

January 7, 2020

The Honorable Merrick Garland, Attorney General-Designate
Chambers of the Honorable Merrick Garland
E. Barrett Prettyman U.S. Courthouse
333 Constitution Ave. NW
Washington, DC 20001

Dear Judge Garland,

We write to urge you to commit publicly to establishing within the Department of Justice, immediately upon your confirmation, an independent task force to investigate any potential federal criminal or civil violations that may have been committed by President Trump, members of his administration, or his campaign, business, or other associates.

For at least the past five years, Donald Trump, and his aides and associates, have engaged in a flurry of unethical, unconstitutional, and often criminal activity, culminating yesterday with the seditious insurrection on the United States Capitol incited and encouraged by the President and his allies. If we are to begin the process of restoring the integrity of the Department of Justice and the rule of law to our nation, it is essential that the Department thoroughly investigate these actions and, where warranted and appropriate, hold accountable those who have violated the nation's laws.

These potential offenses fall into several categories:

1. *Offenses related to President Trump's efforts to overturn the results of the 2020 election.* Before November 3, President Trump and key aides engaged in conduct intended to sabotage a free and fair election, including by soliciting a thing of value from the President of the Ukraine in exchange for military aid, by sabotaging the U.S. Postal Service, and other means. Afterwards, they undertook to block the transition of presidential power and attempted to prevent tabulation of ballots and cause state legislatures to appoint slates of electors contrary to the will of the voters.

Just in the last few days President Trump and aides engaged in a recorded phone call in which they [pressured](#) Georgia's Secretary of State Brad Raffensperger to "find 11,780 votes" to overturn the presidential election outcome in that state. (Two Members of Congress have already [sent a criminal referral](#) to the FBI regarding that phone call.) Since overturning Georgia's election results alone would not yield an Electoral College majority for Trump, it is almost certain that he made or attempted similar conversations with elections officials in other states.

This misconduct may constitute [bribery or attempted bribery](#), [conspiracy to defraud the United States](#) by [obstructing the lawful function of a federal agency](#) or by inducing officials to [willfully fail or refuse to tabulate, count, and report votes](#) or [deprive or defraud the residents of a State of a fair and impartially conducted election process](#), [unlawful use of official authority or influence for the purpose of interfering with or affecting the result of an election](#), [coercion of federal employee political activity](#), [engaging in prohibited political activity on federal property](#), [election fraud](#), and other potential violations.

As of the date of this letter, the culmination of this misconduct has been President Trump's speech [inciting](#) an angry mob which then marched toward Capitol Hill and engaged in a violent seditious attack on the United States Capitol, taking over the House and Senate chambers and forcing emergency evacuation or sheltering of the United States Congress, all in an effort to stop the certification of the electoral votes from the 2020 election. President Trump's actions may constitute [rebellion or insurrection](#), [seditious conspiracy](#), and [advocating the overthrow of the government](#).

2. *Offenses related to the 2016 election that were not prosecuted during the Trump presidency because of Department of Justice policy.* The second volume of the [Report on the Investigation into Russian Interference in the 2016 Presidential Election](#) by Special Counsel Robert Mueller cited extensive evidence that President Trump [committed obstruction of justice](#). But Special Counsel Mueller explicitly [noted](#) that he did not consider filing or even drawing conclusions regarding any charges against President Trump due to [Department of Justice policy](#) against prosecuting a sitting President. That same policy acknowledges, however, that “[r]ecognizing an immunity from prosecution for a sitting President would not preclude such prosecution once the President’s term is over,” and consequently ceases to apply to Mr. Trump at 12:00 pm on January 20, 2021.

Additionally, President Trump himself was named as an unindicted co-conspirator (“Individual-1”) in the [criminal information](#) filed by the U.S. Attorney for the Southern District of New York against Mr. Trump's former personal lawyer, Michael Cohen, to which Mr. Cohen [pleaded guilty](#). Given the extensive evidence, including documents, testimony of Mr. Cohen, and Trump's public admissions, that Mr. Cohen's crimes were carried out at the direction and for the benefit of President Trump, it is likely that no charges were brought or considered by the Southern District against Trump based on the same Justice Department policy against prosecuting a sitting president, which ceases to apply as of 12:00 pm on January 20, 2021.

