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

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

CHAIRMAN MURR: Please.

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

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

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

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

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

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

Another thing that I want to talk about, which is a little – a lot more serious, the abuse of official capacity. And this is when you have somebody in the – someone in the office of the attorney general who, in his position, comes in to the custody of all this personnel, all the, you know, property that the OAG has access to.

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

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

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

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

MS. CAMERON: Right. Right.

CHAIRMAN MURR: Okay.

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

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

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

That contract was entered into for a year. And that money that was set aside, \$25,000, we don't know how much has been paid out, we don't know what the invoices were, but it was subjected to substantial risk of loss. We don't know that it's gone. The \$72,000 regarding the employees who were, you know, diverted, they're - that's gone. That's gone. And that's conservative.

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

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

He was also told that, you know, all people in the office that were required to sign and approve this DocuSign had not done it. He was also told by his high personnel that this could be criminal activity, that this was only for the benefit of Nate Paul, and not just for the benefit of Nate Paul but for the harm of entities. So we're not just talking about benefit but we're talking about harm.

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

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

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

MS. CAMERON: Yes.

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

MS. CAMERON: Yeah.

MS. EPLEY: We didn't spend – we didn't spend a great deal of time on this area because it's their personal lives, but to your question, the retaliation isn't just the suspensions. It's not just the firing, although that is the most salient in regards to the whistleblowers and the most significant for today, but there are also people on staff who, for example, found out about the affair and confronted Attorney General Ken Paxton who ended up with a pay raise but moved out of their scope of employment with less access with less control. So –

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

MS. EPLEY: Yes.

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

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

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

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

MS. EPLEY: Yes.

VICE CHAIRMAN JOHNSON: Did they want that or did – was that okay with them?

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

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

MS. EPLEY: Correct.

MS. CAMERON: Yes.

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

MS. EPLEY: Yes, Chairman.

I'm sorry, Donna. Please go ahead.

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

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

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

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

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

MS. CAMERON: Most definitely.

CHAIRMAN MURR: Okay.

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

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

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

MR. DONNELLY: I would add one thing, Chairman Murr. I think in relation to many of these crimes, there is, of course, the aiding and abetting portion of it, he's acting with other individuals, and conspiracy to commit crimes and that violate both the state of Texas laws and federal laws.

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

Mr. Spiller has questions.

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

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

MS. CAMERON: Yes.

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

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

MEMBER SPILLER: All right. Two to ten?

MS. CAMERON: I'm sorry?

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

MS. EPLEY: Two to ten years, yes.

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

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

MEMBER SPILLER: Okay. Thank you.

MS. CAMERON: Thank you.

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

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

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

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

VICE CHAIRMAN JOHNSON: Thank you.

MEMBER GEREN: Can we –

CHAIRMAN MURR: Speaker Geren.

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

CHAIRMAN MURR: Your button didn't click.

MEMBER GEREN: I'm sorry.

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

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

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

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

MEMBER GEREN: Not until it was caught.

MS. EPLEY: The question was asked.

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

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

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

MS. EPLEY: The – let me – let me clarify.

MEMBER GEREN: Okay.

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

Okay.

MEMBER GEREN: And was this hundred thousand dollars for his legal defense fund or –

MS. EPLEY: That's what I was trying to distinguish. If we're talking about the hundred thousand dollars in regards to Servery, the answer is different than if we're talking about the hundred thousand dollars for the defense fund. The answer to both, upon a lack of disclosure, is, oh, it was a gift.

MEMBER GEREN: Okay.

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

MEMBER GEREN: Thank you, ma'am.

MS. EPLEY: Yes.

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

MEMBER GEREN: I'm just – I guess where I'm trying to come from is not many people walk up to me and give me a hundred thousand dollars. It doesn't happen very often. In fact, I don't believe it's ever happened. And so – and we, as

electeds, have to report gifts. We have to report campaign contributions. And I'm trying to get it straight in my mind where this hundred thousand dollars – where both the hundred thousand dollars, where they actually fit.

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

CHAIRMAN MURR: I understand.

