

Trump Justice official sought to assist election coup

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Only 10 days before the January 6 assault on the U.S. Capitol, a top official in the Department of Justice (DOJ) was circulating a draft letter to be issued by the agency, urging the Georgia legislature to convene a special session and award its electoral votes to Donald Trump, overturning the result of the popular vote in the 2020 election. Democrat Joe Biden won the state by a margin of 11,779 votes.

The letter, dated December 28, 2020, was drafted by Jeffrey Clark, acting head of the Civil Division. It declared that the DOJ had identified “significant concerns that may have impacted the outcome of the election in multiple States, including the State of Georgia.” This was not true, as no significant irregularities had been found.

While the letter was nominally addressed to Georgia Governor Brian Kemp as well as leaders of the state legislature, it incited the legislature to usurp power from the governor if he, as expected, declined to call a special session. Clark would have claimed that the Justice Department believed “the Georgia general assembly has implied authority under the Constitution of the United States to call itself into special session” and appoint its own presidential electors, thus carrying out an electoral coup.

Clark prepared similar letters for Arizona, Michigan, Nevada, Pennsylvania and Wisconsin, the other five closely contested states won by Biden but with Republican-controlled state legislatures, or, in the case of Nevada, a Republican secretary of state, the top election official. In each case, pro-Trump Republicans would have cited the claim that the DOJ was investigating election fraud as grounds for overturning the popular vote.

Electors for all six states had already met in the state capitals on December 14 and cast their votes for Biden,

as they were required to do by state law. The Electoral College total from that day showed Biden with 306 electoral votes and Trump with 232, a margin exactly equal to Trump’s victory over Hillary Clinton in 2016, which he never tired of describing as a “landslide.”

ABC News obtained an email from Clark to Acting Attorney General Jeffrey Rosen and Acting Deputy Attorney General Richard Donoghue. (These officials were “acting” because Attorney General William Barr resigned effective December 23, his deputy Rosen moved up to the top slot, and the third-ranking official, Donoghue, took Rosen’s position.)

Clark indicated he wanted to send a letter to “each relevant state.” He added, referring to the Georgia letter, “I set it up for signature by the three of us. I think we should get it out as soon as possible.” But Rosen and Donoghue flatly refused to sign the letter.

Donoghue was particularly opposed to the Clark letter. His email response cited the public statement by Attorney General Barr, three weeks before he left office, that the Justice Department had found no evidence of the type of massive vote fraud that could have changed the outcome of the election. He told Clark there was “no chance” he would sign the draft letter “or anything remotely like it.” He went on to say, “This is not even in the realm of possibility.”

On January 2, Rosen sent an email declaring he was “not prepared to sign such a letter.” The next day, January 3, Clark told Rosen that Trump was about to fire Rosen and Donoghue and make him acting attorney general. The three met with Trump in the Oval Office, but Trump backed down after learning that every other top Justice Department official would resign rather than work under Clark.

Three days later, the Trump-instigated mob stormed the Capitol and temporarily halted the congressional

certification of electoral votes. Republican congressmen and senators had prepared to challenge the electoral votes of the same six states identified by Clark, and the House and Senate were debating the first challenge, against Arizona, when the mob breached the Capitol's defenses.

When the congressional session resumed, eight hours later, after the Capitol was retaken and the attackers dispersed, House and Senate Republicans dropped their challenges to the electoral votes of Georgia, Michigan, Nevada and Wisconsin, but they still pushed ahead with a challenge to the electoral votes of Pennsylvania, which was voted down at nearly 3:00 a.m.

The date of the draft letter, December 28, 2020, is significant. The day before, Trump called Rosen and Donoghue and discussed his plans to continue his challenge to his defeat in the election, despite the Electoral College vote.

When Rosen explained—according to Donoghue's handwritten, contemporaneous 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.”

This was a reference to Trump's most fanatical supporters in the House, including Paul Gosar of Arizona and Scott Perry of Pennsylvania, who were planning to challenge the certification of the electoral votes of their own states, and others, like Mo Brooks of Alabama and Jim Jordan of Ohio, who were leading the effort to whip up Trump's supporters against Congress. Brooks would actually address the January 6 rally outside the White House, where Trump instructed gangs of fascists to march on the Capitol, which they then stormed. Brooks told the mob it was time to “start taking down names and kicking ass.”

In the same discussion, Trump made a thinly veiled threat against the two officials, saying, according to Donoghue's notes, “People tell me Jeff Clark is great, I should put him in. People want me to replace DOJ leadership.”

When Clark came forward the next day with his draft letter to Georgia, he was clearly acting as Trump's agent and at Trump's instruction. There was an inside-outside strategy at work: mobilize and incite the mob that would attack the Capitol, while seeking to use the

Justice Department to engineer a pseudo-legal effort by Republican-controlled state legislatures to overturn the vote, only three weeks before Biden's inauguration.



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