

Joyce Vance:

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Jill Wine-Banks:

I made the best HelloFresh last night. It was the mushroom Shepherd's pie. Has anybody else made it?

Joyce Vance:

No, it sounds good.

Jill Wine-Banks:

Oh, it was divine. Mushrooms and carrots and onions, tomato paste and garlic powder. And then top with mashed potatoes with a little cheese and sour cream and butter mixed in. Oh my God, it was fantastic, the best. Welcome back to #SistersInLaw with Kimberly Atkin Stohr, Joyce Vance, Barb McQuade, and me, Jill Wine-Banks.

This week is a very sad week because of the tragedy that we encountered at Uvalde, and we will talk about that and where we are in terms of improving our gun laws to protect children. And of course, this is on the heels of what we talked about last week in Buffalo where shoppers were gunned down. We're also going to talk about George Floyd's anniversary, his second anniversary of his death and where we are on police reform.

And then we're going to talk about some expansion of the federal investigation of the January 6th events, which are really now moving to be not just focused on January 6th, but on the efforts to overturn the election results, the efforts to have a coup to keep Donald Trump in power, and it's expanded to his lawyers.

And as always, we will take your questions and we look forward to answering them at the end of the show. But before we get to the more serious topics, I want to talk about something that can be serious as well. I have a hashtag on Twitter #saythisnotthat because there are so many words that people use as a cover up for the real thing they're thinking, like saying misstatement instead of calling it an outright lie.

So I'd like to hear what some of yours are, and then I'll add some more of my own. Can I start with you Barb?

Barb McQuade:

Yeah, that's a good one. I'm not sure I have anything that's as stealthy as that, but I have some pet peeves and then I have one that I think is very pertinent to this week. In this year of 2022, I still hear so many people say mailman, fireman, policeman. I mean, come on more than half of our nation's letter carriers are women.

How about male carrier? How about police officer? How about firefighter? I mean, those are easy words. And so that's a real pet peeve. Every time anyone says those, I mentally correct them in my head. But here's one I think is really important.

The phrase gun control, that's one that we've heard for decades and I think it is one that to some ears sounds like the government is coming after your guns and violating the second amendment. I think a better terminology for that conversation ought to be gun safety. I think that as the assault

weapons have demonstrated in this week, gun safety requires perhaps rethinking the way we regulate access to assault weapons. So say gun safety, not gun control.

Jill Wine-Banks:

Those are really good ones. And I have to say that woman lawyer would be in that sort of same category. Lawyer doesn't need a gender. It is just a lawyer.

Joyce Vance:

It's not just a lawyer.

Barb McQuade:

How about lady lawyer?

Jill Wine-Banks:

Lady lawyer, yeah, that's really disgusting. And I also want to say, I love what you said about gun safety. I actually was looking through my pins for what pin I would wear today. And most of my ones that would've been appropriate for the events of Uvalde and Buffalo and the California church just in the last and several shootings in Chicago, show a gun with an X through it, and that's not what this is about.

And so even though that was a very dramatic looking pin, I switched to the orange ribbon, which is for gun violence. And I think that's another way to call this. And what about you, Joyce?

Joyce Vance:

We discussed this ahead of the show and I was reminded of a conversation that I had with one of Barb's and my colleagues when we were US attorneys. We were the first administration that ever really focused in a serious way on programming for reentering Americans, which meant people who were coming back from prison to their communities.

And all of that language is really awkward, right? Reentering Americans. A lot of people want to call them felons for the rest of their lives, right? You've been out of prison for 15 years, you're still a felon. And so the guy who is running our program, Darrell Atkinson, just a wonderful human being who I bonded with because he too was from Birmingham. We were talking about what's the right language to use.

And Darrell said something so obvious but so profoundly wise to me. He said, just call them people, right? People, not inmates, not felons, not reentering Americans. They are people and give them that dignity and the opportunity to succeed in life.

And I love that so much that it's something I've tried to adopt, not just there, but it works for so many other things, right? It's easy to call someone an addict with everything that that connotes. Person, people is much better for all of us.

Jill Wine-Banks:

And Kim, do you have something to add? I'm sure you do.

Kimberly Atkins Stohr:

Yeah, it's sort of in the same vein as Joyce's, right? We are talking a lot lately about the epidemic of people who don't have homes. And it seems to be growing in a lot of our communities in the aftermath

of the pandemic and as the economic recovery continues and as the nation struggles with things like mental health care and substance abuse care and addiction.

And we used to call people, I used to call homeless people, homeless and I think centering on the point that Joyce made, I think on this issue and so many others, it's not homeless. It's an unhoused person. It's a person who doesn't have a home, who doesn't have a roof over their head. It's an unhoused person versus a housed person, because you're centering on the person the fact that they're a human being.

In the emancipator, my project with the Boston Globe and BU, when you read that you don't see the word slave in it, for example. You see enslaved person because that wasn't what defined these human beings. They're human beings that had been a part of a brutal, awful system. I don't think anybody wants to not have a home.

People find themselves in that circumstance because of a number of reasons. And I think if we center on the person, it helps break the false stereotypes that people are lazy or that they chose this or that they just want to live off the government. They're barely living.

They're living in horrible, dangerous ways and we should be focused on how to find a solution to it. I think the way we use our words can help change that. So I think it can apply far beyond that to a number of circumstances.

Jill Wine-Banks:

That's very beautiful. And I think all three of you have pointed out the person that is the essential element of all of this. I want to add one other which is let's start calling it reproductive healthcare. We've talked about the DOB's decision for several weeks now in our last couple of episodes.

And we've talked about the unforeseen consequences of the decision and the danger it poses to anyone who becomes pregnant. And we need to keep in mind that this is reproductive healthcare. And so I'd rather say that than abortion. I hope that everyone listening is moved to tweet back at #SistersInLaw and include the #saythisnothat and tell us what your favorite things that you would like to substitute are.

Tell us what you think is being miscommunicated because of the language used when people are trying to cover it up, like hardening the schools, for example. Anyway, send us your ideas.

Joyce Vance:

So Kim, I can see you today, our listeners can't but you look great. Are you using more of your Thrive Causemetics stash?

Kimberly Atkins Stohr:

I am. In fact, I am wearing my Thrive Causemetics mascara and brow gel as we speak. I like them because I feel like just with those two things, I can go out of the house. I can go about my day and I still feel good and look great. And the best thing about Thrive Causemetics is what they're made of and what they do.

So Thrive makes high performance vegan 100% cruelty-free products without the use of parabens or sulfates. We love that their clean beauty clinically proven formulas show off your best features and even improve your skin.

Jill Wine-Banks:

I've been a long time user and I go nowhere without thrive mascara. It is amazing, but they also have other great products. They've won all of us over with products like the bright eye brightener that makes you look well rested no matter how late you've been up, and you all know how late I stay up.

It's something we have to do working on the latest causes or projects. And with an easy to use cream to powder highlighter stick, it brightens and opens your eyes, giving you an instant eye lift. Then there's the defying gravity eye lifting cream that instantly lifts, tightens and brightens skin around your eyes with line smoothing hydration.

And it feels good and smells good. You can look your best and feel soft, soothed and deeply moisturized while instantly reducing dark circles and puffiness. Not only does it fight signs of stress and aging, and we certainly all have stress these days, but also reduces dullness. It's like beauty sleep in a bottle, even if you're like me and stay up all night.

Kimberly Atkins Stohr:

You really do stay up. You're always awake. And yes, and I can say, look at somebody who gets dark circles, both the cream and the brightener are just such easy ways just to feel great. And we love Thrive, especially how they contribute to helping women thrive with every purchase of their bigger than beauty program.

