

# [***House Votes Down Mayorkas Impeachment And Israel Aid; Congressional Chaos As House Rejects Border Bill; DHS Secretary Mayorkas Impeachment Vote Fails In House; Oakland Crime Pushing Residents To Breaking Point; Oakland Pizzeria Employees Fight Off Robber; Trump Not On Ballot As Nevada Holds Primaries; Mother Of Michigan School Shooter Guilty Of Manslaughter; Prosecutors Argued Shooter's Mother Ignored Signs; White House Accused Of Pressuring Amazon To Censor Books; Country Music Star Toby Keith Dead At 62***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B8R-3TG1-JCS1-6002-00000-00&context=1516831)

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**Guests:** Tezlyn Figaro, Andrew Gruel, Matt Gorman, Vik Bajaj, Yalda Safai, Bethany Mandel

**Body**

(COMMERCIAL BREAK)

GREG GUTFELD, FOX NEWS CHANNEL HOST: Thanks to Brian Kilmeade, Kennedy, Lissow, Timpf, our studio audience, "FOX NEWS @ NIGHT" with dreamy Trace Gallagher is next. I'm Greg Gutfeld. I love you, America. Thank you.

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.

We have breaking news. But first, we want to let you know that FOX NEWS @NIGHT has put together a wonderful tribute to Toby Keith, great entertainer, great man, great patriot. We will have that for you later.

But right now, two major developments in the battle over border security. The House voted not to impeach DHS Secretary Alejandro Mayorkas, and the Senate border deal appears to be on life support. That measure was already said to be dead on arrival in the House. And now, some GOP senators are also skeptical about the package.

The senior national correspondent Rich Edson has the new information. He is live for us tonight in D.C. Rich, good evening.

RICH EDSON, FOX NEWS CHANNEL WASHINGTON CORRESPONDENT: Hey, good evening, Trace.

Well, Republicans lose two major votes tonight in the House a chamber they control by a slim margin.

House Republicans failed to impeach Homeland Security Secretary Alejandro Mayorkas, after charging that he's failed to secure the southern border. A handful of Republicans broke with their party and with Democrats, and sank the impeachment vote. Republicans say they'll vote again when Majority Leader Steve Scalise returns from his cancer treatment.

Minutes after that vote, the House also failed to pass a $17.6 billion aid package for Israel. Democrats oppose it, because they say it undermines the Senate's comprehensive bill, which also has support for Ukraine and border security.

That Senate bill also appears headed for defeat after a cascade of Senate Republicans announced their opposition.

(BEGIN VIDEO CLIP)

SEN. TED CRUZ (R-TX): I'm angry. I'm angry that the Democrats want this human suffering to continue and I'm angry at our own Republican leadership for going along with it in a terrible bill.

EDSON (voice over): Democrats argue that in bipartisan negotiations, they relented on years' long calls from Republicans to boost border security and curb the number of migrants released into the country. Only to have former President Trump oppose it and tank it.

They maintain, Republicans are choosing ***politics*** over border security.

SEN. CHRIS MURPHY (D-CT): Before the ink was even dry, Republican senators decided they don't want a bipartisan bill to fix the border. Because what they actually want is chaos. Because that's what Donald Trump says he wants.

(END VIDEO CLIP)

EDSON: Hours after the bipartisan Senate negotiators released their comprehensive bill, House Speaker Mike Johnson said it was dead on arrival.

Now, the future for any border bill or aid for Israel or Ukraine remains uncertain. Trace?

GALLAGHER: Very uncertain rich Edson, live for us in D.C. Rich, thank you.

Well, the FOX NEWS @ NIGHT "COMMON SENSE DEPARTMENT" is not at all interested in debating the border bill. I mean, there is plenty of that going on in Congress.

But "COMMON SENSE" does have a question, why are we pushing a multibillion- dollar piece of legislation that might secure the border? Why not just secure the border? You know, reimplement, the Remain in Mexico policy and Catch and Release, and start building the wall again?

These are all things President Biden stopped and could start tomorrow. But why take executive action tomorrow when you can make executive statements today. Like this, "Every day, between now and November, the American people are going to know that the only reason the border is not secure is Donald Trump and his MAGA Republican friends."

So, for three years, we were told the border is secure. Now, it's not and it's Trump's fault? "COMMON SENSE" thinks that might be a tough sell. Because at last check, a CBS poll found that 70 percent of voters disapprove of how the border is being handled, not Trump's handling, mind you, Biden's handling.

Then, again, maybe this country wide chaos was unintentional. Maybe we just misunderstood the marching orders issued by the border czar, when she said "it's time for us to do what we have been doing." And that time is every day.

Seems crystal clear to "COMMON SENSE".

Let's bring in Fox News contributors, Nicole Parker and Jason Chaffetz. Thank you both for coming on.

Jason, do you first do you support the border bill? And if you do, why or why not?

