

# [***Nikki Haley Says She Will Vote For Trump; Biden Struggles To Retain Support Among Key Voters; Contentious Biden-Trump Rematch In November; Trump Hold Campaign Event In Deep-Blue Bronx; Interview With Sen. James Lankford (R-OK); Immigration Remains Top Issue For Voters; Democrats' Handling Of Border Crisis Draws Scrutiny; Cohen Pressed On Lies As Key Hush Money Witness; Trump's NY Criminal Trial Enters Final Stages; Defense Rests In New York Without Trump Testifying; Costello Testifies On Former Client Cohen's Actions; Interview With Rep. Brian Fitzpatrick (R-PA); Representatives Lay Out Evidence For Hunter Criminal Referral; ICC Seeks To Arrest Netanyahu And Hamas Leaders; The Left Reveals Buyers' Remorse On Radical DAs; Americans Desperate For Crackdown On Crime***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6C46-1G41-JCS1-62VS-00000-00&context=1516831)

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**Guests:** David Carlucci, James Lankford, Tom Dupree, Andrew Cherkasky, Brian Fitzpatrick, Nathan Sales

**Body**

MARK LEVIN, FOX NEWS CHANNEL HOST, "LIFE, LIBERTY & LEVIN": God bless all the men and women who fought for this country, died for this country. This is the day we recalibrate as a nation. We remember them.

See you next time on LIFE, LIBERTY & LEVIN.

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

Well, it wasn't the most enthusiastic endorsement I've ever heard.

(BEGIN VIDEO CLIP)

NIKKI HALEY (R), 2024 PRESIDENTIAL CANDIDATE: As a voter, I put my priorities on a president who's going to have the backs of our allies and hold our enemies to account. Trump has not been perfect on these policies. I've made that clear many, many times. But Biden has been a catastrophe. So I will be voting for Trump.

(END VIDEO CLIP)

GOWDY: Former South Carolina governor and Trump appointed ambassador to the UN says she'll vote for her former boss this November, but will her supporters do the same? And if former President Trump does have work to do in order to solidify support among GOP voters is it on style or substance? Do his policies give potential voters pause? Or is it the manner in which he communicates?

And make no mistake, all is not well, on the other side either. The women of "The View" are usually surrogates for the Biden campaign offering in- kind contributions on a daily basis, but they forgot to tell a guest.

(BEGIN VIDEO CLIP)

SUNNY HOSTIN, CO-HOST, "THE VIEW": Charlamagne, now is not the time, in my opinion to sit this one out.

CHARLAMAGNE THA GOD, "THE BREAKFAST CLUB" HOST: Yes. I didn't say that. I never said I was sitting it out.

HOSTIN: What are you going to do?

CHARLAMAGNE THA GOD: I'm definitely voting in November, but what I'd like to focus on is issues, not individuals, like you know, when you have --

HOSTIN: But why not endorse?

CHARLAMAGNE THA GOD: Huh?

HOSTIN: Why not endorse Biden?

WHOOPI GOLDBERG, CO-HOST, "THE VIEW": We need you to do it on our show.

CHARLAMAGNE THA GOD: Well, I think -- well, the reality of it, I think both candidates are trash.

HOSTIN: Help him out. Help him out.

(END VIDEO CLIP)

GOWDY: Biden is trying to shore up support with traditional constituencies who seem to be exploring other options.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: To be a Black man who loves his country, even if it doesn't love him back in equal measure. They don't see you in the future of America, but they're wrong. To me, we make history, not erase it.

Trump publicly encourages voter suppression and election subversion. He and his MAGA extremists gutted affirmative action.

(END VIDEO CLIP)

GOWDY: Biden sounds like a man living during Reconstruction or the 1960s. He is not a man who served a Black president, now serves with a Black vice president and put a Black woman on the Supreme Court. It would be nice if Biden occasionally would acknowledge the progress this country has made, just every now and again.

It turns out, Black voters care about inflation and gas prices and the war in the Middle East and the direction of the country and aren't falling for the same racial rhetoric of yesteryear.

For his part, Donald Trump compares himself with Abraham Lincoln.

(BEGIN VIDEO CLIP)

DONALD TRUMP, FORMER PRESIDENT OF THE UNITED STATES: We're doing record numbers with the African American voters. They are tired of what's happening to them.

But there has been no president since Abraham Lincoln that has done more for the Black individual in this country than President Donald J. Trump.

(END VIDEO CLIP)

GOWDY: I'm not a political expert, but I wonder if it might be better for candidates to like address the issues of 2024 rather than harkening back to the Civil War.

