

Kim: Welcome back to #SistersInLaw with Barb McQuade, Joyce Vance, Jill Wine-Banks, and me, Kimberly Atkins Stohr.

It is 2025, so there is no better way to kick off the new year than by checking out our merch store. We restocked everything just in time for you to ring in the new year with all of your #SistersInLaw best. So go to [politicon.com/merch](https://politicon.com/merch) and check it all out. Snow's on the way, so I recommend the hoodie.

Now let's get on with the show, where we will discuss the horrific attack in New Orleans and what that means. We'll also talk about Chief Justice John Roberts' year-end report on the judiciary and what that means. And finally, we will talk about the 14th Amendment and if there is any bearing on Donald Trump's ability to take office.

But first, I wanted to chat with you guys. I saw a post on social media saying that there will soon be a new museum being built on the Washington Mall. It will be the first ever Smithsonian Institute dedicated to the history of women in America. And they were seeking ideas. The organizers were seeking ideas as to who should be featured in it. And I, of course said Jill Wine-Banks-

Barb: Absolutely.

Kim: ... needs a whole wing. She needs a room for every career. She-

Barb: That'd be a big museum.

Joyce: Absolutely.

Kim: She needs so much. And I thought, what cool things. She also has cool things that I think people would love to see. So I was wondering, what do you guys think should be in the Jill Wine-Banks wing of the National Women's Museum at the Smithsonian? I think I will start with the coat that she wore on the cover of her book, *The Watergate Girl*. I love that coat. I am obsessed with that coat. It's so iconic and I adore it. Do you still have the coat, Jill?

Jill: I do not have that coat and I would be ashamed to wear it now.

Kim: Why?

Jill: Oh, because it had a fur collar. It was-

Kim: But it's vintage. That's okay. It's vintage.

Jill: It is definitely vintage. That's because I'm vintage. What can I say?

Kim: No. But it's like-

Jill: I would vote for my pins, I would have to say.

Kim: Of course.

Jill: Or the coat that I wore the day that I went to interview Rose Mary Woods in the White House. Or the pin that I wore that day.

Kim: That'd be great.

Jill: Those would be my things. The suit I wore that day was auctioned off for charity.

Kim: Oh, well, that's great.

Jill: Yes. For women journalists.

Kim: Oh. See, she's a treasure.

Barb: She is a treasure. So there's also the mini skirt you wore that got you criticized by the court in... [inaudible 00:03:04].

Jill: That would be plural.

Barb: Yeah. That'd be pretty good. But what about the tools of the trade. Like back then when you guys were drafting indictments, you probably used a typewriter. So maybe the typewriter that was used to draft the indictment against co-conspirator one, Richard Nixon. That might be kind of cool.

Jill: Yeah, or the briefcase, which was a standard issue government vinyl thingy.

Barb: All right. I had one of those. Yeah, yeah.

Jill: Yeah.

Joyce: We all had those.

Barb: Brown [inaudible 00:03:32].

Jill: Of course.

Barb: The Naugahyde thing.

Jill: Yes, exactly.

Barb: Pleasure... What do they call it?

Joyce: That's so funny. Hey, Jill, what I would love to see would be sort of a multimedia Forrest Gump-style exhibit, except in your case it would be real, of every place in history that you crop up. Like here's Jill Wine-Banks in North Korea. I just remember all the moments on the show where we've been talking about something and you're like, "Oh, did I tell you about when I ran that company?" Or...

Barb: CIA operative.

Joyce: I would love to see that exhibit.

Kim: That would be great. I think that would be fantastic. I'm honest. Like what I said, a whole wing to Jill Wine-Banks, and one of the people who posted the post said, "Noted." So they're aware.

Barb: We're on it. We're working on it right now.

Jill: That is hysterical. Thank you guys. I really appreciate it. And maybe this will help my children's book about careers for youngsters to consider in their future. Because I do have a lot careers.

Kim: She's also a children's book author.

Jill: Well, not yet. Not yet.

Joyce: I love it though. It's like your career choice, all of the above.

Jill: Oh yes. That'll be so much fun.

Joyce: Whether you look as fresh-faced, full-glam, or somewhere in between, join us in spicing up 2025 with Thrive Causemetics. You've probably seen their viral tubing mascara all over your socials. It's the one in the turquoise tube, and a personal favorite. Thrive has so many other amazing products that are made with high performance and trademark formulas, clean, skin-loving ingredients, and uncompromising standards. Each one is certified as 100% vegan and cruelty free, so it's no wonder that their best sellers have thousands of five-star reviews.

Jill: I am in love with Thrive's liquid lash extensions mascara. It's perfect for a salon look without the damaging glue or excessive prices. Your lashes will last all day without clumping, smudging, or flaking, and they slide off with just warm water and a washcloth, no soap required. Plus, the nourishing ingredients support longer, stronger, and healthier lashes over time. And their flake-free tubing formula dramatically lengthens and defines your lashes from root to tip. As soon as I found out about it, I started using it, and that was a long time ago. But now, every time I do, I get so many compliments. It's the perfect way to subtly stand out from the crowd and make a big impression. But I also love their skincare products and eye pencils that brighten and can be used as a primer or shadow.

Barb: Oh, Jill, you never subtly stand out from the crowd. You're a star wherever you go. A national treasure.

Jill: Aw.

Barb: And I guess if the range is fresh-faced or full-glam, where does freckle-face fall in? Because that's me. That's why the thing I love most about Thrive Causemetics is that "cause" is in the name for a reason. Thrive not only defines luxury beauty with its clean, skin-loving ingredients and uncompromising standards, they give back too. Every purchase supports organizations helping communities thrive. Thrive donates to eight

major causes, including the fight against cancer and domestic abuse, veteran and education organizations, and more. I'm so glad we're a part of it.

Kim: Thrive Causemetics is luxury beauty that gives back. Right now you can get an exclusive 20% off your first order at [thrivecausemetics.com/sisters](https://thrivecausemetics.com/sisters). That's Thrive Causemetics, C-A-U-S-E-M-E-T-I-C-S, dot com slash sisters for 20% off your first order. The link, as always, is in our show notes.

Joyce: Well, New Year's Day got off to a tragic start. Everyone knows there was an early morning terrorist attack on Bourbon Street in New Orleans. And despite some of the early fog-of-war confusion that suggested more than one person was involved, authorities now believe that the subject, who died in a shootout with police, acted as a lone wolf and was motivated by a conversion to ISIS ideology. It feels very much like the classic online radicalization that we've seen over and over again. We've all heard on the news, I suspect, a lot of talk about the investigation, what happened, and the suspect. We'll focus a little bit today on the legal angles and what remains to be done. Jill, the subject is deceased. There won't be any prosecution. So what's left for law enforcement to do?

