

# [***Hamas Attack Survivors, Sue Student Protests; Education Grinds To A Halt As Campuses Overrun; Democrats Call For Regime Change In Israel; AXIOS: US Held Ammunition Shipment To Israel; Greene Vows To Trigger Johnson Ouster; Thin GOP Majority Prompts Caution On Johnson Vote; Examining The Decision Making At The DOJ; Trump: Gag Order Is Totally Unconstitutional; Trump Balances Court And Campaign Calendars; Former President Trump Points To VP Selection In July***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BYP-G261-F072-X000-00000-00&context=1516831)

Fox News SUNDAY NIGHT IN AMERICA 9:00 PM EST

May 5, 2024 Sunday

Copyright 2024 Fox News Network LLC All Rights Reserved

**Section:** NEWS; Domestic

**Length:** 6705 words

**Byline:** Trey Gowdy, Mike Pompeo. Ashley Strohmier

**Guests:** Naftali Bennett, Julia Manchester, Brett Tolman, Will Scharf, Lauren Wright

**Body**

MARK LEVIN, FOX NEWS CHANNEL HOST, "LIFE, LIBERTY & LEVIN": And of course, this administration with its disinformation board and it's all of government approach to social media, trying to influence what is and isn't said, that Joe Biden, he is for the First Amendment.

I'm on to you, Biden. I'm on to you. I know what you are. I know who you are and I'm going to stay on you until you leave office.

I will see you next time on "Life, Liberty & Levin."

TREY GOWDY, FOX NEWS CHANNEL HOST, "SUNDAY NIGHT IN AMERICA": Good evening. Thank you for joining us. I'm Trey Gowdy and it is SUNDAY NIGHT IN AMERICA.

It matters what the battle, the fight, the war, the protest is about. The Battle of Thermopylae preserve democracy, World War Two liberated the world from tyranny. Dietrich Bonhoeffer was imprisoned and executed trying to stop a genocide. Martin Luther King was imprisoned and killed fighting for equality.

Compare that with what we are witnessing on college campuses. Students and agitators demonstrating, protesting, engaging in criminality in support of Hamas, a terrorist group.

And some will take exception and say the protests are rooted in something more palatable, but these protests cannot be rooted in a desire for a two- state solution, because that issue has been around since the 1940s. And these protests cannot be about what is just because it was Hamas who initiated a war with a sneak attack on civilians.

And it can't be about protecting innocents because it is Hamas who uses hospitals and schools and neighborhoods as fronts for war. To quote a poet, "When someone shows you who they are, believe them." And these protesters are showing you exactly who they are when they call for the elimination of the Jewish state, engage in violence, fight with police and chant "from the river to the sea." It is too much even for President Biden.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: There's the right to protest, but not the right to cause chaos.

None of this is a peaceful protest. Threatening people, intimidating people, instilling fear in people is not peaceful protest. It's against the law.

There is no place for hate speech or violence of any kind, whether it's antisemitism, Islamophobia, or discrimination against Arab Americans or Palestinian Americans.

It's simply wrong. There's no place for racism in America.

(END VIDEO CLIP)

GOWDY: There is a history on the left of excusing lawlessness when it suits and then condemning it when it doesn't. The right thing is to condemn criminality whenever it occurs.

These so-called elite schools aided and abetted something they can no longer control. The lawlessness spread and it eventually consumes everyone, even those who initially ignored it.

Joining us is former Secretary of State, former CIA Director Mike Pompeo. Welcome to you, Mr. Secretary.

Initially, these protests reminded me of the Occupy Movement when you and I were in the House. The Obama administration bent over backwards to avoid consequences for taking over national parks, and then later, the lack of consequence for lawlessness in the aftermath of George Floyd's murder.

To me, lawlessness eventually consumes everything and everyone, if they don't stop it when it begins.

MIKE POMPEO, FOX NEW CHANNEL CONTRIBUTOR: Trey, it's great to be with you. And you have it absolutely right. This is about the rule of law basic order in the United States of America, whether it was the Occupy Movement or the BLM folks in the summer of '20 or what we're seeing today, you have to enforce the law.

And it goes broader and deeper than that. Your point about what are they protesting? I would add to this, sometimes they say they're protesting an occupation, but of course, you and I both know, Israelis haven't occupied Gaza since 2006.

