

# Is Donald Trump going to prison?

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Donald Trump has already been indicted twice. By the end of the summer, he may be the subject of as many as four criminal cases.

The latest episode in his legal peril appeared to be taking shape on Thursday 27 July, when the ex-president's legal team met with the prosecution team led by Special Counsel Jack Smith in a last-ditch attempt to convince Mr Smith and his team from seeking another indictment against Mr Trump for his efforts to overturn his 2020 election loss to Joe Biden.

That same day, the special counsel's team hit Mr Trump with superseding charges in federal court in Florida. Officials accused the former president and an employee at his Mar-a-Lago club of attempting to destroy security camera footage once Mr Trump learned he was under subpoena in the investigation over his handling of classified documents.

Earlier this month, Mr Trump said prosecutors notified him that he was also a target of Mr Smith's investigation into efforts to overturn the 2020 election and the January 6 attack on the Capitol. The former president is understood to be facing the possibility of charges under three federal criminal statutes: Conspiracy to defraud the United States, deprivation of rights under colour of law, and witness tampering.

Should the Washington DC grand jury vote to indict him, it would be the second set of federal charges filed against Mr Trump in as many months. A separate grand jury in the Southern District of Florida returned the first federal indictment against a former president on 8 June, charging Mr Trump and co-defendant Walt Nauta with a host of crimes arising out of Mr Trump's alleged unlawful retention of national defence information and obstruction of justice.

Although he was released without many restrictions following his 13 June arraignment, the first federal case against Mr Trump added to the legal pressure against the twice-impeached former president as he seeks to win his party's nomination in next year's Republican presidential primary, as he is also facing trial next year in his former home state of New York on charges of falsifying business records to conceal hush-money payments to an adult film star in 2016

He is scheduled to be tried in the New York case starting on 25 March of next year, and earlier this month US District Judge Aileen Cannon — the Florida federal judge overseeing the Espionage Act and obstruction of justice case against Mr Trump — rejected the disgraced ex-president's bid to delay his trial until after the 2024 election and issued an order granting the government's request to set a speedy trial date and schedule for pretrial motions, with a start date of 20 May 2024.

Prosecutors with the office of Justice Department Special Counsel Jack Smith had asked for her to set a December 2023 trial date, four months after the August date she'd put on the court's calendar shortly after Mr Trump and his co-defendant Walt Nauta first appeared in a Miami courtroom to answer the 38-count indictment charging the ex-president with unlawfully retaining national defence information, and charging both him and Mr Nauta with conspiracy and obstruction of justice offences.

Since last year, Mr Trump has been at the centre of a sprawling US Department of Justice special counsel probe into his efforts to overturn the results of the 2020 presidential election — separate from an investigation in Atlanta into his attempts to reject the results of that election in Georgia.

That Georgia grand jury probe, meanwhile, is expected to result in charges against the ex-president and others in his orbit some time in August or early September.

Should he be convicted in any of those cases, speculation has mounted whether he will face jail time, raising the prospect of federal prosecutors and judges weighing whether to jail a presidential candidate or potential victor in the 2024 race.

Charges in the federal case surrounding his alleged mishandling of classified documents include the willful retention of national defence information, conspiracy to obstruct justice, withholding a document or record, corruptly concealing a document or record, concealing a document in a federal investigation, a scheme to conceal, and false statements and representations.

Each charge carries a maximum sentence ranging from five years to 20 years. A potential sentence, if convicted, could include decades in prison.

That indictment was Mr Trump's second. In March, he appeared in a New York City courtroom to face criminal charges following Manhattan District Attorney Alvin Bragg's investigation into hush payments leading up to the 2016 presidential election.

He has pleaded not guilty in both cases. And after both hearings, he returned to his properties to deliver remarks to crowds of supporters to cast himself as a victim of political persecution, baselessly accusing his political rivals of interfering with his chances of winning election to the presidency in 2024.



Former US President Donald Trump waves from his vehicle following his appearance at Wilkie D. Ferguson Jr. United States Federal Courthouse, in Miami, Florida, on June 13, 2023

Following his federal indictment, Mr Trump declared that he was “an innocent man”.

Those charges stem from a case that began early last year after National Archives and Records Administration (NARA) officials discovered more than 100 classified documents in boxes that were retrieved from Mr Trump’s Palm Beach, Florida residence.

That discovery led NARA officials to notify the Justice Department which kicked off an investigation into how the documents ended up at Mr Trump’s property.

Throughout the investigation, prosecutors and investigators harboured concerns that the ex-president was not being truthful about whether he had returned any and all classified documents in his possession to government custody as required under the Presidential Records Act.

But the classified nature of the records at issue added another wrinkle to the dispute between Mr Trump and the government he led from January 2017 to January 2021.



Trump stops off at Versailles restaurant after his arrest and arraignment

At times, the ex-president has claimed that he had used the sweeping classification and declassification authority to declassify any record he took with him to his Palm Beach home at Mar-a-Lago.

