

# **EXHIBIT 1**

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Mon 2/14/2022 1:36 PM  
 Thibault, Timothy R. (WF) (FBI)  
 Electo Matter

To: Ball, Michelle (WF) (FBI)  
 Cc: Vanwyngarden, Philip R. (WF) (FBI)



Michelle,

Here is a draft opening language we discussed . If you decide to work the case, please reach out to Jonathan Crabb if you require additional info. You can begin adding to the draft as needed.

- Would consider this a SIM. Seek CDC guidance to determine if 1096N (AG Barr Memo) applies.
- Will need to discuss title/subject: I think at a minimum would have the Trump Campaign and UNSUBs in the title.

Thx,

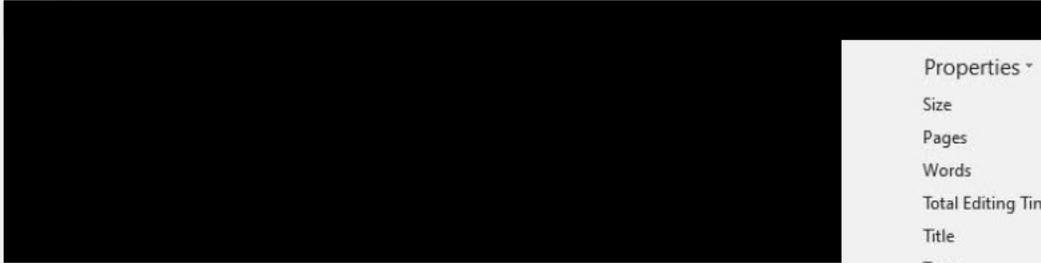
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Timothy R. Thibault  
 Assistant Special Agent in Charge  
 Criminal Division - Branch II  
 Northern Virginia RA  
 Washington Field Office  
 Desk: [REDACTED]  
 Cell: [REDACTED]



# Info

Electo~1



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## Related Dates

Last Modified	2/9/2022 10:39 PM
Created	2/9/2022 8:53 AM
Last Printed	2/9/2022 8:54 AM

## Related People

Manager	None
Author	 Timothy Thibault
Last Modified By	 Timothy Thibault

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**Synopsis:** This full investigation is predicated on information subjects conspired to provide knowingly false statements to the United States Government for the purpose of corrupting the 2020 US Presidential election.

**Background:** The Electoral College refers to how the United States elects the President. In this process, the States (including the District of Columbia) elect the President and Vice President. The Office of the Federal Register (OFR) is part of the National Archives and Records Administration (NARA) and, on behalf of the Archivist of the United States, coordinates certain functions on the Electoral College between the States and Congress. Acting as an intermediary, NARA reviews the Certificates of Ascertainment and Vote before Congress accepts them as evidence of official State action in preparation for the counting of electoral votes in Congress.

The United States Constitution vests in the state legislatures the manner of appointment of electors. However federal Constitutional and statutory requirements also pertain. Specifically, Title 3, Chapter 1 of the United States Code sets forth certain requirements regarding Presidential elections and electors. Under 3 U.S.C. § 1, the electors for President and Vice-President "shall be appointed, in each state, on the Tuesday next after the first Monday in November" during Presidential election years. After the electors are appointed, each state Governor is obliged "to deliver to the electors of such State, on or before the day on which they are required by 3 U.S.C. § 7 to meet, six duplicate-originals of the same certificate under the seal of the State." The electors are required to "meet and give their votes on the first Monday after the second Wednesday in December next following their appointment at such place in each State as the legislature of such State shall direct." (3 U.S.C. § 7). This meant that, in 2020, the electors were required to meet on December 14, and to vote for President and Vice-President "in the manner directed by the Constitution." (3 U.S.C. § 8).

In December 2020, as in prior years, the electors had certain responsibilities with respect to the "six duplicate-originals" the Governor provided them. First, the electors had to "make and sign" each of the six certificates, and "annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State." (3 U.S.C. § 9). Second, the electors were to specially seal and certify the certificates, in accord with 3 U.S.C. § 10. Third, the electors were to "dispose" of the six

certificates as follows: by sending one certificate by registered mail "to the President of the Senate at the seat of government;" by delivering two certificates to the "secretary of state of the State;" by sending two certificates by registered mail to the "Archivist of the United States at the seat of government;" and by delivering the final certificate "to the judge of the district in which the electors shall have assembled." 3 U.S.C. § 11. On December 14, 2020, legitimate electors gathered in all 50 states and the District of Columbia to cast and certify their votes consistent with their Constitutional and statutory duties.