Jill: There's still a lot for law enforcement and legislators to do, I think. We have to look at really what caused this conversion. So what specifically. Was it something that was just within the free speech rights of someone to say and for him to read? How much of this came any knowledge he had from the service in the military? And what does this say about mental health of soldiers? We have to look at that and what needs to be done. And particularly in light of Projects 2025, which is threatening to cut veterans benefits and this sort of thing, we need to look at the laws that might've been violated. Because maybe there's a way to better enforce the laws, particularly if we look at the second episode, which was in Las Vegas, which involved a gun. We need to look at how that gun was obtained. The rental of the cars in both cases was through a consumer-to-consumer app.

And so we need to look at all of these things, not just the ISIS connection of this particular one. But I think there is a threat that maybe we need to look at intelligence warnings and laws and whether we need additional laws to protect us.

Joyce: So Barb, you've got experience in anti-terrorism work and I think you understand at a very ground level what happens in US attorneys offices, FBI offices, ATF offices across the country following an incident like this, because you don't just wrap up the investigation and leave it there. So maybe you can talk with us about how the effect of an incident like this is felt more broadly just in New Orleans and what do you expect is going on across the country?

Barb: Yeah, I think one thing that's important to note for our listeners is although terrorist attacks maybe have seemed to be on the back burner in recent years and we've been paying attention to other kinds of things, the FBI has not gone to sleep on any of this stuff. There are cases that come up from time to time that we hear about. And I think sometimes when an attack is thwarted, we tend to give it less attention than maybe it deserves. There was a planned attack around the election in Oklahoma that the FBI said was part of an ISIS-inspired plot, and they were able to stop it. But this I think demonstrates the stakes when one does not get stopped.

And so I think immediately, no doubt there were efforts across the country to investigate to determine whether he had any accomplices or associates, whether anybody else was involved. And they pretty quickly have ruled that out. One of the things I know they said they did was to search his cell phone and other digital devices found at his home in Texas, and from those things, they concluded that he did act alone.

But I think that this will have some ripple effects in other offices. For one, as you said, it appears that he had been radicalized. This is somebody who served in the US military for something like 10 years. A US citizen. And so what was it that caused him to adopt this ISIS ideology? As you said, there was an ISIS flag attached to the car and he made some pro-ISIS videos just before he did this attack between midnight and 3:00 A.M. What caused him to become radicalized? Because it would be important to find that out so that you could prevent other people from becoming radicalized.

There is a First Amendment right to say, "I love ISIS," online, but when people are crossing over into discussing violence, that's a more significant thing. So I imagine there will be continued intelligence investigations into some of the sources of radicalization online.

One thing that is probably going to happen that I think is maybe a bad takeaway from all of this is, Joyce, I know you and I were texting about this during the press conference in New Orleans, where people were very critical of the police department there because they had taken down some security bollards that were being replaced before the Super Bowl. They put cars there instead. And people were criticizing them for not having a more secure perimeter around this. You can only secure so much. They could have expanded it out a few more blocks, and then the attack would've happened just at a different location. So-

Kim: Wasn't it true... I'm sorry, I didn't mean to interrupt.

Barb: Yeah.

Kim: But wasn't it true that... I mean, this happened at about three in the morning?

Barb: Yes.

Kim: There were those barricades up through the new year-

Barb: Yeah, past midnight.

Kim: The new year being run in. And over the course, if anybody's gone to... For example, I used to live in Times Square, so it would be this total secure perimeter around Times Square. But then by one o'clock, that's coming down.

Barb: Garbage trucks needs to get through there, right?

Kim: Yeah. So it's not-

Barb: It's kind of a mess. You got to clean it up.

Kim: Right. Right.

Barb: So there's been some, I think, ill-directed criticism at kind of the hardening of the target, but I am sure people learn the lesson anyway and special events are going to be extra secure as a result of this.

And having a layer of security is certainly an important thing. They always talk about layered security. So that's one aspect of the security. But one of the others I also think should be making a comeback is this idea of countering violent extremism. It is something that was a very active initiative during the Obama administration when Al-Qaeda and ISIS were kind of in their heyday, and the goal was to intervene with people who were demonstrating an interest in ISIS or Al-Qaeda videos and violent tendencies.

Now, it's tricky because people certainly have a right to say things and express what they want to express, but using an intervention strategy, so if you see kids at school who might be falling... You can see all the signals. They've become alienated, they've become disengaged, they've lost interest in their hobbies and other kinds of things. Regardless of whether it's they've been radicalized by ISIS or they're suicidal, when people are showing these red flags, looking for intervention strategies. And some schools have it for active shooter situations. But violent extremism, in whatever form it is, is something that we should be looking to help people who are having either mental health issues or perhaps have become radicalized by what they're seeing online.

Joyce: I couldn't agree with that more. The protocols for countering violent extremism that were sort of pioneered by the Obama White House were really effective. Folks like Barb and me got to play a role in that. And also included in that was Arab Muslim outreach, sending federal law enforcement out into communities, not to prosecute or investigate, but to essentially to become friends, to help each other, to work together. That was very effective.

But now we're entering sort of a new era, Kim, and we've got this situation where Trump was pretty quick to jump on this claim, as were others. Speaker Johnson newly reelected. And they said that the suspect was an immigrant, and that wasn't true. He was a US citizen. He served in the military for 10 years. His commanding officer has expressed great surprise that this happened. So with threatened mass deportations around the corner in the new administration, do you think this becomes part of the narrative? Are we actually going to evolve from an era where they grossly mischaracterize immigrants to outright lies or is this just a one-off?

Kim: Oh, this is certainly not a one-off. And think about how far we come, to the point that you were making. After 9/11, when that actually was a foreign-based attack on the United States, a week after that attack, what did the President of the United States, George W. Bush, do? He went to a mosque. Because he wanted to make clear that while he stood by what he said and stood on business when it came to wanted dead or alive whoever was responsible for this, that he was not going to hold responsible innocent people or demonize people broadly based on the actions of terrorists. That was leadership. There are a few things on earth that I agree with George W. Bush on, but that was leadership in that moment. What we are seeing is the absolute opposite in its worst form. We are seeing the president-elect lying, first of all, by focusing on the border.

Barb: What? Lying?

Kim: Right.

Barb: Donald Trump?

Kim: Yeah. First of all, you mentioned the fog of war, Joyce. It took days. I didn't say a thing about this. And I'm just a journalist. I didn't say a thing about what... because I knew we didn't know what was happening. We didn't know if the two incidents in Las Vegas and New Orleans were connected. We didn't know the motivation. And we needed to let investigators do their work. So it went from a fear that this was a plot by multiple people to the understanding as now, the FBI is saying that this was a single actor in New Orleans and that this was likely in Las Vegas a suicide of a veteran, which is something entirely different than people feared in the beginning.

