

THREE THINGS: SCOTUS ON LGBTQ+ DISCRIMINATION, QUALIFIED IMMUNITY, GUN RIGHTS

Very big SCOTUS day today. Huge – and that’s in spite of the court declining to hear cases on multiple issues.

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In *BOSTOCK v. CLAYTON COUNTY, GEORGIA* and two other cases, the Supreme Court ruled in 6-3 decision that firing an employee for being gay or transgender violates the Title VII of the Civil Rights Act of 1964.

Title VII (42 USC § 2000e-2 [Section 703]) reads,

It shall be an unlawful employment practice for an employer –

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin;

Dissenters were Justices Kavanaugh, Thomas, and Alito; Alito filed a dissenting opinion which Thomas joined. Kavanaugh also filed a dissenting opinion.

Overview of the three cases from Human Rights Watch:

In *R.G. & G.R. HARRIS FUNERAL HOMES v. EEOC and AIMEE STEPHENS*, Aimee Stephens worked as a funeral director at R.G. & G.R. Harris Funeral Homes. When she

informed the funeral home's owner that she is transgender and planned to come to work as the woman she is, the business owner fired her, saying it would be "unacceptable" for her to appear and behave as a woman. The Sixth Circuit Court of Appeals ruled in March 2018 that when the funeral home fired her for being transgender and departing from sex stereotypes, it violated Title VII, the federal law prohibiting sex discrimination in employment.

In *ALTITUDE EXPRESS INC. v. ZARDA*, Donald Zarda, a skydiving instructor, was fired from his job because of his sexual orientation. A federal trial court rejected his discrimination claim, saying that the Civil Rights Act does not protect him from losing his job because of his sexual orientation. In February 2018, the full Second Circuit Court of Appeals ruled that discrimination based on sexual orientation is a form of discrimination based on sex that is prohibited under Title VII. The court recognized that when a lesbian, gay or bisexual person is treated differently because of discomfort or disapproval that they are attracted to people of the same sex, that's discrimination based on sex.

In *BOSTOCK v. CLAYTON COUNTY*, Gerald Lynn Bostock was fired from his job as a county child welfare services coordinator when his employer learned he is gay. In May 2018, the Eleventh Circuit Court of Appeals refused to reconsider a 1979 decision wrongly excluding sexual orientation discrimination from coverage under Title VII's ban on sex discrimination and denied his appeal.

The dissent weighed in at more than 140 pages out of the entire 177 page syllabus and decision

handed down by SCOTUS today.

The first sentence of the dissent:

There is only one word for what the Court has done today: legislation. The document that the Court releases is in the form of a judicial opinion interpreting a statute, but that is deceptive.

Right-wing ideologues are in a furor over Justice Gorsuch's delivery of the opinion. They must have had absolute faith in Gorsuch to be so incredibly outraged that his interpretation didn't sustain bigotry. He wrote,

An employer who fired an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids. Those who adopted the Civil Rights Act might not have anticipated their work would lead to this particular result. But the limits of the drafters' imagination supply no reason to ignore the law's demands. Only the written word is the law, and all persons are entitled to its benefit.

Today's decision doesn't end all discrimination against LGBTQ+ persons, only employers defined by Title VII. There is still a need for more legislation to ensure all persons in this country may rely on the same rights in housing, credit, property ownership and more. The House passed the Equality Act in May 2019 to address these shortcomings; the bill is now languishing on Senate Majority Leader Mitch McConnell's desk in spite of support for the bill from 70 percent of Americans.

Our work is not done. We still need Congress to protect LGBTQ people from

discrimination in public accommodations,
federal programs, and more.

Congress must pass the Equality Act
NOW. <https://t.co/4npFEvKwMM>

– ACLU (@ACLU) June 15, 2020

Steve Silberman noted a trait shared by two of
the three dissenting jurists:

Let history record that two of the
SCOTUS justices who championed
discrimination against LGBTQ people this
morning are alleged sexual harrassers of
women. You'd almost think there's some
connection between oppression of women
and oppression of gays.

<https://t.co/vUxiP4T79m>

– Steve Silberman (@stevesilberman) June
15, 2020

One of the most passionately angry voices today:

Justice Scalia would be disappointed
that his successor has bungled
textualism so badly today, for the sake
of appealing to college campuses and
editorial boards.

This was not judging, this was
legislating—a brute force attack on our
constitutional system. (1/x)

– Carrie Severino (@JCNSeverino) June
15, 2020

“Bungled textualism.” ~*chuckling*~

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The SCOTUS declined to hear cases seeking
reexamination of the doctrine of “qualified
immunity.” Thomas was the lone jurist who wanted
to hear cases; in a six-page dissent he wrote,
“qualified immunity doctrine appears to stray

from the statutory text.”

There will be greater pressure on lawmakers to address qualified immunity in legislation.

Opinion piece about qualified immunity:

Powerful, excellent piece by 4th Circuit Court of Appeals Judge Jim Wynn on why qualified immunity must be fixed. He’s sending up a flare. SCOTUS should listen. (The #JusticeInPolicingAct also includes a provision that would change qualified immunity).

<https://t.co/1LFB9qrcqW>

– Sherrilyn Ifill (@Sifill_LDF) June 12, 2020

Rep. Ayana Pressley on qualified immunity:

Today, #SCOTUS announced that it will NOT review the unjust doctrine of qualified immunity. It’s critical that Congress pass my bill with @justinamash to #EndQualifiedImmunity.

<https://t.co/ZULUZQxBVf>

– Congresswoman Ayanna Pressley (@RepPressley) June 15, 2020

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The SCOTUS declined to hear multiple Second Amendment cases after it avoided addressing New York City’s regulation of guns back in April because the city repeal of the restriction render the case moot.

Justices Thomas and Kavanaugh dissented, wanting to hear a case related to New Jersey’s regulation of concealed carry guns.

