

Joyce Vance:

Welcome back to #SistersInLaw with Kimberly Atkins Stohr, Barb McQuade, Jill Wine-Banks, and me, Joyce Vance. It's time to order SistersInLaw merchandise, so go to politicon.com/merch, where you can get yourself a SistersInLaw t-shirt, hoodie, and much more. I'm just going to share with you all that my hoodie came in the mail today, and it is incredibly warm and soft, so buy yourself a post-Christmas present. I think we might be pushing the deadline for Christmas shipping right now, but get yourself a little treat for January.

Today we'll be updating you on the House Committee investigation into January 6th, and where we think things are headed. Then, in honor of bell hooks, we'll discuss the role Black women have played in shaping American society. And finally, we'll take on the Jussie Smollett case and explain what you need to know about hate crimes prosecutions after that controversy. And as always, we look forward to answering your questions at the end of the show.

But first, with Christmas just over a week away, my mind turns to the spirit of giving, and that involves all of us, whether we celebrate Christmas or not. So I thought I'd start today by asking each of you to tell me about a special, a meaningful, a creative holiday gift that you've either given or received, something that has especially touched your heart. What about you, Kim?

Kimberly Atkins Stohr:

There're so many. I think the best gifts aren't about the material things, of course, right? They're about the notes, the sentiments, the what's written inside of the holiday cards, especially this year after we were separated from so many of our loved ones for so long, and so that's what lately has been most touching and most important to me.

And also, it's not really a type of gift, but one thing that I'm really thankful for this year is wrapping presents for my stepchildren, which I've got two stepchildren this year, and sort of engaging in the traditions that my family, my new extended family has had, and sort of adding my own to that. That has been a very special experience, so I've really loved that.

Joyce Vance:

What about you, Jill?

Jill Wine-Banks:

Well, I found two particular gifts this year, but I don't want to say them because my friends actually listened to this show. Although one group has actually already received them, so I can say that particular one, and that is I found a coffee mug with five faces on it. And the reason that's significant is that we are a group that formed to help ourselves get through the COVID political mess that we were in, and there are five of us.

So we call ourselves The Toilet Paper Quints because it started during the toilet paper crisis in America, and they are all delighted because, to me, it celebrates our friendship by having the five faces on this mug, and so I feel so happy with that particular selection/.

But I agree with Kim that a lot of things that I do, I can fruits and jams, and chutneys, and spiced peaches, and sometimes that's the best gift that I can give, is it's something that I actually took the time to make, and that it's handmade by me, and I hope friends like getting that. It's always a hostess gift for me instead of a bottle wine.

Joyce Vance:

Me, I want to get spiced peaches.

Jill Wine-Banks:

Okay. I [crosstalk 00:03:56].

Barb McQuade:

Send the spiced peaches, we will take the spiced peaches.

Joyce Vance:

Barb, what about you?

Barb McQuade:

Well, I want to make sure that we acknowledge, and I know all of you are generous givers, but all of the people out there who are not so fortunate at this time of year, and make sure that we give not just year-end giving, but give of your time, give of your talent, give of your treasure, to help those who are in need. And so, I know we all do that and that's extremely important.

I remember as a kid, my mother telling me, "Well, you know the real joy is in giving gifts." And I remember sitting here like, "Quit joking around mom. That's crazy. That's crazy talk." But I'm sure you agree with me, I found that, that's absolutely true over the years. And I really do find joy in giving gifts, especially, my husband and I have four children and we enjoy gift giving to them.

But now they're of an age where they aren't really interested in any material things that we can buy them. They're young adults or teenagers, and so they're not interested in the things they were when they were young, like toys and things.

So this year we're giving them all the gift of travel, and material things are nice, but they're temporary. And I think there's nothing more valuable than travel. It's so eye-opening and educational, and it's a gift that endures, they'll remember for the rest of their lives. So they're all taking trips to various different places in the next year. And so we're going to help with that.

Joyce Vance:

That's awesome. I'm big on giving experiences, and one of my favorite things, Barb, I'm like your mom, I really do like giving people gifts. And I sort of spend a lot of time, I maybe get over involved in the planning. The people who listen to the podcast who know me will know that, that's true.

But one year for our extended friend family, I planned a chocolate tasting where we all went to a local artisanal chocolate store and tasted the chocolate. It's called Chocolata, it's in Birmingham. And it was such a wonderful, fun thing to do. I love that, but I thought about this question a lot, and I want to give a shout out to a former US attorney in my office, Caryl Privett, who was the acting US attorney in Birmingham, a head of Doug Jones.

Caryl and I are in a small group of five lawyers, sort of like you, Jill. And we formed spontaneously at a bar association meeting 15 years ago. We didn't really know each other very well, except for me and Caryl. And we said, "We should start having lunch together once a month and get to know each other." We've been doing that every month for 15 years. And Caryl, who is now retired, after being a US attorney, she went on to be a judge, she retired, and she does needle point, and her tradition every year for all of those years that we've been together, has been to needle point each one of us, a Christmas tree ornament.

Good Jewish girl that I am, I love having a Christmas tree, and Caryl's ornaments are always a highlight of it. And this year, she needle pointed a bell for me, and she designed the pattern herself. And I cherish those ornaments so much because they're a tangible sign of friendship. And it just makes me think about how important it is, whether you make it or whether it's a service that you perform, just to try to give a little bit of yourself at this time of the year. So I love my friends.

Also, though I love my SistersInLaw sweatshirt, and I'm really looking forward to giving those to my friends in the coming year.

Jill Wine-Banks:

Those are going to be a gift for me. As soon as they are available, I'm going to start ordering them for my friends. But I agree with you about experiences, and just before COVID, I gave my friends a glassblowing class.

Joyce Vance:

Ooh.

Jill Wine-Banks:

And this is for a group of... a larger group. And then unfortunately COVID hit, and of course, the last thing you want to do is be blowing into the air-

Joyce Vance:

Yeah.

Jill Wine-Banks:

During COVID. And so, we've never actually collected on that gift, but hopefully soon we'll be able to do that.

Joyce Vance:

Well, here's to a new year and lots of fun experiences with friends. Today, we start off with Mark Meadows and January 6th. It's the topic that we've all been talking about and thinking about. So it's our logical first subject for today. Kim, why don't you start us off?

Kimberly Atkins Stohr:

Yeah. Especially after this week, which brought some of the most ground shaking details from the investigation so far. Text messages provided by former Trump Chief of Staff, Mark Meadows, detailing the entreaties that even Trump's closest allies were making to call off the attack on the Capitol as it was happening. We also learned about the actions by some members of Congress, including Congressman Jim Jordan, and Congressman Scott Perry, to press lies about election fraud and/or try to circumvent the election process.

So, Jill, I want to start with you. This week was a lot, and I couldn't help thinking the entire time, this is the Watergate of our time. This is what we're witnessing in real time, as Barb correctly noted. Meadows' texts are the Nixon tapes, but it's worse. This is far worse than breaking into an office and then lying about it and paying hush money.

So this is where we are, and I wanted to start this conversation with you, Jill, having had the front row seat to Watergate, and now seeing this, I want to get your perspective?

