

Getting Curious with Jonathan Van Ness, Leah Litman, & Kate Shaw

JVN: Hey, curious people. I'm Jonathan Van Ness and welcome back to Getting Curious. Well, honey, if you would have told me on June 27th that we are going to be having that presidential debate last night, I would have said thank God and thank God we did. So first debate between Vice President Harris and a former 45 happened last night. And honey, I'm curious, what's project 2025? And are we going to win this election before we get into asking those questions? I hope you're having a great week. I hope you're thriving. It's Emmy's Week. It is, it's just giving vibes it's giving. Uh, are you following us at Curious with JVN? Please do. Also too, if you have not listened to our Ask JVN we release these every Wednesday, it's kind of giving like, like uh it's giving uh our gorgeous senior producer, Chris and me talking about sex and other things too. It's very fun. Um, we have so much fun doing it so make sure you're uh subscribing over there. Uh, you can also uh catch us on Apple Podcasts, Spotify and Amazon. Uh Amazon is actually gonna be featuring us in their spot in their society and culture section on Amazon. So, check that out too. If you'll be getting your podcast over there at Amazon. Project 2025 is a big subject. The presidential election is a big subject. So to talk about all of that and some more, we're bringing back two of the three amazing hosts of the hit podcast from Crooked Media, Strict Scrutiny. Leah Lippman and Kate Shaw. Melissa Murray couldn't join us today. We love Melissa. We'll see you next time. Uh, but if you don't listen to this Strict Scrutiny podcast, you really should. I love it so much. These are constitutional law professors. I respect these women so much. They are literal geniuses. So I'm so excited that they had time to come back on Getting Curious. Let's get into it and make sure to stick around for the end of the episode where we will debrief on what we learned and what we're curious about for next time, Kate, Leah, welcome back to Getting Curious, how are you?

LEAH LITMAN: I mean, as good as can be considered given the state of the world. I don't know.

KATE SHAW: We're excited to be here. We're always so excited to talk to you.

JVN: You guys, I get so excited to talk to you as well. We um we don't have Melissa today. We have two thirds of the, as I call it like the Destiny's Child of the like constitution and like, and and uh, and, and the Destiny Child of constitutional law and also like Scotus, which I just think is what a good Destiny's Child. Like if there was room for two, this is like, like for two, Destiny's Childs, I think it just makes the perfect amount of room for you guys. So welcome back. I'm trying to remember. I came on your guys' podcast for, there's just so much shit has happened since we talked last. I almost actually don't what, what, what was going on when we talked last? Do you guys remember?

KATE SHAW: So there are so many scandals. It is hard to keep them straight, especially because they happened. And then there was just like the avalanche of terrible end of term decisions from the court. So there's both like their extracurricular activities and their horrible decisions, but just on the extracurricular front for now, right? So we had two sets of revelations about these flags that Martha Ann ostensibly, right? Sam says he didn't know anything about it. So this is Sam Alito and his wife, Martha Ann is apparently the one who was responsible for flying these two pretty scandalous flags. One, an inverted American flag over their home in the DC area in Virginia. And the other, this appeal to heaven like real

MAGA affiliated flag over their house on the Jersey shore. So we have that separate from that reporting. There was this sort of freelance documentary filmmaker and journalist named Lauren Windsor who infiltrated the Supreme Court and got this audio recording of Martha Ann sounding like the even more unhinged version of a person that we saw, you know, reported on in the flag stories. So I do think we have learned a lot about House Alito since we last spoke and all of it is pretty scary.

JVN: Wow. You putting it into House Alito like Game of Thrones Vernacular so that I can really wrap my head around. That is so appreciated.

KATE SHAW: There's an asterisk because that is a Melissa coinage. But it is entirely correct is House Alito? And they're as scary, I think as any power center in Westeros, they truly are.

LEAH LITMAN: And it's so Game of Thrones. Martha Ann actually wanted to make her own flag.

JVN: Oh my God, it is so true. She did. She fully wanted like a new House of Alito flag because the other ones weren't quite right wing extremist enough. Exactly for her. But, you know, it's interesting. Well, I don't know if this is interesting or just shows that I was brought up on a cornfield, like in a, in a county that voted for Trump 3 to 1 in 2020. But it's like they must think like that about like with our pride flag, they must be like, God, could you get any fucking gayer?

LEAH LITMAN: Well, that was literally what precipitated Martha Ann wanting to make her own flag is having to see a pride flag. She wanted to put up some counter protest flag that had vergogna on it, which is Italian for shame.

JVN: Oh, yeah. But it's like, it's not like our pride flags have like, fucking, you know, hardcore sex on it or something. Like it can't just be like joy and like enough room for everyone or something like god.

KATE SHAW: It's a rainbow and yet she's so existentially bothered by seeing it that she wants to invent a flag that says shame.

JVN: What's that other flag mean? That like the the really scary, the that one –

LEAH LITMAN: Are you talking about appeal to heaven

JVN: Yes, appeal to heaven.

LEAH LITMAN: Because both flags are scary. So appeal to heaven flag which the Alito's flew with their Jersey summer house in summer 2023 is a flag that, you know, has a long history, but more recently has become associated with both the stop the steal movement to overturn the 2020 election and also the movement for Christian nationalism like that is what that flag has now become associated with. And of course, the inverted American flag which they displayed at their house on the heat. You know, as Joe Biden is about to be inaugurated, that too is associated with the stop the Steal movement even though it has long kind of symbolized a nation in distress. So those are the causes that at least Martha and Alito is signaling some affinity for.

JVN: So interestingly enough that was like the totality of what I wanted us to talk about like it for an hour and a half, like months ago. But then like project 2025 we want to know about it. We obviously saw a lot, we've, we've seen a lot about on the news. We've heard a lot about

on the news. I see it on my TikTok, but I still don't fully, fully wrap my gay brain around it. So this is like, is it kind of like a pitch deck powerpoint for like what the Republican Congress and Senate and that President Trump would do. But now President Trump is just playing dumb and, and playing like he doesn't know what it is?

LEAH LITMAN: Basically yes, I would modify it a little as saying, like, it's not just what a Republican congress would do. It is what a Republican president would do even absent, you know, the Republicans winning the Senate and the House and the things that lays out are utterly terrifying. Um, and so Kate, Melissa, um and I did a few episodes in which we forced ourselves to read all 900 pages of project 2025. So we could kind of let people know exactly what's in there. Um, because I think like this is kind of out in the ether, but if you dive into it, it's somehow more unhinged, I think um than like general statements convey.

