

# [***Defense Rests In Donald Trump Criminal Case; Donald Trump Charged With Falsifying Business Records; Benjamin Netanyahu Blasts International Court Arrest Warrants; Antony Blinken Testimony Interrupted By Protesters; Sen. Mark Kelly (D-AZ), Is Being Interviewed About The Decline Of The United States Shipbuilding And Maritime Workforce That Poses A Significant Security Risk; Rep. Michael Waltz (R-FL), Is Being Interviewed About The Importance Of Rebuilding The United States Maritime Power And Supply Chain Security; Republicans Blast Effort To Revive Failed Bill; Rep. Mike Waltz (R-FL) And Sen. Mark Kelly (D-AZ) Interviewed On Bipartisan Efforts To Restart America's Shipbuilding Industry; Document Released Indicating Law Enforcement Officials Authorized To Use Deadly Force To Recover Top Secret Documents From Mar-A-Lago; Half Of U.S. Might Experience Blackouts Or Brownouts This Summer Due To Increased Demand On Nation's Electric Grid; Defense Rests In Hush Money Criminal Trial Of Donald Trump***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6C33-JBT1-F072-X55S-00000-00&context=1516831)

Fox News FOX SPECIAL REPORT WITH BRET BAIER 6:00 PM EST

May 21, 2024 Tuesday

Copyright 2024 Fox News Network LLC All Rights Reserved

**Section:** NEWS; Domestic

**Length:** 7054 words

**Byline:** Bret Baier, Jonathan Turley, Nate Foy, Jacqui Heinrich, Gillian Turner, Chad Pergram, Kevin Corke, Aishah Hasnie, Byron York

**Guests:** Mark Kelly, Michael Waltz, Olivia Beavers, Kevin Roberts

**Body**

RICHARD FOWLER, FOX NEWS CHANNEL CONTRIBUTOR: But he finally made it to space. He was up there for 10 minutes and said it was a life-changing experience.

DANA PERINO, FOX NEWS CHANNEL HOST: Yes, I heard him say that he didn't think he actually needed to do it in his life but when he did, he realized it was -- that it is what he needed, so.

All right, that's it for us, everyone. Have a great night.

BRET BAIER, FOX NEWS CHANNEL HOST: That was a great show, Dana.

PERINO: Oh, well, thanks. Bye.

BAIER: All right. Good evening. Welcome to Washington. I'm Bret Baier.

Anti-Israel protesters make their voices heard disrupting congressional testimony by the Secretary of State and a speech by the vice president.

Senate Democrats tried to revive a failed border bill in time for the election.

And is the iconic home of Elvis Presley going on the market? We'll bring you there. The latest on the fate of Graceland.

But first, breaking tonight, the defense has rested in the historic criminal trial of former President Donald Trump. The judge dismissing the jury until next Tuesday.

Now, the judge and the attorneys on both sides are trying to decide on jury instructions, a crucial part of this trial and how the jury will eventually come to its verdict.

Correspondent Nate Foy is where he's been from the beginning outside the New York State Supreme Court again tonight with the latest. Good evening, Nate.

NATE FOY, FOX NEWS CHANNEL CORRESPONDENT: Good evening, Bret. Judge Juan Merchan didn't provide a ruling or a timeline of a ruling about Trump's request to dismiss the case. Instead today, after testimony from Bob Costello, lawyers on both sides debated about the instructions that will be given to the jury after closing arguments and before deliberations begin when they will decide if Trump is guilty or not. Here's Trump leaving court tonight.

(BEGIN VIDEOTAPE)

DONALD TRUMP, FORMER PRESIDENT OF THE UNITED STATES: This is such an embarrassment of a showing of prosecution that I would imagine the judge wouldn't grant the motion to dismiss the case. You can't imagine it. There has been no evidence. There is no evidence.

FOY (voice over): Bret, during today's afternoon session Trump's team asked Judge Merchan to explain to the jury that so called hush money payments are not illegal. Merchan said it came up several times at trial and another instruction would go too far.

Merchan actually sided with Trump's lawyers though about a key matter of the instruction. Prosecutors of course argue that Trump falsified business records to illegally influence the 2016 election, but the jury instructions will read, "If the payment would have been made even in absence of candidacy, payment should not be treated as contribution."

So, if the jury thinks Trump was motivated by his brand or his family, the bookkeeping charges could not be elevated to felonies. Trump's team rested their case after Bob Costello's testimony today, he was the 22nd overall witness, the second witness for the defense. He testified about his close relationship with Rudy Giuliani and setting up a back channel to Trump. Costello maintains he used that back channel at Cohen's request.

Now, Trump himself did not testify in the trial. And today outside the courthouse, his son, Don Jr. said that it would have made no sense with how unfair the trial has been in his view.