And so this is about a progressive woke movement, and if we don't defend the basic rule of law, protect our southern border, ensure that if you steal something at Walgreens, no matter what the value of it is that you stole at Walgreens, you will be prosecuted for that.

If we don't understand that there are just -- there is black and white, there's not ***politics***, there's the rule of law, the risk of the breakdown of the Republic continues to increase, and frankly, the next generation of young people won't understand the basic foundations upon which our founders understood life, liberty, the pursuit of all the things that are great, happiness and all the things that are great here in America.

GOWDY: Mr. Secretary, given the former service you've had to our country, CIA director, you served on House Intel, Secretary of State, you've seen things that most of us have never seen and won't.

I wonder if seeing the raw footage from the Hamas attack last October would impact any of these students. I really wonder if actually seeing the barbarism would matter to them.

POMPEO: Trey, I think they these students are ignorant, not dumb, ignorant, uninformed to your point. I would love to make sure that every one of them had a chance to see not what the Israelis put out, not what the Americans put out, but what these Hamas barbarians actually filmed themselves, I think that might cause them to take a step back. But frankly, I think that's not really what this is about.

This is about their fundamental Marxist idea about America and oppression and groupthink and racism. I think that's who these people are at their core and so frankly, I hope that they'll all see this, I hope that they would in the same way that it impacted me personally, when I saw it, I pray that it would impact them as well.

But I fear that there are bigger agendas here that go far beyond that would simply say, you know, that was somehow justified because of something that was going on someplace else that they cared deeply about.

GOWDY: Mr. Secretary, I like simple bright line rules. I like to condemn lawlessness, whether it's January 6, whether it is May 1st, whether it's in late April. Why do you think some of these schools have been so slow to respond?

POMPEO: Look, I think there is deeply embedded in the faculties and most of America's elite institution an understanding of oppression, and they talk about it, it comes out in different things like the language of DEI and the like.

And so when they see these students, they just simply think, gosh, we don't want to push back against them because it might impact our endowment, it might cause the students to leave.

And frankly, they are perfectly willing to abandon Jewish students in favor of this progressive left, that is now I think, deeply embedded in these institutions. And I think we saw that play out on these campuses. And they are -- these people are not about the rule of law, they think about this differently. This is all ***politics*** all the time for them. And I think those faculties have been politicized and radicalized to permit things like this to happen at the expense of basic law and order.

GOWDY: Mr. Secretary, there's reporting that Turkey is punishing Israel via the refusal to trade, do you expect to see more of this? And if you were running the show, and you may be one day, what would your response to Turkey be?

POMPEO: Look, I think Turkey has grabbed the wrong end of the stick here. There's been a longstanding grievance between Turkey and Israel. It has gotten better from time to time, frankly, it was a little bit better. During the Trump administration.

We've convinced them each that there was a shared set of interest that they had. I hope President Erdogan and his foreign minister who I know really well, a good, a capable, smart fellow, I hope that they will come to see that this isn't the right thing to do. It's not good for the Turkish people. It's terrible for the Israeli people, and it's bad for their neighborhood, the Middle East with a with Bashar al-Assad in Syria on his border, he really does need the Gulf Arab states, Israel, the United States to be alongside him in making sure that these basic ideas of borders and security are something that America is prepared to do alongside our NATO partner, Turkey.

GOWDY: Mike Pompeo, one of the longest and most distinguished resumes in current America. Thank you for your service to our country and thank you for joining us on a Sunday night.

POMPEO: Bless you, Trey. Great to see you again. Have a good rest of your Sunday night.

GOWDY: Yes, sir. You too.

The International Criminal Court may investigate Israel and Benjamin Netanyahu for alleged human rights violations. It's the same group who issued an arrest warrant for Vladimir Putin. Yes, nothing happened. No word on how their investigation into Iran is proceeding.

But it's not just some toothless international agency criticizing Netanyahu, the Biden administration is warning the Jewish state not to go forward with the invasion of Rafah.

Joining us as the former Israeli Prime Minister Naftali Bennett. Welcome, Mr. Prime Minister.

What in your view is the current state of this war? And will Israel continue to push the offensive so long as Hamas holds hostages?

NAFTALI BENNETT, FORMER ISRAELI PRIME MINISTER: Yes, we will.

We actually have no choice. Hamas is, I would say, dedicated to destroying and annihilating Israel. They say it explicitly. They say they're going to continue trying to kill Jews as long as they exist. And they are on our border, so we really have no choice.