Jill Wine-Banks:

So there's so much to say on this subject, Kim. It is way worse because as you note, Watergate was a crime against the justice, a crime of coverup, which was worse than the underlying crime of burglary. Here, the crime is a coverup of an attack on our democracy. It was an attempt to keep someone in office who had lost an election. And to me, that attack on voting democracy, the constitution is far, far worse.

So that's a difference between the two cases, but there are similarities. The crime was planned. In Watergate, Operation Gemstone included many illegal acts, including the break-in, at the Democratic National Committee. And it was presented to the Attorney General of the United States, in his office at the Department of Justice.

And for those of you who can remember, Attorney General John Mitchell, who was always smoking a pipe and looking very serious, I just can picture him in that glorious wood-paneled elegant office at the Department of Justice, listening as an easel was put up and poster boards were passed, putting forward what this operation was, and it was with a million dollar budget.

And what did John Mitchell say? He didn't say, "Everything you're proposing is illegal. Get out of here. That's ridiculous." He said, "Well, a million dollars is a lot of money. If you cut the budget, then I could approve it." So they cut the budget and he approved it. Now, he was soon to become the head of the committee to re-elect the President, but he was the Attorney General of the United States not saying, "This is illegal."

So that's outrageous, but clearly, we now have compelling evidence that so was this coup, or whatever you want to call it, and there are many words for it, but whatever it is, it was to take down our democracy. You have a PowerPoint that's now public. You have the Eastman memo, you have the Clark conversations at the Department, Jenna Ellis' memo, all went to at least the Chief of Staff to the President.

Now, is it the smoking gun that the tapes were? Depends on who read it, and what actions were taken? Did the President see it? And you also have a similarity of the Department of Justice acting to investigate, we hope, and we think, doing it quietly as they should, at the same time that there's a Congressional investigation. And there are some complications from that, but there are some advantages.

And I disagree with anyone who is saying that, "Congress should keep things quiet. They shouldn't do this in public." I think it's important for the American people to know what's being uncovered and to be part of the revelation, not as a report at the very end, but as it's being developed so they can fully comprehend it. And I don't think DOJ should hold back at all on going forward now, despite what Congress is doing, or in addition to.

I think that if Richard Nixon... he did suffer consequences, he had to resign. He left office in disgrace, but he was never indicted. I thought he should have been indicted, and I still think that had he been, maybe Donald Trump wouldn't have done what he did. He would've learned a lesson. And so I'm still with that's where we should be now, is there should be indictments, and we don't have to wait until every potential crime is uncovered.

Sometimes enough is sufficient, and as prosecutors, we all know that you could keep investigating forever and keep uncovering crimes, but there comes a time when you say, "Okay, I'm going to go with this crime. I have enough evidence on this particular one. Let's just go." And I don't think there should be any time to wait.

I think that it looks more political if the Department withholds taking action on what are obvious crimes to the American people, than there is in saying, "It's too political to indict."

Joyce Vance:

Amen.

Kimberly Atkins Stohr:

Yeah. It's really interesting. One thing that the events of the last year and more have done is change my mind about Watergate. At the end, I thought that it was important that national unity was important, and that bringing charges against the former President. I understood why that could have been difficult. I have completely changed my mind on that, and I wonder how things would've been different had that happened then.

So Barb, the January 6th Committee referred Meadows to the DOJ on a criminal contempt referral, for his refusal to cooperate fully. After supplying those tapes, he notified them that his cooperation was over, but there has been some debate here in Washington over whether it would've been wiser for the Committee to seek a civil contempt referral, essentially seeking a judge to order him to comply, since Meadows' testimony is something that the Committee really wants, and how this is a very different case from say, Steve Bannon. What do you think? Is it a harder case for the DOJ to make to a grand jury?

Barb McQuade:

Yeah, I think it's slightly harder only because Meadows really is within that zone of protection under executive privilege. He was the Chief of Staff. He is exactly the kind of person for whom executive privilege was designed. Whereas Steve Bannon was a former White House official, no longer working for the White House. So for that reason, it makes his claim of executive privilege a little bit stronger.

Now, I still think it's a loser. I think it fails because he didn't even show up to assert the privilege on a question by question basis, which is the way it must be done. He didn't even show up to say answer, "What's your name?" And so, you have to be able to do that.

I also think there are a number of reasons that the privilege doesn't apply here, including the fact that the current sitting President has waived it. So there are a lot of reasons I think it's a loser, but to charge someone with a crime, you have to show that they violated the law in the contempt context willfully, that is they knew that it was illegal when they did this thing.

I also think that just because you can charge someone with a crime, doesn't mean you should charge someone with a crime. I think what they really want to achieve here is obtaining the testimony of Mark Meadows. And if you prosecute him criminally, you're probably not going to get the testimony. You can probably convict him and you can send him to prison, and you can use that as a deterrent to others, and I think that's the path they've gone down with Steve Bannon, but I think the potential testimony from Meadows is extremely important. Bannon may be important, but he's going to jerk you around when he testifies anyway.

So maybe for him, making him the example by prosecuting him as a deterrent for others is the most useful strategy with him. But I think for Meadows, what they really want is his testimony. And so, I think the Justice Department ought to be thinking carefully here, not only about criminal charges, but civil charges. I think if they were to file civil contempt, they could use that.

The purpose there isn't to punish someone for refusing to testify. It is to coerce someone to testify. And so, the witness holds the figurative key in his pocket until up to 18 months, they can sit in

jail. And every day that goes by, they have the ability to let themselves out by agreeing to testify, and I think that's what they really want. So I would bet that part of the discussion that's going on at the Justice Department right now is whether it isn't better to pursue a civil contempt than criminal contempt in the case of Mark Meadows.

Kimberly Atkins Stohr:

Yeah. And Joyce, it may be also that the DOJ should perhaps put their cards on the table about what they're going to do sooner, rather than later. I know you mentioned that before. What did you mean by that [crosstalk 00:17:24]?

Joyce Vance:

Well, I wrote about that in my column for cafe.com this week. And I confess, I was a little bit tongue in cheek, but it comes from a place of love. DOJ can only do its job if people have confidence in it. The rule of law only works if people believe that it will work, we all get that. And we're living through this unbelievably unique time. I think maybe in hindsight, the times that we're living through will be viewed as being as important in American history as the Revolutionary War or the Civil War.

And that puts a lot of strain on the justice system, among other things. And one of the challenges that we face is how many of your norms do you hang onto? How much of the usual practice do you engage in? Because if you're DOJ, you don't want to look politicized, but are there some stress points, because these are extraordinary times where you have to do things a little bit differently?

And I have been a big fan. I'm on record and have written about the need for DOJ to engage in what for that very closed off agency would be radical transparency. There are things DOJ can't talk about publicly. Grand jury investigations is the big example, but I think DOJ can do a better job of helping the public understand what its processes look like, and why things happen the way that they do and coming forward.

