

# [***Biden: Running Against "Extreme MAGA Republicans"; Joy Reid Slams "White Christian" Trump Supporters; MSNBC Refuses To Air Trump's Iowa Victory Remarks; Haley Says She Is Focused On Trump Ahead Of New Hampshire; Haley Looks To Gain Momentum In New Hampshire; Cocaine Residue Found On Hunter Biden Gun Case; Vegas Pedestrian Offenders Face Fin Or Jail Time; Fishermen Case Could Impact Key Fed Regulations; Biden Admin Re-designates Houthis As Terror Group***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B4F-TH91-JCS1-60M1-00000-00&context=1516831)

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**Guests:** Stephanie Hamill, Beverly Hallberg, Denise Grace Gitsham, Vikas Bajaj, Carl DeMaio, Matthew Whitaker, Erick Stakelbeck

**Body**

GREG GUTFELD, FOX NEWS CHANNEL HOST: We're out of time! Thanks to Jamie Lissow, K.T. McFarland, Kat Timpf, Tyrus, our studio audience. "FOX NEWS @ NIGHT" with dreamy Trace Gallagher is next. I'm Greg Gutfeld. I love you, America.

TRACE GALLAGHER, FOX NEWS CHANNEL HOST: Good evening. I'm Trace Gallagher. It's 11:00 p.m. on the East Coast, 8:00 here in Los Angeles, and this is America's late news, FOX NEWS @ NIGHT.

And breaking tonight, President Biden appears to have made a key campaign decision. Instead of running on his record, the president is choosing to villainize Republican voters. Accusing Trump supporters of being enemies of the state.

And the media has his back, calling Trump a monster, a dictator, and calling Republicans a cult.

The senior national correspondent Kevin Corke is live in D.C. with the Biden campaign's latest controversial comments.

Kevin, good evening.

KEVIN CORKE, FOX NEWS CHANNEL SENIOR NATIONAL CORRESPONDENT: Evening, Trace.

Critics are calling the president's rhetoric dangerous and divisive, saying, it proves that when he famously said he'd bring the country back together, he was lying.

And now, here is the plan, say analyst, with low poll numbers, a teetering economy, soaring food and gas prices, not to mention a border crisis, and multiple international conflicts that are costing American taxpayers hundreds of billions of dollars, they still say it's smart ***politics*** to focus on the so-called enemy.

In this case, that would be his fellow Americans who just so happened to support his predecessor.

(BEGIN VIDEO CLIP)

JAMIE DIMON, CHAIRMAN, JPMORGAN CHASE: I wish the Democrats would think a little more carefully when they talk about MAGA. They're basically scapegoating them that you are like him.

Just take a step back, be honest. He's kind of right about NATO. Kind of right about immigration. He grew the economy quite well. Trade -- .

(CROSSTALK)

UNIDENTIFIED MALE: (INAUDIBLE).

DIMON: Tax reform worked. He is right about some of China.

I think this negative talk about MAGA is going to hurt Biden's electoral campaign.

(END VIDEO CLIP)

CORKE: Obviously, a very strong perspective there from Jamie Dimon. But to hear the vice president tell it, the real crisis is what happens to the country if Donald Trump wins again.

(BEGIN VIDEO CLIP)

KAMALA HARRIS, VICE PRESIDENT OF THE UNITED STATES: I am scared as heck.

JOY BEHAR, CO-HOST, THE VIEW, ABC: Yes.

HARRIS: Which is why I'm traveling our country. So many of us know when we are scared for the future of our children, do we then stay in bed with the covers over our head?

UNIDENTIFIED FEMALE: No.

HARRIS: No.

(END VIDEO CLIP)

CORKE: This, of course, as Biden continues to trail Mr. Trump by eight percentage points in a hypothetical rematch in the state of Georgia that according to the latest Atlanta Journal Constitution survey, Trace.

GALLAGHER: Kevin Corke, live for us in D.C. Kevin, thank you.

Let's bring in Media Research Center contributing writer Stephanie Hamill, and District Media Group president Beverly Hallberg. Thank you both for coming on.

Stephanie to you first, let's start with the X post, the Twitter post from President Biden, saying quoting here, "Looks like Donald Trump just won Iowa. He is the clear front runner on the other side of this point. But here is the thing: this election was always going to be you and me versus extreme MAGA Republicans."

So, it's not what I've done for you, it's what MAGA Republicans will do to you. Stephanie.

STEPHANIE HAMILL, CONTRIBUTOR, MEDIA RESEARCH CENTER: It's absolutely absurd for President Biden to tweet this. Why? Because number one, only one out of three American adults support the job he is doing, his job performance. And being divisive like this and demonizing those who have supported President Trump, and or the other half of the country, if you will, isn't going to bring people to your side. It's very unpresidential, if you will.

Instead, he should be talking about policies and how he's going to reverse course, to make the lives of the American people better.

GALLAGHER: Yes, we talked about the media backing the president, Beverly.

Here is Joy Reid on MSNBC, saying that all Christian Trump voters are racist. Watch.

