EXHIBIT 12
include the talking points for public consumption related to a specific issue.

Q. Who produces the public affairs guidance for the Department?

A. The Assistant Secretary of public affairs would be ultimately responsible for those talking points.

Q. Okay. And the next line, number 2, says, "State is notifying our embassy in Haiti." I think that's fairly self-explanatory.

Number 3 says, "I notified NSC at their request." What does NSC refer to?

A. That refers to the National Security Council.

Q. Is that the National Security Council at the White House --

A. Yes.

Q. -- or is there a different National Security Council? Yes.

Do you recall the National Security Council requesting notification about the TPS termination for Haiti?

A. You know, I don't specifically remember, but, in general, the White House was keenly interested in the Secretary's decisions related to
TPS. So it was a standard practice that we would notify them as soon as she had made a decision.

Q. How did you know that the White House was keenly interested in TPS decisions?

MR. KIRSCHNER: Objection. To the extent that this is calling for internal government deliberations, I would request that you not answer. To the extent that you can give a general answer, then feel free to go ahead.

A. They would tell us directly that they would like to know as soon as the Secretary made a decision.

Q. When you say "they," who would let you know that they were interested in knowing what the TPS decision was likely to be?

A. It would be at the staff level of the National Security Council. I see the name has been redacted here. It looks like I listed the name in the e-mail and it's been redacted.

Q. Do you recall the name but are withholding it because of the deliberative process privilege?

MR. KIRSCHNER: Objection, that is a misrepresentation of the withholding listed in this document.

Q. Do you recall the name of who the person is that you would have been in communication with?
A. I don't specifically recall, but I -- I can imagine who that person was, yes.
Q. Were there others besides the staff person that you're describing at the National Security Council who are at the White House who expressed interest in the TPS decisions?
A. Not to me.
Q. So when you were engaged with the White House in communications around TPS, is it fair to say that was with the National Security Council in particular?
A. Yes.
Q. And exclusively with the National Security Council in particular?
A. So my recollection is that when I communicated TPS decisions to the White House, I communicated them to the National Security Council, yes.
Q. Did anyone from the White House communicate with you or your team regarding TPS outside of the person that you're thinking of at the National Security Council?
A. Not with me directly. Whether they
communicated with my team, I wasn't aware of.

Q. So number 3 says, "I notified NSC" -- the name is redacted -- "at their request."

Is it fair to say that you're representing that NSC had a general request for information about TPS decisions, not a specific request here about the TPS decision with regard to Haiti?

MR. KIRSCHNER: Objection, confusing, no foundation.

A. I think I can answer. I recall on a number of TPS decisions, there was an individual at the National Security Council, who was sort of my natural counterpart, with whom I would communicate and who was keenly interested in knowing when a decision had been made and what that decision was so that he could then communicate that decision up his chain of command.

Q. And who was that person?

A. Gary Tomasulo.

Q. Gary -- what's his last name?

A. Tomasulo. T-o-m-a-s-u-l-o.

Q. Do you know his title?

A. I believe he was the director of trans-border affairs at the NSC.

Q. Do you know what his responsibilities
Security, but obviously, it has to be in a timely way so that the Secretary of Homeland Security has time to consider that input before rendering her decision.

Q. So you started off by saying the way that it's supposed to work and then outlined the process.

A. (Nodding head up and down.)

Q. Is it your recollection that it generally worked in the way that you described?

A. It's my recollection that the State Department was often very slow and late in getting their materials to the Secretary so that she had sufficient time to consider those materials before making her decision.

Q. Do you recall sort of approximately at what stage of the process the Secretary of State or the Deputy Secretary of State engaged with the DHS Secretary or DHS with the recommendations?

MR. KIRSCHNER: Objection, vague. It's general in the context of the questions at issue in this case.

A. So for example, in the case of Sudan, I believe the Department of State's paperwork was very late in arriving at Homeland Security and I
recall that being an issue.