So with all that said, even though DOJ doesn't typically make investigations public, I asked in my column this week, whether in the context of witnesses in the January 6th investigation, who are starting to take the Fifth Amendment and declining to testify, whether DOJ shouldn't go ahead and make it known whether those witnesses are under investigation, and possibly going to be prosecuted? Or maybe DOJ should just come forward and say, "We're not going to prosecute these people."

And the reason that, that matters is that if these people are never going to be prosecuted, and I'm looking at you, John Eastman and Jeffrey Bossert Clark, key witnesses in this investigation, if DOJ isn't going to prosecute these people, if that's off the table, then let Congress know. Congress can go ahead and immunize them and compel their testimony. And once they're given immunity, really, their only way out of the mess that they're in is to give full and truthful testimony.

So DOJ probably hasn't made up its mind on these issues yet, but if they have, they should just go ahead and say so. I'm sure that there would be a political cost if Merit Garland did that, but after all, he's the one who's been saying that justice, DOJ is about doing justice and not politics.

Kimberly Atkins Stohr:

Yeah. Well, let me ask you this, because as you talk about this, one thing that springs to mind is how is this different from say, what one James Comey did several years back in the interest of trying to be transparent, and trying to avoid looking political? Has justice walked that line?

Joyce Vance:

That's exactly the right question because Jim Comey came forward with the goal of... I like Jim Comey very much, and it sort of pains me to say this because I think he shared so much wisdom with our group of US attorneys over time, but he was engaging in a political calculus trying to sort of game things out, instead of simply applying DOJ rules and DOJ processes.

I think that there's plenty of precedent inside of the Department once you've declined on a prosecution for saying so. And we know that, that happens in the public corruption context. For instance, it's happened in the Southern District of New York with both Mayor de Blasio and with Governor Cuomo. I did it in a case involving Alabama's then Attorney General, and you come forward and you say, you've declined in the case because that sort of takes that person's name out of the spotlight, and prevents additional reputational damage.

There's no reason DOJ couldn't do that here and say, "We've looked at the evidence and we're not going to prosecute these two," which would then let Congress go ahead.

Barb McQuade:

What you don't do is what Jim Comey did. And I too have great respect for Jim Comey, but he made a terrible mistake in this instance, because he didn't just say, "We're declining charges against Hillary Clinton," which I think would've been appropriate because there had been so much attention paid to it. But then he went further and said, what she did was-

Joyce Vance:

He demonized her, right?

Barb McQuade:

Yeah. It was incredibly reckless and it was, "She put the nation at risk," and said these kinds of things. And I think it was that, that he was kind of talking out of both sides of his mouth a little bit. And as you say, Joyce, it may very well have been in an effort to kind of navigate this swirling political wind of, "No matter what I do, I'm going to be damned if I do, damned if I don't by the left and the right. And so I need to give a little something to everybody."

But I think that was where he really made a mistake, is not just playing it straight. And so, if you simply announce a declination [crosstalk 00:22:20].

Joyce Vance:

Having seen the Comey mistake, it's very possible that Merit Garland could navigate those waters more successfully.

Jill Wine-Banks:

Well, it's just, I feel I don't know Jim Comey. I did interview him for iGen Politics, my other podcast. And I tried to understand his thinking, and I tried to give him an opportunity to make clear to me why he did the right thing? But remember, it wasn't just the first mistake. It was the second one, which is to announce reopening it. That is so clearly outside of any appropriate behavior by anybody at the Department of Justice, that I cannot forgive that. And that was the other shoe that dropped, that ended Hillary Clinton's chances of being President.

And so, calling it off at the end is one thing, but he should have never said it. I can go along with saying, "We decline prosecution." That's one thing, but saying, "We're reopening it. We made a mistake," that's another.

Kimberly Atkins Stohr:

Yeah. And the reopening then, that also stands in such stark contrast to the silence on the investigation that was ongoing into the Trump campaign.

Jill Wine-Banks:

Yes.

Kimberly Atkins Stohr:

That's where it really looked nefarious. So just before we go, just really quickly, one other twist in the January 6th investigations that it is bringing in members of Congress, the colleagues of the very people on the Committee. How does the Committee navigate that, anybody?

Joyce Vance:

Doesn't it become a never-ending sort of game where if we... And I would think rightfully in this situation. If the January 6th committee wanted to talk to people, not because they were members of Congress, but because they were fact witnesses who happened to be members of Congress, then in the next sort of iteration of Congress, if there's a Republican majority, I think we would see this sort of tit for tat thing where they would do the same thing.

But that said, I don't know how you avoid it. I think some of these people are going to have to be questioned and it's going to be a terrible political fight because they will stop at nothing to denigrate the Democrats, instead of treating this like the moment that it is, where we've got to protect the future of the Republic, we've got to put party over country. And the Republicans just seem to lack the backbone to muster the courage to do that.

Jill Wine-Banks:

And this may be one of those cases where the Department of Justice is better suited for taking action, or where contrary to what I said about it being important to make things public, maybe this has to be done behind closed doors with transcripts created, but I do think you cannot ignore what is right in our face.

We've seen the revelation of all of these text messages, and the wrongful conduct of Jordan and Perry, and so many others. How can you ignore that if you are trying to get to the bottom of who planned, who encouraged, who was responsible? I think you just can't close the investigation off and say, "Well, they're members of Congress. We can't investigate them."

And that's like saying, "The presidency is above the law, and so are members of Congress," and then where do you stop? So I'm for, you've got to investigate it at every level possible.

Barb McQuade:

Well, as you know, there's nothing I love more than pockets except sustainable clothing, and that's why I love Girlfriend Collective. Joyce, what can you tell us about Girlfriend Collective?

Joyce Vance:

I like sustainable clothing too, but for me, sustainable also means clothing that manages to stay inside of my closets. And every time my sweet daughter comes home, she takes all of my Girlfriend Collective. She really likes it a lot. She's a marathoner and she thinks it's great for her purposes. So I just ordered myself a new sort of, one of the longline bra tops and a pair of yoga pants.

And I am so happy to have it because it's sustainable, it's ethically made, and it offers inclusive sizing from extra, extra small to 6XL on Girlfriend Collective selection of really incredible bras, leggings, shorts, tanks, tees, and swimsuits. So whether you're working out, running errands, or doing nothing at all, I really like Girlfriend Collective when I'm lying around reading a book.

Girlfriend Collective has functional fabrics, colors and styles for any activity, and all their clothes and packaging are recyclable and consciously crafted. This season we're also really in love with their best selling squat proof leggings that come with pockets and have different levels of support. So you know you'll find the perfect fit and pockets for the Barb McQuade fans out there.

Jill Wine-Banks:

But for me, Joyce, I feel a little differently. I love clothes that don't stay in my closet, that are so comfortable that I always want to have them on. And that's what it is for me with Girlfriend Collective. So join us in joining the collective today. For listeners of the show, Girlfriend Collective is offering \$25 off your purchase of \$100 or more when you go to girlfriend.com/sisters. That's \$25 off \$100 or more when you go to girlfriend.com/sisters, girlfriend.com/sisters, or look for the link in our show notes.