Joining us now are two political experts who were not around for the Civil War. Marc Thiessen and David Carlucci.

Marc, unity used to be seen as a plus. I mean, candidates talk about bridging gaps and bringing the country together. And Biden mentioned the word unity in his inaugural address more times, I think, than any other president. Is unity even a winning argument anymore or is sowing the seeds of aggrievement, the present and future of ***politics***?

MARC THIESSEN, FOX BUSINESS NETWORK CONTRIBUTOR: Well, it was a winning argument in 2020 because that's what he ran on, he just didn't deliver it.

He's been one of the most divisive presidents in my lifetime. You know, when you go out and say to a Black audience of college graduates who are about to enter the world and you know, possibly change the world and instead of a hopeful, optimistic message, you say, you know, you love your country even though it doesn't love you back.

And contrast that with what Donald Trump did on Thursday, when he went to the Bronx and spoke directly to Black and Hispanic voters who are disaffected by Joe Biden's -- his presidency, his policies, and he said, I'm going to fight like hell for you. I'm going to focus on solving problems. The Biden presidency has been a disaster for Black and Hispanic Americans and you were doing great under my presidency and I'm going to focus on bringing you back and giving you opportunity and lifting you up.

Those are the contrasting messages, and that's the reason why Donald Trump right now is getting 23 percent of the Black vote, which would be the most if that happened, would be the most of any president since 1964, a Republican president.

GOWDY: David, it is hard to find a clip where James Carville is not cussing, but I think we found one. I want us to listen to it together for a second, then I'll ask you a question on the other side.

(BEGIN VIDEO CLIP)

JAMES CARVILLE, DEMOCRATIC STRATEGIST: I do you think the president has to deal -- the age issue is suffocating him, and he needs to bring up that he is only four years old and Trump.

BILL MAHER, HOST, "REAL TIME WITH BILL MAHER": I saw him yesterday making that speech. I mean, I'm sorry, he's cadaver-like --

JOY BEHAR, CO-HOST, "THE VIEW": But his brain is good.

(END VIDEO CLIP)

GOWDY: David, age may be a factor for some people. But the real issue I think, is mental acuity or the perception of decline, regardless of whether it's President Trump, President Biden, anybody else. So how will voters process age and acuity versus policy this time around in your judgment?

DAVID CARLUCCI (D), FORMER NEW YORK STATE SENATOR: Well, I think you're acuity, it's about what are they actually talking about? And look, Donald Trump gives this air of more vibrancy.

But when you look closely, and you actually listen to what Donald Trump is saying, you can't really hear much. That rally in the Bronx, he is pointing out problems, this and that, but he's not saying what he's going to do.

There you can juxtapose what President Biden has actually done. He's actually delivered money to the Bronx, to the South Bronx.

I think the positive news that we see as Democrats is that the latest polling, although it shows favorability for Donald Trump, that's only among the overall electorate, but not people that are actually going to come out to vote.

When you look at the people that actually voted in 2020, Joe Biden is winning that race. So, I think the details matter, and people once they get more engaged and learn about the actual policies, I believe they're going to fall in line with Joe Biden, because Donald Trump, yes, he's a good salesman, he's a good entertainer, but I think it stops there. You get the entertainment, but you don't get any substance with Donald Trump.

GOWDY: All right, Marc, I am seen more enthusiasm in ransom notes and hostage videos than in Governor Haley's comments about voting for Trump.

So my question to you is, does it matter how enthusiastic she is? Will reluctant GOP voters including herself come home do you think or stay home?

THIESSEN: Well, Donald Trump has to bring them home. It's on him to do it. I mean, I'm glad that she gave that endorsement. But he can't leave any -- one thing I do agree with what David just said is that it's going to get -- the race is going to get tighter. And Donald Trump can't afford to leave any votes on the table, particularly GOP votes.

So he's got to reach out to Haley voters, they're the swing voters of this 2024 election. They're going to decide it one way or another.

But you know, the reality is you know, what David was saying before, the polls show that right now, 55 percent of Americans think Donald Trump's presidency was a success, which is the reverse from three years ago when 55 percent thought it was a failure, 61 percent of Americans think Joe Biden's presidency is a failure.

So on the merits, on the substance, they think Biden is a failure and Trump was a success. And so when he goes out and says I am going to bring back -- was it great under me? Weren't you doing better? Weren't you making more money and was more comfortable and wasn't inflation lower? He's going to -- that's going to resonate with the American people.

