

Kim: Welcome back to #SistersInLaw with Jill Wine-Banks, Joyce Vance, Barb McQuade, and me, Kimberly Atkin Stohr. We have a lot to talk about. We don't stop just because it's summertime. So today we're going to talk about efforts to bring ethics to the Supreme Court, the trial of Senator Bob Menendez wrapping up, and we'll take a look at part of Project 2025. We're going to start doing that regularly on this podcast, looking at all the things that would happen if it actually goes into effect. In this week, we're going to look at how it would change some criminal prosecutions in major cities. But first, before we get to that, I'm very excited that the SistersInLaw will be getting together in person again this time on September 20th for an evening with the SistersInLaw at the 92nd Street Y. I know that's your old stomping ground, Jill. You used to live in that neighborhood. How excited are you?

Jill: I am so thrilled when I took guitar lessons there while I was in law school I never thought I'd be a speaker at the 92nd Street Y.

Kim: That's so cool.

Jill: It's a really great audience. It's very exciting. I hope my law school classmates will show up and that Joyce's family, which is large and wonderful that they will be there. It'll be a wonderful event.

Barb: Jill, will you be playing the guitar [inaudible 00:01:37]?

Jill: Well, it's sort of like my tennis lessons-

Barb: Didn't take.

Jill: ...I was told to quit. Yeah, I was not successful.

Barb: All right, fair enough. We'll take your legal analysis instead.

Joyce: You guys. Are we going to make a point of getting corn beef and pastrami as long as we're up in that neck of town?

Jill: Absolutely.

Kim: I'm down. I'm definitely down.

Jill: Pastrami queen for me.

Kim: And so what sports team in New York would you find allegiance with Barb?

Barb: Yeah, this is going to be tricky because the Detroit sports teams have rivals in all of those places. In Boston, I made an exception because the Celtics were in the playoffs playing in the NBA finals. So I'm going to have to give this some thought. Yankees and Nets and Giants and all that [inaudible 00:02:19]-

Joyce: Well, Barb, while you're thinking about it, girl. I've got something for you that's going to make your day. My youngest told me yesterday that he's thinking about applying to the University of Michigan for business school and-

Barb: Go Blue.

Joyce: ...but it gets worse. One of the things he said was, "I really like Michigan football."

Barb: Love it.

Joyce: I figured that that would make your day.

Barb: Welcome.

Jill: Did you disown him, Joyce?

Barb: It does make my day. It does make my day.

Joyce: I said, "Honey, you'll have to get a new mother. Her name will be Barb McQuade."

Barb: We'll take them in our household. We'll barely notice an extra one.

Kim: So if you can join us at the 92nd Street Y on the night of September 20th, you can find tickets at [politicon.com/tour](http://politicon.com/tour) and you can also go to the 92nd Street Y website for more information.

Joyce: I love my Thrive Causemetics. Whether your style is fresh-faced, full glam, or somewhere in between, you've probably seen Thrive Causemetics' viral tubing mascara. It's the one in the turquoise tube all over your social media. Thrive has so many other amazing products, and each one is certified 100% vegan and cruelty-free with no parabens, no sulfates, no phthalates. It's easy to see why their best sellers have thousands of five-star reviews.

Barb: We love that cause is in the name for a reason. Thrive not only defines luxury beauty they give back too. Every purchase supports organizations that help communities thrive. Thrive Causemetics donates to eight major causes, including those impacted by cancer and domestic abuse, veteran and education organizations, and more. I'm so glad we're a part of it. Like us, you'll look and feel great with Thrive. What's your favorite product right now, Kim?

Kim: Y'all know I am a stan for the Thrive mascara. I have been rolling with that for years and years, but I also really, really do love the Brilliant Eye Brightener. It's this luxurious highlighter eyeshadow combo that makes your eye look effortless. Whether you're preparing for a case or you're hosting friends or you're just running errands or out enjoying the summer day with friends, there's nothing better to give you a fresh vibrant look. I also have another trick with that eye brightener. The gold shades. If you have lipstick on and you dot a little bit in the middle of your lips, it gives it definition. So there's a little pro tip for you.

Joyce: I don't even know what that means, Kim, but it sounds good.

Barb: Ooh, can I put a dimple in my chin that way too? I always want to one of those.

Kim: Well, there are 16 buildable shades to play with, so you can use as little or as much as you like just apply a light shade on the inner corner of your eyes to open them up and give you a glow. I have Stella and that works really well for me.

Jill: I agree with you, Kim. I love all of the shades and I use three different ones. One for the crease in your eye and one under my brow and one on the lid. But I also love their new matte pencils, which are really long-lasting and they now come in 16 different colors. So it's great but for your eyes, you can also use a metallic shade all over your eyelid and blend it with your fingers for a bright or smoky eye. It's my secret for making my eyes pop when I'm on camera. You have to try it. Thrive has so much more to offer. So refresh your everyday look with Thrive Causemetics. Beauty that gives back. Right now you can get an exclusive 10% off your first order at [thrivecausemetics.com/sisters](https://thrivecausemetics.com/sisters). That's Thrive Causemetics, spelled C-A-U-S-E-M-E-T-I-C-S.com/sisters for 10% off your first order. You can find the link in our show notes for your perfect daily look.

Joyce: Ethics and the Supreme Court. That feels like quite an oxymoron these days and it really does break my heart. Joking aside, as someone who's used to respecting the courts, I hate these stories about ethics and the lack of integrity at the court, but here we go, because there's new reporting on Clarence Thomas. I did not think it could get any worse, but it did. Kim, do you want to tell us about it?

Kim: Oh my goodness. At this point, it's almost... Well, I was going to say it's almost comical. It would be comical if it wasn't so sad. So again, even though Democratic senators have requested all information about Clarence Thomas' trips and junkets as well as there being a law requiring him to disclose them, he somehow just keeps letting some slip through the cracks. So we learned deep in a letter Democratic senators said to Attorney General Merrick Garland, which we'll get to in a minute, that Clarence Thomas apparently took a free trip to Russia in 2003. So get this, it's a yacht trip, which also included a helicopter flight to the hometown of Vladimir Putin. And guess who paid for it? You get one guess and you would be right. That would be one Harlan Crow. You can't make this stuff up.

Joyce: It's like the shrine of Vladimir Putin's hometown, right? What good United States Supreme Court Justice doesn't go to Russia where *compro maude* is possibly at issue.

Kim: I mean they had everything on it. I have not been to Russia, but I would go the same... If I ever went as a journalist, I would go the same way I went to China, which is take nothing electronic, don't sign anything, don't take... Know that you will be watched and monitored everywhere you go and still they probably still have all your information somehow. Can you imagine what the Russians have on Clarence Thomas? My goodness.

Joyce: It's just crazy. Barb Alexandria Ocasio-Cortez introduced articles of impeachment against Justices Thomas and Alito this week. It's largely viewed as a theatrical gesture because of Republican control of the House, but I know you've been interested in the underlying charges and whether they would substantiate impeachment if it was a realistic possibility. Can you talk about whether you think this is more than a stunt?

