

Barb McQuade:

Welcome back to #SistersInLaw. I'm Barb McQuade. This week we'll be talking about critical race theory and the constitutional origins of racism. We'll discuss pride and the state of LGBTQIA rights, and if or when a death penalty is ever the right choice. And as always, we'll be answering some of your questions at the end of the show. Well, it's Juneteenth. It's Pride Month, and Father's Day is upon us. But first, I want to say thank you to my sisters for participating in our charity Zoom chat earlier this week, to support the Michigan Law School auction to support public interest law. You all donated your time, we had seven winning bidders. Some were students, some were members of the public, who joined us for a Zoom chat. And they were all terrific with so many good questions. We had a great conversation.

And I just want to thank you, my sisters and all of our bidders for supporting public interest law, it's really important to society that everyone has access to legal services. So thank you for that. And then I also wanted to acknowledge Father's Day to get some of your thoughts on that. But first, before we talk about anything else, I need to take just a moment to say, Kim, your hair is adorable. Is that a new view for you?

Kimberly Atkins Stohr:

Yes, thank you so much. In the summertime, I tend to install box braids in my hair, I do it myself both because I'm a little cheap, and they're really expensive to have someone else do. And also, because my scalp is pretty sensitive. And when you go to a braider, they do it so tightly that you're in pain for like a long time, days and days afterwards and I don't have time for that. But, I do it because, I have curly natural hair like many sisters do, sisters with the H. And when you're busy, it's just easier, it's very convenient to do and I do it every summer.

Jill Wine-Banks:

Well it looks fantastic.

Joyce Vance:

I'm super jealous. I'm looking at you and thinking it's going to be a long hot summer in Alabama with hair just hanging down in my face. So I think it's great Kim.

Kimberly Atkins Stohr:

And it's also really convenient. I mean, you wash and condition and take care of it the same way. But it always looks ready. So when I have to do an MSNBC hit, I don't have to spend a lot of time getting ready, it encourages me to work out more because I can do it closer to a hit time or closer to our podcast recording. So it's very convenient too.

Jill Wine-Banks:

I hope everyone will look at the picture of the four of us so they can see Kim's new look, which is fabulous. How long did it take you to do it, Kim?

Kimberly Atkins Stohr:

I always break it up, I usually start during an evening. And then I go to sleep halfway through and wake up in the morning and finish it about eight or nine hours total. But I'll keep it through most of the summer, so I consider it time well spent.

Barb McQuade:

Well as someone who has had the same haircut since my perm grew out in seventh grade, I must say I admire your style Kim, it looks terrific.

Kimberly Atkins Stohr:

Thank you.

Joyce Vance:

Oh no Barb, you're not blowing past that quickly. We need pictures of you with a perm.

Barb McQuade:

They've all been destroyed. It was before cameras were invented. So now on to Father's Day, I really just wanted to ask you each whether you had any thoughts you were interested in sharing about Father's Day, your Father's, your husband's or the rules of fathers in our society. I saw something interesting that Jimmy Kimmel was making fun of dads and how little they know about their own children like dads who didn't know their children's birth dates or their middle names.

And I think that does a real disservice to dads. I know many dads, including my own husband, my own father, who are very involved with their children. And I think that when you poke fun at how poor these fathers are parenting their children, how poorly, it confirms a stereotype that women are the primary parent and are better at parenting. And I object to that, I think that dads are great parents and can be and that we in society should push back against that stereotype. But I don't know. Jill, you have any thoughts as Father's Day is upon us?

Jill Wine-Banks:

Sure I do. Well, my father was definitely a hero to me and a role model, clearly inspired me to be involved in politics and public service. So think of him, unfortunately, he is long since passed. But I think of him now during Father's Day. And I see so many of my friends who are very much involved, both parents in raising their children. And so I think you're right, it's a bad stereotype to say that and we need to look at the better examples of men who are very involved in their children's upbringing and use that as the model. What about you Joyce?

Joyce Vance:

Well, I really hate to say anything that's too nice about my husband because then he wants to rest on his laurels for like the next year and a half. But all teasing aside, especially when you have a job that's very engrossing, you need a full partner. And my husband always was. We cloth diapered, he washed cloth diapers, he's engaged in school activities. He's really the opposite of the Jimmy Kimmel dad, and I'm super appreciative of that. But I also think it's non negotiable. That shouldn't just be the norm for dads, not the exception.

Kimberly Atkins Stohr:

I think that's absolutely true. I mean, one of the things I love most about my husband, and what I noticed most about my husband is what a good father he is. He has two children, I have two stepchildren. And when we started dating, they were teenagers, both of them. And I was shocked at how much they genuinely liked him because teenagers are not supposed to like their parents, they are

supposed to be embarrassed by their parents and want to shoo them away. And they so enjoyed his company, because he's such a wonderful father.

And I think about my own father, we talk about braiding. My dad knew how to braid my hair and my sister's hair. I was one of six kids and five of us were girls. So that was crucial. And to help with caring for us, and that's a big deal, particularly in the black community to have a dad who can do hair and my dad could, and so that's just one of the 1000s of ways he's amazing. And I want to wish him a happy Father's Day and all the dads in our lives a happy Father's Day.

Barb McQuade:

Same. My father is certainly very influential on my life in any success that I've had, as is my husband, Joyce, I tell students that the most important career decision you'll ever make is your choice of a partner. And my husband has been a 150% partner, don't tell him, partner in my life and career and so I wish him a happy Father's Day as well. Well, let's get to some of the topics we wanted to talk about this week. It's June teeth, a brand new federal holiday signed into law by President Biden. And this holiday commemorates the end of slavery in our country, an important point in the evolution of our nation toward a more perfect union. Joyce, I'll hand it over to you to walk us through that topic.

Joyce Vance:

Well, Barb, as you say, we do in fact, have a new national holiday, Juneteenth. It's the first new national holiday since MLK Day was created in 1983. And it happened at least at the end, really, seemingly at light speed. The house passed this new holiday into law with 14 dissenting votes. I have to point out that two of those 14 came from Alabama. The Senate unanimously decided that we should have Juneteenth as our new national holiday. And President Biden was quick to sign it into law on the heels of his European trip. But like so much of our history when it comes to black America, many people don't even know what Juneteenth is. I think we need to start there. What's the history and the substance here, Kim? And why did everybody finally agree so quickly that we needed a new national holiday?