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There’s actually four things today – SCOTUS also declined to hear the Trump administration’s petition regarding California’s SB 54 which

prevents the state's law enforcement resources from being deployed to aid federal immigration enforcement. Alito and Thomas dissented, wanting to take up the matter; surprisingly, Kavanaugh voted with Roberts and Gorsuch to decline.

We are still waiting for a decision on Deferred Action of Childhood Arrivals policy (DACA), which could cost the U.S. as many as 27,000 health care workers at the worst time possible if SCOTUS finds DACA unconstitutional.

This is an open thread.

STRADDLING THE COVID-19 BARBED WIRE FENCE IN KANSAS



Pro Tip: Don't sit on this fence.
(photo h/t to Craig Simpson [CC BY 2.0])

The Democratic governor of Kansas, Laura Kelly, has put her finger in the eye of conservatives in Kansas by issuing a state-wide stay-at-home order yesterday in the face of the growing COVID-19 epidemic. Out in the western part of the state, the wingnuts have already

been saying “this is an urban problem – we’re just fine – we don’t have any Chinese people here – why did she close all our schools?” and now they’ll scream just a little harder.

Note, however, that Kelly does not have the last word on this. When she issued her initial state of emergency declaration at the end of February, it lasted for 30 days. To extend it, the GOP-dominated legislature had to consent . . . which they did, but not without a fight. From the AP’s John Hanna in Topeka:

The [KS] Senate voted 39-0 and the House 115-0 to approve a resolution to extend the state of emergency until May 1 and to allow legislative leaders to extend it further every 30 days. Kelly declared a state of emergency last week, and without the resolution, it would have expired March 27.

But the resolution also requires legislative leaders to review all of Kelly’s executive orders and allows them to overturn many of them within days. It also prohibits Kelly from having guns and ammunition seized or blocking their sale.

The unanimity of those two votes is almost unheard of these days in Topeka, and it was a sign that the GOP was willing to go along with closing the schools for the rest of the year and take other measures as the COVID-19 outbreak began to surface across the state. But they sure didn’t like it, and wanted to make damn sure that they

could shut down an out of control governor (in other words, a Democrat) when they did something they considered outrageous. The guns and ammo provision is another sign of how fearful the rightwing is of folks coming for their weaponry.

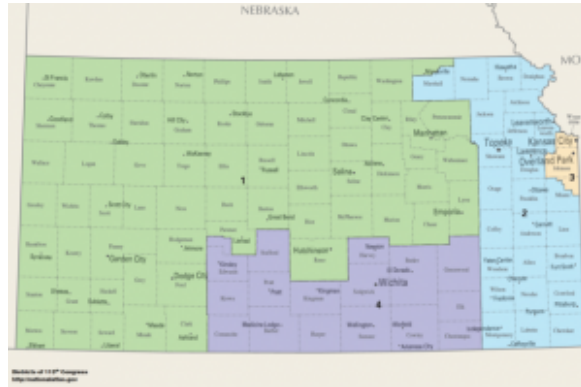
That was ten days ago. As soon as Kelly's Stay-At-Home order came out yesterday, so did the folks on the right, waving around that provision that provides for a veto those orders. Again from John Hanna:

Conservatives in the Republican-controlled Legislature said Kelly overreached this month when she ordered public schools closed for the rest of the semester and complained that the state's economy was being damaged too much. Legislative leaders have the power to revoke her orders related to the coronavirus pandemic.

Kansas House Speaker Ron Ryckman, Majority Leader Dan Hawkins and Speaker Pro Tem Blaine Finch, all Republicans, said in a joint statement that the new order "will no doubt impact our families and our businesses. As members of the Legislative Coordinating Council we have a duty to carefully assess this executive order and the reasons for it. Over the coming days we will consult with the Attorney General, health care professionals, the business community, and the state's emergency management team to make sure we are on the right path."

Kansas Senate President Susan Wagle, a Wichita Republican, said she was concerned about a "one size fits all" solution.

"I want to assure Kansans, particularly those in rural areas, the legislature is actively working to thoroughly review the Governor's orders and ensure the specific needs of rural Kansans are addressed," Wagle said in a statement.



Kansas Congressional Districts

[Note to the folks worried that the state's economy was being damaged too much: a virus does not care.]

Speaking of those rural areas, let me direct your attention to OB-GYN Roger Marshall, who also serves as the US Representative from KS-01 (the large green area on the map to the right). Marshall is running to replace Pat Roberts in the US Senate, and he is trying to straddle a barbed wire fence on all this. He's been loud about backing Trump's "close the borders" stuff, but he's still enough of a physician that he realizes that science actually matters. He doesn't like the "big government" approach at all, but he has conspicuously not condemned Kelly for closing the schools. From an story two weeks ago in the Manhattan KS paper "The Mercury":

Following Gov. Laura Kelly's recent decision to close K-12 school buildings for the rest of the school year, halt mortgage foreclosures and evictions, and ban gatherings of more than 50 people, Marshall said he would rather people exercise an overabundance of caution at

the moment.

“We have to assume that the virus is out in every community,” he said. “I hope there’s not, but we have to assume that. Kids and young adults, they’re super infectors so if one child has the virus, they’re going to transmit it a bunch more often than say an older person who just doesn’t have as many social contacts. Think of senior citizens, for the sake of people with illnesses.

“I hope in a couple of weeks you can say we did too much,” Marshall continued, “but I think right now, it’s so critical that this is the acceleration phase of the spread of this virus. Every virus we prevent spreading today is going to prevent dozens in the future and save many, many Kansas lives.”

Yesterday, Marshall retweeted John Hanna’s story about the Stay-At-Home order to his followers, perhaps trying to signal them that the GOP is watching this. He did not, however, attack or even question Kelly’s judgment for ordering this. To borrow from Sherlock Holmes, this is the dog that did not bark, and the silence is deafening.

And then there’s Marshall’s big opposition in the GOP primary (this was before Kelly’s order was issued yesterday):

U.S. Senate contender Kris Kobach reached for campaign gold amid the coronavirus pandemic by promising to intensify construction of a border wall to defend the country against illegal immigrants from China who may import deadly viruses.

