

From: Creegan, Erin (Judiciary-Rep)
Subject: RE: Oversight letter
To: Cooper, John (Judiciary-Rep); Gaeta, Joseph (OLA); Pings, Anne (OLA)
Sent: July 28, 2021 6:11 PM (UTC-04:00)

Hi Anne,

Would you perhaps be able to confirm receipt for us?

Thanks.

From: Creegan, Erin (Judiciary-Rep)
Sent: Wednesday, July 28, 2021 3:48 PM
To: Cooper, John (Judiciary-Rep) (b) (6) (b)(6) Joseph Gaeta (OLA)
Subject: RE: Oversight letter

DAAG Gaeta,
Checking in with you if you can confirm receipt.

Thanks kindly,
Erin

From: Cooper, John (Judiciary-Rep) (b) (6)
Sent: Tuesday, July 27, 2021 5:16 PM
To: (b)(6) Joseph Gaeta (OLA)
Cc: Creegan, Erin (Judiciary-Rep) (b) (6)
Subject: Oversight letter

Mr. Gaeta:

Please see the attached letter.

Please confirm receipt of this letter.

Very respectfully,

John

John P. Cooper
Counsel
Ranking Member Charles E. Grassley
U.S. Senate Committee on Judiciary
(202) 224-5225

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
ALEX PADILLA, CALIFORNIA
JON OSSOFF, GEORGIA

CHARLES E. GRASSLEY, IOWA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
TOM COTTON, ARKANSAS
JOHN KENNEDY, LOUISIANA
THOM TILLIS, NORTH CAROLINA
MARSHA BLACKBURN, TENNESSEE

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

July 27, 2021

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Garland:

A recent New York Times article reported that the Department of Justice recently moved to withdraw death penalty requests in seven ongoing federal prosecutions.¹ All seven of these cases had already been indicted and charged as capital cases under the previous administration. These were not new cases where the DOJ simply chose not to pursue the death penalty.

President Biden has of course previously called for an end to the death penalty in the United States and has openly called for its elimination. This seemingly sudden change in these cases invites speculation that the Justice Department is basing prosecutorial decisions on the President's preferences. During your confirmation hearing on February 22, 2021, I specifically asked you about upholding the death penalty, especially in relation to cases in which the Obama administration had previously sought and received death sentences.² I expressly asked you about the Boston Marathon bombing case. Unfortunately, you could not or did not comment on these cases at this time due to your obligations as a sitting federal judge.

Regardless, Congress, 27 state legislatures, and the Supreme Court, have all repeatedly codified and legitimized capital punishment here in the United States in those most horrific and egregious cases where the death penalty is truly the only appropriate and fitting sentence. As the Supreme Court recently said, "The death penalty was an accepted punishment at the time of the adoption of the Constitution and the Bill of Rights." *Glossip v. Gross*, 576 U.S. 863, 867 (2015). Additionally, a majority of Americans support the death penalty. You know this as well as anyone from your previous time in Justice Department leadership when you personally worked to secure and uphold the death penalty in the Oklahoma City bombing case. Thus, while I appreciate your views have changed about some applications of the death penalty, I am sure you agree with the majority of Americans that the death penalty can be the appropriate outcome in certain horrifying cases, such as the Boston Marathon bombing and the Mother Emmanuel shooting in Charleston by Dylan Roof.

However, on July 1, 2021, you imposed a moratorium on all federal executions in order

¹ *U.S. Won't Seek Death Penalty in 7 Cases, Signaling a Shift Under Biden*, N.Y. TIMES (July 22, 2021), available at <https://www.nytimes.com/2018/02/03/sports/nassar-fbi.html>.

² Archived webcast of this February 22, 2021 hearing of the Senate Judiciary Committee, "The Nomination of the Honorable Merrick Brian Garland to be Attorney General of the United States: Day 1" is available online at <https://www.judiciary.senate.gov/meetings/the-nomination-of-the-honorable-merrick-brian-garland-to-be-attorney-general-of-the-united-states-day-1>.

to review DOJ policies and procedures.³ I hope this is not a prelude or an excuse to use departmental action to *de facto* ban the statutorily authorized death penalty during the tenure of the Biden administration.

Concerning these policies and procedures surrounding death penalty cases and given the inherently serious nature of the death penalty, the DOJ's Capital Case Section (CCS) was created to assist the Attorney General's Review Committee on Capital Cases (AGRCCC) in evaluating whether or not a case submitted by a local U.S. Attorney is an appropriate case to seek the death penalty.⁴ The CCS' currently stated purpose "is to promote consistency and fairness in the application of the death penalty throughout the United States." This stated goal of consistency clearly seems to contradict the DOJ's inherently inconsistent decision to change course and withdraw death penalty requests in the above seven cases. And it's certainly inconsistent with letting the President change the course of prosecutions.

Congress, the American people, and the victims' families in the abovementioned cases are owed answers regarding the DOJ's recent decision to reverse course and withdraw requests for the death penalty. In light of the serious concerns these decisions raise, please provide answers to the following questions no later than August 18, 2021:

1. Do these seven cases signify a broader, upcoming DOJ-wide shift on capital punishment in eligible cases?
2. Were the victims' families consulted before deciding to withdraw the death penalty request in these cases?
3. If not, does the failure to consult with the victims' families violate any formal or informal DOJ policies concerning victims' rights?
4. Did the Office of the Attorney General, the Office of the Deputy Attorney General, the Criminal Division, or any of the applicable U.S. Attorneys' Offices consult with the Office of Legal Counsel before withdrawing the death-penalty requests in order to ensure compliance with the Crime Victims' Rights Act or other applicable victims' rights laws or regulations?
5. Were the CCS or AGRCCC involved in either the decision to seek the death penalty in these cases during the Trump administration, or the subsequent decision to withdraw the request for the death penalty in these cases under the Biden administration?
6. Has the CCS or AGRCCC received any new procedural guidance, either formally or informally, on what qualifies for a capital case under the Biden administration?
7. If so, please provide any written guidance either committee has received regarding capital cases.
8. Please list all individuals who currently serve on the CCS and AGRCCC, and their length of tenure on their respective committee.
9. How many of these individuals are recent appointees since President Biden's inauguration?

³ <https://www.justice.gov/opa/pr/attorney-general-merrick-b-garland-imposes-moratorium-federal-executions-orders-review>

⁴ <https://www.justice.gov/criminal/capital-case-section>

10. Please explain the decision-making process by which the DOJ chose to withdraw the request for the death penalty in the above cases.
11. Has CCS or AGRCCC, or the DOJ broadly, approved any requests to seek the death penalty cases under the Biden administration?
12. If so, please provide the pertinent information on those cases, including the factual allegations and charges.
13. Three of the above defendants whose death penalty requests have since been dropped have subsequently pled guilty. Were the decisions to withdraw the death penalty requests part of plea bargaining between the prosecution and defense in those specific cases?
14. Has the DOJ discussed or considered the broader impact of capital punishment in relation to plea bargaining between defense and the prosecution, especially in cases where the possibility of the death penalty may incentivize vital cooperation, or encourage a defendant to reveal important victim information, such as the location of a previously undiscovered body?
15. There are currently 46 prisoners on federal death row; 10 of those (21%) are on death row for the murder of either a fellow prisoner or a prison guard while already incarcerated.⁵ Please provide any statistics about how often the death penalty is sought against prisoners who commit murder while already in prison.
16. The death verdicts against the Boston Marathon Bomber and Dylann Roof are still being defended on appeal in the Supreme Court and the Fourth Circuit, respectively. Does the Justice Department intend to continue defending those verdicts in court?

Victims of violent crime and their families deserve and expect justice. Victims of violent crime and their families deserve to know what to expect at the conclusion of their cases, so that they're not constantly re-victimized every time political policies change. I hope we are providing them with that consistency.

Thank you for your prompt attention to this matter. Please contact John Cooper of my Judiciary Committee staff if you have any questions.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

⁵ <https://deathpenaltyinfo.org/state-and-federal-info/federal-death-penalty/list-of-federal-death-row-prisoners>

From: Gaeta, Joseph (OLA)
Subject: TA
To: (b)(6) Rajiv Venkataramanan (Judiciary-Dem) (b)(6) Sonia Gill (Judiciary-Dem) Trifone, Stephanie (Judiciary-Dem)
Cc: Payton, Rayshon (OLA)
Sent: July 27, 2021 3:35 PM (UTC-04:00)
Attached: DOJ specific comments - Voting Rights - 7.27.21.pdf, DOJ general comments - Voting Rights - 7.27.21.pdf

Stephanie, Sonia, and Raj,

Attached please find two technical assistance documents from the Department of Justice related to changes to the Voting Rights Act being considered by Congress. These comments are informal and do not represent the official views of the Department on any particular piece of legislation. Please let me know how the Department can be of further assistance going forward.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

Technical Assistance on Voting Rights Act – General Comments
U.S. Department of Justice
July 27, 2021

Geographic formula

- Any new geographic formula must respond to *Shelby County*. Efforts to tailor a new coverage formula to remedy the flaws identified by the Supreme Court may result in a narrower scope of coverage than the original VRA formula. An expansive formula will entail greater litigation risk.
- If there is some form of geographic formula, a look-back period that does not extend too far into the past is likely necessary. And it will likely require multiple violations.
- In addition, any geographic formula must be closely tailored to the violations found – for example, the bill might require preclearance be limited to the jurisdiction where the violation occurred.
- Inclusion of consent decrees and settlements as part of a coverage formula both increases litigation risk and potentially undercuts future voting-rights enforcement work. As to the former, counting consent decrees and settlements as “violations” could be seen by courts as unfair to jurisdictions, since it could trigger coverage for jurisdictions that previously tried to resolve voting rights issues amicably, often in consent decrees that expressly disclaimed there being a violation of law. As to the latter, including them could be detrimental to voting rights enforcement work generally since it will deter future settlements. Many voting matters result in favorable settlements now, and that helps voters over the long run.

Other preclearance and transparency provisions

- In general, the concept of a “known practices” or “covered practices” trigger for preclearance may be a reasonable additional basis for preclearance. Focusing on practices that are known to correlate with discrimination based on race or minority language status, particularly in areas where eligible voters include significant racial and minority language groups, could be helpful.
- Consider whether to modify the preclearance standard to authorize DOJ objections or judicial denial of preclearance when a voting practice or procedure imposes significant burdens on a citizen’s ability to register, to cast a ballot, or to have that ballot counted (similar to the Anderson-Burdick balancing test).
- The concept of requiring transparency for some new voting changes seems reasonable. Aiming towards provisions that are reasonable in scope, that are easy to understand, and easy to administer, and that are tied to a history of discrimination could be helpful.
- For the transparency and known practices provisions, making such a provision nationwide removes one litigation risk. However, nationwide requirements carry their own litigation

risks. Courts will also assess the cumulative burdens on jurisdictions that the various preclearance and transparency provisions will impose. The broader the scope of voting practices and jurisdictions covered, the higher the litigation risk. The narrower the scope, the better the chance they will be upheld.

- The question whether to use race or minority language status explicitly in developing the formula should be considered carefully. On the one hand, such use will mean the formula is more narrowly tailored (as opposed to applying nationwide). On the other hand, expressly race-conscious language might trigger strict scrutiny. And the litigation risk might extend beyond the new statute—for example, to other statutes that explicitly use racial or other protected statuses as a basis for covering government action.
- Consider how Elections Clause powers under Article I, § 4, as well as enforcement powers under the Fourteenth and Fifteenth Amendments, could be used to ground a preclearance trigger. The Elections Clause may reach a narrower range of practices (for example, it would be hard to reach electoral district lines for local elections), but it would avoid the congruence-and-proportionality review that applies to Reconstruction Amendment-based legislation. And it would cover many practices that apply to elections for local office, so long as there are federal offices on the ballot as well.
- Changing the statutory standard for “bail in” under Section 3 of the VRA could provide a valuable backstop for coverage formulas. Section 3 in its present form authorizes courts to order preclearance and federal observers in cases where there has been an intentional constitutional violation. Amending the standard to reach statutory violations of the federal voting rights laws, and not just constitutional violations, could be helpful.

Changes to the preliminary injunction standard

- There is a litigation risk to possible changes in the preliminary injunction standard. Consider whether there are any models of language for changing this kind of standard that can be drawn upon.
- Consider separating out that language that clarifies the existence of a private right of action under the VRA from the remainder of any language that creates a preliminary injunction standard. Consider moving these two changes into separate provisions.

General considerations

- Congressional hearings must build a strong record to support new federal legislation. That record should include all available evidence of discrimination in voting based on race and minority language status. The record should specifically support the various provisions in the bill ultimately introduced.
- Beyond the severability provisions that already exist in the VRA, a strong severability clause should be included in any new federal bill to protect the various provisions of the bill.

- Any new statute should provide express causes of action both for the United States and for any aggrieved individual. The statute should also reaffirm that aggrieved individuals have a cause of action under existing statutes protecting the right to vote. CRT has made some suggestions along these lines.

- Consider including additional federal funding for states to help defray the costs for new nationwide voting rights requirements related to the Voting Rights Act, such as transparency and practice-based preclearance requirements. Such funding could assist with acceptance of such provisions and remove one argument from challenges to such provisions. Including additional funding could also help to ground some requirements in the Spending Clause.

Technical Assistance on Voting Rights Act – Specific Provisions
U.S. Department of Justice
July 27, 2021

In 52 U.S.C. 10301, replace subsection (b) with the following:

(b) A violation of subsection (a) for vote dilution is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by subsection (a) in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice. The extent to which members of a protected class have been elected to office in the State or political subdivision is one circumstance which may be considered: *Provided*, That nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population. The legal standard articulated in *Thornburg v. Gingles*, 478 U.S. 30 (1986), governs claims under this subsection. For purposes of this subsection, a class of citizens protected by subsection (a) may include a cohesive coalition of members of different racial or language minority groups.

In 52 U.S.C. 10301, insert the following after subsection (b):

(c) A violation of subsection (a) for vote denial or abridgment is established if the challenged standard, practice, or procedure imposes a discriminatory burden on members of a class of citizens protected by subsection (a), meaning that:

1. members of the protected class face greater difficulty in complying with the requirement, considering the totality of the circumstances; and
2. that the greater difficulty is, at least in part, caused by or linked to social and historical conditions that have or currently produce discrimination against members of the protected class. The challenged standard, practice, or procedure need only be a but-for cause of this burden or perpetuate a pre-existing burden.

(d) The totality of the circumstances relevant to a vote denial or abridgement challenge include, but are not limited to, the following factors. These factors, individually and collectively, show how a voting practice can function to amplify the effects of past or present racial discrimination. A plaintiff need not show any particular combination or number of factors to establish a violation.

1. The history of official voting-related discrimination in the state or political subdivision;
2. The extent to which voting in the elections of the state or political subdivision is racially polarized;
3. The extent to which the state or political subdivision has used photographic voter identification requirements, documentary proof of citizenship requirements, documentary proof of residence requirements, or other voting practices or procedures beyond those

required by Federal law that may impair the ability of members of the minority group to participate fully in the political process;

4. The extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process;
5. The use of overt or subtle racial appeals either in political campaigns or surrounding adoption or maintenance of the challenged practice;
6. The extent to which members of the minority group have been elected to public office in the jurisdiction, *provided that* the fact that the minority group is too small to elect candidates of its choice shall not defeat a claim of vote denial or abridgment;
7. Whether there is a lack of responsiveness on the part of elected officials to the particularized needs of minority group members; and
8. Whether the policy underlying the state or political subdivision's use of the challenged standard, practice, or procedure is tenuous.

(e) The totality of the circumstances relevant to a vote denial or abridgement challenge do not include the following factors:

1. The total number or share of members of a protected class on whom a challenged standard, practice, or procedure does not impose a material burden;
2. The degree to which the challenged standard, practice, or procedure has a long pedigree or was in widespread use at some earlier date;
3. The use of an identical or similar standard, practice, or procedure in other states or jurisdictions;
4. The availability of other forms of voting unimpacted by the challenged standard, practice, or procedure to all members of the electorate, including members of the protected class, unless the jurisdiction is simultaneously expanding those other practices to eliminate any disproportionate burden imposed by the challenged standard, practice, or procedure;
5. A prophylactic impact on potential criminal activity by individual voters, if such crimes have not occurred in the jurisdiction in substantial numbers; and
6. Mere invocation of interests in voter confidence or prevention of fraud.

(f) A violation of subsection (a) is also established if the challenged standard, practice, or procedure is intended, at least in part, to dilute minority voting strength or to deny or abridge the right of any citizen of the United States to vote on account of race, color, or membership in a language minority group.

1. Racial discrimination need only be one purpose of a standard, practice, or procedure to violate this subsection.
2. A standard, practice, or procedure intended to dilute minority voting strength or to make it more difficult for minority voters to cast a ballot that will be counted violates this subsection even if an additional purpose of the standard, practice, or procedure is to benefit a particular political party or group.
3. Recent context, including actions by official decisionmakers in prior years or in other contexts preceding the decision responsible for the challenged standard, practice, or procedure, may be relevant to a violation of this subsection.

4. Claims under this subsection require proof of a discriminatory impact but do not require proof of violation of subsection (b) or (c).

Civil Investigative Demands

Note: The civil investigative demand provision below is similar to language included in the 2011 legislative proposal with regard to enforcement of various servicemember related statutes.

X. Enforcement by the Attorney General.

Section 12 of the Voting Rights Act (52 U.S.C. 10308) is amended by adding the following language at the end of that section:

"(e) Issuance and Service of Civil Investigative Demands

"Whenever the Attorney General, or a designee, has reason to believe that any person may be in possession, custody, or control of any documentary material relevant to an investigation under the Voting Rights Act, or any other federal voting rights statute, the Attorney General, or a designee, may, before commencing a civil action, issue in writing and cause to be served upon such person, a civil investigative demand requiring –

"(1) the production of such documentary material for inspection and copying;

"(2) that the custodian of such documentary material answer in writing written questions with respect to such documentary material; or

"(3) the production of any combination of such documentary material as in (1) and written answers as in (2).

"The statutory provisions governing the authority to issue, use, and enforce civil investigative demands under the False Claims Act and codified in Section 3733, Title 31 of the United States Code, shall govern the authority to issue, use, and enforce civil investigative demands under this Section, except that references to false claims law investigators or investigations shall be read as references to voting rights investigators or investigations; references to interrogatories shall be read as references to written questions, and answers to such need not be under oath; the statutory definitions relating to 'false claims law' shall not apply; and provisions relating to qui tam relators shall not apply."

Clarification of Authority to Seek Relief

Note: Inclusion of language regarding authority to seek relief is significant. The federal government's authority to sue is statutorily limited, and the implied right of action for private parties is constantly under challenge. One provision below (amending Section 12) is similar, but not identical, to language in the Senate bill. For clarity, we would amend language regarding authority to sue everywhere it appears, as we have sought to do here. We would also avoid including the authority to sue language in the same provision as any proposed change to the preliminary injunction standard.

Clarification of Authority To Seek Relief.—

- (a) Section 10(b) of the Voting Rights Act of 1965 (52 U.S.C. 10306(b)) is amended—
- (1) by striking “the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions,” and inserting “an aggrieved person or (in the name of the United States) the Attorney General may institute such actions”.
- (b) Section 12(d) of the Voting Rights Act of 1965 (52 U.S.C. 10308(d)) is amended—
- (1) by striking “Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 10301, 10302, 10303, 10304, 10306, or 10307 of this title, section 1973e of title 42, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States,” and inserting “Whenever there are reasonable grounds to believe that any person has engaged in, or is about to engage in, any act or practice that would (1) deny any citizen the right to register, to cast a ballot, or to have that ballot counted and included in the appropriate totals of votes cast in violation of the 14th, 15th, 19th, 24th, or 26th Amendments or (2) would violate the Voting Rights Act or any other Federal voting rights law that prohibits discrimination on the basis of race, color, or membership in a language minority group, an aggrieved person or (in the name of the United States) the Attorney General may institute”, and
 - (2) by striking “, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under chapters 103 to 107 of this title to vote and (2) to count such votes”.
- (c) Section 204 of the Voting Rights Act of 1965 (52 U.S.C. 10504) is amended—
- (1) by striking “Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 10501 of this title, or (b) undertakes to deny the right to vote in any election in violation of section 10502 or 10503 of this title, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393¹ of title 28, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate” and inserting “Whenever there are reasonable grounds to believe that a State or political subdivision has engaged or is about to engage in any act or practice prohibited by a provision of Title II, an aggrieved person or (in the name of the United States) the

Attorney General may institute an action in a district court of the United States, for a restraining order, a preliminary or permanent injunction, or such other order as may be appropriate”,

- (d) Section 301(a)(1) of the Voting Rights Act of 1965 (52 U.S.C. 10701) is amended--
- (1) by striking “The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States” and inserting “An aggrieved person or (in the name of the United States) the Attorney General may institute an action in a district court of the United States, for a restraining order, a preliminary or permanent injunction, or such other order as may be appropriate to implement the twenty-sixth amendment to the Constitution of the United States”

Remove the need for three-judge courts in certain cases under the VRA

Note: Removal of the existing statutory requirement for three-judge courts with direct appeals to the Supreme Court in certain cases under the Voting Rights Act other than preclearance cases under Section 5 and bailout cases under Section 4 would be helpful. In particular, it would be helpful to remove the requirement for three-judge courts in cases under the language provisions of Section 203 of the VRA (which falls under the three-judge court requirement in Section 204). This would ease litigation under the language provisions in particular, and would ease the burden on courts, in cases where there is no real need for three judges. It would also remove confusion since courts have required three-judge courts in cases brought under Section 203 by the Attorney General, but not cases brought by private parties, based on a strict reading of the language of the Act.

X. Elimination of the need for three-judge courts in certain cases

(a) Section 10(c) of the Voting Rights Act (52 U.S.C. 10306(c)) is amended —

By striking “which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall lie to the Supreme Court”

(b) Section 204 of the Voting Rights Act (52 U.S.C. 10504) is amended —

By striking “An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 and any appeal shall be to the Supreme Court.”

Other possible amendments

- Consider strengthening existing criminal protections against harassment, intimidation, and suppression regarding voting. This could be done by amending Section 11(b) of the Voting Rights Act, 52 U.S.C. 10307, and/or 18 U.S.C. 245(b)(1)(A) expressly to reach deception, economic threats, electronic disruption, disinformation, and physical to voting (and in the case of Section 245(b)(1)(A), to serving as an election official). It might also involve changing the mens rea standard from willfulness to intent where relevant.

- Consider adding a strengthened severability provision to the amendments.
 - Consider including additional federal funding for states to help defray the costs for new nationwide voting rights requirements related to the Voting Rights Act, such as transparency and practice-based preclearance requirements. Such funding could assist with acceptance of such provisions and remove one argument from challenges to such provisions. Including additional funding could also help to ground some requirements in the Spending Clause.

- Consider reinvigorating the ability to use federal observers to monitor elections in the field for voting rights violations. This could include allowing for possible use of federal observers to assist with election monitoring outside of areas covered by any statutory formulae, so that existing strengths of the federal observer program, such as having large numbers of observers proficient in languages other than English could be better utilized. Another possible route to achieving this might include transferring management authority for the observer program from OPM to DOJ, to avoid a range of practical, budgetary and Purpose Act issues that have arisen since 2013 with monitoring efforts.

From: Aronson, Alex (Judiciary-Dem)
Subject: Re: Schroeder QFR follow-ups
To: Gaeta, Joseph (OLA)
Cc: Smirniotopoulos, Amalea (Judiciary-Dem)
Sent: July 26, 2021 6:11 PM (UTC-04:00)

Excellent, many thanks Joe.

On Jul 26, 2021, at 5:37 PM, Gaeta, Joseph (OLA) (b) (6) wrote:

Alex and Amalea,

Chris's response to your follow-up question. Let me know if you need further information.

Joe

The Office of Legal Counsel can reconsider a legal opinion when requested by a client agency, the Attorney General, or the President. OLC historically has not typically reconsidered its prior opinions on its own accord. The question of whether a sitting President can be indicted or criminally prosecuted illustrates the point. OLC's first opinion on the issue was written in 1973. In 2000, OLC was asked "to summarize and review the analysis provided in support of that conclusion, and to consider whether any subsequent developments in the law lead [OLC] to reconsider and modify or disavow that determination." Among other things, the 2000 opinion considered legal filings by the United States during the intervening 27 years and the proceedings of a recent hearing before a Senate Judiciary Committee subcommittee.

From: Aronson, Alex (Judiciary-Dem) (b) (6)
Sent: Wednesday, July 21, 2021 8:05 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: Schroeder QFR follow-ups

Dear Joe,

Thank you for OLC Nominee Christopher Schroeder's responses to Senator Whitehouse's QFRs. In response to Question 1, which asked what steps OLC had taken to re-evaluate certain OLC opinions following criticism of the opinions by Article III judges, Mr. Schroeder answered that he was "not aware of any steps prior administrations may have taken" to re-evaluate the opinions. As to the OLC opinion at issue in *Trump v. Vance*, 395 F. Supp. 3d 283, 305 (S.D.N.Y. 2019), concerning the Department of Justice's interpretation of the Constitution that a sitting President enjoys immunity from criminal prosecution, Mr. Schroeder further committed that "if and when I am presented with that legal question, I will consider it anew, taking account of" the judge's criticisms.

Senator Whitehouse has two follow-up questions to Mr. Schroeder's response:

- How would the question of immunity of the President ever arise to be reconsidered, given the OLC policy?
- Can the Attorney General raise that question?

Thank you for your assistance, and I'd be happy to discuss if that would be helpful.

Alex Aronson
Chief Counsel
Senator Sheldon Whitehouse
Senate Committee on the Judiciary
(b) (6)

From: Palmer, Bryan (Judiciary)
Subject: RE: 7-14-21 Senate Judiciary Nominations Hearing - Written Questions
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Cc: Fragoso, Michael (Judiciary-Rep); Brest, Phillip (Judiciary-Dem)
Sent: July 26, 2021 5:01 PM (UTC-04:00)

Thank you!

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Monday, July 26, 2021 4:59 PM
To: Palmer, Bryan (Judiciary) (b) (6) Gaeta, Joseph (OLA)
(b) (6)
Cc: Fragoso, Michael (Judiciary-Rep) (b) (6) Brest, Phillip (Judiciary-Dem)
(b) (6)
Subject: RE: 7-14-21 Senate Judiciary Nominations Hearing - Written Questions

Attached please find Mr. Olsen's responses.

Helaine

Helaine Greenfeld

*Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice*

(b) (6)

From: Palmer, Bryan (Judiciary) (b) (6)
Sent: Wednesday, July 21, 2021 5:14 PM
To: Gaeta, Joseph (OLA) (b) (6) Greenfeld, Helaine A. (OLA) (b) (6)
Cc: Fragoso, Michael (Judiciary-Rep) (b) (6) Brest, Phillip (Judiciary-Dem)
(b) (6)
Subject: 7-14-21 Senate Judiciary Nominations Hearing - Written Questions

Attached please find written questions submitted for the record following the July 14 nominations hearing. Below is a list of questions, broken down by nominee and the senator who submitted the written questions.

Matthew Olsen – Ranking Member Grassley and Senators Hirono, Ossoff, Cornyn, Tillis, Cruz, Cotton, Lee and Sasse

Bryan Palmer
Hearing Clerk | Senate Judiciary Committee
202-224-5225
<http://judiciary.senate.gov>

From: Stoopler, David (Judiciary-Dem)
Subject: State Secrets Privilege
To: Gaeta, Joseph (OLA)
Sent: July 26, 2021 1:22 PM (UTC-04:00)

Joe,

Can you confirm two things for me:

- 1) That the [September 23, 2009 Memorandum](#) is the governing policy and procedure for DOJ's invocation of the state secrets privilege (if not, please point me to the operative memorandum/policy/procedure/guidance document); and
- 2) Since 2019, whether the Department has made any "periodic reports," as required by Section 5, "to the appropriate oversight committees of Congress with respect to all cases in which the Department invokes the privilege...explaining the basis for invoking the privilege."

Thanks,
David

David Stoopler
Chief Counsel
U.S. Senator Richard Blumenthal

(b) (6)
(b) (6)

From: Aronson, Alex (Judiciary-Dem)
Subject: Re: Schroeder QFR follow-ups
To: Gaeta, Joseph (OLA)
Cc: Smirniotopoulos, Amalea (Judiciary-Dem)
Sent: July 22, 2021 7:55 PM (UTC-04:00)

Thanks Joe

On Jul 22, 2021, at 6:55 PM, Gaeta, Joseph (OLA) (b) (6) wrote:

Sorry I didn't acknowledge receipt. Back to your shortly.

From: Aronson, Alex (Judiciary-Dem) (b) (6)
Sent: Wednesday, July 21, 2021 8:05 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: Schroeder QFR follow-ups

Duplicative Material, Document ID: 0.7.854.101053, Bates Number 22cv2850-21-01790-000028

From: Zdeb, Sara (Judiciary-Dem)
Subject: Classified briefing availability week of 8/2
To: Gaeta, Joseph (OLA)
Sent: July 22, 2021 12:05 PM (UTC-04:00)

Hi Joe – Following up on our recent conversation, I’m coordinating the Chair’s schedule and Senate Security SCIF availability, and it looks like workable options on our end are Wednesday, 8/4 at either 3:30-4:30 or 5-6. Would you mind confirming as soon as possible whether one or both of these slots works for your briefers so we can lock in a time? Also, do you know yet at what level the briefing will be classified?

Sara Zdeb
Chief Counsel for Oversight
U.S. Senate Committee on the Judiciary
Chair Richard J. Durbin

(b) (6) (Direct)

(b) (6) (Mobile)

(b) (6)

From: Reuschel, Claire (Durbin)
Subject: RE: Connecting
To: Gaeta, Joseph (OLA); Shub, Jordan R. (ODAG); Swanson, Daniel (Judiciary-Dem)
Cc: Klapper, Matthew B. (OAG); Souders, Pat (Durbin); Smick, Amy (USCP); Andre Humes; Foti, Riley (Durbin); (b)(6), (b)(7)(C) per FBI (DO) (FBI); Purdy, Nikita (OAG)
Sent: July 22, 2021 10:49 AM (UTC-04:00)

Hello all-

With our last vote at 1:30, we believe Senator Durbin could arrive as early at 2, but I'll let Amy and Andre confirm that when they are able.

Claire Dickhut Reuschel
Director of Scheduling
U.S. Senator Richard Durbin
Democratic Whip

(b) (6)

twitter.com/SenatorDurbin
facebook.com/SenatorDurbin/
durbin.senate.gov/contact/newsletter

PLEASE NOTE: Any meetings with Senator Richard Durbin are scheduled pending votes and committee business, and may change at any time. If a last minute schedule change occurs, the meeting may be rescheduled or handled by his staff. Everyone visiting Senator Durbin's offices is required to submit to a security screening process to enter the building. Thank you in advance for your cooperation and understanding.

-----Original Message-----

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, July 22, 2021 10:04 AM
To: Reuschel, Claire (Durbin) (b) (6); Shub, Jordan R. (ODAG)
(b) (6); Swanson, Daniel (Judiciary-Dem)
(b) (6)
Cc: Klapper, Matthew B. (OAG) (b) (6); Souders, Pat (Durbin)
(b) (6); Smick, Amy (USCP) (b) (6); Andre Humes
(b) (6); Foti, Riley (Durbin) (b) (6); (b)(6), (b)(7)(C), (b)(7)(E) per FBI
(b) (6); Purdy, Nikita (OAG) (b) (6)
Subject: RE: Connecting

+Dan Swanson. Yes, correct.

-----Original Message-----

From: Reuschel, Claire (Durbin) (b) (6)
Sent: Thursday, July 22, 2021 9:35 AM
To: Shub, Jordan R. (ODAG) (b) (6)
Cc: Klapper, Matthew B. (OAG) (b) (6); Souders, Pat (Durbin)
(b) (6); Smick, Amy (USCP) (b) (6); Andre Humes
(b) (6); Foti, Riley (Durbin) (b) (6); Gaeta, Joseph (OLA)
(b) (6); (b)(6), (b)(7)(C), (b)(7)(E) per FBI
(OAG) (b) (6); Purdy, Nikita
Subject: RE: Connecting

That's what I thought, but wanted to clarify.

Claire Dickhut Reuschel
Director of Scheduling
U.S. Senator Richard Durbin
Democratic Whip

(b) (6)

twitter.com/SenatorDurbin
facebook.com/SenatorDurbin/
durbin.senate.gov/contact/newsletter

PLEASE NOTE: Any meetings with Senator Richard Durbin are scheduled pending votes and committee business, and may change at any time. If a last minute schedule change occurs, the meeting may be rescheduled or handled by his staff. Everyone visiting Senator Durbin's offices is required to submit to a security screening process to enter the building. Thank you in advance for your cooperation and understanding.

-----Original Message-----

From: Shub, Jordan R. (ODAG) (b) (6)
Sent: Thursday, July 22, 2021 9:33 AM
To: Reuschel, Claire (Durbin) (b) (6)
Cc: Klapper, Matthew B. (OAG) (b) (6); Souders, Pat (Durbin)
(b) (6); Smick, Amy (USCP) (b) (6); Andre Humes
(b) (6); Foti, Riley (Durbin) (b) (6); Gaeta, Joseph (OLA)
(b) (6); (b)(6), (b)(7)(C), (b)(7)(E) per FBI; Purdy, Nikita
(OAG) (b) (6)
Subject: Re: Connecting

I defer to Joseph to confirm but I believe he is participating up until the dinner.

Sent from my iPhone

> On Jul 22, 2021, at 8:00 AM, Reuschel, Claire (Durbin) (b) (6) wrote:
>
> Is Senator Durbin apart of this entire Thursday evening schedule? Thanks!
>
> Claire Dickhut Reuschel
> Director of Scheduling
> U.S. Senator Richard Durbin
> Democratic Whip
> (b) (6)
>
> twitter.com/SenatorDurbin
> facebook.com/SenatorDurbin/
> durbin.senate.gov/contact/newsletter
>
>
> PLEASE NOTE: Any meetings with Senator Richard Durbin are scheduled pending votes and committee business, and may change at any time. If a last minute schedule change occurs, the meeting may be rescheduled or handled by his staff. Everyone visiting Senator Durbin's offices is required to

submit to a security screening process to enter the building. Thank you in advance for your cooperation and understanding.

>
>
>
>

> -----Original Message-----

> From: Shub, Jordan R. (ODAG) (b) (6)
> Sent: Thursday, July 22, 2021 2:56 AM
> To: Klapper, Matthew B. (OAG) (b) (6) Reuschel, Claire (Durbin)
(b) (6)
> Cc: Souders, Pat (Durbin) (b) (6) Smick, Amy (USCP)
(b) (6) Andre Humes (b) (6) Foti, Riley (Durbin)
(b) (6) Gaeta, Joseph (OLA) (b) (6) (b)(6), (b)(7)(C), (b)(7)(E) per FBI
(b) (6) Purdy, Nikita (OAG) (b) (6)
> Subject: RE: Connecting

>

> Hi Claire,

>

> Attached is the more detailed itinerary if helpful. Again, please let me know if you have any questions.

>

> Best,

> Jordan

>

> -----Original Message-----

> From: Shub, Jordan R. (ODAG)
> Sent: Wednesday, July 21, 2021 11:01 PM
> To: Klapper, Matthew B. (OAG) (b) (6) Reuschel, Claire (Durbin)
(b) (6)
> Cc: Souders, Pat (Durbin) (b) (6) Smick, Amy (USCP)
(b) (6) Andre Humes (b) (6) Foti, Riley (Durbin)
(b) (6) Gaeta, Joseph (OLA) (b) (6) (b)(6), (b)(7)(C), (b)(7)(E) per FBI
(b) (6); Purdy, Nikita (OAG) (b) (6)
> Subject: RE: Connecting

>

> Hi Claire,

>

> Attached is the tick tock for Thursday. Once the trip book is finalized, I will send a more detailed version. Please let me know if you have any questions.

>

> Best,

> Jordan

>

>

> -----Original Message-----

> From: Klapper, Matthew B. (OAG) (b) (6)
> Sent: Wednesday, July 21, 2021 10:55 PM
> To: Reuschel, Claire (Durbin) (b) (6)
> Cc: Souders, Pat (Durbin) (b) (6) Smick, Amy (USCP)
(b) (6) Andre Humes (b) (6) Foti, Riley (Durbin)
(b) (6) Gaeta, Joseph (OLA) (b) (6) (b)(6), (b)(7)(C), (b)(7)(E) per FBI
(b) (6) Purdy, Nikita (OAG) (b) (6) Shub, Jordan R.
(ODAG) (b) (6)
> Subject: RE: Connecting

>

> Hi Claire. Nikita/Jordan - please send a sketch of Thursday's events to Claire.

>
> -----Original Message-----
> From: Reuschel, Claire (Durbin) (b) (6)
> Sent: Wednesday, July 21, 2021 10:53 PM
> To: Klapper, Matthew B. (OAG) (b) (6)
> Cc: Souders, Pat (Durbin) (b) (6); Smick, Amy (USCP)
(b) (6); Andre Humes (b) (6); Foti, Riley (Durbin)
(b) (6); Gaeta, Joseph (OLA) (b) (6); (b)(6), (b)(7)(C), (b)(7)(E) per FBI
(b) (6); Purdy, Nikita (OAG) (b) (6); Shub, Jordan R.
(ODAG) (b) (6)
> Subject: Re: Connecting
>
> Hello all-
> Can we get a schedule of the events in Chicago that Senator Durbin will join?
>
> Sent from my iPhone
>
>> On Jul 21, 2021, at 8:54 PM, Klapper, Matthew B. (OAG) (b) (6) wrote:
>>
>> Thanks Pat!
>>
>> SSA (b)(6), (b)(7)(C) per FBI is best POC for detail/Andrew's logistics.
>>
>> Joe (OLA), Nikita (scheduling and advance director), and Jordan (advance - on ground now in
Chicago) also copied.
>>
>> Sent from my iPhone
>>
>>>> On Jul 21, 2021, at 8:26 PM, Souders, Pat (Durbin) (b) (6) wrote:
>>>>
>>>> Hello Everyone, I'm connecting Durbin scheduling , USCP DPD and USDOJ to confirm logistics for
tomorrow's trip with the Attorney General to Chicago. Matt Klapper is the AG's COS (and one of the best
people I know!) and will connect the group to the appropriate people at USDOJ (particularly regarding
Andrews arrival and security coverage). I will try to stay out of the way. Thanks. Best. PJS
>>>>
>>>> Patrick J. Souders
>>>> Chief of Staff
>>>> Majority Whip
>>>> U.S. Senator Dick Durbin
>>>> S-321 The Capitol
>>>> Washington, DC 20510
>>>> (b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: Upcoming SJC Nominations Hearings
To: Dodin, Reema B. EOP/WHO; Herwig, Paige L. EOP/WHO; Boyd, Tona EOP/WHO; Secreto, James V. EOP/WHO; Songer, Erica K. EOP/WHO; Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA); Zubrensky, Michael A (OLP); Kingo, Lola A. (OLP)
Cc: Zogby, Joseph (Judiciary-Dem); Swanson, Daniel (Judiciary-Dem); Trifone, Stephanie (Judiciary-Dem)
Sent: July 22, 2021 8:13 AM (UTC-04:00)

Good morning,

Please see below for slates and updates on upcoming SJC nominations hearings.

7/28 (Sen. Blumenthal to chair)

- Panel One
 - Heytens (4th Cir.) (BI cleared)
- Panel Two
 - Giles (EDVA) (BI cleared)
 - Nachmanoff (EDVA) (BI cleared)
 - Nagala (D. Conn.) (awaiting BI follow-up)
 - O. Williams (D. Conn.) (awaiting BI follow-up)
 - Dellinger (AAG-OLP) (BI cleared)

8/11 (Chair TBD; hearing will only proceed if Senate is in session)

- Beckering (EDMI) (BI received and review in process)
- Kumar (EDMI) (BI received and review in process)
- Bonilla (CFC) (BI received and review in process)
- Lerner (CFC) (BI received and review in process)

9/15 (Chair TBD; SJQs must be received by 8/18 for eligibility under 28-day “rule”)

- Panel One
 - Sung (9th Cir. OR) (BI received and review in process)
 - Additional circuit nominee TBD
- Panel Two
 - Two lower court [Note: if 8/11 does not proceed, EDMI nominees will be on this hearing]
 - One Exec (ONDCP or AAG-Antitrust)

10/6 (Chair TBD; note we are going three weeks between 9/15 and 10/6 – this does not affect the remaining hearing or markup calendar given the timing of recess; SJQs must be received by 9/8 for eligibility under 28-day “rule”)

- Panel One
 - Circuit nominee TBD
- Panel Two
 - Four lower court [Note: if 8/11 does not proceed, CFC nominees can be on this hearing]
 - One Exec (ONDCP or AAG-Antitrust)

-
Thanks and let me know of any questions.

Phil

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: 2021-07-20 CEG to DOJ FBI (CWA)
To: (b)(6), (b)(7)(C) per FBI (OCA) (FBI); Gaeta, Joseph (OLA)
Cc: CEG (Judiciary-Rep); Ragsdale, DeLisa (Judiciary-Rep)
Sent: July 20, 2021 3:13 PM (UTC-04:00)
Attached: 2021-07-20 CEG to DOJ FBI (CWA).pdf

(b)(6), (b)(7)(C) and Joe, please see the attached letter from Senator Grassley and confirm receipt. Thank you.

Josh

United States Senate
WASHINGTON, DC 20510

July 20, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
Department of Justice

The Honorable Christopher Wray
Director
Federal Bureau of Investigation

Dear Attorney General Garland and Director Wray:

According to a July 5, 2016, FBI Electronic Communication (EC) from the Washington Field Office, the FBI conducted an “assessment” on the non-profit group, Concerned Women for America (CWA). That assessment was publicly reported on July 14, 2021.¹ The EC noted that the assessment was done “to determine the possibility of fraudulent activity” relating to “embezzlement” and “corporate fraud” and also noted an “[i]ntelligence” aspect to the FBI’s review.² Much of the EC is redacted; however, the unredacted portions cause serious concern about the FBI potentially targeting CWA without a sufficient basis. For example, the EC notes that part of the predicate for the assessment included the fact that CWA allegedly received a score of 70.45 from Charity Navigator and an alleged two-star rating. The EC also noted that the FBI could not locate any derogatory information on CWA and its officers in what may be searchable government databases, which are blocked by redactions. The EC concludes with a recommendation that the FBI not open an investigation into CWA.

Based on the unredacted information that’s been made public to-date, I’m concerned about the basis upon which the FBI initiated an assessment of CWA and the authorities it relied on to do so. Unfortunately, as the country has witnessed in the recent past, including the Crossfire Hurricane investigation and the Larry Nassar investigation, the FBI has repeatedly failed in its mission and abused its authority. The federal government wields immense surveillance ability and Congress, especially this committee, has an obligation to ensure that it is used properly and in accordance with all laws and regulations.

¹ Patrick Eddington, *The FBI’s unjustified targeting of Concerned Women for America*, The Orange County Register (July 14, 2021). <https://www.ocregister.com/2021/07/14/the-fbis-unjustified-targeting-of-concerned-women-for-america/>

² *Id.*

Accordingly, in order to better assess the full extent of activity the FBI engaged in with respect to CWA, please provide the following no later than August 3, 2021:

1. Please provide a complete and unredacted copy of the July 5, 2016, FBI Electronic Communication on CWA.
2. Please provide a full description of all activities the FBI engaged in with respect to CWA and what the FBI believed to be the authorized purpose to engage in such activity.
3. On what date did the FBI begin the assessment of CWA and why? On what date did the FBI close the assessment?
4. Please provide all Electronic Communications and related records, including 302s, with respect to CWA.
5. Please provide a list of all agencies that the FBI interfaced with during its assessment of CWA.
6. For each year dating back to January 1, 2016, how many “assessments” did the FBI perform? Please provide a list for each year and note what type of assessment was conducted and the party subject to the assessment.

Thank you for your attention to this matter. Should you have any questions, please contact Josh Flynn-Brown of my Committee staff at 202-224-5225.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

From: Fogels, Avery (Sullivan)
Subject: RE: Virtual meeting with Senator Sullivan and Kenneth Allen Polite, Jr
To: Pings, Anne (OLA); Schwartz, Leah F. (OLA)
Cc: Pigue, David (Sullivan); Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Sent: July 20, 2021 11:30 AM (UTC-04:00)

Hi again all, I really apologize but the schedule blew up this afternoon and we have to cancel the call today. May we reschedule for a time down the line in the next few months? The Senator understands this will be after his confirmation vote, and is fine with that.

Again, I sincerely apologize for the last minute cancellation, we really appreciate your efforts to make this happen so quickly.

From: Pings, Anne (OLA) (b) (6)
Sent: Tuesday, July 20, 2021 11:07 AM
To: Fogels, Avery (Sullivan) (b) (6); Schwartz, Leah F. (OLA)
(b) (6)
Cc: Pigue, David (Sullivan) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Virtual meeting with Senator Sullivan and Kenneth Allen Polite, Jr

Thank you, Avery.

Hi David, I hope you have been well. Please feel free to give me a call if easier to chat about the topic areas the Senator would like to discuss. I am at (b) (6)

Best regards,
Anne

Anne Pings / Counsel / Office of Legislative Affairs / U.S. Department of Justice / (b) (6)

From: Fogels, Avery (Sullivan) (b) (6)
Sent: Tuesday, July 20, 2021 10:50 AM
To: Schwartz, Leah F. (OLA) (b) (6)
Cc: Pigue, David (Sullivan) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6); Pings, Anne (OLA)
(b) (6)
Subject: RE: Virtual meeting with Senator Sullivan and Kenneth Allen Polite, Jr

Great. Dial (b) (6). David, Cc'd, will be in touch on specific topics. Thank you!

From: Schwartz, Leah F. (OLA) (b) (6)
Sent: Tuesday, July 20, 2021 10:29 AM
To: Fogels, Avery (Sullivan) (b) (6)
Cc: Pigue, David (Sullivan) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6); Pings, Anne (OLA)
(b) (6)
Subject: RE: Virtual meeting with Senator Sullivan and Kenneth Allen Polite, Jr

Hi again Avery,

Thanks for your flexibility. Mr. Polite can make 3:15pm today work for a call. Are you able to share topics that the

Senator would like to discuss? As we understand it, Mr. Polite's confirmation vote will likely take place at 2:30pm today, just prior to the call.

Also, please let me know if you are able to set up a call on your end, or if you prefer that we do so.

Best,
Leah

Leah Schwartz
Office of Legislative Affairs
U.S. Department of Justice

From: Fogels, Avery (Sullivan) (b) (6)
Sent: Tuesday, July 20, 2021 10:03 AM
To: Schwartz, Leah F. (OLA) (b) (6)
Cc: Pigue, David (Sullivan) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6); Pings, Anne (OLA)
(b) (6)
Subject: RE: Virtual meeting with Senator Sullivan and Kenneth Allen Polite, Jr

[Sure thing. How does 3:15p today work?](#)

From: Schwartz, Leah F. (OLA) (b) (6)
Sent: Monday, July 19, 2021 8:51 PM
To: Fogels, Avery (Sullivan) (b) (6)
Cc: Pigue, David (Sullivan) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6); Pings, Anne (OLA)
(b) (6)
Subject: RE: Virtual meeting with Senator Sullivan and Kenneth Allen Polite, Jr

Hi again Avery—

If the Senator's schedule permits, Mr. Polite would appreciate the opportunity to do the call earlier than 5:00pm as he was scheduled to be traveling en route to DC at that time. However, if 5:00pm is the time that will work for the Senator, he can certainly make other travel arrangements.

