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1. [Trump Nominates Amy Coney Barrett, Kicks Off Confirmation Fight; U.S. Reported 55,000-Plus New Coronavirus Cases Friday, Highest In Six Weeks; Trump Won't Commit To Peaceful Transition Of Power If He Loses; Fears Of Chaos On Election Night; Two Days Until First Presidential Debate. Aired 8-9a ET](#)

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Trump Nominates Amy Coney Barrett, Kicks Off Confirmation Fight; U.S. Reported 55,000-Plus New Coronavirus Cases Friday, Highest In Six Weeks; Trump Won't Commit To Peaceful Transition Of Power If He Loses; Fears Of Chaos On Election Night; Two Days Until First Presidential Debate. Aired 8-9a ET

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Highlight: Judge **Amy Coney Barrett** is President Trump's nominee to replace Justice Ruth Bader Ginsburg on the Supreme Court. New COVID infections are climbing again, yet the president says the fight has been won. Five weeks to Election Day and one part of the campaign conversation is remarkably whether the incumbent president will accept the results if they show him losing. Mail-in voting is breaking records and raising concerns it could take days after the election to count all the ballots.

Body

[08:00:17]

(BEGIN VIDEOTAPE)

JOHN KING, CNN HOST (voice-over): A third Trump Supreme Court pick, and an election year confirmation rush.

DONALD TRUMP, PRESIDENT OF THE UNITED STATES: She is a woman of unparalleled achievement, towering intellect, and unyielding loyalty to the Constitution. Judge **Amy Coney Barrett**.

JUDGE **AMY CONEY BARRETT**, SUPREME COURT NOMINEE: I love the United States, and I love the United States Constitution.

KING: Plus, the president won't promise to honor the vote count.

TRUMP: We're going to have to see what happens.

REP. NANCY PELOSI (D-CA), SPEAKER OF THE HOUSE: You are not in North Korea. You are not in Russia, Mr. President.

KING: And new COVID infections are climbing again. Yet the president says the fight is won.

UNIDENTIFIED FEMALE: We are starting off this fall/winter with a very high level of infection.

UNIDENTIFIED FEMALE: We are moving in the wrong direction, and at a very critical moment.

Trump Nominates Amy Coney Barrett, Kicks Off Confirmation Fight; U.S. Reported 55,000-Plus New Coronavirus Cases Friday, Highest In Six Weeks; Trump Won't Commi....

(END VIDEOTAPE)

KING: Welcome to INSIDE POLITICS. I'm John King. To our viewers in the United States and around the world, thank you so much for sharing your Sunday.

First presidential debate is this week, Tuesday, exactly five weeks to Election Day. And the big issues are in plain sight: another turn for the worse in the coronavirus pandemic and its painful economic fallout. A racial reckoning to the Breonna Taylor shooting death in Louisville, Kentucky, the latest source of protest across America demanding justice for police violence against black Americans. Democracy itself is on the ballot. The president refuses to promise a peaceful transition, and says any vote count that shows him losing must be rigged.

And now, a Supreme Court fight, a third Trump justice on the high court would cement a remarkable first term judicial legacy for this president. It is also a late campaign wild card, the president sees as a gateway to a second term.

(BEGIN VIDEO CLIP)

TRUMP: I am supremely confident that Judge Barrett will issue rulings based solely upon a fair reading of the law. She will defend the sacred principle of equal justice for citizens of every race, color, religion and creed. I know that you will make our country very, very proud.

(END VIDEO CLIP)

KING: Judge Amy Coney Barrett is a 48-year-old appeals court judge, a Catholic and mother of seven. A protege of the late Justice Antonin Scalia.

Judge Barrett's confirmation would cement the 6-3 conservative court majority. And in her rulings and in her writings, well, conservatives see their dreams of abolishing Obamacare and reversing Roe v. Wade.

(BEGIN VIDEO CLIP)

BARRETT: I clerked for Justice Scalia more than 20 years ago, but the lessons I learned still resonate. His judicial philosophy is mine too. A judge must apply the law as written. Judges are not policymakers, and they must be resolute in setting aside any policy views they might hold.

(END VIDEO CLIP)

KING: Those careful words saying little or nothing specific, well, that's part of the fast track confirmation strategy. The goal is a vote by the end of October, just before Election Day. And, right now, Republicans have the votes and in their view a very compelling reason to use their power now.

It is more than possible Republicans lose both the White House and the Senate when America votes in just 37 days. Democrats say the election winner should pick the next justice, but as Democrats voice their outrage, it is very clear understand the Senate math and are focused more on a November election argument.

(BEGIN VIDEO CLIP)

SEN. CHUCK SCHUMER (D-NY), SENATE MINORITY LEADER: A vote for Amy Coney Barrett is a dagger aimed at the heart of the healthcare protections Americans so desperately need and want. By nominating Judge Barrett to the Supreme Court, President Trump has put Americans' healthcare at grave risk. (END VIDEO CLIP)

KING: With us this Sunday to share the reporting and their insights, Seung Min Kim at "The Washington Post", and CNN Supreme Court analyst and biographer, Joan Biskupic.

