

# [***Donald Trump Asks Justices To Pause Immunity Ruling; Majority Think Donald Trump And Joe Biden Too Old; Israeli Forces Free Two Men From Hamas; Lloyd Austin Enters Hospital For Nonsurgical Procedure; Biden Age And Mental Acuity Serious Concerns For Voters; Off Duty Officers Take Out Texas Shooter; Two Injured Including Small Child; Immigration Issue Prominent In Congressional Special Election In New York To Replace George Santos; Democrat Governor Jared Polis Of Colorado And Republican Governor Spencer Cox Of Utah Interviewed On Bipartisan Efforts To Secure U.S. Southern Border; Recent National Polls Shows Former President Trump With Narrow Lead Over President Biden; President Biden's Age Concern For Large Majority Of Americans In Recent Polling***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BB0-5101-F072-X17V-00000-00&context=1516831)

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**Body**

JESSE WATTERS, FOX NEWS CHANNEL HOST: Harold?

HAROLD FORD JR., FOX NEWS CHANNEL CONTRIBUTOR: Wow, that was Black History Month kind of thing.

A navy sailor surprises little sister at school after being deployed. The second class petty officer came to see his sister in Temperance, Michigan, reunited, the class clapped. That was a great story. Great, great, thing.

WATTERS: Great story. That's it for us, have a great night.

BRET BAIER, FOX NEWS CHANNEL HOST: Hi Jesse, Super Bowl was awesome. Thank God I listened to Greg when placing my bet.

WATTERS: Ka-ching.

BAIER: All right. Thanks, buddy.

Good evening, I'm Bret Baier.

New information on the woman who opened fire inside one of America's largest churches.

Immigration is one of the major issues in a crucial special election for the House seat of an expelled Republican.

And former President Donald Trump raising eyebrows and getting criticism for new comments on NATO and Russia.

But first, breaking tonight, this is a big week for the former president and his legal team. A short time ago, he asked the U.S. Supreme Court to intervene on his behalf in one major issue. He's also dealing with his own classified documents case in Florida and the election interference case in Georgia.

Correspondent David Spunt looks at all of this tonight live from the Justice Department. Good evening, David.

DAVID SPUNT, FOX NEWS CHANNEL CORRESPONDENT: Good evening to you, Bret. The former president officially filed his appeal about 90 minutes ago. Now we wait for the nine Supreme Court justices to say something if they decide to get involved or not. They could be weighing in on a massive massive part of the middle of the campaign 2024 for the next President of the United States.

Donald Trump is seeking a stay or a pause in the unanimous circuit court ruling from last week that he, a former president is not immune from prosecution over his alleged efforts to overturn the results of the 2020 presidential election.

Now, Trump's Washington D.C. trial was initially set for March 4th. If the justices issue a stay, expect the trial to be pushed back several months. If they decide not to review the case, this trial could get back on track fairly quickly, Bret and begin perhaps late spring or early summer.

Also today, the former president left after spending several hours in a secure room inside a federal courthouse in Fort Pierce, Florida to meet behind closed doors with Judge Aileen Cannon who's overseeing the classified documents case.

Remember, Donald Trump appointed her to the federal bench and he wants access to classified documents as part of the special counsel's case against him.

And speaking of the special counsel, Bret, Jack Smith's team also met with Judge Cannon late today to argue that the information is so sensitive it should not be just handed over to Donald Trump or his legal team.

In addition to his upcoming trial in Washington, D.C., Jack Smith is taking Donald Trump to trial in southern Florida. It's on the calendar to begin May 20th, but could easily slide back perhaps after the election, given the decisions by Judge Cannon over the next few weeks.

And in a third courtroom related to Donald Trump today. A judge in Georgia announced that he will hold a hearing on Thursday, examining the romantic relationship between Fulton County District Attorney Fani Willis and her top prosecutor Nation Way -- Nathan Wade, excuse me.

And that case, Bret, could be in some serious legal jeopardy given the fact that that relationship was not disclosed, Bret.

BAIER: All right, we're following it all. David, thank you.

Now to the age old question that's becoming a dominant issue in the presidential race, age. Are President Biden and former President Trump too old for a second term? An astounding 86 percent of the fellow Americans surveyed say yes about the current president and 59 percent about the former president.

Today, President Biden tried to make light of the situation but few people, especially in his own party, are laughing. White House Correspondent Jacqui Heinrich has details tonight live from the North Lawn. Good evening, Jacqui.

JACQUI HEINRICH, FOX NEWS CHANNEL CORRESPONDENT: Good evening, Bret. The fallout here is apparent with the shifting messaging. The president who first lashed out about the special counsel's report is now joking about it. Other officials have trashed the report as a political hit job and today, the press secretary tried to reframe the president's age as an asset. But whether any of this works is still an open question.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: I know I don't look like I've been around a while. I do remember that.

