

Kim: Welcome back to #SistersInLaw with Barb McQuade, Jill Wine-Banks, and me, Kimberly Atkins Stohr. Joyce is away, but she will back next week. Let's get onto the show where we are going to be discussing the verdict in the trial of Hunter Biden, some Supreme Court rulings involving the abortion drug Mifepristone, and bump stocks and other ways some of the Supreme Court justices have been making headlines. There's a lot to get to this week. But first, I just wanted to ask because we are recording this episode on Flag Day, and we may talk about flags a little more later in the show. It's been a big topic lately, and it made me want to ask you guys, aside from Old Glory, that's the flag that this day is about, what's your favorite flag to fly? Barb, I have an inkling that I know what your answer is, but why don't you tell us anyway?

Barb: I wish I weren't so predictable, but I do enjoy flying a Michigan flag on game days.

Kim: No!

Barb: It's kind of a thing in Ann Arbor.

Kim: What a shock.

Barb: Yeah. It's tricky, though, because I have a flag, and it's on a pole, and the place where it goes, I have to actually lean out an upstairs bathroom window to slide it in, and it's awkwardly placed. If I had longer arms, it would be fine, but I always have to reach way, way out to get it in there, and it's always a little hairy, but worth it every game day.

I'll tell you the other thing I want to say about flags, though. I also put out bunting on July 4th, the red, white, and blue.

Kim: Oh, yeah.

Barb: Because it reminds me of the World Series. It's kind of a baseball thing, but it's also red, white, and blue. I love flags, I love red, white, and blue, I love being a patriot, and it often bothers me that sometimes members of the Republican Party feel like they own the flag and only they own the flag. All Americans own the flag. I'm a proud flag waiver, and so I also like Old Glory. On today, on Flag Day, I salute Old Glory.

Kim: Wonderful. How about you, Jill?

Jill: Well, I'm also predictable. I actually liked the 48-state flag, because that's the one I grew up with, and I'm old enough that we added a 49th and 50th state since I was a child. I also, by the way, like the original Pledge of Allegiance before they amended it while I was in grade school to include "under God." I personally think that's a violation of the Constitution, but that's a different issue.

Kim: I think it's really interesting. I think most Americans don't know that "under God" was not original to the pledge, that that was added, when was it, at the '60s or something like that, the '70s?

Jill: It was before the '60s, I think, because I was in grade school.

- Kim: Was it a big controversy at the time, or did people just sort of accept it without much fuss?
- Jill: I think people just accepted it, but I didn't, and I was a kid. I still felt like that's an imposition on people.
- Barb: It is.
- Jill: I have friends who are atheists or agnostic, and I think it's wrong.
- Kim: I remember some of my classmates had to ... And what an embarrassment. When you're a young kid, you're in elementary school, and you have to say to the teacher, "Oh, my parents said I'm not allowed to say this because of this." It doesn't make it as inclusive as it ought to be. I'm with you. I love the American flag. I think that it's important. When I was in elementary school, and we were all dressing up as historic characters. In second grade, I remember I was Betsy Ross.
- Barb: Oh, I love it. It's so geeky. I love it.
- Kim: I loved it because my mom, she never lets any detail go away, so I had a needle and thread. I was stitching flags together.
- Barb: So adorable.
- Kim: Yeah. That was totally me. But aside from that flag, that I grew up with that flag flying outside my family's house, we also had a second flag, which is the Marine flag. My dad is such a proud Marine, and to this day, he has the American flag and the flag for the Marines flying out in front of our home. So I have always been proud of that and proud of him, so Semper Fi.
- Jill: Oh, I love that. Now I feel bad that I didn't mention the Army flag, which I had in my office at the Pentagon with all the battle banners. That was a very cool flag too, so thank you to the Army.
- Kim: One of the things I do not love doing, especially when it's warm out, is going to the grocery store, and that's why I love HelloFresh so much. With HelloFresh, you get farm-fresh, pre-portioned ingredients and seasonal recipes delivered right to your door. There are no trips to the grocery store, no wasted ingredients, and no menu planning or grocery list. You can count on HelloFresh to make home cooking easy, fun, and affordable. That's why they're America's number one meal kit.
- Barb: Look, it's just time to stop staring blankly in the fridge, wondering what to make for dinner. Sometimes when I look in there, it's a sad, sad sight, but you can cut down on all that time you spend in the kitchen, like me, take it from me, and get back to enjoying the summer sunshine thanks to HelloFresh's quick and easy recipes. Every weekly menu features options that are ready in just 20 minutes or less. That's even quicker than delivery, and I do time my deliveries. Get ready to discover delicious seasonal recipes from HelloFresh's limited time Taste of Summer series. There are tons of family

favorites, like Old Bay Shrimp and Sausage or Grilled Steak Lettuce Wraps along with many more. There's something for everyone.

Jill: So I agree with both of you, and I love not just not having to go to the grocery store, but I love feeling like I'm in a restaurant. When I pick out the menus for the week, I can go to a Mexican restaurant, I can go to an Italian restaurant, I can go to an American restaurant. They have menus for everything. They also are great because they work with your schedule. Their plans are flexible, and you can change your meal preferences, update your delivery day, and change your address with a few taps of the HelloFresh app. Imagine how great it will be getting fresh seasonal produce that goes straight from the farm to your kitchen at peak ripeness.

Just don't forget dessert, because those are really, really, really good. This week I've had not just desserts, but I've had a wonderful pork taco recipe and a terrific vegetarian curry, and I am looking forward to one more this week. It's really great. Go to [hellofresh.com/sistersapps](https://hellofresh.com/sistersapps) for free appetizers for life, one appetizer item per box while your subscription is active. That's free appetizers for life at [hellofresh.com/sistersapps](https://hellofresh.com/sistersapps), spelled A-P-P-S. You can also look for the link to HelloFresh, America's number one meal kit, in our show notes.

Barb: Well, Hunter Biden, of course, was convicted this week of all three counts in the indictment, charging him with lying about his drug use and addiction so that he could purchase a gun in 2019. So let's unpack that case just a little bit. Kim, the jury seemed to have no problem finding Hunter Biden guilty. They deliberated for only, I think, three hours, and based on the evidence that came out in trial, did you agree that this was a strong case on the facts?

Kim: I thought it could be. I thought that it could go either way. Of course, the government had to prove not just that Hunter Biden filled out a form in order to purchase a gun while using drugs, but also that he intended to do so, which means it couldn't have been a situation where the person in the gun shop was sort of filling most of it out for him, and he didn't fully understand it, that he didn't know he was a drug user at the time, he didn't think he fit the definition. There's an intent requirement in there, so they had to prove that he intended to do that. There was very difficult testimony for members of his family that basically painted a picture of someone who at that time was in the throes of a drug addiction. I think that for the jury, including some of the members who said it was very difficult to hear that testimony, but that the fact remains that they believe that the government met their burden there, so I think so.