They contribute to many causes from women surviving abuse to those fighting cancer, to those who are unhoused and many more in need. So now is a great time to try Thrive Causemetics for yourself. Right now you can get 15% off your first order when you visit thrivecausemetics.com/sisters. That's [thrivecausemetics](https://thrivecausemetics.com/sisters), C-A-U-S-E-M-E-T-I-C-S.com/sisters for 15% off your first order, or look in our show notes.

Barb McQuade:

Well, here we are 10 years after first graders in Sandy Hook, four years after high schoolers in Parkland and 23 years after Columbine, and now fourth graders in Texas. And yet still all we have are thoughts and prayers. I am sad and I'm disgusted. I think it's very easy to lose hope and just throw up your hands and give up and say all is lost, we aren't a democracy anymore, but we can't do that.

And I really want to focus on solutions. What is it we can do? Because it's just got to change. We live in a country with more guns than people. I want to just ask everybody if you think about just a law, is there a change, one change we could make in the law that could help reduce this uniquely American problem? Let's just go around the horn. Jill, I see you first on my screen, we have one idea that for a law that we could pass to end this madness?

Jill Wine-Banks:

I think that we need to pass something that will get passed. And so we need to do it in small chunks, even though I personally would go for the whole enchilada.

Barb McQuade:

Yeah. So one piece, what would be-

Jill Wine-Banks:

One piece would be, let's get rid of cartridges, the high capacity cartridges, because without that you could kill one person, but you can't mow down 10 people, 19 children, and two teachers in minutes, which is what it seems to have taken to do that.

And to do it in a way that DNA was necessary to identify them because they were so destroyed by the velocity of the bullets from that weapon. So there are many that I would suggest, but that would be my first one, get those cartridges off the market.

Barb McQuade:

And I think you make a wise point too, about just what's one meaningful change? How about you, Joyce? Do you have a suggestion for one change in the law that we could have that could make a difference?

Joyce Vance:

I think Jill's idea is a great one. One of the reasons that law enforcement is often concerned in these situations is when the shooter doesn't have to take time to reload because they've got a high capacity magazine that lets them fire 100 or so shots without reloading.

I think what I would add to that is how important it would be to have universal background checks. Right now there's an exception. You typically have to report, although some states require more, but you must report sales that take place from licensed gun sellers. And so there's often what's called the gun show loophole where you don't have to report those sales or sales between private purchasers.

And according to Giffords who keeps data, 22% of people acquired their most recent gun without a background check. So just more than one in five, about 80% of all firearms acquired for criminal purposes are acquired through these transfers from unlicensed sellers. So requiring universal background checks would really go a long way here.

Barb McQuade:

Yeah. How about you, Kim? Do you have any thoughts?

Kimberly Atkins Stohr:

I do. I mean, look, I think we know what works if you look in states that have reasonable firearm regulations. It usually is you have a corresponding, very low rate of gun deaths. So Massachusetts being one of them, I spend a lot of time, that sort of flip flops with Hawaii each year because they have laws like red flag laws, which are really important, which in the recent cases that we talked about could have made a difference.

These are laws that if somebody is showing signs to be a threat to other people, then either people in their household or law enforcement can petition to temporarily, this is not a gun grab, temporarily secure their firearms so that they can't get to them until they're no longer a threat. The problem with even the states that have red flag laws like Massachusetts, a lot of times people don't know about them.

So if you're in a household with somebody who is making these threats and you don't know about that law, then you can't do anything about it. So they should publicize those laws more. They should do public awareness campaigns about them as well. But at the end of the day, Barb, what I fear is that this is a cultural issue that laws really can't get to until we change the culture, right? I mean, look, I talk about Iceland a lot.

I love that country. It's lovely people there, lovely. They have gun ownership rates about the same as the United States. They have not had a gun murder in Iceland since 2007. It's the culture. They have just as many guns. They have the same number of every other kind of mental health issue or anything else.

They went through a pandemic too, but it's the culture in America that we've somehow turned the second amendment into some sort of raising it to the level of a religion and perpetuated this false idea that one party is trying to take people's guns away. And that that's un-American when that isn't even true. I think until we get to the heart of that, I don't think anything's going to change.

Barb McQuade:

Wow, that's a super interesting insight. I'm thinking about the member of Congress who put on a holiday card, a picture of himself and spouse and children all holding automatic weapons in front of their Christmas tree. I mean really yeah, making it a religion, the worship of guns, but I don't know-

Joyce Vance:

As did Lauren Bob with her four little boys in what I thought was such a painful photograph.

Jill Wine-Banks:

Even Governor Kemp had an ad with guns. I mean, the number of ads that have been shown on TV as part of the coverage is ridiculous. And it is a cultural thing, but it goes back a long way. I interned at the Legal Aid Society in New York and one of the first juveniles that I interviewed had stabbed another child.

And I asked him, why did you do it? And he said, because I'm not strong enough with my fists. I had to use a weapon. And that's what we've... That goes back obviously before I was out of law school. So we're talking a long time ago and our culture hasn't changed. It's gotten worse, and now we're using semi-automatic weapons that need to be abolished.

Barb McQuade:

Yeah, I think Kim, you raised a very good point about culture and I always wondered what follows? Does culture lead law or does lead culture? And I don't have a lot of confidence or faith in our culture changing anytime soon. So I'd be in favor of seeing sufficient votes in the Senate to end the filibuster, would only take two more votes.

And then you could do what we did in 1994, which is to ban assault weapons. Again, it's only one isolated thing among many problems, but it worked for 10 years, assault weapons were banned in this country and that law had a sunset provision on it because it was considered sort of experimental. And then at the end of the 10 years, it was allowed to lapse. And it was really not because it wasn't working.

It was because of political will. The gun lobby had grown even stronger. But one of the things we're hearing out of Uvalde is that the police officers, 19 police officers stood in the hallway waiting for the SWAT team to show up in part because they felt that they'd be outgunned by a lone gunman because he had an assault weapon and they didn't.

So it's a law enforcement issue, these assault weapons. And meanwhile, these kids are in there bleeding out because when you have assault weapons, the damage they do, as Jill said, makes them unrecognizable. One of the reasons there's so many fatalities in these shootings when they use automatic weapons or semi-automatic weapons, assault weapons, is that you don't just patch up a bullet hole.

People come into the emergency room and they're missing internal organs. It blows a hole the size of a grapefruit in somebody. They can't be fixed. So these are weapons of war they're designed to kill people and nothing else. They're not used for sport. I guess they can be, but they're not the kind of thing you need to have in your home for safety and self-defense.

And I think that it absolutely ought to be banned is my first step. Well, let's talk about, those are all some good ideas, the majority of Americans actually favor some of these restrictions, some of the ones you mentioned, and yet we can't seem to get it done.

Jill, I'm interested in your views on the politics of this, the role of the NRA and gun manufacturers. I thought the NRA was bankrupt and under investigation for fraud. Why are they still a force? Do you think that enough Senate seats can be gained to make mansion and cinema irrelevant so the filibuster can end? Or is this a completely unsolvable problem?

Jill Wine-Banks:

Wow, ask me some easy questions, why don't you? I mean, really. Well, let's talk about the easy one, which is the NRA. And I say it's easy because they did file for bankruptcy, but it was thrown out because it wasn't filed in good faith. It was filed as a way to evade their responsibility.