(BEGIN VIDEO CLIP)

JOY REID, HOST, MSNBC: All the things that we think about. About electability, about, you know, what are people gaming out, or -- none of that matters. When you believe that God has given you this country that it is yours, and that everyone who is not a white conservative Christian is a -- is a fraudulent American.

(END VIDEO CLIP)

GALLAGHER: I said racist. I meant, evil and racist, Beverly.

BEVERLY HALLBERG, PRESIDENT, DISTRICT MEDIA GROUP: Yes, don't forget both of those words. Got to get them both in. And look, when you hear this, it's not surprising that when you take a look at the public's level of trust in the media, it's below 20 percent.

Not only because they report on stories, like Russian collusion, which didn't prove to be true, or suppressing information about COVID. The origins of it are masking, but because they demonize their own readers or the people who they want to read their stories.

It's really been fascinating to see that media outlets think that they should take it upon themselves, to scold the American people about what they think, instead of focusing on just putting out information and facts.

(CROSSTALK)

GALLAGHER: Yes.

HALLBERG: And letting people decide for themselves.

GALLAGHER: And speaking of MSNBC, I want to play this soundbite from Rachel Maddow, because she is explaining to people. Yes, she is explaining why they had to cut away for the former president's victory speech in Iowa. You know, because they just can't cover that kind of stuff.

Yet, you can't let people decide for themselves, you have to tell them what they are supposed to think. Watch.

(BEGIN VIDEO CLIP)

RACHEL MADDOW, HOST, MSNBC: There is a reason that we and other news organizations have generally stopped giving an unfiltered live platform to remarks by former President Trump.

There is a cost to us as a news organization of knowingly broadcasting untrue things.

(END VIDEO CLIP)

GALLAGHER: They specialize in broadcasting untrue things, Stephanie. I mean, I've gone over this before again and again, but your talk.

HAMILL: Well, their credibility is already wounded, right? With the Russia collusion hoax, and the Hunter Biden laptop story amongst so many that we don't have time to list on this show.

So, you think that they would sit down and think, you know what, maybe we should try to work harder to gain credibility so that we can get people to start watching us again and taking a serious.

No, but instead, they are tripling down.

They are not just doubling down. They are tripling down by completely censoring a presidential candidate that obviously people like. Let people listen to the candidates and then let them decide. The American people aren't stupid.

GALLAGHER: Right.

HAMILL: If the rhetoric is so bad, let them hear it for themselves.

GALLAGHER: Yes, it's a live speech from the former president of the United States, and they are censoring it.

And Jamie Dimon, Kevin Corke played a little bit of this, but J.P. Morgan CEO Jamie Dimon said listen, this is a dangerous path to go down. Watch.

(BEGIN VIDEO CLIP)

DIMON: I wish the Democrats would think a little more carefully when they talk about MAGA.

Just take a step back, be honest. He's kind of right about NATO, kind of right about immigration. He grew the economy quite well. Trade -- .

(CROSSTALK)

UNIDENTIFIED MALE: (INAUDIBLE).

DIMON: Tax reform worked. He is right about some of China.

I think this negative talk about MAGA is going to hurt Biden's electoral campaign.

UNIDENTIFIED MALE: (INAUDIBLE)

(END VIDEO CLIP)

GALLAGHER: He is right. I mean, it's going to hurt. You have to run on your record, Beverly, at some point in time, otherwise, you are just beating up the other guy.

HALLBERG: Well, it's not even that he is beating up Trump, he is beating up the people who are voting for them. It actually reminds me of the Hillary Clinton basket of deplorables moment, which was devastating for her.

This seems to be what the Biden administration wants to do, not just run against Trump, but run against half of the American people.

I think it's a losing strategy for them. You don't knock the voters, but yet, that's what they seem to think is their winning message. Because as you said, focusing on his record is not going to work too well for Biden, since not many people like the job he is doing.

GALLAGHER: Beverly Hallberg, Stephanie Hamill, thank you both.

HALLBERG: Thank you, Trace.

GALLAGHER: Well, brand new tonight, we have a new Suffolk/Boston Globe poll out of New Hampshire. It's about what to expect in next week's presidential Republican primary. And without giving it away too much, it's really not great news for Nikki Haley.

Bryan Llenas is live for us tonight in Manchester, New Hampshire. Bryan, good evening.

BRYAN LLENAS, FOX NEWS CHANNEL NATIONAL CORRESPONDENT: Trace, good evening. Tonight, Florida Governor Ron DeSantis is actually pulling dead last in New Hampshire with just five percent support. Trump is leading with 50 percent and former Governor Nikki Haley is second with 34 percent.

Now, this, as DeSantis moved the majority of his campaign staff to South Carolina, Haley's home state. Insisting a loss there, will deliver a knockout blow to Haley's campaign. Though DeSantis tells Fox, he is not skipping New Hampshire.

(BEGIN VIDEOTAPE)

GOV. RON DESANTIS (R-FL), PRESIDENTIAL CANDIDATE: We went to South Carolina, knocked out a couple of events, and then did what we were planning to do in New Hampshire. That was somehow caricature to skipping New Hampshire when it wasn't. It was adding South Carolina in addition to that.