Please let us know and thank you again.

Best,
Leah

From: Schwartz, Leah F. (OLA)
Sent: Monday, July 19, 2021 7:58 PM
To: Fogels, Avery (Sullivan) (b) (6)
Cc: Pigue, David (Sullivan) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6); Pings, Anne (OLA)
(b) (6)
Subject: RE: Virtual meeting with Senator Sullivan and Kenneth Allen Polite, Jr

Hi Avery,

Thanks very much. We'll check in on this and get back to you shortly.

Best,
Leah

From: Fogels, Avery (Sullivan) (b) (6)
Sent: Monday, July 19, 2021 7:55 PM
To: Schwartz, Leah F. (OLA) (b) (6)
Cc: Pigue, David (Sullivan) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6); Pings, Anne (OLA)
(b) (6)
Subject: RE: Virtual meeting with Senator Sullivan and Kenneth Allen Polite, Jr

May we do after 11:30a tomorrow? Perhaps around 5p if that is available?

Thanks again for getting back to us so quickly!

Avery Fogels
Scheduler
U.S. Senator Daniel S. Sullivan – Alaska
302 Hart Senate Building
(202) 224-3004 Main
(b) (6) Direct

From: Schwartz, Leah F. (OLA) (b) (6)
Sent: Monday, July 19, 2021 7:52 PM
To: Fogels, Avery (Sullivan) (b) (6)
Cc: Pigue, David (Sullivan) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6); Pings, Anne (OLA)
(b) (6)
Subject: RE: Virtual meeting with Senator Sullivan and Kenneth Allen Polite, Jr

Hi Avery!

Hope you're doing well.

Thanks for your patience here. Would Senator Sullivan be available for a call with Mr. Polite tomorrow morning either before 10:00am or after 11:30am?

Please let us know if this might work. In addition, are you able to let us know what topics the Senator might hope to cover on the call?

Many thanks,
Leah

Leah Schwartz
Office of Legislative Affairs
U.S. Department of Justice

From: Fogels, Avery (Sullivan) (b) (6)
Sent: Monday, July 19, 2021 5:09 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)

Cc: Pigue, David (Sullivan) (b) (6)

Subject: Virtual meeting with Senator Sullivan and Kenneth Allen Polite, Jr

Good evening,

I apologize for the VERY last minute request- any chance Senator Sullivan can connect quickly tomorrow with Mr. Kenneth Allen Polite, Jr., re: nomination to be Assistant Attorney General? Virtual or phone call would work of course.

Avery Fogels

Scheduler

U.S. Senator Daniel S. Sullivan – Alaska

302 Hart Senate Building

(202) 224-3004 Main

(b) (6) Direct

From: Walton, Nicole (Judiciary-Dem)
Subject: RE: First Step Act implementation
To: Gaeta, Joseph (OLA); Wright, Rachel (Judiciary-Rep); Zogby, Joseph (Judiciary-Dem); Cummings, Aaron (Grassley)
Cc: Zdeb, Sara (Judiciary-Dem); Petras, Mary (Judiciary-Dem); Trifone, Stephanie (Judiciary-Dem); Burns, Chastidy (Judiciary-Dem); Creegan, Erin (Judiciary-Rep); Underwood, Ryan M. (OLA)
Sent: July 19, 2021 11:41 AM (UTC-04:00)

Hi Joe G.,

Just confirming that we are on today for 4pm-5pm. Also, can you please circulate a Zoom link or conference line?

Thanks!

Nicole

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, July 15, 2021 2:59 PM
To: Wright, Rachel (Judiciary-Rep) (b) (6); Walton, Nicole (Judiciary-Dem) (b) (6); Zogby, Joseph (Judiciary-Dem) (b) (6); Cummings, Aaron (Grassley) (b) (6)
Cc: Zdeb, Sara (Judiciary-Dem) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6); Creegan, Erin (Judiciary-Rep) (b) (6); Underwood, Ryan M. (OLA) (b) (6)
Subject: RE: First Step Act implementation

OK, let's hold 4-5. Thanks all.

From: Wright, Rachel (Judiciary-Rep) (b) (6)
Sent: Thursday, July 15, 2021 2:18 PM
To: Walton, Nicole (Judiciary-Dem) (b) (6); Gaeta, Joseph (OLA) (b) (6); Zogby, Joseph (Judiciary-Dem) (b) (6); Cummings, Aaron (Grassley) (b) (6)
Cc: Zdeb, Sara (Judiciary-Dem) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6); Creegan, Erin (Judiciary-Rep) (b) (6); Underwood, Ryan M. (OLA) (b) (6)
Subject: RE: First Step Act implementation

The Grassley team has availability after 4 pm on Monday.

Rachel

From: Walton, Nicole (Judiciary-Dem) (b) (6)
Sent: Thursday, July 15, 2021 11:20 AM
To: Gaeta, Joseph (OLA) (b) (6); Zogby, Joseph (Judiciary-Dem) (b) (6); Cummings, Aaron (Grassley) (b) (6)
Cc: Zdeb, Sara (Judiciary-Dem) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6); Creegan, Erin (Judiciary-Rep) (b) (6); Underwood, Ryan M. (OLA) (b) (6)

(b) (6) Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: RE: First Step Act implementation

The Durbin staff is available from 3-5pm. Thanks!

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, July 15, 2021 10:37 AM
To: Walton, Nicole (Judiciary-Dem) (b) (6) Zogby, Joseph (Judiciary-Dem)
(b) (6) Cummings, Aaron (Grassley) (b) (6)
Cc: Zdeb, Sara (Judiciary-Dem) (b) (6) Petras, Mary (Judiciary-Dem)
(b) (6) Trifone, Stephanie (Judiciary-Dem) (b) (6)
(b) (6) Burns, Chastidy (Judiciary-Dem) (b) (6) Creegan, Erin
(Judiciary-Rep) (b) (6) Underwood, Ryan M. (OLA)
(b) (6) Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: RE: First Step Act implementation

Sorry again for the delay here. Might a time on Monday in the 3-5 range work?

From: Gaeta, Joseph (OLA)
Sent: Monday, July 12, 2021 5:33 AM
To: Walton, Nicole (Judiciary-Dem) (b) (6) Zogby, Joseph (Judiciary-Dem)
(b) (6) Cummings, Aaron (Grassley) (b) (6)
Cc: Zdeb, Sara (Judiciary-Dem) (b) (6) Petras, Mary (Judiciary-Dem)
(b) (6) Trifone, Stephanie (Judiciary-Dem) (b) (6)
(b) (6) Burns, Chastidy (Judiciary-Dem) (b) (6) Creegan, Erin
(Judiciary-Rep) (b) (6); Underwood, Ryan M. (OLA)
(b) (6); Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: RE: First Step Act implementation

Sorry for the delayed acknowledgement of this list, which is helpful. Let's plan on getting some time on the books for next Monday or Tuesday. I'll have someone from OLA circle back with times shortly.

From: Walton, Nicole (Judiciary-Dem) (b) (6)
Sent: Thursday, July 8, 2021 3:14 PM
To: Gaeta, Joseph (OLA) (b) (6) Zogby, Joseph (Judiciary-Dem) (b) (6)
(b) (6) Cummings, Aaron (Grassley) (b) (6)
Cc: Zdeb, Sara (Judiciary-Dem) (b) (6) Petras, Mary (Judiciary-Dem)
(b) (6) Trifone, Stephanie (Judiciary-Dem) (b) (6)
(b) (6) Burns, Chastidy (Judiciary-Dem) (b) (6) Creegan, Erin
(Judiciary-Rep) (b) (6) Underwood, Ryan M. (OLA)
(b) (6) Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: RE: First Step Act implementation

Hi Joe,

Our teams have conferred and agreed upon the attached topic list. We expect this document to be a working document as our discussions develop over the coming months. After your team has had a chance to review this, please let us know your scheduling proposals for our first meeting.

Thanks!

Nicole

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, July 7, 2021 12:45 PM
To: Walton, Nicole (Judiciary-Dem) (b) (6); Zogby, Joseph (Judiciary-Dem) (b) (6); Cummings, Aaron (Grassley) (b) (6)
Cc: Zdeb, Sara (Judiciary-Dem) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6); Creegan, Erin (Judiciary-Rep) (b) (6); Underwood, Ryan M. (OLA) (b) (6); Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: RE: First Step Act implementation

I think it is helpful to do a little bit of both for an initial meeting. We'd like to be fully prepared to address your immediate concerns, but we can also use this initial meeting to better understand what else we should be thinking about over the upcoming months.

Helpful, or clear as mud?

From: Walton, Nicole (Judiciary-Dem) (b) (6)
Sent: Wednesday, July 7, 2021 12:25 PM
To: Gaeta, Joseph (OLA) (b) (6); Zogby, Joseph (Judiciary-Dem) (b) (6); Cummings, Aaron (Grassley) (b) (6)
Cc: Zdeb, Sara (Judiciary-Dem) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6); Creegan, Erin (Judiciary-Rep) (b) (6); Underwood, Ryan M. (OLA) (b) (6); Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: RE: First Step Act implementation

Hi Joe G.,

Can you clarify if the list of topics you are requesting is a list specifically for items to address at a first meeting or are you requesting a list of topics that includes the full range of topics we would like to discuss related to FSA?

Thanks!

Nicole

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, July 2, 2021 12:35 PM
To: Zogby, Joseph (Judiciary-Dem) (b) (6); Cummings, Aaron (Grassley) (b) (6)
Cc: Zdeb, Sara (Judiciary-Dem) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6); Walton, Nicole (Judiciary-Dem) (b) (6); Creegan, Erin (Judiciary-Rep) (b) (6); Underwood, Ryan M. (OLA) (b) (6); Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: RE: First Step Act implementation

Great. Can I ask you all to confer on a list of topics and send them to us? If we get something by the middle of next week, we'd probably be able to set up a meeting for the week of 7/12.

Thanks and have a nice holiday weekend.

From: Zogby, Joseph (Judiciary-Dem) (b) (6)
Sent: Friday, July 2, 2021 11:02 AM
To: Cummings, Aaron (Grassley) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Zdeb, Sara (Judiciary-Dem) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6); Walton, Nicole (Judiciary-Dem) (b) (6); Creegan, Erin (Judiciary-Rep) (b) (6); Underwood, Ryan M. (OLA) (b) (6); Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: RE: First Step Act implementation

The Durbin team is also amenable. Thanks, Joe

From: Cummings, Aaron (Grassley) (b) (6)
Sent: Friday, July 2, 2021 8:59 AM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Zogby, Joseph (Judiciary-Dem) (b) (6); Zdeb, Sara (Judiciary-Dem) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6); Walton, Nicole (Judiciary-Dem) (b) (6); Creegan, Erin (Judiciary-Rep) (b) (6); Underwood, Ryan M. (OLA) (b) (6); Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: Re: First Step Act implementation

Adding a working email for Rachel.

Sent from my iPhone

On Jul 2, 2021, at 8:53 AM, Cummings, Aaron (Grassley) (b) (6) wrote:

Speaking for Sen. Grassley, we would be amenable.

Sent from my iPhone

On Jul 2, 2021, at 8:16 AM, Gaeta, Joseph (OLA) (b) (6) wrote:

Colleagues:

The Department would like to establish a recurring, bipartisan meeting with SJC committee staff to discuss implementation of the First Step Act and related BOP issues. The Department is making successful implementation of FSA a priority, and would like to be proactive working with the Hill to identify and address concerns. To start, the Department proposes meeting once a work period/monthly with participants from the Department coming from OLA and ODAG. We'd further propose working out a list of topics in advance of each meeting so we can be fully prepared to discuss issues you intend to raise. We don't see this as taking the place of briefings for staff from other interested offices, which we can still schedule as requested. Our hope is that these smaller, regular meetings will promote regular and constructive conversations on this important topic.

Please let me know your thoughts. If both side are amenable, we could schedule our first conversation in the next week or two.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: RE: courtesy meeting with OLC nominee
To: Gottesman, E (Intelligence)
Sent: July 18, 2021 8:28 PM (UTC-04:00)

Evan,

Can we schedule a few minutes to connect on Tuesday afternoon?

From: Gottesman, E (Intelligence) (b) (6)
Sent: Sunday, July 18, 2021 12:08 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Judd, Montana (Wyden) (b) (6); Norgren-Markley, Danielle (OLA) (b) (6)
Subject: Re: courtesy meeting with OLC nominee

Hi Joe. A video meeting with the Senator should suffice. And it shouldn't be too long as it's about one particular OLC opinion - the one about the IC IG, whistleblower complaints and "urgent concerns." As that's an especially infamous opinion, I imagine Chris is already familiar with it, but I'm happy to have a brief chat with you in advance of the meeting with Senator Wyden so that you have all the context.

Thanks,
Evan

Sent from my iPhone

On Jul 16, 2021, at 7:14 PM, Gaeta, Joseph (OLA) (b) (6) wrote:

Hi Evan,

I understand from Chairman Durbin's staff that Senator Wyden may want to meet with OLC AAG nominee Chris Schroeder. Chris is happy to do so, and I've copied my colleague Danielle who can help with his schedule. If you'd like this to be an in person meeting, Chris will be in DC the week of the 26th but he could schedule a video call at any time convenient to the Senator.

I'm generally aware of the Senator Wyden's interests here and have conveyed those to Chris, but if you'd like to talk before a meeting I'd be happy to do that too. Let me know.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: RE: Schroeder Nomination
To: Bauer, Sarah (Judiciary-Dem)
Sent: July 16, 2021 7:13 PM (UTC-04:00)

I've reached out to Evan and will keep you posted.

From: Bauer, Sarah (Judiciary-Dem) (b) (6)

Sent: Friday, July 16, 2021 1:16 PM

To: Gaeta, Joseph (OLA) (b) (6)

Subject: RE: Schroeder Nomination

Great, thanks! You can coordinate with Evan Gottesman (b) (6) He's the Intel staffer we've been talking to and knows you'll be reaching out. And you can add Wyden's scheduler, Montana Judd

(b) (6)

From: Gaeta, Joseph (OLA) (b) (6)

Sent: Friday, July 16, 2021 9:27 AM

To: Bauer, Sarah (Judiciary-Dem) (b) (6)

Subject: Re: Schroeder Nomination

Sarah,

We think a meeting with Senator Wyden could be productive. Let me know how best to proceed.

Sent from my iPhone

On Jun 28, 2021, at 5:36 PM, Bauer, Sarah (Judiciary-Dem) (b) (6)

wrote:

Hi Joe,

I have one quick question about Schroeder QFRs. Do you have time to chat tomorrow morning? Thanks!

Sarah

Sarah Bauer

Counsel

Chair Richard J. Durbin

U.S. Senate Judiciary Committee

(b) (6)

From: Gaeta, Joseph (OLA)
Subject: tip line records
To: Smirniotopoulos, Amalea (Judiciary-Dem); Aronson, Alex (Judiciary-Dem)
Sent: July 15, 2021 3:27 PM (UTC-04:00)

<https://vault.fbi.gov/supreme-court-justice-brett-kavanaugh-supplemental-background-investigation-and-related-tip-records/>

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gerrard, Laura (Warren)
Subject: RE: Lunch Meeting
To: Watson, Theresa (OAG); Cress, Brian (OLA); Purdy, Nikita (OAG); Donenberg, Jon (Warren); Gaeta, Joseph (OLA); Schwartz, Leah F. (OLA)
Cc: Davidson, Marcia A. (OAG); Stitt, Jason (OAG)
Sent: July 14, 2021 1:16 PM (UTC-04:00)

Circling back with the vehicle information! Just to confirm – is 950 Pennsylvania Avenue the best address for the Great Hall Courtyard entrance or is there a better address to input?

Driver: Laura Gerrard

Driver phone: (b) (6)

Vehicle Make: (b) (6)

Vehicle Model: (b) (6)

Vehicle Color: (b) (6)

Vehicle Year: (b) (6)

License Plate Number: (b) (6)

License Plate State: (b) (6)

Thanks again!

From: Watson, Theresa (OAG) (b) (6)
Sent: Wednesday, July 14, 2021 12:07 PM
To: Gerrard, Laura (Warren) (b) (6); Cress, Brian (OLA) (b) (6)
Purdy, Nikita (OAG) (b) (6); Donenberg, Jon (Warren) (b) (6)
Gaeta, Joseph (OLA) (b) (6); Schwartz, Leah F. (OLA) (b) (6)
Cc: Davidson, Marcia A. (OAG) (b) (6); Stitt, Jason (OAG) (b) (6)
Subject: RE: Lunch Meeting

Thank you so much!!

From: Gerrard, Laura (Warren) (b) (6)
Sent: Wednesday, July 14, 2021 12:06 PM
To: Watson, Theresa (OAG) (b) (6); Cress, Brian (OLA) (b) (6); Purdy, Nikita (OAG) (b) (6); Donenberg, Jon (Warren) (b) (6); Gaeta, Joseph (OLA) (b) (6); Schwartz, Leah F. (OLA) (b) (6)
Cc: Davidson, Marcia A. (OAG) (b) (6); Stitt, Jason (OAG) (b) (6)
Subject: Re: Lunch Meeting

Both are great!! Whichever is easier sounds great to the senator.

Thank you so much for your flexibility!

From: Watson, Theresa (OAG) (b) (6)
Sent: Wednesday, July 14, 2021 11:42:09 AM
To: Gerrard, Laura (Warren); Cress, Brian (OLA); Purdy, Nikita (OAG); Donenberg, Jon (Warren); Gaeta, Joseph (OLA); Schwartz, Leah F. (OLA)
Cc: Davidson, Marcia A. (OAG); Stitt, Jason (OAG)
Subject: RE: Lunch Meeting

We definitely can pick another option, does (b) (6) ?

From: Gerrard, Laura (Warren) (b) (6)

Sent: Wednesday, July 14, 2021 11:36 AM

To: Cress, Brian (OLA) (b) (6) Purdy, Nikita (OAG) (b) (6) Donenberg, Jon
(Warren) (b) (6) Gaeta, Joseph (OLA) (b) (6) Schwartz, Leah F.
(OLA) (b) (6)
Cc: Davidson, Marcia A. (OAG) (b) (6) Watson, Theresa (OAG)
(b) (6)
Subject: RE: Lunch Meeting

Great – thanks so much! Will get this information to you asap. Re: lunch, (b) (6)

? Other than that she's totally flexible!

Thank you so much and will get you these details asap!

Laura

From: Cress, Brian (OLA) (b) (6)
Sent: Wednesday, July 14, 2021 10:56 AM
To: Purdy, Nikita (OAG) (b) (6) Gerrard, Laura (Warren) (b) (6)
Donenberg, Jon (Warren) (b) (6) Gaeta, Joseph (OLA) (b) (6)
Schwartz, Leah F. (OLA) (b) (6)
Cc: Davidson, Marcia A. (OAG) (b) (6) Watson, Theresa (OAG)
(b) (6)
Subject: RE: Lunch Meeting

Nikita – Thanks for looping me in. Laura, I will need the below information filled out before I can forward to DOJ Security.

Visitors:

- Senator Elizabeth Warren
- Jon Donenberg

Date: July 15, 2021

ETA: 12:00 p.m.

ETD: 1:00 p.m.

Room: 5111

Escort: Brian Cress, (b) (6) (will meet them at Great Hall Courtyard Entrance)

POC: Brian Cress, (b) (6)

Vehicle/Driver Information

Vehicle

Driver:

Driver Phone #: (202)

Vehicle Make:

Vehicle Model:

Vehicle Color:

Vehicle Year:

License Plate Number:

License Plate State:

Thanks,

Brian Cress

Office of Legislative Affairs

U.S. Department of Justice

Office: (b) (6) | Cell: (b) (6)

From: Purdy, Nikita (OAG) (b) (6)
Sent: Wednesday, July 14, 2021 10:43 AM
To: Gerrard, Laura (Warren) (b) (6); Donenberg, Jon (Warren) (b) (6); Gaeta, Joseph (OLA) (b) (6); Cress, Brian (OLA) (b) (6); Schwartz, Leah F. (OLA) (b) (6)
Cc: Davidson, Marcia A. (OAG) (b) (6); Watson, Theresa (OAG) (b) (6)
Subject: RE: Lunch Meeting

No problem! Thank you, Laura. Does Senator Warren have any food allergies?

I am adding our OLA POCs who can help with logistics for driver and escorting.

Thanks again,
Nikita

From: Gerrard, Laura (Warren) (b) (6)
Sent: Wednesday, July 14, 2021 10:40 AM
To: Purdy, Nikita (OAG) (b) (6); Donenberg, Jon (Warren) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Davidson, Marcia A. (OAG) (b) (6); Watson, Theresa (OAG) (b) (6)
Subject: RE: Lunch Meeting

Hi Nikita – apologies for the delay. 12p tomorrow at DoJ works well on the senator’s schedule! The only hiccup is if votes are noticed, but we likely won’t know that until this evening I’m afraid. Is it okay on your end to plan for 12p and if votes are noticed during that window we can revert to a call?

If that works on your end, if you wouldn’t mind sharing the logistical details that would be perfect. Thank you!!

Laura

From: Purdy, Nikita (OAG) (b) (6)
Sent: Wednesday, July 14, 2021 10:33 AM
To: Donenberg, Jon (Warren) (b) (6); Gaeta, Joseph (OLA) (b) (6); Gerrard, Laura (Warren) (b) (6)
Cc: Davidson, Marcia A. (OAG) (b) (6); Watson, Theresa (OAG) (b) (6)
Subject: RE: Lunch Meeting

Hi Jon/Laura,

Does Thursday lunch still work for Senator Warren? Feel free to give me a call Laura, if needed.

Thanks all!

Nikita Purdy
Acting Director of Scheduling and Advance
Office of the Attorney General

(b) (6)

Office: (b) (6)

Cell: (b) (6)

From: Purdy, Nikita (OAG)

Sent: Wednesday, July 14, 2021 7:30 AM

To: Donenberg, Jon (Warren) (b) (6); Gaeta, Joseph (OLA) (b) (6)

Gerrard, Laura (Warren) (b) (6)

Cc: Davidson, Marcia A. (OAG) (b) (6); Watson, Theresa (OAG)

(b) (6)

Subject: RE: Lunch Meeting

Hi Jon,

We can provide lunch at DOJ tomorrow if the Senator is still available. Please let us know as soon as possible so we can begin coordinating on our end.

12:00-1:00 pm work?

Thanks so much!

Nikita

From: Donenberg, Jon (Warren) (b) (6)

Sent: Tuesday, July 13, 2021 11:01 AM

To: Gaeta, Joseph (OLA) (b) (6); Gerrard, Laura (Warren) (b) (6)

Purdy, Nikita (OAG) (b) (6)

Subject: Lunch Meeting

Joe/Nikita – sorry for the multiple emails. Klapper called and asked if we might be interested in converting the requested call into a lunch at DOJ with EW, the AG, Matt, and myself, if we can find a time that works this week. He thought Thursday might work on your end for lunch or breakfast, but I defer to you all on if that's right (and to Laura on what works for us). Thank you!

Best,

Jon

Jon Donenberg
Chief of Staff
Sen. Elizabeth Warren
(he/him/his)

From: Sesek, Kristina (Judiciary-Rep)
Subject: 2021-07-14 Grassley, Lankford to DOJ Re: PSJVTA
To: Gaeta, Joseph (OLA)
Cc: Boyd, Stephen (Lankford)
Sent: July 14, 2021 9:35 AM (UTC-04:00)
Attached: Letter to Attorney General Garland re PSJVTA.pdf

Hi Joe -

Please see the attached letter from Senators Grassley and Lankford to AG Garland. Please confirm receipt.

Thanks very much,

Kristina Sesek

Senior Counsel
Senate Judiciary Committee
Ranking Member Chuck Grassley (R-IA)

United States Senate

WASHINGTON, DC 20510

July 14, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Attorney General Garland:

We write to stress the instrumental role of the Promoting Security and Justice for Victims of Terrorism Act of 2019 (“PSJVTA”) in facilitating justice to American victims of terrorism and their families and rebuke any efforts to eliminate its jurisdictional requirements. This law has been referenced in a number of pending cases across the federal judiciary, including recently in *Fuld v. Palestine Liberation Organization*.¹

Unanimously passed in 1992, the Anti-Terrorism Act² (“ATA”) opened the courthouse doors by providing an express, extraterritorial private right of action for U.S. terror victims. For nearly 25 years, the courts held that the presence and activities of the Palestine Liberation Organization (“PLO”) and Palestinian Authority (“PA”) in the United States subjected them to jurisdiction in our courts unless those activities were limited to official business of the United Nations. However, beginning in 2015, courts began exempting the PLO and PA from personal jurisdiction in terror cases on the ground that their liability-creating conduct did not take place on U.S. soil.

In response, Congress passed the Anti-Terrorism Clarification Act (“ATCA”) of 2018 and one-year later, the PSJVTA. The bipartisan PSJVTA provides an alternate path forward for American victims of terror to have their day in court. It does so by giving the PLO and PA a clear choice about a new consequence that would follow from engaging in conduct of deep interest to the United States—the PLO/PA “pay for slay” program that provides institutionalized rewards for terrorists, and the PLO/PA’s activities in the United States. Under the PSJVTA, the PLO and PA are deemed to consent to personal jurisdiction in civil ATA cases if they continue paying terrorists who killed or injured U.S. citizens in terror attacks, or fail to limit their U.S. presence and activities to official business of the United Nations and other specified activities.

Congress empowered U.S. nationals and their families to prosecute lawsuits under the ATA to vindicate important federal interests. Such lawsuits disrupt and deter the financial support of

¹ No. 20 Civ. 2274 (JMF) (S.D.N.Y.).

² 18 U.S.C. §§ 2331 *et seq.*

terrorist organizations and provide just compensation to injured victims and their families. By authorizing and incentivizing private citizens to contribute to the work of cutting terrorists' financial lifelines, the ATA is a key part of the U.S. response to terrorism.

The ATCA and the PSJVTA remedied erroneous judicial interpretations that nullified a fundamental purpose of the ATA—protecting Americans wherever in the world they may travel—and jeopardized Congress's power to protect U.S. citizens and U.S. interests beyond our borders in all manner of cases. We reiterate that the passage of this Act is a proper exercise of Congress's constitutional responsibilities and are of the opinion that arguments to the contrary may lead to the proliferation of acts of terrorism, while unnecessarily delaying access to justice for American terrorist victims and their families.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



James Lankford
United States Senator

From: Gaeta, Joseph (OLA)
Subject: Re: VRA
To: Trifone, Stephanie (Judiciary-Dem)
Cc: Payton, Rayshon (OLA)
Sent: July 13, 2021 5:37 AM (UTC-04:00)

Stand by will confirm

Sent from my iPhone

On Jul 13, 2021, at 12:34 AM, Trifone, Stephanie (Judiciary-Dem) (b) (6)

wrote:

Hi all,

Thanks again for reaching out on this. Would 4 pm on Friday be possible?

Best,
Stephanie

From: Trifone, Stephanie (Judiciary-Dem) (b) (6)

Sent: Friday, July 9, 2021 6:52 PM

To: Gaeta, Joseph (OLA) (b) (6)

Cc: Gill, Sonia (Judiciary-Dem) (b) (6)

(b) (6)

(b) (6)

(b) (6)

Subject: Re: VRA

Venkataramanan, Rajiv (Judiciary-Dem)
Stoopler, David (Judiciary-Dem)

Swanson, Daniel (Judiciary-Dem)

Payton, Rayshon J. (OLA) (b) (6)

Thanks so much, Joe—really appreciate it. We'll touch base on timing and circle back with you. Looking forward to the conversation.

On Jul 9, 2021, at 5:37 PM, Gaeta, Joseph (OLA) (b) (6) wrote:

DOJ CRT would like to meet virtually with SJC staff to discuss Voting Rights Act legislation. I'd expect CRT to be represented by Kristen Clarke, Pam Karlan, and Chris Herren. Given the committee's schedule next week I'd propose a time post-markup on Thursday or Friday. If you could propose some windows that work, we'll work to accommodate. Thank you.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Palmer, Bryan (Judiciary)
Subject: RE: Greenfeld QFR Responses
To: Appleton, Rachel E. (OLA); Brest, Phillip (Judiciary-Dem); Fragoso, Michael (Judiciary-Rep)
Cc: Gaeta, Joseph (OLA)
Sent: July 12, 2021 5:07 PM (UTC-04:00)

Thank you

Bryan Palmer
Hearing Clerk | Senate Judiciary Committee
202-224-5225
<http://judiciary.senate.gov>

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Monday, July 12, 2021 5:03 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Fragoso, Michael (Judiciary-Rep)
(b) (6); Palmer, Bryan (Judiciary) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6)
Subject: Greenfeld QFR Responses

All –

Attached please find responses from Helaine Greenfeld to questions for the record following her confirmation hearing on June 23, 2021.

Rachel Appleton
Office of Legislative Affairs
Department of Justice
c: (b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: 7/14 Nominations Hearing - Room Update
To: Herwig, Paige L. EOP/WHO; Boyd, Tona EOP/WHO; Dews, Justin A. EOP/WHO; McFarlin, Jaimie K. EOP/WHO; Zubrensky, Michael A (OLP); Kingo, Lola A. (OLP); Blau, Zachary (OLP); McCabe, Shannon (OLP); Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA); Appleton, Rachel E. (OLA)
Cc: Bauer, Sarah (Judiciary-Dem)
Sent: July 12, 2021 4:46 PM (UTC-04:00)

Hi all,

BIs for all six nominees on Wednesday's hearing have now cleared. We're awaiting a final blue slip before we can send out an updated hearing notice, but did want to flag that we'll be moving the hearing from Dirksen G-50 to Dirksen 226 (the Committee's normal hearing room).

Please note that Dirksen 226 cannot accommodate the same type of social distancing that we have in the larger hearing rooms. We can, however, still accommodate all Administration officials and nominee guests, and I believe we'll be able to have all guests in the hearing room for both panels. (I'll confirm once I set up chairs tomorrow evening.)

Thanks,

Phil

From: Fragoso, Michael (Judiciary-Rep)
Subject: RE: 6-23-21 Senate Judiciary Nominations Hearing - Written Questions
To: Gaeta, Joseph (OLA)
Sent: July 12, 2021 3:53 PM (UTC-04:00)

Thanks, Joe.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, July 12, 2021 3:42 PM
To: Palmer, Bryan (Judiciary) (b) (6)
Cc: Fragoso, Michael (Judiciary-Rep) (b) (6); Brest, Phillip (Judiciary-Dem)
(b) (6); Appleton, Rachel E. (OLA) (b) (6)
Subject: RE: 6-23-21 Senate Judiciary Nominations Hearing - Written Questions

Attached please find responses from Christopher Schroeder to questions for the record following his confirmation hearing on June 23, 2021.

Helaine's responses will come separately.

From: Palmer, Bryan (Judiciary) (b) (6)
Sent: Wednesday, June 30, 2021 5:12 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Fragoso, Michael (Judiciary-Rep) (b) (6); Brest, Phillip (Judiciary-Dem)
(b) (6)
Subject: 6-23-21 Senate Judiciary Nominations Hearing - Written Questions

Attached please find written questions submitted for the record following the June 23rd nominations hearing. Below is a list of questions, broken down by nominee and the senator who submitted the written questions.

Helaine Greenfeld – Ranking Member Grassley, and Senators Lee, Cotton, Sasse, and Tillis

Christopher Schroeder – Chair Durbin, Ranking Member Grassley, and Senators Whitehouse, Cotton, Sasse, Cruz, and Lee

From: Palmer, Bryan (Judiciary)
Subject: RE: 6-23-21 Senate Judiciary Nominations Hearing - Written Questions
To: Gaeta, Joseph (OLA)
Cc: Fragoso, Michael (Judiciary-Rep); Brest, Phillip (Judiciary-Dem); Appleton, Rachel E. (OLA)
Sent: July 12, 2021 3:46 PM (UTC-04:00)

Thank you!

Bryan Palmer
Hearing Clerk | Senate Judiciary Committee
202-224-5225
<http://judiciary.senate.gov>

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, July 12, 2021 3:42 PM
To: Palmer, Bryan (Judiciary) (b) (6)
Cc: Fragoso, Michael (Judiciary-Rep) (b) (6); Brest, Phillip (Judiciary-Dem)
(b) (6); Appleton, Rachel E. (OLA) (b) (6)
Subject: RE: 6-23-21 Senate Judiciary Nominations Hearing - Written Questions

Duplicative Material, Document ID: 0.7.854.87233, Bates Number 22cv2850-21-01790-000064

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: 2021-07-12 CEG RHJ to DOJ (Special Counsel phones)
To: Gaeta, Joseph (OLA)
Cc: CEG (Judiciary-Rep); Downey, Brian (HSGAC); Wittmann, Scott (HSGAC)
Sent: July 12, 2021 3:29 PM (UTC-04:00)
Attached: 2021-07-12 CEG RHJ to DOJ (Special Counsel phones).pdf

Joe, please see the attached letter from Sens. Grassley and Johnson and confirm receipt. Thank you.

Josh

United States Senate
WASHINGTON, DC 20510

July 12, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
Department of Justice

Dear Attorney General Garland:

In September 2020 we wrote to the Department of Justice and its Office of the Inspector General (DOJ OIG) regarding allegations that cell phones assigned to “multiple people on then-Special Counsel Robert Mueller’s investigative team were ‘wiped’ for various reasons during [the Russia investigation].”¹ Based on the OIG’s May 11, 2021 response, we understand that the Department’s Justice Management Division (JMD) provided the OIG with information relating to the Special Counsel’s Office (SCO) cell phone records.² JMD informed the OIG that 96 phones were assigned to the SCO and JMD currently cannot account for the location of 59 SCO phones.³

Specifically, shortly after the SCO’s closure, in June 2019, JMD took possession of 79 of 96 phones in an official property transfer from the SCO.⁴ Of those, it appears that 74 SCO phones were reviewed for official records and these records, including notes and text messages, were sent to DOJ or FBI email systems for preservation.⁵ Thus, not all the phones were subject to record preservation.

The OIG referred our offices to the “Department for any specific records related to these phones or with any follow up questions.”⁶ Accordingly, please provide the following information no later than July 26, 2021:

¹ Morgan Phillips, *DOJ records show members of Mueller’s team ‘wiped’ phones during Trump probe*, Fox News, Sept. 10, 2020, <https://www.foxnews.com/politics/doj-records-mueller-team-wiped-phones>; Letter from Senator Charles Grassley, Chairman, S. Comm. on Finance to William Barr, Attorney General, U.S. Dept. of Justice (Sept. 11, 2020); Letter from Ron Johnson, Chairman, S. Comm. on Homeland Security and Governmental Affairs, to Michael E. Horowitz, Inspector General, U.S. Dept. of Justice, (Sept. 11, 2020).

² Letter from Michael E. Horowitz, Inspector General, U.S. Dept. of Justice, to Ron Johnson, Ranking Member, S. Comm. on Homeland Security and Governmental Affairs, Perm. Subcomm. on Investigations, (May 11, 2021). Letter from Joseph Gaeta, Deputy Assistant Attorney General, to Charles Grassley, Ranking Member, S. Comm. on the Judiciary (May 18, 2021).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

1. Please provide the “SCO Inventory and Property Transfer Documentation”⁷ and any related records in possession of JMD.
2. Please provide the names of all SCO employees whose cell phones were not reviewed by JMD for official records.
3. Of the 74 SCO cell phones that were reviewed by JMD for official records, how many text messages were sent or received? Please provide all records.
4. What actions has JMD taken to recover the 59 SCO phones that the office has not been able to locate?
5. Has JMD or any other Department entity reviewed the SCO cell phones to determine whether they were used to leak sensitive or classified information?

Thank you for your attention to this matter.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



Ron Johnson
Ranking Member
Permanent Subcommittee
on Investigations

⁷ According to the OIG, JMD provided this document during the OIG’s review.

From: Creegan, Erin (Judiciary-Rep)
Subject: Grassley to Garland re Possible Politicization of DOJ
To: Gaeta, Joseph (OLA)
Cc: Flynn-Brown, Josh (Judiciary-Rep)
Sent: July 12, 2021 3:08 PM (UTC-04:00)
Attached: CEG to Garland re Politicization.pdf

Hi Joe,

Please see the attached letter from Sen Grassley and confirm receipt.

Thanks kindly,
Erin

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
ALEX PADILLA, CALIFORNIA
JON OSSOFF, GEORGIA

CHARLES E. GRASSLEY, IOWA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
TOM COTTON, ARKANSAS
JOHN KENNEDY, LOUISIANA
THOM TILLIS, NORTH CAROLINA
MARSHA BLACKBURN, TENNESSEE

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

July 12, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Attorney General Garland:

I was greatly concerned after reviewing two new Biden Administration policy documents last month, which, taken together, suggest Administration efforts to politicize the Justice Department and force law enforcement professionals to support ineffectual, partisan policies. I hope you will be able to demonstrate the Department's independence.

On June 15, 2021, the National Security Council issued a policy to combat domestic terrorism. Although in broad strokes this policy repeated the strategic objectives and tactical means of a policy previously released by the NSC under the Trump Administration, I was concerned to see that the policy took an extremely partisan tone. For example, aside from the commonsense measures to combat crime such as enhancing cooperation between law enforcement agencies, there was a familiar emphasis on promulgating gun control and promoting teaching of critical race theory in schools. The Administration seems to find every context to be an appropriate one for these same recommendations. Troublingly, there was no mention of the 500 domestic terrorism investigations that were opened during the 2020 riots (comprising 25% of the FBI's current domestic terrorism investigations), or any strategy to combat anarchist extremism or any form of leftwing extremism. In fact, the policy went so far as to re-characterize an attack which the FBI reported only a month earlier as committed by a black racially motivated violent extremist,¹ as "anti-authority" instead.

Only a week later, on June 23, 2021, the Biden Administration announced a violent crime strategy, which is, in fact, a gun control strategy. Instead of acknowledging research that shows that depolicing is at the heart of a violent crime spike that began in June of 2020,² the

¹ Federal Bureau of Investigation and Department of Homeland Security, Strategic Intelligence Assessment and Data on Domestic Terrorism, 32 (May 2021), https://www.odni.gov/files/NCTC/documents/news_documents/ndaa-domestic-terrorism-strategic-report-051421.pdf.

² Prof. Paul Cassel, "Explaining the Recent Homicide Spikes in U.S. Cities: The "Minneapolis Effect" and the Decline in Proactive Policing" (2020).

Administration continues to insist that rogue firearms sellers and legal AR-15 owners are truly to blame. These claims rest on the absolutely wrong-headed and unconstitutional notion that gun ownership itself is an evil to be obliterated.

As DOJ found in 2004 after a review of the so-called assault weapons ban, there was no demonstrable effect of banning so-called “assault weapons” on the level of violent crime.³ As a 2013 CDC-commissioned study found, as many as 3 million people a year defend themselves with a firearm.⁴ A 2019 study by DOJ found that few firearms used in crime are acquired from firearm dealers, about 7%, compared to 56% who stole a firearm or bought it in a black market.⁵ People are legally buying guns at such a high rate because they no longer have the safety afforded by a fully funded and empowered police force. The President’s policy confuses cause for effect: depolicing causes Americans to turn to firearms to protect themselves. Increased firearm acquisition is fueled by rising crime rates,⁶ not the other way around.

In order to demonstrate that the Department is not influenced by partisan documents in enforcing the law, please answer the following no later than July 26, 2021:

1. Was the Department of Justice, including the FBI, given the opportunity to review the National Security Council’s Countering Domestic Terrorism product?
2. Were career attorneys, such as those in the Counterterrorism Section, given an opportunity to review the National Security Council’s Countering Domestic Terrorism product?
3. Were career agents, such as those in the Domestic Terrorism Operations Section of the FBI, given the opportunity to review the National Security Council’s Countering Domestic Terrorism product?
4. Has the FBI changed its characterization of the attack by Micah Johnson, who killed five police officers in Dallas in 2016, from black racially motivated violent extremist to “anti-authority”?
5. If so, was that change in characterization requested by the political leadership of the Department of Justice?
6. Additionally, was that change in characterization requested by any political appointee anywhere in the Administration?

³ Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003 (2004).

⁴ Institute of Medicine and National Research Council of the National Academies, *Priorities for Research to Reduce the Threat of Firearm-Related Violence*, 15 (2013).

⁵ U.S. Department of Justice, Bureau of Justice Statistics, *Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates*, 2016 (January 2019).

⁶ *See, e.g.*, John Keilamn, “Faced with rising crime and social upheaval, more Black Chicagoans are seeking out firearms for their own protection,” *Chicago Trib*, Mar. 1, 2021; <https://www.chicagotribune.com/news/breaking/ct-black-gun-ownership-increasing-20210301-y3pdyrzspjdlhbm4ksre2amcfi-story.html>.

7. Did career attorneys or agents recommend teaching critical race theory in schools as a potential solution for domestic terrorism?
8. Did career attorneys or agents recommend expansive gun control as a potential solution for domestic terrorism?
9. Did career attorneys or agents recommend that the policy acknowledge that a quarter of the current domestic terrorism investigations stem from the 2020 riots?
10. Did career attorneys or agents recommend that the policy acknowledge a growing number of arrests of anarchist extremists, as Director Wray has?
11. Did career attorneys or agents recommend adjustments to the policy based on fatal attacks by black racially motivated violent extremists?
12. How prevalent is the use of ghost guns in violent crime?
13. How prevalent is the use of semiautomatic rifles in violent crime?
14. Is there a historical relationship between rates of legal firearm acquisition and rates of violent crime?
15. If so, does violent crime fuel private firearm acquisition?
16. How many firearms are sold annually by "rogue" firearms dealers versus acquired by other means?
17. How much time will the Department of Justice spend supporting the Administration's efforts to sue gun manufacturers rather than working on direct law enforcement activities?

If you have any questions, you may contact Erin Creegan of my Committee Staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member
Senate Committee on the Judiciary

From: Zdeb, Sara (Judiciary-Dem)
Subject: June 14 HPSCI subpoena letter -- briefing format
To: Gaeta, Joseph (OLA)
Sent: July 6, 2021 10:43 AM (UTC-04:00)

Hi Joe:

(b) (6), no need to respond to this until you're back at work.) To follow up on our discussion about a briefing in response to Senator Durbin's June 14 letter, our preference is to do this as a member-level briefing for SJC members (majority and minority), plus limited staff attendance by cleared staff for the Chair and Ranking Member. If possible, we'd like to do it the week of July 12 – perhaps sometime during the latter part of the week, although I need to confer with our scheduler. Would you mind confirming that this format works for you and letting me know if sometime next week is doable?

Thanks,
Sara

From: Rogers, Helen (Cardin)
Subject: Letter from MD Delegation Members - Maryland SAKI Grant Application
To: Gaeta, Joseph (OLA)
Cc: Van Horne, Bill (Cardin)
Sent: July 2, 2021 12:30 PM (UTC-04:00)
Attached: 2021.07.02 SAKI Delegation Letter of Support_final.pdf

Good afternoon,

Attaching a letter from Senator Cardin and other members of the Maryland delegation in support of the State of Maryland's application for funding under the FY2021 National Sexual Assault Kit Initiative (SAKI) competitive grant program.

Please confirm receipt when you can. Thanks in advance for the consideration.

Best,

Helen R. Rogers
Legislative Correspondent
Office of Senator Benjamin L. Cardin
Cell: (b) (6)

Congress of the United States
Washington, DC 20510

July 2, 2021

Attorney General Merrick Garland
U.S. Department of Justice
810 7th St. NW
Washington, D.C. 20531

Dear Attorney General Garland:

We are pleased to support the State of Maryland's application for funding under the FY2021 National Sexual Assault Kit Initiative (SAKI) competitive grant program. Its proposal will help Maryland continue to hold perpetrators of sexual assault accountable and increase access to justice for sexual assault survivors.

In FY2018, Maryland received a SAKI grant primarily to conduct a detailed inventory of sexual assault evidence kits (SAEKs) that have never been submitted for testing, test a portion of those kits, develop a statewide tracking system, and provide victim services. The inventory revealed that there are over 6,000 SAEKs that have never been submitted for testing housed at various law enforcement agencies throughout the State. Maryland tested a portion of those kits using FY2018 SAKI funding. Additional funding is critical to further reduce the backlog.

In addition to testing, additional funds are necessary to fully investigate SAKI grant CODIS hits and cold cases. The additional funds requested under the SAKI grant will allow Maryland to continue to implement widespread SAEK reform. The State will be able to test its' backlogged kits, investigate resulting CODIS hits, and provide victim-centered notification, communication, and support for survivors.

As Members of the Maryland Delegation, we strongly support the State's proposal and urge you to give it favorable consideration.

Sincerely,

Benjamin L. Cardin

Benjamin L. Cardin
United States Senator

Chris Van Hollen

Chris Van Hollen
United States Senator

Steny H. Hoyer

Steny H. Hoyer
Member of Congress

C.A. Dutch Ruppersberger

C.A. Dutch Ruppersberger
Member of Congress

John P. Sarbanes

John P. Sarbanes
Member of Congress

Kweisi Mfume

Kweisi Mfume
Member of Congress

Anthony G. Brown

Anthony G. Brown
Member of Congress

Jamie Raskin

Jamie Raskin
Member of Congress

From: Gaeta, Joseph (OLA)
Subject: RE: bop meetings.
To: Trifone, Stephanie (Judiciary-Dem)
Sent: July 1, 2021 5:41 PM (UTC-04:00)

Confirming I will send this out without the first edit but with the second.

From: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Sent: Wednesday, June 30, 2021 9:14 PM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: bop meetings.

Thanks, Joe. I think I'm going to be tied up around then thanks to those likely depressing/infuriating decisions, so could we discuss on the 4 pm call tomorrow?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, June 30, 2021 8:59 PM
To: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Subject: RE: bop meetings.

Can we discuss this in the morning? I'm pretty clear from 10-12, though at 10:05 I'll probably be getting sad/angry about the last two scotus decisions.

From: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Sent: Wednesday, June 30, 2021 12:07 PM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: bop meetings.

Yes, we think it's an important element to include, given that BOP's response to the pandemic has been one of Durbin's top concerns. Definitely open to working with you guys on the structure of meetings and working out topics in advance, as you noted (we understand, for example, that medical staff probably would not attend unless there was a very specific request); but we do want it to be part of this regular, recurring conversation. And as you said, I think there's a fair amount of overlap between the impact of the pandemic and FSA implementation.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, June 30, 2021 12:00 PM
To: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Subject: RE: bop meetings.

I know there's overlap with FSA and COVID (e.g., programming availability) which is definitely fair game. Are you thinking COVID more broadly too? That's beyond what we had considered for this.

From: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Sent: Wednesday, June 30, 2021 11:57 AM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: bop meetings.

Apologies for the delay, meant to loop back on Monday. A couple of edits below in red—feel free to give me a ring if you'd like to discuss in more detail (cell is (b) (6)).

From Durbin staff, I would include me, Joe Zogby, Sara Zdeb, Mary Petras, Chastidy Burns, and Nicole McClain Walton. From Grassley staff, I would include Rachel Wright, Erin Creegan, and Aaron Cummings (and they can add others if needed once you send the invite).

Thanks,
Stephanie

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, June 29, 2021 4:12 PM
To: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Subject: RE: bop meetings.

Hi Stephanie,

Checking back on this.

From: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Sent: Friday, June 25, 2021 6:08 PM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: bop meetings.

Thanks for this! Today has been a little nutty, so will circle back with any feedback and suggestions for a distribution list on Monday.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, June 25, 2021 1:39 PM
To: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Subject: bop meetings.

