

# [***San Francisco Police Fight To Bring Down Crime; Mayor Who Defunded Police Now Cares About Crime; Seattle Business Owners Fed Up Over Robberies; Turley: "Not A Single Dollar Lost" By Victims; Harlem, Residents Angry Over Migrant Crisis; Nikki Haley Ramps Up Attacks Against Trump; Showdown Over Special Counsel Interview Release; State Department Warns Against "Misgendering"; Teachers Sue Over California Transgender Policy***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BCG-HDB1-JCS1-61B9-00000-00&context=1516831)

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**Guests:** Jessica Millan Patterson, Eddie Arrazola, Abe Hamadeh, Jarrod Randolph, Salvatore Monforte, Scarlett Maguire, Julia Manchester, Bethany Mandel

**Body**

JIMMY FAILLA, FOX NEWS CHANNEL RADIO HOST: And that's going to be hot one.

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GREG GUTFELD, FOX NEWS CHANNEL HOST: All right, bring some manure.

Charlie Hurt, Heather Zumarraga, Jimmy Failla, Kat Timpf, 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, from Berkeley to D.C., to all points in between, fed- up business owners say they are tired of getting ripped off, and they can't decide which is worse, enduring crime and losing money or reporting crime and paying higher insurance rates?

In other words, business owners think crime does pay, and that being a criminal is more lucrative than being a business owner. We begin our Presidents Day coverage with the senior correspondent Dan Springer. He's live in Seattle with more on cities under siege.

Dan, good evening.

DAN SPRINGER, FOX NEWS CHANNEL CORRESPONDENT: Yes. Hi, Trace.

According to the Seattle police crime data, overall crime is down nine percent, with property crime down 10 percent this year. But don't tell that to the business owners in the Ballard area of the city, who have been hit over and over again.

A barber shop and retail outlet has had four break ins, the last two years. Thieves just keep smashing their way through windows and loading up garbage bins full of merchandise. The owner is again blasting city leaders.

(BEGIN VIDEO CLIP)

MATT HUMPHREY, SEATTLE BUSINESS OWNER: Make this your number one priority. I mean, there is a lot going on in the city. But these small businesses are the backbone and down.

(END VIDEO CLIP)

SPRINGER: And down the block, a jewelry store has been cleaned out seven times in the last 2-1/2 years, the owner has taken to sleeping in the back, so, she can quickly call police to get a quick response.

By the way, even the police chief admits the crime stats may be deceiving. He thinks people just aren't reporting crime like they used to.

Down the west coast in San Francisco, we see the same thing happening. The stats say retail theft is going down. We do know police are taking it more seriously and going after organized rings. But the situation is still far from good.

And let's just say former NBA great, Charles Barkley is not a big fan. The topic of playing an all-star game in San Francisco came up during the broadcast last night.

Barkley said no one wants to play in San Francisco because of all the homeless crooks around, and when someone said it's a city you can walk around, he said, yes, with a bulletproof vest on.

Statistics versus life on the ground, clearly there is a lot more work to do. Trace?

GALLAGHER: Dan Springer, live for us in Seattle. Dan, thank you.

Well, the FOX NEWS @ NIGHT "COMMON SENSE DEPARTMENT", understands the very woke mayor of the very woke city of Berkeley, California is having a change of heart.

A few years ago, Mayor Jesse Arreguin, progressive Jesse, was a major supporter of cutting the funding to the Berkeley Police Department by $9 million plus, which ended the careers of 35 percent of the city's police force.

But lo and behold, over the past few years, the strangest things keep happening. Crime in Berkeley spun out of control, armed robberies up, carjackings up, sex crimes up.

The Berkeley Apple Store robbed seven times this year, it's mid-February.

"COMMON SENSE" thinks by December, when that Apple Store is on robbery oh, number 45, they will shut the store down and board the windows up.

In Berkeley, for lease signs are everywhere. Those willing to lease are nowhere. So, the mayor now finds himself at the end of a common California cycle. Bash the cops cut the funding, cry for help.

The temper tantrums of 2020 are now calls for public safety, which, of course is labelled as a community effort. Politicians create the crisis somebody else gets to solve it.

The mayor would help but he's busy running for State Senate. "COMMON SENSE" is not surprised, failed, lefty politicians moving up the ranks is as common in California as well, crime.

Let's bring in California GOP chairwoman, Jessica Millan Patterson, and the owner of Lobos Boxing Club here in L.A. Eddie Arrazola. Thank you both for coming on.

To you first, Jessica, because you deal in this. You know, you're in elections all the time. These people, they run for office, they ruin this city, and then they move on, they go up, and they go up the chain of command, but there's no consequences.

That is the problem, is they go in and ruin these cities with impunity.

JESSICA MILLAN PATTERSON, CHAIRWOMAN, CALIFORNIA REPUBLICAN PARTY: And let's be very clear. It's not just politicians, it's Democrat politicians in these Democrat run cities. We've seen everything from Prop 47, Prop 57, AB109, which have been all pro-criminal policies. It shouldn't surprise anyone.