It was a way to hide all of the mismanagement by its current leadership, LaPierre, who has lived a very lavish lifestyle of multi multimillion dollar yacht trips on the yachts of people who are vendors to the NRA, of private jets to pick up his niece and other such things. A hunting trip to Africa, where he was such a bad shot that the guide had to do the kill after he wounded severely an elephant.

His wife, by the way, was a better shot and succeeded. I mean, these are a disgusting misuse of the dues of members who believe in the second amendment, right? That was originally what the organization was founded to do. So the NRA is starting to lose some of its power. On the other hand, the former president is speaking there probably as we are recording this and so is the Senator from Texas who vacations during tough times in Mexico, Senator Cruz.

And on the other hand, two, Senator Cornin and the current governor have absented themselves from the actual convention going on now. But the NRA money is being spent, although it's not being spent wisely because they invested a lot of money and lost the house, lost the Senate and lost the White House in the last election.

And there are certain things that they have lobbied for that most people don't even know, particularly people in Congress that they were behind. So the lobbyists aren't doing that great a job. On the other hand, the gun manufacturers in the NRA still have a lot of money that they pay to support candidates who support their views.

And that seems to still have some influence on how people vote, which is really weird to me because the numbers of Americans who support these reasonable safety measures overwhelms me that it isn't what their representatives are voting for.

Now whether we can get rid of the filibuster, whether we can overtake mansion and cinema who have been holding us back, holding back Democrats, not us, but holding back members of Congress from ending the filibuster to pass anything, which I think is essential because otherwise we have minority rule.

And that isn't what a democracy is. Looking at the open seats, I would say that there is a chance that the Democrats can get enough seats flipped to make a difference. And I think that everyone has to vote keeping in mind how people have voted on whether to eliminate or at least temporarily suspend

for certain purposes, the filibuster, how they would vote on things like gun safety. We're not calling it gun control, we're calling it gun safety.

Barb McQuade:

Thank you.

Jill Wine-Banks:

So thank you for that suggestion, Barbara. And so I think there is a chance, but it's going to require a huge get out the vote effort in order to do that. And I think that there may be maybe this is the time, maybe finally the 21 dead in Uvalde will do what Parkland didn't do, what all of the other past ones didn't do.

And I'm hopeful. I'm an optimist and I will remain hopeful and hope that everyone will work to get out the vote to make that a reality.

Barb McQuade:

Yeah, you think my gosh, if kindergartners or first graders in Sandy Hook, couldn't do it, how could we think that fourth graders are going to be any more compelling? But I do think that the world has changed a bit in terms of people's access to social media and communication and organizing. And so that gives me a little bit of hope.

All right, so what if we had the political power to pass reasonable restrictions on gun rights, Joyce, gun safety laws. Is there any impediment under the second amendment that would prevent the changes that we're talking about in the law?

Joyce Vance:

Well, we're talking about the Supreme Court. So that's always a little bit fraught, but look under Heller, which is this most recent big gun case of five, four decision authored by Antonin Scalia. The case that very shockingly in my view interpreted the second amendment as saying that there was a private right to keep a gun in your own home.

Nothing about that language in the second amendment about a well-regulated militia, somehow you as an individual could now just keep a gun at home. Even that case, which went really far towards eroding this sort of notion of well-regulated militia, didn't say that you couldn't do things like restricting certain sorts of guns. It's always been illegal or long-time illegal to possess, for instance, sawed-off shotguns or fully automatic weapons.

Heller didn't change any of that. These sorts of universal background checks also legal under Heller. So it's entirely likely that we could pass these laws and that they would survive, but Kim makes this great point about culture and the culture I think at least where I live is quite different than big city culture. Virtually everybody has guns. A lot of people believe that they are coming to take their guns away.

And so there's all this resistance. And I would say that something that we could do without even worrying about the need to pass laws is just enforcing existing laws. And a big one for me is the criminal prohibition against straw purchasing. That's a law that says that you can prosecute someone who buys a gun for someone who's not legally eligible to buy it on their own.

And for a lot of reasons, the Bureau of Alcohol, Tobacco and Firearms is under resourced in some ways. And those prosecutions can be difficult to do. They can be politically fraught. So I think along

with this notion that there are more gun laws that we can pass, we should take existing prohibitions, especially criminal ones, and make sure that we use those vigorously too.

Barb McQuade:

Well. Let's hope our good friend, former US attorney, Steve Dettelbach who has been to serve as the new ATF director is listening and gets that message. But even more importantly, let's hope he gets confirmed. He just had his confirmation hearing this week. He did terrific. He's a fantastic law enforcement professional, and I think he would do some of the things... That's a very political position.

For seven years, that position has been vacant. And before that it was vacant for decades. It's an important law enforcement job and it needs to be filled. Well, Kim, let me ask you about since we're talking about the Supreme Court and you're our Supreme Court watcher.

We're waiting for the Supreme court to make a decision on a New York law requiring licenses to carry concealed weapons. What could happen there? What parade of horrors awaits us there?

Kimberly Atkins Stohr:

Yeah, there is a parade of horrors and one, the biggest is what happens to the Heller decision that Joyce was talking about that as you said, essentially created an individual right to have a gun inside your home. And the justification was for use in self defense. Of course, self defense does not appear in the second amendment, but again.

But one big important part in that Heller decision, which was a five, four decision, and it was authored by Antonin Scalia, but there was a provision in there in that opinion, if you read it that says, this does nothing to prevent states from essentially passing, I'm paraphrasing, essentially passing some regulation to gun safety regulations in the future.

According to reporting by some really dogged wonderful Supreme Court reporters like Joan Biskupic, it was reported that that was at the behest of Anthony Kennedy. Anthony Kennedy did not want to be that fifth vote in a sweeping decision unless it had some carve out that allowed states to continue to regulate guns in some ways that they see fit.

Anthony Kennedy is not on the court anymore. So what we could get is a number of things. So first let me tell you what this challenge is about. There are laws in California and New York that are being challenged. They're called may carry laws.

And essentially what it means is to get a license, if you are a gun owner, to get a license to carry that gun outside of your home, you need to give a reason to the licensure, which is usually a city official, a city sheriff, something like that, as to why you need to carry that gun outside your home. Whether you've been threatened, whether you work in a field where you handle large amounts of money, something like that.

You have to give a reason. And it's up to the licenser to decide if that's a good enough reason to grant this license. Now, there are eight states and several cities that have this licensing scheme, mostly very populous places like Los Angeles and San Francisco and Boston and New York city that have it, Chicago, DC.

And that is in part to keep people from just wandering around these very populous places with guns on their holster and people don't know. So there is a challenge to this law saying that it violates the second amendment by leaving to these local regulators, the decision as to whether or not you can carry a gun outside your home.

So the Supreme Court can do a couple of things. They can look at these laws and say, well, the way they're written is very arbitrary. It does give too much authority to these individual licensers and that's against the second amendment. We don't like that. We want to remand that, and that would at least give these localities ability to amend the law, maybe set some objective standards that are less arbitrary and be able to clear that hurdle.

What I fear the Supreme Court is going to do is extend Heller, this individual right to have a firearm outside of the home. And in that sense, it will make it impossible to regulate. That local and state officials won't have the ability to stop people who have a gun from carrying them outside the home. It would essentially eviscerate the rationale of Heller, which was self defense in the home. Well, both rationales in the home part and the self-defense part.

And it would make it much, much harder to keep guns from being carried willy-nilly outside. There are other things that could happen. The court can say, well, cities and states can restrict guns in so-called sensitive spaces. Justice Amy Coney Barrett seem to indicate that that would be constitutional to say, for example, New York city and Times Square on New Year's Eve, you can't bring a gun.

