plaintiffs' injuries were "fairly traceable to Trump's actions as a co-conspirator and were not the result of some independent action of some third party" (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 22).

Judge Mehta noted that the January 6 rally organizers were taken by surprise when Trump told his supporters to march to the Capitol, even though their permit stated explicitly: "This permit does not authorize a march from the Ellipse" (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 39). Although Trump's attorneys argued that Trump was merely "discharging the duties of his office" in his speech at the Ellipse, Judge Mehta held that "President Trump's efforts to morph this case into one presenting a political question fails" (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 42). Judge Mehta noted that Trump

> would have known about violent threats made against state election officials, which he refused to condemn. The President thus plausibly would have known that a call for violence would be carried out by militia groups and other supporters (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 71).

Judge Mehta observed that "the Proud Boys and the Oath Keepers had prepared for the January 6 rally by obtaining tactical equipment...and bear mace" (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 65). Judge Mehta also held that there was enough evidence of a civil conspiracy between Enrico Tarrio, the Proud Boys and the Oath Keepers for the plaintiffs' case against them to proceed to discovery (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 78).

Judge Mehta thus found that the plaintiffs had

> established a plausible [Ku Klux Klan Act] conspiracy involving President Trump. That civil conspiracy included the Proud Boys, the Oath Keepers, Enrico Tarrio and others who entered the Capitol on January 6 with the intent to disrupt the Certification of the Electoral College vote through force, intimidation or threats" (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 69).

Judge Mehta emphasized the point that

> a civil conspiracy need not involve an express agreement, so the fact that President Trump is not alleged to have ever met, let alone sat down with, a Proud Boy or an Oath Keeper to hatch a plan is not dispositive. A tacit agreement...not actually expressed, is enough (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 69).

Furthermore, Judge Mehta noted: "A plausible causal connection between the President's words and the response of some supporters is therefore well pleaded" (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 72).

Judge Mehta considered but rejected Trump's First Amendment defense:

> Only in the most extraordinary circumstances could a court not recognize that the First Amendment protects a President's speech. But the court believes this is that case. Even Presidents cannot avoid liability for speech that falls outside the expansive reach of the First Amendment. The court finds that in this one-of-a-kind case, the First Amendment does not shield the President from liability (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 81).

Judge Mehta then applied the Brandenburg test to Trump's speech:

> The President's words on January 6 did not explicitly encourage the imminent use of violence...but that is not dispositive. [The Supreme Court has] recognized that words can implicitly encourage violence....Federal appellate courts have understood the Brandenburg exception to reach implicit encouragement of violent acts....Having considered the President's January 6 rally speech in its entirety,...the court concludes that the President's statements that "We fight. We fight like hell and if you don't fight like hell, you're not going to have a country anymore"...immediately before exhorting rally-goers to "walk down Pennsylvania Avenue"... plausibly crossed the line into unprotected territory (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 92-94).

Judge Mehta acknowledged that Trump had at first said to his supporters that "[you will be] marching over to the Capitol building to peacefully and patriotically make your voices heard." The judge then contrasted this comment with Trump's concluding words when he said "And we fight. We fight like hell, and if you don't fight like hell, you're not going to have a country anymore." Judge Mehta explained that

> the President's passing reference to "peaceful and patriotic" protest cannot inoculate him....He called for thousands to "fight like hell" immediately before directing an unpermitted march to the Capitol, where the targets of [his supporters'] ire were at work, knowing that militia groups among the crowd were prone to violence. Brandenberg's imminence requirement is stringent, so finding the President's words here inciting will not lower the already high bar protecting political speech (Swalwell v. Trump, Memorandum Opinion & Order, 2022, 96-97).

Judge Mehta thus held that Swalwell v. Trump could proceed to discovery. Although Swalwell had also sued Trump for intentional infliction of emotional distress, Judge Mehta dismissed this claim.