(END VIDEOTAPE)

FOY (on camera): So, Bret, closing arguments are set to happen on Tuesday with deliberations set to begin on Wednesday in the first criminal trial ever involving a former U.S. president, Bret.

BAIER: Nate Foy, thanks. Let's get some analysis now from George Washington University Law School Professor Jonathan Turley.

Jonathan, thanks for coming on. You were in the courtroom over the past couple of days. And now we're in this part where the defense and prosecution have rested and they're working on the jury instructions, which I said at the beginning is very crucial. What's your take about how that's transpired today?

JONATHAN TURLEY, FOX NEWS CHANNEL CONTRIBUTOR: Well, the jury instructions are really the key issue that is dividing the two parties here because they are worlds apart on critical questions.

And for example, the government wants the court to instruct the jury that it does not have to satisfy the higher criminal standard in establishing the terms like using unlawful means to influence an election.

The defense is saying hold it, you created a sort of Frankenstein crime, you zapped a dead misdemeanor into life, you turned it into a felony. And now you're saying that you don't have to prove the criminal higher standard for all the elements.

And Merchan is going to have to make that decision in the coming days. There are other issues that could be determinative and decisive for the jury. So, it's the probably the least exciting part of a trial, but it may be the most important as we see what Merchan orders.

BAIER: The other thing we've seen from Merchan are -- and you've talked about this previously, are the way he's handled different cases, different witnesses, the way he dealt with Costello, the last defense witness, and the way he, you know, comparison or contrast dealt with Cohen and Stormy Daniels on the stand.

Now looking at what you see from Robert Costello, the last defense witness and all that transpired about getting people out of the courtroom and the whole bad blood between the judge and Costello. Do you think the defense made the right call ending on that witness?

TURLEY: Well, Bret, you know that I'd said earlier that I would not have called Costello not because I thought he was a bad witness. But because he opened up too many potential doors.

In my view, this case is collapsing by its own weight. I don't think how this verdict if it was guilty could be sustained on appeal.

But those attorneys in that room have a different set of issues, they're representing the leading candidate for the presidency, they want to take this case down now, they don't want to wait for an appeal. They know even if it's a misdemeanor conviction, people are going to say, oh, he's a convicted guy.

And so, they brought in Costello, and it played out as we expected on cross examination, they used him to bring in this back channel to Rudy Giuliani, and to paint him as a Trump operative.

In terms of his relationship with a judge, I thought the judge was right to tell him you can't roll your eyes and you can't -- you can't stay things on the stand about my orders.

But the problem is that the judge's rulings really were hard to justify. And some of those reactions by Costello was he sort of blurted out, because he couldn't understand what the judge was doing.

And frankly, on a couple of those I agreed with him, the judge has largely ruled for the prosecution. I think he's been right on a number of occasions. I don't -- I don't want to vilify him. But he has been a very pro prosecution judge in this case.

BAIER: And the last thing, the fact that we're waiting until Tuesday, a week from today, to start closing arguments and give this case eventually to the jury. Isn't that a long time considering where we are now?

TURLEY: It's an eternity for the defense, because you want to go straight into closing arguments. They're going to go back in the world for almost a week, and they're going to be going to, you know, holiday picnics, they're going to have friends and family members who are going to be saying things about this case, and it's also going to remind them how unpopular they might be if they acquit or reach out hung jury.

All of that works against the defense. They're not sequestered. So, you know, they're not supposed to watch the news, but they're going to go back home in a saturated news environment, surrounded by family and friends. They're going to want to talk about only one thing, and it's the one thing they're not supposed to talk about.

BAIER: Yes, watch the news. Pick up the phone. All kinds of things. Jonathan Turley outside the courthouse. Jonathan, thanks.

President Biden is focusing on raising campaign money today. The Israel Hamas war has proven to be a strain on his campaign's ability to bring in funds. Eh Correspondent Jacqui Heinrich has details tonight live from the North Lawn. Good evening, Jacqui.

JACQUI HEINRICH, FOX NEWS CHANNEL CORRESPONDENT: Good evening, Bret. After former President Trump outraised Biden by $25 million last month that is a first in this cycle. The president was in Massachusetts today trying to turn that trend around, but his support of Israel is now also chafing against his donor base.

(BEGIN VIDEOTAPE)

HEINRICH (voice over): George Krupp, who will reportedly raised $2.5 million for Biden in Boston today told the Financial Times this Israel thing has been a catastrophe for him. Biden needs to suspend arms shipments for both humanitarian and political reasons. If the election were held today, I think he'd lose.

It comes as another Biden donor George Clooney finds himself in an awkward spot ahead of his own fundraiser next month, starring Obama and Julia Roberts, his wife, Amal, a human rights lawyer, defending her recommendation as part of an ICC expert panel to issue arrest warrants for both Hamas and Israeli leaders, including Prime Minister Netanyahu, the White House not convinced.

