

# The January 6th Hearings: A Criminal Evidence Tracker

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An initial [introduction](#) to the Criminal Evidence Tracker is available at Just Security, as well as introductions to the [second](#), [third](#), [fourth](#), [fifth](#), [sixth](#), and [seventh](#) updates following those respective hearings.

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## Criminal Evidence Tracker 1: Whether Donald Trump Conspired to Defraud the United States

By Norman Eisen, Noah Bookbinder, Fred Wertheimer, Jason Powell and Debra Perlin

18 U.S. Code § 371 – Conspiracy to commit offense or to defraud the United States	
<i>It is a criminal offense “[i]f two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy.”</i>	
Elements of the Crime that Must be Proved	Facts and Evidence
<b>1. Two or more people entered into an agreement</b>	<u>Donald Trump and John Eastman</u> <ul style="list-style-type: none"><li>Attorney John Eastman <a href="#">communicated with Trump</a> by phone and email through his assistant or agent about a plan to overturn the election results memorialized in two memoranda (<a href="#">here</a> and <a href="#">here</a>). A <a href="#">court</a> recently found that “there was likely an agreement between President Trump and Dr. Eastman to enact a plan articulated” in the two memos.</li></ul> <u>Donald Trump and Jeffrey Clark</u> <ul style="list-style-type: none"><li>In December 2020, <a href="#">Trump and Clark met</a> in apparent <a href="#">violation of DOJ and White House policy</a> to discuss</li></ul>

allegations of election fraud and find ways to overturn the election results.

- Unlike the rest of DOJ's leadership, Clark was sympathetic to Trump's arguments, leading Trump to consider installing Clark as acting Attorney General - a plan Trump only abandoned in the face of [threats of massive DOJ and White House counsel resignations](#).

#### Donald Trump and Mark Meadows

- Meadows appears to have played a key role in orchestrating the agreements and advancing Trump's plans with both Clark and Eastman by (1) [introducing](#) Trump to Clark and repeatedly [emailing](#) DOJ leadership to investigate bogus fraud claims; (2) encouraging state legislators to embrace [Eastman's](#) alternate slate of electors strategy; and (3) [sending](#) Pence's staff a memo with a plan for Pence reject electoral votes from battleground states. The actions of all three men – Trump, Eastman, and Clark – appeared to work in concert with Meadows to help form the agreement.
- Meadows also [helped organize and participated in the January 2, 2021, phone call](#) where Trump demanded that Georgia Secretary of State Brad Raffensperger “find” enough votes to overturn the election.

#### New Evidence from Select Committee's Third June Hearing (June 16, 2022):

- Pence's Chief Counsel, Greg Jacob testified that, despite ending a January 4, 2021, Oval Office meeting between Trump, Pence, Eastman, and others with Eastman specifically not recommending that Pence simply reject electors, when Jacob met again with Eastman again the next day, Eastman began the meeting by explicitly requesting that Pence reject electors outright during the joint session of Congress. It appears that he changed his recommendation after reaching an agreement with Trump to pursue that course of action, given that Trump [tweeted](#) that same morning that Pence had the authority to do what Eastman requested saying, “The Vice President has the power to reject fraudulently chosen electors.”

#### New Evidence from Select Committee's Fourth June Hearing (June 21, 2022):

- The committee showed video evidence illustrating how Donald Trump, John Eastman, Rudy Giuliani, and Jenna Ellis and others acted in concert to deliver the same messages and make the same requests of different state legislators, in a coordinated effort to push them to appoint alternate electors that would vote for Trump despite the popular vote in those states going for Biden.
- Ronna McDaniel, chairwoman of the Republican National Committee (RNC), testified that Trump along with Eastman called her personally in successfully soliciting the RNC's aid in the fake-electors scheme.

**New Evidence from Select Committee’s Fifth June Hearing (June 23, 2022):**

- The committee provided evidence of direct links between Clark, Eastman, and Ken Klukowski, a lawyer who joined DOJ on December 15, 2020. According to Vice Chair Cheney, Klukowski worked under Clark, and they worked together to write the December 28, 2020 draft letter that Clark and Trump wanted DOJ to send to Georgia and other states. Klukowski also worked with Eastman. An email (dated Dec. 18, 2020) recommending that Eastman and Klukowski brief Pence “suggests that Mr. Klukowski was simultaneously working with Jeffrey Clark to draft the proposed letter to Georgia officials to overturn their certified election and working with Dr. Eastman to help pressure the vice president to overturn the election,” Vice Chair Cheney said. She further noted that the draft contained “text...similar to what we have seen from John Eastman and Rudy Giuliani, both of whom were coordinating with President Trump to overturn the 2020 election,” indicating agreement between those individuals as all were acting in concert.
- Trump, Clark, Meadows, and Rep. Scott Perry appeared to work in concert to place Clark in control of the Justice Department for the purpose of advancing their scheme to overturn the election. Rep. Perry advocated for Clark to take over DOJ, according to a videotaped statement by Meadows’ aide Cassidy Hutchinson. In text messages between Rep. Perry and Meadows, Meadows indicated that he understood why Rep. Perry wanted to move to elevate Clark and was working on it. Then-Acting Deputy Attorney General Richard Donoghue testified that Rep. Perry called him and advocated for Clark to work on election fraud, and told him explicitly during that call that “he was calling at the behest of the president.”

**New Evidence from Select Committee’s Sixth June Hearing (June 28, 2022):**

- Cassidy Hutchinson, a former aide to Chief of Staff Mark Meadows, testified that she overheard conversations between Meadows and Rep. Perry, and between Meadows and Giuliani, about what Trump would do at the Capitol if he personally went there on January 6.
- Hutchinson testified that Trump instructed Meadows to speak with Roger Stone and former National Security Advisor, Gen. Michael Flynn, on the evening of January 5, 2021 to discuss how Jan. 6 would play out, and that Meadows made those phone calls. That day and on January 6, Stone was photographed with members of the Oath Keepers, who were serving as Stone’s security detail.
- Hutchinson testified that she was aware that Giuliani, Eastman, and others had set up a war room at the Willard Hotel on the night of the January 5, 2021. Hutchinson said that Meadows asked her to work with Secret Service so that he could go there that evening, but eventually he said he would dial in instead.

**New Evidence from Select Committee’s Seventh Hearing (July 12, 2022):**

- **Trump associates Roger Stone and Michael Flynn worked closely with leaders of extremist groups in the lead-up to January 6th. Trump had pardoned both men on unrelated criminal matters between Election Day in 2020 and January 6, 2021.**

- **The Committee presented evidence that Trump met with Michael Flynn in the lead-up to the January 6th attack to discuss strategy for overturning the election.**
- **The Committee showed a video of Stone taking the fraternity oath required for an initiation into the Proud Boys group. The Committee found that “Stone communicated with the Proud Boys and Oath Keepers regularly.” The Committee “obtained encrypted content from a group chat...called ‘Friends of Stone,’ (FOS), which included Stone, Rhodes, Tarrío, and Ali Alexander.**
- **On December 11, 2020, alongside Stone and Proud Boys leader Enrique Tarrío, the co-host of Infowars announced “We will be back in January!”**
- **“Encrypted texts obtained by the Committee show that Kelly Meggs, the indicted leader of the Florida Oath Keepers, spoke directly with Roger Stone about security on January 5th and 6th.” The Committee further said that “on January 6, Stone was guarded by two Oath Keepers who have since been criminally indicted for seditious conspiracy.” In particular, one of them later “admitted that the Oath Keepers were prepared to use ‘lethal force’ if necessary against anyone who tried to remove President Trump from the White House.”**
- **Kellye SoRelle, the Oath Keepers General Counsel, testified in a deposition that Stone, Alex Jones, and Ali Alexander were the key actors in uniting various extremist groups across the internet.**
- **The morning after Trump met with Flynn and former Overstock.com CEO Patrick Byrne in the White House and hours after the former president called supporters to DC for a “wild” protest, Kelly Meggs, the head of the Florida Oath Keepers, messaged an associate on Facebook and declared he had formed “an alliance among the Oath Keepers, the Proud Boys, and the Florida Three Percenters.”**
- **The Committee presented photographic evidence of Flynn and Byrne outside the Capitol on December 12, 2020, with later-indicted member of the Oath Keepers, Roberto Minuta, as well as indicted Oath Keepers founder and leader Stuart Rhodes. The Committee presented video of Rhodes, also from December 12, 2020, in public remarks calling for Trump “to invoke martial law” and threatening a “bloody war.” The Committee showed a video of Alexander in a public speech on Jan. 5 saying. “I want them to know that 1776 is always an option;” followed by a video of Jones shouting in his public remarks, “It's 1776, 1776, 1776, 1776.”**
- **The Committee presented as evidence a text message and an unsent draft tweet indicating that the march to the Capitol was planned well in advance but not announced. A text message from Kyle Kremer, a “Stop the Steal” rally organizer, to 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. “On the morning of January 5th, Ali Alexander...sent a similar text to a conservative journalist. He said, ‘Trump is supposed to order us to the Capitol at the end of his speech.’”**
- **On December 21, 2020, Trump had a private meeting with Republican members of Congress to discuss January 6. Pence, Meadows, and Giuliani also attended. According to the White House Visitor log, the**

	<p>members attending included Representatives Brian Babin, Andy Biggs, Matt Gaetz, Louie Gohmert, Paul Gosar, Andy Harris, Jody Hice, Jim Jordan, Scott Perry, and then Rep-elect Marjorie Taylor Greene.</p> <ul style="list-style-type: none"> <li>• The Committee learned from the White House phone logs that Trump “spoke to Steve Bannon...at least twice on January 5.” After a first 11-minute call with Trump, Bannon said on his public podcast, “All hell is going to break loose tomorrow. It's all converging and now we're on, as they say, the point of attack, right, the point of attack tomorrow. I'll tell you this, it's not going to happen like you think it's going to happen, Ok? It's going to be quite extraordinarily different. And all I can say is strap in.”</li> </ul>
<p><b>2. Those people had specific intent to obstruct a lawful function of the government.</b></p>	<p><i>The electoral count is a core function entrusted by law to the federal government, and only capable of being lawfully fulfilled by the federal government.</i></p> <ul style="list-style-type: none"> <li>• Eastman’s memos were clearly intended to set out a plan to reject or delay the counting of electoral votes on January 6, 2021, and in public and in closed-door meetings, Trump <a href="#">backed</a> Eastman’s scheme.</li> <li>• Eastman and Trump repeatedly <a href="#">urged</a> Pence in private to adopt the memo’s legal reasoning and in public via social media pressured Pence to “<a href="#">come[] through for us</a>” so we can win the Presidency and “<a href="#">giv[e] States a chance to certify a corrected set of facts.</a>”</li> <li>• Trump and Clark appear to have specifically intended to interfere with the Justice Department’s election protection function by <a href="#">drafting a letter</a> containing unsupported claims that the Department had taken notice of election irregularities, and recommending that states call a special legislative session to determine who “won the most legal votes” and consider appointing new slates of Electors. This letter was drafted despite the DOJ legally having no role in determining who won an election.</li> <li>• Meadows appears to have specifically intended to confuse and interfere with the count of electoral votes through his <a href="#">support and advancement</a> of the scheme, outlined in Eastman’s memo, to send alternate slates of electors to Congress.</li> </ul> <p><u><a href="#">New Evidence from Select Committee’s First June Hearing (June 9, 2022):</a></u></p> <ul style="list-style-type: none"> <li>• Vice Chair Cheney said: “President Trump believed his supporters at the Capitol, and I quote, ‘were doing what they should be doing.’ This is what he told his staff as they pleaded with him to call off the mob, to instruct his supporters to leave.”</li> <li>• Vice Chair Cheney said based on the evidence: "President Trump gave no order to deploy the National Guard that day, and he made no effort to work with the Department of Justice to coordinate and deploy law enforcement assets.”</li> <li>• Chairman of the Joint Chiefs of Staff, Gen. Mark Milley said the Vice President issued orders to the military to secure the Capitol, and, in contrast, Meadows was focused on “politics” and the “narrative” of whether Trump appeared to be in charge, which Milley referred to as a “red flag.”</li> <li>• Numerous members of the January 6th mob confirmed that they came to D.C. because “Trump asked us to come”</li> </ul>

to stop the election from being stolen. In the [words of one Trump supporter](#), “He asked me for my vote and he asked me to come on Jan. 6th.”

[New Evidence from Select Committee’s Second June Hearing \(June 13, 2022\):](#)

- On election night, Trump was told by multiple people including Campaign Manager Bill Stepien and Trump campaign advisor Jason Miller that it was too early to declare victory because votes were still being counted. Nonetheless, Trump decided to reject their counsel and instead, according to Miller, followed the advice of an intoxicated Rudy Giuliani to “go and declare victory and say that we’d won it outright” on election night. Note: Trump had [reportedly](#) planned well in advance of election night to declare victory even if he lost.
- Stepien told the Committee that he had warned Trump about early voting and a potential “red mirage” in 2016 and in 2020 and said that by November 7, 2020, the chances of him winning the presidential election were “very, very, very bleak.”
- On multiple occasions, then-Acting Attorney General Jeffrey Rosen, and then-Acting Deputy Attorney General Richard Donoghue told Trump that his various claims of election fraud were incorrect or had already been debunked by the Department of Justice.

[New Evidence from Select Committee’s Third June Hearing \(June 16, 2022\):](#)

- Eastman and Trump pursued a joint plan to have Pence either reject certain electoral votes cast for Biden and then declare Trump the winner of the 2020 election, or suspend the counting of electoral votes for 10 days and return the electoral votes from certain states back for the state legislatures to reconsider the votes. Eastman admitted to Jacob that this plan violated several provisions of the Electoral Count Act and that if it came before the Supreme Court, it would lose unanimously.
- One member of the January 6 mob seemed to understand Trump’s likely intent, stating during the attack, “[t]he hope is that there is such a show of force here that Pence would decide to do the right thing,” referring to Trump’s public calls for Pence to reject the electors from battleground states.
- In addition to the information presented in an earlier hearing about Trump’s failure to take action to stop the riot, White House Deputy Press Secretary Sarah Matthews said, “When that tweet — the Mike Pence tweet was sent out 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 by tweeting that.”

