

Citizens Guide to January 6th and Ongoing Threats to Democracy

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About this Guide

For the first time in American history, a sitting president of the United States sought to overturn the results of a presidential election and block the peaceful transfer of power to his rightful successor. Former President Donald Trump waged this campaign for months, spreading baseless claims about widespread election fraud and pursuing an array of schemes at the local, state, and federal levels in an effort to reverse the 2020 electoral outcome.

This multifaceted campaign – which culminated in the January 6, 2021 attack on the U.S. Capitol – has chipped away at many Americans’ faith in our democratic processes, emboldened extremists who threaten violence to secure their political preferences, and left a blueprint for future efforts to subvert elections. This crisis is made worse by shortcomings in an array of federal laws, which leave key government institutions vulnerable, and provide legal loopholes that can be exploited by actors looking to subvert the will of the American people.

In June 2021, the House of Representatives created the January 6 Select Committee to investigate the events surrounding the attack on the Capitol including their causes. This Guide presents an overview of the Select Committee’s findings to date, revealed to the public in a series of hearings that allege President Trump and his associates engaged in a seven-part conspiracy to hold onto power. This Guide covers the numerous threats to American democracy that have emerged, responsive reforms under consideration by policymakers, and how Americans can learn more about these events and possible paths forward toward a more resilient democracy in the future.

The January 6th Hearings: A Comprehensive Guide to the Evidentiary Record

By Ryan Goodman and Sang-Min Kim

Vice Chair Liz Cheney, at the first public hearing of the bipartisan House Select Committee this summer, said succinctly, “Donald Trump oversaw and coordinated a sophisticated seven-part plan to overturn the Presidential election and prevent the transfer of Presidential power.” Over the course of eight hearings, the committee provided detailed evidence filling out the record for each of those seven parts. The following summaries are organized according to the seven parts as well. We draw primarily from the committee’s evidence as well as other publicly available information.

Criminal Law Framework

At the outset, it is important to note that different parts of the scheme to overturn the election have come up in two civil cases, in which federal judges pointed to former President Donald Trump’s potential criminal liability. First, federal district court Judge David Carter [held](#) that Trump and a private attorney John Eastman more likely than not criminally obstructed congressional proceedings (violating 18 U.S.C. sec. 1512(c)(2)) and conspired to defraud the United States in undermining the administration of the election (violating 18 U.S.C. sec. 371). Second, federal district court Judge Amit Mehta held that plaintiffs in a case presented legally plausible claims that Trump aided and abetted the rioters, including militia groups that stormed the Capitol. Neither court evaluated the evidence under the more onerous criminal standard of beyond a reasonable doubt — a very high level of certainty — and neither had the enormous trove of evidence that has since been produced by the committee. The important point is to keep these federal crimes in mind, especially because their application has been endorsed by the federal courts in relation to Trump’s actions surrounding January 6th.

Glossary of Names

Ali Alexander, leader of the Stop the Steal organization and a key mobilizer of Trump supporters

William Barr, former U.S. Attorney General (2019 to Dec. 23, 2021)

Andy Biggs, U.S. representative for Arizona’s fifth congressional district

Matt Bracken, right-wing commentator

Mo Brooks, U.S. representative for Alabama’s 5th congressional district

Rusty Bowers, Speaker of the House of Arizona

Alex Cannon, Trump Campaign lawyer

Chris Carr, Georgia Attorney General

Cindy Chafian, director of Women of America First

Kenneth Chesebro, Trump Campaign lawyer

Bobby Christine, former U.S. Attorney for the Northern District of Georgia after BJ Pak

Pat Cipollone, former White House Counsel

Jeffrey Clark, former Justice Department official

Justin Clark, Trump Campaign lawyer

Salty Cracker, right-wing commentator

Bryan Cutler, Pennsylvania House Speaker

Roma Daravi, former White House Deputy Director of Strategic Communications

Sam DeMarco, one of Pennsylvania's alternate elector and the chairman of the Allegheny County Republican Committee

Judd Deere, Trump White House deputy press secretary

Richard Donoghue, former Acting U.S. Deputy Attorney General (Dec. 24, 2020 to Jan. 2021)

Geoff Duncan, Lieutenant Governor and President of the Senate

John Eastman, Trump's personal lawyer

Jenna Ellis, Trump Campaign lawyer

Boris Epshteyn, Trump Campaign adviser

Josh Finley, Trump Campaign lawyer

Michael Flynn, former national security adviser

Matthew "Matt" Gaetz, U.S. representative for Florida's first congressional district

Rudy Giuliani, Trump's personal lawyer

Louis Buller Gohmert Jr., U.S. representative for Texas's first congressional district

Majorie Taylor Greene, U.S. representative for Georgia's 14th congressional district

Eric Herschmann, Trump White House lawyer

Andrew Hitt, former chair of the Wisconsin Republican Party

Cassidy Hutchinson, former aide to Trump Chief of Staff Mark Meadows

Greg Jacob, former chief counsel to the Vice President Mike Pence

Alex Jones, right-wing commentator

Jim Jordan, U.S. representative for Ohio's fourth congressional district

Brian Kemp, Governor of Georgia

Joseph Keith Kellogg Jr., retired lieutenant general in the U.S. Army and national security advisor to Pence

Ken Klukowski, former White House lawyer and Justice Department lawyer working with Clark

Kyle Kremer, a Stop the Steal rally organizer

Mike Lindell, My Pillow CEO and pro-Trump supporter

Nicholas Luna, former White House staffer

Meshawn Maddock, co-chair of the Michigan Republican Party

Sarah Matthews, former White House Deputy Press Secretary and Special Assistant to the President (June 2020 to Jan. 6, 2021)

Mitch McConnell, Senator of Kentucky Minority Leader of the Senate

Ronna McDaniel, Chairwoman of the Republican National Committee (RNC)

John Mcintee, Director of the Trump White House Presidential Personnel Office

Mark Meadows, Trump White House chief of staff (2020 to 2021)

Christopher Miller, former Acting Secretary of Defense (Nov. 9, 2020 to Jan. 2021)

Jason Miller, Trump Campaign senior aide

Stephen Miller, White House senior advisor

General Mark Milley, Chairman of the Joint Chiefs of Staff

Cleta Mitchell, Trump Campaign lawyer

Matt Morgan, Trump Campaign lawyer

Anthony “Tony” Ornato, Trump White House Deputy Chief of Staff and Secret Service Agent

BJ Pak, former U.S. Attorney for the Northern District of Georgia (2017 to Jan. 4, 2021)

Scott Perry, U.S. representative for Pennsylvania’s 10th congressional district

Patrick Philbin, Deputy Counsel to the President and Deputy Assistant to the President

Tim Pool, right-wing commentator

Matthew Pottinger, Trump White House Deputy National Security Advisor (2019-Jan. 7, 2021)

Julia Radford, former Chief of Staff to Ivanka Trump

Brad Raffensperger, Georgia Secretary of State

Jeffrey Rosen, acting U.S. Attorney General (Dec. 24, 2020 to Jan. 2021)

Gene Scalia, former Secretary of Labor

Mike Shirkey, Michigan Senate Majority Leader

Marc Short, former Chief of Staff of Mike Pence

Robert Sinners, Trump Campaign election operations director for Georgia

Gabriel Sterling, Chief Operating Officer in the Office of the Georgia Secretary of State

Bill Stepien, Trump Campaign Manager

Ivanka Trump, daughter of former president Trump and senior advisor to the president

Frances Watson, Chief investigator in the Georgia Secretary of State’s Office

Jack Wilenchik, Phoenix-based lawyer involved in organizing alternate electors

Benjamin Williamson, former senior advisor to chief of staff Mark Meadows

The Seven-Part Scheme

1. *President Trump engaged in a massive effort to spread false and fraudulent information to the American public claiming the 2020 election was stolen from him.*

A. The plan to falsely claim victory on Election Night

On [November 2, 2020](#) and on [January 17, 2021](#), leading journalist Jonathan Swan reported that “for weeks, Trump had been laying the groundwork to declare victory on election night — **even if he lost.**” On July 12, 2022, as Steve Bannon was set to go to trial for contempt of Congress, an [audio recording](#) leaked of Trump’s close advisor telling a small private group about the plan to declare victory. “**If Trump is losing** by 10 or 11 o’clock at night, it’s going to be even crazier. No, because **he’s gonna sit right there and say, ‘They stole it,’**” Bannon said. “**He’s not going out easy. If Biden is winning,** Trump is going to do some crazy sh**.”

The plan included Trump’s claiming victory based on the ‘red mirage’ – a false appearance that the Republican in a race may be winning on election night before mail-in ballots (which tend to be more Democratic) start getting counted. In reference to this effect, Bannon said, “Trump’s going to take advantage of it. **That’s our strategy.** He’s gonna declare himself a winner.”

Trump’s campaign manager Bill Stepien [testified](#) that he repeatedly discussed with Trump the red mirage effect (such that Trump was aware of it) and that on election night he advised Trump “it was far too early to be making any proclamation like that [declaring victory].” But Trump rejected Stepien’s approach. Ivanka Trump [testified](#) that declaring victory was premature, “The results were still being counted. It was becoming clear that the race would not be called on election night.” Attorney General Bill Barr [testified](#) that Trump’s claim of election fraud when the mail-in ballots started being counted occurred “before there was actually any potential of looking at evidence. And it seemed to be based on the dynamic that — that at the end of the evening a lot of Democratic votes came in which changed the vote counts in certain states. ... I didn’t think much of that [claim of election fraud] because people had been talking for weeks and everyone understood for weeks that that was going to be what happened on election night.”

B. Not having any evidence – and knowing they had none

Arizona Speaker of the House Rusty Bowers testified that Rudy Giuliani once admitted, “We’ve got lots of theories. We just don’t have the evidence.” Trump lawyer and associate Sidney Powell, defending herself in a defamation lawsuit brought by Dominion Voting Systems, [told](#) the court, “No reasonable person would conclude that her statements were truly statements of fact.”

Bernie Kerik, a member of Rudy Giuliani’s team, in an email to Meadows on Dec. 28, 2020 said, “We can do all the investigations we want later, but if the president plans on winning, it’s the legislators that have to be moved, and this will do just that.” Lawyers for Kerik [admitted](#) in a letter to the committee, “It was impossible for Mr. Kerik and his team to determine conclusively whether there was widespread fraud, or whether that widespread fraud would have altered the outcome of the election.”

Former deputy campaign manager Justin Clark [testified](#) that it was “fair” to say Giuliani never “produced evidence of election fraud.” Asked by the committee about evidence of fraud that the campaign had seen from the Giuliani team, **Trump campaign adviser Jason Miller** testified that “to say that it was thin is probably an understatement.” On Jan. 2, **Matthew Morgan**, the Trump Campaign’s chief lawyer, briefed Pence’s staff on what the campaign had concluded weeks earlier. Morgan [testified](#): “Generally discussed on that topic was whether the fraud maladministration, abuse, or irregularities, if aggregated and read most favorably to the campaign, would that be outcome determinative. And I think everyone’s assessment in the

room, at least among the staff, Marc Short, myself, and Greg Jacob, was that it was not sufficient to be outcome determinative.”

In a December 18, 2020 meeting with Trump, White House Counsel Pat Cipollone confronted Sidney Powell and her colleagues about their allegations of fraud. Cipollone testified, “When other people kept suggesting that there was [election fraud that could change the outcome of the election], the answer is, what is it? And **at some point you’d have to put up or shut up**. That was my view.” When asked by the committee what response he got when he asked Powell and her colleagues where the evidence was, Cipollone testified: “A variety of the responses based on my current recollection, including, ‘I can’t believe you would say something,’ things like this, like, ‘What do you mean where’s the evidence? You should know.’ Things like that, or a disregard, I would say, **a general disregard for the importance of actually backing up what you say with facts**.”

The New York state court that suspended Giuliani’s bar license [determined](#) that Giuliani had knowingly made false statements of widespread election fraud. As part of its decision, the court observed that Giuliani never provided affidavits or other documents to support his claims of election fraud:

“**Respondent fails to provide a scintilla of evidence** for any of the varying and wildly inconsistent numbers of dead people he factually represented voted in Philadelphia during the 2020 presidential election;”

“Respondent’s general claim, **without providing this Court with any documentary support**, that he relied on ‘hundreds of pages of affidavits and declarations in [respondent’s] possession that document gross irregularities...’ will not suffice to controvert the specific findings that he knowingly made the false statements that are particularized below;”

“None of these affidavits were provided to the Court” (for claim of underage voters);

“**Despite having no evidence** to refute the facts developed after investigation of public records” (for claim of dead people voting in Georgia);

“**There was no data available from which to draw any conclusion**” and “**failed to produce any sources**, whether ‘best’ or marginal, to support any of the figures he has presented to the public with authority” (for claim of undocumented immigrants voting in Arizona).

