

# [***New White House Reaction To Scathing DOJ Report On Biden; White House Slams DOJ Report On Biden Handling Of Docs; Sen. Tim Scott (R-SC), Is Being Interviewed About DOJ Report Calling Biden "Diminished"; Lawmakers React To Scathing DOJ Report On Biden; Sen. Scott: President Biden Is Not Fit For Duty; White House: Difference In Docs Cases Shown In Report; Biden Host German Chancellor At White House; Teen Migrant Suspect In NYC Shooting; Biden Faces No Charges After Scathing DOJ Report; Putin Hints At Possible Swap For WSJ Reporter; KC Chiefs, San Fran 49ers Square Off***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B99-SV91-JCS1-6000-00000-00&context=1516831)

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

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**Byline:** Trace Gallagher, Peter Doocy, Jason Chaffetz, Lisa Boothe, Richard Fowler, Hillary Vaughn, Nate Foy, Paul Morrow, Greg Palkot, Matt Finn

**Guests:** Tim Scott, John Yoo, Clay Travis

**Body**

TRACE GALLAGHER, FOX NEWS CHANNEL HOST: And good afternoon, everybody. I'm Trace Gallagher in for Martha MacCallum. Here's THE STORY. The White House comes out swinging, attacking the credibility of the Special Counsel who said he would not prosecute the president for his handling of classified documents partly because his memory is "hazy, fuzzy, faulty, and poor.

(BEGIN VIDEO CLIP)

IAN SAMS, WHITE HOUSE COUNSEL'S OFFICE SPOKESMAN: There's an environment that we are in that generates a ton of pressure because you have congressional Republicans, other Republicans, attacking prosecutors that they don't like and it creates you know a need if you're going to determine that charges weren't filed. People are human, and they're thinking through, you know, what do we need to do, and you know it leaves one to wonder exactly why he included a lot of the criticisms that were in there.

(END VIDEO CLIP)

GALLAGHER: President Biden also slamming the report and snapping back at reporters.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: I know what the hell I'm doing. I've been president. I put this country back on its feet. My memory is fine.

UNIDENTIFIED FEMALE: Many Americans, people have been watching, and they have expressed concerns about your age.

BIDEN: That is your judgment. That is your judgment. That is not the judgment of the press.

(END VIDEO CLIP)

GALLAGHER: He said his memory is fine, but then went on to mix up world leaders for the third time this week.

(BEGIN VIDEO CLIP)

BIDEN: As you know, initially the President of Mexico, Sisi, did not want to open up the gate to allow humanitarian material to get in. I talked to him. I convinced him to open the gate.

(END VIDEO CLIP)

GALLAGHER: Sisi is the president of Egypt. Lisa Boothe, Jason Chaffetz, and Richard Fowler standing by. First, to the White House Correspondent Peter Doocy just out of the briefing. Peter, it appeared the White House was playing big-time defense today.

PETER DOOCY, FOX NEWS CHANNEL WHITE HOUSE CORRESPONDENT: Yes, and Trace, they are not going so far as to just call the Special Prosecutor, Robert Hur, a liar, but they are saying that things in the report about the president's recall are not true.

(BEGIN VIDEO CLIP)

KAMALA HARRIS, VICE PRESIDENT OF THE UNITED STATES: The comments that were made by that prosecutor gratuitous, inaccurate, and inappropriate. So, the way that the president's demeanor in that report was characterized could not be more wrong.

(END VIDEO CLIP)

DOOCY: The thing is, the toothpaste is out of the tube. There are many different examples listed of President Biden struggling during a five hour, five-hour, two-day-long interview in October about his classified documents and storage. But White House officials say they think President Biden will ultimately get credit with voters because he was very cooperative.

(BEGIN VIDEO CLIP)

SAMS: You know, I think that they can see and understand, you know, when people are gratuitous and make comments that they shouldn't make and that are beyond the remit of a prosecutor to do. I think that they understand that. And I think that they'll understand that the president did the right thing here.

(END VIDEO CLIP)

DOOCY: And President Biden has no plans to change the way he operates as the oldest president ever running for re-election.

(BEGIN VIDEO CLIP)

DOOCY: 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.

BIDEN: I'm well-meaning, I'm an elderly man, and I know what the hell I'm doing. I've been president, I put this country back on its feet. I don't need his recommendation.

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

BIDEN: My memory is so bad I can let you speak.

(END VIDEO CLIP)

DOOCY: And we expect to see President Biden with the German Chancellor any minute for the first time since that. Back to you.

GALLAGHER: Peter Doocy, live for us at the White House. Peter, thank you. Let's bring in our panel, Lisa Boothe, Host of "The Truth with Lisa Boothe" podcast; Jason Chaffetz, former Utah Republican Congressman and House Oversight Committee Chairman; and Richard Fowler, Host of "The Fowler" show, all are Fox News Contributors. Welcome to all of you.

Jason Chaffetz, to you first. You watched that news conference last night with President Biden. Who allowed him, who in the White House allowed the President to go out there at 8:00 at night and answer questions about his memory?

