

Kim:

Welcome back to #SistersInLaw with Jill Wine-Banks, Barb McQuade, Joyce Vance, and me, Kimberly Atkins Stohr. Today on the last episode of 2022, we will be discussing George Santos, the congressman elect, who can't seem to keep the facts straight. We'll also talk about the sentences handed down in connection with the plot to kidnap Michigan's Governor Gretchen Whitmer and the Supreme Court waiting into the border crisis debate. And as always, we will look forward to answering your questions at the end of the show. But first, as I said, we're almost at the new year as we record this. And I thought I would start out by looking back on the year that we have had, and I wonder to you guys what was the biggest... I'll ask you this, either the biggest legal news story that you thought came out of 2022? There's a lot to choose from, a lot happened. Or what you think your prediction for 2023 might be? What might be the biggest legal news story for next year? What do you think, Barb?

Barb:

It's tough because there's some competition here, but I really have to go with the Dobbs Opinion, the overturn of Roe versus Wade. I really thought that was something we would never see. I know there were a lot of people who were fearful of it, and I really thought that 49 years of precedent would stand. Especially because I thought that the decision, regardless of where you stand on the abortion question, if you use all of the traditional tests for stare decisis and when precedent should be overturned, they all argued in favor of keeping Roe on the books. And so I thought that was the biggest news in terms of the surprise of it and the impact of it.

Kim:

I think there's not a lot of argument there. Joyce, what do you think?

Joyce:

I'm with Barb on Dobbs. I think that that's... in a year of truly huge news stories... what's the proverb? May you live in interesting times. I think Dobbs really, in a very sobering way, took the cake. And had he... I don't know if it's a silver lining, but at least had something that woke people up to the risks of where we are as a country and perhaps helped with some of the favorable outcomes in the midterms so at least there's that. But since Barb had that one, Kim, did you also give us the option of looking ahead to 2023 to what we can will be the biggest news story?

Kim:

I did.

Joyce:

I have a bold prediction, biggest news story of 2023, special counsel indicts Donald Trump, and I don't care for that story.

Kim:

What about you, Jill?

Jill:

I was going to go to predictions and my prediction was going to be exactly what Joyce said. I will go back to a hope for 2023, and that is that ERA, the Equal Rights Amendment becomes part of our constitution.

That would be my biggest hope. In terms of what we've seen this year, certainly Dobbs may take the cake. But I would have to say that's only because we haven't had the independent state legislature decision yet. That could wipe out everything we know about democracy and the vote. I guess SCOTUS in general is the big news of this year, the failure for them to have Thomas recuse himself in cases that involve directly his wife's activities. But let's watch for that outcome of the independent state legislature.

Joyce:

How fitting that we're talking about SCOTUS and Ginni Thomas's testimony to the January 6th committee came out this morning. We'll put a link to that in our show notes. It's long, but it's a good read for any of our listeners who want to take a look.

Barb:

How about you, Kim? What do you think was the biggest legal news story of 2022?

Kim:

I think I definitely agree that it's Dobbs. I really did not think that Roe v Wade would be struck down. Even when the political analyst in me saw that possibility very strong, there was something in my gut that just thought, that's never going to happen. And when it did, it really was shocking and ground shaking. And I think without question, that's the biggest one. I will add a sleeper issue that should have been one of the biggest legal news stories, but we've probably not talked about it all that much is after the federal judiciary was shifted, not just to the right, dropped dramatically by the former president, but also to the white by the former president. Not a lot of diversity in those picks. The Biden administration has really like gangbusters added a ton of diversity, not just racial diversity and ethnic diversity, but geographic, backgrounds, so many things throughout the entire judiciary really reshaped it in a remarkable way. And I hope in the episodes ahead, I would love to hear from you guys as former prosecutors about how that might play out, how that might play on the ground in DA's offices in district courts and beyond? And of course, that diversity reached all the way to the US Supreme Court with the seating of the first Black woman on the highest court in the nation. So that should have gotten more importance, more attention than it did.

Barb:

But yeah, no, that certainly made my list of top... when you asked us to say what was the top legal news story of the year, I came up with a list because I didn't know you would call on me first. And I had Ketanji Brown Jackson to the Supreme Court on my list right after Dobbs and the January 6th committee hearings.

Kim:

Great minds think alike.

Joyce:

I suppose we have to discuss George Santos, although I can't tell whether I'm amused by this story, part of it is laughable, or whether it's devastating in its seriousness and what it says about our politics. Santos is now, although he's simply a congressman from New York, someone who people nationwide are aware of, newly elected Republican representative from New York who lied about just about everything in his

personal history, so far there's been no suggestion he lied about his name, but I'm waiting for that one to drop at this point.

He claimed his mom was in the South Tower on 911, claimed he lost employees in the Pulse nightclub shooting. None of it's true. He even lied about his family origins, his schooling and his work experience. I think he probably would've lied about the color of his own eyes if he thought it would've helped him get elected. There was no bottom here. And so it raises some pretty serious questions about political candidates and who voters will and won't vote for. But Jill, let's start with one of the political questions here. Don't political parties do some vetting of their candidates, particularly when it comes to light that someone is making these sort of outrageous claims? He claimed he came from a family of Holocaust survivors. What's the process for vetting candidates? And also what about the Democrats, didn't they do any author research in this race?

Jill:

Such great questions. And when I first thought about this question, I thought I don't really know the answers. So I have reached out to a lot of political friends including my own Congresswoman, Jan Schakowsky, who very kindly called me back and unfortunately there really is nothing mandated. Yes, the political parties at the local level, it's really a local thing, not a national thing, are supposed to do vetting of candidates. The candidate himself is supposed to vet his opponent. And apparently there was some information available. It's just that all the newspapers ignored it. This was a blue seat, he wasn't expected to win, they didn't pay any attention. But as the lies compound, as they grow, and he's even now said he's biracial, he's now half Black, half white.

Joyce:

That was my favorite one.

Kim:

Oh my gosh.

Barb:

He's also Jewish. You got to talk about Jewishes.

Jill:

Right, he's Jewish.

Barb:

He's Jewish. He is.

Jill:

His mother died five years after the... he's had two different versions. She died 911, she died of cancer five years later. So he can't even get his lies straight, which is of course always the problem with lies. But I believe this is a result of Donald Trump. I think Donald Trump is the role model. You lie and you get away with it and people are saying anything they want. I think that there should and will be continuing investigation of his lies. I think that possibly the Democratic Party, or at least his opponent, is going to be sorry they didn't do more to push this story. And the Republican party should be ashamed too that they didn't do any vetting. But the truth is, according to some of the politicians I spoke to, the party cannot

stop anyone from running in a primary. And if they get elected in the primary, the party can't do anything to stop them. But the party could have done something to publicize who he really was and what his lies are. And I think some of his financial stuff is what's going to really be the end of him.

