

Sent via mail and email

September 25, 2026

Connecticut Attorney General William Tong
President
National Association of Attorneys General
1850 M Street, NW, 12th Floor
Washington, D.C. 20036
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Re: State Prosecutions of President Trump for Voter Fraud

Dear Attorney General Tong,

Free Speech For People respectfully joins attorneys Bruce Fein and Ralph Nader in their request for every member of the National Association of Attorneys General (NAAG) to explore state prosecution of President Donald Trump under their respective state laws for urging his supporters to commit voter fraud in the upcoming midterm elections.

I. BACKGROUND

On September 10, 2026, during the final night of the 2026 Republican National Convention, Trump gave a speech during which he had the audience recite an oath with him, as transcribed below:

So please raise your right hand. I pledge... to the greatest president in the history of the United States... that loves us so much he can't even breathe... that I will go out with my family, my friends, I'll do it anyway, **I don't care if I'm registered or not, I'm going to try and cheat like hell like they do.** They never, there's never been bigger cheaters. They don't care. I'm gonna go out and I'm gonna get my friends, my family, and we are going to vote on November 3rd or we are going to vote before that.¹

In making this public statement, Trump exhorted his supporters to commit criminal voter fraud in the upcoming midterms.

¹ Remarks: Donald Trump Delivers Closing Remarks at the RNC Convention in Dallas - September 10, 2026, Roll Call (Sep. 10, 2026), <https://rollcall.com/factbase/trump/transcript/donald-trump-remarks-closing-remarks-rnc-convention-dallas-september-10-2026> (emphasis added).

Federal law clearly criminalizes voter fraud. 52 U.S.C. §§ 10307, 20511. The U.S. Department of Justice and relevant federal agencies are obligated to investigate federal offenses impartially, but under this administration, the DOJ and all federal law enforcement agencies are corruptly controlled by Trump. As a result, it is clear that no federal agency will investigate, impartially determine whether Trump’s appeal violates federal law, or bring appropriate prosecutions.

The fact that an offense also violates federal law does not relieve state law enforcement officials from their obligations to investigate and prosecute acts that violate state criminal laws. Federal agencies’ abdication of their responsibilities harms the safety of our people and the stability of our democratic institutions. If local and state authorities also abdicate their civil and criminal enforcement responsibilities, their citizens will be left at the mercy of the criminal whims of federal officials, including Trump and his associates. The states must carry out their duties and enforce prohibitions in state criminal law against aiding and abetting voter fraud.

States across the country criminalize voter fraud,² and state provisions generally apply to any election held in the state, including elections for federal office.³ The scheme need not succeed in order to qualify as a crime; most states also prohibit criminal solicitation,⁴ attempted crimes,⁵ and conspiracy.⁶ Criminal solicitation generally occurs when a person, acting to promote or facilitate the crime being solicited, “commands, encourages or requests” others to commit or attempt to

² See, e.g., Ala. Code § 17-17-36; Ariz. Rev. Stat. Ann. § 16-1016; Cal. Elec. Code §§ 18100, 18560 (West); Ga. Code Ann. §§ 21-2-561, 21-2-571 (West); 10 Ill. Comp. Stat. Ann. 5/29-19; Iowa Code Ann. § 39A (West); Me. Rev. Stat. Ann. tit. 21-A, § 674; Mass. Gen. Laws Ann. ch. 56, §§ 8, 26 (West); Mich. Comp. Laws Ann. § 168.932a (West); N.Y. Elec. Law § 17-132 (McKinney); Nev. Rev. Stat. Ann. §§ 293.775, 293.800 (West); N.C. Gen. Stat. Ann. § 163-275; 25 Pa. Stat. and Cons. Stat. Ann. § 1703 (West); Tex. Elec. Code Ann. § 276.013 (West); Wis. Stat. Ann. § 12.13 (West); Wyo. Stat. Ann. § 22-26-106 (West).

³ See, e.g., Ala. Code § 17-17-36; Ariz. Rev. Stat. Ann. § 16-1001; Cal. Elec. Code § 18000 (West) (applying to “all elections”); Ga. Code Ann. § 21-2-15 (West); 10 Ill. Comp. Stat. Ann. 5/1-3; Iowa Code Ann. § 39A.1 (West); Me. Rev. Stat. Ann. tit. 21-A, § 1; Mass. Gen. Laws Ann. ch. 50, § 1 (West); N.Y. Elec. Law § 1-102 (McKinney); Nev. Rev. Stat. Ann. §§ 293.060, 293.080 (West); N.C. Gen. Stat. Ann. § 163-275; 25 Pa. Stat. and Cons. Stat. Ann. § 701 (West); Tex. Elec. Code Ann. § 1.002 (West); Wis. Stat. Ann. § 5.01 (West); Wyo. Stat. Ann. § 22-1-102 (West).