HEINRICH (voice over): President Biden playing off age concerns publicly but behind closed doors, advisors and allies alike are increasingly furious. The special counsel's report aggravated one of Biden's biggest political liabilities. A new ABC poll shows 86 percent of voters think he's too old to serve again, including 73 percent of Democrats.

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: Special counsel Hur is as far as I remember is a -- is obviously a Republican, a prosecutor, he's not -- he's not a medical doctor. He's just not. It's not for him to speak to.

HEINRICH (voice over): First Lady Jill Biden assailed her for making what she calls inappropriate political attacks on her husband, writing into campaign e-mails e-mail Sunday signed love Jill, "I don't know what this special counsel was trying to achieve. I can't imagine someone would try to use our son's death to score political points."

Amid pressure, show voters he's still got it at 81. The White House struggling to explain the president's decision to skip the traditional Super Bowl interview for a second year in a row and instead appear on the very app his campaign set in June it would not join.

UNIDENTIFIED MALE: Trump or Biden?

BIDEN: Are you kidding? Biden.

HEINRICH (voice over): The commander-in-chief's campaign now at odds with his FBI director who testified about TikTok last year.

CHRISTOPHER WRAY, DIRECTOR, FBI: It screams out with national security concerns.

HEINRICH (voice over): The app is banned on government devices, a decision on a nationwide ban still pending.

HEINRICH: We're all just trying to square why the president would use this platform that his administration is weighing a national ban on because of national security concerns.

JOHN KIRBY, PRESS SECRETARY, PENTAGON: I just can't speak for the campaign or their decisions.

(END VIDEOTAPE)

HEINRICH (on camera): Now, last week before the special counsel's report, the vice president was asked whether voter concerns about the president's age increased pressure on Hur to convince them that she could take the helm. Her answer was blunt, but in the wake of special counsel's report could carry an unintended sting. She said, "I'm ready to serve. There's no question about that," Bret.

BAIER: Jacqui Heinrich live on the North Lawn. Jacqui, thanks. Brit Hume on this in just a bit.

The United Nations is facing new questions tonight after the discovery of a tunnel underneath the Gaza headquarters of its relief organization. Also in the region, Israel has rescued two hostages from a heavily guarded apartment in the Gaza Strip.

Senior Correspondent Mike Tobin has the latest tonight from Tel Aviv. Good evening, Mike.

MIKE TOBIN, FOX NEWS CHANNEL SENIOR CORRESPONDENT: Good evening, Bret. President Biden today together with King Abdullah of Jordan stressed that the civilian casualties in this war are too high. The king discouraged and anticipated offensive into the last city standing in the Gaza Strip. President Biden says he's working on a hostage release deal after Israel free to hostages through force.

(BEGIN VIDEOTAPE)

TOBIN (voice over): Just before 2:00 a.m. in Rafah, the southernmost town in the Gaza Strip, Israeli Special Forces gathered in front of an apartment believing two Israeli hostages Luis Har and Fernando Marman were held there, the fighters entered and blew open the doorway.

REAR ADM. DANIEL HAGARI, ISRAEL DEFENSE FORCES SPOKESPERSON (through translator): At that stage, the fighters pull Louis and Fernando out of the apartment and rescue them on the fire.

TOBIN (voice over): The Israeli Air Force bombed another target in Rafah to prevent Hamas reinforcement from joining the fight. Luis Har and Fernando Marman were unharmed, airlifted to safety and reunited with their families.

The IDF says their survival underscores the need to continue with the offensive and push a larger force into Rafah.

LT. COL. RICHARD HECHT, ISRAEL DEFENSE FORCES: We believe there's potentially more hostages in that area.

TOBIN (voice over): In the north of the Gaza Strip, Israel discovered a massive tunnel beneath the United Nations Relief Works Agency or UNWRA headquarters. Israel says Hamas use the tunnel as an intelligence hub, complete with computer servers, communications equipment, and extensive electrical work wire to the surface in the UNRWA headquarters.

LT. COL. IDOR, 401ST ARMORED BRIGADE: Everything is conducted from the here, all the energy for the tunnels, which you walk through it -- through them are powered from here. It's state of the art electricity so it can work 24/7.

TOBIN: All of this electricity, all the communications equipment is connected with the surface. Given that, given the amount of dirt that had to come out of here and construction noise. Israel says there's no way the UNRWA employees on the surface didn't know about these tunnels.

TOBIN (voice over): The tunnels stretched about a half mile, some of it developed, some of it very rough running underneath and UNRWA school and a kindergarten as well.

UNIDENTIFIED MALE: Our problem is the Hamas. The Hamas is working in the UNRWA and under the UNRWA.