3. *Offenses related to misuse of the presidency and high office for personal profit, including bribery or extortion.* President Trump has demanded and received extensive financial benefits from businesses, individuals, and other entities apparently seeking to curry favor with the U.S. government, through payments to the Trump Hotel in Washington, D.C., Mar-a-Lago, and other properties; financing

arrangements; valuable international trademarks; and other financial benefits. Top advisors and family members (e.g., Jared Kushner, Ivanka Trump) have also benefited in this manner.

4. *Other offenses related to the Trump Organization, including tax fraud, bank fraud, or insurance fraud.* A series of credible media reports indicate that Trump and his business, the Trump Organization, have been engaged in longstanding practices, before and during the Trump presidency involving potential tax fraud, insurance fraud, and bank fraud, in violation of federal law. While the Trump Organization is already [under investigation by New York state authorities](#) for state law violations, this conduct raises serious questions of federal criminal law that must be investigated by federal authorities, under the leadership of the Department of Justice.

5. *Offenses related to immigration and the U.S.-Mexican border.* Of particular note, the administration implemented a policy of family separation and detention of children under [conditions](#) that, [according to the United Nations Office of the High Commissioner for Human Rights](#), “may amount to torture.”

6. *Other offenses.* In addition to the conduct already known publicly, given the disregard for the law demonstrated by President Trump and his key aides and associates, it is likely that further investigation will reveal additional offenses, including obstruction of justice, obstruction of the lawful function of federal agencies, [destruction or concealment of federal records](#), and other offenses, many of which may occur in the remaining days of the transition period.

This investigation could also include the circumstances and validity of self-serving presidential pardons, including whether pardons were granted as part of a bribery, extortion, or conspiracy scheme. Furthermore, the investigation may need to consider the validity of a pardon of Trump himself. Of course, the Department of Justice has [long recognized](#) that a presidential self-pardon is invalid. But it is not unreasonable to consider that the President may resign before your inauguration and be succeeded, and immediately pardoned, by Vice President Pence. If so, the investigation will need to examine whether that pardon was part of a corrupt scheme and whether it is legally invalid.

Setting aside the merits of the Department policy prohibiting prosecution of sitting presidents, neither a president nor his officials are above the law, and the policy has no application beyond a president’s term. To the contrary, our constitutional system, under which no one, especially the president, is above the law, permits and obligates the Department of Justice to enforce the law, where appropriate, against former presidents.

During a presidential primary debate in Atlanta in November 2019, President-elect Biden [stated](#):

I would not direct my Justice Department like this president does. I would let them make their independent judgment . . . I would not dictate who should be prosecuted or who should be exonerated. That's not the role of the president of the United States. . . . If that was the judgment, that he violated the law and he should be in fact criminally prosecuted, then so be it, but I would not direct it.

We applaud the President-elect's public commitment during that debate not to engage in political interference with investigations against Mr. Trump and his officials. By the same token, the Department of Justice would not be well-served by an uncoordinated approach involving multiple organizational units (including both at Main Justice and U.S. Attorneys' offices) separately investigating and prosecuting the same or overlapping conduct.

For this reason, we urge you, as Attorney General-designate, to establish—and then leave to pursue its work—a task force to investigate potential misconduct and, if any violations of federal law are substantiated, to pursue criminal and civil remedies in court. Once created and given its assignment, the task force—whether organized as a joint body with staff loaned from multiple organizational units, via the procedures of 28 C.F.R. part 600, or via some other appointment under 28 U.S.C. § 515(a)—should be isolated within the Department of Justice, so that it will neither distract from other Department work nor be subject to political interference.

As the Department of Justice has long [recognized](#), “the President is not above the law, and . . . he is ultimately accountable for his misconduct that occurs before, during, and after his service to the country.” To fulfill this principle, we urge you to establish an independent task force to investigate—and, if appropriate, prosecute—President Trump, his officials, and his associates.

Sincerely,

Free Speech For People
Action Group Network
Brave New Films
Demand Progress
Equal Justice Society
For All
Government Accountability Project
Progressive Leadership Initiative
Progressives for Democracy in America
Revolving Door Project
True North Research