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Backgrounder: U.S. Department of Justice charges Trump for 2020 presidential election interference, explained

This criminal investigation is being led by DOJ Special Counsel Jack Smith. The investigation is ongoing.

Issue Areas



Accountability



Election Protection

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Key Takeaways



- 1 The indictment tells a clear story: Donald Trump and six co-conspirators undermined the will of the American people in an effort to overturn the 2020 presidential election result.
- 2 Long after recounts and litigation confirmed his clear loss, Trump and his allies knowingly spread lies about election fraud and pressured officials and lawmakers from seven states, federal agencies, and the vice president to keep Trump in power.
- 3 This was an assault on our democracy—a conspiracy “against the right to vote and to have one’s vote counted.” It led to the January 6 attack, and Trump and his co-conspirators exploited that violence in a final attempt to delay the electoral count.
- 4 This is accountability in action. We must have zero tolerance for attacks on our democracy, to ensure the rule of law and the will of the people always prevail. Efforts to pursue accountability by both federal and state officials are critical steps toward accountability for attempts to overturn the 2020 election.

On August 1, 2023, a grand jury of everyday Americans, convened by the United States Department of Justice (DOJ), returned an indictment criminally charging former President Donald Trump with four crimes related to 2020 presidential election interference. The indictment centers on Trump and his co-conspirators’ attempt to prevent the lawful certification of the 2020 presidential election, and to interfere with millions of Americans’ right to vote and have that vote counted. This criminal investigation is being led by DOJ Special Counsel Jack Smith. The investigation is ongoing. While Trump’s trial date on these charges was originally set for March 4, 2024, the judge

postponed this date pending resolution of Trump's appeal of his presidential immunity claim to the United States Supreme Court.

Background on US DOJ's investigation

Timing: In parallel with the bipartisan congressional investigation into the January 6 attack, which began in 2021, the DOJ began investigating Trump and his allies' actions to overturn the 2020 presidential election results in 2022. In November 2022, Attorney General Merrick Garland named Jack Smith, a veteran DOJ prosecutor, as special counsel to oversee the DOJ's criminal investigations into former President Trump.

Smith is also investigating Trump's handling of classified documents containing sensitive national security information after he left office. Trump was indicted in June 2023 in that federal investigation. After an updated indictment filed in July 2023, he faces 40 total criminal counts in the classified documents case.

Scope of the federal election interference investigation: The special counsel was assigned to examine "whether any person or entity violated the law in connection with efforts to interfere with the lawful transfer of power following the 2020 presidential election or the certification of the Electoral College vote held on or about January 6, 2021."

While grand jury proceedings are secret, some details about the proceedings have been publicly reported by media outlets and from witnesses who testified before the grand jury. The DOJ focused its investigation on: (1) the false presidential elector schemes in seven states (Arizona, Georgia, Michigan, Nevada, New Mexico, Pennsylvania, and Wisconsin); (2) the attempted legal and congressional maneuvers to overturn the results of the 2020 presidential election; (3) the pressure campaign on state officials and state legislators to change 2020 election results; and (4) the events leading up to the January 6 attack.

The grand jury heard from dozens of witnesses, according to an NBC News analysis. Former Vice President Mike Pence testified in late April. Other witnesses believed to have been subpoenaed or testified include:



- Aides to Vice President Pence, including Greg Jacob and Marc Short
 - State and local officials in all seven states where Trump allies attempted to overturn his 2020 election loss
 - Secret Service agents
 - People connected to the false electors scheme, including individuals recruited to be false electors in Georgia, Michigan, and Nevada
 - Trump 2020 campaign lawyers, aides, and advisors, including Rudy Giuliani, Boris Epshteyn, and Mike Roman
 - Trump administration officials, including former national security advisor Robert O'Brien, former national intelligence director John Ratcliffe, and former Homeland Security official Ken Cuccinelli
 - Trump White House lawyers, including Pat Cipollone
 - DOJ officials during the Trump administration, including Richard Donoghue
 - Other federal agency officials from the Trump administration, including former Director of the Cybersecurity and Infrastructure Security Agency Chris Krebs
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Summary of DOJ's criminal charges and allegations against Trump