JASON CHAFFETZ, FOX NEWS CHANNEL CONTRIBUTOR: Do not. I think the process was totally flawed. They didn't have the air.

You know, it's interesting. All the criticism was, oh, these Republicans are instantly opposed to it. Well, why are these people instantly in favor of it? They hadn't read the bill either. And suggest that they need to have a piece of legislation in order to secure the border. Where the first two years of the Biden administration, didn't the Democrats have the House and Senate and the presidency? Yes, they did. And they didn't do anything about it.

GALLAGHER: Yes. We'll get back to ***politics*** with Jason in a moment. But first, of the crime part of this thing, Nicole Parker, thank you for joining us. The New York Post says the migrants arrested in Phoenix yesterday, quoting here, "were not to be members of the crew who beat up two NYPD cops in Times Square late last month."

So, they are still on the run. The ones who apparently beat up the cops still on the run likely in California, Nicole, and it's going to be very hard. We don't have much information on them to round them up in sanctuary world USA.

NICOLE PARKER, FOX NEWS CHANNEL CONTRIBUTOR: I mean, it's going to be extremely complicated. I think the easiest solution was how did they even get into the country in the first place? This is completely out of control. Americans are outraged, and they are exhausted from this. As if we don't have enough problems already from the border, the violent crime issue in our country was already off the chain. And now, it's substantially going to be worse, because of this migrant mayhem.

You know, NYPD officers were getting a beat down by individuals.

GALLAGHER: Yes.

PARKER: And then, just flagrantly, you know, flipping off cameras and laughing, and then, escaping, no bail, no accountability, until there's consequences, nothing is going to change.

But until that border is closed, we are not safe. National security, violent crime.

(CROSSTALK)

GALLAGHER: Right.

PARKER: A Fentanyl crisis. The list goes on and on and on.

GALLAGHER: Yes, no bail, no accountability. We talked about the House. This whole border bill being kind of in peril, Jason. Secretary Mayorkas snuck out of impeachment as well. Let's put this up on the screen. The vote tally, 214-216 out weight no, Mike Gallagher, Tom McClintock, Ken Buck, and the man from your neck of the woods, Jason, Blake Moore, Republican from Utah, all voted no. Your thoughts?

CHAFFETZ: I know all four of them very well. I'm very disappointed. I think they are going to get strong primary challengers, and they should. I think Republicans should have focused more on what happened to the 85,000 unaccompanied minors?

The 4, 5, 6, 7, 8-year-old boys and girls that are unaccounted for, released into the homeland. That should have, I think, led the argument, but nevertheless, he should have been impeach, he should be fired. He has not done his job.

GALLAGHER: I want to see if we have this video. Do we have the video if not? We don't have to show it because it's kind of gruesome, but it was the woman who was dragged by this migrant gang riding mopeds, and she was dragged through the streets, Nicole, and it really was kind of horrendous to watch.

And the thing I bring this up for us, because the police have identified this gang is of committing at least 62 other crimes in New York City, they have built this crime gang, and it's just the beginning of these crime organizations from the migrants across the city.

Your final thoughts on this. Across the country, I'm sorry.

PARKER: I mean, this is absolutely abhorrent. And I hate to say this, but you can expect more to come. Because when you leave a border open for as long as they have, you can expect more to come. These people have no respect for human life, they have no respect for American laws, and they are just here and they are getting away with this. And therefore, this will continue.

The border has got to be close. Americans feel hopeless. If you feel hopeless, honestly, it's at the top of the list on the ballot this year. If you feel hopeless, your vote does count, and go vote for who you think is going to make a difference.

GALLAGHER: I got about 30 seconds left for you, Jason, if you want to fill this thing, because I'm curious about, you know, Congress. Is Congress the answer or is the answer just enforcing the laws that we have?

CHAFFETZ: I think it's just enforcing the laws. Donald Trump was doing that. And these sheriffs, a local law enforcement, these sanctuary cities, how come they have not denounced sanctuary cities and how come they have cashless bail?

GALLAGHER: Yes.

CHAFFETZ: How do -- how do you beat a cop, you're here illegally, and you're out the next day?

I mean, only in America that is -- you can change that?

GALLAGHER: Get remember, the Phoenix governor passed that law in 2010 that got rid of Phoenix being a sanctuary city and that's why those people were arrested might not have been the criminals they were looking for. That's why they were arrested in Phoenix, Arizona.

Jason, Nicole, thank you both.

Meantime, California's crime crisis now claiming its biggest victim yet, the city of Oakland, turning into a ghost town as businesses and professional sports alike head for the gates.

Bill Melugin is live with that part of the story tonight, Bill, good evening.

BILL MELUGIN, FOX NEWS CHANNEL NATIONAL CORRESPONDENT: Trace, good evening to you.