No evidence has emerged that any such order was ever issued, and in audio recordings obtained by prosecutors, Mr Trump is said to have acknowledged that he did not declassify certain records that were in his possession long after his authority to possess them expired.

The Justice Department is likely to attempt to have Mr Trump incarcerated if he's convicted.

National security lawyer and George Washington University law professor Kel McClanahan said that the department will probably “want to go for incarceration” in the case of Mr Trump, according to Insider.

Mr McClanahan said that the evidence in the indictment is intended to show that Mr Trump “is a kingpin who knowingly broke the law, endangered national security, endangered nuclear weapon security, [and] endangered other countries’ national security”.

The consensus among most legal experts commenting on the indictment appears to be that Mr Trump is in serious legal jeopardy.

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A former assistant US attorney in the Southern District of New York, Sarah Krissoff, said that “to the extent that there’s a conviction here, the Department of Justice is going to want to be seeking a real sentence” because of the “nature of the conduct, how long it lasted, his involvement, the involvement of other people, working allegedly at Trump’s direction”.

She noted that if Mr Trump is convicted, the sentence would depend on the judge, which seems likely to be Trump-appointee Aileen Cannon in the District Court for the Southern District of Florida.

Mr McClanahan noted the novelty of possibly having to find a proper way to put a former president behind bars.

He questioned how the authorities would go about imprisoning someone “who has a Secret Service detail and who has national security secrets bouncing around his brain, such that if someone holds a shiv to his neck, he’ll reveal the location of our missile bases”.







In this handout photo provided by the U.S. Department of Justice, stacks of boxes can be observed in the White and Gold Ballroom of former U.S. President Donald Trump's Mar-a-Lago estate in Palm Beach, Florida

He added that Mr Trump might become a “foreign intelligence gold mine for most countries on earth” if he’s imprisoned. Mr McClanahan sees it as more likely that if Mr Trump is convicted, he would be sentenced to house arrest with an ankle monitor.

But Ms Krissoff told the outlet that “Trump can share that information that is in his head whether he is incarcerated or not incarcerated. So I’m not particularly concerned that, as a citizen, the incarceration will trigger the sharing of information that wouldn’t be shared otherwise”.

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Fox News legal commentator Jonathan Turley also didn't hold back after the indictment was unsealed.

Mr Turley, the Shapiro Chair of Public Interest Law at George Washington University, said on Fox News that "it is an extremely damning indictment".

"There are indictments that are sometimes called narrative or speaking indictments. These are indictments that are really meant to make a point as to the depth of the evidence, there are some indictments that are just bare bones," he added.

This is not one of those indictments, Mr Turley said.

"This is clearly an indictment that was drafted to answer those questions. It's overwhelming in detail," he said. "The Trump team should not fool itself. These are hits below the waterline. These are witnesses who apparently testified under oath [and] gave statements to federal investigators, both of which can be criminally charged, if they're false."

Speaking about the images from Mar-a-Lago of the boxes of documents found in a ballroom and a bathroom, in addition to other less-than-ideal places, Mr Turley said that "obviously, this is mishandling".

"It's hard to show a picture of these boxes surrounding a toilet and saying 'we really acted responsibly,'" he added. "Keep in mind that every one of these counts is coming with a substantial potential sentence."



A photo published by the US Justice Department in their charging document against former Trump shows boxes of documents stored in a bathroom at his Mar-a-Lago club in Florida

The Justice Department, meanwhile, is separately investigating Mr Trump's rejection of 2020 results, building on the years of work from federal prosecutors to investigate more than 1,000 people in connection with the January 6 attack on the US Capitol, fuelled by the former president's ongoing false claims that the election was rigged against him.

Based on evidence uncovered by the House select committee that investigated the events surrounding the attack as well as other filings and reporting, prosecutors are likely investigating several key elements of the sprawling effort to reverse the 2020 election.

Those could include Mr Trump's election lies, his campaign's attempts to pressure state officials and push false slates of electors to obstruct the certification of the results, a failed attempt to persuade Mr Pence to refuse the outcome, and Mr Trump's failure to stop a mob of his supporters from breaking into the Capitol.

A target letter from federal prosecutors to Mr Trump that indicates he is the subject of an investigation cites three statutes that the former president likely violated in his attempts to reverse the outcome of the 2020 election.

One charge – obstruction of an official proceeding – has already been brought against hundreds of people in connection with the Capitol attack.

The House select committee and a federal judge who was involved in cases stemming from its inquiry argued that there is evidence that Mr Trump sought to corruptly obstruct the certification of electoral college votes in Congress – a crime punishable by up to 20 years in prison if convicted.

Meanwhile, the former president has repeatedly characterised the multiple investigations against him as part of a politically motivated “hoax” and an attempt to “steal” the 2024 election from him.

On 23 July, Mr Trump published several posts on his social network Truth Social, once again calling the special prosecutor “deranged” and labelling President Joe Biden as a “criminal” and “the most corrupt and incompetent President in United States history”.

“Get smart, Republicans, they are trying to steal the Election from you!” he wrote before referring to Democratic officials and federal and state prosecutors as “monsters” who are “destroying our country”.

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