

THE STRUCTURE OF THE DONALD TRUMP INDICTMENT

It's late here, so this may be my only analysis before you all wake up.

But I wanted to lay out the structure of the Trump indictment.

The indictment charges him, alone, with four crimes:

- 18 USC 371 (conspiracy to defraud the US)
- 18 USC 1512(k) (conspiracy to obstruct the vote certification)
- 18 USC 1512(c)(2) (obstructing the vote certification)
- 18 USC 241(conspiracy to violate civil rights)

They all are entirely overlapping. That is, Trump's conduct, and those of 6 alleged co-conspirators, is cited in all those charges.

These are four charges for the same crime. So if the DC Circuit or SCOTUS overturns how DOJ has applied 1512, there are two back stops.

The other most important part of this indictment is who is named as a co-conspirator (and who might well be charged, as far as we know, today, separately by sealed indictment):

- Co-Conspirator 1, an attorney who was willing to spread knowingly false claims and pursue strategies that the Defendant's 2020

re-election campaign attorneys would not. [Rudy Giuliani]

- Co-Conspirator 2, an attorney who devised and attempted to implement a strategy to leverage the Vice President's ceremonial role overseeing the certification proceeding to obstruct the certification of the presidential election. [John Eastman]
- Co-Conspirator 3, an attorney whose unfounded claims of election fraud the Defendant privately acknowledged to others sounded "crazy." Nevertheless, the Defendant embraced and publicly amplified Co-Conspirator 3's disinformation. [Sidney Powell]
- Co-Conspirator 4, a Justice Department official who worked on civil matters and who, with the Defendant, attempted to use the Justice Department to open sham election crime investigations and influence state legislatures with knowingly false claims of election fraud. [Jeffrey Clark]
- Co-Conspirator 5, an

attorney who assisted in devising and attempting to implement a plan to submit fraudulent slates of presidential electors to obstruct the certification proceeding. [Kenneth Chesebro]

- Co-Conspirator 6, a political consultant who helped implement a plan to submit fraudulent slates of presidential electors to obstruct the certification proceeding. [Mike Roman; update: NYT says it is Boris Ephsteyn]

I will fill in who these people are later. They are uncharged and I want to be fairly sure.

The key detail, though, is that there is a separate conspiracy branching off involving most of them, and many other paragraphs of this indictment.

I argued since April 2022 that DOJ could – and should – charge Trump first and build in the stuff around him. I reiterated that a few weeks ago.

There's a lot here.

But – with some awesome exceptions, which I'll come back to – not much beyond what's in the January 6 Report. Credit where it's due, much, but not all, of this indictment follows their map.

Update: I've added Mike Roman as Co-Conspirator 6. The January 6 Report matches a report from the indictment.

█ A campaign operative named Michael Roman

was also tapped for a major operational role in the fake elector effort. When Findlay sent his email handing off certain responsibilities for the initiative, he also wrote that Giuliani's team had designated Roman "as the lead for executing the voting on Monday" December 14th.⁷³ Roman was the Trump Campaign's Director of Election Day Operations (EDO), with team members who specialized in political outreach and mobilization in battleground States where the Trump team now urgently needed the fake electors to meet on December 14th. With help from his EDO staff, as well as Giuliani's team and RNC staffers working alongside the Campaign as part of the Trump Victory Committee, Roman ran an improvised "Electors Whip Operation."⁷⁴ For example, Roman sent an email on December 12th directing an aide to create "a tracker for the electors" with tabs for Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin, listing contact information, whether they had been contacted, whether they agreed to attend on December 14th, and names of "[s]ubstitute electors" to replace any reticent or unavailable participants as needed.⁷⁵ Roman referred to others on this email as the "WHIPTEAM" and directed them to fill out the spreadsheet, to update him on "what you have and what you need," and to plan on a call that evening.⁷⁶