

BUNKER: TRUMP'S EXPOSURE IN THE INSURRECTION MAKES PARDONPALOOZA MORE COMPLICATED

There have been numerous accounts of Trump's desperate days since he incited a coup attempt. Most, including this CNN version, describe how – on the advice of (among others) White House Counsel Pat Cipollone – Trump recorded and released a very heavily edited video from a script written for him in an attempt to stave off removal proceedings.

His daughter Ivanka Trump, White House counsel Pat Cipollone, chief of staff Mark Meadows and others told Trump there was a real chance he would be removed from office – whether by his own Cabinet or lawmakers – if he did not more forcefully denounce the actions of his supporters who attacked the US Capitol the day before.

Trump did not initially want to issue a video decrying the loyalists whose actions he largely supported – and whom he said he “loved” a day earlier – but he told aides to prepare a speech and then he would decide.

Once he read over the brief script they had prepared, Trump agreed to record it Thursday evening – a relief to the senior staff, though concerns lingered he could backtrack during his final days in office given his actual position has remained unchanged: that he lost the election unfairly.

This WaPo version describes him holing up with really unsavory characters, including white

supremacist Stephen Miller and John McEntee, who previously had been forcibly removed from his position at the White House because of gambling problems.

Trump spent Wednesday afternoon and evening cocooned at the White House and listening only to a small coterie of loyal aides – including Meadows, Deputy Chief of Staff Dan Scavino, personnel director Johnny McEntee and policy adviser Stephen Miller. McEnany also spent time with the president. Jared Kushner, the president's son-in-law and senior adviser, was described as disengaged.

CNN also reports that's he's still planning on pardonpalooza covering at least his kids

And a raft of pardons, including potentially for himself and his family, are expected in the coming days.

According to this Bloomberg piece, he's considering pardoning his bunker mates, Meadows, Miller, and McEntee, along with Kimberly Guilfoyle, none of whom had any obvious legal exposure before the last several weeks.

The biggest question facing his legal team may be whether the president has the authority to pardon himself, as he has discussed in recent weeks with top aides, according to the people familiar with his conversations. Trump has previously claimed the power, though it's a matter of legal dispute and has never before been attempted by a president.

A self-pardon could also prove a major political liability and hamstring another presidential bid, with opponents sure to suggest the self-pardon amounted to an admission that he thought he might be prosecuted for breaking the law.

Preemptive pardons are under discussion for top White House officials who have not been charged with crimes, including Chief of Staff Mark Meadows, senior adviser Stephen Miller, personnel chief John McEntee, and social media director Dan Scavino.

The president's eldest daughter, Ivanka Trump, her husband, Jared Kushner, who both hold White House positions, are also under consideration, the people said. Trump's personal lawyer Rudy Giuliani has also discussed the issue of a pardon with the president.

Preemptive pardons are also under consideration for other members of the president's family, as well as friends and allies. For instance, Trump has floated a preemptive pardon for Kimberly Guilfoyle, the former Fox News host who is dating his eldest son, Donald Trump Jr.

The president wants the preemptive pardons to shield recipients from prosecutions for any federal crimes committed before the pardons were issued.

It notes that White House Counsel Pat Cipollone is "vetting" the pardons, with some concern that they create more exposure for obstruction of justice.

Trump's list is currently being vetted by lawyers who are concerned that pardons could create new allegations of obstruction of justice for members of the administration. The process is being managed in part by White House Counsel Pat Cipollone.

Except, CNN also reports that Pat Cipollone is considering resigning.

Trump's role in (at a minimum) inciting an insurrection the other day may make his effort to pardon himself and his associates out of legal trouble more difficult.

Start with a self-pardon. Before the insurrection, Cipollone might have advised Trump he might as well try it. He literally has nothing to lose, since he's unlikely to trust Pence with a pardon at this point, so even if the self-pardon doesn't work, he would be no worse off. Except, as a number of people have suggested, a self-pardon makes it far more likely DOJ will test the concept and prosecute him (though I think he's done enough to be charged anyway). And because Trump's exposure now includes insurrection, the conservative majority on SCOTUS might find the self-pardon particularly offensive. In addition, because Clarence Thomas' wife Ginni was cheering on the terrorists, DOJ might – fairly – ask Thomas to recuse.

Then there's Rudy. He was always going to be pardoned, because he knows where the bodies are buried and Trump believes (mistakenly) that Rudy has served his interests loyally. Except, to a far greater extent than before November, a Rudy pardon frees him to testify about crimes that Trump committed for which Rudy does not have attorney-client privilege, such as coordinating with coup plotters. This is exacerbated by the byzantine legal structure behind the fraudulent Trump lawsuits, where there was never any clarity about who was representing Trump and who was not. Once upon a time, Trump might have been able to pardon Rudy without increasing his own legal exposure. That's probably not true anymore.

Then there's Cipollone himself, a formidable lawyer who wants to get the fuck out of dodge. Cipollone, briefly, got Trump to see reason in making that video. Then as soon as Trump got his Twitter account he sent more messages riling up his terrorists. That suggests Cipollone recognized that Trump had real exposure in the

insurgency, and took measures to limit them. Then Trump ignored his advice. All while asking Cipollone to help him pardon his co-conspirators.

While Cipollone has limited Executive Privilege with Trump (one breached in case of crime), under Clinton precedent he doesn't have attorney-client privilege with Trump. That makes it likely that no matter what happens, he'll be sitting for lengthy sessions with prosecutors in months ahead, just as Don McGahn also did.

When this whole Transition process started, Trump had Cipollone and Bill Barr – the latter the best cover-up artist in recent US history – around to help him out of his legal troubles. Now, his post-election antics have drove both of them away.

Once upon a time, Trump might well have been able to pardon himself out of a good deal of the criminal exposure he already faced. That's far less likely now.

Update: Just in the last hour, Ginni Thomas made her Facebook account unavailable.