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: We fundamentally reject it.

HEINRICH (voice over): The administration is discussing bipartisan calls for sanctions against the court which holds no jurisdiction over the U.S. or Israel.

BENJAMIN NETANYAHU, ISRAELI PRIME MINISTER: That's like saying after 9/11, well, I'm issuing arrest warrants for George Bush, but also for Bin Laden. It's a hit job.

HEINRICH (voice over): Team Biden returning the attention elsewhere.

KAMALA HARRIS, VICE PRESIDENT OF THE UNITED STATES: The former president of the United States, who praises dictators, took to social media and highlighted language from Nazi Germany, and it is appalling.

HEINRICH (voice over): The now deleted video posted to Trump's Truth Social account references a Unified Reich among other ambitions if he wins in November. The campaign says it didn't create the video and a staffer shared it without seeing the word.

UNIDENTIFIED FEMALE: Mr. President, you're reaction to Donald Trump's using Unified Reich in a social media post? Your reaction?

JOE BIDEN, PRESIDENT OF THE UNITED STATES: It would take too long.

(END VIDEOTAPE)

HEINRICH (on camera): Trump meantime is slamming Biden for his announcement to release a million barrels of gas from the strategic reserve ahead of the July 4th Holiday. Trump was outside court this morning slamming that decision and saying that President Biden has ruined this country's energy independence, Bret.

BAIER: Jacqui, yesterday, President Biden had to correct himself or the White House corrected him after saying the U.S. hostage -- a U.S. hostage being held by Hamas was at the White House. Today, we learned he had some other gaffes on Sunday too, what happened with that?

HEINRICH: Yes, we just got the transcript Bret from the president's Sunday speech to the NAACP and it included nine corrections that the White House had to make on both factual errors and pronunciation errors.

For example, he wrongly said that he was vice president during the pandemic when he meant recession, he also called insurrectionists a erectionists among other errors like getting the amount that he has saved Americans on their health insurance premiums wrong for a second time, Bret.

BAIER: OK. Jacqui Heinrich live in the North Lawn. Jacqui, thanks.

Stocks up ahead of expected comments by the Federal Reserve, the Dow gaining 66, the S&P 500 was up 13 for another new record close, the NASDAQ rose 38, also a new record finished there.

The president's top diplomat defending his boss's actions during the Israel Hamas conflict, the war there. Secretary of State Antony Blinken was on Capitol Hill today for a pair of hearings that at times got heated. We'll get details tonight from State Department Correspondent Gillian Turner.

(BEGIN VIDEOTAPE)

UNIDENTIFIED MALE: Secretary, you may proceed.

ANTONY BLINKEN, U.S. SECRETARY OF STATE: Thanks, Mr. Chairman. As I was saying the People's Republic of China --

UNIDENTIFIED FEMALE: He is war criminal. He is war criminal.

GILLIAN TURNER, FOX NEWS CHANNEL CORRESPONDENT (voice over): Secretary of State Antony Blinken in the hot seat today facing off against anti-Israel protesters first and then the senators.

UNIDENTIFIED MALE: It seems like the rule is on fire in part because of the weakness of our administration.

BLINKEN: You have presided over the worst foreign policy disaster of modern times.

TURNER (voice over): Blinken was on defense against accusations the U.S. has hamstrung Israel self-defense by withholding weapons shipments and warning the IDF against invading Rafah.

BLINKEN: Senator, I was in Israel five days after October 7th. I've been there seven times since. No one, starting with President Biden has done more to make sure they have what they need to defend themselves from Hamas.

TURNER (voice over): He also faced criticism for offering condolences to Iran after the death of President Raisi.

BLINKEN: It's something that we've done many times in the past going back many administrations and many decades and we do as a normal course of business.

SEN. JOHN BARRASSO (R-WY): Well, I don't think it should be a normal course of business. I think it's shocking that this administration would mourn the death of the Butcher of Tehran.

TURNER (voice over): But Blinken insists the best way to stand up to Iran in the region is for Israel and Saudi Arabia to forge a security alliances.

BLINKEN: The choice that's increasingly clear is a choice between a path that leads to Israel normalizing its relations with virtually all of its neighbors versus endless cycles of violence, destruction, death and insecurity.

(END VIDEOTAPE)

TURNER (on camera): Well, there is no rest for the weary, Blinken will be back up on Capitol Hill tomorrow all day long to testify this time in front of the house. Meanwhile, tonight we're learning the Capitol -- U.S. Capitol Police arrested seven people today in connection with those protests at this hearing, Bret.

BAIER: Gillian Turner at the State Department. Gillian, thank you.

Israel's Communications Minister has ordered the government to return seized camera equipment to the Associated Press after blocking its live video of Gaza earlier today.