When we're putting more criminals out on the street, they are going to commit more crimes. I think that Berkeley should be a sounding alarm to the rest of the country. These policies don't work and the damage may be already done, and it might be too little too late, because recruiting the police officers and hurting their funding as the way he did, it might be too much to come back from in Berkeley.

GALLAGHER: Yes, I mean you have Dan Springer talking, Eddie, and we see this in Oakland, these business owners that nobody is going to coming to lunch in their place because they're not allowed outside of their building. You know, the whole problem is, is that they won't even report the crimes because they're so afraid of their insurance rate going up.

Here is a couple of other business owners what they have to say, and I'll get your response.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: Literally, within minutes, how to trash they brought their own trash bag, and we're filling it with B.D. products and jackets.

I've been waiting out failed policy for three years.

UNIDENTIFIED FEMALE: From what I understand, it takes a really long time to prosecute anyone who is -- has been caught breaking and entering. It's very rare that they are even caught.

(END VIDEO CLIP)

GALLAGHER: I mean, you own a boxing gym, so nobody's really going in stealing stuff or there are consequences when you walk in the door of Eddie's place.

But you have to feel for the other businesses around the state and surrounding states that are getting hurt.

EDDIE ARRAZOLA, OWNER, LOBOS BOXING CLUB: Yes, absolutely. There is been -- especially on us on Melrose, there's been a bunch of businesses have gone out of business in the last year. So, that affects us too, because people aren't shopping, they are not going to come, they're not going to see the gym, they don't feel safe and most of what I've heard from the business owners is that they couldn't afford to keep repeating the process of getting robbed.

And if they do report it they get the insurance goes up. If they don't report it, they're losing their stuff. So --

GALLAGHER: It's lose, lose. It's crazy.

ARRAZOLA: It's lose, lose, no matter what.

GALLAGHER: Charles Barkley made the thing, hear Dan Springer earlier. He said the following, quoting here, "San Francisco, during the all-star game," he described it at a city -- as a city with a homeless -- sorry. Homeless crooks.

And when someone said no, it's not. We can walk around down there, yes, with a bulletproof vest. What do you think?

PATTERSON: I think, Sir Charles had it hit it right on the nose. You know, this is someone who's a massive basketball player, who does not feel safe in the streets of San Francisco.

Just last month, we had a former MMA fighter turn food critic, who cut his trip short in the Bay Area because it was unsafe.

These are the policies of regressive Democrats that are hurting our communities, and it's hurting once beautiful cities and turning them into what we see now.

We have 50 percent of the nation's unsheltered people. When you drive around a place like San Francisco, it's not hard to believe.

GALLAGHER: Yes, it really is. I mean, that was kind of we were talking about this, Eddie, earlier was the you know, the San Francisco I mean, sorry, the Kansas City, the Super Bowl, that was there. There was a shooting there. One person killed, 22 injured. And the governor of Missouri called these people we don't know exactly who they are because they're juveniles and haven't been identified, called them thugs. And you heard the mayor saying that it was a racist dog whistle.

And you're thinking what -- I don't quite understand what the thing is. They haven't identified anybody. But, you know, they are protecting some of these people who are committing some heinous crimes.

ARRAZOLA: You know, Charles Barkley nailed it on the head. He's just calling it how he sees it. And rather than try to sugarcoat what it is, it was thug behavior. Regardless of who it was, that was thug behavior. Charles Barkley is calling the city what it is. It's a trash can right now.

GALLAGHER: Yes.

ARRAZOLA: He's not scared to say what the truth is.

GALLAGHER: Yes. Your final thoughts on this, Jessica?

PATTERSON: I think we need to keep our eye on the ball. This is supposed to be a celebration. Like the mayor should be focused on is the crimes that were committed.

GALLAGHER: Yes. And the people who are affected by the crimes that were committed.

Jessica, thank you. Eddie, good to see you as always.

Well, meantime, the group, Truckers for Trump are now refusing to drive to New York City after his $355 million fraud ruling and New York Governor Kathy Hochul is scrambling to reassure those doing business in the empire state that they don't have to worry about being prosecuted.

But do they? The senior national correspondent Kevin Corke is live with that story. Kevin, good evening.

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

As retorts go, former President Trump's was adroitly expressed on Truth Social. He wrote this: "Kevin O'Leary is so great, and tells it like it is. Businesses will flee New York City and states after the corrupt judge's ruling!" Of course, that follows the New York judge decision to order Mr. Trump to pay more than $350 million, concluding he lied about as wealth for years, scheming to dupe banks, although as many have pointed out, Trace, valuations are subjective, and all the banks were repaid in full with interest and on scheduled by Mr. Trump.

But O'Leary is arguing tonight that the verdict will discourage future development in the city and the state for years to come.