Barb McQuade:

Well, this week we suffered the loss of bell hooks, the great thinker and writer on the intersection of feminism and racism. In 1981, she wrote the groundbreaking book, *Ain't I A Woman?* And Jill, for our listeners who might like to know more about bell hooks, can you share with us some of her accomplishments?

Jill Wine-Banks:

Yes. She was a woman ahead of her time, I would say, and was a great thinker. I've been thinking a lot about her and all the writing she did on the intersectionality of gender and race, and someone who pushed feminism beyond its White middle-class worldview to include Black and working class women.

My generation had Betty Friedan, and she is the next iteration as far as I think about it. She took a nom de plume for writing, using her great-grandmother's name, that's not her real name, but she wrote under the name of bell hooks. And she did it in all lower case because she felt that she wanted to make sure that people focused on what she was saying, not on who was saying it, and that by using lower case, that would help in that regard.

I think that she said that there had been a devaluation of women back during slavery, and that the sexual exploitation had continued well beyond that, and had led to... I would say in a way, she was ahead of the game in terms of critical race theory, because critical race theory also explores what are the consequences of the past on our current laws and on our current behavior. And so in that regard too, she was ahead of things.

And she explored feminism in a whole new way, and differences in inequalities among women, not just between men and women. And she created a much more inclusive... inclusive rather, a much more inclusive feminist movement. When feminism first started, and I was quite young at the time, but old enough to be part of that early days. I was in law school when feminism really became a thing.

It was a White woman's movement, and so I always wondered how we could bring in everybody into this movement? Because women, and I have a lot of Black women, friends who I've often asked, do you feel that being a woman was more damaging to you or was being Black more damaging? And most of them have said being a woman. So obviously, that means you want to have everybody included in the feminist movement, and she did that.

And she wrote prolifically. She has over 30 books. Her first famous book, *Ain't I A Woman?* Is actually based on Sojourner Truth's speech. And so, she really goes back into history and is a quite remarkable woman that everybody should start reading more about and thinking about what she said back in the '80s, that still is so meaningful today.

Barb McQuade:

Yeah. I think one thing that you mentioned there that I think is so important is it's not a competition about what's worse, racism or sexism? It's all bad, and I think that sometimes people try to use that as a wedge to turn minority groups against each other like, "Oh, racism is worse than sexism. No, sexism is worse than racism." They're all bad, and we need to understand those plus when you've got both issues, those are additional bases of discrimination.

So Kim, I wanted to ask you, I saw your tweet when she passed that said, "I cannot fully process the loss of bell hooks. I would not be who I am, doing what I'm doing, if not for her. I'm gutted." Tell us what did bell hooks mean to you?

Kimberly Atkins Stohr:

Yes. So the loss was tremendous. It did feel like losing a member of the family because I came to the writings of bell hooks when I was in college. I had read and known a little bit about feminism and the history of it coming, in high school and before that, but it was really only when I got to college and read bell hooks that I could see myself in that fight in a very specific way. A way that I recognized, and in a way that was different than it had been previously expressed, but I didn't full recognize how differently it had been expressed, and why I needed that specific intersectionality, where Black women fit into this. And it's not a clear and easy place, and all of the tensions that Jill talked about.

And, and one thing that I say when people ask me, and I have been asked, "Do you think you've suffered more from racism or sexism in your life?" I say, I cannot answer that question because I have only been a Black woman, A, so I can't separate, I can't piece myself apart. B, I do know from experience something that is very specific and different from both of those things, which is misogynoir, which is a phrase that was coined by Northeastern University scholar, Moya Bailey. And it is a specific place that is relegated, and I think that's what bell hooks was getting to, going back to slavery and the role that Black women played.

Black women have been treated in such a very specific way in this country, that it transcends the addition of just sexism plus racism. It's another thing entirely, and that's one thing bell hooks was putting into this conversation. You're right in that the phrase, *Ain't I A Woman?* is a quote from Sojourner Truth.

It was actually a quote that she gave at the Women's Rights Convention in Akron, Ohio back in 1851. And the reason why is when you had the abolitionist movement, it was almost entirely male. In fact, when there was the first big convention on abolitionists, women weren't allowed to speak. So people like Sojourner Truth, people like the women who became the founders of the suffrage movement went. They believed in that, they wanted slavery to end, and there was no space for them to

speak. And that is what spun off the suffrage and Women's Rights Movement, and led to that Convention in Seneca Falls, is because there was no place for them.

And then Sojourner Truth, one of the women who spoke there in Seneca Falls, and other folks like Frederick Douglas, found that when they put their full support behind the suffrage movement, there were people within it that wanted to exclude them too, because there were a lot of folks who wanted women to have the right to vote, but did not want Black people to have the right to vote, that didn't extend to everybody. They wanted White women to have the right to vote, many of them to advance the interests of White men because that's what they thought that they would do in giving the vote to Black people, they thought actually was dangerous.

You see that, and that was happening within the feminist movement too. There was this tension between who is the leader? Is it Gloria Steinem? Is it Shirley Chisholm? Are they speaking the same thing? And when they're not in lockstep, is that a problem?

And that's exactly what bell hooks was getting to, but she got to it in a way that wasn't confrontational, that wasn't angry. It was bringing everyone to the table and making everybody, including White men, including other folks, realize how important it was for them to be at the table, and really pushing against this idea that those who feminism were trying to dismiss it as angry women who hate men. She's like, "No, I don't hate men. I don't hate men at all. In fact, I really want men to be a part of this." Or they're all lesbians. She's like, "Oh no, some of them are lesbians, but some are not. And this is about everybody. This is something that's trying to demystify and destigmatize what feminism was, and creating space rather than creating conflict."

And it seemed so common sense to me. And so she's one of the people along with Ida B. Wells, along with Phillis Wheatley, who, as a journalist at the time that I came to know her, I was a pre-law journalism student in college. And so in all of those spaces, these are the women that I really thought that I wanted to spend my life making them proud. So that loss is certainly tremendous.

Barb McQuade:

I love it when people identify what is common sense, but as yet undiscovered, and you recognize something and they name it. And you say, "Yes."

Kimberly Atkins Stohr:

Yeah.

Barb McQuade:

All too rare, but it excites me because it makes me wonder what else is out there? Where we make certain assumptions. And when somebody finally has the clarity of vision and voice to make us see it, we realized how absurd some of our assumptions about society are.

Joyce, you shared with us earlier in the week that the loss of bell hooks was very emotional for you. Can you share your thoughts?

Joyce Vance:

Well, mine's not as cerebral as Kim's, but I first learned about bell hooks as a child's book author. She has a wonderful book called *Skin Again*, that my youngest kid, who was Waldorf educated, read in his mixed nursery, and it was one of our favorite books to read together. One of my favorite parts from the book says, "The skin I'm in is just a covering. It cannot tell my story. If you want to know who I am, you've got to come inside and open your heart way wide."

It's a really beautiful book that we read together a lot, and I passed that book on actually, to some of our friends when he got too old for it. I like to think that, that story is out in the world, convincing people to love each other without any sort of hesitation or reservation.

And it wasn't honestly until many years later that I experienced her writing as a feminist writer, and as someone at the intersection of race and gender, but that simple message from the children's book, the child's book, of love and of inclusivity, I think it's interesting. Kim, it resonates so much with the way you talked about her writing struck you as an adult.