C. Knowing they lost

Trump campaign senior aide Jason Miller [testified](#) that, in the days after the 2020 election, “I was in the Oval Office and at some point in the conversation Matt Oczkowski, who was the lead data person was brought on and I remember he **delivered to the President pretty blunt terms that he was going to lose**.”

Alex Cannon, Trump’s campaign lawyer tasked with the responsibility to assess allegations of election fraud, testified that in mid to late November, “Meadows was asking me what I was finding. And if I was finding anything. And I remember sharing with him that **we weren’t finding anything that would be sufficient to change the results in any of the key states**.” Meadows replied, “**So there’s no there there**.” Cassidy Hutchinson testified: “I perceived [Meadows’s] goal with all of this to keep Trump in office. You know, he had very seriously and deeply considered the allegations of voter fraud. But when he began acknowledging that maybe there wasn’t enough voter fraud to overturn the election, you know, I witnessed him start to explore potential constitutional loopholes more extensively, which I then

connected with John Eastman's theories."

Senior Department of Justice officials – including Attorney General Bill Barr, Acting Attorney General Jeffrey Rosen, and Acting Deputy Attorney General Richard Donoghue – all repeatedly told Trump that there was no widespread election fraud that could change the outcome of the election.

Secretary of Labor Gene Scalia [testified](#) that he told Trump in mid-December, when the electors had voted, the legal processes were exhausted and it was time to "**concede the outcome.**" Attorney General Bill Barr testified that "December 14th was the day that the states certified their votes and sent them to Congress. And in my view, that was **the end of the matter.**" White House Counsel Pat Cipollone testified that Trump should have conceded the election by the time when Sen. Mitch McConnell confirmed the election was over on December 15, 2022. "I believe **he should concede the election** at a point in time? Yes, I did. I believe Leader McConnell went on to the floor of the Senate, I believe in late December, and basically said, you know, **the process is done.** You know, that would be in line with my thinking on these things," Cipollone testified.

D. Spreading the Big Lie

As revealed in [contemporaneous handwritten notes](#) and testimony, senior Department of Justice officials – including Attorney General Bill Barr, Acting Attorney General Jeffrey Rosen, and Acting Deputy Attorney General Richard Donoghue – provided a point-by-point refutation when Trump raised claims of election fraud.

Trump did not care.

"When I went into this and would, you know, tell him how crazy some of these allegations were, there was never — **there was never an indication of interest in what the actual facts were,**" Barr testified. Donoghue testified it was like a game of whack-a-mole. "This gets back to the point that there were so many of these allegations that **when you gave him a very direct answer on one of them, he wouldn't fight us on it, but he would move to another allegation,**" Donoghue said. As we mention below, in his testimony, Donoghue agreed that "there was a focus on public statements that something was corrupt, as opposed to trying specifically to get to the bottom of the individual allegations."

Two main claims of election fraud are worth highlighting:

Dominion Voting Systems

An [internal memo](#) produced within the Trump Campaign [debunked](#) the conspiracy theories about Dominion voting machines that were publicly espoused by Trump lawyers Giuliani and Sidney Powell.

Senior Justice Department officials informed Trump that the claims against Dominion were false. Those officials and state officials also informed Trump that hand recounts ("the gold standard," in Ken Cuccinelli's [words](#) to Trump) verified the precise accuracy of the Dominion machines. White House lawyer Eric Herschmann [testified](#), "I thought the Dominion stuff was — I never saw any evidence whatsoever to sustain those allegations."

Nevertheless, Trump continued to repeat the false Dominion allegations in public at least a dozen more times (see also [this collection](#)).

Note: Dominion Voting Systems has brought defamation lawsuits against several defendants for hundreds of millions of dollars. The company has achieved initial successful court decisions such that the parties can now proceed to discovery. Cases that have reached this stage of litigation include Dominion's suits against Rudy Giuliani, Sidney Powell and Mike Lindell/My Pillow ([news report](#); [court's denial of motion to dismiss](#)); Patrick Byrne ([news report](#); [court's denial of motion to dismiss](#)); Newsmax ([news report](#); [court's denial of motion to dismiss](#)); and Fox Corporation ([news report](#); text of [court's denial of motion to dismiss](#)).

Fulton County State Farm Arena "suitcases"

Trump and Giuliani engaged in an effort to fabricate and disseminate a sensational false claim of election fraud using [deceptively editing](#) videotape.

On Dec. 3, 2020, representatives of President Trump, including Giuliani, appeared before the Georgia State Senate's Judiciary Subcommittee in a hearing on election fraud. They played snippets of video surveillance tape, which they claimed showed election workers in the State Farm Arena in Fulton County bringing suitcases of ballots to be secretly counted.

So brazen was the doctoring of the videotape that a New York state court that suspended Rudy Giuliani's law license [concluded](#) that anyone who reviewed the entire video **"could not have reasonably reached a conclusion** that illegal votes were being counted." Giuliani "acknowledged that he had viewed the surveillance videos in their entirety," the court explained. Other Trump campaign officials [stated](#) that they had also reviewed "the full tape."

On Dec. 7, 2020, Republican Georgia election official Gabriel Sterling [stated](#) in public remarks:

"What's really frustrating is the President's attorneys had this same videotape. They saw the exact same things the rest of us could see. And they chose to mislead state Senators and the public about what was on that video. I'm quite sure that they will not characterize the video if they try to enter into evidence because that is the kind of thing that can lead to sanctions because it's obviously untrue.

They knew it was untrue and they continue to do things like this."

Republican Georgia Secretary of State Brad Raffensperger [wrote](#) in his book:

"Giuliani and his team **selectively sliced and diced the video** and conjured up a false narrative to fit his disinformation campaign. The deliberate deceit worked."

According to the testimony of Attorney General Bill Barr, Acting Deputy Attorney General Donoghue, and former U.S. Attorney BJay Pak, the claims of the Fulton County Arena were investigated, found to be without any merit, and Trump was so informed by senior U.S. officials. Indeed, Donoghue repeatedly told Trump, among other things, there were not even any suitcases. "I said, no, Sir, there is no suitcase. You can watch that video over and over; there is no suitcase."

Trump continued to publicly promote the deceptive video and the "suitcases" conspiracy in public remarks and campaign ads. The mental image of "suitcases" made for good TV.

Note: Fulton County election workers, Ruby Freeman and Wandrea Moss (who testified before a select committee hearing), have brought a defamation [lawsuit](#) against Giuliani. They are represented by

Protect Democracy, in partnership with the law firms Wilkie Farr & Gallagher LLP, DuBose Miller LLC, and Kastorf Law, LLC.

Additional Resources:

Senator John Danforth, Benjamin Ginsberg, The Honorable Thomas B. Griffith, David Hoppe, The Honorable J. Michael Luttig, The Honorable Michael W. McConnell, The Honorable Theodore B. Olson, Senator Gordon H. Smith, [Lost, Not Stolen: The Conservative Case that Trump Lost and Biden Won the 2020 Presidential Election](#) (July 2022).

Ryan Goodman, Justin Hendrix, Clara Apt, [Chart Tracking Trump's Knowledge and Intent in Efforts to Overturn the Election](#), Just Security (July 2022).

2. *President Trump corruptly planned to replace the Acting Attorney General, so that the Department of Justice would support his fake election claims.*

In addition to the crimes we have already mentioned, the [Political Coercion Act](#) (18 U.S.C. sec. 610) is relevant to this part of the scheme to overturn the election. It is a felony under this Act “to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce” a government employee to engage in “any political activity,” including working “on behalf of a candidate.”

At the same time that Trump knew the Justice Department had found **no evidence** of widespread election fraud (he repeatedly [expressed](#) his deep displeasure with officials over this fact), he [threatened](#) to fire senior officials if they did not (a) falsely notify battleground states that the Department had found evidence of widespread fraud and (b) encourage those states toward decertifying their elections on that false basis.

A. Pressure to make false public statements

The first phase of this scheme involved Trump's pressure on Justice Department officials to make false public statements of election fraud. In a transcribed [interview](#) with the select committee, former Acting Deputy Attorney General Donoghue agreed that “there was a focus on public statements that something was corrupt, as opposed to trying specifically to get to the bottom of the individual allegations.”

Rosen started his job as acting attorney general on Dec. 24, 2021. He [testified](#) that “between December 23rd and January 3rd, **the President either called me or met with me virtually every day** with one or two exceptions like Christmas Day” to press his false claims of election fraud.

In a Dec. 27, 2020 phone call and a Dec. 31, 2020 Oval Office meeting, senior Justice Department officials repeated that the Department had investigated but found no evidence of widespread election fraud. In response, Trump threatened to fire them and replace them with Jeffrey Clark, an environmental lawyer in the Justice Department who promised to do Trump's bidding.

In the Dec. 27 phone call, Trump told the Justice Department's leaders: “**Just say the election was corrupt and leave the rest to me and the Republican Congressmen**” after the Justice Department leaders made clear to Trump that they had found no evidence of widespread election fraud (Donoghue [testimony](#); Donoghue contemporaneous [handwritten notes](#)).

B. Pressure to send false notification letter to battleground states that Biden won

Jeffrey Clark met with Trump in violation of both [White House](#) and [Justice Department](#) contact policies,

including after being warned to desist by the White House Counsel Pat Cipollone.

In late December, Clark drafted a letter for Rosen, Donoghue and himself to sign and send to Georgia and other battleground states where Biden had won. The first two sentences of the draft letter included a falsehood: “The Department of Justice is investigating various irregularities in the 2020 election for President of the United States. The Department will update you as we are able on investigatory progress, but **at this time we have identified significant concerns that may have impacted the outcome of the election in multiple States**, including the State of Georgia.” The letter urged those states to move toward decertifying their elections.

Within just over an hour, Donoghue replied in [writing](#), “there’s no chance that I would sign this letter or anything like it” and that there’s “nothing that would support the statement” about the Department having found widespread election fraud. Donoghue later [testified](#): “More importantly, this was not based on fact. This was actually contrary to the facts as developed by department investigations over the last several weeks and months.”

Trump and Clark **proceed to threaten to have Rosen fired if he did not sign and send the letter** (Rosen Senate [testimony](#), p. 144; Rosen select committee [testimony](#)).

On Jan. 3, Clark [told](#) Rosen that Trump had offered him the job as attorney general and Clark had accepted (Rosen Senate [testimony](#); select committee [testimony](#)). **White House logs identified Clark as “Acting Attorney General”** by 4:19pm. Everyone involved understood, and it was made explicit in the Oval Office meeting, that this action is so Clark can send the letter as acting attorney general.

At a 6:15pm Oval Office meeting that lasts for 2-3 hours, Trump ultimately backed down from either pressuring Rosen to send the letter or appointing Clark to do so. He retreated only after being faced with a threat of [“hundreds and hundreds”](#) of resignations throughout the Justice Department and White House Counsel’s office including senior leadership.

Though Trump stopped short of formally naming Clark as acting attorney general, his job offer to Clark, Clark’s acceptance of it, and White House call logs’ reference to Clark as “Acting Attorney General” may nevertheless constitute an overt act in furtherance of Trump’s conspiracy to overturn the election results. Under the criminal law, as long as individuals in a conspiracy take one overt act in furtherance of an unlawful aim, the crime is considered complete.

C. Special Note: Additional Evidence of Criminality

The record includes significant communications that could strengthen a criminal case. Most important perhaps is a [collective resignation letter](#), in draft form, prepared by a senior Justice Department official. The draft letter, dated Jan. 3, 2021, stated that “Acting Attorney General Jeff Rosen over the course of the last week repeatedly refused the **President’s direct instructions to utilize the Department of Justice’s law enforcement powers for improper ends.**” In other words, senior Justice Department officials apparently concluded that Trump’s actions over the course of that week satisfied elements of relevant federal criminal offenses, which may turn on corrupt or deceitful methods.

