

# [***Interview With Former U.S. Secretary of Defense Leon Panetta; Verdict Reached in Trump Hush Money Trial***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6C4W-RJS1-F072-X4MS-00000-00&context=1516831)

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**Body**

NEIL CAVUTO, FOX NEWS ANCHOR: All right, thank you, Shannon.

Eleven hours in, still no sign of a verdict coming out, at least not yet, as jurors deliberate for a third -- or a second day, I should say, at the New York v. Trump trial, jurors focusing on testimony from Donald Trump's former fixer Michael Cohen and former publisher David Pecker.

So where is all of this heading? Our legal eagles are here to weigh in on it right now.

Welcome, everybody, I'm Neil Cavuto.

Let's get right to it, Nate Faye -- Nate Foy, I should say. I'm really a little out of it today.

Anyway, Nate, here's what's interesting about this. This could go for another couple of hours, but it could also wrap up in a half-an-hour. Do we know?

NATE FOY, FOX NEWS CORRESPONDENT: Well, Neil, the jury could decide to stay as late as 6:00 p.m. Eastern time tonight.

And we're just waiting for more updates. So far, they have gone over three notes that the jury has requested so far today in court. Just in the past 20 minutes, former President Donald Trump is criticizing the judge and the jury instructions, specifically on TRUTH Social, calling them unconstitutional and unfair.

But the three notes that have been gone over today so far include revisiting testimony from Michael Cohen and David Pecker, as well as what the jury can infer from facts presented at the trial. And then the judge just revisited, reread 29 pages of the jury instructions.

And, as part of those instructions, a big part of it has to do with Michael Cohen's testimony. Specifically, remember, Cohen is the only person directly connecting former President Donald Trump to the Stormy Daniels deal.

But Cohen is considered an accomplice in this trial. And the instructions read -- quote -- "A defendant may not be convicted of any crime upon the testimony of an accomplice, unless it's supported by corroborative evidence."

So that means that Cohen's word alone is not enough to convict Trump. The jury also went over their three options for the underlying crime that Trump is accused of. The jury can pick between a federal election campaign act violation, the falsification of other business records, or a tax law violation, which is something that Trump criticized today at court. Listen here.

(BEGIN VIDEO CLIP)

DONALD TRUMP, FORMER PRESIDENT OF THE UNITED STATES (R) AND CURRENT U.S. PRESIDENTIAL CANDIDATE: It's called pick 'em. It's like the lottery, pick 'em. You pick 'em.

And you don't have to be -- even though in a criminal case, you have to be unanimous, you don't have to be. Just give a couple of votes.

(END VIDEO CLIP)

FOY: So, again, Neil, the jury can decide to stay late if they're inching closer to a verdict. We have no indication that that's the case right now. So we're just waiting for another update, perhaps another question for Judge Juan Merchan.

So we will let you know if we get anything else. We will send it back to you.

CAVUTO: All right, Nate, thank you very much for that.

Nate Foy at the New York State Supreme Court.

We got Tom Dupree back with us, also Mercedes Colwin.

Guys, welcome.

Tom, to you first.

I mean, what do we read 11 hours into jury deliberations how it's going?

TOM DUPREE, FORMER JUSTICE DEPARTMENT OFFICIAL: Well, this jury seems to have gotten down to business kind of quickly, Neil. We saw about three hours into deliberations they sent specific requests to have certain portions of the testimony read back.

Interestingly, they were focused on kind of events that occurred at the beginning of the timeline, so to speak, that -- David Pecker's testimony and the like. They also asked the jury instructions to be read back, which, to me, tells me they're gluttons for punishment, because that's not a short endeavor. It takes about an hour to read those instructions.

And it's kind of curious, Neil, that, under New York law, typically jury instructions aren't actually handed over physically to the jury in their deliberations. They're read aloud by the judge, and that's it. So unless you're paying attention for that full hour -- and these are exceedingly complex instructions -- it's totally understandable that the jurors couldn't remember what these instructions were and needed to have them read back.

So this is a jury that's clearly taking its duty seriously. It's dove into the evidence. And my guess is, we're not going to get a verdict today. Possibly, we get one tomorrow.

CAVUTO: Mercedes Colwin, a lot of people read into the type of information the jurors were originally asking for dating back to the Pecker testimony and obviously what we heard out of Michael Cohen, surmising they're going earliest first and sequentially.

Now, that might have been a leap too far because they haven't gone into further witnesses down the road. So what do you make of that?

MERCEDES COLWIN, FOX NEWS LEGAL ANALYST: Well, certainly, I'm sure the defense was a little concerned that they that they were looking at David Pecker's testimony, because David Pecker was very clear about the conversations that he had about these catch-and-kill, having these conversations about stories that needed to be suppressed and other stories that should be highlighted to really help him in camp -- Donald Trump in the campaign.

So it was something similar to what some of the concerns that the defense had had that they tried to deflect by focusing so aggressively on Michael Cohen, by the way, which is great. This is -- that is, Michael Cohen is the prosecution's Achilles' heel.

The more you focus on whether or not you can rest the case on Michael Cohen, then the judge already said, you can't do so. You have to look for other corroboration. That other corroboration could be Andrew (sic) Pecker, who was clear about what the purpose was behind paying off these types of stories to help in former President Trump's campaign.

CAVUTO: Tom, wouldn't that be read as an advantage to the prosecution?

DUPREE: Yes, look, I think it could be read as an advantage to the prosecution.