But that I fear that that is a little too little too late. So we will get a decision in that by the end of the year, by the end of the term, rather at the beginning of July. And we'll just have to wait and see, but we don't have the moderating voices on that court like Anthony Kennedy anymore. And so I fear that it'll be a broader ruling and not a more narrow one.

Barb McQuade:

Yeah, and I think you correctly hit on this idea that it eviscerates what was really the central holding of Heller, which was this idea that gun rates exist. They're personal, but they exist in the home. And this is what you see from Chief Justice Roberts a lot. It's the Roberts two step. He doesn't completely change the path of the court in one case. He does it two steps at a time. So you get Heller.

So that one says, oh yeah forget this militia clause, even though we we call ourselves the textualist and it says the well-regulated militia being necessary to good government, et cetera. The right to keep and bear arms shall not be abridged. We're just going to ignore that part and say, this is a personal right. Right, okay.

So we got that part. But what they did say in there was that it does not confer a right to possess any gun whatsoever at any time or place whatsoever, in any manner whatsoever and for whatever purpose. I can see a case coming down the road where they say, well, that was mere dicta, that wasn't the central holding of Heller.

And so now we hold that this licensing is unconstitutional and that the right to bear arms does extend outside the home, because there's nothing in the second amendment says that it's within the home. And so that's how you'll see not only will it be impossible for us to achieve the kinds of reforms we just discussed, but it'll become even harder. And so that's a worry that I have right there.

Jill Wine-Banks:

Barb, you've raised an issue that really highlights the hypocrisy of the textualist, which is they did totally avoid the text which says a well regulated militia.

Barb McQuade:

They ignored it.

Jill Wine-Banks:

Totally, completely ignored it. And so in my fondest dreams, in my wildest imagination, I could envision the language of egregiously wrong and must be overturned being applied to Heller because it is egregiously wrong. And I know that's ridiculous.

It's never going to happen, at least not in my lifetime with the court that we have or are likely to have in my lifetime, but I can hope that that could happen because it is wrong. And I think if we look at the history of how we got here, and there's a great newsletter from Heather Cox Richardson that I'll put in the show notes that deals with this history and it shouldn't be.

And even law enforcement doesn't want this carry anywhere because then they don't know who the good guys are and who the bad guys are, who's the shooter and who's the people who are helping law enforcement. So anyway, you raised that issue.

Joyce Vance:

Can I just say amen, amen, amen on the statutory construction issue about the second amendment, because Scalia who claims to be a textualist makes this very contorted argument about, well militia isn't modifying the second clause and so magic abracadabra, here's a private right to have a gun in your own home for self defense.

And it's ridiculous. There's so many cases in the criminal arena where he argues for a plain construction of statutory language, but it's this separate jurisprudence that some of the conservative justices adopt when they want to have a results oriented ruling, drives me nuts. I'm in the Jill Wine-Bank school of belief that if there's precedent that's ripe for reversal, it's Heller. It's done a lot of damage.

Barb McQuade:

And can I add one more thing to that? It also is quite rich when they say, well, the word abortion is not in the constitution, therefore there is no right to an abortion.

Kimberly Atkins Stohr:

Neither is AR 15.

Barb McQuade:

Exactly. Exactly what I was going to say. At the time of their ratification, what was an arm? An arm was a musket that could fire a single shot. And if that's the right that's protected, that's what they say. You're supposed to look at the words as they meant at the time they were written.

So they didn't imagine anything like an AR15 or an AK47, the kind of thing that could blow a hole the size of a grape through a child. So it is hypocrisy masquerading as judicial philosophy.

Jill Wine-Banks:

I was at my eye doctor yesterday and her mother was a musket loading champion. And she pointed out to me how long it takes to load a musket for one shot. So fine, anyone who wants a musket can have it and carry it anywhere they want. They aren't going to do a lot of damage, but the AR15 is going to. And that's where the whole argument falls apart.

Barb McQuade:

Well, we'll probably have to end it there, but just one day I want to shadow Jill Wine-Banks and follow her around and see all the interesting characters she meets, like the musket loading woman and all of these other people. But yeah, thanks for a great conversation. We'll leave it there.

Kimberly Atkins Stohr:

You know what, Jill? I was just thinking that I could use a good burger, but I like making mine at home. Do you like making them and where should I get some?

Jill Wine-Banks:

Well, I have the answer for you because recently we have found Moink and we're very excited to tell you about it. That's Moo plus Oink, Moink, which is a meat subscription box company on a mission to fight for the family farm. They're located in rural America run by an eighth generation female farmer.

Their animals are raised, their employees are paid a living wage, and the quality is way better than anything you'll find in stores.

Barb McQuade:

That's interesting Jill, because I've had some moral pauses, I suppose, about eating beef. Like Kim, I do enjoy a good burger, but I have worried about what it does to the environment and what it's doing to small farmers, but Moink delivers grass fed and grass-finished beef and lamb, pastured pork and chicken and sustainable wild caught Alaskan salmon straight to your door.

The Moink farmers farm like our grandparents did. And as a result, Moink meat tastes incredible. The family farm does it better, and the Moink difference is when you can taste. Unlike the supermarket, Moink gives you total control over the quality and source of your food.

You choose the meat delivered in every box, everything from rib-eyes to chicken breasts, pork chops to salmon filets, and much more. Plus you can cancel it anytime. I think it's a great cause. It's great food and we're promoting rural America.

Jill Wine-Banks:

I love the promotion of the small farm, and I know that Joyce has done some research and it shows that the environmental harm of the big farms is not the same when you have the small farmer. So that reduces one of my reasons for not having had meat for many years. I didn't eat meat for probably more than 40 years, but recently was told that it would be healthier for me to eat it.

I had a blood test that said I was missing a lot of stuff by not eating meat. So I have gone back to having meat occasionally, not every day. But this is a terrific way to have it without fear of environmental harm. And Shark Tank host, Kevin O'Leary called Moink's bacon the best bacon he's ever tasted and Ring doorbell founder, Jamie Siminoff jumped at the chance to invest a Moink.

Plus they guarantee you'll say oink, oink. I'm just so happy I got Moink. You'll love it like we do. It's the perfect option for a family meal or dinner party. Keep America farming going by signing up at moinkbox.com/sisters right now. And listeners of this show get free filet mignon in every order for a year.

That's one year, the best filet mignon you'll ever taste, but for a limited time. Spelled M-O-I-N-Kbox.com/sisters. That's moinkbox.com/sisters, or look for the link in our show notes.

Kimberly Atkins Stohr:

The two year anniversary of the murder of George Floyd came and went, and so far Congress failed to pass any meaningful police reform. Meanwhile, police still fatally shoot about 1000 civilians a year. A disproportionate number of them are black and brown, and many of them are unarmed.

Wednesday, President Biden signed a police reform executive order. So Barb, can you tell us what Biden's executive order does? And as a former prosecutor, what do you think of it?

Barb McQuade:

Yeah, I think it does some important things, but of course it falls short of what a statute by Congress could do. So it has a dozen or so different provisions and a couple that I think are very important. One is that it creates a database of police misconduct.

We have seen cases, I know here in Michigan where a police officer gets terminated for disciplinary infractions and then he turns around and he gets hired by a neighboring department. We had somebody we prosecuted criminally for civil rights violations. He was acquitted, but only by dumb luck that a jury didn't buy it.