GOWDY: All right, I won't -- I am going to give you a chance to show unity. You're the Republican strategist, Donald Trump just called you and said, okay, who should I pick to be my vice presidential running mate? What name do you give him? I'm going to make you give free advice to a Republican. You can send me a bill, but who should he picked to be the VP running mate?

CARLUCCI: I think it would be Nikki Haley, because I think that would show some humility, and pick up exactly what we're talking about here making -- you know, sending an olive branch to many disenfranchised voters.

Donald Trump has really not done that since the primary. He hasn't moved to the center. He hasn't reached out to people that disagree with him. He's gone hard, you know, MAGA, hard to the right. And yes, it rallies the troops and it gets the diehard supporters out, but I don't think it does much to win over those Independent voters, so I think it would do him really well to pick Haley.

THIESSEN: He just did that in the Bronx. He just did that in the Bronx. He just went to a deep blue city and got a crowd that Joe Biden could only dream of, and I don't think Joe Biden could pull that crowd in the South Bronx, and he reached out to Black and Hispanic voters and Democrats.

He is doing exactly what you're saying. So I appreciate your advice for the Republican. Thank you.

CARLUCCI: He was there, but he didn't say anything that will actually help.

GOWDY: He's also -- he is also doing great for tourism in New York because I was there last week for the trial and I'll be back again this week so he is an economic juggernaut for New York City right now.

Thank you both for joining us. I look forward to having you both again real soon.

CARLUCCI: Great to be with you.

THIESSEN: Take care. Thanks, Trey.

GOWDY: Up next, for the second time in three months, the Senate did not advance a bipartisan border security bill. If it's the number one issue for voters, then why did it fail? Let's find out with Senator James Lankford right after the break.

(COMMERCIAL BREAK)

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA.

Immigration consistently polls at the top for voters heading into November. Much like so-called criminal justice reform, the winds have switched and what Democrats once viewed as progressive backfired.

It turns out nearly everyone wants to secure a border. Knowing who is coming and going is not xenophobic or racist, reforming our asylum and refugee systems is not mean-spirited.

For years, Democrats benefited from the problem more than the solution, but then the winds switched vulnerable Senate Democrats need to show some toughness, but it may be too little and too late.

Republican Senator James Lankford represents the great state of Oklahoma. He sits on the Senate Homeland Security and Intelligence Committees. He has worked very hard on this issue and he joins us now.

Welcome to you, Senator. This issue has plagued us for decades, and while the public seems reasonable about solutions and compromises, legislation has proven elusive, or at least legislation that can pass. Do you think the parties and I hate to be cynical, you're not cynical, but I am. Do you think the parties benefit from the issue more than the solution? Or is there another explanation for why we have not been able to pass legislation?

SEN. JAMES LANKFORD (R-OK): No, the parties have benefited from the issue. There's an old consulting joke that says if you can't solve the problem, there's good money to be made by prolonging it. And so this whole attitude of we can continue to be able to point at each other has worked now for decades, except now, the issue is different.

This is a very real national security issue. The vast majority of people that are coming across, we're talking men in their 20s, we have about 30 to 45 percent of those every single day that are not from the Western Hemisphere. They're from China. They're from Russia. They're from Pakistan. They're from West Africa. They're from Tajikistan.

These are from areas that we're not familiar with getting these kind of numbers that are coming across, and they are a very real national security threat. They're still being waved in, about 5,200 a day are coming in the last month, we've literally had in the last three months, more people illegally crossed than any year under President Obama.

So this has really been a dramatic shift that has occurred, and it's why I've said I will work with anyone that wants to get serious about this and to say let's actually solve the problem of border security.

We've got other issues with who's already here. There's lots of other things. But first things first, let's stop the bleeding. Let's stop what's happening at the border. That's the key thing.

GOWDY: You know, it seems like yesterday, we actually came in together, came into the House together. You moved up and I moved out, but immigration, asylum, border security, those have been issues literally since we came in together and before and it feels like now we've almost given up on a legislative solution. We're just waiting to see which executive is going to take which executive action, which to me neuters the legislative branch.

It's also a branch issue. It's a substantive issue, but it's a branch issue. I mean, are we really just going to wait and see who wins the presidency and takes executive action?

LANKFORD: Yes, currently that is true. We're seeing that over and over again that it is a president is going to determine this. This is a rule of law issue. If Congress lays down law, that law needs to be applied, and there is where the law is weak, and we know that it is weak under asylum, Congress has the responsibility to be able to see that, not say to judges and the executive branch, you go figure out some way to be able to work around our weak law.

