

January 6 committee issues criminal referral charging Trump with four felony crimes

Patrick Martin
20 December 2022

At its final meeting Monday, the House Select Committee into the attack on the Capitol of January 6, 2021 voted unanimously to refer four criminal charges against Donald Trump to the US Department of Justice for investigation.

This is the first time in American history that an ex-president has been formally accused of criminal actions. If prosecuted and convicted, Trump could face a lengthy prison sentence as well as disqualification from ever again holding public office.

The four charges against Trump include inciting and aiding an insurrection, obstruction of a federal proceeding (the certification of the election by Congress on January 6), conspiracy to defraud the federal government, and conspiracy to file false statements (by having false electors fill out declarations that they had actually been chosen by their states).

In one particularly striking passage, the executive summary of the report that accompanies the criminal referral lays out Trump's plans to lead the mob into the Capitol on January 6, forestalled only by the opposition of his Secret Service guards, who felt it was too dangerous to allow him to leave the White House to join an armed mob:

[t]he President actually intended to participate personally in the January 6th efforts at the Capitol, leading the attempt to overturn the election either from inside the House Chamber, from a stage outside the Capitol, or otherwise ... There is no question from all the evidence assembled that President Trump did have that intent.

The issuance of the criminal referral is a demonstration that the US political crisis is actually deepening, not abating. This comes despite claims to the contrary by the Biden White House and complacent media analysts, following a midterm election in which Trump-supporting election deniers were defeated in many high-profile contests.

Trump and his supporters in Congress and the Republican Party immediately denounced the criminal referral and other actions called for by the select committee, including the referral of four Republican members of Congress to the House Ethics

Committee for refusing to obey subpoenas for their testimony about the events of January 6.

A majority of the Republicans who will take control of the House of Representatives January 3, 2023 voted two years ago not to certify Biden's victory. The leader of the House Republicans, Representative Kevin McCarthy, has said he will begin an investigation, not of the insurrection, but of the select committee, when the new session begins.

The committee's vice chair and principal leader, Republican Liz Cheney of Wyoming, seemed to acknowledge the continuing explosive tensions when she began the final session by noting that her great-great-grandfather had fought in the Union Army in the Civil War to defend the US constitutional structure. This structure still stood, she claimed, because every American president had handed over power peacefully to an elected successor, except for one—Donald Trump. The clear implication of her comments was that the United States faces the threat of civil war.

Cheney herself is leaving Congress after being defeated by a Trump supporter in a Republican primary. Three other members of the committee either chose not to run again or were defeated, meaning that only five of the nine members who voted for the criminal referral Monday will actually be in Congress two weeks from now.

The committee itself will disband after issuing its final report Wednesday. The executive summary was made public Monday, and thousands of pages of deposition transcripts are being made public along with other evidence, as well as being turned over to the US Department of Justice, where a special prosecutor, Jack Smith, has been put in charge of the probe.

The criminal referral is not limited to Trump, but names several of his legal advisers, as well as former White House chief of staff Mark Meadows and former Justice Department official Jeffrey Clark, as potential targets for prosecution. The referral also suggests that other crimes were committed besides the four enumerated against Trump, but leaves it to the DOJ to determine which charges should be brought against which individuals.

Smith was appointed a month ago by Attorney General Merrick Garland, in an effort to separate the Biden administration from the political consequences of a decision to

proceed with or quash the prosecution of Trump and other top aides. He is not required to take action on the criminal referral from the committee.

The central focus of the final hour-long hearing and of the 154-page executive summary was the personal role of Trump, to the exclusion of any examination of the social and political roots of the crisis that exploded into violence on January 6, or the actions of institutions of the American government, above all the military and intelligence agencies.

“That evidence has led to an overriding and straight-forward conclusion: the central cause of January 6th was one man, former President Donald Trump, who many others followed,” the executive summary declares. “None of the events of January 6th would have happened without him.”