Barb: Yeah, it's definitely more than a stunt. I think I assume that Congresswoman Ocasio-Cortez realizes that it is unlikely that her colleagues in the House will actually go forward and vote to impeach, but there is a basis for it. I mean, there are... Impeachment requires high crimes or misdemeanors. So there are criminal statutes for someone who willfully makes a false statement in an official document. And so on these disclosures that says, these are my official disclosures, and here's what I accepted. That is a possibility. I think you would want to find more evidence to demonstrate the willfulness aspect, which means not only did I know I took the trip, not only did I know I didn't report it, but I knew I was legally required to report it. So I think you'd have to find evidence of that beyond just, I didn't know but it becomes less and less plausible every time there's another one of these and there's outrage elsewhere.

There's also another ethics in government statute that does make it a misdemeanor to submit a false statement of gifts that have been accepted. So that could be a basis as well. So I think there's a basis for it. I think, is it plausible that it will pass. No. And so do you not even try because you know it can't prevail? I don't know. I mean, if you had the votes of people who were not just voting in the best interest of their own party, because if you don't bring it forward and at least show the public what you have, then it kind of normalizes this sort of behavior. Right? So I think it's right, and I think this is the method. We may talk in a little bit about the criminal prosecution. I don't know about that, but it seems that impeachment is the best way to remove officeholders from the executive branch or the judicial branch who engage in high crimes or misdemeanors. So this seems like the avenue, but I doubt it will be successful.

Joyce: I am reminded that Alcee Hastings, one of the few federal judges who faced impeachment and was removed from his job, was impeached during a Democratic administration when Democrats controlled both Houses because he had done things that his fellow judges found to be very distasteful. And Congress followed up on that. And that's I think is the comparison to not taking these very serious allegations as seriously as they probably should be. So Jill, that does, I mean, raise this criminal investigation that Barb talked about. Senator Whitehouse and others have asked DOJ, they've sent Merrick Garland a letter asking him to consider opening a criminal investigation. What's the basis for that and do you think it has merit? Is this something DOJ should be doing?

Jill: So contrary to Barbara's implication that maybe criminal was not something that should be pursued and pointing out the difference, impeachment is a political process. It is not linked to any particular criminal code violation. So it can be anything including failing to recuse when you have an obvious conflict of interest. That wouldn't be true in a criminal investigation. But here I think you do have enough, and I would say, Barb, you were questioning is there enough to show intent and deliberateness. And I would say maybe not the first time you failed to disclose, but after you got caught by newspapers and others and oh yeah, I'll report that one. And then you get caught again and you report that a second time, but you didn't do it when you were reporting everything else. You can't deny that he knows the reporting requirement. That's obvious. And I would have to say, if I were a prosecutor, I'd want to look at his tax returns and see whether any of these lavish gifts, I mean the total is over \$4 million worth of value.

Did he pay taxes on that? I think at some point you have to say that's something legitimate to look at when you get to this amount of money. So I do think the Department of Justice should do it. I think Senator Whitehouse and Wyden and any others that have

joined are correct that it is something that the DOJ should investigate. They may not find the evidence they need and then they will drop it. But that doesn't mean you don't bring it. And I've known since Watergate the importance of the public disclosure of information and of proceeding and indicting where you have the evidence. I think it's important. I think we could have avoided what's going on in America now if we had indicted Richard Nixon.

Joyce: It's hard to avoid that conclusion and I mean the possible tax violation here, it's serious. If you were a United States attorney or any other federal employee and you failed to disclose \$4 million in gifts and account for them on your taxes, do you think that you would get, if not a prosecution, then a very serious investigation? I'm pretty sure you would. I would've opened that case every day of the week because it would've been incumbent upon me as a prosecutor to do my due diligence and make sure either charges, if they were appropriate, were brought or if they weren't appropriate that they were bypassed. So Barb may have a different take, but it seems to me I would've looked at it. What do you think?

Barb: Yeah, I think I do. Senator Sheldon Whitehouse and Senator Ron Wyden submitted that letter to Merrick Garland asking for the appointment of a special counsel and cited some cases where public officials were prosecuted criminally for failure to disclose gifts. But it seemed like in all of those, there was also something else going on. There was somebody who accepted a bribe and this was the charge that they ended up charging them with because often it's the easy charge. You don't have to prove any of the other stuff, any of the quid pro quo, and in an effort to get them out of there. And so standing alone, I just don't know that this is a criminal case. I think it's a bad look. I think it's an ethical violation. I think impeachment might be appropriate, but just like the Hunter Biden case, it strikes me as it's rare that you bring these sort of standalone tax cases.

Usually, the tax cases get brought because you're investigating other kinds of crimes, and the tax case ends up being the easy one to prove the Al Capone theory of prosecution. But I think the amount of the gift is below the threshold that we would have typically charged in my former office simply for tax evasion. I think it's the ethical problem that really bothers me here and I think ethical problems are best dealt with through discipline and termination, which is why I think impeachment is a better way to go than criminal. I'm not saying you're wrong, I'm just saying it is not typically how cases are handled and brought, and I'm always reluctant to use a criminal tool against someone in public life just because they are in public life. It's a really hard question to ask yourself, would this person be charged if they were not in public life like Hunter Biden? [inaudible 00:16:31]-

Joyce: Of course, Hunter Biden did get charged. I mean, it's sort of like we live in that era, but I think your point is a good one [inaudible 00:16:37]-

Kim: Can I be in the middle of you two?

Joyce: No, I think your point is a fair one. Let me just say one thing real quick, which is this. I agree with you, Barb, and normally it's a failure to file. In my old office, we would've treated that as a misdemeanor, but if you filed your taxes and you made material misstatements or failed to disclose tax liability on them, which is sort of what Hunter Biden is charged with in California, then we would've charged felony or misdemeanor as

appropriate. And I mean four million bucks in gifts that don't get incorporated onto his taxes. Boy, that's a big chunk of change for the average American.

Barb: Well, if that's the amount. The amount I saw in this most recent allegation is something like \$200,000 if it was gift.

Jill: No, it was four million point two in total gifts. And I want to ask both of you as former US attorneys a question, would you think that a special counsel is necessary here? Wouldn't you think this would fall within your ability to handle?

Joyce: Absolutely. Yeah. Every day we-

Barb: Me too.

Jill: I don't know why they're asking for special counsel. They should just refer it to the US attorney.

Joyce: Yes, I agree with that-

Barb: Okay. But Kim, you wanted Kim?

Joyce: Oh, sorry, go ahead.

Kim: I'm taking both the points made by Barbara Joyce, and I'm sort of in the middle. I too agree that the fact that somebody is a public figure should not be the decider as to whether charges are filed or not, but I think if you are a public figure in a position where you are affecting other people, that you are susceptible to this kind of flouting of rules when you have a position of public, does that weigh a little more in favor than it would have otherwise? And that's sort of why I take both Barb's and Joyce's point, but I think that there's also a middle ground there that it depends on what kind of public figure you are, what you're doing, and what this unreported income was about. And I think that that would lean in favor of me of going ahead and bringing the charge, even if there's not an underlying one.

Joyce: That reminds me of Abe Fortis who had the decency to step down based on far less serious-

Jill: Yes. The appearance, right?

Joyce: ...allegations. Exactly. Because the Supreme Court works on the public's confidence in its integrity. And Clarence Thomas is like, I don't give a damn. I'm just going to sit here.

Barb: It's the arrogance I think that is one of the things that is so upsetting. What are you going to do about it? You can't make me. Maybe that's a reason to bring up prosecution.

Joyce: But maybe that's the answer. Right? We live in an era where public figures have no shame, whether it's Clarence Thomas or Donald Trump and that means new era-

Kim: Yeah. Good point. Good point.