Additionally, Acting Deputy Attorney General Donoghue [told](#) Clark, “What you are doing is nothing less than the United States Justice Department **meddling in the outcome of a presidential election.**” Rosen also rejected Trump and Meadows’ efforts and explained in his testimony, “It was really **not our role to function as you know, an arm of any campaign for any party or any campaign.**”

In an Oval Office meeting with Trump and Clark, White House Pat Cipollone called the Clark letter a “murder-suicide pact” (Steven Engel [testimony](#); Donoghue [testimony](#)), and White House Counsel Eric Herschmann said sending the letter would be “a felony” (Herschmann [testimony](#)).

3. *President Trump corruptly pressured Vice President Pence to refuse to count certified electoral votes in violation of the US Constitution and the law.*

As mentioned in the introduction to these summaries, Judge David Carter [held](#) that Trump and a private attorney John Eastman more likely than not committed two crimes: corruptly obstructing congressional proceedings (violating 18 U.S.C. sec. 1512(c)(2)) and conspiring to defraud the United States in undermining the administration of the election (violating 18 U.S.C. sec. 371). Judge Carter said that in relation to the two men’s effort to pressure Pence to refuse to count certified electoral votes in violation of his legal duties. It was a brazen course of conduct in violation of the law.

A. Eastman recognized the illegality of his own scheme and informed Trump of the illegality

In a draft Oct. 2020 letter written by an (unnamed) individual to President Trump, Eastman [commented](#), “The 12th Amendment only says that the President of the Senate opens the ballots in the joint session. And then in the passive voice that the votes shall then be counted ... **nowhere does it suggest that the President of the Senate gets to make the determination on his own.**”

[Note: See below **4(C) December 14: “End of the Matter”** — when State Electors met to certify the vote, and senior administration officials considered the election contest fully over at that time.]

In an Oval Office meeting on Jan. 4 with Trump, Pence, Pence’s chief legal counsel Greg Jacob and Pence’s chief of staff Marc Short, **Eastman admitted in front of Trump** that his plan violated several provisions of the Electoral Count Act (ECA). That’s according to Jacob’s testimony and a contemporaneous [memorandum](#) that Jacob sent to Pence after the meeting.

Notably, White House Counsel Cipollone – who considered Eastman’s idea unlawful – went into the Oval Office to participate in the meeting, but he was [apparently](#) turned away.

In a meeting with Jacob and Short on Jan. 5, Eastman [admitted](#) again that the scheme for Pence to refuse to count certified electoral votes would **violate several provisions of the Electoral Count Act (ECA)** and now he also acknowledged that the **Supreme Court would unanimously reject such an action.**

More evidence in the record points to Trump’s pursuing the Pence strategy despite knowing Pence’s legal duties. In an email on Jan. 6, Jacob [asked](#) Eastman, “Did you advise the President that in your professional judgment, the Vice President does not have the power to decide things unilaterally?” And ended the email saying, “it does not appear that the President ever got the memo.” Eastman replied, “**He’s been so advised**” (referring to a communication he had with Trump on Jan. 5) and ended his email saying, “**But you know him – once he gets something in his head, it’s hard to get him to change course.**”

White House Counsel Pat Cipollone thought Eastman’s theory was “[nutty](#)” and conveyed that sentiment to Eastman. He also told Pence’s team, “Just blame me. ... I’m not a politician ... I’m a lawyer. This is my legal opinion” (Cipollone [testimony](#)). Trump Campaign general counsel Matt Morgan and Campaign lawyer Justin Clark “both sa[id] that his theory was crazy, that there was no validity to it in any way, shape, or form” (Jason Miller [testimony](#)).

B. Sustained, direct pressure on Pence

Two days after the election, Trump campaign lawyer Cleta Mitchell [emailed](#) Eastman to ask him to write a memo justifying Trump's strategy to overturn the election, indicating the beginnings of the Eastman memos. Eastman's memos set out a plan for Pence to reject certified electoral votes on January 6, 2021.

Trump [backed](#) Eastman's scheme in public and in closed-door meetings. The two engaged in a public and private effort to pressure Pence.

The pressure campaign came to a head on Jan. 5 and Jan. 6. Marc Short [testified](#) that the situation for Pence was "painful." On Tuesday, Jan. 5, Short talked with the head of the vice president's Secret Service detail because Short was concerned for the vice president's safety and told the Secret Service agent that Trump may "lash out at the vice president on January 6th" as the disagreement became more public (Marc Short [testimony](#)). White House Counsel Pat Cipollone said in his [testimony](#) that he thought Pence deserved a Medal of Freedom for his actions in the face of Trump's pressure campaign. On Tuesday, Jan. 5, after Eastman conceded to Jacob and Short that his plan would be rejected unanimously by the Supreme Court, Pence's two senior aides went to the Vice President's residence to convey the good news about their meeting. Pence was then called to the Oval Office where he met with Trump without Jacob and Short present. According to the book *Peril*, journalists Bob Woodward and Robert Costa, Trump said to Pence, "Wouldn't it almost be cool to have that power?" To which Pence responded, "We've exhausted every option. I've done everything I could and then some to find a way around this. It's simply not possible." Trump reacted, "You can do this. I don't want to be your friend anymore if you don't do this" (the select committee read these passages from the book during the hearings).

Trump lied about having [secured agreement](#) with Pence that the Vice President had authority to reject electoral votes. It was a lie that served an important step in Trump's efforts to keep members of Congress, state legislators, and others in line in the effort to upend the Jan. 6 certification process. Jason Miller, the senior aide who Trump consulted in writing the bogus statement [testified](#), "Ultimately the way this came out was the way that he wanted," Miller testified. And what Trump wrote in the statement was, according to the testimony of Pence's general counsel, "[categorically untrue.](#)" Pence's chief of staff Marc Short [told](#) the committee that he called Miller to express his disapproval that "a statement could have gone out that misrepresented the vice president's viewpoint without consultation."

On the morning of Jan. 6 at 11:20 AM, Trump spoke with Pence by phone. Ivanka Trump, Herschmann, and others [described](#) the January 6, 2021 "heated" call during which Trump pressured Pence to reject electors or delay the count. Trump called Pence a wimp (according to White House staffer Nicholas Luna), and Ivanka told Julia Radford, chief of staff to Ivanka Trump that her father called Pence "the p-word." Ivanka Trump testified, "It was a different tone than I'd heard him take with the Vice President before." Pence told the President that he would not attempt to change the outcome of the election and would stick to counting the certified electoral votes. Ret. Lt. Gen. Keith Kellogg, Pence's national security adviser, [testified](#) that Trump told Pence, "You're not tough enough to make the call."

C. Mobilizing the mob against Pence

Eastman was warned that his strategy could create civil unrest and riots, and he responded that he was comfortable with such violence being part of the result. Greg Jacob [testified](#) that he told Eastman that his plan to have Pence not count all the certified votes would lead to a "constitutional jump ball situation with that standoff" which "might well then have to be decided in the streets, because if we can't work it out politically, we've already seen how charged up people are about this election."

White House lawyer Eric Herschmann told Eastman, “you’re going to cause riots in the streets,” to which Eastman responded with “words to the effect of ‘there has been violence in the history of our country, Eric, to protect the democracy or protect the republic’” (Herschmann [testimony](#)).

Trump designed his speech on the Ellipse to place public pressure on Pence – despite the objections of one or more White House lawyers - and to raise the crowd’s expectation that Pence might go along with Trump and Eastman’s plan even though Trump knew the Vice President said he would obey his legal duties to count the certified electoral votes.

On Jan. 6 at 1:00 AM ET, Trump tweets, “If Vice President @Mike.Pence comes through for us, we will win the Presidency. Many States want to decertify the mistake they made in certifying incorrect & even fraudulent numbers in a process NOT approved by their State Legislatures (which it must be). Mike can send it back!”

Later that morning at 8:17 AM ET, Trump tweets, “States want to correct their votes, which they now know were based on irregularities, and fraud, plus corrupt process never received legislative approval. All Mike Pence has to do is send them back to the States, AND WE WIN. Do it Mike, this is a time for extreme courage!”

At 9:15 AM ET, Trump tweets, “The States want to redo their votes. They found out they voted on a FRAUD. Legislatures never approved. Let them do it. BE STRONG!”

From 9:52 to 10:18 AM that morning, Trump talked with his chief speechwriter and Assistant and Senior Advisor for Policy, Stephen Miller. Following their conversation, Trump added a line about Mike Pence for the first time. It read: “And we will see whether Mike Pence enters history as a truly great and courageous leader. All he has to do is refer the illegally-submitted electoral votes back to the states that were given false and fraudulent information where they want to recertify.”

After White House lawyer Herschmann raised concerns about the lines on Pence, the speechwriters removed them.

But after the 11:20 AM “heated” call, the speechwriters were directed to “REINSERT THE MIKE PENCE LINES. Confirm receipt.”

During the speech itself, Trump ad libbed more lines about Pence. A single scripted reference to Pence, became eight, which includes:

“I hope Mike is going to do the right thing. I hope so. I hope so. Because if Mike Pence does the right thing, we win the election. ... He has the absolute right to do it. We’re supposed to protect our country, support our country, support our Constitution, and protect our constitution.”

“And I actually, I just spoke to Mike. I said: ‘Mike, that doesn’t take courage. What takes courage is to do nothing. That takes courage.’ And then we’re stuck with a president who lost the election by a lot and we have to live with that for four more years. We’re just not going to let that happen.”

“And Mike Pence is going to have to come through for us, and if he doesn’t, that will be a sad day for our country ...”

The matter did not end there.

At 2:14PM, immediately before Pence is evacuated to a secure location, Jacob emails Eastman explaining why his legal theory was wrong and ending with: “Thanks to your bullshit, we are now under siege.”

Eastman replies in an email at 2:25PM: “The ‘siege’ is because YOU and your boss did not do what was necessary to allow this to be aired in a public way so the American people can see for themselves what happened.”

Having been told the Capitol was besieged and under attack, Trump tweeted that Pence had betrayed him and his supporters:

At 2:42 PM ET Trump tweets, “Mike Pence didn’t have the courage to do what should have been done to protect our Country and our Constitution, giving States a chance to certify a corrected set of facts, not the fraudulent or inaccurate ones which they were asked to previously certify. USA demands the truth!”

White House aides reacted together when seeing the tweet. “I was sitting in a room with Roma [Daravi, Deputy Director of Strategic Communications] and Ben [Williamson, senior aide to White House Chief of Staff] and we all got a notification,” [testified](#) Sarah Matthews, former White House Deputy Press Secretary and Special Assistant to the President. “I remember **us saying** that that was **the last thing that needed to be tweeted at that moment**. The situation was already bad, and so it felt like he was **pouring gasoline on the fire**.” Matthew Pottinger, Trump White House Deputy National Security Advisor, also [testified](#) that his immediate reaction was that the tweet “looked like fuel being poured on the fire.” “The President was attacking Vice President Pence for doing his constitutional duty. So the tweet looked to me like the opposite of what — what we really needed at that moment, which was a de-escalation,” Pottinger said.

“That was the moment that I decided that I was going to resign, that that would be my last day at the White House. I — I simply didn’t want to be associated with the events that were unfolding on the Capitol.”

In her live testimony, Matthews elaborated that understanding how Trump supporters hang on his every word and tweet, “I remember thinking that this was going to be bad for him to tweet this because **it was essentially him giving the green light to these people**, telling them that what they were doing at the steps of the Capitol and entering the Capitol was Ok, that they were justified in their anger.”

Trump supporters built [makeshift gallows](#) on the west side of the Capitol building. A noose was [reportedly](#) marked with Pence’s name. During the riot Trump’s followers chanted, “Hang Mike Pence.”

D. They persisted even after Jan. 6

On 11:44 pm of Jan. 6, Eastman emailed Jacob to say that the Electoral Count Act had been violated by the delay in handling the riot, “I implore you to consider one more relatively minor violation and adjourn for 10 days.”

Outtakes of a recorded presentation to the nation on Jan. 7 [show](#) that Trump refused to say, “The election is over.”

On Jan. 7, Eastman contacted White House lawyers Eric Herschmann saying he couldn’t reach others, and started to ask about preserving some matter in Georgia for appeal. Herschmann replied, “Are you out of your f*cking mind?;” “I only want to hear two words coming out of your mouth for now on, ‘orderly transition;’” “Now I’m going to give you the best free legal advice you’re ever getting in your life. Get a great f*cking criminal defense lawyer. You’re going to need it.” (Herschmann [testimony](#)).

Within a few days of Jan. 6, Eastman [emailed](#) Giuliani to say, “I’ve decided that I should be on the pardon list if that is still in the works.”

Eastman did not receive the pardon, and pleaded the fifth a hundred times under questioning by the select committee.