JASON CHAFFETZ, FOX NEWS CONTRIBUTOR: Well, that's always the big question: who are the puppeteers behind the scenes making these decisions? But let's assume that it's Joe Biden himself. I mean, he's the big boy. He's the big guy. He's the President of the United States. He had to make that decision. But to go out there, to try to prove that he is as nimble as can possibly be, and call the president of Egypt, the president of Mexico, that -- I mean, it just, it reaffirms the concern that everybody has seen over the years is the cognitive decline.

GALLAGHER: Yes, and here by the way, Lisa Boothe, is the media just kind of contorting themselves trying to defend the president. Watch.

(BEGIN VIDEO CLIP)

ADRIENNE ELROD, FORMER BIDEN 2020 CAMPAIGN DIRECTOR: You don't put 14.2 million jobs on the card if you don't have the strong mental acuity to do it. And you don't put the first black woman on the Supreme Court. The list goes on and on.

UNIDENTIFIED MALE: I don't have any concerns. And that's from personal interactions. He's got a terrific team around him.

CHRIS HAYES, MSNBC HOST: The man is 80 years old.

RACHEL MADDOW, MSNBC HOST: He rides a bike.

HAYES: He is the age. He is --

(END VIDEO CLIP)

GALLAGHER: He does ride a bike, Lisa. I've seen him.

LISA BOOTHE, FOX NEWS CONTRIBUTOR: Well, he also falls off bikes. So, that really underscores the problem with all of this. Look, I think there's three big reasons Democrats are spiraling right now. You know, one is validate Americans concerns about Joe Biden's mental capacity, his ability to do the job. NBC had a poll recently where 76 percent of Americans had concerns about his mental and physical ability to serve a second term, and it also fuels Trump's charges that he is the subject of a witch hunt, right?

He's facing up to 450 years in jail and then Joe Biden gets a pass as well. I also think it negates one of Joe Biden's biggest lines of attacks against Donald Trump, and that's the threat to democracy when he has now just been condemned for willfully and knowingly mishandling classified information. And I just want to make one other point. His current mental incapacitation does not excuse the decades of corruption that were laid out in that report.

GALLAGHER: I just want to move on and go back to this subject here, Richard Fowler, because it's interesting. I was watching Ian Sams hold this news briefing today, the press briefing, and he continued to say that everything about this special counsel report, when it concerned Biden not facing any charges, was spot on. But when it got off that topic, it was way off base. How do you, how do you match those two?

RICHARD FOWLER, FOX NEWS CONTRIBUTOR: Well, thanks for having me, Trace. I think there's a report commentary of the potential we think about this. And we started the beginning of the show, we heard commentary from the Vice President of the United States Kamala Harris. Now, well, a lot of folks out in the media land of beat up her resume where she is qualified is she is a seasoned prosecutor both in San Francisco, as well in the state of California.

And her reading of that report I think is very important for folks to listen to. And I think if you key into it and you double tap what she's saying there, what she's saying is clear, and I think the White House has been very clear on this, and I think there's a larger problem in the White House, whether it's a Trump White House or a Biden White House, is we need to reinvent how we do classified documents because there seems to be a problem there.

But I also think, too, what you see in the support is they're calling the president out for that. They can call him out for not remembering, but it's how they string those words together which is what's causing the most fear for this White House, because they're making this assertion that he's somehow not capable of doing the job without acknowledging the fact that this interview was done on October 7th, right after one of the most heinous attacks on Israel.

GALLAGHER: And listen, I think it's a fair assessment. I'm not saying that the special prosecutor should have included that kind of stuff, but that does not mean, Jason Chaffetz, that it's not true. Just because you said it loud doesn't mean that it's not true. Politico had the following headline here. Let's put this up on the screen here. They're talking about this Biden faces his Comey moment, campaign insiders seethe over a special counsel's findings, but then you have the Democrat who, you know, is running for president, Dean Phillips, the Congressman from Minnesota. He said this about the president. Watch

(BEGIN VIDEO CLIP)

REP. DEAN PHILLIPS (D-MN), PRESIDENTIAL CANDIDATE: I think it's a shame for a president who could cement the legacy, pass the torch, and do what's best for the country. It's not just about him. It is an imperative to stay in the race to the convention. There is no other democratic candidate running in the primary right now.

(END VIDEO CLIP)

GALLAGHER: So, it's out of the bag, Jason, but the question is and maybe it shouldn't have been posted in that report but the question is, it's out there everybody knows it and now you can't put it back and facts are facts. They're not saying it's untrue, they're saying it shouldn't have been said.

CHAFFETZ: Well, they're saying that the that it, Ian Sams is saying that the, that it was inaccurate. Release the tape, Mr. President. If it was inaccurate, it's on video or on audio, release the tape.

GALLAGHER: Yes, I think that's, he was asked about that and he kind of sidestepped the question several times, so we still don't know about that. Lisa Boothe, Jason Chaffetz, Richard Fowler, thank you all.

Meantime, Republican Senator Tim Scott saying this after the release of Hur's report. Watch.

(BEGIN VIDEO CLIP) SEN. TIM SCOTT (R-SC): Listen, it is time for change. The commander in chief has to be fit for duty and this one is not.

(END VIDEO CLIP)

GALLAGHER: Senator Scott joins me live, next.