Joyce: All right, well, y'all-

Jill: I'm definitely for prosecution.

Joyce: It's clear that something is broken at the court, and my question is there any hope of fixing it? What do y'all think?

Kim: Electing people in the House and Senate who will pass legislation that makes ethics requirements mandatory and not voluntary for the SCOTUS. I mean that's it. I mean that's it.

Joyce: Amen.

Barb: Yeah. That would give you a basis for impeachment, for a failure to comply.

Joyce: Jill, what do you think?

Jill: I agree, and I think it's mandatory that we have a new Congress that will take action. And the only way that's going to happen is a Democratic House, a Democratic Senate, and a Democrat in the White House.

Joyce: And I would take it one step further and say it's important to make sure that the person who is nominating federal judges and justices for the next four years is not Donald Trump. We don't need any more Neil Gorsuchs or Matthew Kacsmaryks. We need judges who are willing to set aside politics when they sit on the bench and rule on the basis of the facts and the law. And I don't mean to suggest that Democratic nominees are perfect, but by and large, we have not had a Democratic nominee, or rather, a Democratically appointed judge have to step down from the bench like a district judge in Alaska had to do last week after allegations of sexual impropriety. We need to start taking the federal judiciary seriously and I think the court and the courts are on the ballot this year.

Kim: And by not letting Donald Trump pick them choice meant not letting the Heritage Foundation choose them or Leonard Leo, or anybody else.

Joyce: Sure, absolutely. I love OneSkin. I've been using it ever since they first started advertising on the podcast. And something I'm super grateful for this summer is the product with SPF in it because I've noticed that this summer I'm not having problems with getting more sun than I'd like because I've been really religious about using it. And frankly, after cooking in the dry summer heat, I am very grateful to have OneSkin's OS-01 FACE SPF Protect + Repair because it fights back against sun damage, especially during travel and vacation, and even on my commute back and forth to Tuscaloosa where the sun coming in from the side of the car can be really strong. I feel great knowing my skin will be ready for anything the elements can throw at me. OneSkin's regimen works fast, and the formulas feel amazing when you apply them. I never go anywhere without OneSkin anymore. It's become really important to me.

Barb: Their OS-01 Peptide targets the zombie cells that cause lines, wrinkles, and sagging skin and is scientifically proven to reverse skin's biological age at the cellular level. Whether you're lying out at the beach, hiking, or heading out on vacation, OneSkin's OS-01-

powered sunscreens block UV rays while targeting the UV-induced skin aging you already have. We love all their products, but we're really excited about their new limited edition bundle called Summer Skincare Essentials. It includes their daily moisturizers and broad-spectrum sunscreens for your face and body.

Jill: And not only that but OneSkin was founded by an all-woman team of scientists. OneSkin is the first and only skin longevity company to target a key hallmark of aging called cellular senescence using their proprietary OS-01 Peptide. I recently ran into a fan of our podcast and she asked a political question followed by a more important one. She wanted to know if I really loved OneSkin as much as I've said on this podcast. I told her absolutely, but don't just take my word for it. OneSkin has over 4,000 five-star reviews for their full line of face, body, sun, and travel-sized products.

Barb: For a limited time, our listeners will get an exclusive 15% off their first OneSkin purchase using the code sisters, when you check out at oneskin.co as summer heats up, give your skin the UV protection, hydration, and cellular support it needs with OneSkin. OneSkin is more than skincare, it's about skin longevity, targeting the root causes of aging to help you look and feel your best at every age. Get started today with 15% off using code sisters at oneskin.co. That's 15% off oneskin.co with code sisters. After you purchase, they'll ask you where you heard about them. Please support our show and tell them we sent you. It's time to expect more from your skincare routine. Invest in the health of your skin with OneSkin.

The jury began deliberations on Friday in the trial of Senator Bob Menendez of New Jersey. Menendez is charged with bribery and several related offenses. He's on trial along with two businessmen who allegedly paid those bribes. There's a third co-defendant who pleaded guilty and testified at the trial. Menendez's wife has also been charged in the scheme, but she'll have a separate trial later due to some health concerns that she's having now. So let's bring everybody up to speed. Joyce, let me start with you. We heard four days of closing arguments this week. Between this case and the Manhattan DA case against Donald Trump. Haven't these judges ever heard of time limits like, my gosh, don't put these poor jurors through that, tighten it up, focus people, but what was the gist of the prosecution's argument and their theory of the case?

Joyce: Yeah. Well, to your point, Barb, it would not have taken me five hours to say this in a closing argument like it took the prosecution because it was a very simple theory. The theory was that Senator Menendez put his power as a United States Senator up for sale to the highest bidder. And in some cases, that highest bidder happened to be people who were foreign interests, foreign concerns. It's a really classic case of public corruption of pay-to-play access. If you want the Senator to do stuff for you, you have to bring him the gold bricks. So the government has-

Barb: Literally.

Joyce: ...charged this as a conspiracy, and they offered messages exchanged between Senator Menendez and his wife, Nadine, which show her asking for his instruction. And prosecutors say that's evidence of a conspiracy. The Senator wanted to keep his fingerprints off of everything and that's why you see Nadine Menendez in the mix. The defense, of course, is that this was all on the wife and juries don't love it when husbands tried to put it all off in the wife. I don't think that's going to be super successful.



Barb: Yeah. Kim, let's pick it up there. The defense case for Senator Menendez. What's his story? So we've seen, again, vigorous closing arguments by the defense and what's their argument?

Kim: Yeah, I don't know if the listeners can sort of hear my eyes rolling in the background, but listen, it's one of the defenses, the main defense in a nutshell is basically what every defendant has the right to say, which is the prosecution hasn't made its case. The prosecution has not put together the pay-to-play scheme for bribery that is required and it is up to the prosecution to make the case. It's not up to the defense to unmake the case. But some of the arguments in how the prosecution failed, I thought were interesting. One, the attorneys for Menendez said, "Yeah, there was all this cash that they found in the house, but you know what? He's Cuban." And you keep cash in the house all the way back from the senator's father who immigrated here from Cuba with cash stuffed in a clock.

That's just a very Cuban way. Now, we have discussed before how some community, some folks including folks in communities of color, and don't at me, I know that white people do this too. I'm not saying it's exclusive, but it is a very cultural thing for a lot of people to keep cash, whether it's distrust of banks, I'm sure with immigrants that might be something as well. And so I don't discount that, but it's one thing when you're like Fani Willis with a couple grand on you. It's another thing with the levels of money that we're talking about here. Oops. Yeah, I just had that laying around.

Barb: \$500,000?

Kim: \$500,000. What? What?

Barb: The gold bricks, we keep our money in gold bricks-

Kim: What? Well, I'm going to get into the gold bricks, but what member of the Senate doesn't have-

Joyce: Who among us?

Kim: ...hundreds of thousands of dollars just sitting in the house. Okay, it's cultural. Another-

Jill: And stuffed in shoes.

Barb: And envelopes.

Kim: Another defense is that, yeah, those gold bars those are my wife's. I don't know where she got them. We live different lives. She keeps him in her part of the house. I don't know. It's literally the Alito defense. It's like my wife enjoys flags. Some people's wives enjoy gold bars. I don't know what is up with that. It's just... I don't know. So it is worth noting that his wife is also charged and she is being tried separately. You do see people sort of throwing one another under the bus when they're defendants-

Barb: Yeah, it's a convenient strategy, isn't it?

