

# [***Biden-Trump Rematch Set After Super Tuesday Sweep; White House Pressed On Biden Debate Participation; Biden: I'll Get In Trouble For Starting Questions; Biden Dodges Press: Fears "Trouble" From Questions; New Scrutiny For District Attorney In Trump's Georgia Election Case; Trump's Legal Battles Clash With 2024 Race; National Guard To Help With NYC Subway Security; Suspect In Trooper Death In US Illegally; Eight-Year-Old's National Anthem Rendition Goes Viral***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BGW-55K1-JCS1-615F-00000-00&context=1516831)

Fox News THE STORY WITH MARTHA MACCALLUM 3:00 PM EST

March 6, 2024 Wednesday

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**Section:** NEWS; Domestic

**Length:** 7388 words

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**Guests:** Alina Habba, Kinsley Murray, Shafer Murray

**Body**

UNIDENTIFIED FEMALE: -- you don't have to be a Supreme Court scholar, you don't have to know anything about Washington to know chaos will ensue.

JOHN ROBERTS, FOX NEWS CHANNEL HOST: All right, I can't imagine the nuclear explosion that would happen. Carrie, great to see you, thank you. All right.

SANDRA SMITH, FOX NEWS CHANNEL HOST: Thanks, Carrie. Thank you for joining us, everybody. I'm Sandra Smith.

ROBERTS: And I'm John Roberts. We will see you again tomorrow to preview the State of the Union. "THE STORY" with Martha starts right now.

MACCALLUM: The story we have not seen a rematch like this in more than a hundred years. A former president runs against a current president. Also, today, our brand-new Fox Power rankings show that the American electorate is quite depressed about it.

We'll show you why that is the headline here. 72 percent say they're dissatisfied with the way that things are going in the country. 60 percent view both candidates unfavorably and almost 20 percent say that they would support a third-party candidate.

Former President Trump has a lead in the battle to 270 electoral votes which is what you need to win. Moments ago, Peter Doocy pressed the White House about the president's willingness to debate.

(BEGIN VIDEO CLIP)

PETER DOOCY, FOX NEWS CHANNEL WHITE HOUSE CORRESPONDENT: Is President Biden going to commit to a debate with Donald Trump?

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: That's something for the campaign to speak to.

DOOCY: Well, we know when the debates are going to be. We know where they're going to be. Is he going to go?

PIERRE: You should speak to the campaign. In 2020, once it got down to one- on-one, Joe Biden said, I can hardly wait to debate him. How about now?

PIERRE: I'm going to sound like a broken record. You should reach out to the campaign.

(END VIDEO CLIP) MACCALLUM: Sounds like she's happy to have that answer fall back on there. Let's bring in our political panel, Joe Concha, Columnist at The Messenger and a Fox News Contributor. Arnon Mishkin, Director of the Fox News Decision Desk, they were very busy last night. And Jessica Tarlov, co-host of "THE FIVE" and a Fox News Contributor. Great to have all of you here. There's a lot to get in today.

So, first off, that exchange, Jessica, will Biden debate and should he?

JESSICA TARLOV, FOX NEWS CONTRIBUTOR: I hope so. And I think, yes, I think that is his impulse to want to do it. And we were talking about this last night that the big New Yorker interview feels like a bit of a turning of the page where he's kind of saying, I'm in charge now of my own destiny, right? You're going to try to block me, sideline me when I'm talking to either supporters or press people on the rope line. No, I'm going to do this my way.

And the flip side of it, and obviously I'm a strong supporter of the administration. I hope that he wins reelection by a lot, but the American people deserve to see who the two candidates are unvarnished up there doing their thing. That goes for Joe Biden and it goes for Donald Trump. So, I hope that we see debates, and also, it'll be a fun evening.

MACCALLUM: Yes, really. I mean, we always look forward to it. It's always a great night. And you know, I mean, people say, oh, I heard some folks saying today, Arnon, that President Trump didn't participate in the early debates in the primary process, which is true. And of course, we wish he had done that. But he has always said, you know, but I have to do the one when it's me and Biden.

ARNON MISHKIN, DIRECTOR OF THE FOX NEWS DECISION DESK: Well, look, I don't understand why the Biden people are playing coy with this answer.

MACCALLUM: Yes.

MISHKIN: Because if they if they really think they're going to get out of debating Trump, they should share the ganja. OK, I mean, it's really insane. And what the position they should take is, look, we've always said we're going to participate in the presidential commission. They can attack Trump for saying he won't participate with the presidential commission. They should put the onus on them. But the notion that they can get away without debating, I think, is insane.

MACCALLUM: Yes, I don't think it's going to improve that six in ten member who aren't happy with this pairing if the two of them are like nope grumpy, grumpy old man, we're going to stay home, and we're not coming. I'm going to the debate. I don't like going out anymore. I don't like going out.

Joe, let's take a look at some of these, this from Nate Cohn at the New York Times. He says on paper, Biden ought to be the favorite. He's an incumbent president with a strong economy and an opponent facing trial for multiple alleged crimes. Yet according to the polls, Trump begins the general election campaign in the lead.