(COMMERCIAL BREAK)

GALLAGHER: Well, some members of Congress say President Biden should be forced out of office after the special counsel said he has diminished faculties and a faulty memory. Here's what New York Republican Congresswoman, Claudia Tenney, told me on "FOX NEWS @ NIGHT".

(BEGIN VIDEO CLIP)

REP. CLAUDIA TENNEY (R-NY): President Biden needs to be charged or he needs to be removed from office under the 25th Amendment. There isn't a middle ground here.

(END VIDEO CLIP)

GALLAGHER: Republican Senator and former Presidential Candidate, Tim Scott, is standing by. He says President Biden is not fit to serve. First to Fox Business Correspondent Hillary Vaughn, she's live for us on Capitol Hill. Hillary, good afternoon.

HILLARY VAUGHN, FOX NEWS CHANNEL CORRESPONDENT: Good afternoon, Trace. Well, Democrats say that the special counsel went out of his way to embarrass President Biden by bringing up his poor memory. And that, that ultimately distracted from the vindication that President Biden is not being charged for mishandling classified information.

(BEGIN VIDEO CLIP)

REP. JAMIE RASKIN (D-MD): They came back and exonerated him completely. There was an effort which I view is totally political to bury that basic news in completely gratuitous swipes about President Biden's age and his memory.

VAUGHN (voice over): But other Democrats have a problem with how President Biden handled the aftermath that followed this report, saying, the last- minute late-night press conference he held might have done more damage.

REP. ADAM SMITH (D-WA): I'm a senior Democratic politician. I've been doing this for a long time. That's not the way you want to do it. OK? I think we can all agree on that.

He was angry. He was frustrated by what came out, it didn't go well. OK, there is no doubt about that.

VAUGHN (voice over): Some Republicans from Congresswoman Claudia Tenney to Senator Josh Hawley are saying it's time for the 25th Amendment to be on the table. But other Republicans say that would just put the vice president Kamala Harris in the Oval Office, something they don't think would be any better for the country.

REP. RALPH NORMAN (R-SC): What we've got to do is just make sure this man does not serve a second term. Is not him, is whoever is running the country. He is the leader of the free world. He is cognitively not there.

(END VIDEO CLIP)

VAUGHN: Biden's cognitive decline becoming a big headache for his campaign. His 2024 rival, Congressman Dean Phillips says his phone has been blowing up from some of his Democratic colleagues who are admitting to him in confidence that they are worried. Trace?

GALLAGHER: Yes. Hillary Vaughn, live for us on Capitol Hill. Hillary, thank you.

Let's bring in Republican South Carolina Senator, former presidential candidate, Tim Scott. He says President Biden is not fit to serve.

Senator, welcome to the show. We appreciate you coming on. I want to kind of clarify --

(CROSSTALK)

SEN. TIM SCOTT (R-SC): Trace, thank you.

GALLAGHER: -- clarify your point there. You say that President Biden is not fit to serve. Would you go as far as to say he needs to step down now? Or are you saying that he does not need to run for reelection?

SCOTT: He certainly should not be running for reelection without any question.

Think, you do not, as president of the United States have the luxury of choosing the crises you want to fix. Bottom line is this: If October 7th, confused him so much that it made the frail, feeble old man reveal himself to the rest of the world, thank God, we know it now.

GALLAGHER: Yes.

SCOTT: Because unfortunately, on top of the challenges in the Middle East, you've got Russia and Ukraine. You've got China looking at Taiwan, you've got to open, insecure southern border, you have crime and chaos on the streets of America.

(CROSSTALK)

GALLAGHER: Yes.

SCOTT: You have to have a commander in chief, president of the United States ready to do his job today. We saw in the aftermath of the special counsel's report, a person unable to remember which country, which president he was talking about.

GALLAGHER: Right.

SCOTT: That was the cleanup, Trace. That was a disaster.

GALLAGHER: That was --

And exactly right. And the cleanup of the question is, can you clean it up?

SCOTT: Unbelievable.

GALLAGHER: The New York Times writes the following here, "Eight words and a verbal slip put Biden's age back at the center of 2024." Going on to say, "Fair or not, you can't unring the bell, said David Axelrod, the former strategist for Barack Obama. The most damaging things in ***politics*** are the things that confirm people's pre-existing suspicions, and those are the things that travel very fast. It's a problem."

It is a problem.

SCOTT: Absolutely.

GALLAGHER: I mean, it's one of those things where -- you're right, you can't put the genie back into the bottle. It's out there. And every single time, Senator, that the country looks at President Biden, they are waiting for some slip up.

SCOTT: Absolutely. And we saw it again. Late last night watching that press conference was uncomfortable. I was uncomfortable for him. And I've never uncomfortable for President Biden.

The bottom line is both he and Kamala Harris should not be reelected, period.

Think about the crisis on our border. She is the borders czar.

GALLAGHER: Yes.

SCOTT: 10 million illegal immigrants. We are talking about likely sleeper cells in our country, hundreds on our national security watch list, and a policy that allows for 85 percent of that 10 million to come into our country.

Look at the chaos in the poorest communities in our country. These folks want to defund the police.

Remember, Kamala Harris is a person who helped raise money for someone who was then-charged with murder. We don't need a Kamala Harris as president or Joe Biden as president.