Discussion

A Century of Assumptions about Effects of Communication

A century ago, with its "clear and present danger" and "bad tendency" tests, the U.S. Supreme Court seemed to fear that everyone who read the pamphlets of Charles Schenck or Benjamin Gitlow would immediately resist being drafted or become a Communist. In other words, Schenck's and Gitlow's pamphlets were a "magic bullet" with powerful, monolithic effects on everyone who read them (Lasswell, 1927, 214). Of course, we now realize that the magic bullet theory of communication is naïve and oversimplified. In the 1940s, Paul Lazarsfeld, Bernard Berelson and Hazel Gaudet identified the "two-step flow" theory of communication effects by which "ideas often flow from [mass media] to opinion leaders and from them to the less active [members] of the population" (Lazarsfeld, Berelson & Gaudet, 1948, 151). Several years later, researchers Albert Hastorf and Hadley Cantril suggested that we interpret news events "selectively," meaning that our response to mass media frames depends on selective perception based on our pre-existing view of the world (Hastorf & Cantril, 1954, 129-134).

When the U.S. Supreme Court decided Brandenburg (1969), it was no longer assuming that our responses to mass media messages are childlike and credulous, as the magic bullet theory would predict. Instead, the High Court was possibly assigning responsibility to both the speaker and the audience; in other words, Brandenburg requires that the speaker must intend for violence to occur (speaker's role) and also that the violence actually does occur (listeners' role). In Brandenburg, the U.S. Supreme Court also retreated from the paternalism of Schenck and Gitlow, in which it had insisted that the general public needed to be "protected" from dangerous ideas about resisting the draft or joining the Communist Party.

When the High Court decided Brandenburg in 1969, however, no one could have anticipated the all-encompassing influence of social media platforms such as

Twitter, Facebook, Discord and Parler, combined with the selective perception of Trump supporters who apparently believed Trump's lie that he had won the election. Indeed, 70% of Republicans still believe that Trump won the 2020 election (Greenberg, 2022). Furthermore, in June 2022 the Republican Party of Texas passed a resolution stating: "We reject the certified results of the 2020 presidential election, and we hold that acting President Joseph Robinette Biden Jr. was not legitimately elected by the people of the United States" (Stewart, 2022). We might say that Trump supporters' eagerness to believe "the big lie" that Trump won the 2020 election demonstrates selective perception on steroids.

Communication researcher Richard Cherwitz, asking whether or not Trump incited the January 6 insurrection, argues for a "language-in-use" approach in which he explains that "audiences subconsciously take on the values and beliefs implied by the words of a speaker, fill in the unstated premise, and behave in a manner consistent with those words" (Cherwitz, 2021). He explains:

> "Language-in-use," therefore, may offer a more persuasive way to prove that Trump's rhetoric caused the insurrection. His carefully crafted words and phrases...were repeated and then internalized by the crowd listening to the President's speech. This...enabled [Trump] explicitly and implicitly to prescribe the future behavior of his audience (Cherwitz, 2021).

Cherwitz further explains that "comparing speakers' language with the language of their audiences (language-in-use) affords us a way to infer a causal connection between words and deeds" (Cherwitz, 2021). For example, Trump repeated "Stop the steal" in his speech, and his supporters chanted "Stop the steal" as they stormed the Capitol.

In contrast to Trump's supporters, the U.S. Capitol police officers who have filed lawsuits Trump are quietly practicing what Michel Foucault described as parrhesia, or "speaking truth to power" in the sense that their lawsuits provide the truthful version of what happened on January 6. In Foucault's example of parrhesia, "a man stands up to a tyrant" (Foucault, 1983, 4); in other words, the injured police officers are attempting to stand up to the rich and powerful Donald Trump by suing him for civil conspiracy.

Incitement via the Internet versus In-Person Speech to an Angry Crowd

In Brandenburg v. Ohio (1969), Clarence Brandenburg was speaking to Ku Klux Klan members in person; he was not trying to incite violence by writing a book or a newspaper article. Although there are numerous lower court cases in which plaintiffs have tried to apply the Brandenburg test to content in "fixed media" such as books, song lyrics on vinyl records (McCollum v. CBS, Inc., 1988), violent television programs or Hollywood movies (Yakubowicz v. Paramount Pictures Corporation, 1989) judges have nearly always held that the First Amendment bars these cases.