That we're going to set up events in New Hampshire on Friday. We're going to do multiple town halls and we will be back.

LLENAS (voice over): I caught up with Hayley tonight who had this to say about DeSantis.

NIKKI HALEY (R), PRESIDENTIAL CANDIDATE: He is closer to zero than he is to me in either of these states. So, it's more about his survival. We're strong, it's a two-person race here in New Hampshire. It's a two-person race in South Carolina. So, we're focused on Trump. That's all we're focused on.

DeSantis, I forgot about him the second he left New Hampshire.

LLENAS (voice over): Haley insists, she'll no longer debate unless Trump joins her on that stage. DeSantis says both candidates are hiding.

DESANTIS: I want to debate. I'm out there taking questions from voters. Biden obviously isn't leaving his basement. You know, Trump doesn't debate, he doesn't take questions from voters

Haley now won't debate.

HALEY: Is Trump on the debate stage? Trump's not on the debate stage. So, who am I debating? Why would I debate? I mean, Trump is the one I want.

Trump is the one I'm going for. It's a two-person race here in New Hampshire.

(END VIDEOTAPE)

LLENAS: DeSantis flew to Florida tonight. He'll be back in New Hampshire on Friday, and he'll be campaigning in South Carolina this weekend. Trace?

GALLAGHER: Bryan Llenas, live for us in New Hampshire. Brian, thank you.

Let's bring in the author of "***Politics*** for People Who Hate ***Politics***", Denise Grace Gitsham, along with Republican strategist and attorney Mehek Cooke. Thank you both for coming on. We appreciate it. I want to put that poll back up. This is the Suffolk/Boston Globe thing and it really -- it's not great news for Nikki Haley.

You can see there, former president with 50 plus percentage points, Nikki Haley down almost 17. And Ron DeSantis, which is a distant third.

So, her number is not growing. His number is growing the former president on this thing.

Denise, what's your takeaway on this?

DENISE GRACE GITSHAM, AUTHOR: I mean, the writings on the wall, I think for both candidates. This is the best Nikki Haley's ever going to do in any state. And there are no more votes for her to pick up. Christie is already out.

And so, unless she wants to get pummeled in her own home state, which is just as embarrassing as how well DeSantis is doing in his home state compared to Trump, I don't understand why both of them are continuing this fight. And I certainly don't understand why DeSantis want to suffers it -- wants to suffer twice, both in New Hampshire and South Carolina.

GALLAGHER: I wonder because Nikki Haley was telling Bryan Llenas, you know, she is saying, who, who am I going to debate? Trump doesn't want to debate, am I going to debate DeSantis? You know, the truth is DeSantis beat her in Iowa. He is going to lose in New Hampshire, but he beat her in Iowa. It's not like he is been booted out of this race, Mahek, does she not -- is she not playing this well? Should she debate? Should she kind of keep going like she has been?

MEHEK COOKE, FOX NEWS CHANNEL COMMENTATOR: I agree. I don't think that Nikki Haley should be debating anymore, unless it's President Trump on the stage with her. I have always said this, running presidential campaigns and being part of great teams in the past. New Hampshire is really predictive of who is going to be our GOP nominee.

And at this stage, when you look at our path, five out of seven GOP nominees came through New Hampshire. So, looking at the poll today, President Trump is still winning those independents in New Hampshire, this is very predictive, but Nikki Haley is dead, right. I would not do a debate.

If I was her advisor, I would tell her to continue to work as hard as she can to narrow that margin in New Hampshire, but right now, she is trailing significantly behind.

GALLAGHER: Yes, we should note that President Biden didn't do very well in New Hampshire, but he did really well in South Carolina. The new ABC Ipsos poll, I want to put this up on the screen, speaking in former -- or President Biden, the approval at 33 percent.

The margin of error here, by the way, Denise, is 2.5 percent. He is really kind of teetering near the 20s. And that is a bad sign.

GITSHAM: Yes, it's not great. And if you look at consistently the pulling on right direction, wrong track for our nation, it's been right around tracking, with Biden's approval, maybe even a little worse for him.

It's not looking good for him. That's the reason he's been so desperate to go after extreme MAGA Republicans, when in fact, the people he is talking about are the people who are voting for Trump, even though they're not even Republicans, and all of the swing states that he won last time.

GALLAGHER: Yes, he's got some people out on the campaign trail that are kind of maybe not even the campaign trail and the media trying to kind of you know, boost him up a little bit here.

Foxnews.com writes the following, "Kamala Harris defends Biden's intelligence when pressed on mental sharpness." Saying, "He is extraordinarily smart."

"First Lady Jill Biden also defended Biden from questions surrounding his health last week, claiming his age is an asset. He is wise. He has wisdom. He has experience.

Voters have said again and again Mehek that they don't -- they want young, they don't want Biden. Mahek, your thought.

COOKE: Well, it -- we continue to see that Kamala Harris is scared as heck. She is admitted it on television. So, at this point, she is going to do everything to try and defend the commander in chief. But there is no defense. Just look at his record, record high inflation, high unemployment, gas prices, immigration is -- we have a crisis at our southern border, we need to wake up and start to realize that we have a national security threat.