We know the asylum definition is weak. We know there are too many appeals that are in the process. We know that we're not detaining enough people that is allocating enough funds to the detention process specifically. We don't have enough deportation flights. Those are all things that Congress can fix.

Now, the same thing on the executive branch. I brought this up over and over again. We have two-and-a-half million people a year illegally crossing the border. Under President Obama, we had half a million people. Under President Trump, we had less than that. We had one year where it went above, but we had less than that.

So there is a way the executive can enforce it, but that last half a million people, that's Congress' job and we've got to actually deal with that issue on that that's why I push so hard to be able to say to the executive branch, Biden needs to do his job and to bring the numbers down, the Congress needs to do its job and to be able to finish the job on it.

So let's put the pressure on. I think people are sick of saying, Democrats, Republicans are actually finding this out. Everybody in my state just keeps saying somebody step in and fix this.

GOWDY: All right, you are actually one of the least political people I know, despite the fact that you are in a political office. So I ask you that because you do not have a reputation for being overtly partisan. But there are Democrat senators who are up for reelection. Do you think the renewed interest has anything to do with electioneering? Or is it just a genuine interest in border security?

LANKFORD: No, no. It's very, very much electioneering at this point. That's been the painful part about this. There's the vote that happened in the Senate this week, it was not intended to be able to pass, it was intended to have a vote and for Democrats to be able to put out fundraising e-mails and say, look, we're trying to be able to do something.

You're seeing what's happening where district attorneys are getting kicked out on the West Coast that are flagrant liberals that have allowed in bad criminal activities and just waved it in. They're now seeing that the winds, as you mentioned before, have changed in this significantly.

People no longer want to celebrate sanctuary cities. They no longer want to celebrate all of this openness. They want to say, I'm good with legal immigration, I'm not good with illegal immigration. And I think just people feel this is getting worse and getting more and more dangerous, and they are just ready for somebody to be able to solve it. That's what I'm trying to do. I'm very conservative, but I think we need to be able to solve this.

GOWDY: Senator James Lankford from the great state of Oklahoma taking on and tackling a very tough issue that has evaded resolution for probably since Reagan, I would guess.

Thank you for joining us on the Sunday night.

LANKFORD: Thanks, Trey. Thanks to all of those Gold Star families out there this weekend as well.

GOWDY: Amen.

Coming up, the evidence is in, New York versus Donald Trump is almost over. Three things remain: Instructing the jury on the law, closing arguments, and a verdict. Next on SUNDAY NIGHT IN AMERICA.

(COMMERCIAL BREAK)

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

Israel is investigating reports that its military carried out a deadly airstrike on a displaced persons camp in Gaza's Rafah City. Palestinian health workers say the strike killed at least 35 people. Dozens more are reportedly hurt.

Israeli military says its Air Force was targeting a Hamas compound in Rafah and is aware of reports of civilian harm. The strikes were reported hours after Hamas fired a barrage of rockets from Rafah towards Tel Aviv.

Closing arguments and jury deliberations are set to begin in the former President Trump's historic New York criminal trial this week. The former president is facing 34 counts of falsifying business records to hide an alleged affair with an adult film star during the 2016 election. Trump denies all wrongdoing.

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

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA.

Michael Cohen swears he is telling the truth about all the lies he told. Let that sink in.

The prosecution's star witness is being praised by left wing pundits for admitting he lied, admitting he is biased, stole money from Trump, admitting he'd like to see Trump in prison, and see himself in Congress. Ordinarily, that would not make for a great witness.

On the other hand, the heart of the Trump defense was cut out by trial judge, Juan Merchan, who ruled an election law expert could not fully explain the law to the jury.

I was in that New York courtroom last week and must admit it was a curious ruling, in part because Michael Cohen himself was allowed to testify as to the lawfulness of the catch and kill plan.

So Michael Cohen is an FEC expert, but a real FEC expert is not, and Cohen was allowed to essentially signal to the jury that because he pled guilty, Trump must therefore be guilty, too, and most judges don't allow that and for very good reasons, it is burden shifting and it's wrong.

A defendant is never required to put up a case or prove anything, but when they do call witnesses, those witnesses are fair game.

Former Cohen lawyer, Robert Costello testified Cohen told him "I swear to God, I don't have evidence of wrongdoing by Donald Trump." That would be very important evidence for the defense, but Costello's testimony may have been muted by bickering with the trial judge and Costello's own e-mails about Rudy Giuliani.

All that's left is charging the jury on the law, closing argument, and the hardest part of all in litigation, which is waiting on a verdict.