I think there's a different question about whether these charges should have been brought. I think we need to remember that this was part of that plea deal we talked about a while ago, which would have resulted in these charges being dismissed and a deal on the tax charges that he faces in a trial that's still upcoming that was signed off by his attorneys as well as prosecutors in the case, a Trump-appointed prosecutor initially before the Special Counsel was appointed by Merrick Garland. So yeah, I didn't think this was really a case that the prosecutors wanted to prosecute, but when that plea deal fell apart, it was what it was, and the jury convicted.

Barb: Yeah, I agree with you. I thought the evidence was mostly pretty strong. The defense was really trying to thread a pretty narrow needle there that at the moment on the day he

signed that document, he believed that he was in recovery and that he was not using and that he was not addicted, but they did have incidents of him using just before and just after that. I don't disagree with this outcome. The jury seemed to have come to a verdict that's based on the evidence. Well, picking up that point that Kim made about whether these charges should have been brought in the first place, Jill, what's your view about that, and was this an appropriate use of prosecutorial discretion?

Jill: I don't think it was, and as prosecutors, we have a lot of freedom to decide what cases we will bring, and we don't have unlimited resources, so you cannot prosecute every single crime that comes to your attention. This was a case where he possessed the gun for a very short period of time, and he never used it. It was never loaded, it was never used in a crime, and all the other prior cases involving this violation involved a case where it was a second offense to the primary offense of using the gun. I think it would've been better for this never to have been brought, that the prosecutor's original intent in reaching an agreement that would've diverted this if he stayed clean for however long the agreement was for was the right one, where it would've recognized a violation, a technical violation, but would not have held him accountable and created a conviction as a felony.

I personally think it should not have been brought, and I think the prosecutor, as Kim just said, the prosecutor didn't really want to bring it either. They wanted to resolve it through a plea agreement that kind of fell apart at the very end because of bad lawyering on both sides.

Barb: Yeah, that plea deal, it kind of seems like they were trying to have it a little bit cute where they wanted to get rid of both of these cases, really. But what was lurking in the background I think was this idea that it's possible that Hunter Biden could also be prosecuted under the Foreign Agents Registration Act. Since that time, we have seen the same Special Counsel's office indict an FBI informant, a Russian who was the source of all that information about Hunter Biden's involvement in Russian affairs. I wonder if there is any future viability of any of that anyway, and now we're going through these exercises of these trials. I wonder couldn't they come back and say, "Yeah, we're not going to go forward with that anyway." Maybe there's still room for some sort of global resolution of all of this.

Jill: Well, and they could have actually, of course, indicted him for that and had him plead nolo contendere or no contest to that in addition and resolved it in a global way by doing that. They were worried about if Donald Trump were reelected and chose to go after him for more crimes, they didn't want to have that lurking. That's an understandable concern, especially now with Donald Trump saying, I'm going after anybody who doesn't agree with me, and I'm going to go after my enemies, and I'm going to punish the Bidens. So I think it wasn't an unrealistic concern, but that's what really tanked the plea agreement.

Barb: I guess that the idea that perhaps they could be charged in the future in the next administration, I suppose if you're Hunter Biden, you want that assurance, that promise that you're not going to be charged, and that maybe that was something that was just too much for the Special Counsel to give.

Well, I want to come back to the famous Hunter Biden laptop. This made an appearance during the trial. You'll remember that in 2020 just before the election, this was sort of the October surprise of the October 2022 election when the New York Post and Rudy

Giuliani first revealed that they had possession of Hunter Biden's laptop that he had dropped off at the repair shop of a repairman who was blind, who couldn't see what the person looked like, but he left the name Hunter Biden. At the time, 51 former intelligence officials said that this story had all of the earmarks of a Russian intelligence operation. But now last week, the FBI admitted it into evidence, and they used it. They said that they verified the messages and the laptop itself from the cloud. I'm wondering what you think, Kim and Jill both, what conclusions do you draw from the admission of the evidence about the laptop itself? Is this case closed? Should we continue to wonder about the origins? I'm not sure where I stand on it.

Kim: I don't know. I would definitely want to hear your views, both of your views as prosecutors. I think about the fact that if the FBI had somehow gotten ahold of this laptop without a warrant, they couldn't have searched it without going through the same procedure that is necessary under the Fourth Amendment, and if they seized it illegally, it could not have been admitted into evidence. That's plain basic Fourth Amendment principles. But because it was procured in a different way, I guess the rules are different. I do worry that this sets a precedent for this kind of misinformation to come out and then be able to be admitted into evidence, and that sort of gives Russia what it wants, right? I don't know. What do you guys think?

Jill: So I, of course, agree with you, Kim, that its source of origin is suspicious. The repairman's story is odd. The fact that it went to Giuliani, all of that is odd and suspicious. But the fact that it was admitted for at least five of the pieces of information that were used in the trial, and it was admitted suggests to me that at least that part of the computer story is true. I, for one, totally rejected it when this first came out and thought this was just a total fraud and fake and that someone had made this whole thing up. I don't think that anymore. I think that some of it was actually Hunter Biden's and that it would've been a bigger issue for the defense in protesting the admission of anything if this was a total fraud. I'm sort of persuaded that it was okay to introduce.

Barb: I think the same. My views on this are evolving a little bit. I certainly read at the time about the earmarks of a Russian intelligence operation. I still find it all a little bit shady. Then, of course, the FBI didn't get it until some months after this repair shop owner had it, so there are some questions about the chain of custody, and they did authenticate. The agent who testified about this said she compared the serial number on the laptop with records from Apple to say that yes, this is the laptop bought by Hunter Biden, so I'm persuaded by that. They introduced a few email messages and photos from the laptop at the trial, and with regard to those, the agent also testified that she had authenticated those with the iCloud account and believed them to be authentic, and those came into evidence, and I have no quibble with that. I agree with all that.

But what she did say is, on cross examination, you haven't verified that anything else, all the other thousands of documents that are on here are authentic, weren't tampered with, weren't added. She said, "No, I'm just here to testify about the evidence in this case." There remains to me some information, and Asha Rangappa, who does legal commentary and studies counterintelligence, she was an FBI counterintelligence agent, has said oftentimes it's actually accurate information that is used in influence campaigns. Look at the leak of the DNC emails that were stolen from the DNC just before the 2016 election. Those were all accurate. They just kind of revealed palace intrigue about the Democratic Party that was embarrassing. It may be even that Hunter Biden's laptop is all real, but

giving it to Giuliani and the New York Post was an effort to get all this information out in the public domain. Regardless, some of the evidence there was authenticated, it was admitted into evidence, and it was used in the conviction.

Kim: But can I just ask you, Barbara, is there any concern with my point is that this is a way for Russia to do an end run around the Fourth Amendment, right?

Barb: Oh, yeah.

Kim: They take information, they send it to the FBI.

Barb: Oh, yeah. For sure. Call it abandoned.

Kim: People's laptops can't be searched without a warrant, and that gives me a weird feeling.