GALLAGHER: Yes.

COOKE: And not to mention, Biden has engaged in wars that we don't belong in today. So, what are you going to do? You're going to say you're scared? You're going to run scared, and then you're going to try and continue to say that Biden is young. We know the truth. His time is up. We need to fire him and move on.

GALLAGHER: Yes, and imagine immigration and the border being a top issue in Iowa, and a top issue in New Hampshire, which is about as far away from the border as you can get.

It really is kind of stunning. Denise Grace Gitsham, Mehek Cooke, great of you both to come on. Thank you.

GITSHAM: Thank you, Trace.

COOKE: Thank you.

GALLAGHER: Well, former President Trump was nearly kicked out of court today during day two of his civil defamation trial in New York City, after E. Jean Carroll's lawyer complained that the defendant, Mr. Trump, was ignoring a warning to stay quiet during her clients' testimony.

Judge Lewis Kaplan scolded the former president, saying that if he remains disruptive, he would forfeit his right to be present. The jury will eventually decide how much in damages Trump must pay in Ms. Carroll after the previous trial jury in May found him liable for sexually assaulting and defaming her.

Meantime, a judge in Maine has delayed a decision on former President Trump's ballot status until the Supreme Court rules on a similar 14th Amendment case in Colorado.

Marianne Rafferty is live with that story tonight. Marianne, good evening.

Yes, good evening, Trace. Well, a judge in Maine is now deferring a decision on whether President Trump can remain on the state's ballot until the Supreme Court has a chance to weigh in.

The move comes after Maine's democratic Secretary of State Shenna Bellows, said Trump was disqualified under the 14th Amendment, where she alone made the decision that he engaged in insurrection.

The Supreme Court is planning to review a similar decision made by Colorado Supreme Court on February 8th.

Colorado's Secretary of State Jena Griswold has asked the court for a quick decision. That state's Republican primary is March 5th.

Meantime, on the campaign trail, President Trump says corrupt forces had been fighting him every step of the way. Take a listen.

(BEGIN VIDEO CLIP)

DONALD TRUMP, FORMER PRESIDENT OF THE UNITED STATES: They are fighting every step of the way and everything now, breaking every rule and shattering every norm, in a lawless attempt to keep us from defeating them at the ballot box.

(END VIDEO CLIP)

MARIANNE RAFFERTY, FOX NEWS CHANNEL CORRESPONDENT: And according to the judge's order, Maine secretary of state will have 30 days once the Supreme Court justices make a decision to either withdraw, modify, or confirm her ruling that disqualified Trump from Maine's presidential primary ballot, and the Maine superior court judge said in today's ruling that she at least hopes the Supreme Court will clarify what role state decision makers play in adjudicating claims of disqualification that are brought under that 14th Amendment, Trace.

GALLAGHER: There it is, much needed this case. Marianne, thank you.

Let's bring in former acting Attorney General Matthew Whitaker. Matt, it's great to have you on as always.

MATTHEW WHITAKER, FORMER ACTING UNITED STATES ATTORNEY GENERAL: Hi, Trace.

GALLAGHER: Your thoughts on the judge in Maine, pausing a decision to remove Trump from the ballot.

WHITAKER: Well, that's obviously the right decision, because the Supreme Court is going to decide fairly quickly after the February 8th hearing as to what to do. I don't think there is any doubt, and in fact, I've talked to a lot of, you know, legal experts, and I have my own opinions on it. But I think there is about five different ways that Supreme Court can find a majority to, you know, turn around and reject the Colorado Supreme Court's decision.

But you know, I think Judge Roberts, most importantly, is going to try to find the biggest majority possible on the narrowest issue possible in order to, you know, get this behind the country.

GALLAGHER: Yes.

WHITAKER: I don't think there is any doubt the 14th Amendment doesn't prevent President Trump from running for president.

GALLAGHER: Yes, a lot of people expect a big number from the Supreme Court as far as how they -- how they vote on this thing. Now to Georgia and Fulton County where the D.A., as we have known for the past couple of weeks, Fani Willis, hiring her alleged lover to prosecute Trump in this complicated RICO case, despite him not having very much prosecuting experience.

Here is what a CNN correspondent said. Watch.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: Everyone that we've spoken to, they agree that the optics in this are just horrible. In fact, there is some now high-level Democrats in this state who are calling Fani Willis to step down and recuse herself from this case.

(END VIDEO CLIP)

GALLAGHER: Yes. I mean, and the calls are getting louder, Matt. I mean, there everybody is saying, you know what, you can, this doesn't look great on its face going in, but the longer it goes on, the more information that comes out. It turns out to be bad.

WHITAKER: Yes, and the optics are not the main problem, the facts are really bad. And once some of these facts continue to come to light, and, you know, the complicity of these two in hiding this and then syphoning off, hundreds of thousands of dollars to support their lifestyle.

I mean, I think is going to be outrageous for most people in Fulton County, even if you are a left leaning, you know, Trump hating, liberal. I mean, you're just -- you just can't ignore the truth here.

GALLAGHER: The news -- the new news in the Hunter Biden stuff, by the way, is that his gun pouch back in 2018 had cocaine residue on it.