So, last year, violent crimes and felonies fell in America's biggest cities. But in Oakland, they only went up. Robberies were up 38 percent, burglaries up. 23 percent, motor vehicle theft up 44 percent. It's actually so bad that according to a San Francisco Chronicle analysis, roughly one out of every 30 Oakland residents had a car stolen last year.

Some Oakland residents say they are just over it.

(BEGIN VIDEO CLIP)

ERNESTO GALLOSO, MANAGER, ROFFLINE SUPPLY (PH): I mean, I love Oakland. I love my friends, but I think it's time to go, move somewhere where it just feels safer and just seems to be going downhill.

MELUGIN: And today, California Governor Gavin Newsom announced, he is taking action on this. He is deploying 120 California Highway Patrol officers to the Oakland area to try and surge law enforcement and crack down on the growing crime. But already, many businesses, including In-N- Out, Denny's and the city's professional sports teams have already left or are leaving the city.

ERNESTO GALLOSO, MANAGER, ROFFLINE SUPPLY (PH): Nothing changes, people swing by, the police look at it. Yes, but nothing. You know, we need action.

NOEL GALLO, COUNCILMAN, OAKLAND CITY: Right now. Oakland is challenged, not only with safety, but also challenged in terms of the blight, the graffiti that I have never seen an Oakland growing up to the level where it is today.

(END VIDEO CLIP)

MELUGIN: And the businesses just keep taking hits. Trader Joe's now the latest chain in Oakland to be warned of a new crime trend, as cops out there are telling customers at Trader Joe's to, "stay vigilant".

GALLAGHER: There's a sale on aisle three. But listen, keep your wallet safe and keep your head down. It's kind of amazing.

MELUGIN: Yes, pretty much.

GALLAGHER: Bill, thank you.

Let's bring in the founder of American Gravy Concepts, chef, and restaurant owner, Andrew Gruel. Chef, I always have you right next to me on set. So, you're -- I mean, listen, it's great to have you on. Your remote tonight. I want to get your take on this, because here is the video, it is an Oakland pizza shop getting robbed. They fought back.

We can put this up on the screen. They kept fighting, they fought back. But the owner says is this is disturbing, and she is clearly distraught.

Listen to her.

(BEGIN VIDEO CLIP)

ELIZABETH SANCHEZ, OWNER, CYBELLE'S PIZZA: She's unbelievable. They have the courage to do this. They had to fight against them. As an immigrant, as a Mexican, this is my American Dream. But what is going? Like, I believe he is going to trash now.

(END VIDEO CLIP)

GALLAGHER: Yes, it really is kind of crazy chef and I'm wondering, you're a business owner in California. If you were in Oakland, would Governor Gavin Newsom, bringing in the California Highway Patrol, make you want to open a business in Oakland? Would it give you the security you need?

ANDREW GRUEL, FOUNDER, AMERICAN GRAVY RESTAURANT GROUP: Oh, heck no. I mean, right. It's about the vertical integration. Beyond the police officers, you also have to have the district attorney's and the court system that's willing to prosecute these criminals. And what we've already seen, especially in the grand legislation here in California is that they turn a blind, blind eye to crime.

It's probably too little too late. You can't put the genie back in the bottle. And we've seen this spill into so many different communities, including suburbia, not just Oakland that it's making all business owners want to you know, think about moving out of the state.

GALLAGHER: Yes. This headline in the Daily Mail caught my attention. It says quoting here, Trader Joe's shoppers -- Bill Melugin touched on this a little bit. "Trader Joe's shoppers are warned to stay vigilant as authorities in the San Francisco Bay area struggle to contain soaring crime. Thieves are snatching wallets from unattended shopping carts and open purses while customers shop."

It really is. It is kind of depressing when you think that Trader Joe's is warning people, listen, we appreciate you being here. But you got to be careful.

GRUEL: Yes., I mean, leading up to this, the only crime I thought associated with Trader Joe's was their chocolate hummus. But I guess things have gotten a lot worse now.

But look, at the end of the day, this is an easy problem to solve. My 3- year-old could solve this. It's simple. And just like business, there is always a set of controls and systems that need to be followed in order for order to exist.

The same rubric can apply to the government and to communities. You've got to follow the laws, you've got to enforce the laws, and then every single step along the way needs to be, you know, followed in the sense that there's consequences for bad actions.

GALLAGHER: Yes, it's interesting because the Safeway grocery stores in D.C. now have security gate. Security gates to get out, Chef. This, and you got to by the way, show your receipt. It says quoting here, it was quite odd, it actually crumpled. This is one of the customers actually crumpled my receipt just to put it in my pocket. So, I tried to put it back and they wouldn't even let me scan.

So, the woman had to come help me put it in. I was I've never seen that before. He's kind of frustrated talking about the fact that he's like, I have to show my receipt to get out and get it scan, so that we can check every item I have. It's unbelievable, Chef.