Israeli officials seize the equipment after accusing the news organization of violating a new media law by providing images to Al Jazeera.

Earlier this month, Israeli officials used the new law to close down the offices of Qatar based Al Jazeera confiscating its equipment, banning its broadcasts and blocking its websites.

Up next, Senate Democrats tried to revive a bipartisan border plan that went down in flames in February and some breaking news about the investigation at Mar-a-Lago, that there's classified documents.

(COMMERCIAL BREAK)

BAIER: Congressional Democrats trying to send an election year signal to voters that they are serious about the border crisis, even though major changes in border policy have not been realized as of yet.

Senate Majority Leader Chuck Schumer teeing up a test vote Thursday on a bipartisan immigration package that collapsed in February -- you remember that.

Here is senior congressional correspondent Chad Pergram.

(BEGIN VIDEOTAPE)

CHAD PERGRAM, FOX NEWS CHANNEL CONGRESSIONAL CORRESPONDENT: It's spring. But Senate Democrats are worried about the fall. They're rekindling a bipartisan border bill which stalled over the winter.

SEN. CHUCK SCHUMER (D-NY): All those who say we need to act on the border we'll get a chance to act.

PERGRAM (voice over): Democrat saying to show voters that Republicans buckled on a bipartisan border pact.

SEN. DICK DURBIN (D-IL): Ended up killing it at Trump's direction. We find that voters are convinced Republicans are insincere about fixing the border.

PERGRAM (voice over): Republicans say this isn't a real effort to find a solution. It's about Democrats safeguarding their majority.

SEN. JOHN BARRASSO (R-WY): Chuck Schumer is going to be in here trying to throw a Hail Mary pass to save his vulnerable Democrats.

PERGRAM (voice over): Democrats hoped to protect senators and tough races like Montana's Jon Tester, Pennsylvania's Bob Casey and Ohio Sherrod Brown.

UNIDENTIFIED MALE: This is a political stunt.

PERGRAM (voice over): A recent Fox poll gave former President Trump a 15- point advantage on the border over President Biden. Still, Democrats denied the border is dragging them down.

On the border issue here, are Democrats vulnerable on that politically this fall? And is that one of the reasons you're doing this?

SCHUMER: Democrats are doing this because we believe in fixing the border.

PERGRAM (voice over): In phone calls, President Biden implored GOP leaders to unlock border legislation.

REP. MIKE JOHNSON (R-LA): My message to him was it's too little too late. I should have taken executive action a long, long time ago.

PERGRAM (voice over): Senate Minority Leader Mitch McConnell was even tougher.

SEN. MITCH MCCONNELL (R-KY): I said to him what I just said to you while ago. Mr. President, you cause this problem.

(END VIDEOTAPE)

PERGRAM (on camera): A test vote comes Thursday. 60 yeas are needed to break a filibuster. It's expected to fail. Bret?

BAIER: Chad Pergram up on the Hill. Chad, thanks.

Up next, one Democrat, one Republican, we seek "COMMON GROUND".

First, here is what some of our Fox affiliates around the country are covering tonight.

FOX2 in Detroit as police clear anti-Israel protesters at the University of Michigan. Video shows police pepper spraying protesters and demonstrator clashes with the officers. There were four reported arrests for resisting and obstructing.

FOX31 in Denver, as a Colorado man pleads guilty to torching an innocent family's home in the middle of the night, killing five people, including a toddler and a baby.

The crime by Kevin Bui is said to have been out of revenge for the threat - - theft of his cell phone. But authorities say none of the victims had anything to do with the stolen phone.

And this is a live look at Philadelphia from Fox 29, our affiliate there. One of the big stories there tonight. The city is putting an end to its COVID-era remote work policy and requiring all full-time city employees to return to the office five days a week, starting in mid-July.

Mayor Cherelle Parker says the policy will create a more visible and accessible government.

That's a nice live look, "OUTSIDE THE BELTWAY", from SPECIAL REPORT. Just some of the stories "OUTSIDE THE BELTWAY" We'll be right back.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: They should fill them from one on the Navy is in disarray.

UNIDENTIFIED MALE: This is acquisition malpractice and a terrible waste of time and resources.

SEN. MARK KELLY (D-AZ): Insufficient commercial maritime capacity impacts, peacetime trade and supply chains, but also has a great impact on our ability to move things we need to move if we're engaging in combat.

(END VIDEO CLIP)

BAIER: Well, the Navy secretary up on Capitol Hill and here you see some senators talking about the need for the maritime component to increase.

It's time for our "COMMON GROUND" segment, where we look at bipartisan approaches to some of the nation's big issues. Joining us tonight, Florida Republican Congressman Mike Waltz, and the man you just saw there at the end, Arizona Democratic Senator Mark Kelly,

Gentlemen, thanks for coming over.