And then he ends up working in a neighboring police department and starts doing it again, planting drugs on suspects and got caught there and people said, how could this happen? It's because there is no database of this misconduct that one department can look at in another. So this would change that. But one limitation on this is it is only for federal officers.

Because it's a federal order, it can't pertain to state police officers, which is the vast majority of police officers. It does for the first time require federal law enforcement agents to wear body cameras, which I think is a very significant change. And to the extent federal law enforcement serves as a model for state and local law enforcement, I think it's a really important symbolic step, as well as actual step.

I think all of us who have worked in prosecution will tell you, I love having body camera footage, because if your officer is telling you the truth and something really bad happened, it's great to be able to show a jury that. It is also, as we have seen like this case out of Grand Rapids Michigan, critically important to show what happens when there is a fatal police officer encounter.

And then one other thing in it is it requires federal law enforcement agents to intervene when they see one of their fellow agents involved in misconduct. So I think all of those things are very good, but as I said, because it pertains only to federal agents, it's somewhat limited in what it can do.

And it doesn't do some of the really big things that some of the proposed legislation would do, the George Floyd Policing Act that would do other things like impose qualified immunity or eliminate or reduce or modify qualified immunity and illegalize choke holds in among state police officers and do some of those things. And it also, to me really relates back to the topic we were just talking about.

I think the biggest thing that drives police misconduct is their very real fear of being attacked by a gunman. That when they pull somebody over that person's going to have a gun and they're going to kill them, and that is why you see so much overreaction in the way they respond to things.

If we could get a control, get some safety, get a handle on the infatuation with guns in America, then I think police officers would be less likely to engage in violence. So maybe one relates to the other.

Kimberly Atkins Stohr:

That's really interesting on that point, especially as we're seeing that police killings are on the rise again just two years after the protests and the national attention was gained. They're going up again, just because we have not seen sufficient reforms.

So Jill, on a federal level, even before Biden's executive order, the DOJ had been trying to implement some reforms such as requiring some agents in the FBI and elsewhere to use body worn cameras in certain circumstances.

But I saw an interesting Washington Post piece that outlined how the Department of Justice is trying a different approach, trying to partner with police departments and encourage them to take ownership and push for change from within. Do you think something like this can work?

Jill Wine-Banks:

It's an interesting attempt to get something done and it's the carrot instead of the stick. And I'm hoping that it could have a difference. I'm just not sure because we're back to this issue of the culture of America and the fear.

I mean, you even saw what now appears to be in Uvalde, the police were afraid to go into the school because they were under armed compared to a lone gunman. And so it is dangerous for a police officer to approach a vehicle when they don't know who's in the vehicle and whether they are armed or not. And given the Supreme Court's decisions allowing more and more guns, it's a risk.

But I listened to and I read the Washington Post article that we'll post in our show notes as well, where Bonita Gupta, the number three person at the Department of Justice has been working with local law enforcement to try to cooperate with them and to provide a resource center that will help them.

It certainly can't hurt, and I certainly look forward to monitoring the results that come of that in the same way that we monitor what happens when we eliminate assault weapons and bar them. What's the outcome? Do homicides with guns go down? Do suicides with guns go down?

What happens? So I think it'll be worth watching and I am hopeful that a different approach maybe will get even more people from the public aligned with the effort and that that could make a difference.

Kimberly Atkins Stohr:

Yeah, I will be keeping an eye on that as well and I do hope that it works. I don't know that it will, but I do hope that it does, especially if they can underscore the fact that these efforts will help protect police officers too, not just members of the public.

So Joyce, as Barb mentioned, a major sticking point on federal and state efforts to pass police reform measures is qualified immunity. Remind us what that is and why efforts to eliminate it have stalled in legislation time after time.

Joyce Vance:

Yeah, so qualified immunity provides government officials, including police officers with qualified immunity from being sued when they're accused of violating constitutional rights. It's always been such a difficult concept for me to get my mind around. This is judge constructed.

It's not something that is the product of any statute, but essentially to win a civil lawsuit against a police officer complainants have to show that the officer violated clearly established law. Typically pointing to something that's factually really directly on point. And because the courts have taken such a broad view of qualified immunity, that means that in all but the most egregious cases officers often get away with this misconduct.

Now, I don't want to paint a one sided picture here because there is an argument that you have to be cognizant of regarding the police. They're often operating in very dangerous situations where

they're required to make split second spur of the moment decisions. And those decisions should be shielded by qualified immunity, but that's not what the conversation here is about.

It's about using laws to constrict the scope of qualified immunity so that it wouldn't be so expansive that someone like a Derek Chauvin who kills someone engaging in conduct that clearly violates constitutional rights can be readily prosecuted. And in making it easier for these cases to be brought in appropriate situations.

So this isn't an all or nothing sort of a scenario. This is a question of coming up with sensible, smart, balanced, legal solutions, but they have frankly been elusive because Republicans and some centrist Democrats don't want to do anything that might diminish their support from law enforcement.

So they've been unwilling to engage in these solutions. This has been part of the police reform legislation that passed the house of representatives from day one. The holdup is in the Senate. It's a question of political will, and so far it's been absent.

Kimberly Atkins Stohr:

Yeah, and the one thing I find so remarkable is I like to praise Massachusetts a lot because I think it's a state that is shown in a lot of areas, how they can get things right including with gun safety. But even with its police reform bill that it passed in a very lopsidedly democratic legislature, the one part that was a no-go, qualified immunity.

Joyce Vance:

I was going to say, it's so interesting. So I teach a seminar in democratic institutions and one of my students, a really, really brilliant young man wrote a paper on the conservative case for qualified immunity or for changing, for really doing away with qualified immunity. And I hope that he'll take that and publish it because he made this really fascinating argument.

And there are these new ways of viewing these issues that would let certainly Democrats, but even Republicans back out from qualified immunity in a way that's police friendly. These issues aren't always as irremediable and as political frankly, as we want to make them out to be. We can find solutions that work for everybody. We just don't seem to ever get there.

Barb McQuade:

I just want to point out one thing that Kim has already put gun safety into her lexicon. Did you see the way she effortlessly said that?

Joyce Vance:

It was well done.

Kimberly Atkins Stohr:

Thank you very much. I try.

Jill Wine-Banks:

So Barb, now that we're concerned about the environment, I know there's another solution in terms of cleaning products. Have you heard of BlueLand?

Barb McQuade:

Yes, Jill. I've been using Blueland, and one of the things I like about Blueland is I think sometimes it feels overwhelming about what's happening to the planet, but if each of us can just do our small part to help, it can make a difference. And I know I feel better about things using Blueland.

So you can get rid of plastic waste and get powerful, effective cleaners for your entire home with Blueland. Their idea is simple and beautiful. Buy the bottle once, refill it forever, no more plastic waste. The only thing you need to discard is your outdated idea that eco-friendly products are more expensive and less effective.

Just fill Blueland beautiful Instagramable bottles with warm water. All of us need to... That's what we really need is to Instagram our Blueland bottles.

Kimberly Atkins Stohr:

Oh my God, we should.

Barb McQuade:

With warm water, pop in one of the hand soap or spray cleaner tablets. And within minutes, you have powerful cleaning products in incredible scents, like Iris agave, purine lemon, and lavender eucalyptus.

Kimberly Atkins Stohr:

I just cleaned today. So I totally should have done that because I was using Blueland products as I was doing my laundry and the dishes and washing my hands as I do very frequently. I hope you all are still washing your hands even though the pandemic seems to be over. It's important. And you should use Blueland products from their best selling clean essentials kit to their hand soap duo.