Joyce:

There's the political question. Now he's under investigation reportedly by both federal and state authorities. Barb, could he possibly end up facing prosecution as a result of all of this?

Barb:

Yes. So the mere fact that he made lies about his mother and his heritage, those probably will not amount to any criminal charges. But there could be problems with financial disclosures. And I would put those into two categories. One is campaign finance laws. Campaign finance laws require you to disclose sources of income and expenditures. And to the extent he lied about those things, he could have a problem. And there is reporting that the US attorney's office for the Eastern District of New York is investigating him. There's also something very suspicious about his funds. He claimed to have loaned himself \$700,000 for his campaign when he ran for Congress for two years ago. And he didn't have anywhere near these kinds of assets. He now says his income is between three and \$5 million a year. And I think one concern is what's the source of those funds?

Is it coming from any foreign source? Because if so, there is concern about his loyalty. And so I would imagine that is something that the prosecutors will be looking at there. The other category of potential crimes is simple fraud. It's a crime to defraud somebody by lying in order to part them with their money. And so to the extent he put on his website claims about his jobs and his experiences and his education and thereby induced donors to provide him with campaign contributions that could be a criminal fraud, a wire fraud. And so I imagine that federal and state prosecutors are looking into both of those theories of crimes.

Joyce:

It's such an interesting situation. It used to be that people in Congress had some shame and would step down if they were under investigation and certainly if they were under indictment. Now I'm not even certain that it would be a sure thing if somebody was convicted. You could see somebody trying to brazen it out. We just live in such a very different era. Kim, so far the Republicans are hanging onto him and part of the reason for that is very likely that Kevin McCarthy needs his vote if he wants to be the speaker of the house. He has a very slim... I don't think he really even has a majority. That race is far from sure. He needs every last vote including this one. What do you think it says about the Republican party's legitimacy if they permit Santos to be seated and is there a process that would permit them or the house as a whole to refuse to seat Santos?

Kim:

On that first part, what it says about Republicans, you are absolutely right that it's both a power grab issue that he, Kevin McCarthy, won't want to lose a single seat within his caucus. And even if he has to hold his nose, assuming that he's holding his nose, at George Santos, to achieve that, he's likely going to do it if past his prologue. There's also this idea that the Republican party has changed, and I agree with Jill that Donald Trump is one of the biggest causes of that change because there used to be shame. You used to be caught doing something like this where... and it's not just one lie or two lies, every day, I wake up every day and there's more lies that come out. Even things for stupid, nonsensical things that he didn't even have to lie about, which seems to suggest that something deeper might be going on

there. And the party or the candidate themselves would feel enough pressure or shame that they would pull back and they would resign and there would be a special election that would be had.

That doesn't seem to be happening here. Nothing is forcing, nothing forces Kevin McCarthy or anybody within the caucus to do anything to him. Of course, there could be an investigation by the House Ethics Committee and that's generally what they do. Will that happen under a Republican controlled Congress? I do not know. But it's really sad that the likelihood that he could be seated and serve his entire term is really high. And that's exactly what Santos said that he will do. On a lighter note, I would note when we were talking about some of the things he's lied about, including that 2020 tweet on MLK Day of all things, where he said he was biracial. My husband joked that after he explained when he said Jewish, he just meant Jew-ish, Jew hyphen ish. Greg said, "Maybe he meant biracial like BY. Like BY racial. He stands next to Black people." He's just in the vicinity of people of... I don't know.

Joyce:

Blackish.

Kim:

Blackish, exactly. That's what he should have said.

Joyce:

There you go.

Barb:

Did you guys see that interview that Tulsi Gabbard did with him on Fox?

Joyce:

Fox? Amazing. Yes.

Barb:

That was pretty interesting. So Tulsi Gabbard used to be a Democrat. Now she says she's not affiliated with either party, but Fox News ran this interview where she was really tough on him. She asked him to explain himself and he kept saying ridiculous things like, "I embellished my resignation." She said, "No, you didn't embellish it, you lied. You have no shame. What does integrity mean?" And she wasn't taking any of it. I thought that was really interesting and wondered to what extent Fox was, I don't know, changing its tune or does it sing that tune only for Donald Trump?

Kim:

Sending a signal perhaps?

Joyce:

I think you guys are way too optimistic here. I'm so sorry, but looking back at the January 6th committee transcripts and seeing, I can't remember now which of the Fox hosts it was, who knew that the election had not been permeated with fraud the whole time for two years that he was telling his viewers that it was.

Kim:

Yeah, Hannity.

Joyce:

Thank you. That's right, it was Hannity. And you just read that and it's so sobering that he testifies to that and nothing happens.

Jill:

So there's something really important, which is Ritchie Torres, who's another New York Congressman, is going to propose legislation that would make it under penalty of perjury to make certain statements about your biography. And I'm not sure a hundred percent what will be included in what will be under penalty of perjury, but it certainly seems to me that we need a law because right now the only thing the FEC requires has to do with finances and stating who your campaign committee is. There's nothing that is required to run for office that you say under penalty of perjury. And I think that people, in this case, I am sure, voted for him thinking that, oh, his mother was a Holocaust survivor. Oh, he's a graduate of this wonderful school. Oh, he's an expert because he worked for these financial firms, all of which were lies and people wouldn't have voted for him. So I think having penalty of perjury is essential. It's a shame that we can't rely on the integrity of candidates, but obviously we cannot.

Kim:

Hey Barb, whenever I see you, you always look very happy and healthy. What's going on?

Barb:

One secret to my success is Noom. I started using Noom about a year and a half ago, and it has really enhanced my life. When we decide to get fit, it's usually not just about the number on the scale. Whatever your reason is for wanting to make a change, Noom weight is ready to help. Noom weight's psychology based approach empowers you with the knowledge and support to build lasting results. The Noom app has helped more than 4.6 million people like you improve their health, and it's super easy to use. Noom knows every journey is different, so your daily lessons are personalized to you. It's the perfect step in the right direction. Over the holidays, I'm tempted with those sweet breads and cookies and all those kinds of things, but Noom really helps me to moderate my intake even when it comes to holiday sweets.

Joyce:

Speaking for those of us who have not moderated our behavior over the holidays quite as well as Barb, it's time to recommit to those goals. Because you know the great thing when I'm eating healthy, when I'm sticking with Noom, I have more energy, I sleep better, I feel really good, I'm ready to get back there. And Noom weight shows you how to pursue the goals you set for yourself and it gets you to them. It's about progress and what you want, not someone else's idea of perfection. It teaches you about cravings and finding your balance to build better habits plus the science behind it. You'll learn about your relationship to food and how cognitive behavioral therapy can take your changes to the next level. Knowledge is the key to progress and success and Noom truly does give you the confidence, knowledge, and plan you need to get there.