Kim: ...being tried separately. So yeah, I mean, listen, I just can't see how that would be the thing that prevents a conviction here if indeed, and I don't know every bit of evidence that the prosecution put on. But if the prosecution made their case, I don't think the I keep hundreds of thousands of dollars in the house because I'm Cuban, or those gold bars were my wife's defenses are going to carry the day.

Barb: Yeah. And the gold bars too had the fingerprints of a bribe payer, one of the charged bribe payers on them as well, which-

Kim: I'm sure she was just showing it to him.

Barb: ...pretty...

Joyce: Bad luck.

Barb: He came over, but can I handle it? Can I touch it?

Jill: Although you have to admit, they're also claiming as they did in his first trial, that they're friends, and this was just stuff between friends, and there is apparently some evidence that both senator's wife, Nadine, has a long-term relationship with at least one of the co-defendants and that so does he and it worked at the first trial. So let's not laugh our heads off here too much.

Joyce: Look, and it worked for Virginia's governor, right?

Kim: It did.

Joyce: Who had said that people that paid for my daughter's wedding were friends and with this Supreme Court and its history of making it tough to do public corruption-

Jill: Snyder, just look at Snyder.

Joyce: Exactly. I mean no criminal conviction is safe with these guys-

Barb: Yeah. This is actually pretty common defense in a public corruption case because you got to explain away the money and so my friend gave it to me. Do you guys have friends like that, by the way? You guys are all different. You guys are all good friends but-

Joyce: I wish I did.

Barb: ...where are my gold bars? That's what I want to know. Why have you never given me a gold bar? Well, Jill, I want to ask you about something different. As you well know, sometimes the coverup is worse than the crime, right? That's what they said about Watergate back in the day, back remember when presidents could still be charged with crimes? Too soon. Too soon. A superseding indictment was filed in this case, it was originally filed, the case was filed back in September, and then in March, there was a superseding indictment to add charges for obstruction of justice. How do prosecutors use obstruction evidence to prove up the underlying crime? What about that makes the coverup worse than the crime in some cases?

Jill: So the original indictment was only four counts, separate conspiracies to do different violations, and then they got charged with 12 more in the obstruction area. And obstruction is very helpful in proving the underlying crime because why are you hiding it if you didn't do it? And so it shows intent, motivation, and that's why it becomes so important. The thing that happened right before the superseding indictment is there was originally the Senator and Mrs. Menendez and two, three co-defendants, one of the three co-defendants flipped and pled guilty and then started cooperating. So they had his testimony. And that's I think, what led to the sufficient evidence to bring these additional obstruction charges. And obstruction just like in Mar-a-Lago, the obstruction sort of proves you weren't innocent to begin with because you wouldn't have done it if you hadn't been guilty, to begin with.

Barb: And the old consciousness of guilt, right?

Jill: Exactly. Exactly. And back in Watergate, actually, the crime at that time, the original crime was a break-in at the DNC headquarters. A failed one because as they were there, they were seen by the police and pulled out before they did anything. But that was a pretty minor crime compared to what's charged here, which is actual bribery. And so I think that here, the obstruction may be really bad, but the underlying crime is pretty terrible too.

Barb: Yeah, right. No, good point. But it's almost like a gift to prosecutors, isn't it?

Jill: Oh, it is.

Barb: I always thought like, oh, thank you. The original case may not have been so strong, but now you've done something to cover it up. That's in itself a crime and evidence of the first crime. So it's a gift to prosecutors. Joyce, I have a question for you. This caught my eye. Yours no doubt as well. If Menendez is a senator from New Jersey and these people live in New Jersey, why is this case being prosecuted by the Southern District of New York?

Joyce: Isn't this an interesting question? It was the first thing that grabbed my attention when the original, the first of the three versions of this indictment was handed down. Here's the answer. The US attorney in New Jersey was a witness in the case because Menendez had communications with him while he was being vetted to become the US attorney. He actually wanted him to protect the senator's friend, real estate developer, Frank Davies, who allegedly was bribing Senator Menendez. He wanted to keep him from being investigated for bank fraud. And so the US attorney, who's now the sitting US attorney, Philip Sellinger, had no wrongdoing involved here. He simply took that in and protected his office from any suggestion that their investigation should be altered in any way. But he, of course, recused as a result of those conversations. The case went to the US attorney in the Southern District of New York to oversee.

That's what often happens. For instance, I had cases where the US attorney in Montgomery had to recuse, and so I would pick up her cases for her. That's pretty common in these recusal situations. What was a little bit different here was that because some of the meetings, in this case, the meetings between co-conspirators occurred at restaurants in Manhattan. Once the Southern district took over the investigation, they realized that they could indict in their district and they did that. And I think it's a good

call here, by the way, because it gets the prosecution of the case out of the district that Senator Menendez represents the district of New Jersey, which is one federal district.

Barb: So wait, yeah, no, I actually agree. In the end, it's probably the right call.

Kim: So the district attorney, the US attorney-

Jill: His attorney.

Kim: ...would've been a witness in the case with these... Did Tony Soprano walk in? This is the craziest-

Barb: Oh, yeah.

Kim: This is the craziest story.

Barb: It is.

Joyce: And also the Attorney General of New Jersey, right, who was also approached. Menendez, had no shame.

Kim: Oh my gosh.

Barb: There's an allegation that he tried to influence both a state AG case and a case in the US Attorney's Office. So I agree with you. I think moving it to Manhattan makes a lot of sense. It's not the usual Bigfoot move, Preet Bharara, if you're listening. No, it makes a lot of sense. So Kim, here's a question that's half in jest, but only half. If Senator Menendez committed these crimes in his official capacity, which it sounds like he did, right? He took official acts. Why isn't he entitled to immunity from prosecution? I mean, is that a thing? Senatorial immunity?

Kim: He tried it. He argued that he did have immunity from these claims. He said both the speech and debate clause, which protects lawmakers in carrying out of their duty, as you said, and also the doctrine of separation of powers prevented his prosecution. The big bad executive branch cannot come after a little old senator like him prevented these charges. And a judge said in March, "You got to be kidding me. No, bribery is not a job of a lawmaker and of course, it can be prosecuted. You can be prosecuted like anybody else it's not overreached by the executive." So he tried it. He tried it, and he lost.

Barb: I think after this Trump case, though, everybody's going to try this, right?

Kim: Oh my God.

Barb: Or you can't use the evidence of my official acts because he did commit. He did commit official acts.

Kim: Yeah, not that might be... I'm less worried about wide grants of immunity, but I am worried about the evidentiary spillover from this terrible opinion.

Joyce: It's crazy, right? I mean, it shows how bad the Supreme Court's decision in Trump v. US was.

Barb: Yeah, I think it's going to take us years to realize all the different ripple effects that it has as we see how it changes our assumptions of so many things. Well, let me ask you, Jill, you mentioned a prior case. This, as you said, is not Menendez's first rodeo. He was charged with bribery once before. Can you tell us about that case and how that turned out for Menendez?

Jill: Yeah, it turned out pretty good for him actually. It was a case involving someone, he said was a close friend who was a dentist, and he claimed that these were just gifts from a friend. And of course, the Supreme Court in Snyder has said, "Yeah, gifts that don't proceed the act that you're supposed to do, those are just gratuities. They're like tips. And that's okay. You have to pay somebody and specifically say in exchange, you have to do this." And I mean, that's a serious problem. And it's been going on as we've said, the governor of Virginia got away with it. So he was acquitted by a jury and apparently didn't learn his lesson and went about business where he has all this cash and all these gold bars. Don't forget the \$60,000 Mercedes-Benz or the mortgage payment that all add up to over \$4 million and half a million in cash. So I think he felt like he got away with it once. It's worth going to trial to see if he can get away with it again.