JVN: Um sidebar real quick if that fucking President Biden does not give the three of you the presidential Medal of Freedom or something for doing that work, nine –

KATE SHAW: For reading Josh Holley's book and now 900 pages of project 2025, a mandate for leadership.

JVN: Yes, get these fucking women – yes!

Thank you. Thank you for your nomination.

JVN: Which one is it? Is it? I know he just got in a fight about which one's better. But what's like the non-offensive one that like civilians are supposed to win? It's like the presidential –

KATE SHAW: Medal of freedom, yeah, we'd be happy with that

JVN: I'm fucking throwing your three hats in the fucking ring because y'all really fucking need it, ok? Melissa, we'll be, it'll be fine going whoever had their hair short. We can give you guys a little sassy little, you know, smart buns so that they don't get fucked up when we're putting the metal on there. But goddamn, that is hard work. 900 pages. Leah, which, which did you guys split it up and it was 300 each or did you all have to read all you all –

LEAH LITMAN: No.

JVN: Read all 900 pages?

LEAH LITMAN: Yeah, I mean, there's so much in there like we really wanted to make sure we weren't missing anything. Um, and so like we did our best to cover it as best we could.

JVN: I can't even believe you guys did that. I'm, I'm I had an ADHD attack on like, what's your guys' minimum guarantee on this podcast? I hope you guys are getting paid enough for this because that is some serious fucking labor.

KATE SHAW: It's for the people JVN.

JVN: That is no fucking, you guys! And also like, I know you guys did it. Like you guys did that. That is so – how long did it take you to read 900 pages of this?

LEAH LITMAN: I don't know, total time, but I definitely spent the entirety of a drive to and from Toronto in the passenger seat reading it. Um, and that's like about five hours each way. Um –

JVN: How did you not get carsick?

LEAH LITMAN: well, no, some additional time as well, but just to give you like a sense of a minimum.

JVN: I just can't even read in the passenger seat like that without throwing up and then reading that on top of it.

LEAH LITMAN: I was already throwing up from reading it. So I was just like, ok, let's just get it all over with.

JVN: Like let me have, what's that thing called the seasickness medicine that my friend's always taking?

KATE SHAW: Dramamine, yeah.

JVN: Dramamine, she free lines that Dramamine, she needs it. So like, so, so what's the deal? Is it broken up into chapters? What's the vibe? What's the ethos? So what are we doing?

LEAH LITMAN: Yeah. So they divided into chapters and sections. So they attempt to like categorize things. They have a section on the general welfare by which they kind of mean like social policy. Um, and then they have a section on, you know, the defense –

KATE SHAW: Common defense is what they call it.

LEAH LITMAN: Which is kind of about foreign policy. Um And then they have like other scattered sections as well. Um, but yeah, so there are different sections and then each of the chapters, most of them are devoted to particular agencies within the federal government. So they have a chapter on, for example, you know, like the Department of Health and Human Services, um and how they would basically turn that into an abortion menstrual surveillance program. Um, and then they have a chapter on, you know, the Department of Defense, um and Department of Homeland Security. And so they kind of go agency by agency and basically outline their plans to weaponize each of these aspects of the federal government in service of their revengest agenda.

JVN: What does health and human services do now? Doesn't that like help people find like home or like housing?

LEAH LITMAN: It gives people health insurance like Medicaid? Um uh so like they are, you know, part of the department that figures out like what is part of the Medicaid and Medicare um programs –

KATE SHAW: It implements a lot of the directives in the Affordable Care Act, things like that, that operates these healthcare exchanges. So, so that's the current Health and Human Services. They basically want to refashion it as this like kind of department of life and like make it as Leah was saying like an a menstruation and abortion surveillance operation where states have to report granular data on abortion but also on miscarriages up to the federal government and the federal government can respond accordingly if it thinks that states are permitting abortion and that miscarriages look suspicious. I mean, it, it is pretty terrifying stuff and that is just literally one part one chapter in one section in the overall kind of plan for authoritarian takeover, which is how a guest on our podcast. Ruth Ben recently referred to, which I think is accurate.

JVN: What about the Department of Education? I know it wants to dismantle it.

KATE SHAW: Well that's done. They want that they want that one gone.

JVN: And so does that, what does that mean for, like, what's allowed to be taught in schools? Like, like, because I guess that's more of like a local issue now, like in school boards and things. So they would just, what does that do? Like blowing up the Department of Education, just like, what does that do?

KATE SHAW: I mean, I think they want, so, I think they want to end federal funding for state. I mean, the schools are, you're totally right. They're run largely locally, but there's a lot of federal money that goes to public education and they're fundamentally hostile to the project of public education. They would like to shift all funds such as they are to kind of a voucher program so that parents can just pay for private and parochial education for their kids. And ultimately, I think they would like to see the end of public education. So I think the idea of abolishing the Federal Department of Education is in service of that larger project of ending public schools as we know them.

JVN: And why the fuck would you want to do that to just make everyone get indoctrinated in like church schools?

LEAH LITMAN: Well, that's definitely part of it, right? Like one through line through a lot of project 2025 is this desire to advance Christian nationalism and impose Christian values on the entire country. Um, but I also think part of the hostility to public education is another through line, which is this real hostility to providing opportunity and allowing, you know, economic and socio-economic mobility in the United States. Like they would basically prefer to let the rich guys stay rich and get richer. Um, and allow them to do that on the backs of everyone else. Um, and like public education was, I think in a lot of ways, like one of the greatest like mobility programs, you know, in the United States. And so that's part of why they just want to end it.

KATE SHAW: Yeah. And I, I think that's a larger kind of theme which is sort of what is government for, what is federal government for, what is government in general? And project 2025 is wildly hostile to the use of government power to advance the goals of things like racial and gender justice, economic, you know, equality, the eradication of economic inequality, like, you know, addressing climate change, things like that. So they're hostile to the use of government for any of those things, but they're not like anti-government. Exactly. They are fine with government as like a jobs program for a GOP president's cronies and they're fine with the use of state power to police women and gender, non conforming people's bodies and things like menstruation. So, so there it's not, you know, I think it's a little too simplistic to think of it as like just an anti-government screed project 2025. It's just about a fundamental rec conceptualization of what government is for.