Stephanie,

Sorry for the delay on this. Here's a proposed email for a BOP working group. If this works for you I will send it out to both sides. Would appreciate your advice on a distribution list.

Colleagues:

The Department would like to establish a recurring, bipartisan meeting with SJC committee staff to discuss implementation of the First Step Act, the COVID-19 pandemic, and related BOP issues. The Department is making successful implementation of FSA a priority, and would like to be proactive working with the Hill to identify and address concerns. To start, the Department proposes meeting once a work period/monthly with participants from the Department coming from OLA and ODAG. We'd further propose working out a list of topics in advance of each meeting so we can be fully prepared to discuss issues you intend to raise. We don't see this as taking the place of briefings for staff from other interested offices, which we can still schedule as requested. Our hope is that these smaller, regular meetings will promote regular and constructive conversations on this important topic.

Please let me know your thoughts. If both side are amenable, we could schedule our first conversation in the next week or two.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Rogers, Helen (Cardin)
Subject: Cardin Letters of Support - COSSAP and OAYI Grant Applications
To: Gaeta, Joseph (OLA)
Cc: Van Horne, Bill (Cardin); Medrano, Marlon (Cardin)
Sent: July 1, 2021 3:48 PM (UTC-04:00)
Attached: 2021.07.01 Cecil County COSSAP Cardin Letter of Support.pdf, 2021.07.01 Cecil County OAYI Cardin Letter of Support.pdf

Good afternoon,

Attaching two letters from Senator Cardin to Attorney General Garland with regard to applications from Cecil County, Maryland, for the following grant programs:

- Fiscal Year 2021 Comprehensive Opioid, Stimulant, and Substance Abuse Site-based Program through the Bureau of Justice Assistance, and
- Fiscal Year 2021 Opioid Affected Youth Initiative (OAYI) through the Office of Juvenile Justice and Delinquency Prevention.

We will also be mailing physical copies of these letters. Can you please confirm receipt when possible? Thanks for your assistance, and please let us know if there is a preferred method for us to submit grant support letters in the future.

Happy fourth!

Helen R. Rogers
Legislative Correspondent
Office of Senator Benjamin L. Cardin
Cell: (b) (6)

BENJAMIN L. CARDIN
MARYLAND

www.cardin.senate.gov

509 HART BUILDING
□ WASHINGTON, DC 20510-2004
(202) 224-4524

TOWER 1, SUITE 1710
□ 100 S. CHARLES STREET
BALTIMORE, MD 21201
(410) 962-4436

United States Senate

COMMITTEES:
ENVIRONMENT AND PUBLIC WORKS
FINANCE
FOREIGN RELATIONS
SMALL BUSINESS

COMMISSION ON SECURITY
AND COOPERATION IN EUROPE

July 1, 2021

Attorney General Merrick Garland
U.S. Department of Justice
810 7th St. NW
Washington, D.C. 20531

Dear Attorney General Garland:

It has come to my attention that Cecil County, Maryland has recently submitted a proposal for funding for the Fiscal Year 2021 Comprehensive Opioid, Stimulant, and Substance Abuse Site-based Program (COSSAP) through the Bureau of Justice Assistance.

Although Cecil County is only about one-tenth the size of Maryland's largest jurisdictions, its opioid overdose death rate remains second highest in the State. Through investments from the County and State as well as the proposed grant funds, the County's Departments of Emergency Services, Health, and Community Services will launch a Prevention and Overdose Response and Trauma Supports Services (PORTSS) team. This initiative will not only connect overdose victims with treatment services, but also provide wrap-around services for the families and children of victims to address generational substance abuse. Proposed COSSAP grant funds would be used for staffing, trauma therapy services, and other important costs.

I respectfully request that you give all due consideration to this application, in accordance with established policies and procedures.

Sincerely,



Benjamin L. Cardin
United States Senator

BENJAMIN L. CARDIN
MARYLAND

www.cardin.senate.gov

509 HART BUILDING
□ WASHINGTON, DC 20510-2004
(202) 224-4524

TOWER 1, SUITE 1710
□ 100 S. CHARLES STREET
BALTIMORE, MD 21201
(410) 962-4436

United States Senate

COMMITTEES:
ENVIRONMENT AND PUBLIC WORKS
FINANCE
FOREIGN RELATIONS
SMALL BUSINESS

COMMISSION ON SECURITY
AND COOPERATION IN EUROPE

July 1, 2021

Attorney General Merrick Garland
U.S. Department of Justice
810 7th St. NW
Washington, D.C. 20531

Dear Attorney General Garland:

It has come to my attention that Cecil County, Maryland has recently submitted a proposal for funding for the Fiscal Year 2021 Opioid Affected Youth Initiative (OAYI) through the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

Although Cecil County is only about one-tenth the size of Maryland's largest jurisdictions, its opioid overdose death rate remains second highest in the State. Through investments from the County and State as well as the proposed grant funds, the County's Departments of Emergency Services, Health, and Community Services will launch a Prevention and Overdose Response and Trauma Supports Services (PORTSS) team. This initiative will not only connect overdose victims with treatment services, but also provide wrap-around services for the families and children of victims to address generational substance abuse. Proposed OAYI grant funds would serve families, including assistance for foster and kinship families.

I respectfully request that you give all due consideration to this application, in accordance with established policies and procedures.

Sincerely,



Benjamin L. Cardin
United States Senator

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: 2021-07-01 CEG Rubio Cotton Cruz Young to DOJ (Al Jazeera FARA)
To: Gaeta, Joseph (OLA)
Cc: CEG (Judiciary-Rep); Sesek, Kristina (Judiciary-Rep); Tomlinson, Elliott (Rubio); Willig, Russell (Cotton); Flores, Kelsey (Judiciary-Rep); Davis, Andrew (Judiciary-Rep); Helmers, Jessica (Young)
Sent: July 1, 2021 9:07 AM (UTC-04:00)
Attached: 2021-07-01 CEG Rubio Cotton Cruz Young to DOJ (Al Jazeera FARA).pdf

Joe, please see the attached letter from Sens. Grassley, Rubio, Cotton, Cruz and Young to AG Garland. Please confirm receipt – thank you.

Josh

United States Senate

WASHINGTON, DC 20510

July 1, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice

Dear Attorney General Garland:

For several years, in both the Obama and Trump administrations, Congress has conducted oversight of the Justice Department's lax and selective enforcement of the Foreign Agents Registration Act (FARA).¹ FARA is an important statute that was designed not to prohibit activity but rather to require individuals to register with the DOJ if they are acting as an agent of a foreign government or enterprise to influence U.S. policy or public opinion. This helps ensure transparency and accountability in the public policy arena. In that sense, FARA is a content-neutral regulatory scheme that would not require any entity or individual to refrain from certain types of speech.

Proper enforcement of, and compliance with, FARA remains a top priority of ours as foreign governments and enterprises continue to use agents within the United States as conduits to lobby for policy changes and engage in public relations activity for the benefit of foreign principals.² On June 18, 2019, consistent with our FARA oversight, we sent a letter to DOJ with respect to our concerns that Al Jazeera Media Network was engaged in activity that required it to register as a foreign agent under FARA.³ In that letter, we stated that:

[w]hen the available evidence is taken as a whole, it appears that Al Jazeera's broadcasts, including AJ+, mirror the policies and preferences of the Qatari government, which, together with the state funding and other indicia of agency, demonstrate that Al Jazeera and its media subsidiaries act as alter egos of the Qatari government in ensuring dissemination of the government's viewpoints.⁴

¹ The FARA requires individuals to register with the Department of Justice (DOJ) if they act, even through an intermediary, "as an agent, representative, employee, or servant" or "in any other capacity" at the behest of a foreign principal, including a foreign political party, government, or corporation, for purposes of engagement with a United States official to influence U.S. policy or the public. The registration applies to anyone who attempts to influence a U.S. government official on behalf of a foreign principal in an effort to "formulat[e], adopt[()], or chang[e] the domestic or foreign policies of the United States." Likewise, an individual whose activities are subject to registration under FARA and who sends informational material "for or in the interest of[a] foreign principal" with the intent or belief that such material will be circulated among at least two persons must transmit the material to the Attorney General no later than 48 hours after actual transmission. Notably, an ongoing failure to register with the DOJ is a continuing offense. 22 U.S.C. § 611 – Definitions: The term "foreign principal" includes - (1) a government of a foreign country and a foreign political party; (2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and (3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

² Dep't of Justice, Recent FARA cases, (Nov. 13, 2019), <https://www.justice.gov/nsd-fara/recent-cases>

³ Letter from Senator Grassley, Chairman, Senate Finance Committee, et al. to The Honorable William Barr, Attorney General, Department of Justice (June 18, 2019). <https://www.grassley.senate.gov/news/news-releases/lawmakers-see-fara-evaluation-qatari-owned-al-jazeera>

⁴ *Id.*

On September 14, 2020, according to reports, DOJ's National Security Division made the determination that AJ+, a subsidiary unit of Al Jazeera Media Network, must register under FARA because it engages in "political activities" on behalf of Qatar's government and is designed to "influence American perceptions" of "domestic policy," among other reasons.⁵ Based on reporting, it is unclear whether DOJ has required Al Jazeera Media Network to register as a foreign agent in addition to AJ+.

To date, AJ+ has willfully ignored DOJ's mandate and has failed to register as a foreign agent. With AJ+'s refusal to register under FARA, agents of the Qatari government continue to operate in the United States in violation of the law. We note that foreign agents of other countries have complied with DOJ letters of determination.⁶ Moreover, in addition to refusing to register under FARA, Al Jazeera Media Network created and launched a new media platform aimed at American audiences called "Rightly." The same factual and legal basis with respect to Al Jazeera's nexus to the Qatari government, for which DOJ determined AJ+ must register as a foreign agent, appears to apply equally to this new platform.⁷ Accordingly, the Department must explain what steps it has taken to require it, and its employees, to register under FARA.

In a press release that the Department issued regarding a Russian production company registering as a foreign agent, DOJ said the following:

Americans have a right to know who is acting in the United States to influence the U.S. government or public on behalf of foreign principals. The Department of Justice is committed to enforcing FARA and expects compliance with the law by all entities engaged in specified activities on behalf of any foreign principal, regardless of its nationality.⁸

Further, that same press release said:

Congress passed FARA in 1938, intending to ensure that the American public and our lawmakers know the source of information that is provided at the behest of a foreign principal, where that information may be intended to influence U.S. public opinion, policy and laws.⁹

Those statements apply equally to Al Jazeera Media Network and its related entities, which are controlled by a foreign government, receive financial support therefrom, and engage in activity to influence the U.S. Government and public on behalf of foreign principals.

Accordingly, it is imperative for DOJ to explain what, if any, steps it has taken to enforce the law and require Al Jazeera Media Network, AJ+ and Rightly to register under FARA. Please answer the following questions no later than July 16, 2021:

1. Since the Department of Justice has determined that AJ+ must register as a foreign agent under FARA, has the Department determined the same for Al Jazeera Media Network and Rightly? If so, what steps has the Department taken to enforce compliance? If not, why not?

⁵ Marc Tracy and Lara Jakes, *U.S. Order Al Jazeera Affiliate to Register as Foreign Agent*, The New York Times (Sept. 15, 2020; updated Oct. 30, 2020), <https://www.nytimes.com/2020/09/15/business/media/al-jazeera-fara.html>

⁶ Registered in accordance with FARA on March 12, 2020; see <https://efile.fara.gov/docs/6780-Exhibit-AB-20200312-1.pdf>. Registered in accordance with FARA on May 5, 2021; see <https://efile.fara.gov/docs/6958-Exhibit-AB-20210505-1.pdf>.

⁷ "Rightly" is a news organization launched by Al Jazeera, thereby making it an extension of the Qatari government. Bill Chappel, "Al Jazeera Is Launching A Right-Leaning News Outlet Called Rightly," NPR, Feb. 23, 2021, available at: <https://www.npr.org/2021/02/23/970654967/al-jazeera-is-launching-a-right-leaning-news-outlet-called-rightly>

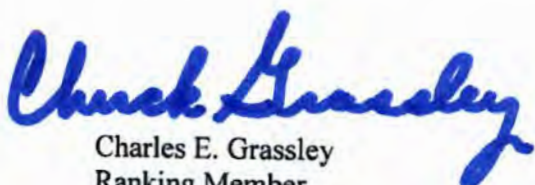
⁸ Department of Justice Press Release, *Production Company Registers Under the Foreign Agent Registration Act as Agent for the Russian Government Entity Responsible for Broadcasting RT* (November 13, 2017).

⁹ *Id.*

2. With respect to AJ+'s refusal to register under FARA, what steps has the Department taken to require them to do so? For example, has the Department begun enforcement proceedings against it? If not, why not?
3. Please provide all letters of inquiry and letters of determination the Department of Justice has sent to Al Jazeera Media Network, AJ+, Rightly and affiliated entities.
4. Under 28 C.F.R. § 5.2, any present or prospective agent of a foreign entity may request an advisory opinion from the Justice Department regarding the need to register. Has Al Jazeera, AJ+, Rightly or any of its entities or employees ever requested an opinion in relation to work done on behalf of Qatar? If so, please provide a copy of the request and opinion.

Please send all unclassified material directly to the signers. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the signers, and provide a classified addendum to the Office of Senate Security. The signers comply with all laws and regulations governing the handling of classified information. They are not bound, absent their prior agreement, by any handling restrictions or instructions on unclassified information unilaterally asserted by the Executive Branch.

Thank you for your attention to this important matter.



Charles E. Grassley
Ranking Member
Committee on the Judiciary



Marco Rubio
U.S. Senator



Tom Cotton
U.S. Senator



Ted Cruz
U.S. Senator



Todd Young
U.S. Senator

From: Gaeta, Joseph (OLA)
Subject: RE: QFRs for 6/23 Nominees
To: Brest, Phillip (Judiciary-Dem)
Sent: June 30, 2021 3:13 PM (UTC-04:00)

Understood.

From: Brest, Phillip (Judiciary-Dem) (b) (6)

Sent: Wednesday, June 30, 2021 2:56 PM

To: Gaeta, Joseph (OLA) (b) (6)

Subject: QFRs for 6/23 Nominees

They will come to you a bit after 5 pm today. We need responses by 5 pm on 7/12 for Helaine and Chris to be listed for the first time on the 7/15 markup.

From: Brest, Phillip (Judiciary-Dem)
Subject: 7/14 and 7/28 SJC Nominations Hearings
To: Dodin, Reema B. EOP/WHO; Herwig, Paige L. EOP/WHO; Boyd, Tona EOP/WHO; Secreto, James V. EOP/WHO; Songer, Erica K. EOP/WHO; Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA); Zubrensky, Michael A (OLP); Kingo, Lola A. (OLP)
Cc: Zogby, Joseph (Judiciary-Dem); Swanson, Daniel (Judiciary-Dem); Trifone, Stephanie (Judiciary-Dem)
Sent: June 30, 2021 11:24 AM (UTC-04:00)

Good morning all,

Please see below for the planned slates for the 7/14 and 7/28 SJC nominations hearings.

7/14 (Sen. Durbin to chair)

- Panel One
 - Perez (2d Cir.)
- Panel Two
 - Cobb (DDC)
 - Merriam (D-CT)
 - Pan (DDC)
 - K. Williams (D-NJ)
 - Olsen (AAG-NSD)

7/28 (Sen. Blumenthal to chair)

- Panel One
 - Heytens (4th Cir.)
- Panel Two
 - Giles (EDVA)
 - Nachmanoff (EDVA)
 - Nagala (D-CT)
 - O. Williams (D-CT)
 - Guzman (AAG-CIV)
 - This assumes Guzman's BI clears in time; if not, we will substitute in Dellinger (AAG-OLP)

Please let me know if you have any questions. Should anything above shift, I will let you know.

Phil

From: Zdeb, Sara (Judiciary-Dem)
Subject: additional RSVPs
To: Gaeta, Joseph (OLA)
Sent: June 30, 2021 11:22 AM (UTC-04:00)

Leahy and Coons just confirmed that they'll join the call.

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: 2021-06-29 CEG RHJ to DOJ (Hennessey Conflicts)
To: Gaeta, Joseph (OLA)
Cc: CEG (Judiciary-Rep); Downey, Brian (HSGAC); Wittmann, Scott (HSGAC)
Sent: June 29, 2021 11:35 AM (UTC-04:00)
Attached: 2021-06-29 CEG RHJ to DOJ (Hennessey Conflicts).pdf

Joe, please see the attached letter from Sens. Grassley and Johnson. Please confirm receipt – thank you.

Josh

United States Senate
WASHINGTON, DC 20510

June 29, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
Department of Justice

Dear Attorney General Garland:

As you are aware, we are examining potential conflicts of interest relating to recent hires at the Department of Justice (DOJ). As part of that review, on February 3, 2021, and March 9, 2021, we wrote to you about the hiring of Nicholas McQuaid as Acting Assistant Attorney General for the Criminal Division. In both letters we raised concerns about potential conflicts of interest in light of the fact that McQuaid was employed at Latham & Watkins until January 20, 2021, and worked with Christopher Clark, who Hunter Biden reportedly hired to work on his federal criminal case.¹ You have failed to fully respond to those letters, including producing McQuaid's recusal memo, should one exist.

Recently, DOJ hired Susan Hennessey to work in its National Security Division (NSD).² We have concerns about her role and potential impact on ongoing matters, including Special Counsel John Durham's inquiry (Durham inquiry). On December 1, 2020, Ms. Hennessey expressed a clear partisan bias against the Special Counsel's investigation:

Durham has made abundantly clear that in a year and a half, he hasn't come up with anything. I guess this kind of partisan silliness has become characteristic of Barr's legacy, but unclear to me why Durham would want to go along with it.³

Ms. Hennessey presumably made this statement without any first-hand knowledge of Durham's ongoing work, including its true scope and the extent of the evidence acquired at that time. Ms. Hennessey's apparent bias against Durham's inquiry presents a clear conflict that makes it

¹ Daniel Chaitin and Jerry Dunleavy, *Tucker Carlson reports DOJ hired ex-business partner of Hunter Biden criminal defense attorney*, Washington Examiner (Jan. 29, 2021), <https://www.washingtonexaminer.com/news/tucker-carlson-justice-department-hunter-biden-attorney-partner>.

² Harper Neidig, *CNN legal analyst joins DOJ's national security division*, The Hill, (May 10, 2021), <https://thehill.com/policy/national-security/552649-cnn-legal-analyst-joins-doj-s-national-security-division>.

³ Chuck Ross, *DOJ's Top National Security Lawyer Slammed Investigation Into Government Wrongdoing in Surveillance of Trump Aide*, WASHINGTON FREE BEACON (May 10, 2021), <https://freebeacon.com/biden-administration/dojs-top-national-security-lawyer-slammed-investigation-into-government-wrongdoing-in-surveillance-of-trump-aide/>.

impossible for her to be objective and credible with respect to any elements relating to the Durham inquiry, should she have access to any of it.

Ms. Hennessey also expressed copious public views in support of the fundamentally flawed Crossfire Hurricane investigation and vouched for the Steele Dossier which, as our joint investigation unveiled, was infected with Russian government disinformation and demonstrably false information.⁴ Ms. Hennessey stated that Steele was “a person whose work intelligence professionals take seriously.”⁵ Ms. Hennessey also publicly said that the 2018 memo from then-House Intelligence Chairman Devin Nunes exposing Crossfire Hurricane’s fundamental flaws would need to be “debunk[ed]” *before* she had opportunity to read the memo.⁶

With respect to the Justice Department Inspector General’s (IG) report on Crossfire Hurricane, she attacked the IG’s credibility before the report was even completed in an effort to discredit it:

This is extremely irregular. There are growing signs that there are serious problems with the IG report and questions as to whether this is designed to be an honest accounting of the views of the IG or a political document driven by Barr’s conspiracy theories.⁷

The IG found “at least” 17 significant errors and omissions in the Carter Page FISA applications and additional Woods Procedure errors. The IG report stated,

[t]hat so many basic and fundamental errors were made on four FISA applications by three separate, hand-picked teams, on one of the most sensitive FBI investigations that was briefed to the highest levels within the FBI and that FBI officials expected would eventually be subjected to close scrutiny, raised significant questions regarding the FBI chain of command’s management and supervision of the FISA process.

Ms. Hennessey’s reaction to the IG report was, “I don’t think the IG findings are significant enough to justify the work of a podcast.”⁸

⁴ Press Release, Senator Charles E. Grassley, IG Footnotes: Serious Problems with Dossier Sources Didn’t Stop FBI’s Page Surveillance (Apr. 15, 2020), <https://www.grassley.senate.gov/news/news-releases/ig-footnotes-serious-problems-dossier-sources-didn-t-stop-fbi-s-page-surveillance>.

⁵ Kimberley Strassel, *The Justice Department’s Resident Conspiracy Theorist*, THE WALL STREET JOURNAL (May 13, 2021), <https://www.wsj.com/articles/the-justice-departments-resident-conspiracist-11620944310>.

⁶ Quinta Jurecic, *Devin Nunes’s Mystery Memo: Repeating the Cycle of Distraction*, LAWFARE (Jan. 20, 2018), <https://www.lawfareblog.com/devin-nunes-mystery-memo-repeating-cycle-distraction>.

⁷ Ashe Schow, *As Expected, Media Move to Discredit IG Report Regarding Origins of the Russian Collusion Narrative*, The Daily Wire (Nov. 16, 2019) <https://www.dailywire.com/news/as-expected-media-move-to-discredit-ig-report-regarding-origins-of-the-russian-collusion-narrative>.

⁸ Jordan Davidson, *Biden’s DOJ Hired Full-On Russia Collusion Hoaxer Susan Hennessey To Its National Security Division*, THE FEDERALIST (May 10, 2021), <https://thefederalist.com/2021/05/10/bidens-doj-hired-full-on-russia-collusion-hoaxer-susan-hennessey-to-its-national-security-division/>; see also Tobias Hoonhout & Isaac Schorr, *DOJ Pick Susan Hennessey’s Long, Sordid History of Partisan Conspiracy-Mongering*, NATIONAL REVIEW (May 10, 2021), <https://www.nationalreview.com/news/doj-pick-susan-hennesseys-long-sordid-history-of-partisan-conspiracy-mongering/>.

As a general matter, all government employees must avoid situations that create even the appearance of impropriety and impartiality so as to not affect the public perception of the integrity of an investigation.⁹ Ms. Hennessey’s partisan comments show a clear political bias that undercuts her ability to impartially work on some matters within the NSD’s purview, including the Durham inquiry. At your February 22, 2021, nomination hearing, you stated that you are “very much committed to transparency and to explaining Justice Department decision-making.”¹⁰ Accordingly, please answer the following no later than July 13, 2021:

1. Does Ms. Hennessey have any role in the Durham inquiry? If so, please describe that role.
2. Does Ms. Hennessey have authorization to access any aspect of the Durham inquiry, including records? If so, has she used that authorization? If so, for what?
3. Has Ms. Hennessey been recused from all matters relating to the Durham inquiry? If not, why not? If so, please provide all records relating to her recusal obligations, including a recusal memo.
4. Please describe the extent to which DOJ officials were aware of Ms. Hennessey’s previous partisan statements when considering hiring her to work at DOJ.
5. What is the status of the Durham inquiry? When will it be completed?
6. Former Attorney General Barr’s October 19, 2020, memo, cited 28 C.F.R § 600.8, which requires Durham to submit interim reports and a final report to you. Barr’s memo also directed Durham to submit the reports “to the maximum extent possible...in a form that will permit public dissemination.”¹¹
 - a. Do you agree with former Attorney General Barr that interim reports and a final report should be drafted “to the maximum extent possible...in a form that will permit public dissemination”? If not, why not? If so, what steps have you taken to ensure that they will be produced in that manner?

⁹ Specifically, 5 C.F.R. § 2635.502, advises that a government employee should seek clearance before participating in any matter that could cause his or her impartiality to be questioned. Executive Order 12674, “Principles of Ethical Conduct for Government Officers and Employees,” makes clear that “[e]mployees shall not hold financial interests that conflict with the conscientious performance of duty,” “[e]mployees shall act impartially and not give preferential treatment to any private organization or individual,” and “[e]mployees shall endeavor to avoid any actions creating the *appearance* that they are violating the law or the ethical standards set forth in this part.” Emphasis added.

¹⁰ At your nomination hearing on February 22, 2021, Senator Grassley asked you, “If confirmed, would you commit to publicly releasing Special Counsel Durham’s report, just like [the] Mueller report was made public?” You responded, “So, Senator, I am a great believer in transparency. I would, though, have to talk with Mr. Durham and understand the nature of what he has been doing and the nature of the report. But I am a big – very much committed to transparency and to explaining Justice Department decision-making.” Hearing Transcript at 38. <https://www.judiciary.senate.gov/meetings/the-nomination-of-the-honorable-merrick-brian-garland-to-be-attorney-general-of-the-united-states-day-1>.

¹¹ Charlie Savage, *Barr Makes Durham a Special Counsel in a Bid to Entrench Scrutiny of the Russia Inquiry*, The New York Times (Dec. 1, 2020), <https://www.nytimes.com/2020/12/01/us/politics/john-durham-special-counsel-russia-investigation.html>. See also, <https://www.politico.com/f/?id=00000176-2008-d692-a977-3c7afcd50000> (copy of then-Attorney General Barr’s order appointing Durham as a special counsel.).

- b. Will Ms. Hennessey have access to any of Durham's draft and final reports?
- c. Please provide a list of all DOJ employees who will be able to review draft and final versions of the Durham report.

Thank you for your attention to this matter.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



Ron Johnson
Ranking Member
Permanent Subcommittee
on Investigations

From: Zdeb, Sara (Judiciary-Dem)
Subject: RE: hello block island!
To: Gaeta, Joseph (OLA)
Sent: June 29, 2021 10:50 AM (UTC-04:00)

Senator Padilla has also RSVP'd. We're doing a final call for RSVPs today and I'll circle back with confirmation about any additions.

From: Zdeb, Sara (Judiciary-Dem)
Sent: Monday, June 28, 2021 4:08 PM
To: 'Gaeta, Joseph (OLA)' (b) (6)
Subject: RE: hello block island!

Here's the RSVP list thus far: Durbin, Whitehouse, Blumenthal, Feinstein (by phone only), Ossoff (possibly by phone only), Hirono (tentative yes), Grassley, Sasse. I'll circle back tomorrow with any further updates on expected attendance or run of show, although I'm expecting the latter to be consistent with what we've discussed thus far.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, June 28, 2021 2:47 PM
To: Zdeb, Sara (Judiciary-Dem) (b) (6)
Subject: hello block island!

Do you have expected attendance for the Wednesday call on your end?

And anything further on run or show or points to be raised?

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: RE: Schroeder Nomination
To: Bauer, Sarah (Judiciary-Dem)
Sent: June 28, 2021 5:43 PM (UTC-04:00)

Sure give me a call after 10

From: Bauer, Sarah (Judiciary-Dem) (b) (6)

Sent: Monday, June 28, 2021 5:36 PM

To: Gaeta, Joseph (OLA) (b) (6)

Subject: Schroeder Nomination

Hi Joe,

I have one quick question about Schroeder QFRs. Do you have time to chat tomorrow morning? Thanks!

Sarah

Sarah Bauer

Counsel

Chair Richard J. Durbin

U.S. Senate Judiciary Committee

(b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: were any DOJ noms in the block just confirmed?
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Sent: June 24, 2021 6:06 PM (UTC-04:00)

I know DOJ is always eager to get BIs once a nominee is confirmed. I will be in the office tomorrow, but my hours are somewhat limited. So if you need the BI back tomorrow, please have Danielle and/or Ruth email me first thing to set up a time.

Congrats on Milgram. We'll deliver on Davis in July. (And hopefully Polite and Kim, as well.)

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Thursday, June 24, 2021 5:50 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6) Gaeta, Joseph (OLA)
(b) (6)
Subject: RE: were any DOJ noms in the block just confirmed?

Thank you. Terrific.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Thursday, June 24, 2021 5:33 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: were any DOJ noms in the block just confirmed?

Milgram got confirmed

From: Brest, Phillip (Judiciary-Dem)
Sent: Thursday, June 24, 2021 5:30 PM
To: 'Gaeta, Joseph (OLA)' (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: were any DOJ noms in the block just confirmed?

I don't know – I only heard calendar #s and Schumer's office hasn't been great about giving me info. I won't know until they send the wrap-up email

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, June 24, 2021 5:27 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: were any DOJ noms in the block just confirmed?

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: RE: Wray QFRs
To: Zdeb, Sara (Judiciary-Dem)
Sent: June 23, 2021 6:33 PM (UTC-04:00)

ok

From: Zdeb, Sara (Judiciary-Dem) (b) (6)
Sent: Wednesday, June 23, 2021 6:31 PM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Wray QFRs

March 25 (see attached cover letter). I didn't see the cover letter to Carvajal for the BOP QFRs, but assume that was the standard two-week deadline as well.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, June 23, 2021 5:52 PM
To: Zdeb, Sara (Judiciary-Dem) (b) (6)
Subject: RE: Wray QFRs

Was there a due date? (don't snicker)

From: Zdeb, Sara (Judiciary-Dem) (b) (6)
Sent: Wednesday, June 23, 2021 3:56 PM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: Wray QFRs

I've looked through my files again and checked with a few others, and can confirm that we've received no responses to the QFRs sent on March 10 following Director Wray's March 2 testimony. I believe we're also waiting on responses to QFRs following the BOP Director's more recent appearance before the Committee.

Sara Zdeb
Chief Counsel for Oversight
U.S. Senate Committee on the Judiciary
Chair Richard J. Durbin
(b) (6) (Direct)
(b) (6) (Mobile)
(b) (6)

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
ALEX PADILLA, CALIFORNIA
JON OSSOFF, GEORGIA

CHARLES E. GRASSLEY, IOWA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
TOM COTTON, ARKANSAS
JOHN KENNEDY, LOUISIANA
THOM TILLIS, NORTH CAROLINA
MARSHA BLACKBURN, TENNESSEE

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

March 10, 2021

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue NW
Washington, D.C. 20535

Dear Director Wray:

Thank you for your testimony at the Senate Committee on the Judiciary hearing, entitled "Oversight of the Federal Bureau of Investigation: the January 6 Insurrection, Domestic Terrorism, and Other Threats" on March 2, 2021. Attached are written questions from Committee members. We look forward to including your answers to these questions, along with your hearing testimony, in the formal Committee record.

Please help us complete a timely and accurate hearing record by sending an electronic version of your responses to Bryan Palmer, Hearing Clerk, Senate Judiciary Committee, at (b) (6) no later than Wednesday, March 25, 2021.

Where circumstances make it impossible to comply with the two-week period provided for submission of answers, witnesses may explain in writing and request an extension of time to reply.

Again, thank you for your participation. If you have any questions, please contact Bryan Palmer at (202) 224-5225.

Sincerely,



Richard J. Durbin
Chair

From: Gaeta, Joseph (OLA)
Subject: RE: linking re FBI
To: Burton, Larry (Sullivan)
Bcc: Dodin, Reema EOP/WHO
Sent: June 22, 2021 2:02 PM (UTC-04:00)

Reema to bcc.

Larry,

Can we connect after tomorrow's SJC noms hearing? And could you let me know what this is in reference to? Thanks.

From: Burton, Larry (Sullivan) (b) (6)
Sent: Tuesday, June 22, 2021 12:58 PM
To: Dodin, Reema EOP/WHO (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: linking re FBI

Joe

Look forward to the connect. Let me know a good time or try my mobile at (b) (6)
Thx.

Larry

From: Dodin, Reema EOP/WHO (b) (6)
Sent: Tuesday, June 22, 2021 12:43 PM
To: Burton, Larry (Sullivan) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: linking re FBI

Thank you gents!

Reema Dodin

(b) (6)
(b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: 6/23 Hearing
To: Appleton, Rachel E. (OLA)
Cc: Gaeta, Joseph (OLA); Schwartz, Leah F. (OLA)
Sent: June 22, 2021 10:39 AM (UTC-04:00)

Sorry – one more request. Can you give me the names of Helaine’s and Chris Schroeder’s guests and their relationships to the nominees? We like to have this on hand for the Chair, and we’ll want Sen. Ossoff to have this as well.

Thanks.

From: Brest, Phillip (Judiciary-Dem)
Sent: Tuesday, June 22, 2021 9:23 AM
To: 'Appleton, Rachel E. (OLA)' (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6); Schwartz, Leah F. (OLA) (b) (6)
Subject: RE: 6/23 Hearing

Thanks

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Tuesday, June 22, 2021 9:21 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6); Schwartz, Leah F. (OLA) (b) (6)
Subject: Re: 6/23 Hearing

He only had one guest, so nine total.

On Jun 22, 2021, at 9:18 AM, Brest, Phillip (Judiciary-Dem) (b) (6) wrote:

Hey Rachel,

How many total guests now that Guzman has been delayed? Want to be sure I put out the right number of chairs tomorrow.

Thanks,

Phil

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Monday, June 21, 2021 11:43 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6); Schwartz, Leah F. (OLA) (b) (6)
Subject: Re: 6/23 Hearing

Thanks, Phil. We will arrive between 8:30-8:45.

On Jun 21, 2021, at 11:42 AM, Brest, Phillip (Judiciary-Dem) (b) (6) wrote:

You should arrive earlier than 9 am on Wednesday. The lines are very long these days and with a 9:30 am start time, it could be cutting things close. I'd suggest arriving between 8:30 and 8:45.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Saturday, June 19, 2021 5:11 PM
To: Appleton, Rachel E. (OLA) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6); Schwartz, Leah F. (OLA) (b) (6)
Subject: Re: 6/23 Hearing

Still totally fine

On Jun 19, 2021, at 5:03 PM, Appleton, Rachel E. (OLA) (b) (6) wrote:

My apologies, it is ten guests. I miscounted!

On Jun 19, 2021, at 2:37 PM, Brest, Phillip (Judiciary-Dem) (b) (6) wrote:

Thanks Rachel.

- 9 guests is no problem.
- Hart 216.
- No need to send advance copies.
- You can submit by 5 pm on 7/12.
- I don't have a sense of attendance yet.
- I doubt the Chairman will attend. But in the event he does attend, I won't have a good sense until Monday or Tuesday of what topics he's likely to cover.

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Saturday, June 19, 2021 1:55 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6); Schwartz, Leah F. (OLA) (b) (6)
Subject: 6/23 Hearing

Hi Phil,

I hope you're having a nice weekend! I wanted to touch base on a few hearing items.

- **Guests/Attendees.** DOJ's nominees will have 9 guests total. Joe and I will attend from OLA. We will keep you apprised of any staffing and guest changes. I have a Senate ID and can accompany our nominees into the building.
- **Arrival.** DOJ staff and nominees are planning to arrive at 9am. Which room should we meet you in?
- **Opening Statements.** DOJ's nominees are planning to read very short opening statements (not to exceed 3 minutes each). Would you like advance copies of the statements?
- **QFRs.** Per our Thursday conversation, DOJ is awaiting confirmation from the Chairman's team as to whether DOJ can submit its QFR responses by 7/12.
- **Attendance.** We've reached out to offices, but wondering if you have a sense of hearing attendance.
- **Expected Hearing Topics.** Assuming Chairman Durbin will attend, might you be able to share the topics he expects to cover?

Thank you, Phil!

Rachel

From: Gaeta, Joseph (OLA)
Subject: Schroeder letter
To: Bauer, Sarah (Judiciary-Dem)
Sent: June 22, 2021 8:30 AM (UTC-04:00)
Attached: CHS validators letter final.docx

I understand the attached letter was submitted last week but I don't see it on the hearing page with other letters of support.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

June 16, 2021

The Honorable Richard J. Durbin
Chairman, Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, DC 20510

Dear Senators Durbin and Grassley:

We write to attest that Christopher H. Schroeder is extremely well-qualified to be Assistant Attorney General for the Office of Legal Counsel, and we urge his speedy confirmation. We are a diverse group that includes academics and practitioners who know Chris from a variety of settings, including academic and professional collaborations, time together working at the Department of Justice and experience together in the United State Senate. We recognize and value the important role that the Office of Legal Counsel plays in upholding the rule of law within the executive branch.

Chris Schroeder, the Charles S. Murphy Professor Emeritus at Duke University School of Law, is an accomplished and leading legal scholar. He is an academic in the best sense. He is not a rigid, dogmatic ideologue. Rather, he has always engaged with and learned from a wide range of views. Over the years, he has run academic programs, such as Duke's Program in Public Law, and convened innumerable conferences, which consistently were inclusive of a diversity of academic and ideological perspectives. Moreover, these programs have sought to engage the academy with practical, real-world issues of law and government.

He is also a dedicated public servant. If confirmed, he would be returning to lead an office in which he worked from 1993-97, as counselor, deputy assistant attorney general and acting assistant attorney general. Subsequently he served as Assistant Attorney General for the Office of Legal Policy in the Department of Justice, and prior to that as chief counsel for the Senate Committee on the Judiciary.

As set forth in the Office's 2010 Memorandum, "Best Practices for OLC Legal Advice and Written Opinions," the function of the Office of Legal Counsel is to provide "candid, independent, and principled advice" to the Attorney General and the President, "even when that advice is inconsistent with the aims of policymakers." There can be no doubt that Chris Schroeder is eminently qualified to do the often complex and difficult legal analysis that the job requires.

A recurring concern regarding OLC is whether it can live up to its commitment to providing principled advice or whether it will end up crafting fig-leaf rationalizations for the President's political objectives. We believe that Professor Schroeder's academic career, which is committed to inquiry over ideology, offers a solid foundation for concluding that he would uphold the best traditions of the office. But there is no need for speculation. Many of us worked with him during his earlier period of service in the Office of Legal Counsel and we can attest that he never

lost sight of, or commitment to, the rule of law. At every turn, he was guided by the law and not by the political or policy preferences of the Administration. None of us is aware of any OLC opinion or other work product that would undermine our view of how Chris Schroeder would lead the Office.

We urge the Senate to confirm Christopher H. Schroeder as expeditiously as possible.

Sincerely,*

Matthew Adler

Richard A. Horvitz Professor of Law and Professor of Economics, Philosophy and Public Policy
Duke University School of Law

Stuart M. Benjamin

Douglas B. Maggs Professor of Law
Duke University School of Law
Attorney Advisor, Office of Legal Counsel, 1992-1995

Joseph Blocher

Lanty L. Smith '67 Professor, Duke University School of Law

Curtis A. Bradley

William Van Alstyne Professor of Law and Professor of Public Policy Studies
Duke University School of Law

Guy-Uriel Charles

Edward and Ellen Schwarzman Professor of Law
Duke University School of Law

Walter E. Dellinger III

Douglas B. Maggs Professor Emeritus, Duke University School of Law
Acting Solicitor General, 1996-1997
Assistant Attorney General, Office of Legal Counsel, 1993-1996

Michael R. Dreeben

Assistant to the Solicitor General, 1988-1995
Deputy Solicitor General, 1995-2019

Daniel A. Farber

Sho Sato Professor of Law, University of California, Berkeley School of Law

* Please note that institutional affiliations are listed for identification purposes only and nothing in this letter is meant to express the views of any institution or person other than the individual signatories.

Paul J. Fishman
Associate Deputy Attorney General, 1995-1997
United States Attorney for the District of New Jersey, 2009-2017

Michael J. Gerhardt
Burton Craige Distinguished Professor of Jurisprudence
University of North Carolina School of Law

Jamie Gorelick
Deputy Attorney General, 1994-1997

Neil Kinkopf
Professor, Georgia State University College of Law
Special Assistant, Office of Legal Counsel, 1993-1997
Senior Counselor, Office of Legal Policy, 2009-2010

Margaret H. Lemos
Robert G. Seaks LL.B. '34 Professor of Law
Senior Associate Dean for Faculty & Research
Duke University School of Law

Marin K. Levy
Professor, Duke University School of Law

William P. Marshall
William Rand Kenan Distinguished Professor of Law
University of North Carolina School of Law

Thomas O. McGarity
William Powers, Jr. and Kim L. Heilbrun Chair in Tort Law
University of Texas School of Law

Barbara L. McQuade
Professor, University of Michigan Law School
United States Attorney for the Eastern District of Michigan, 2010-2017

Darrell A.H. Miller
Melvin G. Shimm Professor, Duke University School of Law

Martha Minow
300th Anniversary University Professor, Harvard Law School

H. Jefferson Powell
Professor, Duke University School of Law
Deputy Assistant Attorney General, Office of Legal Counsel, 1993-2000; 2011-2012
Principal Deputy Solicitor General 1996

Richard L. Revesz
AnBryce Professor of Law
New York University Law School

Teresa Wynn Roseborough
Deputy Assistant Attorney General, Office of Legal Counsel, 1994-1996

Virginia A. Seitz
Assistant Attorney General, Office of Legal Counsel, 2011-2013

Peter M. Shane
Jacob E. Davis and Jacob E. Davis II Chair in Law,
Ohio State University, Moritz College of Law

Neil Siegel
David W. Ichel Professor of Law and Professor of Political Science
Duke University School of Law

David A. Strauss
Gerald Ratner Distinguished Service Professor
University of Chicago Law School

Laurence H. Tribe
Carl M. Loeb University Professor Emeritus, Harvard Law School

Donald B. Verrilli, Jr.
Solicitor General, 2011-2016

Seth P. Waxman
Solicitor General, 1997-2001

Keith E. Whittington
William Nelson Cromwell Professor of Politics
Princeton University

Sally Q. Yates
Acting Attorney general 2017
Deputy Attorney General, 2015-2017

Ernest A. Young
Alston & Bird Professor, Duke University School of Law

From: Doshi, Ravi (Judiciary-Dem)
Subject: Re: 6/23 Nominations Hearing
To: Appleton, Rachel E. (OLA)
Cc: Gaeta, Joseph (OLA); Schwartz, Leah F. (OLA)
Sent: June 21, 2021 1:02 AM (UTC-04:00)

I don't have topics just yet, but I'd be happy to touch base once I do. Probably Tuesday afternoon.

On Jun 19, 2021, at 1:40 PM, Appleton, Rachel E. (OLA) (b) (6) wrote:

Hi Ravi,

I hope you're having a nice weekend! I wanted to check-in to ask if you might be able to share the topics your boss expects to cover at next Wednesday's nominations hearing. We expect the DOJ witnesses to be Javier Guzman (Civil Division), Helaine Greenfeld (OLA), and Chris Schroeder (OLC).

Thank you!
Rachel

From: Aronson, Alex (Judiciary-Dem)
Subject: Re: 6/23 Nominations Hearing
To: Appleton, Rachel E. (OLA)
Cc: Gaeta, Joseph (OLA); Schwartz, Leah F. (OLA)
Sent: June 20, 2021 12:34 PM (UTC-04:00)

Hi Rachel, good to hear from you. I think it's likely that my boss will have to miss this hearing. He is scheduled to attend Senator Warner's funeral that morning, but I should have more clarity tomorrow about his plans. I'll follow up.

On Jun 19, 2021, at 1:56 PM, Appleton, Rachel E. (OLA) (b) (6) wrote:

Hi Alex,

I hope you're having a nice weekend! I wanted to check-in to ask if you might be able to share the topics your boss expects to cover at next Wednesday's nominations hearing. We expect the DOJ witnesses to be Javier Guzman (Civil Division), Helaine Greenfeld (OLA), and Chris Schroeder (OLC).

Thank you!
Rachel

From: Schaumburg, Sara (Ossoff)
Subject: Re: 6/23 Nominations Hearing
To: Appleton, Rachel E. (OLA)
Cc: Gaeta, Joseph (OLA); Schwartz, Leah F. (OLA)
Sent: June 20, 2021 9:58 AM (UTC-04:00)

Hi Rachel – happy to touch base Tuesday morning. Just let me know what time works for you.

Thanks!

--

Sara Schaumburg | General Counsel

Office of Senator Jon Ossoff (D-GA)

455 Russell Senate Office Building

(o): (b) (6) | (b) (6)



From: "Appleton, Rachel E. (OLA)" (b) (6)
Date: Saturday, June 19, 2021 at 1:40 PM
To: "Schaumburg, Sara (Ossoff)" (b) (6)
Cc: "Gaeta, Joseph (OLA)" (b) (6) "Schwartz, Leah F. (OLA)"
(b) (6)
Subject: 6/23 Nominations Hearing

Hi Sara,

I hope you're having a nice weekend! I wanted to check-in to ask if you might be able to share the topics your boss expects to cover at next Wednesday's nominations hearing. We expect the DOJ witnesses to be Javier Guzman (Civil Division), Helaine Greenfeld (OLA), and Chris Schroeder (OLC). I also understand your boss will be chairing the hearing. Would you have time to connect sometime on Monday or Tuesday to discuss?

Thank you!
Rachel

Rachel Appleton
Office of Legislative Affairs
Department of Justice
c: (b) (6)

From: Hantson, Jeff (Hirono)
Subject: RE: 6/23 Nominations Hearing
To: Appleton, Rachel E. (OLA)
Cc: Gaeta, Joseph (OLA); Schwartz, Leah F. (OLA); Clerinx, Wendy (Hirono)
Sent: June 19, 2021 8:21 PM (UTC-04:00)

Hi Rachel,

We're still working on our prep materials, so we haven't locked down our topics yet. We'll keep you posted.

Jeff

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Saturday, June 19, 2021 1:38 PM
To: Hantson, Jeff (Hirono) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6); Schwartz, Leah F. (OLA) (b) (6)
Subject: 6/23 Nominations Hearing

Hi Jeff,

I hope you're having a nice weekend! I wanted to check-in to ask if you might be able to share the topics your boss expects to cover at next Wednesday's nominations hearing. We expect the DOJ witnesses to be Javier Guzman (Civil Division), Helaine Greenfeld (OLA), and Chris Schroeder (OLC).

Thank you!
Rachel

From: Stanislawski, Aaron (Judiciary-Dem)
Subject: Re: 6/23 Nominations Hearing
To: Appleton, Rachel E. (OLA)
Cc: Gaeta, Joseph (OLA); Schwartz, Leah F. (OLA); Fields, Cassie (Judiciary-Dem); Sanghvi, Saurabh (Judiciary-Dem)
Sent: June 19, 2021 3:41 PM (UTC-04:00)

Hi Rachel—

Hope you're having a good weekend as well. Right now it looks like Sen. Coons has a scheduling conflict during this time, so we don't have a list of topics at this point. Of course, if schedules change, I will let you know.

Best,
Aaron

On Jun 19, 2021, at 1:42 PM, Appleton, Rachel E. (OLA) (b) (6) wrote:

Hi Aaron,

I hope you're having a nice weekend! I wanted to check-in to ask if you might be able to share the topics your boss expects to cover at next Wednesday's nominations hearing. We expect the DOJ witnesses to be Javier Guzman (Civil Division), Helaine Greenfeld (OLA), and Chris Schroeder (OLC).

Thank you!
Rachel

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: 2021-06-17 CEG to DOJ (Congressional Oversight)
To: Gaeta, Joseph (OLA)
Cc: CEG (Judiciary-Rep); Ragsdale, DeLisa (Judiciary-Rep)
Sent: June 17, 2021 10:12 AM (UTC-04:00)
Attached: 2021-06-17 CEG to DOJ (Congressional Oversight).pdf

Joe, please see the attached letter from Senator Grassley and confirm receipt. Thank you.

Josh

United States Senate
WASHINGTON, DC 20510

June 17, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice

Dear Attorney General Garland:

I read with interest your June 14, 2021, statement where you stated “political or other improper considerations must play no role in any investigative or prosecutorial decisions” and that the Justice Department “must ensure that full weight is accorded to separation-of-powers concerns moving forward.”¹ I agree and strongly urge you to fully respond to my congressional oversight requests which raise particularly serious separation-of-powers concerns and call into question your commitment to ridding the Department of improper political influence.