Barb: Allegedly.

Jill: Yes, allegedly.

Barb: Got to make sure you get that in there. Well, let me just ask all of you this question. Interested, curious about your thoughts. Donald Trump and his supporters have argued that Joe Biden has weaponized the Department of Justice to use it to go after his political rivals. Does the prosecution of a Democratic Senator help refute that claim in any way? What do you guys think?

Jill: So let me start. I want to start because I testified before the Weaponization Subcommittee of the Judiciary Committee, which is now called the Lawfare Committee, which is a strange use of the word law fair. But anyway, there is no weaponization. So let's just dispel that wrong statement to begin with. There is no evidence of it and certainly, to me, the proof is that Hunter Biden has been indicted and tried, and so has Senator Menendez. And I just think you can't possibly consider it to be weaponized if the Department of Justice under President Biden is going after people who commit felonies or misdemeanors regardless of their charges-

Kim: Don't forget Congressman Henry Cuellar-

Jill: ...when they get caught they get indicted.

Kim: Yes, good one.

Jill: Henry Cuellar.

Kim: Democrat.

Jill: I mean we can go through a list. Yeah, another Democrat. So yeah, I think this does disprove the weaponization. And that committee, by the way, has not come up with anything that would even remotely look like it was a weaponized Department of Justice. They've gotten nowhere any more than the impeachment investigation of President Biden has gotten anywhere. So I think it's pretty much a ridiculous claim.

Joyce: I mean, can we just say that Jim Jordan, who's been really big on this whole notion of weaponization of government, is a failed lawyer? He went to law school, never passed the bar, never practiced-

Barb: Took it three times.

Joyce: ...doesn't know anything about prosecuting cases. And this attitude that his party has assumed is a real affront to the career people at the Justice Department, the people who keep their heads down and keep us safe day in and day out, along with their brothers and sisters in law enforcement at the FBI, DEA, ATF, and the Marshall Service. And I'm astonished that the so-called Party of Law Enforcement is permitted to get away with this. There is no weaponization of the Justice Department, but if you want to find out what weaponization looks like, then read Project 2025 because Donald Trump and the Heritage Foundation, they will weaponize DOJ.

Barb: Yeah, it seems like a little bit of projection going on here, right? [inaudible 00:41:44]-

Joyce: It's always projection. Always.

Barb: Accusations of weaponization. Yeah. And Joyce, like you, I just want to say a word in defense of all of the incredible professionals who work at the Department of Justice, whether it's the FBI or US Attorney's Offices or Main Justice, they are nonpartisan. They're not bipartisan, they're nonpartisan. It's part of the principles of federal prosecution that is impermissible to look at politics in making a decision regarding charging. And the people who work in those offices are just not political. They're looking at facts and law and prosecuting people regardless of political party. And so this idea that somehow Joe Biden has weaponized the Department of Justice, I mean, he's hands off. He has followed the memos that have existed since Watergate that says, presidents don't direct the Department of Justice. It's an effort to have independence.

Joyce: If he tried to the career folks at DOJ, who, by the way, no secret, right? DOJ folks and law enforcement folks tend to lean a little bit conservative, especially the law enforcement folks. If there was any effort to weaponize those folks would be up in arms at a minimum resigning. And so this suggestion that Biden has somehow turned the Justice Department into his personal tool, it's just way off base.

Jill: And most of those people are career prosecutors who serve under Democrats and Republicans without any change in their perception of what constitutes a crime. And when I was testifying I was going to have to be questioned by Jim Jordan, and I just wondered in advance, I was really worried how I would react. It was-

Barb: Did you climb over the table and go after him, Jim?

Jill: I didn't, but I was wearing a jacket. He wasn't, but I was. So hey guys, I've just been reading the Republican platform for this election, and it's as important what it doesn't include, which is climate change. And I know that we are all very concerned about climate change and what we can do to limit the amount of damage we do to the environment. And did you know your dishwasher detergent pods are almost always wrapped in plastic? Yep. That film around your pods is plastic and it's ending up in our oceans, rivers, soil, and even our bodies, if you haven't heard, it's plastic-free July because on average, people generate 1847 pounds of plastic waste a year. That's every single person. The Plastic Free July movement is so important because our actions matter and the impact adds up quickly. Thankfully, Blueland has given us a great way to do our part.

Joyce: Blueland is 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. Everything looks really great. I love how Blueland uses no single-use plastic in any component, but the bottles, the tablets, the wrappers, they all look sort of cool. And shipping is also fully compostable. Something that really matters to me because we compost everything that our chickens won't eat. All of the products are also effective and affordable. I have been one over by Blueland.

Kim: Yeah, I have too. Their dishwasher tablets are proven to perform on baked-on, burnt-on stains. No rinse aid needed. The clean is insanely good. I can attest to that because I do try to rinse clearly and before I load the dishwasher. But sometimes we're in a rush and things happen, but the dishes still come out looking spick and span. I've never had to run a load twice. And the fragrance-free tablets have become a family favorite. Now we enjoy the smell of our meals without any weird lingering chemical smell that you get with the old stuff. I speak for the sisters when I say we're never going back to expensive, wasteful, plastic-coated brands, and you shouldn't either. And even better, you can get more savings with Blueland by buying refills in bulk or setting up a subscription. Their subscriptions are customizable and convenient, so you never run out of your most used products. You'll want to try everything they offer.

Barb: I want to try No Plastic July. There's like no mow May and-

Kim: Yeah, that's great.

Barb: ...Movember and all that. Yeah, I'm going to give it a try. Well, Blueland is trusted in more than one million homes, including ours, and we're excited to share that Blueland has a special offer for listeners. Right now get 15% off your first order by going to [blueland.com/sisters](https://blueland.com/sisters). You won't want to miss this [blueland.com/sisters](https://blueland.com/sisters) for 15% off. Again, that's [blueland.com/sisters](https://blueland.com/sisters) to get 15% off. Look for the link in our show notes.

Jill: Today we are starting a series of discussions where the SistersInLaw will analyze the content and meaning of the words of Project 2025 and the Republican 2024 platform that echoes Project 2025. But because Project 2025 is over 900 pages, we're going to analyze it in digestible bites. Today we're going to talk about one section from the chapter about the Department of Justice this is chapter 17, and it's one that Kim selected for our discussion. It's about the prosecution of violent crimes. But I assure you, we are going to discuss many other parts of this chapter going forward and all the other chapters, including things like eliminating the civil service, career professionals, hiring loyalists,

eliminating the lawyers for the FBI and the chief officer, which is Andrew Weissmann's old job.

So I know that a lot of people are going to care about that elimination. But before we get to Kim's specific question, I just want to put things in context and make sure that everybody's up to speed on Project 2025. The full document is for the transition that the conservatives expect when Donald Trump is the next president. Something that of course we hope won't happen, but in case it's a plan for the first 180 days and beyond, I consider it extreme in its transformation of our government. And so Joyce, can you give me some examples of its broad outlines and authors?