GOWDY: Mr. Prime Minister, Chuck Schumer and Nancy Pelosi call for regime change in Israel, which is strange, since I don't think they've called for regime change in Russia, Iran, or North Korea. Jerold Nadler just recently said Netanyahu is the worst leader in 2,100 years.

I mean, Nadler is old, but I don't think he was around for all the Jewish leaders. So what do you make of American politicians inserting themselves into Israeli government affairs?

BENNETT: I think Israel is a vibrant democracy and domestically within Israel, we voice our opposition, voice our support, everyone voices whatever they want and it is the Israeli public's business to choose their leaders.

Israel is a democracy. And obviously no one wants to change that. The other places you mentioned, such as Iran or other locations are not necessarily democracies, and it makes sense to change the regime there.

GOWDY: I can't speak for Israel. I can tell you that the folks I run around with in the United States don't really care much what Chuck Schumer or Nancy Pelosi or Jerry Nadler think about Israeli ***politics***, but when the Biden administration as it's been reported threatens to withhold ammunition from Israel, that does get our attention.

So have you heard anything to buttress this reporting that the Biden administration is actually conditioning munitions on doing what the Biden administration wants Israel to do in Gaza?

BENNETT: I hope it's not true. I heard the rumor, I hope it's not true. Because we are fighting not only Israel's war, we're at the forefront fighting the war against radical Islam, radical Islam in Gaza that is attacking Israelis, radical Islam in Europe that attacks Europeans, radical Islam on campuses in the United States of America where they're explicitly saying that they want America to change its laws to be Sharia religious Islamic laws.

So we have to push this whole wave back, and we're the ones doing the fighting. And we know that it's our task to do it. What we expect is that our friends have our back.

GOWDY: Congress recently took up a bill which put the hard right in the same camp with the so-called squad. How do you define antisemitism?

BENNETT: Well, antisemitism is the persecution of individual Jews, but it's also denying the Jews, the collective rights of being a nation and we are - - we have a Jewish nation and the Jewish country is the state of Israel.

There is only one Jewish state on Earth, and that's Israel. There's 22 Arab states. There's countless Christian states, but only one Jewish state on Earth. Yet, some people want to deny that. Folks who want Israel to disappear are antisemitic.

GOWDY: What would you say, to the extent there are any college kids listening tonight, what would you say to the college students harassing Jewish students? And I wonder if seeing the raw footage from what Hamas did would impact them?

BENNETT: You know, I would hope that it's a naivete of these college students, they are so much on the wrong side, and I guess in a few years, when they grow up, some of them at least will realize how stupid it was what they're doing because they're fighting against the only democracy, liberal democracy in the Middle East and we are the ones surrounded by crazy, radical Islamic regimes that want to destroy the West, want to destroy America, want to destroy Israel.

America is called the Big Satan. Israel is called by them, the Small Satan, but we're the ones fighting and the last thing you want to do to a friend of yours that is fighting for you and for themselves is to tie their hands or to fight them.

I can only be sorry about it. I'm sure that in the future, they'll realize how mistaken this approach was.

GOWDY: Let's hope you're right, former Prime Minister Naftali Bennett, thank you for so much for joining us on a Sunday night.

BENNETT: Thank you very much.

GOWDY: Coming up, more GOP House Speaker drama and other media hungry member is threatening a speaker but the reaction is different this time. I wonder why.

The latest from Capitol Hill next on SUNDAY NIGHT IN AMERICA.

(COMMERCIAL BREAK)

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA.

For a group who claims to love democracy, Congress has a really funny way of showing it. Can you imagine allowing a single person to undo an election, to thwart the will of the vast majority. I mean, that's literally the textbook definition of anti-democratic which is why no other group does it.

Presidents can be impeached, but not vacated. Supreme Court justices can only be impeached. Members of Congress cannot be recalled or vacated. The Senate Majority Leader hasn't been vacated, but the speaker can be removed because a single member wants it.

Of course, it's not in the Constitution because it makes no sense to hold the sword of Damocles over the head of a leader on a daily basis.

Marjorie Taylor Greene is drawing the current ire of colleagues, but the scheme was hatched in January of 2023 when a handful of members wanted Kevin McCarthy to grovel and beg and disarm and prostrate himself. They withheld support because they relish the idea of making their leader serve at the pleasure of the most unhinged member on any given day, and then it happened.