Seung Min, let's get the math out of the way. You heard Chuck Schumer there criticizing the argument against her there -- Joan, I'll start with you, I think we're having a technical issue with Seung Min.

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I want to show the headline from the CNN piece here, the Supreme Court hasn't been this conservative since the 1930s, that's the article you write for CNN.com. We know from her past writings she has said she believed John Roberts, the chief justice, made a mistake when he upheld Obamacare.

And we know that if Obamacare is argued before the court in just a few weeks, if she's on the bench, the likelihood of Obamacare being tossed out is quite high, right?

JOAN BISKUPIC, CNN SUPREME COURT ANALYST: Yeah, Ruth Bader Ginsburg was a key vote in 2012 to uphold the Affordable Care Act. And it was then upheld in 2015, but this time around, it's a whole new court.

And, John, what my story wanted to emphasize was that there is a big difference between a 5-4 court and a 6-3 court.

[08:05:02]

It's not just a matter of a simple vote, because the four liberals used to be able to pick off a conservative here or there just as they did when they persuaded John Roberts to uphold the Affordable Care Act back in 2012. It is going to be nearly impossible this time around.

The case will be argued on November 10th, but I do want to caution, it is not a done deal it is going to be thrown out. There are several off ramps that the court could take here, but as a judge and as an academic, Amy Coney Barrett has certainly, certainly expressed skepticism for these kinds of government programs, for government regulation and what she wrote about Chief Justice John Roberts' vote and legal reason reasoning to uphold the Affordable Care Act in 2012 is that it simply was not plausible -- John.

KING: And so, Seung Min, I think that's part of the reason. The Democrats understand the math. They hope to create some public outrage that frightens the Senate Republicans to stop, to not confirm before the election. But the odds of that happening are close to zero, maybe less than zero, I would argue, because Mitch McConnell knows. He might not be the majority leader in January, he knows Donald Trump might not win re-election, they have the power now. Their case is to use it.

So, the Democrats are arguing more even as they protest the process about November.

If Obamacare gets wiped out, 54 million people with pre-existing conditions would have a big change in their life. Coverage for 12 million people on Medicaid expansion, 12 million people get their coverage through the Obamacare exchanges. Lifetime caps on insurance payouts could come back, requirements to insurers coverage mental health and addiction treatment could change.

So, Democrats in the short-term, Seung Min, think they're going to lose. They're trying to win long-term when it comes to the election, whether that be the White House or the Senate, correct?

SEUNG MIN KIM, CNN POLITICAL ANALYST: Correct. I mean, their message now is healthcare, healthcare, healthcare. And they -- it's a very disciplined message from Senate Democrats who recognize that they don't have a lot of procedural powers to stop this nomination.

As you pointed out, Republicans do have the votes to proceed and eventually confirm this nominee. Republicans do acknowledge that all the pieces do have to fall precisely at the right place to get this done before Election Day, which we know is far from a guarantee, but presuming that Democrats can't stop this, they're making this nomination about healthcare. We saw how successful the healthcare message was in the 2018 elections, and Chuck Schumer and Senate Democrats definitely want to replicate that.

KING: So, another big issue, Joan, in every Supreme Court confirmation, but particularly in this one because of your point about 6-3 is a whole different world than 5-4, in terms of when you get the votes, is *Roe v. Wade* will come up. I remember, you know, Justice John Roberts when he became Chief Justice John Roberts said that's a precedent. You know, despite my personal views maybe, that's a precedent.

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Amy Coney Barrett has tried to tread the same ground. This is a speech in Jacksonville. Listen.

(BEGIN VIDEO CLIP)

BARRETT: I don't think that abortion or the right to abortion is -- would change.

UNIDENTIFIED MALE: You think some of the restrictions might change?

BARRETT: I think some of the restrictions would change. I don't think the core case, Roe's court holding that, you know, women have a right to an abortion, I don't think that would change. I think the question of whether people can get very late-term abortions, you know, how many restrictions can be put on clinics, I think that would change.

(END VIDEO CLIP)

KING: That could be hugely significant. In fact, when you read her writings and speeches, she says don't focus on Roe v. Wade, look at Planned Parenthood versus Casey, the latter case which she views more as the law of the land. That case said states can enact some restrictions within reason.

BISKUPIC: Yes, John. And what could happen in the near term is not outright reversal of Roe v. Wade or the -- the 1992 Casey decision that you referred to. But more chipping away, chipping away at the fundamental right that women have right now to terminate a pregnancy.

The Supreme Court in recent years has made it easier for states to enact regulations. And, again, with the 6-3 court, likely what we would be seeing are rulings that would just give states much more latitude so that in rural areas, you know, clinics would close down, even more than they have, just would be much harder to obtain an abortion. So that's what I anticipate in the near term.

And, you know, in the long term, President Trump has said that he wanted to see the end of Roe v. Wade, that it go back to the states, and I do not expect Judge **Barrett** to reveal her true sentiment on this. You know, no nominee in recent history has and especially since she -- her prior writings have expressed some skepticism at least for Roe v. Wade, she is going to be a quite careful in what she tells the committee.

[08:10:01]

But President Trump and his close advisers would not have chosen her if they did not believe that she would be someone who would pull back on reproductive rights.

