



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

July 29, 2021

The Hon. Merrick Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530

The Hon. Christopher Wray  
Director  
Federal Bureau of Investigation  
935 Pennsylvania Ave., NW  
Washington, DC 20535

Re: Request for Investigation of Donald J. Trump and Mark Meadows for Violating Federal Law by Attempting to Overturn the Results of the 2020 Presidential Election

Dear Attorney General Garland and Director Wray:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the Department of Justice (“DOJ” or the “Department”) investigate whether former President Donald J. Trump and former White House Chief of Staff Mark Meadows violated federal criminal law by attempting to weaponize DOJ in service of their larger campaign to overturn the results of the 2020 presidential election.

CREW previously requested that DOJ investigate whether President Trump violated federal law by pressuring Georgia Secretary of State Brad Raffensperger to overturn the results of Georgia’s presidential election.<sup>1</sup> It is now clear that President Trump’s efforts were far broader. Recently released emails and news reports appear to demonstrate that President Trump and Mr. Meadows illegally pressured senior DOJ officials to pursue politically motivated, frivolous election fraud investigations and file a baseless legal complaint in the United States Supreme Court as part of a conspiracy to deprive American citizens of their right to vote and have their votes counted. President Trump and Mr. Meadows further appear to have violated criminal provisions of the Hatch Act by illegally pressuring and attempting to coerce high-ranking DOJ officials to advance a partisan political agenda while abusing the official authority of their high offices to affect the outcome of a federal election. These alarming and illegal acts were part of a broader conspiracy and pattern of conduct aimed at undermining the democratic process that culminated in the seditious attack on the United States Capitol on January 6, 2021.

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<sup>1</sup> Letter from Noah D. Bookbinder to Acting Attorney General Jeffrey A. Rosen and Fulton County District Attorney Fani T. Willis, Jan. 4, 2021, <https://bit.ly/3hOfvtY>.

## **Factual Background**

On Tuesday, November 3, 2020, the American people elected Joe Biden the 46th President of the United States, a result that became clear within days.<sup>2</sup> In the weeks and months that followed, then-President Donald Trump, his Chief of Staff Mark Meadows, and a coterie of other government officials and civilians conspired to overturn the election and thus deprive the people of the United States of their constitutional rights to vote for federal offices and to have their votes fairly counted.

Specifically, as news reports and recently-released internal DOJ emails reveal, President Trump and his chief of staff engaged in a multi-pronged campaign to pressure federal and state government officials to use their authority to instigate groundless investigations into voter fraud, file baseless lawsuits challenging the validity of the election in several states, and even commit election fraud – all in service of their ultimate goal of overturning the presidential election.

### **Initial Post-Election Efforts to Overturn the Results**

In the days and weeks following the election, President Trump and his advisors, including his personal attorney Rudy Giuliani and White House aides, began a coordinated multi-state campaign to prevent states from counting legal ballots (or to throw out already-counted legal ballots).<sup>3</sup> This included filing dozens of lawsuits making specious and disproven allegations of fraud, and a near-constant stream of public statements and media appearances by President Trump and his allies pushing a narrative that the election had been stolen from him.<sup>4</sup>

Federal officials who refuted the narrative of purported voter fraud and a stolen election were publicly discredited or fired. On November 12, 2020, the top federal election security monitoring board, run in part by the Cybersecurity and Infrastructure Security Agency (“CISA”), declared the 2020 election “the most secure in American history.”<sup>5</sup> Five days later, President Trump fired CISA Director Christopher Krebs with a brief statement declaring that the statement was “highly inaccurate” and falsely claiming that there had been “massive improprieties and fraud.”<sup>6</sup>

On December 1, 2020, then-Attorney General William Barr similarly told the Associated Press that he had not seen “fraud on a scale that could have effected a different

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<sup>2</sup> See, e.g., Paul Steinhauser and Brooke Singman, Biden wins presidency, Trump denied second term in White House, Fox News Projects, Fox News, Nov. 7, 2020, <https://fxn.ws/3kBxyp9>; Jonathan Martin and Alexander Burns, Biden Wins Presidency, Ending Four Tumultuous Years Under Trump, New York Times, Nov. 7, 2020, <https://nyti.ms/3hNSwzo>.

<sup>3</sup> Anita Kumar and Gabby Orr, Inside Trump’s pressure campaign to overturn the election, Politico, Dec. 21, 2020, <https://politi.co/36MTq8X>.

<sup>4</sup> William Cummings, Joey Garrison, and Jim Sergent, By the numbers: President Donald Trump’s failed efforts to overturn the election, USA Today, Jan. 6, 2021, <https://bit.ly/3isSLPl>; Glenn Kessler and Salvador Rizzo, President Trump’s false claims of vote fraud: a chronology, Washington Post, Nov. 5, 2020, <https://wapo.st/2V32O5S>.

<sup>5</sup> Joint Statement, Elections Infrastructure Government Coordinating Council & The Election Infrastructure Sector Coordinating Executive Committees, CISA, Nov. 12, 2020, <https://bit.ly/36PgeF6>.