“Over 12,000 Chinese nationals snuck across the border into the United States last year,” Kobach said in a video fundraising appeal delivered Thursday to potential voters in Kansas. “No checks.

No visas. No health screening. In times of global pandemic, borders matter.”

The fence in Kansas between science and wingnuttery is made of very sharp barbed wire. Kobach is planted firmly on the Wingnuttery side of that fence, and Marshall does not want to cede all those voters to him by planting his feet firmly on the side of science. But Marshall is is going to find that straddling a barbed wire fence is not comfortable, to say the least.

The KS senate race will be very very interesting this November.

JOHN LEWIS WAS NOT ALWAYS OLD



“Ode to Ella Baker” by Lisa McLymont
(Attribution-NoDerivs 2.0 Generic (CC BY-ND 2.0))

A few weeks ago, John Lewis put out a press release announcing to all that he is undergoing treatment for stage 4 pancreatic cancer. He

later sent out a tweet, lifting up one of the best lines in that press statement:

I have been in some kind of fight – for freedom, equality, basic human rights – for nearly my entire life. I have never faced a fight quite like the one I have now.

Lewis' summary of his life is not hyperbole. He is the last living member of the Big Six, the speakers at the 1963 March on Washington for civil rights, and now is a senior member of Congress. But it's important to remember that John Lewis was not always old. He was just 23 when he spoke on the steps of the Lincoln Memorial as the president of the Student Nonviolent Coordinating Committee (SNCC) – an organization he co-founded three years earlier at age 20 – and at 21 was one of the original Freedom Riders.

Let me repeat it again: John Lewis was not always old. He has always been a fighter for civil rights, but he has not always been old.

In 2005, historian David McCullough noted how we as a society perceive great leaders in a speech about the Founders:

We tend to see them—Adams, Jefferson, Thomas Paine, Benjamin Rush, George Washington—as figures in a costume pageant; that is often the way they're portrayed. And we tend to see them as much older than they were because we're seeing them in the portraits by Gilbert Stuart and others when they were truly the Founding Fathers—when they were president or chief justice of the Supreme Court and their hair, if it hadn't turned white, was powdered white. We see the awkward teeth. We see the elder statesmen.

At the time of the Revolution, they were all young. It was a young man's—young woman's cause. George Washington took

command of the Continental Army in the summer of 1775 at the age of 43. He was the oldest of them. Adams was 40. Jefferson was all of 33 when he wrote the Declaration of Independence. Benjamin Rush—who was the leader of the antislavery movement at the time, who introduced the elective system into higher education in this country, who was the first to urge the humane treatment of patients in mental hospitals—was 30 years old when he signed the Declaration of Independence. Furthermore, none of them had any prior experience in revolutions; they weren't experienced revolutionaries who'd come in to take part in this biggest of all events. They were winging it. They were improvising.

This is not unique to the American Founders. Historians of social change who pay attention to the leaders of these movements often see the same thing. For example . . .

- When Martin Luther King, Jr. led the Montgomery Bus boycott in 1955, he was just shy of 25 years old. When he was awarded the Nobel Peace Prize, he was 35, and when he was assassinated on the balcony of a Memphis hotel, he was only 39.
- When Thurgood Marshall argued on behalf of racial justice in *Shelley v. Kramer* before SCOTUS in 1948 – six years before he did the same in *Brown v. Board of Education* – Marshall was 40 years old. He won both

cases, the former striking down restricted housing covenants and the latter doing away with the pernicious “separate but equal” doctrine that was at the heart of Jim Crow.

- When Walter Sisulu, Oliver Tambo, and Nelson Mandela co-founded the ANC Youth League in 1944, they were 31, 26, and 25 years old respectively.
- When Dr. Paul Volberding and nurse Cliff Morrison pushed against incredible medical and social prejudices to organize the nation’s first AIDS unit at San Francisco General Hospital in 1983 as the AIDS crisis continued to spiral out of control, they were 33 and 31 respectively.
- When Gavin Newsom (then mayor of San Francisco) ordered the San Francisco clerk’s office to issue marriage licenses for couples regardless of the genders involved on February 14, 2004, he was 36.
- When Upton Sinclair published *The Jungle*, exposing the ugly underside of the meatpacking industry and spurring social change with regard government

oversight and regulation of food and drugs, he was 28.

- When anti-lynching crusader and journalist Ida B. Wells published *Southern Horrors: Lynch Law in All Its Phases* in 1892, she was 30.
- When Elizabeth Cady Stanton co-organized the Seneca Falls Conference on Women's Rights in 1848, she was 32.

It's not too much of a stretch to say that the leaders of social change movements are more likely to be young than to be old.

After Lewis made his announcement, Marcy tweeted out her reactions to the news, including this:

Say a prayer—or whatever you do instead—to give John Lewis strength for this fight. But also commit to raise up a young moral leader who has inspired you. We can't rely on 80 and 90 year olds to lead us in the troubled days going forward.

I've been chewing on that tweet for the better part of a month.

What immediately went through my head upon reading that tweet was the name Ella Baker, one of the less well-known leaders in the civil rights movement. In a story for the Tavis Smiley Show on PRI about the founding of the Student Non-Violent Coordinating Committee (SNCC), John Lewis tells of Ella's powerful role:

Martin Luther King, Jr. was so impressed by the actions of the students [and their non-violent lunchcounter sit-ins], says Lewis, that he asked a young woman by the name of Ella Baker to organize a conference, inviting students from 58 colleges and universities.

“More than 300 people showed up at Shaw University in Raleigh, North Carolina, where SNCC was born,” said Lewis. “It was Easter weekend, 1960.”

Baker, considered by many as an unsung hero of the civil rights movement, was a “brilliant” radical who spurred on the creation of SNCC as an independent organization, says Lewis.

“She was a fiery speaker, and she would tell us to ‘organize, organize; agitate, agitate! Do what you think is right. Go for it!’ Dr. King wanted her to make SNCC the youth arm of his organization. But Ella Baker said we should be independent ... and have our own organization.”

