

Off the rails: Inside the craziest meeting of the Trump presidency

Last month, Axios published "[Off the rails](#)," a series taking you inside the end of Donald Trump's presidency, from his election loss to the deadly Jan. 6 Capitol insurrection that triggered his second impeachment — and a Senate trial set to begin next week.

In this bonus edition, we take you back into those final weeks — to one long, unhinged night a week before Christmas, when an epic, profanity-soaked standoff played out with profound implications for the nation.

Four conspiracy theorists marched into the Oval Office.

It was early evening on Friday, Dec. 18 — more than a month after the election had been declared for Joe Biden, and four days after the Electoral College met in every state to make it official.

"How the hell did Sidney get in the building?" White House senior adviser Eric Herschmann grumbled from the outer Oval Office as Sidney Powell and her entourage strutted by to visit the president.

President Trump's private schedule hadn't included appointments for Powell or the others: former national security adviser Michael Flynn, former Overstock.com CEO Patrick Byrne, and a little-known former Trump administration official, Emily Newman. But they'd come to convince Trump that he had the power to take extreme measures to keep fighting.

As Powell and the others entered the Oval Office that evening, Herschmann — a wealthy business executive and former partner at Kasowitz Benson & Torres who'd been pulled out of quasi-retirement to advise Trump — quietly slipped in behind them.

The hours to come would pit the insurgent conspiracists against a handful of White House lawyers and advisers determined to keep the president from giving in to temptation to invoke emergency national security powers, seize voting machines and disable the primary levers of American democracy.

Herschmann took a seat in a yellow chair close to the doorway. Powell, Flynn, Newman and Byrne sat in a row before the Resolute Desk, facing the president.

For weeks now, ever since Rudy Giuliani had commandeered Trump's floundering campaign to overturn the election, outsiders had been coming out of the woodwork to feed the

president wild allegations of voter fraud based on highly dubious sources.

Trump was no longer focused on any semblance of a governing agenda, instead spending his days taking phone calls and meetings from anyone armed with conspiracy theories about the election. For the White House staff, it was an unending sea of garbage churned up by the bottom feeders.

Powell began this meeting with the same baseless claim that now has her facing a \$1.3 billion defamation lawsuit: She told the president that Dominion Voting Systems had rigged their machines to flip votes from Trump to Biden and that it was part of an international communist plot to steal the election for the Democrats.

[Note: In response to a request for comment, Powell said in an emailed statement to Axios: "I will not publicly discuss my private meetings with the President of the United States. I believe those meetings are privileged and confidential under executive privilege and under rules of the legal profession. I would caution the readers to view mainstream media reports of any such conversations with a high degree of discernment and a healthy dose of skepticism."]

Powell waved an affidavit from the pile of papers in her lap, [claiming it contained testimony](#) from someone involved in

the development of rigged voting machines in Venezuela.

She proposed declaring a national security emergency, granting her and her cabal top-secret security clearances and using the U.S. government to seize Dominion's voting machines.

"Hold on a minute, Sidney," Herschmann interrupted from the back of the Oval. "You're part of the Rudy team, right? Is your theory that the Democrats got together and changed the rules, or is it that there was foreign interference in our election?"

Giuliani's legal efforts, while replete with debunked claims about voter fraud, had largely focused on allegations of misconduct by corrupt Democrats and election officials.

"It's foreign interference," Powell insisted, then added: "Rudy hasn't understood what this case is about until just now."

In disbelief, Herschmann yelled out to an aide in the outer Oval Office. "Get Pat down here immediately!" Several minutes later, White House counsel Pat Cipollone walked into the Oval. He looked at Byrne and said, "Who are you?"

The meeting was already getting heated.

White House staff had spent weeks poring over the evidence underlying hundreds of affidavits and other claims of fraud

promoted by Trump allies like Powell. The team had done the due diligence and knew the specific details of what was being alleged better than anybody. Time and time again, they found, Powell's allegations fell apart under basic scrutiny.

But Powell, fixing on Trump, continued to elaborate on a fantastical election narrative involving Venezuela, Iran, China and others. She named a county in Georgia where she claimed she could prove that Dominion had illegally flipped the vote.

Herschmann interrupted to point out that Trump had actually won the Georgia county in question: "So your theory is that Dominion intentionally flipped the votes so we could *win* that county?"