<sup>6</sup> David E. Sanger and Nicole Perlroth, Trump Fires Christopher Krebs, Official Who Disputed Election Fraud Claims, New York Times, Nov. 17, 2020, <https://nyti.ms/2VQPK3F>.

outcome in the election,”<sup>7</sup> which “sent a definitive message that the effort to overturn the election was without merit.”<sup>8</sup> Later that day, Attorney General Barr met with President Trump, Mr. Meadows, and others at the White House. During the meeting President Trump verbally abused and “went off on” his Attorney General, asking him, “How the fuck could you do this to me? Why did you say it?”<sup>9</sup> When Attorney General Barr responded, “Because it’s true,” President Trump was “livid” and said, “You must hate Trump. You must hate Trump.” After “going through [a] litany of claims – stolen ballots, fake ballots, dead people voting, rigged voting machines,” President Trump switched to complaints about DOJ failures to take steps he seemingly believed would have helped him in the election, shouting at Attorney General Barr. President Trump finished the conversation by “banging on the table” and calling his Attorney General “worthless.” At the end of the meeting, Attorney General Barr was “unsure whether he still had a job.”<sup>10</sup> President Trump’s conduct and refusal to accept the results of the election ultimately led to Attorney General Barr to announce his resignation two weeks later on December 14, 2020.<sup>11</sup>

### President Trump’s and Mr. Meadows’ Campaign to Pressure and Coerce DOJ

The views of CISA and Attorney General Barr did little to deter the efforts of President Trump, Mr. Meadows, and their allies to pressure and coerce DOJ to overturn the election. On December 14, the day that Deputy Attorney General Jeffrey Rosen was announced as Attorney General Barr’s successor as the head of DOJ, President Trump immediately began to exert pressure on Mr. Rosen. Minutes after the announcement of Attorney General Barr’s resignation, Mr. Rosen received an email from President Trump’s personal assistant from her official White House email account, “Michael, Molly A. EOP/WHO.”<sup>12</sup> The email had the subject line “From POTUS,” and included talking points and a forensic report purportedly documenting voting irregularities in Antrim County, Michigan. Some of these alleged anomalies, the report claimed, were caused by election technology company Dominion Voting Systems. The allegations were completely unfounded.<sup>13</sup>

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<sup>7</sup> Michael Balsamo, Disputing Trump, Barr says no widespread election fraud, *Associated Press*, Dec. 1, 2020, <https://bit.ly/3zfYmPH>.

<sup>8</sup> Jonathan D. Karl, Inside William Barr’s Breakup With Trump, *The Atlantic*, June 27, 2021, <https://bit.ly/3eCRiVL>; see also Jonathan Swan, Trump turns on Barr, Jan. 18, 2021, <https://bit.ly/3BfFUbQ>.

<sup>9</sup> Karl, *The Atlantic*, June 27, 2021.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*; Matt Zapposky, Josh Dawsey, and Devlin Barrett, William P. Barr to depart as attorney general, Trump announces, *Washington Post*, Dec. 14, 2020, <https://wapo.st/3ezau6r>.

<sup>12</sup> Email from Molly A. Michael to Jeff.Rosen38@usdoj.gov, Dec. 14, 2021. This and other DOJ emails and documents cited herein were released in June 2021 by the House Committee on Oversight and Reform. See Selected Documents, President Trump Pressure Campaign on Department of Justice, House Committee on Oversight and Reform, June 2021 (“Trump Pressure Campaign Documents”), at 4-30, <https://bit.ly/3iyq2sF>.

<sup>13</sup> In June 2021, following a months-long investigation conducted by three Republican and one Democrat state senators in Michigan, those officials concluded that the allegations of fraud in Antrim County were entirely false. Report on the November 2020 Election in Michigan, Michigan Senate Oversight Committee, <https://bit.ly/3zf2HCU>. The results were so devastating that the Republican members of the Michigan Senate Oversight Committee felt they had no choice but to recommend a criminal investigation of those involved in spreading “misleading and false information” about Antrim County to raise money or publicity for their own ends.” *Id.* They concluded that “those promoting Antrim County as the prime evidence of a nationwide conspiracy to steal the election place all other statements and actions they make in a position of zero credibility.” *Id.*

The next day, soon-to-be Acting Attorney General Rosen was summoned to the White House to meet with President Trump. During the Oval Office meeting, President Trump reportedly pressured Mr. Rosen to weaponize the DOJ in support of his political campaign to overturn his election loss.<sup>14</sup> Specifically, President Trump demanded that Acting Attorney General Rosen both direct the Department to provide support for President Trump's various lawsuits aimed at overturning the election, and appoint a special counsel to investigate a conspiracy theory that the election software company Dominion Voting Systems had somehow switched votes.<sup>15</sup>

Following Attorney General Barr's departure from DOJ on December 23, President Trump and his allies ramped up their pressure on Acting Attorney General Rosen and DOJ's senior leadership. The pressure was applied on multiple fronts. President Trump and others, including the attorney who represented Texas in its failed lawsuit to overturn the election, attempted to pressure DOJ to file a lawsuit in the Supreme Court to overturn the election in six states. Chief of Staff Meadows also began pressuring Acting Attorney General Rosen to investigate the Trump campaign's allegations of fraud in Fulton County, Georgia, a campaign that would result in the infamous January 2, 2021 call to Georgia Secretary of State Brad Raffensperger in which President Trump illegally solicited election fraud. And President Trump's dissatisfaction with the efforts of a United States Attorney in Georgia to investigate the baseless allegations of fraud led to the prosecutor's resignation.<sup>16</sup> Each is discussed below.