A member under investigation by the Ethics committee with a personal grudge led the charge, and with only seven other Republicans joined with every single Democrat and a month's worth of embarrassment ensued, but fundraising was good. What really changed? Different speaker, but same results. So now there's this.

(BEGIN VIDEO CLIP)

REP. MARJORIE TAYLOR GREENE (R-GA): We need leaders in the House of Representatives that are going to get this done. Not working for Hakeem Jeffries, not working for Joe Biden.

Now we have Hakeem Jeffries and the Democrats coming out embracing Mike Johnson with a warm hug and a big wet sloppy kiss.

Next week, I am going to be calling this Motion to Vacate. Absolutely calling it.

(END VIDEO CLIP)

GOWDY: And the difference this time is Democrats will rescue Mike Johnson. Democrats let Kevin McCarthy hang, but they will protect Mike Johnson, which makes this whole exercise utterly meaningless.

A single Republican triggered the removal of a speaker for allegedly working with Democrats only to then work with Democrats to get a new speaker. One Democrats enjoy so much they will save him.

What did you get?

Joining us as the national political reporter for "The Hill," Julia Manchester.

Welcome, Julia.

So Democrats will join with most Republicans and table this motion to vacate, which makes I guess, Mike Johnson more tolerable and more palatable for Democrats and the eight who removed Kevin McCarthy. Is that the takeaway?

JULIA MANCHESTER, POLITICAL REPORTER, "THE HILL": Yes, I think that's the takeaway and I think we saw this deal that Mike Johnson made with Democrats. Look, the Democrats were really looking to make that deal. They want funding to Ukraine, they wanted that funding to Israel. And we saw a number of Republicans who are also on board with that deal.

But you know, I find it so ironic that Marjorie Taylor Greene is sitting there outside of the Capitol with a Make America Great Again hat, President Trump's slogan, you know, saying that they need a new speaker, et cetera, but then you have Mike Johnson, who was literally down in Florida this weekend, fundraising with President Trump. President Trump very much has backed him in the wake of this endorsement or the Speaker drama.

So you have essentially everyone seemingly up against Marjorie Taylor Greene, and I think it's left a lot of Republicans and Democrats puzzled as to why would she do that at this point, especially when Republicans in the House are facing a very tough election year.

GOWDY: Boy, I was a History major, so I enjoy going back in time. And luckily, we don't have to go back very far just to October, when eight Republicans joined arms with every single Democrat and several conservative commentators to get rid of Kevin McCarthy.

So my question is, how have things changed? How are they different under Speaker Mike Johnson? I mean, Democrats still have to help pass rules, there are still suspension votes. The Freedom Caucus is just as mad as they used to be. Ukraine was funded, FISA was reauthorized.

So what did these eight Republicans get other than fundraising?

MANCHESTER: Yes, look, I mean, you know, and it's also important to note that Kevin McCarthy was a very good fundraiser when he was Speaker. But you know, in terms of, you know, what's changed? Look, I think that, you know, foreign policy mainly has changed.

We've seen that, you know, ever since October, China has become an even bigger threat than it was in the Indo-Pacific. We see that the war in Ukraine is very much facing a turning point with Ukrainians really saying they need that aid, and then, you know, arguably most importantly, you had just before this vote, Iran, you know, launching retaliatory strikes into Israel sending drones into Israel.

So I think the foreign policy calculus of this change sort of upped the ante for Republicans and Democrats who ultimately come together on this.

GOWDY: Here is one thing I'll be watching, former Speaker McCarthy says that Matt Gaetz went after him because of a pending ethics probe and that it was personal. If nothing has changed, other than what you laid out, foreign policy, with a new speaker, and lots of things have not changed, how do you expect Congressman Gaetz to vote?

Because if he votes to keep Johnson for doing the same thing McCarthy did, then it does look personal at this point.

MANCHESTER: It does. It does. And I think, you know, you have President Trump and we know that President Trump and you know, former Speaker McCarthy definitely had an interesting relationship.

You had McCarthy going down to get Trump's backing, his blessing and they worked together. But I think, you know, the difference here is that we're in an election year. The Republicans have a very, very narrow majority in the House. And you know, you have President Trump very vocally backing Mike Johnson and backing the Republican establishment in the house.

So you know, I'm curious if someone like Matt Gaetz is looking to President Trump and saying I'm going to fall in line here. The question I have is, you know, what is the end game for Marjorie Taylor Greene? Obviously, to get rid of Mike Johnson, but you know, what else does she see coming out of this?