Right away Donald Trump instead jumped in to attack Joe Biden on an open border policy, which has nothing, nothing, nothing to do with anything that happened anywhere. These were two American citizens who served their country in the military. One appears to have been radicalized domestically here in the United States, and the other one we don't even know, perhaps this is a mental health issue that speaks to the military and the need to address that, which is a huge issue. But we have him fomenting this.

And what scares me the most about him fomenting this type of hate is not just the fact that, as you pointed out, mass deportations are on tap based on what they said, but it's also the fact of he's not trying to do this to stir up votes, because he knows that immigration motivates voter. He is a lame duck. He's either just doing it to demonize these folks or because he generally is a believer that everybody with a last name that is not Anglicanized and whose family or who hails from a different part of the world or who believes in religion other than Christianity is inherently othered and don't belong in this country. That's what he's saying in this moment, and it's absolutely disgraceful.

Joyce: It is. It's really frightening. It's really tragic. It's the kind of thing that whips up hate crimes. And it has always stuck with me that the first person who was killed in the United States in, quote, "retaliation" following 9/11 wasn't a Muslim person. It was a Sikh gentleman at a gas station shot by some ignorant person who couldn't make the distinction and I guess just thought it was open season. And that's sort of the devil that sits on the shoulder of America. We don't need a president that's encouraging that devil and encouraging the worst voices in our society.

So this is like a moment where a true leader would come out and apologize and say, "I got ahead of myself. I was wrong." Donald Trump is never going to do that. I was wondering while you were talking, Kim, if he'd ever even set foot inside of a mosque, which I sort of tend to doubt, but maybe I'm misinformed on that. Certainly though we're entitled to expect more, but the more that we are going to get is more that's like this. Donald Trump and Kash Patel have both called for abolishing the FBI or at least neutering the FBI in a serious way.

This incident in New Orleans, the Tesla that explodes in front of the Trump property, boy, these really point out the need to have strong, well-coordinated federal law

enforcement capable of working with and supporting state and local partners, because if anything was apparent with these events this week, it was that the locals don't have the resources standing on their own to deal with these incidents. And it really is all hands on deck with every law enforcement agency bringing what it's best capable of doing to the table.

So how do you think this all plays out? Do you think Trump and Patel will back off of this call to circumscribe law enforcement's ability to walk? Will they accept the political reality? Are they still going to try to leave us defenseless? Jill, what do you think?

Jill: Well, I think there's a lot going on here in that when you look at the need for the FBI, I think you've pointed out, Joyce, quite correctly that we need a federal effort who can track people interstate, who can have the expertise in bomb disposal, IED disposal. All of those things are really essential. And you can't have every local police department having that. So you need the FBI.

Having said all that, what are they going to do? I mean, Project 2025 and Kash Patel are dedicated to using the FBI for retribution. So that's a slightly different question. They want to eliminate the 10-year term for the... And actually of course they don't have to officially get rid of it because they have in effect gotten rid of it by forcing people out, twice now. And so there is no more 10-year term to make it a non-political appointment. And I think you're going to lose the ability to distinguish between terrorism and suicide, between a lone wolf who has been radicalized and one who's not a lone wolf but is actually working with a foreign terror group.

We need the FBI. I think that they may not be able to abolish it in the way that they would like to, but they've succeeded in getting rid of it being a non-political agency. And it will be continuing to look at things from the retribution standpoint, and that is really, really scary.

I think the obvious connections between these cases... And also I don't think we've mentioned that Tesla was very helpful in this investigation because they have a huge amount of data that I was not aware of, but there's a lot of internal cameras and external cameras. And also at Tesla charging stations, they have cameras, so that every car that was there also is recording this car being there. So it's really interesting how the FBI can use that information. And yes, I suppose to some extent, local police could use it, but not as well as having a federally coordinated system. And I don't want to go back to the days of J. Edgar Hoover, who served for over 40 years as the director. He was still director when I started at Justice. And we don't want to go back to that. We want that 10-year term.

Joyce: A point that you're making here that's so important is this notion of discrete expertise. The FBI is extraordinarily good at what it does. I can recall working a bomb case where there was talk of a legendary ATF expert who was so familiar with the institutional knowledge that the agency possessed that he was often able to look at devices and talk about who else had built bombs in that same style or using those kind of components.

The FBI has great expertise with IEDs. To some extent they overlap with ATF, but it tends to be mutually reinforcing. No local agency could have that scale of knowledge on its own. Even for the federal agents, it requires constant training. These guys have to get



in the room together and talk to each other. When there's a major incident like the one in New Orleans, the special teams come in from all over the country, both to assist and to train. And what I think Trump and Patel miss is that the FBI is out there playing defense every single freaking day, and they're defending against these sorts of events constantly. The public doesn't always see that. We used to see that to some extent when we worked inside of government. If even one of these bad actors gets across the goal line, like what happened in New Orleans, then people get harmed. We really can't thank law enforcement enough for the job that they do. Barb, I know you have probably similar thoughts in some ways.

Barb: Completely agree with what you and Jill have just said. Kash Patel has called for removing all of the FBI agents in the headquarters and making them into street cops. Which is not the role of the FBI. The FBI is not only a law enforcement agency, it's also an intelligence agency, as you're pointing out.

But the reason that leadership matters so much, and I think Kash Patel is so ill-suited to serve, is in an incident like this, I think we saw what was happening, at least some of it, at the FBI. They very quickly designated it a terrorism investigation. And maybe that seems obvious to the public, but you'll notice many times they do not or they wait before they do so, because they have to have a factual basis to do that. They can't just say every kind of explosion is a terrorist incident. This one had some hallmarks, including that video, which they found pretty quickly, and that flag. And so they were able to designate a terrorist investigation.

And that has significance. It's not just symbolic. When you have a terrorist investigation, it allows the FBI to use additional investigative techniques that are not available to an ordinary criminal investigation. For example, they're able to get nationwide search warrant authority. So they could go to a magistrate judge in New Orleans and get a warrant for the phone they find at the scene and all the devices that are found at the defendant's home in Texas. That's very efficient to not have to go to a lot of different judges to get warrants.

If it is a international terrorism incident, which this was designated with the connection to ISIS, they can also query FISA collection using his name to see if he's been in contact with targets who are located overseas. And if they can find probable cause of any associates, turns out they did not, they could have gone up on FISAs about anyone they determined to be... where there's probable cause to believe they were acting as an agent of a foreign power. And if they had found some local cell here that was working together, they could conduct what's called an enterprise investigation to completely investigate everybody involved. So there's a lot going on there.

The other really important part of a case like this is it also is necessary that you respect the civil liberties interests of everyone involved here. You can't just say, "We're going to pull off all the stops and use every authority there is to investigate." Because there are also things in what the FBI calls it's DIOG, Domestic Investigations Operations Guide, that says, for example, you may not base an investigation solely on First Amendment protected activity. You have to observe all of these authorities in any kind of court process that you want.