Additional Resource:

Barbara McQuade, [United States v. Donald Trump - A “Model Prosecution Memo” on the Conspiracy to Pressure Vice President Pence](#), Just Security (February 22, 2022).

4. *President Trump corruptly pressured state election officials, and state legislators, to change election results.*

A. Concerted campaign across battleground states that Biden won

Beginning in late Nov. 2020, Trump, and his legal team (outside of “[Team Normal](#)”) – including Eastman, Giuliani, and Ellis – worked together to deliver the same messages despite Biden winning the popular vote in those states (committee’s [video evidence](#)). They urged state legislators to give their electoral votes to Trump despite his losing the popular vote. The Trump campaign had **spent millions of dollars running online and television ads asking people to call their legislators** to put additional pressure on state officials.

The pressure campaign [included](#) inviting legislative delegations from Michigan and Pennsylvania to the White House, publicly pressing legislators including by listing the personal contact information for state officials, and urging Trump’s supporters to contact the officials and demand a vote on de-certification.

A. Michigan

On Nov. 20, Mike Shirkey, the majority leader of the Michigan senate, told Trump that “we are going to follow the law,” regarding Trump’s proposal to adopt a slate of electors themselves. The next day on Nov. 21, Trump tweeted, “hopefully the Courts and/or Legislatures will have the COURAGE to do what has to be done to maintain the integrity of our Election, and the United States of America itself.” Trump posted multiple messages on Facebook with contact information for state officials and encouraged his supporters to “demand a vote on decertification.” One of Trump’s posts disclosed Mike Shirkey’s personal phone number. “All I remember is receiving just shy of 4,000 text messages... they were believing things that were not true,” Shirkey testified.

B. Pennsylvania

In the last week of November, Pennsylvania House Speaker Bryan Cutler [received](#) daily voicemails from Trump’s lawyers, Rudy Giuliani and Jenna Ellis. Cutler asked his own lawyers to tell Giuliani to stop contacting him, but Giuliani continued to reach out (committee played [voicemail](#)). On Dec. 30, Steve Bannon announced a protest at Pennsylvania House Speaker Cutler’s home. Not only did at least three protests at either Cutler’s district office or home take place, but also someone doxxed all of his personal information, Cutler testified.

C. Georgia

The Justice Department investigated specific allegations of election fraud in Georgia, found they lacked any merit, and repeatedly informed Trump of that fact.

On Nov. 13, 2020, Sen. Lindsey Graham called Georgia Secretary of State Brad Raffensperger to discuss recount procedures. In an [interview](#) with the Washington Post, “Raffensperger said he was stunned that Graham appeared to suggest that he find a way to toss legally cast ballots.”

As Trump continued to perpetuate election fraud allegations, election workers and officials increasingly received threats. “Someone’s going to get hurt, someone’s going to get shot, **someone’s going to get killed**,” Gabriel Sterling, a Republican and Chief Operating Officer in the Office of the Georgia Secretary of State, said in a Dec. 2 news conference. “**It has to stop**,” he said. “**Mr. President, you have not condemned these actions or this language.**”

Watch the full news conference video [here](#).

Trump was aware of Sterling’s speech because he tweeted about it later that day, the committee [noted](#).

Public and private pressure on Georgia state officials

On Dec. 5, Trump [called](#) Georgia Governor Brian Kemp, who at one point described the alternate elector scheme as unlawful, to urge the governor to order an audit of absentee ballot signatures despite his having no authority to do so, and to call a special session of state legislature for lawmakers to override the results and appoint pro-Trump electors. Kemp refused and publicly explained the limits under the law. Kemp quickly became a political enemy in Trump’s eyes. The president publicly rebuked the governor repeatedly.

On one occasion, Trump retweeted a post from one of his allies that [read](#): “President Trump @realDonaldTrump is a genuinely good man. He does not really like to fire people. I bet he dislikes putting people in jail, especially ‘Republicans’. He gave @BrianKempGA & @GASecofState every chance to get it right. They refused. They will soon be going to jail.”

In early December, Trump placed a call to Georgia Attorney General Chris Carr, warning him “not to interfere” with a separate filing submitted by the Texas attorney general challenging Biden’s win in a handful of swing states, after Carr had described the Texas filing as “constitutionally, legally, and factually wrong.”

On Dec. 23, Trump called [Frances Watson](#), the Chief Investigator in the Secretary of State’s Office, while Watson was leading an audit of mail-in ballots in Cobb County. Trump [pressed Watson](#) to go back in her ballot inquiry “two years, as opposed to just checking, you know, one against the other,” urged her to pursue “dishonesty” and specifically to “get to Fulton,” the Atlanta-anchored county that went heavily for Biden in the 2020 vote, and implored Watson to finish the review before January 6, which he said was a “very important date.” Trump reiterated how “important” the chief investigator was and declared that **she would receive praise for coming to the “right answer.”** Text messages show that Meadows wished to send investigators in Watson’s office a stockpile of “POTUS stuff,” including autographed MAGA hats. The White House staff stopped this from happening.

Listen to audio of Trump’s call to Watson [here](#).

Trump bluntly demanded Georgia officials “to find 11,780 votes” and threatened them for a failure to do so

On Saturday, Jan. 2, Trump demanded in a [phone call](#), which Mark Meadows [helped coordinate and participated in](#), that Georgia Secretary of State Brad Raffensperger say that he has “recalculated” the election result in Georgia, even though the Justice Department told Trump that claims of widespread allegation fraud in the state were without any merit. Trump said to Raffensperger, “All I want to do is this,

I just want to find 11,780 votes ... because we won the state.” Trump said that “the real truth is I won by 400,000 votes...I only need 11,000 votes.” According to a tape of the phone conversation, Trump also threatened Raffensperger with criminal prosecution unless he did what Trump wanted, telling Raffensperger that it’s “more illegal for you than it is for them” and that’s “a big risk” for Raffensperger to take.

In his book, [Integrity Counts](#), Raffensperger annotated the phone call with Trump and explained that he considered Trump to be threatening him with criminal sanction and with physical harm in mobilizing Trump’s more radical followers (as Gabriel Sterling had warned). In his live [testimony](#), Raffensperger elaborated on the threats to his family that ensued.

Notably on that call, Meadows asks for access to the Georgia Secretary of State’s election data (time stamp: 56:45), but Ryan Germany, General Counsel to Georgia’s Secretary of State, refuses, explaining that such access would violate the law (time stamp: 57:45). Despite the explanation, Meadows continues to suggest they share the data and even tells Germany and a Trump Campaign lawyer to get together after the call “and work out a plan” to provide access to the data (time stamp: 58:50).

Trump and Meadows were joined on the call with Trump campaign lawyer Cleta Mitchell.

Read the full transcript and listen to audio [here](#).

Note on the Fulton County Investigation

On Feb. 10, 2021, Fulton County District Attorney Fani Willis opened a criminal investigation into efforts to interfere with the 2020 presidential election in Georgia. “This investigation includes, but is not limited to, potential violations of Georgia law prohibiting the solicitation of election fraud, the making of false statements to state and local governmental bodies, conspiracy, racketeering, violation of oath of office and any involvement in violence or threats related to the election’s administration,” according to Willis’ [letters](#) providing formal notice of her investigation. Willis’s office has issued several subpoenas to a number of Trump’s inner circle, including Eastman, Ellis, Giuliani, and Sen. Lindsey Graham. On Aug. 15, 2022, Giuliani was officially [informed](#) that he is a target in the criminal investigation into election interference in Georgia, and on Aug. 17, 2022, Giuliani “satisfied his obligation under the subpoena” after facing hours of questioning before the special grand jury, according to a [Willis’ interview](#) with the Associated Press.

Additional Resource:

Norman Eisen, Joshua Matz, Donald Ayer, Gwen Keyes Fleming, Colby Galliher, Jason Harrow, and Raymond P. Tolentino, [Fulton County, Georgia’s Trump Investigation](#) Brookings Institute (October 2021).

D. Arizona

Arizona House Speaker Rusty Bowers [said](#) that Trump and Giuliani called him to say that the election in Arizona was tainted by fraud, such as voting by “200,000 illegal immigrants, some large number. Five or 6,000 dead people, et cetera.” **On multiple occasions, Bowers requested proof of election allegations and has never received any evidence after the first call.**

On a phone call, Trump and Giuliani requested Bowers to allow an official committee hearing at the state capitol to hear the evidence of election fraud in order to decertify the votes for Biden. Bowers refused because the absence of evidence made the request meritless. They still pushed Bowers to call the Arizona legislature into special session. Bowers repeatedly refused stating, **“You are asking me to do something against my oath, and I will not break my oath.”**

On Dec. 14, when Arizona Governor Doug Ducey certified Biden as the winner of the presidential election in Arizona, Giuliani, Jenna Ellis, and others associated with Trump's team had a purported legislative hearing in a hotel ballroom in Phoenix. Republican members of the Senate and Bowers pressed Giuliani for evidence. Having none, Giuliani would later [state](#), “**we’ve got lots of theories. We just don’t have the evidence.**” On the day that the vote or declaration for state certification took place, U.S. Rep. Andy Biggs of Arizona called Bowers to have him support the decertification of the electors, which Bowers declined.

Trump called Bowers again in late December with another ask, and again **Bowers told Trump that he would not do anything illegal.** Nevertheless, a few days later Trump's attorney Eastman called Bowers, on Jan. 4, and told him that the state legislature had “plenary authority” to decertify the Biden electors. Bowers replied once again there was no justification. Bowers [testified](#), “**His suggestion was that we would do it. I said again, ‘I took an oath, for me to do what you do would be counter to my oath.’**”

Bowers and his family received in excess of 20,000 emails and tens of thousands of voicemails and texts. They often had on Saturdays various groups coming by Bowers' home to publicly slander him. One encounter involved a person with a pistol who threatened the Bowers' neighbor.

5. President Trump's legal team and other Trump associates instructed Republicans in multiple states to create false electoral slates and transmit those slates to Congress and the National Archives.

Trump and his close associates — including Chief of Staff Mark Meadows, Giuliani, and Eastman — executed a plan to have false electors in battleground states [sign and submit](#) phony electoral certificates declaring that Trump, rather than Biden, had won.

A. Trump at the helm

“At the president's direct request, the [Republican National Committee (RNC)] assisted the campaign in coordinating this effort.” the House Select Committee counsel [stated](#) in reference to a phone call with Trump, Eastman, and Ronna Romney McDaniel, chairwoman of the RNC.

McDaniel [testified](#) in a taped interview that on a call with Trump, that Trump turned the call over to Eastman who “talk[ed] about the importance of the RNC helping the campaign gather these contingent electors in case any of the legal challenges that were ongoing changed the result of any of the states. I think more just helping them reach out and assemble them.” She said she understood that “the campaign did take the lead and we just were helping them in that -- in that role” (testimony publicly revealed on June 21, 2022).

Even before the revelation of that testimony, Judge David Carter [held](#) that, based on the available facts, Trump together with Eastman more likely than not engaged in a criminal conspiracy to overturn the election. In a subsequent order on June 9, 2022, Judge Carter said the alternate electors scheme was “[a critical objective](#)” of the criminal conspiracy in which President Donald Trump and lawyer John Eastman likely engaged.

B. Warnings from White House and Campaign lawyers

Between the end of November and early to mid-December, the **White House Counsel's Office warned Meadows, Giuliani, Giuliani's associates and some Republican members of Congress** that the alternate electors' plan was [not legally sound](#). The White House Counsel attorneys included Pat Cipollone and potentially Patrick F. Philbin.

As the campaign's litigation losses mounted, three Trump campaign lawyers — Justin Clark, Matt Morgan, and Josh Finley — [withdrew or decided not to participate](#) in the false slate of electors scheme. Justin Clark said, "I'm out." Matt Morgan had Josh Finley email to ensure he had "zero" responsibility for this effort.

Eastman himself appeared to recognize the alternate electors had no legal validity. On Jan. 10, 2021, an individual (name redacted in [court records](#)) emailed Eastman asking, "Tell us in layman's language, what the heck happened with the dual electors? Please?" Eastman responded in full: "No legislature certified them (because governors refused to call them into session), so they had no authority, Alas."

C. December 14 version 1: False slate of electors act

On Dec. 14, 2020, legitimate members of the Electoral College met across the country to sign certificates declaring which presidential candidate won their state. That day, in seven states that Biden had won, some Republicans met to sign [certificates](#) declaring that they were the "duly elected and qualified" members of the Electoral College and falsely declaring Trump the winner of their state. In each of the seven states ([Arizona](#), [Georgia](#), [Michigan](#), [New Mexico](#), [Nevada](#), [Pennsylvania](#) and [Wisconsin](#)), the groups filed their false certifications with the National Archives.