As for Powell's larger claims, he demanded she provide evidence for what — if true — would amount to the greatest national security breach in American history. They needed to dial in one of the campaign's lawyers, Herschmann said, and Trump campaign lawyer Matt Morgan was patched in via speakerphone.

By now, people were yelling and cursing.

The room was starting to fill up. Trump's personal assistant summoned White House staff secretary Derek Lyons to join

the meeting and asked him to bring a copy of a 2018 executive order that the Powell group kept citing as the key to victory. Lyons agreed with Cipollone and the other officials that Powell's theories were nonsensical.

It was now four against four.

Flynn went berserk. The former three-star general, whom Trump had fired as his first national security adviser after he was caught lying to the FBI (and later pardoned), stood up and turned from the Resolute Desk to face Herschmann.

"You're quitting! You're a quitter! You're not fighting!" he exploded at the senior adviser. Flynn then turned to the president, and implored: "Sir, we need fighters."

Herschmann ignored Flynn at first and continued to probe Powell's pitch with questions about the underlying evidence. "All you do is promise, but never deliver," he said to her sharply.

Flynn was ranting, seemingly infuriated about anyone challenging Powell, who had represented him in his recent legal battles.

Finally Herschmann had enough. "Why the fuck do you keep standing up and screaming at me?" he shot back at Flynn. "If you want to come over here, come over here. If not, sit your ass down." Flynn sat back down.

The meeting had come entirely off the rails.

Byrne, backing up Flynn, told Trump the White House lawyers didn't care about him and were being obstructive. "Sir, we're both entrepreneurs, and we both built businesses," the former Overstock CEO told Trump. "We know that there are times you have to be creative and take different steps."

This was a remarkable level of personal familiarity, given it was the first time Byrne had met the president. All the stanchions and buffers between the White House and the outside world had crumbled.

Byrne kept attacking the senior White House staff in front of Trump. "They've already abandoned you," he told the president aggressively. Periodically during the meeting Flynn or Byrne challenged Trump's top staff — portraying them as disloyal: *So do you think the president won or not?*

At one point, with Flynn shouting, Byrne raised his hand to talk. He stood up and turned around to face Herschmann. "You're a quitter," he said. "You've been interfering with everything. You've been cutting us off."

"Do you even know who the fuck I am, you idiot?"

Herschmann snapped back.

"Yeah, you're Patrick Cipollone," Byrne said.

"Wrong! Wrong, you idiot!"

The staff were now on their feet, standing behind one of the couches and facing the Powell crew at the Resolute Desk. Cipollone stood to Herschmann's left. Lyons, on his last day on the job, stood to Herschmann's right.

Trump was behind the desk, watching the show. He briefly left the meeting to wander into his private dining room.

The usually mild-mannered Lyons blasted the Powell set: "You've brought 60 cases. And you've lost every case you've had!"

Trump came back into the Oval Office from the dining room to rejoin the meeting. Lyons pointed out to Powell that their incompetence went beyond their lawsuits being thrown out for standing. "You somehow managed to misspell the word 'District' three different ways in your suits," he said pointedly.

In a Georgia case, the Powell team had misidentified the court on the first page of their filing as "THE UNITED STATES DISTRICCT COURT, NORTHERN DISTRCOICT OF GEORGIA." And they had identified the Michigan court as the "EASTERN DISTRCT OF MICHIGAN."

These were sloppy spelling errors. But given that these lawsuits aimed to overturn a presidential election, the court nomenclature should have been pristine.

Powell, Flynn and Byrne began attacking Lyons as they renewed their argument to Trump: *There they go again, they want to focus on the insignificant details instead of fighting for you.*

Trump replied, "No, no, he's right. That was very embarrassing. That shouldn't have happened."

The Powell team needed to regroup. They shifted to a new grievance to turn the conversation away from their embarrassing errors. Powell insisted that they hadn't "lost" the 60-odd court cases, since the cases were mostly dismissed for lack of standing and they had never had the chance to present their evidence.

Every judge is corrupt, she claimed. We can't rely on them. The White House lawyers couldn't believe what they were hearing. "That's your argument?" a stunned Herschmann said. "Even the judges we appointed? Are you out of your fucking mind?"