She had a unique ability to make us see the value in each other, and that's something that we need more of in this world.

Jill Wine-Banks:

Can I add another quote? Because when you talk about love and how wonderful that was, she described herself as a Buddhist Christian, and talked about a very famous Buddhist monk, Thich Nhat Hanh, and she said that love was the only way to overcome what she called the imperialist White supremacy, capitalist, patriarchy, and said, "I believe wholeheartedly that the only way out of domination is love."

And I think that's just such a beautiful thought, and I didn't know about the children's book, but I want to know. Say the name again so that I can get it for anybody I know who has young enough children?

Joyce Vance:

Oh, we should put a link to it in the show notes.

Jill Wine-Banks:

Yes.

Joyce Vance:

Because I actually went to check, and it's available on Amazon. We always call it The Skin I'm In, because that's actually our favorite line from the book, but it's Skin Again.

Jill Wine-Banks:

I was a real skeptic when I first read about Noom and thought it could never possibly work, but it certainly does. It's an amazing product. It's an app that I love.

Joyce Vance:

I really like Noom too, Jill. I feel like the food I've been eating has been a lot more healthy and in the right combination, so that I feel a better overall. To me, that's the big advantage of Noom. I have nothing against a little bit of weight loss after a pandemic of eating way too much in the way of homemade baked goods, but it's mostly the healthy aspects of Noom that I like.

The app is really easy to use, and it becomes a powerful tool the more you use it, that shows how you can understand your cravings and build new habits to reach your goals.

Barb McQuade:

Yeah. I'm a real believer in Noom. I never used it before. I tried it because we had an opportunity to explore it with our podcast, and it has been life changing for me. I'm much more mindful about what I

eat. I'm eating a lot more vegetables, a lot more lean meats, a lot less starches and carbs. And just kind of the empty calories of all the things you put in your mouth all day without really giving a lot of thought to it.

So I feel great. I've lost a lot of weight, and as you say, Joyce, mostly, I just feel really healthy and energetic, and fit. And I really can't say enough good things about Noom. It's a terrific, terrific app.

Jill Wine-Banks:

And I got to see you recently, and I know how great you look.

Barb McQuade:

Thank you, Jill.

Jill Wine-Banks:

And I bet you're eating a lot of grapes.

Barb McQuade:

Yeah. Grapes, not raisins. It's all about choices.

Joyce Vance:

Noom is big on grapes.

Barb McQuade:

Noom shows you how to pursue the goals you set for yourself and make sure you reach them, focusing on motivation and improvement, not diet teas and airbrushed expectations. No food is off limits. It's about finding your balance. That's the key to progress.

Joyce Vance:

And if you're like us, you're busy. So I love that Noom only requires 10 minutes. Honestly, I do it in about five minutes a day.

Barb McQuade:

You're overachiever, you Joyce.

Joyce Vance:

I'm just a fast reader. Over 75% of Noomers end up finishing the program, and more than 60% of users lose 5% or more of body weight in 16 weeks. 60% of engaged users keep the weight off for a year or more, that's progress. So with Noom, you can get empowered and stay on track.

Barb McQuade:

So start building better habits for healthier, long-term results. Sign up for your trial @nom.com/sistersinlaw. That's N-O-O-M.com/sistersinlaw to sign up for your Noom trial. Look for the link in our show notes.

Jill Wine-Banks:

One of the most sensational hate crimes reported recently ended with the alleged victim convicted of staging the attack and lying to the police about being beaten and left with a noose hung over his neck. And this all happened by the way, just outside NBC's Chicago studio. And he claimed that racial and homophobic slurs were being shouted and he was beaten up. But the victim was a celebrity, Jussie Smollett, a star of the Fox drama, Empire, where his role was hailed as groundbreaking for its positive depiction of a Black gay man on television.

There's a complicated history to this investigation with charges brought and then dropped. The Cook County state's attorney Kim Fox almost losing re-election because of her handling of the case, or some would say her mishandling of the case, including conversations she had with Smollett's family at the request of #Me Too's Tina Tchen.

So before she dropped the original charges against Smollett, a special prosecutor who is the former US attorney, Dan Webb, was brought in to investigate and bring new charges. And he is the one who ended up trying the case that ended in Jussie Smollett's conviction. And it's more that I want to use this as an opportunity to talk about hate crimes, prosecutions, more generally than this particular case.

So Barb, could we start with just defining what is a hate crime? What are the elements of a Federal hate crime? Because of course, it could vary at each state.

Barb McQuade:

Yeah. So there's a Federal statute, it's sometimes referred to as the Shephard Byrd Act. It's named after Matthew Shepard and James Byrd, who were victims of hate crimes. It's passed in 2010 and it's a Federal statute that allows prosecution. It requires that someone willfully caused bodily injury, or attempt to do so, because of the victim's actual or perceived race, color, religion, national origin, sexual orientation, gender identity, or disability. There's also an element because it's a Federal offense that the crime affected interstate or foreign commerce.

And so, kind of the key there is the motivation. Ordinarily, motivation is not an element of an offense. It might be something that helps the jury understand why somebody did something. But if I say, intentionally kill my husband, just hypothetically of course, it doesn't really matter whether I do so because I'm jealous, or because I want to recover life insurance money.

If I intentionally kill him, that is a crime, but hate crimes bring with it, number one, this willfully causing injury. But you also have to prove that the motive was because of the person's race, color, religion, et cetera, and so that's what makes it a hate crime. And the reason we have these hate crimes on the books is because it recognizes that when you attack somebody because of their membership in a particular group, not only has that individual been victimized, but everybody who shares that characteristic with the group now feels less safe. And so, it is a recognition that our society does not tolerate those kinds of crimes.

And then state laws, and most states also have some sort of hate crimes statute, all but five, Arkansas, Indiana, North Dakota, South Carolina, and Wyoming, still do not have hate crimes on the books. Georgia did not for a long time, but did enact one after the Ahmaud Arbery killing. And many states that do have hate crime statutes, don't protect victims on all of those same basis that the Federal statute does.

For example, Michigan and many other states do not permit hate crime prosecutions on the basis of a victim's sexual orientation or gender identity. But I think hate crimes are really important. When I was the US attorney here, we brought some. I can remember one in particular where someone was assaulted, a man, because he was gay. In fact, the perpetrator admitted that he attacked him because the man was gay. To make it a Federal offense, you have to show some impact on interstate

commerce, but this attack occurred in the store portion of a gas station. And because that gas station bought and sold gas in interstate commerce, and soft drinks and potato chips, and all those kinds of things, that interstate commerce element was satisfied.

Jill Wine-Banks:

So Joyce, I was going to ask you whether we need hate crimes when the defendant can be prosecuted for murder or assault in state court? And Barbara has sort of started along the answer of that, but can you add to that as to the need for hate crimes?

Joyce Vance:

Sure, because Barb does a great job of laying out one of the key reasons it's important to have the possibility of Federal hate crimes prosecutions in order to vindicate these sorts of interests, and help people feel safer. Typically, Federal hate crimes prosecutions happen when the state either fails to prosecute or when there's an acquittal that's unjust on the facts.