[New Evidence from Select Committee’s Fourth June Hearing \(June 21, 2022\):](#)

- Trump campaign lawyer Cleta Mitchell [told](#) the committee that Trump’s strategy to overturn the election started “right after the election — it might have been before the election” indicating that the Trump team expected to lose but nevertheless intended to find a way to obstruct the ultimate certification of the result. Mitchell wrote an email

to Eastman just two days after the election asking him to write a memo to justify the strategy. This appears to be the genesis of the two now-public Eastman memos articulating the Trump team's scheme.

- Bowers testified that Eastman asked him to decertify Biden electors. When Bowers said this would be contrary to his "oath" of office, Eastman told him he should "just do it and let the courts sort it out" indicating his intent was simply to obstruct the count of electors.
- On November 18, 2020, Trump campaign lawyer Kenneth Chesebro wrote a memo explaining that the Trump campaign should organize its own electors in the swing states that Trump had lost.
- Republican National Committee (RNC) Chair, Ronna Romney McDaniel told the committee that Trump personally, along with Eastman, called her and asked for the RNC's help in organizing alternate electors.

[New Evidence from Select Committee's Fifth June Hearing \(June 23, 2022\):](#)

- Barr told the committee he was "not sure we would've had a transition at all" if DOJ had not been in a position to say it had looked into and debunked the allegations of fraud.
- The committee presented evidence suggesting that Klukowski was simultaneously working with Clark to draft letters to state legislatures encouraging them to consider alternate slates of electors and with Eastman in his efforts to pressure Pence to overturn the election. This shows that the efforts to get DOJ to act were not, in fact, aimed at fraud, but intended to obstruct the counting of electoral votes as cast.
- A text message exchange between Rep. Perry and Meadows suggests that the effort to elevate Clark within DOJ was specifically intended to advance a plan to obstruct the count of electoral votes on January 6, 2021. In a text to Meadows, Rep. Perry said, "checking in as time continues to count down. 11 days to January 6th and 25 days to inauguration... you should call Jeff." The full message exchange makes clear that the conversation is about placing Clark in a position "having the authority" with the FBI "to enforce what needs to be done," according to Rep. Perry's text. The next day, Rep. Perry called Donoghue "at the behest of the President" and advocated for Clark to work on election fraud.
- Rosen and Donoghue both testified that they had multiple conversations with Pence on January 6, 2021 regarding efforts to secure the Capitol and ensure that the joint session of Congress could resume. They also spoke to other senior officials. Neither spoke to Trump that day, according to their testimony, in stark contrast to Trump's prior, near daily, outreach to them pressuring them to lend support to his meritless claims of election irregularities. Shown in this context, Trump's lack of outreach to senior DOJ officials to marshal federal law enforcement resources to respond to the attack on the Capitol is further evidence that the obstruction of the counting of electoral votes at the joint session of Congress was a result he intended to achieve.

[New Evidence from Select Committee's Sixth June Hearing \(June 28, 2022\):](#)

- Meadows' aide, Cassidy Hutchinson, testified that, on January 2, 2021, Giuliani asked her if she was excited for January 6, and told her "something to the effect of 'we're going to the Capitol.... It's going to be great. The

president's going to be there. He's going to look powerful. He's going to be with the members. He's going to be with the Senators.'" Hutchinson testified that she asked Meadows about what Giuliani told her, and Meadows responded "there's a lot going on... but ... things might get real, real bad on January 6th." This seems to indicate that Trump, Meadows, and Giuliani knew of the dangers on January 6 and intentionally moved forward anyway with the plan to disrupt the congressional proceedings.

- Hutchinson testified that Deputy Chief of Staff Tony Ornato talked to Meadows about intelligence reports saying that there could be violence on January 6, and also testified that the Secret Service continued receiving reports of violence and weapons the night of January 5 and throughout the day on January 6.
- Vice Chair Cheney explained that Secret Service used magnetometers (mags) to screen people who willingly entered the Ellipse during the January 6 rally and confiscated weapons and other items including pepper spray, knives, brass knuckles, tasers, body armor, gas masks, batons, and blunt weapons, but several thousand refused to go through mags and watched from the lawn instead. The committee played audio reports from law enforcement identifying individuals with firearms, including AR-15s and Glock-style handguns in the crowd, as well as individuals with ballistics and body armor. Hutchinson testified that Meadows was briefed by Deputy Chief of Staff Ornato the morning of January 6 that individuals in the crowd had "knives, guns in the form of pistols and rifles, bear spray, body armor, spears and flag poles" and she also testified that Ornato said he had also informed Trump. Hutchinson said Meadows did not even look up from his phone when he was briefed, and generally in the lead up to January 6, Meadows "did not act on...concerns" of potential violence.
- Hutchinson testified that Trump was furious about the size of the crowd on the Ellipse and that people with weapons were not being let in. Hutchinson also testified that she "overheard the president, say something to the effect of,... 'I don't effing care that they have weapons. They're not here to hurt me, take the effing mags away, let my people in. They can March to the Capitol from here, let the people in, take the effing mags away.'"
- Hutchinson testified that the White House was aware that Capitol Police security was short of people to defend the building against rioters and being overrun. However, when she informed Meadows of this, he had "a lack of reaction."
- Hutchinson testified that Pat Cipollone and Eric Herschmann had concerns about the language Trump proposed to use in his January 6 speech, and Herschmann relayed that they "would be foolish to include language that had been included at the president's request, which had lines...to the effect of fight for Trump, we're gonna march to the Capitol. I'll be there with you. Fight for me. Fight for what we're doing. Fight for the movement...[and] things about vice president at the time too."
- Hutchinson testified that "both Mr. Herschman and the White House Counsel's office were urging the speech writers to not include that language for legal concerns. And also for the optics of what it could portray the president wanting to do that day."
- Hutchinson testified that Cipollone approached her on January 3 and told her that they needed to make sure that Trump did not go to the Capitol on January 6, and that Cipollone told her it "would be legally, a terrible idea" and urged her to continue relaying that to Meadows. Hutchinson testified that Cipollone told her, if Trump went to the

Capitol with the crowd as he wanted to, they were “going to get charged with every crime imaginable.” When the committee asked what crimes Cipollone was concerned with, Hutchinson testified “[i]n the days leading up to the sixth, [people inside the White House] had conversations about potentially obstructing justice or defrauding the electoral count.” She said Cipollone “was also worried that it would look like we were inciting a riot or encouraging a riot to erupt at the Capitol,” indicating that Trump and his team were aware of the consequences of their actions and crimes they were committing, yet still intentionally moved forward.

- In recorded interviews, former White House staffers Nick Luna and Max Miller, and former White House press secretary Kayleigh McEnany corroborated Hutchinson’s testimony that Trump wanted to go to the Capitol along with the crowd, including after the riot had begun. It was also corroborated by a National Security Council (NSC) Chat Log from January 6.
- Hutchinson testified she observed Cipollone telling Meadows that rioters had reached the Capitol building and tried to convince Meadows to talk to Trump. Hutchinson testified that Meadows told Cipollone that Trump “doesn’t wanna do anything” about it. It wasn’t until Cipollone insisted on going to the Trump himself, and “said something to the effect of ... something needs to be done, or people are going to die and the blood’s gonna be on your effing hands” that Meadows responded.
- Hutchinson testified that she overheard a conversation between Trump, Cipollone, and Meadows discussing the fact that the rioters were chanting “Hang Mike Pence.” Hutchinson also overheard an immediate follow-up to that conversation between Cipollone and Meadows during which Cippolone said: “They’re literally calling for the vice president to be effing hung.” Meadows “responded something to the effect of ‘you heard him... [Trump] thinks Mike deserves it. He doesn’t think they’re doing anything wrong,’” according to Hutchinson’s testimony.
- Hutchinson testified that she wrote a handwritten draft statement, dictated by Meadows and with Herschmann’s assistance, that anyone who entered the Capitol illegally or without proper authority should leave now, but Meadows later returned the card and said that they did not need to take further action on that statement. (Note: Eric Herschmann has publicly [said](#) he penned the hand-written note.) Hutchinson also said Ivanka Trump wanted her father to tell the rioters to go home peacefully but the president was not on board with her language.
- Hutchinson testified that, on January 7, 2021, Trump and Meadows wanted to potentially pardon the rioters because Trump didn’t believe they had done anything wrong. Hutchinson testified that the White House Counsel’s office objected to including language regarding a pardon for the rioters in a speech on January 7.

**New Evidence from Select Committee’s Seventh Hearing (July 12, 2022):**

- **At 1:42AM December 19, 2020, shortly following a meeting -- which rebuffed plans proposed by Flynn, outside attorney Sidney Powell, and Overstock.com CEO Patrick Byrne to have the military seize voting machines -- Trump sent out a Tweet repeating the Big Lie and urging a large crowd to show up, on the date that the joint session of Congress would count the electoral votes, for a “Big protest in D.C. on January 6th.” He said: “Be there, will be wild!”**

	<ul style="list-style-type: none"> <li>● In a January 2 email to fellow rally organizers, Katrina Pierson stated, “POTUS expectations are ...to call on everyone to march to the Capitol.” This shows that the march to the Capitol was not spontaneous, but planned well in advance and kept close hold possibly to maximize the disruptive effect it would have on the count of electoral votes at the joint session of Congress.</li> <li>● Former White House Deputy Press Secretary Judd Deere testified that Trump asked him on January 5 “if members of Congress would be with him tomorrow [January 6]. ...I took that to mean not voting to certify the election.”</li> <li>● Former White House Deputy Press Secretary Sarah Matthews told the Committee that, in an Oval Office meeting on January 5, Trump “did look to the staff and ask for ideas of how...we could make the RINOs [Republicans in name only] do the right thing.” Matthews said: “everyone was trying to process what that — he meant by that.”</li> <li>● The Committee presented text messages in which a key rally organizer, Kylie Kremer, texted with Pierson another organizer and former Trump campaign spokesperson, questioning why speakers like Alex Jones and Ali Alexander were being suggested as speakers on January 6, and Pierson responded “POTUS” and said Trump “likes the crazies.” In an interview with the Committee Pierson explained that Trump “loved people who viciously defended him in public,” and “these are people that would be very, very vicious in publicly defending him.” Jones and Alexander entered the Georgia State Capitol in November 2020 to protest the election.</li> </ul>
<p><b>3. The individuals used deceitful or dishonest means.</b></p>	<p><i>Trump and his allies knew, or should have known, that he lost a free and fair election. Trump was told so by <a href="#">Attorney General William Barr</a>, <a href="#">Acting AG Jeffrey Rosen</a>, a <a href="#">campaign data expert</a>, and Georgia Secretary of State <a href="#">Brad Raffensperger</a> among others.</i></p> <ul style="list-style-type: none"> <li>● Eastman <a href="#">admitted</a> that the scheme violated the Electoral Count Act (ECA) on four separate grounds, <a href="#">acknowledged</a> that he was asking Pence to commit a “relatively minor” violation of the ECA, and <a href="#">admitted</a> that the Supreme Court would unanimously reject this plan.</li> <li>● Jeffrey Clark <a href="#">knew</a> that his direct unauthorized communications with Trump violated DOJ policies.</li> <li>● The letter that Clark, and apparently Trump, wanted the DOJ to send to battleground states <a href="#">contained dishonest, deceptive and unsupported claims</a> that the Department had taken notice of election irregularities. The letter recommended that states adopt alternative slates of electors, which could be accepted at the Joint Session of Congress on January 6th, consistent with Eastman's knowingly illegal plan. White House counsel told Trump and Clark the letter was “a <a href="#">murder-suicide pact</a>. And it will damage anyone and anything that it touches.”</li> <li>● <a href="#">Despite being told by White House counsel</a> that the plan was not legally sound, Meadows moved forward, presumably at Trump’s direction, to have 7 states send dishonest and deceptive certificates declaring that Trump, instead of Biden, had been victorious in those states.</li> </ul>

[New Evidence from Select Committee’s First June Hearing \(June 9, 2022\):](#)

- Then-acting Deputy Attorney General Richard Donoghue [told Clark](#), “What you’re proposing is nothing less than the United States Justice Department meddling in the outcome of a presidential election.”
- President Trump’s campaign lawyer tasked with assessing allegations of election fraud reported to Meadows in “mid to late” November 2020 he wasn’t “finding anything that would be sufficient to, um, change the results in any of the key states,” and Meadows appeared to accept his conclusion stating: “so there's no, there, there.”
- The hearing contained other new evidence that Trump was aware that he did not win the election, such as Bill Barr’s statements that he “did not agree with the idea of saying the election was stolen and putting out this stuff, which [he] told the president was bullshit,” and Trump campaign senior aide Jason Miller’s statement that, in the days after the 2020 election, “the lead data person [of the Trump campaign] ... delivered to the president [in] pretty blunt terms that he [Trump] was going to lose.”

[New Evidence from Select Committee’s Second June Hearing \(June 13, 2022\):](#)

- In describing Trump’s claims of fraud and attempts to overturn the election, Stepien said “I didn’t think what was happening was honest or professional.”
- According to Trump Campaign General Counsel, Matt Morgan, law firms would not represent Trump in his election challenges because they were not comfortable making the arguments that Giuliani was making publicly.
- On December 1, 2020, after Barr told a reporter that there was no evidence of election fraud, Barr was called to a meeting with Trump, who was “as mad as [Barr had] ever seen him.” In response to Barr questioning former White House Chief of Staff Mark Meadows and Jared Kushner about how far Trump would take his fraud claims, that Barr had informed Trump were “not meritorious,” Meadows seemed to acknowledge the election claims were not meritorious, stating, “I think he [Trump] is becoming more realistic,” according to Barr. And, according to Barr, Kushner said “yeah, we’re working on this.”
- When on election night Trump said he wanted all vote counting to stop, and he didn’t want “them to find” more ballots at 4 AM, he had already been briefed by Stepien that it would take a long time to count all of the votes because mail-in ballots were counted at different times than in-person ballots.
- Then-Acting Deputy Attorney General Richard Donoghue said Trump refused to accept proof that he lost the election. According to Donoghue: “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’d move to another allegation.” He said about Trump’s claims of fraud in counting the ballots in Fulton County, Georgia, “I told the president myself that several times, in several conversations, that these allegations about ballots being smuggled in a suitcase and run through the machines several times, it was not true.”
- Alex Cannon, former Trump campaign lawyer, said he told Trump directly there was no evidence of election fraud.