There is no doubt that Trump was at the center, but he was not just the head of a fascist conspiracy. He was also the leader of the Republican Party and the commander-in-chief of a vast military-intelligence machine. No account of what took place before and during the first-ever attempt of a US president to overturn his own defeat in a presidential election can ignore that reality.

But from the beginning, the mission of the January 6 committee has been to cover up the role of the capitalist state and the Republican Party while narrowing its focus to Trump as an individual and his nongovernmental co-conspirators, the lawyers and political operatives. These in turn maintained Trump’s connections to the fascist milieu that includes armed groups like the Proud Boys and Oath Keepers who participated in the violent assault on the Capitol.

This cover-up was the intention of House Speaker Nancy Pelosi when she set up the House Select Committee, and it was embraced by Liz Cheney, daughter of Dick Cheney, the former vice president and unindicted war criminal. Both are ardent defenders of the military-intelligence apparatus.

For this reason, the select committee never publicly addressed the reasons for the Pentagon delaying the dispatch of the National Guard to protect the Capitol for 199 minutes, after it had been requested by congressional and police officials as the mob rampaged through the Capitol. Retired General William Walker, then the head of the D.C. National Guard, was never called as a public witness to discuss his repeated pleas to the Pentagon to be allowed to send troops.

Nor did the committee explore the reasons why no advance preparation was made by intelligence and law-enforcement agencies even when they had ample evidence ahead of time of plans for a violent attack on January 6, including the occupation of the Capitol. Instead, the executive summary argues that they could not have anticipated the specific events of January 6, such as Trump’s sudden and supposedly “unscripted” call for his supporters to march from the rally at the White House to Capitol Hill, and his promise to accompany them.

Another key institution apparently “off-limits” to the committee was the US Supreme Court. At least two justices

were directly connected to the coup plotters. Justice Clarence Thomas’s wife Virginia “Ginni” Thomas is a long-time Republican activist who played a major role in promoting aspects of Trump’s election coup, including efforts to enlist state legislators in overturning the electors chosen by their state’s voters.

Justice Samuel Alito was to issue a judicial stay on the congressional certification of the electoral votes if Vice President Mike Pence failed to follow Trump’s orders to disrupt the process by refusing to accept the electoral votes of key “battleground” states like Arizona and Pennsylvania. The ultra-right justice held back on a decision, watching the mob attack, then allowed the proposal to lapse after Trump told his fascist supporters to go home.

The executive summary correctly declares that Trump “believed then, and continues to believe now, that he is above the law, not bound by our Constitution and its explicit checks on Presidential authority.”

It adds: “If President Trump and the associates who assisted him in an effort to overturn the lawful outcome of the 2020 election are not ultimately held accountable under the law, their behavior may become a precedent and invitation to danger for future elections... A failure to hold them accountable now may ultimately lead to future unlawful efforts to overturn our elections, thereby threatening the security and viability of our Republic.”

But against this threat of dictatorship, the Democrats and Republicans on the committee offer nothing but a “bad man” theory. American democracy would bloom like a garden if only the serpent Trump had not taken a break from his Manhattan real estate swindling and reality television ventures to slither in.

The reality is that the threat of authoritarian rule emerges organically from the crisis of American and world capitalism, in which a tiny minority of the super-rich finds its domination of society facing a mounting challenge from below.

The ruling elite, acting through both the Republican and Democratic parties, its two main political instruments, has embarked on a course of war abroad and repression at home: the increasingly incendiary conflicts with Russia and China, and the use of the capitalist state against the working class at home, as in the bipartisan congressional action to outlaw a railroad workers’ strike.

The Biden administration, which has sought assiduously to distance itself from the actions of the committee, has embraced the Republican Party co-conspirators of Trump as its “colleagues,” whose support is required in the prosecution of war abroad.



To contact the WSWs and the Socialist Equality Party visit:

[wsws.org/contact](https://www.wsws.org/contact)