Andrew Cherkasky and Tom Dupree are both former federal prosecutors and they join us now.

Welcome to you both, gentlemen.

Andrew, let's listen to the defendant, the former president and I'll ask you about it on the other side.

(BEGIN VIDEO CLIP)

DONALD TRUMP, FORMER PRESIDENT OF THE UNITED STATES: Everybody knows it's just a witch hunt, it is a political witch hunt. There was nothing wrong.

They should have done it seven years ago if they had to do it, but they didn't do that. They waited until the election.

I mean, literally seven years later. It should have never been done.

LAWRENCE JONES, FOX NEWS CHANNEL HOST: Do you think you're going to be vindicated?

TRUMP: I don't know because we have a judge who is totally conflicted and is very unfair to the American system. You know that better than I do.

(END VIDEO CLIP)

GOWDY: All right, I think there was zero chance that Donald Trump was ever going to testify in this trial. And juries are instructed not to even think about that. But in reality, at least my experience, the jury is probably wondering why a defendant would hold press conferences and do interviews, but not speak directly to them.

So as a lawyer, how, if at all, do you address that with the jury come next week?

ANDREW CHERKASKY, FORMER FEDERAL PROSECUTOR: Well, Donald Trump never needed to testify because the jury already heard what he had to say. That's one of my rules that I use with my defendants, is that if the jury has already got that evidence through other means, through the prosecutors usually introducing it, there is no need for you to take the stand to say the same thing or potentially get caught in some sort of confusing type of question.

So the prosecutor has put on a great deal of evidence that in 2016, and even rolling into 2017, Donald Trump seemed to have the intentions to kill the Stormy Daniels story, to protect his reputation as a celebrity as a family man and certainly some consideration for purposes of the election.

But there was no evidence that he had made statements that were particularly incriminating, especially dealing with the most fundamental elements here, and that's the idea that the legal expenditure entry into the accounting books was improper. It's not like he put construction costs or charitable donation.

So they heard what he has to say through evidence that the prosecutors presented. He didn't need to take the stand.

GOWDY: All right, Tom, I want you to put your old prosecutor hat on. The defense is going to harp on the baggage Michael Cohen has, and it's a lot. It's bias, it is perjury, it is animosity, it is revenge, it is ambition, but the prosecution is likely to say you know what? All of that is true. All of that is true. But we did not pick him as a witness. If we were picking witnesses, we would have picked a Catholic nun or a first grade school teacher or a veterinarian.

Trump picked him. Trump picked Cohen because that's who he chose to deal with. How would you deal with that, if you were giving summation?

TOM DUPREE, FORMER DEPUTY ASSISTANT ATTORNEY GENERAL: Well, that's kind of how I try to pitch it, Trey. Look, the fact is, is Cohen was one of the least credible witnesses probably in American history. And prosecutors, like generals go to war with the army they got and in this case, I don't think they had much choice other than to rest their case on Michael Cohen.

They knew going in that it was going to be an absolute debacle on cross- examination, and that proved true. I thought the Trump defense team did a masterful job of further undermining his credibility, not that they needed a lot of help and doing it because Cohen has basically self-indicted himself over the years.

But if you're in the prosecutors' shoes, and it comes time to closing argument, I think that's how you have to pitch it. You have to say, look, we never put Michael Cohen up as an angel, but he was close to Trump. He did know what happened, he was trusted by Trump, at least at one point in time as his lawyer, and although he was lying then, he wasn't lying now.

I don't know if the jury is going to buy it, but I don't think the prosecutors have many other choice.

GOWDY: All right, Andrew, you're sitting with the defense counsel right now and trying to figure out whether or not to allow for a lesser included offense. I know, there's an argument, the statute has run. I don't know whether you can waive that. But do you want a compromise misdemeanor verdict? Or do you want it to be felony or nothing?

What are you arguing for with the jury instruction and a verdict form?

CHERKASKY: I want a straight verdict and I want that verdict to be an acquittal, not guilty. That's what I'm going for.

I think the defense could make a terrible mistake in asking for the lesser included because the statute of limitations is a waivable issue for the defense. And so I think that by asking for the lesser included of just the misdemeanor, I think they effectively waive that issue.

That said, I think the strongest defense in this case is to attack the misdemeanor crime itself, not the escalating felony additional charge.

GOWDY: All right, Tom, before I let you go, you've got to tell me how you would handle Costello, the substance of what he said was good. But his demeanor -- I was there watching it. It was off putting to be candid. So how do you deal with that in summation with the jury?

