

Determined undermining

We live in an era of manipulated doubt, of calculated condemnation of our government and legal system.

BY MICHAEL MCAULIFFE

Guest Columnist

The shroud of doubt thrown over American elections isn't about ensuring the most basic process of democracy — registration, voting, counting ballots, campaigning — is fair. The naysayers degrade the election process because it produced the wrong outcome (to them). The deniers work in reverse like a car careening backward. A catastrophic collision is inevitable. It may even be the driver's real goal.

The ongoing attacks on the legal system are as treacherous as those on our elections. If electoral process is the beating heart of democracy, the rule of law is its soul. The election-deniers seek to cut Lady Liberty, but they also aim to smother her spirit.

We live in an era of manipulated doubt, of calculated condemnation of our system of self-governance and law. Donald Trump pouts and then howls about any judge who rules against him. Adverse decisions (significant or not) are, without exception, fundamentally suspect while all favorable ones are courageous.

Last week, the New York attorney general's civil fraud suit against Trump was assigned to a judge

who had heard several presuit motions during the investigation. That assignment was based on the court filing form asking whether the suit was related to any previous litigation. The answer was yes. Trump's lawyers immediately attacked the assigned judge because he had ruled against them during the prior related litigation.

When Trump filed his own civil suit in the Southern District of Florida in August seeking a special master to review the documents taken during the Mar-a-Lago search, his lawyers missed the standard "related case" question even though the same warrant was being litigated at the same time before a U.S. magistrate judge in the same court. The magistrate judge was biased, they later claimed. The translation? The magistrate judge might not have ruled in Trump's favor. Of course, the move appeared advantageous in its immediate aftermath, but the court system has the ability to self-correct through appeals.

Even though the Trumpian right's threat is singular and has no even distant relative, the political left is not immune from the temptations of infidelity to process.

The cries to arrest Trump — last week, yesterday, today — reflect a lack of trust in the criminal justice system. The commentators — including respected lawyers and academicians — demand charges now in the investigations into the Jan. 6 insurrection, the presidential election interference in Georgia and the

Mar-a-Lago government/classified documents.

While the insistent demands stem from a hunger for accountability (and are easily distinguished from the fantastical rantings of the most strident right), they still undermine a basic tenet of faith we will soon need.

Importantly, the major Trump investigations are active. They operate in mandated secrecy; as such, we don't know what many of the witnesses are saying or how the prosecutors are assessing the cumulative evidence. And criminal cases seldom improve once they are charged. A prosecutor's ability to identify and compel potential evidence becomes more limited. The burden will be on the government to prove both the technical elements of the crimes and the rationale for such charges.

The principals leading the investigations are not beyond criticism or judgment. If the prosecutors had been negligent or inattentive, the constant calls for immediate action on cable and in print might make sense. But that's not the case, at least not now. The hardened voices may even create the perceived need to not appear to be caving to such pressure. Those demanding immediate indictments already have convicted the suspects. The prosecutors don't have that option, and you don't want them to now or in the future.

A complex criminal investigation has an arc, a life of its own. The prosecutors are entitled to the time and independence necessary to make the process

worthy of the results. A legitimate investigation has to allow for uncertainty of result. If the outcome is predetermined or premature, the path to get there becomes a mirage, not the wellspring of credibility essential to survive what comes next.

The election-deniers erode our faith in the country, and in each other, by the relentless force of persistent doubt. Americans can fight back with civic faith including purposefully allowing the criminal investigations of Trump to proceed to as yet undetermined destinations.

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Former President Donald Trump speaks at a rally Sunday in Mesa, Ariz. His actions are currently the subject of several investigations.
MATT YORK | Associated Press



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