GRUEL: This feels like a dystopian nightmare, right? This is honestly something that I could never have imagined in creative writing when I was in third grade. But now, we're actually living in that nightmare. And then, instead of actually fixing it, like I just said, we're putting things -- the laws -- more laws on more laws that we don't even know if they're going to be followed and it's pushed down onto the businesses that now have to actually police the local communities. It shouldn't be this way and something's got to change.

GALLAGHER: Yes.

Free reign for the criminals and a lot of pressure put on the people who are actually the customer. Chef, great to have you on as always. Thank you, sir.

GRUEL: Thanks, Trace.

GALLAGHER: Meantime, Nevada held its first in the West primaries today, but former President Trump was not on the Republican ballot, although, he is expected to receive all of the state's delegates in the GOP caucuses on Thursday.

Anita Vogel is live with more on the election. That doesn't seem to be much of a contest. Anita, good evening.

ANITA VOGEL, FOX NEWS CHANNEL CORRESPONDENT: Well, good evening, Trace. You know, this is the first time Nevada is holding presidential primaries in addition to its caucuses. And on the GOP side, just one of those contests will out, and that's only where the confusion begins.

Take a look at this Republican ballot. Nevada election officials say it has created distrust among voters who received it in the mail because it doesn't include the name Donald Trump.

Nikki Haley ran in today's primary, but it doesn't count. She won't get any delegates towards the GOP nomination, because the Republican state party of Nevada doesn't recognize the primary.

Meanwhile, Donald Trump will run in Thursday's Nevada caucuses, which will count. Now, here is what happened. Just a few years ago in 2021, Nevada state legislature decided to move away from the caucus system to a primary system run by the state. But that was opposed by the Nevada Republican Party, which says it will only award delegates one in the caucus that it runs.

(BEGIN VIDEO CLIP)

BETSY ANKNEY, HALEY CAMPAIGN MANAGER: We have not spent a dime nor an ounce of energy on Nevada. We made the decision early on that we were not going to pay $55,000 to a Trump entity that, you know, to participate in a process that was rigged for Trump.

(END VIDEO CLIP)

VOGEL: State GOP officials say, if Haley had participated in the caucus, she could have still picked up one or two delegates, because Nevada is a proportional state.

And finally, adding to the confusion, Nevada has historically given voters the option of selecting a category called none of these candidates. And tonight, many GOP voters in the state likely will choose that option in the primary. And while it is also likely a clear win for Joe Biden, a number of Democrats could indicate they don't like any of their options either.

So, Trace, go figure.

GALLAGHER: Yes. Kind of tough to lose to none of the above. Anita Vogel, live for us in New York. Anita, thank you.

Let's bring in political analyst Tezlyn Figaro and Targeted Victory vice president Matt Gorman, great to have you both on here. Matt, to you first. A member of the Nevada RNC thinks that by Nikki Haley not really playing ball in Nevada, she might have -- she might have hurt her campaign a little. Watch this.

(BEGIN VIDEO CLIP)

SIGAL CHATTAH, MEMBER, NEVADA RNC COMMITTEE: She is kind of kicking herself in the butt for not engaging in the caucus. Because Nevada is a proportional state. And she could have picked up one two delegates, maybe even more.

(END VIDEO CLIP)

GALLAGHER: Matt, two delegates, you leave them on the table?

MATT GORMAN, VICE PRESIDENT, TARGETED VICTORY: It's a risk. I think this whole thing is unfortunate, because it just kind of shows distrust and confusion among primary voters, right? Because in a lot of respects, the caucus had, you know, Trump people who were very much going to win that and kind of control that process. The primary if he's not in the ballot, it's just completely unfortunate. So, but it really delays the inevitable right? We're looking to South Carolina now, where she has a one on one versus Trump, fair and square. It's her home state, she has an advantage.

She is down 25 points and the latest poll. She can't lose by 25 in a couple of weeks.

GALLAGHER: Listen, I can go you one better, Matt, because we're going to put up that South Carolina poll right now. This is the Monmouth poll.

Look at the numbers here. This is now Trump 58, Haley 18. Right? Or Trump 46? Haley 18? No, 58. Right?

So, he's up by an incredible amount. And it really shows you that, I mean, she doesn't has -- it's kind of embarrassing Tezlyn to be in your home state to be polling this poorly.

TEZLYN FIGARO, HOST, STRAIGHT SHOT, NO CHASER PODCAST: Yes. Well, I've seen it happen many, many times, even on the Democrat side. And just to your point, it was also confusing on the Democrat side with New Hampshire. And remember, they also had an election that really wasn't an election, because Joe Biden wasn't on the ballot as well.

So, this entire season has just been confusing for most folks. But, I don't think it would have been wise for her to really play in Nevada for what?

(CROSSTALK)

GALLAGHER: Yes.

FIGARO: Pun intended play in Nevada, Las Vegas. But, why risk that money if you don't -- number one, don't have it struggling with fundraising?

GALLAGHER: Yes.