(END VIDEOTAPE)

TOBIN (on camera): Now, the Commissioner General of UNRWA put out a statement that UNRWA is a humanitarian organization and lacks the ability to conduct a military inspection of what may be beneath that facility.

However, there were rooms in that headquarters buildings in which there was substantial wiring and electronics that were obviously connected to something below, Bret.

BAIER: Mike Tobin live in Tel Aviv. Mike, thank you.

There is worldwide reaction tonight to former President Donald Trump's comments about supporting a theoretical Russian invasion of NATO countries that have not paid their fair share in dues to NATO.

Also tonight, Defense Secretary Lloyd Austin is back in the hospital. But in contrast to last month, the secretary has made sure that everyone including the president was kept in the loop.

Here's Chief National Security Correspondent Jennifer Griffin.

(BEGIN VIDEOTAPE)

JENNIFER GRIFFIN, FOX NEWS CHANNEL NATIONAL SECURITY CORRESPONDENT (voice over): The defense secretary was taken to Walter Reed by his security detail Sunday afternoon and underwent anesthesia for a non-surgical procedure to his bladder.

BRIG. GEN. PAT RYDER, PENTAGON PRESS SECRETARY: He's going to recover well, he's in good condition and we'll keep you updated.

GRIFFIN (voice over): According to his doctors, Secretary Austin is expected to resume his duties tomorrow. This is the second time Defense Secretary Austin has been in the hospital but unlike his January 1st emergency visit, in which he and his staff delayed telling the president and deputy defense secretary for days, this time the president was told before Austin left for Walter Reed.

The secretary canceled his trip to NATO headquarters Tuesday to oversee the Ukraine contact group, which meets monthly to discuss Ukraine aid, something Austin started in April 2022. That meeting will now be virtual.

The timing could not be worse with European allies questioning the U.S. commitment to NATO following former President Trump's remarks this weekend about his message to NATO allies who do not spend the agreed upon two percent of their GDP on their defense budgets and what he would allow Putin to do in Europe.

DONALD TRUMP, FORMER PRESIDENT OF THE UNITED STATES: No, I would not protect you. In fact, I would encourage them to do whatever the hell they want.

KAJSA OLLONGREN, DUTCH DEFENSE MINISTER: Frankly, I think this is exactly what Putin loves to hear. If we're not united. It makes us weaker. And we know that that is what Putin is looking for.

GRIFFIN (voice over): 11 out of the 31 NATO allies spend two percent or more of their GDP on defense up from just four in 2017 when then President Trump publicly raised the issue repeatedly.

Frontline states like Estonia are spending nearly three percent and Poland spends a whopping 3.9 percent of its GDP on defense since Russia's invasion of Ukraine.

(END VIDEOTAPE)

GRIFFIN (on camera): Europe has now surpassed the United States in support for Ukraine with European allies collectively spending more than $96 billion for weapons and aid for Ukraine compared to the U.S. having spent $73.2 billion to date, Bret.

BAIER: Jennifer Griffin live at the Pentagon. Jennifer, thank you.

Stocks were mixed today ahead of key inflation data, the Dow rose 126 to a new record close again. The S&P 500 lost five, the NASDAQ was off 48.

Tomorrow, FedEx founder and executive chairman Fred Smith will be our guest on SPECIAL REPORT to talk about the economy and other things.

Up next, Brit Hume's take on President Biden, the age question and later our Common Ground segment with two governors trying to take on partisanship.

First, Beyond our Borders tonight, Marathon world record holder Kelvin Kiptum and his coach are killed in a car accident in Kenya. Kiptum was expected to be a superstar of long distance running and was a top contender for gold at the Olympics in Paris this year.

Three people are fatally shot in the offices of a shipping company near Athens. Authorities say the suspected gunman took his life as police Special Forces in Greece prepared to confront him. It's believed he was a company employee.

And this is a live look at Rome. One of the big stories there tonight, Pope Francis meets with Argentinian President Javier Milei at the Vatican. Milei once called the pontiff an imbecile. The Pope has brushed off the criticism as campaign rhetoric.

Pope Francis has expressed the hope of returning eventually to his native Argentina later this year for the first time since his 2013 election.

Just some of the other stories Beyond our Borders tonight. We'll be right back.

(COMMERCIAL BREAK)

BAIER: A group of youth climate activists was arrested today for blocking the entrance to President Biden's campaign headquarters in Delaware. The group demanding his administration end what it calls the era of fossil fuels.

The climate organization called Sunrise movement says 21 of its members were arrested out of about 100 people involved there. Protesters say if the president fails to take definitive action, millions of young voters would stay home in November.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: I know I don't look like him. I've been around a while.

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: His age with experience and expertise is an incredible asset, and he proves it every day.

REP. DEAN PHILLIPS (D-MN): Is he in a position to serve until 2029? Look, I think we know the answer.