While the SNCC was deeply inspired by Dr. King and the SCLC, or the Southern Christian Leadership Conference, the students in the organization didn’t always see eye-to-eye with SCLC leadership.

“We had a lot of young women, and SNCC didn’t like the idea of the male chauvinism that existed in the SCLC,” says Lewis. “The SCLC was dominated by primarily black Baptist Ministers. And these young women did all the work and they had been the head of their local organizations.”

I’m not sure where Smiley got the phrasing about Ella Baker being “a young woman” when this all happened, as she was 55 years old in 1960 and King was only 30. But Ella did exactly what Marcy was talking about in that tweet. When she saw an opening to act, she helped raise up hundreds of young moral leaders, and she helped them most by encouraging them to act out of their own gifts and strengths and not by tying themselves to the approaches of older leaders.

Which brings me to Marjory Stoneman Douglas High

School. In the days following the massacre at MSD, the students there took matters into their own hands, rather than waiting for their elders to act. These are kids who grew up entirely in the post-Columbine High School shooting world, where active shooter drills were a regular part of school life. (I'm old: the only drills we had were "duck and cover" for a nuclear attack and "head for the hallway or basement" for tornadoes.) With each new shooting, they saw the same script written by the elders play out each time – thoughts and prayers for the victims, debate over gun laws, and nothing changes. They saw it happen around the Pulse nightclub shooting in Orlando a year and a half earlier. Talk, talk, talk and nothing changes.

This time, it wasn't the elders running the show, however. It was Emma Gonzales, live on every cable network, who called BS on the NRA and the legislators who were intimidated by them. It was Cameron Kasky who gathered and organized his classmates to make this a movement. It was David Hogg and a dozen others, a hundred others, who did interviews, organized demonstrations, and the 1001 other things to give their work power. They reached out to other teens affected by gun violence, especially teens of color, to amplify the common message demanding change. They became a force to be reckoned with, not only in Tallahassee where they actually got gun laws changed, but in DC and around the country.

Behind these students, though, were their teachers. These are the folks who nourished the gifts of research and organization, of public speaking and political organizing in these young people. There were parents and other adults, who took their cues from the teens and did the things that you need someone over 21 to do, like sign rental bus agreements, for example. It is clear, though, that the moral leaders are the teens, with the elders in supporting roles.

Then there's Greta Thunberg, relentlessly pushing the elders in seats of power to take

action on the climate emergency gripping our planet. Her messages are always a version of “This is not about me and my knowledge; it’s about the scientists and their knowledge – and they say we are going to burn the planet down if things don’t change fast.” She points to data, and forces her hearers to look at it. She may have gotten attention early on because of her youth (“O look at that cute little girl, doing cute little things and trying to get politicians to act”), but being a cute little girl doing cute little things doesn’t get you seat at the table at Davos. No, she got her seat at the tables of the powerful by being the young person who said over and over and over again that the emperors, the presidents, the corporate titans, and the powers of the planet aren’t wearing any clothes.

Just like young John Lewis.

The other part of Greta’s “It’s not about me” messaging is that she has sought out and nurtured other young people around the world, who have been organizing in their communities while she was at work in Sweden. She met Lakota activist Tokata Iron Eyes, who invited her to Standing Rock to see the work they are doing. Thunberg not only accepted, but eagerly lent her support to their work, not least of which came because of her larger media profile. When she spoke at Davos, it was as part of a panel of other young climate activists from Puerto Rico, southern Africa, and Canada.

Like the MSD students, Greta has passion for her activism, a data-driven focus that she hope can break through the cynicism and self-centeredness of world leaders, and a skill at building alliances with other like minded folks. And like the MSD students, people with power are listening – and are beginning to want to hear more. While Steve Mnuchen (following the lead of Donald Trump) mocked Thunberg for her youth, another world leader had a different reaction:

Angela Merkel, though, spoke warmly about the work of the new generation of

climate activists.

“The impatience of our young people is something that we should tap,” the German chancellor said. In a special address to the WEF, Merkel called for more international cooperation to tackle climate change.

“I am totally convinced that the price of inaction will be far higher than the price of action,” she declared.

Over the last month, I’ve been looking at and interacting with the teenagers in my life a little bit differently, a little more intentionally, thanks in part to Marcy’s tweet. You see, one of those teens may just be another John Lewis, and I’d dearly love to be another Ella Baker.

OPEN THREAD: A MOURNFUL VALENTINE [UPDATE]

*[NB: Check the byline. UPDATE at the bottom.
/~Rayne]*

A year ago today, fourteen students and three staff members at Marjory Stoneman Douglas High School in Parkland, Florida were killed by a lone 19-year-old gunman armed with an AR-15 rifle. More were injured.

Since then nearly 1,200 more children have died due to gun violence.

It’s an American problem, to have so much freedom and an inability to responsibly self-regulate it even though our Constitution clearly calls for a “well regulated Militia.”

The problem is as much money as it is guns. Money has been used to poison Americans' attitudes toward guns; money has been used to capture legislators to prevent regulation.

The vulnerability of our society to corporate influence and control in pursuit of money has now created an opportunity for asymmetric warfare. Information assaults were launched last year by foreign-controlled bot swarms to propel pro-gun messages and suffocate gun control messages.

And the GOP-led 115th Congress did nothing in response because they were bought by NRA money, infused by Russia.

Oh, pardon me – members of Congress who received much of the \$50 million in NRA campaign contributions in 2016 offered thoughts and prayers for the survivors and victims' loved ones last year as the blood of innocents coagulated and dried on the floor of Marjory Stoneman Douglas High School.

Stuff your thoughts and prayers sideways, you useful idiots with your mouths flapping platitudes, you fifth columnists with your grasping hands out, greedy for more blood money for your next campaign. They are as helpful today as they were a year ago.

Don't think for a moment we can't see how you've obstructed the ability of Americans to defend themselves with adequate and timely gun control this past year. It's past time to fix your disloyalty to this country and its children and pass effective gun control legislation beginning with the House bills H.R. 8, the Bipartisan Background Checks Act of 2019 and H.R. 1112, the Enhanced Background Checks Act of 2019.