Barb: Well, again, I don't want to go too deep down the rabbit hole of conspiracy theories, but there has been reporting that Hunter Biden was quite reckless in those months leading up to this visit, if it was him, that he was hanging out with all kinds of people who may have stolen this from him, who may have put files on it, whatever.

Kim: It's more like a plain sight situation, because he was not having it.

Barb: They grabbed his laptop. He was too high to notice what was going on, and then I brought it into a ... So you're right, that could be. I guess we don't know there, but certainly, I believe that the evidence relied upon, in this case, the emails, the photos were authentic and were properly authenticated in court.

Well, let's move on to what happens next in this case, Kim. Hunter Biden is expected to appeal, and in particular in what could be a very ironic move, it seems that he might challenge the statute with which he was charged. This crime of lying about whether you are addicted or using drugs to purchase a firearm. I'm wondering, in light of the Court's recent rollback of gun laws, do you think he has a chance of prevailing in this case, and if so, does that create any sort of political problem for Joe Biden that his son's case invalidates a gun law? It'll be US versus Biden, that is the case that stands for the proposition that you can't limit gun rights for drug users.

Kim: If anything, that should make Trump supporters cheer Biden on, right? Really. No, I don't think that the Supreme Court, if it gets that far, I don't even think it'll get that far, if it gets that far, would rule in Hunter Biden's favor here if he challenges that statute. The thing that we have to remember about the Supreme Court is even though yes, they are very a pro-Second Amendment, at least the conservative majority is, and they have no problem rolling back gun laws, they're also not, how do I put it, intellectually consistent with things. If it's a case that they don't want to take up or they don't want to rule on, they can find ample reasons why not to. I think this for a lot of reasons, including who the defendant is, will be one of the cases that they would not take up.

But maybe it'll be a little tougher, depending on how they rule in, I don't know, let's say this case where January 6th insurrectionists are challenging a federal law under which many of them had been charged, although it's very different. It's a law that arose out of

Enron for interrupting an official proceeding, interfering with an official proceeding, and it's really meant to go after document destruction in a case, but they're using it to say that they interfered with the election count. I don't know. They're not consistent, so they can do what they want. I'm going to say no.

Jill: I love your phrase "intellectually inconsistent." Such a kind way of putting it. But I have a slightly different feeling about this one, because we do have a case coming up about domestic violence users being barred from having guns. It'd be in the same pattern as that, but this is really a crime of lying on a government form. It's not the underlying challenge, although obviously, you wouldn't be lying if the underlying challenge to drug users having guns were invalid, maybe it wouldn't work. But I think that that does make a slight difference here, that it's the crime of lying, not the crime of whether you can own it or not, have a right to it.

Barb: Well, let's talk about what's happening next, Jill, which is sentencing. It'll occur in a few months. I took a stab at calculating the sentencing guidelines, and I got 15 to 21 months, but that is for the whole statute, regardless of how it's offended or how it's violated. For first time offender with no violence, who disposed of the gun within 11 days of obtaining it, didn't use it, all those things you mentioned earlier, my guess is his sentence will be less than that. To me, the real problem with this conviction for him is that if and when he's convicted of the tax charge that's pending against him in California, he'll no longer be a first time offender, and that's where he might see some significant prison time. What are your thoughts about prison time in this case and in that next case?

Jill: I agree with everything you said, which is that this case is one that would likely, for anyone not named Biden, not carry any jail time, and certainly not more than a few months jail time at the very, very most, but it could have consequences for the California tax case. That's why I think there may be some pressure on actually both sides, but certainly on his side, to reach a plea agreement in that case so that he doesn't face jail time as a repeat offender. That's a serious consequence of this conviction. No matter what happens on sentencing, even if it's minimal, it's still a conviction that could affect the sentencing the second time round.

Barb: I think so too. Now, president Biden has said he would not pardon Hunter Biden, and then he was asked a very good follow-up question is, "Well, what about would you commute a sentence?" Which is a good follow-up, because those are two different things, and he said, "No," which I think is a very good commitment to the rule of law.

Jill: Yeah, Barb, I think that may be a little harsh saying that that's the rule of law, because commutations are intended for, first of all, pardon, you have to theoretically served your full sentence before you can be considered for a pardon, whereas commutation is an act of mercy. I think that a former drug user who has resumed a stable, honest life, may be someone who deserves a commutation, and especially if he gets a harsh sentence that would not be justified in this case. We've all talked about all of the factors. He didn't use the gun, he had it for a very short time. I do think that there's lots of reasons why a commutation would be in order from any president, not just the father of the defendant.

Kim: Can I take an opposite view, Jill?

Jill: Sure.

Kim: I disagree, especially because of the moment that we are in, and I think that's what President Biden realizes. I wrote a column this week, actually, that talked about the different reactions between Donald Trump after his own conviction in Manhattan and Joe Biden after Hunter Biden's conviction in federal court. The fact that he said, "I love my son. My family will always be there for him," but then also said that he would not consider pardoning or commuting that sentence is because he is stating that he respects the jury, he respects the court system. They came to this conclusion, and that ought to be accepted by not just him but the nation, whereas Donald Trump has done the exact opposite.

He has not only railed against the entire judicial system, but he's also promised retribution to his political enemies because he sees himself as a victim of some sort of witch hunt, and he's promised to exact that in the future. I think in this case, Joe Biden was seeing something bigger than just the facts of his son's trial and the issue of clemency, which is very important. Also, Hunter Biden is someone, yes, first of all, I don't think he's going to get a very lengthy sentence. We can come back to this discussion if I'm wrong, but he's somebody who, too, had every benefit. Abbe Lowell was his attorney. Not everybody can hire Abbe Lowell. He had every privilege and advantage going into this trial that a lot of people, who I think are very, very worthy of commutations and other clemency, don't have. That's one reason why it matters. I'm not sure that this is the textbook case for clemency, but I do see the bigger value that Joe Biden is advancing here.

Jill: Kim, I agree with everything you said, and I think our difference is a semantical one, and that is Barbara was talking about the rule of law. You're talking about the political-

Kim: No, no. Oh, no, no. I'm talking about the rule of law. I am talking about the acceptance of rulings by our judges as accepting them and respecting them and serving as an example of how you can accept them and live with them and not do, in very stark contrast, what Donald Trump is doing. I think this is very much an effort for Joe Biden to uphold the rule of law and show as an example of how others can and should uphold the rule of law.

Jill: If the sentence were an outrageous, full-on, everything that could be thrown at him, would you feel differently about it?

Kim: I don't it's going to be, no.

Jill: But I'm just saying hypothetically, we're talking hypothetically.

Kim: He has the right to appeal, like everybody. Listen, clemency is discretionary. It's a discretionary thing, and so long as there was not a miscarriage of justice, if the sentence is within the sentencing guidelines, if there are no appealable issues, no reversible error, I don't see how his decision not to commute is against the rule of law. I don't.

Barb: I'd like to see Joe Biden fulfill his statement and stay out of it.

Jill: I'm sure not just for politics, but because of his character, he will do exactly that.