### The Supreme Court Lawsuit

On December 29, 2020, President Trump's team began urging Acting Attorney General Rosen and DOJ to file a lawsuit in the Supreme Court aimed at overturning the election. That morning at 11:17 am, President Trump's White House personal assistant sent another email from her official White House email account to Acting Attorney General Rosen, Acting Deputy Attorney General Richard Donoghue, and Acting Solicitor General Jeffrey Wall.<sup>17</sup> The email contained explicit instructions from President Trump to review the attached document – a draft lawsuit to be filed by DOJ in the Supreme Court to overturn the election results in Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin. The email also noted that the document had been shared with Mr. Meadows and White House

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<sup>14</sup> Katie Benner, Meadows Pressured Justice Dept. to Investigate Election Law Claims, *New York Times*, June 5, 2021, <https://nyti.ms/3ist29U>.

<sup>15</sup> *Id.*

<sup>16</sup> Mr. Meadows also tried to pressure Acting Attorney General Rosen to begin an investigation into bizarre allegations that a U.S. embassy official had coordinated with a high-level European Union military commander and the "head of the IT department" of an Italian defense and aerospace company to use the firm's "advanced military encryption capabilities" to "change[] the US election result from President Trump to Joe Biden." Emails from Mark R. Meadows to Jeff Rosen, Dec. 29, 30, 2020 (Trump Pressure Campaign Documents at 217-18, 223). None of these absurd allegations had any basis in reality, a fact that was readily apparent to Acting Attorney General Rosen and other DOJ officials, one of whom called them "pure insanity." Email from Richard Donoghue to Jeffrey A. Rosen, Jan. 1, 2021 (Trump Pressure Campaign Documents at 231). But apparently these claims were not too outrageous for the White House, which unsuccessfully pressured Mr. Rosen to direct the FBI to meet a Giuliani associate about the allegations. Email from Jeffrey A. Rosen to Richard Donoghue, Jan. 1, 2021 (Trump Pressure Campaign Documents at 231-32). *See also* Fact check: Evidence disproves claims of Italian conspiracy to meddle in U.S. election, *Reuters*, Jan. 15, 2021, <https://reut.rs/3zg4lnN>.

<sup>17</sup> Email from Molly A. Michael to DOJ Officials, Dec. 29, 2021 (Trump Pressure Campaign Documents at 32-88).

Counsel Pat Cipollone, and explained how the DOJ officials could reach President Trump if they wanted to discuss the lawsuit.

At nearly the same moment that President Trump's assistant forwarded the draft complaint, Kurt Olsen, the attorney who represented Texas in a similar lawsuit that the Supreme Court had thrown out earlier that month, began bombarding the Department's senior leadership with emails and calls about the potential lawsuit. At 10:57 am, Mr. Olsen emailed Acting Solicitor General Wall, saying "the President directed [him] to meet with AG Rosen today to discuss [the suit]" and complaining that Acting Attorney General Rosen hadn't responded to his "multiple calls/texts" about this "urgent matter." At 12:45 pm, Mr. Olsen emailed John Moran, Acting Attorney General Rosen's chief of staff, explaining that he needed to meet with Mr. Rosen as soon as possible, because "the President of the United States has seen this complaint, and he directed me last night to brief AG Rosen in person today to discuss bringing this action. I have been instructed to report back to the President this afternoon after this meeting."<sup>18</sup>

Mr. Moran's subsequent emails to Acting Attorney General Rosen depict a constant stream of pressure from Mr. Olsen to meet and discuss filing the lawsuit. At 1:35 pm: "I received a follow up call from Mr. Olsen. I explained that you were tied up with other business at the White House. He understood but indicated that, given timing commitments he made to the President, he needed to make every effort to meet with you this afternoon." At 2:26 pm: "As a further heads up, Mr. Olsen just called to tell me (a) that he just tried to call you again and (b) that he is in the car driving down to DC (from Maryland) in the hopes of meeting with you at Main Justice later today." At 3:46 pm: "To keep you up to date, I just missed a call from Mr. Olsen. In addition, I learned through [redacted] that he had reached out earlier today to someone in the Antitrust Division in an effort to arrange a meeting with you today."<sup>19</sup>

By the end of the day, Acting Attorney General Rosen apparently had finally spoken to Mr. Olsen, and asked him for examples of potentially similar cases where the United States acted as *parens patriae*, a rarely used theory in this context that President Trump and his supporters intended to argue allowed them to overturn the election.<sup>20</sup> The next day, Mr. Olsen continued pressuring DOJ to take steps to overturn the election, sending Mr. Moran a follow-up email attaching a letter sent two days earlier by a Pennsylvania state senator to Acting Deputy Attorney General Donoghue, which Mr. Olsen said, "raises a litany of serious outcome-changing issues."<sup>21</sup> The letter raised no such issues.

### The Georgia Pressure

On the morning of December 30, Chief of Staff Meadows began a separate element of the pressure campaign on DOJ. At 9:31 am, Mr. Meadows, using his official White House email account, "Meadows, Mark R. EOP/WHO", asked Acting Attorney General Rosen to

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<sup>18</sup> Email from Kurt Olsen to John Moran, Dec. 29, 2020 (Trump Pressure Campaign Documents at 90).

<sup>19</sup> Emails from Kurt Olsen to John Moran and from John Moran to Jeffery A. Rosen, Dec. 29, 2020 (Trump Pressure Campaign Documents at 147-48).

<sup>20</sup> Email from Kurt Olsen to John Moran, Dec. 30, 2020 (Trump Pressure Campaign Documents at 151-57).