Now, you've got the Biden Justice Department and reviewing Hunter's laptop saga, it just kind of goes on and on.

What do you see -- you know, early in the new year, Matt, where do you see this going? What do you think is going to happen with this case?

WHITAKER: Yes, Trace, it's -- the thing that just always strikes me is really almost unbearable as someone that believes in the rule of law and believes that the -- you know, prosecutor should just do justice without fear or favor is that the plea deal they tried to get Hunter Biden to plead to and ultimately get make this all these cases go away, was a misdemeanor tax charge and a deferred judgement on the gun charges.

He is now facing three felony gun charges. And he is also facing three felony tax charges in addition to the six misdemeanors. So, that's 12 charges, six of them felonies. It just shows you what a sweetheart deal he was getting.

And, you know, again, the facts just keep getting worse and worse. Now, there's cocaine found on the gun. And I just think, it -- you know, it is - - it is outrageous to me that this department of justice was willing to get this case gone for as cheap as they tried to do it.

GALLAGHER: Yes, yes. It really does. I mean, more of the information comes out, the worst this thing looks in hindsight. Matthew Whitaker, great to have you on the show. Thank you, sir.

WHITAKER: Good to see you. Thank you.

GALLAGHER: Well, coming up, commissioners in Clark County, Nevada have essentially outlawed tourism in Las Vegas. Here is the deal. If you're walking across a pedestrian overpass or along the strip, and you stop, or stand, maybe tie your shoe, you could face $1,000 fine or up to six months in jail.

And later in the "NIGHTCAP" Green Day and Jimmy Fallon took over a New York City subway station for an impromptu concert take a watch.

(BEGIN VIDEO CLIP)

AMERICAN CROWD: All night. I want to rock and roll all night! (INAUDIBLE) every day.

(END VIDEO CLIP)

GALLAGHER: So, here is the question. If Fallon and Green Day blocked your way to the train, would it be pretty cool or pretty annoying? Or does it depend on who's playing this impromptu show? Let us know on X and Instagram @tracegallagher. We will read the results along with the best responses coming up in the "NIGHTCAP".

Meantime, it is 8:20 on the west coast to FOX NEWS AT NIGHT "TRIP ACROSS AMERICA". First, a live look at San Diego, where you can be fined for leaving Christmas lights up past February 2nd. Bah humbug.

Next to bright and beautiful night in Dallas, Texas, where Mike McCarthy remains the coach of the Dallas Cowboys.

And finally, a live look at Virginia Beach. A three-mile boardwalk.

If you can't join us live, do not forget to set your DVR. We're more fun live, but we're great on tape. We're coming right back.

(COMMERCIAL BREAK)

GALLAGHER: Well, imagine being a taxi driver or an Uber driver, and a state trooper has to ride with you to make sure that you are following the law. And at the end of the ride, you have to pay the trooper for their time in trouble.

While the U.S. fishing industry is kind of getting hit by those types of regulations as we speak, and apparently, it's not going well.

The senior national correspondent Kevin Corke is back live with the details on this. Kevin.

CORKE: Interesting story indeed, my friend. The Supreme Court hearing arguments in a case that could bring fresh constraints on federal agencies running room to craft energy and climate regulations. The justices diving into cases challenging the so-called Chevron deference.

Now, that's a long-standing precedent that gives departments in the government broad leeway when underlying statutes are vague or silent on a particular topic.

Now, the current litigation, Trace is technically about a fisheries rule that requires them to pay the salaries of the federal observers required on some boats to prevent overfishing. Can you believe that?

But curtailing the Chevron deference as it's known would affect far more areas of regulation.

Conservatives and business groups say Chevron upsets the constitution of balance of powers, giving the executive branch for example, authority that Congress never intended or approved.

Now, for their part, the Biden administration is arguing that federal agencies have the mandate to enforce federal laws, rulings expected by late June, and I know a lot of people in legal circles that just can't wait to see how this all turns out, Trace.

GALLAGHER: Yeas, I'm one of them. And the man sitting next to me is another one.

CORKE: Yes.

GALLAGHER: Kevin Corke in D.C. Kevin, thank you.

Well, if you think the federal government is overreaching the FOX NEWS @ NIGHT "COMMON SENSE DEPARTMENT" would like to inform you that in Las Vegas, it is now illegal to stop or stand on any of the city's 15 pedestrian bridges or the Las Vegas Strip.

The new law was unanimously passed by the Clark County commissioners. And the reasoning is that pedestrian walkways are "designated flow zones". And if you take in the view or tie your shoe, it impedes the flow.

So, if you decide to pause and take a selfie, you might get your selfie a ticket with a fine of up to $1,000 or six months in jail.

"COMMON SENSE" thinks that is pretty punishing for a pause. We are told this has nothing to do with the city being riddled with homeless people, buskers, peddlers, or three card monte men who prey on suckers.

No, no, no. This is only about safety. Apparently, there are multiple peer- reviewed, not to mention empirical studies that show if you keep the crowd moving, it prevents congestion, crime, and cash from staying in your pocket.

