

Biggest investigation in FBI history still has Merrick Garland in the hot seat

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Bash to Schiff: Is Merrick Garland letting Trump off the hook?

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(CNN) — A year after the January 6 insurrection, the Justice Department continues to press forward on the biggest investigation in FBI history, with 700 people already arrested and hundreds more offenders still at large and several more years of prosecutions ahead.

But the expansive investigation has yet to shed light on how vigorously the former President and political allies could be investigated for inciting rioters by spreading a lie that the election was stolen and asking them to march to the Capitol.



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After opening aggressively, with prosecutors raising the prospect of using a rarely used seditious conspiracy law to charge some Capitol attackers, the Justice Department since Attorney General Merrick Garland took office in March 2021 has settled into a less headline-grabbing approach that Justice officials say is intended to keep the probe away from the political maelstrom.

Garland, a former appeals court judge, has made restoring institutional norms a top focus of his tenure, after a Trump era that regularly injected politics at the department. That includes a reminder to prosecutors that they should only speak in indictments and other court proceedings.



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“The Justice Department remains committed to holding all January 6th perpetrators, at any level, accountable under law – whether they were present that day or were otherwise criminally responsible for the assault on our democracy,” Garland said in a speech Wednesday. “We will follow the facts wherever they lead.”

His quiet approach has not satisfied Democrats and anti-Trump Republicans who openly discuss their interest in identifying crimes they believe the Justice Department should

prosecute. It's also opened Garland to criticism that he hasn't been as publicly dynamic or aggressive as the nation needs to counter a threat to democracy.

"I think Merrick Garland has been extremely weak and I think there should be a lot more of the organizers of January 6 that should be arrested by now," Rep. Ruben Gallego, an Arizona Democrat, said on CNN this week.

Justice Department spokesman Anthony Coley defended the agency's efforts. "We are proud of the men and women of the Justice Department, who are undertaking the largest investigation in the department's history," Coley said in a statement. "They are following the facts and the law and the Constitution while working at impressive speed and scale to hold accountable all those responsible for the attack on the Capitol, and will continue to do so."

For the FBI, which came under criticism for failing to do more to prevent the attack, the January 6 anniversary is also a moment to urge the public to help with more tips to solve notable unsolved crimes, including the police assaults and the pipe bombs found that day near the offices of the Democratic and Republican parties just steps from the Capitol.

Steven D'Antuono, assistant director for the FBI's Washington field office, said those inquiries are priorities as part of the broader complex investigation.



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"In this area where the bombs were placed, if they did go off they could have caused some serious harm or death," D'Antuono said in an interview with CNN.

"On that day, over 100 police officers were assaulted that day multiple times," D'Antuono said. "And we're not just talking about one assault, multiple assaults and by multiple people. We're still looking for about 250 people individuals that assaulted police officers that day."

The Justice Department hired a contractor to help it process hundreds of thousands of hours of video in order to do the painstaking work to identify assailants, CNN previously reported. "We're going to be at this as long as it takes," he said.

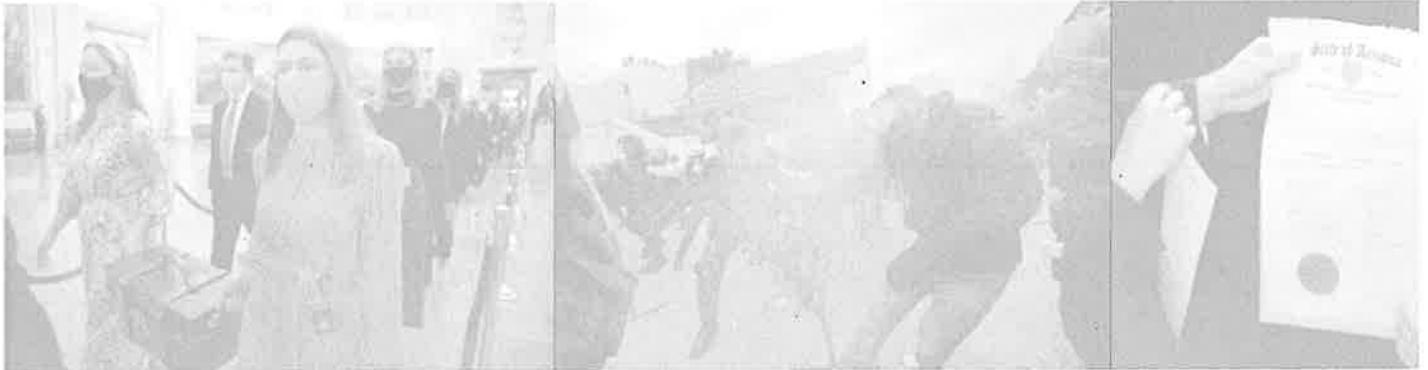
Accountability beyond the rioters

The January 6 attack reframed the face of a domestic terrorism threat that the FBI, Homeland Security Department and other agencies say has grown rapidly. And the January 6 investigation has led to several arrests of what appear to be political extremists on the far right, and

has led to several arrests of what appear to be political extremists on the far right, and extensive investigations into militarized organizations that affiliated themselves with Trump and had members participating in the Capitol violence.