One exception occurred in Rice v. Paladin Enterprises (1997), which involved a book that provided specific instructions on how to commit murder-for-hire and not get caught. Paladin Enterprises had stipulated that it intended for readers to learn how to commit murder-for-hire; thus, the U.S. Court of Appeals for the Fourth Circuit commented:

> Paladin's astonishing stipulations, coupled with the extraordinary comprehensiveness, detail, and clarity of Hit Man's instructions for criminal activity and murder in particular, the boldness of its palpable exhortation to murder, the alarming power and effectiveness of its peculiar form of instruction, the notable absence from its text of the kind of ideas for the protection of which the First Amendment exists, and the book's evident lack of any even arguably legitimate purpose beyond the promotion and teaching of murder, render this case unique in the law (Rice v. Paladin Enterprises, 1997, 267).

The Fourth Circuit thus held that a jury should decide whether Paladin Enterprises should be held liable for its book Hit Man: A Manual for Independent Contractors after hired killer James Perry carefully followed its instructions and murdered three people. After the Fourth Circuit held that the case could proceed to trial, Paladin reached an out-of-court settlement with the victims' survivors (Smolla, 1999). The Fourth Circuit's decision suggests that even if a message is in a "fixed medium" such as a book, a court might find that highly specific instructions on how to commit murder could constitute incitement.

Rice v. Paladin Enterprises (1997) could thus provide a precedent for judges to rule that speech on the Internet can comprise incitement, even if a screen shot from the Internet appears to be more similar to a "fixed medium" such as a book, movie or a digital recording of a song. Commenting on this question, legal scholar JoAnne Sweeney

explains the questions that arise when applying the Brandenburg test to the Unite the Right rally in Charlottesville:

> The speech at issue in [the Unite the Right rally] is the repeated instructions...by organizers that both encouraged violence and specifically instructed attendees on how to carry it out. This speech is problematic under an imminence analysis because, as with most internet communications, the words were "heard" long after they were "spoken," depending on when the reader went online and read the various posts from the Unite the Right organizers. Indeed, there is really no way of knowing when those comments were read and by whom; when and who responded to the organizers' posts cannot possibly capture everyone who read them. Consequently, Brandenburg's sparse definition of incitement is ill-suited to this asynchronous manner of speech (Sweeney, 2019, 599).

Sweeney emphasizes the fact that the High Court's Brandenburg decision was meant for a speaker talking to a crowd in person, so there is some question of whether it applies to the Internet:

> Brandenburg was decided long before the Internet was created and is based on a gathering of people in a physical space. In such spaces, there is a direct interaction of the speaker and the audience; each can see each other's reactions and more easily anticipate when and if violence or illegal acts will occur at that gathering. Web sites and social media posts do not fit this model. The audience is not contained in a room; they come and go and the speaker usually cannot see them or know how many people have even heard them (Sweeney, 2019, 599).

Law professor Clay Calvert has noted that there are "multiple problems with applying Brandenburg to high-tech, mediated messages such as emails, texts, and posts on social media" (Calvert, 2019, 124). Sweeney and other legal scholars such as Lyrissa Lidsky (2015) and Darin Johnson (2021) have also noted that alt-right members have used the anonymity that certain social media provide, using false names and hiding their identities. For example, platforms such as the Daily Stormer, 4Chan and Discord made it possible for the Unite the Right organizers to "hide their speech from the public while making it available to like-minded individuals with dangerous intentions" (Sweeney, 2019, 602). Legal scholars Joshua Azriel and Jeff DeWitt argue that the Brandenburg test must be reconsidered, "given the increasingly widespread reach and impact of digital media platforms" (Azriel & DeWitt, 2022, 26).

Indeed, in 2009 the U.S. Court of Appeals for the Third Circuit applied Brandenburg to the web site of animal rights group Stop Huntingdon Animal Cruelty

(SHAC). The web site encouraged activists to engage in electronic civil disobedience against such as "Black Fax Mondays" (faxing a black sheet of paper to the Huntingdon Life Sciences laboratory or its insurance companies in order to exhaust the toner supply) or inundating the e-mail servers or telephone lines of the targeted companies, which comprised illegal activity. The web site "incited others to commit illegal acts at a designated time and place, which meets the Brandenburg standard, removing it from the realm of protected speech" (United States v. Fullmer, 2009, 158).