KING: And, Seung Min Kim, are the Democrats united as they go into this approach, the liberal groups want them to pull the power cords from the United States capital. Do anything they can to gum up the works and block the process.

You can hear in Chuck Schumer, they think, yes, we're going to try, we're going to make this more about the election. Joe Biden will speak later today. Do the Democrats -- there is talk they don't trust Dianne Feinstein, the ranking member on the Judiciary Committee, to handle this case.

Do the Democrats have a united strategy or is there push and pull?

KIM: There is definitely some push and pull. Sources tell me there is even a debate about the caucus as to whether to meet with Judge **Barrett**. Most senators seem not inclined to meet with -- to engage in those courtesy visits, but there is even back and forth about that.

There is a major fight brewing, even well into 2021, assuming that Joe Biden wins the White House, you're already hearing the pressure from the base, from Democrats to abolish the legislative filibuster and to expand the number of seats on the court, which is something that a lot of Democratic senators and the Senate candidates were doing well in key Senate battlegrounds do not want to do as for now.

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So that's why Chuck Schumer is trying to steer the focus back to October 2020, not what happens in 2021, but the focus on the fight over healthcare. There is also concern certainly about Senator Feinstein and her leadership of this committee. And these are all kind of these strategic decisions that Chuck Schumer had to, you know, resolve and make sure everyone is united behind one strategy at least for the next several weeks.

KING: Some fascinating chess moves still to play out, but it appears as of this moment, President Trump will have a remarkable legacy, three Supreme Court justices if this confirmation goes through and at peels court judges, the district judges below it, major achievement for him as we see what happens come this election season.

Seung Min Kim, Joan Biskupic, thank you so much for the reporting and insights.

Up next, the Supreme Court fight is hardly the late campaign drama. The coronavirus case count is again on the rise. The president hopes you won't notice.

[08:16:25]

KING: The numbers simply don't lie, the new coronavirus numbers are getting worse, at a bad time. Let's take a look. If you go through the 50-state trend map right now, we're bringing up on the screen here, 21 states orange and red. That means they're trending in the wrong direction.

Look at the Western half of the country, the northern part of the country. Twenty-one states reporting new infections now compared to a week ago. That's heading in the wrong direction. The president says we turned the final corner. This is not. This is a turn for the worse.

Let's look at the case curve perspective, the peak of the summer surge near 80,000 new infections a day. We started to come down, you see that below 40,000, the red line tells you everything you need to know. We're trending back up.

Fifty-five thousand new infections on Friday. Over 40,000 again on Saturday. And they tend to tip, they dip during the weekend, heading in the wrong direction. Then you look at the positivity map, this tells you what is going to happen next week and beyond and there is very troubling here, the deeper the color, the higher the percentage of coronavirus tests coming back as positive, 25 percent in South Dakota, 21 percent out of Idaho, 18 percent in Wisconsin, throughout the teens in the central parts of the country, Eleven in Texas, still 10 in Florida.

Those are bad metrics. More people testing positive, means more infections as the virus continues to spread. Now, I don't like to look at this from a political perspective but the president does. He rails against blue states all the time. So, let's take a look at this.

The red line, states with Republican governors, the blue line, states with Democratic governors. New York, the Northeast, New England, they went up the curve first. But, look, states with Democratic governors stayed down. States with Republican governors that are responsible in those states the big summer surge. Came down some, now going back up. This is cases per 1 million residents, states with Republican governors well ahead.

You look at it from a different perspective, if you want to do politics, as the president likes to do, 2016 Trump states versus 2016 Clinton states. Yes, again, New York, New Jersey, California, Washington state, they went through this first.

But they have come down and they largely stayed down. It is 2016 Trump states big in the summer serge, came down some, now trending back up.

But this is the map we should look at, because we're all Americans, right? Forget the D's, the R's. Look at this map, trending in the wrong direction at the wrong time. It is getting cooler, we're in the fall, people are moving indoors -- Dr. Anthony Fauci says be worried.

(BEGIN VIDEO CLIP)

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DR. ANTHONY FAUCI, DIRECTOR, NATIONAL INSTITUTE OF ALLERGY & INFECTIOUS DISEASES: You're going to have to do a lot of things indoors out of necessity of the temperature. And I'm afraid with that being the case, if we don't carefully follow the guidelines, the other guidelines, the masking, the distance, the crowds, that we may see another surge again.

It was like 43,000 new cases yesterday. You don't want to enter into the fall and winter with a community spread at that level.

(END VIDEO CLIP)

KING: With us this Sunday to share their expertise, Dr. Ashish Jha. He's the dean of the Brown School of Public Health. Dr. Megan Ranney, emergency room physician in Rhode Island, affiliated with Brown University.

Let's start right there, Dr. Jha, where Dr. Fauci left off. He says you don't want to enter the fall with a high baseline. We are entering the fall with a high baseline, back above 50,000 new infections. The trajectory is pretty horrible, correct?

DR. ASHISH JHA, DEAN, BROWN UNIVERSITY SCHOOL OF PUBLIC HEALTH: Yeah, good morning, John. Thank you for having me on.