GALLAGHER: Yes.

SCOTT: We were better off under Trump. We got to get back to our winning ways by focusing on the American people, solving their problems, and being serious about being the leader of the free world.

GALLAGHER: I've got one minute left with you, Senator, I want to play this soundbite. This is from Ian Sams at the White House briefing just moments ago, and then I'll get your final thoughts.

(BEGIN VIDEO CLIP)

IAN SAMS, SPOKESPERSON, WHITE HOUSE COUNSEL: -- case here. The report itself answers the question you're asking about the distinction between two cases as you guys have heard us from the White House say, for a long time, we're very careful about commenting on certain cases like that. Just I would encourage you, perhaps all of you, read the report.

The allegation that there was willful retention of documents is refuted by the evidence in the report.

(END VIDEO CLIP)

GALLAGHER: Yes. Karl Rove said moments ago that, listen, the American people, the ordinary person is going to think well, Biden had classified documents not charged. Trump had classified documents, hit it with everything they can hit him with. Your final thoughts on this. I got about 30 seconds for you.

SCOTT: The DOJ under Joe Biden has lost a blindfold. Lady Justice does not have a blindfold. The tier two system -- the system we face is one for Republicans, one for Democrats weaponizing the Department of Justice. It is unfair, it is criminal, and it is disgusting. It is not America's way.

GALLAGHER: Yes. Senator Tim Scott., always good to see you, sir. Thanks for coming on. We appreciate it.

SCOTT: -- Trace. Yes, sir.

GALLAGHER: And breaking right now, the NYPD dropping a major update on a shooting in Times Square last night. The suspect wanted for attempted murder of an NYPD officer and who shot a tourist in the leg is a migrant, now on the run, and considered armed and dangerous.

Retired NYPD inspector Paul Mauro joins us next.

(BEGIN VIDEO CLIP)

KAZ DAUGHTRY, ASSISTANT COMMISSIONER, NEW YORK POLICE DEPARTMENT: We don't care what your status is. You will have the full weight of the police commissioner's department, the NYPD after you. Your new status that the NYPD is going to give you is criminal, when you start preying on vulnerable New Yorkers. And we will find you and we bring you to justice.

(COMMERCIAL BREAK)

GALLAGHER: Here is the president and the German Chancellor Olaf Scholz. Watch.

(BEGIN VIDEOTAPE)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: Welcome back, Olaf. Thank you very much for taking the effort to be here. You know, about two years ago, you would admit here, and you said the United States and Germany have to act together. And that was necessary to get (INAUDIBLE) you got to continue to do it.

And, you know, Congress, we have to pass the National Security spending package now. Our House members are being somewhat reluctant. Hopefully, it's more ***politics*** than real, including funding for Ukraine to help them continue to defend themselves against the brutal aggression of Russia.

But I want to thank you, Olaf for your leadership and the bravery again, and you've done something no one thought could get done. You've done Germany's military 80 grand this year. And it's really important, you got to step up and do our part.

Today, we'll also discuss the work we're going to be doing together to strengthen NATO, ahead of the 75th NATO Summit this summer here. So, you got to come back.

And also, the latest developments in the Middle East, including hostages released, we have negotiations going on, increase in life saving humanitarian assistance, specifically, the Gaza Strip. And preserve the space for an enduring piece, or two state solution down the road. It's possible, a lot of work, I think we can do it.

So, Olaf, thank you very much for being here. We've got a lot to talk about, and the shore is yours.

OLAF SCHOLZ, CHANCELLOR OF GERMANY: Yes. Thank you for having me, and for having the chance to continue our conversations we have -- continuously all the time. And yes, Germany and United States have to play a role to keep peace in the world. This is especially so looking at the Russian aggression against Ukraine, which is still ongoing. And when we saw this ridiculous interview Putin gave shortly, we understand that he is always telling a lot of lies about the history of this war, because it's so easy to understand why he is doing it. He wants to get part of the territory of its neighbors just imperialist and imperialism. And I think it is necessary that we do all our best to support Ukraine, and to give them the chance to defend their country.

And so, I'm very happy that in Europe, we make now decisions to give the necessary financial support to the budget, also that Germany was ready to increase its support with weapon delivery.

And hopefully, Congress will -- the House will follow it and make a decision on giving the necessary support. Because without the support of United States, and without the support of European states, you can have not a chance to defend the third country.

I really think that it's very good that we are working together looking at the situation in Middle East and especially working on the two-state solution, which is necessary for lasting peace. And I'm sure that the United States and Germany are aligned. Interesting.

BIDEN: We are. We are. Well, I especially, I'd like to add another point. The failure of the United States Congress, if it occurs, not to support Ukraine is close to criminal neglect. It is outrageous. Kissinger was right, when he said not sense. Only has Europe not looked over his shoulder and worried about Russia until now. You and I hope what NATO has given away it had been a long time. So much is at stake, So, we better step up. Thank you all very much.

(CROSSTALK)

UNIDENTIFIED FEMALE: (INAUDIBLE).

UNIDENTIFIED MALE: (INAUDIBLE).

(END VIDEO CLIP)

GALLAGHER: So, the video have lasted about four minutes, just for clarity there. The president, we didn't cut out early. The president did not answer any questions at all. This is the first time that we have seen him since last night's news conference the president held concerning the Special Counsel report and his memory, et cetera.