Legal scholars Joshua Azriel and Jeff DeWitt argue that Trump's Tweet that

> "Mike Pence didn't have the courage to do what should have been done to protect our Country and our Constitution..." could be appropriately characterized as incitement. One protestor, at least, used a bullhorn to read [Trump's Tweet] out loud, which prompted the crowd to call for the death of the Vice President, chanting "Hang Mike Pence!"...The rioters' efforts to try to find and harm Vice President Pence, who was whisked away to a secure location, not only reflects incitement but shows the actual danger that was triggered based on the Tweet... A mob on a mission looking for the vice president followed Trump's rhetoric. This satisfies the Brandenburg imminence standard (Azriel & DeWitt, 2022, 42, 48).

Do the Anti-Riot Act and the Brandenburg Test Need to be Updated?

Following Brandenburg v. Ohio (1969) and Claiborne Hardware (1982), the U.S. Supreme Court "has not had occasion to apply the Brandenburg test in the 40 years since Claiborne Hardware" (Swalwell v. Trump, Memorandum Opinion and Order, 2022, 87). Following Peter Bohmer's conviction for inciting anti-Vietnam war protesters to light a fire on train tracks in San Diego, prosecutors did not invoke the Anti-Riot Act again for nearly four decades. When they did, however, both the Ninth Circuit (United States v. Rundo, 2021) and the Fourth Circuit (United States v. Miselis, 2020) upheld the Anti-Riot Act as constitutional. Noting that "right-wing extremism remains the United States' deadliest terrorist threat today," legal scholar Blake Pendleton notes that "federal prosecutors are...turning to the Anti-Riot Act to substitute for the lack of a single federal statute" (Pendleton, 2021, 19).

Ironically, defendants charged under the Anti-Riot Act can often turn to the Brandenburg test as a shield, partly because of great confusion surrounding the definition of inciting a riot. Legal scholar JoAnne Sweeney explains:

> Although lower courts have attempted to apply Brandenburg to a variety of situations such as online advocacy of violence and support of terrorism, the result of their efforts has been the creation of an inconsistent and somewhat convoluted (and rarely-used) doctrine. The definition of incitement, therefore, is far from clear and in need of clarification, particularly in light of modern technology (Sweeney, 2019, 594).

Law professor Elizabeth Iglesias notes that Trump's incitement of the January 6 insurrection was unprecedented. She explains that the "obvious case for denying First Amendment protection to presidential incitement of insurrection has never been articulated precisely because such treasonous actions have not previously issued from any past...President of the United States" (Iglesias, 2021, 17). Igesias argues that because Trump was so successful in inciting thousands of his followers to commit violence on January 6, our current law of incitement based on the Brandenburg test might not be adequate. She explains:

> An electorally defeated lame duck Trump used the powers of the Office of the President to incite insurrection by right-wing militia groups against the federal government....These unprecedented abuses require...a rethinking of the framework of First Amendment incitement doctrine (Iglesias, 2021, 40).

Legal scholar JoAnne Sweeney observes that "Although courts are quite proficient at determining what is not a `call to action,' they have been largely silent as to what [a call to action] is" (Sweeney, 2019, 607). Sweeney concludes that

> Brandenburg's definition of incitement, though left largely untouched for the past several decades, has left too many uncertainties as to what incitement means and has allowed courts to view incendiary speech too narrowly....Failure to [consider the speaker's words in context] will only give a shield to those who seek to gain publicity and notoriety through the violence of their followers. The First Amendment was never intended to protect such behavior (Sweeney, 2019, 637).

Sweeney is correct in her assertion that judges need to clarify the definition of incitement (Sweeney, 2019, 594). Legal scholars Richard Wilson and Jordan Kiper would agree with her that the Brandenburg test has the "frailty" of "lack of guidance on how courts should evaluate the probability that an inciting speech act will cause an imminent offense" (Wilson & Kiper, 2020, 189). Referring to the "Brandenburg quagmire," law professor Clay Calvert would agree with Sweeney that Brandenburg "begs

for judicial clarification on the application of all three of its prongs--intent, imminence, and likelihood" (Calvert, 2019, 126, 153).