GOWDY: Oh, I hate to be cynical, but the end game may be fundraising.

Julia Manchester, thank you so much for joining us on a Sunday night.

MANCHESTER: Thank you.

GOWDY: Up next, Democratic Congressman Henry Cuellar has been indicted. Former US Attorney Brett Tolman on the charges and what to make of Merrick Garland's DOJ right after the break.

(COMMERCIAL BREAK)

ASHLEY STROHMIER, FOX NEWS CHANNEL CORRESPONDENT: Welcome to "Fox News Live." I'm Ashley Strohmier in New York.

Rescue efforts are ongoing across Houston as major flooding continues to devastate the region. Hundreds of people have been rescued from homes, rooftops, and roadways.

South of Fort Worth, a five-year-old boy died after the car he was traveling in got stuck in floodwaters and was swept away. Parts of the region have gotten almost two feet of rain over the past week, swelling rivers out of their banks. Floodwaters are expected to begin receding this week.

Israel's government voting to shut down Al Jazeera's local news operations. Prime Minister Benjamin Netanyahu saying the social media, Qatari-based network is biased towards Hamas and its reporters harmed Israel's security.

Israeli Police were seen confiscating equipment from the agency's office earlier today. Al Jazeera has had a long and strained relationship with Israel.

I'm Ashley Strohmier. Now back to SUNDAY NIGHT IN AMERICA.

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA.

Texas Congressman Henry Cuellar and his wife have been charged with bribery and conspiracy. They're accused of accepting nearly $600,000.00 from an Azerbaijan company in a bank in Mexico. The indictment alleges they used a shell company to launder the money. Cuellar is accused of offering to influence legislation to favor Azerbaijan and pressure bank regulators. He is up for re-election and has no plans on dropping out saying, "My wife and I are innocent of these allegations. Everything I've done in Congress has been to serve the people of South Texas."

Meanwhile, the case against Democrat Senator Bob Menendez, his wife, and two business partners is on the docket for jury selection in less than two weeks. They're charged with corruption and bribery and a case involving cash, gold bars, and Mercedes Benz.

Joining us, former US Attorney Brett Tolman. Welcome to you. Mr. United States Attorney.

Everyone is presumed innocent, including members of Congress. DOJ has had a tough time, they've had some tough luck with recent prosecutions.

There was a hung jury with Menendez last time. Special Counsel John Durham swung and missed. DOJ was reversed in the case of Nebraska Congressman Jeff Fortenberry. So is it harder or easier to convict prominent people and political figures?

BRETT TOLMAN, EXECUTIVE DIRECTOR, RIGHT ON CRIME: Well, Trey, thanks for having me on. Great to see you. I will say as you and I both know, very difficult when you have prominent individuals, especially individuals that may have the ability to hire, you know, exceptional lawyers or teams of lawyers. You also have investigators that will get hired on the defense side that will put in a lot of effort.

And in this case, in particular, I'll tell you, I was shocked to see the response of the congressman in terms of him identifying that he has sought out legal counsel prior to these transactions. He even says that he sought out an ethics opinion on the matter. So this has all the makings of a pretty robust fight.

GOWDY: You know, Congressman Cuellar is a Democrat for sure, but he's hardly a progressive. He may be the last pro-life Democrat in the House. Now, DOJ refused to prosecute a former US attorney named Rachael Rollins, but they went after Fortenberry, and now they're going after Cuellar.

So my question to you as a former US attorney, we know who reviews decisions to charge her, it is as a judge and a jury. But who reviews decisions not to charge someone? Is there any entity that can go back and question DOJ for not charging someone?

TOLMAN: Well, there really isn't. We've given so much authority to the Department of Justice. You know, in many ways, they act as a fourth branch of the government, because there's very little accountability and very little transparency.

When you have the power to prosecute and it's exclusively within their authority and then you have virtually complete immunity from some of those decisions, it is strange to me though, Trey, I will tell you how, do you come out fighting and prosecute -- investigate and prosecute this case while at the same time, you know, not investigating some of the allegations that are being uncovered in the House regarding the Biden transactions with Hunter Biden and the business and potentially the president?

I don't understand the inconsistency except that it may be ***politics*** that are encroaching more and more in that prosecutorial decision making.