But I guess the thing I think it's important to keep in mind here is that these jury requests don't necessarily reflect what the majority of jurors are interested in or thinking. Sometimes, you can have these types of requests emanate from a single juror, who says, wait a minute, I don't remember exactly what Pecker said. I think it's important. I'd like to have it hear back -- heard back.

And then they go and they request the judge read it back. So I wouldn't be so quick as to say, well, because "the jury" -- quote, unquote -- was interested in this, that means that most of the jurors were. For all we know, there could just be one iconoclastic juror who's interested in hearing it back.

CAVUTO: So let me switch gears to what's going on in this courthouse. And I guess everyone has to stick pretty close together, not be in the same room.

I don't know what room the president is in versus the judge versus the prosecution or key members of prosecution, the defense team. But they're all supposed to be relatively close together in the event the jurors make a decision, I guess, Mercedes, or they want to be called back into the courtroom to hear evidence or what have you.

Is that unusual to this case? I mean, the case of a former president who lives in the city, has a home in the city, he is relatively nearby, but he has to just schlep it out and wait with everyone else.

COLWIN: You know, honestly, Neil, it is what happens to all defendants across the country. They are bound by the judge's instructions. And the judge, I'm certain, has instructed the parties to stay close, especially because, at a moment's notice, they have to scurry quickly into the courtroom and listen to what the jury -- whether there's a verdict, whether they are having trouble, whether they want readbacks, whether they want instructions reread to them.

So there's so many things that can happen. It's not unusual for the parties to be directed to stay close by, because things are going to come and go. And, certainly, this has been such an unpredictable case day by day. This is why I'm certain that the judge has required the parties to stay very close in case there are any questions that the jury may have.

CAVUTO: You know -- and, again, you both touched on it, the power of a weekend approaching and how maybe that puts an extra pep in your step to try to get it wrapped up.

But couldn't it work around the other way, Tom? You're in the middle of being one of the most iconic and important historic legal cases in American history. Would you want it to end just to rush out to a barbecue or would you want to, I don't want to use the term milk it for all it's worth, but you're in the middle of history here. Why rush it?

DUPREE: Well, and feel free to use that term, Neil.

There are instances where you hear about jurors basically self-extending their service longer than what is necessary...

(LAUGHTER)

DUPREE: ... precisely because they like to be in the limelight. They like to get the court-paid-for lunches and dinners and that sort of thing.

But, look, I think, in my experience, at least, there is truth to the idea that, when you have a weekend coming up or a holiday coming up, there is a little bit of hydraulic pressure on the jury to decide, just mentally, emotionally.

CAVUTO: Yes.

DUPREE: I'm sure there are at least some jurors who are thinking we're going to get this thing wrapped by Friday so we can go home to our families and have it done for the weekend.

Not to say that they're going to force a decision or reach an outcome if they're not 100 percent certain that's the right outcome. But, oftentimes, in these types of group deliberations, there is a general consensus that, if we can reach a decision by 5:00 on Friday, let's do everything we can to make that decision.

CAVUTO: And, sometimes, there's no reading just the sheer number of charges against someone versus how long that a jury could deliberate.

I know this 11 hours that we're talking about right now is roughly the same amount of time back in 1987 that jurors were deliberating over the fate of a guy who ended up being the poster child for unmet expectations of what jurors might do. I'm talking about Raymond Donovan, the former labor secretary under Ronald Reagan.

Years after he left, it was an embezzlement trial, a rigging scheme for which he and his partners were facing dozens of counts. As it turns out, all of them were exonerated on all charges.

And the only reason why I mentioned it, Mercedes, is, it took two days and 11 hours to come to that with almost as many charges or counts against him as against Donald Trump. Donald Trump has more as a single individual.

But, sometimes, we're surprised, because I remember that, and I mentioned it yesterday, because the overwhelming consensus at the time in 1987 was that Donovan was going to be living the rest of his life in jail. That was the overwhelming consensus sentiment of the press that followed it.

And then they had this decision that exonerated all of them, Donovan included. And he famously said, "How do I get my good name back?" paraphrasing that.

So, sometimes, we can get the wrong idea, right?

COLWIN: So, well, what we could have surmised if it had been a quick turnaround by the jury once they went into the deliberation room, it was either one of two things, unanimous to convict, unanimous to exonerate. That's it if it's a quick turnaround.

But we're talking about a 5.5-week trial, multiple witnesses, tons of documents. They're going through it part -- piece by piece because there are 34 counts of that they're being called to question. And at the end of the day, they're doing the appropriate due diligence. This is a serious case. They need to do the appropriate due diligence to come to the right resolution.

And when you talk about this type of pressure, look, and the other thing that really complicates things is the fact that, in state court, you don't get the jury instructions. In federal court, just a few buildings past where we -- where they are having this case, the jury gets the jury instructions.

So, in the federal cases, they do. In state courses, they don't in New York. It's the most frustrating thing. So, those readbacks also delay the deliberations. As you can see, the jury have asked multiple times for some of these -- the instructions to be read back to them. It's a frustrating process.

Hopefully, they will change it at some point and let the jurors have the jury instructions to speed things along.

CAVUTO: And just to be clear, Tom, and I know you pound it in my thick skull, that, in order to get a guilty verdict, the jury must be unanimous on each and every count that they apply that to, right?

DUPREE: Right. The jury has to reach unanimity.

I mean, that's not to say that they can't split. I mean, there could be some counts where they acquit, some, they convict, some, they're a hung jury.

CAVUTO: Right.

DUPREE: Generally, that's...

(CROSSTALK)

CAVUTO: But anything guilty, anything guilty -- I wasn't clear -- that's my fault, not yours -- it's got to be unanimous?