This raises the question that if a jury could find Donald Trump liable for civil conspiracy, should a jury likewise find Deray Mckesson liable for the injuries to Officer "John Doe" after a third party hit Officer Doe in the face with a rock? The (late) legal scholar Franklyn Haiman would have found neither DeRay Mckesson nor Donald Trump guilty of incitement; Haiman would have placed blame only on Mckesson's or Trump's supporters who committed the actual violence:

> Where is the lack of capacity on the part of the listeners to decide not to act as the speaker urges? Where is the control of will that can be described as triggering an inevitable chain of events? (Haiman, 1981, 279).

Haiman would probably have argued that the person who hit Officer "John Doe" in the face with a rock or slab of concrete and those who committed violence on January 6 could have chosen not to do so. In other words, assuming that Mckesson and Trump were not controlling their movements with computer chips implanted in their brains, Haiman would say that Mckesson and Trump should not be held liable for the head injuries to Officer Doe or the storming of the U.S. Capitol, respectively.

Judges are also aware of the fact that, although the Founding Fathers passed the First Amendment in part to discourage prior restraint of the press, they had no problem with putting in place punishment of destructive speech after the fact, as in the law of defamation, for example. Similarly, the Anti-Riot Act makes it clear that one can face a prison term for inciting a riot (after it occurs), but one cannot be punished for advocating future violence in the abstract.

Of course, the plaintiffs are making the claim that Donald Trump's January 6 speech was a "proximate cause" of the insurrection. Attorneys who argue that someone is a "proximate cause" of violence often take a "but...for" approach; in other words, they would say "but for" Trump's speech telling his supporters to march down to the Capitol, the siege of the Capitol and injuries to 150 U.S. Capitol and Metropolitan police officers would not have occurred.

Although the House of Representatives impeached Trump for inciting an insurrection on January 6, the Senate failed to convict him for incitement. If the Brandenburg test were applied to Trump's speech, Trump would no doubt argue that he did not intend for his supporters to injure the Capitol police officers, and Trump would also point to the fact that he told his supporters to march "peacefully" to the U.S. Capitol. The problem with the Brandenburg test is that it requires that the speaker be extremely specific in exhorting a crowd. Since Trump did not explicitly command the Proud Boys and Oath Keepers to attack and injure 150 police officers and desecrate the halls of Congress, he may avoid criminal prosecution (although he is already facing civil litigation for conspiracy).

As law professor Clay Calvert has observed, "Fathoming intent becomes a legal nightmare in cases...where the speaker denies desire to foment violence" (Calvert, 2019, 145). Would Trump have had to direct his supporters to break down the barricades and storm House and Senate chambers? He was clearly pleased that they did this, but because he spoke in generalities such as "we have to fight like hell," rather than specifics, Sweeney argues that it would be difficult to convict him under the Brandenburg test because "Brandenburg requires specific action words; incitement cannot be implied" (Sweeney, 2019, 605).

Legal scholars Joshua Azriel and Jeff DeWitt disagree with Sweeney, however. Analyzing Trump's speech on January 6, 2021, they conclude that

> the three key elements of the [Brandenburg] test—advocacy, incitement, imminence—are satisfied. Holding Trump personally responsible in this scenario would establish an updated standard of constitutional jurisprudence applicable to future speech-incitement cases (Azriel & DeWitt, 2022, 23).

Is Suing for Civil Conspiracy More Effective than Invoking the Anti-Riot Act?

After the 2017 Unite the Right march in Charlottesville, Virginia, attorney Roberta Kaplan, who represented Elizabeth Sines and her nine co-plaintiffs, explained that she decided to take on the civil suit "in the absence of decisive action by the criminal justice system" (MacFarquhar, 2021, A11). In other words, when Kaplan saw that neither state nor federal prosecutors filed any charges against Richard Spencer, Jason Kessler or

the other Unite the Right leaders, she felt that something had to be done. As is mentioned above, plaintiffs William Burke, Elizabeth Sines and her co-defendants won verdicts in which the juries awarded $2.4 million to Burke and more than $25 million to Sines and her nine co-defendants for engaging in a "conspiracy that led to [the plaintiffs'] injuries" (McFarquhar, 2021, A1).

U.S. Representatives Eric Swalwell, Karen Bass and her co-plaintiffs, along with police officers James Blassingame, Sidney Hemby, Conrad Smith, Bobby Tabron and Dedevine Carter, no doubt share the goals of Elizabeth Sines and her co-plaintiffs. In the absence of criminal charges against Donald Trump, they have filed civil conspiracy complaints and have requested jury trials.