This is an open thread. Keep all gun talk in this thread; if it drifts into other threads I will bin it. If such a threat bothers you, have some thoughts and prayers.

UPDATE – 2:45 P.M. ET –

This is a list of the members of Congress SplinterNews listed as offering up thoughts and prayers *via Twitter* a year ago after MSD-Parkland's mass shooting and who also received campaign contributions for 2016 from the NRA. I was looking patterns and I don't see one readily except for political party affiliation. The lone Democratic Party member to receive funds and offer platitudes was Tim Walz, now governor of Minnesota instead of a House rep.

Do you see a pattern in this besides a preference toward Class II and III senators – up for re-election in 2018 and 2020? Are there committee memberships relevant to these donations?

Senate:

Mitch McConnell (R-KY) – \$9,900 -II <-Majority Leader

Marco Rubio (R-FL) – \$9,900 -III

Rob Portman (R-OH) – \$9,900 -III

Joni Ernst (R-IA) – \$9,900 -II

Thom Tillis (R-NC) – \$9,900 -II

Dean Heller (R-NV) – \$9,900 -I

Jim Inhofe (R-OK) – \$9,450 -II

John Hoeven (R-ND) – \$8,450 -III

Steve Daines (R-MT) – \$7,700 -II

Ron Johnson (R-WI) – \$7,450 -III

John Boozman (R-AR) – \$5,950 -III

Todd Young (R-IN) – \$5,950 -III

Mike Rounds (R-SD) – \$5,450 -II

James Lankford (R-OK) – \$5,000 -III

Bill Cassidy (R-LA) – \$4,950 -II

Richard Shelby (R-AL) – \$4,950 -III

David Perdue (R-GA) – \$4,950 -II

Tim Scott (R-SC) – \$4,500 -III

Shelly Moore Capito (R-WV) – \$2,500 -II

Ted Cruz (R-TX) – \$350 -I

John McCain (R-AZ) – \$300 (RIP)

House:

Barbara Comstock (R-VA) – \$10,400

Mike Coffman (R-CO) – \$9,900

Will Hurt (R-TX) – \$9,900

John Katko (R-NY) – \$9,900

Bruce Poliquin (R-ME) -\$9,900
Lee Zeldin (R-NY) – \$9,900
Bob Goodlatte (R-VA) – \$7,450
Martha McSally (R-AZ) – \$6,500 <-Running for
McCain's seat in 2020
Bill Schuster (R-PA) – \$5,950
Richard Hudson (R-NC) – \$4,950
Steve Scalise (R-LA) – \$4,950
Lamar Smith (R-TX) – \$4,950
Ken Calvert (R-CA) – \$4,500
Barry Loudermilk (R-GA) – \$4,000
Robert Aderholt (R-AL) – \$3,500
Michael McCaul (R-TX) – \$3,500
Darin LaHood (R-IL) – \$3,000
Erik Paulson (R-MN) – \$3,000
Tom Reed (R-NY) – \$3,000
Diane Black (R-TN) – \$2,500
Marsha Blackburn (R-TN) – \$2,500
Carlos Curbelo (R-FL) – \$2,500
Rodney Davis (R-IL) \$2,500
John Ratcliff (R-TX) – \$2,500
Cathy McMorris Rodgers (R-WA) – \$2,500
Pete Sessions (R-TX) – \$2,500
Roger Williams (R-TX) – \$2,500
Mike Bishop (R-MI) – \$2,000
Bradley Byrne (R-AL) – \$2,000
Buddy Carter (R-GA) – \$2,000
Chris Collins (R-NY) – \$2,000
Mario Diaz Balart (R-FL) – \$2,000
Sean Duffy (R-WI) – \$2,000
Chuck Fleischmann (R-TN) – \$2,000
Tim Walz (D-MN) – \$2,000 <-Now MN governor
Bob Gibbs (R-OH) – \$2,000
Paul Gossar (R-AZ) – \$2,000
Sam Graves (R-MO) – \$2,000
Glenn Grothman (R-WI) \$2,000
Vicky Hartzler (R-MO) – \$2,000
Jeb Hensarling (R-TX) – \$2,000
French Hill (R-AR) – \$2,000
Bill Huizenga (R-MI) – \$2,000
Darrell Issa (R-CA) – \$2,000
Bill Johnson (R-OH) – \$2,000
Adam Kinzinger (R-IL) – \$2,000
Doug Lamborn (R-CO) – \$2,000
Luke Messer (R-IN) – \$2,000
Kristi Noem (R-SD) – \$2,000

Scott Perry (R-PA) – \$2,000
Robert Pittenger (R-NC) – \$2,000
Ted Poe (R-TX) – \$2,000
Tom Rice (R-SC) – \$2,000
Martha Roby (R-AL) – \$2,000
Mike Rogers (R-AL) – \$2,000
Todd Rokita (R-IN) – \$2,000
Peter Roskam (R-IL) – \$2,000
Dennis Ross (R-FL) – \$2,000
Austin Scott (R-GA) – \$2,000
Jason Smith (R-MO) – \$2,000
Elise Stefanik (R-NY) – \$2,000
Steve Stivers (R-OH) – \$2,000
Mark Walker (R-NC) – \$2,000
Jackie Walorski (R-IN) – \$2,000
Mimi Walters (R-CA) – \$2,000
Joe Wilson (R-SC) – \$2,000
Rob Wittman (R-VA) – \$2,000
Steven Palazzo (R-MS) – \$1,750
Mike Kelly (R-PA) – \$1,500
Steve Womack (R-AR) – \$1,500
Ralph Abraham (R-LA) – \$1,000
Lou Barletta (R-PA) – \$1,000
Susan Brooks (R-IN) – \$1,000
Warren Davidson (R-OH) – \$1,000
Ron DeSantis (R-FL) – \$1,000
Louie Gohmert (R-TX) – \$1,000
Kenny Marchant (R-TX) – \$1,000
Kevin McCarthy (R-CA) – \$1,000
David McKinley (R-WV) – \$1,000
Dave Reichert (R-WA) – \$1,000
Tom Rooney (R-FL) – \$1,000
Randy Weber (R-TX) – \$1,000
Daniel Webster (R-FL) – \$1,000

NATIONAL SCHOOL WALKOUT AND LEO ON ALERT: COINCIDENCE?