DUPREE: Yes. Yes.

CAVUTO: All right. Thank you, guys, so much. I appreciate that.

All right, so we're waiting to hear from the former president. He might address the press coming out of that building. He's in there as we speak. Don't know for sure how much longer this goes on. They could go up to 6:00 p.m., in other words, about another hour and 50 minutes or so. I don't know if that is the plan.

It looks like Donald Trump is coming out. He might address reporters. Let's listen. Oh, he's going right back in.

So, again, we're keeping track of that, also keeping track of what he might say afterwards.

Also waiting to hear, now that we have got news that Joe Biden, whenever this is resolved, plans to address the nation. So it immediately prompted a question. If Donald Trump is fully exonerated, not found guilty of anything, will he still address the nation?

We will explore that -- after this.

(COMMERCIAL BREAK)

CAVUTO: All right, we are just learning right now that the jury is to be excused at 4:30 p.m., so about 13, 14 minutes from now. Now, that is a little earlier than they could have been. They had to -- the judge saying they could stay until 6:00.

Whether that's significant or not, I don't know. But I have a pretty good idea Rebecca Rose Woodland would, kind enough to join us now.

Rebecca, I don't want to over read into that, but they could have stayed until 6:00. They're breaking up at 4:30. What do you think?

REBECCA ROSE WOODLAND, ATTORNEY: Well, to me, it means that they are not that close to a decision.

So what the judge is asking, would you like to go to 6:00? Do you need the extra time? And the jury said, no, we'd rather just go home, rest a bit, and then come back tomorrow. So they must be in the middle of reviewing all the documents, rather than close to the end, close to a verdict.

And, look, I think that could be very good for the former president. I think that the jury seems as if they're really doing their due diligence in reviewing documents and going over some of the testimony that they heard in the beginning of the case, because, look, it's been a long trial. Maybe they forgot.

CAVUTO: Yes.

WOODLAND: There could be some people that are disagreeing. That's OK too.

Let's just hope that, at the end, the jury does conclude that this multiple criminal verdict sheet that really is very confusing, to me, is unconstitutional -- it violates the former president's Sixth Amendment rights. I'm hoping they conclude that there is no evidence with which to find Donald Trump guilty.

CAVUTO: But you also intimated that they might not be in sync on this. That could be another reason to just sort of say, let's call it a day. We will have a third day of deliberations tomorrow. Could that be in play?

WOODLAND: Sure.

It could be in play, because you never really know, when a jury asks for some feedback or some readback, you don't know if they just want to confirm what they were thinking or that there are two sides or one possible outlier who are disagreeing, if there's a disagreement or if it's just a confirmation of what they were all thinking before they went into that verdict room.

You don't really know. So we try to just say, well, we hope that the jury is going to do the right thing here and see that there's really no evidence with which to convict the former president.

CAVUTO: All right, I mean, because I did talk to an attorney earlier today who said the line of questioning that had to concern with the Pecker meeting and the comments from Cohen did seem to indicate that this ultimate meeting at Trump Tower that would be friendly or deemed friendly, his opinion only, to the prosecution.

You don't concur.

WOODLAND: I don't know that we can make those assumptions.

CAVUTO: OK.

WOODLAND: It could be one person who is pro-prosecution, and we could have 11 who are pro defense, or we could have the complete opposite.

We could also just have some of the jurors saying, I'm not sure yet what happened here. Can I just hear this back?

CAVUTO: Got it.

WOODLAND: I don't fully remember.

CAVUTO: All right.

WOODLAND: Yes. It's a long trial.

And there's a -- there's been a lot of kind of obfuscation of what is alleged evidence. It confuses people. I mean, look, it confuses us and we're on the outside looking in. Imagine sitting there all day. This isn't your job, right?

CAVUTO: Yes.

WOODLAND: You're coming, sitting in a jury in an unfamiliar place. It's very intimidating. I think that I'm hoping that the jury is just really looking to do the right thing and go through the evidence very methodically.

CAVUTO: All right, well, if you're confused, Rebecca, and you're a top- notch lawyer, then I feel perfectly at home,being the normal space cadet I am.

(LAUGHTER)

CAVUTO: So, Rebecca, thank you very much. We will see what this means and whether they can sort of regroup tomorrow and whether a decision is reached on any of this before the weekend. We just don't know.

In the meantime, we do know that President Trump, the former president, is in that building. The only single we had from him just a few minutes ago was this. Take a look.

(BEGIN VIDEO CLIP)

TRUMP: I want to campaign.

(END VIDEO CLIP)

CAVUTO: All right, Donald Trump saying, "I want to campaign."

And he is not able to do that as long as the jury deliberates here. So he has to wait through this the whole time.

Leon Panetta joins us right now, the former U.S. defense secretary, White House chief of staff, former CIA director.

Leon, always good to have you.

And this drama -- we wait to hear what former President Trump has to say. He has daily reflections on this every time he's at the courthouse. But we also are told that President Biden is going to say something about this once the jury makes its decision.

Do you think that's a wise idea for Joe Biden to insert himself in this?

LEON PANETTA, FORMER U.S. SECRETARY OF DEFENSE: Well, frankly, as a lawyer, Neil, I think the better approach is not to speculate at all.

This issue is in the hands of the jury right now. And I think we ought to allow the jury to make its final decision. With regards to commentary afterwards, I think, again, for a president of the United States, it's probably better not to comment on jury verdicts. That's usually the approach that presidents take, is to basically say that the judicial system has worked, the jury has arrived at a verdict, it upholds our system of justice in this country, and leave it at that.

