

PROVING TRUMP'S CORRUPT PURPOSE: THE FORGOTTEN UNPERMITTED MARCH

It's an object of blind faith among TV lawyers that DOJ must prove that Donald Trump knew he lost the election to be able to charge him under 18 USC 1512(c)(2). That blind faith seems to come from several places. It was part of David Carter's opinion – *which applied 9th Circuit precedent* – finding that Trump and John Eastman had the corrupt intent necessary such that Eastman's communications about efforts to pressure Trump were crime-fraud excepted.

A person violates § 1512(c) when they obstruct an official proceeding with a corrupt mindset. The Ninth Circuit has not defined “corruptly” for purposes of this statute.²²² However, the court has made clear that the threshold for acting “corruptly” is lower than “consciousness of wrongdoing,”²²³ meaning a person does not need to know their actions are wrong to break the law. Because President Trump likely knew that the plan to disrupt the electoral count was wrongful, his mindset exceeds the threshold for acting “corruptly” under § 1512(c). President Trump and Dr. Eastman justified the plan with allegations of election fraud– but President Trump likely knew the justification was baseless, and therefore that the entire plan was unlawful.

Although Dr. Eastman argues that President Trump was advised several state elections were fraudulent,²²⁴ the Select Committee points to numerous executive branch officials who publicly stated²²⁵ and privately stressed to President Trump²²⁶ that there was no

evidence of fraud. By early January, more than sixty courts dismissed cases alleging fraud due to lack of standing or lack of evidence,²²⁷ noting that they made “strained legal arguments without merit and speculative accusations”²²⁸ and that “there is no evidence to support accusations of voter fraud.”²²⁹ President Trump’s repeated pleas²³⁰ for Georgia Secretary of State Raffensperger clearly demonstrate that his justification was not to investigate fraud, but to win the election: “So what are we going to do here, folks? I only need 11,000 votes. Fellas, I need 11,000 votes. Give me a break.”²³¹ Taken together, this evidence demonstrates that President Trump likely knew the electoral count plan had no factual justification.

Many TV lawyers seem to exist in a Green Room bubble, largely insulated from familiarity with the actual DOJ investigation, where they reinforce each other’s blind faith. Stunningly, few of these actual lawyers have paid attention to the long debate over obstruction as DOJ has actually applied it to January 6, not even the December 12 DC Circuit hearing on DOJ’s appeal of a Carl Nichols opinion sharply limiting its application. The TV lawyers rely far more on the Carter opinion than on the Amit Mehta one that – while applying a lower civil standard and addressing an earlier and therefore thinner body of claims – nevertheless was written by a judge who had already written a long 1512 opinion directly relevant to January 6. That is, most TV lawyers’ analysis of any potential case against Trump largely stems from a Ninth Circuit standard, not the hotly debated standard specifically addressing January 6, and largely stems from the white collar crimes Trump is alleged to have committed with John Eastman, not any of his other potential criminal exposure.

It will likely be a few weeks before we learn

how the DC Circuit will rule, but my read of the hearing is that Trump appointee Greg Katsas was strongly opposed to DOJ, Trump appointee Justin Walker started out not quite as strongly opposed, but seemed to grow increasingly peeved by defense attorney Nick Smith's minimization of the uniqueness of January 6, and Biden appointee Florence Pan (who presided over her share of January 6 cases before being elevated to the DC Circuit) favored DOJ's views. But it's more complex than that: The Republican judges seemed inclined to overturn DOJ *not* on the basis before them – whether 1512(c)(2) had to have a documentary component – but on the definition of corrupt purpose, precisely the basis on which TV lawyers rely on Carter's opinion. Anything could happen: Katsas and Walker could rule against DOJ on the Nichols appeal, only to have DOJ appeal to the full DC Circuit. While procedurally unusual, Katsas and Walker suggested they might remand to Nichols to consider the corrupt purpose definition, in which case it'll come back on appeal. Or Walker and Pan could rule narrowly for DOJ, with the defendants appealing, possibly directly to the Trump-heavy SCOTUS.