So, we were kind of waiting to see if he took questions. He did not he ended by kind of taking a swipe at Congress about not passing the border bill. Of course, many have said, if the president wanted the border secure, he would simply re implement border security measures that he dismantled when he first got into office.

We will keep you updated on any other events the president has today. Meantime, also breaking moments ago, we are learning that the "armed and dangerous" suspect on the loose who opened fire in a busy Times Square sporting goods store is a teenager who was in the country illegally. Nate Foy is following the breaking information for us. He's live for us in New York City. Nate?

NATE FOY, FOX NEWS CORRESPONDENT: Hey, Trace. We're about 20 hours into the manhunt for 15-year-old Venezuelan migrant, Jesus Figueroa, who's wanted for the attempted murder of a police officer. The NYPD says that he entered this JD sporting goods store last night at about 7:00 and was trying to steal clothes and sneakers with two other teenage suspects when they were confronted by a security guard that Figueroa is accused of trying to shoot, but instead hit a 37-year-old tourist from Brazil who's recovering in the hospital. And then after that, ran away. And while running to a nearby subway station, where he was last seen, shot twice at an NYPD officer. Thankfully missed both times. The officer drew his gun but did not return fire because of the crowds.

Here's what we know about this Venezuelan migrant right now.

(BEGIN VIDEO CLIP)

JOHN CHELL, NYPD CHIEF OF PATROL: Jose Alejandro Rivas Figueroa -- Rivas Figueroa, 15 years old. He resides in a temporary shelter in the Strafford Hotel on West 70th Street. He entered our country in September of this year. He is considered armed and dangerous. He's 15 years old. He is in possession of a .40 caliber handgun that he had no problems firing into a crowd of the store, striking a tourist, not shooting out of cops once, shooting at them twice.

(END VIDEO CLIP)

FOY: Trace., the chief of patrol there actually misspoke. It was a .45 caliber handgun. And they say that Figueroa may be connected to a shooting on 45th Street as well because they found .45 caliber shell casings there. And the NYPD says he is connected to an armed robbery in the Bronx late last month.

There's a $13,500 reward for information leading to his arrest. And the NYPD chief of patrol said this could have been a lot worse. Listen to this.

(BEGIN VIDEO CLIP)

CHELL: I got to tell you, if one of those bullets hits our cop last night, this is a whole different conversation we're having today.

(END VIDEO CLIP)

FOY: Trace, the two other teens that were with Figueroa are also in custody. The NYPD is trying to figure out their role in what happened. We'll send it back to you.

GALLAGHER: Nate Foy live for us in Times Square. Nate, thank you. Let's bring in retired NYPD Inspector Paul Morrow, founder of opsdesk.org and a Fox News contributor. Paul, it's great to have you on as always.

You kind of heard Nate there and you heard the police chief there saying, listen, this thing could have been a different story, had a police officer been hit. I think it's the same story. And the story is that you've got six or seven of these illegal migrants who beat up police officers still on the run. You have people that dragged a 62-year-old woman on a moped through the streets of Times Square. And now you have this again, targeting police officers and others.

I mean, it really -- you talk about Joe Biden and the whole this special counsel thing that gives him a black eye. This is proof positive that the border being open is very risky for Americans.

PAUL MORROW, FOX NEWS CONTRIBUTOR: Yes, it really is, Trace. And it feels like something of a watershed week, doesn't it? I mean, we had the events yesterday with the report coming out about the President and then we have all of this week. And what's happened is it's a little bit of a perfect storm regarding the migrant issue and its effect on crime and public safety. We've hit a point where it really can't be ignored any longer.

We've imported some very bad people that nobody is saying that all the migrants are criminals. We're very clear on that. That most of them are not. They're here for a better life. We understand that. Whether or not they're here or not, legally, different issue.

But undeniably what seems to have happened here is President Maduro of Venezuela seems to have taken a page out of Fidel Castro's book going back to 1980 and emptied his prisons of people he wanted no part of. And if you notice, we're getting young men, military age, fit and they all seem to be in connection back home. They're in connection here. I mean, his guy's not in the country very long. He's already got a .45 caliber handgun.

GALLAGHER: Right.

MORROW: And I think we've hit a tipping point where people realize what we're into.

GALLAGHER: And we have documented this, Paul. That's the whole thing, is we know from Venezuela, we know some of these northern triangle countries, we have documented that they are some bad people that have into the United States with no questions asked. And the worst part for a lot of critics, Paul, is the fact that not only are they here but we are giving them the resources so they can create their own organized criminal gangs.

MORROW: Yes, that's right. Not only are we responsible for their care and feeding once they get here, but through various charities in the UN, we facilitate their coming here. And so they get here, they get a credit card from the city of New York. And again, you're starting to see the coming together of all of the wrong headed policies that have been facilitating this stuff.

The sanctuary city status here in New York means that the NYPD can't even talk to ICE. We can't share that kind of intelligence. Both agencies have a ton of intelligence. State police also cannot talk to ice. And there's an irony embedded in this. This guy that they're looking for, this 15-year-old shooter, he was staying on the upper west side at a migrant shelter that used to be a luxury hotel, a boutique hotel, let's call it.

