

**Hearing Before the United States House of Representatives
Select Committee to Investigate the January 6th Attack on the United States Capitol**

June 13, 2022

**Written Statement of Proposed Testimony of Byung Jin “BJay” Pak
Former United States Attorney for the Northern District of Georgia**

Chairman Thompson, Vice Chair Cheney, and members of the Committee, good morning, and thank you for the opportunity to speak with you today. My name is BJay Pak, and I had the great honor to serve as the Senate-confirmed United States Attorney for the Northern District of Georgia from October 10, 2017, to January 4, 2021. My resignation early last year capped off nearly a decade of service in the U.S. Department of Justice, as I had previously served as an Assistant United States Attorney in the Criminal Division of my former office, from 2002 to 2008. I have also had the honor to serve in the judicial branch of the federal government as a law clerk for Judge Richard Mills of the United States District Court for the Central District of Illinois. Moreover, I served as a State Representative in the Georgia General Assembly from 2011 to 2017. Because I am a believer in term limits, I decided not to stand for re-election after three terms. Since 2021, I have been in private practice in Atlanta, Georgia.

As a 10-year-old immigrant boy from South Korea, I never could have imagined that I would one day serve the United States as the chief federal law enforcement officer for one of the largest federal districts in the nation. Unlike the Americans who were granted citizenship through birthright, I, along with millions of immigrants to this nation, had the privilege to take an oath to become a citizen of this great country. The oath of citizenship is very similar to the oath I took to become a U.S. Attorney for the Northern District of Georgia. Each oath makes clear, in no uncertain terms, that one’s allegiance is to the Constitution, and not to any president, or political party. The oath has served as my guiding principle throughout my public service career.

Like many Americans, I was called to public service after the terrorist attacks on September 11, 2001. Prior to the attacks, I thought our country was invincible. But those attacks showed that we were vulnerable, and our country needed its citizens to help protect it, and to serve within its ranks. I was fortunate to be able to serve nearly a decade in the Department of Justice – the only Department in the country that has a moral virtue in its name.

My testimony today relates to my time as United States Attorney, and particularly, the last month of my tenure. The events which unfolded on January 6th at the U.S. Capitol brought extreme shock and disappointment to Americans and to the world. I certainly felt those same emotions as I saw images of that event on television. But I hope that what occurred that day and the days leading up to January 6th will never overshadow all the great work done by the career public servants who faithfully serve the Northern District of Georgia and the Department of Justice every single day.

During my tenure as U.S. Attorney, from Fiscal Year 2017 to Fiscal Year 2020, our prosecutors and law enforcement partners:

- increased overall prosecutions by 30%;
- increased drug enforcement by 85% to fight the opioid epidemic;
- increased white-collar crime prosecutions by 112%;
- help recover hundreds of millions of dollars in restitutions and fines; and,
- instituted an innovative and successful recidivism reduction program for violent offenders who were returning to society after serving their sentences.

Of course, 2020 was a particularly difficult year for our country generally, and for the Northern District of Georgia in particular. We started the year working through the longest government shutdown in recent history and faced challenges related to the COVID-19 pandemic, demonstrations and unrest following the murders of George Floyd and Ahmaud Arbery, including challenges from those who sought to use the cover of legitimate protest as an opportunity to wreak havoc and mayhem. At the end of the year, the 2020 presidential election became one of the most intense in our nation's recent history. As this Committee is well aware, Georgia was a hotly contested swing state, and our office and our law enforcement partners in the Northern District of Georgia went above and beyond the call of duty to fulfill their mission to enforce the law, despite the many challenges that they faced.