KELLY: Yes, thanks, Bret.

BAIER: Senator, you've been working together across the aisle on this issue. We heard your soundbite there at the end. Why is this so important right now?

KELLY: National security issue for us, it's a supply chain issue. If you go back to -- let's say we go back to World War II, 1945, we had 10,000 ocean going U.S. flag merchant vessels.

When I left the U.S. Merchant Marine Academy in 1986, graduate of that school, with about 400 -- when I flew in combat in the first Gulf War with about 400 ocean going flagged merchant vessels. Now, that number in the report, it's less than 200.

But if you look at ones that are in ocean, like foreign commerce, that number is 80. China has over 5,000.

BAIER: If you look at this report, you know, and you consider that 80 percent of the global trade is ocean shipping. It's pretty stark. And these numbers in this report, and you just outline some of them there.

But between the U.S. and China and where we stand, it's amazing to look at those numbers.

REP. MICHAEL WALTZ (R-FL): This is a bipartisan, bicameral kind of ringing the alarm bells of how much our maritime power, our shipbuilding, or ship repair has declined and laying out a strategy to start rebuilding that.

And just as manufacturing, left middle America in the 70s, 80s, 90s and went abroad are shipbuilding has done the same thing.

Now put it by point of comparison with China, last year China received 1,500 orders for new ships in their shipyards. These are cargo ships, LNG carriers, tankers. You know how many we received? Five.

So they are building a massive navy on the backs of a massive commercial ship building fleet. Ours has atrophied so bad that even if we had a new president come in and say I need a 500 ship Navy, we need a Reagan style build-up, we no longer have the steel, the aluminum, the workers, the shipyards to do it again. And that's what Senator Kelly and I's strategy lays out of how to bring that manufacturing, that shipbuilding back to America.

BAIER: So the report, the recommendations, Senator, reversing decline of America's maritime power, grow domestic shipbuilding capacity, revitalize U.S. flag global fleet, evaluate critical infrastructure, ensure freedom of navigation, accelerate polar seabed and undersea warfare capabilities. It sounds to me like that's a big price tag. This seems like it has atrophied over --

KELLY: Decades.

BAIER: Both Republican and Democratic administrations.

KELLY: Right, over decades. We only have 20 shipyards in the United States that can build ships. And most of those have to build Navy ships. So the Merchant Marine has atrophied. There isn't the financial imperative, really. If you are a -- let's say you're somebody who is interested in building ships and turning this into a business. Hard to make money right now in the U.S. with a U.S. flagged, U.S. crewed vessel. So we've got to change that. We've got to change the incentives.

We also have to build a workforce. We need about 2,000 more mariners. We need 10,000 more shipyard workers to build the ships. And we see the results in the western Pacific. Right now, if you look at what China is doing with their maritime and naval capacity, just harassing their neighbors, that nine-dash line where they are trying to take over more territory. That's all about having the maritime capacity to project power. And we have lost that over decades.

BAIER: With the budget hawks in your party, Congressman, with debt and the debt clock ticking all the time above $31 trillion, when you look at something like this, you say it's really important, but there's a lot of things that are important for us.

WALTZ: Sure.

BAIER: Where does this stack?

WALTZ: Well, this stacks right up at the top, Bret. And one of my disappointments was to see zero dollars from the bipartisan infrastructure deal, the $1.2 trillion big infrastructure package, none of that really went to our shipyards or shipbuilding or ship repair.

So, step one, I think we could shift some of those dollars in the out year that have already been appropriated. But I think the bigger piece, Bret, is public-private partnerships. As the Senator said, how do we incentivize investment, even foreign investment. South Korea and Japan have taken up a lot of the slack over the years. We get them to invest back in.

But much like SpaceX revitalized the space industry, I think there are public-private partnerships that can revitalize the shipbuilding industry. It doesn't have to be all government tax dollars. There's a big private sector --

KELLY: There are ways we can do this and find the revenue somewhere else. We are looking at that. How do you -- when you think about 98 percent of all cargo coming to the U.S., trade, doesn't come on U.S. ships. So, I mean, the first place to look is right there.

BAIER: Last thing. For people who say stuff doesn't get done in this place behind us, and it's too partisan to get things done, what do you all say in response to that?

WALTZ: Well, look, I would say that elements of this strategy will be in this next defense bill. We are -- we are realizing the problem. We are realizing how far behind we have let this slip and how far behind we are with China. They can, all of those merchant ships out there, cranking out out there, thousands and thousands of them, they can, number one, turn any one of them into warships, and number two, they can choke off America's economy tomorrow.

We will get this into legislation, and we have to press the administration. This is not just a Navy problem. This is an all of government, all of society, it's about having wrench turners, welders, shipbuilders, and getting America back to building things again, including the very things that bring -- the elements that our economy need from overseas, and export what we're producing here in America.