FIGARO: And you know, you're not going to get a retirement. So, her real contest is at home and like to your point, if she doesn't do well, it really does say a lot about our home state. Most candidates drop out if they don't know they're going to do well in their home state, but she is moving forward and I guess just depending to see how it's going to land for.

GALLAGHER: Meantime, Howie Kurtz said this about President Biden not participating in a Super Bowl interview this year. Watch.

(BEGIN VIDEO CLIP)

HOWARD KURTZ, FOX NEWS CHANNEL MEDIA ANALYST: It is incomprehensible to me that he gets a blowout jobs report number, does he go on television and tout his economic program? No. He -- the Super Bowl interview that you mentioned is the second year in a row. It's with CBS this time. What? He is afraid of Norah O'Donnell or Scott Pelley, he can't handle it? I just don't understand. I mean, that's, you know, usually a pretty easy interview --

(END VIDEO CLIP)

GALLAGHER: Yes. I mean, an election year about 160 million people. It's a lot to turn down, right?

GORMAN: Yes. 160 million people is kind of lot. Right? I don't understand it. And It makes no sense, Trace. Staff, and I think to him an extent, they are keeping them sheltered. They want to close to him away. But look, he's run for president of the United States.

GALLAGHER: Yes.

GORMAN: And eventually, he is going to have to get out there. Trump was everywhere in 2015, 2016. People forget that. He has to get out there between now and November has to.

GALLAGHER: Yes. He does. And I want to play this soundbite because maybe this is why he doesn't want to get out there. Tezlyn. Watch.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: Right after I was elected, I went to what they call a G7 meeting and all the NATO leaders. And I was in -- I was in South England. And I sat down and I said, America is back. And Mitterrand from Germany's -- I mean, from France looked at me, and said, said, you know what, why, how long you back for?

(END VIDEO CLIP)

GALLAGHER: And finally got it right, Francois Mitterrand is from France, but he is been dead for 28 years. Tezlyn.

FIGARO: Let me say this. I'm an independent, but I run a communications firm. And there's no way I would not want a client to speak in front of 160 million people. When you look at the numbers, I mean, he literally can't go anywhere.

(CROSSTALK)

GALLAGHER: Yes.

FIGARO: But up like, literally, the polls are so low, you can't go nothing but up. Even if you get 5,000 people to like the message, 10,000 at best, you need every last one. And I don't understand why you wouldn't take the opportunity to speak, and I know their position is. It's going to turn people off. People just want to watch football, but people are already turned off.

GALLAGHER: Right.

FIGARO: So, the only chance you have is again, a betting chance in Nevada to see maybe you can turn a couple of people on, and talk about all of the great things that they say that they're bringing to the table.

GALLAGHER: Yes.

FIGARO: So, it just makes no sense for me on the communication side. But Democrats have always been terrible with messaging.

GALLAGHER: Roll the dice. Yes. Roll the dice in Vegas. Tezlyn Figaro, out Matt Gorman, thank you both.

Coming up. Should parents be charged for crimes committed by their children? Well, it happened to one Michigan mom in a landmark case. What this means for parents and parenting going forward? And especial FOX NEWS @ NIGHT tribute to patriot and country music legend Toby Keith.

(BEGIN VIDEO CLIP)

TOBY KEITH, AMERICAN COUNTRY MUSIC SINGER: He aren't prejudice, he's just, made in America. Born in the heartland, raised up a family of King James and Uncle Sam. He's got the red, white, and blue flying high.

(END VIDEO CLIP)

GALLAGHER: Yes. And later in the "NIGHTCAP", Toby Keith was a true American patriot, played in several USO tours, helped raise millions for charity, and performed at events from multiple U.S. presidents. So, tonight, we want to know your favorite Toby Keith song. Let us know X and Instagram @tracegallagher. We will read the best responses and talk about it in the "NIGHTCAP". Coming up. Stay with us.

(COMMERCIAL BREAK)

GALLAGHER: Breaking tonight, we are learning new information about the panel blowout aboard that January 5th Alaska Airlines flight. The National Transportation Safety board's initial finding says the bolts that help secure the panel to the frame of the Boeing 737 Max 9 were missing before the plane took off from Portland, Oregon.

Now, the NTSB did not give a probable cause for the incident. That, of course will likely come at the end of the investigation, which if, you know, the NTSB and their history could be somewhere close to a year down the road.

Meantime, a landmark ruling in a Michigan courtroom that could change the course of parenting. The mother of a teenager who killed four students at Oxford High School back in 2021 has now been convicted of not doing enough to prevent her son from conducting the mass shooting.

Bill Melugin back live with the details on this, what really was a precedent setting case, Bill.

MELUGIN: Yes, absolutely historic. These parents were the first parents in U.S. history to ever stand trial for a mass school shooting committed by their son. Today, Jennifer Crumbley, the mom of Oxford High School shooter Ethan Crumbley was found guilty on four counts of involuntary manslaughter in this historic trial.