Sines v. Kessler (2021) could set a precedent by which a jury could find Donald Trump liable for conspiring with the Proud Boys and Oath Keepers to incite the violence on January 6, 2021. Thompson v. Trump (2021), Swalwell v. Trump (2021), Blassingame v. Trump (2021), Smith v. Trump (2021) and Tabron v. Trump (2022) are still working their way through the courts, but so is Doe v. Mckesson. If Donald Trump is found liable for conspiring to incite violence against 150 police officers, will DeRay Mckesson be held liable for conspiring to incite the person who injured Officer Doe at the Black Lives Matter protest?

In June 2022 the American public learned from Cassidy Hutchinson (former aide to Trump's Chief of Staff Mark Meadows) that on January 6, Trump was furious that his supporters were required to pass through magnetometers. Hutchinson quoted Trump as saying, "I don't f—king care that they have weapons. They're not here to hurt me. Take the mags [magnetometers] away. Let the people in; they can march to the Capitol from here" (Edmondson, 2022, A15). Assuming that Trump knew that the Proud Boys and Oath Keepers had weapons and did not care, this would be a very different set of facts from Mckesson's leading a demonstration outside the Baton Rouge Police Department in which he did not anticipate any violence toward the police.

In other words, assuming that Trump had conspired with the Proud Boys and Oath Keepers via Mark Meadows' phone calls to Roger Stone (Stephens, 2022, A22), a jury might find him liable for civil conspiracy. Assuming that Mckesson had no prior

contact or knowledge of the person who severely injured Officer Doe, a jury might not find him liable for civil conspiracy, but we do not know yet because Mckesson's case is pending. With the exception of Rundo and Miselis, which demonstrated that the Anti-Riot Act still has teeth, however, plaintiffs who are injured when a speaker incites a riot may find greater success in court if they can prove civil conspiracy rather than hoping that prosecutors will invoke the Anti-Riot Act.

Looking at the "larger picture," we might note that the Roman orator Cicero "stressed the continuity of law and rhetoric and clearly saw the law as having...a general public function" (Hariman, 1990, 8). If we view a public trial as a "performance of the laws," it "becomes a singularly powerful locus of social control, for it is the very means by which members of the community know who they are" (Hariman, 1990, 17). Public trials also "function as rhetorical processes shaping the social construction of reality" (Hariman, 1990, 18). Robert Hariman explains that a public trial

> ...is a means by which we create, disseminate, judge, and ratify as facts those assumptions about the world and those values of the community that together are supposed to be informing the laws...[Our approach] is to define the many discourses of a trial as a unified rhetorical occasion...and to consider how the [trial] allows and and constrains a process through which a community defines itself (Hariman, 1990, 21, 23).

Applying Hariman's observations to the trial in Sines v. Kessler could raise questions such as, how do we define ourselves as a community or as a society? Do we allow neo-Nazis' hate speech? If we allow such hate speech but if Unite the Right marchers injure or kill counter-protesters, do we punish the perpetrators? Of course, the jury decision in which Elizabeth Sines and the other plaintiffs were awarded more than $25 million suggests that as a community, we reject the white supremacists' physical attacks.

Because the lawsuits of the U.S. Capitol police officers and the U.S. Representatives against Donald Trump for the January 6, 2021 riots have not yet proceeded to trial, we cannot predict how these trials will become public forums by which our society can define itself. Hariman explains that "the common elements [of public trials] are particularly well suited to supplying the performance of social knowledge

required by any society" (Hariman, 1990, 23). In other words, it will be extremely important to elevate these trials for civil conspiracy into the public forum. These trials would help the general public to make sense of the competing narratives of "the Big Lie," that Donald Trump won the 2020 election, versus the narrative that Donald Trump conspired with the Proud Boys and Oath Keepers to overthrow the government and stage a coup.

It seems evident that high-profile trials can have a profound influence on the public psyche when these trials become public forums. In other words, a trial for civil conspiracy would permit the U.S. Capitol police officers and U.S. Representatives to seek redress of their grievances. If these cases proceed to trial, and if these trials become public forums, they will provide a means by which the general public can gain a more clear understanding of what really happened on January 6, 2021.

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