

# [***Federal Appeals Court Says Trump Is Not Immune; Justices Appear Skeptical Of Trump Ballot Removal; Fourteenth Amendment Central To Colorado Ballot Case; Trump's Court Schedule Collides With 2024 Race; Politics, Infighting Threatens GOP 2024 Agenda; Trump Remains Clear Favorite For GOP Nomination; Haley's Path To Victory Narrows Ahead Of South Carolina; Trump And Haley Trade Jabs Ahead Of SC Primary; Biden Campaign Struggles To Shake Age Concerns; Doubts Grow Around Biden-Trump Rematch; Interview With Rep. Laurel Lee (R-FL); House GOP Will Try Again To Impeach Secretary Mayorkas; Some Question Adequacy Of Biden Response To Iran; Pressure Mounts To Strike Iran More Directly; Netanyahu Rejects Hamas' Latest Ceasefire Proposal; Biden Calls Israel's Gaza Approach Over the Top; Trey's Thoughts On Love Ahead Of Valentine's Day***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B9S-4NC1-F072-X002-00000-00&context=1516831)

Fox News SUNDAY NIGHT IN AMERICA 9:00 PM EST

February 11, 2024 Sunday

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**Section:** NEWS; Domestic

**Length:** 6613 words

**Byline:** Trey Gowdy, Andy McCarthy, Karl Rove. Guy Benson, Leslie Marshall, Marianne Rafferty

**Guests:** Carrie Severino, Laurel Lee, Morgan Ortagus, Tal Heinrich

**Body**

MARK LEVIN, FOX NEWS CHANNEL HOST: It's a pleasure, Senator.

SEN. TED CRUZ (R-TX): Thank you, my friend.

LEVIN: Thanks for coming. See you next time on "Life, Liberty & Levin."

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

Poor Alexander Hamilton, he worried the judicial branch would be too weak. Wouldn't he be surprised as the legislative branch in disarray while the Supreme Court seemingly decides the most pressing issue of the day.

This week, the High Court heard argument on whether Donald J. Trump can remain a candidate for president. You will recall at least two states kicked him off the ballot citing the Insurrection Clause of the 14th Amendment.

And soon, the Supreme Court will be asked to decide whether and to what extent a president enjoys immunity for actions taken while in office.

Joining us now are Carrie Severino from the Judicial Crisis Network and former federal prosecutor, Andy McCarthy.

Welcome to you both.

Carrie, it is hard to find unanimity on the court these days, but Colorado may have done it. I listened to the oral argument and heard non-pretty skeptical justices. What did you hear.

CARRIE SEVERINO, JUDICIAL CRISIS NETWORK: I agree. The only justice I could even see given the other side, the time of day was Justice Sotomayor and I think it is very possible at the end of the day she also agrees.

You know, what Colorado was trying to do here, it was wrong on so many levels. I think the Supreme Court, we don't know if it'll be unanimous, and why it's wrong, I think different justice might want to choose different routes, but it's clear Colorado does not have the right to unilaterally kick Trump off the ballot. That is going to be for the American voters to decide and that is certainly not Colorado's role.

GOWDY: Andy, let's listen to a little piece of the argument together and then I am going to ask you a question on the other side.

(BEGIN AUDIO CLIP)

JUSTICE ELENA KAGAN, US SUPREME COURT: What is the state doing deciding who gets to -- who other citizens get to vote for, for president?

JASON MURRAY, ATTORNEY: Colorado is not deciding who other states get to vote for, for president. It is deciding how to assign its own electors under its Article II power, and the Constitution grants them that.

KAGAN: Well, but the effect of that is obvious, yes?

(END AUDIO CLIP)

GOWDY: You know, Andy, that was not a Republican appointed Supreme Court justice.

ANDY MCCARTHY, FOX NEWS CHANNEL CONTRIBUTOR: Right.

GOWDY: It seems like not only they're wary of the facts in this case, but also the precedent. What's to keep a red state from trying to bounce a Democrat candidate from the ballot someday

MCCARTHY: Yes, I think that is right, Try. I also think that you know, we should ideologically speaking, the 14th Amendment is immensely important to the progressive political project in the United States and it is really not all of that surprising that the progressive judges were resistant to a kind of cockamamie federalist type claim that a single state can bar somebody potentially across the country from seeking election.