Over the last four months, he has led nearly every poll in Michigan, Nevada, Arizona, and Georgia along with the states that he carried in 2020, enough to give him, he gets in 283 electoral votes. You saw our power ranking was at --

JOE CONCHA, FOX NEWS CONTRIBUTOR: 251.

MACCALLUM: 251.

CONCHA: Yes. Donald Trump has led since October in North Carolina, Georgia, Arizona, Nevada, Wisconsin, Pennsylvania, and Michigan. Those are all states that outside of North Carolina, Donald Trump lost in 2020.

So, the fact that he is leading at this stage and the fact that he seems to have the wind at his back, I think Donald Trump, to go back to the previous conversation, absolutely wants to debate Joe Biden.

And if the Biden team makes some sort of excuse that they can't do it because perhaps it's -- you know, Joe Biden is above being on the same stage as Donald Trump, you are forfeiting 80 million people watching at home.

That's what debates, that's the type of number that we get. And we saw him skip that Super Bowl interview pre-game. That game drew 125 million viewers, meaning about 40 million people were watching the pre-game and he skipped that pre-taped interview with Norah O'Donnell.

So, you have to ask, what's going on here? And you also have to ask, where is the president these days? He's had one public event, or not even a public event, one event on his schedule in the last five days.

He hasn't done a television interview with a news organization since October. You can't win the presidency by pleading the fifth. This isn't 2020, and there is no COVID to hide behind anymore.

MACCALLUM: Well, State of the Union tomorrow night, Jessica, obviously that's one of those big opportunities to reach people. I think people are going to want to hear from him what he thinks about the border situation, for example.

We know that immigration is the number one issue, we're going to get to that in just a second, but what do you expect to hear from him tomorrow night and how does he reach out to black voters, Hispanic voters, suburban women, all of whom are trending in these polls that Joe just mentioned, away from him.

TARLOV: I think that the statement that he released this morning when Nikki Haley bowed out of the race and didn't endorse Donald Trump but said we're available to be wooed, essentially, by whoever is going to make the best case is really setting the tone for what the state of the union will be.

I think that the campaign has heard the criticism that he hasn't lived up to what people thought he would be in terms of a unifier and he's going to go back to that, which is really where his roots are. I think that he's also been paying attention to the hot button issues in these primaries and caucuses. So, he'll know that immigration is a big deal.

You wouldn't have seen the support for the bipartisan border deal like that if he didn't hear that and from folks like John Fetterman and Henry Cuellar who are pushing him. But you will also see an emphasis on the themes that they want to run on. They want to talk about the economy, not in terms of Bidenomics, but in terms of the specifics, especially prescription drug prices being lowered.

You're going to hear about protecting a woman's right to choose. Tim Kaine is going to have, as his guest, the first woman who was conceived through IVF. That is going to be a major issue moving forward through there, talk about immigration as well. A lot of his achievements, but also the finish the job, right, I needed eight years to finish this.

MACCALLUM: Let's take a look at this soundbite with regard to immigration. This was last night on the MSNBC panel. They were laughing about the fact that immigration ranks as the number one issue in the state of Virginia. Watch this.

(BEGIN VIDEO CLIP)

JEN PSAKI, MSNBC HOST: I mean, if you look at some of these exit polls, I mean, I live in Virginia. Immigration was the number one issue. I mean, again, these could change in in Virginia.

RACHEL MADDOW, MSNBC HOST: Well, Virginia does have a border with West Virginia. Very, very contested area. Build a wall.

PSAKI: What --

(END VIDEO CLIP)

MACCALLUM: A story about a teenager who was assaulted in Virginia by a migrant who was in the state illegally. Joe, what does that, what does that reveal?

CONCHA: A 14-year-old girl was raped in Virginia. What that reveals is an elitist bubble of panelists on that network who probably don't leave New York City or Washington, D.C. and get out and speak to people in Virginia or in Chicago or in New York where all these migrants are, are coming in and the budgets can't handle it. You see even here in New York cuts to sanitation and to education and to police forces. This is a very real problem. It's a number one issue and you have the former White House press secretary laughing that it's a number one issue. Talk about tone-deaf. You just watched it.

MACCALLUM: So, Arnon, when you look ahead, you know, everyone today, it's sort of the mantra, oh, it's all set. It's going to be Trump versus Biden. You've got 18 percent who say they're looking for another candidate. Any surprises ahead?

MISHKIN: I think what we saw in the primaries and what we've seen the way that this election is set up is, you see the major weaknesses that both candidates have, but the major weaknesses address or identify what the strategy they need to pursue in order if they either one, whoever is going to win this election, or whoever is not going to lose the election. Let's put it that way.

Given the tone of the campaign, I think for Trump, what we've what we've seen in the in the primaries to date and in the whole race is that the Republican Party has two different components. One component which is dominant is the MAGA wing of the party; this is probably two-thirds of the party. That's, that's the part that is committed to Donald Trump.