JAMES CARVILLE, FORMER CAMPAIGN MANAGER FOR BILL CLINTON: Linda Johnson dropped out in March 1968. We had laminate. So, it's never too late.

(END VIDEO CLIP)

BAIER: Now to talk about age, the president, New York Times covering this. "Yes, Biden's age matters. Better than Trump's doesn't mean that he'd continue to respond to profound foreign and domestic challenges with clarity and energy. Better than Trump' doesn't mean we can count on him finishing a second term. Age is not a challenge that improves with time. It's likely that Biden's memory and energy are better now than they will be next year, not to mention four years from now."

And the ABC poll this weekend found 73 percent of Democrats believe that the president is too old to serve another term. Looking Independents, 91 percent. Overall, 86 percent.

Let's bring in Fox News chief political analyst Brit Hume.

Brit, good evening. You've been talking about this. We've been talking about this for a long time.

BRIT HUME, FOX NEWS CHANNEL SENIOR POLITICAL ANALYST: Right.

BAIER: Obviously, the special counsel's report and all the details within that, created a lot of coverage over the weekend. What's your assessment 30,000 feet of what you saw and where this goes?

HUME: Well, I think the numbers in that eye popping poll that you're just talking about, they may be a little bit a little high, but they could be lower than that by a considerable amount, and still be pretty devastating numbers.

And it tells you that the public has figured out well, before this report from the independent to the Special Counsel came out that the president is too old to be president. That he is senile or forgetful. And you know, even by the way he moves, you can see he's not the man he once was.

And that's -- and I think the effect, actually, of the Robert Hur, the special counsel's report was to kind of wake-up Washington to the reality that the rest of the country had been onto for some time. So, I think that's kind of where we are.

BAIER: Yes, and obviously Democrats over the weekend said, the leading opponents, former President Trump is only three years younger. However, the polls show that the numbers are better of people who think that he is too old or to run or run the country. Speaking of Trump, the Wall Street Journal, saying Trump and NATO deterrence, concern about his comments that we played earlier in the show.

"The U.S. should be having an election debate over the growing dangers of U.S. security and how to counter them. Instead, we have an incumbent who has presided over the collapse of U.S. deterrence, and the GOP front runner who dotes on dictators."

The NATO secretary general, putting out a statement saying, he was concerned with what the former president said in his remarks about NATO.

HUME: Well, my guess about that, Bret, was its typical Trump loose talk.

My guess is that he meant that as a way of threatening the NATO allies who haven't paid their full freight to which they are supposedly committed and, and have said they would pay, and they are not doing it, and all of them. So, a lot of them are, but some of them are not.

And so, he is trying to get him to pony up. But loose talk about possibly not backing. our NATO allies in the event of an attack from an enemy, particularly, including Russia is not helpful. And the one thing that the war in Ukraine has done, it has brought NATO closer together. It has strengthened NATO's hand, it has gotten more members into NATO.

The Alliance now stands at a moment of greater strength than it has for some time, and that's a good thing. And now, the president is not wrong that some allies have not paid their full freight. But this kind of talk, tempts dictators, tempts aggressors, and it doesn't help.

BAIER: Yes. To your point, NATO secretary general ended with I expect that regardless of who wins the presidential election, the U.S. will remain a strong and committed NATO ally.

Brit, as always, thank you.

Up next new details emerge about yesterday's shooting at Joel Osteen megachurch. Who is the suspect and what is the relationship to the 5-year- old victim.

And later, a special election in New York tomorrow could make a difference in the already slim majority for Republicans in the House.

(COMMERCIAL BREAK)

BAIER: This is a live look at Kansas City, Missouri where the Chiefs and their fans are celebrating their second consecutive Super Bowl win. And third in the last five years. Pretty amazing.

Chiefs overcame a 10-point first half deficit to defeat the San Francisco 49ers. In overtime, 25 to 22.

What a game. The whole thing. Chiefs' quarterback Patrick Mahomes was named the most valuable player. They getting ready to head to Kansas City for that big party.

Also, "BREAKING TONIGHT", we are learning new information about the person who began shooting inside a Houston mega church yesterday afternoon before being killed by security personnel.

What we still do not know is the motive.

National correspondent William La jeunesse has our updates tonight. Good evening, William.

WILLIAM LA JEUNESSE, FOX NEWS CHANNEL NATIONAL CORRESPONDENT: Do know however, this could have been a lot worse. That church holds thousands but the shooting happened between services. And 36-year-old Genesse Ivonne Moreno, who is also used the name Jeffery Escalante, never got into the sanctuary.

She arrived around 2:00 p.m. Sunday in a trench coat and almost immediately began shooting from a concealed A.R.-15.