So those are two really important aspects of that because, as Jill said, we don't want to go back to the days of J. Edgar Hoover, when the FBI in name of national security would surveil people like Martin Luther King and others who they saw as political threats to the administration.

So I think all of that just demonstrates how important it is to have a person with knowledge, experience, and judgment leading the FBI. Someone who is not a knee-jerk political reactionary like Kash Patel appears to me to be.

Joyce: Kim, what's the journalists take on this? I mean, it really is an important pressing issue. You're inside of the Beltway. What are you seeing?

Kim: Yeah, I agree with everything that you guys said, and I think it's also important to remember that the plan is also, according to Project 2025, to take the FBI out of DOJ and put it directly under White House control, which on top of all of this-

Joyce: Crazy.

Kim: ... would be absolutely gobsmacking. So I don't have a lot of high hopes as to any of this. I think all that I and all four of us can do at this point is to keep people aware, make people understand the stakes so that we can keep our eyes on it so that we are clear, there is no sanewashing happening, there is no mincing words at just how dangerous the situation is.

Joyce: So look, you guys know I'm not really big on engaging in Pollyanna exercises, and I tend to spend probably way more time than is healthy out on the ledge these days, but this is important stuff. And when it comes to foreign terrorism, the country seems to get it, and despite a few regrettable episodes like Louisiana Senator Kennedy pushing the FBI ASAC, who just happens to be a woman of color, away from the microphone so he could mansplain what she was very capably talking about at the press conference, by and large, we work on these issues in a bipartisan fashion.

Not true when it comes to domestic terrorism, which has somehow or another becomes subsumed in the culture wars. Do you think that there's a possible way that these events, as tragic as they are, that they could provide some basis for bipartisan work on making sure that we can effectively defend against foreign and domestic terror, or is that just beyond the pale right now? Kim, you're shaking your head.

Kim: Well, no way, because we have already... Listen, the FBI has said for years, for years, that the greatest terror threat is from domestic terror in America, and it is from radicalization. Whether it is right wing radicalization or in this case a radicalization based on ISIS, that has been the biggest threat. We have known that. The FBI has said that under administrations of both parties. And it has been ignored.

Up until very, very recently, the entire anti-terrorism apparatus was devoted to foreign terrorism when that wasn't even the biggest threat. That threat had been... And yes, this is horrific, but it's also important to know that ISIS as it exists, especially after the fall of Assad, is a shadow of what it used to be. It doesn't mean that it's not a threat at all. Obviously it is. This person was radicalized by that organization. But it is not 2001 ISIS.

It is not 2004 ISIS. It has scattered. It is little cells that still exist in places like Syria and Iraq, but it's not the top threat to Americans. I fear A, that people are going to miss the ball, think that it's 2001 again, and start acting crazy and miss the real terror. The biggest threat was demonstrated very clearly on January 6th, 2021. That's a bigger threat to all of us at this moment than even radicalized ISIS supporters. But we're never going to get back there because we are just so broken. If we couldn't get there in the last 10 years, I don't expect we should get there now.

Joyce: Jill, are you any more optimistic than Kim is?

Jill: Oh, I wish I could think of something optimistic to say. And I think as Barb has often pointed out both on MSNBC, in her book, and in this show, the threat is real and we aren't dealing with it. And this goes back a long way. I think Kim is right. It certainly goes back to 2001, maybe even further back. And I remember bipartisanship. I remember when we would've worked on this and seen this as a real threat to America that needed to be solved. I don't see any hope of bipartisanship. Although today we did see Johnson and Hakeem Jeffries having what seemed to be a very cordial exchange, and there are reports that the two of them get along and will work together well.

So maybe I am being Pollyanna and taking that one brief moment on television to say maybe there's a chance that we can work together in this closely divided Congress, where literally it's one or two votes away and could change with the removal of some Republicans to go to the cabinet and maybe Democrats taking over those seats in some cases. Maybe that's some hope. I don't know. Am I pushing it?

Joyce: Ugh. It's always the politics. So, Barb-

Kim: I love the hope. I love the hope.

Joyce: I know, right? [inaudible 00:34:04].

Kim: Even if I don't embrace it, I love the hope.

Joyce: So Barb, if instead of Vice President J.D. Vance, we had President J. Vance, and if I could appoint you as my director of the FBI... No seriously, if you were the director of the FBI, what would you do? How do we take on domestic and foreign terror as public safety priorities and remove the politics? You'd be great at that.

Barb: Oh, thank you. As soon as you're elected president-

Joyce: I would appoint you. Absolutely.

Barb: Yes. I appreciate it. I support President Vance. Remember right after the September 11th attacks, we were united for a minute there. We came together because we'd been attacked and we were united in our response for a brief period of time. And now it didn't happen even for an instance. Donald Trump used it as an opportunity to stir up fear of immigration, which is all his game, right? It's all about stoking division in society. And that's why I think maybe we need to look for leadership outside of politics, including FBI

directors. Something tells me Kash Patel is not the one to separate politics from law enforcement.

Joyce: You think?

Barb: In fact, he seems, if anything, to be more inclined than anyone to conflate those two things. But I think in a better world, and maybe in four years we'll get that better world, or maybe Kash Patel doesn't get through and we get a real FBI director, I think that could be a place where somebody says, "Look, this is a serious threat."

And even an attorney general who may be... I'm not the big critic of Merrick Garland that some are, but I do think he could have done even more, he probably thought he was doing a lot, to just speak about the threats against the American public. I know that there were politicians who would take everything he said and twist it around, but I think that's what leadership requires.

I think Chris Wray also tried to keep a very low profile in an effort to keep the ball rolling without angering Donald Trump. And so I don't know what that was like. But again, I think if he could have spoken out more about, "Look, these are very real threats to our public safety," I think that could have brought and maybe could still bring a more united response to help us protect America.

Well, Chief Justice John Roberts published his annual year-end report on the courts this week. I want to get your takes on the report. And just to focus the discussion a little bit, he usually chooses a topic, and this year he spoke out about threats to the independence of the judiciary, including violence, intimidation, disinformation, and defiance of court decisions. Kim, certainly there are legitimate concerns about threats and attacks against judges, which indeed pose a threat to the rule of law, but some critics are calling Roberts's report tone-deaf. Do you agree? What's your view?

Kim: Yeah, I'm one of those critics. So let me back up to your-

Barb: Look out!

Kim: ... to your first point. Violence, violent threats, threats to members of the judiciary is a problem. It is a problem that is increasing and it is horrific, and all due efforts need to be put in place to ensure that members of our judiciary are safe. On that, the Chief Justice and I are in firm, solid agreement. But just reading his year-end report as a whole...