There's another wing of that party which is a much smaller part, the non- MAGA part. They were the ones who are behind Nikki Haley and they're the ones who in all our polling have said we're not yet ready to vote for Trump. And so, what Trump needs to do is to figure out how do I get these people back, which is kind of what Nikki Haley said when she pulled out of the race today. And that's the challenge for the Trump people.

There's a huge challenge for the Biden people because all the polling says amongst independent voters, the voters he will need if he's not to lose in November, that they're not happy with what he's achieved. And among the things they're not happy with what he's achieved are the border, and, and just bringing us together, and the stuff.

Yes, they're happy with -- sort of happy with abortion and they're sort of supportive of him on that, but they're not happy with a lot of these issues and he has a real challenge that it's not just what he says in the State of the Union, it's not just about how he walks to the plane when he walks like he's 81, but it's what they, what stuff that they can do for the -- to make.

MACCALLUM: Yes, I mean, I'm going to be looking for whether or not there's a fire in his belly that connects to the thoughts that are coming out of his mouth. And when he talks about Ukraine, when he talks about Israel, is he going to articulate a Biden doctrine and how he sees the world and our role in it? Because it's been missing from a lot of what we've seen so far. And I think that's why people are, you know, at sea about how they feel about some of these things.

TARLOV: He does love these moments and he does really well with them. He knows everyone by name, right? He's shaking hands and kissing babies.

MACCALLUM: You see it there at 28.

TARLOV: It's on.

MACCALLUM: You better know everybody. Looking forward to it. Thank you, Jessica. Great to have you. Arnon and Joe, great to have you both as well. Thank you very much you guys.

So, still ahead this hour, Trump Attorney Alina Habba, who was with the former president at the big celebration last night at Mar-a-Lago. We'll talk to her about what lies ahead with the legal challenges that the Trump team faces. And "FOX AND FRIENDS" co-host, Brian Kilmeade, as the White House tests out letting Joe be Joe.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: I have a lot of questions. I better not start the questions -- I'll get in trouble.

(END VIDEO CLIP)

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: The president has been very clear, he's been very honest about his age. He knows that. He makes jokes about it.

But this is also a president that has gotten done more in the last three years than most presidents have in their two terms of presidency. A lot of that is because of his experience. His experience matter.

(END VIDEO CLIP)

MACCALLUM: So, clear that, that is the narrative on that topic. That was this afternoon after this moment from President Biden yesterday, which caught some attention. Watch.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: I have a lot of questions. I better not start the questions. I'll get in trouble.

UNIDENTIFIED MALE: What's your message for Super Tuesday voters?

UNIDENTIFIED FEMALE: Thank you so much, guys. Thank you. (INAUDIBLE) open.

UNIDENTIFIED MALE: Super Tuesday, so, do you have a message for voters?

UNIDENTIFIED FEMALE: Thank you. Thank you, guys. Thank you so much. Thank you all.

(END VIDEO CLIP)

MACCALLUM: Not allowed to answer questions. Brian Kilmeade is here. Co-host of "FOX AND FRIENDS" and host of "ONE NATION" and also Kilmeade on radio. Great to see you again, Brian.

You know, what do you make of that moment? Clear that at the end, they just tried -- They are trying to clear everyone out of the room when he's staring around.

BRIAN KILMEADE, FOX NEWS CHANNEL HOST: It's emblematic of exactly what he's done over the last year -- two years. It is I'm not going to answer questions. I hear them, but I'm not going to answer them, because I was told not to.

He actually says what we think is happening. He says I am better off not talking, not doing anything, even with my approval at 40 percent, trailing almost every battleground state for the last four months, and including three national polls just this past weekend.

But it's -- what he is saying --this people are saying it's worse if I speak. And that's what you saw, because they stay the close up on his face. Now, when I first heard -- saw the description, the caption, I thought they had something happened physically, like, which happened with Mitch McConnell, where he had that issue, they had trouble recovering, But it's not physical.

MACCALLUM: Yes. That's not that.

KILMEADE: That's a choice. It's a choice rather than saying, I want these answers. And I just -- I just compare it to the person he's running against. And that person said, I don't need a press secretary for a year and a half. He told Stephanie Grisham, which you should never hired obviously.

He said, I'm just going to take my own questions. And he used to walk. People got crazy because it was a chopper in the background. Up and down, you, you, you. Next. You.

MACCALLUM: Yes, I remember, it was so freewheeling and he would answer every question.

(CROSSTALK)

KILMEADE: Used to -- during the show. Yes.

MACCALLUM: And, you know, he'd go up and down. He's hearing everyone perfectly.

(CROSSTALK)

KILMEADE: You know, might the answer.

MACCALLUM: All of this. This is a little montage to remind people of how many times -- this is just a sampling, the president of the United States has told the American people that he is not allowed to answer questions from the press. Watch.

(BEGIN VIDEO CLIP)

BIDEN: I'm not supposed to be answering all these questions.