<sup>21</sup> Email from Kurt Olsen to John Moran and from John Moran to Jeffery A. Rosen, Dec. 30, 2020 (Trump Pressure Campaign Documents at 151).

“have your team look into these allegations of wrongdoing [in Georgia].”<sup>22</sup> Mr. Meadows’ message forwarded an email from attorney Cleta Mitchell, who had attached to her email a lawsuit the Trump campaign had filed in Georgia state court and the Trump campaign’s press release outlining the suit. On January 1, 2021 at 4:13 pm, Mr. Meadows followed up on allegations “of signature match anomalies” in Fulton County, asking Acting Attorney General Rosen in another email from his White House account to “get [Assistant Attorney General] Jeffrey Clark to engage on this issue immediately.”<sup>23</sup> The pressure campaign appeared to have some immediate impact. The next morning, in an email apparently related to a claim of fraud in Georgia, Assistant Attorney General Clark confirmed to Acting Attorney General Rosen that he “spoke to the source and [was] on [a call] with the guy who took the video,” adding that he was “[w]orking on it” and that there was “[m]ore due diligence to do.”<sup>24</sup>

Hours later, President Trump and several associates, including Mr. Meadows and Ms. Mitchell, called Georgia Secretary of State Raffensperger in an attempt to pressure and coerce him to overturn the results of Georgia’s presidential election. As CREW described in its prior request for investigation, President Trump, repeating Mr. Meadows’ demands to Acting Attorney General Rosen, pressed Secretary Raffensperger to conduct signature verification in Fulton County, saying: “We think that if you check the signatures – a real check of the signatures going back in Fulton County – you’ll find at least a couple of hundred thousand of forged signatures of people who have been forged.”<sup>25</sup> President Trump made clear that the purpose of his efforts was to have Secretary Raffensperger overturn the results of the election, telling him at one point, “I just want to find 11,780 votes” – one more than the 11,779 votes by which he lost the state to now-President Biden.<sup>26</sup>

### Attempt to Fire Acting Attorney General Rosen

Throughout this period, President Trump and his allies were growing frustrated with Acting Attorney General Rosen’s unwillingness to bend to the growing pressure to involve the DOJ in the campaign to overturn the election.<sup>27</sup> With the January 6, 2021 deadline for

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<sup>22</sup> Email from Mark R. Meadows to Jeff Rosen, Dec. 30, 2020 (Trump Pressure Campaign Documents at 219-22).

<sup>23</sup> Email from Mark R. Meadows to Jeffrey A. Rosen, Jan. 1, 2021 (Trump Pressure Campaign Documents at 226). At the same time, Mr. Meadows also was pressuring Mr. Rosen to have his team investigate equally meritless complaints apparently made by the head of the New Mexico Republican Party. Email from Mark R. Meadows to Jeff Rosen, Jan. 1, 2021 (Trump Pressure Campaign Documents at 228-30).

<sup>24</sup> Email from Jeffrey Clark to Jeffrey A. Rosen, Jan. 2, 2021 (Trump Pressure Campaign Documents at 202).

<sup>25</sup> Amy Gardner and Paulina Firozi, Here’s the full transcript and audio of the call between Trump and Raffensperger, *Washington Post*, Jan. 5, 2021, <https://wapo.st/3hRZjYX>.

<sup>26</sup> *Id.* President Trump’s call to Secretary Raffensperger wasn’t his only attempt to exert direct pressure on state election officials. According to recently released telephone records, President Trump called Clint Hickman, the then-chair of the Maricopa County Board of Supervisors, on December 31, 2020 and January 4, 2021. In an interview following the release of the phone records, Mr. Hickman stated that he refused to pick up the telephone – he had seen the transcript of President Trump’s call to Secretary Raffensperger and he “want[ed] no part of this madness.” Michael Wines and Reid J. Epstein, Trump Is Said to Have Called Arizona Official After Election Loss, *New York Times*, Jul. 2, 2021, <https://nyti.ms/37j8lbn>. President Trump’s repeated calls to Mr. Hickman followed months of pressure from President Trump’s allies, who reportedly called Mr. Hickman and three other members of the Board throughout November and December. *Id.*

<sup>27</sup> On December 26, 2020, for example, President Trump tweeted, “The ‘Justice’ Department and the FBI have done nothing about the 2020 Presidential Election Voter Fraud, the biggest SCAM in our nation’s history, despite overwhelming evidence. They should be ashamed.” Donald J. Trump, Tweets of December 26, 2020, Trump Twitter Archive, <https://bit.ly/3ycVIdI>.

congressional certification of the election quickly approaching, President Trump began to talk privately of his desire to fire Acting Attorney General Rosen, and he and his allies settled on one potential candidate to replace him: Jeffrey Clark.<sup>28</sup>

The Assistant Attorney General for the Environment and Natural Resources Division at the time, Mr. Clark was among the most senior DOJ officials to openly display a willingness to use Department resources in support of President Trump's campaign to overturn the election. According to reporting at the time and in the months since the end of the administration, Mr. Clark expressed that he would be open to having "the department assert that fraud in Georgia was cause for that state's lawmakers to disregard its election results and appoint new electors."<sup>29</sup> And there is evidence that the White House was acutely aware of Assistant Attorney General Clark's views: as noted above, on January 1, Mr. Meadows directed Mr. Rosen to "get Jeff Clark to engage on [claims of fraud in Fulton County, GA] immediately."<sup>30</sup> Mr. Clark apparently obliged the next morning.<sup>31</sup>