When they put the migrants in there, there was a lot of concern in the neighborhood. There was a little bit of pushback --

GALLAGHER: Justified.

MORROW: -- a lot of pushback actually. And yet, right there is the people who are voting for this stuff because that's progressive central up there. And I think what's happening is that, you know, these policies look great on paper. They're great when they're happening far away someplace else down in Texas. All of this stuff is starting to come home now and you're seeing it in American cities.

It's not just New York. Chicago has similar issues you're seeing in Miami. And I think it's getting to the point where, as I said, it's a watershed moment.

GALLAGHER: Yes. And California, I mean, California is a sanctuary state. And those seven who beat up the police officers could be in California. And if they're here, Lord knows how the authorities are going to get in touch with them because it's the same policies. You can't communicate with law enforcement. They could wander here for years and years.

Paul Morrow, great to have you on as always. Thank you.

Well, more on all of this when Clay Travis joins us from Las Vegas ahead of the big game later this hour.

(COMMERCIAL BREAK)

REP. ELISE STEFANIK (R-NY): This was a raid on Mar-a-Lago, Kaitlan, versus working with Joe Biden and saying he willfully broke the law but refusing to prosecute. It is selective prosecution.

(END VIDEO CLIP)

GALLAGHER: House Judiciary Republicans blasting the DOJ special counsel for not bringing charges against President Biden for mishandling classified documents, something former president Trump has been indicted for, claiming there is a "double standard." A short time ago, the White House pushed back on that. Watch.

(BEGIN VIDEO CLIP)

IAN SAMS, WHITE HOUSE COUNSEL SPOKESPERSON: Republicans in Congress, and elsewhere, have been attacking prosecutors who aren't doing what Republicans want politically. They have made up claims of a two-tiered system of justice. And in that pressurized political environment, when the inevitable conclusion is that the facts and the evidence don't support any charges, you're left to wonder why this report spends time making gratuitous and inappropriate criticisms of the president.

GALLAGHER: Yes. John Yoo, former Deputy Assistant Attorney General and UC Berkeley Law Professor joins me now. John, great to have you on as always.

So what do you think? Do you think that the special counsel should have put that information in the report on Joe Biden's classified documents?

JOHN YOO, FORMER DEPUTY ASSISTANT ATTORNEY GENERAL: Yes, Trace. And I actually don't see how the report could not mention that because it's the only ground, really, on which the special counsel says he's not going to go after President Biden. Based on what's in the report, the facts and the law, it looks like President Biden violated the laws on classified information. The only reason the special counsel appears to give for why he wouldn't go to the courtroom and try to convict Joe Biden, is because he says Joe Biden is a sympathetic elderly man with bad, bad memory. And then the facts of the report are even worse. It's not bad memory. It looks like he has no memory of certain facts and important dates involving things like the fight over Afghanistan.

So that is a critical part of the report. It's actually the only major difference, I think, between prosecuting Trump and not prosecuting Biden.

GALLAGHER: Yes. And I think that has been argued many times and the question here is, you had Ian Sams coming out saying everything about the decision not to bring charges was absolutely correct, and everything about the whole memory of the President is not correct. It should not have been included in that. But how can you not charge and then not give a reason for not charging, John?

YOO: In fact, Trace, I think it's even worse than that. I think the special counsel shows that President Biden broke the law and that he knew he had broken the law. He not only mishandled classified information, he actually appears to have talked about classified information with the ghostwriter of his book. People like General Petraeus, for example, have been prosecuted and convicted for doing something much the same.

So the only reason the special counsel can give is that he didn't think he could get a conviction. He knows Biden's violated law but he just doesn't think he could convince a jury to convict an elderly man with bad memory.

GALLAGHER: Yes. I want to play this sound bite from the vice president, and I'll get your final response.

(BEGIN VIDEO CLIP)

KAMALA HARRIS, VICE PRESIDENT OF UNITED STATES: The way that the President's demeanor in that report was characterized could not be more wrong on the facts, and clearly politically-motivated, gratuitous. And so, I will say that when it comes to the role and responsibility of a prosecutor in a situation like that, we should expect that there would be a higher level of integrity than what we saw.

(END VIDEO CLIP)

GALLAGHER: His DOJ, John, but politically-motivated. I've got 30 seconds for you.

YOO: President Biden's attorney general appointed Mr. Hur as special counsel. But I challenge the Biden administration this way. If you really think that this special counsel you picked is distorting and misrepresenting, then release this transcript. Release any audio or video recordings of President Biden's interview, and let us decide whether we think he's an elderly man with bad memory or not.

GALLAGHER: I think that's a very fair assessment. John Yoo, thanks for coming on as always. We appreciate it.

Meantime, Vladimir Putin suggesting a prisoner swap may be possible to free Wall Street Journal reporter Evan Gershkovich. The Russians arrested him almost a year ago accusing him of spying. The Journal and the White House deny that. Our senior foreign affairs correspondent Greg Palkot is live in London on this. Greg?

GREG PALKOT, FOX NEWS SENIOR FOREIGN AFFAIRS CORRESPONDENT: Hi, Trace. Yes, there is new information about the possible fate of Evan Gershkovich. It came in an interview with Russian President Putin conducted by commentator Tucker Carlson, the first he's done with the US media in several years.