But sometimes you will see these secondary prosecutions where even after a state conviction, there's a Federal prosecution. That's happened recently with Derek Chauvin, who was convicted of the murder of George Floyd in state court, and who has just pleaded guilty to Federal hate crimes charges. We'll see that again with the murderers of Ahmaud Arbery in Georgia.

And one thing that these Federal cases do is they provide a little bit of insurance just in case there's a problem with the state conviction on appeal. If that state conviction gets reversed in whole or in part, then you still have the Federal prosecution that stands independently behind it.

But I think Barb is right. These prosecutions, it's a way of vindicating the public interest and prosecuting a defendant for a crime that's animated by hate against not just an individual, but a protected group of people, people who are vulnerable in our society, not because they're weak, but because they've been historic victims of hate.

So this is one of the goals of our criminal justice system, is to punish and create accountability, and the hate crime statute, the Shephard Byrd Act, and other statutes that Federal prosecutors use, I think achieve this goal, and it's incredibly important.

Jill Wine-Banks:

Kim, can you follow up on Joyce's very, very excellent answer, and talk about more generally, civil rights violations like Derek Chauvin, just pleaded guilty to, and why we need both hate crimes, civil rights crimes, murder, assault at the state level, as well as these Federal acts?

Kimberly Atkins Stohr:

Yeah, I totally will, and I will add another one. I think we also need a Federal domestic terrorism statute, which does not yet exist. But I think the point that Joyce made was really important, that people can face Federal charges. Even if they're already convicted of a state crime, it can be done concurrently.

I think some of these charges are important, as Barb said. To state publicly as a matter of societal benefit, "This is the kind of conduct that we will not tolerate." And I think sometimes it's also helpful when there is a situation like the horrific lynching of Ahmaud Arbery, where there was no hate law in place to charge the perpetrators. That was hurtful for that community, and so you need that there.

In this case, the case of Derek Chauvin, he faced Federal charges. There were civil rights charges. So this is one of the many tools in the Federal prosecutors toolbox that they can turn to. And this specific one deals with the deprivation of rights under color of law, and it makes it a felony to willfully violate someone's constitutional right without due process of law.

So in this case, the charge was that Derek Chauvin deprived George Floyd of his right to be free from a police officer using unduly deadly force, free from the deliberate indifference that Derek Chauvin showed once he fell out of consciousness, to not ensure that he had medical care while he was in his custody.

And this is one of the laws that falls under the civil rights Federal statute. It's known as the Ku Klux Klan Act, in part, because it grew out of the practice during reconstruction and beyond, of police officers essentially terrorizing Black people in Black communities, and also people acting as police officers. There's one that's under color of law, which is what police officers tend to be charged with.

There's also a different kind that can be charged to private citizens who deprive people of their constitutional rights as well. And this sort of umbrella sort of grew out of that. You don't have to be Black to have your civil rights violated, but that's the background of it, that sort of shows how these tools with more recent laws like the hate crime Federal statute that Joyce talked about, can be tools for prosecutors really to get at these crimes that go beyond allegations of murder, recklessness, arson, other things that people can be charged with.

Often, these charges also come with really steep punishments, steeper than they might be if they didn't exist. For example, someone burns down a church, the crime of arson may not come with a very high punishment, but a hate crime does. And that can make it really important to have that in addition to the other charges.

Jill Wine-Banks:

So at a time now where hate crimes and maybe particularly antisemitic attacks are on the rise, is there something that legislators should be passing? Are there new laws that we need, or do prosecutors have enough tools right now to get the kind of accountability we need to prevent these things from happening?

And we've seen the so many of these hate crimes, including the death of Heather Heyer in Charlottesville, Virginia at the, "Unite the Right," rally. And are there new laws that we need to be looking for that we should be suggesting that Congress pass, or that state legislatures pass?

Kimberly Atkins Stohr:

Yeah. So to me, I think the, "Unite the Right," attack and the death of Heather Heyer points is a great example of the need for a domestic terrorism law. To me, that was domestic terrorism. That was someone who was seeking to do more than just injure the people that were in front of him in his car.

And there is no Federal statute of that kind. Some states have them, they're uneven, the kind that have them. We know in recent news that Michigan has one because they used that law to charge for a recent school shooting there, but that state defines it as an act. Domestic terror is an act that is intended to intimidate or coerce a civilian population.

And I think there was a lot going on in Charlottesville, Virginia, that weekend, that was intended to intimidate and terrorize a civilian population. And so, not all these acts will be the same, right? Sometimes you will need some of these laws, and sometimes you'll need other ones, but I definitely think that would be a move in the right direction.

Barb McQuade:

I'll agree with Kim on the domestic terrorism statute need for it, and just add a reason I think we need a Federal domestic terrorism statute is-

Kimberly Atkins Stohr:

Yes.

Barb McQuade:

So often the strategy at the FBI and Federal law enforcement is to disrupt an attack before it occurs, but you need to be able to open an investigation into a Federal statute. And so if you have information that there is a plot afoot involving a mass shooting, or a vehicle-based homicide plot, you can't open that as a Federal offense, so only the state can investigate that.

And although states do have... as Kim said, some states have these statutes on their books. They often don't have the resources to do a proactive, before the fact investigation into a conspiracy or an attempt. You have to wait until the crime occurs, and then you can charge people after the fact. But of course, that means people are dead and there are victims.

And so, I think that having a domestic terrorism statute would allow us to intervene, just as we do in international terrorism cases, and also bring with it kind of the moral equivalency of international terrorism to domestic terrorism.

And one other crime I would suggest or a modification I would suggest to the Shephard Bryd Act, I've seen this in the Sixth Circuit. I don't know what the law is of all the Circuits, but in the Sixth Circuit, the court has held that you must show that this motivation that it was based on the person's race or sexual orientation, or whatever it is, must be the sole motivation.

And that can be difficult, if not impossible to prove that something was the sole motivation, because you can almost always say, "Well, that was part of my motivation, but I was also in a fight with them, or I was really mad at them." Even in the Arbery case, and I agree with you, Jill, it was absolutely a hate crime, you would say in that case, the evidence was, "911, what's your emergency?" "There's a Black man running down the street." That's what got their attention. So I think that shows absolute racial animus there.

But I think what a defense attorney could say is, "Well, yeah it was race, but it wasn't just race. It was also this desire to apprehend a thief." And so, because it was a mixed motive, you can't say this was a hate crime. So I think just a statutory fix that would say something like, "Based in whole, or in part, on race," would be a much better way. It would just give prosecutors a better tool and would allow that defense from always trumping prosecution.

Joyce Vance:

It's important to have laws at your disposal as a prosecutor, and I have to confess that I never felt like I didn't have all the tools that I needed in these situations. We worked pretty closely with state and local folks, and were always able to get the job done. But more laws is generally better if you're a prosecutor and an investigative agency.

The one thing though that transcends the need for laws is the need to have relationships. If you don't have intelligence about what's going on, on the ground, then you can't head these sort of incidents off after they happen, and you can't really work on them effectively.