Because let's face it, if you keep walking that blackjack table keeps getting closer, and did you know that it's also illegal on the Las Vegas Strip to swear? "COMMON SENSE" thinks, what have you swear about getting fined for not walking? Apparently then, what happens in Vegas goes national.

Let's bring in Criminal Defense Attorney and Federal Litigator, Vikas Bajaj, along with Reform California Chairman, Carl DeMaio. Welcome to you both. You know, little facetious and common senses part there, Vikas, but the ACLU says that, that you know this law violates the first amendment, quoting here, "That might mean the right to protest, that might mean someone who's sharing expressions of their faith, that might mean a street performer." What do you think about this?

VIKAS BAJAJ, CRIMINAL DEFENSE ATTORNEY AND FEDERAL LITIGATOR: Well, those are valid concerns but you can venture to guess that those would be defenses if there are citations or criminal prosecutions, but it's very important to note, Trace, that this is a trend, both federally with the Chevron doctrine which really affects the separation of powers.

The executive branch shouldn't be able to enforce the law, and also interpret ambiguous or silent law in the same sense on the state and municipal levels. We don't want commissioners or city councils to invent specificity when laws are ambiguous, and we surely don't want everyone turning into robots to just do what everyone else is doing.

GALLAGHER: And I figured Carl DeMaio would have a good take on the vaguest do not stop on an overpass law. Carl, what do you think?

CARL DEMAIO, CHAIRMAN, REFORM CALIFORNIA: Yes, this is just complete insanity. It's the nanny state. You know, Trace, it reminds me though of one mandate or restriction that California politicians implemented during COVID-19. During the early parts of the pandemic, when everyone was losing their mind and everything was a risk, California politicians mandated that you could not sit down on the sand on a beach.

They said that that was going to be hazardous to your health and those around you. So, again, look, this is just insanity. If people want to take a selfie in Vegas, they're out on vacation. This is about tourism. You have all those lights, all those attractions. Let them have a little bit of fun. Oh, by the way, the one thing that they won't ban is drinking in public in Vegas because they can profit off of that.

GALLAGHER: Of course, they can. Yes, and he's right. You know, on the beach and during COVID, Vikas, it was the same. It was you could, you had to keep walking. If you were going to be on the beach, you had to keep walking. If you stopped, instead of the sand men, there were the lifeguards. They were all over you. Now, to the government overreach, you were talking about, the fishing industry. Here is a fishing worker saying what they're going through. Watch.

(BEGIN VIDEO CLIP)

MEGHAN LAPP, FISHERIES LIAISON, SEAFREEZE: On a daily basis, before you leave the dock, you have to tell the government what you're going to fish for. You have a government ankle bracelet on your boat called a vessel monitoring system. They know where you are at all times. They know how fast you're going, what direction you're going in.

(END VIDEO CLIP)

GALLAGHER: I mean, it really is. It's one of those things where they can board your boat at any time, and then they charge you for what they did on the boat while they were out.

BAJAJ: Absolutely, patently ridiculous. But let's not lose sight of the bigger issue. This is the executive branch saying, we know what the law is, but we believe a certain word may be less than specific and clear. So, we're going to go after the consumers, the citizens. Now, when you listen to the recordings from the Supreme Court arguments earlier this week, today, you will understand some of the Supreme Court justices were very concerned about notice.

So, when a law is passed by Congress or a state legislature, we have notice publications. However, when an executive branch, like the Department of Education, for instance, or other law enforcement entities, interpret and enforce, that's judge, jury, and executioner. That's very dangerous.

GALLAGHER: It really is dangerous. So, FoxNews.com wrote the following here: "The city of Toronto," Carl DeMaio, "has come under fire for banning tobogganing on 45 hills during the snowy season." The reason they're banning the tobogganing, if you didn't know, is because those hills have trees on them. And the people are like, I'm sorry, those hills have had trees on them for, you know, 17 billion years or so.

DEMAIO: Yes, I mean, the question is, what good things about life are we going to lose? The liberal mindset saps the joy out of life and that, that -- it's just insanity. Everything that we like, everything we enjoy eventually is going to be taken away from us. And so, we have to, we have to see this as an infringement on freedom, and, and just, just common sense.

GALLAGHER: Yes, common sense. Back to the "COMMON SENSE DEPARTMENT." Carl DeMaio, Vikas Bajaj, great to have you on. A great team -- DeMaio-Bajaj, the great team. Thank you both.

DEMAIO: Sounds like a law firm.

GALLAGHER: Yes, that's a law firm, Bajaj-DeMaio. Apparently, even President Biden has a limit to how many missiles a militant group can fire at ships in the Red Sea before he brands them a terrorist group. But when does he implement the consequences? We'll get into that next. But first, a bird's eye view of the nation's capital, Washington, D.C., courtesy of EarthCam. We are coming right back with the Houthis now being designated again as a terrorist organization.

(COMMERCIAL BREAK)

GALLAGHER: Well, the Biden administration makes a U-turn and re-designates Iranian-backed Houthi rebels as a terrorist group. But after repeated attacks on ships in the Red Sea, many military analysts are wondering when the president will lay out the consequences. Jeff Paul is live with the new information on this story. Jeff, good evening.