This was the moment the verdict was read.

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: We find the defendant guilty of involuntary manslaughter.

MELUGIN (voice over): She and her husband, James were both charged in connection with the shooting that left four students dead and seven others injured in November of 2021.

The four counts Crumbley was convicted on represented one count for each student, her son, Ethan murdered during that school shooting. Seven others were also hurt in the attack carried out by then -- the then-15-year-old sophomore who is now serving a life sentence.

His parents accused of buying him the gun he used to carry out the shooting and also ignoring his mental illness. While the defense argued, there was just no way for Jennifer Crumley to know what would happen. One of the victim's parents had this to say.

UNIDENTIFIED FEMALE: What do you say to Jennifer Crumbley right now, if you could say anything to her.

UNIDENTIFIED MALE: He wouldn't have to go through any of this if he would have just done your job as a parent.

(END VIDEO CLIP)

MELUGIN (voice over): And Trace, Jennifer Crumbley's conviction setting a precedent here in America as the first time the parent of a school shooter has been found criminally liable for their child's actions. She will be sentenced in April, while her husband is going to go to trial for the exact same charges in the month of March.

GALLAGHER: Yes. It really is a stunning verdict, but we're going to talk about it right now.

Bill, thank you. Let's bring in criminal defense attorney and federal litigator, Vik Bajaj, along with psychiatrist Dr. Yalda Safai. I mean, it's fascinating here. I want to put this up, because we had Mark Eiglarsh on Fox earlier today, Vik, and he said this. I want to see if you agree or disagree.

(BEGIN VIDEO CLIP)

MARK EIGLARSH, CRIMINAL DEFENSE ATTORNEY, MIAMI: It's not there the parent's school. It's the school, school. And they allowed him to return to the class. So, obviously, they didn't share the same concerns that the jury apparently thought the parents should have had.

(END VIDEO CLIP)

GALLAGHER: So, he's saying if the school is not being held liable why should the parents be held liable? Do you agree with the decision or not?

VIK BAJAJ, CRIMINAL DEFENSE ATTORNEY: Absolutely not. The criminal offenses in every state in the union require a union between the state of mind, what a person is thinking, and the act, what they do, a general liability couched in those terms is fatal. It will not hold water because there's no union of a mental state of mind which furthers the crime in direct comparison with an individual who knows or should have known of a specific danger but takes no action to prevent it. It's apples and oranges, Trace.

GALLAGHER: Yes, it really is amazing. Which brings us to Yalda Safai talking about the mental capacity. Jonathan Turley made this point today, Dr. Safai, I'll get your take.

(BEGIN VIDEO CLIP)

JONATHAN TURLEY, FOX NEWS CONTRIBUTOR: Quite frankly, it's troubling. There are millions of families across this country that have children with emotional problems. And what was being declared here is that this mother had a reasonably foreseeable situation that her son would become a serial killer, would take off on a massacre.

(END VIDEO CLIP) GALLAGHER: So, what they're saying, Dr. Safai, is kids with emotional problems, parents have to be able to foresee their troubles down the road. You deal with this all the time. Is that possible?

DR. YALDA SAFAI, PSYCHOLOGIST: That's not accurate. You know, we can't predict the future. However, in this particular Trace, in this particular case, this child was exhibiting signs of mental illness. Instead of getting that child into treatment, this mother chose to put a gun in the child's hand? I mean, this should be a cautionary tale for all parents going forward. If your kid is dealing, showing signs of mental illness, it's not something you can ignore and look the other way. You need to get them into treatment. But however, you obviously cannot predict how a person is going to behave.

GALLAGHER: Yes, and then I want to go on because this is the prosecutor, right, talking to Mrs. Crumbley. Watch.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: Despite what you have called yourself as a vigilant parent and a helicopter mom, you never decided in at least November of 2021 to look at his phone.

JENNIFER CRUMBLEY, MOTHER OF ETHAN CRUMBLEY: No.

UNIDENTIFIED MALE: No, OK.

(END VIDEO CLIP)

GALLAGHER: So, what they're saying is, do you have to be able to look through your child's phone, Vik? I mean, can you, are you obligated to look through your kid's phone to make sure that they are not doing anything nefarious?

BAJAJ: Well, some states, primarily Wisconsin, as the traditional example, have a crime of misprisoning of a felony. When you know of a crime, but you don't take an action to prevent it, as well as in the federal jurisdiction. No, you don't have to go through your child's cell phone, and I'm sure no one would appreciate that in the household. However, Trace, to be frank about it, you have an obligation to have common sense.

And the problem here is that when your son is evidencing signs of wanting to hurt other people and having a firearm in their possession, and frankly the testimony of the defendant's mother in this case was so aloof and so careless that it's hard to imagine she really cared at the time the shooting took place, and she reiterated that with her testimony on the stand in front of the jury and judge.