But in many ways, the role of the former President, whose rhetoric fueled the mob and continues to animate supporters, is the elephant in the room that Justice Department officials try to not talk about.

In one of the first moves under Garland, the Justice Department turned over thousands of pages of internal documents to congressional committees investigating the Capitol attack.



In pictures: The January 6 Capitol riot

Victor J. Blue/Bloomberg/Getty Images

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People try to breach the US Capitol on January 6, 2021. Hundreds of Donald Trump supporters swarmed past barricades surrounding the building.



The move, which departed from precedent, was aimed at providing lawmakers with information that they could use more quickly to expose the conduct among people in the former administration who inspired the attack. That includes former Justice Department official Jeffrey Clark, who according to testimony by former Trump officials, sought to engineer a coup of department leadership before January 6 and wanted to use the department to support Trump's false election fraud claims

The tacit acknowledgment in the move, however, was an indication that it was unlikely that the former president and top officials would face criminal prosecution for actions that incited the attack.

Some Justice officials say that providing the documents to Congress will help provide Americans answers that the Justice Department perhaps may never expose, since the department can only provide a narrative of events when it brings charges.

Justice officials note that prosecutors generally have five years of statute of limitations for most crimes that occurred January 6 and they haven't foreclosed on the possibility of targeting higher-level figures.

If the release of troves of records to Congress was intended to relieve pressure on the department, in some ways it has done the opposite. Members of the House select committee investigating the attack, have highlighted information they've uncovered so far to build a steady drumbeat of pressure for the department to make sure there's accountability beyond the hundreds of people who illegally entered the Capitol.

Fast start to the largest investigation in FBI history

The investigation began with a burst of activity, with 70 people being charged in the first week and a hundred case files opened, prosecutors said in a briefing. The swiftness was motivated in part because of concerns that a repeat of violence could disrupt the inauguration of President Joe Biden just weeks later.

"No US attorney's office has charged that many cases, executed this many subpoenas and search warrants in such a short period of time," Michael Sherwin, the former acting District of Columbia US attorney who helped oversee the investigation, said in an interview. "Speed was critical. We had the Inauguration coming up. We had to instill in the public a sense of order and the rule of law, to mitigate the damage that happened that day."



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But those early news conferences from Sherwin and D'Antuono, who together presented a tough New York-style voice to the law enforcement work, quickly gave way as Garland ushered in a lower-profile style. Sherwin left the Justice Department after he was reprimanded for not getting permission to do an interview with CBS News' 60 Minutes, in which he said, among

other things, that he believed the Department could charge seditious conspiracy.

The crime scene at the Capitol was unusual and unprecedented in size, in many ways because of how surveillance and police cameras captured dozens of angles of the attack of the Capitol, and because the bragging online posts from the riot's participants gave prosecutors multiple terabytes of evidence.

Early on, the FBI opened its tip lines and published photos of high profile attackers, immediately ushering a flood of tips from average citizens turning in family, friends and strangers. A loose group of online sleuths, nicknamed Seditio Hunters, organized themselves to cull through publicly released images to help identify dozens of suspected rioters. Their work, which sometimes has been faster than the FBI's, has been hailed by prosecutors who credited their work in criminal charging documents.

Plodding pace of riot court

Garland's approach to the January 6 probe appears to mimic the plodding pace of court – what may seem sensible to the long-time federal judge but what largely keeps the wider public from witnessing much of the investigative action outside of court proceedings and documents. So far, more than 160 federal defendants have pleaded guilty, with all but 20 so far pleading guilty to lower-level misdemeanor charges – leaving the bulk of the felony cases to move forward in court in 2022.

About 70 defendants have been sentenced, to either probation or stints in home confinement or jail. Many of the felony defendants are looking at potentially years in prison if found guilty.



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The first January 6 criminal trials are set to begin in February. In those days-long proceedings, prosecutors will have to give more of a window into the breadth of communications data, video and other evidence they've collected in what has become the largest federal investigation in American history.

At times, the pursuits in court have already connected January 6 investigators to the phone logs of members of Congress and a vast web of MAGA celebrities, such as Roger Stone and Sidney Powell, in touch with people around Trump's White House leading up to January 6.

But the Justice Department turning the screws on Trump's closest contacts may be a long way

off, if pursued at all. Prosecutors won't take to trial for months major conspiracy indictments against alleged leaders of the right-wing Proud Boys that broke into the Capitol through a window, and participants in a group of Oath Keepers. In the latter case, with 17 defendants heading to trial, some are accused of stationing guns outside the city on January 6, others say they were acting as security for VIPs, and other defendants zoomed a golf cart to Capitol Hill while coordinating their group during the attack, prosecutors say.

So far, four Oath Keepers defendants have pleaded guilty and appear to be cooperating with prosecutors. And while the Proud Boys' lawyers have murmured about cooperating witnesses for months and how prosecutors pressured some of them to cooperate, the first known Proud Boys member to be charged with conspiracy flipped only in the last weeks of 2021.

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