Kim:

It really does. I'm not a big fan of plans or diets or anything like that. And the great thing about Noom is that it's nothing like that. It makes you think about why you do what you do, and it's also really easy to use, especially if you like us, have a lot going on. I love that Noom gives you the control to decide how much time you use it. Sometimes I took a couple minutes a day, sometimes I would take a little longer, and either way it was fine. You can choose how long your check-in is, whether it's an in-depth personal coaching or a five-minute quick check. Active Noomers lose an average of 15 pounds in 16 weeks and 95% of customers say Noom weight is a good long-term solution. So get empowered and stay on track with Noom. You'll get nourishment, not restrictions.

Jill:

Everything that all of you have said is so true. Noom really is almost life-changing. It really makes you think about what you're doing and why you're doing it. It helps you to stay focused on what's important to you and it isn't restrictive at all. It gives you all the options, there's nothing off limits. And so with Noom's weight psychology based approach, you can do whatever you want and you can reach your goals. Sign up for your trial today at [noom.com/sistersinlaw](https://noom.com/sistersinlaw). That's N-O-O-M.com/sistersinlaw, to sign up for your trial today. And check out Noom's first ever book, the Noom Mindset, a deep dive into the psychology of behavior change available to buy now wherever books are sold or you can look for the links in our show notes. You won't be sorry you did.

Barb:

We saw some news about domestic violent extremism this week with the sentencing of the two lead defendants in the plot to kidnap Michigan governor, Gretchen Whitmer. First Kim, would you tell us about their roles in this crime?

Kim:

Yes. So two of the so-called Wolverine Watchman Group, which is more than a dozen people who were a part of this conspiracy to kidnap Gretchen Whitmer and perhaps even try to try her for treason, two of the leaders were sentenced this week. One was Barry Croft Jr. Of Delaware. He was sentenced to more than 19 years in prison. The other was Adam Fox, who was from Michigan, he's a 39-year old. He was sentenced to more than 16 years. And essentially they were the leaders of this plot that included doing things like going to the governor's vacation home to plot about how they would kidnap her coming up with all kinds of schemes, including the possibility that they would take her on a boat and have her out in the middle of a body of water so that she could not be rescued. They were plotting to obtain explosives and even took steps to obtain these explosives, to blow up a bridge to make it harder for her security detail or other law enforcement to react to it.

It turns out that they were talking to someone who was actually an FBI agent so they never actually were going to get these explosives, but they were seeking to do it. And like I said, try to kidnap her or try her for treason. And it had been going on for quite some time, and as I said, involved more than a dozen people. It was very serious and they were convicted of those conspiracy charges and they faced up to, I believe, Barb, you know this better than me, I believe it was life in prison-

Barb:

Life.

Kim:

... from these. And they didn't quite get that, but they got very, very steep sentences. I'm sure there will be an appeals process, but it's an important decision, especially after the first time the jury hung in their first trial. They were convicted the second time around and now got substantial sentences, which is really important.

Barb:

I am really struck by the facts of this case. I find them absolutely chilling. This is vigilante justice and domestic violent extremism gone wild. And these are not young men. They are 39 and 47 years old. And so this is some serious stuff. I admire the heck out of Governor Whitmer for having the courage to continue serving despite knowing that this plot was underway. She was tipped off once the FBI started investigating. I have, not in a serious way, but flirted with the idea of running for public office from time to time. And I'll tell you what, it scares me. I would never do anything to put my children in harm's way. And it really is stuff like this that keeps me from doing it. And so I know that we don't ever want to see anyone deterred from serving the public, but I'll tell you it does.

And I think if I'm deterred, how many other people are deterred who would make good public servants? And I think it's incredibly dangerous to our democracy. Joyce, Kim started to tell us a little bit about the sentencing that they were facing life. They got something a little less than, quite a bit less than that. What were the sentences, and do you think that the sentences were sufficient? Sentences are supposed to be sufficient but no more than necessary to achieve a number of different purposes of sentencing? Do you think they're the same kind of sentences we would've seen for international terrorists under similar circumstances?

Joyce:

It's such a good question, and it's such a serious topic that I have to just inject a moment of personal indignation of a not serious nature. Which is that I hate the fact that they called their militia the Wolverines because my favorite movie of all time, Red Dawn, the original version, not the remake. If you haven't seen it, you should watch it over the holidays. But the kids in that, the patriotic American kids who fight back against the Russian invaders call themselves the wolverines. And that's all I can see in my mind in the early days as we read about this. And I just want to say, I really resent that intrusion upon one of my favorite [inaudible 00:25:26].

Barb:

As a Michigan sports fan same here.

Kim:

I was going to say, you're clearly not a sports fan.

Joyce:

But it's okay when it's the sports teams and you're the good guys it's fine when it's the militia and it's the bad guys it infringes on one of my favorite law school memories.

Jill:

How dare they appropriate our memories.

Joyce:

I'm annoyed, but like you say, you do raise this really serious sentencing question. Under the United States code sentences are supposed to be imposed that are... it's called the principle of parsimony. Long enough, but no longer than necessary to achieve the goals of the system to punish, to detour, to incapacitate, to rehabilitate. And so there's always this question at sentencing. I think a topic for another day, one I hope we'll have the luxury of taking up next year, is that sentences in our system are very long. They're often over long when you compare them to other countries. We have really long sentences for murder and they don't seem to do a lot of deterrence as opposed to some countries in Scandinavia or countries like Holland where sentences are much shorter and they do a better job.

That I think is a topic for another day though. These sentences, as Kim points out, are significant. They're not life sentences, but they're lengthy. For someone of Barry Croft's age 19 and a half years, that's a long sentence, but they don't match the kinds of sentences I think we would see if they had been international terrorists, if they had been Al Qaeda. And the question that you have to think about is, what's really going on there? In this case, the allegations about this entire group was that they were furious about COVID-19 lockdowns. Supposed tyranny by officials like Governor Whitmer. And that anger resulted in this violent plot, they wanted to see a bloody revolution. And for whatever reason, whether it's explicit or implicit bias, we still have folks in this country who don't take homegrown domestic terrorism as seriously as they take foreign terrorism.