Powell had more to say. She and Flynn began trashing the FBI as well, and the Justice Department under Attorney General Bill Barr, telling Trump that neither could be trusted. Both institutions, they said, were corrupt, and Trump needed to fire the leadership and get in new people he could trust.

Cipollone, standing his ground amidst this mishmash of

conspiracies, said they were totally wrong. He aggressively defended the DOJ and the FBI, saying they had looked into every major claim of fraud that had been reported.

Flynn and Powell had long nursed their antipathy to the FBI and Justice. Flynn had pleaded guilty in 2017 to lying to the FBI during the Russia investigation but withdrew the plea after hiring Powell as his lawyer in June 2019.

The two alleged the FBI had entrapped Flynn and failed to disclose exculpatory evidence, known as Brady material, as required by law. They had found an ally in Barr, a fierce critic of the Russia investigation who finally directed the DOJ to drop Flynn's case.

Herschmann, known inside the White House as a defender of Barr and the DOJ, went off on Flynn again: "Listen, the same people that you're trashing, if they didn't produce the Brady material to Sidney, your ass would still be in jail!"

It was no longer technically true that Flynn would be in jail, as he had received a post-election pardon from Trump. But Flynn was furious. "Don't mention my case," he roared. Herschmann responded, "Where do you think Sidney got this information? Where do you think it came from? From the exact same people in the Department of Justice that you're now saying are corrupt."

Byrne, wearing jeans, a hoodie and a neck gaiter, piped up with his own conspiracy: "I know how this works. I bribed Hillary Clinton \$18 million on behalf of the FBI for a sting operation."

Herschmann stared at the eccentric millionaire. "What the hell are you talking about? Why would you say something like that?" Byrne brought up the bizarre Clinton bribery claim several more times during the meeting to the astonishment of White House lawyers.

Trump, for his part, also seemed perplexed by Byrne. But he was not entirely convinced the ideas Powell was presenting were insane.

He asked: *You guys are offering me nothing. These guys are at least offering me a chance. They're saying they have the evidence. Why not try this?* The president seemed truly to believe the election was stolen, and his overriding sentiment was, let's give this a shot.

The words "martial law" were never spoken during the meeting, despite Flynn having raised the idea in an appearance the previous day on Newsmax, a right-wing hive for election conspiracies.

But this was a distinction without much of a difference. What Flynn and Powell were proposing amounted to suspending

normal laws and mobilizing the U.S. government to seize Dominion voting machines around the country.

Powell was arguing that they couldn't get a judge to enforce any subpoena to hand over the voting machines because all the judges were corrupt. She and her group repeatedly referred to the National Emergencies Act and a Trump [executive order from 2018](#) that was designed to clear the way for the government to sanction foreign actors interfering in U.S. elections.

These laws were, in the view of Powell, Flynn and the others, the key to unlocking extraordinary powers for Trump to stay in office beyond Jan. 20.

Their theory was that because foreign enemies had stolen the election, all bets were off and Trump could use the full force of the United States government to go after Dominion.

It was remarkable that the presidency had deteriorated to such an extent that this fight in the Oval Office between senior White House officials and radical conspiracists was even taking place.

"How exactly are you going to do this?" an exasperated Herschmann asked again, later in the conversation. Newman again cited the 2018 executive order, which prompted Herschmann to question out loud whether she was even a

lawyer.

Then Byrne chimed in: "There are guys with big guns and badges who can get these things." Herschmann couldn't believe it. "What are you, three years old?" he asked.

Lyons, the staff secretary, told the president that the executive order Powell and Flynn were citing did not give him the authority they claimed it did to seize voting machines. Morgan, the campaign lawyer, also expressed skepticism about their idea of invoking national security emergency powers.

To help adjudicate, Trump then patched in the national security adviser, Robert O'Brien, on speakerphone. Trump's personal assistant brought O'Brien into the call with no explanation of what madness would await him.

O'Brien said very little in the short time he was on the call but intervened at one point to say he saw no evidence to support Powell's notion of declaring a national security emergency to seize voting machines. There was so much fiery crosstalk it was hard for anyone on the telephone to follow the conversation.

Trump expressed skepticism at various points about Powell's theories, but he said, "At least she's out there fighting."

The discussion shifted from Dominion voting machines to a conversation about appointing Powell as a special counsel inside the government to investigate voter fraud. She wanted a top secret security clearance and access to confidential voter information.