At 10:00 a.m. today – minutes from now –

memorial walkouts for Columbine mass shooting victims will take place, part of a national school walkout protesting the lack of gun reform. Check Twitter for hashtag #NationalSchoolWalkout.

One problem: law enforcement may have received warnings this week about potentially violent protests – denoted by the call for riot gear – which could precipitate overreaction to what have been peaceful March For Our Lives events to date.

Look at this tweet from Wednesday:



Pittsburgh LEO was cautioned about protests arising should Trump fire DOJ's Rod Rosenstein or Special Counsel Robert Mueller this week. While the warning it shares expresses concerns about yesterday, will law enforcement continue to be on alert?

We don't know how widely the warning was shared or if there were multiple warnings from multiple sources.

It's also upsetting that the person who organized a tentative protest rally against the prospective firing of Rosenstein or Mueller had taken out a permit.

Why is law enforcement getting its shirt in a knot about a rally with a valid permit? Why the warning this week coincident with the National School Walkout?

PARKLAND AND THE TWITTERED REVOLT

Marvel at the teen survivors of the mass shooting at Marjory Stoneman Douglas High School in Parkland, Florida. Their composed rage is terrifying to a generation or two which have not seen the like since the 1960s and early 1970s. They are leading a revolution – but note the platform they’re using to best effect.



I can't tell you how much use they are making of Facebook as I haven't used it in several years. What I find telling is the dearth of links to students' and followers' Facebook posts tweeted into my timeline. I also note at least one MSD student exited Facebook after receiving death threats.

Twitter's platform allows the authenticity and immediacy of the students' communications, as easy to use as texting. There's no filter. For whatever reason, parents haven't taken to Twitter as they did Facebook, leaving the micro-blogging platform a space without as much adult oversight.

These attributes terrify the right-wing. There's

nothing limiting the reach of students' messages – no algorithms slow their tweets. The ability to communicate bluntly, efficiently, and yet with grace has further thrown the right. The right-wing's inability to accept these students as legitimately speaking for themselves and for their fellow students across the country is an expression of the right's cognitive dissonance.



The students' use of Twitter redeems the platform, asserting its true value. It's 180 degrees from the problems Twitter posed as a toxic cesspool filled with trolls and bots. Parkland's tragedy exposes what Twitter should be, what Twitter must do to ensure it doesn't backslide.

Minors shouldn't have to put up with bullying – especially bullying by adults. Donnie Trump Jr. is one of the worst examples of this bullying and should be booted out of the platform. Other adult bullies have also emerged but Twitter's user base is ruthless in its swiftness, dealing a *coup de grâce* to Laura Ingraham's sponsorships.



If only Twitter itself was as swift in ejecting bullies and trolls. Troll bots continue to flourish even after a large number were removed recently. Victims of tragedies should expect an ethical social media platform to eliminate trolls and bots promptly along with bullies.

Ethical social media platforms also need to ask themselves whether they want to make profit off products intended to maim and kill. Should it allow certain businesses to use promoted tweets to promote deadly products, or allow accounts for lobbying organizations representing weapons manufacturers as well as owners? Should Twitter remove the NRA just as it doesn't permit accounts representing tobacco products?

Not to mention avoiding Facebook's ethical crisis – should Twitter be more proactive in protecting its users now that Parkland's Marjory Stoneman Douglas High School students have revitalized its brand?

OPEN THREAD: GUNS,

GUNS, AND MORE BLOODY GUNS

This is an open thread dedicated to what the National Rifle Association wants you to believe is as necessary as air along with ~13,000 gun homicides each year, and seven children and teen gun deaths each day.

Freedom – we have it at gun point.

For the record, my household has guns. They're used for hunting. Half the meat this household consumes is venison harvested from family property. They're secured in a gun safe when not in use.

The Federal Assault Weapons Ban in force from 1994 to 2004 didn't impede the ability of this household to hunt its annual venison. Mass shootings were markedly lower during the ban, however, though increasing use of high capacity magazines eventually thwarted the effects of the ban.

Do I believe in the Second Amendment? Sure – including the part about a “well regulated Militia.”

The NRA doesn't believe in that part of the amendment because it affects their actual clients' profit motive; regulating a militia means gun makers can't sell more guns.

At some point gun makers and their lobbyists at the NRA need to face reality: the market is saturated, which is why Remington is going into bankruptcy. There are no more arguments to be made to increase gun sales when there are more guns in the U.S. than Americans.

There are no more arguments to be made to sell more guns into a saturated market when gun proponents care more about their guns than the shattered children in classrooms.

Or when gun proponents' arguments rely on augmentation and dispersion by foreign agents.

Bring your discussions about guns here. Keep them out of other threads so that others can have uninterrupted discussions on topic.

WEDNESDAY: HILLS HAVE EYES

*Hills have eyes, the hills have eyes
Who are you to judge, who are you to
judge?*

*Hide your lies, girl, hide your lies
Only you to trust, only you*

– excerpt, The Hills by The Weeknd

That tune's NSFW, by the way, as is much of The Weeknd's oeuvre.

Today's theme is stuff to watch – things that aren't quite done, may have long-term impact, or don't make sense just yet.

U.S. Senate gun control filibuster

Right now I'm keeping an eye on the filibuster under way, now 13-plus hours in progress on the Senate floor, begun by Sen. Chris Murphy (D-CT) to support legislation for universal background checks and barring firearms sales to suspected terrorists. As of 11:15 p.m. EDT, 40 Senators had already spoken in participation; there were only two Republicans (Pat Toomey of Pennsylvania and Ben Sasse of Nebraska) and one Independent (Angus King of Maine) who joined Democrats so far. The Brady Campaign has been taking calls from constituents in support of the filibuster at (855) 331-8593 and redirecting calls to senators' voicemail so that the Senate can hear the public's demand for gun control.