- On December 14, 2020, Trump gave Barr an “amateurish” report about Dominion voting machine irregularities and asserted that it meant Trump was going to have a second term.
- Trump repeated allegations of election fraud that were clearly and irrefutably false, and he was apparently told that by his attorney general. Barr testified: “The president has repeatedly suggested that there was some kind of outpouring of unexpected votes in inner city areas like Philadelphia;” “what [Mastriano] did was he mixed apples and oranges. He took the number of applications for the Republican primary and he compared it to the number of absentee votes cast in the general election. But once you actually go and look and compare apples to apples, there's no discrepancy at all. And, you know, that's one of the — I — I think at some point I covered that with the president.”

New Evidence from Select Committee’s Third June Hearing (June 16, 2022):

- Jacob said Eastman admitted in front of Trump that his plan to overturn the election violated several provisions of the Electoral Count Act.
- Jacob confirmed the context of a Jan. 6 email exchange with Eastman in which Eastman said that he advised Trump in his professional judgment the Vice President does not have the power to decide things unilaterally but that “once [President Trump] gets something in his head, it’s hard to get him to change course.”
- Pence’s Chief of Staff, Marc Short, said Meadows told him multiple times that he agreed that the Vice President did not have authority to do what Trump and Eastman were suggesting.
- Trump campaign advisor Jason Miller said that then-White House Counsel Pat Cipollone thought the idea that Pence could overturn the election “was nutty” and said Cipollone told Miller that he confronted Eastman with the same sentiment.
- Miller said Clark and Trump’s campaign General Counsel, Matt Morgan, thought the Eastman theory was crazy and had no validity to it, and that they expressed that to everyone who would listen before January 6, 2021.
- White House lawyer Eric Herschmann said Giuliani called him on the morning of January 6, 2021, about the Eastman plan, and admitted that Herschmann was “probably right” and the Trump team “couldn't sustain the argument, long-term,” that Pence could unilaterally overturn the election or reject electors. Nevertheless, later that same day Giuliani declared in his speech at the rally at the ellipse “every single thing that has been outlined as the plan for today ...is perfectly legal.”
- Short said that Pence told Trump directly and consistently many times that he didn’t have the authority to reject electors or send the decision back to state legislatures. Jacob said Pence “never budged” from that position. Nevertheless, according to Miller, Trump personally dictated most of a January 5, 2021 statement claiming that Trump and Pence were in “total agreement” that Pence had the authority to overturn the election. That was “false,” Short said. Short testified that he called Miller to complain about the statement.
- Despite Eastman publicly suggesting at the January 6, 2021, rally at the Ellipse that Thomas Jefferson had done the same thing Trump and Eastman were pressing Pence to do, Jacob said that Eastman had previously admitted, on

January 5, 2021, that Jefferson did not at all support his position and did not assert authority to reject electors. Eastman acknowledged there was actually “no historical practice whatsoever that supported his position.”

[New Evidence from Select Committee’s Fourth June Hearing \(June 21, 2022\):](#)

- Despite Trump, Giuliani, and Ellis telling Bowers on multiple occasions that they had names and evidence to back up their claims of voter fraud, Bowers testified Giuliani admitted to him and others: “We’ve got lots of theories. We just don’t have the evidence.” They never produced any evidence despite being asked to do so several times by Bowers and others, and promising that they would .Nevertheless, they still pushed Bowers to call the Arizona legislature into special session, and wrongly suggested that the legislature could dismiss Biden electors and replace them with Trump electors. Bowers rejected their efforts saying he refused to violate his oath of office.
- White House counsel told Meadows, Giuliani, and a few of Giuliani’s associates that the scheme to organize alternate electors was “not legally sound,” according to testimony by Meadows’ aide Cassidy Hutchinson.
- Trump campaign lawyer Justin Clark told the committee that he argued with another Trump lawyer, Kenneth Chesebro, that it was not appropriate to organize alternate electors if there was not litigation pending in the state. Clark said “I’m out,” refusing to participate in the alternate slate of electors scheme. Trump campaign lawyer Matt Morgan also explained that he took action to ensure he had “zero” responsibility for this effort. Trump campaign staffer Robert Sinners said that he felt like he and his colleagues were “useful idiots” and said that he “absolutely would not have” participated in the effort to organize alternate electors had he been aware that the Trump team’s “three main lawyers” were not in favor of that plan.
- Former Wisconsin Republican Party chair Andrew Hitt told the committee 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.” Nevertheless, fake elector certificates were submitted to the National Archives, and an attempt was made to submit them to Pence as President of the Senate.
- Email instructions given to the alternate Trump electors in several states instructed them to cast their ballot in “complete secrecy.”
- In one state false electors asked for a promise that the Trump campaign would pay their legal fees if they got sued or charged with a crime.
- Eastman said in an email obtained by the committee: “The fact that we have multiple slate[s] of electors demonstrates the uncertainty of either. That should be enough.” This email seems to show that the Trump team deceptively manufactured the very uncertainty it needed to obstruct the counting of certified electoral votes for Biden.

[New Evidence from Select Committee’s Fifth June Hearing \(June 23, 2022\):](#)

- White House lawyer, Eric Herschmann testified that he told Clark that sending the letter “would be committing a felony and violating Rule 6E.”

- Donoghue testified that he told Clark, “What you are doing is nothing less than the United States Justice Department meddling in the outcome of a presidential election.”
- Donoghue testified that he was blunt with Trump and explained “piece by piece... in a serial fashion” why each theory of fraud Trump suggested was “not true.” For example, Donoghue testified that he explained that the Allied Security Operations Group’s report on Antrim County, Michigan was false and that a hand recount had confirmed there was actually only a .0063% error rate – “one error, one ballot.” Donoghue also testified that he explained the FBI had investigated and found untrue a truck driver’s allegations of ballots being sent from New York to Pennsylvania. Nevertheless, Trump continued publicly alleging fraud.
- According to Rep. Kinzinger, Cipollone and Deputy White House Counsel Pat Philbin told the committee in an unrecorded interview that they told Clark to stand down when they learned that he had met with Trump in violation of longstanding White House and DOJ policies, yet Clark and Trump continued to meet.
- White House officials testified that several members of Congress sought preemptive pardons for themselves and others. Meadows aide, Cassidy Hutchinson, told the committee that Rep. Matt Gaetz and Rep. Mo Brooks requested blanket pardons for members of Congress involved in a December 21, 2020 meeting. The committee showed, and Brooks later released, a January 11, 2021 email to Trump’s assistant in which Brooks, writing for himself and Gaetz, recommended Trump pardon all House members and Senators who voted to reject Pennsylvania and Arizona electors. Hutchinson also told the committee that Reps. Perry, Andy Biggs, and Louie Gohmert asked for pardons, that Rep. Jim Jordan “talked about” the status of congressional pardons but didn’t ask her for one, and that she heard Rep. Marjorie Taylor Greene asked the White House Counsel for one. White House lawyer Eric Herschmann told the committee that Gaetz sought an extremely broad pardon, and Hutchinson said that Gaetz personally started pushing for a pardon in early December 2020. John McEntee, the former Director of the Presidential Personnel Office under Trump, testified in a recorded deposition that Trump had hinted at a blanket pardon for all the staff.

**New Evidence from Select Committee’s Sixth June Hearing (June 28, 2022):**

- See above revelations for Sixth hearing in element 2 and Trump's knowledge and support of the violence.
- Hutchinson testified that Giuliani and Meadows each indicated they were interested in receiving a presidential pardon related to January 6th.

**New Evidence from Select Committee’s Seventh Hearing (July 12, 2022):**

- **Trump’s former Secretary of Labor Gene Scalia told Trump in mid-December that, when the electors had voted, the legal processes were exhausted and it was time to “concede the outcome.”**
- **Cipollone told the Committee he agreed with, and supported, DOJ officials’ and specifically Barr’s conclusion on December 1, 2020, that there was no evidence of fraud that would have affected the outcome of the election, and should have conceded the election by the point when Sen. Mitch McConnell confirmed the election was over on December 15, 2022.**

- Barr told the Committee that “December 14 was the day that the states certified their votes and sent them to Congress” and because of that, “in my view it was the end of the matter.”
- Consistent with her colleagues, former White House Press Secretary Kayleigh McEnany told the Committee that when the states had certified the votes and the litigation was over, she “began to plan for life after the administration,” and Deputy Press Secretary Judd Deere testified that he told Trump directly that because the Electoral College had met, he “believed at that point that the means for him to pursue litigation” had come to a close, but Trump disagreed.
- After the Electoral College had met and certified the votes, and legal options to overturn the election had been exhausted, Trump and others focused on alternative strategies to contest the election. On December 18, 2020, Trump met privately with Flynn, Giuliani, outside attorney Sidney Powell and former Overstock.com CEO Patrick Byrne, to discuss issuing a draft executive order directing the Secretary of Defense to use the military to seize voting machines, “effective immediately” – an action Cipollone said was illegal and unconstitutional. The outside group proposed Trump provide Sidney Powell a vague special counsel appointment to oversee the seizures and pursue criminal charges “with all resources necessary,” an appointment that Powell saw as having been provided to her by Trump in the meeting, but one that some advisors, like Cipollone, didn’t recognize. “In my view, she hadn’t been appointed to anything, and ultimately wasn’t appointed to anything, because there had to be other steps taken,” Cipollone testified. In that meeting, which became very heated, according to Cipollone, White House Staffer Derek Lyons and Eric Herschmann, Cipollone asked for evidence to support the fraud claims and proposed actions citing the need to “put up or shut up” but was given no evidence. He told the Committee his requests for evidence were met with “a variety of the responses ... 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.” Trump brought some of the participants to his residence to continue the meeting, which lasted after midnight into the early morning of December 19, 2020.
- Bernie Kerik (a member of Rudy Giuliani’s legal team) all but admitted in an email to Mark Meadows that they did not have evidence of the fraud Trump and his team were alleging. He said in the email: “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.” Kerik’s lawyer later admitted in a letter to the Committee that “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.”
- Trump campaign adviser Jason Miller testified that “to say that [the legal challenges the Trump campaign posed regarding election fraud] was thin is probably an understatement,” and former Trump deputy campaign manager Justin Clark confirms that it was “fair” to say Giuliani never “produced evidence of election fraud.”

	<ul style="list-style-type: none"> <li>● Cassidy Hutchinson told the Committee that she “perceived Meadows’ goal” was “to keep Trump in office,” and that “when he began acknowledging that there wasn’t enough voter fraud to overturn the election,” she “witnessed him start to explore potential constitutional loopholes more extensively, which [she] then connected with John Eastman’s theories.”</li> <li>● Cipollone told the Committee Pence “didn’t have the legal authority to do anything except what he did,” and said that he would not refute earlier testimony by Jason Miller stating that Cipollone thought Eastman’s plan “was nutty.” He confirmed that he did not think the Vice President has the legal authority to do what Eastman suggested, and Cipollone also confirmed that he conveyed that as his legal opinion and offered for the Vice President to just blame him when telling Trump or others why it couldn’t be done.</li> </ul>
<p><b>4. One of the conspirators must have committed at least one overt act in furtherance of the conspiracy.</b></p>	<ul style="list-style-type: none"> <li>● Trump and Eastman pressured Pence to execute their plan, as evidenced by: (1) both men <a href="#">meeting together with Pence</a> in the Oval Office on January 4 and again on January 5, 2021; (2) Trump <a href="#">calling Pence twice</a> on January 6 and mocking Pence for “not [being] tough enough” to reject votes or delay the count; and (3) Trump sending multiple public <a href="#">tweets</a> on January 6, stating in one: “All Mike Pence has to do is send them back to the States, AND WE WIN....”</li> <li>● In Georgia, Trump (1) <a href="#">called</a> Governor Brian Kemp to urge him to call a special legislative session to appoint alternative electors; (2) <a href="#">called</a> Georgia’s chief elections investigator to urge her to find voter fraud, and (3) <a href="#">called</a> Secretary of State Raffensperger demanding he “find” enough votes to overturn Biden’s victory.</li> <li>● Trump and Eastman <a href="#">called</a> state legislators to try to convince them to overturn the election, and <a href="#">Trump’s team</a>, including Chief of Staff <a href="#">Mark Meadows</a>, <a href="#">acting at Trump’s behest</a>, moved forward with a plan to send alternate slates of electors to Congress and have would-be false electors in battleground states <a href="#">sign and submit</a> phony electoral certificates showing that Trump, rather than Biden, had won.</li> <li>● Clark drafted a “proof of concept” letter <a href="#">containing unsupported claims</a> of election irregularities, and requested permission from Justice Department leadership to send it to Georgia. Clark <a href="#">tells</a> Rosen he will decline Trump’s offer to him of Rosen’s job as acting attorney general if Rosen signs and sends the proof of concept letter.</li> <li>● Meadows <a href="#">moved forward a plan</a>, presumably at Trump’s direction, to have battleground states adopt alternative slates of electors.</li> </ul> <p><a href="#">New Evidence from Select Committee’s Third June Hearing (June 16, 2022):</a></p> <ul style="list-style-type: none"> <li>● Ivanka Trump, then-White House lawyer, Eric Herschmann, and others described the January 6, 2021 “heated” call during which Trump pressured Pence to reject electors or delay the count. White House staffer Nicholas Luna said Trump called Pence a wimp, and Julia Radford, former Chief of Staff to Ivanka Trump, said that Ivanka told her 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.”</li> </ul>

[New Evidence from Select Committee's Fourth June Hearing \(June 21, 2022\):](#)

- The committee demonstrated how Trump's November 25, 2020, call into a Pennsylvania Senate hearing during which he stated that the "election has to be turned around" was part of a coordinated strategy to overturn the results. Similarly, the committee showed videos in which Giuliani and Eastman made similar appeals to Georgia officials on December 3, 2020, with Eastman asking them explicitly to adopt another slate of electors. In one of the videos presented by the committee, Giuliani references similar conversations he had already had with other legislators.
- The committee demonstrated how Trump's statement at a December 5, 2020, rally that he had "become friendly with legislators that I didn't know, four weeks ago" seems to reference conversations he had during a coordinated pressure campaign to get states to put forth new slates of electors. That pressure campaign included inviting legislative delegations from Michigan and Pennsylvania to the White House, publicly pressing legislators including by tweeting, "hopefully legislatures will have the courage to do what has to be done," by posting multiple messages on Facebook listing the contact information for state officials and urging his supporters to contact them demand a vote on de-certification, and by tweeting out Michigan Senate Majority Leader Mike Shirkey's personal cell phone number and telling supporters to call and text him. Trump made at least two calls to Arizona House Speaker Rusty Bowers, including a call asking to enact a plan to substitute Biden electors with Trump electors.
- Trump lawyers, Giuliani and Jenna Ellis, made daily phone calls to Pennsylvania House Speaker Brian Cutler in the last week of November asking to discuss the election results, despite Cutler communicating through his lawyers that he felt the calls were inappropriate.
- Trump's team engaged staff to make a series of scripted and targeted calls to state legislators suggesting that they had "the authority to send a slate of electors that will support President Trump."
- The committee showed that the Trump campaign spent millions of dollars running online and television ads asking people to call their legislators thus putting additional pressure on state officials, and the committee showed how that appears consistent with other components of an overarching strategy to overturn the election.
- On January 4, 2021, the Trump campaign asked for the fake electors' documents to be flown to Washington.