So one of the most important things, not just for prosecutors, but for law enforcement leaders to do, is to be out in the community and to engage with groups that are at risk. I remember this point in time where we learned that our Sikh community in north Alabama was getting a lot of not high level threats, but graffiti on the wall, phone call sort of threats, and they had never called law enforcement. And the reason that they hadn't called was because they didn't know who to call.

But I knew some of them on a personal relationship, and so I ended up going out to the [inaudible 00:58:09] one weekend with the Police Chief in the area that they were in, and the Head of the FBI, and a bunch of prosecutors, with the explicit goal of building personal relationships, so they would feel comfortable calling.

And Jill, you talked about anti-Semitism in your lead into this. Jews often have this feeling of, "Don't be a Shudder on the Goam. Don't call attention to yourself, don't make trouble." It's important for law enforcement and political leaders to tell these communities, whether it's Black people or Jews, or Sikhs, or gay and lesbian, or transgender communities, "Please let us know. We want to hear about what's concerning you. We need to know when there are threats so we can keep you safe."

Jill Wine-Banks:

That's such great point, and I think from what I'm hearing here, there're some laws that need to be passed or amended, tweaked a little bit. But I think it's not just in the area of hate crimes. And maybe we should spend an episode talking about some of the laws that have no appropriate penalty right now, where it needs to be passed.

Adam Schiff's Protecting Our Democracy Act would codify some of the things that were norms, and would add penalties. But I think there's a lot more in that vicinity that we could talk about in the future.

Kimberly Atkins Stohr:

And only be because we started where we started this conversation, I think it stands. It's important to underscore that lying about one of these really, really horrific kinds of crimes should in itself be punishable by a stiff penalty because it makes it all the harder for people who are actually victims of these types of crimes to come forward, bring their claims and be believed. So that's a terrible thing to do.

Jill Wine-Banks:

In these times of stress, when we all need to relax a little bit, I have found a new app that really helps me. It's called Headspace. And I'm just wondering Barb, have you tried Headspace?

Barb McQuade:

I have. And you know, Jill, I have never been a big one for meditation. I don't like breathing exercises, it freaks me out. It makes me think I'm going to stop breathing, but I do like some of the meditations on Headspace, because they've got something for everything. They've got it for study apps for people who are having anxiety about school or other things.

There's a great one about just controlling your reactions to things, like in traffic, if you're in a traffic jam. So much of the frustration that I feel when I'm in a traffic jam is self-imposed, like you expected to get somewhere on time and now you're not, and so you get very upset about the whole thing.

And so, with Headspace, they just give you some mindfulness exercises to think about things like, "Hey, look, we're all here. It's like a big party on the freeway and we're all just hanging out, and we're going to get there when we get there." And just re-setting your thoughts and expectations can really help you, I think deal with everything that life throws at you, and you can't control what happens to you, but you can control how you react to it. And I find Headspace really helps with that. Joyce, how about you?

Joyce Vance:

I'm like you Barb. Although I've done yoga for a long time and I do have the meditation practice, I'm always freaked out and I think, oh, I don't breathe right. I can't breathe in for four counts and hold it in for four counts, and then I get stressed out. And actually, that's really changed for me with Headspace, but in a funny way, I've been using their nighttime relaxation exercises. And they're these sort of fun, quirky stories. There's one about a midnight launderette. There's another one about a cat marina.

It sounds crazy, but I keep making my family listen to them to go to sleep, and they're fabulously soothing. They always start out with a little wind down exercise, and often it's a breathing exercise, and I've taken that breathing exercise into the day. And for the first time, I'm not questioning whether am I breathing right? Which is crazy. And we could all use a little bit of reassurance that we're doing things as basic as breathing properly.

So I've really liked it, and just using the Headspace app for a few minutes each day, I really do feel better. It's helped me ditch unnecessary stress and anxiety, something that we could all use right now. And you really have to try it to feel the difference. Let's give it a try now.

Speaker 5:

So sitting comfortably, just taking a big, deep breath, in through the nose and out through the mouth. As you breathe in, noticing how the body expands. And as you breathe out, just watching the body soften as you gently close the eyes. And rather than the mind leading the breath, allow the breath to lead the mind, notice the sensation of the breath.

Notice where you feel it in the body. If you need to, you can just gently place your hand on the stomach, and just following that rising and falling sensation. Nothing else to do, allowing thoughts to come and go. And then when you are ready, just gently opening the eyes again.

Barb McQuade:

Life is confusing enough, but meditation doesn't have to be. Headspace is your convenient dose of meditation, mindfulness, and sleep exercise, to relieve stress and anxiety, and help you get a good night's sleep, all in one app. Headspace makes it easy to catch your breath and make time for your mental health.

It's science backed with a study proving just two weeks of Headspace can reduce stress by 14%. Meditation works. Find some Headspace [@headspace.com/sisters](https://www.headspace.com/sisters), and get one month free of their entire meditation library. This is the best Headspace offer available. So go to [headspace.com/sisters](https://www.headspace.com/sisters) today, that's [headspace.com/sisters](https://www.headspace.com/sisters), and use promo code SISTERS, or look for the link in our show notes.

Joyce Vance:

One thing we all agree about is how much we love getting to answer your questions. We've learned that our listeners are smart and that you all care deeply about our country, and making it work better. So it's a privilege for us to get to discuss the questions that concern you the most every week.

If you have questions for us, you can send them in an email to sistersinlaw@politicon.com, or tweet them to us using #SistersInLaw. If we don't get to answer your questions during the show, keep an eye on our Twitter feeds throughout the week. We'll answer as many of your questions as we can there.

Our first question comes from Nan. She asks, "Could you discuss the definition of treason and legal aspects of charging political leaders with treason under the constitution, and the likelihood of that happening?"

Jill Wine-Banks:

Well, let me just answer fast. The definition of treason is there has to be a declared war and you have to be aiding and assisting our enemies. Since we're not in a declared war, treason isn't a viable charge right now.

As to the politics, I think maybe Kim, because she is a political commentator and opinion writer, she should answer that. What do you think, Kim?

Kimberly Atkins Stohr:

Yeah. I think the biggest impediment against bringing such a charge is that it would be so rare, and certainly unheard of in our modern times, that combined with the political environment really disincentivizes the Justice Department for lodging that kind.

Just think how carefully Attorney General Merit Garland is moving, even in deciding whether or not to enforce a subpoena to bring criminal charges for criminal contempt. Now magnify that to the level of treason and the political impact that, that could have. And I think that makes that very, very unlikely.

Joyce Vance:

Kim, I hate to say it, but that makes me think of a Saturday night live skit that they could write, right? Merit Garland tries to decide whether to charge treason. The possibilities are endless there.

Our next question comes from Nancy Syska. "How can DOJ ignore the compelling evidence unearthed by the Select Committee? If they are conducting their own investigation, when can we reasonably expect to hear from them?" Barb, what do you think?