Wash your hands y'all. And plastic free laundry and dishwasher tablets, Blueland has something for every inch of your home. Also backed by very popular demand is Blueland's toilet tablet cleaner. Another favorite of mine. Get it before it sells out again.

Blueland's stunning high quality forever bottles start at just \$10 when you buy a kit and are meant to be reused forever with money saving refill tablets that start at just \$2. Try Blueland today. You'll love it, and the planet will thank you.

Barb McQuade:

And right now you can get 20% off your first order when you go to blueland.com/sisters. That's 20% off your first order of any Blueland product at blueland.com/sisters. [Blueland.com/sisters](https://blueland.com/sisters), or look for the link in our show notes.

Jill Wine-Banks:

And I want to see an Instagram of you using your toilet tablets.

Kimberly Atkins Stohr:

You got it.

Barb McQuade:

Won't happen.

Joyce Vance:

Well, Trump remains in the news even in this week, and it's been another bad week for him, but the ultimate question that still hangs in the air is whether there's any mechanism that can successfully hold someone with so little respect for our country and the oath of office that he took whether there's any mechanism that can hold that slippery man accountable.

We start with new reporting about DOJ's investigation, and I'll turn to you for that, Barb. You have always been a staunch advocate of the belief that DOJ was investigating Trump. I think recent developments bear you out on that.

And some of those developments this week suggest that DOJ is investigating some of Trump's lawyers, the cracken lawyers. Perhaps instead of being released, they'll be imprisoned at some point. What do you make of all of this? Do you think the investigation is drawing closer to Trump himself?

Barb McQuade:

Yes, and I feel completely vindicated that there is now public reporting that says that the justice department has been investigating this all along. I am now going to take my fortune telling show on the road, guessing people's age and weight. But this is interesting.

And it really does go back to what Merrick Garland said on January 5th and what Lisa Monaco echoed a couple of weeks ago about the way the justice department does its work. It starts with a crime that occurs right in front of us, the January 6th attack on the Capital. You get the low hanging fruit, and then you use the information from that investigation to continue to build, build, build, build, build.

How did this happen? How did we get here? And so the other thing that happened in front of us is this alternate slate of electors because we had state attorneys general complaining that we think there's a fraud on our state when these alternate slates of electors submitted these slates to the national archives. And so that's something they began to investigate.

And again, it's not clear whether they're just starting to issue grand jury subpoenas, or they've been doing it all along. My hunch is that they have, but they're now entering a more overt stage, requesting the testimony of the transcripts of the January 6th committee witnesses, and now perhaps subpoenaing some people who are less friendly.

When you subpoena people who are friendly, they don't talk like perhaps Mike Pence's aids who have been really quite forthcoming with the committee. They may have testified before the grand jury. People who are DOJ officials like Jeffrey Rosen and Richard Donahue may have already testified before the grand jury.

But now this one is focusing on this aspect of these false slates of electors and the subpoenas say they're going to people linked to and seeking information about the efforts by Rudy Giuliani, John Eastman, Jenna Ellis, who is a lawyer who also worked with them.

And another lawyer named Kenneth Cheeseborough who wrote memos about this elector scheme, about how they would get these slates of false electors and use them as a substitute when the other ones were thrown out. And so that says to me that they're focusing on that and that they are taking the evidence where they find it and following it.

And it makes sense to me also that it continues to lead. You ask questions, who else was involved? Why did you do this? And I think ultimately it quite potentially leads to Donald Trump himself.

Joyce Vance:

Do you think these folks are really answering questions or are they just going to go in and assert lawyer client privilege? Or maybe the fifth amendment is their desperate last gasp?

Barb McQuade:

Yeah, I think they'll assert some privileges as much as they can. They fought like animals with the January 6th committee. I don't see why it would be any different. Although there is a little more teeth, I think, to a grand jury subpoena than to these congressional subpoenas, because it can be brought immediately before a judge and a person can be held in contempt and jailed if they refuse to answer. But if they assert-

Joyce Vance:

So wait, can I interrupt you and say, are you suggesting that maybe the attorney client privilege could be pierced because of something like the crime fraud exception and it's not legitimate here?

Barb McQuade:

Well, we've already seen a judge in California rule that it's more likely than not that Donald Trump and John Eastman were committing a crime when they were having these conversations. And so those communications are not privileged, but even if they're unable to get every question answered, I still think there's value in calling these people to the grand jury just to lock them into their story.

Because it prevents them from fabricating a new story at a trial a year or more down the road when they say, well, no one ever asked me. Actually what we were doing was researching up a screenplay. Yeah, that's what we were doing. If you lock them into a story what they remember, what happened, who they talked to.

There's certain things that are beyond the scope of the privilege they have to answer. Conversations they had with third parties, for example. But at least you lock them into a story for now that makes it very difficult later and then you can use that transcript to cross examine them later, if they should change their story.

Jill Wine-Banks:

I feel like we're on Wait Wait... Don't Tell Me. And it's like, if any of these things happen, we know where it came from, Barb. If they use the defense of, we were writing a screenplay. So, it's your idea?

Joyce Vance:

Well, listen, Barb, I like the analysis, when you take your dog and pony show on the road. I don't want you guessing my weight, but I like your guesses on everything else here. And I mean, this is to be frank, bad news for the former president.

But Jill, on this same timeline, the same week a court has ruled that Trump and Ivanka and one of his other children, I think Don Junior have to submit to questioning by the New York attorney General's office in her civil investigation into business misconduct. It feels like this fight has been going on for a long time. Will they finally have to answer questions now? Is there more delay in the works? And how significant do you think this is?

Jill Wine-Banks:

Well, there's even more bad news because there was also today a ruling that he, the Donald Trump lawsuit to stop the investigation by the New York attorney general was thrown out. He cannot challenge it. But yes, unfortunately, is there more delay? Of course, there's more delay because that's what Donald Trump is known for, divert and delay, divert and delay.

So there's more courts to appeal to. He hasn't gone to the Supreme Court on this one yet, and I am sure that he will take it all the way up there even though it is totally frivolous. Hopefully at some point he will be held liable for all of the court costs and all of the lawyer's fees because of doing that.

But I am afraid that there are still ways that he can ignore the current order to testify. And the order for her testimony was like immediate. They have to do it. So we'll see before next week's episode, whether there's another appeal and delay or whether they actually go ahead with it. It's a legitimate lawsuit that cannot... I mean, the investigation is legitimate and his challenge to it has been thrown out so they should have to testify soon.

Joyce Vance:

So your answer sort of feeds into the question that I think looms over all of this and Kim all turn to you for this, because I know you tend to be less bullish on the outcome of some of these investigations. A lot of people have succumbed to the view that Trump won't ever be held accountable.

Do you think that a federal criminal prosecution is really the only path or is it possible that the civil suit that Jill has just rehearsed or even Fannie Willis's case in Georgia? There's news that she'll be calling witnesses to her grand jury next Thursday, starting with Georgia secretary of state, Brad Raffensperger. Could one of these cases or even everything combined lead to the kind of accountability that people want to see?

Kimberly Atkins Stohr:

Yeah, I think about this in terms of the type of accountability that is necessary for justice to be served and I take nothing away from any of the state investigations. I think anytime that a potential crime is committed, it needs to be investigated thoroughly and the people who are accused of it should be made to stand trial or face the consequences if it is proven that they have broken a law.

That goes without saying. But I truly believe that the federal government, when you have a circumstance like this where it is not just the commission of crimes, but the attack on democracy and what it means for the future of our nation and the future of the presidency, that it has to be a federal prosecution that can't just be seen as political by political actors who are trying to get ahead in their careers or anything like that.