In performing their tasks, in several states, the false electors were [told](#) by the Trump Campaign to meet in "[complete secrecy](#)" including instructions to sneak into rooms in their capital building by giving security guards false information. In Michigan, the group of fake electors [considered](#) hiding overnight so they could access the capital. Across the states, it was after they performed their act that they could publicly display what they had done.

In the runup to Jan. 6, 2021, these false certificates were used in an effort to claim that Vice President Mike Pence could decide either not to recognize any electors from these "disputed states" (meaning an outright Trump win) or else delay the certification of the election. Only two of the seven states (New Mexico and Pennsylvania) included an explicit caveat that their slate of electors were contingent on later being recognized by a court or other authority.

Sam DeMarco, one of Pennsylvania's alternate electors and the chairman of the Allegheny County Republican Committee, shared with [CNN](#) that "there was a last-minute dispute, where the state's GOP electors pushed Trump campaign officials to add legal caveats to the fake certificate to say they were only electors-in-waiting, if Trump's legal challenges prevailed."

Former Wisconsin Republican Party chair Andrew Hitt [testified](#) that he was told the alternate electors "would only count if a court ruled" in favor of Trump. Otherwise, "it would have been using our electors in ways that we weren't told about and we wouldn't have supported." In one of the seven states, false electors asked for a promise that the Trump campaign would pay their legal fees if they got sued or charged with a crime.

Note: After the conclusion of the committee's summer hearings, the New York Times obtained [email communications](#) involving the Trump Campaign and outside advisers in coordinating the scheme. One Phoenix-based lawyer, Jack Wilenchik, emailed Trump Campaign adviser Boris Epshteyn and several others on Dec. 8, 2020: "I just talked to the gentleman who did that memo, Ken Chesboro[sic]. His idea is basically that all of us (GA, WI, AZ, PA, etc.) have our electors send in their votes (**even though the votes aren't legal under federal law** — because they're not signed by the Governor); so that members of Congress can fight about whether they should be counted on January 6th...Kind of wild/creative — I'm

happy to discuss. My comment to him was that **I guess there's no harm in it, (legally at least)...** The emails themselves referred to the alternate slates as "fake." Arizona organizers also proposed keeping the slates secret until Jan. 6 – in other words not seeking certification from state officials as required for any alternate slate to count under law. "Keep it under wraps until Congress counts the vote Jan. 6th (so we can try to 'surprise' the Dems and media with it," one email explained. The email exchanges excluded White House Counsel lawyers, who had advised the plan was not legally sound, and other campaign lawyers, the Times reported.

D. December 14 version 2: "End of the Matter"

White House Counsel **Pat Cipollone** [testified](#) that Trump should have conceded the election by the time that Sen. **Mitch McConnell** confirmed the election was over on December 15, 2022. "I believe he should concede the election at a point in time? Yes, I did. I believe Leader McConnell went on to the floor of the Senate, I believe in late December, and basically said, you know, the process is done. You know, that would be in line with my thinking on these things," Cipollone testified.

Attorney General Bill Barr [testified](#) that "December 14th was the day that the states certified their votes and sent them to Congress. And in my view, that was the end of the matter."

Secretary of Labor Gene Scalia [testified](#) that he told Trump in mid-December, when the electors had voted, the legal processes were exhausted and it was time to "concede the outcome."

White House Deputy Press Secretary Judd Deere [testified](#), "I told him that my personal viewpoint was that the Electoral College had met, which is the system that our country is set under to elect a President and Vice President. And I believed at that point that the means for him to pursue litigation was probably closed." Trump's response? "He disagreed," Deere said.

E. Beyond what should have been the end of the matter

On Dec. 28, 2020, Justice Department official Jeffrey Clark submits his [draft "Georgia Proof of Concept"](#) to the acting attorney general and acting deputy attorney general (for more see Scheme Part 2 above). The letter would have the Justice Department try to overturn election results in Georgia and other battleground states that Biden won. Clark's letter relies on the false alternate electors scheme. He writes, "The Department believes that in Georgia and several other States, both a slate of electors supporting Joseph R. Biden, Jr. and a separate slate of electors supporting Donald J. Trump, gathered on that day at the proper location to cast their ballots, and that both sets of those ballots have been transmitted to Washington DC to be opened by Vice President Pence."

As detailed above, senior Justice Department officials reject the proposal, White House Counsel Cipollone calls it a "murder-suicide pact," and Trump backs down from coercing the Department to send out the letter after facing the threat of mass resignations.

On Dec. 29, 2020, an episode between the White House and the Justice Department shows how the Justice Department is not on board with contesting the election now that the Electoral College has voted and Trump's continued pressure. That day, White House Special Assistant and Oval Office Coordinator emails a draft Supreme Court brief to Justice Department senior officials which would have the United States petition the Supreme Court to contest the election results. "In short, Trump asked DOJ to petition the Supreme Court to overturn the election results," the Senate Judiciary Committee [report](#) explains. The Justice Department rejects it. As Steven Engel, who was head of the Justice Department's Office Legal

Counsel, [testified](#) before the Select Committee:

“The lawsuit would have been untimely. The states had chosen their electors. The electors had been certified. They’d cast their votes. They’d been sent to Washington, DC. Neither Georgia nor any of the other states on December 28th, or whenever this was, was in a position to change those votes. The — essentially the election had happened. The only thing that hadn’t happened was the formal counting of the votes.

And so obviously, you know, the person who drafted this lawsuit didn’t really understand in my view, you know, the law and or how the Supreme Court works.”

F. The final stretch: January 3-6

On or around Jan. 3, Eastman completed his third [memo](#). The six-page document called for Pence to overturn the election based on the false alternate slates. The letter states: “The Trump electors in the above 6 states (plus in New Mexico) met on December 14, cast their electoral votes, and transmitted those votes to the President of the Senate (Vice President Pence). There are thus dual slates of electors from 7 states.”

On Jan. 4, the Trump Campaign [requested](#) in texts to Wisconsin Republican Party officials for someone to transport the fake electors’ documents to Washington DC. That same day, Eastman pressed Pence and his team in a meeting with Trump to suspend the electoral certification based on these “disputed” states (Jacob [testimony](#)).

On Jan. 6, at 12:37 PM, Wisconsin Sen. Ron Johnson’s Chief of Staff Sean Riley texts Vice President Pence’s staff to ask if Johnson can hand deliver alternate electors documents from Michigan and Wisconsin to Pence. Pence’s aide unambiguously instructs Johnson’s team to do no such thing.

Even though the fake elector’s slates were transmitted to Congress and the executive branch, the Vice President held firm in his position that his role was to count lawfully submitted electoral votes. For his remarks during the proceeding that day, Vice President Pence drafted [new language](#), approved by the congressional parliamentarians, to address the false alternate slate of electors. He stated that the certificates introduced will be the ones that “the parliamentarians have advised me is the only certificate of vote from that state, and purports to be a return from the state, and that has annexed to it a certificate from an authority of that state purporting to appoint or ascertain electors.”

Additional Resources:

Ryan Goodman, [Timeline: False Alternate Slate of Electors Scheme, Donald Trump and His Close Associates](#) (July 18, 2022).

PolitiFact, [What You Need to Know About the Fake Trump Electors](#) (January 28, 2022).

6. *President Trump summoned and assembled a violent mob in Washington and directed them to march on the US Capitol.*

At the outset of the summer hearings, Vice Chair Cheney [said](#), “On this point, there is no room for debate. Those who invaded our Capitol and battled law enforcement for hours were motivated by what President Trump had told them, that the election was stolen and that he was the rightful President. **President Trump summoned the mob, assembled the mob, and lit the flame of this attack.**”

A. Recognition of wrongdoing

In the aftermath of Jan. 6, Republican leader Kevin McCarthy stated, “**The President bears responsibility for Wednesday’s attack on Congress by mob rioters.**”

Sen. Mitch McConnell also said, “**There’s no question, none, that President Trump is practically and morally responsible for provoking the events of the day.** No question about it. The people who stormed this building believed they were **acting on the wishes and instructions of their President.** And having that belief was a **foreseeable consequence** of the growing crescendo of false statements, conspiracy theories, and reckless hyperbole which the defeated President kept shouting into the largest megaphone on planet Earth.”

In leaked audio [recordings](#) played by the committees, McCarthy privately told some Republican lawmakers that Trump “told me he does have some responsibility for what happened and he needed to acknowledge that.”

B. Runup to Jan. 6: Heeding Trump’s call

Proud Boys membership [tripled](#) after Trump’s “stand back and standby” remark in a Sept. 2020 debate, according to a Proud Boy member’s testimony presented by the committee. Many Proud Boys and Oath Keepers said on camera (and in social media and encrypted chats beforehand) that they went to the Capitol on Jan. 6 due to Trump’s call to action.

On Dec. 19, 2020, Trump [tweeted](#), “Statistically impossible to have lost the 2020 Election. Big protest in D.C. on January 6th. Be there, will be wild!”

The next day, Ali Alexander, leader of the Stop the Steal organization and a key mobilizer of Trump supporters, registered Wildprotest.com, named after Trump’s tweet.

Alex Jones, right-wing commentator and founder of InfoWars: “President Trump, in the early morning hours [Dec. 19], tweeted that he wants the American people to march on Washington DC on Jan. 6th, 2021 ... He is now calling on We the People to take action and to show our numbers.”

Matt Bracken, right-wing commentator said (in a [video](#) played by the committee): “We’re going to only be saved by millions of Americans moving to Washington, **occupying the entire area, if — if necessary storming right into the Capitol.** You know, they’re — we know the rules of engagement. If you have enough people, you can push down any kind of a fence or a wall.”

Salty Cracker, right-wing commentator said (in a [video](#) played by the committee): “Ya better understand something, son. Ya better understand something. Red wave, bitch. Red wed — **there’s gonna be a red wedding going down January 6th.** ... M*****f*****, you better look outside. You better look out Jan. 6th. Kick that f* door open, look down the street. There’re gonna be a million plus geeked up **armed Americans.**” The term “red wedding” refers to a violent “Game of Thrones” scene where attendees at a festive event are surprised by an attack that traps them inside a venue where they are murdered.

Stephen Ayres, one of the rioters, testified that before Jan. 6, his life was “nothing but a family man and a working man. Worked at the company, a cabinet compnay up in Northeast Ohio...[But] I was, you know, pretty hardcore into the social media, Facebook, Twitter, Instagram. I followed, you know, **President Trump**, you know, on all the websites, you know. **He basically put out, you know, come to the Stop the Steal rally, you know, and I felt like I needed to be down here.**”

Additional Resources:

Atlantic Council's DFRLab, [#StopTheSteal: Timeline of Social Media and Extremist Activities Leading to 1/6 Insurrection](#), Just Security (Feb. 10, 2021).

Heather Szilagyi, Ryan Goodman and Justin Hendrix, [Surveying Evidence of How Trump's Actions Activated Jan. 6 Rioters](#), Just Security (May 12, 2022).

Ryan Goodman and Justin Hendrix, [The Absence of "The Donald" - The curious omission of a notorious social media site in the FBI criminal case files on Jan. 6](#), Just Security (December 6, 2021).

C. Trump's secret plan to call for march on the Capitol

Trump's call to march on the Capitol was not a spontaneous idea at the end of his Ellipse speech, but rather a deliberate and secret strategy decided upon in advance by the President.

An [undated draft tweet](#) from the National Archives that was never sent: "I will be making a big speech at 10 a.m. on January 6 at the Ellipse south of the White House. Please arrive early. Massive crowds expected. **March to the Capitol after.** Stop the steal."

Instead, the plan for Trump to instruct the crowd to march to the Capitol was kept secret within a very small circle that included "Stop the Steal" organizers.

Kyle Kremer, a Stop the Steal rally organizer, texted My Pillow CEO **Mike Lindell**, indicated that Trump planned to call for the crowd to go to the Capitol "unexpectedly" and said that it was important that it not be leaked. "It cannot get out about the second stage," Kremer said. On the morning of Jan. 5, the leader of the Stop the Steal organization, **Ali Alexander** [sent](#) a text to a conservative journalist, stating "Tomorrow: Ellipse, then US Capitol. Trump is supposed to order us to the Capitol at the end of his speech, but we will see."