Kimberly Atkins Stohr:

Sometimes when it comes to the second half of your question, you just hit lightning in a bottle. And it seemed at this moment, I believe, after the past year that we've had with the reckoning over racial justice after the death of George Floyd, there's such a critical mass of Americans who understand that both the vestiges of racism that go back to slavery, and the need to do more work to make this a more perfect union are so important.

And I think that it was right for members of Congress and certainly for President Biden to sign this into law and to enact it immediately. I thought he just signed it this week, I thought perhaps the first effective date would be next year. And it turns out, he's like, no Friday is it. And to the point that federal agencies were scrambling a little bit to figure out what to do and to allow people to give those days off, and courts were trying to close.

But I do think that it's important. And what it commemorates is the fact that two and a half years after the Emancipation Proclamation was signed, the Emancipation Proclamation was enacted by President Lincoln on January 1st 1863. It wasn't until June 19th 1865 when Major General Gordon Granger led the Union Army into Galveston, Texas, and announced the order that the Emancipation Proclamation had taken effect and that slaves were here by free. And it wasn't just I think lore is that the slaves just didn't know or didn't make it to Galveston, they knew.

The Emancipation Proclamation was reported, I put in the newsletter for the emancipator this week. It was reported in over 100 Texas newspapers, people knew that it happened. They just refused to obey it. And this order made it so that slave owners had to obey it. And it just shows, I think it's the first of many lessons in our country that even after the abolition of slavery and all the fights that would come afterwards, they all have to be hard fought. You can't just take the passage of a law or the passage of a constitutional amendment even as progress in itself. It only is progress when people know that it will be progress. And that's one of the many lessons of that in our history.

Joyce Vance:

I've got to ask, are you at all skeptical? I'm looking at this fight For the People Act and The Voting Rights Act that's looming in the Senate. I think I read that Senator Schumer is going to bring The For The People Act up for a vote next week. Was Juneteenth passed so that some of these Republican senators can say, well, I'm not a racist. I voted for Juneteenth is they refuse to vote for equal voting rights? Do you worry about that?

Kimberly Atkins Stohr:

I do. And there are a lot of people who say the problem with recognizing something like Juneteenth is the same with the problem that we had when Martin Luther King's birthday became a holiday or when people in certain enclaves flooded neighborhoods with Black Lives Matter signs. There's this feeling that that is enough, that that in itself is progress, when that is only just the tip of the iceberg in terms of what needs to be done. And there is a real fear that once Juneteenth goes mainstream, and people start having Juneteenth parties, they think that that in itself is some form of progress. And it really isn't.

I think it's really important for leaders, for thought leaders, for us, and for people with a platform to keep reminding folks that while this is important, it's important that people recognize the history we saw with the Tulsa anniversary, the Tulsa massacre anniversary how few people even knew that that had happened, that we continue to move forward and advance that education, advance that understanding about our history, so that it can inform our future. And that that's the most important thing.

Joyce Vance:

It's interesting, I'm old enough to remember when MLK Day was created, and then to watch my kids grow up just assuming that was a holiday. And I actually do think creating the holiday in and of itself has some significance. But Barb, to Kim's point, you made this really interesting comment the other day that you hadn't grown up knowing about Juneteenth, that you hadn't grown up knowing about the Tulsa massacre. And I know for me that when I moved to Alabama and I learned these whole new pieces of local history, I learned about Selma, I learned about the Montgomery Bus Boycott, I learned about Reverend Shuttlesworth, who's recently passed away and his fight to desegregate schools. And it was very meaningful for me, it made me understand and re envision the way I understood the history of our country.

So can you talk a little bit about what it means that at least in this one way, we are finally acknowledging the imperfect origin of our country, and having at least some willingness to address even in this one, perhaps largely symbolic way, that there are systemic issues that still keep people in our country from achieving their full potential?

Barb McQuade:

And I agree with your point and Kim's point that declaring a holiday for Juneteenth doesn't solve all of our racial woes. But I do think it's an important start, as we were discussing the other day, Joyce, I'd never heard of Juneteenth until a few years ago, it's not something that was taught in my public school, I had not heard about the Tulsa massacre until reading about it a few years ago.

And that makes me wonder what else is missing in my education? What other gaps are there that I don't know about? And I think that we have seen kind of a whitewashing of American history, where we look to the shiny parts and say, aren't we a great country? And we miss some of the really important bad parts. And I think that, I get angered when I sometimes hear legislators say things like, some people want to teach children to hate America. That's not what it's about. I think being a good patriot is understanding all of the history of our country, the good parts and the bad parts, so that we can work to become a more perfect union.

And I think it's critically important to understand what I consider to be the two big original sins in our history, the genocide of Native Americans and the enslaving of black people. And both of those things, I think, continue to this day, in a lot of the institutions that we still have. Slavery was enshrined in our Constitution. The Constitution preserved slavery for at least 20 years, it counted non free persons as three fifths of a person for the purpose of apportioning seats in the House of Representatives, and the Constitution permitted the capture of fugitive slaves.

So we started with this systemic and structural racism in our country, I think we need to confront it and work through it. And those ideas and those attitudes don't just disappear when you make amendments to the Constitution. Since the 13th, 14th, and 15th amendments ended slavery and said, we had voting rights for the former slaves, it took 100 years to breathe any life into that, and we still are seeing attacks on the right to vote. I think the most important distinction that I think people need to understand is, there are some people who engage in intentional discrimination. And of course, that's a bad thing. But there are also these disparate effects that are pulling people back. And those are the things that we need to attack in a structural and systematic way.

Joyce Vance:

So, interestingly enough, on this same timeline, that June 19th is becoming a holiday. And Barb, I will confess that the only reason that I know about it is because when our oldest child was baby, we had this incredibly cool hip nanny, who I think listens to the podcast. So I'm sorry Wendy if I'm embarrassing you. But she used to go over for the big June 19th party in Atlanta, and she had such a great time. I knew it as a celebration without fully appreciating the history originally.

And so I do think this notion that we develop consciousness over time is really important. I mean, we shouldn't beat ourselves up over what we don't know, we should just be more willing to learn and to expand our assessment of our history in light of what we do learn. But so Jill, same timeline, June 19th is getting created. And all of a sudden, there's this outbreak of criticism for something called critical race theory. And there are laws in state saying we must not teach this to our children. It's a terrible thing. And it looks to me like the folks that are condemning critical race theory on Fox News have no idea what it is, it's actually something that I teach. So what's this dispute about?