The trajectory is all wrong. This is not where we want to be entering the fall. And, of course, the -- it is not just that our baseline is high, we're heading in the wrong direction. Things are worse today about 30 percent higher number of cases than they were just two weeks ago.

I think a lot of this was triggered by Labor Day weekend, which we were worried about. But also just by pandemic fatigue, people getting tired and we're not doing the things we need to do.

KING: We're not doing the things we need to do.

[08:20:00]

At a time like this, you need leadership at every level. Dr. Ranney, the governor of Florida, his state has come down some, but 10 percent positivity now, still generating a high number of new infections, the governor of Florida says we can fully reopen bars and restaurants, let's listen.

(BEGIN VIDEO CLIP)

GOV. RON DESANTIS (R), FLORIDA: Some people say, well, you can never do, you know, full -- what you want to do until there is a vaccine. Well, we don't know, hopefully, but now people are saying, hey, even if there is a vaccine, it is still going to take another year before you can operate appropriately and, you know, I don't think that's viable. I don't think that is acceptable.

(END VIDEO CLIP)

KING: He doesn't think it is viable or acceptable to keep people under wraps. So we're going to go to 100 percent restaurant capacity. Is that wise?

DR. MEGAN RANNEY, EMERGENCY PHYSICIAN, LIFESPAN/BROWN UNIVERSITY: You know what is not viable or acceptable, putting the citizens of your state at widespread risk of COVID-19 infection, hospitalization and death.

Now, let me be clear, I agree with the governor we can't stay in lockdown forever. But there are some really simple measures that can be put in place to delay the spread of this virus and to protect our most vulnerable, including our children. Things like universal masking, things like maintaining restaurants at 50 percent capacity.

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The governor of Florida has not put universal masking mandates in place and is actively discouraging cities from doing that. If he could say, fine, we'll reopen, but make people mask, he could potentially save lives. I am worried for his state citizens, though, with this current decision.

KING: One of the big questions is this would all go away or be mitigated if we had a vaccine. You'll testify before Congress in the week ahead about some of the process and controversy about that. Just this past week, I want you to listen here, Dr. Hahn says don't worry, there won't be any politics, but the president says that's up to me.

Listen.

(BEGIN VIDEO CLIP)

TRUMP: That has to be approved by the White House. We may or may not approve it.

ALEXANDER AZAR, HEALTH & HUMAN SERVICES SECRETARY: I want to reassure you and the American people, politics will play no role whatsoever in the approval of a vaccine. There are many independent checks in the system that we have built in.

DR. STEPHEN HAHN, FDA COMMISSIONER: Science will guide our decisions. FDA will not permit any pressure from anyone to change that.

(END VIDEO CLIP)

KING: The question is can we trust that, given that the president routinely, whether it's the CDC, whether it's Dr. Fauci, whether it's the vaccine debate, the president routinely, regularly tries to put his thumb on the scale.

JHA: It is all about the data, John. It is all about the metrics we use, right?

So, last week, the FDA put out a set of guidance that said they want to have at least two months of follow-up, of people who have gotten vaccinated. They want to look to make sure the vaccines aren't reducing severe infections. Those are exactly right.

If we do those things, to me, it doesn't matter who approves it or doesn't approve it, as long as the metrics are right, scientifically driven, driven by public health, we'll be fine. If those metrics get changed and politics ends up really driving what we're evaluating, and, of course, we're all going to worry about the process.

KING: And, Dr. Ranney, we focus on trajectory and trend lines, because they can teach us, A, what to be worried about and, B, what we have to stop.

Recently, if you look at this chart, we'll show you from the CDC, infection rate among people under the age of 20, if you go back to May, it was 7.4 percent, in June, up to 11 percent, July, 14 percent, now, we're above 15 percent.

These are kids and teens making up a larger share of the virus cases, back to school, back to campus, is that, OK, that's inevitable or is that a warning sign?

RANNEY: I see it very much as a warning sign. Listen, we know that kids are less likely to get really sick if they do get infected with COVID-19. However, there are two things about kids getting sick. The first is, we don't yet know all of the long-term consequences of this virus. And there are some studies out there suggesting that a significant portion of kids and young adults who are infected have long-term heart damage as well as damage to other organs.

So the effects of these infections may be seen decades in the future. The second thing that worries me is that those kids and young adults are then going out into their community. So, it's not just about them getting sick, it is about them getting their grandparents, their parents, grocery store workers and bus drivers sick.

So, to me, it is a warning sign of what is to come, even if those kids escape hospitalizations and deaths.

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KING: Dr. Ranney, Dr. Jha, as always, grateful for your insights and expertise on a Sunday morning. Appreciate your time. Thank you so much.

Up next for us, civics class Trump style. The president won't commit to a peaceful transition of power or to accept any vote tally that shows him losing.

[08:28:29] KING: Five weeks to Election Day and one part of the campaign conversation is remarkably whether the incumbent president will accept the results if they show him losing.

President Trump repeatedly in recent days refused to say he would transfer power peacefully and he insists any election he loses is a rigged election.

(BEGIN VIDEO CLIP)

TRUMP: I could be leading and then they'll just keep getting ballots and ballots and ballots and ballots because now they're saying that the ballots can come in late, well, what does that mean? Because we're going to win.