If you want to watch the filibuster, you can catch it on cable at CSPAN-2 or [this link](#).

I'm also keeping an eye on these issues:

Next on Net Neutrality

A rare bright spot over the last week is the FCC's win over ISPs in US Court of Appeals for the District of Columbia Circuit; you can bet this fight isn't over, though the court found the FCC could regulate ISPs as it does common carriers. Worth brushing up on net neutrality, given Comcast's support of candidate Trump by way of NBC coverage both as candidate and reality TV personality. Comcast could well parlay its support into demands for an end to net neutrality should Trump win the White House.

Brexit bonking bankers

Polling flipped over the last two weeks from Remain to Leave. Bankers are beginning to worry and are scheduling a very long night when polls close next week.

Microsoft and LinkedIn merger

Technology folks can't make any sense out of this prospective marriage, which must yet be approved by the feds. I can't make any sense out of it, either, given the losses several of LinkedIn's largest investors must eat – they're also Microsoft investors, which means the money merely changes pockets without actually increasing. The deal is massive in terms of cost, dwarfing previous acquisitions by Microsoft.

So why do this deal, apart from the obvious access to technology decisionmakers with high levels of discretionary income? Wouldn't it simply be cheaper to buy ad space on LinkedIn or even invest a smaller amount rather than acquire the entire business?

Or has Microsoft changed its overall business model – does it intend to sell something other than software once it has closed the LinkedIn deal?

All I know is that I'm leaving LinkedIn as soon as the feds approve the deal. I don't want Microsoft to have any more of my time and money than they have right now, and I'm sick of their

highly intrusive habits. Imagine the persistent nagging of Microsoft combined with the icky annoyance of LinkedIn reminders, like ones I still get about long-deceased acquaintances. Clippy the Undead, nagging me about software updates...Gah.

Volatile Venezuela

Clearly candidate Trump is watching Venezuela closely, though I wonder if he would have noticed without being included in security briefings. With the latest El Nino now ended, the weather may change bringing relief from drought if not from political insecurity and volatility due to the collapse of oil prices over the last several years. Interesting op-ed on the violence in Venezuela suggests a new perspective must be considered: the violence suggests the end of the state apparatus.

Mongolia's addresses

The country is migrating physical addresses to a three-word phrase to accommodate a spread-out nomadic population in country with few roads and little infrastructure. In some ways, this mirrors virtual addresses used in networked environments. Is this a model for other countries in the near future?

Zika virus and blood supply safety

Hadn't even thought of this – if Zika can be transmitted by sex, it's certainly transmitted by other bodily fluids like blood. We need to think about blood supply safety, especially once the virus is spread by domestic mosquitoes. Pregnant women, and persons intending to become parents within months of receiving a transfusion should not receive Zika-contaminated blood.

What are you watching?

TUESDAY: GOING ALONE

I've been so damned angry I've had difficulty wrapping words around what I want to say. It's still Tuesday somewhere, so I'll grit this out.

Assault weapons should be banned for sale to civilians.

Spare me the crap about hunters and taking their guns. My freezer contains 25 to 100 pounds of venison at any time. This household lives off the results of hunting and respects the power of firearms. None of this meat required an assault weapon.

If an assault weapon had been used, it would have been a waste of a deer tag. There'd be no meat left.

The embedded video above shows the damage hunting ammo does at close range – approximately 15-20 feet – on meat. The next video shows the damage #4 and #8 birdshot can do at short range, even through multiple layers of denim and drywall. Imagine what an assault weapon would do to flesh at similar range.

Better yet, listen to what a combat vet says about assault weapons.

There's nothing in the Second Amendment to suggest a prohibition on certain weapons is wrong; if anything, the framing of a 'well regulated militia' suggests limitations are in order.

There's also nothing in the Second Amendment to suggest that gun manufacturers have an absolute right to an unrestrained business model, or to profits at the expense of the public's general welfare.

Nor does the Second Amendment say a damned thing about catering to 'gun enthusiasts' who want guns for 'pleasure'. A 'well regulated militia' doesn't possess guns but as necessary for the 'security of a free state', not personal enjoyment.

And both embedded videos embedded make a bloody good case that arguments about assault weapons being necessary to stop a home invasion are trash. Birdshot at close range can do one hell of a lot of damage, as do 00 buckshot and a 1-oz slug.

Congress – more specifically, the GOP – needs to strap on its spine and draw the line on assault weapons. How many more dead Americans is it going to take before Congress clues in the terrorist threat is already here? It's domestic, and it's better armed than the police because GOP-led Congress is as weak as the GOP is against Trump.

Spare the empty moments of silence and prayers which might as well be to Moloch after another human sacrifice. Such fail at protecting the American public.

Speaking of which...

Information Security Fail

- USAF database with records on ~100,000 investigations 'lost' (Defense One) – This is such bullshit, I can't even...why is a CONTRACTOR, which may be the subject of any one of the 100K investigations, hosting and managing a database like this? What a massive conflict of interest. The database included constituent and congressional inquiries. Don't even get me started on the fact this system relied on Microsoft Internet Explorer. Where have we seen

this kind of massive loss of data including failed backups before? Hardly a surprise the data covers the period including most of the Iraq and Afghanistan wars as well as the construction of the F-35. Somebody better lose their job for this crap, and there'd better be a respectable investigation instead of the usual fluffery hiding billions of lost dollars.

- DNC database infiltrated by the Russians (WaPo) – DNC Chair Debbie Wasserman-Schultz needs to be walked out the door for this bullshit, along with responsible IT management. As if anyone able to sit up and take nourishment couldn't see the DNC computer systems would be a target for cybercrime and cyberwarfare. No excuses for this during the run-up to a general election season, especially when her favorite candidate is already floundering because of information security failures during her tenure as Secretary of State. This bit:

█ The depth of the penetration

reflects the skill and determination of the United States' top cyber adversary as Russia goes after strategic targets, from the White House and State Department to political campaign organizations.