[New Evidence from Select Committee's Fifth June Hearing \(June 23, 2022\):](#)

- Rosen testified that between December 23 and January 3, Trump "either called me or met with me virtually every day" to pressure him and DOJ to pursue allegations of fraud in an apparent effort to get DOJ to lend support for Trump's efforts to overturn the election. Rosen testified that Trump expressed dissatisfaction with what DOJ had done and pushed actions that Rosen and others didn't think were appropriate. Rosen further testified that Trump pushed for DOJ to send letters to state legislatures, appoint a special counsel for election fraud, file a DOJ lawsuit in the Supreme Court, and make public statements or hold a press conference regarding claims of election fraud. Rosen also said Trump asked him to meet with Giuliani on these matters.

- According to Donoghue’s contemporaneous handwritten notes and testimony, Trump asked him directly for DOJ to “just say that the election was corrupt and leave the rest to [Trump] and the Republican congressmen.” Trump was asking for Donoghue to lie publicly, because Donoghue had told Trump that the theories of fraud were not true.
- Former Assistant Attorney General for the Office of Legal Counsel Steven Engel testified that, in late December, Trump sent DOJ a draft “meritless” lawsuit, prepared by outside lawyers, that Trump wanted filed in the Supreme Court. Engel testified that there was no legal basis to bring the lawsuit, and that no states were in a position to “change votes” as the lawsuit sought because the election had already happened. All that was left to do at that point was for the electoral votes to be formally counted. Engel also testified that it was an unusual request for the DOJ to file a lawsuit drafted by outside lawyers.
- Sidney Powell told the committee that Trump asked her to be “a special counsel to address the election issues” as Trump publicly and privately pushed DOJ to appoint a special counsel in an apparent attempt to lend legitimacy to the unfounded theories of election fraud. As Rep. Kinzinger noted, with just days to go before the election certification, the purpose of appointing a special counsel wasn’t to investigate anything. It “would just create an illusion of legitimacy and provide fake cover for those who would want to object, including those who stormed the Capitol on January 6.”
- Rosen testified that on December 31, 2020, Trump asked DOJ to seize voting machines from states. According to Donoghue when Rosen refused, Trump then asked the Deputy Secretary of the Department of Homeland Security (DHS) for DHS to do it.
- In a January 1, 2021 email, Meadows asked Rosen to send Clark to Fulton County, Georgia to look into allegations of signature anomalies, and to have DOJ lawyers investigate allegations of fraud related to New Mexico. Rosen testified that he was concerned that this was asking DOJ to investigate on behalf of a campaign and political party, and that it is not the role of DOJ “to function as an arm of any campaign for any party or any campaign.”
- Rosen testified that Meadows asked him to meet with Giuliani and another individual featured in a YouTube video discussing a baseless conspiracy theory claiming an Italian defense contractor uploaded software to a satellite that switched votes from Trump to Biden. The committee played audio of former Acting Secretary of Defense Christopher Miller, who also received a request to look into it and actually reached out to a high-ranking defense attaché in Italy, according to Rep. Kinzinger.
- As another overt act, Trump offered Clark the position of acting attorney general and Clark accepted. By the afternoon of Jan. 3, the White House logs listed Clark by that title.

**New Evidence from Select Committee’s Seventh Hearing (July 12, 2022):**

- **At 1:42 a.m. on December 19, 2020, shortly following the lengthy strategy meeting with Flynn, Sidney Powell, Giuliani, and Overstock.com CEO Patrick Byrne at which they discussed a plan, which White House Counsel rebuffed, to have the military seize voting machines across the country, Trump sent out a tweet repeating the Big Lie and urging a large crowd summoning supporters to come to Washington. His**

	<p><b>tweet said: “Big protest in D.C. on January 6th. Be there, will be wild!” In direct response to the tweet, groups organized and mobilized to come to DC. For example, within hours of the tweet. Women for America First rescheduled a planned rally and moved it to Jan. 6. The Committee also found that the next day Ali Alexander, “the leader of the Stop the Steal organization and a key mobilizer of Trump supporters, registered Wildprotest.com,” a website which “included event times, places, speakers, and details on transportation to Washington, DC.” Other groups and figures also swiftly responded telling followers that Trump is calling on supporters to descend on Washington DC on Jan. 6. The Committee showed tweets and online posts confirming that Trump’s many supporters understood Trump’s tweet as a call for violence.</b></p> <ul style="list-style-type: none"><li>● <b>The morning of January 6 Trump spoke to his speechwriter and then made last-minute edits to his speech for that day, inserting the following language to pressure Pence to go along with his plan: “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.” While delivering his speech Trump adlibbed seven additional references to Pence continuing to pressure him to go along with Eastman’s plan, and language about fighting and marching to the Capitol, which were also not in the written script.</b></li></ul>
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## **Criminal Evidence Tracker 2: Whether Donald Trump Conspired to Obstruct an Official Proceeding**

By Norman Eisen, Noah Bookbinder, Fred Wertheimer, Don Simon, Jason Powell and Debra Perlin

<b>18 U.S. Code § 1512 – Obstructing an official proceeding</b>	
<p><i>Under 18 U.S. Code § 1512(c)(2) “Whoever corruptly—... obstructs, influences, or impedes any official proceeding, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.”</i></p> <p><i>Under 18 U.S. Code § 1512(k) “Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.”</i></p>	
<b>Elements that Must be Proved</b>	<b>Facts and Evidence</b>
<b>1. The individual(s) acted corruptly.</b>	<ul style="list-style-type: none"> <li>● Despite the fact that Donald Trump and his inner circle knew, or should have known, that Trump lost a free and fair election, they still pursued a scheme, outlined in two memoranda (<a href="#">here</a> and <a href="#">here</a>), to overturn the election so that Trump could remain in power despite his duty to uphold the Constitution.</li> <li>● Trump and Eastman <a href="#">called</a> state legislators to try to convince them to overturn the election, and <a href="#">Trump’s team</a>, including Chief of Staff <a href="#">Mark Meadows</a>, <a href="#">acting at Trump’s behest</a>, moved forward with a plan to send alternate slates of electors to Congress and have would-be false electors in battleground states <a href="#">sign and submit</a> phony electoral certificates showing that Trump, rather than Biden, had won.</li> <li>● Trump and Eastman <a href="#">pressured</a> then-Vice President Mike Pence to carry out their illegal scheme in: (1) <a href="#">two separate Oval Office meetings</a> on January 4 and January 5, 2021; (2) a <a href="#">phone call</a> on January 6, 2021, during which Trump mocked Pence for “not [being] tough enough” to reject votes or delay the count; and (3) and in multiple public <a href="#">tweets</a> on January 6, 2021, stating in one: “All Mike Pence has to do is send them back to the States, AND WE WIN.”</li> <li>● Despite the DOJ legally having no role in determining who won an election, then-Acting Assistant Attorney General Clark <a href="#">drafted and pushed DOJ leadership to send a letter supported by Trump</a> to battleground states containing <a href="#">unsupported claims</a> of election irregularities and recommending that states consider appointing new slates of Electors.</li> <li>● Trump coerced and <a href="#">threatened to replace</a> Justice Department leadership who did not cooperate with his scheme <a href="#">to weaponize</a> the agency.</li> <li>● Despite his constitutional duty, Trump endorsed violence in response to unfavorable election results by, among other things, (1) <a href="#">refusing to condemn</a> violent rhetoric; (2) telling the Proud Boys <a href="#">“stand back and stand by;”</a> and (3) encouraging people to “fight like hell” during his public <a href="#">speech</a> on January 6, 2021.</li> </ul>

[New Evidence from Select Committee’s Second June Hearing \(June 13, 2022\):](#)

- As early as April 2020, months before the election, Trump claimed that the only way he could lose the election is because of fraud. He started claiming fraud was going to occur months before the election and months before there was any evidence of fraud in the election.
- Trump campaign manager Bill Stepien, and former advisor Jason Miller said they urged Trump not to declare victory on election night, but he refused their advice. Instead, they said Trump listened to an “apparently inebriated” Rudy Giuliani, who pressured Trump to declare victory before all votes were counted. “It was far too early to be making any calls like that,” Stepien said. Jared Kushner, a former Trump White House official and adviser, said he told Trump not to take advice from Giuliani.

[New Evidence from Select Committee’s Third June Hearing \(June 16, 2022\):](#)

- At a meeting with Trump on January 5, 2021, Eastman admitted that his plan to have Pence invalidate Biden electors likely violated the Electoral Count Act. Jacob testified that he told Eastman that the plan violated the Electoral Count Act and that “Mr. Eastman acknowledged that that was the case.” Thus, Trump knew that he was asking Pence to take action that even Eastman considered to be illegal but Trump nonetheless persisted in pressuring Pence to do so.
- Trump and Eastman engaged in a concerted campaign to pressure Pence to illegally interfere in the counting of electoral votes by either rejecting Biden electors or by suspending the electoral vote count for 10 days and sending electoral votes back to state legislatures to reconsider. This pressure campaign began on or about December 23 and through January 6, and consisted of numerous meetings and phone calls involving Pence, and tweets and other public statements in which Trump cajoled Pence to do what Trump wanted.
- In a call to Pence on the morning of January 6, Trump told Pence he would be a “wimp” and a “[p-word]” if he did not do what Trump wanted. Even after Trump knew his supporters were attacking the Capitol with the vice president inside, he tweeted a public condemnation of him, further whipping up a crowd chanting “Hang Mike Pence!”

[New Evidence from Select Committee’s Fourth June Hearing \(June 21, 2022\):](#)

- According to a summary presented by Committee staff, Trump and his lawyers pressured several state legislatures to decertify slates of Biden electors that had been certified in those states consistent with the election results and instead to recertify slates of Trump electors.
- According to a summary presented by Committee staff, the Trump campaign spent millions of dollars on TV ads and other media that claimed the election results were the product of fraud in an effort to pressure state legislatures.
- Rusty Bowers, the Speaker of the Arizona House, testified that he was contacted numerous times by Trump or his attorneys who pressured him to call the Arizona state legislature into session for the purpose of changing the election result in Arizona from Biden to Trump by removing Biden electors and replacing them with Trump

electors. Bowers said that Trump and Giuliani repeatedly claimed the election in Arizona was tainted by fraud, such as voting by illegal immigrants or by deceased voters, and they asked Bowers to hold an official legislative hearing on the claims. Bowers said that he repeatedly asked Trump, Giuliani and another Trump campaign attorney, Jenna Ellis, for proof of fraud but that they never provided any evidence of such fraud. Bowers testified that Giuliani told him that “we’ve got lots of theories. We just don’t have the evidence. Bowers repeatedly refused Trump, Giuliani, and Eastman telling them multiple times that he would not violate his oath. Bowers testified that Eastman called him on January 4 and told him that the state legislature had “plenary authority” to decertify the Biden electors. When Bowers said that doing so would be “counter to my oath,” Eastman told him to “just do it and let the courts sort it out.”

- Trump publicly claimed there was “massive voter fraud” in Georgia despite the fact that, according to testimony by Georgia Secretary of State Brad Raffensperger, the vote was counted three times and the three counts were “all remarkably close.” Despite the fact that multiple senior DOJ officials told Trump that allegations were thoroughly investigated and had no merit, Trump and Giuliani claimed, based on a video, that election workers counting ballots in Fulton County pulled out a “suitcase” of 18,000 fake ballots for Biden and counted them multiple times.
- Raffensperger said that Trump’s claims that votes were illegally cast or illegally counted in Georgia were all investigated and shown to be false. Gabe Sterling, chief operating officer of the Georgia Secretary of State’s office, said that the video cited by Trump and Giuliani showed only “workers engaging in normal ballot processing” and nothing improper occurred. Trump’s claims of voter fraud in Georgia were also investigated by the Justice Department. Attorney General Barr said there was “no merit” to Trump’s claim. Then-Acting Deputy Attorney General Richard Donoghue said he told Trump that his claims of fraud in Georgia were “not supported by the evidence.”
- Gabe Sterling testified about a press conference in which he explained how the President’s attorneys had deliberately misrepresented splices of a video tape and “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,” he had said. At the hearing, Sterling discussed the wholly innocent and normal tallying procedures one views with the entire surveillance tape, which the President’s lawyers had as well. Trump campaign lawyer Justin Clark told the committee that he argued with another Trump lawyer, Kenneth Chesebro, that it was not appropriate to organize alternate electors if there was not litigation pending in the state. Clark said “I’m out,” refusing to participate in the alternate slate of electors scheme. Trump campaign lawyer Matt Morgan also explained that he took action to ensure he had “zero” responsibility for this effort. Trump campaign staffer Robert Sinners said that he felt like he and his colleagues were “useful idiots” and said that he “absolutely would not have” participated in the effort to organize alternate electors had he been aware that the Trump team’s “three main lawyers” were not in favor of that plan.
- Bowers testified that Giuliani tried to pressure him by appealing to his partisanship, saying: “Aren’t we all Republicans here?”