GOWDY: You know you mentioned something Bret, it may be more than just inconsistency. It may be flat out schizophrenia.

I mean Merrick Garland approved the indictment of a Democrat House member and a Democrat Senator. He did not change Rob Hur's report on Joe Biden, which was very damaging for Joe Biden politically. On the other hand, the deal with Hunter Biden that was initially offered was too good for a judge. I mean, the judge had to stop it.

And the difference between Biden's classified documents case and Trump's are getting smaller by the day. So what in general do you make of Merrick Garland because the left and the right seem disappointed at him.

TOLMAN: Well, I agree. And you've highlighted, I think what the American people are seeing. It is no longer a presumption that the Department of Justice is trying to make good decisions and willing to prosecute a Republican or a Democrat equally. That's not the case.

What we are seeing is Merrick Garland in charge of a Department of Justice that is refusing to prosecute, you know, political cases on one side and then aggressively prosecuting, investigating conservatives and investigating those -- they do very little to go after the left, whether it's Antifa or whether it's individuals that are picketing and rioting on the left, but boy, they sure are very quick to go after anybody and everybody on the right.

And that is why the American people are looking at it saying, hey, it's not the same anymore. I don't have confidence in the Justice Department, and that is a refrain that we are hearing more and more across the country.

GOWDY: Mr. US Attorney, I'm going to have to have you on because as you know, as this case unfolds, because as you know, members of Congress have very little power, particularly when you're in the minority, so I'm going to be curious exactly what Congressman Cuellar was going to be able to do in the eyes of DOJ as a Democrat in the minority in the House.

But we will leave it here for now because I cannot afford any more of your hourly rate. Thank you, Mr. US Attorney for joining us on a Sunday night.

TOLMAN: Thank you.

GOWDY: Up next, the state of New York versus Donald J. Trump continues. The prosecution witness did not do well on cross. But Mr. Trump is lighter on the wallet having been sanctioned for violating a gag order. Trump attorney, Will Scharf right after the break.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

REPORTER: Does the gag order stop you from testifying?

DONALD TRUMP, FORMER PRESIDENT OF THE UNITED STATES: No, it won't stop me from testifying. The gag order is not to testify. The gag order stops me from talking about people and responding when they say things about me, where people are saying things about me and I'm not allowed to respond.

So this judge has taken away my constitutional right.

(END VIDEO CLIP)

GOWDY: Welcome back SUNDAY NIGHT IN AMERICA.

New York trial Judge Juan Merchan held former President Trump in contempt for violating his gag order. Trump was fine $9,000.00 for nine violations, but reminded that jail time is a future option, and more witnesses took the stand exposing the seedy underside of what is really tantamount to legal extortion, threatening to expose unflattering information in exchange for money.

Here to help process last week and look ahead to court this week is Trump attorney and Missouri AG candidate, Will Scharf.

Welcome, Will. Great to see you again. Thank you for being here.

I'm sure people are wondering how Michael Cohen can keep talking about Donald Trump, but Donald Trump can't respond. So what is the rationale for the judge's gag order?

And what is the rationale for the judge holding the president seemingly to a different standard than he does other witnesses and potential witnesses?

WILL SCHARF, DONALD TRUMP ATTORNEY: Yes, Trey, that's one of the most outrageous things about this gag order, that it is a unilateral gag order. It applies to President Trump and our team, but does nothing to restrict the speech of the prosecution team, or as you indicated, the witnesses.

So we have a situation where people are regularly attacking President Trump publicly at the height of a presidential campaign. And because of this gag order, President Trump lacks the ability to respond. It's wildly unconstitutional. It's unprecedented in American history.

We've challenged the gag order with the New York appellate division. We're going to continue challenging it in the days and weeks ahead. But the situation that we're dealing with here is absolutely outrageous. It just doesn't make any sense at all, and it just goes to show how irregular this entire trial has been from its inception and we are seeing that play out in court day by day.

GOWDY: Speaking of court, soon to be witness, Michael Cohen, let's listen to him and then I'll ask you a question on the other side.

(BEGIN VIDEO CLIP)

MICHAEL COHEN, FORMER DONALD TRUMP ATTORNEY: Michael Cohen here with another Michael Cohen reacts.

When I was testifying before the House Oversight Committee, I turned around and I said that Donald Trump has shown acts of generosity, but he is not a generous person.

(END VIDEO CLIP)

GOWDY: Yes, I was on a committee in Congress and actually questioned Mr. Cohen, but that was back when he liked President Trump and that was before the convictions for false statement.