Jill Wine-Banks:

The dispute is really one about a culture war. It isn't about critical race theory. Critical race theory is a legal theory, it isn't being taught in K-12. It's not even really being taught in law schools. It is more a philosophical approach to talk about how race has impacted our legal and government institutions. And it started in the 70s. So we're talking about like a half century ago. And I think it's being used as a code

word to stop teaching. Anything that has to do with black history, the history of race in America, the history of racism in America, the impact of racism, the impact of the fact that we were founded economically based on slavery.

And so it is really preventing teachers from teaching and students from learning about our real history, and how can we move forward? How can we take steps to make this a better country if we don't even know what our history is? And so that follows up really on both what Kim and Barb were saying, in terms of what is the real facts, and how do we learn them? We all have to be open to learning it. And this has to be a celebration of all Americans of Juneteenth. It can't be just considered a black holiday, that would be wrong, and it would defeat the purpose. And I'm optimistic that we can make it a fourth of July celebration for all Americans.

Joyce Vance:

That's such a good point that it has to be about more than just one segment of America. Kim, I see you shaking your head. What are you thinking?

Kimberly Atkins Stohr:

It's really important to frame it in the way that Jill did. I think, I had a conversation with lifelong learning students from the University of Massachusetts Boston this morning, which mostly older people, mostly white, and they talked, they had just such an eagerness to learn more about Juneteenth, to learn more about the things that happened that they weren't taught in school. And it was a genuine, not just a genuine curiosity, but also, they grew up believing in America being great and that we all had the ability to reach for Life, Liberty and the pursuit of Happiness.

And over the course of life, they were appalled to learn about the barriers that existed in that place. And it's really upsetting when critical race theory or just, again, that's not even what this is about. It's just teaching about the real history of America, is framed by some people for political reasons, as this idea that it is anti white, or that is, people just want to call you racist, which is the worst thing that can be called.

These people knew that they weren't racist. The people just are uninformed. I think if people really were honest, and said, I do want America to be great. I am an American, I'm a great great, great granddaughter of slaves. And I want America to be great. I want America to realize those ideals, just as much as anybody else. And if we could work together to reach that, to say, you know what? These systems are in place that are built of this era, and that are still caring for. What can we do to do better?

I think it can be just like when America woke up to that video of George Floyd being killed. And if they didn't understand the importance of police reform before, they understood it then I think if we can do that for all of these systems, it would be great. And it really frustrates me that people are working so hard against that effort.

Joyce Vance:

Barb, what do you think?

Barb McQuade:

I think Juneteenth is not a holiday just for black people, Juneteenth is a holiday for all Americans, right? I mean, we should celebrate that we finally had the wisdom and the character to end slavery in our country. It took a war to do it, but I think it was an important step toward a more perfect union.

Joyce Vance:

And hopefully, it's a lesson for us moving forward. I mean, this is a rare optimistic note, given all of the news and politics that we usually end up discussing. A rising tide lifts all boats. That's what I was raised to believe, and certainly June 19th should help us understand the importance of treating everybody in our communities like we want to be treated. We're all Americans.

Barb McQuade:

And if I could just add, I just got from the New York Times, a list of 30 recipes for Juneteenth celebrations, and some of them are really great. And I can't wait to make them and celebrate on Saturday.

Joyce Vance:

And the color is red. So have red soda or pop as Barb says, and red velvet cake.

Barb McQuade:

Red hydrant.

Joyce Vance:

We share the recipes and we can put a link in the show notes.

Barb McQuade:

I will, I'm going to forward them to you.

Jill Wine-Banks:

Kim, have you been drinking hydrant?

Kimberly Atkins Stohr:

I have. And I have to tell you in my household, my husband Greg absolutely loves it. He is probably a little more active than me. I go for runs and hikes and it comes in handy but he also bikes a lot and he always makes sure that he has some hydrant in his water bottle before he goes off on a biking trip. He really loves it. How about you Barb?

Barb McQuade:

I've actually been drinking it. I've been trying to drink less pop. We say pop here in Michigan. Kim that hasn't changed with your migration East, has it?

Kimberly Atkins Stohr:

I say soda, I was beaten into submission.

Barb McQuade:

I disown you. Well, I'm trying to drink less pop and I find hydrant to be a really good substitution. It just makes the water more flavorful. And besides that, it is a refreshing drink mix powder with four key electrolytes, sodium, potassium, magnesium and zinc. And it uses real fruit juice powder with nothing artificial.

Kimberly Atkins Stohr:

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Barb McQuade:

I feel like you're inviting me to Regimen Girl. That's [D-R-I-N-K-H-Y-D-A-N-T.com/sisters](http://D-R-I-N-K-H-Y-D-A-N-T.com/sisters) and enter promo code sisters for 20% off your first order. [Drinkhydrant.com/sisters](http://Drinkhydrant.com/sisters) and enter promo code sisters to save 20% hydrant where water meets wellness. It's also been a newsie week in the world of legal issues pertaining to the LGBT community. Kim, you want to walk us through that?

Kimberly Atkins Stohr:

Yes, so it is June, it is Pride Month, a celebration of the LGBTQ community and also a remembrance of the Stonewall uprisings. And there was some legal news this week on the issue of LGBTQ rights as you said, Barb. First, the Biden administration changed its guidance concerning gender discrimination rules for schools. The Department of Education now considers discrimination against students on the basis of sexual orientation or gender identity to violate Title IX.

This is as states are moving, a lot of Republican led state legislatures are moving to pass laws barring transgender students from school sports. Also, the Supreme Court ruled against the City of Philadelphia this week, in that city's bid to pull a foster care contract from Catholic social services for its refusal to consider same sex couples for foster care. So Barb, explain to us what Title IX does and how this new guidance from the Biden administration is really taking on these GOP state lawmakers efforts to bar transgender athletes.

Barb McQuade:

Title IX is a section of something called the Education Amendments of 1972. So in 1972, this legislation was passed, and it amended a number of different statutes, all relating to education. And Title IX says, no person in the United States shall, on the basis of sex, and keep those words in mind, they're really important there, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

So it applies to all schools that receive federal assistance. And I think when I think about Title Nine, I think of it as the rule that permitted girls like me to play in sports teams when I was growing up in school, and they have parks and recreation departments create sports teams, as a girl growing up in the 70s, sports were such a critically important part of my development in team building, in discipline and leadership and organizational behavior and socializing. And I've always given credit to Title IX.