Because, if you engage in commentary on it, I think there -- particularly if he's convicted, it'll look like the president's gloating. I think the president was elected, frankly, to bring some calm and dignity to the Oval Office and not engage in that kind of commentary.

CAVUTO: It could be just as curious if Donald Trump is completely exonerated and he's not found guilty of anything. Would the president then say that the system works and tip his hat to his predecessor?

PANETTA: Look, I think juries make all kinds of verdicts in this country.

CAVUTO: Sure.

PANETTA: That's the nature of our judicial system. And I think, whether you like it or not, the verdict, frankly, is up to the jury, one way or the other.

CAVUTO: So that's your lawyerly way of not answering my question, right?

That I always...

(CROSSTALK)

PANETTA: That's right.

(LAUGHTER)

CAVUTO: Not to be facetious, but...

(CROSSTALK)

PANETTA: Not -- I'm not somebody who enjoys commenting or speculating about what the jury's going to do.

CAVUTO: Right.

PANETTA: I think that's a real mistake.

CAVUTO: Oh, no, no, you're right.

But, to be clear, President Biden wants to comment on this or make an address to the nation. I think it was billed as that, address to the nation, after the jury verdict is reached and then comment on it. I don't know if that's a good idea either way.

That's, I guess, what I was trying to ask you.

PANETTA: Well -- and what I'm saying is, I think the better approach is not to comment...

CAVUTO: OK.

PANETTA: ... with regards to a jury verdict one way or the other.

The jury has reached its decision. You have to respect that decision, whatever it is. You weren't there. The jury was there. They heard the facts. They heard the law. They made a decision. I think we have to accept that as part of the jury process.

But I think it's better for the president at this point not to have to comment one way or the other. Look, the public is going to make up its own mind as to what happened in this case.

CAVUTO: Right.

PANETTA: And they will decide what impact it has in November. And I think it's better left to the American people to decide what is the consequence of this trial.

CAVUTO: Got it.

You know, Secretary, one of the things that comes up with this is, we talk about the American people will decide this ultimately. We do know, at least polling presently, that Donald Trump remains a slight favorite over Joe Biden. So, if this has hurt him, it has a funny way of showing it. I believe his poll numbers are stronger than when this trial started six or so weeks ago.

Does that surprise you?

PANETTA: You know, I think we have seen that there obviously has been a backlash, a reaction to the trials that are not only going on, but the trials that are supposed to go on in the future as well...

CAVUTO: Yes.

PANETTA: ... and that President Trump has done a pretty good job of kind of attacking the system and showing himself to be a martyr.

I understand that approach, and I think it has had some impact, particularly with his political base. But...

(CROSSTALK)

CAVUTO: But it's more than his political base, right?

The only reason why I mention it is, Joe Biden, you would think, would be benefiting more from all of this. He's not. He's losing key demographic groups one after the other. Now, that could change. It's still early, as you have reminded me. But almost anyone else would be performing better, you would think, in this environment than Joe Biden.

Are you worried for him. Some members in your party have expressed frustration, terror at the prospect that he could easily be defeated, maybe even walloped, in November. What do you think?

PANETTA: Well, I'm -- Neil, I'm the kind of individual that thinks there's a long time between now and the election, and almost anything can happen between now and the election.

I wouldn't put anything in the bank right now one way or the other. Obviously, if the president is convicted, that could have an impact. If he's not convicted, that could have an impact. But, more importantly, this is still going to come down to a choice between whether someone wants to elect Trump and his approach to kind of moving backward or whether we're going to elect Biden and move forward.

That's going to be the choice that the people are going to face.

CAVUTO: Secretary, while I have you, The New York Times is reporting right now that President Biden is weighing letting Ukraine strike with U.S. weapons inside Russia.

How do you feel about that?

PANETTA: I think that's the right decision.

I think Ukraine needs to get whatever help it can get in defending itself. And I think NATO has urged that we allow those strikes. France, Germany, Great Britain, Canada, Finland, most of our allies have urged that. I think it is important for the United States to provide a unified approach that allows the Ukrainians to strike at those targets.

CAVUTO: I don't know where this Ukraine war goes.

You will always hear, Secretary, that right now Russia is back having the full advantage here, and that some NATO members are tiring of all of this, and then this separate report in The Financial Times that NATO has just 5 percent of the air defenses needed to protect its eastern flank. That's the important one because that's the Russia part.

And I wonder if you're just worried about that, that support for this is waning, support for NATO defending itself and having enough resources to defend itself is waning.

PANETTA: Well, let's take each of those one at a time.

I think -- number one, I think the United States and NATO know that Ukraine is not just fighting to protect its democracy, but it's fighting to protect our democracies as well. And, therefore, I think it's very clear that under no circumstances can Putin be allowed to succeed in this effort. And we have to do everything necessary to make sure we stop Putin, period.

With regards to air defenses, I think, frankly, that is a concern, even in Ukraine. I mean, what I would do now is to try to develop an air defense system in Ukraine that replicates what's happening in Israel. We were able to take down over 90 percent of 300 missiles that were fired into Israel. We ought to be able to take that same capability and use it in Ukraine and also use it with Europe as well.

CAVUTO: Finally, back to President Biden. I did mention it -- I know you want to eschew ***politics*** here -- that there are many in your party who are worried that the president is showing his age, that he doesn't seem to be that comfortable in a public forum, either handling a press conference, making announcements, relying on note cards and the like.

Does it worry you that he might not be up to the job, that he's getting old pretty fast, and it's showing?