So here's what happens in sentencing at this case. The judge Robert Jonker said that no one was ultimately injured and no infrastructure was destroyed. And so he said the end of the conspiracy was never realized, thank goodness and it wasn't going to be realized because law enforcement was involved from the get-go. In other words, he gives the defendants a little bit of a pass because they had the great good fortune to be dealing with the FBI, not with folks who could actually help them build bombs and pull this off. It's almost like the judge gave them sentencing credit for a quasi entrapment theory, even though entrapment wasn't a defense in this case. And I'd love to... it would be interesting to talk with the judge and see exactly how he viewed it, but that's really my takeaway there. There's always this tinge of taking international terrorism less seriously than domestic ones. These sentences are serious enough to send a message. I think that they will deter people who are paying attention to them. But by the same token, we need a mood shift in this country where we view these folks as serious and don't give them a break just because they didn't manage to kidnap or harm Governor Whitmer. They thought they were right.

Kim:

Exactly, the plan was to do it. And as a Michigan native, and I've talked about this before, these militia groups, people are aware that these militia groups existed out there, and there was always a tension, a fear about what they might do. Some of them are based in some of the more rural areas of the city. But when I went to Wayne State University, some of them would hang out in bars in downtown Detroit, literally looking for trouble because a lot of this anti-government sentiment goes hand in hand with a lot of white nationalism, which they embraced at that time and continue to. And the fact that they would take these steps in this environment, keep in mind, this was before January 6th. It was after Donald Trump told the Proud Boys to stand by, but before January 6th. So this is the sentiment that was building in the country, and this was the impact of it.

The exact same thing that I feared since I was young, a young Detroitier living in close proximity to these folks. And it is terrorizing, terror is the right word for it. And there needs to be consequences for taking action on this and not have it just be... I think there was a lot of sentiment that people are, "Yeah, we know those militia people are around," and it's almost a normalization of it. That should not be normalized. We should make a very strong statement that taking these anti-government actions,

whether it's in protest of COVID rules or tyranny or the election results, no matter what, is unacceptable.

Barb:

Jill, I want to ask you about the same idea. The judge said, no one actually got hurt because the FBI intervened and used undercover monitor or agents to monitor their conduct as the plot matured so therefore there's no need for a life sentence, which is what the government requested. And Donald Trump even called it a fake deal. That Governor Whitmer was never in any danger. Do you agree with the judge that that should make a difference in the sentence?

Jill:

I definitely do not. And to continue on the question about, would it have been different if these were international terrorists? And the answer is yes. We can look at Omar Abdel-Rahman, the blind cleric who planned a lot of infrastructure attacks and got a life sentence. He died in jail and none of his attacks were carried out. He's considered maybe to have inspired the first attack on the World Trade Center with the truck bomb in the garage, which fortunately didn't do much damage, but he wasn't involved in that. The things he planned never happened, and he got sentenced to life. What's the difference? Because he was an international terrorist, not domestic. So I don't agree and I don't agree that even though, whether these were international or domestic people, the fact that it didn't actually get carried out because the government was lucky enough to have gotten wind of it and to have stopped it, that's not an excuse.

If as we said before, the government hadn't been lucky enough to be involved, this would've happened. And they planned to try her and probably to execute her or to put her in a boat and set her adrift in Lake Michigan, that was one of the other parts of the plan. So I think a life sentence... the other thing is they aren't regretful, so that there's a good possibility that if they get out in say, 20 years, 16 years, in one case, they may still try to do something. They may still try to be leaders. They haven't apologized, they aren't showing remorse. There is a continuing danger to us as citizens of America from this and I think only a life sentence could have protected us in the future so I think the judge was completely wrong.

Barb:

Let's zoom out a little bit and look at this threat a little more broadly. We've been talking about this specific case, but this whole idea of violent extremism and criticizing the FBI for engaging in undercover activity. Kim, let me ask you about this focus on the FBI. Donald Trump has certainly gone after the FBI. Lately we've seen conservative politicians going after the FBI for the search at Mar-a-Lago. And certainly no doubt over its history, the FBI has engaged in misconduct during its existence. But when we're talking about undercover activity or searching Mar-a-Lago, do you think that the criticism is fair or are these political operatives crossing a line that's making it dangerous and difficult for them to do their jobs?

Kim:

I feel like this is a choose your own adventurous situation based on how the political winds blow. It's back the blue.

Barb:

Is that like those mad libs where you fill in the blanks?

Kim:

Exactly, exactly.

Barb:

Tell us what you mean by that? FBI mad libs.

Kim:

It's sort of like, okay, do we back the blue the Republicans ask themselves. When it's politically convenient to do that, when they're railing against Black Lives Matter or something, yes, you back the blue. Unless they're coming for you. When they're coming for you, they're terrible, they're deep state, they're wrong, they're corrupt, and everything is wrong with them. And that's what you were seeing. Barb, you're absolutely right. There are times that FBI agents don't do what they're supposed to do. There are even questions raised in the Whitmer case about the actions of some of the individuals involved. But by in large, the FBI is not a deep state institution that is at the beck and call of the sitting president. I think a former president wished they were. And a subsequent president has not acted in that way despite what these conspiracy theories claim. And it's really dangerous. It's really dangerous when people do not trust and respect the FBI. Some of that trust has to be, of course, earned by the FBI itself through its actions. And we've been critical in a number of ways in the things that the FBI has done or hasn't done from January 6th to how it handles domestic extremism more broadly. But this idea that the FBI is just out to get Donald Trump is really nonsensical conspiracy.

Barb:

In fact, remember right after the search at Mar-a-Lago and Donald Trump said things like, "This is like a Third World country, and they were a disgrace and they raided my beautiful home," and all that there was a man in Cincinnati who burst into the field office there with an assault rifle and strangely a staple gun, but he was involved in a standoff and was later killed during that standoff. So it has real consequences. And Jill, I want to ask you, there was a hearing last week in Congress on the topic of domestic violent extremism and I think Christian nationalism. And it seems like some members of the committee wanted to make this political theater and disagreed on whether this is a far right problem or a both sides problem. Does it matter whether the threat is coming from one political viewpoint or the other, or should we focus on the conduct? And what did you make of that hearing?

Jill:

The committee seemed to go out of its way to say both sides, but also in fact actually really focused only on white nationalist extremism, seemed to me to be the real topic they looked at. As a philosophical matter, of course it doesn't matter if a threat comes from one side or the other, that's philosophical. Practically speaking, I'm hard pressed to find any far left extremism that is presenting the kind of threat that the militia groups and the right wing extremists have actually engaged in. And not just threatened, but have engaged in. We've seen it firsthand, not just with Whitmer, but on January 6th and in many other occasions. So it doesn't matter philosophically, but it matters in terms of where are you going to spend your resources, what are you going to investigate? For me, it's clear it's going to be the right wing militia who are presenting a real active threat to our democracy and to our safety.

Kim:

And I think it's important to point out that that is based on actual data that the FBI, the Department of Homeland Security has cited. That's not a tainted view of anything. And there have been times in our history, in this nation that there have been left wing violent extremist groups that have posed a threat. But it just happens at this moment in time when you read the threat reports, it is coming from the right, it just factually is.

