

Here's how Trump's legal team may be falling short of the mark



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President Trump

By [Martin Finucane](#)

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Talk has been circulating for some time now about President Trump's legal team, with experts commenting that it appears to be inexperienced and hardly a match for the vaunted band of [legal "killers"](#) that special counsel Robert Mueller has assembled for

the Russia probe.

In the wake of Trump's personal lawyer John Dowd stepping aside, Randall Eliason, a professor of white collar criminal law at George Washington University Law School, said this week in a Washington Post op-ed piece that Trump may be in [the greatest legal jeopardy of his presidency](#).

“The team is thinner than you might expect for perhaps the most important investigation of our lifetime,” Renato Mariotti, a former federal prosecutor, [told Vanity Fair](#).

But why is it important for a white-collar defendant to have good lawyers? Let them count the ways, said several Boston legal experts.

■ Good white-collar defense lawyers can see into the future — and that skill is only built by having done it before, said Harvard Law School Professor Alex Whiting, a former federal prosecutor whose career has also included leading prosecutions at the International Criminal Court in The Hague.

“Complex federal criminal investigations are their own world,” he said. “You need to know how these cases unfold. You need to know strategically how they may develop and how decisions you make today can affect other parts of the case.”

Such cases can stretch out for years, so the long-range view is key, Whiting said. “Every day you're making decisions that will have impact one year, two years, and three years down the line.”

■ They know how to deal with prosecutors and investigators. “You know, if you have experience, how they're approaching the job, their priorities, what they're looking for, and what attitude to take to them,” Whiting said. The best defenders also know that trying to be accommodating and cooperative is one approach, while fighting at every turn is another approach.

Many well-known white-collar defense attorneys are former federal prosecutors so they know the process inside-out, he noted.

- The best defenders know how to mount an “informed and coherent” defense, Whiting said.

“You have to have somebody who’s in charge and who’s driving the defense and who has a plan. “You can’t mix together strategies or keep shifting strategies. You have to pick an approach and go with it,” he said.

- They know the intricacies of the law. “White-collar cases ordinarily come from the context of very complicated laws and regulations,” said Martin Weinberg, a prominent attorney in Boston who has defended clients for more than four decades.

He said good white-collar defenders will have a “deep understanding of the criminal law.”

“Knowing federal criminal law in this instance is of paramount importance,” said Michael Collora, a prominent Boston defense attorney and former federal prosecutor.

- They have a brainy side and are able to deal with complexity — and mountains of documents.

It’s key, Collora said, “to bring the ability, probably with a team, to analyze and catalogue documents quickly.”

White-collar cases “require a cerebral side,” said Weinberg, “because they ordinarily are generated by a blizzard of documents and e-mails and the complexity of business.”

With alleged crimes unfolding over longer periods of time rather than in one snapshot of time, defenses are “not as clear-cut as ‘Does the defendant have an alibi?’ ” he said.

- They understand it’s crucial to sit down and interview the client because his or her story is key to the defense, Collora said. The defense needs to essentially mount a

“parallel investigation” to the prosecution’s to make sure there are no surprises coming at them.

“An experienced lawyer spends as much time with the client as necessary in order to understand the facts. The cooperation of the client and getting his confidence is absolutely essential to understanding what might have happened. It’s key in how you make your decisions,” Collora said.

■They have good trial skills, said Weinberg. “Too many white-collar counsel don’t try cases. They don’t have the decades of experience in challenging the government in its ultimate test, which is trial before a jury,” he said.

Becoming a good defender is “a function of real passion and dedication and trying cases. You can’t become good in the office,” he said. “You have to have cross-examined a myriad of witnesses who come to the witness stand with different life experiences, different motivations, to feel comfortable that you can respond to the unpredictability of a trial.”

■They have a good reputation in the court and in the legal community — and that can smooth things in multiple ways.

“It helps to have credibility in the court,” said Weinberg.

Having previously dealt with the prosecutors is a boon, Collora said. “If the prosecutor respects the lawyer on the other side, it helps. It’s like anything else.”

It’s also good to know the courthouse, he said.

“Knowing the clerk, the judge, the potential jury pool, the law in that circuit, are all very helpful,” he said. That, too, will earn respect from prosecutors and, in some cases, “they might hesitate,” he said.

In preparing a defense, Collora also said, it helps if a defendant can find out what other

witnesses will say. Their cooperation is voluntary, so it could be crucial to persuade their attorneys to share information. A defender with a good reputation in town might be able to do that — and build a better case.

So Trump may be in legal jeopardy if his legal team doesn't have some of the abilities listed above. But that presupposes one thing: that Trump is guilty of something.

What if he's not?

If Trump is innocent, that could possibly help an inexperienced attorney win, said Whiting.

But, he said, "Whether you're innocent, you're somewhat culpable, or completely culpable, your chances are much better with an experienced attorney. You're just much better off."