

Grand jury hears testimony on Trump role in “fake electors” scheme

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A report published Tuesday night on the website of the *Washington Post* reveals that a grand jury convened by the federal Department of Justice has taken testimony about the conduct of ex-President Trump and top aides and lawyers in devising an illegal scheme to substitute fraudulent Trump electors for Biden electors chosen in a half-dozen “battleground” states in the 2020 election.

The article, which has since been confirmed in other media accounts, reported that among the witnesses were two top aides to former Vice President Mike Pence, his Chief of Staff Marc Short and his counsel Greg Jacob, who testified before the grand jury about discussions they witnessed or overheard about the “fake electors” plan.

Unnamed sources told the *Post* that there were “hours of detailed questions about meetings Trump led in December 2020 and January 2021; his pressure campaign on Pence to overturn the election; and what instructions Trump gave his lawyers and advisers about fake electors and sending electors back to the states... Some of the questions focused directly on the extent of Trump’s involvement in the fake-elector effort led by his outside lawyers, including John Eastman and Rudy Giuliani...”

The Justice Department investigation also obtained phone records of top Trump aides, including former Chief of Staff Mark Meadows.

None of this testimony relates directly to the events of January 6, 2021, and Trump’s role in instigating and seeking to lead the attack on Capitol Hill, to block certification by Congress of the results of the Electoral College, which voted 306–232, a margin that reflected Biden’s victory in the popular vote by more than 7 million.

Biden carried states like Arizona, Nevada, Georgia

and Wisconsin narrowly, and won Pennsylvania and Michigan by close but more substantial margins. In each of these states, Trump campaign aides, working with the White House and state and congressional Republican Party officials, drew up slates of phony “electors” who pretended to have won the statewide vote and then proceeded to the state capitols on December 14 to cast illegal votes for Trump.

In many cases, the Republican slates included state and local elected officials who now face prosecution and disqualification from office if convicted.

Both Marc Short and Greg Jacob appeared before the grand jury “in recent days,” according to the *Post* report. Both have previously testified before the House Select Committee investigating the January 6 attack on the Capitol, testifying, among other things, to Pence’s reluctance to accept any filing of the fake electors before the joint session of Congress to certify the vote. Wisconsin Senator Ron Johnson tried to deliver a slate of fake electors to Pence, through an aide, on the morning of the attack.

According to a follow-up report by the *New York Times*, Short and Jacob “were present at an Oval Office meeting on Jan. 4, 2021, when Mr. Trump sought to pressure Mr. Pence into embracing the plan to cite the competing slates of electors as justification to block or delay the Electoral College certification.”

The unnamed sources “familiar with the situation” outlined for the *Post* two possible avenues for criminal charges against Trump. The first is seditious conspiracy and conspiracy to obstruct a government proceeding, a charge directly related to the events on January 6. The other is fraud, related to the promotion of the fake electors scheme as well as Trump’s efforts to pressure his own Justice Department to declare the election rigged so that state legislatures could intervene to

choose pro-Trump slates of electors.

Apparently knowing that the *Post* report was coming out, and likely in coordination with it, Attorney General Merrick Garland gave his first interview on the January 6 probe the same day, speaking for nearly an hour with NBC News lead anchor Lester Holt. Excerpts of the interview were broadcast Tuesday evening, only minutes before the news report appeared on the *Post* website.

Garland told Holt that the Department of Justice (DOJ) would pursue its investigation “without fear or favor.” While this is legal boilerplate, it certainly suggests his concern about a fascistic backlash if it appears that the department will bring criminal charges against Trump. He added, “We intend to hold everyone, anyone, who was criminally responsible for the events surrounding January 6th, for any attempt to interfere with the lawful transfer of power from one administration to another, accountable—that’s what we do.”

He claimed that the investigation into January 6, in which indictments have been brought against 840 participants and organizers, is the largest in the history of the DOJ, evidently an attempt to deflect criticism of the department’s failure to bring criminal charges against a single high-level figure in the White House, Congress or the Republican Party, to say nothing of Trump himself, the leader of the attempted coup.

The *Times* also reported that grand jury subpoenas have been issued to an array of Republican state legislators and Republican Party officials who participated directly in the fake electors scheme: “The dozens of emails among people connected to the Trump campaign, outside advisers and close associates of Mr. Trump show a particular focus on assembling lists of people who would claim—with no basis—to be Electoral College electors on his behalf in battleground states that he had lost.”

The fraud was so brazen that some Trump operatives used the words “fake” and “wild/creative” in describing the scheme, which was allegedly coordinated by campaign adviser Boris Epshteyn, who reported to Trump’s principal lawyer for the election coup, Rudy Giuliani. White House Chief of Staff Mark Meadows was also kept informed of the progress of the effort. Epshteyn also coordinated payments to John Eastman, the law professor who devised the bogus

constitutional claim that Vice President Pence could block the certification of electoral votes for Biden at the January 6 joint session where he served as the ceremonial chair.

Subpoenas to two Arizona state legislators seeking information about the fake electors scheme, made public Monday, asked for any communications they “may have had with any member of the executive or legislative branch of the federal government; any representative or agent of Trump or his campaign; or Trump boosters Jenna Ellis, Bernard Kerik, Rudy Giuliani, Boris Epshteyn, James Troupis, Joe DiGenova, John Eastman, Joshua Findlay, Justin Clark, Kenneth Chesebro, Mike Roman or Victoria Toensing.”

The House Select Committee also released new information on its investigation into January 6, with a tweet reporting the testimony of Christopher Miller, then the acting defense secretary, in which he denied that Trump ever gave him an order to have 10,000 National Guard troops ready for deployment on that day.

Former Chief of Staff Meadows claimed in February 2021 that Trump had ordered the action, and this has been repeated by Trump’s defenders in the right-wing media as proof that Trump did not plan to overturn the election by force. But Meadows has refused to testify under oath, and Miller said, when asked directly, “there was no order from the president.”

Meanwhile, Bennie Thompson, chair of both the select committee and the House Homeland Security Committee, and Carolyn Maloney, chair of the House Oversight Committee, publicly requested that Joseph Cuffari, inspector general of the Department of Homeland Security, play no role in the investigation into the deletion of all text messages sent and received by Secret Service agents on January 5 and January 6, 2021.

Cuffari learned of the mass deletions in February 2022, but did not inform the House Select Committee until five months later.



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