Does the prosecution's case, in your judgment rise and fall on Cohen? Or can the jury conclude that Cohen is untrustworthy, but still convict?

SCHARF: Yes, Trey, I'm somewhat limited in what I can say there because of this gag order, but I will make two points. First of all, all of the testimony that we've heard in court so far, doesn't really speak to the charged offenses. We haven't seen anything so far attempting to support the prosecution's theory of business records fraud in this case.

We obviously believe that President Trump did nothing wrong, and that's the reason why there hasn't been any evidence here.

In terms of Michael Cohen, as we've said, repeatedly in court pleadings, this is a man who has been found liable for perjury by numerous previous courts, and we think that's something the jury is ultimately going to have to weigh.

We're going to see that play out in court, probably this week, I would guess. In the meantime, as those clips indicated, Michael Cohen has been viciously attacking President Trump and President Trump doesn't have the ability to respond publicly. It's absolutely an insane situation.

GOWDY: I am going to ask you a legal question, Will, because I was a pretty mediocre homicide prosecutor, but I don't know anything about federal election law, except what a former congressman might have picked up.

Is the prosecution arguing that Donald Trump should have used campaign funds to make these payments or that he should have been more particular in how he listed them? Because there's an argument that he's not allowed to use campaign funds for personal expenditures. So that's the part of the case I don't get because if he had used different moneys, he would be investigated by a different group.

SCHARF: Yes, that's exactly right and numerous election law specialists have said exactly that, that the prosecution's case is based on this flawed premise, that the underlying expenses here were election expenses when federal law is to the contrary.

The FEC has looked at this, the Biden Department of Justice has looked at this, all of them declined to take any action in this case, and it is only this radical leftist district attorney in New York, Alvin Bragg who decided to press ahead and attempt to try President Trump at the height of a presidential election season.

I believe this is election interference, plain and simple. I don't think this case has any legal basis whatsoever for that reason and numerous other reasons, and it really is an outrage that we're seeing our courts and our system of law and order weaponized for nakedly political purposes.

GOWDY: Before we go, running for president is hard, being a defendant is hard, doing both at the same time is about impossible. If you were the judge, would you impose any kind of gag order at all? And if so what would that order look like?

SCHARF: We don't believe a gag order here was warranted. We've challenged this gag order the same way that we challenged a previous gag order imposed in the Washington, DC federal prosecution.

At the very core of the First Amendment is political speech, is political electioneering. The idea that a judge would pose a very, very broad prior restraint on the leading presidential candidate's political speech at the height of an election season, it is totally unconstitutional.

As I said before, it's unprecedented in American history for any political candidate to be gagged in this way. We don't see any reason for there to be a gag order at all in this case, but certainly the scope of the gag order. The fact that it is unilateral, the fact that it chills, so much speech beyond even its plain terms.

This is an absolute outrage, one of any number of outrages that we've seen play out in New York courts from the inception of this case.

GOWDY: Will Scharf, thank you for taking time from the courtroom and the campaign trail to join us on a Sunday night. We'll see you soon.

SCHARF: Great to be with you, Trey. Thank you.

GOWDY: Up next, Biden hits the campaign trail, sort of. Is it helping? While the race to be Donald Trump's VP appears to be minus one contender. Dr. Lauren Wright ahead on SUNDAY NIGHT IN AMERICA.

(COMMERCIAL BREAK)

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA.

Donald Trump is defending himself in court while also running for a second term. Joe Biden is defending his first term, seeking a second one. The race will come down to a few counties and a handful of states.

Can a vice presidential candidate actually make a difference? We know who is running with Biden, but Trump is looking for a new running mate.

There's a line from "Yellowstone" where the character, Rip Wheeler says I'd rather shoot a thousand men than kill another horse. I'm not advocating for homicide, but that line captures how many of us feel about our pets, which makes South Dakota Governor Kristi Noem's decision to both kill a puppy and later write about it disqualifying in the eyes of many, but is it disqualifying in the eyes of the person actually doing the picking?

Joining us to discuss is Princeton University research scholar, Dr. Lauren Wright.

Welcome, Dr. Wright.

President Trump has suggested he is still a couple of months away from picking a running mate. If he's going to be in court as he is now does it make sense to pick someone earlier who can like carry the torch? And since I like compound questions, can a VP pick actually make it difference in the minds of voters?