In it, Putin said that the Wall Street Journal reporter jailed in Russia since last March on espionage charges, which, as you noted, Evan Gershkovich, the Journal, the US deny could be released via a prisoner exchange. He also claimed that talks about this are already underway between the US and Russia. Here's a bit more of what Putin had to say.

(BEGIN VIDEO CLIP)

VLADIMIR PUTIN, RUSSIAN PRESIDENT (through translation): There is no taboo to settle this issue. We are willing to solve it. But there are certain terms being discussed via special services channels. I believe an agreement can be reached.

PALKOT: He did not say, however, who exactly could be swat for Gershkovich, just alluding to one Russian jailed in Germany right now. He also didn't put a timeframe on it, and he contended that the Journal reporter was passing on classified information. Still, in reaction to this, the newspaper said in part in the statement, we're encouraged to see Russia's desire for a deal that brings Evan home. And we hope that this will lead to his rapid release and return to his family, and our newsroom.

(END VIDEO CLIP)

PALKOT: Trace, the State Department did not comment exactly on these details, but did say simply he should be freed immediately. Putin also had this to say about Gershkovich. I want him to return to his homeland. I am absolutely sincere. A lot of people agree with that. Back to you.

GALLAGHER: Indeed. Greg Palkot live for us in London. Greg, thank you.

Well, Clay Travis joins us live from Vegas, baby, Vegas, home of Super Bowl LVIII. He says President Biden's odds to be the 2024 democratic nominee are dropping massively in the real time on all the betting markets. All the betting markets the odds are going down. He will explain the numbers next turn.

(COMMERCIAL BREAK)

GALLAGHER: Big game, all right. Live look now at Vegas getting ready to host its first Super bowl ever, the Kansas City Chiefs taking on the San Francisco 49ers. I like the 9ers. Hundreds of private planes expected to fly into the city this weekend, including maybe one from, you know, Tokyo. OutKick founder Clay Travis standing by in Las Vegas live. We'll get to him in moments. But first to Matt Finn. He's also in Vegas for the big game. How in the world did Matt Finn get to go to Vegas for the Super Bowl? Matt?

MATT FINN, FOX NEWS CORRESPONDENT: I hit the jackpot, no pun intended, Trace.

GALLAGHER: Yes.

FINN: A dumb joke. Anyways, the sheriff of this town says he thinks Vegas is going to handle the Super Bowl so well that there'll be more here in the future. This game is expected to generate $600 million in revenue, bring in 330,000 visitors. The odd makers are currently favoring the 49ers. Caesars tells me its single most popular bet right now is on a Travis Kelce touchdown. We talked to some fans on whether or not they'll wager on the big game.

(BEGIN VIDEO CLIP)

FINN: What type of bets will you be placing? On the team overall, any individual players?

UNIDENTIFIED MALE: Probably the overall team, just the overall game.

UNIDENTIFIED MALE: No bets because we don't have the luck, but I'm pretty confident that the Chiefs will get the job done.

UNIDENTIFIED MALE: Right now the 9ers are slightly favored, just so you know, yes. How does that make you feel?

UNIDENTIFIED FEMALE: Of course, great.

FINN: What types of bets have you played?

UNIDENTIFIED MALE: Just small ones, like touchdowns. Who's going to get the first touchdown, who's going to be getting the coin toss, all that stuff. Just small little bets, yes.

FINN: Who's going to get the first touchdown?

UNIDENTIFIED MALE: Who's going to get it, George Kittle.

(END VIDEO CLIP)

FINN: Now, the game aside, there's also a lot of buzz off the field about whether Chiefs' tight end Travis Kelce's superstar girlfriend, Taylor Swift, will make the game here in Vegas after performing in Tokyo on Saturday. I asked Travis Kelce if all the intention on his private life is a distraction and how he stays focused on Sunday's game.

(BEGIN VIDEO CLIP)

TRAVIS KELCE, KANSAS CITY CHIEFS' TIGHT END: It's no different. I know it might be on a national media scale, so it seems like it's a lot harder. But in the reality of things, man, when I step in those doors or I step on that field, I'm focused on championship football and being a Kansas City Chief.

(END VIDEO CLIP)

FINN: And the Super Bowl is one of the highest tier national security events, a Department of Homeland Security, the FBI here, they tell us they're taking any and all threats seriously. So far, they say there is no credible threat against the Super Bowl here, Trace.

GALLAGHER: Matt Finn live for us in Vegas. Matt, enjoy your time there.

Let's bring in OutKick founder Clay Travis, who joins us live from Las Vegas for the big game on Sunday. Man, everybody's in Vegas except for me. I'm sitting here in LA. Clay, the FanDuel CEO said this on the Taylor Swift effect. Watch.

(BEGIN VIDEO CLIP)

AMY HOWE, CEO, FANDUEL: The Swift effect has been real, you know, since she's been on the scene. Player prop bets on Travis Kelce have doubled in volume. But it's also actually brought a number of new women and recreational users to the platform, which has been really exciting.

(END VIDEO CLIP)

GALLAGHER: Clay, who knew Taylor Swift had so much sway over the betting world?