BAIER: Congressman, Senator, thanks for the time.

KELLY: Thank you, Bret.

WALTZ: Thank you.

BAIER: You can see all of the "Common Ground" segments on my podcast "Common Ground." Find that and the "All-Star Panel" podcast under the Bret Baier podcasts at FOXNewspodcast.com, Spotify, or wherever you download podcasts. You can also see this whole discussion on the FOX News YouTube page.

Up next, America's power grid under strain from increasing demand and threats of cyberattacks, how it could all mean rolling blackouts this summer.

And, again, breaking news about Mar-a-Lago and that investigation into the raid there. Stay tuned.

(COMMERCIAL BREAK)

BAIER: Breaking tonight, as mentioned before, we are getting a look a newly unsealed document in which former President Trump's attorneys argue the Biden administration Justice Department authorized the use of deadly force if necessary during that raid of the former president's home at Mar-a-Lago down in Florida as they're searching for classified materials. Again, this is an exhibit that is just one of many documents released by the Judge Aileen Cannon in recent days.

Correspondent Kevin Corke has these breaking details as they are coming, some 400 pages released just in the past few minutes. Good evening, Kevin.

KEVIN CORKE, FOX NEWS WHITE HOUSE CORRESPONDENT: Good evening, Bret. I have been going over this. It is quite shocking what we have been able to glean based on what Judge Cannon has released. As you mentioned, the Biden administration authorizing the use of deadly force during the FBI's raid on former President Trump's Mar-a-Lago estate in August of 2022 as part of its investigation into classified records. That, again, according to court documents.

Now, an operations order, Bret, produced in discovery as part of Special Counsel Jack Smith's investigation into the former president's alleged improper retention of classified records revealed that the FBI believed its objective for the Mar-a-Lago raid was to seize classified information, NDI, and government records as described in the search warrant.

Here's where things get very interesting. "The Order," according to a court filing, "contained a policy statement regarding the use of deadly force which stated, for example, law enforcement officers and the DOJ may use deadly force when necessary." According to the filing, the DOJ and FBI agents planned to bring standard issue weapons, ammo, handcuffs, and medium and large sized bolt cutters. But they were also instructed, according to the filing, to wear unmarked polo or collared shirts and to keep law enforcement equipment concealed.

Mr. Trump was charged out of Smith's investigation into the classified documents circumstance. Of course, he has also pleaded not guilty to all 37 felony charges stemming from Smith's probe, including the willful retention of national defense information, conspiracy to obstruct justice, and false statements.

Additionally, Bret, newly unsealed court records show more classified records were discovered and former President Trump's Mar-a-Lago bedroom four months after that 2022 FBI search of the estate. Those records were discovered by lawyers for Mr. Trump, and all this comes as he is seeking to have his federal criminal prosecution tossed out.

There is one other note I want to share. The judge in the case secretly ruled federal prosecutors could interview Mr. Trump's lawyer, Evan Corcoran, despite claims that would violate attorney-client privilege. Federal Judge Beryl Howell in the newly released 2023 ruling said, quote, "Notably, no excuse is provided as to how the former president could miss the classified marked documents found in his own bedroom at Mar-a-Lago." She also went on to say other things like there's no reason not to allow this to happen, meaning the conversation with his attorney.

Now, the FBI search of the estate allegedly found lots of classified material. You and I talked about that for quite some time in places like a bedroom, a bathroom, and even on a ballroom stage. This, of course, is all happening as this documents case is on hold indefinitely, Bret, as pre- trial motions are being debated by the federal trial Judge Aileen Cannon. And that trial, by the way, may not happen until well after the November election, and then, of course, if Mr. Trump wins, that could change, too, Bret.

BAIER: Right. And this is all part of the pre-trial documents that Judge Cannon has been releasing. One of those filings by the Trump attorneys is how the classified materials were handled by the FBI in this entire process. But this one, there may be some people, Kevin, who say that this is just a policy statement of standard operating procedures put inside this operations order for this specific raid. But obviously, it's not standard operating procedure when you're going into the house of the former president who happens to be protected by Secret Service. And one would think that would be different. This is saying that there were 25 Miami FBI agents, four Washington FBI agents, one unidentified individual from FBI headquarters, one DOJ attorney, and the assistant U.S. attorney for the southern district of Florida.

BAIER: A lot of people there.

CORKE: And remember this, too. Yes, Bret, remember this, too. Compare and contrast how the FBI and the government handled this raid at Mar-a-Lago when compared to how it handled, again, looking into alleged retention of classified documents and other material by the current president, Joe Biden, including material that we have obviously seen on video allegedly left in his garage and in other places in Pennsylvania. Again, the comparison is quite striking, Bret.

BAIER: That's what the former president's attorneys are bringing up time and again. We'll see where this goes. Thanks for jumping on the breaking news, Kevin.