I'm sorry, I'm going to get in trouble staff, I don't do this the right way.

I'm just following my orders here. Staff, if anybody haven't spoken?

UNIDENTIFIED MALE: Mr. President (INAUDIBLE) veto? Do you meet McCarthy next week?

(END VIDEO CLIP)

MACCALLUM: You know, Jessica Tarlov is just here, Brian, and she was talking about the New Yorker interview piece. And she said that it's clear in that piece, which I haven't read all of yet that now, Joe Biden is going to be the boss. He is going to do what he believes is right. And so, I would imagine these moments are going to disappear and he's just going to start answering whatever questions he feels like answering.

KILMEADE: So, more surrogates in Rose Garden strategy. He have a country to run. Like Eisenhower said, I have a country to run, if you don't want to like me, don't, don't reelect me. She is -- he is going to go at it. I would love to see it. So, let's see if we're wrong. Because, you know, I didn't know this. But Mick Jagger is the same age as President Biden.

And Mick Jagger, I think dances are on the stage in Lycra. I don't want to see that, but it shows you, I'm not being against anyone 80.

MACCALLUM: No.

KILMEADE: And it's not his fault that he's got issues in his back. But this is how they went descriptions. And for decades, he had the lightness about Joe Biden, is springing, mischievous energy that was hard not to like. For better or for worse, he's more solemn. His voice is thin and clotted, and his gestures have slowed. But in our conversation, his mind is unchanged.

That's what they were doing, but no one buys it. Jon Stewart didn't buy it. Can we see that Joe Biden, you were in the clubs? And then, when we saw SNL, can we see that Joe Biden?

Sooner or later if we don't see that Joe Biden, I believe that Donald Trump's lead will lengthen, it will grow. But the other issue that we have, and I think it's bad for the country, nothing about negative advertising, I understand it's going to be forever. But if their way of winning is to make Donald Trump, Hitler, an electable, he is a dictator. I don't know what's going to be left to the country when he tries to go for his next four years.

Because people are going to take that personal, at least the 72 million that voted for him last time.

MACCALLUM: Yes. I also think it's an example of going too far. You don't need to go at that -- people are smart. They understand what's going on in the country. And I think that they went way too far with these legal challenges, and these cases. You know?

I mean, you look at people who have murdered several people and they have like three or four indictments. He's got 91 and it -- and it redounded to an increase in his polling numbers. So, I think they better be careful with how they go about it. I'm sure there is an effective way for them to just - -

On, and it redounded to an increase in his polling numbers. So, I think they'd better be careful with how they go about it. I'm sure there is an effective way for them to just --

(CROSSTALK)

KILMEADE: Right. His CFO was in Rikers Island for missed --

(CROSSTALK)

MACCALLUM: It's unbelievable.

KILMEADE: For mis-recording the size of his penthouse. Nuts.

MACCALLUM: That's 76 years old. Yes, but he did that -- he plead guilty in order to not have to testify at the Stormy Daniels case.

KILMEADE: Yes, he's nuts (PH).

MACCALLUM: So, he's doing this partly out of loyalty. He's going back to prison again for another six months in his late 70s. It's a stunning, stunning story.

KILMEADE: It's unacceptable if you ask me.

MACCALLUM: Yes. Well, in New Jersey, Chris Christie said, you know, when he was the A.G. that they had a rule basically. You didn't put anyone in prison over the age of 70.

KILMEADE: Yes, yes.

MACCALLUM: You know, home confinement, whatever you want to do. Anything.

KILMEADE: But cops can get beat up by illegal immigrants on the streets of New York and they get out without bail.

MACCALLUM: Yes. Exactly. Brian, thank you. Great to see you.

KILMEADE: Thanks for having me.

MACCALLUM: thanks for being here.

So, a Georgia Senate committee hearing from the attorney who exposed an alleged affair between Fani Willis and Nathan Wade. She is -- Fani Willis is a D.A., of course, in Georgia.

So, the state prosecutors investigating former President Trump for alleged election interference, that's the crux of this case. Trump attorney Alina Habba joins me next.

(BEGIN VIDEO CLIP)

STATE SEN. HAROLD JONES (D-GA): You know what, maybe the average American spends on vacation?

ASHLEIGH MERCHANT, DEFENSE ATTORNEY: Not this much.

JONES: You know, thanks.

MERCHANT: No.

JONES: Have you looked?

MERCHANT: No, I haven't. But I would imagine most of the Fulton County taxpayers would love to go on any of these trips.

(END VIDEO CLIP)

(COMMERCIAL BREAK)

MACCALLUM: The Supreme Court set to hear arguments on former President Trump's claim of immunity. And that will happen on April the 25th.

An appeals court ruled that he is not immune from prosecution in Special Counsel Jack Smith's election interference case. The former president says he did nothing wrong. The trial was supposed to start two days ago is now on hold until we hear on the issue of immunity. This will be a major decision in all of this when that comes down between April and June, likely after they do that hearing at the end of April. So, we'll be watching that very closely.