So, it does not surprise me that there is consensus about what is state or limited power a state has in this domain. What I am a little bit worried about is that because the consensus is on that issue, I don't think the court is going to touch insurrection and what that all means, and what that portends in the end, if they don't resolve that is the possibility that if Trump wins the election, what happens at the next January 6, if you will, do Democrats in Congress try to prevent President Trump from being seated under Section III of the 14th Amendment?

I don't know if they will clear that up.

GOWDY: You are a good lawyer, so I'm going to switch gears really quickly with you. We are going to go to the DC Court of Appeals.

Lawyers often find themselves making difficult arguments. Andy and Carrie, you may have had to do it once yourself. That said, I felt the answer whether a president can order the killing of a political rival left a little bit to be desired on behalf of Trump's attorneys.

How do you see that argument playing out?

MCCARTHY: Trey, one time I gave a summation for an hour and I had jury in a background the whole time going like this. It is not a good feeling and I imagine that was the feeling that they had.

GOWDY: All right, Carrie, the immunity case, I guess is on hold until the Supreme Court decides whether to take the case up. You are a smart appellate lawyer. Andy and I were just kind of gunner trial lawyers, so what is the process for deciding whether or not to hear an appeal from the DC Court of Appeals.

SEVERINO: Well, the court needs four votes in order to take a case, so that, if there are four justices that think either they got this wrong and we need to fix it or even just this is so important we need to have our stamp on it, then they could take the case. They would have to.

They would have to do it quickly though if they want to hear before the end of the term.

GOWDY: All right, I want to ask you both, Andy, I will start with you. Do any of the criminal cases involving the former president make it to verdict before the election or potential inauguration, any of them?

MCCARTHY: Yes, the moving target here, Trey, is the obstruction case that the Supreme Court will hear in connection with the January 6th defendants. Two of the main charges against Trump in the election interference cases are that precise obstruction statute, so we can't really answer that question until we see what the court does with the statute.

GOWDY: All right, Carrie, same question. Do any of them make it? And you may not be in the prediction business, but if you are in that business, what do you think the Supreme Court is going to do on the immunity case. Are they going to punt on it or are they going to hear it?

SEVERINO: My first guess is that they are going not take that case up. I think the DC Circuit opinion was pretty strong. I mean, Trump's lawyers are making a pretty broad argument that he has a very broad immunity.

I suspect the court as you alluded to, they don't really want to be in the business of making these decisions. They are supposed to be a goalie just stopping any crazy unconstitutional stuff from getting through, and unfortunately, they have been pushed into making a lot of big political decisions because there are so many crazy shots on the goalie going on.

I think they want to avoid it, but you know, they may well take it again to have the final say, but it's going to be hard for them to avoid dealing with Trump in some way and obviously, they are already having to this term.

GOWDY: Two brilliant lawyers, we are lucky to have expertise. Thank you for joining us on a Sunday night.

***Politics*** is a game of addition. You try to leave bridges intact especially in your own party, so it is all hands on deck in the general election.

With that said, Nikki Haley and Donald Trump continue to attack one another even though the race is seemingly close to being over, how does that help Republicans win this fall?

Although you might not know it from the way the Republicans conduct themselves, there is no rule against winning both the Electoral College and the Popular Vote. There is nothing that says you can't do both, and the last Republican to do both was George W. Bush.

His deputy chief-of-staff, Karl Rove joins us now.

Welcome, Karl. It is good to see you again.

President Trump has been the GOP nominee, I guess soon to be three times, so he understands ***politics*** a lot better than I do, but how does it help win over female voters in the fall to refer to a successful female governor and someone you yourself picked for your administration as "birdbrain" and talk about what kind of dress or clothing she might have on? How does that help in November?

KARL ROVE, FOX BUSINESS NETWORK CONTRIBUTOR: Well, it doesn't. And look, it is mystifying to me, too, because look, Donald Trump is the frontrunner. He is the person who is best positioned to unify the party, so when he won Iowa, he had great remarks. You know, conciliatory. I am humble.

But then he goes to New Hampshire and wins a big margin and rather and say I'm humbled by the vote of New Hampshire and the Republicans are coming together, I respect the tough campaign that my opponent has been running and I hope we will soon end this contest, I look forward to be the party's nominee.

Instead, he goes, on a 19-minute rant about her that it makes him look weak first of all, but second of all, it does not unite the party.