Jill:

And facts matter.

Barb:

And this whole idea of the both sides-ism stuff I think can be really harmful. There's sometimes reference to Antifa, which is certainly a real threat. This is a group of people that call themselves anti-fascists who are willing to engage in violent acts in an effort to stop... they came to the Charlottesville, Unite The Right rally and engaged in violence against some of those rally goers. So there is some existing threat from the left. But as the FBI themselves have said, this is primarily coming from the far right. And so to ignore that, I think, does a disservice to the public. I was looking for this thing in the hearing. Did you see this thing where, I think it was Andy Biggs. I just want to make sure I blame the right person here. In this particular hearing, they were talking about the shooter in Buffalo at the supermarket there, and he was a white supremacist.

He went to a Black neighborhood to kill Black people. And one of the members, I think it was Andy Biggs, said, "Isn't it true that he was actually a socialist? So he's a leftist, he's a socialist." And they said, "He was talking about national socialism, Nazi-ism, he's a Nazi." Yeah, but that's not a far left group, that's a far right group. So I think that, I don't know whether it's ignorance or an effort to both sides, that is just not correct. Joyce, let's zoom out even a little more on it. I want to ask you about when we were at DOJ working on countering violent extremism, we called it CVE, and at the time we were focused mostly on international groups like ISIS, and we were worried about their targeting of young people, to recruit them and radicalize them. And members of the far right in politics had no problem there. What's the difference now with a threat coming from domestic groups and are there some legitimate civil liberties concerns that are at play?

Joyce:

Yeah, in a word, I think, no. I think it's just a failure to acknowledge that the threat is coming from inside of the house and that that political reality is difficult for Republicans. It's funny that you focused on the example from the Buffalo shooter case because that same exchange during that hearing caught my attention. This totally out of context grasping of the word socialist was so crazy. It was really like they were living in an alternative universe. And this shooter had this whole screed, racism, antisemitism. And somehow the Republicans are so intent on painting this into a political corner that they're not willing to deal with the very real problems that exist. We are going to have to find a way back from this if we're going to take on the challenges that we face. And I don't really know what that's going to look like.

But so I will say this, my perspective is maybe a little bit different because of the part of the country that I was a US attorney in. We always had a domestic terror problem. Down here it was the Ku Klux Klan. I'm old enough that some of the first terrorism cases that I worked on as a brand spanking new assistant United States attorney, involved people who were members of the Klan. And so this notion of excusing white supremacist domestic terror really doesn't make any sense. We have lived through in our lifetimes, Oklahoma City or Eric Robert Rudolph, who was a member of a Christian right wing group who bombed the Olympics, who bombed an abortion clinic in Birmingham and killed a police officer. And the

fact that one political party wants to turn a blind eye to that for clearly political reasons, is really, in many ways, very perplexing.

I think the last thing that we should say about this is really something that y'all have focused on. The data on this, the risk assessment data, it's coming from the FBI. They know what the problem looks like. Nobody has any problem assessing the risk here, it's dealing with the risk. And I don't know, frankly, where the leadership is going to come from that's going to force that about faced by law enforcement. We have no control over what Congress does, but perhaps it suggests that we need different leadership in portions of law enforcement that will take this more seriously.

Barb:

I fear that we're not done with these kinds of threats and attacks, and we need to take them seriously if we want to make sure that we're protecting public safety.

Jill:

I'm really feeling the stress of the year end and the deluge of news that we're getting. I need something to help me. What do you recommend, Joyce?

Joyce:

You know, Jill, it's funny that you would raise that because I was thinking this morning, I did my first morning exercise using the CALM app. And it's really a wonderful thing for providing stability when the news is coming at you so fast that you don't seem to be able to catch a break, which has pretty much been how this whole week or maybe the last five years have been. Some mornings you wake up on the wrong side of the bed, or you have a long day at work and there's still more to do. Maybe you've been feeling like you can't catch a break. We never know what type of day we'll have, but Calm can help you handle every day. That's why we're partnering with Calm, the number one mental wellness app, to share with you the tools that improve the way you feel. You can reduce stress and anxiety through guided meditations, improve focus with curated music tracks and rest and recharge with Calm's imaginative sleep stories for children and adults. That's my favorite part.

Barb:

Calm helps you stress less, sleep more, and live a happier, healthier life. Their guided meditations, sleep stories, relaxing music tracks and daily movement sessions are all designed to give you the tools to improve the way you feel. More than a hundred million people around the world use Calm. Even if you've never meditated before, especially if you've never meditated before, you'll get the support you need to reduce stress, improve focus, and uplift your mood.

Kim:

I have trouble sleeping, as I've talked about here before, and I really love the sleep stories. They really help you drift off to sleep and recharge your brain. And they're also a lot of fun. It's fun to do at the end of the day. And they're also great for getting kids to calm their minds at night so you can rest assured they're getting the sleep that they need. If you go to [calm.com/sisters](https://calm.com/sisters), you'll get a special offer, a 40% off a Calm premium subscription. New content is added every week. So relax, Calm's got everything you need for a happier, healthier you.

Jill:

And what a perfect time to start as we begin the new year. I love how it puts me to sleep when I've been staying up late. And everybody who's gotten a 3:00 AM email from me knows that that's my normal routine and I get myself all worked up and I really need something to turn me down a little. So after I do Wordle, I go to Calm and that's how I go to sleep. It also helps you find your center. For listeners of the show, Calm is offering an exclusive offer of 40% off a Calm premium subscription. Just go to [calm.com/sisters](https://calm.com/sisters). That's C-A-L-M.com/sisters for 40% off unlimited access to Calm's entire library. That's [calm.com/sisters](https://calm.com/sisters) or look in our show notes for the link.

Last week we discussed Justice Roberts temporary stay of the end of Title 42, which was being used to prevent asylum seekers from getting a hearing. We talked about the arguments in the Supreme Court about whether it should be allowed to be ended by President Biden. But we have more to say this week because SCOTUS kept us stay in place, kept the case on the docket, and they issued an order with a very interesting dissent attached to it. That dissent included Justice Gorsuch with the three liberal justices. So let's start with what the court said. Barb, let's talk about that.

Barb:

The court granted a request that was brought by a number of red states that wanted to intervene in the case and put on hold a decision out of a district court in Washington DC who had ruled in favor of some immigrants. And the judge there had wanted to end what is referred to in shorthand as Title 42. Which is a Trump administration policy that says that it keeps out immigrants at the border based on the COVID pandemic. But of course, the position of some of the immigrants and the judge in that case was that COVID is over to the extent it can be used to keep everybody out of the country, including people who want to seek asylum. If you want to have immigration rules, you can have that, but you can't use COVID as an excuse forever. That is for public health emergencies. And so the Supreme Court has continued that stay on that ruling.