Total blowjob for access. If the hackers got in by spearphishing as suggested in the article, there's no finesse required. Just poorly trained/educated users and no firewall between email and database. The only thing that surprises me about this is that ransomware wasn't deployed. Imagine it: a major U.S. political party ground to a halt by spearfish-delivered ransomware.

- University of Calgary paid CDN\$20K after ransomware attack (Calgary Herald) – First heard about this attack the end of May. Looks like the school had no choice but to offer the bitcoin equivalent of \$20K to release their systems, which says a lot about backup systems and rebuild cost. Considering the broad range of users at universities and widely different levels of experience and training, I'm surprised we haven't seen more ransomware attacks on schools. Though monetarily they're less appetizing than

other targets, and may have more resources to deal with the threat if they have a strong IS/IS program.

- Chinese IBM employee arrested for trade secret theft (Reuters) – The indictment (pdf) says the now-former IBM employee stole proprietary software related to hyperscale storage clusters, or what most consumers would know as ‘cloud storage’. This is a technology segment in which the U.S. still has considerable clout in terms of marketshare, and in terms of global economic impact based on its use. Reporting on this indictment has been vague, referring to the technology at the heart of this case as ‘networking software’. It’s more complex than that; the proprietary software underpins storage and retrieval of data across networked large storage devices. (*Hi blueba. Just checking to see if you missed me. Can’t let the Russians have all the fun.*)

Basta. Enough. Let’s hope Wednesday is kinder than the last handful of days have been.

LORETTA LYNCH'S HOT AND COLD RUNNING DATA-SHARING

[See update below: Lynch says she didn't mean how these statements came out.]

It's bad enough that Attorney General Loretta Lynch refuses to force police to keep records on how many people they kill.

In a conversation with NBC journalist Chuck Todd on a range of criminal justice issues, Lynch said on Thursday that she does not support a federal mandate to report people killed by police.

"One of the things we are focusing on at the Department of Justice is not trying to reach down from Washington and dictate to every local department how they should handle the minutia of record keeping, but we are stressing to them that these records must be kept," she said at the Washington Ideas Forum, hosted by AtlanticLIVE and the Aspen Institute.

It's her reasoning I find really troubling.

Lynch said the Justice Department does "encourage" local departments to maintain records on police shootings but that improving police-community relations is more important. She noted that the small size of the average police department could make record-keeping difficult.

"The statistics are important, but the real issues are: 'what steps are we all taking to connect communities ... with

police and back with government?’” she said.

It’s all well and good to say communities and their cops just need to get along.

But cops are claiming a Ferguson Effect that statistically doesn’t exist and the NYT is reprinting the claim only because the cops say so.

Here’s what the crime story said: “Among some experts and rank-and-file officers, the notion that less aggressive policing has emboldened criminals – known as the “Ferguson effect” in some circles – is a popular theory for the uptick in violence.” A paragraph later, the story continues: “Others doubt the theory or say data has not emerged to prove it.” Two experts are quoted, and the story moves on from there.

Bill Michtom of Portland, Ore., wrote to me about it, calling it a “classic example of false equivalence.” Ta-Nehisi Coates called the suggestion of a Ferguson effect “utterly baseless” in a piece for The Atlantic, noting that one of the experts quoted said that the rise in violent crime in St. Louis had begun before the large protests last year over a white police officer’s fatal shooting of an unarmed black teenager.

One of the story’s reporters, Monica Davey, and the national editor, Alison Mitchell, strongly disagree that this is false equivalence or that it was misleading to readers. In fact, they told me, it would be wrong of The Times not to report something that some police officers are identifying as part of their mind-set.

Ms. Davey, who agrees that false balance is infuriating and must be avoided, said in an email that this example simply

doesn't fit the description. For one thing, she said, there is no established truth here: "The question about the validity of this theory simply has not been definitively answered in the way that the earth's shape has." And, she said, "police officers must be given some credence in assessing whether they themselves feel that they are behaving differently now – the essence of what some of them have called the 'Ferguson effect.' "

Or, as Ms. Mitchell puts it: "We have the police suggesting that police are pulling back – should we not report that?"

My view is that the introduction of this explosive idea didn't serve readers well because, in this context, it was mentioned briefly, sourced vaguely, and then countered by disagreement. If police officers are indeed pulling back from their duties, and are willing to be identified and quoted, and if there's evidence to back it up, that would be worth a full exploration in a separate article. But this glancing treatment could easily have left readers baffled, at the very least.

Things aren't going to improve so long as cops can just make shit up, in spite of data to the contrary.

Just as importantly, since 9/11, the mandate throughout the Federal government – and especially for FBI – has been to share information promiscuously, including down to local police departments. Some of that information includes untested leads; some of it includes cyber and terrorist threat assessments.

If Lynch is telling us these local police departments don't have the ability to handle reporting back and forth from the federal

government, than the rest of the info sharing should stop too, because it could violate Americans' privacy and/or expose intelligence streams.

But we all know that's not going to happen.

Which means Lynch is supporting an asymmetrical reporting system that can't be used for oversight of the larger system.

Update: Lynch says her statements last week weren't what she was trying to say.

The point I was trying to make at that conference related to our overall view of how we deal with police departments as part of our practice of enforcing consent decrees, or working with them and I was trying to make the point that we also have to focus on building community trust which is a very individual – very local – practice.

Unfortunately, my comments gave the misperception that we were changing our view in some way about the importance of this data – nothing could be further from the truth. This data is not only vital – we are working closely with law enforcement to develop national consistent standards for collecting this kind of information.

More from her statement:

“The department’s position and the administration’s position has consistently been that we need to have national, consistent data,” said Attorney General Lynch. “This information is useful because it helps us see trends, it helps us promote accountability and transparency,” said Attorney General Lynch. “We’re also going further in developing standards for publishing information about deaths in custody as well, because transparency and accountability are helped by this

█ kind of national data.”