

Politics

Here Are the Laws Trump Allegedly Broke — According to the Jan. 6 Committee

- House committee referred Trump and others to DOJ for charges
- Alleged crimes include obstruction, fraud and insurrection



Trump speaks during the "Save America Rally" near the White House in Washington, DC, on Jan. 6, 2021. *Photographer: Eric Lee/Bloomberg*

By [Erik Larson](#)

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The House committee investigating the Jan. 6 attack on the US Capitol by Donald Trump supporters voted unanimously to ask the Justice Department to prosecute the former president for alleged crimes

– including inciting an insurrection.

The committee's nine members agreed Monday that their 17-month probe found enough evidence to urge that Trump and others face four federal criminal charges linked to efforts to overturn the 2020 election, which Joe Biden won.

“We’ve never had a President of the United States stir up a violent attempt to block the transfer of power,” Chairman Bennie Thompson said at the panel’s final meeting Monday. “If we are to survive as nation of laws and democracy, this can never happen again.”

The referrals do not carry any legal weight. The Justice Department has its own investigation and is free to disregard the lawmaker referrals. Trump and his allies have maintained their innocence and claimed the Jan. 6 committee was politically motivated. Even so, a summary spells out what the committee believes prosecutors can prove at trial, based on interviews and other evidence.

Obstruction of an Official Proceeding (18 U.S.C. § 1512(c))

It’s a crime to “corruptly” obstruct, influence or impede any official government proceeding, or attempt to do so. The committee said there “should be no question” that the Joint Session of Congress to count electoral votes on Jan. 6, 2021 was an official proceeding, and that Trump was part of an effort to obstruct it. Evidence showed that “Trump was attempting to prevent or delay the counting of lawful certified Electoral College votes” and was “personally involved” through his pressure on Vice President Mike Pence to derail the meeting, the panel said. Trump’s alleged obstruction was corrupt, the committee said, because he’d been told by his own experts that his theory on staying in power was unconstitutional, and his election fraud claims repeatedly failed in court. The fake electors scheme was also a violation, the lawmakers said. The maximum sentence is 20 years.

Conspiring to Defraud the US (18 U.S.C. § 371)

It’s a crime for two or more people to coordinate to defraud the US, if at least one of the people does some act to carry out the conspiracy. “Trump entered into an agreement with individuals to obstruct a lawful function of the government,” through a “multi-part plan” to obstruct the certification that involved lawyer John Eastman “and several other individuals,” the committee said. The panel added that former Justice Department lawyer Jeffrey Clark “stands out as a participant” because he agreed with Trump that if he were appointed acting attorney general, he would send a letter to state officials falsely stating that the Justice Department “believed that State legislatures had a sufficient factual basis to convene to select new electors.” The maximum sentence is 5 years.

Conspiracy to Make a False Statement (18 U.S.C. §§ 371, 1001)

This statute is violated when a materially false statement is knowingly made to the federal government, or if such lies are covered up. The committee said Trump broke this law when he used

other individuals to submit “slates of fake electors” to Congress and the National Archives. “The certifications signed by Trump electors in multiple states were patently false” because Biden won those states, the panel said. “Nothing can be more material to the Joint Session of Congress to certify the election than the question of which candidate won which States,” the committee said. Notably, the panel said Republican National Committee Chairwoman Ronna McDaniel testified that Trump and Eastman asked the RNC to organize the effort to have fake electors meet and cast their votes. The maximum sentence is five years.

“Incite,” “Assist” or “Aid and Comfort” an Insurrection (18 U.S.C. § 2383)

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This law is violated when one “incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto.” The committee said it doesn’t need to show an agreement between Trump and the rioters to prove this crime but only that the president “incited, assisted or aided and comforted those engaged in violence or other lawless activity in an effort to prevent the peaceful transition of the Presidency.” The evidence shows Trump summoned the mob, provoked them after the threat of violence was clear and inflamed their anger at Pence, the committee said. Trump “refused to condemn the violence or encourage the crowd to disperse despite repeated pleas from his staff and family that he do so,” the committee held. Representative Jamie Raskin said at the meeting that this charge would disqualify the former president from holding office, if he is convicted. The maximum sentence is 10 years.

‘Not Easy’

Former federal prosecutor Kevin O’Brien said the criminal case proposed by the committee “is not easy,” given that Trump and the other potential targets are “sophisticated actors” who’ve all lawyered up. Plus Trump can avail himself of defenses that are rare, such as the First Amendment, he said.

“Perhaps most crucially, Trump tended to operate elusively – handing off tasks to subordinates, avoiding confrontation, eschewing emails – so admissible evidence may be harder to come by than followers of the January 6th Committee might expect,” O’Brien said.

(Updates with comment from former federal prosecutor Kevin O'Brien.)

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