So in other words, the Title 42 rule that allows immigrants to be kept out of the country on the basis of COVID will stay in place until the court hears the argument on the merits, which is going to occur in February. And it's interesting because although the Biden administration wants to end this program, they want to retain the ability to use this tool should they need to. So we've got a number of different interests in place, the Biden administration that wants to be able to maintain its authority, the red states that just want to keep immigrants out, and the immigrants themselves who want to be able to enter the country and assert asylum or whatever rights they want to assert.

Jill:

Let me just ask a follow-up question because the brief court order said that while the administration cannot set aside the Title 42 policy in this particular circumstance, it does not prevent the federal government from taking any action with respect to that policy. What does that phrase mean? What can the government do?

Kim:

Biden can issue another executive order. He can do anything that he would normally do. The court is basically saying they're passing no judgment on any other executive action that Biden might take or making a decision on the merits of this. They're just doing the very limited stuff that this order said that they're doing.

Jill:

Kim, let's go on with what the dissent said, because I think there's some really strong and powerful language in that.

Kim:

It was really interesting. So in this case, and I think it's, important to note because one of our listeners, Katherine [inaudible 00:49:43], I hope I'm saying her name correctly, actually tweeted about this asking the question when we talked about Gorsuch's dissent saying, "Hey, I thought we didn't know how justices vote or which way they vote when it's on the shadow docket?" This is on the emergency docket. I would not call this a shadow docket case, and I'll explain in just a second. But what happens is, generally speaking, with these kinds of emergency orders, there's no opinion to be signed. They can just issue a very short order. You don't know how many of the justices vote, who voted for what, what the vote was, you just know what the outcome is. But justices themselves have the ability to issue statements or dissents or concurrences based on what they do.

And in this case, two justices, Kagan and Sotomayor simply said, they disagreed with this decision and they wouldn't have voted that way. And then you also had Gorsuch who issued a dissent that was joined by Justice Ketanji Brown Jackson, which in itself is very interesting. And what he said in a nutshell was, first of all, this case is being brought to determine whether these red state officials have the ability to challenge this. That's a very limited question. But what's clear is what they're actually trying to do is use this policy to affect border control. And what this policy really was about was an emergency executive order about COVID. COVID has nothing to do with border control. I can see that this is happening here. And so I don't think that we should get involved with this. We are not Congress making border control emergency decisions, we are a core ruling on the issue before us. And since clearly this is no longer about COVID emergencies, why is this court even involved?

That was all a paraphrase, by the way. But I thought that it was interesting that one of the more conservative justices could see through and stated plainly what this was. This is about politics, this is about policy, and this has nothing to do with what this executive order itself was about, which is a COVID era policy meant to protect people during a pandemic by controlling who crosses the border and how they're treated. If other things are lifted at this point, if I go around even Washington DC, which is the bluest of blue places, and I don't see very many masks anymore, why are we even having this discussion? I think that that was an important point, an interesting flag that he placed down as we wait for this case to be argued in February.

Jill:

My particular favorite language from his dissent was that the current border crisis is not a COVID crisis, and the courts should not be in the business of perpetuating administrative edicts designed for one emergency, only because elected officials have failed to address a different emergency. We are a court of law, not a policymaker of last resort.

Kim:

Did you hear that Congress?

Barb:

Get on it Congress.

Jill:

He's saying, get that comprehensive immigration reform going. And in fact, of course, that's what really needs to be done. And there was another important legal issue in the case, which Kim has referred to. What this means in terms of the right of states to disrupt federal policy that falls squarely within the jurisdiction of the federal government. Like immigration or for example, declaration of war, arguments have already been had in this case. Joyce, would you talk about what the issue is there?

Joyce:

I have a little bit of a soap box on this issue of the state's ability to interfere.

Kim:

Oh boy, here we go.

Joyce:

I know, I'm sorry, but you know I'm going to do it.

Kim:

Preach it, sister, go ahead.

Joyce:

This is all about who gets to set immigration policy, the federal government or the states? And there are constitutional doctrines that come into play here. And in a word, immigration has always been a prerogative of the federal government. It's really fascinating to me that this issue is cropping up again because it's very reminiscent of a 2011 case we brought when Alabama tried to interfere with federal policy on immigration and set its own policy. And we won that case riding the coattails of an Arizona challenge where Arizona had also passed, not as restrictive as Alabama's law, but a law that interfered with federal priorities in immigration and lost in the Supreme Court.

This notion that there can only be one quarterback in immigration policy and that the federal government is it, is pretty well established. But the states keep coming, and it'll be interesting to see if this newly conservative court will change it. I think Justice Gorsuch's dissent in the Title 42 case suggests that at least he believes that conservative principles need to be applied consistently. And so that may be one good thing. But that takes us to United States versus Texas, the case that you referenced. What happened is that DHS issued a policy, the secretary issued a policy and said, look, we don't have the resources to deal with every single person who's in the United States without legal permission to be here. I don't like the use of the term illegal alien, I think that dehumanizes people. They're people who don't have legal status to be in the country.

Texas and Louisiana really objected to this priority setting with federal resources that Secretary Mayorkas engaged on. They wanted federal law to be used to deport everybody, and they got a federal judge in Texas to sign on. What the federal judge did was he issued a nationwide injunction rejecting the DHS priority policy nationwide. And so DOJ ends up going to the Supreme Court. It was an irregular procedure. Folks may remember we discussed it. The Supreme Court actually took the case before the Fifth Circuit was able to hear full argument. And there was briefing and argument on it in the Supreme Court, but the Supreme Court kept that Texas judge's order in place. And so at least for now, the federal government is not able to set its own priorities. One of the issues in this case, and it's worth pointing out that Texas and Louisiana are joined by all of the usual suspect Red State Attorney Generals who sign on to these sorts of petitions.

But one of the primary issues is whether Texas and Louisiana have standing, have the ability to even sue the federal government over this sort of thing. The Biden administration is also arguing that federal immigration law gives federal immigration officials broad discretion to deal with people who aren't authorized to be in the United States. And it's not up to a judge, that it's an executive branch priority. The outcome if the court rules for Texas, is what I think we should focus our listeners on. If the Supreme Court can eliminate the federal government's discretion in immigration enforcement, then the government will have to take this deprioritized approach. What you essentially have to do is expend your resources on whoever comes to your attention first. And that means whoever's state or local authorities come into contact with, pick up the phone and call DHS and say, hey, we've got somebody here who doesn't have legal status to be in the country.