JVN: Does it say anything about like Department of Corrections or like jails or like how or like criminal justice stuff? Like what would they do?

LEAH LITMAN: So, I think the most relevant parts of uh criminal law are about political control over um the federal criminal apparatus. So this relates to what we were talking about earlier, which is they would basically remove the firewall between the White House and the Department of Justice. Um, and also make, for example, the FBI director more accountable to the president and thereby allow political officials to direct who should be investigated and for what, who should be prosecuted and for what and who should not be investigated and

who should not be prosecuted. Um And so that is kind of what they have to say about federal criminal law.

JVN: So now one person we have not talked about uh how's Thomas who or who I like to call Claire Bear only because his name Claire, when I shortened it to Claire, it does rhyme with Bear and Claire Bear just feels fun. Um, but what the fuck has he been up to? And, and doesn't it feel really bad that Alito and Clarence Thomas are making these rulings when they are so clearly like up MAGA's ass?

LEAH LITMAN: I would say it does not look great as far as what he has been up to. You know, this is like kind of evergreen content. But definitely since the last time we were together, you know, democratic senators have reported that Clarence Thomas took additional vacations with billionaires that have not yet been reported. So it just feels like again, you know, going back to the boiling frog metaphor. Um at some point, we just became like anesthetized to this, right? But like it's still grotesque that we keep learning more about all of the free shit Clarence Thomas gets from billionaires with clear interests right in the composition of the court and the rulings of the court.

JVN: And there, I mean, is there any other – oh, so, so he has he got caught up in a few more. I know that Dick Durbin did that. We love him, Senator from Illinois. Um, has he had any other big name things coming out? Like whether Ginni Thomas or him any other big news other than just like even more billionaire trips than we previously thought?

LEAH LITMAN: I don't think since we last recorded. But um you know, this is not to say, right? Like there isn't a lot going on there because all of the stuff we had learned about right up to this point was still completely ridiculous. Right. The fact that Clarence Thomas was participating in cases involving January 6th when his wife was texting the White House Chief of staff as well as individual legislators um in states to effectively, right, stop the steal and do the coup and throw out the boats. Um, should be horrifying. Right. The fact that she was doing that right. The wife of a supreme court justice is apparently pro coup, anti democracy. That's bad. Right? The fact that the court justice then goes and participates in those cases.

JVN: Do we have, do we have those messages from Ginni Thomas?

LEAH LITMAN: Oh yeah! The messages are deranged. So she talks about how the Biden crime family is going to be standing before military tribunals at Guantanamo Bay. They are unhinged.

JVN: Which considering that Jared Kushner got, what was it? \$2 billion from the Saudi Arabian government? What? I mean, what? Like I can't get over it. I'm not that we should like pull a, uh what about in terms of that? But I mean, Jesus, um ok, so you mentioned something earlier, which is that like, it doesn't really matter if a Republican Congress or Senate gets elected. Exactly to enact all of project 2025. What would Trump be able to accomplish? Absent a, a Republican House and Senate?

KATE SHAW: A lot of this stuff is stuff that is by design, you know, at least in theory achievable by a president unilaterally. So changing. So now eliminating a cabinet department like the Department of Education that would require Congress to pass a law, but you can do a lot to throttle the efficacy of federal agency. You can like refuse to appoint people or you can appoint people who are fundamentally hostile to the mission of the agency or the programs the agency has the authority to carry out. Um, so you can, you know, fire

people who want to stand up for the actual programs that or and the spending and things like that, that the agency is involved with. And then there are things that are absolutely achievable unilaterally by the executive branch. So we haven't yet talked at least in this conversation about the Comstock Act, right? That's that 1873 anti obscenity or anti vice law, that project 2025 wants to revive and actually have executive branch enforce in a way that might make it impossible. So if you could basically say, well, abortion, medica – medication, abortion is obscene under the definition of like obscenity in this, you know, Victorian era law. And so sending abortion pills by the mail violates this law and the justice department should prosecute people, doctors, you know, uh drug manufacturers, individuals who even order the stuff, they can all be subject to criminal prosecution for their involvement with sending obscene things through the mail. Well, that's just a decision about what to prosecute. That doesn't require a law to be passed because there's already a law on the books that says this even though it's not enforced. And I think it couldn't be enforced now, consistent with our understanding of what the constitution protects, but they obviously don't share that understanding. So that's an example of something that wouldn't require Congress to do a thing.

LEAH LITMAN: Can I add in a few more?

JVN: Yes!

LEAH LITMAN: Because um I think it's helpful to understand like the stakes of just like control of the presidency. So in addition to enforcing the Comstock Act, something else, project 2025 floats is reversing the FDA's approval of Mifepristone, one of the two medication, abortion drugs. So that could just be done by appointing some crazy pants right to uh a federal agency and not by Congress enacting a law. Um, they also float using the Department of Justice to go after what they believe is discrimination and what they believe is discrimination is equality for LGBT Q individuals, right? Like they think that discriminates against religious and social conservatives. So they are proposing using the Department of Justice to basically attack LGBT civil rights. They're also proposing using the Department of Justice to investigate baseless allegations of voter fraud and restrict voting. Um, this is also something right that the president could attempt to do absent Congress. Um And there are just a host of proposals like this in which they are floating right, enforcing some laws or reversing some agency position that would be hugely consequential and don't require any congressional action. Oh, they also were like, yeah, let's ban porn. Right. And just, like, enforce anti obscenity laws to ban pornography because we think, right are a super geniuses at project 2025. That porn is bad and it's not protected by the first amendment even though, right, the Supreme Court has said it is. So that's something else they might just try within the 1st 180 days of the next Republican administration.

JVN: I mean, I mean, you would think that Republicans would draw the line somewhere, you know, that they like porn. I mean, they must, they, they, they've got like the porn, everyone likes porn. Um, ok, well, I guess not.

KATE SHAW: Not Josh Hawley at least according to Josh Hawley.