I have become growingly concerned about the environment. It's been over 90 degrees in Chicago the last few days, and that's really hot. Did you know that you can save the planet by using Blueland? Your dishwasher detergent pods are almost always wrapped in plastic. It is really true. That film around your pods is plastic, and it's ending up in our oceans, rivers, soil, and even our bodies. Thankfully, Blueland decided to do something about it. They're on a mission to eliminate single-use plastic by reinventing cleaning essentials to be better for you and the planet with the same powerful clean you're used to. Their packaging is the perfect fit for my home, and I love how Blueland uses no single-use plastic in any component, including bottles, tablets, wrappers, and shipping. Their tablet packaging is fully compostable, and all of their products are effective and affordable.

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Jill: This week, we had two very significant decisions from the Supreme Court as we await some other really significant ones, and I want to talk about those two this week. The first was on mifepristone, which was a unanimous decision, and Barbara, I want to start with you because the decision was only a few days ago. I just very briefly set the stage for what happened, so that any of our listeners who didn't catch up on it in the last day or two will know that, but also talk about what's at stake, what the precise issue was.

Barb: Well, a group of doctors in Texas brought a case challenging the FDA's approval of mifepristone, which of course is one of the drugs that is used for medicine-based abortions. This is different from surgical abortions, and it has become one of the most common ways that abortions are achieved today. They filed a lawsuit saying that, "Well, what if someday mifepristone fails, and as a result of that, a pregnant person finds themselves in an emergency situation and they come to the hospital, and what if I happen to be on duty that day, and what if no one else is around, and so I, despite my conscientious objection to performing abortions, am forced to perform an abortion? That would be a violation of my rights. So therefore, we are challenging the legality of this drug and the FDA's approval of it."

They filed it in Amarillo, Texas, where there's only one judge, a judge who made his career as an abortion opponent, so they knew that by filing the case there, they would draw this judge. Not surprisingly, he ruled in favor of the plaintiffs, this group of doctors. It was appealed to the Fifth Circuit Court of Appeals. They upheld in part and overturned

in part. They said that the FDA's original approval was okay, but its scale-back in recent years, which allowed the drug to be used outside of the presence of a doctor, which certainly allows the drug to be mailed into certain states, was prohibited. The Supreme Court issued an injunction, meaning status quo was on hold, meaning that mifepristone remained available until it could decide the issue, and that is what brought this case before the Supreme Court.

Jill: I want to point out that the original approval was in 2000, and one of the reasons the court rejected challenging that was it's just too late. You can't challenge in 2024 something that happened in 2000, and the speculative nature, which you've highlighted. Let's talk about, first of all, Kim, I want to ask you about your theory about why the chief assigned the opinion to Kavanaugh. I know you have a theory, but you haven't shared it yet.

Kim: It was a unanimous decision with one concurrence from Clarence Thomas going on about associational standing, which we don't have to get into here, but it's a unanimous decision. How opinions are assigned when one comes out is the Chief Justice, if he's in the majority, he assigns the opinion to someone in the majority, and he can assign it to any of them and also himself. If he's not in the majority, the senior-most Justice in the majority assigns the opinion, again, to himself or herself or to any of the other Justices. Since this was unanimous, the Chief Justice could have assigned this to anyone. He could have assigned it to Jackson, he could have assigned it to himself, he could have assigned it to Alito, but he assigned it to Kavanaugh, and it made me wonder, that's really interesting that in a case, yes, it's about standing as a procedural issue is what they agreed on, and that's what the ruling was on, but that he would assign the case that keeps an abortion drug available to Kavanaugh, someone who was in the majority in Dobbs.

I wonder a couple of things. One, the easy part, does the Chief Justice, who claims to care about what people think about this Court, in my opinion, he doesn't enough, think, "Huh. Probably not a bad look to have somebody in the conservative majority write this opinion that allows mifepristone to stay on the market, so we're totally fair. We call them balls and strikes, right? If it's no standing, it's no standing. Doesn't matter what our ideology is, what we think about abortion, blah, blah, blah." Okay, sure.

Then I think also the way this opinion was written doesn't take too much time on issues like the wisdom of leaving decisions about how a drug is approved or administered to the experts at the FDA. They didn't really get into that administrative law kind of issue. It's really focused on who can bring a case, who suffers that injury. If he had given it, I don't know, to Kagan or Sotomayor, they may have gotten into that. Maybe that's not the kind of opinion that he wanted, but also the fact that it was so narrow, it really just said, "These plaintiffs don't have standing." It didn't really talk about who might, that it doesn't entirely close the door, A, to somebody else bringing a challenge. I'm not sure that's the reason, because I think the less high profile cases like this that come to the Court in the eye of the Chief Justice, he's fine with that. I don't think he's calling for another one. There's certainly others in the majority, the conservative majority that would call for somebody else to challenge this.

But it leaves open other things. Kavanaugh wrote, "If you have a problem with the way this drug is administered, there are other solutions. You can go to your lawmakers and ask them, with your vote and whatever, ask them to pass a law that makes this drug

unavailable, or you can go to the President and through which the federal agencies, like the FDA, to make a different decision." I was like, "Ho, ho. Okay." We do know that those supporting Donald Trump would love to take over the federal judiciary and install new heads at all of these federal agencies and make very different decisions than either the 2000 FDA or the subsequent FDA that both approved and then made more widely available this drug. They can just take it off the market altogether, just that easy.

I sort of thought, "Is this a way? Did it require to get the Kavanaughs and the Alitos and the Thomases all to fall in line on this to make it clear that there are other ways to eliminate mifepristone and get that unanimous decision?" I don't know. This is all speculation. This is all alleged, not based on any actual intel, but I just thought when that unanimous decision was written by Kavanaugh, I just thought, "Oh, that's interesting." Anyway, that's my speculation.

Jill: Okay, interesting. You mentioned that this case really was restricted to standing, and that's something that sounds like a legal nerdy thing that I would be asking Joyce about if she were here this week, but I'm going to turn to you instead, Barb, and say standing was based originally on the concept of separation of powers, and it has some very specific requirements in order to have standing. But it basically comes down to you need a case or controversy, and that means that someone who brings a suit has to have something at risk, has to have some skin in the game. Kim mentioned that there may be a difference because of the concurrence stresses between organizations and third parties' standing versus the individuals. But here, nobody had standing. Was that the right outcome, and what do you make of that?

Barb: Well, first, Jill, let me say you're not the first to confuse me with Joyce Vance. I'm always flattered when it happens. I was at the airport just last week, and someone yelled to me, "Joyce Vance, I love you," and I looked and they're just talking to me. I said, "Oh, thank you, but actually, it's Barb McQuade. It's okay. That happens from time to time." "Oh, I know who you are. I'm sorry, I knew who you are. University of Alabama, right?" "No, I'm the other one. I'm the other one." But I'm flattered to be compared to Joyce because she is brilliant, a brilliant lawyer. So standing, yes, as you say, the point of standing is this. Courts just can't take any matter that anybody decides to bring to them because they have a bone to pick. "I'm angry about this gun issue," or something like that. They have to have a real case or controversy, which means that I have either suffered a real loss, or I am positioned to suffer a real and tangible loss.