D. Trump's knowingly mobilizing an armed mob

On Jan. 4, the National Security Division of the Department of Justice sent an [email](#) to Acting Deputy Attorney General Donoghue identifying apparent planning by those coming to Washington to "occupy federal buildings," and discussions of, "invading the Capitol building." Donoghue [testified](#), "We knew that if you have tens of thousands of very upset people showing up in Washington, D.C. that there was potential for violence."

The U.S. Secret Service was tracking similar information including [communications](#) saying, "**We must occupy** every federal building" and "**We need to flood the Capitol Building** and show America, and the senators and representatives inside voting that we won't stand for election fraud!"

"The White House continued to receive updates about planned demonstrations, including information regarding **the Proud Boys** organizing and planning to attend events on January 6th," Vice Chair Cheney [stated](#).

On the morning of Jan. 6, Deputy Chief of Staff and Secret Service agent Tony Ornato [briefed](#) Meadows and Trump that individuals in the crowd had "knives, guns in the form of pistols and rifles, bear spray, body armor, spears and flag poles" Hutchinson [testimony](#)).

Meadows asked Ornato, “Have you talked to the President?” And Ornato replied, “**Yes, Sir. He’s aware**” (Hutchinson [testimony](#)).

The Secret Service [used](#) the magnetometers (mags) to screen people who willingly entered the Ellipse during the January 6 rally and confiscated weapons and items including pepper spray, knives, brass knuckles, tasers, body armor, gas masks, batons, and blunt weapons. Several thousand didn’t go through the mags and watched from the lawn. Law enforcement identified many individuals with firearms, including AR-15s and Glock-style handguns in the crowd, as well as individuals with ballistics and body armor, according to audio reports from law enforcement that the committee obtained.

In one of the most explosive pieces of testimony, Hutchinson said that after Trump was told that many people were heavily armed, he said in a backstage tent at the rally:

“I don’t f’king care that they have weapons. They’re not here to hurt me. Take the f’ing mags away. Let my people in. They can march to the Capitol from here.”

Additional Resource:

Erik Dahl, [January 6 Intelligence and Warning Timeline](#), Just Security (June 7, 2022).

D. March on the Capitol and “fight like hell”

After telling the crowd that the election and their rightful president had been stolen from them, Trump encouraged people to “**fight like hell**” during his [speech](#) at the Ellipse. Trump’s language was included over the [objections](#) of White House lawyers including White House Counsel Pat Cipollone and Eric Herschmann.

His remarks followed his personal lawyer Giuliani’s speech, in which Giuliani urged attendees to engage in “[trial by combat](#).”

Ayres explained why he and others marched to the Capitol and when they decided to leave. Ayres [testified](#), “Well, basically, you know, the President got everybody riled up and told everybody to head on down. So **we basically were just following what he said.**”

E. Trump planned to go to the Capitol, and led his followers to believe he was going with them

Trump planned in advance to march to the Capitol and thought he would do so when he started his speech at the Ellipse. It was a closely held secret. Some of the ideas for the potential plan included Trump’s going inside the building (Hutchinson [testimony](#)) and being with the members of Congress (according to what Giuliani told Hutchinson on Jan. 2).

It was why Trump included a line in his Ellipse speech that led his followers to believe that he was joining them in marching to the Capitol.

White House lawyers strongly objected to the idea of Trump going to the Capitol. Cipollone said, “**We’re going to get charged with every crime imaginable if we make that movement happen,**” according to Hutchinson’s [testimony](#). He was [concerned](#) about obstructing justice (18 U.S.C. sec. 1512) or defrauding the electoral count (18 U.S.C. sec. 371).

Trump nevertheless led his followers to believe he was going with them and many believed he was

present at the Capitol.

Meadows lied in his book. He claimed that this statement in Trump's speech "ad-libbed a line that no one had seen before" and that "when he got offstage, President Trump let me know that he had been speaking metaphorically about the walk to the Capitol." The fact that Meadows lied about this is evidence of **consciousness of guilt**.

7. As the violence was underway, President Trump ignored multiple pleas for assistance and failed to take immediate action to stop the violence and instruct his supporters to leave the Capitol.

A. Absence of Command

While the violent attack on the Capitol proceeded over two hours, the Commander-in-Chief took no action and did not even speak with heads of the Pentagon or the Department of Homeland Security (DHS), or call the Attorney General. Instead, he used the time to watch the events unfold on television and to contact Republican Senators to try to convince them to further delay or interrupt the certification.

"Donald Trump never picked up the phone that day to order his administration to help. This is not ambiguous. He did not call the military. His Secretary of Defense received no order. He did not call his attorney general. He did not talk to the Department of Homeland Security. Mike Pence did all of those things," [stated](#) Vice Chair Liz Cheney.

Chairman of the Joint Chiefs of Staff Mark Milley [testified](#), "Yeah. You know, Commander in Chief, you got an assault going on on the Capitol of the United States of America. And there's nothing? No call? Nothing? Zero?" Former Acting Secretary of Defense Miller, in [written testimony](#) before the House Oversight Committee, said, "I also want to address questions that have been raised in regard to the President's involvement in the response. He had none with respect to the Department of Defense efforts on January 6."

Milley [spoke](#) highly of Pence's role: "Vice President Pence? There were two or three calls with Vice President Pence. He was very animated and he **issued very explicit, very direct, unambiguous orders**. There was no question about that. And he was — and I can give you the exact quotes I guess from some of our record somewhere, but he was very animated, very direct, very firm. And **to Secretary Miller, get the military down here, get the guard down here, put down this situation**, etc."

Notably, the Vice President is not in the chain of command, and should not have been forced into having to play that role.

White House Chief of Staff Meadows tried to persuade the Pentagon leaders to lie about Trump's role that day, but they rebuffed him. Chairman of the Joint Chiefs of Staff, Gen. Mark Milley [testified](#):

"[Meadows] said, 'We have to kill the narrative that the Vice President is making all the decisions. We need to establish the narrative that, you know, that the President is still in charge and that things are steady or stable.' Or words to that effect. I immediately interpret that as politics, politics, politics. Red flag for me personally, no action, but I remember it distinctly and — and I don't do political narratives."

B. Trump's support for actions of insurrectionists

So supportive of the insurrectionists' actions, Trump strongly wanted to join his supporters at the Capitol after being told the situation had turned violent. Trump continued to express interest in going to the Capitol

after getting back to the Oval Office at 1:20pm, following his speech at the Ellipse. His motorcade waited for over 45 minutes at the White House until a decision was made that Trump would not go to the Capitol.

A White House national security official [testified](#):

“To be completely honest, we were all in a state of shock. .. We all knew what that implicated and what that meant.

That **this was no longer a rally, that this was going to move to something else if he physically walked to the Capitol. I — I don’t know if you want to use the word insurrection, coup, whatever. We all knew that this would move from a normal, democratic, public event into something else. ...**

Why were we alarmed? Right. **The President wanted to lead tens of thousands of people to the Capitol. I think that was enough grounds for us to be alarmed.”**

When Republican Minority leader Kevin McCarthy asked Trump to call off his supporters, Trump [responded](#), “**Well, Kevin, I guess these people are more upset about the election than you are.**”

Cipollone and Meadows spoke to Trump about the rioters’ chanting, “Hang Mike Pence.” Upon emerging from that conversation, Cipollone said to Meadows, “We need to do something more. They’re literally calling for the vice president to be effing hung.” Meadows responded “something to the effect of ‘you heard him, Pat. **He thinks Mike deserves it. He doesn’t think they’re doing anything wrong**” (Hutchinson [testimony](#)). (Listen also to [audiotape](#) of ABC News’s Jonathan Karl interview with Trump defending the threats to “hang” Pence.)

Trump never contacted Pence to check on his safety, which made Pence and Mrs. Pence “frustrated” (Jacob [testimony](#)).

[See above Part 3(C) — **Mobilizing the mob against Pence** — including White House officials’ reactions to Trump’s tweet about Pence after the violence began (“pouring gasoline on the fire;” “fuel being poured on the fire”)]

In a [video](#) finally released to tell his supporters to disperse, Trump praised the invaders as “very special” people whom he professed to “love.” In his final tweet, Trump referred to them as “great patriots,” who should “Remember this day forever!”

C. Trump rejected pleas to tell insurrectionists to leave the Capitol

Not long after the rioters broke into the Capitol, White House Counsel Pat Cipollone barreled down the hallway toward Meadows’s office. Hutchinson [testified](#) that she “remember[s] Pat saying to him something to the effect of, ‘the rioters have gotten to the Capitol, Mark. We need to go down and see the President now.’ And Mark looked up at him and said, ‘**he doesn’t want to do anything**, Pat.; And Pat said something to the effect of — and very clearly had said this to Mark — something to the effect of, ‘Mark, something needs to be done or **people are going to die and the blood is going to be on your fing hands.**”

A [hand-written document](#) by a member of the White House staff advised what Trump needed to say, “Anyone who entered the Capitol without proper authority should leave immediately,” but Trump [refused](#) to say it.

Ivanka Trump [wanted](#) her father to tell the rioters to disperse from the Capitol, but the President rejected that idea. Over the two-plus hours, White House Counsel Pat Cipollone [urged](#) Trump to put out a statement for his supporters to leave the Capitol but Trump refused to do so while the violence continued.

At 3:13PM, Trump tweeted: “I am asking for everyone at the U.S. Capitol to remain peaceful. No violence! Remember, WE are the Party of Law & Order – respect the Law and our great men and women in Blue. Thank you!”

Trump decidedly did not ask his supporters to leave the Capitol. Don Jr [texted](#) Meadows: “The Capitol Police tweet is **not enough**.” Mr. Meadows replied, “I am pushing it hard, I agree.” Sean Hannity [texted](#) Meadows at 3:31 to say, Trump needed to make a statement telling the rioters “**to leave** the Capitol.” Meadows responded, “On it.” Fox News host Laura Ingraham [texted](#) Mark Meadows, “The president needs to tell people in the Capitol **to go home**.”

Trump’s followers understood he had not told them to disperse. Some of his most radical followers communicated with one another, “**He didn’t say not to do anything to the Congressman**” and “**he did not ask them to stand down**” ([communications](#) obtained by the committee).

Stephen Ayres, one of the rioters, explained why he and others marched to the Capitol and when they decided to leave. Ayres [testified](#), “**We literally left right after [Trump’s tweeted video at 4:17PM telling his supporters to leave] come out**. You know, to me if he would have done that earlier in the day, 1:30, I — you know, we wouldn’t be in this — maybe we wouldn’t be in this bad of a situation or something.” In a video [interview](#) taken on Jan. 6, one of the rioters who has since been convicted, Jake Angeli, explained to a reporter that they finally left the building because of Trump’s 4:17PM tweeted video when “Trump asked everybody to go home.”

D. After it was clear the insurrection would be quelled

At 4:17PM, Trump finally tweeted a video for the rioters to go home. It was only after “law enforcement had started to turn the tide, reinforcements were on the way” and “the writing was already on the wall. The rioters would not succeed,” the committee [said](#).

E. Additional evidence of criminal/corrupt intent

In his final tweet on Jan. 6, Trump appeared to justify the actions of the insurrectionists. Perhaps more importantly, his statement appeared to be an admission that the assault on the Capitol was a foreseeable consequence of his telling the mob that his landslide victory had been stolen from them: “**These are the things and events that happen** when a sacred landslide election victory is so unceremoniously & viciously stripped away from great patriots who have been badly & unfairly treated for so long. Go home with love & in peace. Remember this day forever!”

In preparing a public statement on Jan. 7, the original drafts of the speech included several lines that didn’t make it into the final speech about prosecuting the rioters or calling them violent. Trump didn’t want those lines in there. Trump instead “wanted to put in there that he wanted to **potentially pardon**” the rioters. (Hutchinson [testimony](#); see also Director of the White House Presidential Personnel Office John McEntee [testimony](#) about blanket pardon for anyone involved in Jan. 6). “Meadows was encouraging that language as well” about pardoning the rioters, Hutchinson testified. White House Counsel Pat Cipollone and White House lawyer Eric Herschmann opposed including that language, and the idea for including it was dropped (Hutchinson [testimony](#)). As mentioned in another section above,

raw footage of a recorded presentation to the nation on Jan. 7 [shows](#) that Trump refused to say, “The election is over.” “I don’t want to say the election’s over. I just want to say Congress has certified the results without saying the election’s over, okay?” ([video recording](#))

Trump lied in his Jan. 7 public remarks to the nation about the actions he took. He said, “I immediately deployed the National Guard and federal law enforcement to secure the building and expel the intruders.” It was a statement by Trump that showed a consciousness of guilt for dereliction of duty.