JVN: Yeah, that's true. It diminishes your libido or whatever. Um, so, ok, so that's so like what? Ok, my brain was, there's just so much to take in there. But, so one thing that's different about 2024 than when Trump took office in 2017 is Trump versus the United States. So even in now that he knows there really isn't guard rails as long as it's like, not, obviously

not your presidential thing. So him saying that I want to unilaterally, like, I want to remove the firewall between the Department of Justice and the presidency. Well, that's me helping the country because I think that that is me helping the country. So, like all a lot of these things that he wants to do unilaterally or just by executive action. Like we know, like for instance, like when he instituted the Muslim ban or the travel ban that got struck down by a Supreme Court that no longer exists. No?

KATE SHAW: Well, it actually ultimately got upheld by the Supreme Court, but you're right in that there were three versions of the travel ban and the lower courts struck down various aspects of the earlier versions –

JVN: Once he added North Korea. Wasn't that how he got around it?

KATE SHAW: Venezuela, I mean, it was, it was preposterous. It was the Supreme Court upheld the final version, right, which had some officials in Venezuela and North Korea and a more robust process for exemptions and things like that. But it was still ridiculous for them to uphold it at all. It all grew out of the same unlawful unconstitutional spark, which is this campaign pledge to put a stop to Muslims entering the United States. Like this was all traceable to that promise and the fulfillment of that promise, the Supreme Court basically looked the other way and was like, well, this is different from those earlier versions.

JVN: But that wasn't more progressive because wasn't –

LEAH LITMAN: That was when Kennedy was still on the Supreme Court.

JVN: And Ruth Bader Ginsburg still was.

LEAH LITMAN: Yup.

KATE SHAW: But she was in decent, so, but, but a 5 - 4 including justice Kennedy allowed Trump to enforce that third version of the ban.

JVN: But I'm just saying it's even worse now, it's even worse. And so anybody that's gonna be ruling on these ultimately, like even if you get lucky because this is like also kind of random, but I feel like I need to know and it wasn't on our prep so you can just like, blink twice if we don't want to. But how many, how many district courts is there, or like, you know, there's like the fifth circuit court and like the 10th, how many circuits is there? Again?

KATE SHAW: There are the 11 circuits in the DC circuit and then a specialized court of appeals called the Federal Circuit. So it's like 13.

JVN: And then, but it's, oh, ok. So it's like 1 through 13 plus like –

KATE SHAW: 1 through 11 and then there's DC and the Federal circuit.

JVN: So there's 1 through 11 and then DC and Federal. So that's like –

KATE SHAW: 12 of them that are geographic circuits. So, yeah, there's a dozen.

JVN: Ok. Oh, because DC is basically like would have been the 12th of like the one through. Ok.

KATE SHAW: Yeah.

JVN: So, um, of those 12, like, do we know like how many are just like right off the top of your head? Like how many are like more conservative and how many are more like progressive?

KATE SHAW: I mean, you know, there are no in terms of how their –

LEAH LITMAN: 8th, 6th, 5th and 11th are pretty solidly Republican.

KATE SHAW: And depending on the panels and the other, the 1st and the second are, you are more liberal. Uh, 3rd is mixed, the 4th is mixed. The 7th is mixed because Trump got a lot of appointments on there. But the three that Leah just mentioned the 10th is pretty conservative too. The 9th is pretty liberal, although there's lots of conservative judges there too. So, so there are, there are a handful of, I guess what I would say is there are, there are some extremely conservative circuits and there are no extremely liberal circuits.

LEAH LITMAN: Yes.

JVN: Got it.

KATE SHAW: There are extreme conservatives and then mixed circuits and then a couple that lean more liberal, but none that are anywhere near as liberal as the conservative ones are conservative.

KATE SHAW: Yup.

JVN: I hate to say it, but a lot of what I know about, like the circuit courts or what I think I know from the circuit courts is from like, uh to catch uh or the *Making of a Murderer*. That the Wisconsin thing where and then in two where they had to like, go like reargue his case and they were like, well, it depends because, because isn't it like ad hoc when you get to argue in front of everybody, like, they don't pick the little panel like ad hoc is like when you argue for like the whole of it.

KATE SHAW: En banc.

JVN: Oh, what's that word again?

LEAH LITMAN: En banc.

KATE SHAW: En banc or en bank.

JVN: En banc! Honey? Oh my God, I'm so obsessed with you guys. I can't stand it!

Kate and Leah laughing

JVN: Do you guys, so I live in Texas and I know that this isn't like the big scotus, but the Texas Supreme Court has been really hostile and it feels crazier than normal lately, just like with what they've done to undocumented immigrants. And, but I feel like, it's not even getting the news coverage that it should because these feel like, really, I mean, the way I understand it and you can correct me if I'm wrong. But I think I understand that like, if a woman wanted to go report rape at a police station, like they could be like, well, are you a citizen? Like they can, like, ask for, like, it's like those, like, show me your papers like the SB five thing in Arizona, it's like that's allowed to happen here now and I think it is happening. Is that wrong?

LEAH LITMAN: So I am not familiar with like the precise practice. Um you know, the, the Texas immigration law that, you know, attempted to get Texas state officials to basically enforce federal immigration law that is on pause. Um because uh you know, federal courts said like that is likely preempted by federal law. Um, but like, you know, thinking about like what the Texas Supreme Court has done, like the example that immediately came to mind was what they did in the reproductive justice litigation involving Amanda Zarski where like where you had multiple plaintiffs saying like, you need to clarify when doctors can perform medically necessary abortions, you know, for medical exemptions and whatnot under the law. And the Texas Supreme Court was basically like, go screw yourselves. Like we're not going to even try because you haven't established –

JVN: They're like, it's clear enough already.

LEAH LITMAN: Well, you haven't even established you're going to be injured by the fact that like this Texas law is obviously like withholding emergency care and resulting in serious medical emergencies.

JVN: And they, and like that, that was one of them and was like, yeah, I mean that's like a different episode but thank you for saying that and we, hate it here. Um so I need to leave. Ok? But also I need to like stay and make it better. I'm very hung up on, like, I'm very hung up on it, you guys.