As you say, it comes from this idea of separation of powers that the legislative branch is designed there to write the laws, and the executive branch is there to execute the laws, and the court is just there when somebody has a real dispute to decide that dispute and interpret the law, and so to permit a case and make a decision when there is no standing would be overreach by the court. In this case, I do believe it was the correct result. In fact, I was a little alarmed that the case got as far as it did, that the Fifth Circuit and the trial judge found that this group had standing, because as I said when I answered your earlier question, it is so speculative that any one of these doctors would ever find themselves in a situation where they actually had to face this moment where they had to perform an abortion.

As Justice Kavanaugh pointed out, Texas has a law of conscientious objection, that if you say, "I do not want to perform an abortion, you don't have to." There's really no scenario

under which one of these doctors would find himself forced to perform an abortion. By the way, while we're talking about this for a minute, let's just compare the rights at issue here. On the one hand, you've got a woman who wants to end a pregnancy and finds herself in dire circumstances, in a medical emergency, and what we're worried about is this poor doctor who might have to suffer his poor conscience will be harmed by having to perform an abortion under his Hippocratic Oath.

But 9-0, unanimous decision, all of the Justices here agreed that these doctors did not have standing. They did make a point too about individuals versus associations, because this was an association of doctors, and they said, "Associations only have standing if their members would have standing." In some ways, one kind of stands in the shoes of the other, and so the court, I think was quite correct in saying that this group did not have standing in this case.

Jill: Exactly. I want to now talk about what this reflects about the court, because according to a recent article, standing decisions are almost always based on the political views of the justices. In 90-some percent of the cases, they grant standing if they want the outcome that that person is requiring and they deny it if there isn't, but this is one where it was a hundred percent of the court said there is no standing, and obviously, six of them were for the outcome that came about. Why was this one unanimous? Kim, can you talk about that?

Kim: I would put it differently, and I don't doubt those statistics. I didn't do well in statistics, so I'm not going to get into that. But in my 20 years of covering the court, what I have found generally is if there's an issue that the court really wants to rule on, they'll find standing somehow, some way, even if somebody goes up to them first, which there's such tenuous connections there, they will deny based on standing, but then somebody will write a concurrence that says, "If somebody really has standing, this is an issue that's certainly unsettled," and signal that they want somebody else to bring a case, or they'll just rule on it. I don't see why there was standing in *Dobbs*, but there we were. But when they don't want to rule on an issue, standing is a really convenient way, if possible, to avoid doing so, and I think in this case, it was the latter, I think, because of the really, really tenuous connection of these plaintiffs, as Barb pointed out.

Also, I think for what they were asking for substantively on the merits was crazy. This Supreme Court is no fan, as I mentioned, of the administrative state, and it's not that they are looking to protect the judgment of those in federal agencies, even though they should. But to say there may have been this study 20 years ago that the FDA didn't look at enough, and when they made it more available, there may be these three cases that somebody who took it went to the emergency room afterwards, and maybe it was because of this job. It was such a terrible case. They don't want to rule on this. Even Alito was just like, "I'll wait for the next one." I just think when they don't want to rule on merits of something, standing is a great way to avoid it.

Jill: They certainly did. There's also an article I'm going to put in our show notes, because it's just sort of interesting, but I think I want to move on to bump stocks, so I'm not going to ask about it, which really shows that this is a three-three-three court, not a six-three court, and that could've influenced this. But let's move on to bump stocks, because that was only released this morning, as we're recording this on Friday, and so it's only less than 24

hours after the decision that our listeners are going to be hearing this. Kim, just briefly describe what the decision was and help us to analyze it.

Kim: During the Trump administration, there was that horrible, horrific mass shooting in Las Vegas at an outdoor concert that not only left 58 people dead, but also 500 people wounded in under 10 minutes. The gunman was using a rifle equipped with a bump stock, a device that allows rather than having to pull the trigger with the recoil and all of that over and over, just keeps firing the gun and makes it very much like a machine gun. The public at that time cried out for something to ban bump stocks. I remember at the time covering this. Most gun enthusiasts, like NRA members, people who had the Second Amendment tattooed to their forehead, said, "I don't know what a bump stock is. I never heard of a bump stock. I don't have bump stocks. I don't need bump stocks." This is not something that is needed. This is not something that most owners even knew existed, including federal regulators who didn't have a regulation for this.

Donald Trump was like, "Listen, if Congress passes a bump stock ban, I'm in on it, and I think that Republicans can back this in this case." The NRA was just like, "Yeah, you know what? We don't really like bump stocks either, but why don't you do this? Why don't you pass a regulation? Have the department of," I'm sorry, what's ATF stand for? Alcohol-

Jill: Alcohol, Tobacco, Firearms.

Kim: ... Tobacco and Firearms pass a regulation that basically says, "You know what? Bump stocks are basically machine guns, because they're turning it into, under the language, you pull the trigger once, and it fires multiple rounds." In federal law, that's a machine gun, and you can restrict them. They're basically all but banned, and so they did that.

Well, somebody had a bump stock, got it taken away from them as an illegal machine gun, sued ATF, saying that it was unconstitutional to ban because this isn't a machine gun, and the Supreme Court said, "Right, it's not a machine gun." This is an opinion, six to three, with Clarence Thomas authoring it, and I encourage you to read it, because Clarence Thomas put himself in place of ATF and read the statute and said, "No. For all of these reasons and how this bump stock works, this is not a machine gun. It's clearly not a machine gun."

Jill: We're going to get to some of the things that you mentioned, Kim, including about people not knowing what a bump stock was and that they might own it. We will get to that later, as well as the dissent. But Barb, before we get to that, one MSNBC analyst said, "This case shows we are a country based on common law but not common sense," and that was because of how the court defined a machine gun, including a majority opinion that had diagrams and drawings, graphics of a bump stock, which I don't know how unusual it is to have graphics in a Supreme Court opinion, but this was maybe the only one I know about, except for maybe a patent case.

But it also raised the questions, and Kim alluded to this, of textualism versus originalism, and the textualism means you're faithful only to the actual words in the statute, and originalism means all you care about is what did they intend. Of course, the court can use either depending on what result they want. But can you tell us, because I know you've talked about this on MSNBC about the legislative history and the intent to get Al Capone

and that a machine gun was banned, which I don't think we mentioned in the beginning, machine guns are illegal, and it's just a question of whether the bump stock made this other semi-automatic a machine gun. So Barbara, you want to talk about that, please?

Barb: Yes. What the statute says is that it prohibits machine guns, and as you mentioned, Jill, this was a law passed in 1934 in response to the violent gangland crimes that were being committed by people like Al Capone where they used machine guns ...

Jill: Hey, Chicago, and I have [inaudible 00:50:32].