And a new showdown over the relationship between the prosecutors and former President Trump's election interference case in Georgia. State lawmakers questioning today the lawyer who exposed the relationship about the timing and the vacations, Fani Willis and Nathan Wade took together.

Former President Trump's attorney Alina Habba is standing by. But first, for the backstory, senior correspondent Jonathan Serrie, reporting live on what happened today in Atlanta. Hi, Jonathan.

JONATHAN SERRIE, FOX NEWS CHANNEL CORRESPONDENT: Hi there, Martha.

Republican leaders of this Georgia State Senate committee saying they are trying to determine whether District Attorney Fani Willis misused any public funds. Their only witness at this hearing, Ashleigh Merchant, the first defense attorney in the Georgia election interference case to attempt to have Willis disqualified from prosecuting it.

Merchant suggested, Willis worked out a new contract with her special prosecutor, and then romantic partner, Nathan Wade, while the two were travelling together.

(BEGIN VIDEO CLIP)

MERCHANT: There was a period of, I think it's 15 or 16 days where you did not have a contract. They read -- which also happened to be one of the times they were out of town. But, so, they re-upped the contract November 15th, and then, it had a cap, but the cap was significantly higher.

SERRIE (voice over): After the committee hearing, one senator and the Democratic minority said Willis's fate should be determined by the courts, not legislative ***politics***.

STATE SEN. HAROLD JONES (D-GA): That judge is going to make a decision within a couple of weeks. That's the role that I'd be played out. We ought to not be doing --

(END VIDEO CLIP)

SERRIE (on camera): And that's where we stand out for this committee meeting. Back to you, Martha.

MACCALLUM: All right. Jonathan, thank you very much.

Former President Trump's attorney Alina Habba joins me now from West Palm Beach, Florida. She was at Mar-a-Lago for the Super Tuesday celebration.

Alina, look like a big night at Mar-a-Lago last night. The president celebrating. He's got a lot of these legal cases still in the background, though, right?

ALINA HABBA, LEGAL ATTORNEY FOR DONALD TRUMP: Well, of course, that's all part of the plan and their plan for election interference, because they can't beat him. But the energy was so amazing last night, Martha. He is really focused, and you can just tell that he is ready to get back to business.

And the energy in the room set at all. No matter what they do, no matter all the garbage they try and throw at him, he is determined and undeterred. And he will continue to fight for the country so that we stop all of this madness that we're seeing with the legal law fair, frankly.

MACCALLUM: Well, he is an incredibly resilient politician and figure of our times. He's certainly has had every piece of the book thrown at him, and he's still wants to be president of the United States. That's very clear. It's going to be fascinating to watch his campaign over the next nine months, as all of this unfolds.

What did you make of this back and forth today as this Republican committee in Georgia listen to the evidence that will be ultimately decided by the judge, as I understand it, in terms of whether or not Fani Willis and Nathan Wade, and the team will be thrown off of this Georgia election case, Alina?

HABBA: I tend to agree with the clip that you played before. I think the judge obviously has a determination to make. I think that the evidence has spoken pretty clearly, there is obviously some inconsistencies that we've seen with testimony that have to be handled. But there's many levels of issues there. Right? I mean, let's not talk about whether it's going to be in Congress, whether it's going to be in a court, but there's also ethical issues that will be addressed.

I'm happy to say that I'm not involved with the mess that has been Georgia, but I will tell you this, she is made quite a mess for herself. I think that it'll be handled ethically, I think it will be handled, hopefully by the Court. But there is no business, bringing in people to prosecute and prosecute somebody who is a political figure.

And to do so in such a manner with taxpayer dollars in any state is problematic. It really is. And it's disturbing, But that's the state of our country right now.

MACCALLUM: Yes. I mean, it's very interesting. Once again, just watching the back and forth here. They put up that text message. Ashleigh Merchant had been in touch with Nathan Wade, as she was preparing for this case.

HABBA: Right.

She said, do you think it started? Meaning, the relationship before she hired him, which is obviously key. Terrence Bradley, who worked on Nathan Wade's divorce, said, "Absolutely. It started when she left the D.A.'s office and was a judge in South Fulton."

You know, then, they went a back around on this about how many times she -- he visited her condo during the time period when they say they had no romantic relationship, and watch this.

(BEGIN VIDEO CLIP)

STEVE SADOW, TRUMP'S ATTORNEY: When I say frequent, do you think prior to November 1st of 2021, you were at the condo more than 10 times?

NATHAN WADE, SPECIAL PROSECUTOR: No, sir.

SADOW: So it'd be less than 10 times.

WADE Yes, sir.

(END VIDEO CLIP)

MACCALLUM: OK. Let's play the part about the pings.

(BEGIN VIDEO CLIP)

ASHLEIGH MERCHANT, MICHAEL ROMAN'S ATTORNEY: Um, so it's pinging from his house all the way down to the condo at midnight, 1:00 am. And then -- and he calls her when he gets there. And then it goes silent for four or five hours. And then, you know, early in the morning hours, he starts pinging again driving back and then he texts her when he gets home, so.