Meadows would later go on Fox News, on Feb. 11 and 12, 2021, to [claim](#) that Trump called for additional National Guard forces in advance of Jan. 6 and reacted immediately in dispatching the Guard on the day. It was similar to “the narrative” Meadows asked Chairman Milley to support, which Gen. Milley rejected. On Fox News, Meadows said former acting Defense Secretary Miller would back up his narrative. In written testimony before the House Oversight Committee in May 2021, Miller [contradicted](#) Meadows and Trump’s account.

Additional Resources:

Albert W. Alschuler, [The Easiest Case for the Prosecution: Trump’s Aiding and Abetting Unlawful Occupation of the Capitol](#), Just Security (July 21, 2022).

Postscript 1: Seeking Pardons

Numerous individuals involved with Jan. 6 requested a presidential pardon according to the committee’s findings:

- Rep. Andy Biggs (R-Arizona)
- Rep. Mo Brooks (R-Alabama)
- John Eastman
- Rep. Matt Gaetz (R-Florida)
- Rudy Giuliani
- Rep. Louie Gohmert (R-Texas)
- Rep. Marjorie Taylor Greene (R-Georgia)
- Rep. Jim Jordan (R-Ohio) (only talked about status of pardons for members of Congress but did not ask Hutchinson for one)
- Mark Meadows
- Rep. Scott Perry (Pennsylvania)

Postscript 2: Records Destruction and Failure to Record

1. Trump’s Jan. 6 call logs have a [seven-hour gap](#), including the time period when the Capitol was being assaulted.

2. Despite Chairs of five House Committees’ [Nov. 20, 2020 letter](#) to DHS to preserve documents, including electronic messages, and DHS Office of Inspector General’s Feb. 26 request for agents’ text messages on Jan. 6, U.S. Secret Service agents’ and employees’ messages between Jan. 5 and Jan. 6, 2021, were [deleted](#) “as part of a device-replacement program.” [Two emails](#), one of which was dated before Jan. 6, told agency

staffers to preserve phone records; a third Feb. 2021 email said to preserve communications specific to Jan. 6.

3. The Chief White House photographer was told “[no photographs](#)” of Trump between 1:21pm and 4:00pm despite her wanting to do so because she thought it was “very important for his archives and for history.”

4. Then-acting Homeland Security Secretary Chad Wolf’s and then-acting deputy secretary Ken Cuccinelli’s text messages for Trump were [deleted](#) in a “reset” of their government phones when they finished their jobs.

5. Department of Homeland Security Inspector General Joseph V. Cuffari [had known](#) about deleted texts for months but did not inform the Select Committee or seek ways to recover the lost data.

6. Meadows and Rep. Perry [used Signal](#), an encrypted messaging platform, on Dec. 26, 2020, when discussing elevating Clark to the position of acting attorney general. On Jan. 5, 2021, a member of Congress [texted](#) Meadows, “Please check your signal.”

7. Chief of Staff Meadows [incinerated](#) documents after a meeting with Rep. Perry.

8. “Mr. Meadows may not have complied with legal requirements to retain or archive documents under the Presidential Records Act,” the House report accompanying Meadows’ contempt of Congress resolution states (citing a Politico [report](#)).

9. The Justice Department is [reportedly](#) conducting a criminal investigation of the removal of government documents, including potentially classified records, to Trump’s home at Mar-a-Lago.

Election-Related Falsehoods and their Consequences

By Jon Steinman and William Ford

Many of the ongoing threats to our democracy are rooted in the falsehoods that Trump and his allies spread about the 2020 presidential election. These lies began long before voting in the general election. They live on largely because far-right media figures and politicians continue to embrace them to sow doubt about the legitimacy of Biden's presidency and to secure political power.

Understanding the specific election-related lies Trump and his allies pushed helps explain a number of the current threats to U.S. democracy. Those lies include:

- False claims that [mail-in ballots](#) and [ballot drop boxes](#) would be and were sources of widespread voter fraud.
- False claims that substantial numbers of votes were [cast](#) by dead Americans.
- False claims that election workers improperly counted and/or handled ballots, such as by [counting](#) fraudulent ballots.
- False claims that election machinery [was rigged](#) against Trump, including by [foreign satellites](#), or otherwise was insecure and untrustworthy.
- False claims that, for these or other reasons, Trump [actually won](#) the election.

These falsehoods continue to shape American politics and government:

- They have prompted state legislatures to [introduce, and in some cases pass](#), bills that politicize, interfere with, or criminalize routine aspects of election administration.
- They have inspired [waves of threats](#) against election workers and officials.
- They have [prompted attacks](#) on recent election results similar to those Trump and his allies used in their campaign to overturn the 2020 presidential election.
- And they have been weaponized, alongside new falsehoods, [to discredit the work of the Select Committee](#) investigating the attack on the Capitol and its causes.

Power Grabs in State Legislatures

In 2021 and 2022, false claims that the 2020 presidential election was stolen have prompted state legislators across the country to [introduce and pass](#) numerous bills that politicize, interfere with, or criminalize routine aspects of election administration. These bills have a simple aim: to strengthen state lawmakers' ability to sow doubt about the validity of, or outright overturn, electoral outcomes they dislike.

The bills fall into [five categories](#):

1. **Bills Asserting State Legislative Control Over Certifying Electoral Outcomes.** Bills [introduced](#) in Arizona, Pennsylvania, and Wisconsin—but not yet enacted or expected to become law in 2022—would give state legislatures direct or indirect control over the certification of election results, empowering them to reject the will of the voters.
2. **Bills Requiring Partisan Audits.** Bills [introduced](#) in 17 states would require unprofessional or partisan audits of election results. These bills [contain](#) ambiguous procedures; in some cases, give political parties or the legislature the authority to call for election audits; and lack guardrails to ensure the security of voting equipment and ballots.
3. **Bills Seizing Control Over and Politicizing Election Administration.** Bills [introduced](#) in 32 states would take the power to administer elections away from nonpartisan, professional election officials and vest it in state legislatures or their political appointees.
4. **Bills Placing Unworkable Burdens on Election Administration.** Bills [introduced](#) in 22 states would

place [significant burdens](#) on election administrators. Some bills in this category, for instance, would mandate the hand counting of all ballots—a requirement that would increase delays in determining election results, the likelihood of error, and opportunities for manipulating results.

5. **Bills Subjecting Election Officials to Harsh Criminal or Other Penalties.** Bills [introduced](#) in 23 states would impose criminal or other penalties on election officials for vague offenses and routine steps officials take to help voters cast their ballots. The threat of such penalties or prosecution may [limit](#) individuals’ willingness to serve as administrators or poll watchers.

As of April 25, 2022, 14 states had [enacted](#) or adopted 18 of these bills (categories 2-5 in 2022, building on 17 states’ enactment of 32 bills [interfering](#) with election administration in 2021. That many more bills in the above categories remain under [consideration](#) underscores the extent of the state legislative threat to the safe, nonpartisan, and efficient administration of elections and certification of their results.

Threats Against, Intimidation of, and Pressure On Election Workers and Officials

Lies about the conduct of election administrators and poll workers—such as [false claims](#) that officials fed fraudulent ballots into voting machines—were a core feature of Trump’s 2020 effort to undermine the legitimacy of and ultimately overturn the presidential election. These lies unleashed waves of threats against election officials and their families that continue to this day.

Journalists [have identified](#) and the Justice Department [has received](#) evidence of thousands of threatening messages directed at election officials and staff in states across the country. More than 500 of the threats [submitted](#) to the department’s Election Threats Task Force came from Colorado alone. Many threats were calculatedly personal—such as the sexualized threats [directed](#) at the wife of Georgia Secretary of State Brad Raffensperger, who refused to “find” more votes for Trump. Some threats were so persistent and pronounced that the FBI [recommended](#) the officials targeted leave their homes and go into hiding.

One in five local election officials surveyed in a 2022 poll [reported](#) that the hostility of this environment and the likelihood of further political interference in and pressure on their work leaves them unlikely to remain in their positions through the 2024 presidential election. Indeed, many seasoned election administrators already have left their posts, paving the way for less-experienced replacements during a time of heightened public scrutiny of election administration.

Similar Attacks on Recent Election Results

The detailed blueprint for subverting elections that Trump established in 2020 has inspired some Americans to take actions in response to recent local primary elections based on identical lies and drawing on identical tactics. For instance, just as Trump and his allies sought to prevent Congress’s vote certification on January 6, 2021, some Americans have pressured local officials not to certify recent primary election results.

In June 2022, for instance, the Otero County Commission in New Mexico initially [refused](#) to certify local primary election results, citing debunked concerns about the security of the Dominion Voting Systems machines used in the election. The commission changed course only after a state court ordered the commission to certify. The same baseless concerns about Dominion machines also [motivated](#) citizens in New Mexico’s Torrance County to pressure county commissioners not to certify local primary election results. When the commissioners refused to bow to this pressure and certified the results, assembled opponents called them “cowards,” “rubber stamp puppets,” and “traitors to our country.” False claims about Dominion machinery were a core component of Trump’s unfounded allegations of election fraud in 2020.

Efforts to Discredit the January 6th Committee

The former president’s false claims of fraud brought a mob to Washington on Jan. 6 and motivated them to attack the U.S. Capitol, severing our nation’s unbroken tradition of peacefully transferring power. Successive waves of lies have sought to sow

doubt about the severity of that attack, shift blame for it away from Trump and his supporters, and undermine the legitimacy of the House Select Committee investigating the attack and its causes.

In the wake of Jan. 6, Trump, his allies, and right-wing media made a number of false claims aimed at undermining the seriousness of the attack and therefore the idea that the attack and its causes ought to be investigated. These lies included:

- False claims that the rioters who entered the Capitol merely acted like [tourists](#) or [otherwise](#) were peaceful.
- False claims that rioters were not [armed](#).
- False claims that Capitol Police officers [invited](#) rioters into the Capitol.

Allies of the former president also made false claims that other actors bore responsibility for the events of Jan. 6 in an effort to shift blame and scrutiny away from Trump and his supporters. These lies included:

- False claims that [Antifa](#), [Black Lives Matter](#), and “[provocateurs](#)” masquerading as Trump supporters were responsible for the violence.
- False claims that the FBI [orchestrated](#) the Capitol assault.
- False claims that House Speaker Nancy Pelosi [refused](#) to give Capitol Police officers more resources on Jan. 6 or call in the National Guard.

Although these false claims have not prevented Congress from investigating the Capitol riot, Trump-aligned Republicans in the legislative branch [blocked](#) efforts to create an independent commission to investigate the attack. In its place, the House [created](#) the Select Committee to provide a full accounting of the attack and its causes and to propose responsive reforms.

Since the committee’s establishment, Trump, his allies, and right-wing media have advanced a series of false claims aimed at discrediting the panel and its inquiry. These include:

- False [claims](#) that the committee is not properly authorized and that its subpoenas lack a valid legislative purpose.
 - Federal [district](#) and [appellate](#) courts have considered and rejected these claims.
- False claims that the committee’s investigation is a [partisan witch hunt](#).
 - The committee is bipartisan at both the member and staff levels—as evinced by the vice chairmanship of Rep. Liz Cheney (R-WY), the former chairwoman of the House Republican Conference, and an investigative staff comprising former federal prosecutors and other personnel who served presidents of both parties.

Attacks on the committee and its witnesses continue. These attacks come from both inside and outside Congress. Republicans on the House Judiciary Committee, for instance, continue to [mock and downplay](#) the serious evidence the select committee adduces. And [efforts](#) at witness tampering, [possibly undertaken](#) by Trump himself, aim to prevent the committee from securing the information it needs to provide a full and fair accounting of the Capitol assault, preceding events, and their causes.

Dangerous Shortcomings in Federal Law

Other threats to our democracy stem from shortcomings in federal law. These include ambiguities, gaps, and other deficiencies in the statutes governing the casting, counting, and certification of Electoral College votes; control of the D.C. National Guard; and presidential responses to insurrection.

Electoral Count Act

In the lead up to Congress's certification of the Electoral College votes on January 6, 2021, Trump, Professor John Eastman, and other Trump allies [engaged](#) in a multifaceted effort to pressure Vice President Mike Pence to block the certification of the results. They [urged](#) the vice president—to whom the Constitution assigns a ministerial role in the vote certification—either to block certification unilaterally or to delay the proceedings by ten days, during which time states could submit alternate slates of electors that purportedly would clinch the election for Trump.