And I've always thought of it as something that promoted women and girls. But now, the Biden administration has said, on the basis of sex doesn't just mean discrimination against girls and women, it also includes discrimination on the basis of sexual orientation and gender identity. And in making this announcement, the education secretary Miguel Cardona said that all students, including LGBTQ students, deserve the opportunity to learn and thrive in schools that are free from discrimination. That's what that 1972 law says.

And what's super interesting I think about this is this change in policy really relies on the Biden administration's interpretation of a Supreme Court case from last term that was authored by Justice Neil Gorsuch. It's a case called Bostock. And that was a really interesting case going back to this idea of textualism, those words on the basis of sex. That was a case that was about employment discrimination, but the court held that in that context, discrimination is illegal against LGBT employees under Title VII of the Civil Rights Act of 1964.

But that statute, on the basis of sex, uses the same words that we see in Title IX. And Kim, I know you wrote about this in a column this week for the Boston Globe. And you quoted Justice Gorsuch, what he said in the Bostock case, which really applies equally, I think, to these Title IX cases. And that's what the Biden administration is saying, and what Justice Gorsuch wrote is, it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex. So those three magic words are in Title VII and Title IX. And the Biden administration says they should be interpreted in the same way.

Kimberly Atkins Stohr:

And, we have these laws being passed, dozens of laws being proposed, and now I think seven have been passed in seven states barring transgender students from participating in schools and those will be challenged, and I'm sure this is exactly what the basis of the defense, the challenges to those cases will be. But Joyce, Meanwhile, there's another case that already went to the Supreme Court once involving a former Virginia high school student who sued when he was not able to use the boys bathrooms or have his gender designated as male on his transcripts back the first, before he graduated, he's transgender male. How might that pace shake up and speed up this issue making it to the Supreme Court?

Joyce Vance:

So everyone should know about this case, this really puts a face on the issue in a very real way, at least for me as a parent. Because Gavin Grimm is a transgender boy, he's now a transgender young man, he's now 20. But this happened to him when he was in high school. He lives in Gloucester County, Virginia, which is about 150 miles south of Washington, DC.

And after he came out in high school, he was suddenly told that he had to use a specially designated, "alternative bathroom." And that as you can easily imagine stigmatized him, right? I mean, imagine being a teenager, and suddenly being told you're not good enough to use the same bathroom everyone else uses. And it also meant that he didn't have access to any sort of bathroom facilities at football games and at other events. So this isn't simply as some people have suggested just a matter of oh, let him go find another bathroom. This is being told that you're different and you're not as good.

And Grimm's school didn't adopt this rule until after he came out. So it was clear that it was targeted at him. The case worked its way up through the courts, up in the Fourth Circuit until five years ago, the Supreme Court agreed to hear it. And the issue just to put a point on it was whether public schools can ban transgender students from using a restroom that reflects their gender identity. So Grimm sues, and he uses the statute that Barb just talked about, Title IX because it prohibits discrimination at any school that gets federal funding. So he sues on that basis and under the 14th Amendment Equal Protection Clause.

The case is really about whether or not this bathroom rule is illegal discrimination. And so again, Barb talked about Bostock v. Clayton County. And the analysis there really looks like it should apply here. Even though Justice Gorsuch explicitly excluded school bathrooms from his ruling in that case, it's

going to be fascinating to see whether it can be extended. Because even though this case involving Gavin Grimm got kicked out of the court system, it's back.

And here's what happened, this is the last thing that you need to know about this case. It's an old case now, right? It was at the Supreme Court five years ago. So why is it back and alive again? Grimm won in the Fourth Circuit Court of Appeals, and that led the school district to appeal. And that happened largely on the basis of Obama era guidance that designated these kind of bathroom rules as discrimination. But the Trump administration withdrew that guidance.

And so on his first day back in office, Joe Biden signed an executive order that put the guidance back in place. Schools, you can't discriminate against transgender kids like this. And the school district went back to court. Next week, the Supreme Court will learn if they're going to hear the case in the next term. And it could be, either for good or for bad, a very different sort of landscape for transgender kids once this case gets decided.

Kimberly Atkins Stohr:

And the fact that for Gavin, he says that it's not, even though he's graduated, his transcripts still say female, it's still affecting him throughout life when he's trying to use that to get a job or to go to school and that this is still a live issue for him. Jill, there was another supreme court or, well, there was a Supreme Court ruling this week that held unanimously that a unanimous ruling in another case that pitted LGBTQ rights against religious freedom, something that we've seen happen increasingly in Supreme Court cases, this fight between two different constitutional rights. And no one on either side seems happy with the outcome, particularly Justice Samuel Alito, even though it was unanimous decision. Jill, tell us what happened.

Jill Wine-Banks:

I will, but first I want to say in response to things that Barb and Joyce said, bathrooms were the big issue for the Equal Rights Amendment. It was men and women will have to share a bathroom and so we can't have the Equal Rights Amendment.

Barb McQuade:

The horror.

Jill Wine-Banks:

Horror, horror. And the other thing is, I very seldom get to say anything nice about Richard Nixon. I usually am the one saying what a horrible person he was, and that maybe Trump did even worse than him, but he was horrible. But Title IX is a result of Richard Nixon. And so, Barb, when you say you got to played sports that you wouldn't have, you have to thank Richard Nixon for that. So I just had to give him some credit today.

But back to the issue that is before the court just decided, and that was the case called *Fulton v. the City of Philadelphia*, where Philadelphia had a contract with a Catholic organization to help vet foster parents, and they refused to even consider working with same sex couples, or for that matter, unmarried couples.

And the court said, basically, no, Philadelphia can't force Catholic services to consider that, that the First Amendment religious freedom trumps the rights of the LGBTQ community. So it was a very big loss for gay rights in this area. I think that the good news is that it was a very narrow decision. The interesting thing is it was really a 333 court, you had the three liberals, the three most conservative and

then the three centrist having completely different views. It is unique, because it was a unanimous decision, and we hardly get unanimous decisions these days.

So they all agreed, whatever their point of view, that the Catholic services did not have to comply with anti discrimination rules of Philadelphia. But they did it on a very narrow ground, which had to do with the language of the contract, which allowed Philadelphia to make an exception. And since they could make an exception, they said, well then, we don't have to address the main issue. And then you had Alito going totally, I think one report said berserk and he was really, or they may have used language that maybe I shouldn't use on the podcast, that he really was incensed by this and said, you're just putting off the inevitable, we have to decide this, you're leaving First Amendment religious freedom in limbo, and you should have decided.