(BEGIN VIDEO CLIP)

KEVIN O'LEARY, CHAIRMAN, O'LEARY VENTURES: Every investor is worried because where is the victim? Who lost money? This is some arbitrary decision the judge made and this has nothing to do with Trump. Nothing to do with Trump. Forget about Trump. This is not a Trump situation. This is a New York problem now.

(END VIDEO CLIP)

CORKE: But state's governor who's already seen a mass exodus of both businesses and residents from the Empire State is suggesting that the Trump case is more or less of one off.

GOV. KATHY HOCHUL (D-NY): I think that this is really an extraordinarily unusual circumstance that the law abiding and rule following New Yorkers who are business people have nothing to worry about, because they are very different than Donald Trump and his behavior.

CORKE: Meantime, a trucker known as Chicago Ray has deleted a video calling on fellow truckers to boycott New York City after the ruling against the former president and his fraud case.

Ray actually claimed, he hadn't been calling for a boycott, per se himself, merely reporting what he'd actually heard other truckers saying, warning about possible shortages. Trace.

GALLAGHER: Might lead to that.

CORKE: Yes.

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

Let's bring in former Republican candidate for Arizona, Attorney General Abe Hamadeh, along with Vestre Partners, CEO and real estate expert, Jarrod Randolph. Thank you both for coming on, very much.

I want to play some more. Kevin O'Leary from Shark Tank. You know who he is. He said this about this old Trump judgement thing? Watch.

(BEGIN VIDEO CLIP)

O'LEARY: I would never invest in New York now. And I'm not the only person saying that.

Do you think any foreign institution or any private equity firm or any pension fund would touch New York? No. And that's why New Yorkers should be concerned.

(END VIDEO CLIP)

GALLAGHER: What about you, Jarrod, would you invest? Would you do commercial real estate in New York?

JARROD RANDOLPH, CHIEF EXECUTIVE OFFICER, VESTRE PARTNERS: I would not only because the margins are too tight in New York City. But the reality is, is there is so much equity in the brick and mortar in the buildings in New York City. There are internationals who are investing in the city, it will always remain a strong city, because of the amount of equity and the low debt that we have on the properties. It makes it a very safe investment. That is an extremist point of view. I absolutely don't agree. And I've been developing in the city for decades.

GALLAGHER: Yes. It's interesting because Jonathan Turley, writes this about Trump's judgement, and then, I'll get your take on this, Abe. Watch.

(BEGIN VIDEO CLIP)

JONATHAN TURLEY, FOX NEWS CHANNEL CONTRIBUTOR: Part of the disconnect here is that you have what will be over $455 million, if you include interest.

And then, on the other side of the ledger, you have zero. There is not a single dollar lost by these victims. In fact, the people that James calls the victims actually wanted to do more business with Donald Trump.

(END VIDEO CLIP)

GALLAGHER: What do you think about that, Abe?

ABE HAMADEH, FORMER UNITED STATES ARMY INTELLIGENCE OFFICER: Well, Trace, I think, we're -- now we're witnessing. This isn't a legal analysis. This is a political persecution against one man. And you heard Governor Hochul's own comment, her own admission that businesses shouldn't worry, because they are targeting Donald Trump.

So, this is what's so scary right now, Trace, is that you are seeing that the forces the government are trying to destroy this company, the Trump Organization, which helped build the skyline of New York, but they didn't just go after President Trump. They went after his family as well.

So, you know, I do think this is going to have a chilling effect on businesses, because this is sending a clear message to those who oppose anything that the Democrats are doing that if you dare to question their authority, they won't go after you -- they will try to bankrupt you.

And remember, President Trump, in order to appeal this, he has to -- he actually has to pay this, this judgement of over $400 million. And Kevin O'Leary is exactly right. Who is the victim? President Trump paid all of this on time, early, in fact. And this is just normal operating procedure with businesses. So, I am deeply concerned that the legal system has become weaponized.

And, you know, my family came from places like Syria and Venezuela, Trace. I know what happens when the rule of law is destroyed, our country will collapse very quickly.

So, people need to wake up to what's actually happening right now in America.

GALLAGHER: Well, what's your response to that, Jarrod? I'm curious.

RANDOLPH: I have to agree, it is a witch hunt against Donald Trump. And the problem is it takes two to tango, and this is the glitch in the marketplace.

There is a borrower and there is a lender. So, there was another party to this transaction. It's not the bank who was going after Donald Trump. It's the government who's going after Donald Trump. And this could set a very negative precedent towards other developers who, by the way, have been doing the same thing for years. They just sit on the sidelines and they keep their mouth shut.

He became a target because of his political position. If you are going to go after him, go after him, go after all the other developers have -- who have done the exact same thing, and go after the banks.

GALLAGHER: Yes. It's interesting, because the New York Post editorial board, Abe, said the following here, "Democrat elite shouldn't be laughing at Trump's civil trial outcome. They just made him a political martyr: Democrats have again shot themselves in the foot, proving to an increasing number of voters that the justice system is stacked against the ex- president."