PANETTA: Well, I have heard the critiques. And, obviously, that will continue to be the critique we will hear from the Republican side of the campaign.

But the reality is that Biden continues to show that he's up to the job. He certainly showed it at the State of the Union address. He continues to show it...

CAVUTO: You think that was a one-off, though? You think that was a one- off, Leon?

PANETTA: No, I don't think it's a one-off.

Look, I have talked to Joe Biden. I think he has more than enough faculties to be able to exercise the job of being president of the United States. And that's really what counts. So, I think we will see in the debate. I think the debates will tell us a lot about Joe Biden's capability to be able to confront Trump and Trump's ability whether or not to use substance or use bullying tactics in the debate.

So we will learn a lot by these debates as to who has the best approach in terms of substance.

CAVUTO: Yes, it can be very telling, and that could prove a lot. We will see what happens.

Leon Panetta, always good having you on. Thank you so much.

PANETTA: Good to be with you.

CAVUTO: All right, before we take a quick break here, I do want to let you know that Donald Trump is expected to say something when he leaves that courthouse. Could be any minute.

I don't know necessarily whether he will talk about the markets, but they had another bad day in what's amounting to be a pretty rough past couple of weeks, having nothing to do with what's going on in that courthouse, everything to do with what's not going on with some companies, not doing nearly as well as we thought they would -- after this.

(COMMERCIAL BREAK)

CAVUTO: After deliberating for a little over 11 hours over two days, still no decision from that jury in the Trump hush money case. We are expecting to hear from the former president momentarily.

What's at stake -- after this.

(COMMERCIAL BREAK)

CAVUTO: All right, no jury decision yet.

After two days and 11 hours meeting, gathering, discussing, asking, passing notes, trying to get the judge to explain things, these jurors still have not made up their minds. That doesn't necessarily mean anything. There's a lot to digest here and a lot to weigh in on.

A lot of people think, tomorrow, as they resume deliberations, could be pushed a little faster because of the approaching weekend. Not everyone buys that. The thing, this is such a momentous moment, that no one will necessarily be in a rush to do that, but we're waiting on that.

We're also waiting to hear from the former president who, as usual, when he leaves there, usually talks to reporters there.

In the meantime, let's go to Jonathan Hunt. He's been studying what will happen in the event certain things happen in that courthouse and the jury rules on a variety of things.

Jonathan, explain.

JONATHAN HUNT, FOX NEWS CORRESPONDENT: Well, Neil, if there is a guilty verdict, we have been looking at the possibilities there.

And for the former president, those range from essentially nothing, no penalties at all, to spending what would amount to the rest of his life behind bars, a sentence that could begin at New York's notorious Rikers Island prison.

Realistically, neither of those extreme options seems likely. For instance, a complete discharge would be unusual after a felony conviction, as would any lengthy prison term, given that Trump has no prior criminal record and that the crime in question here is a nonviolent one.

But Judge Juan Merchan could impose a relatively short prison sentence of a matter of months or even a split sentence, including some time behind bars and three or more years of probation or three years of conditional discharge, probation also a possibility as a stand-alone sentence, as is a conditional discharge.

Now, probation would involve regular check-ins with New York City's Probation Department and whatever other conditions the judge chooses. Those could, for instance, include travel restrictions, which would clearly have an impact on Trump's ability to campaign.

Now, if Judge Merchan decided the supervisory nature of probation isn't necessary, then he could simply set a conditional discharge, which would require the former president to complete whatever conditions the judge orders over a three-year period.

So, bottom line, if there is a guilty verdict, there will be a huge amount of pressure on Judge Merchan, who will have a lot of leeway in deciding Trump's sentence. It's also worth noting, Neil, that any sentence Judge Merchan chooses might end up being stayed until after the inevitable appeal against a conviction.

And, of course, Neil, everything I have said is completely moot unless the jury does deliver a guilty verdict, and we're waiting a little longer for that, it seems, Neil.

CAVUTO: We are, my friend.

Thank you very much, Jonathan Hunt, following all of that.

Back with Rebecca Rose Woodland, a New York trial attorney, Francey Hakes, a former federal prosecutor.

Francey, if I can begin with you and get your take on this going into a third day, now, a lot of people were of the expectation that, if a decision were to be reached, it could be reached as soon as a Friday. If for no other reason it's before a weekend. That's sort of the conventional argument. You have heard that.

What do you make of that?

FRANCEY HAKES, FORMER FEDERAL PROSECUTOR: Well, Neil, juries do like returning verdicts on Friday, because it gives them a chance to go into the weekend without having the trial hanging over their head.

I think it's interesting that they chose to sort of dismiss themselves today about 90 minutes before the time the judge said they could go to if they wanted. I wonder whether the jury is getting sick of each other.

(LAUGHTER)

HAKES: And it suggests to me, although it's just like reading tea leaves, but it suggests to me that there is potentially some bad feeling in the jury room, which some of these questions and the jury charge being read back suggests that there are some holdouts, that there are some people in the jury room that don't agree with each other.

It doesn't seem like we have unanimity, because I think...

CAVUTO: Hold on. Hold on there. Hold on there.

Francey, we have apparently got we already have a verdict. We don't know what that is. We know that we have been waiting to hear from Donald Trump, but that a verdict has been reached.

Rebecca Rose Woodland, what do you think of that?

WOODLAND: I am absolutely shocked.

The jury said that they were leaving at 4:30, and now they have a verdict. So I guess maybe we got the information wrong. Maybe the jury said they were ready to discuss something with the judge at 4:30, because it's 4:39, and there's a verdict.