As I alluded in this post, *no matter* how the DC Circuit rules, it's likely the ruling would still permit charges against Trump, even while roiling all the cases against the mobsters. That's because with Trump, there's a documentary component to his obstruction of the vote certification – the fake elector certificates that Trump associates were flying into DC – that is more attenuated for the mobsters; Trump would meet Nichols' standard even while the mobsters arguably would not. And with Trump, if Walker were to write an opinion that sided with Pan on the documentary issue but argued for a much more stringent standard on corrupt purpose, requiring a personal benefit to the corruption, it would still apply to Trump. There's no more obvious example of corruptly chasing a personal benefit than trying to remain President by obstructing the votes from being counted even though Joe Biden had received more votes. It's probably in this latter scenario where the blind faith claim

by TV lawyers that DOJ needs to prove that Trump knew he lost would come into play; because DOJ would likely appeal such an outcome in any case, it's still more likely that DOJ would be dealing with the standard that most DC District judges have adopted.

That's why I often return to Dabney Friedrich's standard, because it is fairly stringent – starting from an analysis of whether someone engaged in otherwise illegal activity. It's a higher standard than Judge Carter used, but not unlikely to be where we end up for the application of obstruction to January 6.

There are still multiple ways to get there with Trump:

- Conspiring to making false statements (or even a forgery) to the Federal government with the fake elector certificates, which would require proving that Trump knew of the efforts to deliver those certificates
- Ordering Mike Pence to do something Trump knew to be illegal, rejecting the certified votes, which would require proving Trump knew the request was illegal
- Aiding or abetting the violence on January 6, an allegation bolstered by J6C's focus on Trump's awareness that his mob was armed when he told them to march on the Capitol
- Conspiring to obstruct the vote certification by

occupying the Capitol, which would require showing that Trump entered into an agreement with people like Alex Jones and Ali Alexander and through them with the Proud Boys and others *or* by treating his multiple calls to the mob as entering into a conspiracy and his tweet targeting Pence during the riot as ratification of it

The latter description is one of the ways that Judge Mehta ruled that Trump might have conspired with the mob on January 6.

But, as I laid out here, Mehta focused on another element to get to find it plausible that Trump bore responsibility for the attack, which is a fifth way Trump might have exposure: the unpermitted march.

President Trump also allegedly participated directly in the planning. He was involved in decisionmaking about the speaking lineup and music selection. Thompson Compl. ¶ 69. And, critically, to the surprise of rally organizers, President “Trump and his campaign proposed that the rally include a march to the Capitol,” even though the permit they had obtained did not allow for one. Id. ¶¶ 69, 90 (alleging that the permit expressly provided: “This permit does not authorize a march from the Ellipse”).

[snip]

[T]he President ended his speech by telling the crowd that “we fight like hell and if you don’t fight like hell, you’re not going to have a country anymore.” Almost immediately after these

words, he called on rally-goers to march to the Capitol to give “pride and boldness” to reluctant lawmakers “to take back our country.” Importantly, it was the President and his campaign’s idea to send thousands to the Capitol while the Certification was underway. It was not a planned part of the rally. In fact, the permit expressly stated that it did “not authorize a march from the Ellipse.”

[snip]

That is why the court determines, as discussed below, that Giuliani’s and Trump Jr.’s words are protected speech. But what is lacking in their words is present in the President’s: an implicit call for imminent violence or lawlessness. He called for thousands “to fight like hell” immediately before directing an unpermitted march to the Capitol, where the targets of their ire were at work, knowing that militia groups and others among the crowd were prone to violence.

Absent a claim of incitement, asking his followers to march to the Capitol would, generally, be legal. But even before you include the incitement, if Trump knew that he was asking his followers to do something that was not permitted, it would add one more prong showing corrupt purpose.

Mehta relies on this part of his judgment on Bennie Thompson’s own complaint, citing parts of the amended complaint filed in April 2021.

69. After Defendant Trump decided he would speak at the Save America rally on January 6, he became more actively involved in decisions concerning the event, including the speaking lineup and even the music that would be played. Defendant Trump and his campaign

proposed that the rally include a march to the Capitol. An organizer of the Save America rally later told reporters he was surprised to learn that the event would involve a march from the Ellipse to the Capitol. Before the White House became involved, he said, the plan had been to stay at the Ellipse until the counting of the Electoral College votes was completed.

[snip]

90. The permit obtained for the Save America rally expressly provided: "This permit does not authorize a march from the Ellipse." Defendant Trump nevertheless instructed the angry crowd to march from the Ellipse to the Capitol for the purpose of "fight[ing] like hell," and therefore directed the crowd to take action outside the bounds of what the permit authorized.

That complaint was written in April, before J6C was constituted, much less before it got a ton of witness testimony about how the march came about.