KATE SHAW: But I can, I say a quick word about that, that Texas High Court, like those are elected positions. And we actually just did an episode where, you know, there, we were just talking about the Wisconsin Supreme Court and that was just such an enormous deal when, you know, Justice Janet, we can call our Janet Proto with one flipped the balance of power on that court and that has just changed everything from the perspective of democracy on the ground in the state of Wisconsin. And that feels like much further, like, you know, kind of not out of reach but like in the middle distance in Texas, like actually a place where you could actually, you could get progressive justices elected statewide and that might change. But, but there are people on the ground working in Texas who actually think that, you know, building power from the ground up so that people start to care about state Supreme Court elections. So that they are, you said, like, we're not even in Texas, people are not really focusing on what the State Supreme Court is doing. And so people are not like voting with that court, like front of mind, those are things that we can work on trying to change. And like maybe you can get like one or two progressive justice on that court and then like it becomes possible, you know, in the near term to actually have a majority that reflects what people in Texas want because the disconnect between what people want when it comes to things like abortion and what these elected officials are actually giving them is just stunning. Like no one wants what this Texas Supreme Court said, like people in emergencies, sometimes life threatening emergencies can't have abortions. They have to go to New Mexico if they're in Texas. Like, and if they bleed out on the way like, sorry, like no –

LEAH LITMAN: No one wants that.

KATE SHAW: No one wants that. And yet that's what these elected officials are giving them.

JVN: We know that this election coming up is going to be one of the most consequential in history. It is if not the most consequential in history. I mean, I think a second Trump presidency knowing that he said that he wanted to be a dictator on day one, he didn't seem like he was joking. Trump versus United States is that ruling is just, we really can't say a little

enough about it and we've gone through the main objections of, of project 2025. Um, oh, but we did forget the ban on biological males from competing in women's sports. That'll be, they love doing that. The right wing is obsessed with that right now.

KATE SHAW: Obsessed. Yeah.

JVN: What else? What is there anything that we miss? Like, so make federal bureaucrats more accountable to the democratically elected president and congress? Does that just mean that they can haul them in there for more testimonies?

LEAH LITMAN: No, so what they want to do is they want to replace federal civil servants with partisan hack loyalists. So this is also something that, you know, a second Trump administration could try to do without Congress. They would reclassify a bunch of federal civil servants as employees who can be fired, you know, in the change of a presidential administration and thereby replace a bunch of, you know, career civil servants who are experts at their jobs, right, who have some independence from politics with people who are just completely on board with the project 2025 agenda.

JVN: So as democrats have made project 2025 more clear and as more information continues to get out into the public sphere about what project 2025 is uh what it looks like. And then we have Donald Trump saying that he doesn't know any of these people, he doesn't know any of these things. He doesn't know why people are saying all this stuff about project 2025. Who is that Paul Dans? And why is he not involved anymore?

LEAH LITMAN: So he was the leader of the presidential transition project as part of project 2025. He was also coincidentally an official in the first Trump administration um in their office and management budget um who was in charge of a lot of personnel matters. Um, so this is someone who, you know, worked in the Trump administration specifically over matters concerning like who would be in the Trump administration. And now comes up with a plan for what the next Trump administration should do, including like with respect to personnel and the kinds of people that they should be hiring. Um, so he is not involved to the extent that like they kind of wrapped up project 2025 because they already put out all of their plans and said, here's the handbook for what to do in the 1st 180 days. Here is right, a mechanism to find all of the crazy people who will work in a second Trump administration to do all of this. Um, it's, it's here for you, right, like –

JVN: What's that mechanism? How do you do it? Do they put out some like bat signal in the fucking sky that says MAGA or something like come out now, or –

LEAH LITMAN: They literally set up like an online forum that was like, if you want to be part of a next Trump administration, answer all of these questions and put your name to this personnel database.

KATE SHAW: So they've already started collecting names and they also had these like training modules to like get folks who are like MAGA curious, but maybe not like all the way they are like, kind of ready to go on day one. So there's a whole personnel apparatus and the fact that they have, you know, Dans has departed and they're trying to distance themselves from project 2025 that the Trump campaign is, I think is like, actually really powerful evidence that they understand how politically toxic this whole thing is.

JVN: And then what, what big money benefits like the most from Project 2025 like who benefits the most from from Project 2025.

LEAH LITMAN: Um, so definitely the super rich um as well as the people who, as we were saying, like, basically want to use government power to go after women, queer people, um uh racial minorities and whatnot. Um but like people with a lot of money also benefit from Project 2025. It calls for a cut in the corporate tax rate. Um it calls for a reduction in the tax rate to the people, the highest income bracket. Um it would allow, you know, larger corporate employers to punish workers for joining unions. Um it would allow employers greater flexibility to reduce the amount of benefits um that they give to their employees. Um it also weirdly proposes these totally strange things like eliminating the Federal Reserve Board's role in federal money. So they basically proposed like allowing all of the finance BS in Silicon Valley who funded JD Vance's career to just create more private currency like Cryptocurrency. So it benefits them as well.

JVN: But isn't like the Federal Reserve is supposed to be like an independent economic policy expert board that like helps us not go into a great recession. And then we want –

KATE SHAW: Not if they have anything to say about it.

LEAH LITMAN: Exactly they are willing to plunge us into a great recession.

KATE SHAW: They would end the, you're right, the independence of the Fed is absolutely critical to monetary policy, global financial stability. And they are very happy to like, throw all that into the wind.

LEAH LITMAN: They're like fuck that shit.

KATE SHAW: Yeah. No, they, they don't like that.

JVN: And shouldn't we remember here that Donald Trump has gone bankrupt not once, not twice. But wasn't it three times or was it five? I forget.

KATE SHAW: I could say more than twice.

JVN: And can I just say too as someone who like the old, the former parent company of JVN Hair went bankrupt last year while they owed me low in the ballpark, but seven figures that was like, like hours and hours and hours. Like, I do like 60 70 hours a week for JVN Hair and for a whole year, my face was on the front of every Sephora in North America.

KATE SHAW: Oh my God. I love those ads in Sephora.

JVN: I got zero dollars. Zero, no money.

KATE SHAW: Wow.

JVN: Zero money and in fact, I to pay hundreds of thousands of dollars with a bankruptcy lawyer to get my name out of that contract. So I could even find a new parent company. So like when people go bank, when businesses go bankrupt and fuck over all the people who worked their whole fucking adult life to get to line their pockets and then they get away scot free with golden parachutes no less do we? I mean, I guess you guys should just fucking file for bankruptcy. But I mean, not yet, Jesus Christ, I'm still doing better than that. But the point is you just don't want someone who is such an asshole that they fucking filed for bankruptcy to be in charge of like the world of fucking economy when you file for bankruptcy, that literally means that you were such a fucking piece of fucking shit when you're a company, not a person but a company because individuals like I get it and it's like individuals should have –

KATE SHAW: Yeah, people get into medical debt. There's all kinds of reasons.