JEFF PAUL, FOX NEWS CHANNEL CORRESPONDENT: Yes, good evening, Trace. That development comes as we're tracking yet another attack on a U.S.-owned and operated bulk carrier ship in the Gulf of Aden. U.S. military officials confirmed to Fox News Yemen's Houthis launched a one-way drone on a ship, causing minor damage.

(BEGIN VIDEO CLIP)

PAUL (voiceover): Now, this is the second time a U.S.-owned and operated ship has been hit by the Houthis in the past two days. It's the 34th known attack on commercial shipping in the Red Sea Gulf of Aden area since November 19th. Now, as a result of all these attacks, the Biden administration is placing the Iranian-backed Houthis on the specially designated global terrorist list after removing them from a similar terrorism designation three years ago.

This means they'll face sanctions as the U.S. attempts to de-escalate and stop the ongoing attacks. National Security Council spokesperson, John Kirby, says the Houthis' previous designation as a Foreign Terrorist Organization, or FTO, didn't give them flexibility in terms of allowing humanitarian aid into the war-torn country.

JOHN KIRBY, NSC COORDINATOR FOR STRATEGIC COMMUNICATIONS: And so, a big reason why we delisted them literally on day one was to address a dire, dire humanitarian situation on the ground. And as I said today, it remains dire in many cases. The Houthis are more concerned about getting weapons and capabilities and attacking ships in the Red Sea than they are about helping to look after the Yemeni people.

(END VIDEO CLIP)

PAUL (on camera): Now, we are also learning tonight that the U.S. has carried out another strike hitting 14 Iranian-backed Houthi missiles that the U.S. military says were loaded and ready to be fired. They say the strike was an attempt to stop more merchant ships and U.S. Navy ships from being attacked once again, Trace.

GALLAGHER: Feels like this back-and-forth could go on for a while, Jeff Paul. Jeff, thank you. Let's bring in the Host of "The Watchman," Middle East Analyst, Erick Stakelbeck. Erick, I mean, just your thoughts on all of this. The Biden administration put the Houthis back on the terrorist group list, and then they immediately are targeted by a Houthi drone and a U.S.- owned cargo ship. I mean, we're just not apparently deterring them very much.

ERICK STAKELBECK, MIDDLE EAST ANALYST: We're not, Trace. Deterrence is just not present here with the Houthis. And I really think the Biden administration's original sin in foreign policy occurred just two weeks after President Biden took office back in February 2021 when he removed the Houthis from that terror list, Trace. Now, the Houthis were emboldened by this. They upped their attacks in the region.

And now, we see a constant stream of attacks against U.S. shipping. Again, the Biden administration removing the Houthis as really throwing a bone to the Iranian regime. That's the real big picture here, Trace, that the Iranian regime is behind the Houthis to the point where there are Iranian Revolutionary Guards Corps boots on the ground in Yemen directing these attacks against shipping in the Red Sea. Ultimately, the buck stops with the Iranian regime.

GALLAGHER: And here's my question. You know, Iran, clearly the common denominator behind Hamas, behind Hezbollah, behind the Houthis. I'm wondering, because we apparently lost two Navy SEALs in the Red Sea this week, seizing Iranian weapon shipments from the Houthis, how much more involvement are we going to see in the Red Sea if these attacks keep going, Erick, are we going to see of U.S. military? Because that's the question. How much more U.S. military involvement are we going to see in that region?

STAKELBECK: Yes, I don't think you're going to see an invasion of Yemen. Trace, you may see special forces operations obviously on Yemeni soil targeting the Houthis. But I think this is a clear example of what happens in the Middle East does not stay in the Middle East. It profoundly affects all of us no matter where we live. Look, we have companies like B.P. and Maersk, major companies, basically avoiding the Red Sea now. That's going to have a global impact, Trace. Some 12 percent of global commerce passes through the Red Sea, and the Houthis are on the verge of shutting it down, this vital waterway.

We will all feel that around the world, including right here. So, the U.S. military, I don't know that, again, we'll see boots on the ground or anything like that, but I think, Trace, think of 1986 going way back when Ronald Reagan struck Muammar Gaddafi. You didn't hear from Gaddafi for a long time after that. The Libyan strongman. A message was sent, deterrence was established. A similar forceful message needs to be sent to the Houthis and their masters in Tehran.

GALLAGHER: I want to play this soundbite. It's John Kirby talking about timing. Watch.

(BEGIN VIDEO CLIP)

KIRBY: We're not looking for a war. We're not looking to expand this. The Houthis have a choice to make, and they still have time to make the right choice which is to stop these reckless attacks.

(END VIDEO CLIP)

GALLAGHER: They've got time. How much time do we give them? It's been 100- plus days, Erick. Your final thoughts on this?

STAKELBECK: Yes, well number one, this is naivete, Trace. The Houthis aren't going to suddenly change their spots and the Iranian regime certainly isn't going to change its spots. So, the only message the Houthis will understand and grasp is one of force. I'm sad to say, but that's the only thing. A truly decisive, forceful action, not defensive, but going on the offensive against the Houthis will be the only thing that gets the message across.