Last time around, he lost eight percent of Republicans who either voted for a third-party candidate or for Joe Biden and as a result Donald Trump trailed in the popular vote by seven million votes and lost three critical battleground states by a combined total of about 44,000 votes.

So, being the frontrunner gives you a chance to be big and to be conciliatory and to be unifying and positive and upbeat. He missed the opportunity in New Hampshire. Let's see if he could be better after South Carolina assuming he wins there as all the polls indicate that he will.

GOWDY: Yes, I mean, always thought, like winners tell a joke and losers say "deal." I mean, winners ought to be happy. You mentioned South Carolina.

ROVE: Yes.

GOWDY: I know, technically, technically there is still a path to victory for Governor Haley, I guess from a numbers' standpoint. But realistically, if she loses her home state, is it over? Or is there somehow Super Tuesday is going to have a miraculous reversal for her?

ROVE: Well, something would have to happen between South Carolina and Super Tuesday for that to happen. Something big and dramatic it would affect the fortunes of Donald Trump.

It is axiomatic in ***politics***, so you've got to do well in your own home state.

The path to victory is littered with defeating candidates who are defeated because they lost their home state. You know, I love the history of it, I mean, 1940 went to Wilke challenging Tom Dewey, the crime fighting prosecutor from Manhattan. He takes enough delegates in New York to embarrass Tom Dewey on his home turf.

So, this kind of thing happens and when it does, it hurts the chances of somebody who cannot hold their home state.

GOWDY: All right, let me ask you this before I let you go. One wide lane of attack on Biden is physical or mental fitness for office. But Nikki Haley is using the same argument against Donald Trump.

So will voters remember that if he is the nominee or is the argument going to stick with Biden, but not stick with Trump?

ROVE: Well, it is a problem for both men, but it is a bigger problem for Joe Biden, better than three out of every four Americans think that he is too old. About one out of every two think that Donald Trump is too old.

It is going to be an issue in the general election for both men. It is interesting to me, these two guys are maybe the only two guys who could lose to each other, but on the issue of age and stamina, it is Biden who got a bigger problem than Donald Trump does, but Donald Trump still has a significant number of people, one out of two Americans say too old to be president.

GOWDY: Karl Rove, I'd have you on every week, but I cannot afford you, so I will take you when I can get you. Thank you for joining us on a Sunday night.

ROVE: I'm free. I am free, Gowdy. I'm free, Gowdy. Somebody else is picking up the tab for you.

GOWDY: All right, good, then I'll have you one next week. Thanks for joining us on a Sunday night. We will see you soon.

All right, up next, yes, sir, can you win the presidency from the basement? What about from the courtroom? 2024 maybe once-in-a-lifetime chance to find out.

Fox news contributors, Guy Benson and Leslie Marshall join us right after the break.

(COMMERCIAL BREAK)

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA.

President Biden sailed to victory last weekend in South Carolina. He is on a glide path to the nomination, but there are storm clouds gathering for the general election. One issue which I really do not enjoy talking about is the president's mental acuity.

Time spares no one, but neither did the recent the special counsel report. The conclusion by special counsel was that Biden broke no laws, but also added Biden might not be aware of it, forgetting such things as when he was the vice president.

Biden also recently confused the current French president with one who has been dead for decades. It wasn't quite Napoleon, but it wasn't good.

So while we may not relish discussing the mental health of others, when you want to be the leader of the free world, everything is relevant.

Biden also declined a chance to address the nation today during the Super Bowl. He's not the only politician to decline an interview, nor is he the only politician to forego debates. Former President Trump skipped GOP debates in 2016 and 2024, and it didn't seem to hurt one bit.

Ultimately, it's up for us to decide what we're looking for in a president. Indictments, January 6 and civil judgments have done little to dent President Trump's appeal.

This coming Wednesday on Valentine's Day, if President Biden wishes the nation a Happy Halloween, I doubt that's going to dent his support either. ***Politics*** is simply about winning these days and in the process, things tend to get overlooked on both sides.

Joining us now are Guy Benson, the host of "The Guy Benson Show" on Fox News Radio and the political editor of townhall.com; also joining us is radio talk show host, Leslie Marshall. Both are Fox News contributors.

Welcome to you both.

Guy, President Biden won the battle over classified documents, but I think he lost the war with some dicta added in by the special counsel. How impactful, if at all, do you think that's going to be the dicta added in by Robert Hur?