The January 6 Report focuses on the march – particularly, in other sections, on Trump's desire to participate in it – but it only addresses the issue of permitting of the march (as opposed to other events) in an appendix.

[links added]

Within a few days, the White House began to take a more direct role in coordinating the rally at the Ellipse.⁴²¹ In a December 29th text to Wren, Caporale wrote that after the President's planned speech there "maybe [sic] a call to action to march to the [C]apitol and make noise."⁴²² This is the earliest indication uncovered by the Select Committee that the President planned to call on his supporters to

march on the U.S. Capitol. But it wasn't the last. On January 2nd, rally organizer Katrina Pierson informed Wren that President Trump's Chief of Staff, Mark Meadows, had said the President was going to "call on everyone to march to the [C]apitol."⁴²³ Inside the White House, the President's intent was well-known. Cassidy Hutchinson, an aide to Meadows, recalled in her testimony that she overheard discussions to this effect toward the end of December or early January. One such discussion included an exchange between Meadows and Rudolph Giuliani that occurred on January 2nd.⁴²⁴ Hutchinson understood that President Trump wanted to have a crowd at the Capitol in connection with what was happening inside—the certification of the electoral count.⁴²⁵ Hutchinson also recalled that President Trump's allies in Congress were aware of the plan. During a call with members of the House Freedom Caucus, the idea of telling people to go to the Capitol was discussed as a way to encourage Congress to delay the electoral college certification and send it back to the States.⁴²⁶ On January 4th, WFAF's Kylie Kremer informed Mike Lindell, the CEO of MyPillow and an ally of President Trump, that "POTUS is going to have us march there [the Supreme Court]/the Capitol" but emphasized that the plan "stays only between us."⁴²⁷ The "Stop the Steal" coalition was aware of the President's intent. On January 5th, Ali Alexander sent a text to a journalist saying: "Ellipse then US capitol [sic]. Trump is supposed to order us to the capitol [sic] at the end of his speech but we will see."⁴²⁸

6.14 "WELL, I SHOULD WALK WITH THE PEOPLE."

President Trump wanted to personally

accompany his supporters on the march from the Ellipse to the U.S. Capitol. During a January 4th meeting with staffers and event organizer Katrina Pierson, President Trump emphasized his desire to march with his supporters.⁴²⁹ “Well, I should walk with the people,” Pierson recalled President Trump saying.⁴³⁰ Though Pierson said that she did not take him “seriously,” she knew that “he would absolutely want to be with the people.”⁴³¹ Pierson pointed out that President Trump “did the drive-by the first time and the flyover the second time”—a reference to the November and December 2020 protests in Washington, DC.⁴³² During these previous events, President Trump made cameo appearances to fire up his supporters. Now, as January 6th approached, the President again wanted to be there, on the ground, as his supporters marched on the U.S. Capitol. The President’s advisors tried to talk him out of it. White House Senior Advisor Max Miller “shot it down immediately” because of concerns about the President’s safety.⁴³³ Pierson agreed.⁴³⁴ But President Trump was persistent, and he floated the idea of having 10,000 National Guardsmen deployed to protect him and his supporters from any supposed threats by leftwing counter-protestors.⁴³⁵ Miller again rejected the President’s idea, saying that the National Guard was not necessary for the event. Miller testified that there was no further conversation on the matter.⁴³⁶ After the meeting, Miller texted Pierson, “Just glad we killed the national guard and a procession.”⁴³⁷ That is, President Trump briefly considered having the National Guard oversee his procession to the U.S. Capitol. The President did not order the National Guard to protect the U.S.

Capitol, or to secure the joint session proceedings. Although his advisors tried to talk the President out of personally going, they understood that his supporters would be marching.⁴³⁸ Pierson's agenda for the meeting reflected the President's plan for protestors to go to the U.S. Capitol after the rally.⁴³⁹ But President Trump did not give up on the idea of personally joining his supporters on their march, as discussed further in Chapter 7.

[snip]

At no point was any permit granted for a march from the Ellipse to the Capitol. The President planned to announce that march "spontaneously."¹¹⁴

422. Select Committee to Investigate the January 6th Attack on the United States Capitol, *Deposition of Justin Caporale*, (Mar. 1, 2020), p. 44; Documents on file with the Select Committee to Investigate the January 6th Attack on the United States Capitol (Caroline Wren Production), REVU_0644 (December 29, 2020, text messages with Justin Caporale).