(BEGIN VIDEO CLIP)

CHRISTOPHER HASSIG, HOUSTON POLICE HOMICIDE COMMANDER: There was a sticker on the buttstock of the rifle that stated, Palestine. A sticker simply stated Palestine.

LA JEUNESSE (voice over): Two off duty police hired as security immediately engaged her in the hallway.

KEVIN LILLY, TEXAS ALCOHOLIC BEVERAGE COMMISSION: They held their ground in the face of rifle fire at point blank range, and they continue to fire until the proprietor -- the perpetrator was neutralized, and they did not yield.

LA JEUNESSE: Moreno also brought her seven-year-old biological son who was wounded in the exchange, and he remains in critical condition. A 57-year- old man was also injured but he has been released from the hospital. Now, Escalante Moreno has a lengthy criminal record for assault of a police officer, forgery, drug possession, theft, and illegally carrying a weapon. She was also once admitted for a mental health evaluation, which can often prevent a buyer from passing a gun background check. But police say she legally bought an AR-15 in December.

TROY FINNER, HOUSTON POLICE CHIEF: I just want us to simply on the facts. You got mental illness here. You got a lot of things going on.

(END VIDEO TAPE)

LA JEUNESSE: During a search of her house, police say they say they discovered some antisemitic writings which may have been related to a divorce from her Jewish husband. Morano claimed to have a bomb, but police did not find one in her backpack or her car. They concluded she acted alone, but say it's too early for a motive. Bret?

BAIER: William, thank you.

A key seat in the bitterly divided House of Representatives is on the line tomorrow in a special election to replace disgraced and expelled Republican Congressman George Santos, and immigration could be the deciding issue in that race. Correspondent Bryan Llenas reports from a psychiatric center being used as migrant center in Queens Village, New York, tonight.

(BEGIN VIDEO TAPE)

UNIDENTIFIED MALE: Illegal immigrants arriving by the busload. Why? Because Tom Suozzi repeatedly weakened America's borders.

BRYAN LLENAS, FOX NEWS CORRESPONDENT: Immigration now a flashpoint issue in New York's third congressional district special election. Republicans are hammering Democratic candidate Tom Suozzi, claiming he supports sanctuary cities. The ads meant to bolster Republican Mazi Pilip, a Jewish Ethiopian Israeli immigrant who says the former congressman is as much to blame for the migrant crisis as President Biden.

MAZI PILIP, (R-NY) U.S. CONGRESSIONAL CANDIDATE: Tom Suozzi created this mess. It is a big concern, and we need to secure our borders. We need to secure it as soon as possible.

LLENAS: Suozzi says he's a centrist who supports bipartisan solutions.

TOM SUOZZI, (D-NY) U.S. CONGRESSIONAL CANDIDATE: I'm offering change. She is the same status quo of division and fighting.

LLENAS: And the immigration issue is up front and center here. Residents in this Long Island district have clashed over a new temporary migrant shelter housing 1,000 male migrants directly across from an elementary school and playground. It's a tight race with Suozzi ahead by four points according to the latest Siena College poll. But likely voters say immigration is the most important issue, and on that they trust Pilip over Suozzi. A Pilip win would give House Republicans one more vote needed to impeach DHS Secretary Alejandro Mayorkas and a chance to put disgraced Congressman George Santos behind them.

SUOZZI: She is Santos 2.0. It's the exact same nontransparent, phony boloney --

PILIP: I am very much vetted. I'm very proud of who I am.

(END VIDEO TAPE)

LLENAS: The migrant shelter behind me is on the same property as a polling location where voters will cast their ballots tomorrow. Democrats have outspent Republicans in this race by millions. They view New York as key to regaining control of the House come November. Bret?

BAIER: Bryan, thank you.

Up next, two governors set on taking the nasty out of today's ***politics***. It's our "Common Ground" segment.

First, here is what some of our FOX affiliates around the country are covering tonight.

FOX 5 in New York as the city and much of the northeast prepare for a potential nor'easter. Tens of millions of people from West Virginia to Maine are under a winter weather alert. The storm expected to blast the region with heavy snow, which could significantly, of course, disrupt travel along the Interstate 95 corridor from New York to Boston.

FOX 17 in Nashville as the brother and girlfriend of a man wanted for killing a Tennessee police deputy and wounding a second are arrested. The manhunt for Kenneth DeHart is in its fourth day. He's accused of shooting the officers during a traffic stop in Maryville Thursday.

And this is a live look at Kennebunkport, Maine, from FOX 23, our affiliate there. One of the big stories there tonight, the speedboat belonging to the late former President George H.W. Bush is set to go up for auction Thursday. Proceeds from selling the 38-foot craft will be used to expand offerings at the Bush Presidential Library and Museum and the Bush School of Government and Public Service at Texas A&M University.