So while he agrees with the end result, which is that LGBTQ loses and the Catholic Rights prevail, it isn't a wide enough thing and that it's going to come up again, and I'm afraid he's right, there will be another suit and eventually, the court is going to have to decide that and given the three, three middle and conservative, it's going to not be a good outcome if it gets to that. And so we have to watch out for something coming forward on that.

Hey, Joyce, I'm really loving using my function of beauty shampoo and conditioner. It does exactly what the ad says, which is you pick the things that you want shampoo to do, and it does it. So I picked I wanted my hair to be shiny and not frizzy. And their formula really works for me. What about you, are you using Function of Beauty?

Joyce Vance:

I really like it, I've got the shampoo and the conditioner in my shower and I'm only having one problem with it. Which is that my husband likes it and I've realized that the bottle is going down a lot more quickly than it would be from me using it. And it's because he's been sneaking in and using my shampoo and conditioner which he apparently likes even though if you've ever seen him he doesn't have a whole lot of hair. But I really love it. If you don't love your hair, you should break up with your current haircare routine right now and try Function of Beauty instead.

Jill Wine-Banks:

Every ingredient Function of Beauty uses is vegan and cruelty free and they never use sulfates or parabens. You can also go completely silicon free with this shampoo and conditioner. Function of beauty offers completely personalized for body and skincare as well. So you can customize your beauty routine from head to toe.

Joyce Vance:

Never buy off the shelf just to be disappointed ever again. Go to [functionofbeauty.com/sisters](https://functionofbeauty.com/sisters) to take your quiz and save 20% on your first order. That applies to their full range of customized hair, skin and body products.

Jill Wine-Banks:

And I'm going to add to my routine by personalizing some selections for skincare as well. Go to [functionofbeauty.com/sisters](https://functionofbeauty.com/sisters) to let them know we sent you 20% off your order. That's [functionofbeauty.com/sisters](https://functionofbeauty.com/sisters), or look for the link in the show notes.

Joyce Vance:

And the death penalty is back in the news this week, this time pertaining to the Boston Marathon bomber. This is an issue that I think is the topic of much debate whenever you talk about it, but Jill, do you want to talk us through this one?

Jill Wine-Banks:

I do. And it is a really interesting question that raises all sorts of moral and political and cultural issues. During the 2020 campaign, then candidate Joe Biden said he oppose the death penalty. So the recent decision of his department of justice to ask the Supreme Court to reinstate the death penalty of the surviving Boston Marathon bomber, disappointed and upset death penalty opponents. The court is expected to hear arguments on the case in the fall. And it raises many questions about President Biden's position. And the pros and cons of the death penalty in America where the federal government and 23 states still allow it.

So I want to start with you, Barb to put this in context. And have you talk about what crimes can result in a death sentence in state court and in federal cases? And talk somewhat about the statistics about how many people are on death row right now. And how many who have been executed have been found innocent, or who have been on death row and found innocent just before they were executed?

Barb McQuade:

This is such an important topic. I teach first year criminal law. I think Joyce sometimes teaches this too. And, one of the things we talk about is crime and punishment, and what is the whole purpose of the criminal justice system. It has a number of purposes, to protect public safety, to deter other people from committing crimes, to punish offenders, to ensure that we are all playing by the same rules. There are a number of things out there. But the death penalty is one that really brings these issues to the fore. As you asked Jill, what are some of the crimes that can result in the death penalty?

Well, not everything. The Supreme Court has ruled a few times on the parameters of the death penalty. Of course, we have our Eighth Amendment which forbids cruel and unusual punishment. But the court has said that the death penalty in and of itself is not cruel and unusual. But punishment must be proportionate to the crime, it cannot be grossly disproportionate.

And so it has upheld the death penalty in cases of murder. But the court has rejected the death penalty for other kinds of crimes, including rape, as being disproportionately harsh for the severity of the crime. It has eliminated the death penalty for juveniles, for those with mental illness. In 1972 in a case called *Furman v. Georgia*, the court held that the death penalty was being applied arbitrarily and it struck down the death penalty in a decision that caused a number of states to respond by enacting statutes that put more guidance in place for how juries should decide which cases are appropriate for death. It's obviously not every murder case.

But when there are the aggravating factors that are present, and the absence of certain mitigating factors, then a jury may impose a sentence of death in those states that you have mentioned, Jill, and more than 20 states. And in the federal criminal justice system, there is a death penalty. I can remember this time when there was this suspension because of this *Furman* case. And then after those states responded with those statutes with more guidance for juries, the death penalty was reinstated.

And remember, there's a guy named Gary Gilmore who was executed by a firing squad in Utah for committing a couple of murders. I was in sixth grade. And I remember just becoming aware of the current events in the news and being absolutely appalled that we killed people in this country, that the

government killed people and that he was going to be shot by a firing squad. I was absolutely appalled by that.

You asked about how many people are on death row. I did a little research before this. There are 2500 people on death row in the US altogether and in the federal system. So in the state system, it's typically some sort of homicide that will trigger the death penalty. In the federal system, it is all also typically a murder. It can also be the kidnapping or assassination of a president or vice president. But murder of a federal witness, murder in a drug trafficking organization, murders caused by acts of terrorism or murders caused by civil rights violations. There are a number of statutes that are death eligible, and it's only the attorney general who can seek death and then a US attorney would pursue that.

In the United States, there have been 185 people who have been exonerated after serving time on death row. And that goes back to 1973, with after that Furman case, that is according to the Death Penalty Information Center, which should give all of us some pause about the fairness and finality of the death penalty. And that same sources, it is unknown exactly how many people were actually innocent who were put to death. But they identify 20 cases where they believe that to be the case.

And they say one of the reasons it's difficult to measure that number is that because cases are moved after a defendant has been executed, and defense attorneys move on to other clients to defend lives after a client has been executed. So it's difficult to know how many people have been executed, who are actually innocent.

Jill Wine-Banks:

So Barb, you've raised some interesting arguments that would be against the death penalty. But let's look at whether there's any evidence that it reduces violent crime, whether it costs more or less than life in prison. Whether it is cruel, even though the Supreme Court, as you've noted in Furman did say that it is constitutional. So Joyce, can you address some of those issues for us?

Joyce Vance:

So I'll start with my conclusion, Jill, which is that it's really hard to make a thinking person's case for the death penalty. I think the reason it still exists in our legal system is in many ways, a manifestation of our flawed politics, where candidates get elected by showing off their tough on crime credentials. No one wants to be running to be senator or mayor and be accused of being soft on crime. That's a sure ticket to lose an election in America.