Barb: ... there you go, to wipe out huge groups of people, because by pressing the trigger one time it fires in rapid succession, something like 90 shots a minute or something. You can just spray a room. In an effort to keep those out of the hands of civilians, a law was passed that prohibits the possession of machine guns, which is defined as any weapon which shoots, is designed to shoot, or can be readily restored to shoot automatically more than one shot without manual reloading in a single function of the trigger. What Justice Thomas here says is, as you said, he shows all these diagrams to explain how it works, and he says, "Well, even though the finger isn't moving, the machine is rapidly moving more than once, and so it's not really right to say that it's a single shot of the trigger because the bump stock causes the trigger to continuously fire, and so therefore, it does not meet this definition."

But as Kim has mentioned, Justice Sotomayor takes the completely opposite view in her dissenting opinion where she says the classic, "If a bird walks like a duck, talks like a duck, sounds like a duck, it's a duck. This is not a hard case." Justice Thomas looks at the function of the weapon, but what Justice Sotomayor looks at is the way a human uses it, which is of course what matters here. The way a human uses this now is as long as you have your shoulder pressed against the butt of the gun, that's the bump stock, and you pull the trigger one time, it's going to fire like a machine gun.

Going back to what you said about legislative history, textualism, originalism, what did these words mean as they were defined in 1934? What they were trying to do is stop somebody from having this incredibly powerful weapon that could spray people with shots, 90 shots in a minute, by restricting access to this gun. I think that what Justice Thomas does is, as I said today, if you squint, maybe you can see it, that there's a difference here, but certainly in 1934, they didn't know what a bump stock was, but it is a device that, using the language of the statute, makes it readily restored to shoot automatically, and I think that this absolutely meets that definition. Whether you look at it through the text or the original meaning or the legislative intent, however you slice it, it seems to me that bump stocks make semi-automatic weapons into machine guns, which are prohibited under the law.

Kim: I also think that is interesting, Barb, because Sotomayor's dissent mentions the Las Vegas mass shooting that was just so horrific. I think that's one reason why Alito came in with his concurrence, and it's just like, "For all intents and purposes, a bump stock does turn a gun to a machine gun. I think we can all agree upon that. But you know what? I didn't write the text of the statute. I just have to interpret the text of the statute. If you want a different statute, ask Congress to give you a different statute. This is the one we got. But yeah, of course it's a machine gun." That just says to me Thomas's analysis was too

kooky for Alito. Think about that. Alito was just like, "We don't have to go into all that, but it's not in the statute."

Jill: It's a great point, Kim, and Barb, I think you're a hundred percent right when you say no matter what standard you use, no matter what interpretation method you use, this is one where they got it wrong on everything, because both the text and the intent and the original intent cover this exactly. This is what it was intended to prohibit, and this doesn't do it. Kim, you're right, it should have, and even Alito recognizes that.

But there's another element to this case that's worth delving into, and that is what does it mean for the future decisions of administrative agencies? Because this is another example to me of the Supreme Court disemboweling administrative agencies and saying, "Hey, go to Congress if you want to change this." Then you have to go to Congress and have them rewrite the law, whereas it was the intent of creating these agencies to give the expertise in those agencies the right to make these kind of regulations. I want to ask both of you to comment on that.

Kim: Listen, we're waiting for this Chevron decision, the one that could roll back the ability of not just the SCOTUS, but all courts to give deference to an agency's interpretation of a statute, as opposed to the court coming in, as Thomas did in this case, and totally substituting his own judgment in place of the one in the agency. This decision tells me we don't even have to wait for Chevron. We know what Chevron is because they're already doing it, right? Chevron is gone. We've already seen them really chip away at the administrative state.

Speaking to your other point with the other case, Jill, I also think this is very much a situation where the court will not give deference to agency decisions that they don't like, and they will give deference to agency decisions that they do. I see a future Supreme Court, if somebody challenges the fact that a future Justice Department decides that they are going to aggressively enforce the Comstock Act and say, "Hey, you can not only not mail mifepristone in the mail because it violates the Comstock Act, but good luck trying to transport specula and other regular equipment that can be used for an abortion." If the Justice Department decides that's illegal, the Supreme Court would be like, "Well, there's nothing for us to do. That's the agency that's making that determination." I think agency deference will be in the eye of the beholder.

Jill: I hope everyone listening is as frightened by this prospect as I am. But Kim, you also mentioned something earlier, which was that there was a concern about, "Well, I bought a bump stock, but I didn't know what it was, and I didn't think it was a machine gun." The conservatives and the opinion sort of expressed a concern that it wasn't classified as a machine gun originally, and so someone could be prosecuted for a crime they weren't aware of. Does that seem like a valid argument, Barb? Oh, sorry.

Kim: Ignorance of the law?

Jill: Both of you. Both of you.

Kim: Go ahead, Barb.

Jill: In unison, go ahead.

Barb: No. Ignorance of the law is no excuse, right? Where is this concern when it is a drug offender? Where is this concern when it is somebody committing any other kind of a crime? It's just, "Oh, but guns, good grief. I guess someone could be charged with a crime for having a bump stuck," thinking it was innocent that they had their bump stock. It was a family bump stock. We bring it out at all the family gatherings, the good old bump stock.

Kim: And the plaintiff in this case, he wasn't going to jail. He just had the bump stop taken away.

Jill: Actually, he voluntarily gave it off, I believe. He turned it in after this because he wanted to sue. That was his whole point.

Kim: He didn't get some felony rap for it. They were just like, "You can't have that."

Jill: So Kim, when we were together on our live tour, I said to you that your makeup was gorgeous, and I asked you what you were using on your eyelids, and what did you tell me?

Kim: I was using Thrive from the mascara to the wonderful color sticks. I used it on stage, because I knew that it would have me looking my best, and it was easy-peasy to use and to travel with. Thrive Causemetics has a full line of show-stopping makeup to refresh your everyday look with clean, skin-loving ingredients. Their foolproof products are easy for any skill level to apply, I can attest to that, and they always take your self-care routine to the next level.

Barb: When we were at a live show backstage, we were all touching up our makeup with our identical blue Thrive Causemetics mascara, too. Next time, I want you guys to show me that trick with the whole water line thing. It freaks me out a little bit, but why don't you to show me that tip? Well, we love that cause is in the name for a reason. Thrive not only defines luxury beauty, but they give back too. Every purchase supports organizations that help communities thrive with causes like education, cancer research, and working to end homelessness. You'll feel great and look great with Thrive. So far, they've donated more than \$150 million of products and funds. It's incredible. I'm so glad we're part of it. What's your favorite product right now, Jill?

Jill: Oh, that's so easy for me to answer, because I've been using Thrive's Liquid Lash Extensions Mascara forever, and I always get compliments on my lashes. It's getting to be a weekly occurrence, but even better is it never flakes, and it comes off without that black, gooky, under-eye mess that you get with other mascaras. The secret lies in its unique formula that creates tubes around each eyelash to lengthen them, and it thickens them too. Plus, it's filled with nourishing ingredients that support longer, stronger, and healthier-looking lashes over time. I never want to take it off, but when I do, it is easy to remove. All it takes is some warm water to slide right off with no smudges afterwards. You must try it.