So just to get an idea, the Chief Justice of the United States, that's the title, every year on New Year's Eve puts out this report that basically gives the state of the judiciary. Way back in the day, it used to be a document really about the needs of the judiciary, things like staffing and funding and things that they have been doing well, new programs that they've implemented or things that they want to do. But in recent years, it's sort of been kind of... I don't know. I want to say platitudes. But it just hasn't been the kind of robust document that you paid a lot of attention to as a journalist.

Barb: It's more like grievances, don't you think? It's like George Costanza's dad on Festivus.

Joyce: [inaudible 00:38:32]. It is Festivus.

Kim: Now it is.

Barb: Yes. Right.

Kim: For a while, it was just kind of boring, right? It was just like, "Oh, we want to think about some things." As a journalist, I would barely pay attention to it. This report feels like Festivus. It feels totally like, "I got a lot of problems with you people," the Chief Justice said, "and you are going to hear about it." And what clearly is coming from this court -- because I don't think this is just John Roberts' sentiment. I think that he has had one of the eight people around him, or one or two of the eight people around him, in his ear -- this is the anger at some members of this court at being so heavily criticized in the last couple of years.

And the problem is the reason that they're so heavily criticized... Let's set aside the substance of their opinions for a minute. That's a big part of it. But just for the point of this conversation. It's the number one thing that I hear about, folks, is the fact that this Supreme Court refuses to abide by even the non-binding rules that they set for themselves, and that that smacks of a lack of ethics and there seems to be zero desire to do anything about it. And Chief Justice Roberts said exactly zero words to that, to the fact that they put out this ethics, quote, unquote, I'm doing air quotes, "new ethics rules," and they are still breaking them. We're still hearing about undisclosed trips. We are still seeing the justices, contrary to what the Chief Justice said that, "Well, you know, judges speak through their opinions." So I too believe that the Chief Justice of the United States's take was tone deaf.

Now, I just want to say unequivocally that threats, any sort of threats, particularly violent threats to members of the judiciary, are completely out of bounds. It is a big problem. It needs to be addressed with all due diligence. On that we agree 100%. But what it sounds to me that this report, which is very different than what these reports used to be, these used to be administrative reports about things that the judiciary has done well, or needs of the judiciary, things that they need to be able to do better. This year, anyway, it sounds like Festivus, it sounds like grievances from the Chief Justice and probably the people in his ear, which include members of the majority of that court that are speaking, that are angry with the fact that people have been vocally unhappy with the way the Supreme Court handles itself.

But the thing that is bad is that he totally skips over the reason most people have lost confidence in the court, and that is because they don't seem to hold themselves accountable for anything. They have ethics rules that should bind them that they have ignored for years. Then they put out this new restatement of ethics rules that they promised to follow, which are just the old unenforceable rules. But then again, they don't follow them. We have justices like Sam Alito who either don't recuse in cases that he should or will recuse without giving a reason why. Contrast, say, a Justice Elena Kagan, who explains clearly every time she recuses, because those are what the rules say that she should do and she follows them. You have new disclosures about fancy trips from Harlan Crow that Clarence Thomas has accepted that we talked about last week.

We see this, and so why shouldn't the public have questions about the legitimacy of this court? When they question it, that's not an attack on the judiciary. That's them seeing with their own eyes and using their own critical thinking skills to say something is amiss here. And the Chief Justice said nothing about that.

So I think that this is a terribly tone-deaf report despite valid things such as attack on members of the judiciary that he points out. He misses a big part of what the problem of the court is, and that's why I think this is tone deaf.

Barb: Yeah, I completely agree with you, Kim. Not only does he fail to mention those elephants in the room, but he also complains about anybody who disagrees with the opinions of the court as being sort of illegitimate criticism. Now, there are certainly some bits of legitimate criticism though, and Jill, I want to ask you about that. One of his four areas of... Kim calls it Festivus grievances, is he kind of calls out politicians who advocate for disobeying court orders. He calls it defiance of court decisions. He doesn't name names, but does he have a point there and could he be talking about people like Donald Trump or J.D. Vance or Governor Greg Abbott of Texas? What are your thoughts there?

Jill: I would say he is talking about all the above. There's no question that they have verbally called for disobedience. And there are some cases I am sure where disobedience might be justified, but it's hard to think of them. And none of the things that J.D. Vance is talking about are legitimate to stop obeying court orders. Administrations of both parties lose cases and they have to obey court orders. This goes back to forever where people have had to obey. Richard Nixon had to obey a court order to turn over tapes that ended up in his having to resign or be convicted. So I think it's a really serious problem.

I want to go back to some of the things that have already been said, which is the absence of any reference to the seriousness of the ethics issue and the transparency issue. Because in addition to all of his report, there was a request to refer Thomas, Justice Thomas, to the Department of Justice, and the conference that makes that decision said, "No, we're not going to refer it." And in part they had some reasons that you could discuss. But what they missed is that since they made that decision, another trip has been revealed, which he did not report. And I think that at some point you have to say, "We don't have to keep catching you and then you post hac vice do a report. You have to do it in advance. You have to report"

Kim: [inaudible 00:45:28] means after the fact, y'all.

Jill: Thank you.

Barb: Is that another one of those big words, 25 cent words? [inaudible 00:45:33].

Joyce: Twenty-five... It might be a 50 cent word.

Jill: Even I wouldn't use that in my children's book. Honestly, I wouldn't. I don't know how it came out of my mouth. I don't even know how I remembered the words. Sorry. Oh God, forgive me. Forgive me.

Anyway, I do think it's a serious problem that if people aren't doing the transparency, which is clearly required. That is one that is not up to them to do or not do. So I think it's really a serious thing. And I want to say the threat issue, you are so right, Kim. Obviously we can't have threats that sometimes result in serious injury. But it's not just to the judiciary. We can go back to killing the CEO of UnitedHealthcare because you want to start a discussion that you think is important about healthcare in America. We can't allow this violence and vigilantism to continue. It's hard for me to think I'm agreeing with Justice Roberts on anything, but obviously that part I agree on. I just don't agree on any of the other things.

And I do agree that politicians who advocate for, like, "If the court does something we don't like, we're not going to obey." That is what happens when you lose total trust in the Supreme Court. It will cause people to stop obeying. And we've always said the only way the Supreme Court can enforce is through people obeying and they must. Otherwise we don't have a rule of law in America.

Barb: Joyce, I want to ask you about the Supreme Court as an institution. I know you teach a course, law school course, on democratic institutions, and the courts are certainly one of the most important institutions, the Supreme Court, the most important among the courts. One of the things that Chief Justice Roberts knows is that disinformation from foreign state actors on social media about the courts is undermining public confidence in the institution. And that certainly is one of the major goals of Russian disinformation is to make Americans lose confidence in democratic institutions. Is it a fair point when Chief Justice Roberts raises it, or is this instead just an excuse to deflect criticism? I mean, anytime someone criticizes anything I say, like, "Oh, well you're just an enemy of democracy. That's just disinformation." What are your thoughts on that particular point?