State Farm Arena Video Clip

Among those challenges were individuals who continuously made false allegations that the elections in Georgia had serious irregularities, or that the result of those elections was fraudulent. One such example was the alleged "suitcase full of fake ballots" incident. On December 3, 2020, Rudy Giuliani appeared before a Subcommittee of the Georgia State Senate that was looking into election integrity issues. During the hearing, Mr. Giuliani played a video clip purportedly showing the tallying of ballots from Fulton County at the State Farm Arena on election night – November 3, 2020. I learned of his appearance at the committee hearing and the existence of the video clip through media reports. According to the media reports, Mr. Giuliani claimed that the video showed the Fulton County election workers at State Farm Arena taking a black "suitcase" out from under a table, removing purportedly fake ballots from the suitcase, and running the purportedly fake ballots through the tabulating machine after the observers from the respective political parties had been sent home. Mr. Giuliani claimed that this video was a "smoking gun" of evidence of election fraud in Fulton County.

Mr. Giuliani's claims were simply untrue and making such a claim was reckless. At the request of Attorney General William Barr, our office and the FBI conducted a preliminary inquiry to evaluate whether any of the allegations made by Mr. Giuliani with respect to the State Farm Arena video could be substantiated. After reviewing the evidence and interviewing witnesses, my office and the FBI concluded that there was nothing to substantiate Mr. Giuliani's claims, let alone any potential violations of federal law. The "suitcase" was a legitimate lockbox used to store official ballots, and all lockboxes and ballots were accounted for. I reported our conclusions from the preliminary inquiry to Attorney General Barr, and to Rich Donoghue, who was then the Principal Associate Deputy Attorney General to Deputy Attorney General Jeff Rosen.

One unfortunate consequence of Mr. Giuliani making such unsubstantiated claims of election fraud was that the Fulton County Election workers depicted in the State Farm Arena video clips were “doxed” – in other words, their names, addresses, and other information were publicized. I received reports that they were being harassed, and that some had received death threats. As a result, law enforcement resources had to be diverted from other areas and deployed to protect the workers.

Jeffrey Clark

A few days before January 1, 2021, I spoke again with Mr. Donoghue, who was by this time, the Acting Deputy Attorney General. Mr. Donoghue indicated that he had just left a long meeting at the White House with President Trump. He told me that the President was singularly focused on Georgia, and that he was unable to dissuade the President from the notion that that he won Georgia, and that the election was stolen. I reiterated to Mr. Donoghue that, although every election has some irregularities, I had received no substantial reports of election fraud supported by evidence, enough to even initiate a formal investigation. Mr. Donoghue agreed and expressed frustration that some individuals were feeding the President various unsubstantiated theories of election fraud, and that he and others had to spend a significant amount of time to dispel the theories.

Mr. Donoghue then asked if I knew Jeff Clark. I have never met nor spoken with Mr. Clark. Mr. Donoghue told me that Mr. Clark was the Assistant Attorney General for the Environment & Natural Resources Division, and at the time, was also the acting Assistant Attorney General of the Civil Division. Mr. Donoghue stated that Mr. Clark had “the President’s ear”, and that Mr. Clark was suggesting that the DOJ, in an extremely unorthodox fashion, both intervene in support of the Trump campaign in a civil lawsuit filed in Fulton County, Georgia alleging election fraud, and sign a letter urging the Georgia legislature to call a special session to investigate alleged election irregularities. Mr. Donoghue and I both felt strongly that this was highly unusual and not appropriate. Mr. Donoghue also told me that Mr. Clark would call me about election irregularities. I told Mr. Donoghue that I would be happy to tell Mr. Clark that there was no evidence of widespread election fraud, and that I would reject any request for the U.S. Attorney’s Office to either intervene in a lawsuit or ask any state authority to pause the certification process. Mr. Donoghue stated that he would not be surprised if the President himself called me. I told Mr. Donoghue that even if the President called me himself, my answer would not change. Neither Mr. Clark nor President Trump ever contacted me, however.

Resignation

After President Biden’s victory in the 2020 election, I had always planned to submit my resignation in January 2021, as is customary for many DOJ political appointees. My plan was to make my resignation effective on Inauguration Day – January 20, 2021, so that my First Assistant U.S. Attorney would be promoted as Acting U.S. Attorney, pursuant to the Federal Vacancies Reform Act. I did not announce my intentions to the public at that time. However, during the latter part of December, I notified members of the U.S. Attorney’s Office, the District Court, and some of our law enforcement partners of my plans. I also told Mr. Donoghue.