423. Select Committee to Investigate the January 6th Attack on the United States Capitol, *Transcribed Interview of Katrina Pierson*, (Mar. 25, 2022), pp. 79-82; Documents on file with the Select Committee to Investigate the January 6th Attack on the United States Capitol (Caroline Wren Production), REVU_0181 (January 2nd email from Katrina Pierson to CarolineWren and Taylor Budowich).

424. Select Committee to Investigate the January 6th Attack on the United States Capitol, *Transcribed Interview of Cassidy Hutchinson*, (Feb. 23, 2022), pp. 32-33, 41; Select Committee to

Investigate the January 6th Attack on the United States Capitol, Continued Interview of Cassidy Hutchinson, (June 20, 2022), pp. 107-08, 135.

425. Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (Feb. 23, 2022), p. 42.

426. Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (Feb. 23, 2022), pp. 44-45, 47, 52-54; Select Committee to Investigate the January 6th Attack on the United States Capitol, Continued Interview of Cassidy Hutchinson, (June 20, 2022), p. 87.

427. Documents on file with the Select Committee to Investigate the January 6th Attack on the United States Capitol (Kylie Kremer Production), KKremer5447, p. 3 (January 4, 2021, text message from Kylie Kremer to Mike Lindell at 9:32 a.m.).

428. Documents on file with the Select Committee to Investigate the January 6th Attack on the United States Capitol (Ali Alexander Production), CTRL0000017718, p. 41 (January 5, 2021 text message with Liz Willis at 7:19 a.m.).

429. See Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Katrina Pierson, (Mar. 25, 2022), pp. 120-21.

430. Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Katrina Pierson, (Mar. 25, 2022), p. 121.

431. Select Committee to Investigate the

January 6th Attack on the United States Capitol, Transcribed Interview of Katrina Pierson, (Mar. 25, 2022), p. 121.

432. Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Katrina Pierson, (Mar. 25, 2022), p. 121.

433. Select Committee to Investigate the January 6th Attack on the United States Capitol, Deposition of Max Miller, (Jan. 20, 2022), pp. 91-92.

434. Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Katrina Pierson, (Mar. 25, 2022), p. 123.

435. Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Katrina Pierson, (Mar. 25, 2022), pp. 121-26.

436. Select Committee to Investigate the January 6th Attack on the United States Capitol, Deposition of Max Miller, (Jan. 20, 2022), pp. 98-99.

437. Documents on file with the Select Committee to Investigate the January 6th Attack on the United States Capitol, (Max Miller Production) Miller Production 0001, p. 1 (January 4, 2021, text message from Max Miller to Katrina Pierson).

438. Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Katrina Pierson, (Mar. 25, 2022), p. 121.

439. Select Committee to Investigate the January 6th Attack on the United States

Capitol, Transcribed Interview of Katrina Pierson, (Mar. 25, 2022), p. 95; Documents on file with the Select Committee to Investigate the January 6th Attack on the United States Capitol (Katrina Pierson Production), KPierson0180, at 180, 196-97 (January 4, 2021, President TrumpMeeting Agenda).

While the report shows that Trump was directly involved in several meetings about plans to march to the Capitol, it doesn't address whether he was told that there not only wasn't a permit for the march, but that the National Park Service had specifically prohibited such a march. And several people did know that.

Justin Caporale, the guy at Event Strategies whom the report describes the White House selecting to put on the event, described the decision not to formally plan for the march this way.

Q Understood, and I appreciate that. Let's move on. Mr. Caporale, during the planning for the January 6th event, did you hear anyone suggest that rally-goers should march or walk to the Capitol following the President's speech?

A In the early days of the planning around that end-of-December timeframe, you know, it was discussed that it would include a march. And after consulting and working with the National Park Service, we decided not to move forward with planning, you know, a march from the Ellipse to anywhere.

Q When you say "it was discussed," who were those discussions with?

A The National Park Service.

Q Sorry, it sounded like you said it was discussed that there might be a march, and then you had consultations with the Park Service. Were there discussions

about a march before you brought it up with the Park Service?

A There were – I don't recall the exact discussions, no. But I remember talking with the Park Service about it during the permit and application process under the general question of, you know, what is the vision for your event.