Joyce: Yeah, sure. So Project 2025 is being coordinated by the ultra-conservative Heritage Foundation. They've sort of given it a home. It's a 900-plus page document, as you mentioned. It is written by a series of authors. Every chapter is authored by another conservative luminary, and it reads like a who's who of top conservatives. More than 80% of them served in the Trump administration. A large number of conservative groups are involved and have made contributions to Project 2025. So I think of it, I've evolved my thinking to think of it less as a Heritage Foundation project and more as in all of the most conservative movements in the country's work of their combined hopes and dreams for America.

And it's very simply a plan for transforming our three branches, our co-equal branches of government into a unitary presidency with a powerful executive aided by a compliance Supreme Court permits that president to marshal his power to implement long-term conservative policies like a national ban on abortion, the end of a merit-based federal bureaucracy in favor of one that has to show loyalty to a new conservative president and a wave of massive deportations they say on day one of people who are alleged to be here without legal status.

There's something for everybody to hate in this. For instance, it also calls for an end to programs like Head Start and a decrease in funding for special education. So I mean, really, if you read this document long and deep, you're going to find something not to like. I think what they're counting on is that few people will read all 900 pages, and it's written in this very neutral terminology where you might think, oh, well that sounds okay. It's just a policy difference or maybe it would be good to deport illegal aliens who are stealing American jobs. But when you read it on a deeper level, you come to understand how oppositional it is to fundamental American values. The authors include people like Ken Cuccinelli who served Donald Trump as his head of DHS for the last two years of his administration, even though he was never confirmed.

There's also Gene Hamilton who wrote the chapter on transforming DOJ into a political tool that a president could wield against his enemies. Hamilton was at DOJ and played a role in creating the family separation policy and ending DACA for kids. So look, I've been writing about Project 2025 in my newsletter, Civil Discourse since last November when it first caught my eye. I am really glad we're going to take this on in these bite-sized morsels because that's the best way to understand it. But Project 2025 as a whole is deeply disturbing. It is not consistent with my vision of an America where the government is supposed to protect our rights and create a country of equal opportunity and inclusiveness for all people instead of just people who adopt a conservative line on political and religious beliefs.



Jill: Yeah, it's a terrifying document. It ends birthright citizenship, calls for a national abortion ban, full enforcement of the Comstock Act. And you didn't mention Peter Navarro, who's an author of this document. Peter Navarro, who is now in jail, but was the trade advisor to the Trump administration and the Secretary of Defense who, or the person who was the Secretary of Defense on January 6th when troops were not called out in a timely fashion. And who Victor, she and I interviewed on iGen Politics in one of our most outstanding interviews ever. Something I just... Everybody should listen to. And let's not forget, Ben Carson is an author as well. We remember all of those people. But Barb, given the relationship of people that we've mentioned, and by the way, Jean Hamilton works for the foundation run by Stephen Miller, one of our all-time favorite people in the Trump administration, and who I sat next to when I was testifying before the Weaponization Committee. Is Trump being truthful when he says he knows nothing about the document or its creators?

Barb: Yeah, no, not at all. I think what's going on is that he has seen that it's getting a lot of attention lately and people are noticing it and reading it and horrified by it. So he's trying to distance himself from it but he said at a Heritage Foundation Dinner in April of 2022, "This is a great group and they're going to lay the groundwork in detail plans for exactly what our movement will do and what your movement will do when the American people give us a colossal mandate to save America." So he's very much in bed with the Heritage Foundation and Project 2025 is led by Kevin Roberts at the Heritage Foundation, and he has said something like, "Our efforts will be bloodless if the left allows it to be." I mean, my gosh, that's terrifying. I mean, it really suggests that if necessary violence will be used.

But Project 2025 is backed by more than 100 conservative organizations, many of which are led by close allies of Donald Trump. One of them is the Claremont Institute, which was of course John Eastman's, former employer that was the architect of the fake electricity-

Joyce: All the best people.

Barb: America First Legal, which is as you've mentioned, led by Stephen Miller, who was a former Trump advisor who was the immigration hawk in his administration. And there are a number of former Trump administration officials involved in Project 2025. His former Office of Management and Budget Director, Russ Vought is a leading proponent of it, former acting defense secretary Christopher Miller. Jill, I know you had him on Intergenerational Politics, and he melted down. Ben Carson who was the HUD-

Jill: He screamed at Victor. I mean, he was going to walk off after Victor asked one question. Victor was 18 years old at the time.

Kim: Good for Victor.

Joyce: What a big man.

Barb: But Ben Carson, as you mentioned, was the HUD director under Trump, and Rick Dearborn, who was the deputy chief of staff under Donald Trump. So he's got very close allies all over this. And just a word about the Heritage Foundation and who they are. We

just quoted Kevin Roberts, who's their president, who said this thing about bloodless, if the left allows it to be. The Heritage Foundation was created in the seventies or eighties by business interests who tried to come up with policy pretexts to roll back regulations in the Reagan administration.

And they were all designed to help business, deregulating environmental rules that were there to... In the seventies Nixon and others were very favorable for environmental regulations because they wanted to save the planet in protecting our air and water and ADA rules and civil rights rules and other things. And the Heritage Foundation said, "This is ruining business. This is terrible for business." And so the Kors family was a big donor and other big business billionaires created the Heritage Foundation to give cover to lobbying and policy to try to protect the interests of big business in government. And that is who is pushing this agenda with the Heritage Foundation now, as well as these ultra-right close allies of Donald Trump.

Jill: Great. Thank you. So with that background in mind, I want to move to Kim's question, and I will also say we are going to put a link to Project 2025 in our show notes. If you only even just look at the names of the 30 chapters and who wrote them, you will get some idea and skim the first paragraph or two. You will know what rights you would be losing if this became the agenda for a future conservative presidency. But Kim, why don't you tell us about the part you selected for us to analyze today and tell us why and what you think is problematic about it so that we can help talk you off the ledge today?

Kim: Good luck.

Joyce: No talking off the ledge on this one.

Kim: We have seen for four years of Donald Trump's presidency and years after, and the entire campaign before one of his favorite subjects was you got to get these inner cities under control. You got to get these places like Philadelphia, Chicago, Detroit, they're hell holes, and they really need the federal government to clamp in and I can do that. So essentially this gives some teeth to that favorite Donald Trump policy. What it would do would be to have the Department of Justice, the Federal Department of Justice, devote considerable resources in monitoring what the prosecutions of violent crimes are in urban centers, in major cities. So this isn't going to be happening everywhere, and they're not going to be looking in your small town at your small town sheriff or DA. They're going to be looking in cities. I'm going to guess at the top of the list will be Detroit, Milwaukee, Philadelphia, and Atlanta.

Just a hunch to see what kind of prosecutions are being brought and if they deem that violent crime is not being sufficiently prosecuted, the first thing they will do is to tell direct the federal prosecutors to get in there and bring as many federal charges that are on the books that could apply to these cases so sort of backseat prosecuting by federal folks. But they won't just stop there. They also promise to bring legal charges against local officials, including DAs who are using their discretion to try to bring down the over-prosecution of folks in certain groups, such as we've known there've been efforts in Boston and elsewhere to try to stop the over prosecution of Black folks, brown folks, Indigenous folks, LGBTQ folks in those areas to bring more equity. If they do that, not only will they not be able to do that, but they could face legal trouble if they actually try to do that.

