Originally published in

USA TODAY

Op-Ed

August 2, 2021

We warned in March 2019 of a coup attempt if Trump lost the 2020 election. We were right.

We tried to sound the alarm but many scoffed, lulled by patriotic notions of US traditions. And let's be clear: The problem is not just Trump anymore.





By Jerry H. Goldfeder and Lincoln Mitchell

ust say the election was corrupt + leave the rest to me and the R. Congressmen."

That's what President Donald Trump told Justice Department officials as part of his <u>insistent pressure campaign</u> to declare the 2020 election "corrupt" so he and his Republican cronies in Congress could overturn the results and keep him in office, according to <u>notes of a conversation</u> released Friday by a House committee. We may be used to this happening in other countries, yet many Americans believe it could never happen here. It's shocking – but, unfortunately, not surprising, at least to us.

In March of 2019 we wrote a column for USA TODAY entitled, "A Donald Trump coup if he loses in 2020? With all the norms he's busted, don't rule it out." We hate to say "we told you so," but

we did – at a time when most people dismissed the idea as too far-fetched to consider. It's not that we are so prescient. It's just that we understood Trump's authoritarian nature and the weaknesses in our electoral system.

Our election system is vulnerable

After last November, Trump's coup attempt took many forms: He summoned election officials from Michigan and Pennsylvania to the White House to bully them into changing the results in their states; he pleaded with Georgia Secretary of State Brad Raffensperger to "find" 11,780 votes to overturn Joe Biden's victory there; and he demanded that Vice President Mike Pence block the final step in the election – the ceremonial congressional count of Electoral College votes.

He also incited insurrectionists to storm the U.S. Capitol to physically prevent that final step on Jan. 6. One could watch <u>videos</u> taken on that day over and over and still gasp in horror. And while all of this was going on, Trump was <u>badgering Justice Department officials</u> to belly up to his "Big Lie" that the election was stolen from him.

The man who knew Trump best, his onetime lawyer Michael Cohen, tried to warn us. He <u>testified in Congress</u> more than a year and a half before the election: If Trump loses, "there will never be a peaceful transition of power." Only a handful of us took this seriously. After all, there had been <u>10 incumbent presidents</u> before Trump who had lost reelection and simply turned over the keys to the Oval Office.

But Trump obviously doesn't respect constitutional norms. That is why we tried to sound the alarm. Those who scoffed at the prospect of Trump's refusal to accept defeat apparently allowed themselves to be lulled by patriotic notions of American democratic traditions.

Let's be clear: The problem is not just Trump anymore. Even after the invasion of the Capitol, when their very lives were threatened, eight Republican senators and 139 Republican House members voted against confirming unambiguous Electoral College vote totals in one or more states. And despite what the entire world saw and heard, Republican leaders are now promoting an incredibly distorted picture of what actually occurred on Jan. 6.

The cumulative result of Trump's incessant lying about the election and the GOP's distortion of the insurrection is the absurd belief among many of Trump's supporters that he really won – which leads us to our current concerns. As we think about upcoming elections, we are worried about the movement in several states to strip election administration from experienced and honest officials, and put the final word in the hands of partisan legislators.

We can't rely on apple-pie idealism

Take Georgia, as just one example. An <u>"investigation" of Fulton County election administrators</u> is under way by Republican state legislators. Fulton, home to Atlanta, has a huge Democratic electorate. Is it possible that in the next presidential or gubernatorial election, the state election board, whose members are now appointed by the Republican legislature, will simply cry fraud and overturn the totals in that county? Post-2020 legislation appears to <u>give them the authority</u> to do so.

We're also nervous that Jan. 6 was but a prelude to 2024. There is no reason to think domestic terrorists will not attempt to steal the next election by, for example, attacking various state capitols as Electoral College votes are being counted. Remember that the Capitol assault was <u>presaged by armed action</u> in the halls of the Michigan Legislature by very similar mobs several months earlier. As difficult as Jan. 6 was, multiple insurrections in various states could upend the next presidential election.

Under the circumstances, the prospect of future free, fair and democratic elections in the United States is not assured. Although we are not by nature alarmists, the seriousness of this ongoing threat to the republic must be acknowledged. Of course, we hope we are wrong, just as we had hoped we were in our original article two years ago. But let's not rely on apple-pie idealism. Rigorous political analysis and legal guardrails, as well as an alert citizenry, are essential if we are to preserve our democracy.

Jerry H. Goldfeder (@jerrygoldfeder), a nationally recognized election attorney who teaches Election Law at Fordham Law School, was chair of the New York State Bar Association's Task Force on the 2020 Election and consultant to CNN's 2016 miniseries "Race for the White House." Lincoln Mitchell (@LincolnMitchell) teaches in the School of International and Public Affairs at Columbia University and is the author of several books, including "The Democracy Promotion Paradox."

Reprinted with permission from the August 2, 2021 edition of *USA TODAY* ©2021