

For Trump's Lawyers, Legal Exposure Comes With the Job

The many lawyers who have helped the former president avoid removal from office and indictment have drawn legal problems of their own.



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A dark joke has begun circulating among lawyers following the many legal travails of former President Donald J. Trump: MAGA actually stands for “making attorneys get attorneys.”

Over six years and nine major investigations by Congress, the Justice Department and local prosecutors, as Mr. Trump has managed to avoid removal from the presidency and indictment, it has become clear that serving as one of his lawyers is a remarkably risky job — and one that can involve considerable legal exposure. Time after time, his attorneys have been asked to testify as witnesses to potential crimes — or evaluated as possible criminal conspirators themselves.

While the consequences his lawyers faced were extraordinary when Mr. Trump was in the White House, the dangers have only intensified since he left office and have become increasingly acute in recent weeks, as the former president has come under scrutiny in two different Justice Department investigations and has been forced yet again to find lawyers willing to represent him.

Last week, a Justice Department filing revealed that Mr. Trump's lawyers had misled federal investigators about whether he had handed over to the Justice Department all the classified documents he took from the White House when he left office. That raised questions about whether the lawyers, M. Evan Corcoran and Christina Bobb, could be prosecuted themselves and might ultimately be forced to become witnesses against their client. (Ms. Bobb recently retained a lawyer, according to a person familiar with the situation.)

The revelation capped a summer in which a team of lawyers that had been advising Mr. Trump as he tried to overturn the 2020 election faced a range of repercussions across the country from federal investigators, local prosecutors, state bars and government accountability groups.

One of Mr. Trump's highest-profile lawyers, Rudolph W. Giuliani, was named as a target in a state criminal investigation in Georgia. The conservative lawyer John Eastman, who came up with what he conceded privately was an unlawful strategy to help Mr. Trump overturn the election, said he believed he was a target in that same investigation and declined to answer questions while being deposed before a grand jury. Mr.

Giuliani and Mr. Eastman have also been named as subjects of interest in a flurry of federal grand jury subpoenas seeking evidence about attempts by Mr. Trump's allies to create fake slates of electors to help keep him in office.

Two others who worked for Mr. Trump in the White House — the White House counsel Pat A. Cipollone and his deputy Patrick F. Philbin — were subpoenaed to appear before a federal grand jury in Washington investigating the efforts to overturn the 2020 election, including the roles that Mr. Giuliani and Mr. Eastman had played in helping Mr. Trump.

Mr. Cipollone, Mr. Philbin and at least nine other lawyers who worked for Mr. Trump have testified before the congressional committee investigating the Jan. 6 attack. Earlier this year, Mr. Cipollone and Mr. Philbin also were interviewed by the F.B.I. as part of its investigation into the classified documents investigation.

A video clip of John Eastman, left, invoking the Fifth Amendment during a deposition for the House Jan. 6 committee was shown in a hearing this summer. Doug Mills/The New York Times

And 17 mostly lesser-known lawyers who represented Mr. Trump in battleground states as he tried to overturn the election are facing ethics complaints, putting them at risk of being disciplined or disbarred by their bars or the courts.

Vigorously defending the client — even one known for unscrupulous behavior or accused of an egregious crime — is part of a lawyer's basic job description. But attorneys are bound by a code of professional conduct that forbids them from crossing certain lines, including knowingly making false claims, filing frivolous lawsuits or motions, and doing anything to further a crime.

The adage for lawyers representing clients accused of criminality, said Fritz Scheller, a longtime Florida defense lawyer, is that at the end of the day, no matter how bad it may have been for the client, the lawyer still gets to walk out the front door of the courthouse without any personal legal issues.

“That bad day for the criminal defense attorney becomes his worst day when he leaves through the courthouse door used for defendants on their way to jail,” Mr. Scheller said.

Long before he became president, Mr. Trump viewed lawyers as tools to carry out whatever unsavory errand he required. As president, his disdain for institutional norms and demand for unswerving loyalty meant that Mr. Trump expected White House lawyers to act in his personal interest, whether or not doing so was within the bounds of the law or in the interest of the country.

He is also known for refusing to pay his lawyers for their work; last year, the Republican National Committee agreed to settle up to \$1.6 million of Mr. Trump’s personal legal bills.

Six weeks after taking office, Mr. Trump made clear to his aides what he expected of his lawyers, when he raged about Jeff Sessions, the attorney general, for recusing himself from the inquiry into whether Russia had meddled in the 2016 election.

“I don’t have a lawyer,” Mr. Trump said to aides in the Oval Office, including the White House counsel Donald F. McGahn II. “Where’s my Roy Cohn?”

Mr. Trump was referring to the notorious New York fixer who had represented and mentored Mr. Trump in the 1970s when he was an up-and-coming real estate investor. Mr. Cohn, who was the chief counsel to Senator Joseph McCarthy during the 1954 Army-McCarthy hearings investigating suspected communists, was disbarred by a New York court in 1986 for unethical conduct.

Mr. Trump’s quest for such a lawyer fueled a destructive cycle: As his legal difficulties mounted, he hired more lawyers, who in turn faced problems for their work on his behalf, leading established lawyers concerned about their reputations to balk at representing him.

