

# [***Trump defense strategy in January 6 case may go beyond trying to delay trial, court filings reveal***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B12-8V61-DY7V-G0HM-00000-00&context=1516831)

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**Byline:** By Katelyn Polantz, CNN

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**Body**

(CNN) &#8212; Much of Donald Trump's legal strategy in his federal 2020 election interference case has, so far, centered around trying to delay the start of his March trial until after the November presidential election.

But in recent court filings, and according to sources familiar with the Trump team's approach, other defense strategies have emerged - namely of absolving Trump, the front-runner for the GOP nomination, of responsibility for the US Capitol attack and positioning him as a victim of disinformation and overzealous government investigators.

Two under-the-radar court filings from Trump's team in late November offered the clearest glimpse yet into what the former president's lawyers may try to argue before a jury in the historic case. The filings say that his lawyers hope during the trial to point to people in the federal government he suspects are biased toward him, to foreign influence, and to election disinformation that led him to believe the 2020 contest was stolen.

The foreign interference defense

Trump's team has already asked a judge to allow him access to more government documents, including classified information from his administration, that he believes would back up his argument that the election result couldn't be trusted.

Prosecutors "cannot blame President Trump for public discord and distrust of the 2020 election results while refusing to turn over evidence that foreign actors stoked the very same flames," his lawyers wrote in court in late November.

"Evidence of covert foreign disinformation campaigns relating to the 2020 election supports the defense argument that President Trump and others acted in good faith even if certain reports were ultimately determined to be inaccurate."

One of the foreign actions they've pointed to came from Russia's foreign intelligence service and [*a hack of the SolarWinds software*](https://www.cnn.com/2020/12/19/tech/solarwinds-hack-companies/index.html) that compromised data at several federal agencies in December 2020. Trump's legal team wrote that attack meant "there were reasonable concerns about the integrity of the election and the possibility of technical penetrations of election infrastructure."

There is no evidence the SolarWinds hack is connected to election systems and officials have repeatedly found no evidence of widespread election fraud.

Trump's recent court filings also seek access to intelligence about Iran and China attempting to interfere in US ***politics***. The Justice Department has argued that allowing evidence into the case regarding possible false claims by foreign actors could confuse a jury and is not relevant to Trump's state of mind when he pushed false claims of election fraud publicly.

Trump team looks to special counsel investigators

Trump's team is also trying to unearth how other investigative agencies in the federal government looked at his actions after the 2020 election - as a way of trying to highlight that he wasn't charged until a special counsel was appointed by Attorney General Merrick Garland in November 2022. Undermining the prosecution by pointing to ***politics*** could be an opportunity to help Trump before a jury, sources familiar with the strategy told CNN.

The special counsel's office is asking Judge Tanya Chutkan to block any attempts Trump makes to nullify his jury, which his lawyers could do by trying to inject ***politics*** into the evidence presented. Nullifying means convincing at least one juror to vote to acquit him even if prosecutors prove the case against him beyond a reasonable doubt.

Central to this strategy are the Justice Department prosecutors who worked on allegations of fraud and the fake electors scheme in 2020 and 2021 for the Justice Department, before joining the special counsel's team, as well as Michael Sherwin, the former acting DC US Attorney who spoke to "60 Minutes" about the [*possibility of sedition charges*](https://www.cnn.com/2021/03/23/politics/capitol-riot-michael-sherwin-60-minutes/index.html) related to the Capitol attack.

Trump's team has asked the court to expand the legal definition of the prosecution team to include other agencies, including the US attorney's office in DC, so prosecutors would be prompted to turn over extensive documents from them to Trump's defense team for review. That could slow down the case, some of the sources told CNN.

"Based on public statements from attorneys on behalf of the USAO-DC that are inconsistent with the Special Counsel's theory of January 6, it is a virtual certainty that there are similar nonpublic documents and private communications relating to this issue," Trump's team wrote to the court in late November.

Pointing to 'political bias' against Trump

Trump's team also said members of the intelligence community and law enforcement who may become trial witnesses may have "political bias" against him. Even so, several of Trump's former Cabinet members - such as then-Attorney General Bill Barr, then-Vice President Mike Pence and several top intelligence officials - could be called to testify against him at the trial. Many were vocal after the election that there was no widespread fraud and have in recent months criticized Trump.

Trump's team has also noted that it may be tested at trial whether he believed he would have won the 2020 presidential election had it not been for widespread voter fraud. But the prosecution's charges against Trump signal they've gathered significant evidence of top advisers in both his campaign and administration telling him the results meant he could not win, and that he ignored the facts to rally his supporters to violence.

Prosecutors from special counsel Jack Smith's office within the Justice Department are trying to eliminate before the trial many of these defenses - highlighting them to Chutkan in a recent filing.

It will be up to Chutkan to determine if the tactics Trump's team has hinted at can be used at trial, and what exactly the lawyers are able to present to the jury through witnesses and evidence.

"The Court should not permit the defendant to turn the courtroom into a forum in which he propagates irrelevant disinformation, and should reject his attempt to inject ***politics*** into this proceeding," the prosecutors [*wrote in a filing*](https://www.cnn.com/2023/12/27/politics/trump-courtroom-special-counsel-election-subversion/index.html) days after Christmas. "Evidence is not relevant upon a party's mere say-so; it must be connected to the charges in the indictment or to a legitimate defense supported by sufficient evidence."

Trump doesn't have a deadline at this time to respond to the DOJ's filings in court, and Chutkan doesn't have the ability to set parameters for the trial and evidence-gathering while part of Trump's case is being appealed.

A question of timing

Trump's trial is [*currently scheduled for March 4*](https://www.cnn.com/2023/12/27/politics/key-trump-dates-to-watch-in-january/index.html) in Washington, DC's federal court - the day before the Super Tuesday nominating contests. But that date could move, as Trump continues to pursue appeals. And delays in the appellate courts' decisions could quickly push the schedule back months.

The most likely delay may come from the DC Circuit Court of Appeals, which is hearing arguments January 9 on whether Trump has immunity from being tried as a criminal defendant because of his role as president and the impeachment trial where he was acquitted by the US Senate following the January 6 attack.

The Supreme Court is also likely to be asked to look at those issues before Trump's trial can begin.

Trump also continues to pursue appeals over a gag order Chutkan placed on him in October, which was [*recently refined*](https://www.cnn.com/2023/12/08/politics/federal-appeals-courts/index.html) by the DC Circuit.

The former president has argued the unfairness of that order should prompt the delay of his trial date until after the election, but that argument has gained no traction in the courts.

This story has been updated with additional details.

By Katelyn Polantz, CNN

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