Joyce: Yeah, I guess both can be true, right? We should all be deeply concerned about disinformation being spread by foreign state actors, including Russia and China and others. They use that on the internet in an effort to drive a wedge between Americans and to undermine our institutions. But we also know that Donald Trump has a bad tendency to lean in on this, often using that disinformation to further his own purposes. And as Kim pointed out earlier today, he's now a lame duck. He's not doing it to get votes. He's doing it, if he continues to, out of pure mean-spiritedness. So that I think is something else that we have to throw into the mix.

But look, the reality is that there are legitimate grounds for criticizing this court. We've talked about some of them. We've been talking about them for months. There's this imbalance between the great power the court is entrusted with and its total lack of willingness to impose enforceable ethics standards on itself. And that's especially a problem in light of clear abuses. That's fair ground for criticism. And to the extent that the Chief Justice doesn't want to address it and wants to dismiss it, I think he is guilty of what you're talking about, Barb, of just trying to distract. This apparent conflict of interest that Thomas and Alito have where they are taking scads of money and expensive vacations and other stuff from very powerful men who are interested in cases that are in front of the court, and then these justices vote their way, that's something that the Chief Justice should have taken head-on. Instead, he's trying to distract us from it and blame us for calling that out and criticizing it.

And so look, I reached the conclusion that this court has given our foreign enemies plenty of material to work with, and it is up to the court to clean up its own act before it starts trying to lay the criticism off on us and others.

Barb: Yeah. I guess that's probably the best answer. Both can be true, but... It certainly is an element, but it's not the only story. Let me just ask you maybe in one quick lightning round here, if you could pull Chief Justice Roberts aside, grab him by the lapels and say, "Look, here is some candid advice you need to hear to lead this court during this very challenging time." What would that piece of advice be? Let's go Kim and then Jill and Joyce.

Kim: Be an actual institutionalist.

Barb: That's good.

Kim: I am not a resolution person, but one thing I'm not going to do in 2025 is keep calling Chief Justice John Roberts an institutionalist, because he has had the opportunity to step up in that role if he really believes in the importance of the institution of the US Supreme Court, and he has not done so. So put your mouth and your money where your perceived title is as an institutionalist and do the job of making the court hold itself responsible.

Barb: Okay. How about you, Jill?

Jill: I would just put maybe two specifics under that topic because I agree with Kim, and those are obviously, as we've been talking about, ethics reform needs to be put in place and enforced. Enforceable ethics that are actually enforced. So that would be my first piece of advice. And of course he doesn't want to hear that, but he also won't want to hear that they've got to stop their political predetermination of the outcome of cases. And that is how I have seen the last few sessions of court coming out, is they decide how they're going to go. They want to get rid of regulations, so they're going to totally eviscerate all of the regulatory agencies and their powers. Things like that are happening. And that's because that's what they want politically. And I think that if politics is governing how the court decides, it will continue to lose its credibility.

The other thing I want to note is something else that was in the appendix to that report, and that is that if you look at the graphs, caseload and number of cases argued is going down. And that surprised me greatly. And as a result of that, it makes me think that President Biden did the right thing in not approving, not signing the judges act to increase the number of judges we have. First of all, there were so many vacancies. If it was really to diminish the caseload, then Congress should have confirmed the pending judges, which they didn't do, and it's too late now because we have a new Congress. So I thought the report was really interesting and very much missing on several grounds.

Barb: Okay. Joyce, what are you going to say to Roberts when you've got him cornered at the cocktail party?

Joyce: Well, look, I think Kim and Jill have already said all the good stuff, so maybe I'll just be a little bit uglier than they have been willing to be. I read this report and I got to say, sometimes the Chief Justice strikes me like crazy Uncle Bob who's been going down a



Reddit rabbit hole and discovering QAnon. I don't mean that maybe quite that far, but I sometimes think that maybe he's been listening to Ginni Thomas and Martha-Ann Alito a little bit too much. And it's like this report is flying the upside-down flag, saying, "Help the Republic," and he's missing the fact that the problems maybe are inside the institution.

So I would encourage the Chief Justice to do what many chief justices and other Supreme Court justices do and get out a little bit in the world. Maybe go out and speak with law students or maybe speak with regular folks who maybe won't feel quite as compelled to be polite or as intimidated by the office that he holds. The real problem when you're the Chief Justice of the United States is everybody tells you what they think you want to hear. John Roberts, I think, needs to hear some of what's going on elsewhere in America. He needs to be exposed to women who are dying in Texas because they can't get medical care. I think it would do him some good to be out among the people that he is supposed to serve.

Barb: Oh, I love it. Get out of the ivory tower, Chief Justice John Roberts. I would give him one other... All the things you guys have said are absolutely true and I think are good advice. So I've been trying to think of one other piece of advice, and I think I would say this, don't allow yourself to be a tool of the right, which I think this court has been. Now certainly Roberts himself is very conservative, but one of the things that I think has undermined the credibility of this court is the way they have been perceived as a tool of the right. Because don't forget that justices choose which cases they decide, and more and more they've been picking cases like, "Let's review Roe versus Wade. Let's take a look at affirmative action. Let's take a look at Chevron." The only reason those cases got overturned is because the court decided they wanted to overturn them.

And I think when you overreach in that way, when you don't put a check on your own power, when you exercise power just because you can, that is what undermines public confidence in the institution. And so there's certainly important cases coming down the road that the court should take up, but don't go out of your way to overturn decades-old precedent just to please the right.

Jill: Section One of the 14th Amendment is the most famous section of that amendment. It provides due process and equal protection of the laws, but Section Three has become the focus of some real attention recently. I've had many questions on social media, and I bet all of you have, about whether that section can be used to prevent Donald J. Trump from taking the oath of office on January 20th, in basically a few weeks. So let's talk about that.

First, here's what Section Three says. I think we need to keep that in mind, and I've taken out all the extraneous words that don't relate to the issue. "No person shall hold any office, civil or military, under the United States who having previously taken an oath as an officer of the United States to support the Constitution of the United States shall have engaged in insurrection or rebellion against the same or given aid or comfort to the enemies thereof."

So, I think all of you can weigh in on all of these things. But let me start with you, Kim, and talk about what does that mean. SCOTUS recently looked at the language in terms of Colorado keeping Donald Trump off of the ballot in the presidential primary there, and

the lower court has said, yep, they could keep him off. SCOTUS disagreed. What did the court decide about Trump and holding office, or was it just that he couldn't run for office?

Kim: What essentially the court said was for the purpose of the primary, which is what the Colorado case was based on, trying to bump him from the primary ballot in Colorado, that the 14th Amendment essentially did not... this disqualification clause essentially did not apply to that, in a decision that I think actually was decided correctly, that primaries are handled by parties in this country, and they are the ones who set the rules as to who can appear on a primary ballot. So it's up to the Colorado Republican Party to decide that, not the Supreme Court, not members of Congress, anybody else.