Q. In what way was it an issue?

A. It was an issue in that the Secretary's office -- Secretary of homeland security's office was clamoring for that input so that she would have sufficient time to read it, process it, before having to make her decision.

Q. You had described at the outset your role as engaging with the State Department and as one of the key entities within the Department of Homeland Security that was engaged with the State Department. Had you engaged with the State Department in your recollection in the -- in connection with the particular case of the TPS determination of Sudan?

A. Yes, I believe so. And the reason I say I believe so is because it's sometimes difficult for me to separate in my mind which TPS decision, a particular phone call, or conversation took place regarding. But I do recall talking to the State Department about the Sudan paperwork and expressing the Secretary of Homeland Security's displeasure with the lateness of that paperwork.

Q. Do you recall what the response was from the --
Q. So you then described your communications with Mr. Merten as essentially having the backdrop of an expected termination of TPS for Haiti?
A. That's my recollection.
Q. Is it your recollection that that general feeling around the likely imminent end of TPS for Haiti was from the very beginning of your tenure at DHS?
A. I do recall that, because I recall that -- that I got that sense from General Kelly.
Q. Did you have specific communications with General Kelly about that?
MR. KIRSCHNER: Object. I mean, to the extent this is getting into internal government deliberations of your communications, I would instruct you not to answer.
MS. MacLEAN: You can identify whether this is a question that you would instruct him not to answer or not.
Q. But did you have specific communications that you recall with General Kelly concerning the expected termination of TPS for Haiti?
A. I believe I had one conversation with him about Haiti and TPS.
Q. And was that communication before he left

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answer to this question.

Q. So to the extent that you can answer based on what your attorney has advised, are you aware of whether there was any reply from the Secretary of State or his staff to the embassy cables that were received regarding TPS?

MR. KIRSCHNER: Again, objection, this is like foundational. Like, this is characterizing kind of a sentence in an article that without context I think provides a difficulty in responding, and it's a characterization of how the sentence is stated within the article.

Q. If you understand the question, you can answer the question.

A. So I'm not aware one way or the other that the -- that the cables were answered or that they were not answered.

Q. So the following sentence reads, "In the ensuing weeks, Trump Senior Advisor and Immigration Hardliner Stephen Miller placed phone calls to DHS Chief of Staff Chad Wolf and top Tillerson advisors, telling them to end TPS anyway, according to current and former administration officials who like others spoke on the condition of anonymity."

Are you aware of whether Trump Senior
Advisor and Immigration -- well, we won't -- we won't characterize his position, but that Trump Senior Advisor Stephen Miller placed phone calls to DHS Chief of Staff Chad Wolf concerning TPS?

MR. KIRSCHNER: And on this question, Ambassador Nealon, you can answer the question as asked about whether you're aware of any phone calls between Stephen Miller and Chad Wolf. To the extent the question calls for the nature of those communications, I would instruct you not to answer.

A. So I was told that such phone calls took place, but I didn't and don't have any firsthand knowledge of those phone calls.

Q. Who told you that the phone calls took place?

MR. KIRSCHNER: You can answer.

A. Chad Wolf and others.

Q. Did Mr. Wolf describe to you without -- it's a yes-or-no question -- the content of those phone calls?

A. No, only in the broadest terms, only that the phone calls had taken place.

Q. The second portion of that sentence reads that Mr. Miller also communicated with top Tillerson advisors concerning TPS.
"Tillerson told Homeland Security Acting Secretary Elaine Duke that conditions in Central America and Haiti had improved" --

(Interruptuation by the reporter.)

Q. "Tillerson told Homeland Security's Acting Secretary Elaine Duke that conditions in Central America and Haiti had improved and that TPS protections were no longer warranted. When the two spoke by phone, Tillerson told Duke ending TPS 'was just something she had to do?'"

Are you aware of any conversation like the conversation that is described in this paragraph?

MR. KIRSCHNER: Objection. Ambassador Nealon can answer the question if he's aware of any conversations between Elaine Duke and Secretary Tillerson about TPS. I instruct Ambassador Nealon not to answer about the nature of the deliberations between Secretary of State Tillerson and Acting Secretary Duke.