Specifically, I’d like to raise to your attention, yet again, the August 12, 2020, letter to the Justice Department and May 3, 2021, letter to the FBI.² Those letters were sent in response to an August 6, 2020, briefing that I and Senator Johnson received from the FBI, the alleged contents of which were later leaked to the Washington Post on May 1, 2021.³ This briefing provided no new information and was entirely unnecessary. It was in fact provided only as a result of pressure from Democratic Leadership, including a July 13, 2020, letter from then-Minority Leader Schumer, Senator Warner, Speaker Pelosi, and Representative Schiff. This briefing provides an on-point example of the Justice Department’s decision-making process being infected with “political or other improper considerations” in its interactions with Congress.

The Washington Post article inaccurately linked Russian attempts to spread disinformation to my and Senator Johnson’s investigation into the extensive financial connections between the Biden family and individuals connected to the communist Chinese government’s military and intelligence services. Information relating to the briefing was also used by Democratic Senators last Congress to publicly malign us and our investigation for the purpose of slowing it down, painting it in a false public light, and undermining its integrity. No

¹ Press Release, U.S. Dep’t of Justice, Statement from Att’y Gen. Merrick B. Garland (June 14, 2021), <https://www.justice.gov/opa/pr/statement-attorney-general-merrick-b-garland>.

² Letter from Sen. Charles E. Grassley, Chairman, S. Comm. on Fin., to The Hon. Christopher Wray, Dir., FBI (Aug. 12, 2020); Letter from Sen. Charles E. Grassley, Ranking Member, Comm. on the Judiciary & Sen. Ron Johnson, Ranking Member, Permanent Subcomm.on Investigations to The Hon. Christopher Wray, Dir., FBI (May 3, 2021).

³ Ellen Nakashima, Shane Harris, Tom Hamburger, *FBI was aware prominent Americans, including Giuliani, were targeted by Russian influence operation*, The Washington Post (May 1, 2021), https://www.washingtonpost.com/national-security/rudy-giuliani-fbi-warning-russia/2021/04/29/5db90f96-a84e-11eb-bca5-048b2759a489_story.html.

matter how many times the liberal media and anonymous government sources mischaracterize our investigation, that investigation was based on Obama administration government records, not Russian disinformation.

In the August 2020 and May 2021 letters to the Justice Department and FBI, I requested records relating to the briefing, including a description of the process for deciding to brief us and the names of the individuals involved in making that decision. Those requests were based on my concerns that the briefing was political in nature and would be used to mischaracterize and interfere with the investigation, which is exactly what happened.

To date, you and Director Wray have failed to provide a full and complete response to my letters. Director Wray has refused to meet with me and Senator Johnson in person to discuss the briefing – a briefing which was totally unnecessary and should have never happened. If you are serious about your proclaimed support of congressional and separation-of-powers equities, it is imperative that you respond fully and completely to my letters and require Director Wray to explain himself. To date, the Justice Department has failed to meet that standard.

Further, in light of your purported interest in congressional equities, I am resending to the Justice Department, via separate classified courier, my October 17, 2018, classified letter relating to the Justice Department Inspector General’s classified annex to its June 11, 2018, Clinton Investigation report. In that letter, I raised many questions relating to the Justice Department’s bad conduct and mismanagement when investigating Secretary Clinton’s mishandling of highly classified information. I’d like to draw your attention to Question 12 in that letter.

Finally, on February 3, 2021, Senator Johnson and I sent you a letter relating to Nicholas McQuaid, the Acting Assistant Attorney General for the Criminal Division.⁴ In that letter, as well as a follow-up letter on March 9, 2021, we raised concerns about potential conflicts of interest in light of the fact that McQuaid was employed by Latham & Watkins until January 20, 2021, and worked with Christopher Clark, who Hunter Biden reportedly hired to work on his federal criminal case.⁵ In particular, we’ve requested McQuaid’s recusal memo, which you have failed to even acknowledge if it exists, let alone produce it to Congress. You said in your confirmation hearing that you will strive to make sure partisan influence is not a factor in the business of the Justice Department. If you really believe that, you should be able to assure Congress that the Department—a creation of statute—complies with all conflicts of interest and ethics laws and regulations and has taken all necessary steps to ensure political considerations do not impact investigative and prosecutorial decision-making. Given McQuaid’s potential conflicts in the Hunter Biden criminal case, a recusal memo – should one exist – is central to Congress’s ability to fulfill its constitutional oversight responsibilities in that regard. The Justice

⁴ Press Release, Sen. Charles E. Grassley, On Day One, Biden Installed Law Partners Of Son’s Defense Lawyer At DOJ Criminal Division (Feb. 2, 2021), <https://www.grassley.senate.gov/news/news-releases/on-day-one-biden-installed-law-partner-of-sons-defense-lawyer-at-doj-criminal-division>.

⁵ Letter from Sen. Charles E. Grassley, Ranking Member, Comm. on the Judiciary & Sen. Ron Johnson, Ranking Member, Permanent Subcomm. on Investigations to Acting Att’y Gen. Wilkinson, Dep’t of Justice (Mar. 9, 2021), [https://www.grassley.senate.gov/imo/media/doc/2021-03-09%20CEG%20RHJ%20to%20DOJ%20\(McQuaid%20Follow%20Up\).pdf](https://www.grassley.senate.gov/imo/media/doc/2021-03-09%20CEG%20RHJ%20to%20DOJ%20(McQuaid%20Follow%20Up).pdf).

Department produced to me Andrew McCabe's recusal memo in 2016, yet you have failed to show the same level of transparency relating to the Hunter Biden matter.

I look forward to your response to these questions no later than June 25, 2021.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive style with a prominent "C" and "G".

Charles E. Grassley
Ranking Member
Committee on the Judiciary

From: Gaeta, Joseph (OLA)
Subject: RE: EQUAL Act/6-22 hearing
To: Zogby, Joseph (Judiciary-Dem)
Cc: Swanson, Daniel (Judiciary-Dem); Trifone, Stephanie (Judiciary-Dem); Greenfeld, Helaine A. (OLA); Pings, Anne (OLA); Petras, Mary (Judiciary-Dem); Burns, Chastidy (Judiciary-Dem)
Sent: June 16, 2021 2:01 PM (UTC-04:00)

Correct. We can do a statement on 6/22 as previously discussed.

I can confirm the Department could offer Jonathan Wroblewski, Director of the Office of Policy and Legislation at a rescheduled hearing. I assume we are talking the week of 7/12 (or thereafter) given the recess and that he would testify on his own panel or a panel of other federal witnesses.

Please let us know how you'd like to proceed.

From: Zogby, Joseph (Judiciary-Dem) (b) (6)
Sent: Wednesday, June 16, 2021 1:53 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Swanson, Daniel (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6); Pings, Anne (OLA) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6)
Subject: RE: EQUAL Act/6-22 hearing

Thanks for talking this morning. I know you're checking on witness availability, but wanted to clarify one point – if the Chair decides to go forward with a hearing on June 22, we would still get written testimony from DOJ, right?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, June 16, 2021 10:04 AM
To: Zogby, Joseph (Judiciary-Dem) (b) (6)
Cc: Swanson, Daniel (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6); Pings, Anne (OLA) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6)
Subject: RE: EQUAL Act/6-22 hearing

You can call me at (b) (6)

From: Zogby, Joseph (Judiciary-Dem) (b) (6)
Sent: Wednesday, June 16, 2021 9:48 AM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Swanson, Daniel (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6); Pings, Anne (OLA) (b) (6); Petras, Mary (Judiciary-Dem) (b) (6); Burns, Chastidy (Judiciary-Dem) (b) (6)
Subject: RE: EQUAL Act/6-22 hearing

Thanks. Just to be clear, we told you about this hearing two weeks ago and it took us one day to circle back with the Chair reaction to your proposal (I talked to him about it last night). I can talk at 1030. What number should I call?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, June 16, 2021 6:29 AM
To: Zogby, Joseph (Judiciary-Dem) (b) (6)
Cc: Swanson, Daniel (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem)

(b) (6) Greenfeld, Helaine A. (OLA) (b) (6) Pings,
Anne (OLA) (b) (6) Petras, Mary (Judiciary-Dem) (b) (6)
Burns, Chastidy (Judiciary-Dem) (b) (6)
Subject: Re: EQUAL Act/6-22 hearing

Always happy to get on the phone but this is quite surprising after our conversation yesterday afternoon. I don't see how this is possible for 6/22. I'm free 10-11 to talk.

Sent from my iPhone

On Jun 16, 2021, at 12:20 AM, Zogby, Joseph (Judiciary-Dem) (b) (6)
(b) (6) wrote:

Following up on this. We spoke with the Chair, as well as the Ranking Member's staff, and both would strongly prefer to have a Justice Department witness. Can we discuss?

From: Zogby, Joseph (Judiciary-Dem)
Sent: Tuesday, June 15, 2021 12:36 AM
To: 'Gaeta, Joseph (OLA)' (b) (6) Swanson, Daniel (Judiciary-Dem)
(b) (6) Trifone, Stephanie (Judiciary-Dem)
(b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6) Pings, Anne (OLA)
(b) (6) Petras, Mary (Judiciary-Dem) (b) (6)
Burns, Chastidy (Judiciary-Dem) (b) (6)
Subject: RE: EQUAL Act/6-22 hearing

Thanks Joe, much appreciated.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, June 14, 2021 7:05 PM
To: Zogby, Joseph (Judiciary-Dem) (b) (6) Swanson, Daniel
(Judiciary-Dem) (b) (6) Trifone, Stephanie (Judiciary-Dem)
(b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6) Pings, Anne (OLA)
(b) (6)
Subject: EQUAL Act/6-22 hearing

Hi everyone,

Following up on this and thanks for your patience. The Administration supports the EQUAL Act and the Department is working on a statement that reflects that. We also are in a position to provide some TA on the bill itself. For reasons we can discuss by phone, it would be exceedingly difficult, particularly for a hearing on 6/22, provide a live Department witness. Happy to discuss that further.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Zdeb, Sara (Judiciary-Dem)
Subject: Letter to AG Garland
To: Gaeta, Joseph (OLA)
Cc: Teji, Manpreet (Judiciary-Dem)
Sent: June 16, 2021 12:32 PM (UTC-04:00)
Attached: 2021-06-16 Letter to Garland re OLC Memo.pdf

Hi Joe:

Here's the letter I mentioned yesterday regarding the OLC memo at issue in the ongoing CREW litigation. Mind confirming receipt?

Thanks,
Sara

Sara Zdeb
Chief Counsel for Oversight
U.S. Senate Committee on the Judiciary
Chair Richard J. Durbin

(b) (6) (Direct)
(b) (6) (Mobile)
(b) (6)

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
ALEX PADILLA, CALIFORNIA
JON OSSOFF, GEORGIA

CHARLES E. GRASSLEY, IOWA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
TOM COTTON, ARKANSAS
JOHN KENNEDY, LOUISIANA
THOM TILLIS, NORTH CAROLINA
MARSHA BLACKBURN, TENNESSEE

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

June 16, 2021

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland:

We write to follow up on our May 14 letter expressing serious concerns about the Trump-era Department of Justice's (DOJ) apparent misrepresentations to a federal court regarding the March 24, 2019 Office of Legal Counsel (OLC) memorandum on President Trump's obstruction of Special Counsel Mueller's investigation. We request that DOJ provide the complete, unredacted OLC memo to the Senate Judiciary Committee.

The Senate Judiciary Committee has equities in this matter, given significant questions over the relationship between this OLC memo and the infamous March 24, 2019 letter that then-Attorney General Barr sent to this Committee, which misrepresented the findings of the Mueller investigation. The OLC memo purported to aid Barr in determining whether the Mueller Report contained facts that would support charging President Trump with obstruction. In a recent court filing, DOJ contended that the OLC memo memorializes pre-decisional advice on which Attorney General Barr relied when summarizing the Mueller Report in his March 24, 2019 letter.

Barr's letter selectively omitted key aspects of Mueller's obstruction findings and downplayed the nature and extent of Trump's contacts with Russia, causing D.C. District Judge Reggie Walton to "question whether Attorney General Barr's intent was to create a one-sided narrative ... that is clearly in some respects substantively at odds with" the Mueller Report itself.¹ D.C. District Judge Amy Berman Jackson ordered DOJ to release the OLC memo in response to a Freedom of Information Act (FOIA) request after concluding that the memo was not protected by the deliberative process privilege. She also wrote that the unredacted OLC memo "reveals" that Barr and DOJ had been "disingenuous" and that Judge Walton was "well-founded" in criticizing Barr for "distort[ing] the findings" of the Mueller Report when Barr transmitted his misleading summary of Mueller's findings to this Committee.²

This was not the only occasion on which the Trump-era DOJ generated an OLC memo in the course of concealing information from Congress. For example, in September 2019, OLC issued

¹ *Elec. Priv. Info. Ctr. v. U.S. Dep't of Justice*, 442 F. Supp. 3d 37, 49 (D.D.C. 2020) ("EPIC").

² *Citizens for Responsibility and Ethics in Washington v. U.S. Dep't of Justice*, No. 19-1552, 2021 WL 1749763 at *13 (D.D.C. May 3, 2021); *EPIC*, 442 F. Supp. 3d at *49.

a memo in an effort to prevent the Intelligence Community Inspector General from sending Congress the whistleblower complaint that later led to Trump's first impeachment. The Council of Inspectors General on Integrity and Efficiency called the memo "wrong as a matter of law and policy" and warned that it could "seriously impair whistleblowing."³ And in January 2020, OLC issued a memo timed to coincide with the start of Trump's first impeachment trial and that defended his obstruction of the impeachment inquiry.

The Committee has a longstanding interest in the transparency of OLC's memos. For example, in 2008 the Committee issued a subpoena for several post-September 11, 2001 OLC memos following a years-long effort by then-Chairman Leahy, Ranking Member Specter, and several other Committee members to voluntarily obtain OLC's memos regarding the Bush administration's detainee interrogation and detention practices. The Committee also undertook lengthy efforts to obtain memos containing OLC's justification for the Bush administration's warrantless wiretapping program and an Obama-era drone strike targeting an American citizen. The transparency of OLC memos remains of utmost concern to the Committee given the role OLC plays in justifying executive branch policies of enormous consequence. Only in rare circumstances should OLC legal opinions be kept confidential, and even then they should be provided to the Committee, which has a constitutional responsibility to oversee DOJ on behalf of the American people.

Although these memos predate your confirmation as Attorney General, the Department you now lead bears responsibility for ensuring that OLC is not misused to justify harmful policies or inappropriately conceal information from Congress. In the interest of transparency and given the March 24, 2019 OLC memo's apparent role in misleading the Committee about Mueller's findings, the Committee requests that you produce the full memo without redactions. Please provide the memo, or your legal justification for withholding it, to the Committee by June 30, 2021.

Thank you for your time and consideration. We look forward to a prompt reply.

Sincerely,



RICHARD J. DURBIN
Chair



PATRICK LEAHY
United States Senator

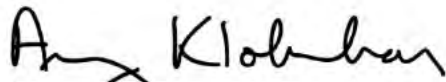


DIANNE FEINSTEIN
United States Senator



SHELDON WHITEHOUSE
United States Senator

³ Letter from Council of the Inspectors General on Integrity and Efficiency to the Honorable Steven A. Engel, Oct. 22, 2019.



AMY KLOBUCHAR
United States Senator



CHRISTOPHER A. COONS
United States Senator



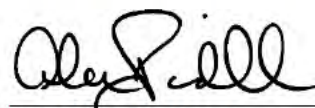
RICHARD BLUMENTHAL
United States Senator



MAZIE K. HIRONO
United States Senator



CORY A. BOOKER
United States Senator



ALEX PADILLA
United States Senator



JON OSSOFF
United States Senator

From: Gaeta, Joseph (OLA)
Subject: RE: Schroeder SJQ Updates
To: Brest, Phillip (Judiciary-Dem)
Sent: June 16, 2021 11:00 AM (UTC-04:00)

Will do.

From: Brest, Phillip (Judiciary-Dem) (b) (6)

Sent: Wednesday, June 16, 2021 10:57 AM

To: Gaeta, Joseph (OLA) (b) (6)

Subject: Schroeder SJQ Updates

Based on a BI review, the following items are missing from Chris Schroeder's SJQ. Please send an update letter when you have a chance – by COB tomorrow would be ideal. You can include in that update letter the issue we previously discussed re: (b) (6). (Reattaching that email for your records.)

- (b) (6)
- (b) (6)
- (b) (6)

One additional question for the nominee – can he confirm his position with the Biden-Harris DOJ Agency Review Team was uncompensated? Thanks.

From: Gaeta, Joseph (OLA)
Subject: RE: Schroeder BI
To: Brest, Phillip (Judiciary-Dem)
Sent: June 7, 2021 12:29 PM (UTC-04:00)

Standing by.

From: Brest, Phillip (Judiciary-Dem) (b) (6)

Sent: Monday, June 7, 2021 12:23 PM

To: Gaeta, Joseph (OLA) (b) (6)

Subject: RE: Schroeder BI

Short letter is totally fine. Probably best to hold off for the time being in case the Rs have anything else they claim should be corrected. I will circle back. And thanks re: (b) (6).

From: Gaeta, Joseph (OLA) (b) (6)

Sent: Monday, June 7, 2021 12:21 PM

To: Brest, Phillip (Judiciary-Dem) (b) (6)

Subject: RE: Schroeder BI

1. (b) (6). Would you like an entirely new SJQ with the date updated? Or a short letter signed by Chris supplementing/correcting the response, as I did with Clarke?
2. (b) (6)

From: Brest, Phillip (Judiciary-Dem) (b) (6)

Sent: Monday, June 7, 2021 11:15 AM

To: Gaeta, Joseph (OLA) (b) (6)

Subject: Schroeder BI

Hi Joe,

Two questions for Chris Schroeder arising out of my BI review:

1. (b) (6)
2. (b) (6) ?

The Republicans may have additional questions once they complete their review. I've separately send records check requests to Erica Songer.

Phil

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: confirming the 6/23 hearing starts at 10, right?
To: Bauer, Sarah (Judiciary-Dem); Gaeta, Joseph (OLA)
Sent: June 15, 2021 12:06 PM (UTC-04:00)
Attached: 6_23 Hearing - Introductions.eml

From: Bauer, Sarah (Judiciary-Dem) (b) (6)
Sent: Tuesday, June 15, 2021 12:05 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6)
Subject: RE: confirming the 6/23 hearing starts at 10, right?

Adding Phil here to make sure I have this right. I believe it starts at 9:30 as an accommodation for Senator Leahy, who had a scheduling conflict but wanted to introduce Helaine.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, June 15, 2021 11:57 AM
To: Bauer, Sarah (Judiciary-Dem) (b) (6)
Subject: confirming the 6/23 hearing starts at 10, right?

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Brest, Phillip (Judiciary-Dem)
Subject: 6/23 Hearing - Introductions
To: Gaeta, Joseph (OLA); Appleton, Rachel E. (OLA)
Cc: Bauer, Sarah (Judiciary-Dem); Yeldandi, Vaishalee (Judiciary-Dem)
Sent: June 11, 2021 10:32 AM (UTC-04:00)

Good morning,

I have Sen. Leahy confirmed to introduce Helaine (hence the 9:30 am start time that day), but who are you thinking for the other introductions (a second for Helaine? Plus Guzman and Schroeder), and have you done outreach already?

Thanks,

Phil

From: Zdeb, Sara (Judiciary-Dem)
Subject: Letter from Chair Durbin to AG Garland
To: Gaeta, Joseph (OLA)
Cc: Flynn-Brown, Josh (Judiciary-Rep)
Sent: June 14, 2021 2:00 PM (UTC-04:00)
Attached: 2021-06-14 Letter to AG Garland re HPSCI Subpoenas.pdf

Hi Joe:

Please see attached for correspondence from Chair Durbin to the Attorney General. Would you mind confirming receipt?

Thanks,
Sara

Sara Zdeb
Chief Counsel for Oversight
U.S. Senate Committee on the Judiciary
Chair Richard J. Durbin

(b) (6) (Direct)
(b) (6) (Mobile)
(b) (6)

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
ALEX PADILLA, CALIFORNIA
JON OSSOFF, GEORGIA

CHARLES E. GRASSLEY, IOWA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
TOM COTTON, ARKANSAS
JOHN KENNEDY, LOUISIANA
THOM TILLIS, NORTH CAROLINA
MARSHA BLACKBURN, TENNESSEE

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

June 14, 2021

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland:

On June 10, *The New York Times* reported that the Trump-era Department of Justice (DOJ) subpoenaed metadata of House Permanent Select Committee on Intelligence (HPSCI) Members, their staff, and family members, including a minor.¹ This grave assault on a co-equal branch of government threatens the very foundation of our constitutional order—the separation of powers.

DOJ reportedly targeted the Members as part of a leak investigation beginning in 2017, at the same time HPSCI was conducting a high-profile investigation into the 2016 Trump campaign's ties to Russia. Although prosecutors reportedly discussed ending the investigation after the metadata showed no proof of leaks, then-Attorney General William Barr apparently renewed it, including by assigning a handpicked prosecutor to oversee the investigation in February 2020.² This timing coincided with repeated statements by then-President Trump targeting HPSCI Chairman Adam Schiff, whom Trump baselessly accused in February 2020 of leaking information about Russian election interference—warning, “if they don’t stop it, I can’t imagine that people are not going to go after them and find out what’s happening.”³

Although compelling the production of metadata of Members, staff, and their families would raise grave separation of powers concerns in any leak case, these actions by former President Trump and Attorney General Barr raise additional concerns that DOJ’s investigative decisions in this case were motivated by improper political considerations. The Senate Judiciary Committee will vigorously investigate this apparent effort to weaponize DOJ against Trump’s perceived political enemies.

Several officials who reportedly oversaw these egregious overreaches remain at DOJ, including the handpicked prosecutor Attorney General Barr assigned to the case in February 2020. As a first step, we seek your immediate assurance that DOJ will preserve all relevant materials in

¹ Katie Benner, Nicholas Fandos, Michael S. Schmidt, & Adam Goldman, *Hunting Leaks, Trump Officials Focused on Democrats in Congress*, N.Y. Times, Jun. 10, 2021.

² *Id.*

³ Eileen Sullivan, *Trump Accuses Schiff of Leaking Intelligence on Russia’s 2020 Interference*, N.Y. Times, Feb. 25, 2020.

its possession, custody, or control, including the materials in direct possession, custody, or control of current DOJ employees who were involved in these matters. We also ask that you provide the Committee with an immediate briefing on the matter.

In addition, please respond to the following questions as soon as possible, and no later than June 28, 2021:

1. What was the factual and legal predicate for DOJ to include HPSCI Members, their staff, and family members in this investigation and in these subpoenas for metadata? Please provide separate explanations for each individual.
2. Please describe the process DOJ followed when obtaining grand jury subpoenas for the metadata of HPSCI Members, their staff, and family members, including which DOJ officials approved the decision to obtain such subpoenas.
3. Did DOJ include any Members of HPSCI other than Chairman Schiff and Congressman Eric Swalwell, or any other Members of Congress, their staff, or family members in this investigation? If so, please explain.
4. Did the Office of Legal Counsel provide advice on taking the extraordinary step of subpoenaing metadata from Members of Congress, their staff, and family members in a leak investigation? If so, please provide any such written advice and indicate when the advice was provided.
5. Please produce the following materials as soon as possible, but no later than June 28, 2021:
 - a. A copy of each subpoena;
 - b. All documents and communications, including emails, text messages, and calendar entries, referring or related to the Department's initial decision under Attorney General Sessions to include Members of Congress, their staff, and family members as a part of the investigation into alleged leaks;
 - c. All documents and communications, including emails, text messages, and calendar entries, referring or related to the Department's decision to obtain grand jury subpoenas for the metadata of Members of Congress, their staff, and family members in the leak investigation; and
 - d. All documents and communications, including emails, text messages, and calendar entries, referring or related to Attorney General Barr's appointment of Osmar Benvenuto to oversee the continuation of the investigation.

Thank you for your prompt attention to this request.

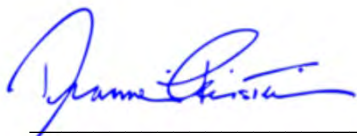
Sincerely,



RICHARD J. DURBIN
Chair



PATRICK LEAHY
United States Senator



DIANNE FEINSTEIN
United States Senator



SHELDON WHITEHOUSE
United States Senator



AMY KLOBUCHAR
United States Senator



CHRISTOPHER A. COONS
United States Senator



RICHARD BLUMENTHAL
United States Senator



MAZIE K. HIRONO
United States Senator



CORY A. BOOKER
United States Senator



ALEX PADILLA
United States Senator



JON OSSOFF
United States Senator

cc: The Honorable Charles E. Grassley
Ranking Member

From: Bauer, Sarah (Judiciary-Dem)
Subject: RE: Schroeder nom
To: Gaeta, Joseph (OLA)
Sent: June 14, 2021 1:54 PM (UTC-04:00)

Sessions QFRs start on page 981.

<https://www.govinfo.gov/content/pkg/CHRG-111shrg62198/pdf/CHRG-111shrg62198.pdf>

From: Bauer, Sarah (Judiciary-Dem)
Sent: Monday, June 14, 2021 12:05 PM
To: 'Gaeta, Joseph (OLA)' (b) (6)
Subject: RE: Schroeder nom

Let's try 1:30! You can give me a call at (b) (6).

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, June 14, 2021 11:57 AM
To: Bauer, Sarah (Judiciary-Dem) (b) (6)
Subject: RE: Schroeder nom

Funny I have an open email to you and Phil asking the same.

I'd actually love to talk before 2:00 today if possible. We're doing a moot at 3:00 for him. Any chance?

From: Bauer, Sarah (Judiciary-Dem) (b) (6)
Sent: Monday, June 14, 2021 11:55 AM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Schroeder nom

Hi Joe,

Just want to loop back on this. Will you have time before Wednesday to touch base on Schroeder?

Sarah

From: Bauer, Sarah (Judiciary-Dem)
Sent: Tuesday, June 8, 2021 3:31 PM
To: 'Gaeta, Joseph (OLA)' (b) (6)
Subject: RE: Schroeder nom

Sounds good! I'm just getting started on reviewing his materials. How about a Thursday afternoon or Friday call?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, June 8, 2021 10:56 AM
To: Bauer, Sarah (Judiciary-Dem) (b) (6)
Subject: Schroeder nom

Hi Sarah,

I'm handling Chris's nomination, and I understand you are too. Let's compare notes when you are ready.

Joe Gaeta

Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Bauer, Sarah (Judiciary-Dem)
Subject: Accepted: Schroeder nom
To: Gaeta, Joseph (OLA)
Sent: June 14, 2021 12:19 PM (UTC-04:00)

From: Gaeta, Joseph (OLA)
Subject: AG Statement FYI
To: Zogby, Joseph (Judiciary-Dem); Swanson, Daniel (Judiciary-Dem); Babin, Reginald (Schumer);
(b)(6) Mark Patterson (Schumer)
Cc: Greenfeld, Helaine A. (OLA)
Sent: June 14, 2021 11:06 AM (UTC-04:00)
Attached: Statement from Attorney General Merrick B. Garland.eml

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: USDOJ-Office of Public Affairs
Subject: Statement from Attorney General Merrick B. Garland
To: Gaeta, Joseph (OLA)
Sent: June 14, 2021 10:42 AM (UTC-04:00)



The United States Department of Justice

FOR IMMEDIATE RELEASE
WWW.JUSTICE.GOV/NEWS

June 14, 2021

Statement from Attorney General Merrick B. Garland

WASHINGTON - U.S. Attorney General Merrick B. Garland today made the following statement:

“As I stated during my confirmation hearing, political or other improper considerations must play no role in any investigative or prosecutorial decisions. These principles that have long been held as sacrosanct by the DOJ career workforce will be vigorously guarded on my watch, and any failure to live up to them will be met with strict accountability. There are important questions that must be resolved in connection with an effort by the department to obtain records related to Members of Congress and Congressional staff. I have accordingly directed that the matter be referred to the Inspector General and have full confidence that he will conduct a thorough and independent investigation. If at any time as the investigation proceeds action related to the matter in question is warranted, I will not hesitate to move swiftly.

“In addition, and while that review is pending, I have instructed the Deputy Attorney General, who is already working on surfacing potentially problematic matters deserving high level review, to evaluate and strengthen the department’s existing policies and procedures for obtaining records of the Legislative branch. Consistent with our commitment to the rule of law, we must ensure that full weight is accorded to separation-of-powers concerns moving forward.”

###

OAG

21-554

Do not reply to this message. If you have questions, please use the contacts in the message or call the Office of Public Affairs at 202-514-2007.

Follow us:

This email was sent to (b) (6) using GovDelivery, on behalf of [U.S. Department of Justice Office of Public Affairs](#) · 950 Pennsylvania Ave., NW · Washington, DC 20530 · 202-514-2007 · TTY (866) 544-6343. You may not use your subscription information for any other purposes. [Click here to unsubscribe.](#)

[Department of Justice Privacy Policy](#) | [GovDelivery Privacy Policy](#)

From: Gaeta, Joseph (OLA)
Subject: RE: 6/23 Hearing - Introductions
To: Brest, Phillip (Judiciary-Dem); Appleton, Rachel E. (OLA)
Cc: Bauer, Sarah (Judiciary-Dem); Yeldandi, Vaishalee (Judiciary-Dem)
Sent: June 11, 2021 11:37 AM (UTC-04:00)

What can you tell us about the number of guests for each nominee?

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, June 11, 2021 10:45 AM
To: Appleton, Rachel E. (OLA) (b) (6) Gaeta, Joseph (OLA) (b) (6)
Cc: Bauer, Sarah (Judiciary-Dem) (b) (6) Yeldandi, Vaishalee (Judiciary-Dem) (b) (6)
Subject: RE: 6/23 Hearing - Introductions

Thanks

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Friday, June 11, 2021 10:38 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6) Gaeta, Joseph (OLA) (b) (6)
Cc: Bauer, Sarah (Judiciary-Dem) (b) (6) Yeldandi, Vaishalee (Judiciary-Dem) (b) (6)
Subject: RE: 6/23 Hearing - Introductions

No objection here.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, June 11, 2021 10:37 AM
To: Appleton, Rachel E. (OLA) (b) (6) Gaeta, Joseph (OLA) (b) (6)
Cc: Bauer, Sarah (Judiciary-Dem) (b) (6) Yeldandi, Vaishalee (Judiciary-Dem) (b) (6)
Subject: RE: 6/23 Hearing - Introductions

Thanks. Okay with you if I take over the conversations with Warren and Markey? I already need to talk to them about introducing one of our judicial nominees, so seems like it might be more efficient that way.

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Friday, June 11, 2021 10:35 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6) Gaeta, Joseph (OLA) (b) (6)
Cc: Bauer, Sarah (Judiciary-Dem) (b) (6) Yeldandi, Vaishalee (Judiciary-Dem) (b) (6)
Subject: RE: 6/23 Hearing - Introductions

Guzman will be introduced by one or both of the Massachusetts Senators. We are working with both offices on scheduling and availability. I understand Helaine will also be introduced by Senator Hirono.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, June 11, 2021 10:32 AM
To: Gaeta, Joseph (OLA) (b) (6) Appleton, Rachel E. (OLA) (b) (6)
Cc: Bauer, Sarah (Judiciary-Dem) (b) (6) Yeldandi, Vaishalee (Judiciary-Dem) (b) (6)

From: Gaeta, Joseph (OLA)
Subject: Contacts policy
To: Sara Zdeb
Sent: June 10, 2021 4:04 PM (UTC-04:00)

I can confirm the holder memo has not been rescinded.

Sent from my iPhone

From: Brest, Phillip (Judiciary-Dem)
Subject: Re: Jackson vote today
To: Gaeta, Joseph (OLA)
Cc: Greenfeld, Helaine A. (OLA)
Sent: June 10, 2021 11:58 AM (UTC-04:00)

No her confirmation will be Monday

On Jun 10, 2021, at 11:46 AM, Gaeta, Joseph (OLA) (b) (6) wrote:

Do you expect Jackson to get her confirmation vote tonight?

Also, I've got the USMS document issue under control.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Charlet, Joseph (Judiciary-Dem)
Subject: Reading Room Visit
To: Gaeta, Joseph (OLA); Antell, Kira M. (OLA)
Cc: Zdeb, Sara (Judiciary-Dem)
Sent: June 7, 2021 4:01 PM (UTC-04:00)

Hi Joe and Kira,

As you know, the Committee is currently preparing for witness interviews related to our Clark investigation. In an effort to prepare for those interviews appropriately, it would be helpful if I could re-review the documents made available to Sara and myself on March 10th to refresh my recollection.

As you may be aware, the Committee has a nominations hearing and mark-up this Wednesday and Thursday, so ideally if there is a time for me to come tomorrow, that would be best. Would that work for you?

Thanks,

Joe

Joe Charlet

Counsel

U.S. Senate Committee on the Judiciary

Chair Richard J. Durbin

(b) (6)

(b) (6)

Pronouns: He/Him/His

From: Rutland, Courtney (Ron Johnson)
Subject: Senators' Letter to AG Garland
To: Gaeta, Joseph (OLA); McKay, Shirley A (OLA); Cress, Brian (OLA)
Cc: Hankey, Mary Blanche (Tuberville); Diaz, Christine (Rick Scott); Baig, Wendy (Judiciary-Rep); Davis, Andrew (Cruz)
Sent: June 7, 2021 12:54 PM (UTC-04:00)
Attached: 2021-06-07 Senators to DOJ.pdf

Hello,

Please find attached a letter to Attorney General Garland from Senators Johnson, Tuberville, Lee, Rick Scott, and Cruz.

Please confirm receipt.

Thanks!

Courtney Rutland
Legislative Director and Chief Counsel
U.S. Senator Ron Johnson (R-WI)
Desk: (b) (6)
Mobile: (b) (6)

United States Senate

WASHINGTON, DC 20510

June 7, 2021

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

The U.S. Department of Justice (DOJ) is currently dedicating enormous resources and manpower to investigating and prosecuting the criminals who breached the U.S. Capitol on January 6, 2021. We fully support and appreciate the efforts by the DOJ and its federal, state and local law enforcement partners to hold those responsible fully accountable.

We join all Americans in the expectation that the DOJ's response to the events of January 6 will result in rightful criminal prosecutions and accountability. As you are aware, the mission of the DOJ is, among other things, to ensure fair and impartial administration of justice for all Americans. Today, we write to request information about our concerns regarding potential unequal justice administered in response to other recent instances of mass unrest, destruction, and loss of life throughout the United States.

During the spring and summer of 2020, individuals used peaceful protests across the country to engage in rioting and other crimes that resulted in loss of life, injuries to law enforcement officers, and significant property damage.¹ A federal court house in Portland, Oregon, has been effectively under siege for months.² Property destruction stemming from the 2020 social justice protests throughout the country will reportedly result in at least \$1 billion to \$2 billion in paid insurance claims.³

In June 2020, the DOJ reportedly compiled the following information regarding last year's unrest:

- “One federal officer [was] killed, 147 federal officers [were] injured and 600 local officers [were] injured around the country during the protests, frequently from projectiles.”⁴

¹ Jennifer Kingson, *Exclusive: \$1 billion-plus riot damage is most expensive in insurance history*, Axios, Sept. 16, 2020, <https://www.axios.com/riots-cost-property-damage-276c9bcc-a455-4067-b06a-66f9db4cea9c.html>.

² Conrad Wilson and Jonathan Levinson, *Protesters, federal officers clash outside Portland's courthouse Thursday*, OPB, Mar. 12, 2021, <https://www.opb.org/article/2021/03/12/protesters-vandalize-portlands-federal-courthouse-again/>.

³ Jennifer Kingson, *Exclusive: \$1 billion-plus riot damage is most expensive in insurance history*, Axios, Sept. 16, 2020, <https://www.axios.com/riots-cost-property-damage-276c9bcc-a455-4067-b06a-66f9db4cea9c.html>.

⁴ Published in the Intercept, Jul. 15, 2020, <https://theintercept.com/document/2020/07/15/preventing-violence-and-criminal-activity-in-protection-of-lawful-protest/>.

- According to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), “since the start of the unrest there has been 81 Federal Firearms License burglaries of an estimated loss of 1,116 firearms; 876 reported arsons; 76 explosive incidents; and 46 ATF arrests[.]”⁵

Despite these numerous examples of violence occurring during these protests, it appears that individuals charged with committing crimes at these events may benefit from infrequent prosecutions and minimal, if any, penalties. According to a recent article, “prosecutors have approved deals in at least half a dozen federal felony cases arising from clashes between protesters and law enforcement in Oregon last summer. The arrangements — known as deferred resolution agreements — will leave the defendants with a clean criminal record if they stay out of trouble for a period of time and complete a modest amount of community service, according to defense attorneys and court records.”⁶

DOJ’s apparent unwillingness to punish these individuals who allegedly committed crimes during the spring and summer 2020 protests stands in stark contrast to the harsher treatment of the individuals charged in connection with the January 6, 2021 breach of the U.S. Capitol Building in Washington, D.C. To date, DOJ has charged 510 individuals stemming from Capitol breach.⁷ DOJ maintains and updates a webpage that lists the defendants charged with crimes committed at the Capitol. This database includes information such as the defendant’s name, charge(s), case number, case documents, location of arrest, case status, and informs readers when the entry was last updated.⁸ No such database exists for alleged perpetrators of crimes associated with the spring and summer 2020 protests. It is unclear whether any defendants charged with crimes in connection with the Capitol breach have received deferred resolution agreements.

Americans have the constitutional right to peaceably assemble and petition the government for a redress of grievances. This constitutional right should be cherished and protected. Violence, property damage, and vandalism of any kind should not be tolerated and individuals that break the law should be prosecuted. However, the potential unequal administration of justice with respect to certain protestors is particularly concerning. In order to assist Congress in conducting its oversight work, we respectfully request answers to the following questions by June 21, 2021:

⁵ *Id.*

⁶ Josh Gerstein, *Leniency for defendants in Portland clashes could affect Capitol riot cases*, Politico, Apr. 14, 2021, <https://www.politico.com/news/2021/04/14/portland-capitol-riot-cases-481346>.

⁷ Madison Hall et al., *493 people have been charged in the Capitol insurrection so far. This searchable table shows them all.*, Insider, accessed June 4, 2021, <https://www.insider.com/all-the-us-capitol-pro-trump-riot-arrests-charges-names-2021-1>.

⁸ *Capitol Breach Cases*, U.S. Dep’t of Justice, accessed May 21, 2021, <https://www.justice.gov/usao-dc/capitol-breach-cases?combine=&order=title&sort=asc>.

Spring and Summer 2020 Unrest:

1. Did federal law enforcement utilize geolocation data from defendants' cell phones to track protestors associated with the unrest in the spring and summer of 2020? If so, how many times and for which locations/riots?
2. How many individuals who may have committed crimes associated with protests in the spring and summer of 2020 were arrested by law enforcement using pre-dawn raids and SWAT teams?
3. How many individuals were incarcerated for allegedly committing crimes associated with protests in the spring and summer of 2020?
4. How many of these individuals are or were placed in solitary confinement? What was the average amount of consecutive days such individuals were in solitary confinement?
5. How many of these individuals have been released on bail?
6. How many of these individuals were released on their own recognizance or without being required to post bond?
7. How many of these individuals were offered deferred resolution agreements?⁹
8. How many DOJ prosecutors were assigned to work on cases involving defendants who allegedly committed crimes associated with protests in the spring and summer of 2020?
9. How many FBI personnel were assigned to work on cases involving defendants who allegedly committed crimes associated with protests in the spring and summer of 2020?

January 6, 2021 U.S. Capitol Breach:

10. Did federal law enforcement utilize geolocation data from defendants' cell phones to track protestors associated with the January 6, 2021 protests and Capitol breach? If so, how many times and how many additional arrests resulted from law enforcement utilizing geolocation information?
11. How many individuals who may have committed crimes associated with the Capitol breach were arrested by law enforcement using pre-dawn raids and SWAT teams?
12. How many individuals are incarcerated for allegedly committing crimes associated with the Capitol breach?

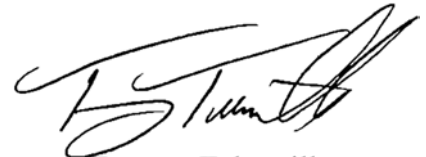
⁹ Josh Gerstein, *Leniency for defendants in Portland clashes could affect Capitol riot cases*, Politico, Apr. 14, 2021, <https://www.politico.com/news/2021/04/14/portland-capitol-riot-cases-481346>.

13. How many of these individuals are or were placed in solitary confinement? What was the average amount of consecutive days such individuals were in solitary confinement?
14. How many of these individuals have been released on bail?
15. How many of these individuals have been released on their own recognizance or without being required to post bond?
16. How many of these individuals were offered deferred resolution agreements?
17. How many DOJ prosecutors have been assigned to work on cases involving defendants who allegedly committed crimes associated with the Capitol breach?
18. How many FBI personnel were assigned to work on cases involving defendants who allegedly committed crimes associated with the Capitol breach?

Sincerely,



Ron Johnson
United States Senator



Tommy Tuberville
United States Senator



Mike Lee
United States Senator



Rick Scott
United States Senator



Ted Cruz
United States Senator

From: Gaeta, Joseph (OLA)
Subject: RE: Eunice Lee Hearing Intro
To: Lowe-Server, Alexandra (Gillibrand); Zubrensky, Michael A (OLP)
Sent: June 7, 2021 10:46 AM (UTC-04:00)

Kicking this request over to Mike Zubrensky in OLP. That office and the WH handle judicial confirmations. OLA only does executive branch

From: Lowe-Server, Alexandra (Gillibrand) (b) (6)
Sent: Monday, June 7, 2021 10:42 AM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: Eunice Lee Hearing Intro

Hey Joe,

We are prepping a statement for Sen. Gillibrand to introduce Eunice Lee for Wednesday morning's hearing. Wondering if you all have specific talking points you all would like us to lift up?

Thanks,
Alix

Alexandra Lowe-Server
Senior Advisor | Judiciary, Housing, and Education Policy
Senator Kirsten Gillibrand
478 Russell Senate Office Building
Washington, D.C. 20510
Office: 202-224-4451
www.gillibrand.senate.gov

From: Creegan, Erin (Judiciary-Rep)
Subject: Grassley to Garland re Violent Crime Reduction
To: Gaeta, Joseph (OLA)
Cc: Flynn-Brown, Josh (Judiciary-Rep); Ragsdale, DeLisa (Judiciary-Rep)
Sent: June 4, 2021 11:02 AM (UTC-04:00)
Attached: CEG to Garland Violent Crime Reduction FINAL.pdf

Hi Joe,

Please see the attached letter and confirm receipt.

Thanks kindly,

Erin

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
ALEX PADILLA, CALIFORNIA
JON OSSOFF, GEORGIA

CHARLES E. GRASSLEY, IOWA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
TOM COTTON, ARKANSAS
JOHN KENNEDY, LOUISIANA
THOM TILLIS, NORTH CAROLINA
MARSHA BLACKBURN, TENNESSEE

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

June 4, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Attorney General Garland:

I have reviewed a press release which you issued last week, discussing a plan to reduce violent crime. As to the objective to reduce violent crime, we are in complete agreement. I hope that we will have opportunities to work together in this area.

Beginning in roughly June of 2020, there was a 30% spike in homicides correlated to a move to depolice our cities at the very time they were breaking out into violent riots. Shortly thereafter in July of 2020, former Attorney General Bill Barr launched Operation Legend, a surge of federal law enforcement assistance to state and local authorities to fight violent crime. As of December 31, 2020, Operation Legend had accounted for over 6,000 arrests nationwide, including over 450 for homicide. More than 2600 firearms have been seized and more than 32 kilos of heroin, 17 kilos of fentanyl, 300 kilos of methamphetamine, 135 kilos of cocaine and \$11 million in drug and other illicit proceeds have been seized. The Operation was a success. However it was discontinued by the Biden Administration.

I am concerned as I review your very different answer to the problem of rising violent crime. First, I must tell you it is extremely difficult to discern what you are committing to do at all. Your press release speaks of “earn[ing] legitimacy,” “invest[ing] in prevention,” and “target[ing] enforcement efforts” — inscrutable terms that could mean almost anything. Nonetheless, your use of terms about shifting attention to community-based programs and setting strategic enforcement priorities has led me believe your intention is to shift money and attention away from direct law enforcement to other priorities, in short, to defund the police.

In order to better understand your violent crime reduction policies, please answer the following no later than June 18, 2021:

1. Please define “community-based prevention and intervention programs.”
2. How much money does the Department intend to spend on “community-based prevention and intervention programs”?
3. How much money does the Department plan to spend researching, rather than combatting, violent crime?
4. When the Department “sets strategic enforcement priorities,” toward which criminal behavior will the Department direct fewer resources? Which behavior does the Department intend to ignore?
5. By directing the FBI and DEA to focus on only the most dangerous criminal organizations, what criminal conduct and which organizations will they be asked not to investigate?
6. How does the Department intend to “earn legitimacy” for law enforcement? Is it by reducing law enforcement presence, responsiveness to criminal activity, or imposing new restrictions on the actions of law enforcement officers? Please explain.
7. What metrics will the Department use to “measure results”?

If you have any questions, you may contact Erin Creegan of my Committee Staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Ranking Member
Senate Committee on the Judiciary

From: Zogby, Joseph (Judiciary-Dem)
Subject: RE: shall we skip our meeting this week?
To: Gaeta, Joseph (OLA); Swanson, Daniel (Judiciary-Dem); Trifone, Stephanie (Judiciary-Dem)
Cc: Greenfeld, Helaine A. (OLA)
Sent: June 3, 2021 3:31 PM (UTC-04:00)

Possibly. As an initial matter, would like to confirm DOJ's continued support for eliminating the disparity. Can send info on DOJ's past position and other background if helpful.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, June 3, 2021 10:21 AM
To: Zogby, Joseph (Judiciary-Dem) (b) (6); Swanson, Daniel (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: shall we skip our meeting this week?

Thanks for the heads up. When you say supportive testimony do you mean you plan to ask for a DOJ witness?

From: Zogby, Joseph (Judiciary-Dem) (b) (6)
Sent: Thursday, June 3, 2021 10:17 AM
To: Gaeta, Joseph (OLA) (b) (6); Swanson, Daniel (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: shall we skip our meeting this week?

Yes that makes sense. We don't expect to list any additional bills on the markup agenda. We did want to give you a heads up that we're planning a full committee hearing on 6/22 at 10am on the EQUAL Act. DOJ (then Criminal Division AAG Lanny Breuer) testified in support of eliminating the crack-powder sentencing disparity in 2009 so we're hoping we can again receive supportive testimony from DOJ.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, June 3, 2021 10:10 AM
To: Zogby, Joseph (Judiciary-Dem) (b) (6); Swanson, Daniel (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: shall we skip our meeting this week?

I don't believe we have much to report on our end.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Stoopler, David (Judiciary-Dem)
Subject: Request for Kristin Clarke
To: Gaeta, Joseph (OLA)
Sent: June 2, 2021 9:30 PM (UTC-04:00)
Attached: JFACT letter to AAG Clarke re zoom meeting.pdf

Joe,

Please find attached a meeting request for Kristin Clarke from the Jewish Federation Association of Connecticut (JFACT). We know she's just settling in and that her time is extremely precious these days, but certainly think a meeting would be worthwhile, particularly in the current climate.

