Twitter Thread by legalnerd



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1. @JonathanTurley

Trump has only been out of office and, therefore, no longer (purportedly) immunized from criminal prosecution for ~1 month. Also, because of R delay, Garland is still awaiting confirmation. Once Garland is AG, expect a thorough

2. investigation of Trump for inciting insurrection in violation of 18 U.S.C. 2383, together with other federal crimes. Once that investigation is completed, based on the information that is currently public, there is a good chance that Trump will be prosecuted for violating

3. 18 U.S.C. 2383, together with other federal crimes. Not absolutely guaranteed. But a very good chance. The only element of inciting insurrection that is open to credible dispute is Trump’s intent. Is there sufficient evidence that he intended his speech to incite imminent

4. lawlessness? As you know (or should know), criminal intent is invariably established by circumstantial evidence. That means prosecutors must analyze everything Trump did and said (and didn't do or say) before, during and after his incendiary speech.

5. That investigation takes time. Sometimes a lot of time to empanel a grand jury and begin issuing subpoenas and seeking warrants. The fact that Trump's previous crimes, including the 10 felonies outlined in Vol. II of Mueller's report, haven't been prosecuted is irrelevant.

6. As I stated, until ~1 month ago, Trump was (according to the OLC) immune from prosecution. He no longer enjoys that immunity -- an immunity that no other American (other than a POTUS) would enjoy. Merrick Garland has stated that he is deeply committed to the rule of law.

7. He has shown by a lifetime committed to justice, that he deeply believes in the rule of law. And that no one is above (or below) the law. After he is confirmed, I fully expect that he will institute a good faith, thorough, professional investigation into crimes that Trump has

8. committed that are still within the applicable statute of limitations, including, but not limited to, whether Trump harbored criminal intent to incite imminent lawlessness. As @RDEliason and I have written, based upon the information publicly available, we have no doubt

9. Trump acted with criminal intent to incite imminent lawlessness. Finally, I would note, if Trump is ultimately prosecuted for violating 18 U.S.C. 2383, and his convicted by a properly instructed jury, there is virtually no chance that the conviction would be overturned.

10. No appellate court would overturn a properly instructed jury's factual finding that Trump acted with criminal intent to incite imminent lawlessness. And that's the only element that is between Trump and a conviction for violating 18 U.S.C. 2383. END.