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Kim: Well, if you think that was all the Supreme Court news this week, you'd be wrong. We had other news involving loose lips and more secret trips. Barb, let's start with the secret recording of Justice Alito at a Supreme Court Historical Society dinner. What do you think of what he said about the way he sees the societal divide between the faithful and the not? I guess that's the divide he was talking about. Do you have any legal or constitutional concerns about how he framed that ideological divide?

Barb: Yeah. In some ways, this is a little bit of a gotcha, because it's an undercover reporter who shows up at this historical society cocktail party, and they're walking around, and she catches them on a hidden microphone. But when you're dealing with members of the public, you need to make sure you are at all times acting above reproach, and in some ways, maybe you catch him in a moment of candor. But this undercover reporter started saying things like, "I'm worried about the divide in our country. I'm worried about this. Who's going to win the moral argument and return our country to a place of godliness?" He kind of says, "Yeah, yeah, I agree with you," and take sides in this agreement and agrees that we need to win and be a place of godliness. To me, that suggests something that expresses a view bringing religion into the work of the court.

Lest you think we're nitpicking, Justice Roberts got the same treatment. She went over to the Chief Justice and asked the same questions about being a Christian country, and he said just the opposite. "Oh, you know what? I don't take sides. I'm a Justice. Sometimes these cases come before us. What about our Jewish and Muslim friends? We have to think about them too." So that's the way you do it. I do think that when Justice Alito lets on that he does have this view that there is this divide in society and that he's on the side of godliness, I think that suggests that he is not acting at all times independently in his role as a Justice of the Supreme Court.

Kim: Jill, what do you think both about what Alito said and also the fact that it was a surreptitiously recorded conversation?

Jill: I agree on the first part about what Alito said with what Barb said, and it is in stark contrast to how Justice Roberts correctly handled the question. I also agree that when you are dealing with the public, this was not the government secretly recording, this was not a telephone call, which you can't record without permission, this was just standing publicly in a public forum and answering questions. Anybody who doesn't know that they're being possibly recorded at every moment should be found mentally incompetent, because we know from all of the secret recordings at private events that have come out that people will be there who will record you, and you are responsible for what you say. What he said, you can imagine from what I said about the Pledge of Allegiance and adding "under God," how I would feel about him enforcing on me his religious views. I would be appalled. I am glad Justice Roberts did the right thing. I am horrified at what he did, and I think that that may indicate that he needs to recuse from more cases than flags. He has to recuse from a lot of things.

Barb: Jill, do you mean that it's possible that even this conversation we're having right now is being recorded?

Jill: Oh, I hope it is.

Kim: Someone else was recorded in these recordings, you guys. It was Alito's wife, Martha-Ann, a central figure in the Alito Flaggate controversy that we talked about last week. I just want to ask both of you about what she said, and do you have any ethical unease about the secret recording, not just of a Justice who has a public position, but of a wife who doesn't. But first look at me, look at me. I'm not German, I'm not German, but I want to hear what you think about what she said.

Barb: I guess she's a little more sympathetic, I suppose, to being recorded because she's not a Justice, but she makes this statement about how dare she have to look at this Pride flag across the-

Kim: All month, Barb. All month.

Barb: "Every day I have to look at that thing, and it's so hideous it's a rainbow." How dare she have to look at that? Again, I think they're not the same person, but she's kind of put herself in the news now, hasn't she, with the two other flags? Man, she was really attracting controversy around flags. She's really got a thing for them. I guess I don't know if it's fair or unfair. She herself is not in public life. It is her husband who is in public life, and she is entitled to have her own views and her own opinions. But man, you would think that in light of all that's been happening, she would just be on better behavior, because they all have a responsibility to try to uphold public confidence in the Court. And every time you go spewing some opinionated views like that, I think it does undermine public confidence in the Court. I don't like her opinion, I don't agree with her opinion, but I suppose she has a right to say it and express it in a way that's different from that of her husband.

Kim: I am sort of on the fence about this. You mentioned the fact that she injected herself into this controversy. That literally includes the fact that even though it wasn't reported for three years, four years, she got into a verbal dispute with a reporter asking her about this flag thing. Bob Barnes from the Washington Post, she runs out, after he came to their house in 2021 to ask about the flag, she goes and raises a gardening flag and says to Bob Barnes, "Is that better? Are you happy now?" To me, if we're applying New York Times v. Sullivan standards, that sounds like injecting yourself into a controversy to me, and it does speak right to what Alito has already said about it as well.

Listen, to me, at least when it comes to what Alito has said, the fact that these are secretly recorded doesn't bother me at all for this fact that it's just another data point in things that Alito has been saying publicly ever since Dobbs and even before Dobbs. He has been giving speeches at the Federalist Society talking about the attack on religious rights and how religious rights were under threat, and the court has to push back against that. Immediately after Dobbs, went and gave a speech in Rome where he was mocking people who criticized the Dobbs opinion, like Prince Harry and Prime Minister Boris Johnson, and basically preening and doing a victory lap as if he were some sort of champion of Christian rights. He has been saying the stuff that he was recorded saying in private in a

public way anyway, so I think the last person who should be shocked and offended and clutching pearls is Samuel Alito.

Jill: I think that there's more to it than that in addition, because I think that Justice Alito put Martha-Ann into the spotlight because he said, "It was really her who did this. It's not me."

Kim: He threw her under the spotlight.

Jill: He certainly did. And so I think that that justifies having her secretly recorded. You asked about, yes, they both have First Amendment rights, not just Martha-Ann, but Justice Alito has the First Amendment right, but if they exercise it, they have to have the consequences of it, and especially for him, it means recusal. He can't say out loud what he probably believes anyway and then expect that he doesn't have to be recused from a case that involves a preconceived opinion of his. I think that's really important to keep in mind here.

Kim: Both of you, finally, we learned shockingly after Clarence Thomas disclosed in his latest financial disclosure that, "Oh, whoops. I forgot another luxury trip that I took with Harlan Crow. So here it is." Not two days later, did the Senate Judiciary Committee release a report that said, "Yeah, buddy. You took three other trips with Harlan Crow that you still have not disclosed." What do you guys think about this? What does this say to what we already know about Clarence Thomas, and what, if anything, Congress can do about it?

Barb: Kim, when you take so many dozens and dozens of luxury trips, they kind of blend together after a while. Montana, California, Georgia, I don't know.

Kim: Which private chat was that.

Barb: Yeah, it's hard to keep track of all of them.

Jill: And the seat would've been empty if I hadn't taken it.