So instead of Secretary Mayorkas's policy, which focused on people who'd committed crimes or people who were involved in terrorism, this means that if you come into contact with a single mom who's supporting three kids who is not here legally, but for whatever reason comes to the attention, maybe it's a traffic stop where she's pulled over, that's what the federal government has to spend its resources on. And it also means that people who are here without status will avoid contact with the federal government. That's horrible. In the middle of a COVID emergency you want these people to feel like they can seek out medical care and inoculation. You want women, for instance, who are being abused to feel like they can call law enforcement. But if the states have their way in this litigation, there will be a lot of misallocation of resources and some really tragic consequences, not just for the immigrant community, but for the larger community.

Jill:

When we talk about tragic outcomes, we can't leave the subject of Title 42 without looking at what Governor Abbott did on Christmas Eve. He sent three busloads of asylum seekers from Texas to DC in below freezing weather without proper warning to DC and without adequate clothing or food. They were dropped off in front of the official Vice President's residence. And Barb, is that a crime or was it just a moral failure? Was this simply a political show or a direct appeal to the Trump base by the governor?

Barb:

Yeah, it's a crime against humanity. I think that should count for something.

Kim:

Amen.

Barb:

It does not appear that there is any statute on the books that prohibits this, but only because lawmakers can't anticipate every evil thought that will enter someone's head. But really, this is something that Governor Abbott also did back in September, sending it to Vice President Harris's home, the Naval Observatory, because President Biden has made her the border czar or appointed her to head efforts to address issues at the border. And so just to be cute and in her face, here you go. But using people as pawns in this way is particularly cruel, especially if it was on Christmas Eve and the temperature in Washington DC was 18 degrees. Remember last weekend, it was bitterly cold all across the country. The only crime I could imagine that could result here is if there is some sort of crime where they were induced to get on the bus to go there by some sort of fraud.

They were told, if you go here, you will get particular benefits or these kinds of things. That's a possibility, but there's no evidence of that other than they bust them up and send them off to make a political statement. But no doubt, as we just discussed in the last segment, Congress has really dropped the ball on immigration. We have a huge immigration crisis occurring at the border. Part of it is driven by the supply side, the conditions and countries that are driving them out of their countries and into the United States. And so until we take responsibility for addressing that issue, we're going to have all kinds of problems. And engaging in political stunts is not going to solve those problems.

Jill:

I have two follow-up questions. One for you, Kim, which is, the states, including Texas, are complaining that they are bearing the burden of this overwhelming number of immigrants coming into the country. And is there a more humane way to deal with this? Is there a way to distribute the burden of immigration that now falls on states near the border? And I want to point out that in this case, once people were aware that this had happened and that these three busloads had arrived, arrangements were made to get them to proper shelters. NGOs I think took them in and buses were sent to remove them to those shelters. But what would've been a more humane way to handle this and to distribute the burden?

Kim:

There's a couple of answers to that question. The first is comprehensive immigration reform, which would prevent this from happening in the first place. I think one of the interesting things about these stunts being pulled by Governors Abbott and Desantis, and this was made really clear with the stunt that sent migrants to Martha's Vineyard, I guess, to own the Libs that hang out in Oaks Bluff or something, I don't know. But as you pointed out, organizations did, as they often do, here in Washington DC in Massachusetts, elsewhere, jumped in. Citizens, helped in to do everything they could to make sure that these migrants were cared for. And they actually ended up getting housing services that they need and cared for in a very good way. Which just showed, it's like, listen, if states actually coordinated and said... if states along the border said, look, we can't handle this. Hey Massachusetts, hey New York, hey Michigan, can you do something? And they coordinated to get these people to places where they could get the services they need, get them to the places where they would have their hearings and be able to make their asylum claims this could actually work because it ended up working.

That wasn't the intent. The intent was to have a photo opp or some sort of owning happening, but it actually could. So in this lack of humanity, they're actually showing their cards. They're giving the game up by showing that if we actually had a system where we worked together to make sure that the burden does not fall disproportionately in one place that they can. Texas had the money, Texas and Florida apparently have the money for all kinds of flights. Listen, sometimes I want to go to Martha's Vineyard and I can't find a flight, but they found them. They had the money and resources to get these folks there. That's a solution waiting to happen, but they're not using it in that way.

Jill:

That raises the question, takes us fully around to comprehensive immigration reform. And there are proposals out there. Joyce, is there any chance that Congress will actually do what the court said, which is deal with this policy issue?

Joyce:

Yeah, so immigration reform is always the holy grail in every administration. And maybe with the exception of Kim, we can all remember times when Congress did get its act together and did do at least limited reforms involving amnesty for some people. Path for citizenship is always viewed as one way of dealing with these issues if you're going to impose new restrictions at the border. But the problem is that in more recent administrations in the George W. Bush administration, in the Obama administration, plans for immigration reform don't seem to get across the finish line. Joe Biden submitted a plan on the first day of the session in 2021 and it was exactly this sort of a model. It involved path to citizenship for some people and reform at the border. And of course it never got off the ground. And in this most recent lame-duck session just a couple of weeks ago, Kyrsten Sinema and Thom Tillis, the retiring Republican senator in North Carolina had been working on a compromise plan and they just couldn't get to the point where they had 60 votes in the Senate.

So all that to say, Jill, I think the prospects are elusive. We live in very politicized times. I don't really need to say that for us to appreciate it. Something that I think could make a difference here would be if a president made it the marquee issue, the poster child issue, expended a lot of political capital on getting it done. But there are other issues that are reviewed rightly or wrongly as being more pressing. One of the issues that Joe Biden is going to have to come out running on, even though it may be doomed to failure in the house, is voting reform, restoring the voting rights act, those basic protections for our most fundamental civil rights. And I just don't think it's going to be immigration's time in the next session. I'd love to be wrong.

Jill:

We all hope you're wrong.

Joyce:

My husband says that a lot at the dinner table.

Kim:

We have come to what is truly our favorite part of the podcast, which is answering listener questions. If you have a question for us, please email us at [sistersinlaw@politicon.com](mailto:sistersinlaw@politicon.com) or tweet using #SistersInLaw. And if we don't get to your question during the show, because we can only answer about three, keep an eye on our Twitter feeds throughout the week where we answer as many of your questions as we can. First we have a question from Robert in Canada who asks, "Is it not imperative for the Justice Department to indict Donald Trump and his cohorts in order to provide a deterrent for the future against similar efforts to undermine the US Constitution?" What do you think, Jill?