GUY BENSON, FOX BUSINESS NETWORK CONTRIBUTOR: Well, based on the reaction of his campaign, his supporters, other Democrats, some of the press, I think they are very worried that it will be impactful because even though the president wasn't charged with crimes, he wasn't let off the hook on all wrongdoing. I mean they noted that he willfully kept these documents, which is against the law, they just said they weren't going to pursue charges for a number of reasons one of which is he seemed like this kindly old man who was impaired mentally and couldn't really stand trial, wouldn't be convicted by a jury for that reason.

So that's in black and white, Trey, in a special counsel report, really just emphasizing, underscoring what 70 to 80 percent of Americans see every day based on the polling when it comes to this president.

And to have it almost like codified in some sort of formal setting, obviously, is not helpful to him and people have argued it might be more hurtful, more harmful than even a declaration of intent to file charges when he gets out of office given some of the dynamics at play in this election cycle.

GOWDY: Yes, you're right. Indictments have not seemed to hurt folks much lately.

Leslie, the stock market is up, the job numbers are good. Inflation is not perfect, but the stories of our debts were exaggerated. The GOP just nixed a border deal. So given Biden's low approval numbers, and the fact that he has a story to tell, why not address the nation during the Super Bowl?

LESLIE MARSHALL, FOX NEWS CHANNEL CONTRIBUTOR: Well, there are a couple of reasons for that and Taylor Swift is one of them and when I say Taylor Swift, I'm not talking about the conspiracy theories linking her and our president, I'm talking about a lot of people complaining that can we just watch football? Can't football, just be football?

And I think with the current climate and people complaining about you know, do we have to have ***politics*** in everything? Does everything have to be political. The beer that we drink, the commercials we watch, the programs we watch, can't we just have a game?

So I think honestly, the president and his staff made the right choice with this. People don't tune in to the Super Bowl to listen to what the president says or, you know, hear him say, oh, I love both teams. And you know, everybody has a favorite, usually, you know, in a matchup like this. So I don't think it's a problem. Like you said, he's not the first to pass up this invitation.

GOWDY: All right, Guy, let's listen to a clip together and I'm going to ask you a question on the other side.

(BEGIN VIDEO CLIP)

PETER DOOCY, FOX NEWS CHANNEL CORRESPONDENT: President Biden, something the special counsel said in his report, is that one of the reasons you were not charged is because in his description, you are a well-meaning, elderly man, with a poor memory.

JOE BIDEN, PRESIDENT OF THE UNITED STATES: I'm well-meaning and I am an elderly man, and I know what the hell I'm doing. I've been president and I put this country back on its feet. I don't need his recommendation. It is totally --

DOOCY: How bad is your memory and can you continue as president?

BIDEN: My memory is so bad, I let you speak. That's --

(END VIDEO CLIP)

GOWDY: Guy, one thing is for certain. If we live long enough, we're all going to get old. I mean, hearing an older person struggle for a name or a date or an event is sad. It's not political, it is sad.

But at some point, it does become relevant when you're electing the leader of the free world.

So, guy, I'm going to start with you, but Leslie, I want you to weigh in too, because Nikki Haley is challenging Donald Trump. The fact that the candidates are debating who scores higher on cognitive tests, is that good for the country?

BENSON: Obviously not, right. This is not ideal, suboptimal, you might say. And you had sort of this indignant performance briefly, he flashed anger, Biden did, during the press conference saying, my memory is fine. He made that sort of churlish comment to our colleague, Peter Doocy. A few minutes later, confused Mexico and Egypt, right? That is not a good look for someone who spent the whole week confusing European leaders' identities with their predecessors who are deceased as you referenced in your intro to the segment.

This is not a great place for the country to be in. I know that Trump is getting up there in age as well. If he has all sorts of flubs like this, it will become an issue for him similarly, but based on polling and based on the performance of these men, and the willingness to go out there and speak extemporaneously and answer questions at length, most people say there is a problem with Biden, far fewer say on that front, there's a similar problem with Trump.

GOWDY: All right, Leslie, what do you think? Because Nikki Haley is trying to make that an issue in what's left of the GOP primary race herself?

MARSHALL: Well, I would agree with a couple of things that Guy said, which is, you know, it is a problem but both sides didn't pick a younger candidate, okay, so we have ourselves to blame, in a sense, and I would agree with Guy that you need to look at Trump as well.