The decision explicitly said that when it comes to the general election, that's a different question. If you want to come back to us if that arises, we'll take a look at it, but that's not the case presented before us. So the Supreme Court, for all intents and purposes, has not ruled on this issue as it applies to someone actually taking office.

Jill: Okay. So Joyce, as Kim is suggesting, that case left open the question of whether the 14th Amendment Section Three bars Trump from holding office. Did SCOTUS address that? Does the language of the 14th Amendment bar him from being inaugurated? And if so, what would it take to bring the case up to have a decision as to whether it could?

Joyce: Okay, so look, I'm going to be the voice of realism here. No one who is advocating for this approach wants to hear what I'm going to say, but I feel compelled to say it anyhow. This is the bottom line. This Supreme Court is not going to bar Donald Trump from taking office on 14th Amendment grounds. It's just not going to happen. On Earth Two, where the United States Senate voted to convict Donald Trump on the articles of impeachment for January 6th, this wouldn't be an issue because he would clearly be barred from taking office on 14th Amendment grounds. That's what should have happened, and didn't.

And so, yes, in a very real sense, there is still a little bit of an issue in play here, but the 14th Amendment by its terms would say that an insurrector could be barred. A single state can't do it. Congress can. Congress abdicated its responsibility in this regard. And maybe I should say that correctly, Republicans in Congress abdicated their responsibility in that regard.

As an appellate lawyer by nature, I like to poke and prod at these sort picky and legal questions. But here I'm just going to say that what we should be doing is turning our focus to the midterm elections and just pulling out all the stops to create new guardrails in Congress so that we can't have a repeat, so that Donald Trump, who does violate the Constitution in his oath, could be impeached and convicted on that impeachment. The sad truth is that Americans have really short memories, and when Trump is back in office and there's no pretense of helping to make life better for average Americans, then maybe people will wake back up and recognize what we have done. But it's going to be the midterms and not a 14th Amendment sort of an errand that is the guardrail that we need for the next four years.

Jill: I, of course, hope you're right, and that will happen, but I do want to just reemphasize that you said the language of the 14th Amendment is clear that he is barred from taking office

and that it's just a failure of the Supreme Court that they won't let that happen. And it may be irrelevant-

Joyce: I'm not sure that that's what I said. I'm sort of in Kim's camp. I think that they decided the case properly.

Jill: Right. But we're talking about whether they would in a new case that is brought before them say he can't be inaugurated because we decided he could run for office, but it says in the Amendment that he can't hold office if he has done this.

Kim: The Supreme Court properly decided that he could not be kept off a primary ballot. This was a very specific question. It said nothing about running-

Barb: It was narrow.

Kim: Yeah. It said nothing about running even in the general.

Jill: So I agree that the court said the primary, he could not be barred from because they're run by a political party, not by the government. I don't agree that if the case came before them now talking about whether he could be inaugurated and hold office, that the Supreme Court would not recognize the language of the 14th Amendment.

But there's another sentence in the 14th amendment that I think is interesting, and that is the last sentence says, "But Congress may by a vote of two-thirds of each house remove such disability." And to me that sounds like the disability is automatic, that Congress can by affirmative vote remove the impediment to holding office, but they don't have to do anything to cause the disability. What do you think, Barb?

Barb: Yeah, and Jill, you are focusing on something that actually came up in the court's opinion. You may recall that Justice Barrett issued a concurring opinion, and the other three women justices agreed with her view, though they dissented in the... I'm sorry. Pumpernickel. It was 9-0. I'll start over.

Jill, you're right. In fact, this came up in that Supreme Court decision about the Colorado case where Justice Amy Coney Barrett wrote a concurring opinion that was joined by the other women justices where she said that the court actually went a little too far. It would've been enough to say a state cannot remove a candidate from the ballot period, the end.

And the court is supposed to answer only the question that's in front of it where there's a live case in controversy. Instead, they went a little bit further and they addressed the question you're raising, Jill. One of the things the majority said was that before disqualifying someone under Section Three, there must be a determination that the provision actually applies to the person. So, did Donald Trump engage in insurrection. I mean, we all can kind of say from a seat-of-the-pants perspective, yes, but there has to be some fact finder that does that. And what they said is only Congress could do that and that they had to do it by authorizing appropriate legislation to enforce the 14th Amendment. Which again was criticized by the other justices as this is going way too far.

But even if that were the case, I'm not sure that works because wouldn't that be either an ex post facto problem, which means after the fact, or even a bill of attainder, which is creating legislation just for one person. And so I don't know that their remedy even works. I think a better reading of the statute is the one you just gave, Jill, which is that the default is that the person's not eligible. Now, maybe there needs to be a finding that Congress votes and says, "We agree he did commit insurrection, but after that the remedy ought to be..." And therefore he's just barred from office. It takes that two-thirds vote to find that the disqualification can be overridden.

Jill: And don't you think though that there have been a number of commentators have said there has been a fact-finding. The majority of Congress voted to impeach him on those facts. And there have been other... The Colorado had a five-day hearing saying that he was guilty of this. So there have been fact-findings that would make it a disability that is automatically applied. That's how I come out on this. I'm going to consolidate this into one bigger question for all of you, which is it's tricky to say how exactly this gets implemented in the same way that we have a drafting problem on the Emoluments Clause. And so what do we need to do to make these things enforceable? I mean, it seems clear that I think we would all agree that the Emoluments Clause was violated in Trump's first term, that he made money from foreign governments and states through his hotels and other adventures. But nobody could do anything about it. So what needs to be done to allow a reasonable use of the 14th Amendment Section Three and the Emoluments Clause?

Kim: A good place to start would be for Congress to pass an enabling statute. One of the biggest problems with this is that it is unclear whether an enabling statute is even necessary, which kind of cripples everybody. The Supreme Court is not going to want to wade into this. Other folks... If Congress speaks clearly saying, "Here is a statute that lays out the process by which this part of the Constitution is enacted," that will go a long way. Will it get challenged? Yes. But that will be at least the first step in finding some actual concrete steps that can be taken to move forward.

And I think the same thing for the Emoluments Clause. Yes, it's there, but it doesn't have the same effect of a statute passed by Congress with a way to enforce it built right in. I think that's the stuff that needs to happen. Will it? That's a different conversation, but I think that would be the most logical first step.

Jill: I see you shaking your head, Joyce, in an agreement. I think.

Joyce: Yeah, I think Kim is just bingo spot on this one. And it seems like this isn't the first time that we've been in this place during this podcast, right? I mean, talking about stuff that Congress needs to do and Congress abdicating its responsibility. I think that characterizes where we are pretty accurately.