Kind of the point that Jarrod just made there, which is every time they indict him, every time they have some kind of judgement, his poll numbers just go up.

HAMADEH: Yes, that's -- I mean, this is what's happening. And I'm deeply concerned, Trace that the legal system is collapsing right before our eyes.

I mean, this time last year, President Trump wasn't under a single indictment. It's hard to imagine because it feels like he's been under attack for so long. But the first indictment came in March.

So, you're having the New York Attorney General, the New York district attorney in Manhattan, you're having Georgia, you having Jack Smith. I mean, the legal system is going after Trump.

So, I think every day Americans are looking at this. We are living in a post justice America, and this is deeply concerning. So, you know, I pray for our country right now, Trace, because, you know, this type -- this type of stuff, I've seen it firsthand. I know what this type of stuff leads to.

GALLAGHER: Yes.

HAMADEH: And it is not a place where you want to go down this road.

GALLAGHER: I talk to people who don't like Trump at all, and they're worried about credible justice. And so, it kind of shows something there.

Jarrod, thank you, sir. Abe, great to see you again. We appreciate it.

Meantime, FOX NEWS @ NIGHT has brand new video showing hundreds of illegal immigrants scaling a mountain to cross the border from Mexico into Southern California. Most of them are Chinese nationals.

Meantime, new outrage and Democrat led sanctuary cities about the amount of money and resources being poured into helping the masses of migrants instead of the remaining residents.

Jackie Ibanez, live with the latest on America's illegal immigration crisis. Jackie, good evening.

JACKIE IBANEZ, FOX NEWS CHANNEL BREAKING NEWS ANCHOR: Hi, good evening, Trace.

The migrant crisis continues to grow here in New York City, as you said, But Mayor Eric Adams says the city is running out of room and resources are stretched thin. But furious Harlem residents demanded a halt on plans to convert an apartment building into migrant housing, when local residents said they need that themselves.

(BEGIN VIDEOTAPE)

RUTH MCDANIELS: RESIDENT, HARLEM, NEW YORK: People are living sometimes two and three generations on one apartment. And now, you don't even want to give it to them, you want to bring outsiders in. Like what does that look like? You got to take care of the residents that already there.

IBANEZ (voice over): This luxury apartment complex was almost home to dozens of migrants. But after that fierce pushback, Mayor Eric Adams has reversed course, saying homes in Harlem should be for Harlem residents.

And the facility will now be used to house homeless New Yorkers.

ERIC ADAMS (D), MAYOR OF NEW YORK CITY: The Lord does not allow me to deport anyone. That's a federal authority. I'm getting no money from Washington. They promised $130 something million, and they didn't even give us that, and it's costing us $12 billion of taxpayers' dollars.

(END VIDEO CLIP)

IBANEZ: Meanwhile, strict security measures in Texas like razor wire are shifting the border search to the west. And take a look at these stunning images from one hotspot just an hour east of San Diego. A long line of migrants from all over the world. They scaled a steep rocky mountain to enter the U.S. illegally.

CBP Sources tell Fox News they have encountered more than 20,000 Chinese nationals since October 1st. There were only 450 Chinese nationals encountered in all a fiscal year 2021. Trace?

GALLAGHER: It's amazing. Jackie Ibanez, live for us in New York. Jackie, thank you.

Let's bring in a concern New York City resident who lives within 200 feet of a migrant shelter on Staten Island, Salvatore Monforte.

Salvatore, it's always great to have you on the show, I want to play one of the angry Harlem residents and there were a lot of them at these recent meetings. Here is one and I'll get your take.

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: What we are saying is that if there is some housing that is available to provide for asylum seekers, then that same housing should be first priority to those who live --

(END VIDEO CLIP)

GALLAGHER: Salvatore, nobody knows this better than you. I mean, if there's residents in the area, they should be given first priority over the things that are supposed to be, you know, upheld and given to citizens.

SALVATORE MONFORTE, RESIDENT, STATEN ISLAND, NEW YORK: Well, on Staten Island, they came out, they threw our veterans and our seniors out of, you know, an assisted living home, and put the immigrants in there.

The housing up in Harlem there should go to veterans and seniors that are from the community, not from immigrants from another country. Mayor Adams has to get on board with the City Council that blocking everything and remove sanctuary city and let ICE come in, and have NYPD work with ICE and clean out on city.

GALLAGHER: Yes, yes. I mean, that's exactly right. Your sweatshirt by the way says it all, "bring back veterans," and a lot of veterans that I'm talking to are having to wait in line even longer than they normally do because of treating these illegal immigrants and the lines of them are also very long.

One more angry Harlem resident Monforte. We'll get your -- Salvatore, we'll get your take.