What this seems to me is to the extent possible that they're trying to federalize criminal prosecutions in places where they think Black, brown, LGBTQ folks are to put more of them in jail and to give just really vicious teeth to this tough-on-crime policy that Donald Trump loves. And all of this, by the way, at the time that this was drafted, completely ignores the fact that violent crime in all, but a couple of cities is down. It is down. It is not up. So this is a solution without a problem. It is hateful, it is racist, and I think it is more than a little bit driven by a payback from the social justice movement that happened during Donald Trump's administration where groups like Black Lives Matter brought to the attention the brutality that Black and brown people often face. It's payback. They thought those people were terrorists and now they're going after them.

Jill: Yeah, I mean, this is already happening in Florida, at least two independently elected state's attorneys who ran on a platform of what they would and wouldn't go after, were relieved of their duties by the governor under some weird theory that he didn't like that they weren't prosecuting minor drug crimes. So this is not what you want to have happen. But Joyce, let's look at what Kim has... The part that she has referred us to. And I want you and Barb and then Kim, you've sort of already weighed in, but if you think of something else you want to add, but Joyce and Barb go ahead and give us your analysis of the meaning of this, whether it's needed, whether is this one... Joyce, you said it. Go ahead and give us your analysis of this.

Joyce: Yeah. So I mean, look, here's the bottom line. The way that you can tell that this policy is, as Kim says, mean-spirited and not connected to law enforcement priorities, is this notion of prosecuting the prosecutors who don't do what the conservatives at the Heritage Foundation want them to do. That's not how law enforcement works. Look, as a prosecutor, one of my jobs, in fact, when Eric Holder was the US attorney, he directed all of his US attorneys, all 93 of us across the country, to sit down with our state local partners and to talk with them about their priorities and what assistance did they need from us. And so there were cases where I did violent crime prosecutions. I did a major one in Tuscaloosa because the chief said to me, "We need your help. We need you to do some gun prosecutions to give us the space that we need to make our streets safe."

I did that at their request. Here's what Project 2025 says, and I quote, it says, "A disturbing number of state and local jurisdictions have enacted policies that directly undermine public safety, leave doubt about whether criminals will be punished and weaken the rule of law." And that's just bunk. No law enforcement official ever says, "I want to undermine public safety." Instead, what's happening is that prosecutors have an enormous amount of discretion to determine what cases they will bring, and they exercise it based on what's important in their jurisdiction. State and local prosecutors mostly elected, they have to be responsive to the will of their voters, and that's what they do. And in some of these counties, they've elected the so-called reformer prosecutors, people who realize that it's better for them to prosecute serious crime than stuff like marijuana possession. People who use data-driven best practices that permit them to do things like decide that some people who've committed first offense, nonviolent crimes can be best rehabilitated by practices other than prosecution.

And this is what the Heritage Foundation and the folks behind Project 2025 are objecting to. They don't want to see data-driven best practices. Instead, they want this old-fashioned tough-on-crime sort of approach. And the bottom line is this, it's not their call to make. Prosecution priorities are set by local prosecutors, by US attorneys, by folks in

those jurisdiction. And this idea that the feds should be looking over the shoulder of state and local prosecutors and setting their priorities for them, that's about as far away from the traditional state's rights views of conservatives as you can get. It really, I think is just like waving a big red flag saying this isn't about good law enforcement policy. This isn't about making communities safer. This is about making people afraid and ensuring that no one will do anything that's contrary to our Christian nationalist view of how society should function.

Barb: Wow. Yeah. I think you raise a really good point there about state's rights. The idea that if state prosecutors are exercising their discretion in a way that the Feds don't like, they should be prosecuted. I mean, that is the absolute opposite of federalism and comity and states' rights. But I also think this is a propaganda document. It talks about catastrophic increases in crime, particularly violent crime nationwide, false. Crime and violent crime are down.

Joyce: Can I just give you one example of that that hits close to home for me because my daughter lives there? Four murders year to date in Boston, four.

Kim: And that's one of the cities where you've had a string of district attorneys in Suffolk County who made it a priority to focus. They do focus on the violent crime, the worst crimes, while also trying to minimize the negative impact of over-prosecution in other communities. They're doing both things at the same time.

Barb: Exactly. And can I say why I think this is such a propaganda piece? And I have to believe the people who are writing this actually know better. I mean, one of the things they do is they say, "The Attorney General should direct all US attorneys to sit down with their state and local counterparts and develop a jurisdiction-specific plan." My gosh, Eric Holder did that. Merrick Garland has done that, of course. But the idea that you've got to prosecute every single case that comes across your desk is not realistic because you have finite resources and so you have to prioritize. In my former office, we had the capacity to do about a thousand cases a year. Now if we're doing every immigration case, not based on whether they're violent or a risk to national security, but just if they happen to be here without documentation, that's a case.

Okay, we got 999 left, which how do you want us to use them? Or they talk about prosecuting every case of illegal drug possession. Okay, you want to do that then that means there's a lot of other big cases that we are not going to get to that are far more dangerous, taking down large criminal organizations. And so typically the way the work gets divided in these meetings where you coordinate between federal and state prosecutors is the state handles the street crimes that are most serious. Homicides, arsons, home invasions, rapes, very serious crimes.

And then the feds take on the big organizational cases, large gangs, carjacking rings, drug cartels, those are the big cases, national security threats, corporate fraud, public corruption cases. And so does that mean some little cases fall between the cracks? Yeah, but somebody's possessing one marijuana cigarette somewhere. You just don't have the resources to do all those. But I think a real tell in here is it consistently talks about the left with a capital L as if there is one monolithic enemy that the next conservative president ought to be targeting. And I think that is very telling about the way this document is

being used as propaganda to try to drive a wedge between Americans who perceive themselves as a member of the right and the left with no nuance in between.

Jill: And if we just could advise everyone who's going to read or skim this to look closely at, is there any example, any statistic, any fact that supports their broad conclusions? Because every chapter says this is the worst that's ever been. Crime rate is up, but they never show you that it is. And I looked at the footnotes. If you read the footnotes, you still don't get that. And so it is, I think, and Barb is our expert on propaganda. This is a propaganda tool and it's the kind of thing that you might fall for if you don't think about what they're alleging without any background, any support, any fact. It's just not true. So it's really a document that I look forward to having many more discussions about because every page. I mean, we can have 900 episodes on just this because as you can see, we talked about basically one paragraph, and it was a rich and robust conversation that should alert you to how bad everything else is.

Kim: Summer is here, which means socializing, live shows, and vacations. That's perfect for today's sponsor, Honeylove, and their amazing and comfy shapewear. Their line has beautiful inspired design details and breathable fabric to keep you cool as the weather heats up. Plus, even if you have a super active lifestyle, it's the only shapewear that never rolls down. For a limited time, you can get Honeylove on sale. Get 20% off your entire order with our exclusive link, [honeylove.com/sisters](https://honeylove.com/sisters). Support our show and check them out at [honeylove.com/sisters](https://honeylove.com/sisters).

Joyce: Enjoy comfort and confidence this summer with Honeylove's Bestselling SuperPower Short. It's the go-to thanks to targeted compression technology and a signature X band that works with your body for maximum style, fit, and comfort. Flexible support hidden in the side seams ensures that your outfit stays sculpted and smooth across the coverage, and the Boost Band provides fantastic lift. Plus, there's cotton reinforcement where it matters with the perfect amount of compression in all the right places.