It has to be a clear statement that we as a nation cannot stand for someone who tried to usurp the results of an election and then subsequently incite an insurrection because the attempt to usurp the election didn't work. That is something that is fundamental. And I look to a series at Globe Opinion that we did that was written by my colleague, Abdala Faiyad who was a finalist for a Pulitzer for it.

It is remarkable work and I'm very proud of him and I waste no opportunity to congratulate on him, but it is important. And he wrote in this series, there is only one way left to restore deterrents and convey to future presidents that the rule of law applies to them. The justice department must abandon two centuries of tradition by indicting and prosecuting Donald Trump for his conduct in office.

And that's the important thing. Yes, the financial laws and the other things that Donald Trump is accused of, those are important, but his conduct, while as a sitting president attacking democracy, he needs to be brought to justice for that. Because if you don't, then that leaves a gaping hole for any future president to engage in the same conduct.

It actually gives them a roadmap as to how to do it. So my fear is that if he is not held accountable for that, our nation will suffer as a result. So I will link that piece that Abdala wrote in our show notes. And I do think that it is important and that it's different.

Joyce Vance:

I agree with that so strongly. There's this traditional wisdom, I guess it's the Al Capone thing, right? Al Capone was ultimately prosecuted for tax fraud, and that was how they took him down. And that's true in some cases, but when you have a president of the United States who's involved in an insurrection, if the evidence is there, he needs to be prosecuted for the insurrection if we're going to ask people to continue to have faith and confidence in our system.

Jill Wine-Banks:

Can I just add that I was for indicting a sitting president, Nixon, and for indicting him once he resigned as a former president? I believe it is the right thing to do when the evidence supports it, that had it been done, that maybe a message would've been sent to future holders, which is sort of what I think Kim is saying is that it's a warning.

And maybe Donald Trump wouldn't have tried all the things that he's tried. I'm not sure about that because we all know Donald Trump is a unique character, but I do think it's important to hold people accountable. But I do think that the accountability could come from a Georgia Fulton County case as much as from the federal government.

And I just hope there is some accountability, whether it's civil or criminal. I think criminal... I guess I don't think civil will take the place of criminal. I don't care whether it's federal or state.

Joyce Vance:

Hey, Jill, can I go back to what you said about Nixon and just make one final point? Obviously a lot of the concern about prosecuting Trump is that we don't want to become the kind of banana Republic where we prosecute people once they've left office, right? Where you see that routinely happen.

Do you think that we are nuanced enough and sophisticated enough that because Trump is so unique or because Nixon is so unique that we are capable of crafting exceptions and precedent and rules that would cabin future administrations from tending into banana Republic status? Or do you think that that's a legitimate fear?

Jill Wine-Banks:

I do think it's a legitimate fear, but the fear would come to me from the Republican side who is threatening right now to try to impeach Biden, even though he's done nothing that would justify it.

I think Americans are smart enough to be able to see when a case is presented that there is sufficient evidence and that the majority would certainly understand why a criminal case was necessary as opposed to the ludicrous idea that Biden has done anything or that Hunter Biden has done anything that deserves an investigation and a conviction. So, yes, I am inclined to think that people can understand it.

Kimberly Atkins Stohr:

And just one more quick point, Joyce. I think what's different here is that even in the case of Nixon, he resigned before he faced an impeachment trial, but I have no doubt that the Senate would've convicted him. In this case twice the Senate here failed in their duty to convict Donald Trump on impeachment. So there's really no other lever. This is the only one that's left.

Barb McQuade:

As lawyers, we know that clients demand instant response, and many of us are spread thin. So if you're losing leads from web visitors or missing calls that could grow your business, you need to delegate those frontline conversations to the best virtual receptionist service, Smith AI.

Smith AI provides businesses with award-winning virtual receptionists who handle your calls, chats, and texts to unlock new business at fractions of the cost of hiring in-house staff.

Joyce Vance:

Smith AI is not your average receptionist service. Since 2015, they've combined the best receptionists across North America with AI technology for superior business communications and customer engagement. Their friendly and professional agents screen leads using your custom criteria, schedule appointments on your calendar and call back leads who complete your form.

They can do it all by phone seven days a week, and also on your website through their 24/7 live chat service. They even answer texts and Facebook messages, integrating with your preferred software, Salesforce, HubSpot, Calendary, Zapier and thousands more.

So even if you're not involved in every call, you're always in the loop. Plus they have English and Spanish speaking receptionists, block spam for free, and can handle all calls, after hour calls or just your overflow.

Barb McQuade:

Smith AI helps thousands of small businesses across a wide range of industries, including law firms, home service professionals, marketing agencies, and other service based businesses. And they're ready to help your business too. Work uninterrupted, reduce stress and get more leads from your marketing efforts.

Smith AI pays for itself and more with all the new clients their receptionist will help you win. Never miss another lead. Boost revenue, increase focus at work and keep your staffing cost down. It's as simple as forwarding your calls to Smith AI.

Joyce Vance:

Plans start at just \$240 a month. Try Smith AI today and see for yourself why business owners like Justin Nicole say Smith AI receptionists are her secret to business growth and client happiness. And our listeners will save \$100 when you sign up using our promo code sisters@smith.ai. Visit smith.ai to read five star reviews and be sure to use our code sisters, S-I-S-T-E-R-S, to save \$100 at signup. Don't let another day go by, try Smith AI.

Jill Wine-Banks:

Well, that was a heavy episode, but a really good insightful one. And now we move on to one of the parts we love the most in our episodes, which is to look at the listener questions and to answer them. If you have a question for us, please email at sistersinlaw@politicon.com or tweet using #SistersInLaw.

If we don't get to your questions during the show, keep an eye on our Twitter feeds throughout the week. Sometimes we answer the additional questions there. And today's questions that we will answer are really terrific ones. The first one is from Stella S.

Could you please explain the relationship between the justice department and the FBI? Does the FBI do all of the investigating for the justice department or do they do their own investigating? Barb, why don't you answer that?

Barb McQuade:

Oh, I would love to answer this. And it's so interesting to think about the relationship between the justice department and the FBI, because the FBI is part of the justice department. And I think so often we see them described as if they're own independent standalone entity. And in fact, if you look under the org chart, they are under the deputy attorney general.

And I think when you think about things like Jim Comey going out and having his own press conference without telling the attorney general Loretta Lynch or deputy attorney general, Salate, what he was going to say. And just doing it on his own, was just so insubordinate when it's part of the justice department.

It's only one of a number of investigating agencies that do the investigative work for the trial attorneys and the assistant US attorneys who work for the justice department. So the FBI, I think, gets most of the attention because they tend to... Their jurisdiction includes the very high profile types of cases like terrorism, white collar crime, public corruption, and civil rights.

Those tend to be the crimes that probably get the most attention, are most written about in the press. But then there are other investigative agencies that also do a good bit of the work within the justice department. There's the DEA, Drug Enforcement Administration that does the bulk of the work investigating major drug trafficking conspiracies, especially international ones.

The one we talked about earlier, the Bureau of Alcohol, Tobacco and Firearms, ATF that does a lot of investigations into gun crimes and violent crime and gang violence. And the US Marshall service is another one within the justice department that does a lot of things like fugitive apprehension.

But then there are all kinds of agencies outside the justice department that are also federal law enforcement agencies that contribute to the work of the justice department. The secret service brings a lot of financial fraud cases and cyber fraud cases for example. Homeland security investigations brings cases involving international borders like smuggling cases and sometimes international child pornography cases and immigration cases.