JVN: When you're doing it with hundreds and hundreds and hundreds of people and thousands of people's livelihoods because you decided that you were going to like light, you know, hundreds of millions of dollars on fire on God knows what and not show up for the people that like got you there. It's just so fucked up like we shouldn't be trusting this fucking person. He's such an asshole. Um ok. Uh ok, so we got that, we got, ok, so, so Harris Waltz needs to win by large enough a margin that it couldn't be stolen from them. And I think in Bush Gore it did get stolen from Gore but that was still, I mean, it's like what, 538 votes in the state when it got stopped. I mean that was like, that is just nail biter thin. That's like a fucking statehouse thin, like race thin. And this is like the president of fucking United States. So how much do we need to prove that we won by? I mean, it just needs to be like, just fucking like, just so hardcore.

KATE SHAW: You know, I think it needs to be a solid margin in a number of states. This is what's scary, right? Because like even though Joe Biden won by, you know, nearly 7 million votes in the national popular vote, you know, if you had something like 40,000 additional Trump votes across Wisconsin, Georgia and Arizona, that would have flipped the election to Trump. And so, but because it was three and all of these like crazy schemes that he was hatching, he would have had to Trump would have had to be successful in multiple states in order to actually flip the outcome in his favor. It ended up being too much if we were really close in one or two states. And like a kind of scorched earth litigation campaign or other, like, you know, sketchy tactics could be successful in one or two states. Like, I think there's reason to be really worried, but lately you've been writing about Bush versus Gore also, like, I don't know how, what, what do you think in terms of, like, what the margin would have to be here to feel comfortable?

LEAH LITMAN: Yeah, so I, I think you're right. It, it depends a little bit on the number of states, you know, that are potentially in play and also the margin in those states. You know, if you think back to 2020 you know, Trump was asking the governor of Georgia to find him an additional like 11,000 votes. You know, that's not exactly a small number of votes. Um I don't want to put like an exact number on the margin uh in any particular state. Um but I think it's right. Um, that if you are all of a sudden looking at margins that are 500, 1000 or whatnot, then like I worry about some of these Republican controlled courts being emboldened to suggest, well, some of these ballots might be invalid will allow, you know, the Republican Secretary of State or Republican Attorney General or Republican Party, you know, to challenge them, potentially throw them out, um, and thereby, you know, like switch the results of the election.

JVN: Did you guys see, um, I didn't see this clip yet. But I read about how in Kamala first sit down uh on CNN. Um, which, no, I, I'm not gonna let my ADHD win. I'm gonna, I'm staying true. Um but did you see that she would, that she said that she would uh appoint a Republican to one of her cabinet positions?

LEAH LITMAN: Yeah.

JVN: I'm so sick of republicans running towards their base and democrats running away from it. Like I just, if you really think, I mean, I mean, honey, you literally got Nikki fucking Haley saying she's going to vote for Trump. You think a little Republican in the fucking cabinet is going to like people do ultimately, especially like rich people, they really rich white people,

they really vote with the pocketbook and I just don't and I think you're going to disenfranchise and disincentivize a lot more people than what you're encouraging by focusing on these like getting republicans to vote for you. Like get the fucking progressive girlies out there and you'll, and we'll do it, honey.

KATE SHAW: I'm of two minds. You know, there is a real tradition of this one cross party cabinet appointment –

JVN: There is?

KATE SHAW: Like Obama, put Roy Lahood who had been a Republican congressman from Illinois and his as Transportation Secretary.

JVN: I forgot about that.

KATE SHAW: Like it is, it is viewed as an olive branch of the opposing party. But your point is well taken, which is like, is that kind of nostalgia for an era of bipartisanship that like, we just cannot go back to and I think there's something to that. But I also think when she said that I was like, there are Republicans like Adam Kinzinger, for example,

LEAH LITMAN: Exactly.

JVN: Oh, you know, I'm very attracted to him.

KATE SHAW: So would you be ok with him in the cabinet?

JVN: No, but I would be ok with like jerking off with him in a sauna at an equinox. You know what I'm saying?

KATE SHAW: Yeah, your mileage may vary. I feel like he might be all right in the cabinet, but it would take for

JVN: Yeah, well what cabinet position would you point him to election integrity? But that's not a cabinet.

KATE SHAW: No. I mean, honestly, like HHS transportation, these are, these are agencies that sometimes people without a ton of subject matter expertise but who are good managers can come in and do a good job running. I don't know if –

LEAH LITMAN: Well like cybersecurity and infrastructure –

JVN: What's Pete going to get, what's Secretary Buttigieg going to get if Kamala wins or do you think he'll go run of Indiana or something?

LEAH LITMAN: I hope something great. So he, he and Jason actually live in Michigan now. Um so I think that there's –

JVN: Oh really?

LEAH LITMAN: Um yeah, a possibility that he could run for Governor of Michigan, you know, maybe once uh Governor Whitmer Big Gretch is not running for the election.

JVN: I'm obsessed with Big Gretch.

LEAH LITMAN: Obviously same. It's shark week mother fuckers.

JVN: Yes! I'm like I love her so much, I can't stand it. I also, you know, we didn't discuss but I'm just so proud of us. I'm so proud of all of those people for being like, yeah, it's Vice President Harris, like so many of those people of our deep bench that we referred to earlier could have been like not doing that. And I was so proud of them for just being like, yes, we are coalescing like that was, it's just so nice to see. Ok, so um so future big picture. Is there a world like, well, what's gonna happen? Kate and Leah, what, what's gonna happen with all these like MAGA people? Are we gonna, can we coexist? Like, what do you think? Do you, do you think Row gets restored with a Democrat Congress, Senate and president?