UNIDENTIFIED MALE: This is before he gets hired in November of '21.

MERCHANT: Yes.

(END VIDEO CLIP)

MACCALLUM: Wow. She's very diligent with the details on all of this. Do you think this is going to be persuasive to the judge in Georgia, Alina?

ALINA HABBA, DONALD TRUMP'S ATTORNEY: I hope so. I think that the judge has a tough determination to make. I think, honestly, never mind any of it. The perjury issue is something that always concerns me with her. If that is the case, that's a concern, you know? There's been too much inconsistencies. If they have forensic evidence, that's clear. They're going to -- they can't deny that, right?

MACCALLUM: Yes.

HABBA: Facts are facts. I know he made a comment about referring them to ethics. I think that should happen no matter what. You can't play with taxpayer dollars while trying to go after a former president, and that's the bottom line. And you also can't lie under oath, which is clearly what happened.

MACCALLUM: Alina, before I let you go. Any update on the hundreds of millions of dollars that the former president is due to pay in the New York case. There was request to make it a smaller amount. Where does that stand now?

HABBA: We're waiting on an appeal. Obviously, the judge was receptive to some of our arguments. We appeared before the Appellate Division. Just last week, he obviously amended the order in terms of allowing the Trump children and Trump family to continue to operate their business and to get loans, which was a big step in the right direction.

As I've always said, Martha, this is going to be a long game. We knew we were not going to be successful. We lost before the trial started. And we're just going to have to push and push, and push and hopefully have our facts in her case her and just like it was last week and chip away at this.

MACCALLUM: And what's your understanding of when the rest of the money is due, Alina?

HABBA: It's due shortly but we have pending appeals, we have pending motions that that we have to have decisions on. So we're going to be patient and wait.

MACCALLUM: OK. Alina Habba, thank you very much. Always good to see you. Thank you for coming by today.

HABBA: Good to see you too.

MACCALLUM: You too. All right, everybody boots on the ground in New York City subways, we'll explain next.

(COMMERCIAL BREAK)

MACCALLUM: Here's a big turn of events. The National Guard is now heading into the New York City subways as part of a crackdown on crime. Correspondent CB Cotton reporting live here in Manhattan. Hi, CB.

CB COTTON, FOX NEWS CORRESPONDENT: Hi, Martha. Well, criminals need to know it's a privilege to ride the subway not a ride, according to New York Governor Kathy Hochul who has this message for those who tried to hurt commuters.

(BEGIN VIDEO CLIP)

KATHY HOCHUL, NEW YORK GOVERNOR: Anyone looking to do harm or spread fear on our subways, you will be caught, plain and simple. There will be consequences. This has to end.

(END VIDEO CLIP)

COTTON: So Hochul announced a five point plan today which includes deploying 750 National Guard soldiers and 250 New York State and transit officers to do random bag checks at the city's busiest transit stations, installing new cameras including ones in conductor cabins, proposing a bill to keep those who assaults people off the subway. Increasing coordination between district attorneys and police about repeat transit crime offenders and expanding teams who are trained to help those dealing with a mental health crisis on the subway system.

Now, there's already pushed back to these new changes. Transit advocates say the back searches are a waste of resources and the NYCL uses black and brown New Yorkers will be targeted. Governor Kathy Hochul says though if someone refuses a random bag check, they won't be riding the train.

(BEGIN VIDEO CLIP)

HOCHUL: They can refuse.

UNIDENTIFIED MALE: And we can refuse.

HOCHUL: We can refuse them. They can walk.

(END VIDEO CLIP)

COTTON: Now according to NYPD data, there's been a 13% increase in transit crimes so far this year compared to the same timeframe last year. Martha?

MACCALLUM: Well, we'll see if it works. CB, thank you very much, CB Cotton here in New York.

Now, this is 27-year-old Washington State Trooper Christopher Gadd, a husband, a father to a baby girl. His life has now been cut short, allegedly by an illegal immigrant from Mexico who rammed into his parked patrol car. More on this tragic story next.

(COMMERCIAL BREAK)

MACCALLUM: Well, this is just one of a string of horrible stories that we have had to tell you this week a young life and other one cut short. Source telling Fox that the suspect was in this country illegally for more than a decade. Criminal record that included a conviction for domestic violence, now Raul Benitez Santana is accused of killing 27-year-old Washington State Trooper Christopher Gadd who leaves behind a wife and a two-year-old daughter.

Fox and Friends co-host Lawrence Jones here with me in New York, but first to national correspondent Griff Jenkins down at the border in Eagle Pass, Texas with the latest from their. Hi, Griff.

GRIFF JENKINS, FOX NEWS NATIONAL CORRESPONDENT: Hi, Martha. And again we have a case of a criminal minor and illegally in the US that shouldn't have been here to commit this crime. Authorities say he was smoking weed and drinking beer before slamming into Trooper Gadd's cruiser.