In addition to the legitimate certificates, evidence suggests fraudulent certificates were sent to the President of the Senate and Archivist of the United States, purporting to represent the elector votes from five states: Arizona (11 electors), Georgia (16 electors), Michigan (16 electors), Nevada (6 electors), and Wisconsin (10 electors). The certificates were made publicly available after American Oversight, a nonpartisan nonprofit, obtained copies of fraudulent certificates under a NARA FOIA request.

A review of the fraudulent certificates indicated they were in substantially similar form, suggesting they were created either by one actor or through coordination among the fraudulent elector groups. Each of the documents was signed by certain individuals claiming to "be the duly elected and qualified Electors for President and Vice President" from each of the five states. And each of the forms purported to cast all of their electoral votes for President Trump; by contrast, President-elect Biden received the votes from the legitimate electors on the legitimate certificates.

Individuals in two other states - New Mexico (5 electors) and Pennsylvania (20 electors) - sent similar certificates, though perhaps with different legal ramifications. The certificates for those states were "certif[ied]" "on the understanding that if, as a result of a final non-appealable Court Order or other proceeding prescribed by law, we are ultimately recognized as being the duly elected and qualified Electors"

Certain groups signing the fraudulent certificates (including in Wisconsin and Georgia) issued contemporaneous press releases, claiming to have done so in some relation to President Trump's pursuit of legal options.

According to open-source reporting, John Eastman, an attorney purporting to represent President Trump, prepared a memo titled "January 6 scenario." Eastman appears to have known about the fraudulent elector certificates when he prepared the memo, since it begins with the line "7 states have transmitted dual slates of electors to the President of the Senate." The memo goes on to detail two scenarios in which Vice President Pence could use the purportedly "dual" slates of electors in order to achieve the goal of keeping President Trump in office for a second term. Both scenarios required Vice President Pence to declare that "because of the ongoing disputes in the 7 States, there are no electors that can be deemed validly appointed in those States," and throw out the legitimate elector certificates from those seven states.

By statute, a joint session of the United States Congress convened at the United States Capitol on January 6, 2021. The purpose of the joint session was for elected members of the United States House of Representatives and the United States Senate to certify the vote count of the Electoral College of the 2020 Presidential Election. Vice President Pence appears to have consulted with either or both Senate and/or House parliamentarians prior to January 6, 2021, to discuss how to handle the fraudulent elector certificates. During the joint session, Vice President Pence stated: "After ascertaining that the certificates are regular in form and authentic, the tellers will announce the votes cast by the electors for each state, beginning with Alabama, ***...which the parliamentarian's advised me is the only certificate of vote from that state and purports to be a return from the state that has annexed to it a certificate from an authority of that state purporting to appoint or ascertain electors.***" This language deviated from more standard language used by other Vice Presidents during certification proceedings over the last thirty years.

**Federal Violations:** By submitting fraudulent elector certificates, subjects, known and unknown, may have committed several federal crimes including:

- False Statements (in violation of 18 U.S.C. § 1001)
- Mail Fraud (in violation of 18 U.S.C. § 1341)
- Wire fraud (in violation of 18 U.S.C. § 1343)
- Conspiracy to Commit Mail Fraud (in violation of 18 U.S.C. § 1349)

- Attempt or conspiracy to corruptly obstruct, influence, and impede the Certification of the Electoral College vote (in violation of 18 U.S.C. § 1512(c)(2) and (k))
- Conspiracy to Defraud the United States (in violation of 18 U.S.C. § 371)

**Statement of Predication:**

Add relevant language for FI

**United States Attorney's Office Opinion:**

On XX/XX/XXXX, the United States Attorney Matthew Graves, United States Attorney for the District of Columbia concurred with the initiation of this investigation.

**Subjects:**

(Pending discussion with EM and USAO)

**Investigative Plan:**

The investigative plan will likely include the following investigative steps:

- Issuance of grand jury subpoenas
  - Toll records for all fraudulent electors from November 3, 2020, through the present
- Other Legal process
  - Determine and preserve subject email and other electronic facilities, followed by appropriate 2703d orders and search warrants
- Review pertinent open-source materials to include videos regarding attempted entry into state capitol buildings on December 14, 2020, by fraudulent electors or statements by the fraudulent electors.
- Conduct witness interviews
  - A subset of the legitimate electors in each state, in order to determine the true path of real certificates and mailings
  - The Archivist of the United States, to determine whether the fraudulent electors submitted certificates and, if so, whether they ever sought to withdraw their certificates at the conclusion of legal challenges in their respective states.

- o The relevant United States District Courts to determine whether the fraudulent electors submitted certificates
  - o The parliamentarian of the Senate and/or House who consulted with Vice President Pence
- Request the United States Postal Inspection Service track and find all records of the registered mail sent to the Archivist and President of the Senate