A. Yes.

MR. KIRSCHNER: Sorry. I -- like the record is not clear, the question of yes, I just want to make it clear in your words what you're referring to as yes so that we're not -- have a lack of clarity on the record.
THE WITNESS: Thank you.

A. Yes, I'm aware that such a conversation took place in that I was told that such a conversation took place. I wasn't present for it and had no direct knowledge of it.

Q. And who communicated to you that such a conversation took place?

A. I don't recall.

MR. KIRSCHNER: Again, I think the record is not clear when you say "such a conversation took place." Again, you're -- it's okay for you to answer questions about whether Secretary of State Tillerson and Acting Secretary Duke had conversations about TPS.

The nature of those conversations, I instruct you not to answer. So when you say "such a conversation took place," I want to make sure the record is clear what you're referring to.

A. So I was told that there was a conversation between Secretary Tillerson and Acting Secretary Duke regarding the TPS decision.

Q. And that conversation happened around October 31st, 2017, in your recollection?

A. So I don't recall the date. My recollection is that it happened at the time of the
Q. Okay. So the last full paragraph of that page reads, "White House Chief of Staff John F. Kelly, who had run DHS from January until July, called Duke from Asia where he was traveling with the President to convey his frustration."

Were you aware of whether White House Chief of Staff John Kelly called Acting Secretary Duke concerning TPS?

MR. KIRSCHNER: Again, I will instruct Ambassador Nealon that he can answer the question of whether he's aware of a phone call between General Kelly and Acting Secretary Duke.

To the extent the question calls for deliberations during that phone call, I would instruct Ambassador Nealon not to answer.

A. Similarly, I was told that a phone conversation took place between Chief of Staff Kelly and Acting Secretary Duke at the time of the -- of that particular TPS decision.

Q. And who communicated to you that there was such a phone call?

A. I don't recall.

Q. Do you recall whether it was one of the participants of the phone call?
I said was that I felt obligated to leave as a political appointee who felt he couldn't fully represent all of the administration's policies.

Q. Are there certain policies that led you to feel obligated to leave?

THE WITNESS: Do I have to go into this?

I mean --

A. I'll ask you. So I feel like I gave you an honest and heartfelt answer --

Q. I appreciate it.

A. -- to the question. And I don't really have more to say than that. I think if we go back and look at what I said, it stands on its own and that's why I left.

Q. Let me ask just maybe one other question more specifically related to this. And I apologize, I understand that this is after a career of service to the country, I imagine it was an intense decision without putting words in your mouth and a difficult one, and I appreciate that it's a heartfelt answer, and it's on the record, and I understand that there are complications with that.

Were the discussions around TPS -- did the discussions around TPS and the administration's
decisions with regard to TPS inform your decision to leave?

A. You know, I think I said in my original answer that in 34 years in government, I won and lost hundreds of policy battles, and so I'm not a guy who would, you know, get up and take his checkerboard with him because he lost a policy fight, right? So that's really not why I left. I left really because I didn't feel like I could represent the administration, and so I felt obligated to leave. I didn't leave in anger, I left in sorrow.

Q. I really appreciate that, and I apologize for the probing questions on I'm sure a difficult topic.

If I could turn to the op-ed that you wrote. What led you to write the op-ed that you wrote here?

A. So after 34 years in government, I was suddenly unleashed and able to express my opinion openly and publicly. And so I've been doing that since I left government, and this is an example of that.

Q. Were you particularly concerned around the decision to terminate TPS for Honduras, has that
A. Okay.

Q. You say here, "The justifications for termination are two-fold. The administration reminds us that temporary protected status was always meant to be temporary. It also argues that the original conditions for which TPS was granted: The devastating Hurricane Mitch in 1998 that killed more than 7,000 people in Honduras alone no longer exists." Beginning of the next paragraph, "We understand how such arguments would make sense under a strict constructionist view."