Barb McQuade:

Yeah. I think we should not assume that DOJ is ignoring the compelling evidence unearthed by the Select Committee. We know that DOJ is investigating and continues to charge additional defendants who attacked the Capitol on January 6th. Something like 600 defendants have been charged so far and additional ones get charged all the time. So that really does provide the vehicle for that investigation to grow and morph in any to direction that the evidence takes it. So I don't assume that they are not investigating or that they are ignoring the evidence.

And when would we reasonably expect to hear from them? I don't know. I think people are speculating because we haven't heard leaks that there is not an investigation going on, but this is the way it's supposed to be done. If you're conducting a grand jury investigation, the rules say you have to keep that private. You can't disclose any of that. So it's quite possible that they're working like a duck swimming serenely and calmly on the surface of the water, and paddling like mad underneath.

So when can we reasonably expect results? It's hard to put a timetable on these things. Robert Mueller took 18 months to investigate, and so that will put us at the middle of next summer. So I know nobody wants to hear that because we all want charges yesterday, but I think it's still possible.

I also think that it could be that they're waiting to let Congress do the heavy lifting here, to avoid political accusations of delving into matters of politics. But if, and when Republicans control the House and shut down the investigation, DOJ could be poised to take it over and absorb some of this evidence. So I haven't [crosstalk 01:08:32].

Joyce Vance:

I think that's a really good point, Barb, because I heard Liz Cheney this week repeatedly use language that came straight out of criminal statutes. And while we all know it's no secret that Merit Garland has been hesitant to take action that could be perceived as unduly political, it would be an entirely different ballgame if this bipartisan Committee were to refer criminal charges over to DOJ.

And I have wondered, I have no insider knowledge of any kind, but have wondered whether or not DOJ might be watching the evidence unfold continuing as you say, if they are investigating, to do it in the best traditions of the Department in total secrecy, and waiting to see what kind of referral they get. Like you, I'm not counting DOJ out either.

Jill Wine-Banks:

I agree, and I want to add a perspective from Watergate where we had a Senate Select Committee at the same time as we were investigating. The Senate Select Committee was doing it in public, something that I look forward to the January 6th Committee doing, because I think it brings the American people along with knowledge that they need to be brought to a point of accepting what the evidence is.

And we did it in a way that the Congress did not interfere with our election... I'm sorry, our prosecution, by for example, immunizing someone we thought was a key potential defendant. And we didn't do anything that would in any way interfere with their getting the evidence to the public, which is a different purpose than prosecution.

And Barb, you're absolutely right. What they are doing has to be kept confidential. Grand jury rules are that it is secret and can only be revealed once you return an indictment, or as we did in Watergate by asking the court, after an indictment for specific permission to give grand jury evidence to the Congress for a special particular purpose. And that is an exception to grand jury secrecy rules.

Joyce Vance:

Our last question, totally shifting gears, comes from Janice. Janice writes to us, "My eldest son is currently in his senior year in college and is a poly sci major. He plans to apply for law school, but wants to take a gap year first. Do you have any advice for him about the best way to use the gap year that would increase his chances of being accepted into law school, preparing for the LSAT, exploring specific types of internships, community service, et cetera?" Who wants to take a stab?

Kimberly Atkins Stohr:

I might start from a different perspective, which is there won't be a lot of time if he's just taking one year and the application process hasn't started yet, but spend some of that year thinking about why you want to go to law school? And being certain that, that is your path. We've talked about that a little bit before, that there are a lot of ways to do what you want to do when it may or may not require a law degree.

But beyond that, I would say, I think by now, he already has a pretty well rounded education and background. I would say whatever is lacking there, because the best thing about practicing law, that you're most successful in practicing law and getting through law school if you have a broader set of skills and knowledge to draw from. It's not just about practicing law, an understanding of economics is important, an understanding of business and how the world works, an understanding of justice, social justice is helpful in informing what you do. Depending on what you're doing, even the sciences can be a good background in the practice of law.

So however you want to use that year to broaden that knowledge, then this is a great opportunity to do that.

Jill Wine-Banks:

I love this question and I want to add a couple things to what Kim said, although I agree completely. And the questioner, Janice says, "Should he be preparing for the LSAT, exploring specific types of internship, community service?" Those are all terrific things, but I would say exploring the world and exploring your own interests is important.

My grand godchild, my grand goddaughter is taking a gap year right now, and I know she's going to end up wanting to be a lawyer. She's been very successful in mock trial, but she is doing the most amazing things. She is working on a farm in Hawaii now, doing physical labor. She spent time in Hawaii... Sorry, in France, and exploring Greece.

And she is learning so much and having such great experiences that whatever she ends up doing in her life that year is going to be one of the most valuable she's ever had.

Kimberly Atkins Stohr:

I wish I were on a farm. [crosstalk 01:13:27]

Jill Wine-Banks:

I'll send you pictures. It's amazing.

Barb McQuade:

I'll just chime in that we have a lot of law students who work between college and law school, and I think just that wealth of experience really brings richness to the class. And so, it's really great to have... Some people go work as paralegals in law firms. That's a fairly obvious path, but we also have people who've done Teach For America or served in the military, or worked as a Barista, or done manual labor, and all of those things are really valuable to come into the classroom and share those real-world experiences.

So I think rolling up your sleeves and working is extremely valuable, and depending on what kind of law you practice, you may find yourself living in and working in an environment with some very highly educated, for lack of a better word, maybe even elitist people. And I think there's some significant value of working and understanding what it's like to be a laborer or a waiter, or a Barista, working in a public facing job and understanding what that's like. I think that could be incredibly valuable and provide some really important insights that would carry anyone for [crosstalk 01:14:37].

Joyce Vance:

I really agree with that. Our oldest child, who's now a lawyer, did a gap year program called Impact Alabama. It's now called Impact America. They worked in four different, very specific areas. One was working with high school kids in underserved areas on speech and debate programs. One was identifying eye disease that was treatable if it was identified early on. And so, they actually taught them how to use this equipment and go out into rural areas in Alabama.

And one of the programs that they did involved tax preparation for low income families. And I remember the moment where Robert said to me, "I think I'm going to go to law school." And I thought he had been empowered by his social justice work. And I asked why? And he said, "Because I don't want to end up as a tax preparer for the rest of my life."

And he was actually very good and has continued to volunteer in that area, but what struck me is sometimes it's important to figure out what you don't want to do, as well as what you do want to do, and to have that year to figure out your skills. I was really glad he did that.

Thank you for listening to #SistersInLaw with Jill Wine-Banks, Kimberly Atkins Stohr, Barb McQuade, and me, Joyce Vance. You can send your questions by email, to sistersinlaw@politicon.com, or tweet them to us for next week's show using the #SistersInLaw. Go to politicon.com/merch to buy some of our fun swag.

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Jill Wine-Banks:

I just met a chocolatier who opened a special store in Evanston, who has given herself... She said, "I never had a nickname," which I share with her. So she named herself Journey because she's on a journey. And I thought that was just such a nice thing.

Barb McQuade:

You've never had a nickname, Jill? Game on. I think a new contest for our listeners is let's come up with a nickname for Jill, the Watergate girl who says she doesn't have a nickname. [crosstalk 01:17:03]