What really bothers me as a Democrat is every time Biden slips whether it's a stutter, or he forgets, you know, something -- you know, anything I call my son my dog's name the other day, and I'm not Joe Biden's age. I know I'm not running for president, but it's not always age, sometimes it's, we're so busy, we have too much on our plate and our mind is going in a million different directions at once.

There are a few things here: One, Donald Trump has talked about dead people. Donald Trump has made a lot of errors as well, it is just not highlighted as much as Biden. I'm sorry, the press just doesn't highlight it as much. That's one.

Two, Hur did not go to medical school. Every lawyer I've spoken to, even Republican lawyers say that it is completely out of bounds in a sense what he wrote. This is a Republican attorney who to me was just smacking Joe Biden in the face with a reference to his age.

And then lastly, I don't think it will matter to the voters because at the end of the day, the people that don't want Trump will vote for Biden and don't want Biden will vote for Trump or will stay home.

GOWDY: You know, I started by saying I actually don't enjoy talking about this because both of y'all are a lot younger than I am. But one of these days we're all going to be, if we're lucky, we are all going to be older, so it's sad. It's relevant, but it's sad.

Thank you both for joining us, especially on Super Bowl Sunday. Y'all take care.

BENSON: Thanks, Trey.

MARSHALL: Thank you.

GOWDY: Coming up, the bipartisan Senate border deal and Ali Mayorkas is still very much the DHS Secretary, so what happened?

Florida Congresswoman Laurel Lee joins us right after the break on SUNDAY NIGHT IN AMERICA.

(COMMERCIAL BREAK)

MARIANNE RAFFERTY, FOX NEWS CHANNEL CORRESPONDENT: This is a Fox News Alert. I'm Marianne Rafferty in Los Angeles.

Word out of the Middle East at this hour, reports from the region saying a series of Israeli strikes in the Gaza city of Rafah has left at least 37 Palestinians dead. Rafah is home to nearly one-and-a-half million Palestinians.

The attack is certain to trigger global outrage especially from Egypt, which shares a border with Southern Gaza.

Earlier in the day, President Biden warned Prime Minister Benjamin Netanyahu that Israel should not conduct a military operation against Hamas in Rafah without a "credible and executable plan to protect civilians."

Back here in this country, Houston Police are investigating what triggered a woman to open fire inside a church. She entered the building accompanied by a young boy and started shooting. Two off duty officers at the church shot her dead. The boy was also shot. He is in critical condition. Another victim was shot in the leg.

I'm Marianne Rafferty. Now back to SUNDAY NIGHT AND AMERICA.

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA.

The border is still a chaotic crisis. The number of migrant encounters is staggering. The anticipated bipartisan Senate agreement died an early death. So what now?

Everyone says things need to be improved at the border and yet things remain the same. So does the president lack the tools? Or does he lack the will to seal the border? Is the GOP benefiting from the problem more than it would the solution? And who is actually in charge of counting votes in the House these days?

Joining us now is someone likely to be an impeachment manager or prosecutor, if Ali Mayorkas is impeached or indicted, Florida Congresswoman Laurel Lee. Welcome to you, Congresswoman.

All right, so the GOP passed HR 2 if memory serves me, which tells me there needed to be legislative changes. But there won't be any changes between now and November. So what now?

REP. LAUREL LEE (R-FL): Well, there's an important distinction there. So first of all, President Biden and Alejandro Mayorkas do have sufficient tools right now to stop the crisis that we see at the southern border. They could tomorrow return to the policies of the Trump administration, like remain-in-Mexico and just putting an end to the parole and asylum that they're using and really make a substantial and meaningful reduction in what's coming across the border.

If we are to try to pass laws related to immigration in the southern border, they need to be laws that ensure that executive branch agencies will enforce and follow the law.

Right now, they have an obligation to detain and deport people who come to this country unlawfully. they're not doing that. And any legislation related to the border needs to be focused on ensuring our laws are followed, not codifying ways that the administration can have discretion because we've already seen where they have discretion, they will abuse it, and even where they don't, they will act in a way that is contrary to our existing law.

GOWDY: All right, you are and we're in a previous life a very good lawyer, good lawyers can read the jury. So reading the Senate, I would say there is precisely zero chance that Ali Mayorkas will be convicted, like zero. So why go after him if he is simply doing what Biden is telling him to do? Why not impeach the puppet master rather than the puppet?