The Raffensperger call and the impending congressional certification deadline on January 6 appear to have intensified President Trump's desire to weaponize the DOJ by firing Acting Attorney General Rosen and replace him with Assistant Attorney General Clark. On January 3, 2021, Mr. Rosen, Mr. Donoghue, Mr. Engel, and others attended a "high-stakes" evening meeting in the Oval Office.<sup>32</sup> In the hours before the meeting, it had reportedly become apparent that the subject of the meeting was Mr. Rosen's refusal to allocate DOJ resources to the campaign to overturn the election, and his ultimate dismissal in favor of Assistant Attorney General Clark.<sup>33</sup> Reportedly, President Trump had been plotting with Mr. Clark to carry out plans he had devised to "wield the department's power to force Georgia state lawmakers to overturn its presidential election results."<sup>34</sup> The Department's leadership reportedly arranged a meeting to decide how to ensure that, as Associate Deputy Attorney General Patrick Hovakimian would later say, "the cause of justice" would ultimately win out.<sup>35</sup> The result was an agreement to resign en masse should Acting Attorney General Rosen be fired, a threat that was ultimately enough to stop President Trump from firing Mr. Rosen.

#### Resignation of United States Attorney Byung J. "BJay" Pak

While Acting Attorney General Rosen was able to withstand being fired by President Trump for not supporting his fraud allegations, the United States Attorney for the Northern District of Georgia was not able to avoid losing his job. After walking back Mr. Rosen's firing, President Trump reportedly was not satisfied, and "complained that he wanted to fire Pak" who "he felt was not doing enough to uncover fraud."<sup>36</sup> Meeting participants reportedly told

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<sup>28</sup> Katie Benner, Trump and Justice Dept. Lawyer Said to Have Plotted to Oust Acting Attorney General, *New York Times*, Jan. 22, 2021, <https://nyti.ms/3rriyjk>.

<sup>29</sup> Matt Zapposky, et al., 'Pure insanity': How Trump and his allies pressured the Justice Department to help overturn the election, *Washington Post*, June 16, 2021, <https://wapo.st/3hTVOMM>.

<sup>30</sup> Email from Mark R. Meadows to Jeffrey A. Rosen, Jan. 1, 2021 (Trump Pressure Campaign Documents at 226).

<sup>31</sup> Email from Jeffrey Clark to Jeffrey A. Rosen, Jan. 2, 2021 (Trump Pressure Campaign Documents at 202).

<sup>32</sup> Zapposky, et al., *Washington Post*, June 16, 2021.

<sup>33</sup> Benner, *New York Times*, Jan. 22, 2021; Zapposky, et al., *Washington Post*, June 16, 2021.

<sup>34</sup> Benner, *New York Times*, Jan. 22, 2021.

<sup>35</sup> Email from Patrick Hovakimian, Jan. 3, 2021 (Trump Pressure Campaign Documents at 204); Benner, *New York Times*, Jan. 22, 2021.

<sup>36</sup> Zapposky, et al., *Washington Post*, June 16, 2021.

the president that “Pak intended to leave anyway and that he need not take such a step.” Late in the evening following the meeting, Acting Deputy Attorney General Donoghue arranged a call with Mr. Pak,<sup>37</sup> and the two reportedly discussed President Trump’s comments in the Oval Office.<sup>38</sup> The next day, Mr. Pak, who was reportedly already considering resigning from his position, circulated his resignation letter to President Trump, Acting Attorney General Rosen, and other senior DOJ leadership.<sup>39</sup>

This evidence and the reporting that surrounded the announcement of Mr. Pak’s resignation confirm earlier news reports that White House officials “pushed” him to resign “before Georgia’s U.S. Senate runoffs because President Trump was upset he wasn’t doing enough to investigate the president’s unproven claims of election fraud.”<sup>40</sup> Attorney General Barr’s resignation, followed by Mr. Pak’s forced resignation and the threat of Acting Attorney General Rosen’s firing sent a clear message of intimidation and coercion to the Department: President Trump would fire anyone who was not vigorously pursuing the allegations of election fraud – allegations that DOJ had already determined to be meritless.

### **Potential Criminal Civil Rights Violations**

The Constitution grants to all Americans fundamental rights on which the country’s democratic system rests. Congress has passed a number of laws protecting these rights, including establishing criminal penalties for those who would seek to deprive others of them. In the decades since the passage of the landmark civil rights legislation in the 1960s, the federal government has taken action to prevent individuals or groups of individuals from depriving others of their right to vote and have that vote be fairly counted. These criminal laws have been used to protect citizens from everything from fraud and deception on the individual level to conspiracies to overturn the results of federal elections and deprive entire communities of their right to democratically elect their representatives.

#### **Conspiracy against rights – 18 U.S.C. § 241**

Section 241 makes it unlawful for two or more persons to “conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States.” The right to vote for federal offices and the right to have one’s vote fairly counted are among the rights secured by Article I, Sections 2 and 4, of the Constitution, and hence protected by Section 241.<sup>41</sup>

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<sup>37</sup> Email from Richard Donoghue to BJay Pak, Jan. 3, 2021 (Trump Pressure Campaign Documents at 207).

<sup>38</sup> Zapotosky, et al., *Washington Post*, June 16, 2021.

<sup>39</sup> Email from BJay Pak, Jan. 4, 2021 (Trump Pressure Campaign Documents at 208-13); Zapotosky, et al., *Washington Post*, June 16, 2021.