KATE SHAW: Yeah, I mean, yes, I think that they would be, it would be political malpractice for them not to in the 1st 100 days pass a bill codifying roe protecting abortion as a matter of federal law. But I do think there's still a question of what this Supreme Court would do. I mean, they might try to strike down a law like that so you can't do anything and you know, you cannot be, be confident that any good policy will actually stick unless you also package it with Supreme Court reform. Because every policy initiative that a democratic president and a democratic congress might want to try could run into the buzz saw of this wildly conservative Supreme Court. They could strike down even a law trying to protect abortion. So you have Supreme Court and Hobbs,

JVN: Didn't they say that they in Hobbs? Didn't they say like you should go make a law if this is what you want to do. But this shouldn't be like –

KATE SHAW: They said leave it to the States. And so federal law, Congress always has to have some constitutional authority to act whenever Congress wants to pass a law. So they could try to say Congress doesn't have the authority to regulate access to abortion and strike it down for that reason.

JVN: That is true. So fucking gross now. Uh but with the ethics reform because didn't Durban, like say that we should do an ethics reform, didn't someone like show like or like present an ethics reform for the Supreme Court? But then they all said no?

LEAH LITMAN: A lot of democratic senators and representatives um are, you know, in support of some ethics reform of the court. Um but unfortunately, you know, that was not something that got done, you know, when Democrats controlled both houses. Um and, you know, I also think it would be malpractice not to do something about the Supreme Court in the 1st 100 days of a democratic administration with both, you know, houses of Congress as well. Um and this gets to something else, you know, that I feel like is just work making explicit, like if we are fantasizing about all of the wonderful things that a President Harris right could do for the country. Um, many of those things will not be possible without a Democratic House and a Democratic Senate. Um and So, you know, the \$25 million to down ballot races, right? And thinking about like making calls and whatnot. Like all of those other races are super important too.

JVN: So fucking important. Get into sister district if you haven't already. Um what are you guys watching as we come into the fall? Because when does the term start again? When do you guys have to go back to school days? And y'all are just like following all the things all the time again?

LEAH LITMAN: First week of October. Um those, those guys are back to business.

JVN: What's happening in the fall? What, what big cases are they taking?

LEAH LITMAN: So, already on the docket, um the court is deciding whether states can ban gender affirming care for minors. Um uh, so that's a case we're definitely watching and I think super concerned about um the court is also considering whether the Bureau of Alcohol, Tobacco and Firearms can ban what are called ghost guns. Um so the, you know, guns that are assembled from kits and, you know, no serial numbers and can't be easily traced. Um those are just two of the, you know, big cases on the court's docket. Um but I think it's very likely that the court will be adding others um as well, you know, including for example, about some of the other student loan cancellation programs that President Biden has attempted to do in the wake of the, you know, other Supreme Court decision in validating the previous student debt cancellation program. Um so I think we're likely to see cases about the election cases about, you know, big regulatory initiatives of the Biden administration. Um, as well as who knows what else, you know, be added to the court's docket.

KATE SHAW: Yeah, it's right. So far it's kind of a quiet fall which makes me really nervous because it feels like they're leaving space for the inevitable emergency cases around the election. And, you know, the court has not given us a lot of confidence that it's going to impartially dispatch with those if and when they have them.

JVN: And do you think even with a Democratic House and a 60 person majority, like somehow fucking snowflakes chance in hell, we get 60 Democrats like I don't see it but maybe we do, we do love that Ruben Gallego.

KATE SHAW: We do.

JVN: Um do, do you think that there is a world where uh where? Oh my God, my, where did it go? I mean, do you think there's a world where we could possibly expand the Supreme Court? Like even with those? Like, is there any appetite for that?

LEAH LITMAN: So one, I don't think you actually need 60 votes in the Senate. Um what you need uh would be 50 democratic senators who are willing to modify the rules surrounding the filibuster. Um so if you have right, a majority in the House and then a majority in the Senate who is willing to modify the rules governing the filibuster. Then that opens up the possibility of, you know, a bunch more federal legislation than you know, would happen in a world with a filibuster.

JVN: So we just need like 53 Democrat senators to be like, we fuck, we're, we're done with this fucking filibuster. We ain't doing this. We're not honoring this.

KATE SHAW: Or just 50 plus the vice president. You truly just need, you just need a simple majority to change the rules in the Senate –

JVN: And then we have to make sure that the Republicans never get 50 again.

KATE SHAW: Well, or everyone is, is going to live in a filibuster free world.

LEAH LITMAN: Exactly.

KATE SHAW: But it sort of seems like, you know, the Republicans will probably do that if they're in a position of doing it the first chance they have. So it's just a question of when not if and so if that's right, then the Democrats should do when they have the chance. So they can actually get this kind of legislation through.

JVN: Yeah, maybe we will, I mean, without I just, but I mean, the chance of us like getting the Senate or like really little from all the press that I'm reading. Like we just have like a much harder map to defend.

LEAH LITMAN: It's true, but I, I don't want to say it's impossible, right? Like a bunch of –

JVN: You know, cause we love Alyssa Slotkin!

LEAH LITMAN: We love Alyssa Slotkin. Um she is looking good in Michigan, you know, John Tester obviously has a very tough race. Um but he is running against someone who, you know, it seems like all kinds of stuff is coming out already. Um, you know, Senator Tester is on an important committee involving Federal Indian Law and Tribal rights and his opponent, you know, was captured and recording, you know, saying some, like, really pretty horrifying things about native Americans. Um, of course, there's Sherrod Brown in Ohio. He's a fantastic senator. Right. With like a really, I think like unparalleled um uh record as far as, you know, on behalf of labor, um on behalf of, you know, fighting economic inequality. Um, he's in a tough race but again, like I wouldn't count him out.

JVN: But Ohio already voted on weed and abortion, didn't they? In their statewide ballot?

LEAH LITMAN: Yes.

KATE SHAW: But they have redistricting as an initiative on this fall. But yeah, but those two, but Montana has abortion on the ballot this fall –

JVN: So that, that could Tester.

KATE SHAW: That could help Tester.

JVN: Ok.

KATE SHAW: I think the map is tough but I think that there is reason for hope and, you know, you just, we just have to do the work, yeah.

JVN: Leah, when is the 2020 or let me say that Leah, when is *The Election of 2000* book coming out? Because everyone is titillated and wants to read it yesterday.

LEAH LITMAN: It will be out in June 2025.

JVN: Is there anything that people can follow you on for something a little bit quicker, just social or the pod?

LEAH LITMAN: Follow us on Strict Scrutiny, you know, new episodes every Monday um additional bonus episodes whenever the court does something especially unhinged. Um and yeah, we are on all the different social media platforms as well.