LEE: Well, there are a few reasons why impeachment itself is important. You know, first of all, Secretary Mayorkas has willfully and deliberately subverted the laws of the United States of America.

He has been told by federal district court judges that a number of his policies are unlawful, that his alternatives to detention should be ceased immediately. He defied that court order. He was ordered by a federal judge to reinstate remain-in-Mexico, he did not.

So in addition to defying the court, he's come into Congress. He's given us testimony time and again, that wasn't truthful, saying the border was secure, saying he had operational control of the border. Anyone in America can look and see that this is not the case that it isn't truthful testimony.

So what's important is that this means we have one branch of the government that is really subverting the lawful authority of the other two, which is an affront to our very Constitution.

So you know, the other thing to always remember is that the consequence of his actions is that he has created a grave threat to our national security.

So he has been an absolute disaster as a Cabinet secretary. He has defied his oath of office. He has violated the public trust. So we do believe very strongly in the House, that it's necessary to pursue impeachment.

I certainly hope the Senate does the right thing. I don't know whether or not they will, but we want to be sure we're doing our job in the House, and that we are holding him accountable for his failure to uphold the law.

GOWDY: I will bet you tickets to Disneyworld that that they do not convict him. But let me ask you this before I let you go. So in October, eight House Republicans, one of which was not you got rid of Kevin McCarthy.

I am struggling to see how the House has improved since Kevin was dethroned by all the Democrats and eight Republicans, but am I missing something? Are things going really swimmingly and I'm just missing it?

LEE: Well, I think what we're seeing is that we're confronting all of the same issues we did while Kevin McCarthy was our Speaker. So now Speaker Johnson is confronted with all of the very same problems trying to pass appropriations bills, trying to build consensus in a Republican conference where consensus is a difficult thing to achieve.

So you know, I do believe what we're seeing is that the problems haven't changed. We are confronting all of the same challenges. I know Speaker Johnson is working very hard to try to build consensus. But we've been in exactly the same situation with appropriations bills and continuing resolutions, and what we really need as a conference is to come together and start working as a team and that is a problem that is unfortunately still very much one that we're confronting.

GOWDY: Well, you do not appear to be part of the problem. I look forward to talking to you next time on a Sunday night.

LEE: Thanks, Trey. Great to see you.

GOWDY: You, too.

Up next, former State Department spokesperson Morgan Ortagus and Tal Heinrich, who is the spokesperson for Israeli Prime Minister Netanyahu join us after the break with the latest on Iran and Israel only on SUNDAY NIGHT IN AMERICA.

(COMMERCIAL BREAK)

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA. Underwhelming would be the word that comes to mind. For those of us watching the dignified transfer of dead Americans from the battlefield back home we wondered what our military response would be? What is the price to be paid for killing American soldiers?

Not much. So far, at least the Biden administration claims what we saw or didn't see was just the first round with more to come. We shall see if the US retaliates against Iran with strikes actually inside the country of Iran.

Joining us now is the former State Department spokesperson, Morgan Ortagus. Welcome, Morgan.

Underwhelming was the consensus from those I have surveyed, but what was your take on the long awaited US response to the killing of American soldiers and the wounding of dozens more?

MORGAN ORTAGUS, FORMER STATE DEPARTMENT SPOKESPERSON: Well, according to Admiral Kirby, Trey, that response remains ongoing. We did see a few Kata'ib Hezbollah, which is another Iranian Shia proxy group in Iraq get some of its senior leaders killed. That's always a good thing. Right? Happy to kill terrorist any day.

But the question is, the crucial question is, did the administration attack anything of value? Anything of emotional, strategic or sensitive value to the Iranian regime? See, the Iranian regime has terror proxies throughout the Middle East because they are expendable.

So if you kill a few Kata'ib Hezbollah or a few Hamas or a few Houthi leaders, do the Iranians really care? No, not really. That's why they're proxy groups. They find those people utterly expendable.

And so the question remains, what similar to the Soleimani strike that Mike Pompeo and Trump pursued in the last administration, what are we taking off of the table that is again of strategic emotional, sensitive, important value to the Iranians? That has not happened yet.

GOWDY: You know, you raise an interesting point. I was talking to my friend, an old colleague, Tom Cotton, who said the Iranians are willing to expend as many Arab lives as they have to, not Iranian lives but Arab lives.

