Trump wanted Justice Department to declare 2020 election “corrupt”

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Less than four weeks before he left office January 20, President Donald Trump urged top officials of the Department of Justice (DoJ) to “just say the election was corrupt,” and that he and his supporters in Congress would follow this up with action.

In a conversation on December 27, 2020, memorialized in written notes taken by Acting Deputy Attorney General Richard Donoghue, Trump told Acting Attorney General Jeffrey Rosen, who had replaced Attorney General Bill Barr only two weeks before, that he needed only a green light from the DoJ and that the president and his supporters in Congress would be able to go forward in their efforts to overturn the election.

Rosen told Trump, according to Donoghue’s notes, that the Justice Department “can’t + won’t snap its fingers + change the outcome of the election.” Trump replied that he understood Rosen’s position, but wanted him to “just say the election was corrupt + leave the rest to me and the R. Congressmen.”

Trump specifically named two Republican members of the House, Jim Jordan of Ohio, and Scott Perry of Pennsylvania. Two weeks later, Perry was the House member who objected to certification of his own state’s electoral votes. Jordan was the leading Republican opponent of Trump’s impeachment, and was vetoed last month by Speaker Nancy Pelosi when Republican leader Kevin McCarthy named him to a seat on the bipartisan House Select Committee to investigate the events of January 6.

The timing of the call to Rosen and the reference to Republican congressmen demonstrates that Trump was focused on the January 6 ceremonial event at the Capitol, where the two houses of Congress were to meet in joint session to certify the Electoral College victory of Democrat Joe Biden. He sought Justice Department sanction for what his own fascist supporters were preparing to do that day—block the certification—in an effort coordinated with Republican congressional supporters who were to object to the certification inside Congress as the mob gathered outside.

The notes from Donoghue were released Friday by a House committee, after the Department of Justice, now headed by Biden nominee Merrick Garland, said it had no objection.

Trump was citing completely unsubstantiated claims of vote fraud which were circulating on the internet largely because his own political operatives—or Trump personally—had put them out. These included claims of ballot dumps in Fulton County, Georgia (Atlanta), and other allegations involving Nevada, Arizona, and Michigan.

Rosen and Donoghue told him, “We are not in a position based on the evidence. We can only act on the actual evidence developed,” according to the notes. “Told him flat out that much of the info he is getting is false, +/or just not supported by the evidence—we look at allegations but they do not pan out,” Donoghue wrote.

Representative Carolyn B. Maloney of New York, chair of the House Oversight Committee, said the notes “show that President Trump directly instructed our nation’s top law enforcement agency to take steps to overturn a free and fair election in the final days of his presidency.”

The December 27 call was one of a series by Trump to Rosen, apparently nearly every day, during the two weeks between Rosen taking office December 23, 2020 and the coup attempt of January 6, 2021, when Trump supporters attacked the Capitol in an effort to block the congressional certification which gave Biden a decisive Electoral College victory over Trump, by a margin of 306-232.

According to Donoghue’s notes, Trump told Rosen that his supporters wanted him to fire Rosen as head of DoJ and replace him with Jeffrey Clark, a lower-ranking official believed willing to go along with the fraudulent claims of a stolen election.

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"We have an obligation to tell people that this was an illegal, corrupt election," Trump told Rosen. "People tell me Jeff Clark is great, I should put him in. People want me to replace DOJ leadership."

This coup within the Justice Department was only forestalled when the entire senior leadership of the department informed the White House they would resign if Clark was named to replace Rosen. Trump only backed off after a White House meeting at which this opposition within the DoJ leadership was communicated to him directly.

Trump also demanded that Rosen investigate corruption charges against Hunter Biden, son of the president-elect, a long-running theme going back to Trump's phone conversations with the president of Ukraine, the subject of his first impeachment and Senate trial.

Two days after the December 27 phone call, Rosen and Donoghue went to the White House for a discussion with Trump chief of staff Mark Meadows, White House counsel Pat Cipollone, and other officials about a bizarre theory that unnamed Italians used satellite technology to tamper with voting machines in the United States. Like most of the claims of Trump supporters about the "stolen election," there was no evidence, only allegations that were circulating on the internet.

Press reports claim that Trump decided against filing legal action to block the release of Donoghue's notes, despite warnings from his advisers that they could prove damaging. "If it gets more attention on the election, he welcomes it," one adviser told the *Washington Post* .

Subsequently, the Biden Justice Department told Rosen and other former officials of the Trump Justice Department that their conversations with Trump about overturning the 2020 elections were not protected by executive privilege.

A Justice Department letter told Rosen that this case was an exception to the general rule that former officials must protect confidential information derived from their work, including internal deliberations. Instead, "extraordinary events in this matter constitute exceptional circumstances warranting an accommodation to Congress in this case," including the investigation into "whether former President Trump sought to cause the Department to use its law enforcement and litigation authorities to advance his personal political interests with respect to the results of the 2020 presidential election."

The letter attributed to President Biden the decision "that it would not be appropriate to assert executive privilege with respect to communications with former President Trump and his advisers and staff on matters related to the scope of the Committees' proposed interviews, notwithstanding the view of former President Trump's counsel that executive privilege should be asserted to prevent testimony regarding these communications."

This statement would suggest at least a tactical shift in the policy of the White House, which has effectively opposed all efforts to seriously investigate the events of January 6. Biden openly opposed the second impeachment, voted just before Trump left office, and he has avoided speaking on the issue of the January 6 coup, even when directly questioned at his rare press conferences.

In the spring, Biden instructed the Justice Department to side with Trump in relation to his actions on June 1, 2020, when then President Trump threatened to invoke the Insurrection Act and ordered federal agents to clear Lafayette Square of protesters against police violence so that he could walk across it and be photographed holding up a Bible in front of a nearby church.

But in this case, with multiple congressional committees pressing for access into communications between Trump and the Justice Department during the final weeks of the administration, Biden and his closest advisers evidently felt that it would be too politically damaging to invoke executive privilege to protect Trump's efforts to engineer an official declaration that the 2020 election was "corrupt."

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