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: How do you think you would feel if you have a brand- new luxury building as they describing it, and people are living sometimes two and three generations in one apartment, and now you don't even want to give it to them, you want to bring outsiders in, like what does that look like? You got to take care of the residents that are already did sufferings.

(END VIDEO CLIP)

GALLAGHER: Essentially, they are saying, Salvatore that it's just a fairness issue. That's it. Bottom line.

MONFORTE: Yes. It's fair. The people of Harlem should have the rights to go living in an apartment. You know, the mayor, Adams comes up the home, and he is telling the people up there, he had no knowledge of it when it's his ministration that's putting him in there. He had knowledge of it. He has to back pack, he has to get a pen, remove sanctuary city, have city council move on to it, or the people of New York City have to go after our city council people and push it to them, and remove the sanctuary city. And that's the bottom line here.

GALLAGHER: Yes. And I think many people agree with you on that. Salvatore Monforte, great to have you on the show as always. Thank you, Sir.

MONFORTE: Thank you for having me again. Thank you.

GALLAGHER: You bet.

Well, coming up, a showdown between the Justice Department and the White House with huge legal and political consequences over the transcript of Special Counsel Robert Hur's interview with President Biden.

And later in the "NIGHTCAP" a D.C. man thought he was a multi, multi millionaire when he checked Powerball's web-site and he saw he had the winning numbers. Turns out the wrong numbers were posted on the Powerball web site and they will not give him the prize.

Now, he is suing for his $320 million. Should Powerball make good for their mistake? Let us know, X and Instagram @tracegallagher. We will read the best responses in the "NIGHTCAP".

Meantime, 8:20 on the West Coast. Here is a FOX NEWS @ NIGHT "TRIP ACROSS AMERICA". Live look at the Golden 1 Center in Sacramento, California. Home to the NBA's Kings now pushing for a playoff spot.

And Centerville, Iowa, home of the largest town square in the world without any stoplights or stop signs.

And finally, Daytona Beach, Florida, live where they raced the weather delayed Daytona 500 today. And William Bryan -- Byron, sorry, avoided two big wrecks in the last 10 laps to win the big one.

If you cannot join us live, don't forget, set your DVR and watch us anytime. We are coming right back.

(COMMERCIAL BREAK)

GALLAGHER: Well, the Justice Department now putting pressure on the White House to release the transcript of President Biden's interview with Special Counsel Robert Hur, which raised serious questions about the president's cognitive ability.

And Nikki Haley now trying to put political pressure on former President Trump, ahead of Saturday's Republican primary in South Carolina.

Kevin Corke is back live with a "DEMOCRACY 24" update. Kevin.

CORKE: Trace, a great week coming up. You know how much I love this stuff. So, this is ride in our wheelhouse.

Now, as you know, we are under a week until primary day in South Carolina and the state's former governor has been crisscrossing the Palmetto State, telling voters there that President Trump's attention, in her opinion is not on the campaign trail, but instead, it's in a courtroom, she argues.

Though she does admit that some of the court cases are politically motivated.

However, keep this in mind, her criticism of Mr. Trump is rife with political peril, because it also means that she may be hurting her own standing with some of the very voters that she would need were she the party's ultimate nominee, to say nothing of the fact that she's way back in the polls already in South Carolina and elsewhere.

As for the former president's likely opponent this fall, the current president, well, he is still reeling from a special counsel report that essentially deemed him too elderly and forgetful to stand trial, accused of mishandling classified documents0.

Now, there is this new angle, the A.G. Merrick Garland and his team are putting pressure on the White House to make a decision whether to release a transcript of the interview between Mr. Biden and the special counsel or not.

Now, over on the Hill, GOP House investigators have already asked the DOJ to turn over transcripts and recordings of that interview. The deadline was today. I'm watching my inbox. I'll keep you posted if I see anything, Trace.

GALLAGHER: Keep checking.

Kevin Corke, we'll get back to you as the news warrants. Thank you, sir.

Let's bring in J.L. Partners polls director Scarlett Maguire. And The Hill national ***politics*** reporter, Julia Manchester.

Kevin was talking about the special counsel report there, Julia. Here is what Jason Chaffetz said about that, and then, we'll see what you think.

(BEGIN VIDEO CLIP)

JASON CHAFFETZ, FOX NEWS CHANNEL CONTRIBUTOR: A special counsel is put in place to produce a report for Congress. So, the other big question is, is there a transcript? Is there a video? Is there an audio? Are there extemporaneous notes? What happened during that?

(END VIDEO CLIP)

GALLAGHER: It's interesting, Julia, because, if you release this thing, there could be a lot of damaging stuff in there. You know, you could talk about really watching and listening to what the president has to say. If you hold it, it kind of looks like you're hiding something. How do you -- how do you win this?

JULIA MANCHESTER, NATIONAL POLITICAL REPORTER, THE HILL: Look, I think it's very hard for the Biden administration or the Biden reelection campaign to deal with this at this point. They are continuing to fight this new cycle that really started with the release of Robert Hur's report.