<sup>40</sup> Aruna Viswanatha, Sadie Gurman, and Cameron McWhirter, White House Forced Georgia U.S. Attorney to Resign, *Wall Street Journal*, Jan. 9, 2021, <https://on.wsj.com/3ziuYZj>.

<sup>41</sup> *Anderson v. United States*, 417 U.S. 211, 227 (1974); *United States v. Classic*, 313 U.S. 299 (1941); *Ex parte Yarborough*, 110 U.S. 651 (1884); *United States v. Nathan*, 238 F.2d 401, 407 (7th Cir. 1956); *Ryan v. United States*, 99 F.2d 864, 866 (8th Cir. 1938).



Former President Trump and former White House Chief of Staff Meadows appear to have violated Section 241.<sup>42</sup> First, there is substantial direct and circumstantial evidence that President Trump, Mr. Meadows, and their associates entered into an agreement to overturn the results of the 2020 election. The totality of the co-conspirators' words and conduct, as demonstrated by the relationship of the parties, their overt acts, the unity of their purpose, design, and understanding, and the overall circumstances shown in the record, allows for only one reasonable inference: that they entered into an agreement to attempt to overturn the election.<sup>43</sup> Evidence of that agreement includes:

- Conducting a coordinated campaign to prevent states from counting legal ballots.
- Firing or publicly discrediting federal officials who refuted the narrative of purported voter fraud and a stolen election.
- Threatening and attempting to intimidate state officials, including Georgia Secretary of State Raffensperger, to take steps to overturn the results of the election in their states.
- Pressuring DOJ officials to file the lawsuit in the Supreme Court that, if successful, would have overturned the election results in Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin.
- Pressuring Attorney General Barr and Acting Attorney General Rosen to use DOJ resources to help investigate false allegations of fraud in Michigan and Georgia.
- Attempting to fire Acting Attorney General Rosen for refusing to direct the DOJ to support the election fraud claims.<sup>44</sup>

Second, the ultimate object of the conspiracy was to deprive citizens of their constitutional rights by changing the legal result of the 2020 election. At its core, the goal of the related actions of President Trump, Mr. Meadows, and others was to intimidate DOJ officials into conducting investigations, filing lawsuits, and taking other steps to overturn

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<sup>42</sup> Others, including individual members of the Trump administration and private citizens, also may have violated Section 241, which applies to all conspirators, regardless of whether they are government officials or private citizens such as Rudy Giuliani and Kurt Olsen. *United States v. Price*, 383 U.S. 787, 799 (1966).

<sup>43</sup> *American Tobacco Co. v. United States*, 328 U.S. 781, 810 (1946) (holding that in circumstances where “the conspirators had a unity of purpose or a common design and understanding, or a meeting of minds in an unlawful arrangement, the conclusion that a conspiracy is established is justified”); *Glasser v. United States*, 315 U.S. 60, 80 (1942) (“[A] common purpose and plan may be inferred from a ‘development and a collocation of circumstances.’”) (citation omitted); *United States v. Cogwell*, 486 F.2d 823 (7th Cir.1973) (same); *United States v. Kaczmarek*, 490 F.2d 1031, 1035 (7th Cir. 1974) (“[A] conspiracy may be proved by circumstantial evidence and reasonable inferences to be drawn by the jury from evidence of the parties’ relationship, overt acts and the totality of their conduct.”). There need not be a “formal agreement to conspire” to sustain a conviction under Section 241. *United States v. Redwine*, 715 F.2d 315, 320 (7th Cir. 1983).

<sup>44</sup> Section 241 does not require the conspirators to take an overt act in furtherance of the conspiracy. *See, e.g., United States v. Colvin*, 353 F.3d 569, 576 (7th Cir. 2003). However, should a court require an overt act, actions such as the call to Secretary Raffensperger pressuring him to “find 11,780 votes” and President Trump ordering Mr. Olsen to push Acting Attorney General Rosen to have DOJ bring a specious Supreme Court lawsuit to invalidate the election in six states would be more than sufficient.

the election, and to pressure state officials with the power to oversee their state's election results to do the same by disregarding the votes cast in their states. Had it been successful, this conduct would have corrupted an honest vote tally and deprived citizens of numerous states of their constitutional rights to vote in a free and fair election and to have their votes fairly counted.<sup>45</sup> Put simply, the co-conspirators intended to overturn the results of the election by threatening or intimidating federal and state officials to take steps that would have resulted in depriving citizens of the right to have their votes be given full effect.<sup>46</sup>

### **Potential Hatch Act Criminal Violations**

The Hatch Act protects federal funds, employees, and programs from political manipulation. In particular, the statute has criminal provisions that are designed to provide penalties for egregious attempts at using federal authority to influence a federal election. While prosecutions under the criminal provisions of the Hatch Act are rare, they are not unprecedented. In 1974, for example, President Richard Nixon's personal lawyer pled guilty to a criminal Hatch Act violation for attempting to trade an ambassadorship appointment for contributions to support President Nixon's reelection.

President Trump's and Mr. Meadows' conduct is significantly more egregious. In the final days and weeks of the administration, President Trump and Mr. Meadows relentlessly engaged in a pressure campaign to intimidate and coerce senior DOJ officials into pursuing meritless election fraud claims and baseless lawsuits in furtherance of President Trump's political agenda, and to misuse their official authority so as to adversely affect the outcome of the 2020 presidential election.