Jill:

I think that it's a complicated answer. More complicated than you might think. My instinct would be to say, yes, of course it's imperative, but it depends on what the evidence is, whether there is a case that will lead to a conviction and a conviction that can be sustained because it's based on admissible evidence. It's up to Congress to pass laws that will prevent future recurrences of this to fill the gaps that might exist in our currently existing laws. So I would say that it is not the job of the Justice Department to indict to be a deterrent, it is to indict when there's sufficient evidence to punish crimes. And the punishment for those crimes then will be a deterrent against future efforts. But I think we have to look at Congress and at the voters. Voters need to hold responsible people for their bad conduct. And it's not just Donald Trump, as the question says from Robert in Canada, it's also his cohorts who aided and abetted him in doing this.

Kim:

We also have a question from Lauren. "You all do so much. How do you manage a work life sleep balance?" I will start by saying I just don't sleep, but Joyce, what are your thoughts about this?

Joyce:

Lauren, my answer is sometimes not very well. I'm in the middle of grading my first year criminal law exams. I'm so excited because my class did really well. The exams are great, but it takes a lot of time and I'm doing that while the January 6th committee is dropping these thousands of pages of transcripts that are all must-read items, if you're me. And at the same time, my family still wants to have meals, the dogs want to go for a walk and so this week I'm really struggling with work-life balance. And so I'll tell you what I do, but I have to be honest and say that I do it with mixed success. I use my phone to block out eight hours of sleep every night. I try really hard to focus on sleep first. And I don't always get there in large part because I have a husband who gets up annoyingly early and a large Maine Coon cat who likes to walk in, in the middle of the night and wake me up because he's bored. But my aspiration is to really work on sleep and then good nutrition and to try to deal with those as the priorities and fit the work that has to be done into the remaining time. But it's a constant struggle, it's something that we all have to work with.

Jill:

Can I add that another thing Joyce does is multitask because although you can't see her, we can, while we're recording and she's knitting right now.

Joyce:

I just finished a scarf. It's so exciting.

Jill:

Let's see it. It's beautiful. I would say the same thing as Joyce. We don't all very successfully accomplish a work-life balance, but multitasking is for me also another way. But also like Kim, I fortunately don't need as much sleep as other people. I don't even aim for eight hours. I aim for six. I usually get four to five and I manage to function. Do I feel better if I get eight hours? Yeah, I do, of course. And it's a nice goal, but there's so much to do that I just don't find I can do it. And luckily I have a supportive husband who really helps me with things that need to get done if I fail to do all the things I need to get done.

Joyce:

Jill, I love that.

Kim:

I would say my work-life balance has improved greatly since I got married. Just because it introduced... no really, because it introduced things like, we sit down at the table for dinner every night, whether it's just my husband and me here when the kids are at college or when they're home, the four of us and we talk to each other, we don't look at our phones. It's things like that. When I used to just sit either at my desk or at the coffee table in front of the TV, eating my dinner when I was single. It's like little things like that that have improved my work-life balance tremendously.

Barb:

I have two words for you, Lauren and those are priorities and partnerships. Priorities. You have to decide what you're going to do and what you're not going to do. If you're going to make out the time to do things that you think are important, it means other things are going to... you're going to have to let go. For example, I do not have a tidy house. I've never had a tidy house. It is not a priority for me. We clean on an event specific basis. When we have guests coming over, everyone does a mad scramble to tidy up. And then the other one is partnerships, which Kim just mentioned and Jill has mentioned, which is you can't do it alone. And so I too have an incredible husband who does more than his share of a load. Don't tell him I said this, but when the kids were young with doctor's appointments and grocery shopping and laundry and all that, he does way more of that than I do. And so having good partners, friends, spouses, family members, coworkers, all of them can be very helpful and you need to rely on them. And certainly part of that is being helpful in exchange.

Kim:

And our final question comes from Carol, who asks, "Please discuss your feelings about the release of transcripts. Does the public's need to know outweigh the DOJ prosecutors need or desire to keep them secret?" What do you think, Barb?

Barb:

If I'm a DOJ prosecutor, I hate it that these transcripts are getting out there in the public domain. I think there is an interest that Congress has, certainly this Congress is about to end, and I think they want to make sure that these don't get disappeared by the Republicans who are going to control the house starting on January 3rd. So I think they feel the need to push them out there. But from a prosecutor's perspective, you don't like transcripts to be out there. Normally they investigate in secret, and there's a good reason for that because the worry is that witnesses will see what other witnesses have had to say and will align their stories accordingly. They'll tailor their testimony so that they may fabricate things, but it fits with what other witnesses have said before. I worry that Trump or his associates can use these transcripts to control the narrative and messaging and undermine their credibility and taint a potential jury pool before charges are ever filed. And then most significantly, I worry that witnesses who have had very incriminating things to say about Donald Trump and his associates could be tampered with. They could be intimidated, they could be offered inducements, they could be threatened, they could be killed. So those are some of the things that prosecutors worry about and why they like transcripts to be kept secret.

Kim:

Thank you all so much for listening to #SistersInLaw with Jill Wine-Banks, Barb McQuade, Joyce Vance, and me, Kimberly Atkins Stohr. You can send in your questions by email to [sistersinlaw@politicon.com](mailto:sistersinlaw@politicon.com) or tweet them for next week's show using #SistersInLaw. You can go to [politicon.com/merch](http://politicon.com/merch) to buy our shirts, hoodies. I've been living in the hoodies since it's gotten cold, and all our other goodies. And please support this week's sponsors, Noom and Calm. You can find their links in the show notes. Please support them because they really allow us to do this show. To keep up with us every week follow #SistersInLaw on Apple Podcasts or wherever you listen. And please remember to give us a five-star review. It helps other people find our show. See you next week with another episode, #SistersInLaw.

Jill:

Our broaches got a lot of attention because Joyce and I wore them when we were on the last word.

Joyce:

People were saying that they wanted them.

Kim:

Literally, I came in, I sat at the thing and I didn't see all those messages until after the hit. I was rushing from the Warner Theater to... the Nutcracker was delightful, by the way.

Joyce:

Was it? Was it just wonderful?

Kim:

Yeah. So I have a question, Joyce. So there were clearly a lot of family members of the cast in the audience, and we didn't know if it was family night. I know sometimes with certain theatrical productions, there's a family night where a lot of family members of the cast come, or if that happens every night, because there's so many children in the Nutcracker. Is it like that every night?

Joyce:

There's community cast. There's community cast in the Nutcracker. So when Ellie danced the lead role, I went every night, both years because I wanted to see every minute that she was on stage. And I'm not that mom. I'm not a stage mother at all. But I was so entranced with seeing her dance.

Jill:

She's that mom.

Joyce:

It's really strange. I'm always under focused in some ways on the kids. I don't always know what they're doing. I don't remember their birthdays, but I loved watching her.

Jill:

No.

Joyce:

We have four kids. I remember their birthdays. Actually-

Kim:

Do you remember their names? [inaudible 01:16:19].

Joyce:

I don't remember how old they are, but I do remember their names.