Lyons told Trump he couldn't appoint Powell as a special counsel at the Justice Department because this was an attorney general appointment. Lyons, Cipollone and Herschmann — in fact the entire senior White House staff who were aware of this idea — were all vehemently opposed to Powell becoming a special counsel anywhere in the government.

By this point Trump had also patched into the call his personal lawyer Giuliani and White House chief of staff Mark Meadows. Meadows indicated that he was trying to wrap his mind around what exactly Powell's role would entail. He told Powell she would have to fill out the SF-86 questionnaire before starting as special counsel.

This was seen as a delaying tactic. The sense in the room was that Trump might actually greenlight this extraordinary proposal.

At its essence, the Powell crew's argument to the president was this: *We have the real information. These people — your White House staff — don't believe in the truth. They're liars*

and quitters. They're not willing to fight for you because they don't want to get their hands dirty. Put us in charge. Let us take control of everything. We'll prove to you that what we're saying is right. We won't quit, we'll fight. We're willing to fight for the presidency.

On some level, this argument was music to Trump's ears. He was desperate. Powell and her team were the only people willing to tell him what he wanted to hear — that a path to stay in power in the White House remained.

The Oval Office portion of the meeting had dragged on for nearly three hours, creeping beyond 9 p.m. The arguments became so heated that even Giuliani — still on the phone — at one point told everyone to calm down. One participant later recalled: "When Rudy's the voice of reason, you know the meeting's not going well."

Giuliani told Trump he was going to come over to the White House. The president, having forgotten about the others on the line, hung up and cut multiple people off the call.

Herschmann, Cipollone and Lyons left the Oval Office, but soon discovered that the Powell entourage had made their way to the president's residence. They followed them upstairs, to the Yellow Oval Room, Trump's living room, where they were joined by Giuliani and Meadows.

Trump sat beside Powell in armchairs facing the door, separated by a round, wooden antique table. Giuliani sat in an armchair to the right of them, while Byrne and Meadows sat on a couch. Byrne wolfed down pigs in a blanket and little meatballs on toothpicks that staff had set on the coffee table.

Herschmann was primed to brawl and ready to dump on Powell. It had been a long day.

"Rudy," he said, turning to Giuliani, "Sidney was just in the Oval telling the president you don't know what the fuck you're doing. Right, Sidney?" He turned to Powell: "Why don't you tell Rudy to his face?"

"Eric, really it's not appropriate," Trump replied curtly.

"What's not appropriate?" Herschmann shot back. Turning to Powell, he said, "Why don't you repeat to Rudy what you just told the president in the Oval Office — that he has no idea about the case and that he only just began to understand it a few hours ago."

Three days later, Giuliani would publicly distance himself from Powell, telling Newsmax that Powell did not represent the president, and that "whatever she's talking about, it's her own opinions."

It didn't take long for the yelling to start up again. They

were now in hour four of a meeting unprecedented even by the deranged standards of the final days of the Trump presidency.

Now it was Meadows' turn, blasting Flynn for trashing him and accusing him of being a quitter. "Don't you dare challenge me about whether I'm being supportive of the president and working hard," Meadows shouted, reminding Flynn that he'd defended him during his legal troubles.


Trump and Cipollone, who frequently butted heads, went at it too, over whether the administration had the authority to do what Powell was proposing.

Powell kept asserting throughout the night that she had — or would soon produce — the evidence needed to prove foreign interference. She kept insisting that Trump had the legal authority he needed to seize voting machines. But she did not have the goods.

Powell at one point turned to Lyons and demanded, "Why are you speaking? Are you still employed here?" The staff secretary, who had already resigned, laughed and joked, "Well I guess I'm here until midnight."

It was after midnight by the time the White House officials had finally said their piece. They left that night fully prepared for the mad possibility Trump might still name Sidney Powell

special counsel. *You have our advice*, they told the president before walking out. *You decide who to listen to.*

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About this series: *Our reporting is based on multiple interviews with current and former White House, campaign, government and congressional officials as well as direct eyewitnesses and people close to the president. Sources have been granted anonymity to share sensitive observations or details they would not be formally authorized to disclose. President Trump and other officials to whom quotes and actions have been attributed by others were provided the opportunity to confirm, deny or respond to reporting elements prior to publication.*

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