GALLAGHER: Yep, it appears that way. Erick Stakelbeck, good to see you as always. Thank you.

STAKELBECK: Thanks, Trace.

GALLAGHER: First up in tonight's "VIRAL VIDEOS." Are we listening? Yes, our own Bill Hemmer, that's the guy right there with the baby getting a bit of praise tonight for lending a helping hand on his flight to Des Moines, Iowa on Saturday to a mother who was trying to deal with a toddler throwing a tantrum and then a baby crying at the same time. Bill, nice guy that he is, held baby Amelia for two hours and even gave her a bottle at one point. The grateful mom told Bill he showed her the goodness in humanity. Chivalry is not dead. Bill, great guy.

Wrestling legend Hulk Hogan helped rescue a 17-year-old girl from a car that had flipped over. Hogan's wife posted on Facebook that Hogan and a friend pulled the girl from the wreckage. Hogan says he used a ballpoint pen to puncture the airbags and to free her.

And some dedicated football fans helped clear the Buffalo Bills Stadium in upstate New York over the weekend after it was buried under lots and lots of snow. The NFL playoff game between the Bills and the Steelers was postponed on Sunday, but the teams were able to face off on Monday, partly because of the efforts of the fans who hated the team's call. They were also reportedly offered $20.00 an hour for their work and of course the Bills ended up winning which is the cherry on top.

If you have a viral video to share, share with us @TraceGallagher or @FoxNewsNight on social media.

Coming up, you're trying to get to your subway, right? And you get bogged down in a little impromptu concert of Jimmy Fallon and Green Day. Are you pleased by the entertainment, or are you annoyed that you cannot get where you're going? Still time to weigh in, X and Instagram, @TraceGallagher. The "NIGHTCAP" crew, rocking and rolling, coming right back.

(COMMERCIAL BREAK)

GALLAGHER: OK, we're back with the "NIGHTCAP" crew: Kevin Corke, Jeff Paul, Marianne Rafferty, Denise Gitsham, Mehek Cooke, Vikas Bajaj, and Carl DeMaio. Tonight's topic, hitching a ride. Yesterday, Green Day and Jimmy Fallon hosted a surprise concert at the Rockefeller Center Subway Station in New York. Here's a bit. Watch.

Fun, right? Unless you're trying to get home. If you're trying to get home or you're trying to get to work during this impromptu concert, would you find it entertaining or annoying? Or would it depend on who was playing? Is my guess. Marianne Rafferty, start with you, what's your thought on this?

RAFFERTY: No way. No way, right off the top, I don't care who's playing. As someone who lived in New York and rode the subway, I just want to get through and get to where I'm going.

GALLAGHER: I'm with you. I rode that subway a lot in the years in New York and I don't think I'd be happy. Well, you know what? I might change my mind a little later in the "NIGHTCAP." Vikas Bajaj.

BAJAJ: There can be no excuse whether you like Green Day or not. I know they have an album coming out, free advertising. Looks like they have some problems keeping their lyrics straight or remembering them. Good advertising. Stay out of my way please.

GALLAGHER: Yes, Mehek Cooke, you want a band in your way?

COOKE: Absolutely not. They should be treated no differently than climate protesters blocking the intersections. Drive them off the platform. I have places to be.

GALLAGHER: Got to go. Got to go. Kevin Corke!

CORKE: There are acronyms on the Internet that I can share about getting out of here. I won't. I need my job. That's how I feel about that.

GALLAGHER: I got you. Listen, we got you. We got you. Get out of here. Get the heck out of here. Mehek out of here. Annoying, 54 percent say, yes, annoying. And entertaining, 46 percent. On Instagram, annoying, 52. Entertaining, 48.

Cathy Brave says, "Annoying, especially a Green Day concert."

Mary J., "We all need things like this. Everybody's so serious these days."

And Dan Krolikowski, "Annoying. Not a fan of crowds."

I don't know. Let's see what this. Let's, let's get to, let's get to Carl DeMaio.

DEMAIO: Well, you know, it's a true story. In Los Angeles, their transit department has started playing classical music in metro stations to scare away the homeless. So, as annoying as this is, maybe this will replace the classical music in Los Angeles.

GALLAGHER: Denise?

GITSHAM: What's wrong with you people? I paid so much money to see Green Day at Lollapalooza in high school, and I have no idea why you're turning on a perfectly free concert. My only question is, wasn't Billy Joe supposed to leave after the Dobbs decision and become a Canadian? What's he doing on this side of the border? We need better border control.

GALLAGHER: We do, we do. Listen, if Led Zeppelin was reuniting, I'd say yes, block every subway in the city. I'd be totally fine with that. Here we go:

Nicole Helder, "Fun, free entertainment, heck yes."

Brent P., "Making it inconvenient for others just so they can get some clicks."

Jeff Paul.

PAUL: Yes, it's fun. I do think it was a little un-organic though. They wore disguises at the beginning. Everybody knew.

GALLAGHER: Thank you all for joining the "NIGHTCAP." And thank you for watching America's late news.

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