CORKE: You Bet.

BAIER: Half the country could, could experience blackouts or brownouts this summer. President Biden's push for renewable energy, according to critics up on Capitol Hill, is not helping that matter.

Congressional correspondent Aishah Hasnie has that story.

(BEGIN VIDEO TAPE)

AISHAH HASNIE, FOX NEWS CORRESPONDENT: Tonight senators on both sides of the aisle are sounding the alarm about the nation's overwhelmed power grid.

SEN. JOE MANCHIN, (D-WV): This is brand new numbers, and shows half the country at elevated risk of blackouts this summer.

HASNIE: In recent years, demand for electricity has spiked thanks to manufacturing, bitcoin mining, a boom in artificial intelligence, and a push for electric vehicles. Also last week, federal energy regulators announced a new rule forcing grid operators to plan for electric growth while introducing renewable energy. The head of the American Electric Power Company today warning senators that's overly ambitious over traditional energy.

BENJAMIN FOWKE, AMERICAN ELECTRIC POWER COMPANY CEO: I'd love to see renewables on the grid, but you cannot substitute 24/7 dispatchable generation.

HASNIE: Republicans say Biden's green push is making the nation's grid even more vulnerable.

SEN. JOHN BARRASSO, (R-WY) SENATE ENERGY COMMITTEE RANKING MEMBER: President Biden doesn't seem to care at all. He wants the cost of complying with EPA rules to be high. He wants to force operators to shut down these plants before the end of their useful life. It is a disgrace.

HASNIE: Democrat Senator Joe Manchin agrees.

MANCHIN: But you can't take something off before have you something equally as good if not better to replace it with. They are just damned to do it because of the political reasons.

HASNIE: Some lawmakers, though, say inaction could make the outcome much worse.

SEN. ANGUS KING, (I-ME): The cost of not addressing climate change dwarfs the cost of addressing climate change.

(END VIDEO TAPE)

HASNIE: And Bret, all of this comes as, of course, the grid also faces the rising threat of cyberattacks every single day and increased pressure from this A.I. race that we are in with China. Lawmakers on the Hill say that we need a stable power supply to win that race. Bret?

BAIER: Aishah Hasnie live on the Hill. Aishah, thank you.

HASNIE: You got it.

BAIER: Up next, the panel on tonight's breaking news about that Mar-a-Lago raid, the documents we are getting. Plus, the defense rests in the criminal trial of former President Trump in New York.

And then the secret to a very, very long marriage.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

DONALD TRUMP, FORMER U.S. PRESIDENT: We have no crime. And this next couple of hours is very important because the judge could try and manufacture one.

CHUCK ROSENBERG, FORMER U.S. ATTORNEY: Instructions are important. You have to get that right. And both sides have instructions that they prefer.

WILLIAM BRENNAN, FORMER TRUMP PAYROLL CORPORATE ATTORNEY: This is a case that could rise or fall with the nuanced wording of the instructions. If the money would have been paid anyway and the judge is willing to instruct the jury that way, that moves the ball a lot further towards the not guilty yard line.

(END VIDEO CLIP)

BAIER: So, the prosecution, the defense rests. The judge and the attorneys coming up with the instructions to the jury. But the jury is not going to hear closing arguments until next Tuesday.

Let's bring in our panel, Byron York, chief political correspondent of "The Washington Examiner," Heritage Foundation president Kevin Roberts, and Olivia Beavers, congressional reporter for "Politico." OK, Byron, this kind of all came to an end, as far as witnesses, and now it's really the important part, according to legal experts.

BYRON YORK, FOX NEWS CONTRIBUTOR: It is. It's the super important part, which is what is the judge going to say to the jury, the last words they hear before they are going to go off and deliberate? And a lot of things that we have been talking about for the last six weeks, the two sides put before the judge. Like the defense said, could you please tell the jury that hush money, nondisclosure agreements, are not illegal. Well, the judge said no, I'm not going to tell them that. You have you said that in the trial. I'm not going to tell them that.

But remember, we've talked so much about this other crime, what is the other crime that Trump allegedly intended to commit that the prosecution didn't specify? Well, the defense asked at least can the jury be unanimous about what that other crime is? I mean, they can't pick between a, b, and c, can they? Well, actually they can. The judge decided to let them do that.

So a lot of really, really important decisions with being made right now.

BAIER: We have a FOX poll, Olivia, about the view of former President Trump's treatment by the legal system, really, you can imagine split along party lines. There you see the breakdown of Republicans 85-13, Democrats, 89-9. And independents, 52-43. It really does depend -- and the political fallout about a possible conviction, how this is played, it doesn't seem to have moved his numbers up until now, but we don't know what the jury is coming back with.