That's tonight's live look outside the beltway from SPECIAL REPORT. We'll be right back.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

GOV. JARED POLIS, (D-CO) NATIONAL GOVERNORS ASSOCIATION VICE CHAIR: There's a healthy way to deal with conflicting opinions. Actually, it's OK to disagree.

GOV. SPENCER COX (R-UT) NATIONAL GOVERNORS ASSOCIATION CHAIRMAN: It's not just OK. It's crucial.

POLIS: Did you just disagree with me about disagreeing?

COX: Healthy disagreement means not assuming that the other side is deluded, misinformed, or actively trying to overthrow America.

(END VIDEO CLIP)

BAIER: In tonight's "Common Ground" segment, trying to find a bipartisan way to make partisan ***politics*** a little more civil. It's kind of like "Common Ground" we do every week. Joining us now this evening, Democratic Colorado Governor Jared Polis and Utah Republican Governor Spencer Cox. Governors, thanks a lot. I want to talk more about this. But briefly, what's the genesis behind it, and is it working? Governor Polis, first to you.

POLIS: Well, I think we know that, really, the work is cut out for us. But I think that there is increasing alarm on both sides of the aisle and, frankly, among Americans who don't identify with either party that we need to do a better job as a country managing our disagreements better. That means disagrees constructively in a way that fosters cooperation and thinking well about one's neighbors, rather than this ***politics*** of destruction where it's more about the personal than about the policies.

Our founding fathers had profound disagreements, but it doesn't mean at the end of the day they weren't able to come together and write the U.S. Constitution, write the Bill of Rights. And I think that's a call to arms for all of us, Democrats and Republicans and those who identify with neither party, to disagree in a better way.

BAIER: Yes. Governor Cox, we do this segment, "Common Ground," and we have Republicans and Democrats on, what they're working on, not what they are disagreeing about, for the most part, to highlight that. But what do you say to the people who say that's rose colored glasses and really it's just a partisan fight?

COX: Sure, thanks, Bret. And thank you for having this segment. It's rare in media today, sadly, to have people that are willing to talk constructively. What I would say to these people, and we hear from them often, and that is this is the way it's been done. It's how we actually solve the biggest problems facing our country today.

And I want to be very clear. The reason we chose "Disagree Better" as the title of this initiative at the National Governors Association is because we do need disagreement. Disagreement is really important. So this isn't just another civility initiative, a go along to get along, just be nice to each other, although we certainly need more of that. It really is about staying true to our values, but doing it in a way where we respect our opponents.

I like to say there is nothing more un-American than hating our fellow Americans. And the truth is we cannot solve the greatest issues facing our country if we're not willing to at least engage in a good faith effort to have those debates and then look for common solutions.

BAIER: Governor Polis, one of the biggest issues we are facing as a country is illegal immigration over the border. You're dealing with that in your state to a crisis level.

POLIS: So, look, one of the first things that we need to be able to do is we need to be able to set aside the false assumptions that both sides have about one another. Republicans need to know that Democrats want to secure the southern border with Mexico just as much as them. We believe in border security. I have been a strong supporter of it during my time in Congress, the flow of fentanyl, human trafficking, gun running. We need to secure the border. So let's discuss together how to achieve that goal, the funds that are needed, the authority that's needed. There's a lot more that brings us together around securing our nation than there is that divides us on this issue.

BAIER: Governor Cox, you recently sent and authorized the Utah Highway Patrol to deploy to the border as well as National Guard members for a couple weeks to the region to assist Texas. Obviously, you're sensing the enormity of this issue at this moment.

COX: Sure. And I appreciate what Governor Polis was able to say about this. It's really interesting, this is one of the most controversial issues that we have in our country today where I find the least amount of controversy amongst most Americans. Most Democrats, as he said, do want to secure the border. I think that that's really important. And most Republicans want to fix legal immigration. This is a perfect example of what we are talking about, ways that if we actually sit down and try to solve the problem, instead of trying to win points on cable news or social media, we might actually be able to get something accomplished.

BAIER: Governor Polis, in your state there is an effort to keep former President Trump off the ballot, and, obviously, it's being fought on legal grounds all the way up to the Supreme Court. Your thoughts on that and how it fits into what you're pitching here?

POLIS: Well, I've always said I think we should defeat Donald Trump at the ballot box. Obviously, there are legal procedures. There was this lawsuit that was brought by a number of Republicans in our state that matriculated up to the Supreme Court. But I think elections are important, and I think that the Republican nominee should face the Democratic nominee this November.

BAIER: Both of you deal with the president of the United States. Governor Cox, there are more and more articles after last week. One is from "Politico." "Age isn't just a number. It's a profound and growing problem for Biden. The new blunders detailed in a special counsel's report have sparked fresh concern about the president's mental fitness." Does that concern both of you?