Thanks,
David

David Stoopler
Chief Counsel
U.S. Senator Richard Blumenthal

(b) (6)
(b) (6)



**Jewish Federation Association
of Connecticut (JFACT)**

Kristen Clarke
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Assistant Attorney General Clarke,

My name is Michael Bloom and I am the Executive Director of the Jewish Federation Association of Connecticut. We are an advocacy organization which lobbies city, state and federal officials on issues of importance to the Jewish community.

Over the last several years, the biggest concern in our community is the rise in hate crimes and bias based actions in our state and country. We have heard from state officials, including our Connecticut Attorney General about how they can combat the rise in hate crimes. At your convenience, JFACT would like to set up a zoom meeting between you, members of your staff and JFACT and other organizations' membership where you could share your perspective on this critical issue and the actions that the U.S. Department of Justice can take.

I am confident that many organizations would be interested in co-sponsoring this event, including the Anti-Defamation League, NAACP, and other community organizations because, as you know, it is not just the Jewish community that is facing this rise in hate.

Please let me know if such a speaking event is possible. Take care and congratulations on making it through the nomination process.

Sincerely,

Michael Bloom
Executive Director

Cc: United States Senator Richard Blumenthal

40 Woodland Street Hartford, CT 06105 · 860.727.5701 · jfact.org

Constituent Jewish Federations

Eastern Connecticut, Upper Fairfield, Greenwich, Greater Hartford, Greater New Haven, Greater Stamford-New Canaan-Darien, Western Connecticut

From: Swanson, Daniel (Judiciary-Dem)
Subject: RE: CLOSE HOLD: ERPO model state legislation
To: Antell, Kira M. (OLA)
Cc: Gaeta, Joseph (OLA)
Sent: June 2, 2021 7:22 PM (UTC-04:00)

Thanks Kira. To confirm, I will forward the following info to SJC staff in a separate email about the 4:30 briefing tomorrow. That will go out later this evening. Thanks, Dan

The Department of Justice expects to post model Extreme Risk Protection Order (ERPO) state legislation next week pursuant to a [Presidential directive on April 8](#). The Department would like to offer a briefing to SJC staff about the model legislation and to answer any questions on the process and principles used in the development of the draft. SJC has long been interested in ERPO laws. While this is model state legislation and not federal legislation, we believe this draft may be helpful to you as you continue your conversations.

Eric Nguyen, Office of the Deputy Attorney General and Joe Gaeta, Office of Legislative Affairs
Thursday, June 3 at 4:30 pm

[Join Microsoft Teams Meeting](#)

(b) (6) United States, Washington (Toll)
Conference ID: (b) (6)

[Local numbers](#) | [Reset PIN](#) | [Learn more about Teams](#)

From: Antell, Kira M. (OLA) (b) (6)
Sent: Wednesday, June 2, 2021 7:06 PM
To: Swanson, Daniel (Judiciary-Dem) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6)
Subject: CLOSE HOLD: ERPO model state legislation

Hi Dan,

As discussed, attached is a discussion draft for your review. This is close hold and may yet shift so I'd ask that you not distribute further. Do let me know if you get push back on the timing of the call tomorrow afternoon. Happy to work around staff schedules if that is preferable.

Thanks,
Kira

From: Antell, Kira M. (OLA)
Sent: Wednesday, June 2, 2021 6:02 PM
To: Swanson, Daniel (Judiciary-Dem) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: ERPO model state legislation

Hi Dan,

Thanks so much for speaking with me this afternoon. Apologies for the delay. I am sending a Teams invite to you now for tomorrow. Please forward that or copy and paste it into a new email. I'll send language by separate cover this evening.

Thanks again for your help!

-K

Kira Antell
Office of Legislative Affairs
Department of Justice
o: (b) (6)
c: (b) (6)

From: Swanson, Daniel (Judiciary-Dem) (b) (6)
Sent: Wednesday, June 2, 2021 2:31 PM
To: Antell, Kira M. (OLA) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: ERPO model state legislation

Sorry, am on zooms until about 4:30. Please email me if urgent before then- otherwise happy to talk then.

From: Antell, Kira M. (OLA) (b) (6)
Sent: Wednesday, June 2, 2021 2:17 PM
To: Swanson, Daniel (Judiciary-Dem) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: ERPO model state legislation

Hi Dan,

Thanks for circling back. Happy to answer any questions. Are you free for a short call before 3:00? I'm at (b) (6)

Thanks,
Kira

From: Swanson, Daniel (Judiciary-Dem) (b) (6)
Sent: Wednesday, June 2, 2021 2:15 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Antell, Kira M. (OLA) (b) (6)
Subject: RE: ERPO model state legislation

Hey Joe- that's great, and happy to work with you on that. Are you thinking a virtual briefing or in-person? And are you looking to hold the briefing before the end of this week, or just get it on the books by then?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, June 2, 2021 2:08 PM
To: Swanson, Daniel (Judiciary-Dem) (b) (6)
Cc: Antell, Kira M. (OLA) (b) (6)
Subject: ERPO model state legislation

Hey Dan,

As you may know, DOJ is soon set to roll out its model ERPO bill. We'd like to set up a SJC staff briefing before the end of the week to give everyone a preview. We'd prefer it to be bipartisan, and would like to invite a few other off-committee offices that have expressed interest in the issue. Got a sec to discuss how to get from here to there?

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: 2021-06-02 CEG to DOJ (Deferred Resolution)
To: Gaeta, Joseph (OLA)
Cc: CEG (Judiciary-Rep); Ragsdale, DeLisa (Judiciary-Rep); Creegan, Erin (Judiciary-Rep)
Sent: June 2, 2021 5:34 PM (UTC-04:00)
Attached: 2021-06-02 CEG to DOJ (Deferred Resolution).pdf

Joe, please see the attached letter and confirm receipt. Thank you.

Josh

United States Senate
WASHINGTON, DC 20510

June 2, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice

Dear Attorney General Garland:

I write to you to again express my concern that the Department of Justice is not treating all forms of domestic extremism equally.

This concern will not be new to you. On February 2, 2021, I wrote to ask about the Department's preparations for the 2020 riots. The scale of the riots that year was enormous and unprecedented. A Princeton study found over 500 unique riots occurred that year.¹ Fourteen thousand people were arrested in 49 cities. Hundreds if not thousands of police officers were injured. This included hundreds of injuries at a months-long violent siege of the federal courthouse in Portland, Oregon, as well as dozens of injuries in an attack on the White House in Washington, D.C. Over 400 domestic extremism investigations were opened, a 40% increase in the FBI's domestic terrorism caseload in a single year.

On May 7, 2021, I wrote you an additional letter regarding an anarchist extremist plot to target police officers. I share the concerns of former Attorney General Bill Barr and former Acting Secretary for Homeland Security Chad Wolf that the federal government appears to have robust capabilities in targeting militia extremists and white supremacists, but very little capability in fighting anarchist extremism. As a result of this lack of historical expertise and collection, opportunities to investigate criminal conspiracies such as the one I highlighted in my May letter are often missed.

Even those opportunities which are taken are not sustained. I have been very distressed to read that the Department of Justice has dismissed charges against numerous persons involved in riots at the Portland courthouse. The U.S. Attorney's Office for Oregon has shockingly reported that of 97 people charged with federal crimes for that assault on our democracy, a staggering 58 have had or will have their charges dismissed.² This is a great disappointment, not only to me, but to all Americans who were horrified to see a symbol of justice and the rule of law be attacked night after night by extremists.

¹ Emma Colton, *Conservatives Point Out That Princeton Study on Protests Reveal Violence was Found at Hundreds of Demonstrations*, THE WASHINGTON EXAMINER (Sept. 6, 2020), <https://www.washingtonexaminer.com/news/conservatives-point-out-that-princeton-study-on-protests-reveals-violence-was-found-at-hundreds-of-demonstrations>.

² *US Attorney: Most Portland Rioters Won't Be Prosecuted*, WBAP NEWS TALK (May 24, 2021), <https://www.wbap.com/news/us-attorney-most-portland-rioters-wont-be-prosecuted/>.

While the Department of Justice under your leadership spares no effort to prosecute every offense including misdemeanors and trespass if associated with the Capitol breach, which I find no fault with, the same cannot be said of the hundreds of riots that occurred in 2020. Indeed, according to reporting, prosecutors handling federal felony cases in Portland have approved deferred resolution agreements instead of prosecuting the cases.³ This leniency is distinct from the aggressive prosecution of January 6 related crimes. The law must be applied equally without regard to party, power or privilege. When the Department of Justice treats similar criminal acts differently, such conduct erodes faith in our governmental institutions and the law. This is all the more concerning as the Department of Justice requests an additional \$1.5 billion, a 12% increase over the previous year's funding, to combat terrorism.⁴ I can only imagine that this money will continue to resource the institutional bias that continues to exist for the Department's historical areas of expertise, militia extremism and white supremacy.

In order to better understand how the Department of Justice has applied prosecutorial standards in the summer riots and the January 6 Capitol breach, please answer the following no later than June 16, 2021:

1. For the summer 2020 riots in Portland, how many individuals were arrested and jailed for allegedly committing crimes?
2. For the January 6 Capitol breach, how many individuals were arrested and jailed for allegedly committing crimes?
3. For the summer 2020 riots in Portland, how many individuals were released on bail?
4. For the January 6 Capitol breach, how many individuals were released on bail?
5. For the summer 2020 riots in Portland, how many individuals were offered deferred resolution agreements?
6. For the January 6 Capitol breach, how many individuals were offered deferred resolution agreements?

Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

³ Josh Gerstein, *Leniency for Defendants in Portland Clashes Could Affect Capitol Riot Cases*, POLITICO (Apr. 14, 2021), <https://www.politico.com/news/2021/04/14/portland-capitol-riot-cases-481346>.

⁴ Press Release, Dep't of Just., Dep't of Just. Fiscal Year 2022 Funding Request (May 28, 2021), <https://www.justice.gov/opa/pr/department-justice-fiscal-year-2022-funding-request>.

From: Boxenbaum, Shelby (Menendez)
Subject: Judicial Security ACLU Highlights
To: Linares, Elva E. (OLA); Gaeta, Joseph (OLA)
Cc: Lugo, Alice (Menendez); Huynh, Audrey (Menendez)
Sent: June 1, 2021 1:38 PM (UTC-04:00)
Attached: Judicial Security with Highlights for DOJ_FINAL.docx

Elva & Joe,

Attached is a document where we've highlighted parts of the legislation where we updated the language in response to the ACLU's concerns. My comments within the document also provide additional context let us know if you have questions.

Shelby

Shelby Boxenbaum

Counsel • U.S. Senator Bob Menendez
202.224.4744 • 528 Hart Senate Office Building



1 Title: To improve the safety and security of the Federal judiciary.
2
3

4 Be it enacted by the Senate and House of Representatives of the United States of America in
5 Congress assembled,

6 SECTION 1. SHORT TITLE.

7 This Act may be cited as the “Daniel Anderl Judicial Security and Privacy Act of 2020”.

8 SEC. 2. PURPOSE; RULES OF CONSTRUCTION.

9 (a) Purpose.—The purpose of this Act is to improve the safety and security of Federal judges,
10 including senior, recalled, or retired Federal judges, and their immediate family, to ensure
11 Federal judges are able to administer justice fairly without fear of personal reprisal from
12 individuals affected by the decisions they make in the course of carrying out their public duties.

13 (b) Rules of Construction.—

14 (1) IN GENERAL.—Nothing in this Act shall be construed—

15 (A) to prohibit, restrain, or limit—

16 (i) the lawful investigation or reporting by the press of any unlawful activity or
17 misconduct alleged to have been committed by an at-risk individual or their
18 immediate family; or

19 (ii) the reporting on an at-risk individual or their immediate family regarding
20 matters of public concern;

21 (B) to impair access to decisions and opinions from a Federal judge in the course of
22 carrying out their public functions; or

23 (C) to limit the publication or transfer of personally identifiable information that the
24 at-risk individual or their immediate family member voluntarily publishes on the
25 internet after the date of enactment of this Act.

26 (2) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—This Act shall be broadly
27 construed to favor the protection of the personally identifiable information of at-risk
28 individuals and their immediate family.

29 SEC. 3. FINDINGS.

30 Congress finds the following:

31 (1) Members of the Federal judiciary perform the important function of interpreting our
32 Constitution and administering justice in a fair and impartial manner.

33 (2) In recent years, partially as a result of the rise in the use of social media and online
34 access to information, members of the Federal judiciary have been exposed to an increased
35 number of personal threats in connection to their role.

36 (3) Between 2015 and 2019, threats and other inappropriate communications against
37 Federal judges and other judiciary personnel increased from 926 in 2015 to approximately

Formatted: Highlight

Commented [BS(1)]: This language was suggested by the
ACLU.

1 4,449 in 2019.

2 (4) Over the past decade, several members of the Federal judiciary have experienced acts
3 of violence against themselves or a family member in connection to their Federal judiciary
4 role, including the murder of the family of United States District Judge for the Northern
5 District of Illinois Joan Lefkow in 2005.

6 (5) On Sunday July 19, 2020, an assailant went to the home of Esther Salas, a judge for
7 the United States District Court for the District of New Jersey, impersonating a package
8 delivery driver, opening fire upon arrival, and killing Daniel Anderl, the 20-year-old only
9 son of Judge Salas, and seriously wounding Mark Anderl, her husband.

10 (6) In the aftermath of the recent tragedy that occurred to Judge Salas and in response to
11 the continuous rise of threats against members of the Federal judiciary, there is an
12 immediate need for enhanced security procedures and increased availability of tools to
13 protect Federal judges and their families.

14 SEC. 4. DEFINITIONS.

15 In this Act:

16 (1) AT-RISK INDIVIDUAL.—The term “at-risk individual” means—

- 17 (A) a Federal judge; or
- 18 (B) a senior, recalled, or retired Federal judge

19 (2) DATA BROKER.—

20 (A) IN GENERAL.—The term “data broker” means a business or commercial entity
21 when it is engaged in collecting, assembling, or maintaining personal information
22 concerning an individual who is not a customer, client, or an employee of that entity in
23 order to sell the information or otherwise profit from providing third party access to the
24 information.

25 (B) EXCLUSION.—The following activities conducted by a business or commercial
26 entity, and the collection and sale or licensing of personally identifiable information
27 incidental to conducting these activities do not qualify the entity as a data broker:

- 28 (i) Engaging in reporting, newsgathering, speaking, or other activities intended
29 to inform the public on matters of public interest or public concern.
- 30 (ii) Providing 411 directory assistance or directory information services,
31 including name, address, and telephone number, on behalf of or as a function of a
32 telecommunications carrier.
- 33 (iii) Utilizing personal information internally, providing access to businesses
34 under common ownership or affiliated by corporate control, or selling or
35 providing data for a transaction or service requested by or concerning the
36 individual whose personal information is being transferred.
- 37 (iv) Providing publicly available information via real-time or near-real-time
38 alert services for health or safety purposes.
- 39 (v) A consumer reporting agency to the extent that it is covered by the Federal

Commented [BS(2)]: This was language driven by the ACLU.

Formatted: Highlight

Commented [BS(3)]: This language came from the Data Broker List Act of 2019; a Peters bill. We found it after prompting from the ACLU to tighten up the definition section.

Formatted: Highlight

Commented [BS(4)]: This language was specifically suggested by the ACLU.

Commented [BS(5)]: This language came from the Data Broker List Act of 2019; a Peters bill and a Vermont law We found it after prompting from the ACLU. This was added to tighten up the definition at the request of the ACLU.

Commented [BS(6)]: This is a mix of language from the VT law and the Peters bill. This was added to tighten up the definition at the request of the ACLU.

Formatted: Highlight

Formatted: Highlight

1 Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

2 (vi) A financial institution to the extent that it is covered by the Gramm-Leach-
3 Bliley Act (Public Law 106-102) and implementing regulations.

4 (vii) An entity to the extent that it is covered by the Health Insurance
5 Portability and Accountability Act (Public Law 104-191).

6 (3) FEDERAL JUDGE.—The term “Federal judge” means—

7 (A) a justice or judge of the United States, as those terms are defined in section 451
8 of title 28, United States Code;

9 (B) a bankruptcy judge appointed under section 152 of title 28, United States Code;

10 (C) a United States magistrate judge appointed under section 631 of title 28, United
11 States Code;

12 (D) a judge confirmed by the United States Senate and empowered by statute in any
13 commonwealth, territory, or possession to perform the duties of a Federal judge; and

14 (E) a judge of the United States Court of Federal Claims appointed under section
15 171 of title 28, United States Code.

16 (4) GOVERNMENT AGENCY.—The term “Government agency” means any department
17 enumerated in section 1 of title 5 of the United States Code, independent establishment,
18 commission, administration, authority, board or bureau of the United States or any
19 corporation in which the United States has a proprietary interest. The term includes all such
20 institutions, offices, and any other bodies politic and corporate of the United States
21 Government created by the constitution or statute, whether in the executive, judicial, or
22 legislative branch; all units and corporate outgrowths created by Executive order of the
23 President or any constitutional officer, by the Supreme Court of the United States, or by
24 resolution of the United States Congress.

25 (5) IMMEDIATE FAMILY.—The term “immediate family” means a spouse, child, parent, or
26 any other familial relative of an at-risk individual whose permanent residence is the same as
27 the at-risk individual.

28 (6) PERSONALLY IDENTIFIABLE INFORMATION.—The term “personally identifiable
29 information” means—

30 (A) a home address, including primary residence or secondary residences;

31 (B) a home or personal mobile telephone numbers, or the direct telephone number of
32 a government-issued cell phone or private extension in the chambers of an at-risk
33 individual;

34 (C) a personal email address;

35 (D) the social security number, driver’s license number, or home address displayed
36 on voter registration information;

37 (E) a bank account or credit or debit card information;

38 (F) home or other address displayed on property tax records or held by a Federal,
39 State, or local government agency of an at-risk individual, including a secondary

Commented [BS(7): These last three sections were taken from the Peters bill (Data Brokers List Act of 2019) and is also in the California data broker legislation. Again these additions were made at the prompting of the ACLU to tighten up the definition.

Formatted: Highlight

1 residence and any investment property at which an at-risk individual resides for part of
2 a year;

3 (G) license plate number or home address displayed on vehicle registration
4 information;

5 (H) identification of children of an at-risk individual under the age of 18;

6 (I) full date of birth;

7 (J) a photograph of any vehicle that legibly displays the license plate or a
8 photograph of a residence that legibly displays the residence address;

9 (K) the name and address of a school or day care facility attended by immediate
10 family; or

11 (L) the name and address of an employer of immediate family.

12 (7) SOCIAL MEDIA.—The term “social media” means any online electronic medium, a
13 live-chat system, or an electronic dating service—

14 (A) that primarily serves as a medium for users to interact with content generated by
15 other third-party users of the medium;

16 (B) that enables users to create accounts or profiles specific to the medium or to
17 import profiles from another medium; and

18 (C) that enables one or more users to generate content that can be viewed by other
19 third-party users of the medium.

20 (8) TRANSFER.—The term “transfer” means to sell, license, trade, or exchange for
21 consideration the personally identifiable information of an at-risk individual or immediate
22 family.

Commented [BS(8)]: ACLU wanted more specificity in these two sections, so we added the highlighted.

Commented [BS(9)]: This was ACLU suggested language.

23 SEC. 5. PROTECTING PERSONALLY IDENTIFIABLE 24 INFORMATION IN PUBLIC RECORDS.

25 (a) Government Agencies.—

26 (1) IN GENERAL.—Each at-risk individual may—

27 (A) file written notice of the status of the individual as an at-risk individual, for
28 themselves and immediate family, to each Government agency; and

29 (B) ask each Government agency described in subparagraph (A) to mark as
30 confidential their personally identifiable information and that of their immediate
31 family.

32 (2) Government agencies shall not publicly post or display publicly available content that
33 includes personally identifiable information of an at-risk individual or immediate family.

34 Government agencies, upon receipt of a written request in accordance with subsection
35 (a)(1)(A) of this section, shall remove the personally identifiable information of the at-risk
36 individual or immediate family from publicly available content within 72 hours.

37 (b) State and Local Governments.—

1 (1) GRANT PROGRAM TO PREVENT DISCLOSURE OF PERSONAL INFORMATION OF AT-RISK
2 INDIVIDUALS OR IMMEDIATE FAMILY.—

3 (A) AUTHORIZATION.—The Attorney General shall make grants to prevent the
4 release of personally identifiable information of at-risk individuals and immediate
5 family (in this subsection referred to as “judges’ personally identifiable information”)
6 to the detriment of such individuals or their families to an entity that—

7 (i) is—

8 (I) a State or unit of local government (as such terms are defined in section
9 901 of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C.
10 10251)); or

11 (II) an agency of a State or unit of local government; and

12 (ii) operates a State or local database or registry that contains personally
13 identifiable information.

14 (B) APPLICATION.—An eligible entity seeking a grant under this section shall submit
15 to the Attorney General an application at such time, in such manner, and containing
16 such information as the Attorney General may reasonably require.

17 (2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such
18 sums as may be necessary to provide grants to entities described in paragraph (1) to create
19 or expand programs designed to protect judges’ personally identifiable information,
20 including through—

21 (A) the creation of programs to redact or remove judges’ personally identifiable
22 information, upon the request of an at-risk individual, from public records in state
23 agencies; these efforts may include but are not limited to hiring a third party to redact
24 or remove judges’ personally identifiable information from public records;

25 (B) the expansion of existing programs that the State may have enacted in an effort
26 to protect judges’ personally identifiable information;

27 (C) the development or improvement of protocols, procedures, and policies to
28 prevent the release of judges’ personally identifiable information;

29 (D) the defrayment of costs of modifying or improving existing databases and
30 registries to ensure that judges’ personally identifiable information is protected from
31 release; and

32 (E) the development of confidential opt out systems that will enable at-risk
33 individuals to make a single request to keep judges’ personally identifiable information
34 out of multiple databases or registries.

35 (3) REPORT.—

36 (A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and
37 biennially thereafter, the Comptroller General of the United States, shall submit to the
38 Committee on the Judiciary of the Senate and the Committee on the Judiciary of the
39 House of Representatives an annual report that includes—

40 (i) a detailed amount spent by States and local governments on protection of

1 judges' personally identifiable information; and

2 (ii) where the judges' personally identifiable information was found.

3 (B) STATES AND LOCAL GOVERNMENTS.—States and local governments that receive
4 funds under this section shall submit to the Comptroller General a report on data
5 described in clauses (i) and (ii) of subparagraph (A) to be included in the report
6 required under that subparagraph.

7 (c) Data Brokers and Other Businesses.—

8 (1) PROHIBITION.—

9 (A) DATA BROKERS.—It shall be unlawful for a data broker to knowingly sell,
10 license, trade for consideration, or purchase personally identifiable information of an
11 at-risk individual or immediate family.

Commented [BS(10)]: The ACLU asked for the
"knowingly" standard.

12 (B) OTHER BUSINESSES.—No person, business, or association shall publicly post or
13 publicly display on the internet personally identifiable information of an at-risk
14 individual or immediate family if the at-risk individual has made a written request of
15 that person, business, or association to not disclose the personally identifiable
16 information of the at-risk individual or immediate family.

17 (C) EXCEPTIONS.—The restriction in subparagraph (B) shall not apply to—

18 (i) the display on the internet of the personally identifiable information of an at-
19 risk individual or immediate family if the information is relevant to and displayed
20 as part of a news story, commentary, editorial, or other speech on a matter of
21 public concern; or

Commented [BS(11)]: This was an ACLU request.

22 (ii) personally identifiable information that the at-risk individual voluntarily
23 publishes on the internet after the date of enactment of this Act.

Formatted: Highlight

24 (2) REQUIRED CONDUCT.—

25 (A) IN GENERAL.—After a person, business, or association has received a written
26 request from an at-risk individual to protect personally identifiable information of the
27 at-risk individual or immediate family, that person, business, or association shall have
28 72 hours to remove the personally identifiable information from the internet.

29 (B) INFORMATION PROTECTED.—After a person, business, or association has
30 received a written request from an at-risk individual, that person, business, or
31 association shall ensure that the personally identifiable information of the at-risk
32 individual or immediate family is not made available on any website or subsidiary
33 website controlled by that person, business, or association.

34 (C) TRANSFER.—After receiving an at-risk individual's written request, no person,
35 business, or association shall transfer the personally identifiable information of the at-
36 risk individual or immediate family to any other person, business, or association
37 through any medium, except where the at-risk individual's or immediate family
38 member's personally identifiable information is relevant to and displayed as part of a
39 news story, commentary, editorial, or other speech on a matter of public concern. The
40 restriction on transfer shall also not apply to personally identifiable information that
41 the at-risk individual or immediate family voluntarily publishes on the internet after the

1 date of enactment of this Act.

Commented [BS(12)]: ACLU asked for this language.

Formatted: Highlight

2 (d) Delegation of Authority.—

3 (1) IN GENERAL.—Any notice or request required or authorized by this section to be made
4 by an at-risk individual, upon written request of the at-risk individual, may be made by the
5 Director of the Administrative Office of the United States Courts. The Director may
6 delegate this authority to such officers and employees of the judicial branch of Government
7 as the Director may designate, and subject to such terms and conditions as the Director may
8 consider appropriate; and may authorize the successive redelegation of such authority as the
9 Director may deem desirable. Any notice or request made under this subsection shall be
10 deemed to have been made by the at-risk individual and compliant with the notice and
11 request requirements of this section.

12 (2) LIST.—In lieu of individual notices or requests, the Director may provide government
13 agencies, State and local governments, data brokers, persons, businesses, or associations
14 with a list of at-risk individuals and their immediate family for the purpose of maintaining
15 compliance with this section. Such list shall be deemed to comply with individual notice
16 and request requirements of this section.

17 (e) Redress and Penalties.—

18 (1) IN GENERAL.—An at-risk individual or immediate family member whose personally
19 identifiable information is made public as a result of a violation of this Act may bring an
20 action seeking injunctive or declaratory relief in any court of competent jurisdiction. If the
21 court grants injunctive or declaratory relief, the person, business, or association responsible
22 for the violation shall be required to pay the at-risk individual's or immediate family
23 member's costs and reasonable attorney's fees.

24 (2) PRIVATE RIGHT OF ACTION.—

25 (A) IN GENERAL.—An at-risk individual or immediate family member who is
26 aggrieved by a knowing and willful violation of subsection (c) of this section may
27 bring an action in any court of competent jurisdiction.

Commented [BS(13)]: The ACLU asked for the "knowing and willful" standard.

Formatted: Highlight

28 (B) DAMAGES.—A prevailing plaintiff in an action described in subparagraph (A)
29 shall be awarded damages in an amount—

Formatted: Highlight

30 (i) not greater than 3 times the actual damages to the plaintiff; and

31 (ii) not less than \$10,000.

32 SEC. 6. HOME INTRUSION DETECTION SYSTEM 33 PROGRAM.

34 There is authorized to be appropriated such sums as may be necessary to provide security
35 monitoring services for active, senior, recalled, or retired Federal judges, including any method
36 or methods designed to provide security through a system of interworking components and
37 devices such as integrated electronic devices working together with a central control panel,
38 including doorbell cameras, outdoor cameras, and motion detection devices.

39 SEC. 7. TRAINING AND EDUCATION.

1 There is authorized to be appropriated to the Federal judiciary such sums as may be necessary
2 for biannual judicial security training for active, senior, or recalled Federal judges and their
3 immediate family, including—

4 (1) best practices for using social media and other forms of online engagement and for
5 maintaining online privacy;

6 (2) home security program and maintenance;

7 (3) understanding removal programs and requirements for personally identifiable
8 information;

9 (4) any other judicial security training that the United States Marshals Services and the
10 Administrative Office of the United States Courts determines is relevant.

11 SEC. 8. THREAT MANAGEMENT CAPABILITY.

12 (a) Authorization of Appropriations.—

13 (1) THREAT MANAGEMENT CAPABILITY.—The Administrative Office of the United States
14 Courts is authorized to perform all necessary functions consistent with the provisions of this
15 Act, and to support existing threat management capabilities within the United States
16 Marshals Service and other relevant Federal law enforcement and security agencies. Such
17 functions may include—

18 (A) monitor the protection of at-risk individuals and judiciary assets;

19 (B) manage the monitoring of data broker websites for personally identifiable
20 information of at-risk individuals or immediate family and report violations to the
21 United States Marshals Service, and other appropriate Federal and local law
22 enforcement authorities; and

23 (C) receive, review, and analyze complaints by at-risk individuals of threats,
24 whether direct or indirect, and report to law enforcement partners.

25 (2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the
26 Federal judiciary such sums as may be necessary to carry out the purposes and authorized
27 activities of this section.

28 (b) Expansion of Capabilities of Office of Protective Intelligence.—There is authorized to be
29 appropriated such sums as may be necessary to the United States Marshals Service to expand the
30 current capabilities of the Office of Protective Intelligence of the Judicial Security Division to
31 increase the workforce of the Office of Protective Intelligence to include additional intelligence
32 analysts, United States deputy marshals, and any other relevant personnel to ensure that the
33 Office of Protective Intelligence is ready and able to perform all necessary functions, consistent
34 with the provisions of this Act, in order to anticipate and deter threats to the judiciary.

35 (c) Report.—

36 (1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the
37 Department of Justice, in consultation with the Administrative Office of the United States
38 Courts, shall submit to the Committee on the Judiciary of the Senate and the Committee on
39 the Judiciary of the House of Representatives a report on the security of Federal judges
40 arising from the Federal prosecutions and civil litigation.

1 (2) DESCRIPTION.—The report required under paragraph (1) shall describe—

2 (A) the number and nature of threats and assaults against at-risk individuals handling
3 prosecutions and other matters described in paragraph (1) and the reporting
4 requirements and methods;

5 (B) the security measures that are in place to protect the at-risk individuals handling
6 prosecutions described in paragraph (1), including threat assessments, response
7 procedures, availability of security systems and other devices, firearms licensing such
8 as deputations, and other measures designed to protect the at-risk individuals and
9 immediate family of an at-risk individual; and

10 (C) for each requirement, measure, or policy described in subparagraphs (A) and
11 (B), when the requirement, measure, or policy was developed and who was responsible
12 for developing and implementing the requirement, measure, or policy.

13 **SEC. 9. SEVERABILITY.**

14 If any provision of this Act or the application of such provision to any person or circumstance
15 is held to be unconstitutional, the remainder of this Act and the application of such provision to
16 any person or circumstance shall not be affected thereby.

17 **SEC. 10. EFFECTIVE DATE.**

18 This Act shall take effect upon the date of enactment of this Act, except for subsections (b)(1),
19 (c), and (e) of section 5, which shall take effect on the date that is 120 days after the date of
20 enactment of this Act.

From: Hoefler, Annie (Murkowski)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke
To: Gaeta, Joseph (OLA); Dietderich, Anna (Murkowski); O'Brien, Devin (Murkowski)
Cc: Boyle, Garrett (Murkowski); Froehlich, Kaleb (Murkowski); Ebarb, Amber (Indian Affairs); Daimler-Nothdurft, Kristen (Murkowski)
Sent: May 25, 2021 10:57 AM (UTC-04:00)

Thanks, Joe. Adding Kristen here.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, May 25, 2021 10:49 AM
To: Dietderich, Anna (Murkowski) (b) (6) Hoefler, Annie (Murkowski)
(b) (6) O'Brien, Devin (Murkowski) (b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6) Froehlich, Kaleb (Murkowski)
(b) (6) Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Team Murkowski,

Attorney General Garland is trying to reach Senator Murkowski about this vote. I believe he just tried her cell phone. Please let me know if there is a way to arrange a brief call within the next hour or so. Thank you.

From: Dietderich, Anna (Murkowski) (b) (6)
Sent: Tuesday, May 25, 2021 10:06 AM
To: Gaeta, Joseph (OLA) (b) (6) Hoefler, Annie (Murkowski)
(b) (6) O'Brien, Devin (Murkowski) (b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6) Froehlich, Kaleb (Murkowski)
(b) (6) Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Thank you, this is helpful.

Best,

Anna Dietderich
Legislative Assistant
Office of Senator Lisa Murkowski
C: (b) (6)

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, May 25, 2021 10:02 AM
To: Hoefler, Annie (Murkowski) (b) (6) O'Brien, Devin (Murkowski)
(b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6) Froehlich, Kaleb (Murkowski)
(b) (6) Dietderich, Anna (Murkowski)
(b) (6) Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

And flagging this piece from former Senator Jones that was posted this morning. Thanks for considering.

<https://twitter.com/dougjones/status/1397153099026948100?s=21>

From: Hoefler, Annie (Murkowski) (b) (6)
Sent: Monday, May 24, 2021 5:54 PM
To: Gaeta, Joseph (OLA) (b) (6); O'Brien, Devin (Murkowski)
(b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6); Froehlich, Kaleb (Murkowski)
(b) (6); Dietderich, Anna (Murkowski)
(b) (6); Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Thanks, Joe.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, May 24, 2021 5:26 PM
To: Hoefler, Annie (Murkowski) (b) (6); O'Brien, Devin (Murkowski)
(b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6); Froehlich, Kaleb (Murkowski)
(b) (6); Dietderich, Anna (Murkowski)
(b) (6); Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

In addition to the Amy Coney Barrett tweet, and the two I first forwarded, here are others we've found. I'm not sure this is exhaustive but it is close. You may see that Kristen's Twitter account is now locked, which she did earlier this year (b) (6). If someone on your staff wants to do confirming research, she's happy to give access—as she's done for other Senate staff that have requested it—just send Twitter handles to me and I'll forward them to her.

Thanks for your time today.

Joe

- 19 days after the 2020 election and these are the only GOP Senators who recognized the election of President-elect Biden:

Mitt Romney
Susan Collins
Lisa Murkowski
Ben Sasse
Pat Toomey

History will not look kindly on those endorsing Trump's efforts to undermine democracy. [[November 22, 2020](#)]

- Sen. Sasse joins Murkowski, Collins and Romney in acknowledging the fair outcome of the #2020Elections and setting aside the political gamesmanship and frivolous litigation being filed in the courts. [<https://t.co/2p29A6xNrs>] [[November 10, 2020](#)]
- Glad that Sen [@lisamurkowski](#) supports access to forensic exams for sexual assault and DV survivors. Now, let's hope she takes time to scrutinize [#Kavanaugh's](#) record on [#RoewWade](#). Kavanaugh's record shows that he is not firmly committed Roe. [<https://t.co/BdmnKKPnFK>] [[July 16, 2018](#)]
- Dear Senator [@lisamurkowski](#), please stop tweeting about your opposition to the family separation policy. Join those Senators who have already signed on to [#KeepFamiliesTogetherAct](#) and use your power to reign in

this administration's inhumane policy now. <https://t.co/DI9k3n2vd1> [June 19, 2018]

- 5 Things You Can Do Now to [#SaveSCOTUS](#) 1. Call your Senator (202-224-3121). Tell them DO NOT Rubberstamp 2. Tell Sens. Collins & Murkowski to honor their word - protect [#RoeVsWade](#) 3. Visit/write your Senator's field office 4. Write op-eds 5. Do not sit this one out [[July 9, 2018](#)]
- All 10 Judiciary Sen Dems: No Vote
Sen Corker & Flake: Hear from Dr. Ford before vote
Sen Graham: Hear from Dr. Ford
Sen Collins: Dr. Ford & Kavanaugh should testify under oath
Sen Murkowski: Vote delay may be warranted NEW-- Grassley: working to hear from Dr. Ford & Kavanaugh <https://t.co/dx5HEOnRsO> [[Sept. 17, 2018](#)]
- 🚨ALERT: Today is the FINAL business day before the 9/4 start of the [#Kavanaugh](#) hearings. Take 5 minutes NOW & tell the Senate: Kavanaugh will jeopardize our civil rights Collins 202-224-2523 Donnelly 202-224-4814 Heitkamp 202-224-2043 Manchin 202-224-3954 Murkowski 202-224-6665
<https://t.co/7ytL5wHqci> [[August 31, 2018](#)]

From: Hoefler, Annie (Murkowski) (b) (6)
Sent: Monday, May 24, 2021 4:35 PM
To: Gaeta, Joseph (OLA) (b) (6); O'Brien, Devin (Murkowski)
(b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6); Froehlich, Kaleb (Murkowski)
(b) (6); Dietderich, Anna (Murkowski)
(b) (6); Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Joseph, can you please share all social media posts that Ms. Clarke has shared about Senator Murkowski?

Thanks,
Annie

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, May 24, 2021 4:31 PM
To: O'Brien, Devin (Murkowski) (b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6); Froehlich, Kaleb (Murkowski)
(b) (6); Hoefler, Annie (Murkowski) (b) (6)
Dietderich, Anna (Murkowski) (b) (6); Ebarb, Amber (Indian Affairs)
(b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Some positive tweets from Kristen

- Senator Rubio joins Romney, Murkowski, Collins and Sasse in appropriately referring to Joe Biden as president-elect. [[November 17, 2020](#)]
- Sen. Murkowski has done the right thing. A dignified move. Now she should urge her other colleagues to do the

same. Americans deserve a peaceful transfer of power. Enough with the frivolous lawsuits and baseless claims.
<https://t.co/apKwPZVMco> [November 10, 2020]

From: O'Brien, Devin (Murkowski) (b) (6)
Sent: Monday, May 24, 2021 2:08 PM
To: Norgren-Markley, Danielle (OLA) (b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6); Gaeta, Joseph (OLA)
(b) (6); Froehlich, Kaleb (Murkowski) (b) (6); Hoefler, Annie
(Murkowski) (b) (6); Dietderich, Anna (Murkowski)
(b) (6); Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hi Danielle,

Thank you for letting us know, and for providing this contact.

Kind regards,
Devin O'Brien
Legislative Aide
Office of Senator Lisa Murkowski
522 Senate Hart Building
Washington, DC 20150
(202)224-6665

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Monday, May 24, 2021 1:34 PM
To: O'Brien, Devin (Murkowski) (b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6); Gaeta, Joseph (OLA)
(b) (6); Froehlich, Kaleb (Murkowski) (b) (6); Hoefler, Annie
(Murkowski) (b) (6); Dietderich, Anna (Murkowski)
(b) (6); Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hi Devin,

I will be out of office for today's 4pm call. If any issues or delays arise, please contact my colleague Joe Gaeta
(b) (6)

Best,

Danielle Norgren

From: O'Brien, Devin (Murkowski) (b) (6)
Sent: Thursday, May 20, 2021 6:31 PM
To: Norgren-Markley, Danielle (OLA) (b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6); Gaeta, Joseph (OLA)
(b) (6); Froehlich, Kaleb (Murkowski) (b) (6); Hoefler, Annie
(Murkowski) (b) (6); Dietderich, Anna (Murkowski)
(b) (6); Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hello Danielle,

I just sent the calendar invitation, which contains a conference line number and hyperlink for the meeting on 5/24. Please let us know if there are any issues in viewing or receiving the invitation. Thank you.

Kind regards,
Devin O'Brien
Legislative Aide
Office of Senator Lisa Murkowski
522 Senate Hart Building
Washington, DC 20150
(202)224-6665

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Thursday, May 20, 2021 5:45 PM
To: O'Brien, Devin (Murkowski) <Devin_O'Brien@murkowski.senate.gov>
Cc: Boyle, Garrett (Murkowski) (b) (6); Gaeta, Joseph (OLA) (b) (6); Froehlich, Kaleb (Murkowski) (b) (6); Hoefler, Annie (Murkowski) (b) (6); Dietderich, Anna (Murkowski) (b) (6); Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hi Devin,

Great to be in touch. 5/24 at 4pm works well for us. I will look out for your email containing a conference line.

Best,

Danielle

From: O'Brien, Devin (Murkowski) (b) (6)
Sent: Thursday, May 20, 2021 5:21 PM
To: Norgren-Markley, Danielle (OLA) (b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6); Froehlich, Kaleb (Murkowski) (b) (6); Hoefler, Annie (Murkowski) (b) (6); Dietderich, Anna (Murkowski) (b) (6); Ebarb, Amber (Indian Affairs) (b) (6)
Subject: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hello Danielle,

I hope that you are well. My name is Devin O'Brien, and I assist in covering judicial issues for Senator Murkowski. For awareness, our senior staff have been cc'd in this email.

I am reaching out to schedule a virtual staff level meeting with Ms. Clarke. Would 4:00pm on Monday, May 24 work for your schedules?

Once confirmed, I can send a conference line/link for the meeting. Thank you.

Kind regards,
Devin O'Brien
Legislative Aide
Office of Senator Lisa Murkowski
522 Senate Hart Building
Washington, DC 20150

(202)224-6665

From: Gaeta, Joseph (OLA)
Subject: RE: Kristen Clarke introduction to SJC
To: Jamison, Brooke (Gillibrand)
Cc: Lowe-Server, Alexandra (Gillibrand); Annino, Angelica (Gillibrand)
Sent: May 25, 2021 8:37 AM (UTC-04:00)
Attached: May 25, Doc 1.pdf

Hi everyone,

Attached is a note from Kristen Clarke to Senator Gillibrand. Thank you again for your help with her nomination.

Joe

From: Jamison, Brooke (Gillibrand) (b) (6)
Sent: Wednesday, April 14, 2021 7:53 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Lowe-Server, Alexandra (Gillibrand) (b) (6); Annino, Angelica (Gillibrand) (b) (6)
Subject: RE: Kristen Clarke introduction to SJC

Excellent! Thanks for your help in preparing.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, April 14, 2021 4:49 PM
To: Jamison, Brooke (Gillibrand) (b) (6)
Cc: Lowe-Server, Alexandra (Gillibrand) (b) (6); Annino, Angelica (Gillibrand) (b) (6)
Subject: RE: Kristen Clarke introduction to SJC

Thanks, Team Gillibrand. Kristen was delighted the Senator was able to introduce her and we're all pleased with the way the hearing went. I appreciate your efforts.

Joe

From: Jamison, Brooke (Gillibrand) (b) (6)
Sent: Wednesday, April 7, 2021 11:38 AM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Lowe-Server, Alexandra (Gillibrand) (b) (6); Annino, Angelica (Gillibrand) (b) (6)
Subject: RE: Kristen Clarke introduction to SJC

Ok, that would be our preference. Thanks.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, April 7, 2021 10:12 AM
To: Jamison, Brooke (Gillibrand) (b) (6)
Cc: Lowe-Server, Alexandra (Gillibrand) (b) (6); Annino, Angelica (Gillibrand) (b) (6); Pierz, Sarah (Gillibrand) (b) (6)
Subject: RE: Kristen Clarke introduction to SJC

The committee has been using webex.

From: Jamison, Brooke (Gillibrand) (b) (6)

Sent: Wednesday, April 7, 2021 10:07 AM

To: Gaeta, Joseph (OLA) (b) (6)

Cc: Lowe-Server, Alexandra (Gillibrand) (b) (6); Annino, Angelica (Gillibrand) (b) (6); Pierz, Sarah (Gillibrand) (b) (6)

Subject: RE: Kristen Clarke introduction to SJC

Thanks. And can she read the remarks via webex or does she need to be there in person?

From: Gaeta, Joseph (OLA) (b) (6)

Sent: Wednesday, April 7, 2021 7:21 AM

To: Jamison, Brooke (Gillibrand) (b) (6)

Cc: Gaeta, Joseph (OLA) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6); Annino, Angelica (Gillibrand) (b) (6); Pierz, Sarah (Gillibrand) (b) (6)

Subject: Re: Kristen Clarke introduction to SJC

Hearing will be at 10:00. 4/14

Sent from my iPhone

On Apr 6, 2021, at 5:23 PM, Jamison, Brooke (Gillibrand) (b) (6) wrote:

Ok, thanks. We would also like to get started on the boss's remarks. Can you send a bio and any points you would like us to highlight?

From: Gaeta, Joseph (OLA) (b) (6)

Sent: Tuesday, April 6, 2021 1:05 PM

To: Jamison, Brooke (Gillibrand) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)

Cc: Annino, Angelica (Gillibrand) (b) (6)

Subject: RE: Kristen Clarke introduction to SJC

Still no confirmation from SJC on the hearing time. I checked back this morning. It will get noticed tomorrow. If I were a betting man I'd say 10:00 not 2:00....

From: Jamison, Brooke (Gillibrand) (b) (6)

Sent: Saturday, April 3, 2021 10:45 AM

To: Gaeta, Joseph (OLA) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)

Cc: Annino, Angelica (Gillibrand) (b) (6)

Subject: RE: Kristen Clarke introduction to SJC

Ok, please let us know as soon as possible about the time of the hearing.

From: Gaeta, Joseph (OLA) (b) (6)

Sent: Friday, April 2, 2021 4:10 PM

To: Jamison, Brooke (Gillibrand) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)

Cc: Annino, Angelica (Gillibrand) (b) (6)

Subject: RE: Kristen Clarke introduction to SJC

I should confirm with SJC, but a short intro at the top—5 minutes—should do it, at the top of the hearing. The open question is whether that 4/14 hearing will start at 10 or 2, which is entirely dependent on room availability. Either way, Senator Gillibrand should be clear by say 15 minutes after the top of the hour.

From: Jamison, Brooke (Gillibrand) (b) (6)
Sent: Friday, April 2, 2021 12:00 PM
To: Gaeta, Joseph (OLA) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)
Cc: Annino, Angelica (Gillibrand) (b) (6)
Subject: RE: Kristen Clarke introduction to SJC

Ok, looping in our scheduler. What time and how long would Senator Gillibrand need to be there?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, April 1, 2021 1:04 PM
To: Jamison, Brooke (Gillibrand) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)
Subject: RE: Kristen Clarke introduction to SJC

Hi there,

Checking back on the status of this. We're hopeful Senator Gillibrand can make this work, and live (remote or in person) would be particularly appreciated by DOJ. Thanks.

Joe

From: Jamison, Brooke (Gillibrand) (b) (6)
Sent: Monday, March 29, 2021 3:00 PM
To: Gaeta, Joseph (OLA) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)
Subject: RE: Kristen Clarke introduction to SJC

That works. She just has an Intel Committee hearing at the same time and doesn't want to miss it if she doesn't have to.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, March 29, 2021 1:01 PM
To: Jamison, Brooke (Gillibrand) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)
Subject: RE: Kristen Clarke introduction to SJC

I will confer with SJC, and they may reach out directly.

From: Jamison, Brooke (Gillibrand) (b) (6)
Sent: Monday, March 29, 2021 12:59 PM
To: Lowe-Server, Alexandra (Gillibrand) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Kristen Clarke introduction to SJC

Joe - Would it be possible to pre-tape the intro?

From: Lowe-Server, Alexandra (Gillibrand) (b) (6)
Sent: Monday, March 29, 2021 9:54 AM
To: Gaeta, Joseph (OLA) (b) (6); Jamison, Brooke (Gillibrand)
(b) (6)
Subject: RE: Kristen Clarke introduction to SJC

Thanks for sending the date/times. The Senator was definitely interested, we just needed to figure out timing. Let me share these details with our scheduler and will circle back.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, March 29, 2021 9:17 AM
To: Lowe-Server, Alexandra (Gillibrand) (b) (6); Jamison,
Brooke (Gillibrand) (b) (6)
Subject: Kristen Clarke introduction to SJC

Hi Brooke and Alex,

Feels like forever ago that Kristen Clarke did her courtesy interview with Senator Gillibrand, and indeed it was two months ago to the day today.