So I guess we will have to wait and see what it is. The readbacks from the judge this morning indicated that they were interested in some testimony and they wanted to know what the law was again. And the judge did read that back to them. So I guess we will find out any moment what the result is here.

CAVUTO: And, for those of you just tuning in, we have just gotten word that the jury has reached a verdict in this Trump hush money case, whether that involves addressing all 34 counts, whether any were combined, no idea.

But, Francey, of course, maybe there was that misinterpretation of them stopping things early. They could have gone right to 6:00 p.m. Maybe, when finishing up a little bit before 4:30, a more than 10 minutes ago, they were indeed finished.

What do you make of it?

HAKES: Well, it's really interesting, Neil.

I said along that I thought a fast verdict, something like this, was probably not good for the former president, that the longer it went on, the more it would suggest a hung jury, that is, a jury unable to reach a verdict.

So I think the fact that they have reached a verdict is probably not good for the former president, but it's really difficult to know what a jury is going to do in an extraordinary case like this, where you have so much unconstitutional thumb on the scale by the judge and bringing charges by a district attorney that don't make any legal or judicial sense.

But you never know what a jury is going to do when they're handed a case.

CAVUTO: All right, we can read all sorts of things into the relative quick nature of this, Rebecca.

And that was a sort of a consensus that built up that, if it were an early verdict, it would be damaging to the defense. I don't know if that always applies, but your thoughts. WOODLAND: Well, look, there was a lot of time between the beginning of this trial and now for jurors to make decisions. They also had almost a week off.

I'm hoping, I'm very, very strongly hoping that the jury saw through the smoke and mirrors that the prosecution put forth, that, of course, the jury doesn't understand that the president's Sixth Amendment rights were very severely and clearly violated in this case, that, if we do have a verdict that is guilty, I would expect that the defense team would immediately make an immediate appeal to the Supreme Court for an automatic stay, based on constitutional violations that have occurred in this courtroom.

We will see what is happening now, but it also does make me think the jury came to some conclusions over the course of time that they were dismissed over that long weekend. And, when they came back and they heard the jury instructions, they had almost made up their mind by that point, because this is a very short amount of time for a 34-count felony indictment.

CAVUTO: All right, I want to go to Andy McCarthy right now.

For those of you just tuning in, a jury in Manhattan has reached a verdict in the criminal hush money trial of former President Trump. As you know, he was charged with falsifying business records related to a 2016 payment to porn star Stormy Daniels. Actually, it was a far more involved than that, the role of his fixer's, Michael Cohen.

But, Andy, they have come to a conclusion this, a verdict on this. We don't know what it is, but it was fairly quick. What do you make of it?

ANDY MCCARTHY, FOX NEWS CONTRIBUTOR: Well, I have to say, Neil, I thought it would be a quick verdict and it would be a conviction. I actually thought it would be yesterday.

So I don't think it's good for the president, the way I look at this case. I hope I'm wrong about that. But it seems to me that what likely happened is, they were hung up on something. And, late in the day, they obviously resolved whatever tension or disagreement there was, and now we're on the precipice of a decision.

The one thing -- the one other thing I would say is, there's been a lot of talk about how it's 34 counts and that might take a long time to work through. But, really, what people need to remember is this is one count multiplied 34 times.

So, in theory, if you could decide on one falsification of business records count, you could decide the whole case, which shouldn't have taken all that long.

CAVUTO: Shannon Bream joins us right now.

We do know that the jury has reached a verdict in the case of Donald Trump, faces 34 felony accounts of falsifying business records. You're familiar with the backdrop for all of this. Judge Juan Merchan had said shortly after 4:30 p.m., so about 14 or so minutes ago, that the jury had requested a half-hour to fill out the forms.

What does that mean, Shannon?

SHANNON BREAM, FOX NEWS CHIEF LEGAL CORRESPONDENT: Well, there's always a little bit of process here in getting everybody back into the courtroom and making sure that the forms are done correctly.

And, remember, what we could be looking at is the jury coming back and saying, we're deadlocked. I mean, it's possible you have got a holdout somewhere, that we don't have a verdict in the sense that we have got an acquittal or a conviction.

And it's possible that if there is a dissenter or two or more, that this judge could do what we have talked about repeatedly, send them back with what is kind of known as a -- at least in the federal parlance, an Allen charge, to say to them, listen, you have a duty as the jury to go back over the evidence to really try to work together to come to some kind of conclusion.

So it's possible that we get something from the jury that sends this right back to the jury. We knew -- we heard that they were going to break up 4:30 today. But now, with news of this, we just stand by and wait to see what they have to say and if it will require further action beyond what we're about to hear.

CAVUTO: We're told that Donald Trump had been smiling just ahead of the news after the judge alerted everyone that a verdict had been reached. We don't know what you read into that.

But I am curious right now, Andy, where you think this goes in the process here, because it all started. And there was some confusion with looking for a reread of testimony from David Pecker, of course, Michael Cohen, this meeting at the Trump Tower.

So it could have been a lone holdout, a juror or several jurors who wanted more clarification on that matter. What do you read into that? Because that's all we have to go on for the time being, that and, again, a couple of different notes that really focused on getting the details of what the jurors should be considering.

What do you think? Andy, can you hear us?

BREAM: Well...

CAVUTO: Go ahead. I'm sorry.

BREAM: Andy, if you want to take that, you go ahead.

MCCARTHY: Yes, OK.