And we saw that after that, the White House had -- you know, they responded and then, President Biden infamously came out in that very impromptu press conference, and we had a whole other news cycle about his age. So, I don't think this is what the Biden administration, the Biden re-election campaign want to be talking about right now. But of course, there's that issue of transparency. So, it's a difficult line they have to walk.

GALLAGHER: It really is a very fine line. It's interesting, Scarlett, because you're dealing in polls all the time. The White House believes if they can get a good State of the Union address on March 7th, then maybe it changes people's minds about the cognitive ability of the president. What do you think? Are people's minds already made up or can you sway some people?

SCARLETT MAGUIRE, POLLSTER: I think it's going to be hard to change people's mind back again. We know that a majority of Americans think that Joe Biden is too old to run again. They don't think he's got the capabilities and it's not just Republicans, it's not even just independents, the majority of Democrats also have concerns about his age going into a second term. So, I think it's going to take quite a lot more than that to change people's minds.

GALLAGHER: Yes, it's interesting because you have people, you know, forces, headwinds from his own party on this, Julia. Here's Congresswoman Rashida Tlaib urging voters in Michigan to not vote for Joe Biden. Watch.

(BEGIN VIDEO CLIP)

REP. RASHIDA TLAIB (D-MI): This is the way you can raise our voices. Don't make us even more invisible. Right now, we feel completely neglected and just unseen by our government. If you want us to be louder, then come here and vote uncommitted.

(END VIDEO CLIP)

GALLAGHER: Clearly, the part of the contingent that is very upset by the way he has handled the Middle East. What do you think the ramifications of this are going in the months ahead?

MANCHESTER: The ramifications, especially in a swing state like Michigan, will be huge. We know that in Michigan, there is a large Arab American population, and we have seen that Arab-Americans and Muslim-Americans, a majority of them, are not happy with how the Biden administration has handled the Israel-Hamas war. And what you're seeing is Rashida Tlaib talking to her constituency, a very important constituency that helped propel Biden to victory in Michigan just four years ago.

She's telling them to essentially sit this out as a way to protest the handling of the war. So, it's very difficult for the Biden administration on this issue. And it's not just Arab Americans, Trace. We have a lot of young Americans who are unhappy with the administration over this as well.

GALLAGHER: Yes, that's a very fair assessment. The pollster, Nate Silver, I know you know this person, Scarlett, said the following, "It's time for the White House to put up or shut up, going on to say Biden can still win, but he's losing now. And there's no plan to fix the problem other than hoping that the polls are wrong or that voters look at the race differently when they have more time to focus on it. But even the most optimistic Democrats, if you read between the lines, are really arguing that Democrats could win despite Biden and not because of him." Is that fair?

MAGUIRE: Yes, I think it is. I think Nate Silver's actually spot on there. So, Joe Biden is no longer an asset for the Democrat brand. In fact, he's acting as a drag anchor on it. If you ask people who they think will perform better, a generic Democrat candidate or Joe Biden on handling the economy, on handling immigration, a generic candidate performs better. The opposite is true of Trump and a generic Republican candidate. So, he's -- yes, he's underperforming quite substantially the Democrat brand and that can really hurt him.

GALLAGHER: Yes, Scarlett MaGuire and Julia Manchester, thank you both.

Well, coming up, with growing tensions in the Middle East, the state department thought this would be a good time to remind staff members to avoid harmful and exclusionary gender terms like mother and father. You think we're kidding? Wait until you hear the Secretary of State.

And a polar bear in Missouri gets excited at the forecast, plus minor issues with the plumbing in a Texas town. The day's best "VIRAL VIDEOS" are next.

But first a live look at the windy city of Chicago. It doesn't look like it, but it is cold in Chicago right now. Warm in studio, though. We're coming right back, five minutes.

(COMMERCIAL BREAK)

GALLAGHER: Well, just days after the U.S. launched dozens of strikes against Iran-backed militants in the Middle East, Secretary of State Antony Blinken was busy cautioning his staff about the dangers of not rockets and bombs, but the dangers of misgendering. Dan Springer is back live with more of the names that should and should not be used. Dan.

SPRINGER: Pretty shocking, Trace. The National Review is reporting that the U.S. State Department put out new guidelines to its employees around the world on how to deal with gender identity and it is lockstep with left-wing ideology. The review got a copy of the cable from Secretary of State Antony Blinken dated February 5th. In it, he says, among the words and phrases to avoid as problematic: manpower, you guys, ladies and gentlemen, mother, father, son, daughter, husband, wife.

Instead, he suggests using the terms: labor force, everyone, folks, you all, parent, child, spouse, partner. Now, keep in mind, as you said, this directive went out just days after the U.S. fired dozens of rockets at Iranian proxy groups that had killed three U.S. servicemen there's also the war in Gaza between Hamas and Israel and of course that war in Ukraine that drags on. So, a lot going on in the world that the State Department is involved in, in the cable Blinken called they, them, and ze, zer -- commonly used pronouns for individuals.