I hope the offer for Senator Gillibrand to introduce Kristen Clarke to the Judiciary Committee still stands. We are looking at 4/14 for her hearing, likely at 2:00 but possibly at 10:00. Still working with SJC on the details.

We can provide whatever information you need and I'm happy to get on the phone to discuss the current state of play.

Please let me know.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

5/25

Dear Senator Gullibrand,

On The eve of my final Confirmation vote, I wanted to take a moment to thank you for your support during this process. I am especially grateful for the opening remarks that you delivered during my hearing before the Judiciary Committee.

I am excited and proud to have this opportunity to serve our country and look forward to finding many ways to work together with you to advance the cause of justice.

Kristen Clarke

From: Norgren-Markley, Danielle (OLA)
Subject: Re: Meetings with Senator Sullivan
To: Fogels, Avery (Sullivan)
Cc: Klayum, Bre (Sullivan); Gaeta, Joseph (OLA)
Sent: May 24, 2021 8:31 PM (UTC-04:00)

Hi Avery,

That shouldn't be a problem. Confirmed for 11:30am. Will the same WebEx link work?

Danielle

Sent from my iPhone

On May 24, 2021, at 4:43 PM, Fogels, Avery (Sullivan) (b) (6) wrote:

Hi Danielle,

Two votes were called at 11:45a tomorrow, any chance we can bump this up to 11:30a tomorrow?

Avery Fogels
Scheduler
U.S. Senator Daniel S. Sullivan – Alaska
302 Hart Senate Building
(202) 224-3004 Main
(b) (6) Direct

From: Fogels, Avery (Sullivan)
Sent: Thursday, May 20, 2021 5:58 PM
To: 'Norgren-Markley, Danielle (OLA)' (b) (6); Klayum, Bre (Sullivan)
(b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Meetings with Senator Sullivan

Great, confirmed. Bre will send the Webex shortly, thank you so much!

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Thursday, May 20, 2021 5:56 PM
To: Fogels, Avery (Sullivan) (b) (6); Klayum, Bre (Sullivan)
(b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Meetings with Senator Sullivan

Hi Avery,

5/25 at 12pm works well for us! I know in the past you have kindly sent over a WebEx – would you like to do the same here or would you like me to provide a dial-in?

Best,

Danielle

From: Fogels, Avery (Sullivan) (b) (6)

Sent: Thursday, May 20, 2021 5:42 PM
To: Klayum, Bre (Sullivan) (b) (6); Gaeta, Joseph (OLA)
(b) (6)
Cc: Norgren-Markley, Danielle (OLA) (b) (6)
Subject: RE: Meetings with Senator Sullivan

Hi all, thanks for the prompt response. Is Kristen Clarke available on Tuesday at either 12p or 12:30p EST?

From: Klayum, Bre (Sullivan) (b) (6)
Sent: Thursday, May 20, 2021 5:40 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Norgren-Markley, Danielle (OLA) (b) (6); Fogels, Avery (Sullivan)
(b) (6)
Subject: RE: Meetings with Senator Sullivan

Thank you! I am looping in Avery, the Senator's Scheduler, who can help set up a time on our end.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, May 20, 2021 5:37 PM
To: Klayum, Bre (Sullivan) (b) (6)
Cc: Norgren-Markley, Danielle (OLA) (b) (6)
Subject: RE: Meetings with Senator Sullivan

Hi Bre,

I'm the right person for Kristen. I will get you to the right people for the Judges.

Danielle, whom I've copied here, will work with you on a time early next week for Kristen. Thanks for reaching out

From: Klayum, Bre (Sullivan) (b) (6)
Sent: Thursday, May 20, 2021 5:34 PM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: Meetings with Senator Sullivan

Hi Joseph – I hope you are well!

Senator Sullivan was hoping to set up meetings with Kristen Clarke, Ketanji Brown Jackson, and Candace Jackson-Akiwumi. Ideally, the Senator would meet with Kristen Clarke next week and Judge Jackson-Akiwumi and Judge Brown Jackson we schedule sometime during the week of 6/7. Are you the right person to ask about this? If not, could you connect me with their schedulers? Thank you so much!

Best,
Bre

Bre Klayum
Deputy Scheduler
U.S. Senator Dan Sullivan – Alaska
302 Hart Senate Office Building
Washington, D.C. 20510
Main: (202) 224-3004

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Sen. Durbin Medium Post in Support of Clarke Confirmation
To: Gaeta, Joseph (OLA); Charlet, Joseph (Judiciary-Dem); Payton, Rayshon (OLA)
Sent: May 24, 2021 6:11 PM (UTC-04:00)

Yes. Cloture late morning, confirmation mid-afternoon

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, May 24, 2021 6:08 PM
To: Charlet, Joseph (Judiciary-Dem) (b) (6); Payton, Rayshon (OLA)
(b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6)
Subject: RE: Sen. Durbin Medium Post in Support of Clarke Confirmation

Thank you.

Expecting votes tomorrow?

From: Charlet, Joseph (Judiciary-Dem) (b) (6)
Sent: Monday, May 24, 2021 6:07 PM
To: Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6)
Subject: Sen. Durbin Medium Post in Support of Clarke Confirmation

Hi Joe and Rayshon,

FYSA, Senator Durbin just published a *Medium* post in support of Clarke's confirmation. It can be found here:
<https://senatordurbin.medium.com/the-case-for-kristen-clarke-president-bidens-nominee-to-lead-doj-s-civil-rights-division-aee8b9b705f7>.

Best,

Joe

Joe Charlet

Counsel

U.S. Senate Committee on the Judiciary
Chair Richard J. Durbin

(b) (6)

(b) (6)

Pronouns: He/Him/His

From: Zdeb, Sara (Judiciary-Dem)
Subject: Richard Donoghue interview request
To: Gaeta, Joseph (OLA)
Sent: May 24, 2021 12:49 PM (UTC-04:00)

Hi Joe:

As I mentioned this morning, I've been in touch with Rich Donoghue to convey our interest in interviewing him in connection with Chair Durbin's 1/23 letter. He responded last night that we should "direct any such requests to the DOJ's Office of Legislative Affairs," given his "understanding that they would have to authorize any such interviews." He also said that OLA "know[s] how to get in touch with me."

I responded to Mr. Donoghue to confirm that OLA is aware of our interview request and will weigh in with him regarding any applicable privileges and the scope of his authorization to speak with us; that he should discuss those matters with OLA; but that he should discuss the logistics of our interview request with us. We'll work to solidify those logistics with him directly (FYI, we have asked for his availability before June 25), but because it sounds like he may be waiting for outreach from OLA, I'd appreciate whatever you can do to move the ball forward on your end.

Thanks,
Sara

Sara Zdeb
Chief Counsel for Oversight
U.S. Senate Committee on the Judiciary
Chair Richard J. Durbin

(b) (6) (Direct)
(b) (6) (Mobile)
(b) (6)

From: Solano, Jack (Judiciary-Dem)
Subject: Letter to AG Garland from Chair Durbin, Chair Padilla, and Senate Judiciary Democrats
To: Gaeta, Joseph (OLA)
Cc: Zdeb, Sara (Judiciary-Dem); Flynn-Brown, Josh (Judiciary-Rep)
Sent: May 24, 2021 12:45 PM (UTC-04:00)
Attached: 2021-05-24 Letter to AG Garland re NAIJ.pdf

Hi Joe,

Please see attached for correspondence from Chair Durbin, Chair Padilla, and Senate Judiciary Democrats to Attorney General Garland. If you could confirm receipt I'd appreciate it.

Thanks,
Jack

Jack Solano
Counsel
U.S. Senate Committee on the Judiciary
Chair Richard J. Durbin

(b) (6)
(b) (6)

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
ALEX PADILLA, CALIFORNIA
JON OSSOFF, GEORGIA

CHARLES E. GRASSLEY, IOWA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
TOM COTTON, ARKANSAS
JOHN KENNEDY, LOUISIANA
THOM TILLIS, NORTH CAROLINA
MARSHA BLACKBURN, TENNESSEE

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

May 24, 2021

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland:

We urge you to reverse the prior Administration's attacks on the National Association of Immigration Judges (NAIJ) and the independence of immigration judges more broadly. As we work to improve the efficiency, fairness, and stability of our immigration system and repair the untold damage caused by the Trump Administration, it is crucial that you take steps to restore the independence of immigration judges. The NAIJ—the immigration judges' longstanding union—must be allowed to retain its full authority as the judges' recognized representative for collective bargaining purposes.

As you are aware, on November 2, 2020, one day before the Presidential election, two Trump Administration appointees to the Federal Labor Relations Authority (FLRA) issued a decision that effectively decertified the NAIJ.¹ This decision overturned a prior decision from July 31, 2020, that rejected a petition from the Executive Office for Immigration Review (EOIR) to decertify the NAIJ. The November decision reversed two decades of precedent by holding that immigration judges are "management officials" who may not form a union.² The Trump Administration's petition to decertify the NAIJ and the FLRA's eleventh-hour decision appear politically motivated and threaten the independence of our immigration courts.

For the majority of former President Trump's tenure in office, immigration judges were severely constrained in their ability to speak publicly about immigration issues.³ Immigration judges opposed not only the restriction on their speech but also many of the Administration's attempts to control and reshape the immigration court system.⁴ In this context, the Trump

¹ Erich Wagner, *FLRA Overturns Its Own Regional Director, Busts Immigration Judges' Union*, GOVERNMENT EXECUTIVE (Nov. 3, 2020), <https://www.govexec.com/management/2020/11/flra-overturns-its-own-regional-director-busts-immigration-judges-union/169769>.

² U.S. DOJ, Executive Office for Immigration Review and National Association of Immigration Judges, 71 FLRA 1046 (2020).

³ Cristian Farias, *The Trump Administration Is Gagging America's Immigration Judges*, THE ATLANTIC (Feb. 28, 2020), <https://www.theatlantic.com/ideas/archive/2020/02/immigration-judges-first-amendment/607195/>.

⁴ Priscilla Alvarez, *Immigration judges accuse Justice Department of muzzling them*, CNN (July 1, 2020), <https://www.cnn.com/2020/07/01/politics/immigration-judges-lawsuit/index.html>.

Administration's petition to decertify the NAIJ and the FLRA's decision appear to have been part of a deliberate attempt to muzzle immigration judges and stifle opposition to the Administration's anti-immigrant agenda.

Without collective bargaining rights and the protection of the NAIJ, immigration judges will be less independent and more susceptible to political pressure. The Trump Administration demonstrated the gravity of this threat by attempting to impose a political agenda on the immigration courts.⁵ We appreciate your commitment to restoring the efficiency and integrity of our immigration court system. Without the additional protections NAIJ offers, however, the court system will remain susceptible to actions by future administrations that would further undermine its fairness and efficiency.

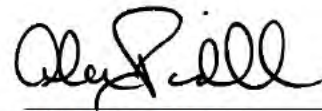
Please respond to the below questions by June 14, 2021.

1. What plans are in place or are being developed to alter EOIR's stance toward the NAIJ How will your Department alter or undo EOIR's petition to the FLRA and the subsequent effective decertification of the NAIJ
2. We understand that EOIR is undertaking a full review of the "speaking-engagement policy" for immigration judges.⁶ How do you intend to alter this policy to ensure that immigration judges are able to engage in protected First Amendment speech

We appreciate your prompt attention to this important request.

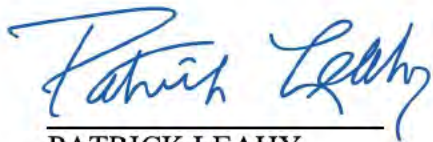
Sincerely,


RICHARD J. DURBIN
Chair

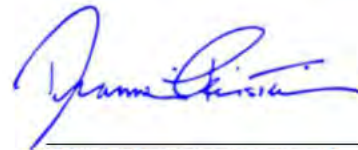

ALEX PADILLA
Chair, Subcommittee on
Immigration, Citizenship, and
Border Safety

⁵ Reade Levinson, Kristina Cooke, and Mica Rosenberg, *Special Report: How Trump administration left indelible mark on U.S. immigration courts*, REUTERS (Mar. 8, 2021), <https://www.reuters.com/article/us-usa-immigration-trump-court-special-r/special-report-how-trump-administration-left-indelible-mark-on-u-s-immigration-courts-idUSKBN2B0179>.

⁶ Press Release, *National Association of Immigration Judges v. McHenry*, THE KNIGHT FIRST AMENDMENT INSTITUTE (April 2020), <https://knightcolumbia.org/cases/naij-v-mchenry>.



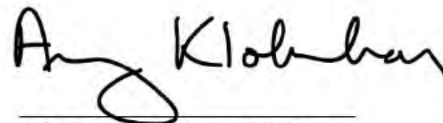
PATRICK LEAHY
United States Senator



DIANNE FEINSTEIN
United States Senator



SHELDON WHITEHOUSE
United States Senator



AMY KLOBUCHAR
United States Senator



RICHARD BLUMENTHAL
United States Senator



MAZIE K. HIRONO
United States Senator



CORY A. BOOKER
United States Senator

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: RE: Follow-up to the FBI's May 3, 2021, letter
To: (b)(6), (b)(7)(C) per FBI (OGC) (FBI); CEG (Judiciary-Rep); Downey, Brian (HSGAC); Wittmann, Scott (HSGAC)
Cc: (b)(6), (b)(7)(C) per FBI (OCA) (FBI); (b)(6), (b)(7)(C) per FBI (OCA) (FBI); Gaeta, Joseph (OLA); Antell, Kira M. (OLA)
Sent: May 21, 2021 3:25 PM (UTC-04:00)

Confirming receipt. Thanks, (b)(6), (b)(7)(C) per FBI

From: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Sent: Friday, May 21, 2021 11:56 AM
To: Flynn-Brown, Josh (Judiciary-Rep) (b) (6) CEG (Judiciary-Rep)
(b) (6) Downey, Brian (HSGAC) (b) (6) Wittmann, Scott
(HSGAC) (b) (6)
Cc: (b)(6), (b)(7)(C), (b)(7)(E) per FBI; (b)(6), (b)(7)(C), (b)(7)(E) per FBI; (b)(6) Joseph Gaeta (OLA)
(b)(6) Kira Antell (OLA)
Subject: Follow-up to the FBI's May 3, 2021, letter

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

Josh and Brian:

The FBI's May 3, 2021, response to Senators Grassley and Johnson's March 25, 2021, letter stated "The FBI has not identified in its holdings any documents responsive to your request." On a follow-up call, May 6, 2021, you asked if we could confirm that the representation also covered email communications. The Office of Congressional Affairs can confirm that it is has been advised that no responsive emails have been identified.

Best,

(b)(6), (b)(7)(C) per FBI

UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

(b)(6), (b)(7)(C) per FBI

Acting Unit Chief
Assistant General Counsel
Congressional Oversight and Investigations Unit
Federal Bureau of Investigation
935 Pennsylvania Ave., NW
Washington, D.C. 20535
Desk: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Email: (b)(6), (b)(7)(C), (b)(7)(E) per FBI

Confidentiality Statement:

The message, along with any attachments, may be confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without further retention or dissemination (unless otherwise required by law). Please notify the sender of the error by a separate email or by calling (b)(6), (b)(7)(C), (b)(7)(E) per FBI

From: Norgren-Markley, Danielle (OLA)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke
To: O'Brien, Devin (Murkowski)
Cc: Boyle, Garrett (Murkowski); Gaeta, Joseph (OLA); Froehlich, Kaleb (Murkowski); Hoefler, Annie (Murkowski); Dietderich, Anna (Murkowski); Ebarb, Amber (Indian Affairs)
Sent: May 21, 2021 1:17 PM (UTC-04:00)

Received – thank you!

From: O'Brien, Devin (Murkowski) (b) (6)
Sent: Thursday, May 20, 2021 6:31 PM
To: Norgren-Markley, Danielle (OLA) (b) (6)
Cc: Boyle, Garrett (Murkowski) (b) (6); Gaeta, Joseph (OLA)
(b) (6); Froehlich, Kaleb (Murkowski) (b) (6); Hoefler, Annie (Murkowski) (b) (6); Dietderich, Anna (Murkowski) (b) (6); Ebarb, Amber (Indian Affairs) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Duplicative Material, Document ID: 0.7.854.67006, Bates Number 22cv2850-21-01790-000172

From: Gaeta, Joseph (OLA)
Subject: Kristen Clarke call
To: (b)(6) Kaleb Froehlich (Murkowski)
Sent: May 21, 2021 10:59 AM (UTC-04:00)

Hi Kaleb,

I'm Kristen Clarke's nomination navigator at DOJ. She tells me you and she have set up a call at 2:00. Do you have an objection to me joining that call? I've joined all her other Senate calls, and will simply be an observer, which helps if there are any follow ups. Thank you.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: O'Brien, Devin (Murkowski)
Subject: Senator Murkowski Staff Meeting with Ms. Kristen Clarke
To: Norgren-Markley, Danielle (OLA); Froehlich, Kaleb (Murkowski); Boyle, Garrett (Murkowski); Hoefler, Annie (Murkowski); Ebarb, Amber (Indian Affairs); Dietderich, Anna (Murkowski); Gaeta, Joseph (OLA)
Sent: May 20, 2021 6:29 PM (UTC-04:00)

Senator Lisa Murkowski staff meeting with Ms. Kristen Clarke, nominee to be an Assistant Attorney General, Civil Rights Division, Department of Justice.

Please use the hyperlink, or the phone number and conference I.D. listed below to join the meeting.

Join Skype Meeting

Trouble Joining? [Try Skype Web App](#)

Join by phone

(b) (6)	(US)	English (United States)
(b) (6)	(US)	English (United States)
(b) (6)	(US)	English (United States)
(b) (6)	(US)	English (United States)
(b) (6)	(US)	English (United States)

[Find a local number](#)

Conference ID: (b) (6)

[Forgot your dial-in PIN?](#) | [Help](#)

From: Gaeta, Joseph (OLA)
Subject: RE: CEG/RHJ Call with AG Garland
To: Flynn-Brown, Josh (Judiciary-Rep)
Cc: Heins, Jennifer (Grassley); Pickle, Chloe (Ron Johnson); Downey, Brian (HSGAC); Wittmann, Scott (HSGAC); Zdeb, Sara (Judiciary-Dem); Kilvington, John (HSGAC); Calce, Christina M. (OLA)
Sent: May 20, 2021 12:06 PM (UTC-04:00)

I understand the majority and minority have spoken and the majority will not be joining this call, which is their prerogative. Just confirming so we are all on the same page. Thanks.

From: Gaeta, Joseph (OLA)
Sent: Wednesday, May 19, 2021 5:41 PM
To: 'Flynn-Brown, Josh (Judiciary-Rep)' (b) (6)
Cc: Heins, Jennifer (Grassley) (b) (6); Pickle, Chloe (Ron Johnson)
(b) (6); Downey, Brian (HSGAC) (b) (6); Wittmann, Scott (HSGAC) (b) (6); 'Zdeb, Sara (Judiciary-Dem)' (b) (6); 'Kilvington, John (HSGAC)' (b) (6); Calce, Christina M. (OLA) (b) (6)
Subject: RE: CEG/RHJ Call with AG Garland

Happy to have a call tomorrow at 2:00. Here's a call in number we can use:

For Audio Connection Dial: (b) (6)
Attendee Access Code : (b) (6)

From: Flynn-Brown, Josh (Judiciary-Rep) (b) (6)
Sent: Wednesday, May 19, 2021 12:52 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Heins, Jennifer (Grassley) (b) (6); Pickle, Chloe (Ron Johnson)
(b) (6); Downey, Brian (HSGAC) (b) (6); Wittmann, Scott (HSGAC) (b) (6); Purdy, Nikita (OAG) (b) (6); Klapper, Matthew B. (OAG) (b) (6)
Subject: RE: CEG/RHJ Call with AG Garland

Thanks, Joe. I responded to these issues in the other email chain this morning. Since you mentioned the ATF response here, as I noted previously, the ATF provided a letter in response to Senator Grassley's and Johnson's inquiry into Hunter Biden's October 2018 firearm incident and failed to provide any records, including 4473 forms that have been publicly released (as I've mentioned before, our position is that even if items have been publicly released we still expect DOJ to produce them to Congress to ensure authentication). In that letter, the ATF used FOIA as a shield to not produce any responsive records. Accordingly, the ATF's letter is unresponsive. With respect to the remaining Grassley/Johnson items, Senator Johnson's staff and I can discuss prior to any call between CEG/RHJ and AG Garland; however, it's our position that a principal-level call needs to occur irrespective of our discussion. We can do so Thursday at 2pm.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, May 18, 2021 6:04 PM
To: Flynn-Brown, Josh (Judiciary-Rep) (b) (6)
Cc: Heins, Jennifer (Grassley) (b) (6); Pickle, Chloe (Ron Johnson)
(b) (6); Downey, Brian (HSGAC) (b) (6); Wittmann, Scott (HSGAC) (b) (6); Purdy, Nikita (OAG) (b) (6); Zdeb, Sara (Judiciary-Dem) (b) (6); Kilvington, John (HSGAC) (b) (6)
Subject: RE: CEG/RHJ Call with AG Garland

Josh,

This email responds to your request for a call between Senators Grassley and Johnson and Attorney General Garland to discuss “outstanding oversight requests.”

The Attorney General is deeply committed to being responsive to congressional requests for information, consistent with the Department’s longstanding practices and policies, as well as resource constraints. The Department considers responses to all congressional letters on a case-by-case basis, considering among other things the nature of the information requested, the articulated legislative interest, and how to balance informational needs with the potential burden on the Department. For any particular oversight matter, the Department also considers whether the request is joined or supported by a committee chair.

The Attorney General has directed OLA to be as responsive as possible to Senator Grassley and other members of the committee, consistent with the principles above. However, your email did not specify what issues the Senators would like to raise on a call. Since you made your request, the Department has responded to Senator Grassley’s and Senator Johnson’s questions concerning Crossfire Hurricane documents. ATF also responded last week to a joint Grassley/Johnson request, and responses to other pending requests are in process. With so many letters and responses going back and forth, we think it would be most productive to discuss what specific issues the Senators would like to raise before any call is scheduled. Note that given your mention of oversight requests, I have cc’d on this email the relevant staff of the Chairmen of the two Committees to which I assume these issues pertain.

I am happy to schedule a conversation and a mutually convenient time. For starters, perhaps Thursday between 1-3 or Friday between 11-1.

Joe

From: Flynn-Brown, Josh (Judiciary-Rep) (b) (6)
Sent: Tuesday, May 11, 2021 9:54 AM
To: Klapper, Matthew B. (OAG) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Heins, Jennifer (Grassley) (b) (6); Pickle, Chloe (Ron Johnson) (b) (6); Downey, Brian (HSGAC) (b) (6); Wittmann, Scott (HSGAC) (b) (6)
Subject: CEG/RHJ Call with AG Garland

Matt and Joe, I’ve cc’d Senator Grassley’s scheduler, Jen Heins. Senators Grassley and Johnson would like to schedule a call with AG Garland regarding outstanding oversight requests. Thank you.

Josh

From: Gaeta, Joseph (OLA)
Subject: RE: CEG/RHJ Call with AG Garland
To: Flynn-Brown, Josh (Judiciary-Rep)
Cc: Downey, Brian (HSGAC)
Sent: May 20, 2021 10:12 AM (UTC-04:00)

Sorry, I misunderstood your first email. I thought you were confirming the topics of the discussion. Because you have requested a call with the Attorney General to discuss "oversight requests," and oversight requests can implicate majority equities, it's our view that the majority staff needs to be aware and involved if they so choose.

From: Flynn-Brown, Josh (Judiciary-Rep) (b) (6)
Sent: Thursday, May 20, 2021 9:30 AM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Downey, Brian (HSGAC) (b) (6)
Subject: RE: CEG/RHJ Call with AG Garland

Joe, we want to make sure you saw the below email. This call will involve only Grassley/Johnson matters for their respective staff to discuss. We appreciate your time.

From: Flynn-Brown, Josh (Judiciary-Rep)
Sent: Wednesday, May 19, 2021 5:48 PM
To: 'Gaeta, Joseph (OLA)' (b) (6)
Cc: Downey, Brian (HSGAC) (b) (6)
Subject: RE: CEG/RHJ Call with AG Garland

Thanks, Joe. To be clear, the matters to be discussed are Grassley/Johnson only.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, May 19, 2021 5:41 PM
To: Flynn-Brown, Josh (Judiciary-Rep) (b) (6)
Cc: Heins, Jennifer (Grassley) (b) (6); Pickle, Chloe (Ron Johnson)
(b) (6); Downey, Brian (HSGAC) (b) (6) Wittmann,
Scott (HSGAC) (b) (6); Zdeb, Sara (Judiciary-Dem) (b) (6)
(b) (6) Kilvington, John (HSGAC) (b) (6); Calce, Christina M. (OLA)
(b) (6)
Subject: RE: CEG/RHJ Call with AG Garland

Duplicative Material, Document ID: 0.7.853.11962, Bates Number 22cv2850-21-01790-000192



From: Wright, Rachel (Judiciary-Rep)
Subject: RE: COVID 19 Safer Detention Act
To: Underwood, Ryan M. (OLA)
Cc: Creegan, Erin (Judiciary-Rep); Gaeta, Joseph (OLA)
Sent: May 20, 2021 9:32 AM (UTC-04:00)

Ok, thanks. helpful to know. There were a few technical notes in the last DOJ TA doc (i.e., clarifying that HC motions should be filed in the district of prosecution and that the USPO should investigate and either approve or deny a proposed release plan) that in my mind (I've not confirmed how the Durbin office feels about them, nor Senator Grassley) seemed to be just that – technical. Would additions on those points still be helpful to DOJ or not worth pursuing?

From: Underwood, Ryan M. (OLA) (b) (6)
Sent: Thursday, May 20, 2021 9:27 AM
To: Wright, Rachel (Judiciary-Rep) (b) (6)
Cc: Creegan, Erin (Judiciary-Rep) (b) (6); Gaeta, Joseph (OLA)
(b) (6)
Subject: RE: COVID 19 Safer Detention Act

It replaces it entirely.

From: Wright, Rachel (Judiciary-Rep) (b) (6)
Sent: Thursday, May 20, 2021 9:23 AM
To: Underwood, Ryan M. (OLA) (b) (6)
Cc: Creegan, Erin (Judiciary-Rep) (b) (6); Gaeta, Joseph (OLA)
(b) (6)
Subject: RE: COVID 19 Safer Detention Act

Just one question of clarification: is this document supplementary to the TA that DOJ sent on S.312 last Congress or is this to replace that previous TA doc?

Thanks!
Rachel

From: Wright, Rachel (Judiciary-Rep) (b) (6)
Sent: Thursday, May 20, 2021 6:52 AM
To: Underwood, Ryan M. (OLA) (b) (6)
Cc: Creegan, Erin (Judiciary-Rep) (b) (6); Gaeta, Joseph (OLA)
(b) (6)
Subject: Re: COVID 19 Safer Detention Act

Thanks, Ryan

Sent from my iPhone

On May 19, 2021, at 6:03 PM, Underwood, Ryan M. (OLA) (b) (6) wrote:

Hi Rachel,

Attaching DOJ's comments on S. 312. Let us know if you have an questions.

-Ryan

From: Wright, Rachel (Judiciary-Rep) (b) (6)
Sent: Monday, May 3, 2021 1:41 PM
To: Underwood, Ryan M. (OLA) (b) (6); Creegan, Erin (Judiciary-Rep) (b) (6)
Subject: RE: COVID 19 Safer Detention Act

Ryan – I'm just wondering about when this week we can expect the updated feedback on this bill?

Thanks!
Rachel

From: Wright, Rachel (Judiciary-Rep)
Sent: Thursday, April 29, 2021 3:17 PM
To: Underwood, Ryan M. (OLA) (b) (6); Creegan, Erin (Judiciary-Rep) (b) (6)
Subject: RE: COVID 19 Safer Detention Act

Great, thanks Ryan.

From: Underwood, Ryan M. (OLA) (b) (6)
Sent: Wednesday, April 28, 2021 10:47 AM
To: Creegan, Erin (Judiciary-Rep) (b) (6)
Cc: Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: RE: COVID 19 Safer Detention Act

Erin, Rachel –

No, you did not. I am close to clearing a new set of DOJ views on this bill and should have something to share next week.

Thanks,
Ryan

From: Creegan, Erin (Judiciary-Rep) (b) (6)
Sent: Tuesday, April 27, 2021 5:19 PM
To: Underwood, Ryan M. (OLA) (b) (6) >
Cc: Wright, Rachel (Judiciary-Rep) (b) (6)
Subject: RE: COVID 19 Safer Detention Act

Hey Ryan,

Did we ever get this update? We understand Chair Durbin may want to move this bill very soon, and it has never been updated for DOJ TA.

Adding my colleague Rachel Wright.

Erin

From: Underwood, Ryan M. (OLA) (b) (6)
Sent: Wednesday, February 17, 2021 10:58 AM
To: Creegan, Erin (Judiciary-Rep) (b) (6)
Subject: RE: COVID 19 Safer Detention Act

We're reviewing those comments now. I should have an updated version I can share with you in the next couple of weeks.

From: Creegan, Erin (Judiciary-Rep) (b) (6)
Sent: Wednesday, February 17, 2021 10:43 AM
To: Underwood, Ryan M. (OLA) (b) (6)
Subject: RE: COVID 19 Safer Detention Act

Thanks. Do you have a copy handy or do I check with Sen Graham's staff?

From: Underwood, Ryan M. (OLA) (b) (6)
Sent: Wednesday, February 17, 2021 10:39 AM
To: Creegan, Erin (Judiciary-Rep) (b) (6)
Subject: RE: COVID 19 Safer Detention Act

Hi Erin,

Yes, DOJ did provide comments on S. 4034 late last year, which was provided to the former Chairman's staff.

-Ryan

Ryan M. Underwood | Counsel | U.S. Department of Justice, Office of Legislative Affairs | T: (b) (6) | (b) (6) (Telework: (b) (6))

From: Johnson, Joanne E. (OLA) (b) (6)
Sent: Tuesday, February 16, 2021 10:58 AM
To: Creegan, Erin (Judiciary-Rep) (b) (6)
Cc: Underwood, Ryan M. (OLA) (b) (6)
Subject: RE: COVID 19 Safer Detention Act

Adding Ryan Underwood from OLA, who is handling covid matters.

From: Creegan, Erin (Judiciary-Rep) (b) (6)
Sent: Tuesday, February 16, 2021 10:24 AM
To: Johnson, Joanne E. (OLA) (b) (6)
Subject: COVID 19 Safer Detention Act

Hey Joanne,

Did the Senate ever get TA on the COVID 19 Safer Detention Act? Durbin and Grassley just reintroduced but this bill was also introduced last congress as S4034.

Thanks,
Erin

<S. 312 - COVID-19 Safer Detention Act (DOJ comments) 5.19.21 5pm.pdf>

From: Gaeta, Joseph (OLA)
Subject: RE: Clarke nomination
To: Babin, Reginald (Schumer); Greenfeld, Helaine A. (OLA)
Sent: May 18, 2021 5:57 PM (UTC-04:00)

And so did Collins. BELIEVE

From: Babin, Reginald (Schumer) (b) (6)
Sent: Tuesday, May 18, 2021 5:39 PM
To: Gaeta, Joseph (OLA) (b) (6) Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: Clarke nomination

He voted yes.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, May 18, 2021 1:58 PM
To: Babin, Reginald (Schumer) (b) (6)
Subject: RE: Clarke nomination

Are we having a Manchin problem with Kristen? Pls call (b) (6)

From: Babin, Reginald (Schumer) (b) (6)
Sent: Friday, May 14, 2021 12:34 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: Clarke nomination

What's the best number to call you?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, May 13, 2021 1:24 PM
To: Babin, Reginald (Schumer) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: Clarke nomination

Don't want it to go without saying that the Clarke nomination is our priority. Can you advise whether there is a chance her discharge and vote could come up next week?

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: James, Ellen (Hawley)
Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder
To: Norgren-Markley, Danielle (OLA)
Cc: Armer, Derek (Hawley); Gaeta, Joseph (OLA)
Sent: May 18, 2021 3:13 PM (UTC-04:00)

Thanks for your patience. Should be very soon!

From: "Norgren-Markley, Danielle (OLA)" (b) (6)
Date: Tuesday, May 18, 2021 at 3:01 PM
To: "James, Ellen (Hawley)" (b) (6)
Cc: "Armer, Derek (Hawley)" (b) (6); "Gaeta, Joseph (OLA)" (b) (6)
Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Hi Ellen,

Just checking to make sure we are all set for today's 3pm call?

Sent from my iPhone

On May 12, 2021, at 12:14 PM, James, Ellen (Hawley) (b) (6) wrote:

Danielle,

That's great news! If you have a dial-in you can send, that would be great. We'd prefer audio only just because it makes the logistics easier.

Best,

Ellen

From: "Norgren-Markley, Danielle (OLA)" (b) (6)
Date: Wednesday, May 12, 2021 at 2:19 PM
To: "James, Ellen (Hawley)" (b) (6)
Cc: "Armer, Derek (Hawley)" (b) (6)
Subject: RE: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Hi Ellen,

5/18 at 3:00pm should work well. Would you like me to send over a dial-in, or would your office prefer to provide a Zoom?

Best,

Danielle

From: James, Ellen (Hawley) (b) (6)
Sent: Wednesday, May 12, 2021 2:04 PM
To: Norgren-Markley, Danielle (OLA) (b) (6)
Cc: Armer, Derek (Hawley) (b) (6)
Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Danielle,

Senator Hawley would like to schedule a phone call with Mr. Schroeder. Could we tentatively schedule it for **Tuesday, May 18th at 3:00 pm**? If that doesn't work, we'd be happy to look at other dates/times.

Best,

Ellen James | DIRECTOR OF SCHEDULING

U.S. Senator for Missouri, Josh Hawley

Office: (202) 224-6154

Email: (b) (6)

From: "Norgren-Markley, Danielle (OLA)" (b) (6)
Date: Monday, May 10, 2021 at 3:32 PM
To: "James, Ellen (Hawley)" (b) (6)
Subject: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Good Afternoon,

The Department of Justice would like to invite Senator Hawley to meet with Chris Schroeder, Nominee for Assistant Attorney General of the Office of Legal Counsel. Mr. Schroeder is available the following times:

05/17: 9:00am-5:00pm

05/18: 9:00am-1:00pm, 2:30pm-4:30pm

05/19: 9:00am-12:00pm, 2:00pm-3:00pm, 4:00pm-5:00pm

5/20-5/21: 9:00am-5:00pm

We expect the call to last thirty minutes. If the Senator is available and would like to meet, please send me possible times that work for the Senator. Please also include the preferred communication method. We are happy to accommodate both video and phone calls. If your office prefers Zoom, please send a Zoom link as we are unable to do so on our end.

Thank you,

Danielle Norgren

From: James, Ellen (Hawley)
Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder
To: Norgren-Markley, Danielle (OLA)
Cc: Armer, Derek (Hawley); Gaeta, Joseph (OLA)
Sent: May 18, 2021 3:10 PM (UTC-04:00)

Danielle,

We are running way over with a meeting with another nominee. Would you prefer we reschedule this rather than make Mr. Schroeder wait any longer? Huge apologies—we just got really behind today.

Ellen

From: "Norgren-Markley, Danielle (OLA)" (b) (6)
Date: Tuesday, May 18, 2021 at 3:01 PM
To: "James, Ellen (Hawley)" (b) (6)
Cc: "Armer, Derek (Hawley)" (b) (6), "Gaeta, Joseph (OLA)"
(b) (6)
Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Duplicative Material, Document ID: 0.7.854.59541, Bates Number 22cv2850-21-01790-000199

From: James, Ellen (Hawley)
Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder
To: Norgren-Markley, Danielle (OLA)
Cc: Armer, Derek (Hawley); Gaeta, Joseph (OLA)
Sent: May 18, 2021 3:04 PM (UTC-04:00)

Senator is running a couple minutes late from another meeting, but Derek will get on now with Mr. Schroeder.

Ellen

From: "Norgren-Markley, Danielle (OLA)" (b) (6)
Date: Tuesday, May 18, 2021 at 3:01 PM
To: "James, Ellen (Hawley)" (b) (6)
Cc: "Armer, Derek (Hawley)" (b) (6); "Gaeta, Joseph (OLA)"
(b) (6)
Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Duplicative Material, Document ID: 0.7.854.59541, Bates Number 22cv2850-21-01790-000199

From: Gaeta, Joseph (OLA)
Subject: Letter from Kristen Clarke to Senator Collins
To: (b)(6) Trent Benishek (Collins) (b)(6) Katie Brown (Collins)
Sent: May 18, 2021 2:29 PM (UTC-04:00)
Attached: Ltr from Clarke to Collins 5.18.21 - final.pdf

Katie and Trent,

Attached is a letter from Kristen Clarke to Senator Collins. Thank you for your consideration.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

May 18, 2021

Dear Senator Collins,

I was grateful to have the opportunity to discuss with you my nomination to be Assistant Attorney General for the Civil Rights Division at the Department of Justice. You raised concerns regarding my views about policing which I would like to further address here.

President Biden has rightly stated that “[o]ur country asks a great deal of our federal, state, Tribal, and local law enforcement officers—and it is our responsibility to ensure that those who protect and serve us have the training and support they need to do their jobs safely.” He has committed to ensuring that officers “have the resources, research tools, and funding they need to be safe, effective, trusted sources of protection in their communities.” I look forward to supporting these efforts if confirmed, including President Biden’s plan to invest \$300 million of additional funding in the Community Oriented Policing Services (COPS) program. Programs like COPS help ensure that the police have the resources they need to keep their communities safe. Police departments with sufficient resources and strong community relations are a cornerstone of the fair and effective enforcement of our nation’s civil rights laws.

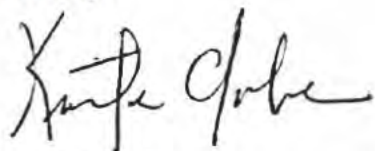
My views have been shaped by my two decades of service in government and the non-profit sector. As a federal prosecutor, I worked closely with the FBI, ATF, and state law enforcement on federal investigations and prosecutions ranging from human trafficking to hate crimes to official misconduct. At the U.S. Attorney’s Office, I worked with law enforcement to prosecute domestic violence cases. Quite simply, these cases couldn’t be brought without the tireless work of the law enforcement community.

As Chief of the Civil Rights Bureau in the New York State Attorney General’s Office, I collaborated with local police departments on grant proposals seeking federal funding to support their work, and I worked with sheriffs across the state to improve the way they served communities with limited English proficiency. As President of the Lawyers’ Committee for Civil Rights Under Law, I partnered with the International Association of Chiefs of Police to develop strategies to enhance officers’ response to hate crimes and hate incidents. These model policies have since been adopted by police forces across the globe.

Throughout my career, I have maintained an open dialogue with the law enforcement community, and I am committed to continuing those conversations if confirmed. Based on our meeting, I believe we share the view that we cannot guarantee equal justice under law for all

people if we do not adequately support the men and women who keep our communities safe. If confirmed, I look forward to working with you on these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristen Clarke". The signature is written in a cursive, flowing style.

Kristen Clarke

From: Zdeb, Sara (Judiciary-Dem)
Subject: 1/23 Durbin letter -- following up on last week's call
To: Antell, Kira M. (OLA); Gaeta, Joseph (OLA)
Cc: Charlet, Joseph (Judiciary-Dem)
Sent: May 18, 2021 2:27 PM (UTC-04:00)

Hi Joe and Kira:

Thanks for our recent call to discuss the status of DOJ's response to Chair Durbin's January 23 request. I'm following up on our discussion with a few updates and requests.

First, as we mentioned, Chair Durbin has authorized us to conduct transcribed interviews. Earlier today we requested a transcribed interview of former acting AG Rosen; we plan to request interviews with former acting DAG Donoghue and former AAG Clark once we've identified counsel. We'll keep you posted on the timing of these interviews, but anticipate conducting them before the end of June.

Second, I understand that there are two buckets of documents over which DOJ is asserting the deliberative process privilege: (1) the documents you made available in camera (the Clark letter and associated emails); and (2) additional, unspecified documents that you have said reflect legal analysis and thus "core" DOJ deliberations. To confirm, we intend to ask Rosen and the other witnesses about the Clark letter and related documents we reviewed in camera, which means we'll need to have physical possession of them prior to any interviews.

As for the second bucket of materials, we understand from your general description that these reflect communications that would show how DOJ evaluated and responded to the specific proposals we're investigating. Conceptually, such documents are integral to the Committee's understanding of how close DOJ came to jumping applicable guardrails and evaluation of potential legislative responses to strengthen those guardrails. I understand that you're seeking a more particularized explanation of our need. As we discussed, it's difficult for us to articulate a more specific need at this point because we haven't seen the documents, and although interviews might help us crystallize our need further, deferring resolution of this issue until after interviews could necessitate calling witnesses back a second time – something we'd like to avoid. We appreciate your willingness to provide a more particular description of the documents now that we've specified a set of interviewees, and are hopeful that this will move the ball forward in a way that avoid multiple interviews of the same witnesses.

Third, it would be helpful to know as soon as possible whether DOJ or the White House will place any constraints on the topics you authorize Rosen and other witnesses to address. Specifically, it would be helpful to know whether there are any internal DOJ communications you will seek to constrain witnesses from addressing, and whether there are any DOJ-White House communications that the White House will seek to constrain witnesses from addressing (in particular, the content of communications involving former President Trump, as well as those involving Mark Meadows and other White House officials). Based on the documents you've produced to date, our hope is that any such constraints will be minimal and narrowly tailored – and in any event, it would be good to discuss sooner than later.

Fourth, as a heads up, Rosen's counsel has indicated that his client may want to review documents prior to an interview. I have no objection to that, but told Reg this was your call and that I defer to you to facilitate.

Finally, you mentioned that you're reviewing and are likely to produce a handful of responsive handwritten notes, and that you're willing to discuss with OIG the possibility of reviewing whatever text messages they've retrieved for responsiveness to our request. If you could keep us updated about the status of both items, we'd appreciate it.

Happy to discuss any of the items above if helpful. Thanks,

Sara

Sara Zdeb
Chief Counsel for Oversight
U.S. Senate Committee on the Judiciary

Chair Richard J. Durbin

(b) (6) (Direct)

(b) (6) (Mobile)

(b) (6)

From: Gaeta, Joseph (OLA)
Subject: Kristen Clarke votes coming up
To: (b)(6) Laura Peterson (Tester)
Cc: Payton, Rayshon J. (OLA)
Sent: May 18, 2021 10:16 AM (UTC-04:00)

Hi Laura,

As the Senate moves to lock in votes that will lead to Kristen Clarke's nomination, I wanted to follow up on Senator Tester's offer to speak with his Republican colleagues. You may have seen Kristen had an 11-11 vote in SJC last week, so her first vote will be on a motion to discharge likely today. She doesn't have any confirmed Republican support yet but we are continuing to work on some members—Senators Collins, Murkowski, Portman and Romney. If your boss might be inclined to have a floor conversation with any of these, we would appreciate it.

Thank you!

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: RE: Clarke nomination
To: Babin, Reginald (Schumer)
Cc: Greenfeld, Helaine A. (OLA)
Sent: May 14, 2021 12:35 PM (UTC-04:00)

(b) (6) . Free in 15

From: Babin, Reginald (Schumer) (b) (6)

Sent: Friday, May 14, 2021 12:34 PM

To: Gaeta, Joseph (OLA) (b) (6)

Cc: Greenfeld, Helaine A. (OLA) (b) (6)

Subject: RE: Clarke nomination

Duplicative Material, Document ID: 0.7.854.62858, Bates Number 22cv2850-21-01790-000198

From: Gaeta, Joseph (OLA)
Subject: follow up
To: Carson, Kevin (Manchin)
Sent: May 13, 2021 1:27 PM (UTC-04:00)

Hi Kevin,

Following up on my voicemail after Kristen's meeting with Senator Manchin. Do we need to schedule another meeting before the floor vote, or was the Senator's request to speak again something that could occur after confirmation. Kristen would be happy to do it. I didn't take the end of the call to suggest your boss needs to know more before he can support her, but if that's the case please let me know ASAP.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Hudson, Drew (Cotton)
Subject: Re: Cotton Supplemental QFRs to Clarke
To: Gaeta, Joseph (OLA); Greenfeld, Helaine A. (OLA)
Cc: Colas, Brian (Cotton); Payton, Rayshon (OLA); Charlet, Joseph (Judiciary-Dem); Brest, Phillip (Judiciary-Dem); Fragoso, Michael (Judiciary-Rep)
Sent: May 12, 2021 4:52 PM (UTC-04:00)

Thanks very much, Joe. Received.

From: "Gaeta, Joseph (OLA)" (b) (6)
Date: Wednesday, May 12, 2021 at 4:51 PM
To: "Hudson, Drew (Cotton)" (b) (6) "Greenfeld, Helaine A. (OLA)"
(b) (6)
Cc: "Colas, Brian (Cotton)" (b) (6), "Payton, Rayshon (OLA)"
(b) (6), "Charlet, Joseph (Judiciary-Dem)" (b) (6)
(b) (6), "Brest, Phillip (Judiciary-Dem)" (b) (6), "Fragoso,
Michael (Judiciary-Rep)" (b) (6)
Subject: RE: Cotton Supplemental QFRs to Clarke

Drew,

Attached is a supplemental response from Kristen Clarke. Please acknowledge receipt. Thanks.

Joe

From: Hudson, Drew (Cotton) (b) (6)
Sent: Monday, May 10, 2021 4:07 PM
To: Greenfeld, Helaine A. (OLA) (b) (6) Gaeta, Joseph (OLA) (b) (6)
Cc: Colas, Brian (Cotton) (b) (6)
Subject: Cotton Supplemental QFRs to Clarke

Hi, Helaine and Joe,

Please find attached several supplemental QFRs from Senator Cotton to Kristen Clarke, nominee to be an Assistant Attorney General of the United States.

Thank you,

Drew Hudson
Chief Counsel
Office of Sen. Tom Cotton
Senate Judiciary Committee
(b) (6)

From: Gaeta, Joseph (OLA)
Subject: Crossfire Hurricane docs (item #1 on priority list)
To: Flynn-Brown, Josh (Judiciary-Rep); Downey, Brian (HSGAC); Wittmann, Scott (HSGAC)
Cc: Antell, Kira M. (OLA)
Sent: May 11, 2021 6:05 PM (UTC-04:00)

Josh, Brian, and Scott:

This email responds to your concerns about the completeness of documents received by Senators Grassley and Johnson related to the Crossfire Hurricane investigation. You have raised, among other issues, the concern that documents made public through justthenews.com may not have been made available to Senator Grassley and Senator Johnson. This email addresses that concern.

In order to respond to your request, we undertook a review of the 235 pages of documents on justthenews.com. These documents purport to contain text messages from former FBI employees. We can confirm those documents were already produced to the Senate Homeland Security Committee between October and December 2020. Specifically, the documents were provided in the following transmissions from either FBI or DOJ:

Date	Bates Numbers	Method of Production
10/9/2020	Senate HSGAC_TransitionReq FBI003902-3925	Produced via email
10/14/2020	Senate HSGAC_TransitionReq FBI003963-004020	Produced via email
10/15/2020	Senate HSGAC_TransitionReq FBI004032	Produced via email
10/15/2020	Senate HSGAC_TransitionReq FBI004027	Produced via email
10/19/2020	Senate HSGAC_TransitionReq FBI004037	Produced via UNET email
10/22/2020	Senate HSGAC_TransitionReq FBI004240-4260	Produced to Senate SCIF
10/23/2020	Senate HSGAC_TransitionReq FBI004262-4295	Produced via UNET Email
11/10/2020	Senate HSGAC_TransitionReq FBI004579	Made available to DOJ reading room (TS)
12/2/2020	Senate HSGAC_TransitionReq FBI004584-4598	Made available to reading room, given non-SES status
12/2/2020	Senate HSGAC_TransitionReq FBI004599-4622	Made available to reading room, given non-SES status
12/3/2020	Senate HSGAC_TransitionReq FBI004623-4643	Made available to reading room

12/3/2020	Senate HSGAC_TransitionReq FBI004644-4677	Made available to reading room
12/9/2020	DOJ- HSGAC20201030- 000031-000051	OLA produced via unclass email

As we have with other documents previously provided to Senators Grassley and Johnson, these documents remain available for in camera review at the Department of Justice, though their public release may obviate the need for you to visit the reading room.