Jill: Honeylove has more than just sculpt wear. They have super comfortable bras, tanks, leggings, and more for everyday support. Their leggings are the best on days when lots of exercise or when you have a decadent day at home, which of course none of us actually has a decadent day at home, but even a few hours with friends and family, they're seriously very comfortable. No matter what life has in store for you, Honeylove is for you. Don't be stuck in your shapewear. Look and feel your best with Honeylove.

Barb: Shapewear shouldn't be hard. Treat yourself to the best shapewear on the market and save 20% off at [honeylove.com/sisters](https://honeylove.com/sisters). Use our exclusive link to get 20% off. [Honeylove.com/sisters](https://honeylove.com/sisters). After you purchase, they'll ask you where you heard about them. Please support our show and tell them we sent you. The summer vibes are getting started, honey so shape your life with Honeylove. Look for the link in the show notes.

Kim: Now, the time has come for what is really our favorite part of the show, and that's answering your questions. If you have a question for us, you can email us at [sistersinlaw@politicon.com](mailto:sistersinlaw@politicon.com) or you can tag us on your socials and we will pick three to answer every week. And if we don't pick one of yours, keep an eye on your socials because we often will be in there answering them directly. I've been on threads a little more than I usually am lately, and so we will try to do that. So our first question comes from Diane who asks, I have seen several people suggest that Jack Smith issue a

superseding indictment to indict all of the co-conspirators since the case will not make it to trial before the election. Thoughts? Joyce, what do you think about that?

Joyce: Yeah, I mean, this is such a great question, Diane, because I've been having this conversation with a lot of my colleagues who are former prosecutors, and I don't think that there's strong agreement on this one. I think people see value in doing it both ways. I'll just tell you that personally, my view is this, prosecutors only have to supersede an indictment if they're changing it. For instance, if they're adding new charges like what we've discussed in the Menendez indictment or in other cases where new and additional charges have been brought. Here, I think the notion is that prosecutors would actually narrow the charges as a reaction to the Supreme Court's decision. And you can simply do that by advising the judge. You won't move forward with certain charges, but the reality in this case is it'll likely be more about what evidence can be used, and that certainly wouldn't require any superseding.

So Smith certainly might if he wanted to make it cleaner. One advantage to superseding might be going back to the grand jury and making sure that the grand jury didn't hear any evidence of official acts when they made the decision about whether to indict. That's sort of a hyper-technical issue, but it's possible. In fact, it's likely that Donald Trump will argue that that taints the grand jury's decision to indict. I think it's a bad argument. They won't succeed with that, but it would certainly short-circuit Judge Chutkan in having to deal with it if they superseded. So we might see Smith come back and do that, but there are reasons on both sides to do or to not do. So I think it's an interesting question to flag now and we'll continue to follow it.

Kim: Up next Patty Fink asks, would you and the #SistersInLaw team walk through the chronology of Watergate as it unfolded under the new SCOTUS immunity ruling? That sounds like a question for the Watergate girl.

Jill: Well, I love the question, and I did write something for MSNBC, which I can put in the show notes today about this exact question. And the short answer is Richard Nixon would've served out his full term. He would not have committed any crimes if SCOTUS had already ruled this way when he was president. He would have loved it and that's too bad. Everything that the president does that falls in official acts, core official acts is totally immune. And then there's the category of everything else he does that is official, but not in core responsibilities like control of the FBI and the Department of Justice, and the Department of Defense. Those are core responsibilities because they're specifically designated in the Constitution, but everything else falls into is it official? And while I think we've already mentioned today that you can't imagine some of the things like writing checks to pay off a porn star to keep her quiet could possibly be official, that has to be personal.

A lot of things you could argue would be within the official category, and then you'd have to have a presumption that the prosecutor would have to overcome that it falls within immunity. And a lot of this was done by campaign officials. Those would clearly not be in official conduct. So I think there would've been a part of the case that could have gone forward. His conversations with Attorney General Mitchell, no, but by the time the crime was committed, Attorney General Mitchell was Campaign Chairman Mitchell, and so that would've been Candidate Nixon taking that action, not President Nixon. So again, I think there would still be something that would be left.

The problem that I worry about more than anything is that when these things get decided by a district court judge saying, "Yes, this is personal and you can prosecute for this." It's going to get appealed up to the Supreme Court, which I think is taking a pretty liberal view of what falls into that presumptive immunity category. And it's going to be hard to predict what they're going to say, "Oh no, that falls within... Yeah, he didn't call out the troops on January 6th, but that would've required that he talk to his Secretary of Defense and so it's definitely core responsibility. It's totally immune." So that's what I worry about going forward.

Kim: And our final question comes from Ninja Cat Cheryl, great name. Does the complete immunity SCOTUS appears to have granted Trump also limit or eliminate the possibility of presidential impeachment? Barb, what do you think?

Barb: Yeah, absolutely not. I suppose that's what's coming next, but I think that this is what Chief Justice Roberts has in mind for the way to hold a president accountable and the only way for misconduct in their official conduct. The problem I have with this is that impeachment has been rendered somewhat meaningless in our current age, and that's why it seems so either naive, if not duplicitous, to suggest that a president should not be criminally prosecuted for official acts because, of course, we've got impeachment for that. But impeachment requires that the House impeach, charge, and that the Senate convict by a two-thirds vote.

In our hyperpartisan times it is hard to imagine that you could see that two-thirds vote because it's going to require, in the Senate, it's been pretty evenly split in recent years that you would have to have a significant number of the President's own party vote to convict on impeachment. And I just don't know that we're going to see that happen. Can you imagine Republican senators having the courage to convict a President Trump who gets impeached at an impeachment trial? I just don't think so. And so I think even though the impeachment clause is alive and well, I think it is because it has become so neutered that I don't think it is sufficient to hold a president accountable.

Kim: Well, thank you for listening to #SistersInLaw with Jill Wine-Banks, Joyce Vance, Barb McQuade, and me, Kimberly Atkins Stohr. Remember to mark your calendars, #SistersInLaw will be doing a live show at the 92nd Street Y in New York City on September 20th. You can get tickets at [politicon.com/tour](https://politicon.com/tour) or at the 92nd Street Y website. We look forward to seeing you there, and please show some love for this week's sponsors Thrive Causemetics, OneSkin, Blueland, and Honeylove. Their links are in the show notes. Please support them because they make this podcast possible. Also, follow #SistersInLaw on Apple Podcasts or wherever you listen and please give us a five-star review. It really helps other people find the show. And can you believe it there are still people who don't listen? But it helps give us five stars. See you next week on another episode of #SistersInLaw.

Joyce: Tim is actually on vacay.

Kim: I can't be president.

Jill: All right. I'm going to try again-

Kim: That was just so funny.

Jill: I'm going to try again.

Kim: Sorry.

Jill: I can't be president either it turns out.

Joyce: Pumpernickel. Again, I cannot be president because the wrong words come out. I'm distracted by Bella. He's trying to make an escape. Can you see him? Hang on.

Barb: Maybe that's Biden's problem-

Joyce: Maybe I should [inaudible 01:20:33].

Barb: ...he's got Major looking around. He's afraid he's going to bite somebody.

Joyce: Come here, baby. Come here. Come here. Can you come stay with mommy? Please stay with Mommy.

Jill: It sounds okay if you... Joyce, you said it. Oh, I can't be president either. I'm sorry. Okay. That was my first mistake today. Okay.

Kim: But you're the most qualified-

Jill: Anyway you two are always confused.

Kim: You're the most qualified of us, Jill. So there's that. You only made one mistake.