On January 3, 2021, I learned for the first time, through media reports, of the call between President Trump and Georgia Secretary of State Brad Raffensperger, in which President Trump reportedly attempted to persuade Secretary Raffensperger to “find votes,” and continued to claim that the Georgia election was “rigged.” On learning about this call, I was deeply concerned and disturbed about what was being asked of the Office of the Secretary of State and considered resigning immediately. I eventually decided against an immediate resignation, given the upcoming run-off election in Georgia where the control of the U.S. Senate hung in the balance; I did not want my sudden resignation to be used or interpreted in any way to influence that run-off election.

Around 10:00 pm that evening, I noticed that I had several missed calls from Mr. Donoghue, and a text from him asking me to return his calls. When I called him back, Mr. Donoghue told me that he and Acting Attorney General Rosen had returned from a three-hour meeting at the White House during which the President had expressed extreme displeasure towards the DOJ for “not doing enough” about the purported fraud that he believed cost him the election. Mr. Donoghue indicated that the President had read a 2016 New York Times article — in which I was quoted regarding how then-candidate Trump’s campaign rhetoric created difficulties in recruiting minorities to the Republican party — and became convinced that I was a “never-Trumper,” which in the President’s mind, was the reason there was no election fraud investigations in Atlanta. The President wanted the DOJ leadership to fire me. Mr. Rosen and Mr. Donoghue were opposed to my removal and told the President that, as I am a Senate-confirmed U.S. Attorney, they did not have the power to fire me. At that point, someone at the meeting noted that I was already going to submit my resignation in the upcoming week, so the President could simply accept my resignation early, rather than fire me. The President indicated that he wanted the resignation letter as soon as possible.

Mr. Donoghue offered to place me in a Senior Executive Service position within DOJ until Inauguration. I declined because, after the revelations of that day, I no longer wished to serve in that administration. Concerned about the disruption that would be caused by a sudden transition of leadership in the office, I asked Mr. Donoghue if my First Assistant United States Attorney, Kurt Erskine, could serve as acting-United States Attorney after my resignation. Mr. Donoghue said that he and Mr. Rosen had suggested Mr. Erskine to the President, but the President recommended that Bobby Christine, then the U.S. Attorney for the Southern District of Georgia, serve as the acting U.S. Attorney for Northern District, because the President had heard “good things” about Mr. Christine. Mr. Donoghue indicated that the President called Mr. Christine from the White House to offer him the position. Mr. Donoghue stated that Mr. Christine was caught off guard by the offer and was confused as to whether he could even serve in both roles simultaneously. Mr. Donoghue indicated that I could choose how to announce my resignation, either in a press conference to “blow the whistle” or by issuing a statement. He suggested that a low-key resignation would be best for all involved, especially when he and a few others were “trying to hold the ship together” until Inauguration. I told him I would think about it and let him know.

The next morning on Monday, January 4, 2021, I called Mr. Donoghue on my way to the office to let him know that I had decided to make a quiet exit, as I did not want my resignation to become a distraction to those who still had a job to do at DOJ. I told Mr. Donoghue to “hang in there,” because we needed him, and that it was an honor to serve the nation with him. I then called

Mr. Christine to arrange a conference call between our leadership teams to facilitate a smooth transition and offered to set up a briefing on all election-related investigations that were pending.

Once at the office, I spoke to my First Assistant United States Attorney, Mr. Erskine, and the remaining members of my leadership team to inform them that I would be resigning, effective immediately. I then sent my resignation to the Acting Attorney General and to the President.

Despite the abrupt end to my tenure as U.S Attorney, I am proud of the great work done by our everyday heroes in the law enforcement community, and by the U.S. Attorney's Office for the Northern District of Georgia. Serving as U.S. Attorney and working with the dedicated public servants has been the greatest honor of my professional life. But the best part of working in the U.S. Department of Justice, and in particular the U.S. Attorney's Office, is that it is where you do the right thing, the right way, for the right reasons. I have strived to conduct myself in a way that serves and honors those ideals.

Thank you for your time. God bless you, and may God bless these United States.