And so unfortunately, the hangover is there, because it's up to legislatures and elected officials to decide whether or not states have death penalties. And they continue in place because of this political yin yang that goes back and forth here. One of the things that I hope that's changing in this country, with this wave of bipartisan support for criminal justice reform, is that we will at some point take on the death penalty.

Barb and I both teach this as she mentioned. And so when you talk with first year law students, especially, about the criminal justice system, one of the underlying questions is always, when you're locking people up and taking away their liberty, you should only do it for a really good reason only if it works. That sort of imperative is even more important when you're talking about the death penalty. And the reality is, it just doesn't have the deterrence value that people often claim. Doesn't really have any impact on deterring future crimes, future violent crime or future murders. A lot of different organizations have collected statistics. One of the interesting ones is the ACLU, they sort of did a look across the country.

And they say statistically states that have death penalty laws don't have lower crime rates, and they don't have lower murder rates than states that don't have the death penalty. And in fact, states that have abolished capital punishment don't manifest any sort of change in their crime or in their murder rate. And if you think about that, logically, it makes sense, right? Because most murders are spontaneous. They're very few murders that are sort of the old movie version, somebody who's lying in, planning to poison their spouse, or something like that, the spontaneity of the act really means that the death penalty has very little deterrence value.

Statistically, the death penalty is more likely to be sought for defendants who are people of color. So that adds a layer of racial injustice into the calculation. And as Barb points out, if you kill someone, I mean, I'm talking here now about the state killing someone and you discover new evidence years later that exonerates them, it's too late. There's nothing you can do.

So we find ourselves on a list of countries that have the death penalty that includes China, India, Indonesia, Pakistan, Bangladesh, Nigeria, Egypt, Saudi Arabia and Iran. Those are the other countries that we are here in agreement with about using a death penalty. It makes me personally really uncomfortable. And I'll just share that my father in law, who was a federal judge, was murdered many years ago, more than 30 years ago. There was the death penalty prosecution. And only recently, I think it was almost 20 years before the man who was responsible for Bob's murder was finally executed by the state of Alabama.

The death penalty didn't do anything to give me my father in law back. But what happened was the prosecution dragged on for years after the crime took place. And we were periodically forced to relive the experience, both with a federal and a state prosecution that was a little bit unusual to have both. But at every stage in the appeal, every time the man who killed my father in law challenged the verdict, we had to in essence, relive the events that happened. The death penalty doesn't make sense for victims or for the country as a system, it's just a fragment from an older broken sort of a system. And I hope ultimately, we'll wake up and get rid of it, it's a lose lose.

Jill Wine-Banks:

So that's certainly a dramatic story. And, of course, our hearts all go out to you and Bob for the loss in this terrible crime. And it's a great background for turning to Kim, who wrote a compelling opinion piece about the Boston bomber case. And that was written last March, before the decision to appeal it had been made by the Biden administration, you can find her op-ed in the show notes. And you write in it that Biden had options in the Tsarnaev case, none of which he used. Talk about what you expected from Biden and his department of justice, and whether you were surprised by their decision to appeal the case.

Kimberly Atkins Stohr:

I want to go back a little bit, because during the Obama administration, there was a halt placed on actual administration of federal executions, in part because of claims that were being made that the method of execution, lethal injection in itself was cruel and unusual, because it caused some of the defendants great pain, there were a lot of problems, sometimes it would take a long time, sometimes the different types of drugs didn't work as they were supposed to. And so there was a halt placed on them.

And it worked as an effective moratorium for a long time. So there were no federal executions. And it seemed that the country was moving in terms of public opinion, when you looked at Gallup polls away from capital punishment during that time. And that was the posture of the country at the time of the Boston Marathon bombing, which was a horrific terror attack that shocked the nation.

The perpetrators of that attack are, one passed away, the brothers, the Tsarnaev brothers are horrible human beings who should not get the benefit of any positive thought in any of this discussion. I want to be really clear about that. But even in a state like Massachusetts, where the death penalty is not popular, and there is no state death penalty, this was a federal case. And so the death penalty was an option for the surviving terrorist Dzhokhar Tsarnaev, and a jury imposed that.

They imposed it over the objection of some of the family members of those who were killed in this attack. And of some of the hundreds of victims who were harmed and maimed in this attack. And one of the reasons is exactly as Joyce said that it would mean that in the appeals process, which there is a number of appeals processes for a death penalty case, some would argue not enough, because we have learned of exonerations after executions. But that's why they're there.

But that puts the folks who were most affected and most harmed by these heinous crimes in the position of having to relive it over and over again to have to testify at it, at trials and resentencing, as in this case, and that's where we are now. So Joe Biden, as a candidate, said he was opposed to the death penalty and that he would work to end it. This comes right after the Trump administration that not only supported the death penalty, but tried to execute as many people as possible in the late days. Sped up federal executions knowing that even after the election, knowing that after that, that the Biden administration would likely come in and take a different response. It was really horrifying, again put us in a terrible company in terms of other countries in the world.

And so the first circuit ordered a new sentencing for Dzhokhar Tsarnaev saying that two of the jurors did not fully disclose what they knew about the high profile case before they participated in the case. And that was enough to throw out the sentence. So Joe Biden had an option, he had an option to come in and say we're going to take a different position from the Trump administration that urged the sentence to be reimposed. And I think it's because this was such a heinous crime.

And to be sure, there are a lot of people in Boston in particular and across the country who want to see the death penalty imposed in this case. It left terrible scars on that city and on our nation. And it's a divisive issue. And I think that made it possibly, I don't know, I didn't talk to the folks at the DOJ. But that made it difficult for the Biden administration to make a different determination and ask the Supreme Court not to take this case up. They chose to ask them to take it up in order to try to reimpose the death penalty. I think that was a missed opportunity for all the reasons that we've been talking about throughout this segment. It is difficult. It was a horrific crime.

I am an adopted Bostonian. And I remember how I felt on that day, but I think right is right, and justice is justice. And if you are opposed to the death penalty, you have to be opposed to it at all times. Dzhokhar Tsarnaev should rot in a prison cell as far as I'm concerned. And I think that this opportunity was a missed one for the Biden administration.