We're not going to lose this except if they cheat. And we do want a very friendly transition. But we don't want to be cheated and be stupid and say, oh, let's transit -- we'll go and do a transition, and we know that there were thousands and thousands of ballots that made the difference through cheating.

(END VIDEO CLIP)

KING: Speaker Nancy Pelosi made a point of reminding the president, this is not Russia or North Korea.

Now, this is certain to be a debate topic Tuesday night. But so far, Joe Biden sees it more as a Trump rant, than a true threat to democracy.

(BEGIN VIDEO CLIP)

JOE BIDEN (D), PRESIDENTIAL NOMINEE: The last thing we need is the equivalent of a coup. This is not -- this is not who we are. No one is going to back him when that occurs if that were to occur.

[01:29:45]

I think this is his whole -- the whole notion of him talking about this, Stephanie, is to take our eye off the ball. Not to talk about what's happening to the people dying of COVID, not talking about all the unemployment. It's always about distraction with him.

(END VIDEO CLIP)

KING: With us this Sunday, the former Democratic governor of Massachusetts, Deval Patrick, and the former Pennsylvania Republican senator, Rick Santorum.

Governor Patrick, I want to start with you because Joe Biden is interesting there. A lot of Democrats, including the House Speaker were furious. They were outraged. They were worried.

They say the president is not committing to do what presidents always do. If I lose, I will have a peaceful transition. I will hand off on inauguration day. That is the American ideal. Joe Biden says it is just a rant. Listen to Tom Friedman of "The New York Times" here.

(BEGIN VIDEO CLIP)

TOM FRIEDMAN, COLUMNIST, "THE NEW YORK TIMES": I began my career as a journalist covering Lebanon's second civil war and its history. And I'm terrified to find myself ending my career as a journalist covering America's

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potential second civil war in its history. I think what happened in the last few days is a six-alarm fire. I think it is Defcon five.

(END VIDEO CLIP)

KING: Governor, who is right? Is this Defcon five as Tom Friedman says, or is Joe Biden right? This is another Trump rant trying to distract us?

DEVAL PATRICK (D), FORMER MASSACHUSETTS GOVERNOR: Well, you know, I hope Joe Biden is right, but I'm worried that Tom is. You know, we have -- this president has shown consistently his carelessness in use of language and his lack of understanding or worse maybe it is his understanding that the things he says actually have consequences in the behaviors of citizens and sometimes people in official positions.

What I think Democrats have to do is show up in force, to deliver an overwhelming victory for the Biden/Harris ticket and for Democrats up and down the ballot. And then to move on to smooth transition and to prompt action on the issues that face the American people from healthcare, to job creation, to climate change and beyond.

KING: Senator Santorum, this is going to come up at the debate Tuesday night. What should the president's answer be and is his answer so far acceptable? You've seen Mitch McConnell, I could go off a long list of Republicans who had to say this week, no, no, no, we will have a peaceful transition of powers. Ben Sasse in the Senate, Republican senator says the president just says crazy stuff from time to time. It is not helpful, is it?

RICK SANTORUM (R), FORMER PENNSYLVANIA SENATOR: Well, no. I think Governor Patrick's right. I mean the president is known for having careless language and I think there is a lot of careless language in there.

But if you just -- if you boil down to what he actually said, other than some of the puffery, he said he's for a peaceful transition. Now, what he said is if this is a contested election, he's going to contest it. In other words, you know, he's going to do what Al Gore did basically. You know, Al Gore took this thing to the Supreme Court because he didn't believe in the validity of the results.

So I think what Donald Trump is saying is, if it is going to be -- if it is that kind of race, where I'm ahead and then trickle, trickle, trickle, trickle and all of a sudden you know, -- they keep counting until I lose, yes, I'm going to contest this, just like Al Gore contested it. And I think Joe Biden would contest it if that was the situation. But we have a methodology to do that. We ended up in the court or in the Congress, and the decision is made. And I think the president is saying, you know, once we go through that process, there will be a transition.

KING: But There is a difference. There is a difference, every candidate at every level whether you're running for dogcatcher or President of the United States has every right to have people watch what happens and to challenge anything they think is shenanigans or nefarious or just a mistake-- just a mistake.

However, Senator, you've won close races in Pennsylvania. You've lost close races in Pennsylvania. The president was in your state last night saying that the Democratic governor of Pennsylvania is trying to rig the system. Is Pennsylvania open to corruption, has there been widespread fraud in your past elections? Or is the president overhyping something to try to gin up a controversy that doesn't exist?

SANTORUM: Well, I mean, there are some changes that were made to the -- to Pennsylvania elections that were not in place when I was there, and you know, allowing more mail-in ballots. And as the Democratic Supreme Court did, which I think, you know, the president is upset about, Republicans are very upset about, the Democratic Supreme Court there basically ruled that the law isn't what the law says.

I mean the law says you know, the ballots can't be counted past a certain date, and the Supreme Court said, well, yes, that's what the law says, but we don't think that's right. Well, this is why -- all Republicans are excited about **Amy Coney Barrett**. They're excited about the judicial appointments of Donald Trump because we want judges that actually read the law, and if laws need to be changed, then you change them.