CLAY TRAVIS, OUTKICK FOUNDER: Well, look, you know, you've been going, I bet, to Super Bowl parties for years. Like everybody out there just about watching has been too. Super Bowl is the most bet sporting event of the year, and oftentimes people betting don't really even care that much about the game itself. You can bet on how long the national anthem is going to be. You can bet on what the numbers are going to be at the end of each quarter, how many different people out there over the years have bought a square at a Super Bowl party. And oftentimes it ends up being the winner, somebody who has absolutely no clue or no interest in the Super Bowl itself.

And, trace, every year, do you know what is the absolute highest rated portion of the Super Bowl?

GALLAGHER: What?

TRAVIS: The Halftime Show.

GALLAGHER: Yes.

TRAVIS: So every year it doesn't matter who the performer is. This year it's Usher. So it is a cultural event. I love football, I bet you love football, but lots of people are going to watch that have really no interest in the Chiefs or the 49ers just for the communal experience of being able to get together with friends, family and maybe win a little bit of money on the side depending on what happens in the game.

GALLAGHER: Yes. I love football. Unfortunately, Clay, I'm a Chargers fan, so it's been a very long haul for me. Although Jim Harbaugh --

TRAVIS: Jim Harbaugh.

GALLAGHER: Yes. Jim Harbaugh is going to do. You talk about Usher in the halftime thing. Here's Karine Jean-Pierre talking about why the President is not doing a Super Bowl interview and it has to do a little bit with halftime. Watch.

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: Anything specifically on why you're not doing the Super Bowl interview? I mean, that's a massive audience in an election year.

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: Look, we hope that the viewers who tuned in -- we know that the viewers who tuned in, they comfortably tuned in to watch the game, right. And so obviously that is just a fact. They want to see the game. They want to see their favorite team. They want to see a halftime show.

(END VIDEO CLIP)

GALLAGHER: Sure, because 140 million people, they have no interest. I mean, they don't want to hear what the president has to say.

TRAVIS: Joe Biden is unfortunately, I think, dealing with the ravages of, as you saw from the special counsel report, memory decline, maybe even creeping dementia. And I think the reason why he's not doing a Super Bowl interview is because he can't sit and do a 15 or 20 minutes interview, even when it's kind of a soft focus aspect like this.

Last year he didn't do it. People said, oh, that's because it was Fox. This year it's CBS. I love personally that Trump came out and said, hey, I'll sit for the interview. Do you know what CBS said then? They said it would be too political if Trump did an interview, but yet they were going to sit with Biden. I think this is just testament to the fact that Biden can't actually do an interview with anybody. And this is the excuse they're making that they don't want to take away from the focus of the game.

GALLAGHER: Yes.

TRAVIS: Do you see that press conference last night?

GALLAGHER: Yes.

TRAVIS: I think interview Biden does going to take away the focus of everything because the guy can't manage the most basic answers to questions.

GALLAGHER: I got to go. I got to go but in fit to get 30 seconds. But does Taylor Swift make it to the game? They're going to be kind of monitoring the plane like they do Santa Claus sleigh, (inaudible). But I'm just saying, you think she's going to make it?

TRAVIS: She's going to make it. Unfortunately for her, the Kansas City Chiefs are going to lose 24 to 21 to your. I heard some of the people in the studio, San Francisco 49ers side. And the 49ers are going to cover that number, time to get rich for the Super Bowl. There's my pick.

GALLAGHER: Hard to bet against Mahomes, but I think you may be right. Clay Travis, great to have you on as always. Enjoy the game.

TRAVIS: Appreciate that. Thanks a lot.

GALLAGHER: Now a look at Martha McCallum's new Fox Nation special dropping today, "The Fall of the House of Murdaugh." The jurors speak. Last week, a judge denied Alex Murdaugh's request for a new trial for the murders of his wife Maggie and son Paul. His lawyers accuse the court clerk of jury tampering. Martha asked some of the juries about that claim. Watch.

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: I was livid because it shouldn't be amazing, but it's still amazing how people will believe a lie quicker than they will the truth. And no one had no idea what was going on during this trial. When you sit on a jury, especially for six weeks, then you can maybe speak to what might have happened. But there were a lot of things going on personally in our lives and then we had to come in there every day. We were locked in a room when weren't in the courtroom.

I mean, so -- it was a weight on us. We had to make sure it was right.

(END VIDEO CLIP)

GALLAGHER: Had to make sure it was right. "The Fall of the House of Murdaugh: The Jurors Speak" available now on Fox Nation. And, of course, tonight, I won't be there. Kevin Cork is going to be your host for Fox News at Night. But we're taking a very close look tonight at what happened in New York today, the shooting in Times Square, at that store also targeting a police officer, and there might be a suspect in custody. We're talking about a 15-year-old illegal immigrant. And this goes along with those who are still at large, who beat up cops in Times Square. We're going to focus on that.

But that is THE STORY of Friday, February 9, 2024. But as always, THE STORY goes on Fox News at Night, 8:00 pm in the west, 11:00 pm in the east. "YOUR WORLD," Neil Cavuto, starts right now. Have a great weekend.

**Load-Date:** February 9, 2024

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