GALLAGHER: Meantime, Jeffrey Schwartz, former Criminal Defense Attorney and now Law Professor said the following, "My personal opinion is that in this scenario, now parents are going to have to worry about everything in their home that could be used as a weapon that they're going to have to keep away from their kids even into when they become teenagers." It's a fair worry, Dr. Safai, because now you're as a doctor saying oh you can have a baseball bat around, you can have this, what do you make of that argument?

SAFAI: I know this definitely this case sets a strange precedent and it's a slippery slope, I get it. I don't think so, though. I think if your child is exhibiting signs of mental illness, maybe you should be on alerts. But this is not the case with every teenager, right? So, I would say to parents, if you see sudden changes in your child's behavior, if you notice irritability, anything out of the usual, you want to be more cautious, more vigilant. That's all, but no need to panic.

GALLAGHER: Yes. Dr. Yalda Safai, Vik Bajaj, good to see you both. Thank you. And coming up, the White House now being accused of putting pressure on another tech giant, this time asking Amazon to take some books off their virtual shelves. Another attempt at censoring free speech? We'll check it out.

And still ahead, a special tribute to Toby Keith that you do not want to miss. We will pay tribute to the life and legacy of this proud American on FOX NEWS @ NIGHT. Coming up next.

(COMMERCIAL BREAK)

GALLAGHER: New accusations tonight that the Biden administration pressured Amazon to pull certain books off the market. House Judiciary Committee Chair Jim Jordan released internal e-mails between Amazon and the White House dating back to 2021, where the administration expressed his concern over "high levels" of propaganda and misinformation related to books dealing with the COVID vaccine. The company finally slapped a do not promote tag on anti-vax books.

Let's bring in the co-author of "Stolen Youth", Bethany Mandel. Bethany, great to have you. The Daily Signal writes the following, quoting here: "Amazon yielded to pressure from President Joe Biden White House to suppress books that oppose COVID-19 vaccines." We just told you, House Judiciary has those e-mails. I mean, it's scary. They keep talking about assaulting democracy and how it's coming from the right. This is the very definition of that, Bethany, your thoughts.

BETHANY MANDEL, "STOLEN YOUTH" CO-AUTHOR: Yes, absolutely. When I was co- writing my book, "Stolen Youth", with my friend, Carol Markowitz, my co- author, we approached so many different publishers with our idea and there's some controversial stuff in it about transgenderism and children and they told us explicitly we're afraid that if we commission this book and we bring it to market that there will be no market, there will be no storefronts to sell it in. And if you look up Ryan Anderson's, When Harry Met Sally, or "When Harry Became Sally," sorry, if you look that up on Amazon, it's not on Amazon. So, this is, they're barking up the right tree because Amazon has already been censoring books, and there's a lot of fear among conservative publishers that they're going to keep on doing it.

GALLAGHER: Can you imagine having one side of the aisle be able to publish books? I mean, it really is. You talk about, you know, you talk about unfair and you wonder why that people are voting for trump in droves and want him because they really do believe they're the next ones that are about to get screwed by the system.

MANDEL: No, that's absolutely right. I, mean we all see that there's a thumb on the scale and we're scared, we're scared of, of getting on the wrong side of these tech companies. You see people that are getting canceled and being canceled isn't just, you know, people are saying mean things about you on Twitter, that's something happens to me very frequently. But being canceled in, in the, the case of big tech is you don't have a livelihood, you don't have a Paypal account. You don't have the ability to fundraise on GoFundMe there's some people have been completely disappeared from big tech, from Twitter, from Facebook because they've landed on the wrong side of the narrative.

GALLAGHER: Yes, the fight has to go on. The administration says they were looking out for public health and safety. They were shutting down dissent, Bethany. I've got 30 seconds for you.

MANDEL: Yes, I mean, it's frustrating because we should have had an open, free debate about this new technology. And a lot of people were very distrustful because instead of having an open conversation, they shut down conversation. That doesn't make people trust you.

GALLAGHER: Yes, and they lied about the vaccine. You know, they always said, oh, it stops you from getting it, stops you from spreading it. It was not true. Bethany Mandel, great to have you on as always. Thank you.

Well, meantime, the Fox Corporation is partnering with ESPN and Warner Brothers Discovery in a new sports streaming venture. The service will stream content that airs on networks owned by the three companies. A new standalone app built from the ground up is expected to launch this fall.

Meantime, fans across the world now mourning the passing of country music star and big-time military supporter all-around great guy, Toby Keith. His death was announced today. And because Toby Keith was a great patriot and a great man, FOX NEWS @ NIGHT thought it was important to pay tribute, to remember his lasting impact.

(BEGIN VIDEO CLIP) TOBY KEITH, SINGER AND SONGWRITER: Just a poor boy, and I was working hard every week to pay my bills.