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You don't have courts come in and say, well, we have a Democratic majority and we're going to change things so it benefits our side. And that's what I think, you know, Republicans are upset about and that's why, you know -- this is a dangerous game Democrats are playing trying to squeeze every vote out, you just create the perception that, you know, they're willing to open for fraud, in order to win this election. And that's the problem.

KING: Go ahead, Governor.

[08:34:44]

PATRICK: John, may I -- may I -- just on two points with due respect to Senator Santorum. We had a primary here in Massachusetts earlier this month. We had record turnout, some 60 percent, I think it was, of that vote was cast early or by mail. And we had the result on election night.

It can be done. It has been done in lots of places. We are hearing doubts raised, not because of actual experience, but because the president and some of his Republican allies want those doubts to be raised so that there is unease about the outcome when it is announced, if it doesn't go his way.

On the point about judges, you know, I've been listening as a lawyer for many, many decades, the rhetoric about strict construction and careful reading of the text. And we hear this and will hear this from this very appealing nominee of President Trump's.

But this business of movement conservatism includes judicial activism. And judges appointed by conservative presidents have absolutely no hesitation reading things into the constitution that are not there. And one example is to define a corporation as a person, which was a necessary underpinning to the Citizens United case and the flood of dark money into our politics.

So this is not about principle. This is about power. And it is in the case of raising concerns about the integrity of the election, and it is when Donald Trump and Mitch McConnell nominate the judges that they have.

KING: I see the Senator --

SANTORUM: Well, just one point on that, Governor, is that we have seen since mail-in voting several elections that have been contested and in New York City, congressional election that was very important. I mean you're seeing it all over the place. There are problems.

And you guys, you don't do yourselves any good by ignoring the reality that there are serious problems here when you're making dramatic changes to how elections are done, they're locally run, your people don't have experience in this, and you're just causing a legitimate concern to be raised. And then you blow it off as if making major changes to election law before a big presidential election is no big deal.

It is a big deal. There will be problems. I'm not saying that it is going to determine the election. I think it is unlikely to do so. But don't discount it and sort of say all you care about is power. That's just not fair.

KING: It is the giant challenge, gentlemen.

PATRICK: It's a big deal.

(CROSSTALK)

KING: I'll have you both come back and discuss it with us in the days ahead. We're short on time today. I'm sorry.

But Senator Santorum, Governor Patrick -- thank you for your time. It is a big deal. It is a significant challenge. We will see if there are problems. We'll get through this hopefully with smart conversations together.

Gentlemen, thank you.

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Mail-in voting is breaking records and raising concerns it could take days after the election to count all the ballots. Some predict Bush v. Gore on steroids.

[08:37:40]

KING: Election day is five weeks from Tuesday but the election actually is already under way and it is challenging in these pandemic times.

Let's just take a look here, 27 states essentially are already voting. If you see the gold states on the map, they're already open for in person early voting. The purple states are states that are already sending out ballots for the general election. And we know request for ballots are off the charts because of the COVID safety concerns.

So let's walk through some of this, gets confusing a little bit, right? Different states, different rules.

So these are battleground states we have on the calendar here. If you live in Arizona, Colorado, Florida or New Hampshire, your ballot has to be received by election day. In Texas, it could be the next day. Georgia and Pennsylvania give you essentially until the end of election week.

But look, more than half a dozen battleground states -- these are in the next week. Michigan right now says it could be received as late as November 17th. So if it is close, in these states, we could be counting for a while after election day.

And this is new for a lot of state states. These are just battleground states up on the map in what happened back in 2016. 6 percent of Nevada's vote was by mail. 73 percent in Arizona, they have done this before, you would assume they'll get it easier this time. Only 5 percent in Texas, you know. 41 percent in Iowa, it's a big deal there. Only 4 percent in battleground Pennsylvania.

So this is a new system in a state that could decide the presidency. The president of the United States was there in Pennsylvania last night. He says already, this is the president, he makes stuff up a lot, he says the Democratic governor already trying to rig things.

(BEGIN VIDEO CLIP)

DONALD TRUMP, PRESIDENT OF THE UNITED STATES: What they're doing is not right. And it is all run by these ballots, the ones we're talking about, whether it is Pennsylvania, because we're going to win in Pennsylvania. You've got to watch but you have a governor who is in charge of ballots. They're going to try and steal the election.

Look at this crowd. The only way they can win Pennsylvania, frankly, is to cheat on the ballots. That's the way I look at it.

(END VIDEO CLIP)

KING: The lieutenant governor of Pennsylvania John Fetterman joins us this Sunday. And Governor Fetterman, let me start right there. You heard the president last night in your state saying your partner, the governor -- that you and he are trying to rig the election by cheating on ballots. What is your answer to that?

LT. GOV. JOHN FETTERMAN (D-PA): I'll just say that it's his story, he's going to tell it the way he needs to. That's not the reality on the ground. Everybody knows that. And we're in a situation where we understand the dynamic and we're prepared and not one single instance of voter fraud was detected during our primary.