As Pence's counsel [Greg Jacob](#), lawyers in Trump's White House Counsel's Office, and former federal appeals court [Judge J. Michael Luttig](#) concluded, these proposals were unlawful. At a minimum, they violated several provisions of the Electoral Count Act of 1887 (ECA)—the statute governing the casting, counting, and certification of the Electoral College votes. But the proposals drew on outmoded language and ambiguities in the ECA about the extent of the vice president's role in the vote certification falsely to assert that he had the authority to influence the electoral outcome. These and other ambiguities in the law leave it open to further abuse by actors seeking to subvert the will of voters.

Reforming the ECA, as a bipartisan group of senators is [working to do](#), can help prevent that from happening in future elections. These reforms [could help](#):

- Clarify the extraordinary circumstances under which states may appoint electors after Election Day;
- Better ensure that state-level determinations of election results made in accordance with state law are respected by Congress;
- Clarify the limited role of the vice president (as president of the Senate) in the process of counting electoral votes;
- Raise the threshold for Members of Congress to object to another state's certified election results, and clarifying the narrow grounds upon which such objections may be raised or sustained; and
- Establish clear rules and processes for resolving disputes in Congress as to counting electoral votes.

D.C. National Guard Home Rule Act

On Jan. 6, 2021, as a violent mob assaulted the U.S. Capitol, D.C. Metropolitan Police officers rushed to reinforce an overwhelmed U.S. Capitol Police force. However, the D.C. mayor could not quickly call in the D.C. National Guard for further reinforcements, as similarly situated executives in U.S. states and territories could have done.

In every American state, as well as in Puerto Rico, Guam, and the U.S. Virgin Islands, National Guard forces are [subject](#) to local gubernatorial control unless the president calls them into federal service. In D.C., however, the National Guard is subject to permanent federal control. This outmoded requirement dates back to the early 19th century, when Congress provided for federal control of the D.C. militia because there was no local government in D.C.

On Jan. 6, the requirement that the D.C. mayor seek federal approval for deploying the D.C. Guard to the Capitol resulted in a delay of multiple hours. By the time the Guard finally [arrived](#), just after 5 p.m., both chambers of Congress had been secured; the immediate threat to lawmakers and law enforcement had passed.

The D.C. National Guard Home Rule Act [offers](#) a simple solution to this problem: it transfers control over the D.C. Guard to the D.C. mayor when the Guard is not engaged in federal service. This legislative fix would prevent a future catastrophic delay in deploying the Guard—and help keep Congress and our law enforcement officers safe. Note that the Capitol Police would still need to request support because National Guard units cannot enter federal property without permission, similar to what was required from the Metropolitan Police.

Insurrection Act

As Trump worked to overturn the 2020 presidential election, some allies [encouraged](#) him to deploy the U.S. military and domestic militias to help him cling to power. On Jan. 6 itself, armed members of the Oath Keepers [gathered](#) in Virginia, reportedly awaiting an order from Trump calling them into service and giving them the authority to fight to keep Trump president. Advocates of this strategy argued that the Insurrection Act—an 1807 statute giving the president broad discretion to put down rebellions—gave Trump the legal authority to take the proposed actions.

Fearing that a future president might invoke the act for those or [other anti-democratic purposes](#), members of the January 6th Select Committee [are weighing](#) whether to recommend reforms to the law. These could include limiting presidential discretion to deploy the U.S. military domestically, such as by requiring consultation with Congress prior to authorizing such action, clearer processes and standards for judicial review, updated limitations on the circumstances under which the military can be deployed against U.S. citizens, and more robust civil liberties protections

How to Stay Informed

By Jon Steinman, Ryan Goodman, William Ford and
Sang-Min Kim

Look for These Milestones

In public hearings and through litigation, the January 6th Select Committee has revealed important information about the events of January 6th and their causes. But it is important to remember that the Committee's investigation is not yet over. The Committee continues to seek and review documents and testimony. Its findings and recommendations will not be complete until it releases a report and holds a final series of hearings in the fall of 2022.

Civil litigation and state and federal criminal investigations and prosecutions also will shed further light on the events that occurred on and leading up to Jan. 6.

- Relevant civil cases include, but are not limited to:
 - Defamation lawsuits against Trump and his allies for lies related to the 2020 election, such as [*Weisenbach v. Project Veritas*](#); [*Freeman v. Gateway Pundit*](#); [*Freeman v. Giuliani*](#); [*US Dominion, Inc. v. Powell*](#); [*US Dominion, Inc. v. Giuliani*](#); [*US Dominion, Inc. v. My Pillow, Inc.*](#); [*US Dominion, Inc. v. Herring Networks, Inc.*](#); [*US Dominion, Inc. v. Byrne*](#); [*Smartmatic USA Corp. v. Herring Networks, Inc.*](#); [*Smartmatic USA Corp. v. Fox Corp.*](#); [*US Dominion, Inc. v. Fox News Network, LLC*](#); [*US Dominion, Inc. v. Newsmax Media, Inc.*](#); [*Smartmatic USA Corp. v. Newsmax Media, Inc.*](#); and [*Coomer v. Lindell*](#).
 - Lawsuits [seeking](#) to hold Trump civilly liable for the insurrection, such as [*Blassingame v. Trump*](#), [*Swalwell v. Trump*](#), and [*Thompson v. Trump*](#).
 - Lawsuits [filed](#) under Section 3 of the 14th Amendment seeking to disqualify from holding public office individuals who participated in the Capitol assault.
 - A recent lawsuit, [*Penebaker v. Hitt*](#), filed against fraudulent Wisconsin electors, who transmitted the false certification of their electoral votes for Trump and Pence to Congress.
- Relevant state and local cases include the Fulton County District Attorney's [continued criminal investigation](#) into whether the former president and his allies broke any Georgia laws in their campaign to overturn the 2020 presidential election results in Georgia. They also include the D.C. Attorney General's [federal lawsuit](#) against the Proud Boys, Oath Keepers, and several of their leaders and members for their role in the violence of Jan. 6.
- Relevant federal investigations and prosecutions include the [Justice Department's ongoing probes and cases](#) against individual Capitol rioters and those, like members of the Proud Boys and Oath Keepers, who allegedly engaged in seditious conspiracies. Relevant federal investigations and prosecutions also include the work of the Justice Department's Election Threats Task Force, which [investigates](#) and prosecutes threats to election officials.

The 2022 general election will provide further insight into the state of public belief in, or begrudging acceptance of the continued presence of, the lies that fueled Trump's effort to overturn the 2020 presidential election. The Washington Post and nonprofit States United Democracy Center [have documented](#) and [continue to track](#) the scores of candidates running for state and federal office who bought into Trump's false claims about the 2020 election or took steps to undermine or overturn the results of that election. The success or failure of those candidates will reveal much.

Additional Resources:

The following resources will help you stay informed on new developments in investigations and litigation concerning Jan. 6:

- Just Security (Media [Primer](#))
 - Jan. 6 [Clearinghouse](#).
 - Erik Dahl, [January 6 Intelligence and Warning Timeline](#) (June 7, 2022).
 - [Chart Tracking Trump's Knowledge and Intent in Efforts to Overturn the Election](#).
 - [The January 6th Hearings: A Criminal Evidence Tracker](#).
- Protect Democracy
 - [Authoritarian Playbook](#)

- Authoritarianism and the threat posed by antidemocratic politics look different than they did in previous decades. Protect Democracy's *The Authoritarian Playbook* draws on guidance from leading experts on democracy to help journalists discern, contextualize, and cover the tactics regularly used by would-be autocrats to amass and entrench power. As part of a framework to differentiate between politics-as-usual and something more dangerous to democracy, the *Playbook* outlines the seven fundamental tactics used by aspiring authoritarians, including:
 - Attempting to politicize independent institutions;
 - Spreading disinformation;
 - Aggrandizing executive power at the expense of checks and balances;
 - Quashing criticism and dissent;
 - Specifically targeting vulnerable or marginalized communities;
 - Working to corrupt elections; and
 - Stoking violence.
- Democracy Crisis in the Making [report](#)
 - Across the country, state legislators are proposing and passing bills that would increase the risk of election subversion by giving partisan state legislators greater control over elections and hamstringing experienced state and local election administrators who have traditionally run our elections. The report was produced by Protect Democracy, the States United Democracy Center, and Law Forward.
- Protecting Election Officials ([site](#))
 - Election officials across the country are under attack, with one-third [reporting](#) that they feel unsafe in their jobs and [huge numbers](#) resigning. Our democracy itself is at risk without these qualified election administrators — without them at the helm, it is uncertain whether our elections will be run efficiently, properly and safely. The Committee for Safe and Secure Elections helps bring together elections workers and law enforcement to ensure the safety and security of elections and those critical to administering them.
- Towards Non Recurrence [paper](#)
 - Countries emerging from periods of autocratic abuses of power, despite the diversity of their experiences, grapple with a common question: what measures can be taken to fortify against the specter of history repeating itself? In light of the scope and scale of transgressions perpetrated by Trump administration officials, the white paper introduces a framework for assessing and designing accountability efforts for Trump-era transgressions in service of democratic recovery and reform.
- ECA Reform [page](#)
 - The Electoral Count Act (ECA) governs the process of casting and counting Electoral College votes for president and vice president, setting the timeline for states to appoint presidential electors in November and for electors to cast their votes in December, and describes the process that Congress should follow when it counts the states' electoral votes in January. As the nation learned in January 2021, the statute is badly in need of an update. It includes antiquated and ambiguous language, and fails to offer clear guidance on key aspects of the process of counting electoral votes and resolving related disputes. Updating the ECA is something Congress can do on a bipartisan basis — with no advantage to either party so far in advance of 2024 — to help ensure that the will of the voters in each state is respected by Congress and to guard against crises during future presidential elections.
- Independent State Legislature Theory ([article](#))
 - The Supreme Court recently decided to hear *Moore v. Harper*, a case in which North Carolina state

legislators urge the court to adopt the “independent state legislature” theory. That theory asserts that the U.S. Constitution gives state legislatures alone, and not other state institutions or officials, the authority to regulate federal elections, and that they can do so without constraints from state constitutions. This dangerous theory has far-reaching implications for federal elections and is based on an erroneous reading of the Constitution, untethered to the document’s original public meaning. Analysis from Protect Democracy explains why the Court should reject the theory.

- Brennan Center for Justice
 - Domestic Deployment of the U.S. Military ([site](#))
 - The Posse Comitatus Act and Insurrection Act give presidents wide latitude to deploy the U.S. military domestically. Ambiguities in these laws and limited safeguards against their abuse leave them open to exploitation by government actors. The Brennan Center’s domestic deployment work sheds light on these issues through research. And together with Protect Democracy and a coalition of organizations, the Center is pursuing reforms to these important laws.
- Other sources of useful information
 - [Select Committee](#) to Investigate the January 6th Attack on the United States Capitol
 - Brookings’s [Strengthening Democracy Initiative](#)
 - Brookings scholars are undertaking work on voting rights, institutional reform, race relations, social media, tech policy, and systemic reform, offering research and public forums on threats to US democracy and ways to protect our political system.
 - Lawfare’s [January 6th Project](#)
 - The project compiles primary source documents related to Congress’s response to the attack, criminal prosecutions, and civil litigation, as well as the site’s legal and policy analysis of issues related to the attack and the events preceding it.
 - The [Capitol Breach Cases resources page](#) of the U.S. Attorney’s Office for the District of Columbia
 - American Oversight’s [January 6 resource page](#), including the results of public records requests and litigation.
 - The United States Senate Homeland Security and Government Affairs Committee report on the [security planning and response failures](#) around Jan. 6.
 - New America’s [January 6 Research Network](#)
 - The initiative supports research on the impact of America’s evolving far-right Internet ecosystem on political violence in the United States. The initiative was launched in the wake of the violent assault on the Capitol in Washington, DC on January 6, 2021 with the aim of generating data driven analysis on the driving factors behind election related violence during the 2020 presidential campaign.
 - The Chicago Project on Security and Threats [January 6 resource page](#)
 - The Atlantic Council’s [report on domestic extremism](#) in the wake of Jan. 6

**JUST SECURITY AND PROTECT DEMOCRACY CAN PROVIDE ADDITIONAL
EXPERTISE, INSIGHTS, RESOURCES AND DETAILED ANALYSIS.**

Contact Just Security at media@justsecurity.org

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