⁴ See, e.g., Ala. Code § 13A-4-1; Ark. Code Ann. § 5-3-301 (West); Fla. Stat. Ann. § 777.04 (West); Haw. Rev. Stat. Ann. § 705-510 (West); 18 Pa. Stat. and Cons. Stat. Ann. § 902 (West); Tenn. Code Ann. § 39-12-102 (West). Some solicitation statutes apply only to a limited number of offenses. See Cal. Penal Code § 653f (West); Colo. Rev. Stat. Ann. § 18-2-301 (West); Kan. Stat. Ann. § 21-5303 (West); Nev. Rev. Stat. Ann. § 199.500 (West); N.D. Cent. Code Ann. § 12.1-06-03 (West); Tex. Penal Code Ann. § 15.03 (West); Va. Code Ann. § 18.2-29 (West); W. Va. Code Ann. § 61-11-8a (West).

⁵ Charles Doyle, Cong. Rsch. Serv., R42001, Attempt: An Overview of Federal Criminal Law 4, 19 (2025), <https://www.congress.gov/crs-product/R42001>.

⁶ Conspiracy, Black’s Law Dictionary (12th ed. 2024).

commit a crime.⁷ Conspiracy generally is defined as an agreement by two or more persons to commit an unlawful act with an intent to achieve the agreement's objective.⁸

Here, Trump created or attempted to create an agreement to commit criminal voter fraud with members of his audience in the form of a pledge. The audience members entered this agreement by repeating the pledge with him during his speech. His statement is also clear solicitation to his supporters to commit criminal voter fraud for Trump's benefit. Regardless of whether Trump supporters ultimately commit voter fraud, Trump's statement and pledge seeking, combined with the audience members' willingness to enter said pledge, may be sufficient to charge him under state criminal laws.

II. TRUMP IS NOT IMMUNE FROM STATE CRIMINAL PROSECUTION

The immunity available to federal officials under the Supremacy Clause of the U.S. Constitution does not apply to this matter and does not preclude criminal investigation and prosecution against Trump.⁹

The Supremacy Clause “is designed to ensure that states do not ‘retard, impede, burden, or in any manner control’ the execution of federal law.” *New York v. Tanella*, 374 F.3d 141, 147 (2d Cir. 2004) (quoting *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 436 (1819)). It does not, however, wholly shield federal officers from appropriate state criminal proceedings. The Supreme Court set out the appropriate standard for assessing the availability of Supremacy Clause immunity in *Cunningham v. Neagle*: a state may not exercise criminal jurisdiction over a federal agent provided that “he was authorized to [act] by the law of the United States,” and that “in doing that act, he did no more than what was necessary and proper for him to do.” 135 U.S. 1, 75 (1890); see also *Tanella*, 374 F.3d at 147; *Kentucky v. Long*, 837 F.2d 727, 744 (6th Cir. 1988) (“Under *Neagle*, a state court has no jurisdiction if (1) the federal agent was performing an act which he was authorized to do by the law of the United States and (2) in performing that authorized act, the federal agent did no more than what was necessary and proper for him to do.”). To satisfy the second prong, two conditions must be satisfied: (1) the federal officer must “subjectively [believe] that the actions were authorized”; and (2) that belief must be “objectively reasonable under the circumstances.” *Battle v. State*, 252 Md. App. 280, 258 A.3d 1009, 1021 (2021) (citing *Long*, 837 F.2d at 744).

⁷ Model Penal Code § 5.02 (A.L.I. 2025). The Model Penal Code has influenced criminal laws in over 35 states. George P. Fletcher, Dogmas of the Model Penal Code, 2 Buff. Crim. L. Rev. 3 (1998).

⁸ Conspiracy, Black's Law Dictionary (12th ed. 2024), *supra* note 6. See also, Model Penal Code § 5.03 (A.L.I. 2025).

⁹ See, Bryna Godar, *Are Federal Officials Immune From State Prosecution?*, Lawfare (Nov. 6, 2025), <https://www.lawfaremedia.org/article/are-federal-officials-immune-from-state-prosecution>.

Supremacy Clause immunity therefore does not protect federal officers who act outside the law or beyond what is subjectively and objectively necessary and proper. When they do either, they may be held criminally liable in state court for violating state laws. *See, e.g., Battle*, 252 Md. App. at 280 (rejecting Supremacy Clause immunity for a DHS officer who was prosecuted for assaulting a civilian outside the scope of his duties and beyond what was necessary and proper).

The Supremacy Clause also does not apply to federal officials when they are acting in their personal capacity or engaging in partisan political activity. Here, Trump was attending the Republican National Convention, a partisan political conference, and speaking as the leader of the Republican Party, not in his official capacity as President.¹⁰ Therefore, there can be no immunity for his partisan statements or actions during the event.

As the state of New York demonstrated in its prosecution of Trump for falsifying business records to cover up his hush money payments to an adult film star during his 2016 campaign, *see New York v. Trump*, Verdict Sheet, Indictment No. 71543-23 (Sup. Ct. N.Y. Part 59, May 29, 2024), states have the authority and responsibility to investigate criminal abuses of power and to protect their residents and their laws, regardless of the defendants' wealth, power, prestige, or status as federal officials.

¹⁰ Though the Hatch Act does not apply to the president and vice-president, it provides a useful guide to separating official federal activity from political and campaign activities. 5 U.S.C. § 7322, 7323.

III. CONCLUSION

We urge all state attorneys general to investigate Trump's statement, and any subsequent related acts or statements, to determine whether he violated state criminal laws, and to commence prosecution where appropriate.

Sincerely,

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