You have also suggested there may be additional documents related to Crossfire Hurricane that may be of continuing interest to Senator Grassley and Senator Johnson. As I understand it, significant congressional oversight on Crossfire Hurricane occurred while Senator Grassley was Chairman of the Finance Committee and Senator Johnson was Chairman of HSGAC. In addition, the Judiciary Committee conducted its own oversight investigation into Crossfire Hurricane in the 116th Congress. If Senators Grassley and Johnson request additional information or documents related to Crossfire Hurricane, the Department requests that you advise us of the Senators' current legislative interest, what additional documents the Senators seek, and how those documents would advance their legislative interest.

We look forward to continuing to work with you to address these issues.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Smith, Daniel (Judiciary-Dem)
Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder
To: Gaeta, Joseph (OLA)
Cc: Garcia, Lynda (Judiciary-Dem)
Sent: May 11, 2021 3:32 PM (UTC-04:00)

That works great for us. Thanks so much, Joe.

From: "Gaeta, Joseph (OLA)" (b) (6)
Date: Tuesday, May 11, 2021 at 3:31 PM
To: "Smith, Daniel (Judiciary-Dem)" (b) (6)
Cc: "Garcia, Lynda (Judiciary-Dem)" (b) (6)
Subject: RE: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Dropping schedulers.

Danny/Lynda, we weren't sure whether Schroeder would be on the 5/26 hearing or not, but now it looks like no. We have plenty of time to set something up, and you've got bigger fish to fry at the moment. Should we pause until after Memorial Day?

From: Smith, Daniel (Judiciary-Dem) (b) (6)
Sent: Tuesday, May 11, 2021 3:19 PM
To: Norgren-Markley, Danielle (OLA) (b) (6) Serrano, Andrew (Booker)
(b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6) Garcia, Lynda (Judiciary-Dem) (b) (6)
Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Thanks so much, Danielle. Happy to hop on the phone or set up a zoom call. Let me know what you think works best on your end.

From: "Norgren-Markley, Danielle (OLA)" (b) (6)
Date: Tuesday, May 11, 2021 at 12:10 PM
To: "Serrano, Andrew (Booker)" (b) (6)
Cc: "Smith, Daniel (Judiciary-Dem)" (b) (6) "Gaeta, Joseph (OLA)"
(b) (6) "Garcia, Lynda (Judiciary-Dem)" (b) (6)
Subject: RE: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Danny and Lynda – happy to be in touch. Looping in Joe Gaeta, who is handling Mr. Schroeder's nomination.

From: Serrano, Andrew (Booker) (b) (6)
Sent: Tuesday, May 11, 2021 11:54 AM
To: Norgren-Markley, Danielle (OLA) (b) (6)
Cc: Smith, Daniel (Judiciary-Dem) (b) (6) Garcia, Lynda (Judiciary-Dem)
(b) (6)
Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Thanks, Danielle. Let's do a staff level check in. Adding in Danny and Lynda here who can set something up that works for them.

-Andrew

From: "Norgren-Markley, Danielle (OLA)" (b) (6)

Date: Tuesday, May 11, 2021 at 11:51 AM

To: "Serrano, Andrew (Booker)" (b) (6)

Subject: RE: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Hi Andrew,

Thanks for your email. We would be happy to oblige a staff-level call. Alternatively, I was just informed that we can offer meeting times into June. Would you prefer I revisit the scheduling later in the month/early next for a member level call, or do we want to get a staff call on the books?

Danielle

From: Serrano, Andrew (Booker) (b) (6)

Sent: Monday, May 10, 2021 3:41 PM

To: Norgren-Markley, Danielle (OLA) (b) (6)

Subject: Re: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Thanks, Danielle. Senator Booker won't be able to make this meeting work. Happy to make a staff-level meeting work with counterparts on Mr. Schroeder's staff if needed. Let us know.

-Andrew

From: "Norgren-Markley, Danielle (OLA)" (b) (6)

Date: Monday, May 10, 2021 at 3:23 PM

To: "Serrano, Andrew (Booker)" (b) (6)

Subject: Invite to Meet with AAG for OLC Nominee Chris Schroeder

Good Afternoon,

The Department of Justice would like to invite Senator Booker to meet with Chris Schroeder, Nominee for Assistant Attorney General of the Office of Legal Counsel. Mr. Schroeder is available the following times:

05/17: 9:00am-5:00pm

05/18: 9:00am-1:00pm, 2:30pm-4:30pm

05/19: 9:00am-12:00pm, 2:00pm-3:00pm, 4:00pm-5:00pm

5/20-5/21: 9:00am-5:00pm

We expect the call to last thirty minutes. If the Senator is available and would like to meet, please send me possible times that work for the Senator. Please also include the preferred communication method. We are happy to accommodate both video and phone calls. If your office prefers Zoom, please send a Zoom link as we are unable to do so on our end.

Thank you,

Danielle Norgren

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Cotton Supplemental QFRs to Clarke
To: Gaeta, Joseph (OLA); Greenfeld, Helaine A. (OLA); Charlet, Joseph (Judiciary-Dem); Payton, Rayshon (OLA)
Sent: May 10, 2021 4:12 PM (UTC-04:00)

I'll handle – but do you want to answer?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, May 10, 2021 4:10 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Brest, Phillip (Judiciary-Dem) (b) (6); Charlet, Joseph (Judiciary-Dem) (b) (6); Payton, Rayshon (OLA) (b) (6)
Subject: FW: Cotton Supplemental QFRs to Clarke

fyi

From: Hudson, Drew (Cotton) (b) (6)
Sent: Monday, May 10, 2021 4:07 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Colas, Brian (Cotton) (b) (6)
Subject: Cotton Supplemental QFRs to Clarke

Duplicative Material, Document ID: 0.7.854.55601, Bates Number 22cv2850-21-01790-000211

From: Stoopler, David (Judiciary-Dem)
Subject: Letter re DOJ climate change litigation positions
To: Gaeta, Joseph (OLA); Prasanna, Sandeep A. (OLA)
Cc: Mechanick, Alex (Blumenthal); Aronson, Alex (Judiciary-Dem); Smirniotopoulos, Amalea (Judiciary-Dem)
Sent: May 10, 2021 3:28 PM (UTC-04:00)
Attached: Climate accountability letter to DOJ.pdf

Joe and Sandeep,

Please find attached a letter from Sen. Blumenthal, Sen. Whitehouse, and several of their colleagues to AG Garland concerning the DOJ's positions in climate change-related litigation.

Thanks,
David

David Stoopler
Chief Counsel
U.S. Senator Richard Blumenthal

(b) (6)
(b) (6)

Congress of the United States
Washington, DC 20510

May 10, 2021

Judge Merrick B. Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland,

Congratulations on your confirmation. We look forward to working with you to advance, as you put it at your confirmation hearing, the Justice Department’s “commitment to serve the cause of justice and protect the safety of our communities.” In hopes of beginning that work, we write to you today to follow up on the conversations that took place during your confirmation regarding President Biden’s pledge to “strategically support ongoing plaintiff-driven climate litigation against polluters.”

Several climate lawsuits have been filed over the past several years seeking justice from fossil fuel companies who engaged in decades of deception regarding climate change. In these cases, including those filed by five state Attorneys General, the Attorney General of the District of Columbia, as well as 20 cities and counties, governments are seeking to abate the harm this deception has caused.

During the Trump administration, the Department of Justice (DOJ) filed amicus briefs in support of fossil fuel companies in many cases in federal court (including the Supreme Court) and state court. These briefs take procedural and substantive positions that, in our view, substantially mischaracterize the plaintiffs’ complaints. In part for that reason, many of the positions in these briefs have been rejected repeatedly in court. More specifically, the DOJ has:

- supported an overly expansive interpretation of 28 U.S.C. § 1447(d) by arguing that, a federal appeals court may review all issues raised in a removal notice during an appeal of an order for remand to state court, not just those related to the exceptions for federal officer or civil rights jurisdiction—even when the court determines that defendants’ assertions of federal officer or civil rights jurisdiction are meritless;
- claimed that federal courts must exercise exclusive jurisdiction over these climate deception lawsuits, and thus that state courts are barred from exercising jurisdiction, because the underlying claims are inherently and essentially federal in nature—despite the fact that plaintiffs exclusively originally allege violations of state common law and state statutes;

- argued that these state law claims in the climate deception lawsuits have been displaced and preempted by the Clean Air Act as well as the Foreign Commerce Clause and foreign affairs authorities of the Constitution, even though these cases seek remedies for purely intrastate harm arising from violations of state laws, and therefore are not preempted by the Clean Air Act or the Constitution;
- mischaracterized the complaints, asserting that the plaintiffs are raising claims regarding regulation of interstate or international emissions and claims that are inherently disputes about interstate or international pollution, despite clear and careful language specifically targeting only accountability for damages to the plaintiff states or localities caused by decades of deception regarding climate change; and
- embraced the idea that these lawsuits violate constitutional separation of powers provisions and are non-justiciable, despite the fact that the resolution of fraud claims (no matter the scale of the conduct or damages) is clearly neither a violation of the separation of powers nor non-justiciable.

We request that you promptly review the briefs previously filed in these cases and reassess what the Department's positions should be in future briefs, in order to ensure they are consistent with the Department's commitment to environmental justice. This effort is urgently needed, as the fossil fuel companies in these cases continue to cite DOJ briefs in their proceedings. Multiple cases have upcoming deadlines where fossil fuel companies are likely to again cite the Department's current positions as articulated in its previously filed briefs. The fossil fuel industry will continue to undermine justice by using these briefs until the Department reverses the positions it has taken in those lawsuits.

We hope that you will keep President Biden's commitment as well as your own commitment to environmental justice in mind as you review the Department's positions and participation in each case, and support efforts to hold polluters accountable for their deception.

Finally, we would also like to reiterate a previous request that the Department consider launching its own investigation into the same deceptive practices that lie at the heart of these lawsuits.

Sincerely,

/s/ Richard Blumenthal
United States Senator

/s/ Sheldon Whitehouse
United States Senator

/s/ Edward Markey
United States Senator

/s/ Mazie K. Hirono
United States Senator

/s/ Benjamin L. Cardin
United States Senator

/s/ Chris Van Hollen
United States Senator

/s/ Alex Padilla
United States Senator

/s/ Elizabeth Warren
United States Senator

/s/ Brian Schatz
United States Senator

From: Gaeta, Joseph (OLA)
Subject: RE: rescheduling
To: Garcia, Lynda (Judiciary-Dem)
Cc: Keller, Keenan
Sent: May 10, 2021 1:46 PM (UTC-04:00)

Ok stand by for confirmation. You think we'll need 1.5 hours?

From: Garcia, Lynda (Judiciary-Dem) (b) (6)

Sent: Monday, May 10, 2021 1:44 PM

To: Gaeta, Joseph (OLA) (b) (6)

Cc: Keller, Keenan (b) (6)

Subject: Re: rescheduling

Thank you! 12-1:30 tomorrow works for all of us.

On May 10, 2021, at 10:30 AM, Gaeta, Joseph (OLA) (b) (6) wrote:

Lynda,

(b) (6)

Could we aim for a time tomorrow after 12:00? 12-1:30 or 4-5 are the best windows. We could move some things around is needed at other times.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Zogby, Joseph (Judiciary-Dem)
Subject: RE: BOP policy
To: Gaeta, Joseph (OLA); Greenfeld, Helaine A. (OLA)
Cc: Swanson, Daniel (Judiciary-Dem); Trifone, Stephanie (Judiciary-Dem)
Sent: May 10, 2021 10:55 AM (UTC-04:00)

Thanks for chasing that down. To clarify one point, OLA did confirm on April 27 that the guidance had been changed on April 19, but that was in response to our inquiry after we received the updated guidance from an outside source. My point is that BOP should notify us when they update an important policy that is the subject of ongoing oversight. We shouldn't have to hear about it from an outside source and then follow up to confirm.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, May 10, 2021 10:21 AM
To: Zogby, Joseph (Judiciary-Dem) (b) (6) Greenfeld, Helaine A. (OLA)
(b) (6)
Cc: Swanson, Daniel (Judiciary-Dem) (b) (6) Trifone, Stephanie (Judiciary-Dem)
(b) (6)
Subject: RE: BOP policy

Yes, we've been able to track this down.

On the first point, as Helaine said, that was not acceptable. We've made that clear to the appropriate people here. Thank you for bringing it to our attention.

On the second point, the guidance was updated after the first document was sent on 4/16. The date of the BOP memo didn't change, but the date on the digital signatures shows that the second version was signed on 4/19. We did explain that change in an email to your staff on April 27, so we didn't know there was any ongoing confusion. Of course, this just goes to show there are issues getting documents from BOP which we will continue to work on.

Happy to discuss this more during our next check in.

From: Zogby, Joseph (Judiciary-Dem) (b) (6)
Sent: Monday, May 10, 2021 12:28 AM
To: Greenfeld, Helaine A. (OLA) (b) (6) Gaeta, Joseph (OLA) (b) (6)
Cc: Swanson, Daniel (Judiciary-Dem) (b) (6) Trifone, Stephanie (Judiciary-Dem)
(b) (6)
Subject: RE: BOP policy

Just wanted to confirm you received and are looking into this. Thanks, Joe

From: Zogby, Joseph (Judiciary-Dem)
Sent: Thursday, May 6, 2021 12:38 AM
To: Helaine Greenfeld (b) (6) 'Gaeta, Joseph (OLA)'
(b) (6)
Cc: Swanson, Daniel (Judiciary-Dem) (b) (6) Trifone, Stephanie (Judiciary-Dem)
(b) (6)
Subject: FW: BOP policy

Hi Helaine & Joe,

As discussed, I'm forwarding our staff's correspondence with OLA about BOP's recent CARES Act home confinement guidance. We have two concerns:

1. On Tuesday, April 13, we requested any updated guidance in advance of the Committee's April 15 BOP oversight

hearing. We did not receive a response before the hearing, but then BOP Director Carvajal testified about recent CARES Act home confinement guidance. The Committee did not have this guidance and so members were unable to question the Director about it. On Friday, April 16, OLA sent us the guidance. We'd like to know why we did not receive this guidance before the hearing.

2. The guidance that OLA sent us is attached. Subsequently, we received from another source a different version of this memo, also attached. The version from OLA says: "Verifying the inmate's primary offense is not violent, a sex offense, or terrorism-related." The other version we received says: "Verifying the inmate's current or a prior offense is not violent, a sex offense, or terrorism-related." We'd like to know which version of the guidance is operational, and, if it is the second version, why we were provided with an inaccurate or outdated version of the guidance.

Thanks,
Joe

From: Underwood, Ryan M. (OLA) (b) (6)
Sent: Friday, April 16, 2021 9:37 AM
To: Petras, Mary (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6)
Cc: Prasanna, Sandeep A. (OLA) (b) (6)
Subject: RE: BOP policy

Hi Mary,

I didn't have clearance to share this yesterday, but passing along the latest guidance on home confinement. See attached.

-Ryan

From: Petras, Mary (Judiciary-Dem) (b) (6)
Sent: Tuesday, April 13, 2021 6:40 PM
To: Underwood, Ryan M. (OLA) (b) (6); Prasanna, Sandeep A. (OLA) (b) (6); Kim Straesser (b) (6)
Cc: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Subject: BOP policy

Hi Ryan,

In advance of Thursday's hearing before the Judiciary Committee, please provide us with any BOP policy updates regarding home confinement, the CARES Act authority, compassionate release, the First Step Act, or any other issue that may arise at the hearing.

Thank you,
Mary

Mary Manning Petras | Detailee Counsel
Senator Richard J. Durbin | Committee on the Judiciary
(b) (6)



Central Office

Washington, DC 20534

April 13, 2021

MEMORANDUM FOR CHIEF EXECUTIVE OFFICERS

**FROM: ANDRE MATEVOUSIAN, ASSISTANT DIRECTOR
CORRECTIONAL PROGRAMS DIVISION**

**SONYA D. THOMPSON, ASSISTANT DIRECTOR
REENTRY SERVICES DIVISION**

MICHAEL SMITH Digitally signed by MICHAEL SMITH
Date: 2021.04.13 16:01:39 -04'00'

**M. D. SMITH, ASSISTANT DIRECTOR
HEALTH SERVICES DIVISION**

SUBJECT: HOME CONFINEMENT

In our ongoing effort to protect the health and safety of staff and inmates during the COVID-19 pandemic, it is imperative to continue reviewing at-risk inmates for placement on home confinement in accordance with the CARES Act and guidance from the Attorney General. This memorandum provides updated guidance and direction and supercedes the memorandum dated November 16, 2020.

The following factors are to be assessed to ensure inmates are suitable for home confinement under the CARES Act:

- Reviewing the inmate's institutional discipline history for the last twelve months (Inmates who have received a 300 or 400 series incident report in the past 12 months may

be referred for placement on home confinement, if in the Warden's judgement such placement does not create an undue risk to the community);

- Ensuring the inmate has a verifiable release plan;
- Verifying the inmate's primary offense is not violent, a sex offense, or terrorism-related;
- Confirming the inmate does not have a current detainer;
- Ensuring the inmate is Low or Minimum security;
- Ensuring the inmate has a Low or Minimum PATTERN recidivism risk score;
- Ensuring the inmate has not engaged in violent or gang-related activity while incarcerated (must be reviewed by SIS);
- Reviewing the COVID-19 vulnerability of the inmate, in accordance with CDC guidelines; and
- Confirming the inmate has served 50% or more of their sentence; or has 18 months or less remaining on their sentence and have served 25% or more of their sentence.

Additionally, pregnant inmates should be considered for viability of placement in a community program to include Mothers and Infants Together (MINT) programs and home confinement.

If the Warden determines there is a need to refer an inmate for placement in the community due to COVID-19 risk factors who is outside of the criteria listed above, they may forward the home confinement referral to the Correctional Programs Division for further review.

Referrals to a Residential Reentry Management (RRM) Office must be made based on appropriateness for home confinement. This assessment should include verification that the conditions under which the inmate would be confined upon release would be more effective in protecting their health than continued confinement at their present place of incarceration.

To this end, the inmate must be provided education on CDC guidance on how to protect themselves and others from COVID-19 transmission. This education includes, but is not limited to: hand washing, social distancing, wearing of facial coverings and self-assessment for signs and symptoms of COVID-19. Inmates should understand how home confinement provides the opportunity to practice optimal infection control measures, which may mitigate existing risks, based on rates of transmission in the local area, and exercising best practices. The information (education) provided to the inmate must be documented on the BEMR exit summary.

All referrals should clearly document the review of the following items prior to being submitted to the RRM office:

- Specific type of release residence (House/Apt/Group Home etc.);
- List of individuals with whom inmate will be living;
- Any health concerns of individuals in the residence;
- Contact phone numbers of the inmate should he/she be placed on home confinement; and,
- Transportation plan as to how the inmate will be transferred to the home confinement location.

Any questions as to eligibility in relation to the release plan will be referred to the Residential Reentry Management Branch Administrator.

Inmates determined to have a viable release residence will be further screened by Health Services and a determination made as to whether they require frequent and ongoing medical care within the next 90 days. If frequent and on-going medical care is required then:

- Health Services staff will coordinate with RRMB's Health Services Specialists to determine if the inmate's medical needs can be met in the community. RRMB will establish follow-up care prior to inmate transfer. The inmate must transfer with at least 90 days of any prescribed medications.
- If the inmate's medical needs cannot be met in the community, then the inmate will remain at his/her current institution. (If the inmate does not require frequent and on-going medical care then the referral will be processed.)

If an inmate is referred or denied for home confinement once a review is completed, the appropriate Case Management Activity (CMA) assignment should be loaded.

Case Management Coordinators must track all inmates determined to be ineligible for CARES Act home confinement or the Elderly Offender Home Confinement Pilot Program and ensure the appropriate denial code is entered in SENTRY. Reports outlining the reason for denial must be submitted to the Correctional Programs Administrator in the appropriate Regional Office.

If an inmate does not qualify for CARES Act home confinement under the above criteria, they should be reviewed at the appropriate time for placement in a Residential Reentry Center and/or home confinement consistent with applicable laws and BOP policies.

If you have any questions, please contact (b)(6), (b)(7)(C) per BOP Administrator, Correctional Programs Branch.

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: Re: Fourth Production -- 1/23 Durbin letter
To: Zdeb, Sara (Judiciary-Dem)
Cc: Gaeta, Joseph (OLA); Charlet, Joseph (Judiciary-Dem); Antell, Kira M. (OLA)
Sent: May 7, 2021 9:55 PM (UTC-04:00)

Confirming receipt

On May 7, 2021, at 5:38 PM, Zdeb, Sara (Judiciary-Dem) (b) (6) wrote:

Thanks, Joe – received.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, May 7, 2021 5:32 PM
To: Zdeb, Sara (Judiciary-Dem) (b) (6); Flynn-Brown, Josh (Judiciary-Rep) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Antell, Kira M. (OLA) (b) (6)
Subject: Fourth Production -- 1/23 Durbin letter

Attached is DOJ's fourth production in response to Chairman Durbin's 1/23 letter and a cover letter. If you do not receive two pdf files, please let me know.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Garcia, Lynda (Judiciary-Dem)
Subject: RE: follow up
To: Gaeta, Joseph (OLA)
Sent: May 7, 2021 7:58 PM (UTC-04:00)

Is (b) (6) your cell? I will know shortly and can text you or send you an email here.

I think we do have the green light just need to confirm

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, May 7, 2021 7:40 PM
To: Garcia, Lynda (Judiciary-Dem) (b) (6)
Subject: follow up

Lynda, thanks for the helpful call. The sooner you can get me an answer on DOJ law enforcement outreach on 242 the better.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke
To: Payne, William (Sasse)
Cc: Payton, Rayshon (OLA); Shirley, Raven (Sasse)
Sent: May 7, 2021 7:18 PM (UTC-04:00)

Circling back on this. Can I propose 1:00?

From: Gaeta, Joseph (OLA)
Sent: Wednesday, May 5, 2021 2:11 PM
To: Payne, William (Sasse) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Shirley, Raven (Sasse) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Right now Tuesday is looking wide open after 9:45.

From: Payne, William (Sasse) (b) (6)
Sent: Wednesday, May 5, 2021 1:48 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Shirley, Raven (Sasse) (b) (6)
Subject: Re: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hey Joe,

Happy to do a staff call. Do you have availability next Tuesday?

Thanks,

Will

William R. Payne
Chief Counsel to Sen. Ben Sasse
U.S. Senate Committee on the Judiciary
(b) (6)
(202) 224-4224

From: "Gaeta, Joseph (OLA)" (b) (6)
Date: Wednesday, May 5, 2021 at 12:17 PM
To: "Shirley, Raven (Sasse)" (b) (6), "Payne, William (Sasse)" (b) (6)
Cc: "Payton, Rayshon (OLA)" (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Raven and Will,

Following up on this from a couple of weeks back as Kristen Clarke's markup is expected next week. Did you want to have a staff call to discuss her nomination and a possible courtesy call with Senator Sasse? Thank you.

Joe

From: Gaeta, Joseph (OLA)

Sent: Tuesday, April 20, 2021 6:40 PM

To: Norgren-Markley, Danielle (OLA) (b) (6) Shirley, Raven (Sasse)

(b) (6) Payne, William (Sasse) (b) (6)

Cc: Payton, Rayshon (OLA) (b) (6)

Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Thanks Danielle. We can handle our scheduling...you've got enough to worry about.

Raven and Will, my Thursday afternoon is pretty open at this point if you'd like to schedule a call then.

From: Norgren-Markley, Danielle (OLA) (b) (6)

Sent: Tuesday, April 20, 2021 6:23 PM

To: Shirley, Raven (Sasse) (b) (6) Payne, William (Sasse)

(b) (6)

Cc: Gaeta, Joseph (OLA) (b) (6) Payton, Rayshon (OLA) (b) (6)

Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hi Raven and Will,

Thank you for letting me know. Will, I've looped in Joe and Rayshon from the Office of Legislative Affairs. They are the lead staff on Kristen's nomination. Please let me know your availability and I can work with them to find a time.

Best,

Danielle Norgren

From: Shirley, Raven (Sasse) (b) (6)

Sent: Tuesday, April 20, 2021 6:01 PM

To: Norgren-Markley, Danielle (OLA) (b) (6)

Cc: Payne, William (Sasse) (b) (6)

Subject: Re: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hi Danielle,

I apologize for a misunderstanding on our end. We have a usual policy of our staff connecting on a staff level prior to scheduling a meeting with the Senator and nominees, I thought that had already happened, but it has not. Therefore, I am going to cancel this zoom for now and have Will Payne (cc'd here) arrange a staff meeting before proceeding with scheduling a meeting with Sen. Sasse.

I do apologize and thank you for your help and understanding.

Best,

Raven Shirley

From: "Norgren-Markley, Danielle (OLA)" (b) (6)

Date: Monday, April 19, 2021 at 4:22 PM

To: "Shirley, Raven (Sasse)" (b) (6)

Cc: "Gaeta, Joseph (OLA)" (b) (6) "Payton, Rayshon (OLA)"

(b) (6)

Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hi Raven,

Joe Gaeta, Deputy Assistant Attorney General for the Office of Legislative Affairs, will be on the call. Rayshon Payton, Attorney Advisor for the Office of Legislative Affairs, may also attend.

Best,

Danielle Norgren

From: Shirley, Raven (Sasse) (b) (6)
Sent: Monday, April 19, 2021 3:54 PM
To: Norgren-Markley, Danielle (OLA) (b) (6)
Subject: Re: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hi Danielle,

Yes, please find the zoom link below. Can you let me know if anyone from your end will join the call?

Join ZoomGov Meeting

(b) (6)

Meeting ID: (b) (6)

Passcode: (b) (6)

One tap mobile

(b) (6)

US (San Jose)

(b) (6)

US (New York)

Dial by your location

(b) (6)

US (San Jose)

(b) (6)

US (New York)

Meeting ID: (b) (6)

Passcode: (b) (6)

Find your local number: (b) (6)

From: "Norgren-Markley, Danielle (OLA)" (b) (6)
Date: Friday, April 16, 2021 at 6:52 PM
To: "Shirley, Raven (Sasse)" (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hi Raven,

That should work perfectly. Are you able to send a Zoom link? I unfortunately am not able to access to software. Otherwise, I am happy to send a dial-in.

Danielle

From: Shirley, Raven (Sasse) (b) (6)
Sent: Friday, April 16, 2021 6:22 PM
To: Norgren-Markley, Danielle (OLA) (b) (6)
Subject: Re: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hello Danielle,

Could we schedule this virtual meeting for Wednesday, April 28th at 11:50 am ET?

Thank you,
Raven

From: "Norgren-Markley, Danielle (OLA)" (b) (6)
Date: Monday, March 22, 2021 at 3:13 PM
To: "Schedule, Request (Sasse)" (b) (6)
Subject: FW: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Good Afternoon,

See below regarding an invitation to meet with DOJ Civil Rights Division Nominee Kristen Clarke. We are scheduling meetings throughout the month of April.

Best,

Danielle Norgren

From: Norgren-Markley, Danielle (OLA)
Sent: Monday, March 22, 2021 3:02 PM
To: (b)(6) Sarah Peer (Sasse)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Hi Sarah,

Now that Kristen's questionnaire has been submitted to the Committee, I wanted to check back in regarding the below invitation. Would the Senator like to schedule a time to meet with Kristen? We are scheduling through the month of April.

Best,

Danielle

From: Norgren-Markley, Danielle (OLA)
Sent: Monday, February 8, 2021 1:51 PM
To: (b)(6) Sarah Peer (Sasse)
Subject: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Good Morning,

-
The Department of Justice would like to invite Senator Sasse to meet with Civil Rights Division Nominee Kristen Clarke. Ms. Clarke's availability is flexible; she would like to offer any day between 2/9/2021-2/25/2021 that is convenient for the Senator.

We expect the call to last thirty minutes. If the Senator is available and would like to meet, please propose a time in this window. Please also include the Senator's preferred communication method. We are happy to accommodate both video and phone calls. If your office prefers Zoom, please send a Zoom link as we are unable to do so on our end.

Best Wishes,

Danielle Norgren
Paralegal Specialist
Office of Legislative Affairs
U.S. Department of Justice

(b) (6)

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: 2021-05-07 CEG to DOJ FBI (Anarchist Investigations)
To: Gaeta, Joseph (OLA); (b)(6), (b)(7)(C) per FBI (OCA) (FBI)
Cc: CEG (Judiciary-Rep); Ragsdale, DeLisa (Judiciary-Rep); Creegan, Erin (Judiciary-Rep)
Sent: May 7, 2021 12:45 PM (UTC-04:00)
Attached: 2021-05-07 CEG to DOJ FBI (Anarchist Investigations).pdf

Joe and (b)(6), (b)(7)(C) per FBI please see the attached letter and confirm receipt. Thanks.

United States Senate
WASHINGTON, DC 20510

May 7, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation

Dear Attorney General Garland and Director Wray:

I am writing this letter to gather information regarding the Department of Justice's and Federal Bureau of Investigation's efforts to prevent violence by all domestic terrorism threats.

I am deeply concerned that the FBI domestic terrorism program continues to focus on its areas of traditional strength, such as fighting white supremacy and militia extremism, while failing to provide due focus to anarchist movements. While these goals are essential and absolutely deserve all needed resources, neither the FBI nor DOJ should neglect areas outside their historical expertise.

As Former Attorney General William Barr has noted, “[t]he F.B.I. already ha[s] a robust program to combat violence driven by white supremacy and nationalism. I wanted there to be a comparable one for antifa and antifalike groups.”¹ As Former Acting Secretary for Homeland Security Wolf noted, “[t]he fact we were focused on white supremacist extremists in late 2019, early '20, we missed the antifa stuff coming up.”² In 2020, these omissions led to national outbreaks of violence which the FBI was not forewarned of and tracked rather poorly. Those outbreaks resulted in hundreds of injured officers, dozens dead, attacks on government buildings such as the White House and the federal courthouse in Portland, and billions in property damage. Ultimately, though 14,000 arrests were made nationwide, only over 300 were federal.

I sent an oversight letter on the FBI's and DOJ's preparedness to tackle the anarchist extremism threat in February, and I have yet to receive a substantive response. In our March oversight hearing, I asked Director Wray what he was doing to increase visibility into this movement. I was pleased to hear you were working on developing sources and increasing your knowledge of tradecraft; however, the Department and Bureau are obligated to update the committee on this matter.

¹ Adam Goldman, Katie Benner and Zolan Kanno-Youngs, *How Trump's focus on Antifa Distracted Attention From the Far-Right Threat*, The New York Times (Jan. 30, 2021).

² *Id.*

In light of the lack of substantive updates, I am concerned that the anarchist extremism program at the FBI still lags behind where it should be. For example, just last week, a Northern California ABC News affiliate ran an exclusive story about a person who reportedly infiltrated an anarchist group in Sonoma County.³ The story includes a first-hand account of SoCo Radical Action's (SRA) operational plans for doxing opponents, vandalism, harassment, intimidation, and extreme threats of violence. The story includes an audio recording reportedly of an online meeting between SRA leadership and a member with the following verbal exchange:

Group leader: *"It's May Day, baby, like come out and take, take somethin' over with us, I don't, I don't (bleep)-ing know."*

Member: *"Let's kill people. (laughs)"*

Group Leader: *"Let's kill some cops."*

Member: *"Yeah."*⁴

Additionally, SRA created a "target list" of people for potential vandalism, which included the head of the local deputy sheriff's union and a Trump supporter. SRA also published an online manifesto which outlines their radical, violent agenda. The online declaration reportedly states, in part:

*"Do not hesitate, do not wait ... the brick in the street is meant to be thrown! The paint in the can is meant to be sprayed! The cop in your head is meant to be killed!"*⁵

This type of hate-filled rhetoric and threats of violence towards those charged with protecting our nation's communities cannot be tolerated. If white supremacists or militia extremists were making such a plan, the FBI would be using its many sources and deep historical knowledge to open a federal investigation. I hope you are doing the same with public reports of violent anarchist activity such as this.

I'm deeply troubled by the increase of anti-police rhetoric and physical attacks on our law enforcement community. I've written to you previously about the unwarranted toll taken on innocent police officers. In the last year alone amidst civil unrest, hundreds of police officers, deputy sheriffs, federal agents and officers faithfully fulfilled their duty to serve and protect. In return for their service, many sustained serious injuries as they were beaten, struck by hurled objects, attacked with baseball bats, and blinded with lasers, all while simply trying to maintain peace and order on behalf of their fellow citizens.

Recent data shows that left-wing extremists are shifting their focus towards government targets, including law enforcement. According to research by the Center for Strategic and International Studies, 36 percent of left-wing attacks targeted law enforcement, government, and military facilities or personnel between 2015 and 2019.⁶ It's imperative that you address the

³ Dan Noyes, *EXCLUSIVE: Trump supporter shares what he uncovered after infiltrating anti-fascist group in Sonoma Co.*, ABC 7 News - Bay Area, May 2, 2021, <https://abc7news.com/anti-facist-group-in-sonoma-county-antifa-california-facism/10558396/>

⁴ *Id.*

⁵ *Id.*

⁶ Seth G. Jones, Catrina Doxsee, Nicholas Harrington, *The Tactics and Targets of Domestic Terrorists*, CSIS Briefs, July 30, 2020, <https://www.csis.org/analysis/tactics-and-targets-domestic-terrorists>

limits of your current anarchist extremism program and direct resources to worthy investigations of reports like this one.

In order to better understand DOJ's and FBI's efforts to investigate anarchist extremist attacks on law enforcement officers and other targets, no later than May 21, 2021, please answer the following:

1. Are the DOJ and FBI investigating SRA based on the aforementioned reports of violence against police officers and others? If not, why not?
2. Have the DOJ and FBI ever investigated SRA or any other Sonoma County-based anarchist groups? If so, please provide all records relating to when and why those investigations were opened.
3. Prior to the public release of the aforementioned article, did the DOJ and FBI have any awareness of any "target list" held by the Sonoma County anarchist group? If so, when and what steps were taken in response?
4. Prior to the public release of the aforementioned article, did the DOJ and FBI have any awareness of any threats of killing "people" and killing "cops" relating to the Sonoma County anarchist group? If so, when and what steps were taken in response?
5. Did the DOJ and FBI prepare an intelligence bulletin or threat assessment about the risk of violence for external or internal law enforcement agencies, including the Sonoma County Sheriff's Office, regarding SRA or any other Sonoma County-based anarchist group? If so, please provide a copy. If not, why not?
6. Does the FBI have sufficient undercover, confidential human source, and open source media review assets to uncover anarchist extremist threats before they occur?
7. How many undercover agents and confidential sources are assigned to anarchist extremism compared with militia extremism and white supremacy?

Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary

From: Gaeta, Joseph (OLA)
Subject: Kristen Clarke follow up
To: (b)(6) Katie Brown (Collins)
Sent: May 7, 2021 8:47 AM (UTC-04:00)

Katie,

Thank you for Senator Collins's time with Kristen Clarke on Wednesday. The Senator asked for positive tweets about Senators Murkowski and Scott, which are below. Over the course of the nomination process Kristen decided to make her Twitter account private (b) (6), so I'm not sure you'll be able to access these on Twitter without permission. She's happy to provide access to any staff who wants to review her account, as she's done for SJC committee staff. If you want that, send me the name of the staffer who wants access and I'll ask her to accept the request.

Joe

Tim Scott

- A few months ago, the Senate passed legislation making mob lynching a federal civil rights crime, marking a milestone in the long fight against white supremacy and racial violence in our country (Thanks to @SenBooker @KamalaHarris & @SenatorTimScott) <https://t.co/n8d2qEPV16> [October 22, 2019]
- Senate passage of legislation making mob lynching a federal civil rights crime marks a milestone in the long fight against white supremacy and racial violence in our country. Thanks to @SenBooker @KamalaHarris & @SenatorTimScott for their collective leadership on this. <https://t.co/zimsxmpRP0> [December 20, 2018]
- I co-sign this important statement from @SenatorTimScott. <https://t.co/XwALEa0zGy> [December 7, 2018] [Following Senator Scott's concerns about the nomination of Thomas Farr.]
- These are lifetime positions. More Senators should be with @SenatorTimScott right now digesting the newly released DOJ memo that shows Thomas Farr was the direct architect of voter suppression schemes in NC. <https://t.co/vOrPUGWGma> [November 28, 2018]

Lisa Murkowski

- Senator Rubio joins Romney, Murkowski, Collins and Sasse in appropriately referring to Joe Biden as president-elect. [November 17, 2020]
- Sen. Murkowski has done the right thing. A dignified move. Now she should urge her other colleagues to do the same. Americans deserve a peaceful transfer of power. Enough with the frivolous lawsuits and baseless claims. <https://t.co/apKwPZVMco> [November 10, 2020]

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: KC talkers
To: Charlet, Joseph (Judiciary-Dem)
Cc: Payton, Rayshon (OLA)
Sent: May 6, 2021 9:07 PM (UTC-04:00)

Joe: Here are some TPs for your consideration. They reference a letter that I expect the committee will receive in the upcoming days which I also expect you could quote from in the talkers.

Let's talk tomorrow.

- It is hard to take seriously the criticisms that Kristen Clarke has not been forthcoming with the Committee about her record. She's provided approximately 2,500 files containing her past statements and writings. She's had courtesy meetings with dozens of Senators. She's testified. She's answered questions for the record. The Committee knows what she's done and what she stands for.
- Nevertheless, rather than talk about Ms. Clarke's stellar record as a civil rights lawyer and the solid expertise she would bring to the Department of Justice, they'd rather talk about a conference she worked at 20 years ago and a journal put out by the conference organizers.
- Let's be clear about Kristen Clarke's role. She was a work-study student during her time at Columbia Law School. She testified that she provided administrative and logistical support for a conference as part of that job.
- She wasn't a panelist at the conference. She didn't work with the poet Amiri Baraka.
- We know that not only because that's what Kristen Clarke said, but also from a letter sent to the Committee by Dr. Karen Jackson-Weaver, who worked with Kristen at the time on the same projects. Ms. Jackson-Weaver tells us that Ms. Clarke "_____"
- What's happening here is an attempt at "guilt by association," attempting to link a nominee to someone else's controversy or reputation. It is a baseless partisan attack aimed at bringing down the first woman on track to be confirmed to lead the Civil Rights Division at the Department of Justice.
- The reputation the Committee should care about is Ms. Clarke's, what she has done and said. Her record as a civil rights attorney for over 20 years, her broad and strong support in the civil rights community, with communities of faith, with law enforcement, among fellow lawyers, show us that she is the right person for this job.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Greenfeld and Guzman SJQs
To: Appleton, Rachel E. (OLA); Fragoso, Michael (Judiciary-Rep)
Cc: Gaeta, Joseph (OLA)
Sent: May 5, 2021 2:21 PM (UTC-04:00)

Thanks Rachel

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Wednesday, May 5, 2021 2:13 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Fragoso, Michael (Judiciary-Rep)
(b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6)
Subject: Greenfeld and Guzman SJQs

Phil and Mike,

Attached are SJQs and associated materials for Helaine Greenfeld (AAG OLA) and Javier Guzman (AAG CIV).

Best,
Rachel

Rachel Appleton
Office of Legislative Affairs
Department of Justice
C: (b) (6)

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

CONFIDENTIAL

NAME:

Javier M. Guzman

HOME ADDRESS:

(b) (6)

TELEPHONE NUMBER (both home and office):

Home: (b) (6)

Office: (b) (6)

EMAIL ADDRESS:

(b) (6)

1. **Employment History:** State whether you have ever been discharged from employment for any reason or have ever resigned after being informed that your employer intended to discharge you.

(b) (6)

2. **Bankruptcy and Tax Information:** Information under this heading must be provided for yourself and your spouse.

- a. Have you and your spouse filed and paid all taxes (federal, state and local) as of the date of your nomination? Indicate if you filed "married filing separately."

(b) (6)

- b. Have you ever made any back tax payments? If so, indicate if you have made any back tax payments, and provide full details.

(b) (6)

- c. Has a tax lien or other collection procedure(s) ever been instituted against you or your spouse by federal, state, or local authorities? If so, provide full details.

(b) (6)

- d. Have you or your spouse ever been the subject of any audit, investigation, or inquiry for federal, state, or local taxes? If so, provide full details.

(b) (6)

- e. Have you or your spouse ever declared bankruptcy? If so, provide full details.

(b) (6)

3. Past Investigations and Complaints:

- a. State whether, to your knowledge, you or any organization of which you were or are an officer, director, or active participant at a relevant time has ever been under federal, state, or local investigation for a possible violation of any civil or criminal statute or administrative agency regulation. If so, provide full details.

(b) (6)

- b. Have you ever been the subject of a complaint to any court, administrative agency, bar association, disciplinary committee, or other professional group for a breach of ethics, unprofessional conduct or a violation of any rule of practice? If so, provide full details.

(b) (6)

- 4. Party to Civil Legal or Administrative Proceedings:** State whether you, or any business of which you are or were an officer at a relevant time, have ever been a party or otherwise involved as a party in any civil, legal or administrative proceedings. If so, describe in detail the nature of your participation in the litigation and the final disposition of the case. Include all proceedings in which you were a party in interest. If you are or were a party as part of a partnership, include only if you were involved in a personal, managerial, or supervisory capacity.

(b) (6)

5. **Prior Arrests:** Have you ever been arrested for, charged with, or convicted of a crime, other than a minor traffic violation, that is reflected in a record available to the public? If so, provide the relevant dates of arrest, charge and disposition, and describe the particulars of the offense.

(b) (6).

6. **Health:**

- a. What is the present state of your health?

(b) (6).

- b. List the date of your last physical examination.

(b) (6).

- c. Have you ever been treated for or had any problem with alcoholism or any related condition associated with consumption of alcoholic beverages or any other form of drug addiction or dependence? If so, give details.

(b) (6).

7. **Disclosure:** Describe any unfavorable information that may affect your nomination.

(b) (6).

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

CONFIDENTIAL

NAME:

Helaine Ann Greenfeld

HOME ADDRESS:

(b) (6)

TELEPHONE NUMBER (both home and office):

Personal cell: (b) (6)

Work cell: (b) (6)

EMAIL ADDRESS:

(b) (6)

1. **Employment History:** State whether you have ever been discharged from employment for any reason or have ever resigned after being informed that your employer intended to discharge you.

(b) (6).

2. **Bankruptcy and Tax Information:** Information under this heading must be provided for yourself and your spouse.

- a. Have you and your spouse filed and paid all taxes (federal, state and local) as of the date of your nomination? Indicate if you filed "married filing separately."

(b) (6)

- b. Have you ever made any back tax payments? If so, indicate if you have made any back tax payments, and provide full details.

(b) (6).

- c. Has a tax lien or other collection procedure(s) ever been instituted against you or your spouse by federal, state, or local authorities? If so, provide full details.

(b) (6).

- d. Have you or your spouse ever been the subject of any audit, investigation, or inquiry for federal, state, or local taxes? If so, provide full details.

(b) (6).

- e. Have you or your spouse ever declared bankruptcy? If so, provide full details.

(b) (6).

3. Past Investigations and Complaints:

- a. State whether, to your knowledge, you or any organization of which you were or are an officer, director, or active participant at a relevant time has ever been under federal, state, or local investigation for a possible violation of any civil or criminal statute or administrative agency regulation. If so, provide full details.

(b) (6).

- b. Have you ever been the subject of a complaint to any court, administrative agency, bar association, disciplinary committee, or other professional group for a breach of ethics, unprofessional conduct or a violation of any rule of practice? If so, provide full details.

(b) (6).

- 4. Party to Civil Legal or Administrative Proceedings:** State whether you, or any business of which you are or were an officer at a relevant time, have ever been a party or otherwise involved as a party in any civil, legal or administrative proceedings. If so, describe in detail the nature of your participation in the litigation and the final disposition of the case. Include all proceedings in which you were a party in interest. If you are or were a party as part of a partnership, include only if you were involved in a personal, managerial, or supervisory capacity.

(b) (6).

- o (b) (6)

(b) (6)

(b) (6)

o (b) (6)

(b) (6)

5. **Prior Arrests:** Have you ever been arrested for, charged with, or convicted of a crime, other than a minor traffic violation, that is reflected in a record available to the public? If so, provide the relevant dates of arrest, charge and disposition, and describe the particulars of the offense.

(b) (6)

6. **Health:**

a. What is the present state of your health?

(b) (6)

b. List the date of your last physical examination.

(b) (6)

c. Have you ever been treated for or had any problem with alcoholism or any related condition associated with consumption of alcoholic beverages or any other form of drug addiction or dependence? If so, give details.

(b) (6)

7. **Disclosure:** Describe any unfavorable information that may affect your nomination.

(b) (6) [REDACTED]

From: Gaeta, Joseph (OLA)
Subject: fyi
To: Charlet, Joseph (Judiciary-Dem)
Sent: May 4, 2021 5:18 PM (UTC-04:00)

<https://freebeacon.com/biden-administration/records-contradict-doj-nominees-testimony-on-controversial-conference/>

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: RE: Quick Question re. AAPI Bills
To: Carson, Kevin (Manchin)
Sent: May 3, 2021 10:44 AM (UTC-04:00)

Hey Kevin,

I understand Senator Manchin declined a courtesy meeting with Civil Rights AAG nominee Kristen Clarke. I just wanted to check in to make sure Senator Manchin doesn't have any issues with Clarke, and if not whether there is anything you want to put on her radar as she goes through the confirmation process. Could we schedule a quick call to discuss? Thanks.

Joe

From: Carson, Kevin (Manchin) (b) (6)
Sent: Wednesday, April 14, 2021 10:11 AM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Quick Question re. AAPI Bills

[Give me 5](#)

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, April 14, 2021 10:00 AM
To: Carson, Kevin (Manchin) (b) (6)
Subject: RE: Quick Question re. AAPI Bills

Can you give me a call right now? (b) (6) ?

From: Carson, Kevin (Manchin) (b) (6)
Sent: Wednesday, April 14, 2021 9:54 AM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: Quick Question re. AAPI Bills

Joe,
I hope this email finds you well. I don't believe we have had the opportunity to meet, but I am Chief Counsel here in Sen. Manchin's office. I have a quick question re. AAPI bills. Do you have 2 minutes this AM?

Kevin

Kevin Carson
Chief Counsel
Senator Joe Manchin III (D-WV)

(b) (6)
[202.224.3954](tel:202.224.3954)

From: Rogers, Helen (Cardin)
Subject: Letter from MD and VA Senators on New, Consolidated FBI Headquarters
To: Gaeta, Joseph (OLA)
Cc: Perlstein, Andrew (Cardin); Van Horne, Bill (Cardin)
Sent: April 30, 2021 3:31 PM (UTC-04:00)
Attached: 21.04.30 Signed Letter to President Re - New, Consolidated FBI Headquarters.pdf

Good afternoon,

Please see the attached letter from the Maryland and Virginia Senators regarding a new, consolidated FBI headquarters. This letter copies FBI Director Wray and Attorney General Garland. Please confirm receipt when possible.