COX: Well, it certainly is a concern. I have been critical of the candidates on both sides for several elections now. I think as America we should be able to do better than the choices we are given. It's hard to run a state. I've got 3.4 million people in the state of Utah. Colorado is bigger. That's about one percent of the nation's population. I'm 48 years old, and I'm telling you, it's all I've got to be able to stay on top of what we've got now. I can't imagine trying to run the greatest country in the history of the world with over 300 million people when I'm 80 years old. The first party to figure this out is going to win big someday.

BAIER: Last thing, Governor Polis, very quickly. Are you more optimistic or pessimistic about where the country is currently?

POLIS: By the way, I'm the same age as Spencer, 48. But it really is impossible for Republicans to use age as an issue against Biden if they nominate a guy who is about the same age and has even more difficulty medically than the other guy. So it's just not going to be an issue if they try to use it and their nominee is pushing 80.

I'm fundamentally optimistic. I believe that America's best days are still ahead. We are two years away from 250th anniversary as a nation. Perhaps we have a bit of a midlife crisis here. But I know that we're going to do even better in the years ahead, and Disagreeing Better is part of that solution.

BAIER: Governor Polis, Governor Cox, thank you for coming on "Common Ground."

You can see all of the "Common Ground" segments on my podcast "Common Ground." Find that and the "All-Star Panel" podcast under the Bret Baier podcasts at FOXNewspodcast.com, Spotify, or wherever you download podcasts. You can see the whole extended discussion on the FOX News YouTube page.

Up next, the panel on the latest in the presidential race and that fallout from the special counsel report last week.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

JOE BIDEN, (D) PRESIDENT OF THE UNITED STATES: When voters have a choice between what we stand for and what Trump and the MAGA Republicans stand for, we win, which makes Trump and his MAGA friends losers.

DONALD TRUMP, FORMER U.S. PRESIDENT: I say this guy can't put two sentences together. He can't find his way off the stage.

Sometimes, even though the country is going to hell, we have to have a little bit of fun.

(END VIDEO CLIP)

BAIER: Not a lot of common ground there on the trail with the current president and the former president as they look like they will be the nominees of their parties, at least right now as you look at the polls. If you match them up in the RCP, Real Clear ***Politics*** average of polls, the recent polls, you see that the former president has a bit of a lead over President Biden, 45 percent to 43.8 percent in these polls -- polls. And if you add the third party candidates in, you have a lead, 41.6 and to 36.8. There you see Robert Kennedy Jr., Cornel West, and Jill Stein of the Green Party.

With that, let's set the table here. Let's bring in our panel, Matthew Continetti, fellow at the American Enterprise Institute, Mollie Hemingway, editor in chief of "The Federalist," and Josh Kraushaar, FOX News Radio political analyst. Josh, setting the table here as we watch this, obviously, the primary is not over, and both sides are gearing up. But how do you handicap it right now? We have so many other shoes that could drop along the way here.

JOSH KRAUSHAAR, FOX NEWS RADIO POLITICAL ANALYST: This race is a race to the bottom. You have two of the least popular expected nominees in Biden and Trump heading to a collision course, and voters are looking for other options. I think you're going to have a lot of volatility with the Trump legal cases coming up with questions about Biden's age coming more and more to the forefront.

I think the polls, though, show Trump with a narrow advantage largely because there are a lot of voters that don't think Biden passes the threshold test, whether he is going to be healthy enough to serve for another four years when he is 86 years old. And I think that big question in some of the polls that have been out there recently is that this is not just a partisan issue. You had in the ABC-Ipsos poll this weekend, 85 percent of Americans, Democrats, Republicans, and independents very, very concerned about Biden's age. And no matter what questions voters have about Trump, if you don't think the current president can serve for another four years, that's a real challenge to get over.

BAIER: Let's put up that A.P.-Ipsos poll, Biden too old to serve was the question. Democrats at 73 percent, 91 percent for independents, and overall at 86 percent. If you look at the same question, Trump is too old to serve as president, Republicans at 35 percent, Independents 71 percent, overall 62 percent.

Here is former secretary of state Hillary Clinton on all of this. Take a listen.

(BEGIN VIDEO CLIP)

HILLARY CLINTON, FORMER PRESIDENTIAL CANDIDATE: I talk to people in the White House all the time. And they know it's an issue. It's a legitimate issue. It's a legitimate issue for Trump who is only three years younger.

I think Biden also should lean in to the fact that he's experienced, and that experience is not just in the political arena. It's like the stuff of, you know, human experience.

(END VIDEO CLIP)

BAIER: Mollie, it's like there was a red alert after that special counsel's report last week, and a lot of Democratic talking heads hit the show this weekend.