Trump was charged with four federal crimes, including:

1. **Conspiracy to defraud the United States** by using dishonesty, fraud, and deceit to impair, obstruct, and defeat the lawful federal function by which the results of the presidential election are collected, counted, and certified by the federal government in violation of 18 U.S.C. § 371.
2. **Conspiracy to corrupt and impede the January 6th congressional proceeding** in violation of 18 U.S.C. § 1512(k).
3. **Obstruction of and attempt to obstruct January 6th congressional**

proceeding in violation of 18 U.S.C. §§ 1512(c)(2), 2.

- 4. Conspiracy to obstruct the right to vote and have one's vote counted in violation of 18 U.S.C. § 241.**

The indictment lays out the facts of the step-by-step effort to disrupt the peaceful transfer of power, and alleges that Trump and/or his co-conspirators:

- Organized false presidential elector slates in seven states (Arizona, Georgia, Michigan, New Mexico, Nevada, Pennsylvania, and Wisconsin) and caused the transmission of these false electoral certificates to Congress, undermining millions of Americans' votes in a free, fair, and secure election;
- Attempted to use the authority of the DOJ to conduct sham election investigations and influence state officials, including through an attempt to send a letter to targeted states falsely stating that the DOJ had identified serious concerns regarding the election;
- Tried to enlist Vice President Pence to use his ceremonial role during the January 6th joint proceeding of Congress to fraudulently alter the election results;
- Exploited the disruption of the January 6 attack to delay certification of the election results;
- Knew their claims of outcome-determinative election fraud were false and were repeatedly told of their falsity by a variety of high-level attorneys, officials, and counselors to the president; and
- Pressured state officials to take actions to overturn the election results in Arizona, Georgia, Michigan, Pennsylvania, and Wisconsin.

Trump's presidential immunity appeal

Trump filed a motion arguing that he is immune from prosecution for interfering with the 2020 presidential election on the grounds of "presidential immunity"—a protection that he claims prevents presidents from being prosecuted for any official acts unless first impeached by the

House and convicted by the Senate. No court has ever recognized presidential immunity from criminal prosecution, and U.S. District Judge Tanya Chutkan, who is overseeing the case at the trial level, determined that no such immunity exists. After Trump appealed, Judge Chutkan stayed the case until the appeal concludes.

At a January 9 hearing, a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit expressed significant concerns with Trump's claim that he was immune from this prosecution and his lawyer's claim that Trump could only be held criminally culpable for conduct that he had first been found guilty of through a congressional impeachment. According to Trump's lawyer, this immunity would prevent prosecution even if a president ordered the US military to assassinate a political opponent. Judge Henderson noted: "I think it's paradoxical to say that his constitutional duty to take care that the laws be faithfully executed allows him to violate the criminal law."

On February 6, the D.C. Circuit court rejected Trump's sweeping claim of presidential immunity: "We cannot accept former President Trump's claim that a President has unbounded authority to commit crimes that would neutralize the most fundamental check on executive power — the recognition and implementation of election results," the judges wrote. "Nor can we sanction his apparent contention that the Executive has carte blanche to violate the rights of individual citizens to vote and to have their votes count." On February 12, Trump filed an appeal to the Supreme Court.

What's next in the DOJ's election interference case

Trump has appealed the D.C. Circuit's rejection of his presidential immunity claim to the Supreme Court, which will decide whether to hear his case. The March 4, 2024 trial date has been postponed.

Other investigations, charges, and lawsuits regarding 2020 election interference

The list below includes some of the other investigations, charges, and lawsuits related to 2020 election interference.