He also said when speaking avoid using phrases like brave men and women on the front lines which is something we have heard countless times to describe the actions of our troops in harm's way. The cable is titled, Modeling DEI, Gender Identity Best Practices. So, apparently, our chief diplomats across the world are now keenly focused on not misgendering anyone. Trace?

GALLAGHER: When brave men and women is no longer the chosen phrase, Dan, we have crossed the Rubicon. Dan Springer, live for us in Seattle. Dan, thank you. Let's bring in Moms for Liberty, Los Angeles Chapter Chair, Karen Frost; and Montgomery County, Maryland School Board Candidate, Bethany Mandel. Thank you, both.

We're going to leave that, the whole Secretary of State and the pronouns. I want to do this because two teachers in Escondido are now suing Gavin Newsom the California governor for forcing them to lie to parents. And Bethany, I want to put this on the screen because this is an e-mail that one of the parents says they got.

And we can see this, it says, the student name is blank, preferred name is redacted. Pronouns are he/him. Dad and stepmom are not aware. Please use redacted and she/her when calling home. This is a list. It's an effective way for them to tell the schools how to lie to parents about their own children. What do you think?

BETHANY MANDEL, MARYLAND SCHOOL BOARD CANDIDATE: It's terrifying that they are keeping secrets like this from parents because these kinds of gender identity issues do not occur in a vacuum. They are often accompanying mental health issues that parents need to be aware of. This is part of a mosaic that they need to be aware of. If their child becomes suicidal, if their child has a mental health crisis, if their child is put on puberty blockers from Planned Parenthood, which is something that can happen without their knowledge or consent, they need to know what's happening with their kid because at the end of the day if something hits the fan, it's the parents are the ones that are going to be the ones that are cleaning up the mess. It's not the teachers, it's not the administrators, they're the ones that are going to have to fix the situation, but they have to have all the information.

GALLAGHER: Yes, I save this for you, Karen, because you're here in California. The lawyer representing these two teachers says the following, "The governor is the boss, has ultimate responsibility for setting education policy for those under his supervision. The California Constitution provides that education is ultimately a matter of state responsibility." Not up to the families, it's up to the state and the state will dictate how you raise your children.

KAREN FROST, LOS ANGELES CHAPTER CHAIR, MOMS FOR LIBERTY: Well, these are troubling times because the Attorney General, Rob Bonta, has said that we need to protect kids from imminent harm.

GALLAGHER: Right.

FROST: So, they are saying that parents are the ones that are the dangerous part of this equation. Now, if a kid goes to school and they're at home one gender and they show up at school and they want to present as a different gender, they're hiding behind a policy of AB-1266, which says that they can't disclose this to the parent.

The language in 1266 does not say that. But the fact of the matter is, is that if a kid comes to school and they disclose to the teachers, that's fine. But a plan needs to be put into place where they work with the counselors, make sure this home is safe, but bring the parents into the equation. And that's not as what's happening right now. And we have people in our own school districts, I know one in particular, that this is happening right now. And they're gaslighting us and saying it's not happening, but it is.

GALLAGHER: And as much as I'm shocked about that, Bethany Mandel, I was reading Rolling Stone today and I come upon this. Social media's cringiest conservative is running for school board as a Democrat. "Bethany Mandel, the controversial right-wing pundit, homeschooling advocate and prolific social media poster is running for county school board as a Democrat. Mandel's campaign is part of a broader push by conservative culture warriors to take over school boards and decide what children can be taught." Bethany, I would like your response on this.

MANDEL: I mean there's so many ways I can go. First of all, I'm coming out on the show as a Democrat. Now all of you know I've actually been a registered Democrat since 2021, but it's a nonpartisan race and it's a nonpartisan issue. The issue in Montgomery County, which is happening all across the country, is that activist school board members have decided to choose their activism over excellence, and they've prioritized that activism over excellence.

And our kids are suffering, and I think that the powers that be within Montgomery County, but also, you know, in the wider country, are scared that they're going to be displaced because they've had control over school boards across the country. And we're seeing the results. We're seeing how well they're doing with our kids. Narrator, it's not great. And so, they're afraid of some accountability, and I'm going to bring it Montgomery County.

GALLAGHER: Good for you. Your final thoughts on this?

FROST: That's exactly right. I mean, Bethany brings up a good point. And here in California, 68 percent of Californians agree on this matter. This is not a partisan issue. This is Democrats and Republicans agree that parents need to have a seat at the table and we need to be the primary force in our children's education.

GALLAGHER: Yes, Karen, thank you. Bethany, best of luck. I'm still shocked, but thank you. We appreciate your time.

Well, first up in tonight's "VIRAL VIDEOS." The polar bear at the St. Louis Zoo went back to his roots during a winter storm over the weekend. He entertained the guests, as you can see there, by rollicking around in the snow and rubbing his head in it. The National Weather Service says St. Louis got about six inches of snow to play in.