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

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

MS. EPLEY: Yes.

MEMBER GEREN: Thank you.

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

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

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

And, Speaker Geren, I've never seen \$3.3 million. It sounds like a lot of money, and it is. Part of that –

MEMBER GEREN: I thought the hundred thousand was a lot of money.

CHAIRMAN MURR: That's right.

Part of that, however, the request was made that the Legislature fund that amount. So I have a couple of questions.

One, in the course of that litigation, to the best of your knowledge, Mr. Paxton has never been deposed or appeared in court and offered sworn testimony in any way. Does that sound accurate?

MS. EPLEY: That is consistent among any lawsuit in regards –

CHAIRMAN MURR: Consistent with –

MS. EPLEY:– to General Paxton as I understand it; but, yes, in regards to the lawsuit, no discovery and no depositions.

CHAIRMAN MURR: Let me just clarify.

MS. EPLEY: Well –

CHAIRMAN MURR: That is consistent with every lawsuit that you're familiar with that Mr. Paxton's been involved in, he has not provided sworn testimony in some way?

MS. EPLEY: That is correct.

CHAIRMAN MURR: Okay.

MS. EPLEY: I would like to clarify my statement a moment ago. When I said there had been no depositions, there were depositions on preliminary matters but not the facts of the case.

CHAIRMAN MURR: Gotcha.

The second part is trying to get to the basis of the claims of the whistleblowers involved in that of, you know, hearing all this information and hearing good people who have provided years of public service. And you all sit here having done that both at the federal and the state level can empathize and sympathize with someone who is trying to do their job, trying to do it the right way, and then found themselves to be on the outs for doing the right thing. And it seems that's very clear.

It is alarming, I said earlier, and very serious as to having this discussion why millions of dollars have been asked in taxpayer dollars to remedy what has alleged to be some wrongs by various people. So that is – that's something that we have to grapple with. That is challenging. I'm still soaking in many of the facts that you have provided us with your level of detail and many hours that you have spent visiting with folks, visiting with these whistleblowers, visiting with witnesses and reviewing hundreds of documents.

Do y'all have anything else that y'all would like to add or ask questions of?

MEMBER GEREN: I would just like to thank this panel, this group of people, for the excellent job that they've done and the hours and very detailed information they've provided to us.

MEMBER SPILLER: Thank y'all.

MS. CAMERON: Thank you, sir.

CHAIRMAN MURR: On behalf of the entire committee, we appreciate each and every one of you and the efforts that you have put forward to bring us information.

And as you've stated at the beginning, Ms. Epley, so eloquently, that your task was not to pass judgment. Your task was to figure out what the facts were and where they led you. And behind you, you have qualified investigators to help you do that as well. And for all of that, you should be commended. You have a lot of work that you put together today.

Seated to my right and your left is a court reporter who has taken down each and every word that has been provided. It is the intent that that will be transcribed.

Members, do you have any other questions for our invited witnesses here today?

(No verbal response)



CHAIRMAN MURR: Then we appreciate that. And for that purpose, we excuse you.

MS. EPLEY: Thank you.

MS. CAMERON: Thank you. It's been a pleasure.

MEMBER GEREN: Thank you again.

CHAIRMAN MURR: Without objection, the committee will now enter into an executive session under Subchapter B, Chapter 301 of the Government Code, the House Rules of Procedure, the Housekeeping Resolution, and the committee's rules.

The time is 11:08 a.m. It is the intent of the committee to allow the public to remain in this room while the committee retires in executive session to an empty room behind the committee.

(Executive Session: 11:08 a.m. to 12:06 p.m.)

CHAIRMAN MURR: The Chair calls the committee to order in open session. It is 12:06 p.m. The Chair notes for the record that no decisions were made or voted upon in executive session.

Members, is there any further business to be discussed?

(No verbal response)

CHAIRMAN MURR: The Chair hears none. The Committee on General Investigating is now adjourned.

(Proceedings adjourned at 12:06 p.m.)

## 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 Diplomat 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.

/s/LORRIE A. SCHNOOR, RDR, CRR

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