Q Let's go ahead and take a look at exhibit 3, and this might refresh your recollection a little bit. Exhibit 3 are your text messages with Caroline Wren. And if we go to page 7, she sends you an image with a question right there in the middle. And we can zoom in a little bit. This is December 29th, about 2:00 in the afternoon. She writes, any updates from WH on your end? And you write back later that evening, schedule proposal will work its way around tomorrow. Noon seems to be a good time. Then maybe a call to action to march to the Capitol and make noise. Did you have conversations with people in the White House about having a call to action to march to the Capitol and make noise? A No, not to my recollection.

Q So where did you get this information that you sent to Caroline Wren about a call to action to march to the Capitol and make noise?

A I would really view my response at 10:50 as two separate conversations. 14 So, the scheduling proposal will work its way around about noon, noon seems to be a 15 good time, that was in reference to any updates from the White House on your end. 16 And then maybe a call to action to march to the Capitol and make some noise is referring 17 to the discussions we as planners were having with the National Park Service to see if that 18 would be something that would even be possible given the timeframe

that we had to 19 plan. 20 Q So my question is, whose idea was it to have a march to the Capitol and 21 make noise?

A I don't recall whose idea it came from. It was, again, conversations with 23 the client at that point. You know, their event was branded, March for Trump, and it 24 had been for the year leading up to it. So, it was part of those natural discussions, well, 25 should we, you know, submit a permit for a march and coordinate that end of things.

Q I think we've established that by this point you had been in touch with folks 2 from the White House. That text message you sent to your parents was December 27th, 2 days before, and this is the same day, December 29th, that you're texting Max Miller about Women for America First submitting the permit for the Ellipse. Was anybody in 5 the White House conveying to you plans about having a call to action to march to the Capitol and make noise at this time?

A No, sir.

Q Why don't we take a look then at exhibit 15. This is from – this is a text message that you produced. KP is Katrina Pierson, and the other person on the thread is Taylor Budowich. And on January 3rd, at 10:10 in the morning, Ms. Pierson texts, 11 "WH has not approved these speakers. I was asked to modify, and I'll send over a new draft to you guys" – I think it's a typo for "guys" – "and POTUS." And then she writes, "POTUS expectations are intimate and then send everyone over to the Capitol." So by this time, were you aware that the White House, or representatives from the White House, were considering sending rally-goers to the Capitol following the President's

speech?

A My awareness was limited to, you know, receiving a text message like this. But I was, you know, never given official instructions by my client or anybody to coordinate a march, to plan a march, and we didn't.

Q Okay. You say you were never given any instructions from your client to plan or coordinate a march?

A No.

Q So what was the December 29th message to Caroline Wren about a call to action to march to the Capitol and make noise about?

A I'm sorry, if I can, let me be a little bit more clear. So in the text message that you're referring to earlier in late December, that's when the conversations were happening between myself and the client, is do we want to include a request for a march in our permit process. During that late December time period, we would host calls with National Park Service every morning that included, you know, members of Metro PD and Park Police, all the relevant authority members in the permitting process. Sometime in that late December, I don't remember the exact date, it became very clear that, given the timeframe we had to plan, you know, the manpower that it would take and the resources that it would take, that we – we were not going move forward with planning a march. So in that time period, you know, we decided, the client decided that they no longer wanted to pursue that, and that we would focus our attention on the event on the Ellipse and in our permitted area. And that's what we did.

As the report noted, Caporale redacted his own December 29 description of a call to action in a text to Caroline Wren.

One of his close friends and contacts at the White House who was present for a January 2 meeting between Katrina Pierson and Mark Meadows at which the possibility of using 10,000 National Guards to make the march possible was floated and rejected claimed he simply didn't hear that part of the conversation. He and Caporale are both among the Trumps staffers represented by former Acting Attorney Matt "Big Dick Toilet Salesman" Whitaker's law firm, a topic about which one of the attorneys in question got really confrontational.

It's unclear whether Caporale's reference to a client was to Caroline Wren or Kylie Kremer, but the latter specifically said she chose not to apply for a permit for a march because she couldn't do it truthfully.

Now, I think that that is important because when I had this conversation and took over the permitting process for January 6th, Marissa made it very clear that if you are putting something on a document that you know to be invalid, that's a major issue because this is a Federal Government form that you're filling out and you're willingly putting something that is not truthful. So I was horrified when I found that out because it was the opposite of what Cindy had told me, and that's one of the main reasons that we decided from that point not to pursue the marching permit because there was no way, whatever those current COVID restrictions were – I don't know if it was 50 people or 500 people – whatever they were at that time, there was no way that I was going to put our organization's name and my name on a permit that I knew would greatly exceed that number and then face potential ramifications.