- Trump applied pressure to Georgia officials to change the election results. He told a state election investigator that she would be “praised” when “the right answer” came out and urged her to do “whatever you can do.” Raffensperger testified that in a call with him on January 2, 2022, Trump again pressed Raffensperger to “recalculate” the election result in Georgia and again brought up the claim that “suitcases of ballots” were improperly counted in Fulton County and that votes were cast by deceased voters, even though Trump had been told these claims had been investigated and were false. 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.
- Raffensperger wrote in his book, as Rep. Schiff noted in the hearing, “I felt then and still believe today that this was a threat,” in reference to Trump’s warnings to him on the Jan. 2 call. In his testimony, Raffensperger detailed the threats he and his family then received in the wake of his defense of the election.

[New Evidence from Select Committee’s Fifth June Hearing \(June 23, 2022\):](#)

- Trump and Jeffrey Clark, acting head of the Civil Division at the Justice Department, worked together on a scheme for Clark to be named Acting Attorney General to replace Jeffrey Rosen and challenge election results in a number of key states. Clark had drafted and on December 28 presented to Rosen a proposed letter that the Department of Justice would send to Georgia and other states that claimed the Department had identified “significant concerns that may have impacted the outcome of the election” and that the state legislature should “convene in special session” to reconsider the electors chosen. The letter said that the states involved had failed to choose a winner and that therefore the state legislatures should choose the presidential electors to represent their states. This was an effort to use a loophole in the Presidential Election Day Act of 1845 to have state legislatures override the choice of the voters in the states involved. Rosen and Deputy Attorney General Richard Donoghue refused to sign the letter because they thought it was not the Department’s role to dictate to states how to choose electors and because the claim that the DOJ had found widespread election fraud was completely groundless. They told Clark they would not sign the letter. Trump then took steps to replace Rosen with Clark in order to ensure that the Department would send the letter. On January 3, Clark told Rosen that Trump offered him the job of Acting Attorney General and that he had accepted it. Trump abandoned the plan to replace Rosen with Clark only after being confronted by Rosen, Donoghue, Assistant Attorney General Steven Engle, White House Counsel Pat Cipollone and others in a White House meeting on January 3 and told that there would be “hundreds and hundreds” of resignations in the leadership of the Justice Department if he fired Rosen.

- White House lawyer, Eric Herschmann testified that he told Clark that sending the letter "would be committing a felony and violating Rule 6E."
  - Donoghue testified that he told Clark, "What you are doing is nothing less than the United States Justice Department meddling in the outcome of a presidential election."
  - On repeated occasions over a period of weeks after the November 2020 election, Trump complained to Justice Department officials and also complained publicly that the Justice Department was not taking sufficient action to investigate claims of fraud in the 2020 election. He stated in a television interview that the Justice Department was "missing in action" with regard to election fraud. Trump repeatedly pressured Justice Department officials, including Rosen and Donoghue, to investigate claims of fraud more aggressively.
  - Rosen and Donoghue told Trump that the Justice Department had investigated all claims of fraud or other election irregularities that were brought to their attention and that there was no merit to any of the claims. Former Attorney General William Barr previously testified that before he resigned as Attorney General, he told Trump on that there was no evidence of widespread election fraud that would have affected the outcome of the election and that the claims were "bullshit."
  - Rosen testified that after Barr left office, Trump called him or met with him "virtually every day" from December 23 to January 3 to press Rosen to have the Justice Department take action on Trump's claims of fraud and to express dissatisfaction at the Department's failure to do so. Trump proposed several different steps that he thought Mr. Rosen should take – to appoint a special counsel on election fraud, to make public statements on fraud, to meet with Trump campaign attorney Rudy Giuliani, and to seize voting machines in one or more states. Trump also asked whether DOJ would file a lawsuit in the Supreme Court. Rosen (and Barr before him) rejected all of these actions.
  - Donoghue testified that Trump said he wanted the Justice Department to "just say the election was corrupt and leave the rest to me and the Republican Congressmen."
- New Evidence from Select Committee's Seventh Hearing (July 12, 2022):**
- **A number of Trump's advisers – including Labor Secretary Eugene Scalia and Deputy Press Secretary Judd Deere – told Trump in mid-December 2020 that it was time for him to concede that he lost the election.**
  - **Attorney General Bill Barr said he saw "absolutely zero basis" for Trump's claims that voting machines were being manipulated by foreign powers in the 2020 election. He said the allegations were "crazy stuff and they were wasting their time on that." White House Counsel Pat Cipollone said he agreed with Barr's**

	<p>conclusion. Barr said that at one point Trump suggested that Barr have the Justice Department seize voting machines but Barr refused to do so.</p> <ul style="list-style-type: none"> <li>• Trump held a six-hour meeting in the White House on the evening of December 18, 2020 with attorney Sidney Powell, Lieutenant General Michael Flynn, and former Overstock CEO Patrick Byrne. Once they heard the meeting had started, White House attorneys Cipollone and Eric Herschmann joined the meeting. The Powell group presented Trump with a proposed Executive Order they had drafted which would have authorized the Department of Defense to seize voting machines in various states, and would have appointed Powell as “special counsel” to give her the power to seize voting machines and charge people with crimes. Cipollone testified that he said he was “vehemently opposed” to the appointment and said that seizing voting machines was “a terrible idea for the country” and “there’s no legal authority to do that.” Cassidy Hutchinson said the meeting was “unhinged.” Trump did not sign the draft Executive Order although Powell testified that Trump did name her as special counsel and grant her a security clearance. Cipollone said that she “hadn’t been appointed to anything” because “there had to be other steps taken.”</li> <li>• A letter to the Committee from a lawyer for Bernie Kerik, an investigator for Rudy Giuliani, said that 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.” Thus, further evidence that Giuliani’s team knew that they were unable to produce evidence of widespread fraud.</li> <li>• Trump campaign senior adviser Jason Miller said the evidence of fraud from the Giuliani team consisted only of “some very, very general documents” and that “to say that it was thin is – is probably an understatement.” Trump’s deputy campaign manager Justin Clark said that it is “fair” to say that he “never came to learn or understand that mayor Giuliani had produced evidence of election fraud.”</li> <li>• White House Counsel Pat Cipollone testified that his view is that Vice President Pence did not have the authority to take the actions suggested by John Eastman to reject electoral votes or delay the counting of the votes, and that Pence “did the right thing.” Cipollone said he would not refute earlier testimony by Jason Miller stating that Cipollone thought Eastman’s plan “was nutty.”</li> <li>• See also below, under element 2, additional evidence from Seventh hearing showing how Trump mobilized militia groups and other domestic violent extremists to plan and carry out a violent attack on the Capitol on January 6th.</li> </ul>
<p><b>2. The individual(s) had specific intent to obstruct, influence, or</b></p>	<ul style="list-style-type: none"> <li>• Eastman’s memos (<a href="#">here</a> and <a href="#">here</a>) set out a plan clearly intended to obstruct, influence, or impede the counting of electoral votes on January 6, 2021, by having Mike Pence reject, or delay the counting, of the electoral college results. Eastman and Trump repeatedly <a href="#">urged</a> Pence in private to adopt the memos’ reasoning and in public via social media pressured him to “<a href="#">come[] through for us</a>” so “<a href="#">we will win the Presidency</a>” and “<a href="#">giv[e] States a chance to certify a corrected set of facts.</a>”</li> <li>• Clark <a href="#">drafted a letter</a> intended to influence the January 6, 2021 counting of the electoral college votes which</li> </ul>

<p><b>impede.</b></p>	<p>contained unsupported claims that the Department had taken notice of election irregularities and recommending that states consider appointing alternative slates of Electors,</p> <ul style="list-style-type: none"> <li>● Meadows, apparently at Trump’s direction, appears to have specifically intended to influence and impede the count of electoral votes through his <a href="#">support and advancement</a> of the scheme to send phony slates of electors to Congress.</li> <li>● Despite having a duty to respond to the January 6th attack and the security threat posed by the insurrectionists, Trump <a href="#">waited for hours</a> after the attack began before telling his supporters to go home, and even then he did not condemn their actions. Allowing them, in fact, to obstruct the joint session of Congress on January 6, 2021, is evidence that he intended that outcome.</li> <li>● Trump <a href="#">made statements</a> lauding the invasion and praising the invaders as “very special” “patriots” whom he professed to “love” and showed his endorsement of what had gone on.</li> </ul> <p><u><a href="#">New Evidence from Select Committee’s First June Hearing (June 9, 2022):</a></u></p> <ul style="list-style-type: none"> <li>● Vice Chair Cheney said: “President Trump believed his supporters at the Capitol, and I quote, ‘were doing what they should be doing.’ This is what he told his staff as they pleaded with him to call off the mob, to instruct his supporters to leave.”</li> <li>● Vice Chair Cheney said based on the evidence: "President Trump gave no order to deploy the National Guard that day, and he made no effort to work with the Department of Justice to coordinate and deploy law enforcement assets"</li> <li>● Chairman of the Joint Chiefs of Staff, Gen. Mark Milley said the Vice President issued orders to the military to secure the Capitol, and, in contrast. Meadows was focused on "politics" and the "narrative" of whether Trump appeared to be in charge, which Milley referred to as a "red flag."</li> <li>● Numerous members of the January 6th mob confirmed that they came to D.C. because “Trump asked us to come” to stop the election from being stolen. In the words of <a href="#">one Trump supporter</a>, “He asked me for my vote and he asked me to come on January 6<sup>th</sup>.”</li> <li>● A <a href="#">hand-written document</a> by a member of the White House staff advised what Trump needed to say, “anyone who entered the capital without proper authority should leave immediately,” but Trump refused to say so.</li> <li>● When aware of the rioter's chanting to hang Mike Pence, Trump responded, “Maybe our supporters have the right idea. [Mike Pence] deserves it.”</li> </ul> <p><u><a href="#">New Evidence from Select Committee’s Second June Hearing (June 13, 2022):</a></u></p> <ul style="list-style-type: none"> <li>● Former Attorney General Bill Barr said he told Trump there was “zero evidence” of widespread election fraud — and said Trump was "detached from reality if he really believes this stuff." Barr called Trump's claims "bullshit," "idiotic," "stupid," "complete nonsense" and "crazy stuff." He said about his discussions with Trump, “There was no interest in what the facts were.” Barr also said there was “zero basis” for arguing the election contractor Dominion Voting Systems had rigged the voting machine in favor of Joe Biden.</li> </ul>
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- Then-Acting Deputy Attorney General Richard Donoghue said Trump refused to accept proof that he lost the election. According to Donoghue: “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'd move to another allegation.” He said about Trump's claims of fraud in counting the ballots in Fulton County, Georgia, “I told the president myself that several times, in several conversations, that these allegations about ballots being smuggled in a suitcase and run through the machines several times, it was not true.”
- Alex Cannon, former Trump campaign lawyer, said he told Trump directly there was no evidence of election fraud.
- On December 14, 2020, Trump gave Barr an “amateurish” report about Dominion voting machine irregularities and asserted that it meant Trump was going to have a second term.

[New Evidence from Select Committee's Third June Hearing \(June 16, 2022\):](#)

- Eastman and Trump pursued a joint plan to have Pence either reject certain electoral votes cast for Biden and then declare Trump the winner of the 2020 election, or suspend the counting of electoral votes for 10 days and return the electoral votes from certain states back for the state legislatures to reconsider the votes. Eastman admitted to Jacob that this plan violated the Electoral Count Act and that if it came before the Supreme Court, it would lose unanimously.
- In addition to the information presented in an earlier hearing about Trump's failure to take action to stop the riot, White House Deputy Press Secretary Sarah Matthews said, “When that tweet — the Mike Pence tweet was sent out 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 by tweeting that.”

[New Evidence from Select Committee's Fourth June Hearing \(June 21, 2022\):](#)

- Based on a memo prepared by Trump campaign attorney Kenneth Chesebro, the Trump campaign encouraged the formation of alternative and uncertified slates of electors in seven states, and tried to have those slates submitted to the Congress and to the National Archives.
- Eastman said in an email obtained by the committee: “The fact that we have multiple slate[s] of electors demonstrates the uncertainty of either. That should be enough.” This email seems to show that the Trump team deceptively manufactured the very uncertainty it needed to obstruct the counting of certified electoral votes for Biden.
- The White House Counsel's office told Meadows, Giuliani, and Giuliani's associates the fake electors scheme was not “legally sound” according to Cassidy Hutchinson, an aide to Meadows, who witnessed the meeting.
- Trump was personally involved in the effort to organize uncertified slates of contingent electors. Ronna McDaniel, the Republican National Committee chairwoman, testified that Trump personally called her about helping further the scheme. Trump put Eastman on the phone with McDaniel “to talk about the importance of the RNC helping the campaign gather these contingent electors,” she testified.

- Bowers testified that Trump called him in late December 2020 as part of the effort to pressure him to change the election results but Bowers told him that “he would not do anything illegal for him.” This followed an earlier call by Trump and Giuliani to ask Bowers to implement a plan for substituting Biden electors with Trump electors.