I guess, Neil, I don't know that we have that much reason to think that there was all that much dissension. One of the things that we were -- we have been discussing during the day was, the early notes seem to indicate that they were probing the way the prosecution asked the jury to see the case, which was really, was there this conspiracy to influence the outcome of the 2016 election?

I thought, if the early notes had been directed toward the documents, you might make an argument that they were looking more narrowly at the charges. But once they started to ask about the 2015 Trump Tower meeting, which is really the start point of what the prosecution argued was this big conspiracy, that makes you think the jury at least was willing or open to buy the prosecution narrative about the case.

CAVUTO: Or wasn't, right?

I mean, I guess, on that point, Shannon, wouldn't it be just as likely that maybe the judge was telling them, OK, you got to reconcile these differences, get back in there, that it's unlikely that he would do so, so quickly, if they came back and said we can't reach a decision on this.

Normally, that would -- he would urge them, all right, go back and give this a little bit of time. The fact that he didn't, does that mean that Andy's on to something here?

BREAM: Well, and remember there was such a large portion of the jury instructions that was read back to them that they asked for.

It would have been a lot more helpful for all of us trying to prognosticate if we knew which section they were really honed in on and interested in. But the fact that it was some, I think, 29 pages that were read to them, it covered all kinds of things about intent and language and accomplice and all of these different things.

So we don't know what it was that they were really trying to get to as the critical point of whatever their disagreement was. We do know that they asked about those meetings about Pecker versus Cohen, different parts of the testimony.

But what we also know is that what was read back, as we have said, both sides could claim some kind of victory, that it was good for them, in what the jury heard a second time.

But the fact that they have had weeks and weeks of this, only had one set of questions, essentially, two notes, they wanted some testimony, they wanted some jury instructions, suggests to us that, when they went into that room yesterday and were for the first time really freely able to talk about this, that there was really only this one point of contention that they wanted to get through before they came back to some kind of decision today.

Because we didn't know, is that a one-time thing? Is there one juror who wants to hear that? Are there 10 jurors that want to hear that stuff back? Will they have other notes for us? So the one set of notes, the massive rereading of jury instructions doesn't give us a lot of a solid clue about exactly what they were looking for to get to whatever decision they're at now.

CAVUTO: All right, so we're waiting to hear from the jury on that verdict.

And maybe you can explain the mechanics that we're waiting on as we speak.

MCCARTHY: Yes, sure.

What happens is, evidently, they told them they have reached the verdict. So I don't -- I would doubt that they're going to come out and indicate that they have anything other than that they have reached a disposition in the case. They're not going to come out and say that they are at a point where they can't resolve it.

And that's especially the case, I think, if they have asked for additional time to fill out the jury verdict. Now, we don't know what the verdict form looks like, which should be a real bone of contention, because that should be a public document.

And, again, one of the things I have been concerned about from the beginning, one of the reasons I thought there would be a conviction is, I believe the judge's instructions, just like the way that he's tried the case or presided over the case, were geared toward that result and, if you got a quick result, that that would be more than likely what it would be.

And I would add to that, Neil, that we'd really like to see the verdict sheet, because it seems to me that, when 12 people who've never resolved anything together go into a room and have to resolve something important for the first time, they need kind of a structure to guide their discussions.

And, sometimes, a verdict sheet can provide that structure. So I think it's interesting that they said we reached the verdict, but we want to fill out the verdict sheet.

The other thing that it seems to me is the sensible way to resolve this case is either you convict on 34 counts or you acquit on 34 counts, because the rule -- what Bragg has done here is taken one thing and carved it into 34.

So it shouldn't take very long to fill that out. If they have different resolutions of different charges, that would be very strange to me.

CAVUTO: All right, now, Shannon, I'm going to let you take it from here as we get ready and go into the next hour.

But is it fair to say, I mean, that's what we will get on each one of these counts, guilty or not verdict, or how will this play out? Because that's a lot of counts to go through.

BREAM: It is.

And it'll be interesting to see who the foreperson is, who they have elected among this group we know included two attorneys. That doesn't necessarily mean the jurors will look to them and say, one of you is the forepersons.

So we will have to see all kinds of mechanics of what's gone on, who they decided to kind of guide them through this process, and where they have gotten to this point here Thursday afternoon at about 11 hours into this.

And another thing that Andy and I and many of us have been talking about is, of course, the fact that the judge at the last minute in their jury instructions gives them options for what the underlying crime is that they can attach to this, what would have been expired misdemeanors beyond the statute of limitations, such that they could choose among multiple things.

And he told them they didn't have to be unanimous on that underlying issue, which is the hinge and the linchpin to the entire case. And if we do get a verdict, if we do get something from the jury -- and, as Andy has said, we haven't seen what the official form will be -- will we ever have an indication from these jurors, if they do convict, what it was that they thought was the underlying crime and how many of them thought it was which crime?

So we have so many questions. Obviously, we will wait to see whether any of these jurors speak out, whether today actually does wrap up this case. Neil, we just, frankly, have more questions than answers as the minutes are ticking down to finally getting some of those answers, we hope.

CAVUTO: All right.

And I will ask one question, and, Shannon, you can take it from here.

But I was curious, and this is open to either one of you. Obviously, if a guilty verdict comes across one or two or several times, then it's up to the judge. And how does he handle that in terms of sentencing, if it came to that?

We're a long way from that. We don't know, but your thoughts.

MCCARTHY: The right thing to do in this instance, Neil, would be to treat this like you would treat other cases, in this sense. This is a nonviolent crime. President Trump has no criminal record.

He should be -- this should be a no prison type sentence no matter how it comes out. He should be continued on the conditions that he's already under. He's obviously going to file a notice of appeal if he's convicted, which means this won't be resolved in a final way until some time next year, if that, if it's that early.