ORTAGUS: Right.

GOWDY: So let me -- why the reluctance to strike inside Iran? I mean, you're a foreign policy expert, I am not, but why the reluctance to do anything inside the territorial boundaries of the country of Iran?

ORTAGUS: This goes back to 2014-2015 in the Obama administration. The Biden team, which is the same team as the Obama team, is wedded to what is called the JCPOA, which is the Iran nuclear deal. They are wedded to it like it's a religion, like it is a religious artifact, so to speak and they believe that that was the right course of action.

Their hair was on fire whenever the Trump administration withdrew from the JCPOA, because the fact that they had a deal that they thought was going to at least kick the can down the road from Iran getting a nuclear weapon, what they spent their blood, sweat and tears on in the Obama administration was the pinnacle of their diplomacy and President Trump undid that. They've never been able to get over it.

So fast forward to January 2021. What does President Biden and his team do for the last three years, Trey? They pursued a totally different policy for Iran. When they came into office, Iran was broke. President Trump has said this before and he is right.

Iran was broke because of the maximum economic pressure campaign, and they were at least probably six to eight months away from reaching enough uranium for a nuclear weapon.

Do you know how many weeks or months away they are from that now, they're actually days away from it, Trey, days away from having enough enriched uranium in order to have a nuclear weapon.

Now, the weaponization side of that may take several months, but the point is, is that the Iranian regime has never been closer to having a nuclear weapon than under President Biden, than under his team's watch. They have spent three years chasing the Iranian regime around the world, not enforcing sanctions, which has enriched them to the tune of at least $90 billion, because the sanctions aren't enforced, giving them $6 billion and the largest ransom payment in American history weeks before the October 7th massacre.

Meanwhile, the Iranian regime is currently trying to kill former Trump administration officials like Mike Pompeo and Brian Hook on our soil. They are actively killing American troops in the Middle East. Oh, and they're days away from a nuclear bomb.

This is a failed strategy. They have to admit it and they have to quickly course correct before things get even more worse in the Middle East in 2024.

GOWDY: Yep, you're right. You and I have friends that have security details because Iran wants to kill them and yet we're negotiating with them, but we're going to have to save that for another Sunday night. I have a sneaking suspicion, Morgan, this will not be the last time you and I discuss this issue.

Thank you for joining us on a Sunday night.

ORTAGUS: Thanks, Trey.

GOWDY: Israel says it will not agree to a ceasefire proposal from Hamas. Israeli officials vowed to eliminate Hamas in whole. The families of hostages understandably want to do whatever it takes to get their loved ones home.

Joining us now is Israeli Prime Minister Netanyahu spokesperson, Tal Heinrich.

Welcome, Tal.

The Israeli government is to me in a no win situation. The country is waging war against a terrorist group. While the family members of those held hostage understandably want those hostages returned safely. So how do you negotiate with a group that kills children and rapes women as part of its war campaign?

TAL HEINRICH, ISRAELI PRIME MINISTER NETANYAHU SPOKESWOMAN: My pleasure to be joining you, Trey.

You see, there are no good solutions here, only trade off as Thomas Sewell said, and we didn't want to be in this situation.

We want our stolen people back -- mothers, children, brothers and sisters - - we want all of them back and the IDF, the military leadership, the soldiers on the ground, and of course the War Cabinet are working tirelessly to bring them back and to create the conditions that could yield another framework which will see the release of all 136 remaining hostages back. We want to see the returning home.

And we know that the only thing that works against brutal terrorists, as you correctly stated, is heavy military pressure, the combination of this and the diplomatic avenue that we're pursuing behind-the-scenes. We don't really expand much about the terms or the nature of these talks, but we are continuing to hit Hamas terrorists on the ground very hard.

We are dismantling their terror infrastructure, their battalions, their command chains. But the conditions that come as presented so far, you know, my prime minister just a few days ago referred to them as delusional. Secretary of State Antony Blinken referred to them as nonstarters.

We set very clear red lines for any potential hostage release deal. We said that we will not release thousands of terrorists in exchange -- Palestinian terrorists, and we said that we will not pull out all IDF forces from Gaza or in other words, we will not give up accomplishing all of the goals that we have set in this war that we didn't start and we didn't want.