MOLLIE HEMINGWAY, FOX NEWS CONTRIBUTOR: We have seen a lot of people talking about this in a way that they haven't for some time. It's clearly a result of the special counsel report and the press conference that President Biden had afterwards. It is a very dangerous moment that we're in right now, the special counsel said that there were all of these crimes committed, or there was criminal activity, but they didn't think they could get a jury to find President Biden guilty for his mishandling of information dating back to when he was a senator and vice president because of his mental fitness.

Now, people have been seeing this for a long time, but this broke it open for everybody. It's a dangerous situation that we're in. There is the incompetence. There's the corruption. And there is not a lot of options for Democrats.

BAIER: It's not candidate casino on Friday, but taking a look at this "Washington Post" piece, "What if November's likely Biden-Trump rematch suddenly isn't?" And it writes, "In a year where the parties' frontrunners are both historically old and both facing additional pressures, it's not inconceivable that 2024 might see the nominating contest suddenly upended."

All right, you got your $100 of chips, Matthew. We are not in the casino right now, but do you think Trump and Biden are the nominees come July, August, September?

MATTHEW CONTINETTI, AMERICAN ENTERPRISE INSTITUTE: If I were a betting man, Bret, and I'm not, I would probably bet that it's more likely that Biden won't be on the ballot in November than Trump, for this reason -- Biden's problem is that time flows only in one direction. And when you have super majority of the country thinking that he is too old to serve another term as president, how can he possibly fix that?

There have been some Democrats advising him, you need to get out more, Mr. President, you need to speak to the country more, Mr. President. But as we saw with the press conference last week, whenever he does that, whenever he does speak to the country, the fears of his age are reinforced. And so I wouldn't be surprised if Biden isn't on the ballot in November. I would be surprised if Trump is somehow off it, however.

BAIER: Josh, one of the things the Biden campaign is trying to do reach tout young people. They're dealing with an old age question and yet they're trying to figure out how to reach out to young people. One way is to be on TikTok, despite efforts to possibly ban TikTok. So take a listen and some reaction in the White House briefing room.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: Game or commercials?

JOE BIDEN, (D) PRESIDENT OF THE UNITED STATES: Game.

UNIDENTIFIED MALE: Game or halftime show?

BIDEN: Game.

UNIDENTIFIED MALE: Jason Kelce or Travis Kelce?

BIDEN: Mama Kelce. I understand she makes great chocolate chip cookies.

UNIDENTIFIED MALE: Trump or Biden?

BIDEN: Are you kidding?

(LAUGHTER)

BIDEN: Biden.

JACQUI HEINRICH, FOX NEWS CORRESPONDENT: So is the administration still weighing a ban on TikTok?

JOHN KIRBY, NATIONAL SECURITY COUNCIL COORDINATOR FOR STRATEGIC COMMUNICATIONS: Again, I have nothing on that for you on that that, Jacqui, from an NSC perspective. there are still national security concerns about the use of TikTok on government devices.

HEINRICH: I think we're all trying to square why the president would use this platform that his administration is weighing a national ban on because of national security concerns.

KIRBY: Again, I'm not going to speak to any hypothetical ban.

(END VIDEO CLIP)

BAIER: So, Josh, it is quite something to have the FBI director testify up on Capitol Hill concerns, and then the campaign saying we need reach out to people.

KRAUSHAAR: It really does underscore how deep a hole the Biden campaign is with younger voters. Polls show Biden is tied with Trump among a constituency that has been heavily, heavily Democratic in recent elections. So this is sort of a move out of desperation. It does allow them to control the message. I thought that was a clever little video they put out there during the Super Bowl. But realistically it's only going to reach a smallish number of people. I think a more effective way to get the message out to the public is going on the show before the Super Bowl and get 50 million, 60 million people watching your message. But I think they are worried about that. They want to control the message more aggressively.

BAIER: Right. Yes, second year in a row for that. Panel, thank you very much.

And finally tonight, today's throwback, and it's a way throwback, 215 years ago today, 1809, Abraham Lincoln, the 16th president of the United States, was born, raised in Kentucky and Indiana. Lincoln quickly rose in the world of ***politics***. In 1861, he was inaugurated and was met with a country divided like never before. From April of 1861 to 65, he led the Union forces against the rebelling Confederate states. In 1863 he issues that Emancipation Proclamation declaring all persons held as slaves within the rebellious states are and henceforward shall be free. There you go.

Tomorrow on SPECIAL REPORT, we talk exclusively with FedEx Founder and Executive Chairman Fred Smith about the U.S. economy, other big issues driving the presidential campaign so far.

Remember, if you can't catch us live, set your DVR, 6:00 p.m. in the east, 3:00 p.m. on the west coast.

Thanks for inviting us into your home tonight. That's it for this SPECIAL REPORT, fair, balanced, and still unafraid. THE INGRAHAM ANGLE starts now.

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