Jill Wine-Banks:

So we're running out of time, but I maybe want to have a quick discussion that is rather grim. And I warn our listeners that this may cause you to rethink any possible support of the death penalty. And that has to do with the method of execution. Lethal injection was the most common method used, at least recently, it was considered the least inhumane, it was less inhumane than hanging or the electric chair, those kinds of things resulted in some very painful failed executions. But lethal injection has been found now to cause severe pain and damage, and pharmaceutical companies have started to refuse to sell to states for the purpose of execution.

South Carolina just passed a law requiring death row inmates to choose their manner of execution, firing squad or electrocution unless and until lethal injection drugs become available. So

maybe the three of you can give a quick comment on how you feel about this, and maybe throw in what your prediction is for how the Supreme Court is going to decide the Tsarnaev case?

Kimberly Atkins Stohr:

Well, I will start out. The Supreme Court has been very supportive and very reluctant to get in the way of executions being carried out. We've seen that with appeals. We have seen that for years, despite the fact that some justice, including Stephen Breyer has spoken out very strongly against it and saying that he believes that it in itself violates the Eighth Amendment. I think what you just said, Jill just shows in combination with the fact of the really deep racial injustice that happens in death penalty cases, from everything about how these cases are tried to access to effective counsel, these are things that the late John Paul Stevens talked about a lot when he changed his mind about the death penalty, really make a strong case against it. And it's just hard to see how this passes Eighth Amendment muster.

Barb McQuade:

Tsarnaev is the poster child here, right? I mean, that's the case where if you're going to have a death penalty, you're going to want to use it. So I think the Biden administration may have missed the opportunity here to make that statement. And saying never means never, not even in this case. But if they're going to do that, they really have to educate the American people and convince them why the death penalty is wrong and why our morality and our sense of who we are demands that we evolve to the point where we reject it.

I hope we'll see that. I don't think the supreme court can or will do that, given their jurisprudence, but in Alabama, for a long time, the method of execution involved is something called Big Yellow Mama, the electric chair, until the Supreme Court decided that that was not a constitutional way to execute people. It was cruel and unusual. But it doesn't really matter how you execute people. I think the parts of the court that believe it's always cruel and unusual punishment are correct, it will be up to this administration to get the country there if it's going to get there.

Joyce Vance:

That's true. I know that people accuse lawyers of being obsessed with process over substance. And so in that vein, I will defend process. It is not necessarily the President's call, if there is a statute on the books, the executive branch can use prosecutorial discretion to say when we're going to charge crimes and when not. But they can make a decision to never seek, I suppose.

Barb McQuade:

And have at some point.

Joyce Vance:

And there have been instances where they've suspended the death penalty for purposes of further study about particular methods and the like, but it seems that the real remedy needs to come in the form of Congress abolishing the death penalty. And then the same with regard to the states, the President can't stop all these 20 some states from continuing with their death penalty. And so I feel like sometimes this, we talked about this last week with regard to marriage equality, sometimes I'm living in a history book from a long time ago. I like to believe I know how this is going to come out, that the day will come when America wakes up and evolves to the point where we no longer have the death penalty, where we realize that it is poor public policy for many, many reasons.

And it's frustrating to be stuck in the midst of it and see how slowly we are coming to reach that realization. I think right now, the reason we have such a slow morass of appeals in death penalty cases is because of that discomfort with it, that people are very reluctant to finally deem that it's time for death to have come. In terms of choosing your method of death, that strikes me as kind of cruel and unusual in itself. But I like the answer that our producers gave, which is, if I have to choose my method of death, I choose old age.

Barb McQuade:

Well said. Hey, Joyce, I know you've always been a good student, but did you take the helix quiz?

Joyce Vance:

I did. And I didn't just pass, I got an A plus. I'm one of those people who likes a really hard mattress, a really firm mattress to sleep on. And our mattress was awful. It was just soft and spongy. I was a little bit skeptical of picking something out just based on an online quiz, but I answered all the questions. Said I wanted something really firm and this mattress really delivers.

Barb McQuade:

You seem like someone who sleeps on a firm mattress, ready to jump up and seize the day the minute your alarm clock goes off, don't you?

Joyce Vance:

A good night's sleep depends on getting the perfect mattress, and I feel like I really did. So just go to [helixsleep.com/sisters](https://helixsleep.com/sisters) to take their two minutes sleep quiz and you'll be matched with a customized mattress that will give you the best sleep of your life. They have a 10 year warranty and you get to try it out for 100 nights risk free, they will pick it up for you if you don't love it, which was a big selling point for me.

Barb McQuade:

Helix is offering up to \$200 off all mattress orders and two free pillows for our listeners at [helixsleep.com/sisters](https://helixsleep.com/sisters). That's [helixsleep.com/sisters](https://helixsleep.com/sisters) for up to \$200 off and two free pillows. Look for the link in our show notes. Thanks to Helix for sponsoring this episode. And thank you our listeners for supporting helix.

We've received some great listener questions this week. If you have a question for us, please email us at [sistersinlaw@politican.com](mailto:sistersinlaw@politican.com) or tweet using #SistersInLaw. If we don't get to your question during the show, keep an eye on our Twitter feeds throughout the week, we will answer as many of your questions as we can. We have our first question from Scott in Anchorage. Now that justice is Coney Barrett, Kavanaugh and Thomas have all voted in favor of keeping Obamacare, is a legal fight to repeal it finally over? Kim, you have thoughts on that?

Kimberly Atkins Stohr:

Yeah, so there can still be challenges made to Obamacare. And the fact that there have been a plethora of them for the last decade makes me believe that this probably won't be the last one. But I also think, even though the supreme court dismissed this challenge on procedural grounds, what they were saying if you read between the lines of this opinion and all of the other opinions upholding Obamacare is essentially this.

You have asked us in 18 different ways to strike down this law and we have declined in 18 different ways to strike down this law, maybe challengers, y'all should find something else to do because we are disinclined. Is they have done this on procedural grounds. They have done it on constitutional grounds. Chief Justice Roberts himself in that first opinion sort of quilted together a constitutional justification to uphold it. At this point, if the governors of states and people who are actually impacted by the law themselves don't have standing, I don't know who does. I think that this is it. Obamacare is the law of the land.

Barb McQuade:

All right, very good. Our next question comes from Jane. Given the senate intransigence on H.R.1, the For the People Act, and H.R.4 the John Lewis Voting Rights Advancement Act, is there any chance that President Biden could implement any one of their provisions by executive order and pave the way for passage of the remaining provisions by Congress? Joyce, what do you think about that, you're a voting rights expert.