DUPREE: Yes, look, I think in retrospect, I am confident that the defense team if they had to do it over, they would have declined to call Costello. In my view, at least it was a bit piling on. I think they'd already undercut Cohen's credibility. They didn't need to get Costello to do it.

But look, they called him and you're right. His testimony was not great. He got crosswise with the judge, and although the journey was escorted out when the judge lectured him, I think they're going to see there was friction. I think the prosecutors have to focus the jury on Costello's testimony, not his demeanor.

GOWDY: All right, I would tell you both to send me a bill but I don't make enough to pay it so, just consider this pro bono work.

Both of y'all, thank you for joining us on a Sunday night. I got a suspicion I'll be talking to you both again at some point about this or another matter.

Thank you both.

CHERKASKY: Thank you, Trey.

DUPREE: Thanks.

GOWDY: Hunter Biden will soon have his own day in court even as he faces new allegations from House Republicans of lying to Congress.

The Ways and Means Committee claims Biden, among other things mischaracterized his work and relationship with the Chinese business executive and misled Congress about bank accounts associated with his firm Rosemont Seneca.

Congress does not have a prosecution team. Allegations of criminality must be referred to law enforcement for investigation and then to DOJ for review. The record there is mixed at best. Former Massachusetts US Attorney Rachael Rollins was given a pass, former Republican Congressman Jeff Fortenberry seems like a lifelong obsession for DOJ.

What if anything will happen to the president's son? Joining us is Ways and Means Committee member, Representative Brian Fitzpatrick.

Welcome, Congressman.

You're also a former federal prosecutor and a former federal law enforcement officer. So if you tell me someone may have violated the law, I tend to pay attention. What's going on here with Biden's testimony in your judgment?

REP. BRIAN FITZPATRICK (R-PA): Yes, Trey, thanks for having me. Well, Hunter came earlier this year for a deposition. We reviewed that deposition. When that was released, the two whistleblowers that had initially come forth with the information had identified three statements that Hunter had made during that deposition that we now know based on the information they provided are provably false.

One pertaining to a WhatsApp message that Hunter had sent to a Chinese national, the head of one of the energy companies there; one pertaining to his position as secretary at Rosemont, one of the 20 entities that Hunter had created; and the third about assistance he had given to the CEO of Burisma pertaining to the application and obtaining of a visa. So those are three provably false statements, just like if you lie to an FBI agent, if you lie to a prosecutor, if you lie in an official congressional proceeding, it's a violation of Section 1001 of Title 18. It's a felony.

GOWDY: All right, in your old job, you could do the arresting yourself. But the process is a little bit different here. I think there has to be a referral, then it has to be investigated, then the results would be presented to a prosecutor.

The timeline, I don't think for that would be quick, and members of Congress cannot control the speed of the investigation or DOJ deliberations. I'm just trying to set people's expectations correctly. You can't arrest or prosecute anybody. You rely on other people to do that, correct?

FITZPATRICK: That's right, Trey. So what would happen now is we would have a vote to send a formal referral to DOJ based on the 1001 violations. Some cases are a lot quicker than others. I mean, these are pretty straightforward, provably false statements. So there's not a whole lot of investigating to happen here.

The question is going to come down to DOJ prosecutorial discretion as to whether, you know, obviously, Hunter has a pending tax evasion case in California, gun charges in Delaware, if they want to add this third charge or not.

GOWDY: Do you think there's any chance that President Biden says you know what, I'm going to pardon my son, and I'm going to pardon former President Donald Trump on his two federal matters. I can't do anything about Georgia and New York, but on this two federal matters, and people are welcome to be mad at me. But I have the pardon power and I'm going to do it.

I'm not going to watch my lone surviving son go to prison, and I am going to pardon my political opponent. Do you think there's any chance that happens?

FITZPATRICK: Well, that would certainly be a bold move. Trey, I've never been a fan of, you know, pardons with the exception of very, very rare cases. Because, you know, Trey, you're a federal prosecutor, I was a federal prosecutor and FBI agent, these cases are hard to put together. They involve a lot of work.

And, you know, the justice system works its will. Juries deliver their verdicts and that's the system now, you know, pardons are appropriate in certain circumstances, commutations are appropriate in certain circumstances. This would certainly be a bold move, that's for sure.

GOWDY: Congressman Fitzpatrick, thank you so much for joining us and for your service to our country and all the ways that it manifest itself.

FITZPATRICK: Appreciate it. Thanks, Trey.

GOWDY: Up next, something called the International Criminal Court wants to arrest Israeli Prime Minister Benjamin Netanyahu. What about the real gangsters running loose around the world you ask? Good question.