And this is a GOP bill, far more Republicans in Pennsylvania voted for vote by mail than Democrats did. So there is, of course, no underlying truth in that assertion.

KING: And yet it is an overwhelming challenge for the Commonwealth of Pennsylvania and for many states across the country in that we have unprecedented requests for this. Many states have not had widespread use of mail-in balloting in the past.

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In Pennsylvania, you have had this concern about so-called naked ballots. You have a process where you get your ballot, you put it inside one envelope, then you put that envelope in a larger envelope. It's designed to protect the integrity of the vote, the privacy of that voter.

But there are court cases suggesting 100,000 ballots might not be valid. Can anything be done between now and election day to deal with that or do you think questions about these ballots could end up determining who wins?

FETTERMAN: No I think there is a great deal that can be done. There is a great deal that is being done. Education, voter awareness. What is not helpful is panic and chaos.

And I challenge anybody to not feed into that because that helps the other side. And they know that. And that's why they're trying to foment that.

The bottom line is follow the instructions, vote early, and we're going to have an outcome that is guaranteed to be reliable and a true reflection of the democratic will of Pennsylvania.

[08:44:55]

KING: And so if you go through the map, as I do every day, right now it is tilted significantly in Joe Biden's favor. But it is quite plausible to see a Trump reelection strategy that tracks closely to what happened in 2016.

Your state, the Commonwealth of Pennsylvania would be absolutely critical to that.

FETTERMAN: We will.

KING: Just this morning the former Republican governor Tom Ridge in the "Philadelphia Inquirer" wrote an op-ed explaining why he's endorsing Joe Biden for president. Where are we in Pennsylvania at this moment? I've seen some polls that show Biden well ahead. I've seen some internal (ph) other day that it says it's closer than that. Where do you see it?

FETTERMAN: Anyone that underestimates Donald Trump's strength in Pennsylvania does so at their peril. He is popular. And it is going to be a race.

Pennsylvania needs to be treated as a margin play and I believe Pennsylvania will pick the president. That being said, we are very well-equipped with Joe Biden to take Pennsylvania and restore the blue wall that gave Donald Trump his first term in office.

Things on the ground are fluid, but at the end of the day, the dynamics are there. The governor and I won in 2018 by over 900,000 vote swing versus Donald Trump's result in 2016.

So there is a lot of reason to believe that we will deliver a good outcome, but there is also plenty of evidence to suggest that Donald Trump is robust in Pennsylvania, and that we need to take it to the end and not buy into the chaos and the misinformation and the lies and just understand that if you follow the instructions, you vote early, and it is going to be a true trusted safe result that we all can believe in.

KING: We have talked several times over the past six months or so about the COVID dynamics in the Commonwealth. The president was there last night for a rally. I believe we have some pictures in which you, again, had a large crowd gathered in a way that simply does not meet the recommendations set out by the president's own scientists that you should not be this close together for a long period of time. If you are out -- even outdoors, you should have a mask.

You see the pictures here. I know the governor was quite upset about this happening. Not much you can do about it though, is there?

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FETTERMAN: Well, I don't get into that. All I'm saying is, vote, you know. You know, that's the ultimate solution to all of this. If you're -- if you're bothered by ignoring public health advice, if you're bothered by packing the Supreme Court, if you're bothered by the rhetoric and the direction of this country, you vote. It is just that simple.

And in Pennsylvania we have a system in place that's going to guarantee an accurate result. And anyone that says otherwise has an agenda contrary to basic democracy. And we in Pennsylvania have that at the forefront coming into 2020 and everybody can have faith in what our result is going to be.

KING: Very interesting five weeks ahead of us. Lieutenant Governor John Fetterman of Pennsylvania. Sir, thank you for your time this morning.

FETTERMAN: Thanks for having me on.

KING: My pleasure.

Up next, we set the table and the map for Tuesday's first presidential debate.

[08:47:50]

KING: The first presidential debate is Tuesday night. We know from our reporting now and from 2016 history that President Trump's strategy is aggressive, slashing, interrupting, personal.

(BEGIN VIDEO CLIP)

HILLARY CLINTON, FORMER SECRETARY OF STATE: Donald supported the invasion of Iraq.

TRUMP: Wrong.

CLINTON: That is absolutely proved --

TRUMP: Wrong.

CLINTON: -- over and over again.

What we want to do is to replenish the --

TRUMP: Such a nasty woman.

CLINTON: Well, that's because he'd rather have a puppet as president of the United States --

TRUMP: No puppet. No puppet.

CLINTON: And it's pretty clear --

TRUMP: You're the puppet.

(END VIDEO CLIP)

KING: Joe Biden's history is one of a solid not necessarily flashy debater. He more than held his own in VP debates against Sarah Palin in 2008 and against Paul Ryan in 2012.

In the 2020 cycle it was again mostly solid but at times uneven.

(BEGIN VIDEO CLIP)

BIDEN: No man has a right to raise the hand to a woman in anger other than in self-defense and that's rarely ever occurs.

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Play the radio, make sure the television -- excuse me, make sure you have the record player on at night.

UNIDENTIFIED MALE: If elected you would turn 82 at the end of your first term, you'd be the oldest president in American history.