- **Congressional committee investigation:** The bipartisan United States House Select Committee to Investigate the January 6 attack on the United States Capitol held public hearings and issued a final report in 2022 after an investigation that took more than a year.
 - The January 6 Select Committee spoke with more than 1,000 people, ultimately concluding that Trump took certain steps “in support of a multi-part conspiracy to overturn the lawful results of the 2020 Presidential election.”
 - In December 2022, the January 6 Select Committee voted to refer Trump and John Eastman to the DOJ for possible prosecution, and shared its evidence and witness transcripts with the DOJ.
- **Prosecutions for January 6 attack:** The DOJ has charged over 1,200 individuals in its investigation of the January 6 attack. About 700 have pleaded guilty, and more than 130 individuals have been convicted at trial including Oath Keepers leader Stewart Rhodes, who was convicted of seditious conspiracy.
- **Fulton County, Georgia, election interference investigation:** In May 2022, Fulton County District Attorney Fani Willis convened a special grand jury to investigate interference in Georgia’s 2020 presidential election. The special grand jury heard from a wide range of witnesses and issued a final report. In August 2023, a Fulton County grand jury indicted 19 individuals, including Trump, for violations of 16 Georgia statutes, including the state’s racketeering law. Four co-defendants have since pled guilty, including attorneys Kenneth Chesebro, Jenna Ellis, and Sidney Powell. For more information on those proceedings, visit our backgrounder.
- **Arizona false electors investigation:** Arizona Attorney General Kris Mayes is investigating the transmission of a false elector slate for Trump from Arizonans.
- **Michigan false electors charges:** Michigan Attorney General Dana Nessel charged each of the 16 individuals who served as false 2020 Michigan presidential electors for Trump with eight felony counts, including conspiracy and forgery. Those cases are now proceeding through the courts. For more information on those cases, visit our backgrounder.



- [Michigan voting machine charges](#): Former Michigan attorney general candidate Matt DePerno, former Michigan state Rep. Daire Rendon, and attorney Stefanie Lambert Junttila have been [indicted](#) by a special prosecutor for their alleged roles in an effort to gain access to Oakland County, Michigan voting machines after the 2020 presidential election. This case has been [set for trial](#) on March 4, 2024, by a special prosecutor for their alleged roles in an effort to gain access to Oakland County, Michigan voting machines after the 2020 presidential election.
- [Eastman California State Bar Trial](#): John Eastman, a lawyer licensed in California and Washington, D.C., represented former President Trump in late 2020 and early 2021. The State Bar of California filed 11 disciplinary charges against Eastman, alleging he violated his ethical obligations by planning, promoting, and assisting Trump in executing a strategy, unsupported by facts or law, to overturn the legitimate 2020 results. The [evidence](#) presented over 35 days of trial, including testimony from 23 witnesses and more than 400 exhibits, made clear that Eastman's plan had no compelling legal or factual support and that he is culpable of all charges. The State Bar Court of California issued a [preliminary finding of culpability](#) against Eastman at the close of his defense. For more information on the trial, visit our [backgrounder](#).

Resources

- [Indictment: United States of America v. Donald J. Trump](#)
- [DOJ Special Counsel's Statement](#)
- [States United Democracy Center: The January 6 Hearing State Spotlights](#)
- [States United Democracy Center: Countering Lies About the 2020 Presidential Election](#)
- [States United Democracy Center: Guide to Counting Electoral College Votes and The January 6, 2021 Meeting of Congress](#)
- [American Oversight: Copies of the Seven False Electoral College States](#)



Key state news coverage

- [Bridge Michigan: Trump indictment: How Michigan, Detroit factor into charges over 2020 election](#)
- [The Atlanta Journal-Constitution: Trump's call to Carr gets new attention in federal indictment](#)
- [WABE: Georgia features prominently in federal Trump indictment as charges near in Fulton](#)
- [Milwaukee Journal Sentinel: Wisconsin fake elector scheme is at the center of Donald Trump indictment](#)
- [12News: Arizona featured prominently in latest Trump indictment](#)
- [Philadelphia Inquirer: Trump indictment: Charges feature former president's effort to subvert Pennsylvania election results](#)
- [NM Political Report: Trump indictment includes efforts to overturn NM election results](#)



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