#### **Coercion of political activity – 18 U.S.C. § 610**

One criminal provision of the Hatch Act makes it unlawful for anyone to coerce or attempt to coerce employees of the federal government to induce or discourage "any political activity." Specifically, 18 U.S.C. § 610 provides:

It shall be unlawful for any person to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce, any employee of the Federal Government as defined in section 7322(1) of title 5, United States Code, to engage in, or not to engage in, any political activity, including, but not limited to, voting or refusing to vote for any candidate or measure in any election, making or refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Any

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<sup>45</sup> *United States v. Classic*, 313 U.S. 299, 321 (1941) ("[A] conspiracy to prevent the citizen from voting, or to prevent the official count of his ballot when cast, is a conspiracy to injure and oppress the citizen in the free exercise of a right secured by the Constitution."); *United States v. Saylor*, 322 U.S. 385, 388 (1944) (holding that "the elector's right intended to be protected [by now-Section 241] is not only that to cast his ballot but that to have it honestly counted"). See also *United States v. Haynes*, 1992 WL 296782, at \*1 (6th Cir. 1992); *United States v. Townsley*, 843 F.2d 1070, 1073-75 (8th Cir. 1988); *United States v. Howard*, 774 F.2d 838 (7th Cir. 1985); *United States v. Olinger*, 759 F.2d 1293 (7th Cir. 1985).

<sup>46</sup> See *Anderson*, 417 U.S. at 226 ("The specific intent required under § 241 is not the intent to change the outcome of a federal election, but rather the intent to have false votes cast and thereby to injure the right of all voters in a federal election to express their choice of a candidate and to have their expressions of choice given full value and effect, without being diluted or distorted by the casting of fraudulent ballots.").

person who violates this section shall be fined under this title or imprisoned not more than three years, or both.<sup>47</sup>

As DOJ has explained, “[a]lthough the class of persons covered by Section 610 is limited to federal employees, the conduct covered by this statute is broad: it reaches political activity that relates to any public office or election, whether federal, state, or local.”<sup>48</sup> “Political activity” expressly includes, but is not limited to, “‘voting or refusing to vote for any candidate or measure,’ ‘making or refusing to make any political contribution,’ and ‘working or refusing to work on behalf of any candidate.’”<sup>49</sup>

President Trump’s and Mr. Meadows’ pressure campaign in the final days and weeks of the administration appears to have violated 18 U.S.C § 610. As federal employees, DOJ officials clearly fall within the class of persons protected from acts of intimidation and coercion by “any person,” including the president and his chief of staff. Moreover, President Trump’s and Mr. Meadows’ pressure campaign on DOJ leadership was “political activity” since pursuing meritless election fraud claims and baseless lawsuits would benefit President Trump’s political interest as a candidate.

Even after Election Day, conduct affecting the tabulation of votes and certification of the election can be political activity under the Hatch Act. President Trump remained the Republican Party’s candidate for president until the 2020 election results were certified by Congress on January 6,<sup>50</sup> and certain post-Election Day activities intended to influence the results of the popular election, “such as through a recount effort, and swaying or attempting to sway the allocation of electoral votes,” are political activity under the statute.<sup>51</sup>

It is also clear that President Trump’s and Mr. Meadows’ pressure campaign on DOJ was intended to impact the results of the election. Having already suffered many of the eventually more than 60 court losses in election-related lawsuits,<sup>52</sup> President Trump’s options for retaining the presidency were narrowing in December 2020 as the January 6, 2021 congressional certification date approached. Faced with limited options, President Trump desperately sought DOJ involvement in a variety of election fraud claims and lawsuits, which would lend them a veneer of legitimacy and help delegitimize President Biden’s November 2020 election victory. As DOJ has explained, even “the mere fact that a criminal investigation is being conducted may impact upon the adjudication of election litigation and contests.”<sup>53</sup> DOJ, however, had no legitimate role to play in pursuing President Trump’s political agenda.

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<sup>47</sup> This statute is among the body of laws directed at the “use [of] government-funded jobs or programs to advance a partisan political agenda rather than to serve the public interest.” Federal Prosecution of Election Offenses 53 (Richard C. Pilger et al. eds., 8th ed. 2017), <https://www.justice.gov/criminal/file/1029066/download>.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> U.S. Office of Special Counsel, [Advisory on The Hatch Act and Activities after Election Day](https://www.osc.gov/Advisory-on-The-Hatch-Act-and-Activities-after-Election-Day), Nov. 4, 2020, at 1, <https://bit.ly/36QSEYp> (“For purposes of the Hatch Act, an individual is no longer considered a candidate when the outcome of the election is determined by vote of the Electoral College on the sixth day of January after the election.”).

<sup>51</sup> *Id.* at 1, n.4.

<sup>52</sup> Cummings, Garrison, and Sargent, *USA Today*, Jan. 6, 2021.

<sup>53</sup> Federal Prosecution of Election Offenses 53.