That and more only on SUNDAY NIGHT IN AMERICA, next.

(COMMERCIAL BREAK)

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA.

The International Criminal Court announced it was exploring arrest warrants not just for Hamas, but also for Israeli Prime Minister Benjamin Netanyahu. Prosecuting the leaders of a terrorist group who have no regard for human life, who organized and carried out the mass murder of innocent civilians and still hold hostages seems reasonable and overdue.

But seeking to arrest the leader of a nation defending itself renders the ICC meaningless in the eyes of most of us. And that sentiment is shared on both sides of the aisle.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: We reject the ICC'S application of arrest warrants against the Israeli leaders.

(CHEERING AND APPLAUSE)

BIDEN: Whenever these warrants may apply, there is no equivalence between Israel and Hamas.

Contrary to allegations against Israel made by the International Court of Justice, what's happening is not genocide. We reject that.

(CHEERING AND APPLAUSE)

(END VIDEO CLIP)

GOWDY: This came just one day after Iranian President Ebrahim Raisi was killed in a helicopter crash. Raisi was no friend of the US or Israel, but who and what comes after him.

Joining us as former acting Undersecretary for Civilian Security, Democracy and Human Rights, Mr. Nathan Sales.

Welcome, sir.

First, give us your reaction to the mere fall of the ICC seeking to arrest and prosecute Benjamin Netanyahu.

NATHAN SALES, FORMER COORDINATOR FOR COUNTERTERRORISM AT THE STATE DEPARTMENT: Well, Trey, this court is out-of-control.

They have drawn a grotesque comparison between a democracy fighting to defend itself and a terrorist organization that unleashed the deadliest wave of violence against Jews since the Holocaust with 1,200 innocent Israelis, most of them civilians, murdered, raped, burned alive. And it's not just Israel that this court is gunning for, it's also threatening to come after members of Congress, members of Congress who are saying this court is out-of-control. We need to sanction these people before they come after the United States.

The court responded to that by putting out a statement wagging its finger and saying, well, you might be obstructing justice, and you might be next.

So the president, Congress need to draw a clear line in the sand. Now, you're coming after Israel, but you're coming after us next and we're going to stop it before this gets off the ground.

GOWDY: All right, for those of us who are not familiar with the ICC, I mean, I'm a little bit familiar with them, but it is not a court I've ever appeared in front of. Where does their jurisdiction derive from and who finances that entity?

SALES: Trey, it is a great question. Their jurisdiction comes from the consent of states. You only have jurisdiction over a state if the state has ratified the underlying treaty, and guess who didn't ratify the treaty? One, the United States and two, Israel. And the reason is because both countries understood that if the ICC was created, it was only a matter of time before rogue prosecutors started coming after us, not the world's dictators like the leaders of Iran and Syria and North Korea, but liberal democracies who believe in the rule of law and human rights and that's exactly what's happening here.

Where is the money coming from? That's a really interesting point. It actually comes from American allies, countries like Japan, Germany, the United Kingdom, France are responsible for the vast majority of the ICC's budget.

What the administration needs to do is quietly communicate to those countries, hey, guess what, it's American soldiers that are stationed on your soil that are protecting you from countries like Russia, and China, and North Korea. It would be obscene for you to be funding a court that's coming after American soldiers, the very American soldiers that are on your soil to protect you from our shared enemies.

GOWDY: You mentioned soldiers. Does the ICC have like a police force to actually serve arrest warrants? Because I have a hard time seeing an ICC agent showing up and doing battle with the IDF in Israel trying to serve an arrest warrant on Netanyahu.

SALES: Yes, that would be a very one-sided fight. You know, the way this works, Trey is that if the ICC goes ahead and issues an arrest warrant for Netanyahu or anybody else, it would rely on national level police forces to do the dirty work for them.

So if Benjamin Netanyahu traveled to Europe, for instance, the ICC would expect that those European countries would take Netanyahu into custody.

And I've got to tell you, we've already started to hear some worrying signs coming out of Europe that some European countries may actually be willing to consider such an outrageous and radical step as that.

GOWDY: Nathan Sales, thank you for joining us on a Sunday night and loaning us your expertise.

SALES: Thanks for having me, Trey.

GOWDY: Coming up, there's a new wave spreading across our nation, it is called remorse. Some cities have had enough of the so-called progressive prosecutors and now they want real public safety.

Fox News contributor, Paul Mauro talks about the failure of the cuddle with the criminal approach to law enforcement next on SUNDAY NIGHT IN AMERICA.

(COMMERCIAL BREAK)

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA.