**New Evidence from Select Committee’s Sixth June Hearing (June 28, 2022):**

- Senior White House officials, including Chief of Staff Mark Meadows, had been warned in the days leading up to January 6 that the January 6 rally – which Trump had previously said publicly would be “wild” – could become violent. Hutchinson said that Meadows told her on January 2 that things “might get real, real bad” on January 6. Notwithstanding the warnings of violence, Trump and Meadows did not take actions to diminish the chances of violence, and Trump in his speech at the rally encouraged his supporters to go to the Capitol.
- White House aide Cassidy Hutchinson testified that Trump and his staff were told that persons attending the January 6 rally on the mall had weapons, including knives, guns in the form of pistols and rifles, bear spray, body armor, spears, and flagpoles. According to Hutchinson, Trump did not want rally attendees to be screened by magnetometers. Hutchinson overheard Trump say 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.” Even though he was aware that persons at the rally had weapons, Trump in his speech to the crowd encouraged them to march to the Capitol.
- According to Hutchinson, Trump wanted to personally go to the Capitol after the rally and was angry when the Secret Service did not allow him to do so. In recorded interviews, former White House staffers Nick Luna and Max Miller, and former White House press secretary Kayleigh McEnany corroborated Hutchinson’s testimony that Trump wanted to go to the Capitol along with the crowd, including after the riot had begun. It was also corroborated by a National Security Council (NSC) Chat Log from January 6.
- Hutchinson testified that some members of the White House staff, including Ivanka Trump and White House Counsel Pat Cipollone, urged Trump to put out a statement on the afternoon of January 6 to stop the attack on the Capitol but he refused to do so for several hours while the violence continued. According to Hutchinson, Cipollone urged Meadows to have Trump make a public effort to stop the violence and “Mark responded something to the effect, ‘You heard him, Pat. He thinks Mike [Pence] deserves it. He doesn’t think they’re doing anything wrong.’”

**New Evidence from Select Committee’s Seventh Hearing (July 12, 2022):**

- **In the early morning hours of December 19, 2020 (1:42am ET), shortly after the meeting with the Powell group in the White House had ended, Trump sent a tweet saying that it was “statistically impossible to have lost the 2020 election” and calling for a protest rally to be held in Washington, DC on January 6, 2021, the day that Congress was scheduled to certify the vote of the Electoral College to elect Joe Biden as president. Trump’s tweet said, “will be wild!”**
- **Immediately following Trump’s tweet, online sites such as “wildprotest.com” (that one by Ali Alexander) were set up to organize for the events, and extremist supporters of Trump, such as Tim Pool and Alex Jones,**

	<p>began to call on people to “descend on Washington” and that “the time for action is now.” A former employee at Twitter who was on a team responsible for content moderation testified that their “concern was that the former president, for seemingly the first time, was speaking directly to extremist organizations and giving them directives.”</p> <ul style="list-style-type: none"> <li>● The Committee obtained messages and internal communications from groups including Oath Keepers and Proud Boys that, according to the Committee, “show strategic and tactical planning about January the 6th.” According to the Committee, “In the weeks leading up to the attack, leaders in both the Proud Boys and the Oath Keepers worked with Trump allies,” including Michael Flynn and Roger Stone. The Committee said that evidence shows that Stone “communicated with both the Proud Boys and the Oath Keepers regularly.”</li> <li>● At 5:05 p.m. on January 5, while a rally was taking place at the Freedom Plaza that could be heard from the Oval Office, Trump tweeted that “Washington is being inundated with people who don’t want to see an election victory stolen by emboldened radical left Democrats. Our country has had enough. They won’t take it anymore.”</li> <li>● Evidence obtained by the Committee indicates that when Trump addressed the rally crowd on January 6, he changed his prepared remarks to emphasize his call for the crowd to march to the Capitol. On the morning of the rally, he also added a reference to Vice President Pence that urged Pence to “send electoral votes back to the states.” The line was taken out after the White House Counsel’s office objected to it, but then Trump directed that the line be re-inserted after Trump had a phone call in which Pence told Trump that “he would not attempt to change the outcome of the election.”</li> <li>● During his speech to the rally crowd on January 6, Trump called on the assembled protestors to march to the Capitol and to “be strong.” He said, “Because you’ll never take back our country with weakness. You have to show strength and you have to be strong...We fight like hell. And if you don’t fight like hell, you’re not going to have a country anymore...So let’s walk down Pennsylvania Avenue ---”</li> <li>● Stephen Ayres, who attended the January 6 rally, said he decided to march to the Capitol because, “Well, basically, you know, the President got everybody riled up and told everybody to head on down. So we basically was [sic] just following what he said.”</li> <li>● Ayres also testified that the crowd dispersed from the Capitol in response to Trump’s tweet at 4:17 p.m. on January 6 that circulated a video in which he urged people to go home. Ayres said, “Well, when we were there, as soon as that come out, everybody started talking about it and that’s – it seemed like it started to disperse.”</li> </ul>
<p><b>3. The actions were targeted at an official proceeding.</b></p>	<p><i>Courts have <u>unanimously found</u> the congressional count of electoral votes to be an “official proceeding” within the meaning of 18 U.S.C. 1512(c). All but one judge has upheld the Justice Department's charges of January 6 defendants under 18 U.S.C. 1512(c); that one judge held it must be alleged that the defendant took an action with respect to a document or record.</i></p>

<p><b>4. Two or more people entered into an agreement.</b></p>	<p><u>Donald Trump and John Eastman</u></p> <ul style="list-style-type: none"> <li>• Attorney John Eastman <a href="#">communicated with Trump</a> by phone and email through his assistant or agent about the plan to overturn the election results, and a <a href="#">court</a> recently found that “there was likely an agreement between President Trump and Dr. Eastman to enact the plan articulated” in the two memos drafted by Eastman.</li> </ul> <p><u>Donald Trump and Jeffrey Clark</u></p> <ul style="list-style-type: none"> <li>• In December 2020, <a href="#">Trump and Clark met</a> in apparent violation of DOJ policy to discuss allegations of election fraud and find ways to overturn the election results.</li> <li>• Unlike the rest of DOJ’s leadership, Clark was sympathetic to Trump’s arguments, leading Trump to consider installing Clark as acting Attorney General - a plan Trump only abandoned in the face of <a href="#">threats of massive DOJ resignations</a>. Clark, himself, <a href="#">told</a> then-acting Attorney General Jeffrey Rosen that he had spoken to Trump and accepted Trump’s offer to replace Rosen as the head of DOJ so that he could move forward with actions supported by Trump.</li> </ul> <p><u>Donald Trump and Mark Meadows</u></p> <ul style="list-style-type: none"> <li>• Meadows appears to have played a key role in orchestrating the agreements and advancing Trump’s plans with both Clark and Eastman by (1) <a href="#">introducing</a> Trump to Clark and repeatedly <a href="#">emailing</a> DOJ leadership to investigate bogus fraud claims; (2) <a href="#">encouraging state legislators</a> to embrace <a href="#">Eastman’s</a> alternate slate of electors strategy; and (3) <a href="#">pushing</a> Pence’s staff to have Pence reject electoral votes from battleground states. The actions of all three men – Trump, Eastman, and Clark – appeared to work in concert with Meadows to help form the agreement.</li> <li>• Meadows also <a href="#">helped organize and participated in the January 2, 2021, phone call</a> where Trump demanded that Georgia Secretary of State Brad Raffensperger “find” enough votes to overturn the election.</li> </ul> <p><u>New Evidence from the Select Committee’s Third June Hearing (June 16, 2022):</u></p> <p>Jacob testified as to how, the weeks prior to the counting of the electoral votes on January 6, Trump and Eastman worked together to hold a series of meetings and phone calls with Pence and his staff to try to pressure Pence to overturn the election results.</p>
<p><b>5. The individual(s) knowingly and intentionally joined the conspiracy with an</b></p>	<ul style="list-style-type: none"> <li>• Donald Trump and his allies knew, or should have known, that he lost a free and fair election. Trump was told so by a <a href="#">campaign data expert</a>, <a href="#">Attorney General William Barr</a>, <a href="#">Acting AG Jeffrey Rosen</a>, and Georgia Secretary of State <a href="#">Brad Raffensperger</a> among others. Nevertheless, Trump intentionally joined with Eastman, Clark, and Meadows to attempt to overturn the election.</li> <li>• Eastman <a href="#">admitted</a> that he knew the scheme violated the Electoral Count Act (ECA) on four separate grounds, <a href="#">acknowledged</a> that he knew was asking Pence to commit a “relatively minor” violation of the ECA, and <a href="#">admitted</a> that he knew the Supreme Court would likely unanimously reject this plan. Nonetheless, Trump and Eastman pressured Pence to carry out their scheme in two separate Oval Office meetings on January 4 and again on January</li> </ul>

<p><b>awareness of its unlawful purpose.</b></p>	<p>5, 2021 during which <a href="#">Pence told them he did not have the legal authority</a> to do what they were asking.</p> <ul style="list-style-type: none"> <li>● Despite being advised by <a href="#">White House counsel</a> that the plan was not legally sound, Mark Meadows moved forward with a scheme, presumably at Trump’s direction, to have battleground states send false certificates declaring that Trump, instead of Biden, won those states.</li> </ul> <p><u><a href="#">New Evidence from Select Committee’s First June Hearing (June 9, 2022):</a></u></p> <ul style="list-style-type: none"> <li>● Then-acting Deputy Attorney General Richard Donoghue <a href="#">told Clark</a>, “What you’re proposing is nothing less than the United States Justice Department meddling in the outcome of a presidential election.”</li> <li>● President Trump’s campaign lawyer tasked with assessing allegations of election fraud reported to Meadows in “mid to late” November 2020 he wasn’t “finding anything that would be sufficient to, um, change the results in any of the key states,” and Meadows responded: “so there’s no, there, there.”</li> </ul> <p><u><a href="#">New Evidence from the Select Committee’s Second June Hearing (June 13, 2022):</a></u></p> <ul style="list-style-type: none"> <li>● See rows 1 and 2 above in this chart for evidence bearing on Trump’s knowledge of unlawful purpose.</li> </ul> <p><u><a href="#">New Evidence from the Select Committee’s Third June Hearing (June 16, 2022):</a></u></p> <ul style="list-style-type: none"> <li>● At a meeting on January 4, Trump was present when Eastman said it would violate several provisions of the Electoral Count Act for Pence to reject the counting of certain electoral votes or to suspend the counting. Trump thus knew that he was pressuring Pence to engage in activity which Trump’s own legal advisor said would be illegal.</li> <li>● Jacob confirmed the context of a Jan. 6 email exchange with Eastman in which Eastman said that he advised Trump in his professional judgment the Vice President does not have the power to decide things unilaterally but that "once [President Trump] gets something in his head, it's hard to get him to change course." Eastman admitted to Jacob that his plan violated several provisions of the Electoral Count Act and that if it came before the Supreme Court, it would lose unanimously.</li> </ul> <p><u><a href="#">New Evidence from the Select Committee’s Fourth June Hearing (June 21, 2022):</a></u></p> <ul style="list-style-type: none"> <li>● As mentioned above, three Trump campaign lawyers refused to participate in the false slate of electors scheme.</li> </ul> <p><u><a href="#">New Evidence from the Select Committee’s Fifth June Hearing (June 23, 2022):</a></u></p> <ul style="list-style-type: none"> <li>● Several House members, including Representatives Mo Brooks, Matt Gaetz, Andy Biggs, Louie Gohmert, Scott Perry, and Margorie Taylor Green asked chief of staff Mark Meadows or other White House staff for pardons in relation to their activities to overturn the results of the 2020 election. The idea was also raised of giving a blanket pardon to all involved in the circumstances surrounding the events that occurred in the January 6th attack on the Capitol.</li> </ul>
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	<p><a href="#"><u>New Evidence from the Select Committee's Sixth June Hearing (June 28, 2022):</u></a></p> <ul style="list-style-type: none"><li>● According to testimony from Hutchinson, both White House chief of staff Mark Meadows and Trump attorney Rudy Giuliani each indicated they were interested in receiving a presidential pardon related to January 6th.</li></ul>
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### **Criminal Evidence Tracker 3: Whether Donald Trump Solicited Election Fraud in the State of Georgia**

By Noah Bookbinder, Norman Eisen, Fred Wertheimer, Colby Galliher, and Madison Gee

GA Code § 21-2-604 - Criminal solicitation to commit election fraud	
<p><i>“A person commits the offense of criminal solicitation to commit election fraud in the first degree when, with intent that another person engage in conduct constituting a felony under this article, he or she solicits, requests, commands, importunes, or otherwise attempts to cause the other person to engage in such conduct. A person commits the offense of criminal solicitation to commit election fraud in the second degree when, with intent that another person engage in conduct constituting a misdemeanor under this article, he or she solicits, requests, commands, importunes, or otherwise attempts to cause the other person to engage in such conduct.”</i></p>	
Elements of the Crime that Must be Proved	Facts and Evidence <sup>1</sup>
<p><b>1. Solicitation: The defendant must solicit, request, command, importune, or otherwise attempt to cause another person to engage in conduct.</b></p>	<ul style="list-style-type: none"> <li>● On January 2, 2021, then-President Trump, on a call with Georgia Secretary of State <a href="#">Brad Raffensperger</a>, urged Raffensperger to “find 11,780 votes,” one more vote than Democratic candidate Joseph R. Biden’s victory in the state. Trump exhorted Raffensperger to “give [him] a break” due to the fact that he “only need[ed] 11,000 votes,” stressing to Raffensperger that “it is really important that [Raffensperger] meet tomorrow and work out on these numbers.” After Raffensperger rejected Trump’s false claims regarding voter fraud in Georgia’s election, Trump admonished him that it would be “illegal” and “a big risk” to resolve against “reporting” Trump’s false claims. Trump also warned Raffensperger that his stance proclaiming that there was “no criminality” in the election was “very dangerous.”</li> <li>● Before Trump’s January 2 call to Raffensperger, on December 23 he placed a call to <a href="#">Frances Watson</a>, Raffensperger’s chief investigator in the Secretary of State’s Office, while Watson was leading a small-sample audit of mail-in ballots in Cobb County. Trump <a href="#">pressed Watson</a> to go back in her ballot inquiry “two years, as opposed to just checking, you know, one against the other.” He also urged her to pursue “dishonesty” and specifically to “get to Fulton,” the Atlanta-anchored county that went <a href="#">heavily for Biden</a> in the 2020 vote. Finally, he <a href="#">implored Watson</a> to extend the ballot review past Christmas but to finish it before January 6. In making these requests, Trump reiterated how “important” the chief investigator was and declared that she would receive praise</li> </ul>

<sup>1</sup> Much of the analysis provided in this chart is adapted from a September 2021 Brookings report, “[Fulton County, Georgia’s Trump Investigation: An Analysis of the Reported Facts and Applicable Law.](#)”

for coming to the “right answer.”