BIDEN: No, it's Winston Churchill.

UNIDENTIFIED MALE: Are you willing to commit -- American history.

BIDEN: American -- I was joking. That was a joke.

UNIDENTIFIED MALE: Oh, ok.

(END VIDEO CLIP)

KING: Tuesday debate night is five weeks to election date. Early voting is underway across most of the country. And the race at the moment anyway, clearly is tilting Biden's way. You can see it here. Remarkable stability in the national polling, a consistent Biden lead. Look at it across months of volatility in the country -- impeachment pandemic, racial reckoning, economic distress. And now a Supreme Court fight.

And it is advantage Biden when we take a look at state-by-state polling, too. Look at these new polls in the upper Midwest industrial states just this past week. And if we tick through them: Trump won Pennsylvania, Biden's ahead. Trump won Ohio, Biden's ahead. Trump won Wisconsin, Biden's ahead. Trump won Michigan, Biden is ahead. Hillary Clinton won Minnesota, but just narrowly. Look at that big Biden lead there.

The changing demographics of the Sun Belt also present Biden with opportunities. Look at these polling numbers here. Again, Trump won Arizona, Biden's leading. Trump won Florida, he's ahead but it's competitive. Trump won Georgia, competitive. Trump won North Carolina, it's about a tie there, slight advantage Biden. And Hillary Clinton won Nevada but look at the size of the Biden lead there.

Goal number one on debate night, especially in these polarized times, is to motivate already committed supporters to make sure they turn out and vote. Only a tiny slice of voters at this moment say they are undecided but the first debate stage is a giant stage to reach them or perhaps to change minds.

CNN's Jeff Zeleny shared some pre-debate voter impressions from battleground Wisconsin.

(BEGIN VIDEO CLIP)

DREW PAPEZ, TRUMP VOTER: I love that he speaks like all of the rest of us speak. You know, Just off the cuff. I never have to question if that's really him.

PETER ATIKI, BIDEN VOTER: After (INAUDIBLE) with COVID-19, the protests, I just feel like Trump is just only appealing to his base. So I'm with Joe Biden.

CAROLINE QUINLAN, UNDECIDED VOTER: The debates, that's going to be a big thing for me. How they both present themselves, how they both talk about the issues and, you know, how confident they are for the next four years.

(END VIDEO CLIP) KING: So keep those battleground state polls we just showed you in mind as we go through the map now. And we'll show you how it's tilted heavily in favor of Biden.

Here's where we have the right now. 269 electoral votes for Joe Biden either strong or leaning. You only need 270 to win.

Dark blue, solid Biden; light blue, leaning Biden. If the map stayed like this, Joe Biden could just sweep the congressional districts in Maine. That's all he would need. And Joe Biden could be the next president of the United

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States without winning Florida, without winning Ohio, without winning Pennsylvania or North Carolina or Georgia. The map is that tilted in Biden's favor. He doesn't have to win everything.

[08:54:47]

KING: Trump, though, does need a big comeback. So how would the president get there? Here's the president's map from four years ago, very hard to recreate.

So let's move off where we are now and try to show you. Does the president have a path to victory? Yes, he does. Trump re-election would start with winning Ohio. It's a very Republican-leaning state, a tossup right now but its history is Republican. North Carolina also has Republican DNA when it comes to presidential politics, completely within the realm of possibility.

So too is Georgia, easily you could envision that being a Trump state again in 2020 as is Florida, a very competitive state but Republican leaning.

So look, what would happen there. That gets the President in play. Can he keep Arizona again? If he does, then we essentially have a tie and it could all come down to Pennsylvania. If Biden wins, he's the next president. If Trump wins, he wins reelection.

Now what if Joe Biden keeps Arizona, the demographics of Arizona are changing. Can Trump win all these states? And then what? Then he would have to go back to the Midwest as he did before. Could the president flip Wisconsin?

So the paths for Biden, very easy to imagine. The map at the moment tilted in his favor. Not so much for Trump but there is still a reasonable possibility for re-election, which is why this debate for both candidates is so important.

(BEGIN VIDEO CLIP)

TRUMP: Maybe he's going to be great at the debate. You know, he's been doing it for 47 years. Somebody said, oh, he won't do well at the debate. I said I think you're wrong. He'll do fine. He's going to do fine. They'll give him a big shot of something and he'll go out there.

BIDEN: I'm prepared to go out and make my case as to why I think he's failed. And why I think the answers I have to proceed will help the American people and the American economy and make us safer internationally.

He doesn't know how to debate the facts. He's not that smart.

(END VIDEO CLIP)

KING: It will be a remarkable week ahead. The debate of course Tuesday night. A fascinating time in the race as we head into the final five weeks.

That's it for us today on INSIDE POLITICS. I hope you can catch us weekdays as well. We're here at 11:00 a.m. and noon Eastern.

Up next a very busy "STATE OF THE UNION WITH JAKE TAPPER". His guests include the House Speaker Nancy Pelosi, Jill Biden, Republican Senator Tom Cotton and Democratic Senator Joe Manchin.

Thanks again for sharing your Sunday. Have a great day.

[08:56:48]

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