Sometimes we go through fads whether it's parachute pants or vinyl records or pixie haircuts; some fads, however, can be deadly like the fad of experimenting with prosecutors who aren't really prosecutors, they are defense attorneys masquerading as prosecutors.

Portland had a progressive DA named Mike Schmidt with the operative word being "had." Even Portland figured out coddling criminals isn't a very good public safety strategy.

Chesa Boudin was ousted in California. George Gascon undergoes a weekly recall effort, it seems. Kim Foxx is out, Marilyn Mosby ran into prosecutors herself. But Alvin Bragg and Fani Willis are still there. Few things in life have remained truly bipartisan.

But staying alive and not getting robbed, or assaulted, or worse, are among them. It turns out conservatives and even some liberals are tired of experimenting with our own safety.

Joining us is a good friend of the show, attorney, retired NYPD inspector and Fox News contributor, Paul Mauro.

Welcome, Paul.

You know, some fads are harmless, some cause real danger, they threaten your life. This experiment with so-called progressive prosecutors could very well wind up costing people their lives or at least jeopardize their safety.

PAUL MAURO, FOX NEWS CHANNEL CONTRIBUTOR: Yes, and they could also cost a certain resident of the White House his job, because crime is definitely on the agenda this November.

And you know, Trey, you and I have talked about it before, one of the things in play here, aside from the points that you mentioned, is that this time, the devolution is televised. We're seeing this stuff.

Everybody has a phone. It was a very bad time for the Democrats to decide, hey, let's let the defense bar rewrite all the rules of engagement for law enforcement across the country. And you can't hide the fact that we see videos like the one you're showing now from Times Square.

And so even Portland, as you say, is coming to its senses. And you know, it's not the big headline grabbing crimes this time around, and I think that's a subtlety. It's quality of life stuff. And as you say, even liberals want to walk down the street, they want to be able to go to the bodega and get a quart of milk without having to take their lives in their hands -- and that's what's driving this.

This is a ground up movement and I think it's really, you know, being felt, and you're certainly feeling it in the DA races across country.

GOWDY: You know, Paul, you and I are both attorneys, which means we like to ask the question why, although sometimes it's a dangerous question. We like it. I wonder why this fad started? I mean, it's always seemed counterintuitive to me, because a very small group of people actually want to hurt or kill us. So why don't we identify, prosecute them, separate them from society, it seems pretty simple to me. But we go through these cycles, where the left wants to experience with justice reform, which is really Latin for let's let people out of jail.

MAURO: And it never works. And you know, there was a point a number of years ago here in New York, where we had -- this is pre-criminal justice reforms -- we still had broken windows policing. I don't care what anybody says, but we did and it worked.

But what we also had, and this is the really significant metric, we had declining incarceration rates. That's right. We had both, okay.

And this was after we had the Ray Kelly as police commissioner, we got Bill Bratton, those were two A-list police commissioners, and you really achieved the sweet spot. And what did that mean? Well, that meant that the people whose job it is to dismantle that kind of thing, had to speak up, they had a friend in the Gracie Mansion here in New York in Bill de Blasio, and it just comes down to money and power.

The people who get their money and their power from the kinds of initiatives you're talking about, it is not just the George Soros. If you drill down deep enough, a lot of stuff is government money, which is astounding, but that's their rice bowl. They're never going to give it up. And as a result, they keep the meme going that all we want to do is incarcerate people.

You've got "The New York Times" that pile on, and you know, as they say, follow the money, you're going to find the culprits.

GOWDY: You know, you mentioned something. We've only got a little bit of time, but I can't let you go before I highlight this. Most crime is local - - it is state and local, as you pointed out, but this issue of being tough or soft on crime has become a national issue. And I think it may even be a presidential issue. I'll give you the last word.

MAURO: I think very much so. I think very much so. And you know what? a lot of stuff sort of gets poured into that colander, if you look at it. Consider what we've seen around the country on college campuses, the kids are being treated with kid gloves. And you know, we all know those aren't the garden variety students, those that are progressives who are going to get out and end up in Congress and vote for more of this stuff.

People are tired of it. And whether they you know, whichever way you go on Donald Trump or Joe Biden, they know that more of the same is not productive for this country. It is on the agenda. It's going to matter.

GOWDY:` Paul Mauro, always the voice that I turn to on matters of law enforcement and the justice system. Thank you for joining us on a Sunday night.

MAURO: Thank you, Congressman.

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 @GowdyAmerica or on "The Trey Gowdy Podcast."

Good night from South Carolina.

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