But you know who wasn't happy about the weather? Missouri drivers. While the polar bear was playing in the snow, cars were piling up on Interstate- 70. Multiple tractor trailers spun out and got stuck, causing traffic to back up for several hours. First responders even went car to car, making sure everybody was warm while they sat in traffic.

And a major water leak put a damper on residents of College Station, Texas. Some parts of the road were flooded. Others got cordoned off as being impassable because of what was happening, as you can see. Thankfully, the city fixed the issue in relatively short order. If you have a viral video you'd like to share, share it with us @TraceGallagher or @FoxNewsNight on social media.

Coming up, imagine you check the Powerball Web site to see that you have the winning numbers, but when you go to cash in your $320 million prize, you find out the numbers were put on the Web site wrong. We're so sorry. It happened. And now, the man it happened to is suing. Should he get money? Still time to weigh in, X and Instagram @TraceGallagher, the "NIGHTCAP" crew will take this up next.

But first on "FOX AND FRIENDS", tomorrow a major breakthrough for law enforcement. New Jersey State Police show Steve Doocy new technology used to find drugs like fentanyl in minutes. DVR the show if you cannot catch it live. Same for us, we'll see you back with the "NIGHTCAP".

(COMMERCIAL BREAK)

GALLAGHER: Back with the "NIGHTCAP" crew, Kevin Corke, Jackie Ibanez, Dan Springer, Eddie Arrazola, Karen Frost, and Bethany Mandel. Tonight's topic, winning big. So, a D.C. man is suing Powerball Lottery. He tried to claim a $320 million prize but was told his ticket was worthless, but his ticket actually matched the numbers on the Web site but the live drawing numbers were different and so they made a mistake but they would not give him his money. Dan Springer do you need your money if you're going to sue do you think you should what's the what's the status?

SPRINGER: I believe the guy's name is Cheek, so I think he's going to be turning the other cheek. You can't, you cannot believe everything you see on the Internet. Obviously, this guy's not going to collect a dime. Anybody can sue. He's not getting a dime.

GALLAGHER: I don't know, Eddie Arrazola, when the lotto puts the wrong numbers on the Powerball and it's 320 mil, I want my Dan Springer, I want my slice of flesh, right?

ARRAZOLA: I mean, they messed up, so I think at the bare minimum, he should get something. They made the mistake. So, for a few days, he was probably telling everybody he won.

GALLAGHER: Right.

ARRAZOLA: And he probably went and made some purchases he shouldn't have.

GALLAGHER: Ran his credit card up.

ARRAZOLA: Yes, at the bare minimum, pay his credit card bill.

GALLAGHER: Karen?

FROST: I sure hope he didn't quit his job or tell somebody to pound stand or something like that, you know? This guy had one job to put the numbers in, and he got it wrong. So, I hope he gets a consolation prize at least.

GALLAGHER: I would think, I don't know, Kevin Corke, your thoughts. Because I would think something's got to be coming this guy's way.

CORKE: Caveat emptor, buyer beware. And in this case, I think the law is on the side of the lottery but I agree with you to make good give him I don't know a hundred free tickets or maybe yes, a thousand dollars to pay whatever bills he might have racked up.

GALLAGHER: I'm thinking more like 15-20 mil, for me.

CORKE: No way.

GALLAGHER: Jackie Ibanez.

IBANEZ: Yes, did you know he's also suing for $72,000 in interest a day.

GALLAGHER: Yes.

IBANEZ: So, I think it's worth the lawsuit. I definitely would do that. I don't know if he's going to win, but it's worth it.

GALLAGHER: Yes, I think it probably is too. Bethany Mandel, your thoughts on this?

MANDEL: When you go into Target and they advertise a toothbrush for a dollar, they have to give you that price. I feel like the same principle applies. Give them the money.

GALLAGHER: Yes, I mean, listen, I think you've got to give the guys something. If your numbers are wrong on the Web site, for three days, by the way, they were wrong for three days because he checked and checked and checked. You got to give the guy something. And maybe not 15-20 mil, but like 13-14 mil for me.

So, is he entitled to the prize money? Yes. 53 percent on X. Yes, 68 percent on Instagram.

Tina Silvestri, "I feel like he is entitled to the winnings of those numbers were posted on an official Web site, which it was."

Tommy Balbone says, "Not sure about the whole prize, but he should be entitled to a few million."

Ralph Hudnall, "That would be like the NFL reversing the scores of the Super Bowl on their Web site after the game. The live drawing is what counts, not an inadvertent error in transcription to the Web site." OK, I get it. Don't give the guy the money.

Thank you all for joining the "NIGHTCAP". Thank you for watching America's late news, FOX NEWS @ NIGHT. I'm Trace Gallagher in Los Angeles. We'll see you right back here on Tuesday night.

(COMMERCIAL BREAK)

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