GOWDY: Let me play a clip from President Biden. It's a short one and then I'm going to ask you a question on the other side.

(BEGIN VIDEO CLIP)

BIDEN The conduct of a response in Gaza -- in the Gaza Strip has been over the top.

(END VIDEO CLIP)

GOWDY: Yes, "over the top," now, this is coming from a country that bombed Hiroshima and Nagasaki, so I am kind of wondering what is over-the-top when you kill children, when you use rape as a weapon of war, when you kill kids who are at a music festival? I mean, what is over-the-top when you are defending yourself against that? I have no idea what Biden is talking about.

HEINRICH: Well, Trey, we really appreciate the US and the White House support from the very beginning of this war, of its moral support and material support which is very, very important that is sending the right message to all of our adversaries in the region not just Hamas.

I'm not exactly sure with the president meant there, but on the question of proportionality in warfare, you see, according to international law and common sense, proportionality means doing whatever it takes to achieve a legitimate military goal and I can tell you that our goal was just on October 8th. It is just today and it will be justified for as long as we continue to accomplish it because Hamas can be no more.

We took this decision as a nation that we will not live next to a terrorist enclave and I can also tell you that Israel has been taking unprecedented efforts in the history of modern urban warfare, counterterrorism to minimize the civilian casualties in Gaza and to maximize humanitarian aid in enemy warzone, and it is not just us saying it, it is the head of urban warfare in West Point saying it.

If you look at the IDF's conduct in Gaza and you compare it with the conduct of the international coalition to defeat ISIS, if you look at the battles of Mosul and Rakah, I can guarantee you that we compare favorably in each and every one of these categories.

GOWDY: Tal, I have got to have you back on at some point. We've have got to talk about this two-state solution. I am not sure how two states coexist when one wants to push the other one into the Mediterranean Sea, but I'll ask you about that next time when we get together.

Thank you for joining us on a Sunday night.

HEINRICH: My pleasure.

GOWDY: Coming up, Wednesday is the celebration of love, so what kind of golf balls do you get the love of your life? Lots of mysteries surrounding Valentine's Day and they are solved next on SUNDAY NIGHT IN AMERICA.

(COMMERCIAL BREAK)

GOWDY: Welcome back to SUNDAY NIGHT IN AMERICA. Love can be a complicated word. I love spaghetti and I love my mom, but it is different.

So the Greek said multiple words for what we call love. This Wednesday, we celebrate Valentine's Day, which is usually seen as romantic love, but it does not have to be just that, it can be more, it should be more.

I distinctly remember passing out paper valentines to my classmates when I was in elementary school. Every single one of my classmates, male and female got a little card, and some candy from me, actually from my mom.

Now, did I give extra cand to my French teacher who was very -- what is that word -- "belle" I think that is a French word for beautiful, yes. Did she reciprocate with a good grade? No, or however you say no in French.

The Greeks probably had it right. There are different types or forms of love. The love we have for our children or grandchildren is different from the love we have for our spouses. It is more expensive, too.

The love we have for our friends different from the love we have for our parents or our siblings. We use the same word, but there are differences and we can feel those differences, even if we cannot always articulate them.

Hopefully, we can keep Valentine's Day from being commandeered solely by that chubby little fellow with the bow and arrow, maybe we could do something nice for everyone, like the old days when my mom made me give something to everyone.

We could show once again that love is more than romance, and in many cases, it is even deeper than that. It is wishing the best for others, it is an act of unwarranted kindness. It is placing the wants or needs of others ahead of our own.

Love, it has been written, is patient and it is kind. It is not self- promoting. And all of those things are worth celebrating.

So while I would definitely get my wife a gift for Valentine's Day, she is even more "belle" than my French teacher was, but I will also reflect on the love that World War II veterans have for one another. It is different kind of love that has endured and survived longer than most marriages.

I hope you have a great week with those you care about. Lots of candy and chocolate and flowers and whatever you like. I will combine two of my great loves, my wife, Terri and golf, into one. I will give my wife a dozen Titleist golf balls. No, she doesn't play golf, but it is the thought that counts. And I do play Titleist, so it is going to work out great for all of us, which I love.

Thank you for spending part of your Sunday with us. I hope you have a great week ahead.

Until next week, you can find us online at Gowdy America or on "The Trey Gowdy Podcast."

Goodnight from South Carolina.

**Load-Date:** February 12, 2024

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