OLIVIA BEAVERS, "POLITICO": We don't. And the big number there for me is independents because right now you have Donald Trump and Joe Biden fighting for those voters. They are both seeking to court Nikki Haley and the support she has. And if that's where Donald Trump could lose his support if he is convicted ultimately, and that's one some of the polls seem to be showing.

BAIER: Brad Smith has been an FEC expert, and he had this piece. Byron, he put it, "What would I have told the Trump jury? Smith has been an outspoken opponent of what he views is the overapplication of campaign finance laws. Smith was not going to give the jury his views on the specific charge against Trump. He knew the judge would never allow that and he didn't intend to try. Instead, had he been allowed, Smith said he wanted the jury to know about the complexity of campaign law," and other things if they had filed as a campaign violation. It really wouldn't have been filed until December, well after the election.

KEVIN ROBERTS, HERITAGE FOUNDATION: The problem is that's yet another example, Bret, of the persecution, not prosecution, of a former president, not allowing that testimony. You couple that with the behavior of Judge Merchan yesterday with another witness, Bob Costello and you realize that this really is a sham. This is what third world countries do.

And I will say sort of piggybacking on the comment about the polls and Olivia's good point about how this may cut, as I travel the country, Bret, what I hear, including from people who aren't necessarily in Trump's camp politically, is that they see a lot of courage in him. He has got no self- interest in this other than his love for this country. And I actually think this is going to cut in such a major way in his favor that if the election were held today, it would be a landslide.

BAIER: There are people though, Byron, who look at the same case, the same scenario, and say this is going exactly the opposite way, and that this time for the jury is only going to compound the problems for the defense. It's the same people looking at a different result.

YORK: The people who are the so-called experts cannot really agree on this at all. And I try to listen to a lot of people who have very different impressions from mine to figure out whether what they are saying is valid.

But going to Kevin's point here, the Republican base is absolutely united in one belief, and that is they think Donald Trump has been unfairly targeted by law enforcement since 2016 when the Trump-Russia investigation began and ended up the Mueller investigation. They absolutely see this as a continuation of that. And the other three indictments against him, as well. And it's -- if anything, a guilty verdict would actually probably strengthen their support of him. It is that group of people that Olivia was talking about, who might change their mind if Trump was convicted that we don't really know.

BAIER: Let me ask you about this raid and the documents we're just seeing unsealed by Judge Aileen Cannon down in Florida. This is part of the Trump effort, and it's an attachment to it. And it just gives the order of what the agents are supposed to do in that Mar-a-Lago raid. It may be standard operating procedure that they put if there, the policy. But obviously, it's not standard to be going to the former president who has Secret Service.

YORK: It's kind of worrisome, actually. They really appeared to be loaded for bear and prepared for the possibility of some sort of violent confrontation with the Secret Service, I mean, with the men and women who are guarding a former president who are probably significantly armed themselves. And the idea that it was prepared for this way as opposed to say worked out in advance is just really troubling.

BAIER: Olivia, let's talk ***politics*** up on the Hill. Another vote on this bipartisan effort on the Senate side for immigration which failed back in February. That's all about points, right?

BEAVERS: It's all about points. And it's, I think, about reinforcing their message. Republicans in the House have basically said we are not going to support it. We have already passed HR-2. You should take the legislation that we passed. But I think they are trying to make a point by bringing this back up and saying we tried to get something done.

BAIER: Is that a vulnerability for Republicans, that Senate bipartisan deal?

ROBERTS: It's huge. It was a sham bill in February. It's a sham bill today. It would do nothing but make the situation worse. But it's a vulnerability, Bret, because the speaker of the House, who is a good man and a friend, failed to deliver HR-2 again. And it is a real vulnerability with the Republican base. Interestingly, the more time that elapses from not passing HR-2 or sending it back to the Senate or putting political pressure on the Senate, the more trouble that the Republicans are going to have on that issue.

BAIER: It's a big issue. Panel, thanks. A little breaking news tonight.

Finally tonight, a special day. We wanted to take you overseas. A German husband and wife celebrating their 80th wedding anniversary making them the longest married couple in that country. Gottfried and Ursula Schmelzer received a visit from their local governor to mark the occasion. The couple met during World War II when Ursula was 19, Gottfried was 22. Ursula, who is now 98, remembers her husband's persistence despite her initial reluctance. But 80 years and three children later she says that the secret to their long marriage is an enduring love that still exists today.

Tomorrow on SPECIAL REPORT -- congratulations, by the way -- our "Common Ground" segment features Democratic Congresswoman Katie Porter and House Oversight Chairman James Comer, their first interview together on landmark presidential ethics reform legislation.

We will bring had you that story about Graceland we mention earlier as well.

Thanks for inviting us into your home tonight, fair, balanced, and unafraid. Here's Laura.

**Load-Date:** May 22, 2024

**End of Document**