

# "Trump knew better": Experts say key White House meeting could doom Trump's January 6 defense

Expert: Key WH meeting suggests Trump praised election security until he feared "he might lose"

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Donald Trump (Mario Tama/Getty Images)

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**S** the security of the elections, sources familiar with the matter **told CNN**. Trump specifically highlighted his administration's efforts to promote the use of paper ballots and support security audits of vote tallies during this meeting with senior officials and White House staff, CNN reported. He even went so far as to suggest that the FBI and Department of Homeland Security hold a press conference to take credit for their work in safeguarding election systems.

But weeks later, he told a much different story, convincing his supporters of voter-fraud conspiracy theories he later relied on to cast doubt on the validity of the 2020 election results.

"The meeting suggests Trump had no qualms about the security of the upcoming presidential election until he started to fear that he might lose," former federal prosecutor Kevin O'Brien told Salon. "Obviously, this is relevant to Trump's state of mind and whether he knew his claims of election fraud were baseless, and therefore could be used as evidence by the prosecution in any trial."

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Smith's office has conducted interviews with multiple former officials with knowledge of the meeting. During these interviews, Smith's team inquired about Trump's response to his advisors telling him that election systems were secure and questioned whether he was well-informed on the topic, one source told CNN.

At the time the Oval Office meeting took place, the election was almost 10 months away. This makes it easier for Trump to argue that later events, including the vote counting, revealed irregularities he didn't foresee in February, O'Brien added.

"More probative of Trump's criminal state of mind would be statements Trump reportedly made right after the election — such as his remark to one aide, 'Can you believe I lost to that guy?' (referring to Biden); or his statement to Mark Meadows, 'I don't want people to know we lost, Mark,'" O'Brien said.

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The focus on the meeting is the most recent sign that Smith's team is seeking testimony about Trump's state of mind concerning the claims he would later make regarding the legitimacy of the 2020 election.

Investigators have also questioned multiple witnesses about whether Trump retaliated against top officials, who challenged his narrative concerning election security, two sources familiar with the matter told CNN.

The disclosure of Trump's private conversations surrounding US elections could provide prosecutors a significant understanding of his state of mind and potentially undermine his defense that he genuinely believed the election was stolen.

"Though his veracity when it came to the statements he was making might play some role in their investigation, it really isn't the central question on which this case is going to turn," former Los Angeles County prosecutor and criminal defense attorney with El Dabe Ritter Trial Lawyers, Joshua Ritter, told Salon.

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If Trump plans to argue that he cannot be prosecuted for simply questioning the integrity of the election process, then it becomes relevant to investigate whether he made statements that directly contradict that defense, Ritter added.

"But the thing to remember here is that this is not a question of some sort of perjury allegation, and they are not investigating whether or not Trump actually believed what he was saying publicly, before or after the election," Ritter said. "The central question is whether or not he interfered with the electoral process, or incited violence on the part of his followers. It's about if this was actually an attempt to overturn an election and incite a riot, not whether he believed what he was saying publicly or not."

However, evidence that reveals "Trump knew better, but did not do better" is important in showing that he acted with criminal intent, pointed out Temidayo Aganga-Williams, white-collar partner at Selendy Gay Elsberg and former senior investigative counsel for the House Jan. 6 committee.

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"A critical part of any successful criminal prosecution is proving what was in the defendant's head when the conduct occurred," Aganga-Williams said.

On November 12, 2020, just nine days after the election, DHS's cyber agency issued a statement characterizing the election as "the most secure in American history," CNN reported.

Shortly after this statement was released, Trump fired Chris Krebs, the head of DHS's cyber agency, who had refuted Trump's allegations of widespread voter fraud.

Smith's team has interviewed Krebs, whose testimony about his agency's work could be useful as it would serve as "another example of someone around President Trump telling him that his actions to overturn the election were baseless," Aganga-Williams said.

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By **AREEBA SHAH**

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