- Reportedly, Trump also placed a December call to Georgia Attorney General [Chris Carr](#), in which Trump warned Carr “not to interfere” with a separate filing submitted by the Texas attorney general [challenging Biden’s win](#) in a handful of swing states. Carr had described the Texas filing as “constitutionally, legally, and factually wrong” prior to Trump’s call.

[New Evidence from the Select Committee’s First June Hearing \(June 9, 2022\):](#)

- Vice Chairwoman Cheney stated that specific evidence relevant to Georgia is forthcoming in future hearings, including additional details relating to Trump’s January 2 call to Secretary of State Brad Raffensperger and to Jeffrey Clark’s unsent letter to Georgia state legislators claiming fraud in the election. We know that Raffensperger has already appeared before the committee, and we anticipate that he may be a live or recorded witness in a future hearing.

[New Evidence from the Select Committee’s Second June Hearing \(June 13, 2022\):](#)

- BJ Pak, the former U.S. attorney for the Northern District of Georgia who resigned after being told that the former president planned to fire him for Pak’s resistance to claims of election fraud, testified that, in early December 2020, former Attorney General Bill Barr contacted him and asked him to look into Georgia fraud claims being circulated by Trump, Rudy Giuliani, and others within Trump’s circle. Specifically, Barr noted a conspiracy theory being pushed by Giuliani that video footage showed poll workers at State Farm Arena in Atlanta bringing out a box of unofficial ballots from beneath a table and adding them to the official vote count. Pak told the committee that he and his office looked into the claim and found that the footage was taken out of context by Trump and his allies; the “suitcase” was an official ballot lockbox containing legitimate ballots. Pak further testified that his successor, Bobby Christine, continued to investigate election-fraud leads and found nothing that would have altered the outcome of the election.
- Using Trump’s own speeches and statements, the committee established that as early as April 2020, Trump had been insisting that he would only lose the election if it were rigged against him. These claims—all lacking basis—continued from the spring before the election through to Election Night and to the congressional certification of the election results on January 6.
- The committee aired recorded testimony and received live testimony from additional witnesses who recounted the weeks and months leading up to and following Election Night. These witnesses, nearly all from Trump’s inner circle—most prominently Attorney General Bill Barr and 2020 Campaign Manager Bill Stepien—recalled telling the president, both on Election Night and in the days and weeks to come, that reliable data from his own campaign indicated that he had lost the election. Despite their efforts to guide Trump away from a crusade against the election outcome, the former president chose instead to listen to aides, including Giuliani and Sidney Powell, who were willing to trumpet conspiracy theories and push the campaign to overturn the election into more extreme

stages.

- DOJ officials, including Acting Attorney General Jeffrey Rosen and Deputy Attorney General Richard Donoghue, recalled playing “whack-a-mole” with the multitudinous—but equally baseless—fraud claims that the former president and his aides brought to them. Donoghue in particular related that as soon as he or his team relayed to the former president that an investigation into a specific fraud claim had turned up nothing of significance, Trump would immediately move on to the next claim or theory.

[New Evidence from the Select Committee’s Third June Hearing \(June 16, 2022\):](#)

- The committee zeroed in on Trump’s remarks at a northwest Georgia rally on January 4, 2021, where he publicly urged Pence to “come through” in his plot to overturn the 2020 election results despite knowing that the vice president had repeatedly and properly informed Trump that he had no authority to unilaterally declare a winner, and even John Eastman having told the President that day that Pence’s doing so would violate several provisions of federal law.
- In live and pre-recorded interviews, former Pence aides testified that Trump was told numerous times that the plan was illegal even by Eastman himself and by Pence explaining he had no such legal authority. Notably, Pence’s counsel Greg Jacob testified that Eastman acknowledged in front of the president that his scheme to reject electors from contested states (such as Georgia, although the state was not expressly mentioned) would require Pence to break federal law. (Jacob also memorialized this statement in a [memorandum](#) dated Jan. 5.) Notwithstanding these warnings, Trump and Eastman continued their pressure campaign against Pence, with Jacob recalling one instance on January 5 when Dr. Eastman bluntly asked for the vice president to reject Biden electors. In an email exchange that was put in context in the hearing, 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,” 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.”
- Jacob alleged that just hours after the violence unfolded at the Capitol, Eastman requested that Pence delay certification for 10 days to allow state legislatures to determine the winner. Even after the riot, Eastman clung on to hopes of nullifying electoral votes in key states, including Georgia. In a videotaped testimony, White House attorney Eric Herschmann similarly revealed that Eastman contacted him on January 7 to discuss “dealing with Georgia” in a potential appeal.
- The committee disclosed that Eastman apparently feared prosecution in the aftermath of the insurrection, emailing Trump’s lawyer Rudy Giuliani to request that Eastman be granted a preemptive presidential pardon. Combined with the revelation that he invoked the Fifth Amendment (approximately) one hundred times when questioned by the House panel, this suggests that Eastman was cognizant of his actions’ illegality.
- All the evidence discussed here demonstrating that Trump knew he was pressing Pence to violate the vice

president's legal duties can be used against Trump in a Georgia trial as evidence of his state of mind and course of conduct toward election officials.

[New Evidence from the Select Committee's Fourth June Hearing \(June 21, 2022\):](#)

- The fourth hearing homed in on Trump and his associates' involvement in the plot to overturn Joe Biden's win in key states like Georgia. One important new revelation came in the form of Republican National Committee Chairwoman Ronna Romney McDaniel's taped deposition. According to McDaniel, Trump personally called her with John Eastman to request that the RNC help "gather these contingent electors," directly tying the former president to the phony elector scheme. McDaniel's testimony provides key context for Trump's overall complicity in the broader effort to reverse his loss.
- The day after his visit to the site of Frances Watson's small-scale audit, Meadows coordinated Trump's call to Watson discussed in this tracker. As the committee stressed, Trump already had his sights set on January 6 during this conversation, telling Watson that "date of the 6th" was a "very important date." Text messages obtained by the committee revealed that Meadows wished to send investigators in Watson's office a stockpile of "POTUS stuff," including autographed MAGA hats, until White House staff intervened to stop it.
- Former Fulton County election worker Shaye Moss, one of the individuals depicted in this video, delivered a compelling account of the toll Trump's attacks took on her family. Moss's mother Ruby Freeman, who Trump targeted by name 18 times in his call to Raffensperger, was escorted away from her home by the FBI for her own safety. Ms. Freeman, known as "Lady Ruby," told the committee in a taped interview "I have lost my sense of security, all because of a group of people, starting with number 45 [Trump] and his ally Rudy Giuliani, decided to scapegoat me, and my daughter, Shaye, to push their own lies about how the election was stolen."
- Despite Raffensperger informing Trump that Georgia investigators found no evidence of corruption, the president instead insinuated that Raffensperger may have committed a crime by rejecting his election fraud claims. Trump's supporters doxxed Raffensperger and engaged in a string of threatening behaviors pressuring him to comply or resign, including sending his wife violent and sexualized texts and breaking into the home of his widowed daughter-in-law. When asked if he could have legally overturned the election certification in Georgia, Raffensperger answered with a firm "No," stating that "The numbers are the numbers. The numbers don't lie."

[New Evidence from the Select Committee's Fifth June Hearing \(June 23, 2022\):](#)

- On December 28, Jeffrey Clark, the acting head of the Civil Division and Head of Environment and Natural Resources Division at DOJ, emailed acting Attorney General Jeffrey Rosen and acting Deputy Attorney General Donoghue a draft letter to Georgia officials claiming that DOJ had discovered "significant concerns" bearing on the state's election results. If sent, the letter would have recommended that the Georgia General Assembly convene a special session to "deliberate on the matter" and consider sending an alternate slate of electors to Congress. Clark's collaborator in drafting the letter was DOJ attorney Ken Klukowski. Klukowski also worked with

Eastman. An email (dated Dec. 18, 2020) recommending that Eastman and Klukowski brief Pence "suggests that Mr. Klukowski was simultaneously working with Jeffrey Clark to draft the proposed letter to Georgia officials to overturn their certified election and working with Dr. Eastman to help pressure the vice president to overturn the election," Vice Chair Cheney said. She further noted that the draft contained "text...similar to what we have seen from John Eastman and Rudy Giuliani, both of whom were coordinating with President Trump to overturn the 2020 election," indicating agreement between those individuals as all were acting in concert.

- Rosen and Donoghue testified that they refused to sign the letter, with the latter responding the same day that its arguments were “contrary to the facts as developed by department investigations over the last several weeks and months.” When asked by the Committee if he had discussed the letter to Georgia officials with President Trump, Clark invoked the Fifth Amendment.
- White House lawyer, Eric Herschmann testified that he told Clark that sending the letter "would be committing a felony and violating Rule 6E."
- The draft letter was followed by an escalating campaign to push DOJ leaders to buy into the Big Lie in the lead-up to January 6, despite Donoghue, Rosen, and other officials debunking the fraud claims that Trump raised “in a serial fashion.” After they remained steadfast in their refusal to sign the Georgia letter, Trump considered replacing Rosen with Clark “by Monday the fourth” with the “understanding that Clark would send this letter to Georgia and other states and take other actions the president requested,” Vice Chair Cheney explained, which the testimony then showed. Clark informed Rosen on January 3 that the “timeline had moved up,” with Trump offering Clark the acting attorney general position.
- This culminated in a tense Oval Office meeting on January 3, where DOJ officials warned that mass resignations would turn the department into a “graveyard” should Trump follow through with his plan to install Clark in the top position.
- Coming the day after Raffensperger turned aside Trump’s overtures, this January 3 meeting and the related information further established Trump’s willingness to go against his advisors’ warnings that his fraud claims had no legal or factual basis. Even more important, it showed a pattern of conduct in which Trump would pressure officials to defy their oaths and to lie that they found widespread election fraud when he knew that didn’t.

[New Evidence from the Select Committee’s Sixth June Hearing \(June 28, 2022\):](#)

- Cassidy Hutchinson, who served as White House Chief of Staff Mark Meadows’ top aide, was the sole live witness at the hearing. It was principally concerned with events taking place after the January 2 call to Raffensperger.
- Hutchinson did testify, however, that on the evening of January 2, the same day that he joined the president on the call to Raffensperger, Meadows told Hutchinson that “things might get real, real bad on Jan. 6” after she inquired about the White House’s plans for that day.

	<p><b><u>New Evidence from the Select Committee’s Seventh Hearing (July 12, 2022):</u></b></p> <ul style="list-style-type: none"> <li>• The committee aired footage from its interview with Katrina Pierson, one of the planners of the January 6 Ellipse rally and a former Trump campaign spokeswoman. Pierson testified that on January 2, the same day that Trump and Meadows called Raffensperger urging him to “find 11,780 votes” in Georgia, she contacted Meadows to raise “red flags” regarding potential Stop the Steal speakers. Notably, Pierson was alarmed by the inclusion of proposed guests Ali Alexander and Alex Jones, who spearheaded a pro-Trump protest at the Georgia State Capitol on November 18, 2020.</li> <li>• Further, as Rep. Stephanie Murphy highlighted, Pierson’s ringing alarm bells vis-à-vis the plans for the Ellipse rally came the same day that Meadows informed Cassidy Hutchinson that “things might get real, real bad on January 6.”</li> </ul>
<p><b>2. Intent: The defendant must intend that the other person engage in that conduct.</b></p>	<ul style="list-style-type: none"> <li>• On all three above-mentioned calls, the evidence shows Trump was gravely serious about his entreaties to Raffensperger, Watson, and Carr. That is all the more obvious given Trump’s status as the President of the United States at the time of the call and the implicit pressures that stature placed upon state officials administering the election results. The <a href="#">available transcripts</a> of the Raffensperger and Watson calls contain clear requests, and at times, demands and threats, that the state officials carry out Trump’s will.</li> <li>• Trump’s outreach to the three state officials occurred in the wider context of his <a href="#">campaign to overturn</a> the duly certified election results. Alongside his Georgia-specific efforts, Trump was filing or joining <a href="#">election-focused lawsuits</a>; inviting <a href="#">Republican state lawmakers</a> to the White House to discuss the possibility of overturning the election in <a href="#">their states</a>; and dispatching his surrogates to those states to trumpet his <a href="#">election fraud claims</a> or <a href="#">meet with</a> state officials, including in Georgia, to push them to take action against the certified election results. His social media posts, particularly his <a href="#">Twitter feed</a>, also demonstrate the concerted campaign to overturn the election in which the Georgia calls took place.</li> <li>• Since leaving office, Trump has continued to exhibit his <a href="#">fixation</a> on Georgia and the 2020 election there. He has released statements claiming that election fraud has been <a href="#">proven</a> in the state; has held rallies in the state in which he has <a href="#">reiterated his claim</a> that the state’s 2020 election was marred by fraud and stolen from him; and has vociferously <a href="#">endorsed and campaigned</a> for 2022 Republican primary candidates for statewide offices who have parroted his election claims, including challengers to Governor <a href="#">Brian Kemp</a> and Secretary of State <a href="#">Brad Raffensperger</a>, two officials who refused to bend to Trump’s pressure.</li> </ul> <p><b><u>New Evidence from the Select Committee’s First June Hearing (June 9, 2022):</u></b></p> <ul style="list-style-type: none"> <li>• The hearing revealed considerable additional evidence about the wider context of Trump’s campaign, characterizing it as a “seven-point plan,” as more fully detailed in the accompanying federal evidence summaries.</li> </ul>

Vice Chair Cheney has said the hearings will detail those seven points, multiple of which will likely prove relevant to Georgia.