I think it's cool that I have Jesus Christ in my life. And I think it's cool that we can get together here tonight and live in a free nation.

For every bad guy, there is a whole lot of real good people here that appreciate the support they're getting.

UNIDENTIFIED MALE: I think what he's doing for the troops is great. He's a fantastic guy. He definitely loves America.

UNIDENTIFIED MALE: I became a fan because he's patriotic and things about the troops.

KEITH: And whether you're for the war or against it or whatever, you should support these troops because they're doing a hell of a job.

I don't do award shows very often. They're all organizations and politically you got to go kiss everybody's rear and do all that.

JOHN RICH, SINGER AND SONGWRITER: He accomplished something pretty extraordinary that a lot of people don't accomplish and that is he created things that will live longer than he did. You know, they'll go on forever. Just like you said, these songs are classics.

KEITH: How do you like me now? Now that I'm on my way. You should think I'm crazy. Standing here today. Couldn't make you laugh. But I always do live out. Living in your radio. How do you like me now?

I lean on my faith and just pray and just, you know, lean into it.

Look out your window and smile, but don't let the old man die.

I don't have people do it without faith, but that's what I did. It was my right.

American, American, American soldier.

(END VIDEO CLIP)

GALLAGHER: They are right. Toby Keith and his music will go on forever. He will be missed, but as we said, the music will live on. You also clearly must have a favorite song from the music legend, and we want to know for the "NIGHTCAP" what it is. Still time to weigh in, X and Instagram, the "NIGHTCAP" crew, Toby Keith version next.

(COMMERCIAL BREAK)

GALLAGHER: Back with the "NIGHTCAP" crew: Rich Edson, Anita Vogel, Bill Melugin, Vik Bajaj, Dr. Yalda Safai, and Bethany Mandel. Tonight's topic, Made in America. Watch.

(BEGIN VIDEO CLIP)

KEITH: He's just made in America, born in a highland. Raised up a family, a King James and Uncle Sam.

(END VIDEO CLIP)

GALLAGHER: Toby Keith, an American patriot who played in 18 USO tours for troops, helped raise millions for charity, and performed at events for multiple U.S. presidents. So, tonight, we want to know, what is your favorite song by Toby Keith? Let's start with Bill Melugin on this.

MELUGIN: "Courtesy of the Red White and Blue", has to be. I think it came out when I was in college. I still remember the first time I heard it. I love the patriotic stuff, how can't you?

GALLAGHER: Vik Bajaj.

BAJAJ: So many things to love, but one song I always come back to around 1999-2000, "How Do You Like Me Now?" And anyone who's worked hard, put their nose to the ground, likes to come out at the other side of the tunnel and take a look around and say, hey, you know what? I can do it and I can do a whole lot more.

GALLAGHER: Love it. Anita Vogel.

VOGEL: Yes, I love all his patriotic songs, of course, but you know, one that made me laugh was from 2003, The Taliban song. Remember that?

GALLAGHER: Yes, yes, of course.

VOGEL: Patriotic in its own way, and it was funny, and nobody could sing it like him.

GALLAGHER: Yes, Rich Edson.

EDSON: "Beer for my Horses." It has all the essential elements of a great country song. You got beer, horses, and Willie Nelson.

GALLAGHER: Can't beat that. Bethany Mandel.

MANDEL: So, I was just talking to my favorite camera operator, J.C., and he was telling me how "Courtesy of the Red, White, and Blue" played when his dad came home from Afghanistan after an 18-month deployment. So, that is now my new favorite Toby Keith's song, thanks to J.C.

GALLAGHER: Love it. Dr. Yalda Safai.

SAFAI: For me, it's "If I Didn't Know Now". It's a little bit sad, but absolutely beautiful.

GALLAGHER: Yes, for me, it's the "Don't Let the Old Man In." He wrote it for Clint Eastwood. They were playing golf. He said, Clint, what are you doing for your birthday? Clint said, I'm going to go direct a movie. He said, you're 88. Clint said, "Don't let the old man in." Here's what some of our Instagram followers said.

Katherine D., "I should have been a cowboy, sang it every day on my way back home from work."

Margaret Sawyer, "Courtesy of the Red, White, and Blue." Seems to be popular, Bill Melugin.

Leslie Wall, "My personal favorite. I want to talk about me! Always makes me laugh. It's hard to choose just one."

Jonathan Melton says, "Does That Blue Moon Ever Shine on You?" I've forgotten about that one. Very nicely done.

James Chionchio, he's got great taste, "Don't Let the Old Man In."

And Michael Kilby says, "The Red Solo Cup." This was nice. Very nice tribute to Toby Keith. He was 62 years old when he passed away. And thank you all, Bethany, Yalda, Vik, Anita, and Bill Melugin, and Rich Edson. Thank you for watching America's late news, FOX NEWS @ NIGHT. I'm Trace Gallagher in Los Angeles. We'll see you back here tomorrow night.

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