Joyce Vance:

Well, this is a smart question. It's really interesting. H.R.4 the John Lewis Voting Rights Act is a measure that would fix what happened and we've discussed it a lot in the Supreme Court in *Shelby County v. Holder*, the case that gutted the Voting Rights Act. That's up to the legislature, that's up to Congress, they're the folks that are going to have to fix that. But H.R.1 the For the People Act, there's a little bit of nuance there. And we saw something really interesting happen when Attorney General Merrick Garland gave his big speech on voting rights.

The For the People Act does something very different than the John Lewis Act. In essence, it makes it easier to exercise your right to vote, easier to register, gives you more time, all sorts of measures like that. And so even if the Senate fails to act, not necessarily by executive order, but because Merrick Garland has said the Justice Department will begin this work, we will actually see some of those measures happen.

I'll just give you one example. There's something called the Motor Voter Act. And that means and you might be familiar with it if you go in to renew your driver's license. And there's a box that you can check on that same form when you're renewing your driving license that asks if you'd like to register to vote, if you're eligible, it makes it easy to register to vote. Merrick Garland is going to create a Motor Voter Act on steroids, where anytime you come in contact with an agency of the federal government, you have an easy opportunity to register to vote.

So it is possible to make some change without Congress acting. The problem is, it would be so much better to have this done as a matter of statutory law. Congress has the jurisdiction to take these actions and it shouldn't really abrogate its responsibility in these areas and expect the executive branch to pick up it's slack.

Barb McQuade:

I agree. And I've got my eye on Arizona, where I think DOJ is spoiling for a fight. I'm looking for a lawsuit to come across the bow any day now. But you're right, it can only kind of clean up messes one case at a time, legislation is the way to make sure that all of these rights are protected. And our final question comes from at Barb gal W, who says, does Biden and the Democratic Party have a list of potential federal judges the way the Republicans had from the Federalist Society? I haven't heard of one. Jill, you

have experienced with the American Bar Association with judicial recommendations. What do you know about this question?

Jill Wine-Banks:

It's a great question. And unfortunately, Barb, I'm afraid and that's Barb, you Barb McQuade and also Barb gal W that there doesn't seem to be a list. It seems as if the democrats are standing on their moral principles. They objected to the republicans having this outsourced list from another organization. And so they are doing it themselves. Nothing is more important right now than filling all the vacancies and filling them as fast as possible during the first two years before the midterm elections, and filling them with people who will stand up for the rights that we elected Joe Biden.

And so I'm hoping that they will put together their own list. Certainly anyone in America is free to send in their own recommendations to the administration that might be taken seriously. But the American Constitution society is maybe the only organization that's the equivalent for the Republican side, and I'm hoping that they'll speak up and they'll start creating a list and sending it in for consideration of the context. The American Bar Association used to be the one that vetted and rated judicial nominees. And there's been a trend away from that. They did a very good and a very nonpartisan, impartial view. And I applaud the ABA for the role they have played, and hope that they can again.

Joyce Vance:

Let me just take up for the Biden administration here on one point, something that I've really liked about their approach to federal judges. And we've talked about this before, but it's been their emphasis on diversifying, so that you don't have just big law firm partners and former prosecutors on the bench. Even though watching the sausage here get made is a little bit messy and not as fast as we'd like for it to be happening. I do look at some of these early confirmations of judges who've got backgrounds as civil rights lawyers or as defense lawyers, and think that if they can just kick it into gear, this is going to be a process we all benefit from.

Barb McQuade:

Well, they better kick it into gear quickly because Mitch McConnell has said that if they win the midterms, he is putting the stall, putting the brakes on in the same way he did for Merrick Garland with a Supreme Court nomination. So memo to US Senate, get to work friends. Thank you for listening to hashtag sisters in law with Kimberly Atkins Atohr, Jill Wine-Banks, Joyce Vance and me Barb McQuade.

Don't forget to send in your questions by email to [sistersinlaw@politican.com](mailto:sistersinlaw@politican.com) or tweet them for next week's show using #SistersInLaw. And please support this week's sponsors, Hydrant, Function of Beauty and Helix. You can find their links in the show notes. To keep up with us every week, follow #SistersInLaw on Apple podcasts, Spotify or wherever you listen. And please give us a five star review. We'd love to read your comments. See you next week with another episode #SistersInLaw.

Joyce Vance:

Jill, that's great. I didn't know about the red thing. And I would love to see what does a traditional Juneteenth recipe.

Jill Wine-Banks:

Actually one of the best recipes.

Kimberly Atkins Stohr:

You can have Faygo Red Pop.

Barb McQuade:

Is it softy.

Joyce Vance:

Faygo Red Pop.

Barb McQuade:

Is it softy Jill or what kind of recipes is it?

Jill Wine-Banks:

I'll get it out but there was one for an apple coleslaw, which-

Barb McQuade:

Doesn't that sound yummy?

Kimberly Atkins Stohr:

That sounds great.

Jill Wine-Banks:

What's great about Juneteenth is it's, I don't know, like there's room to create new traditions, right? I mean, I guess probably in Juneteenth celebration is going on for a long time, but it's a new holiday.

Barb McQuade:

I mean down here it's a barbecue holiday, which is always a good thing in Alabama.

Kimberly Atkins Stohr:

I wish I could get some.

Jill Wine-Banks:

It definitely obviously included barbecue, but let me see it was-

Kimberly Atkins Stohr:

Red hot sausages. Again, I'm from Detroit.

Joyce Vance:

Conecuh.

Kimberly Atkins Stohr:

So I want get some red hot.

This transcript was exported on Jun 19, 2021 - view latest version [here](#).

Joyce Vance:

Conecuh sausage.

Kimberly Atkins Stohr:

These are Frank's RedHots.

Jill Wine-Banks:

It actually was from all recipes, hot dishes. 30 recipes for your Juneteenth celebration. One includes a shrimp one that looked really good.

Kimberly Atkins Stohr:

We going to have to check this out.

Barb McQuade:

I know what I'm doing tomorrow.

Joyce Vance:

I need to make a plug for Faygo Red Pop.

Kimberly Atkins Stohr:

That is celebration, Detroit brand. Pronounced pop not soda.

Barb McQuade:

I still say pop.

Kimberly Atkins Stohr:

Faygo Red Pop and red hots, that's a Detroit-

Joyce Vance:

It sounds like a feast for me.

Barb McQuade:

Feast for me, yes.