DR. LAUREN WRIGHT, PRINCETON UNIVERSITY RESEARCH SCHOLAR: Well, it can help balance Trump out and that would really be in his best interest, Trey.

You know despite what his instincts are to pick someone exactly in his mold, exactly like himself, he should pick someone who is as different as him as possible, and more moderate on the issues that voters in the middle are really quite unsure about.

I think the later the better to be honest, for him to tease this pick to make it a spectacle when he does, and whoever he picks is going to get heavily vetted from the moment he says their name. So better to get all of that organized and take the time.

GOWDY: One of the co-hosts of "The View" cannot stop talking about Tim Scott. Let's listen.

(BEGIN VIDEO CLIP)

SUNNY HOSTIN, CO-HOST, "THE VIEW": Just to speak for African American voters, if anyone thinks that Tim Scott is -- okay, the audience is cracking up -- if anyone thinks that Tim Scott is going to bring over a bunch of Black men, they really need to just get with it because Tim Scott is the only African American senator in the Republican Party for a reason.

(END VIDEO CLIP)

GOWDY: I don't have any idea whether Senator Scott helped win Black male voters or not, I actually think he does help with White suburban women, because of the winsome way that he carries himself.

WRIGHT: Right.

GOWDY: And he proves you can be conservative and not mad about it, but maybe I'm wrong, does it have to be a woman to appeal to undecided or reluctant female voters?

WRIGHT: Well, no. And so it's a great point that what's really special about Tim Scott is his personality and how sort of low key and amicable he is in very high pressure situations. Trump could absolutely use someone with that type of disposition.

And frankly, Trump is doing pretty well with Black men already. He's done better than our last few Republican nominees. And so that group is already ticking on the upswing and should be concerned for Democrats, regardless of who the president and the VP are.

GOWDY: I don't know if Governor Kristi Noem was ever under serious consideration for VP, only the former president would know that. But it doesn't seem she's going to recover from like her own book, which is almost stunning to even say that.

It was her own book that seems to have deep-sixed her shot at being the vice president.

WRIGHT: Absolutely, just a huge miscalculation about the number of pet owners in this country and how they're very heavily concentrated dog and cat owners in both parties that really love their pets. And even Lara Trump, I'm sure you know, for instance, is a huge advocate for dogs and rescue dogs, and so members of Trump's own family, I'm quite sure will give him an earful about this. And he knows that he doesn't want someone who is going to cause even more controversy than he is.

And so it's a massive miscalculation on her part. It's very telling about her own political instincts, and sometimes that's what the American presidency selection process does well. People are under scrutiny, and they make mistakes and people draw conclusions about them. So it's very fair in this case.

GOWDY: Yes, to your point, I don't believe in reincarnation. But if I'm wrong, I actually don't want to come back as my wife's husband, I would like to come back as her dog. That is the thing she loves more than anything in the world.

So before I let you go, Arizona is a state the GOP lost last time around, but they may actually need to win it this time.

Is Kari Lake helping or hurting their chances right now?

WRIGHT: I don't know if it's helping or hurting, but Kari Lake would be an example of someone who is very MAGA, very much in Trump's mold.

And so I don't know what the X factor would be with Kari Lake where she would balance out the ticket or get attention from other groups that wouldn't normally be so sure about supporting Trump.

And so I don't think that's the strongest pick for him. There's actually not a ton of support for her, herself in Arizona. And so I do think he'd be better off picking someone like you said, who maybe appeals more to the center.

GOWDY: I only gamble on the golf course, so I won't answer, but if you had to gamble and pick who would you bet he will pick?

WRIGHT: I think Tim Scott would be a great choice. I don't know if he'll pick him. Tulsi Gabbard would be kind of an outlier that I would be very interested in. Maybe if you gave me some odds on that, I'd go for Tulsi Gabbard.

GOWDY: That would be weird for me to have the cell phone number of the vice president of the United States. I never thought I'd ever have that. Of course, they'll probably block me if that happens.

Dr. Lauren Wright, thank you so much for joining us on a Sunday night.

WRIGHT: Thanks, Trey.

GOWDY: And thank you for spending part of your Sunday with us. I hope you have a great week ahead. Until next week, you can find us online at Gowdy America or on "The Trey Gowdy Podcast."

Good night from South Carolina.

**Load-Date:** May 6, 2024

**End of Document**