So there are a number of different federal agencies that do the investigative work that support the prosecution work of the justice department. The FBI is just the one that is the biggest, the loudest, and gets the most attention.

Jill Wine-Banks:

That's a great answer, but you left out the Department of Labor which has investigators. I use them in some of my labor racketeering cases and IRS, don't forget about all those tax cases that can be criminally prosecuted. So let's move on to our second question, which is from Lisa. And she asked... We had this discussion about he, she, they.

They asked, because I don't actually know who Lisa is. They asked when talking with my 20 year old niece, she tells me many of her friends do not pay attention to the news and have no idea what is going on politically or otherwise. How do we engage the young people and encourage them to vote? Who wants to answer that one?

Joyce Vance:

Well, I'll take a stab at it. This is such an important question for those of us who have teenagers and 20 somethings who are very disillusioned by the political system. I know my kids in many ways are. And so I think it's important for us to not back away from the subject, but to sort of meet them where they live and be willing to have those conversations.

Jill, you do another podcast, iGen with Victor Shi who I think is just such a remarkable young man, a student at UCLA. And Victor has been writing about this and doing a great job, don't you think?

Jill Wine-Banks:

Absolutely. So I would encourage everybody to... And I'll post them on our show notes as well. He's had two recent opinion pieces, one in the Boston Globe, which Kim knows about. And the other in the Chicago Tribune, both about the youth vote and what could be done to engage them.

He also has an idea which I would love to promote, which is to have a youth department within the White House to get the youth vote out. But he had some very specific ideas about, for example, candidates have to use the social media where the youth vote is. Because if you keep going to television, they're not going to see your ads. So use the social media. So he has some-

Joyce Vance:

But Jill, they're already on Facebook.

Jill Wine-Banks:

Yeah, okay. They may be, so I don't know. But anyway, I think we need to pay attention to Victor Shi and his opinion and get young people involved because he also quotes some of the statistics on how much of a difference it can make in the outcome of a race.

It certainly did in Georgia with the last runoff vote, the Warnock and Ossoff, and it makes a big difference. Let's move on to our last question for today. And it is from Deborah in Miramonte California, and it's addressed to me. Have you been watching the stars series Gaslit about Watergate? If so, what are your comments, if any, about it? Is it realistic?

So I'm glad you asked that because I am watching it and I loved the first episode because it was so funny. It was quite humorous. I'm not loving it as much as we go along because I don't think the portrayals of the characters are realistic. Number one, John Dean is smart and he is not portrayed as smart as he is.

Secondly, it does portray his now wife, Maureen known as Mo, as sort of the hero of the movie as far as I can tell. And that's an interesting perception. I'm doing a program with John on June 9th in Chicago Live at the university club for Thompson Hines, a law firm that is headquartered in Ohio, but has just opened a Chicago office.

And I'll be asking him about how he sees Maureen in terms of this. But it also is based on the premise that Martha Mitchell was a key figure in Watergate. And while she is a key character and is an interesting, interesting woman, I don't think she had any knowledge or had any influence on the outcome of Watergate. So its basic premise fails in that regard.

And then I'll end with, it's so interesting to watch. They have Sean Penn using makeup and prosthetics to look as much like John Mitchell as he could possibly look and they make no effort to make Julia Roberts look like Martha. She looks nothing like Martha and it's not so much that I care that she doesn't. It's just that the contrast between John Dean, I'm sorry, not John Dean, John Mitchell and Martha Mitchell is so astounding that it really bothers me.

Kimberly Atkins Stohr:

Well, who plays you Jill?

Jill Wine-Banks:

Well, nobody plays me in this, but-

Kimberly Atkins Stohr:

What? Well then I give it a thumbs down.

Jill Wine-Banks:

Oh, good. Okay, well, we do have my movie and Katie Holmes plays me and she's going with me to the 50th anniversary celebration of the anniversary of the break-in on June 17th an event at the Capital, which because you're in Washington, Kim, I hope you're going to go with me too, because I got you an invitation to it. So are you going to go with me?

Kimberly Atkins Stohr:

Oh, well, thank you, Jill.

Jill Wine-Banks:

So I'm hoping you'll be there with me. So that's what's coming up, but it's definitely worth watching. It's fun, and parts of it are real. I mean, she was held captive. She was not allowed out of her California room so that she couldn't make phone calls.

She was famous for her phone calls and in the category of everything that I've done, I did meet Martha of course, during the trial, but more importantly, I met her right after Watergate at a fundraiser for Against the Gridded Iron, which had only male members. And this was raising money for women in journalism.

And it was a carnival in which Martha sat at a telephone and made phone calls. You had to pay her and she would call anybody you wanted because she was famous for making her crazy, crazy phone calls. I didn't actually have her do that, but I did have Elliot Richardson sign a cartoon that he had drawn as a fundraising effort. And Dan Rather and I sold kisses. So that was one of the most fun things I've ever done.

Kimberly Atkins Stohr:

What?

Jill Wine-Banks:

Yeah. Okay, I'll post.

Kimberly Atkins Stohr:

Did you actually kiss people?

Jill Wine-Banks:

Well, we were actually selling candy kisses, but yes we did. We actually did kiss people and I'll show you. I'll post a picture of Dan Rather and me doing that and of my cartoon signed by Elliot Richardson, which there's a funny story with, because you had to go up to him and hand him a thing with a post-it with your name on it.

And he was just automatically signing them. And he started writing my name and he looked up, he says, oh, wait, I know you. I lost my job because of you. So that was a pretty good outcome.

Barb McQuade:

The many escapades of Jill Wine-Banks.

Jill Wine-Banks:

We keep trying to have fun and do all sorts of interesting things. My husband is now writing a book about our weird travel. He's started with Papua New Guinea and he's now moved on to Borneo. So it'll be interesting to see what he comes up with. I can't wait to read it. Thank you all for listening to #SistersInLaw with Barb McQuade, Kimberly Atkin Stohr, Joyce Vance and me, Jill Wine-Banks.

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Barb McQuade:

Oh, y'all know, don't even say that. For Drinking with Chicken's Day, we make everybody write a chicken haiku. We've been doing it for a long time. And so we did it last weekend and everybody is their admission ticket had to write a haiku and they were very salty this year, very salty haikus.

Jill Wine-Banks:

That's so weird. I don't even know what to say.

Barb McQuade:

I mean, we've known our friends for so long that we do weird shit. Sometimes we write birthday haikus but it is a... We do limericks.

Kimberly Atkins Stohr:

But they had to be about the chickens.

Barb McQuade:

You had to write-

Joyce Vance:

About drinking with chickens.

Barb McQuade:

... A chicken haiku for annual Drinking with Chickens Day, including our 29-year-old who I can't remember, but it was like, this is really a stupid idea, mom. Stop it. We just want to drink the beer.

This transcript was exported on May 28, 2022 - view latest version [here](#).

Jill Wine-Banks:

That was the haiku?

Barb McQuade:

That was his haiku, was something like that.

Jill Wine-Banks:

Okay, that was a failed Haiku. Next year remind me and I will have a friend who has published, has won a lot of awards for poetry.

Barb McQuade:

Really?

Jill Wine-Banks:

I'm going to ask him to write a haiku for this, but-

Barb McQuade:

That will be awesome.

Jill Wine-Banks:

.. Send me some samples.

Barb McQuade:

I will.

Jill Wine-Banks:

And I will get him to work on it.

Barb McQuade:

I keep the winners every year.