- The hearing contained other new evidence that Trump was aware that he did not win the election, such as Bill Barr’s statements that he “did not agree with the idea of saying the election was stolen and putting out this stuff, which [he] told the president was bullshit,” and Trump campaign senior aide Jason Miller’s statement that, in the days after the 2020 election, “the lead data person [of the Trump campaign] ... delivered to the president [in] pretty blunt terms that he [Trump] was going to lose.” Other material details included in the first hearing are catalogued in the two companion federal charts. While this evidence did not specifically name Georgia, Trump’s conduct relating to that state is clearly included.

[New Evidence from the Select Committee’s Second June Hearing \(June 13, 2022\):](#)

- Specific to Georgia, BJ Pak’s testimony that his office pursued Trump’s fraud claims but turned up nothing of import demonstrates that by the time Trump placed his call to Secretary of State Brad Raffesperger on January 2, 2021, Trump had access to information—not just from close aides and DOJ officials, but from the top prosecutor in Georgia’s Northern District—that no significant fraud had occurred in the state. This fact accentuates that when Trump urged Raffesperger to just “find 11,780 votes” that would flip the state to his column, Trump was requesting that Raffesperger fabricate votes on his behalf.
- Barr and other witnesses testified that Trump had been repeatedly and forcefully told that the fraud claims had no basis in reality by those he trusted most made clear that Trump knew he had lost the election and yet continued on his quest to see the results overturned. Asked specifically about the Fulton County allegations, Donoghue testified that in addition to his colleagues, “I told the president myself that several times in several conversations, that these allegations about ballots being smuggled in in a suitcase and run through the machine several times, it was not true, that we looked at it. We looked at the video, we interviewed the witnesses, that it was not true.” This established that Trump knew what he was doing when he called Raffesperger on January 2 and asked him to change the results on the former president’s behalf.

[New Evidence from the Select Committee’s Third June Hearing \(June 16, 2022\):](#)

- The hearing established that Trump and Eastman knew that there was no legal or factual basis for the wider scheme to overturn Biden’s victory in Georgia and other contested states after repeated warnings from Vice President Pence and legal authorities. Despite these alerts, Trump forged ahead in his multiple efforts to overturn election results. While investigators did not explicitly focus on Georgia or the president’s correspondence with Georgia election officials, these revelations are useful in proving Trump’s overall state of mind and knowledge that his claims had no merit.

[New Evidence from the Select Committee's Fourth June Hearing \(June 21, 2022\):](#)

- As Chairman Bennie Thompson stated in his opening remarks, urging state and local officials to neglect their statutory duties was "a fundamental part" of the playbook in Trump and his allies' scheme to overturn the 2020 election results in key states like Georgia.
- The hearing unveiled considerable evidence establishing that Trump pressed state and local officials to turn their backs on their duties and oaths of office, with the Republican Arizona House Speaker reading a powerful journal entry in which he wrote "I will not play with laws I swore allegiance to" after relentless pressure from Trump, Giuliani and Eastman to reverse certification in his state.

[New Evidence from the Select Committee's Fifth June Hearing \(June 23, 2022\):](#)

- As evidence documented in Trackers 1 and 2 illustrates, Trump had been told by close associates from election night to the end of December 2020 that he had squarely lost the election. Those conversations were in addition to multiple instances in which top officials in the executive branch--most prominently Attorney General Bill Barr and Rosen and Donoghue—relayed to Trump that investigations into the fraud claims had failed to turn up fraud significant enough to shift the election's outcome.
- Even after Trump's call with Secretary of State Brad Raffensperger on January 2, Trump continued to pursue mechanisms to overturn the election results in Georgia. That included pushing forward the plan with Clark and the draft letter to Georgia. Indeed, by the time of the January 3 meeting with Rosen, Donoghue, and other DOJ officials and White House lawyers, Clark was already listed as "Acting Attorney General" in the White House call logs. Trump backed down from the plan to install Clark only when the DOJ and White House Counsel officials at that meeting stated their determination to resign and that others would do so en masse if Rosen were ousted and replaced with Clark.

[New Evidence from the Select Committee's Sixth June Hearing \(June 28, 2022\):](#)

- Hutchinson testified that in December 2020, Director of National Intelligence John Ratcliffe warned that Trump's efforts to fight election results "could spiral out of control and potentially be dangerous." Specifically, Hutchinson recalled Director Ratcliffe cautioning against attempts to "fight the results of the election, finding missing ballots, pressuring, filing lawsuits in certain states where there didn't seem to be significant evidence and reaching out to state legislatures about that."
- Notwithstanding Director of National Intelligence John Ratcliffe warning relayed to Hutchinson in December 2020 that the efforts to keep Trump in power could be dangerous "either for our democracy or the way that things were going for the 6th," Trump and Meadows proceeded to pressure Raffensperger to find the exact number of votes he needed to snag Georgia's electoral votes on January 2, counter to Ratcliffe's advice. It's not clear, however, whom Ratcliffe told, and whether that included the president or Meadows directly. For it to be relevant

	<p>to any criminal prosecution, Trump would have had to have been told that by Ratcliffe or another aide.</p> <p><b><u>New Evidence from the Select Committee’s Seventh Hearing (July 12, 2022):</u></b></p> <ul style="list-style-type: none"> <li>• <b>The committee established that Trump lawyer Rudy Giuliani, a principal arbiter of Big Lie conspiracies, likely knew that his claims were baseless, with his own legal team conceding that they could not find proof of voter fraud that would have affected the election results. In an email on December 28, 2020, Giuliani’s top investigator Bernie Kerik informed Meadows that Trump’s circle could “do all the investigations we want later,” but that “if the President plans on winning, it’s the legislators that have to be moved.” Later, in November 2021, Kerik’s lawyer sent a letter to the committee stating that “it was impossible” for his client’s team “to determine conclusively whether there was widespread fraud or whether that widespread fraud would have altered the outcome of the election.”</b></li> <li>• <b>While it’s unclear whether Kerik explicitly told Meadows in December 2020 that his team could not locate evidence to substantiate Trump’s fraud claims, previous hearings established that Giuliani himself admitted as much in conversations with Arizona Speaker of the House Rusty Bowers following the election. As committee member Adam Schiff described, Giuliani informed Bowers that while they “didn’t have evidence...they had a lot of theories” on allegations of election fraud in key states.</b></li> <li>• <b>Trump campaign senior adviser Jason Miller said the evidence of fraud from the Giuliani team consisted only of “some very, very general documents” and that “to say that it was thin is – is probably an understatement.”</b></li> <li>• <b>Trump’s deputy campaign manager Justin Clark said that it is “fair” to say that he “never came to learn or understand that mayor Giuliani had produced evidence of election fraud.”</b></li> <li>• <b>In a December 18, 2020 White House meeting with Sidney Powell and others, Cipollone asked for evidence to support the fraud claims citing the need to “put up or shut up” but was given no evidence. He told the Committee his requests for evidence were met with “a variety of the responses ... 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.”</b></li> <li>• <b>Despite Giuliani’s team, DOJ leadership, and the president’s own advisers failing to turn up adequate proof of fraud, Trump and Meadows continued to parrot conspiracies and press Raffensperger to defy his constitutional oath during their call on January 2, 2021.</b></li> </ul>
<p><b>3. Crime: That conduct must constitute a</b></p>	<ul style="list-style-type: none"> <li>• Several types of the conduct Trump attempted to solicit from Raffensperger, Watson, and Carr would qualify as Georgia felonies if the state officials had carried out his wishes. Those are: <ul style="list-style-type: none"> <li>a) <b>Interference with Primaries and Elections (Ga. Code Ann. § 21-2-566).</b> <a href="#">Eight component acts</a> comprise Ga.</li> </ul> </li> </ul>

**felony (or misdemeanor) under Georgia law.**

Code Ann. § 21-2-566. The eighth, applying to any person who “willfully tampers with any electors list, voter’s certificate, numbered list of voters, ballot box, voting machine, direct recording electronic (DRE) equipment, electronic ballot marker, or tabulating machine,” is most relevant to Trump’s requests of [Raffensperger](#) and [Watson](#). For Raffensperger to carry out Trump’s request of him—namely the [request](#) to “find” the ballots Trump wanted thrown out—the Secretary of State would have had to [change actual voter data](#), whether by tampering with lists of voters, voting machines, ballot records, DRE equipment, tabulating machines, or voter/ballot data housed on the Secretary’s website. The same analysis could be applied to Trump’s call to Watson, who would have had to manipulate or alter ballots or voter data to [find the “dishonesty”](#) Trump was seeking.

- b) **Counterfeit Ballots or Ballot Labels (Ga. Code Ann. § 21-2-575).** “Any person who makes, constructs, or has in his or her possession any counterfeit of an official ballot or ballot label shall be guilty of a felony.” If Raffensperger or Watson had attempted to complete Trump’s request to [“find” votes](#) (as with Raffensperger) or [identify “dishonesty”](#) (as with Watson) by fabricating fraudulent ballots, they would have violated Ga. Code Ann. § 21-2-575.
- c) **Fraudulent Entries; Unlawful Alteration or Destruction of Entries (Ga. Code Ann. § 21-2-562).** There are [four elements](#) of Ga. Code Ann. § 21-2-562, the first two of which involve “insert[ing] or permit[ing] to be inserted any . . . fraudulent entry in any . . . record or document authorized or required to be made, used, signed, returned, or preserved for any public purpose in connection with any primary or election[.]” and “alter[ing] materially or intentionally destroy[ing] an entry which has been lawfully made therein.” If [Raffensperger](#) or [Watson](#) had altered the types of records to which the statute refers in their execution of Trump’s urgings, they may have violated Ga. Code Ann. § 21-2-562. Those records are generally relevant only to the [pre-voting stage](#) of an election, i.e. to voter data and registration, so the conduct may not apply here.
- Several types of the conduct Trump attempted to solicit from Raffensperger, Watson, and Carr would qualify as Georgia misdemeanors if the state officials had carried out his wishes. Those are:
  - a) **Failure of Public or Political Officer to Perform Duty (Ga. Code Ann. § 21-2-596).** “Any public officer or any officer of a political party or body on whom a duty is laid by this chapter [Title 21, Chapter 2] who willfully neglects or refuses to perform his or her duty shall be guilty of a misdemeanor.” As the Secretary of State and their office’s employees are charged with [administering elections](#) under Georgia state code, if [Raffensperger](#) and [Watson](#) had followed Trump’s orders, which would have required them circumventing or undermining official election procedures to obtain the outcome Trump desired, they would have violated Ga. Code Ann. § 21-2-596. (This component misdemeanor would not apply to Trump’s call to Attorney General Chris Carr, whose office is [not included](#) in the statute.)
  - b) **Making a False Statement (Ga. Code Ann. § 21-2-560).** “Any person who shall make a false statement under oath or affirmation regarding any material matter or thing relating to any subject being investigated, heard, determined, or acted upon by any public official, in accordance with this chapter, shall be guilty of a misdemeanor.” In this instance, if the conduct that Trump implored [Raffensperger](#) and [Watson](#) to carry out

would reasonably have entailed making a false statement under oath or affirmation in connection with the tabulation or certification of election results, it would have [constituted a crime](#).

- c) **Destroying, Defacing or Removing Ballots (Ga. Code Ann. § 21-2-576).** “Any person who willfully destroys or defaces any ballot or willfully delays the delivery of any ballots shall be guilty of a misdemeanor.” If Raffensperger or Watson had destroyed or otherwise altered electoral ballots in fulfilling Trump’s requests of them, the two officials would have [violated](#) Ga. Code Ann. § 21-2-576.

[New Evidence from the Select Committee’s First June Hearing \(June 9, 2022\):](#)

- Vice Chair Cheney’s statement about the January 2, 2021 call between Trump and Secretary of State Brad Raffensperger, if substantiated by live or recorded testimony by Raffensperger, would constitute additional evidence of Ga. Code Ann. § 21-2-566, felony interference with primaries and elections, as well as Ga. Code Ann. § 21-2-560, making a false statement.

[New Evidence from the Select Committee’s Second June Hearing \(June 13, 2022\):](#)

- If BJ Pak had bowed to Trump’s pressure to identify nonexistent voter fraud and pursued further legal action on that false basis, he could have violated any number of the component crimes listed above, including Ga. Code Ann. § 21-2-566, interference with primaries and elections, or Ga. Code Ann. § 21-2-560, making a false statement.

[New Evidence from the Select Committee’s Third June Hearing \(June 16, 2022\):](#)

- The committee’s reference to Trump’s January 4 comments in Georgia and their part in the pressure campaign against Mike Pence may allow Georgia prosecutors to investigate misdemeanors or felonies relating to the overall pattern of threats against the vice president or the other aspects of the alleged conspiracy. The January 2 call, the January 4 appearance in Georgia, and the other contacts with Georgia (including those highlighted in this tracker) are all relevant to that determination.

[New Evidence from the Select Committee’s Fourth June Hearing \(June 21, 2022\):](#)

- Testimony from Georgia Secretary of State Brad Raffensperger provided additional evidence that Trump’s conduct implicated Ga. Code Ann. § 21-2-566, felony interference with primaries and elections, as well as Ga. Code Ann. § 21-2-560, making a false statement.

[New Evidence from the Select Committee’s Fifth June Hearing \(June 23, 2022\):](#)

- Testimony about the continuing scheme targeting Georgia may be relevant to liability by Trump, Clark or others, including Ga. Code Ann. § 21-2-566, felony interference with primaries and elections, as well as Ga. Code Ann. § 21-2-560, making a false statement.

**New Evidence from the Select Committee's Sixth June Hearing (June 28, 2022):**

- Testimony about the lead-up to Trump's January 2 call to Raffensperger and the White House's intel on the potential fallout of the Big Lie may be relevant to liability by Trump, Meadows or others, including Ga. Code Ann. § 21-2-566, felony interference with primaries and elections, as well as Ga. Code Ann. § 21-2-560, making a false statement.

**New Evidence from the Select Committee's Seventh Hearing (July 12, 2022):**

**Testimony further demonstrating that Trump's inner circle knew that their election fraud claims held no merit may be relevant to liability for Trump, Meadows or others, including Ga. Code Ann. § 21-2-566, felony interference with primaries and elections, as well as Ga. Code Ann. § 21-2-560, making a false statement.**

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