Here's what we know. ICE confirmed to Fox that 33-year-old Mexican national Raul Benitez Santana is charged in the vehicular homicide of Gadd, his rap sheet of prior convictions going back 10 years including domestic violence assault, possession of marijuana and traffic offenses. Now ICE says they believe sanctuary policies may have contributed to him not being removed in 2019. They have placed an ICE detainer on him now as he awaits trial.

This as we learn another individual on the terrorism watch list has crossed right here and crossing this river into Eagle Pass two weeks to the day. 40-year-old Colombian national Carlos Obed Yepez-Bedoya was apprehended by DPS first, turned over to Border Patrol and then was a positive match on the list. The terror organization not named brings the total number of terrorists who have crossed our border, southern border, to 59.

Now, finally, take a look at this video just a few hours ago, Martha. We watch here as Mexican authorities pulled a lifeless body out of the river, a deadly reminder of the dangers these migrants face when they make this dangerous track to get across the border. Finally, I'll leave you with the latest numbers for the fifth straight day, more than 7,000 have been encountered. That's 35,000 in five days, Martha, that's more than the entire population of Eagle Pass. We'll send it back to you.

MACCALLUM: Yes, 1000, 4000 is too much so the former DHS secretary, right, untenable, now you've got 35,000, and this poor person who lost their life crossing the river. Thank you very much, Griff Jenkins, reporting from the border.

Fox and Friends co-host Lawrence Jones, who spent a lot of time there as well, and he joins me now. Of course, the cartels don't care. They get their money. They don't care if you drown in the river, on the way across, right? It's their business.

LAWRENCE JONES, FOX NEWS HOST: It's a criminal enterprise. And we're just at the border last week, Martha. I think we've hit a turning point. Obviously, there's been a number one issue for voters in every single state that we've been covering. But when you have Monmouth doing polling, saying that 6 in 10 Americans feel like it's a serious problem, then you go to 53% say they're in favor of building the wall.

But the stunning thing is that, 61% of Americans are now saying that they believe that they should remain in Mexico if they want to seek asylum. I think whether it is the deaths at the border with the drownings that you're seeing right here, Griff Jenkins just covered that, the death when it comes to American citizens, because they shouldn't been in the country to begin with.

But then you look at places like Boston, Chicago, Harlem, New York, where kids are being kicked out of their schools. When you see the housing units that were meant for seniors, they're being kicked out, and you're prioritizing illegals, and then they're given cops the middle finger, I think it's a turning point in this country.

So the half MSNBC yesterday, laugh about it and say, Virginia, what do you guys know about -- I think he's just tone deaf.

MACCALLUM: I guess they don't read the New York Times and look at the Sienna polls that came out. I don't know what they're looking at but they're not looking at the numbers that are everywhere. And here they are in another portion of the conversation on MSNBC talking about the border saying, "They're voting on racial animus at this stage." Watch this discussion.

(BEGIN VIDEO CLIP)

JOY REID, MSNBC HOST: They're voting on this idea of an invasion of brown people over the border, the idea that they can't get whatever job they want a black person got it. They're just voting specifically on racial animus at this stage. It isn't about economic.

RACHEL MADDOW, MSNBC HOST: America is at a 50 year low.

UNIDENTIFIED FEMALE: And micro-crime is not a thing.

MADDOW: And micro crime is not a thing. And you live on earth one.

(END VIDEO CLIP)

MACCALLUM: OK. I don't know how folks, when they listen to that, I don't know how they take that. It feels so completely out of touch with what all these numbers are telling us. People feel about this. And I don't think it has anything to do with people's color coming across and stealing people's jobs. That's not what I'm hearing from voters across the country.

JONES: This is what happens when you don't spend time with the American people. I don't spend much time in the studio. Last week I was at the border. Most everyone that I spoke to were Hispanic. When I was in Boston with the mothers upset about that, black woman. When I was in Chicago, black residents. Are they not seeing the city council meetings were Democrats who are black, who used to support the president and the mayor, saying what are you doing to our city? Our kids aren't being taken care of.

But all of a sudden you're finding this money. I mean, this may have been a strategy for them in the last election. But you have brought cities to their knees, they ignored the problem. Greg Abbott said, you know what, it's easy to have this opinion when you're not being impacted. So we're going to bus the migrants to you, bring the crisis that my home state of Texas has been experiencing for decades to you, and it's brought cities to their knees.

So this may be great talking points for them of when it comes to their audience. But the average day American has been impacted by this. They don't live on the Southside of Chicago, they don't live in Harlem, so they don't experience -- they're not sending migrants downtown, where they live, or they're not sitting in the city in Washington, DC. They're sending them to black and brown neighborhoods that are poor, because they don't care about those residents.

MACCALLUM: Yes. And that is likely why you're starting to see an increase in black conservative vote, Hispanic conservative vote because they're just dealing with the basics of what's happening with their own families, the services that they have access to, or what's being denied them because they can't get these services, which you've covered so well across the country, Lawrence. So thank you very much for being here.

JONES: Thank you, Martha. Appreciate it.