It is equally clear that President Trump and Mr. Meadows engaged in a pattern of pressure, threats, and intimidation to coerce DOJ officials into pursuing meritless election fraud claims and baseless lawsuits as part of President Trump's political agenda. This conduct includes:

- President Trump's verbal abuse of Attorney General Barr for publicly renouncing his election fraud allegations as meritless, causing him to resign, firing CISA Director Krebs, and causing U.S. Attorney Pak to resign, all of which sent the message to others to pursue the allegations or get out.
- President Trump's pressure on DOJ officials, including Acting Attorney General Rosen, to support lawsuits seeking to overturn his election loss and to appoint a special counsel to investigate Dominion Voting Systems.
- President Trump's pressure on DOJ officials to file the Supreme Court complaint that sought to throw out election results in six states.
- Using Mr. Olsen to further apply pressure on Acting Attorney General Rosen and DOJ officials to file the Supreme Court lawsuit through repeated emails and phone calls.
- Mr. Meadows' pressure on DOJ officials to investigate various dubious claims of voter fraud in Georgia and elsewhere, including through multiple emails sent to Mr. Rosen.
- President Trump's attempt to fire Acting Attorney General Rosen and replace him with Assistant Attorney General Clark, including at the January 3 "high-stakes meeting" at the White House.
- President Trump's pressure to fire U.S. Attorney Pak, which resulted in his resignation.

Based on the foregoing, President Trump and Mr. Meadows appear to have violated 18 U.S.C. § 610 by personally or through intermediaries intimidating and attempting to coerce senior DOJ officials to engage in political activity in furtherance of President Trump's attempt to affect the outcome of the 2020 presidential election.

*Interference in Election by Employees of Federal or State Governments – 18 U.S.C. § 595*

A second criminal provision of the Hatch Act prohibits public officers or employees from using their official authority to interfere with the nomination or election of a candidate for federal office. Specifically, 18 U.S.C. § 595 provides:

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, . . . or by any State, Territory, or Possession of the United States, . . . uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, [or] Presidential

elector, . . . shall be fined under this title or imprisoned not more than one year, or both.

Section 595 “applies to all public officials, whether elected or appointed, federal or non-federal,” and it “is aimed at the misuse of official authority.”<sup>54</sup> The critical element in proving a Section 595 offence is demonstrating “[t]he nexus between the official action and an intent to influence.”<sup>55</sup>

There is no question that President Trump, as an elected U.S. government official, and Mr. Meadows, as a White House appointee, are subject to Section 595. It is equally clear that President Trump and Mr. Meadows used their official authority in an effort to interfere with or affect the outcome of the 2020 presidential election. Their relevant conduct included:

- President Trump’s use of his official authority as President to verbally abuse Attorney General Barr, causing him to resign, fire CISA Director Krebs, and cause U.S. Attorney Pak to resign, all for not having more vigorously pursued or supported President Trump’s meritless claims of election fraud.
- President Trump’s use of his official authority as President to pressure Acting Attorney General Rosen to pursue meritless election fraud claims and baseless lawsuits in a White House meeting.
- President Trump’s use of his White House personal assistant and her official White House email account to send DOJ officials materials alleging election fraud in Michigan, and the draft Supreme Court complaint.
- Mr. Meadows’ use of his official authority as the White House chief of staff to pressure Acting Attorney General Rosen to authorize DOJ investigations into allegations of election fraud in multiple states, including the request that he assign Mr. Clark to investigate the Georgia election fraud allegations.
- Mr. Meadows’ use of his official White House email account to convey various baseless allegations of election fraud to DOJ officials.

Moreover, as explained in detail above, there is no question that President Trump and Mr. Meadows intended to affect the outcome of the 2020 presidential election through their official actions. The only purpose of repeatedly pressuring DOJ to launch investigations into meritless claims of election fraud, pushing Department officials to file baseless election lawsuits in the Supreme Court and other courts, and intimidating DOJ and other officials who disagreed with or publicly refuted their narrative, was to overturn the results of “the election of any candidate” – here, now-President Biden – “for the office of President.”

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<sup>54</sup> Federal Prosecution of Election Offenses 111.

<sup>55</sup> *Id.*

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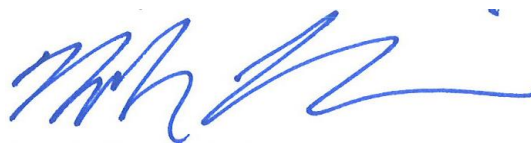
As a result, President Trump and Mr. Meadows appear to have violated 18 U.S.C. § 595 by misusing their official authority to interfere with or affect the outcome of the 2020 presidential election.

### **Conclusion**

Following the November 2020 presidential election, former President Trump, former White House Chief of Staff Meadows, and their allies within the White House and outside of government engaged in a concerted attack on our nation's democratic institutions that is unrivaled in modern history. Had this attack succeeded, it would have resulted in the overturning of a free and fair election and quite possibly the fall of democracy in our country. The scope and breadth of the co-conspirators' misconduct, and the overarching goal of the broader conspiracy, demands an immediate and unequivocal response. Government officials who try to subvert our republic by weaponizing the power of the state to undermine democratic rule must be held accountable to the full extent of the criminal law.

Democracy is a precious thing. That it has survived in this nation for more than two centuries is an achievement that is unparalleled in human history. It is your duty, as servants of our Constitution and protectors of our unique experiment in self-governance, to ensure that this perversion of our institutions of government never happens again. The only way to do so is to hold the perpetrators, regardless of their former positions, accountable under the laws they swore to uphold and sought to subvert. Accordingly, we request that you investigate whether former President Trump and former White House Chief of Staff Meadows violated multiple criminal laws by engaging in a pressure campaign to coerce Justice Department officials to misuse the powers of their office to try to swing the election in Trump's favor.

Sincerely,



Noah Bookbinder  
President

cc: Hon. Bennie G. Thompson, Chairman  
Select Committee to Investigate the January 6th Attack on the United States Capitol