JVN: Ok, I am. Uh you guys, we got to get it together. So let's do that. Um I love you guys so much. Thanks for coming back. I want, I'll learn how to harmonize and go to law school and then we can be and I can be like you either you either you alternate or we could do like a new four, a four girl group, a four person group.

LEAH LITMAN: All of the above.

KATE SHAW: Let's do it. Let's do it.

JVN: Did I miss anything else? You guys? Let me just make sure because there was nothing else I wanted to ask you about anything. I think, I think that was it. I think that was all. Um fuck me. I think I feel like this colonoscopy prep, fucked me up. You guys.

KATE SHAW: You were perfect, you were beautiful.

JVN: There was other things that I wanted to ask but I think it's, I think I got it.

LEAH LITMAN: We went over a ton.

JVN: We did, right. I said I had like other personal things, not like personal, personal but like what do you think about this? What do you think about that? Um OK, I think we did it. Well, wait, Kate, what about you? What are you doing? Where can people follow you next? Are you doing anything singularly?

KATE SHAW: I don't have a book coming out just now. So Strict Scrutiny podcast. And uh yeah, we're on I mean, we're still as a podcast –

LEAH LITMAN: She also writes for The York Times so you can follow her, her writing there.

KATE SHAW: I have, I write, I'm a contributing opinion writer for the New York Times.

JVN: Come on, women, supporting women! I love you guys know each other's things. Um OK. Well, that's good. So then we'll basically just keep our eyes out. So the arguments will start in October elections in November and maybe we can do a um maybe we can do a follow up in November or something for like either our, our how to cope or like yay fall out episode.

KATE SHAW: We would love that.

LEAH LITMAN: Let's do it.

KATE SHAW: And we'll make sure we can do it and Melissa can join us because obviously it's always sad, without her.

JVN: Well, I love all three of you guys so much and thanks so much for coming back to Getting Curious. You guys!

KATE SHAW: Always such a pleasure. Thank you so much for having us.

JVN: So did we learn what project 2025 is? Oh, yeah, we did. We learned and we got a little bit more than what we bargained for. If you want to go on the deepest dive of all time, you really got to listen to the specials that Strict Scrutiny did on project 2025 over on their feed. I would highly suggest it. Um also, I think, you know, we're not fortune tellers, but what we can say is that Clarence Thomas and Justice Alito are truly fully and completely unhinged and we, I mean, we'll just see, we'll see what continues to come out about these two. But wow. Wow. Wow. The Ginny Thom, the Ginny Thomas texts. No, no ends. And, and in fact, I think we're gonna be posting some of her texts on social because it's just so nice level and corrupt and insane. Trump versus United States, the title of this. That was insane. And also their immunity ruling gave Trump even more than what his team was asking for. Um it, it just yikes yikes. Uh, but to me, the Trump versus United States ruling is actually less scary than project 2025 because project 2025 could literally see 1 million federal jobs fired, gutted, ended. There's protection in the federal government for civil servants who can't just be fired by a new president because the president doesn't like them. Um obviously cabinet level positions.

This is up to the president to nominate and then Congress to confirm. But there are also like lifetime civil servants that have historically been protected. Uh, just they've just, they've been protected and they would not be protected under a project 2025 implementation. Um People could be fired at any time, any place, any reason if they were seen to not be subordinate to the president in a sufficient way that the president would say also eliminating it. This is I think is also really interesting when we think about project 2025, and I hope you're still listening to this. Republicans are so bold here because what they're advocating for is a removal of the boundary between the Department of Justice and the White House. If that were to have been the case, there would have been no Hunter Biden trial. There would have been no Hunter Biden laptop. There would be no special counsel to investigate the, our current President Biden's son. There is a reason, if there were no boundary between the Department of Justice and the President, we would have never known about uh Watergate. We would have never known about a sitting president breaking into his political rivals offices and ransacking their offices, which is what Richard Nixon did in 1973 in Watergate. So this seeking to erase the boundary between the Department of Justice and essentially make the Department of Justice into a bulldog for the White House is not what we should be voting for. This is not a good look. I mean, it's incredibly dangerous. So moving forward here are some of the things that I'm very curious about in this episode. I was thinking about marijuana legalization. I was thinking about, um, Shaleen Title from our episode on weed legalization back in the day. And I was thinking about um, the firearm, tobacco or the firearm, tobacco, Alcohol Bureau like we just, this election is going to be so important in terms of marijuana legalization as well. And who was allowed to benefit from weed legalization. And so much of project 2025 is about enriching the top 1% and keeping those who do not have money poor and in poverty and removing opportunities for people to achieve upward economic mobility, which is quite literally the American dream. So the there's a lot for marijuana reform that's or there's a lot for marijuana legalization is gonna be coming up in this, in this election that we need to be aware of. Um also very interesting article that I read. Uh just after we recorded this episode, um which was an article that we're going to put the link of uh in here, but it was by uh The Daily Beast and they were talking about um Ginni Thomas being, they were talking about Ginni Thomas praising this uh group that is a hardcore right wing anti Supreme Court reform group. They're called the first Liberty Institute. And I just had this daydream when I was reading about this article um from the Daily Beast, like who is this first Liberty Institute? Who are these people who were like really trying to implement Christian nationalism at the highest levels? Who are these folks who are they? I don't know, I I'm curious uh also scared of them. Um and then I think the other thing is is that I'm very curious about now is can Supreme, can an ethical Supreme Court exist is it possible for an ethical Supreme Court to exist? Um you know, I just don't know, I, I, I'm thinking so much about Doctor Jackie Antonovich and our episode about abortion back in 2022 and the fact that so many of these rulings that the Supreme Court makes relies heavily upon their interpretation of history and these judges are not historians. And I just think that's really problematic the way that we're entrusting our future on these fucking judges, understanding of our past when they're literally not fucking historians. Uh, also, I'm curious about Texas and what's gonna happen with our abortion law and if there's any recourse for us and what's gonna happen in our uh Texas state elections this year, so, so many things to be curious about. But uh I love you guys and thanks for listening, we love Strict Scrutiny. Um, thanks for tagging along on another episode of Getting Curious. We love y'all let us know if you're liking our new format, get all up in our comments. Uh, we'd love to see you guys and thank you for coming along another episode of Getting Curious and we'll see you next time.

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