[snip]

Q So was the plan at this point – and I know I’ve asked this before. I’m going to ask you probably each iteration. Was there a plan to march to SCOTUS or the Capitol Grounds at this point when you were planning at the Ellipse?

A I don’t believe so because I believe before I filed those permits, the numbers that were used were as accurate and the best of my ability, and that is when I told you that I believe I was told by Marissa, I guess it could have been Deborah Deas, but I believe it was Marissa telling me specifically about the numbers and how, you know, you can’t lie on an application like that even knowing which was a red flag to me because, clearly, she probably told Cindy that too.

Here’s how she explained a text to Mike Lindell confiding there would be a march but asking him to keep it under wraps.

Q I know this jumps ahead of where we just were, Ms. Kremer, so I’ll give you a second to read this message, the longer one that you sent Mr. Lindell on January 4th of 2021. The part that I’m going to ask you specifically about is where you say: This stays only between us. We’re having a second stage at the Supreme Court after the Ellipse. POTUSs going to have us march there, the Capitol. It can also not get out about the march because I will be in trouble with the National Park Service and all agencies, but POTUS is going to call for it in quotes – it looks like, unexpectedly. Only myself and Katrina know full story of what is actually happening, and we’re having to appease many by saying certain things.

So the first question is, how did you know that President Trump was going to have people march to the Capitol after his speech at the Ellipse?

[snip]

A Because – right. Because I – I, we, Women for America First, are not responsible and giving people the directive to go and march. People are able to do whatever they want. So, if they want to come to the Ellipse and come to the event that is presented by Women for America First and then they want to go to an event with, let's say, Jericho March or "Stop the Steal" or whatever, people are free to make their own decisions. And that was a conversation that had continuously been had with NPS, that other events were being permitted and that we could not control any sort of, you know, when do you leave, when do you stay because that was something that was discussed about an exit plan, right, of how do we talk – or how do we plan to get all of these people that are coming to D.C., what is the plan for them to leave? And so that was something that was confusing in the process to me too,

Wouldn't it make it easier if there was a permit to march because then things could be more controlled? There could be more law enforcement, and NPS and whoever these different agencies that I was speaking with, both on Zoom calls and then also individual conversations that were being had, it did not make sense to me. But I was being continuously told by NPS that we could not have a permit to march, and if we did or promoted a march, then the Ellipse permit would be revoked, or we would not officially get the final one.

Here's how she tried to claim she learned about the march from social media.

So, when I'm talking about that and saying about social media, it's not specifically from Trump social media that the President and/or his staff were tweeting out. It was social media of people from anywhere talking about what had previously happened. Obviously, there was going to be a joint session in Congress. It doesn't take a rocket scientist to figure it out, if the first event is at the Ellipse, that they're going to go to the second location, putting pressure on Members of Congress to say: Hey, we're here. We're watching. I mean, the fact that this is news that NPS and everybody else were putting pressure on me, saying there should be no marching, I mean, I had this conversation with them multiple times. It was obvious what was going on

Q Ms Kremer

A and that people were going to go and leave.

Later in her testimony, she specifically denied learning from Pierson – who had just met with Trump and Mark Meadows the day before – that Trump would call for a march.

So, Ms. Kremer, we know that Katrina Pierson spoke with folks at the White House, including Mark Meadows, on January 2nd, which is days before the text message we are looking at that you sent to Mr. Lindell, about the President's participation in the Ellipse rally. We know that she received guidance about what the President hoped would happen at the Ellipse rally. And we know that that guidance included that the President wanted to send people from the Ellipse to the Capitol. In that text

message, you say, “only me and Katrina know the real plan or know the truth about what we tetyingto do. So, when you say that the President is going to announce unexpectedly, encourage people, in quotes, “unexpectedly” to go down to the Capitol, that’s because: Katrina told you that, right?

A No a

Q So Katrina never told you that the President had hoped to send people to the White House before you sent this text message to Mr. Lindell?

A I—to my best recollection, I do not believe that that specific directive was told to me via Katrina.

There’s good reason to believe that the reference to the Guard – Trump’s proposal that 10,000 National Guard could protect him and his followers – was actually pitched as a solution to the one the Park Service kept raising: there was no way to properly staff a march of this size, short of Trump calling out an army.

This is not an issue the available evidence clarifies. It raises more questions about the veracity of certain witnesses than others.

But it is squarely among the things that recent subpoenas sought to address.