Barb: Yeah. They're just begging for some kind of legislation to really put some teeth into these ethics rules. It's only when he gets absolutely shamed into it and it's going to be disclosed that he admits to these things. I know currently it's just about disclosure, but it's just a bad look for public servants to be taking trips, flights and yachts and all this kind of stuff. You're a public servant. Don't take free stuff. I know that Senator Sheldon Whitehouse has some legislation going on about all of these things, and I really hope that this controversy helps that generate some steam.

Jill: There's the question of disclosure, which of course should be mandatory. There's the question of the loophole about, which I don't think applies here, but what they're claiming is the loophole about personal hospitality.

Barb: Accommodations.

Jill: Even if it extends to accommodations, it doesn't include a private jet plane flight. I think those are things that need to be taken into account, and Barb, you're absolutely right, we

need legislation that makes it enforceable that these ethics standards, not just transparency, and transparency is only important because it means that you then know what cases someone should recuse in, but also what are the tax consequences? Have anybody found out how he reported these gifts worth millions of dollars? Did he pay taxes on them? I sort of don't think so. I think that's something that Internal Revenue Service should be looking at as to whether or not there are tax consequences and a tax violation that is a crime.

Barb: I wonder if he's going to say It was Ginny's fault.

Jill: She made me do it.

Barb: Well, when I worked for the federal government, I was part of that million person theft of personal data by the Chinese government, and as a result of that, I have always been extra careful about my personal identification information. We here at #SistersInLaw are fighting back. We are thrilled to partner with Aura. Aura is an all-in-one online safety solution that protects you by controlling what information about you and your family gets sold online without your consent. Data brokers are legally required to remove your personal information if you ask, but they make it extremely difficult. Aura automatically and regularly submits opt-out and take-down requests on your behalf, reducing robocalls, telemarketing, phishing, text messages, and junk mail.

Jill: Aura offers a suite of tools to protect you and your loved ones, including real-time alerts on suspicious activity, computer virus protection, a VPN, a password manager, and even parental controls. It's a comprehensive online safety solution that provides every tool you'll need in one place. That's not all. Aura also monitors identity theft, financial fraud, and other online threats before they happen. With Aura, you can rest easy knowing that someone is looking out for you. Aura even scans the dark web to look for your email addresses, passwords, social security numbers, and other sensitive information. If anything is found, you'll receive a real-time alert, and when you're a victim of ID theft, their experienced, white-glove fraud resolution team helps you navigate credit bureaus, initiate credit freezes and locks, and works with you around the clock to resolve the problem.

Kim: We feel so much better knowing our families are protected, and you will too. For a limited time, Aura is offering our listeners a 14-day trial, plus a check of your data to see if your personal information has been leaked online, all for free when you visit [aura.com/sisters](https://aura.com/sisters), that's [aura.com/sisters](https://aura.com/sisters) to sign up for a 14-day free trial and start protecting you and your loved ones. That's A-U-R-A.com/sisters. Certain terms apply, so be sure to check the site for details, and you can find the link in our show notes.

You know what time it is. It's time for our favorite part of the show, which is questions. If you have a question for us, please email us [sistersinlaw@politicon.com](mailto:sistersinlaw@politicon.com), or you can tag us at #SistersInLaw, which is how we got the name, at any of your social medias. If we don't get to your questions, keep a look out on your social medias, although I'm just on threads, I don't talk to my ex anymore, and we will respond as much as we can. I know this week there have been a lot of questions coming in, and I've enjoyed interfacing with some of our listeners there.

But let's see what we got for this week. The first question is from Jean in Longview, Washington, and it's for Barb. She asked, "Do you have any pets? Just wondering." We talk a lot about dogs and chickens and all kinds of things on this show. Barb, do you have pets?

Barb: I do not, sadly. I have a house full of people with allergies, and so we are sadly a petless home, but we raised four kids in our household, which was kind of like having wild animals around, so that's about the closest we got. I enjoy our neighbor's pets. We have lots of dogs on the street, and I love playing with them. They come by and visit with us. I've never met a dog I didn't love. It's wonderful. But no, I have to enjoy the pets of my friends because we don't have any of our own. But share your photos of your pets. I do love looking at pets. They make me laugh, they make me smile, so send your pictures my way and fill that void in my life.

Kim: It's funny you talk about allergies. I have to take two allergy tablets year round, because I'm 1000% allergic to Snickers, but I don't care. She stays. I'll just medicate myself.

Barb: Wow, that's love.

Kim: Our next question is from Linda who asks, "When Mike Johnson appointed Representatives Perry and Jackson to the House Intelligence Committee, were they subject to the same rules that require background checks before they can get classified information?" That's a great question. Jill?

Jill: That's a great question, and you'll be surprised at the answer. Members of Congress don't need any kind of clearance. The only control that is put on them is on a need-to-know basis so that they don't routinely get the kind of briefings except on a need-to-know basis. But once they have a need to know, and of course on this committee, on the House Intelligence Committee, they're going to have more need-to-know than they did before they were on the committee. But they get it in the same way that the President doesn't require a security clearance. Just by virtue of being elected, he gets all classified information, and it's up to him as to whether to declassify it, even though he might not pass the test for a security clearance like his son-in-law.

Kim: Our third question comes from GM, who asks, "Do you think the US Supreme Court will postpone Trump's presidential immunity case to the fall docket out of concern that President Biden might make use of whatever expanded powers they might grant?" I like how you're thinking there, GM, but no, the answer is no. Very, very rarely does the Supreme Court take a case that's already been granted, and certainly not one that's already been argued and circulated, and push it off to a different term. That only comes when there is a change in circumstances or a different decision comes down, and they need to do further briefing or something like that. In this case, none of those things apply. I don't think they want to hold onto it till next term, and if they did something like that, there would be absolutely zero way for them to claim that they're not a political body trying to game the outcome in order to have some external impact. No, I don't think that there is any chance of that at all. We're going to get that opinion in the next couple of weeks, so buckle up.

Thank you for listening to #SistersInLaw with Barb McQuade, Jill Wine-Banks, and me, Kim Atkins Stohr. Joyce will be back with us next week. Please show some love for this

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Jill, have you seen that documentary about, what's her name, Martha Mitchell?

Jill: Yes.

Kim: She was a hoot.

Jill: She absolutely was.

Kim: She was a hoot.

Jill: The only time I met her was after Watergate, there was a Counter Gridiron event because the Gridiron at the time would not admit women, and so a lot of people, government officials, who would've otherwise attended, as well as journalists, had a carnival, basically. There was a lot of weird stuff going on. Elliot Richardson was selling a doodle that he did, and for an extra money, he would personalize it to you. Martha Mitchell was selling making midnight phone calls to whoever you paid her to call.

Kim: What?

Jill: That was really a great one.

Kim: Oh, that's fantastic.

Barb: What?

Jill: I was selling-

Kim: That's the first cameo. Yeah, that's an old-fashioned cameo.

Jill: It was fantastic. I was selling kisses with Dan Rather, the two of us were selling kisses. That was our best way to raise money.

Kim: Oh, that's so freaking cute.

Jill: Yes.

Barb: Wait, here's a job I never knew about that Jill had, prostitute.