“There’s no way to adhere to your ethical integrity and keep your job,” Kimberly Wehle, a University of Baltimore law professor who has closely tracked the investigations into the Jan. 6, 2021 attack on the Capitol, said of the dilemma Mr. Trump’s lawyers have faced. “There’s just no way to not step into a mess.”

Donald F. McGahn II, a White House counsel, racked up hundreds of thousands of dollars in bills for legal representation in an investigation into whether the president had obstructed justice. Erin Schaff/The New York Times

The personal ramifications of doing legal work for Mr. Trump became painfully apparent to lawyers around him four months into his administration when Mr. McGahn and several of his lieutenants — fearing they could be held responsible for Mr. Trump’s conduct — retained a high-powered Washington lawyer to represent them in an investigation into whether the president had obstructed justice.

Within two years, Mr. McGahn had racked up hundreds of thousands of dollars in legal bills and prosecutors had turned him into a chief witness against Mr. Trump.

Around the same time, Mr. Trump’s longtime New York lawyer, Michael Cohen, began a three-year prison sentence for his role in paying off a woman in the final days of the 2016 presidential campaign to ensure she did not disclose an affair with Mr. Trump.

More recently, a long list of lawyers who have represented Mr. Trump have found themselves on the receiving end of ethics complaints and disciplinary action.

“Ultimately, we want to demonstrate to all the lawyers that the next time that Sidney Powell or Rudy Giuliani calls and says, ‘Hey, will you sign your name to this,’ they’ll say ‘no,’ because they’ll realize that there are professional consequences,” said Michael Teter, the director of the 65 Project, which has filed complaints against 40 lawyers who took part in suits challenging the 2020 results, including 17 last month.

Rudolph W. Giuliani was named as a target in a state criminal investigation in Georgia.
Nicole Craine for The New York Times

Mr. Teter's group has identified more than 110 lawyers across 26 states who agreed to participate in various plots by Mr. Trump and his allies as they sought to overturn the 2020 election. Thus far, at least 10 of them have been fined or sanctioned.

"This is part of a well-funded effort to attack every attorney who participated in any of the 2020 election challenges," Mr. Eastman said in a statement in response to a bar complaint filed against him, adding that the goal of the 65 Project was to "shame them and make them toxic in their communities and their firms."

The most serious repercussions have come for four lawyers who acted as ringleaders in the effort. Mr. Giuliani's licenses to practice law in the District of Columbia and New York were suspended, while Ms. Powell has been sanctioned in Detroit and faces a disciplinary action brought by the state bar of Texas. Both are also facing separate defamation lawsuits by Dominion, a voting machine company that claims that the two acted recklessly in falsely asserting that Dominion machines had helped flip votes from Mr. Trump to Mr. Biden. The suits each seek more than \$1 billion in damages.

Lin Wood is under investigation by the bar in his home state of Georgia and was sanctioned in Michigan. Mr. Eastman, who has said he could also be a target of the Georgia inquiry, may face additional legal jeopardy; federal agents have seized his phone, and a federal judge said in March that he and Mr. Trump likely committed felonies while attempting to overturn the 2020 election.

Among the 40 lawyers whom Mr. Teter's group has singled out for ethics complaints are James Bopp, Kenneth Chesebro, the Republican Senator Ted Cruz of Texas, Joseph diGenova, Jenna Ellis, Boris Epshteyn, Cleta Mitchell and William Olson.

The House investigation into Jan. 6 has also focused on potential wrongdoing by Mr. Trump's lawyers, particularly their role in the scheme to put forward slates of pro-Trump electors in states won by Joseph R. Biden Jr.

Mr. Giuliani also faced a federal investigation in New York by prosecutors who are said to be looking into his dealings in Ukraine to help Mr. Trump dig up dirt on Mr. Biden's son. As part of that investigation, federal agents seized cellphones and computers from Mr. Giuliani in April during searches of his apartment on Madison Avenue and his Park Avenue office in Manhattan. The investigation is unlikely to result in charges.

Sidney Powell is facing a defamation lawsuit by Dominion, a company whose voting machines were used in the 2020 election. Jonathan Ernst/Reuters

Ms. Powell's nonprofit organization, Defending the Republic, which raised millions of dollars by spreading lies about election fraud, is under investigation by a federal grand jury in Washington, according to two people with direct knowledge of the inquiry.

Ms. Ellis was also accused of professional misconduct in an ethics complaint in Colorado by the bipartisan legal watchdog group the States United Democracy Center. It said that Ms. Ellis assisted Mr. Trump in an "unsuccessful and potentially criminal effort" to stave off his electoral defeat.

Some lawyers who worked for Mr. Trump have managed to emerge with their careers intact, including Emmet T. Flood, who took the lead at the White House dealing with the Russia investigation, and two other lawyers who represented the president around that time: Jane Raskin and Joanna C. Hendon.

Now two of them are among the lawyers being hired by Mr. Trump's former attorneys to represent them as they deal with the fallout from their work for Mr. Trump.

Mr. Flood is now representing Mr. Cipollone, the former White House counsel, who is facing federal investigators' questions about Mr. Trump's conduct. And Ms. Raskin is helping to represent Ms. Ellis.

Alan Feuer and Maggie Haberman contributed reporting.