MACCALLUM: Good to have you here, all right. So a little fun before we say goodbye here. She is eight years old and she is very passionate about the Star-Spangled Banner. Wait till you meet Kinsley Murray, singing sensation behind this -- huge viral rendition of our national anthem.

(SINGING)

(COMMERCIAL BREAK)

MACCALLUM: She's the patriotic singing sensation generating a ton of buzz on social media. Eight-year-old Kinsley Murray's passionate rendition of the national anthem in an NBA game is racking up more than 2.5 million likes on TikTok and even bigger than that on social media in terms of how many people have viewed this video. Take a look.

(SINGING)

MACCALLUM: All right. Kinsley Murray and her dad, Shafer, joining me now. Great to have both of you with us. Hi there. How you doing, Kinsley?

KINSLEY MURRAY, SINGING SENSATION: Hi, good. How are you? First, if I want to say anything, Martha, you always look great, but today you look extra fab. I love your hair.

MACCALLUM: Oh, thank you. Thank you, thank you. I want to talk about your hair and your nails, because I know that you have a little helper in that department, which I want to ask you about in just a minute. But tell me why -- you're eight years old, what inspired you? According to your story, you went to your dad at a very young age and said I want to sing at sporting events. Where did that come from, Kinsley?

MURRAY: Um, well, when I was -- I sing at my dad's choir. And like he said, I wanted to -- I told him I wanted to sing at (inaudible). So I started little, like minor league baseball teams. And then I started to get bigger. And then when I was five, I got bigger to like NBA teams or like MBA baseball, or like in college teams.

MACCALLUM: So what is it like when you're standing out there? And, you know, the spotlight is on you, do you get nervous about going out there? You got the words perfectly? Do you ever worry that you might forget words to the song like a lot of people who are more famous than you did have done?

MURRAY: No. I don't get I don't get nervous because I just feel really happy, and I feel like I can do this in my mind. And especially when they are -- the crowd cheers. They're just like, whooo, and that gets me going like, especially at the Duke game. At the beginning, they're like cheering a lot. And then somebody after like, everyone's didn't cheering somebody say, I want a selfie. And then our rockets are like whoo. It's inspired me.

MACCALLUM: Yes. Well, you know what, I love how thoroughly you commit to the song and to singing it. And I'm wondering, you know, is there anyone who you're inspired by? Any singers who you kind of model yourself after or these performances after?

MURRAY: Christina Aguilera, Whitney Houston, Kelly Clarkson, Taylor Swift, Fergie, and that's it.

MACCALLUM: Yes. I can see that. I can see that. Shafer, I know sometimes you curl her hair, you arrange for the dresses, the beautiful dress that she had on in this when she looked amazing. Quick thought from you, sir, before we go.

SHAFER MURRAY, 8-YEAR-OLD ANTHEM SINGER'S FATHER: Yes. She just likes to say she likes to inspire people and she likes to be the passion. And she wants to look and glamorous. She wants her nails done, hair done and everything to look super fab. So I do what I can.

MACCALLUM: Well, I know you guys have a lot of good dad-daughter time on these trips, and you're taking some of the local sites. You do it all for free. She's not getting paid. And I'm sure it cost some money out of your own pocket as well. So you're sharing a lot of joy. So thank you very much to both of you. Great to meet you. Great to have you here. Keep going.

MURRAY: Thank you

MACCALLUM: All right. Thank you, guys. Great to speak with you both, all right.

So on my new episode of the Untold Story podcast, we go behind the scenes of another inspiring story. Watch this.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: The mayor will find a way to get you out.

UNIDENTIFIED FEMALE: You have an election coming up, do you not?

UNIDENTIFIED MALE: I believe I'm being threatened by a nun.

(END VIDEO CLIP)

MACCALLUM: This is an amazing story. It is stunning, beautiful. The movie is called "Cabrini" tells the story of Mother Frances Cabrini, who built the world's largest network of hospitals and orphanages. She was also the first American saint, but the executive producer and screenwriter point out this is a movie for everyone of all backgrounds. It's an incredible story of a hero. Watch.

(BEGIN VIDEO CLIP)

EUSTACE WORTHINGTON, EXECUTIVE PRODUCER: Anyone who sees this film, in fact, anyone does committed a film walk in and they say I'm really so upset about the broken world we're living in. I walk out of this film. I'm excited about life again. I'm on fire and I want to do better.

ROD BARR, SCREENWRITER: This is a rocky story about a woman and a habit. But you'll forget about the habit very quickly, it's just a human story.

(END VIDEO CLIP)

MACCALLUM: Well, the other gentleman, Eustace Worthington, great conversation with him. He's the producer of the movie, executive producer. He's 91 years old. Just decided to take something on at this age, very accomplished man, and the screenwriter Rod Barr. The Untold Story is available now at Fox News podcast.com. So please check it out.

That's "THE STORY" for today. I will see you in Washington tomorrow for the State of the Union. Have a good evening, everybody.

**Load-Date:** March 6, 2024

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