And what will happen is that sentencing will be postponed from now until -- the usual time is about three months. In this case, obviously, with the presidential election, that adds a layer of complication. But I would think that the judge would just continue him on release until a control date that is for sentencing, probably about three months from now.

CAVUTO: All right, Shannon, I will let you take it from here.

But, again, before I do, I just want to let you know that the verdict has been reached in this Donald Trump hush money case.

So, Shannon, Andy, you have a lot to digest, and very quickly -- to you folks.

BREAM: We do. We do.

All right, Neil, thank you very much.

OK, so Andy, I will start back by bringing you in as our first official guest as we are on verdict watch here.

Do you think we get a verdict now? Or what is your sense that maybe they come back and say -- because we know they were about to leave. At least we had -- we get everything thirdhand, but we don't know exactly what the jury has decided, but we had -- there'd been an indication that it was going to be a 4:30 dismissal.

And then it's like, wait a minute, everybody here starts running. It's a verdict. Does that mean it has to be a acquittal or conviction? Or could we hear from them, we have reached an impasse?

MCCARTHY: So, I think if they say verdict...

BREAM: You think we have got a verdict.

MCCARTHY: ... then that means they have resolved the case.

BREAM: OK.

MCCARTHY: And the other thing is, it's too early to say, we can't decide.

I mean, they just started deliberating yesterday, and they were on the verge of coming back tomorrow. So it seems to me like it would be pointless to come back to the judge at this point and say, we don't think we can resolve it, because the judge would say it's too early to say you can't resolve it. We have just virtually started.

What's it been, less than 12 hours of deliberation, maybe 12 hours total. So I think if they say verdict, that means they have a verdict. And I -- maybe I'm a little biased in that regard, because I have convinced myself that it would be quick. But I think if they said verdict, there's a verdict.

BREAM: OK, so we will figure out who the foreperson is. We will know some of what the jury has watched through and decided.

Some of this, if there is a conviction, we won't know, unless some of these jurors, one of these jurors, decides to talk and tell us where they found that underlying crime, if they do convict, what it was.

Did they all agree on what it was? How much of this was pegged to federal election law, which we didn't have testimony from an expert witness here about that, whether it was tied to tax law, which we didn't hear much about that during the trial either, or whether it was the falsification of documents, in addition to the ones that are the misdemeanors now elevated to felonies?

Do you think a juror talks? Will we ever really know what happened in that jury room?

MCCARTHY: I bet that there were jurors on this jury who are dying to talk. And I would be very surprised -- and, look, that would be any group of people, right, who were involved in something that was this historic.

You would get some of them who wanted to speak. So -- and the fact that some of them will want to speak will cause other of them to want to speak. So I think we will find one or two, at least, who will tell us what went on.

And I think we will also find out how much of it was driven by what the judge instructed them, and that they doubled down on this morning by hearing so much of yet again -- I really think the most important thing that happened in this case was the jury instructions, because nothing seemed to be set in stone or final in terms of what even the charges were until the judge gave them the instructions on the jury.

Maybe you could say the summations, and particularly the prosecution's summation, was at least a statement of where they finally planted their feet and said, here's what's charged.

But that only happened after the parties knew what the judge was going to charge the jury.

BREAM: Right.

MCCARTHY: They knew what the charge was -- was it last Thursday?

BREAM: Right, they had those.

MCCARTHY: So, I don't think there was a finality about this case until you got the end of that jury -- that jury conference, where they come up with what the charge is going to be.

And it was as a result of that, that we found out in the where the prosecution was going and, to our surprise, that the jury didn't even necessarily have to be unanimously in agreement about some of the most important things in the case.

BREAM: So, to your mind, if they come back with a conviction, as we wait - - we have no idea at this point -- it would say that they believed enough of what Michael Cohen had to say.

He -- we know that, on the stand, there was plenty of testimony, and by his own admission and by pleas that he's made, that he had lied about a number of things to a number of people and bodies and entities.

But the judge had told them that you can disregard somebody altogether if you feel like there's no credibility, but you can also take portions of what you believe that person said was actually true.

So, as much as the prosecution wanted to say, this isn't solely about Cohen, we have other testimony, we have other people, we have other corroborating evidence, for the jury, you got to think that they, if they convict, they were willing to believe at least part of what Michael Cohen had to say.

MCCARTHY: So I think there's one of two interpretations that has to be correct, either that one, that they actually decided to credit Cohen's testimony in important ways, or we have to conclude that this prosecution was successful in what I think they tried to do.

I thought this was smoke and mirrors, frankly, but it might have worked, that they tried to project the idea that there were mountains of corroborations -- corroboration for Cohen's testimony. Now, it seems to me that there are parts of his testimony that are essential, like former President Trump's knowledge of how they were going to structure the payments to Cohen, that depend entirely on Cohen's testimony, and that they shouldn't be able to convict on the basis of.

Because, under New York law, you can't convict where an accomplice has not been corroborated, right? But I think the prosecutors may have been able to convince the jury that, between the documents and especially the way that Cohen's testimony echoed Pecker's testimony in a number of ways, that may have made the jury think that there actually was enough corroboration that they could credit Cohen in key places.

BREAM: OK, so we want to begin to bring in Trey Gowdy, who is joining us as well, a state and federal prosecutor as well.

You have seen many jurors. You have seen many trials. What does this say to you? Because we thought they were leaving for the day. Then we get word that there is a verdict. What does that telegraph, if anything, to you?

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