We spoke about this a bit earlier today. But was it your understanding at the time that you wrote this op-ed that the strict constructionist view of the TPS statute essentially won out in DHS?

MR. KIRSCHNER: Objection, calls for speculation.

A. So whether the strict constructionist view is the ultimate reason why the secretaries made their decisions about TPS, I don't know. But to answer your question, I believe that a strict interpretation of the statute was an important element in those decisions.

Q. Do you believe that that was the only way
that TPS -- the TPS statute could have been interpreted?

MR. KIRSCHNER: Objection, calls for a legal conclusion and calls for speculation, and also it's vague and confusing what you mean by that question.

Q. If you understand the question, you can answer it.

A. So my understanding was that successive administrations had renewed TPS for Honduras long after the conditions that resulted from Hurricane Mitch had begun to dissipate or had dissipated.

Q. So is it your understanding that there was a new interpretation of the TPS statute that didn't allow that under this administration?

MR. KIRSCHNER: Objection, calls for speculation.

A. So my understanding, and this is a personal opinion, is that, again, I believe this viewpoint was one of the elements that went into those decisions. But, yes, I believe that -- that there was a belief among many people in the administration that their hands were tied and that because the statute says that -- that TPS should be based on the existing conditions, that there was no
DHS about TPS and about the termination of TPS. I want to be very careful about -- about stating unequivocally that those conversations spoke directly about the -- a new interpretation of the statute, because I'm trying to think if I -- if I heard that specifically or not. So I'm just going to be very careful here. And I don't remember specifically being told that.

Q. Okay. And you've mentioned in the course of the deposition a few different ways in which the White House had been involved in communications around TPS. I just want to be very clear, you said that there are people in the White House who were involved in conversations around the termination of TPS. Who are the people that you know of directly or indirectly from the White House who were involved in those conversations?

A. So the name that always came up is Stephen Miller.

Q. And who was Stephen Miller communicating with?

A. So, again, this is -- these are things that were told to me. I don't have any direct knowledge of these conversations. But he was certainly speaking to the DHS Chief of Staff and he...
was certainly speaking to Mr. Hamilton, and he may have been speaking to others.

Q. How do you know that he was speaking to the DHS Chief of Staff? First of all, which DHS Chief of Staff are you referencing here?

A. Chad Wolf.

Q. And how do you know that he was speaking to Chad Wolf?

A. Chad Wolf told me.

Q. Did he speak to Mr. Wolf more than once about TPS?

A. So I believe Mr. Wolf told me that he had had numerous conversations with Stephen Miller about TPS.

Q. Do you recall when those conversations took place?

A. I don't.

Q. And how do you know that Mr. Miller was having communications with Mr. Hamilton about TPS?

A. Again, I don't have direct knowledge of these conversations, but reference would occasionally be made to them in meetings.

Q. Did Mr. Wolfe elaborate to you the content of the conversations he had with Mr. Miller
Q. I'll skip that.

Do you recall any concerns about whether the Secretary would make a timely decision with regard to the TPS determination of Sudan?

A. Yes, because as we've discussed previously, there was this -- there was this delay in getting the paperwork from the Department of State, which she really wanted to see before she made her decision.

Q. I'm going to give you what has previously been marked as Exhibit 7. This does seem to start at the end and go to the beginning.

A. Okay.

Okay.

Q. What do you understand this e-mail chain to be referring to?

MR. KIRSCHNER: Objection, calls for speculation.

A. This seems to be a back and forth about USCIS's input into the Sudan TPS decision.

Q. So if I -- the first e-mail in the chain from August 29th, 2017 at 9:52 p.m., the subject is "Sudan TPS" and the author is Gene Hamilton. It's obviously redacted in full.

The next e-mail is from Kathy Neubel.
CERTIFICATE OF REPORTER

I, Dana Welch, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled cause;

That said deposition was taken in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition, review of the transcript [X] was [ ] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.


Dana Welch, CSR, RPR, CRR, CRC