Jill: Barb, do you want to add anything or is this the end?

Barb: Yeah. I think clear process is what we need, and whether we will get that clear process by this Congress I think remains to be seen.

Jill: Yeah, I agree with you that that's what we need. And even though I don't think it's necessary, I think it would avoid any further challenge to it in the same way that I don't think a joint congressional resolution is necessary to implement the Equal Rights Amendment, but that if we could get that, it would eliminate the only potential argument at the Supreme Court against it being the law of the land.

Kim: All right. We have reached the point in the show that we all love so much, and that is answering your questions. If you have a question for us, please email us at [sistersinlaw@politicon.com](mailto:sistersinlaw@politicon.com) or tag us on social media, and we will get to as many as we can every week. Every week we try to get to three. And if we don't get to them, take a look on your socials. Check out your mentions. We may get in there. We sneak in there sometimes and we answer your questions. I haven't been enjoying... I admit that I am probably the most social media shy when it comes to engagement because social media really gives me anxiety, y'all. It does. But I have been engaging more with y'all and I really have been enjoying it, especially with our listeners who are in for good. If you come to me with nonsense, I'll block you. But if you have a good question.

Joyce: Wow, Kim. Wow.

Kim: Listen. It is 2025 and I'm tired of nonsense on social media. But when it's our listeners and people who come with really wonderful questions, I am really enjoying engaging with them.

So the first question for this episode comes from Patrick, who asks, "Is there any way to block Trump's pardon of the January 6 insurrectionists?" Joyce, what do you think?

Joyce: I am so glad you asked this question, Patrick, because just a couple of hours ago, I put a piece up on the Brennan Center's website, where I'm a fellow, talking about this idea that Trump is going to pardon January 6th defendants and what that might mean. As you can guess, and as I'm assuming from your question, I'm not a fan of this. But here's the issue. The Constitution gives the President a broad unrestricted pardon power. The only restriction in the Constitution is that it can't be used for impeachment. There's a strong suggestion based on the words of the Founding Fathers that it also couldn't be used by a president to pardon him or herself, although that issue has never been tested in the courts. Perhaps that will be a feature of the next four years too.

But here's the reality. Donald Trump can and has said that he will issue pardons for these folks. The question isn't whether it's lawful. The question is whether it's awful. In other words, even though presidents have the power to do some things, they shouldn't. And every prior president, even though there have been some very questionable pardons, they have certainly not pardoned their own personal army, which is sort of what this amounts to. I think what this underscores is the fact that we no longer have any meaningful form of universal civics education in this country, and people have sort of watched the Donald Trump show like, "Oh, isn't it great? He's such a tough guy. He's such a bully. Rah, rah, go." Because it's entertainment and theater, not government.

And I think if he does pardon these folks, when that happens and they go back to their communities and they're available to give more support to groups like the Proud Boys and the Oath Keepers, who will undoubtedly be buoyed by this, then we will all see the concrete negative consequences of this. And perhaps if there's a silver lining to this,

which I sort of doubt at this point, but perhaps if there is one, it will be that people will begin to reconsider the consequences of their votes.

Kim: All right. Well, our next question comes from Barbara, who asks, "What is the rate of interest for damages in court fines? Are there different interest rates?" Oh, this question, I just love it as a former civil litigator. The question comes from Barbara so I'm going to ask Barbara. What do you think?

Barb: Yeah, happy to answer a question from any Barbara who is out there. And I know, Kim, only a civil geek like you would like this. But it does come up in civil and criminal cases. And there are statutes on this. So there are federal statutes, there are state statutes. And let me just give one example for a federal case. The federal statute sets the interest rate at a rate equal to the weekly average one year constant maturity treasury yield as established by the Board of Governors of the Federal Reserve System. So it shows up. It might be X percent, Y percent, but the court will have access to that information and will set it when fines and fees and other things are set.

Jill: Can I just add to that, that in the state of Florida, I was a plaintiff, a successful plaintiff. And the interest rate in Florida was 10% compounded annually. And the stupid defendant didn't pay me, but then went to sell the house, which I had a lien on, and he had to pay me 10% compounded annually. I made a big fortune.

Joyce: Okay, wait. Can we put this in the Jill Wine-Banks exhibit at the National Women's Museum?

Barb: Yeah, I think so.

Kim: Yes, I love it.

Jill: Yes. And then we have to thank my friends who did this pro bono for me. One of my best friends, of course, while we were living in Florida were lawyers, not surprisingly. And Tracy Nichols represented me in a small claims court and got this judgment, and then we ended up getting it enforced. So there you go.

Kim: That's great. All right. And our last question for this episode comes from Charles Gritton, who asks, "If Trump does try to mass fire civil servants, are there legal challenges they or Democrats in Congress could file and have a chance for success?" What do you think, Jill?

Jill: I think this is such an interesting question because, of course, it is something that you have to worry about. And I don't know about you guys, but I've heard from a lot of DOJ particularly employees who are worried about losing their jobs or having to resign just because it would be so awful to have to live in the rule of Donald Trump.

And the answer is of course there are laws that protect civil servants. They can only be fired for cause. They have to have due process. They have to have a hearing. But the person in charge of that is a political appointee, the head of the Office of Personnel Management. And so I'm a little bit worried that even though the law says due process and you can't be fired without cause, that they will find cause that doesn't really exist and

they will be successful. So I think there will be a lot of lawsuits if this happens and that I think that there should be pro bono legal services offered to people in this circumstance. But I can't really answer that with any assurity that it will not be successful, that there'll be a mass firing that he gets away with.

Kim: Well, thank you for listening to #SistersInLaw with Barb McQuade, Joyce Vance, the one and only Jill Wine-Banks, who deserves her own museum, and me, Kimberly Atkins Stohr.

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And also show some love for this week's sponsor, Thrive Causemetics. It's good stuff. I have been using this long before this podcast even existed. We love how it does good. And the link is in the show notes. Support Thrive because they help bring this podcast to you. See you next week with another episode, #SistersInLaw.

Jill: Be right back.

Barb: You were so close to getting started. Just like the podcast [inaudible 01:16:50].

Joyce: I was on my stair and I realized I just couldn't do it.

Barb: What is... Is that the doorbell? Is that the phone? What is that?

Kim: I don't know. She has so many...

Joyce: Is that the Addams Family?

Kim: No, that's a... What's-

Barb: The fifth of Beethoven.

Kim: Yes.

Barb: Beethoven's fifth-

Kim: It doesn't say what...

Barb: ... symphony.

Kim: ... what symphony is that.

Joyce: Yes. But done in a very Addams Family vibe.

Kim: Yes!

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Joyce: That is not how it was meant to be.

Barb: That's like asking ChatGPT, "Please compose a Beethoven symphony in the style of the Addams Family."

Kim: Of the Addams Family! Oh, my god.