Best,

Helen R. Rogers
Legislative Correspondent
U.S. Senator Benjamin L. Cardin
Remote Direct: (b) (6)

April 30, 2021

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear President Biden:

We write today to request that you provide clear direction to the General Services Administration (GSA) and the Department of Justice to move forward expeditiously on the process of constructing a new consolidated headquarters for the Federal Bureau of Investigation (FBI). For more than a decade, the condition and security of the FBI's existing headquarters in the J. Edgar Hoover Building in Washington, D.C. have been serious concerns of Congress, which has provided authorizations and appropriations for a new consolidated headquarters at one of three previously identified sites. Unfortunately, the previous administration undermined this project, requiring your urgent attention to put it back on track.

Since 2011, Congress has repeatedly called for action to address the FBI's outdated and inadequate facilities at the J. Edgar Hoover Building, through the approval of GSA resolutions and the inclusion of funding in various appropriations bills. After the Senate Environment and Public Works Committee approved a GSA resolution that set forth guidelines for the site selection process in 2011, GSA issued its Phase I Request for Proposals (RFP) and announced eligible sites for the new headquarters in 2014. In 2015, GSA identified a short list of offerors to proceed to Phase II of the RFP, and the Office of Management and Budget announced that the FBI would reduce its footprint in the Washington, DC region, consolidating both the Hoover Building and multiple leased buildings into one location, and narrowed the list to three sites. In January 2016, GSA issued the Phase II RFP to these qualified offerors.

The Trump Administration's move in 2017 to cancel the project ignored the intent of Congress and scrapped years' worth of planning, organizing, and resources devoted to the project. Inquiries by members of the House of Representatives and the Senate into the White House's role in canceling the project were met with obfuscation by agency officials. In a last-ditch effort to ensure the FBI remained on Pennsylvania Avenue, the former President advocated for funding for renovating the existing FBI headquarters in a COVID-19 relief package, which Congress rejected.

We urge you to address the need for a new consolidated FBI headquarters. While we recognize that the previous administration's actions were a setback for the project, we request that GSA and FBI finalize the plan as soon as possible, focusing the renewed effort on the sites previously identified as the top candidates and making use of the completed Draft Environmental Impact Statement to the fullest extent possible. Congress has appropriated close to a billion dollars for this endeavor, between direct appropriations and transfer authorities, available until expended,

and, according to the enacted FY21 Omnibus Appropriations bill, required GSA to submit a plan to the committees of jurisdiction consistent with a typical prospectus request by March 27, 2021. As of this date, a plan has not been submitted and although GSA continues to coordinate with FBI, it is unclear when the required report will be submitted to Congress.

The FBI's current headquarters facility – the J. Edgar Hoover Building – has significantly deteriorated over the past 45 years. The building has crumbling facades, aging infrastructure, and security limitations that are severely impeding the FBI's ability to meet its critical law enforcement and national security missions.

Further delay on a new FBI headquarters creates added risks, costs, and missed opportunities. Despite the political obstacles of recent years, we hope you will consider our request and provide the direction needed for this crucial project to move forward expeditiously.

Sincerely,



Benjamin L. Cardin
United States Senator



Chris Van Hollen
United States Senator



Mark R. Warner
United States Senator



Tim Kaine
United States Senator

cc: Acting OMB Director Shalanda D. Young
FBI Director Christopher A. Wray
Attorney General Merrick B. Garland
Acting GSA Administrator Katy Kale

From: Gaeta, Joseph (OLA)
Subject: RE: Letter from PSI to Acting Director King
To: D'Adamo, Gabrielle (HSGAC)
Cc: Reavis, Brandon (HSGAC); Kilvington, John (HSGAC)
Sent: April 30, 2021 12:46 PM (UTC-04:00)

So sorry. Yes, confirming receipt here.

From: D'Adamo, Gabrielle (HSGAC) (b) (6)
Sent: Friday, April 30, 2021 12:02 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Reavis, Brandon (HSGAC) (b) (6); Kilvington, John (HSGAC)
(b) (6)
Subject: Re: Letter from PSI to Acting Director King

Hi Joseph. Wanted to make sure you received this. Please confirm receipt at your earliest convenience.

Thank you,
Gabby

On Apr 27, 2021, at 4:52 PM, D'Adamo, Gabrielle (HSGAC) (b) (6) wrote:

Good afternoon, Joseph,

Please see the attached letter from Permanent Subcommittee on Investigations Chairman Ossoff and Ranking Member Johnson to Acting Director King regarding immigration data. Please let us know if you have any questions.

Thank you,
Gabby D'Adamo

<2021-04-27 Ossoff and Johnson Letter to EOIR with Procedures.pdf>

From: Gonzalez, Patricio (Finance)
Subject: Letter from Chairman Wyden to Attorney General Garland and Commissioner Rettig
To: Gaeta, Joseph (OLA)
Sent: April 28, 2021 8:19 AM (UTC-04:00)
Attached: Letter from Senator Wyden to Attorney General and IRS Commissioner 4-28-21.pdf

Hi Joe,

Attached is a letter from Chairman Wyden to Attorney General Garland and Commissioner Rettig. Please confirm receipt and don't hesitate to let us know if you have any questions.

Best,

Patricio

Patricio Gonzalez
Senior Investigator
Senate Finance Committee, Majority Staff

RON WYDEN, OREGON, CHAIRMAN

DEBBIE STABENOW, MICHIGAN
MARIA CANTWELL, WASHINGTON
ROBERT MENENDEZ, NEW JERSEY
THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
SHERROD BROWN, OHIO
MICHAEL F. BENNET, COLORADO
ROBERT P. CASEY, JR., PENNSYLVANIA
MARK R. WARNER, VIRGINIA
SHELDON WHITEHOUSE, RHODE ISLAND
MAGGIE HASSAN, NEW HAMPSHIRE
CATHERINE CORTEZ MASTO, NEVADA
ELIZABETH WARREN, MASSACHUSETTS

MIKE CRAPO, IDAHO
CHUCK GRASSLEY, IOWA
JOHN CORNYN, TEXAS
JOHN THUNE, SOUTH DAKOTA
RICHARD BURR, NORTH CAROLINA
ROB PORTMAN, OHIO
PATRICK J. TOOMEY, PENNSYLVANIA
TIM SCOTT, SOUTH CAROLINA
BILL CASSIDY, LOUISIANA
JAMES LANKFORD, OKLAHOMA
STEVE DAINES, MONTANA
TODD YOUNG, INDIANA
BEN SASSE, NEBRASKA
JOHN BARRASSO, WYOMING

United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

JOSHUA SHEINKMAN, STAFF DIRECTOR
GREGG RICHARD, REPUBLICAN STAFF DIRECTOR

April 28, 2021

The Honorable Merrick Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Dear Attorney General Garland and Commissioner Rettig:

We write requesting information related to the policies and procedures maintained by the Department of Justice (DOJ) and Internal Revenue Service (IRS) to protect the integrity of the enforcement of our nation's tax laws. As the Chairmen of the Senate Finance Committee and Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights; we seek to ensure that tax proceedings handled by the DOJ and IRS are not influenced by conflicts of interest or improper political interference.

As you are aware, the DOJ and IRS hold significant compliance and enforcement powers with respect to taxation in the United States. Through both civil and criminal proceedings, the agencies have the power to conduct investigations into violations of tax laws and fraud as well as seek the collection of unpaid taxes owed to the federal government. Accordingly, the DOJ and IRS have long taken steps to maintain a standard of impartiality and prevent political interference from undermining public confidence in the integrity of the tax system.

For decades, to prevent even the appearance of political interference in federal law enforcement, both Democratic and Republican administrations have maintained written policies governing White House contacts with agencies and offices that have investigatory and enforcement responsibilities, including the DOJ. These policies have extended to White House contacts with any executive branch agency or office regarding investigations, enforcement actions, and regulatory decisions involving specific parties.¹ However, because several of these policies have never been codified into law and remain simply norms, it is unclear how consistently these

¹ Counsel to the President Donald F. McGahn II, *Communications Restrictions with Personnel at the Department of Justice*, Jan. 27, 2017, [<https://www.politico.com/f/?id=0000015a-dde8-d23c-a7ff-dfef4d530000>].
https://www.justice.gov/oip/foia-library/communications_with_the_white_house_and_congress_2009.pdf/download

policies have been enforced. While the Attorney General is generally exempt from prohibitions on executive branch influence on taxpayer audits and other investigations, conflict of interest laws and regulations restrict federal employees from participating in any matters involving former clients, personal or political relationships, or personal financial interests.²

In recent years, a series of high-profile federal tax disputes involving powerful and well-connected corporations have raised important questions regarding the enforcement of conflict of interest statutes and policies to prevent political meddling in criminal investigations. Of particular concern is the handling of a federal criminal investigation into the tax practices of Caterpillar Inc. (Caterpillar), a company that was represented by William P. Barr prior to his appointment as United States Attorney General.

In 2015, Caterpillar disclosed that a federal grand jury in Illinois had begun investigating an alleged tax scheme involving the company's Swiss subsidiary.³ This investigation led to raids by federal agents on three different Caterpillar offices in March 2017.⁴ Days after the raids, Caterpillar announced it had retained Mr. Barr "to take a fresh look at Caterpillar's disputes with the government, get all the facts, and then help us bring these matters to proper resolution based on the merits."⁵ Since January 2018, the IRS has sought to recover \$2.3 billion in unpaid taxes and penalties from Caterpillar in connection with the alleged tax practices.⁶ Alarming, just six days after Mr. Barr was nominated to serve as Attorney General, an inspector general agent at the U.S. Federal Deposit Insurance Corporation was reportedly instructed by the DOJ tax division and the Office of the Deputy Attorney General "that no further action was to be taken on the [Caterpillar] matter until further notice."⁷ The investigation has reportedly been "stalled"

² 26 U.S.C. § 7217; U.S. Department of Justice, *Government Ethics Outline*, July 5, 2017, [<https://www.justice.gov/jmd/government-ethics-outline>].

³ Caterpillar Inc., *Annual Report* (Form 10-K), at 22, (Feb. 15, 2015), ("On January 8, 2015, the Company received a grand jury subpoena from the U.S. District Court for the Central District of Illinois. The subpoena requests documents and information from the Company relating to, among other things, financial information concerning U.S. and non-U.S. subsidiaries (including undistributed profits of non-U.S. subsidiaries and the movement of cash among U.S. and non-U.S. subsidiaries)."), [https://www.sec.gov/Archives/edgar/data/18230/0000018230150000/cat_10-kx12312014.htm].

⁴ *Federal Agents Search Caterpillar Locations*, Wall Street Journal, Mar. 3, 2017, [<https://www.wsj.com/articled/federal-agents-search-caterpillar-locations-1488475293>].

⁵ *New Caterpillar CEO Asks Former U.S. Attorney General to Assess and Help Address Ongoing Government Investigation*, Caterpillar/CisionPRNewswire, Mar. 16, 2017, [<https://www.prnewswire.co.uk/news-releases/new-caterpillar-ceo-asks-former-us-attorney-general-to-assess-and-help-address-ongoing-government-investigation-616370284.html>].

⁶ Caterpillar, Inc., *Annual Report* (Form 10-K), at 102, (Feb. 15, 2018), ("On January 31, 2018, we received a Revenue Agent's report from the IRS indicating [...] proposed increases to tax and penalties for these years of approximately \$2.3 billion."), [https://sec.gov/Archives/edgar/data/18230/000001823018000042/cat_10-kx12312017].

⁷ *Exclusive: U.S. Investigators were told to take 'no further action' on Caterpillar, ex-client of Barr*, REUTERS, Nov. 18, 2020, 9 ("I was instructed on December 13, 2018," wrote the agent, Jason LeBeau, "that the Tax Division and the Office of the Deputy Attorney General jointly came to the decision that no further action was to be taken on the matter until further notice."), [<https://www.reuters.com/article/us-usa-barr-caterpillar-exclusive/exclusive-u-s-investigators-were-told-take-no-further-action-on-caterpillar-ex-client-of-barr-idUSKBN27Y2PO>].

since this order was issued and many questions remain unanswered about the decision and what ethics guidance was provided to Mr. Barr regarding the matter.⁸

Additionally, we seek to understand how the agencies addressed the potential for political interference with regard to a multi-billion dollar tax enforcement action involving Renaissance Technologies LLC (Renaissance), a prominent hedge fund whose owners are among the nation's biggest political donors. According to public reports, since 2017 the IRS has reportedly sought to collect approximately \$7 billion in back taxes from Renaissance for its use of basket options contracts, a type of transaction the IRS has long considered an abusive tax avoidance technique.⁹ Renaissance has contested the tax bill and is reportedly exploring the possibility of a settlement to reduce its tax liability.¹⁰ These efforts by the IRS follow the findings of a bipartisan report from the Senate Permanent Subcommittee on Investigations describing how Renaissance used these transactions over ten years to avoid taxes on \$34 billion in profits.¹¹

Among the individuals with a direct financial interest in the matter is former Renaissance co-chief executive officer Robert Mercer. In 2016, Mr. Mercer gave \$22.5 million in disclosed donations to Republican candidates and to political-action committees, including \$15.5 million to a pro-Trump Super PAC called Make America Number 1.¹² The Make America Number 1 Super PAC also employed Stephen Bannon and Kellyanne Conway, who both went on to take senior positions in President Trump's White House.¹³

The integrity of the tax system depends on all civil and criminal proceedings remaining impartial, no matter the influence of the parties involved. Accordingly, in order to better understand how the DOJ and IRS have enforced policies and procedures intended to prevent political interference and the appearance of conflicts of interest, please provide the following information:

1. Please provide all documents and communications since January 20, 2017 identifying any contact between any employee of the White House or any unofficial adviser to the President with any employees of the DOJ and IRS related to ongoing investigations, enforcement actions, and regulatory decisions related to tax matters involving specific parties, including, but not limited to, Caterpillar and Renaissance.

⁸ *Id.*

⁹ *Billionaire Robert Mercer did Trump a huge favor. Will he get a payoff?*, MCCLATCHY, Nov. 6, 2017, [<https://www.mcclatchydc.com/news/politics-government/article147454324.html>]

¹⁰ *Renaissance Explores Settlement as IRS Seeks Billions in Taxes*, BLOOMBERG, Apr. 10, 2019, [<https://www.bloomberg.com/news/articles/2019-04-10/renaissance-explores-settlement-as-irs-seeks-billions-in-taxes>]

¹¹ *ABUSE OF STRUCTURED FINANCIAL PRODUCTS: Misusing Basket Options to Avoid Taxes and Leverage Limits*, Included in: U.S. Senate. Permanent Subcommittee on Investigations, Homeland Security and Governmental Affairs Committee, Testimony *ABUSE OF STRUCTURED FINANCIAL PRODUCTS: MISUSING BASKET OPTIONS TO AVOID TAXES AND LEVERAGE LIMITS* (S. Hrg. 113-422), [[https://www.hsgac.senate.gov/imo/media/doc/REPORT- Abuse%20of%20Structured%20Financial%20Products%20\(Basket%20Options\)%20\(7-22-14,%20updated%209-30-14\).pdf](https://www.hsgac.senate.gov/imo/media/doc/REPORT-Abuse%20of%20Structured%20Financial%20Products%20(Basket%20Options)%20(7-22-14,%20updated%209-30-14).pdf)].

¹² *The Reclusive Hedge-Fund Tycoon Behind the Trump Presidency*, NEW YORKER, Mar. 17, 2017, [<https://www.newyorker.com/magazine/2017/03/27/the-reclusive-hedge-fund-tycoon-behind-the-trump-presidency>]; *The Mercers and Stephen Bannon: How a populist power base was funded and built*, WASHINGTON POST, Mar. 17, 2017, [<https://www.washingtonpost.com/graphics/politics/mercerc-bannon/>]

¹³ *Id.*

2. Did the President, Vice President, the Counsel to the President or designees of the Counsel to the President ever communicate with DOJ officials after January 20, 2017 regarding any tax matters involving specific parties, including, but not limited to, Caterpillar and Renaissance? If so, were these communications exclusively with the Attorney General, Deputy Attorney General or the Associate Attorney General, as authorized by policies restricting communications between the White House and DOJ?¹⁴
3. Did any White House personnel outside of the President, Vice President, the Counsel to the President or designees of the Counsel to the President ever communicate with DOJ officials after January 20, 2017 regarding any tax matters involving specific parties, including, but not limited to, Caterpillar and Renaissance?
4. Did Attorney General Barr ever communicate with DOJ or White House officials regarding criminal or tax investigations into Caterpillar? If so, please describe the nature of Mr. Barr's participation in these investigations.
5. Did the U.S. Attorney's Office for the Central District of Illinois or the IRS issue any written recommendations to the DOJ's tax division regarding prosecution of Caterpillar for tax violations? If so, did the tax division complete its review of recommendation within thirty days of receiving the transmittal letter, reports, and exhibits?
 - a. Please also describe whether the tax division asked for any extensions on completing its review of any prosecution recommendations by the U.S. Attorney's office or the IRS related to Caterpillar.
6. Has DOJ's tax division authorized any declinations related to criminal tax matters arising out of grand jury investigations into Caterpillar? If so, has the U.S. Attorney's Office for the Central District of Illinois submitted a written request for reconsideration explaining why prosecution is warranted?
7. Please describe steps taken by the IRS to prevent discussions with Attorney General Barr related to ongoing tax enforcement actions involving his former clients.
8. Please provide any guidance after January 20, 2017 provided to DOJ and IRS employees, including the Attorney General and the IRS Commissioner, related to the handling of contacts from the President, Vice President or any other White House employees regarding ongoing tax investigations or enforcement matters involving specific parties.

¹⁴ Attorney General Eric Holder, *Communications with the White House and Congress*, May 11, 2009, [https://www.justice.gov/oip/foia-library/communications_with_the_white_house_and_congress_2009.pdf/download]; Counsel to the President Donald F. McGahn II, *Communications Restrictions with Personnel at the Department of Justice*, Jan. 27, 2017, [<https://www.politico.com/f/?id=0000015a-dde8-d23c-a7ff-dfef4d530000>].

I ask that you provide the requested information as soon as possible but no later than May 18, 2021. If you have any questions you may contact Chairman Wyden's Senate Finance oversight staff at 202-224-7800. Thank you for your prompt attention to this matter.

Sincerely,



Ron Wyden
Chairman
Committee on Finance



Sheldon Whitehouse
Chairman
Subcommittee on Federal Courts, Oversight,
Agency Action, and Federal Rights

From: Brest, Phillip (Judiciary-Dem)
Subject: FW: Kim and Clarke QFRs
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Sent: April 27, 2021 4:33 PM (UTC-04:00)
Attached: 2021.04.21 -- QFRs for Kim (final).pdf, 2021.04.21 -- QFRs for Clarke (final).pdf

From: Brest, Phillip (Judiciary-Dem)
Sent: Tuesday, April 27, 2021 4:33 PM
To: Davis, Andrew (Judiciary-Rep) (b) (6)
Cc: Fragoso, Michael (Judiciary-Rep) (b) (6); Palmer, Bryan (Judiciary)
(b) (6)
Subject: FW: Kim and Clarke QFRs

Hey Andrew –

You missed the QFR deadline by nearly two hours last week. These are not timely submitted QFRs. Moreover, we have an established process for submitting QFRs. They are due to Bryan by the deadline set by the Chair. Bryan then transmits them to the Justice Department, copying me and Mike. DOJ will not respond to QFRs that are sent on a freelanced basis outside of this formalized mechanism, and certainly not when they were submitted late.

Thanks.

Phil

From: Davis, Andrew (Judiciary-Rep) (b) (6)
Sent: Tuesday, April 27, 2021 4:28 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: Kim and Clarke QFRs

Helaine:

Attached are QFRs for nominees Kristin Clarke and Todd Kim from last Wednesday. If you have any questions or would like to discuss, please let me know.

Regards,

Andrew Davis
Chief Counsel, U.S. Senator Ted Cruz (R-Texas)
U.S. Senate Committee on the Judiciary
(b) (6)

From: Tobin, Ryder (Finance)
Subject: Letter from Chairman Wyden to Attorney General Garland
To: Gaeta, Joseph (OLA)
Cc: Gonzalez, Patricio (Finance); Goshorn, Daniel (Finance)
Sent: April 27, 2021 7:34 AM (UTC-04:00)
Attached: 4.27.21 Letter from Chairman Wyden to DOJ re Credit Suisse.pdf

Dear Deputy Assistant Attorney General Gaeta,

A letter from Chairman Wyden to Attorney General Garland is attached.

Can you please confirm receipt of the PDF letter?

Thank you,
Ryder

Ryder Tobin
Investigative Counsel
Senate Finance Committee, Majority Staff
(202) 224-4515 (main)

RON WYDEN, OREGON, CHAIRMAN
DEBBIE STABENOW, MICHIGAN
MARIA CANTWELL, WASHINGTON
ROBERT MENENDEZ, NEW JERSEY
THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
SHERROD BROWN, OHIO
MICHAEL F. BENNET, COLORADO
ROBERT F. CASEY, JR., PENNSYLVANIA
MARK R. WARNER, VIRGINIA
SHELDON WHITEHOUSE, RHODE ISLAND
MAGGIE HASSAN, NEW HAMPSHIRE
CATHERINE CORTEZ MASTO, NEVADA
ELIZABETH WARREN, MASSACHUSETTS
MIKE CRAPO, IDAHO
CHUCK GRASSLEY, IOWA
JOHN CORNYN, TEXAS
JOHN THUNE, SOUTH DAKOTA
RICHARD BURR, NORTH CAROLINA
ROB PORTMAN, OHIO
PATRICK J. TOOMEY, PENNSYLVANIA
TIM SCOTT, SOUTH CAROLINA
BILL CASSIDY, LOUISIANA
JAMES LANKFORD, OKLAHOMA
STEVE DAINES, MONTANA
TODD YOUNG, INDIANA
BEN SASSE, NEBRASKA
JOHN BARRASSO, WYOMING

JOSHUA SHEINKMAN, STAFF DIRECTOR
GREGG RICHARD, REPUBLICAN STAFF DIRECTOR

United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

April 27, 2021

The Honorable Merrick Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530

Dear Attorney General Garland:

I write to request information regarding a plea agreement Credit Suisse Group AG (Credit Suisse) signed with the U.S. Department of Justice (DOJ) following its participation in a conspiracy to assist thousands of wealthy U.S. citizens in hiding assets in offshore accounts in order to evade U.S. taxes.¹ I also seek information related to statements regarding this matter made by Credit Suisse executives in sworn testimony before members of the United States Senate.²

In May of 2014 Credit Suisse entered into a plea agreement with the DOJ. As part of the plea agreement, Credit Suisse admitted that for decades prior to and through 2009 it “operated an illegal cross-border banking business that knowingly and willfully aided and assisted thousands of U.S. clients in opening and maintaining undeclared accounts and concealing their offshore assets and income” from the Internal Revenue Service (IRS).³ As part of this plea agreement, Credit Suisse agreed to pay a fine of approximately \$1.3 billion, the lowest end of the Guideline Fine Range, in exchange for its full cooperation with the DOJ and a commitment to “promptly disclose all evidence and information described in Sections II.D.1. and II.D.2 of the *Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks* and in the format requested by the United States.”⁴

¹ *Plea Agreement, United States v. Credit Suisse AG*, No. 1:14cr188 (E.D. Va. Sep. 29, 2014); *Statement of Facts*, 2, *United States v. Credit Suisse AG*, No. 1:14cr188 (E.D. Va. Sep. 29, 2014).

² S. Hrg. 113-397, *Offshore Tax Evasion: The Effort to Collect Unpaid Taxes on Billions in Hidden Offshore Accounts*, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, Feb. 26, 2014.

³ *Statement of Facts*, 2-3, *United States v. Credit Suisse AG*, No. 1:14cr188 (E.D. Va. Sep. 29, 2014).

⁴ *Plea Agreement*, 3, 5, *United States v. Credit Suisse AG*, No. 1:14cr188 (E.D. Va. Sep. 29, 2014); *Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks*, Department of Justice, Aug. 29, 2013, [<https://www.justice.gov/tax/file/631356/download>].

Credit Suisse further agreed that it would “close any and all accounts of recalcitrant account holders [. . . , would] implement procedures to prevent its employees from assisting recalcitrant account holders [from engaging] in acts of further concealment in connection with closing any account or transferring any funds; and [would] not open any U.S. Related Accounts [. . .] except on conditions that ensure that the account [would] be declared to the United States and [would] be subject to disclosure by Credit Suisse AG.”⁵ The plea agreement is expressly contingent on Credit Suisse’s performance of all of its material obligations as set forth in the plea agreement, and specifies that if Credit Suisse should fail to fully perform its obligations, the “agreement not to further prosecute shall be null and void.”⁶

Public reports and federal court documents raise important questions as to whether Credit Suisse has fully complied with its plea agreement, including the bank’s failure to disclose over \$200 million in undeclared assets it held in offshore accounts for U.S. client Dan Horsky. In 2016, Mr. Horsky pled guilty to conspiring to defraud the United States and to submitting false documents to the IRS, and, in 2017, he was sentenced to seven months in prison.⁷ Mr. Horsky’s sentence was based, in part, on a filing by the DOJ that detailed how employees of Credit Suisse (identified in the filing as “International Bank”) helped Mr. Horsky go “deep[] into the shadows to conceal his ownership of his foreign financial accounts from U.S. authorities.”⁸

Public reports also suggest that a whistleblower informed the DOJ of Mr. Horsky’s undisclosed assets in July 2014 and also alleged that Credit Suisse had continued to conceal assets held by Mr. Horsky and other U.S. account holders after May 2014.⁹ In addition, the case against Mr. Horsky reportedly led to a separate investigation of Credit Suisse by the DOJ to assess whether Credit Suisse’s failure to disclose Mr. Horsky’s accounts was willful or could be attributed to a lapse in controls. It appears Mr. Horsky cooperated with this investigation.¹⁰

In light of these reports, I seek to verify the accuracy of statements made by Credit Suisse executives in sworn testimony before the Permanent Subcommittee on Investigations of the U.S. Senate Committee on Homeland Security and Governmental Affairs. In February 2014, Credit Suisse CEO Brady Dougan testified that “we feel the combination of the steps we have taken, with the waiver, with the full implementation of the projects that we have laid out, with FATCA,

⁵ *Plea Agreement*, 6, *United States v. Credit Suisse AG*, No. 1:14cr188 (E.D. Va. Sep. 29, 2014).

⁶ *Id.* at 9.

⁷ *Former University Business Professor sentenced to Prison for Hiding over \$220 Million in Offshore Banks*, Department of Justice, Feb. 10 2017, [<https://www.justice.gov/opa/pr/former-university-business-professor-sentenced-prison-hiding-over-220-million-offshore-banks>].

⁸ *Position of the United States With Respect to Sentencing*, 7, *United States v. Horsky*, No. 1:16cr224 (E.D. Va. Feb 10, 2017).

⁹ *Whistle-Blower Says Credit Suisse Helped Clients Skip Taxes After Promising to Stop*, NEW YORK TIMES, Mar. 13, 2021, [<https://www.nytimes.com/2021/03/13/business/whistle-blower-credit-suisse-taxes.html>] (“In the interview, Mr. Neiman, the whistle-blower’s lawyer, said that in July 2014, after the plea deal was signed and as Credit Suisse awaited its final sentencing, he told officials at the tax division of the Justice Department and federal prosecutors who had worked on the case that his client had information that the bank had continued to cloak money held by some U.S. account holders. He gave them one name in particular — Dan Horsky, the retired business professor, who lived in Rochester, N.Y.”).

¹⁰ *Credit Suisse Probe Opens Old Wounds*, WALL STREET JOURNAL, Feb. 23, 2017, [<https://www.wsj.com/articles/credit-suisse-under-investigation-for-aiding-tax-evasion-at-israeli-unit-1487807226>].

will allow us to be 100 percent compliant with those requirements around the U.S. taxpayer.”¹¹ Credit Suisse General Counsel Romeo Cerutti similarly asserted that “we have put all the FATCA requirements in place, so we are really looking at whether someone is a U.S. person from a tax perspective.”¹² Mr. Dougan reiterated, “we will be completely compliant going forward with FATCA.”¹³ The Foreign Account Tax Compliance Act¹⁴ (FATCA) generally requires foreign financial institutions to determine whether accounts they maintain belong to U.S. persons and annually report to the IRS detailed information about accounts held by such U.S. persons, subject to certain withholding requirements and penalties for noncompliance.¹⁵

In order to better understand Credit Suisse’s compliance with its plea agreement and the circumstances surrounding the disclosure of Mr. Horsky’s hidden offshore assets to the U.S. government, I request that the DOJ provide Committee staff with a briefing about these matters no later than May 11, 2021. If you have any questions you may contact my Senate Finance Committee oversight staff at 202-224-4515. Thank you for your prompt attention to this matter.

Sincerely,



Ron Wyden
Chairman
Committee on Finance

¹¹ S. Hrg. 113–397, *Offshore Tax Evasion: The Effort to Collect Unpaid Taxes on Billions in Hidden Offshore Accounts*, 35, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, Feb. 26, 2014.

¹² *Id.* at 26.

¹³ *Id.* at 45–46.

¹⁴ Pub. L. No. 111-147, 124 Stat. 97-117.

¹⁵ I.R.C. §1471.

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Kim Responses to SJC QFRs
To: Prasanna, Sandeep A. (OLA); Fragoso, Michael (Judiciary-Rep); Palmer, Bryan (Judiciary)
Cc: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Sent: April 26, 2021 5:08 PM (UTC-04:00)

Received, thank you

From: Prasanna, Sandeep A. (OLA) (b) (6)
Sent: Monday, April 26, 2021 5:06 PM
To: Fragoso, Michael (Judiciary-Rep) (b) (6); Brest, Phillip (Judiciary-Dem) (b) (6); Palmer, Bryan (Judiciary) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: Kim Responses to SJC QFRs

Good evening,

Please find attached ENRD AAG nominee Todd Kim's responses to questions for the record. Please let me know if you have any questions or concerns.

Thanks,
Sandeep

Sandeep A. Prasanna (he/him/his)
Attorney Advisor
Office of Legislative Affairs
Department of Justice
Cell: (b) (6)
(b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Kristen Clarke completed questions for the record
To: Payton, Rayshon (OLA); Palmer, Bryan (Judiciary); Fragoso, Michael (Judiciary-Rep)
Cc: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Sent: April 26, 2021 5:08 PM (UTC-04:00)

Received, thank you

From: Payton, Rayshon (OLA) (b) (6)
Sent: Monday, April 26, 2021 4:59 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Palmer, Bryan (Judiciary)
(b) (6); Fragoso, Michael (Judiciary-Rep) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: Kristen Clarke completed questions for the record

Hello-

Please find attached nominee Kristen Clarkes completed questions for the record.

Rayshon Payton
Attorney Advisor
Office of Legislative Affairs
Department of Justice
C: (b) (6)

From: Gaeta, Joseph (OLA)
Subject: RE: 1/23 Durbin Letter -- Custodians
To: Zdeb, Sara (Judiciary-Dem); Antell, Kira M. (OLA)
Cc: Charlet, Joseph (Judiciary-Dem)
Sent: April 23, 2021 2:15 PM (UTC-04:00)

I guess confirming to myself in my head was not good enough. 3:00 works for me.

From: Zdeb, Sara (Judiciary-Dem) (b) (6)
Sent: Friday, April 23, 2021 2:10 PM
To: Gaeta, Joseph (OLA) (b) (6); Antell, Kira M. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: 1/23 Durbin Letter -- Custodians

Hi again – circling back to see if we can confirm a time for Monday. Joe G and Kira, what works on your end?

From: Zdeb, Sara (Judiciary-Dem)
Sent: Wednesday, April 21, 2021 1:11 PM
To: 'Gaeta, Joseph (OLA)' (b) (6); Antell, Kira M. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: 1/23 Durbin Letter -- Custodians

Thanks. We won't force you to have a discussion you're not prepared to have and can certainly move this to Monday. What time that day works best on your end? Joe and I are free before 2:00 and from 3:00 on.

At the risk of shooting the messenger, I should also convey that there is an increasing level of frustration over here at the amount of time it's taking to get answers to basic questions about the status of DOJ's response to the Chair's now's three-months old request. I'm not sure why consultations with ODAG are needed for OLA to tell us what custodians were encompassed within DOJ's search, where DOJ's search for additional responsive materials stands, and what DOJ's basis is for continuing to withhold the Clark letter and associated documents – the latter of which is a question I first asked you on March 10, more than a month ago. Although delaying our call until Monday is fine by us if it results in a more productive discussion, I want to make sure we actually get answers to our questions. To that end, here's a list of topics we'd like you to address when we talk:

Custodians

- What universe of custodians did DOJ's search encompass and for what time period?
- In addition to the custodians listed below, was Marc Raimondi among DOJ's custodians? Anyone else?

Status/Completeness of DOJ's Response

- What is the status of DOJ's response to our first request, which asked for materials related to a reported December 15 meeting between then-DAG Rosen and Trump – have you searched for responsive materials and identified nothing, is your search still ongoing, or have you identified responsive materials that you're withholding based on some privilege assertion?
- What is the status of DOJ's response to our second request, which asked for materials related to Trump's complaints to DOJ concerning USA Pak – does DOJ view the materials in the last production as a complete response to this request, is your search still ongoing, and/or have you identified additional responsive materials that you're withholding?
- What is the status of DOJ's response to the remaining two questions – is your search still ongoing and/or have you identified additional responsive materials that you're withholding?
- What is the status of DOJ's collection and review of text messages?
- What is the status of DOJ's collection and review of hard-copy documents, such as notebooks and the like?

Basis for Withholding Documents

- What is the basis for DOJ's continued withholding of the Clark letter and associated emails? If the answer is the

deliberative process privilege, is it DOJ's position that the Clark letter does not reflect government misconduct? And how does DOJ square a decision to withhold these documents while producing other documents that are arguably deliberative (e.g., SJC-Pre-CertificationEvents-04162021-000393-406)? With DOJ's production of voluminous amounts of deliberative and highly sensitive materials to our committee last year (see my March 23 email for examples)?

- What is the basis for DOJ's (b)(5) assertions in the calendars you produced?
- What is the basis for DOJ's additional, unlabeled redactions in the calendars (large black boxes on, e.g., SJC-Pre-CertificationEvents-03312021-000202, 230-31, 243-44, 253-54, 261, 269)

We may have additional, more specific questions about some of the items above, but this should give you a reasonably comprehensive sense of the questions we'd like you to address when we talk.

Thanks,
Sara

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, April 21, 2021 11:55 AM
To: Zdeb, Sara (Judiciary-Dem) (b) (6); Antell, Kira M. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: 1/23 Durbin Letter -- Custodians

Sara/Joe,

I hate to do this but we need to delay this a few days. We need to make sure everyone here is on the same page before we discuss the topics we listed in our last call, and with the DAG's arrival that is taking a little longer than I had hoped. Could we move this to Monday or (as Joe will appreciate given a certain QFR deadline) Tuesday?

From: Zdeb, Sara (Judiciary-Dem) (b) (6)
Sent: Tuesday, April 20, 2021 8:59 AM
To: Gaeta, Joseph (OLA) (b) (6); Antell, Kira M. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: 1/23 Durbin Letter -- Custodians

That works for us – thanks.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, April 19, 2021 10:00 PM
To: Zdeb, Sara (Judiciary-Dem) (b) (6); Antell, Kira M. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: 1/23 Durbin Letter -- Custodians

Could we aim for 3:30 on Wednesday? I think we should have our ducks in a row by then.

From: Zdeb, Sara (Judiciary-Dem) (b) (6)
Sent: Monday, April 19, 2021 5:51 PM
To: Gaeta, Joseph (OLA) (b) (6); Antell, Kira M. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: 1/23 Durbin Letter -- Custodians

Hi Joe and Kira – Now that we've had a few days with the most recent production, we wanted to circle back and schedule the follow-up conversation we've discussed. We'd like to connect as early this week as possible. Are there

times tomorrow or Wednesday that work for you?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, April 16, 2021 9:28 AM
To: Zdeb, Sara (Judiciary-Dem) (b) (6); Antell, Kira M. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: 1/23 Durbin Letter -- Custodians

Thanks for this.

You should expect a third production today. Then, consistent with our last conversation, we should have a conversation next week that frames outstanding issues. As part of that, we'll be able to address the scope of search question, informed by this list.

Joe

From: Zdeb, Sara (Judiciary-Dem) (b) (6)
Sent: Wednesday, April 14, 2021 10:40 AM
To: Gaeta, Joseph (OLA) (b) (6); Antell, Kira M. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: 1/23 Durbin Letter -- Custodians

Hi Joe and Kira:

As discussed, I'm following up on our recent call with a list of individuals who – based on public reporting and/or the documents DOJ has produced or otherwise made available to date – had at least some level of involvement in the events at issue in Chair Durbin's January 23, 2021 letter. Although we may have additional names following your next production, we'd appreciate it if you could confirm in the meantime that your search for responsive materials included all of the following custodians:

- Jeffrey Rosen
- Richard Donoghue
- Jeffrey Clark (CIV and ENRD accounts)
- Patrick Hovakimian
- Steve Engel
- Jeffrey Wall
- Claire Murray
- Makan Delrahim
- John Demers
- David Burns (both NSD and CRM accounts)
- Eric Dreiband
- Byung J. Pak
- Kevin Klukowski
- Douglas Smith
- Dustin Carmack
- Nathaniel Gamble
- Marchelle Moore
- Dyone Mitchell
- Maya Suero

Based on the materials you've produced to date we assume the answer is "yes" for at least some of these folks, but if you could confirm that your search encompassed all of them we'd appreciate it.

Thanks,
Sara

Sara Zdeb
Chief Counsel for Oversight
U.S. Senate Committee on the Judiciary
Chair Richard J. Durbin

(b) (6) (Direct)

(b) (6) (Mobile)

(b) (6)

From: Hekhuis, Jeremy (Brown)
Subject: Pattern and Practice
To: Gaeta, Joseph (OLA)
Cc: Sarubbi, Vincent (Brown); Benzing, Sarah (Brown)
Sent: April 23, 2021 12:35 PM (UTC-04:00)

Joe,

We hope that this email finds you well.

As you know, over the years DOJ has conducted several "Pattern and Practice" investigations into Ohio police departments.

Presently, there is considerable community concern about the Columbus Police Department. Events over the past several years have raised concerns about its responsiveness to the people they serve. These concerns are long-standing and not based upon any one instance however tragic.

Presently, the Southern District of Ohio has an acting U.S. Attorney. Once the White House's eventual nominee is confirmed, it would be good for Sen. Brown's staff to discuss how to most appropriately engage with the U.S. Attorney and Main Justice about these community concerns.

Thanks for all you do to support the administration of Justice.

Yours,
Team Brown

From: Zdeb, Sara (Judiciary-Dem)
Subject: Letter to AG Garland from Chair Durbin
To: Gaeta, Joseph (OLA)
Cc: Solano, Jack (Judiciary-Dem); Flynn-Brown, Josh (Judiciary-Rep)
Sent: April 20, 2021 12:24 PM (UTC-04:00)
Attached: 2021-04-20 Letter to DOJ re Career Conversions.pdf

Hi Joe:

Please see attached for correspondence from Chair Durbin to Attorney General Garland. If you could confirm receipt I'd appreciate it.

Thanks,
Sara

Sara Zdeb
Chief Counsel for Oversight
U.S. Senate Committee on the Judiciary
Chair Richard J. Durbin

(b) (6) (Direct)
(b) (6) (Mobile)
(b) (6)

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
ALEX PADILLA, CALIFORNIA
JON OSSOFF, GEORGIA

CHARLES E. GRASSLEY, IOWA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JOSHUA D. HAWLEY, MISSOURI
TOM COTTON, ARKANSAS
JOHN KENNEDY, LOUISIANA
THOM TILLIS, NORTH CAROLINA
MARSHA BLACKBURN, TENNESSEE

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 20, 2021

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland:

I write to request information on Trump Administration political appointees who have converted to civil service positions at the Department of Justice (DOJ) and its components. In particular, I am seeking information about political appointees for whom conversions to civil service positions at the Executive Office for Immigration Review (EOIR) were requested or completed.

While it is not uncommon for certain political appointees to transition to career civil service positions during the course of a presidential administration, recent reporting indicates that the number of persons who sought this type of conversion during the final year of the Trump Administration was unusually high.¹ While I am aware that such conversions have occurred at multiple DOJ components, I took particular note of multiple completed conversions at EOIR. Any such conversions to civil service positions at EOIR deserve substantial scrutiny given the Trump Administration's pernicious attempts to implement and enforce an ideological agenda by politicizing the immigration court system.

As you are aware, problematic conversions can undermine the nonpartisan nature of the federal government's career workforce, particularly when individuals convert to high-level civil service positions from political postings.² In addition to raising the specter of a politicized career workforce, such situations also call into question the fairness of the civil service hiring process. The seriousness of this concern is reflected by internal guidance at the Office of Personnel

¹ Adam Edelman, *High number of Trump political appointees sought permanent jobs in final year*, NBC NEWS (Apr. 10, 2021), <https://www.nbcnews.com/politics/donald-trump/high-number-trump-political-appointees-sought-permanent-jobs-final-year-n1262234>.

² *The Burrowing In' of Political Appointees*, AMERICAN OVERSIGHT (Updated Jan. 20, 2021), <https://www.americanoversight.org/investigation/the-burrowing-in-of-political-appointees>.

Management (OPM), which notes that “political appointees . . . must not be given preference or special advantages” when being considered for civil service positions.³

Both nonpartisanship and a fair hiring process are foundational elements of our federal career workforce and we must ensure that they are protected. Several of my colleagues and I noted these concerns in a December 8, 2020 letter to former Attorney General William P. Barr requesting information on recent career conversions. DOJ did not respond. Given the crucial importance of ensuring the reliability of our federal workforce, I ask that you provide the following information no later than May 10, 2021:

1. A list of all individuals who held positions as political appointees from January 20, 2017 through January 20, 2021 and are now employed in permanent competitive positions, non-political excepted service positions, or career Senior Executive Service (SES) positions at the DOJ and its components. For each individual, please include:
 - a. the individual’s name;
 - b. the title of the position(s) to which the individual was initially appointed;
 - c. the start and end dates of such appointment(s);
 - d. the title of the individual’s current position;
 - e. the start date of the individual’s current position; and
 - f. a copy of the written OPM authorization of the individual’s appointment to a permanent position.

2. A list of all individuals who held positions as political appointees from January 20, 2017 through January 20, 2021 for whom the DOJ and its components sought written authorization from OPM for the appointees’ conversion to permanent competitive positions, non-political excepted service positions, or career SES positions at EOIR. For each individual, please include:
 - a. the individual’s name;
 - b. the title of the position(s) to which the individual was initially appointed;
 - c. the start, and end dates if applicable, of such appointment(s);
 - d. the title of the permanent position sought; and
 - e. a copy of the Department’s request to OPM for written authorization of the individual’s appointment to a permanent position.

I appreciate your prompt attention to this important request.

³ McGettigan Memo, *Political Appointees and Career Civil Service Positions*, U.S. OFFICE OF PERSONNEL MANAGEMENT (Feb. 23, 2018).

Sincerely,



RICHARD J. DURBIN
Chair

cc: The Honorable Charles E. Grassley
Ranking Member

The Honorable Kathleen McGettigan
Acting Director, U.S. Office of Personnel Management

From: Shirley, Raven (Sasse)
Subject: Re: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke
To: Norgren-Markley, Danielle (OLA)
Cc: Gaeta, Joseph (OLA); Payton, Rayshon (OLA)
Sent: April 19, 2021 4:31 PM (UTC-04:00)

Thank you! I anticipate Will Payne our Leg Counsel to attend.

From: "Norgren-Markley, Danielle (OLA)" (b) (6)
Date: Monday, April 19, 2021 at 4:22 PM
To: "Shirley, Raven (Sasse)" (b) (6)
Cc: "Gaeta, Joseph (OLA)" (b) (6), "Payton, Rayshon (OLA)"
(b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Duplicative Material, Document ID: 0.7.854.66540, Bates Number 22cv2850-21-01790-000230

From: Gaeta, Joseph (OLA)
Subject: RE: Schroeder nomination
To: Brest, Phillip (Judiciary-Dem)
Sent: April 19, 2021 3:04 PM (UTC-04:00)

Not the answer I'd hoped for but an answer. Let me see how much there is and how hard it will be to consolidate. Thanks.

From: Brest, Phillip (Judiciary-Dem) (b) (6)

Sent: Monday, April 19, 2021 2:58 PM

To: Gaeta, Joseph (OLA) (b) (6)

Subject: RE: Schroeder nomination

Hey Joe,

Unfortunately the hard copy production from 2010 does not help with current production requirements. It may help you to expedite completion of a new SJQ, but we need a complete SJQ that incorporates his 2010 submission and we need a complete set of attachments as well.

It's easier from a review perspective if you can consolidate everything, rather than producing hard copies of prior materials and PDFs of new materials. But if this adds significant delays to getting materials our way, then we will be able to handle two sets of materials, as long as you produce everything that is responsive to the Questionnaire.

Let me know if you want to chat further by phone.

Phil

From: Gaeta, Joseph (OLA) (b) (6)

Sent: Monday, April 19, 2021 2:16 PM

To: Brest, Phillip (Judiciary-Dem) (b) (6)

Subject: Schroeder nomination

Hi Phil,

This one is mine. You may know he was Senate confirmed in 2010 and he has retained a hard copy of all the materials he submitted to SJC at that time. Does this help us with our current production requirements? I'd love for you to tell me we only have to provide updates subsequent to his 2010 submission. If not, we may be producing hard copies of the older materials and pdfs of the new.

Thoughts?

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: RE: Third Production -- 1/23 Durbin letter
To: Zdeb, Sara (Judiciary-Dem); Gaeta, Joseph (OLA)
Cc: Charlet, Joseph (Judiciary-Dem); Antell, Kira M. (OLA)
Sent: April 16, 2021 5:27 PM (UTC-04:00)

Confirming receipt. Thanks.

From: Zdeb, Sara (Judiciary-Dem)
Sent: Friday, April 16, 2021 5:16 PM
To: Gaeta, Joseph (OLA) (b) (6); Flynn-Brown, Josh (Judiciary-Rep) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Antell, Kira M. (OLA)
(b) (6)
Subject: RE: Third Production -- 1/23 Durbin letter

Received – thanks.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, April 16, 2021 4:58 PM
To: Zdeb, Sara (Judiciary-Dem) (b) (6); Flynn-Brown, Josh (Judiciary-Rep)
(b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Antell, Kira M. (OLA)
(b) (6)
Subject: Third Production -- 1/23 Durbin letter

Attached is DOJ's third production in response to Chairman Durbin's 1/23 letter and a cover letter. If you do not receive two pdf files, please let me know.

Joe

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: FW: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke
To: Carson, Kevin (Manchin)
Sent: April 16, 2021 11:02 AM (UTC-04:00)

Hi Kevin,

Following up on our conversation from Wednesday on Kristen Clarke, now that she's had her SJC hearing we've followed up on our request for a courtesy meeting with your boss. I would appreciate a few minutes of your time to discuss some of the dynamics at play. Thanks.

Joe

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Thursday, April 15, 2021 5:01 PM
To: (b)(6) Bryer Davis (Manchin)
Cc: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Good Afternoon,

I am following up on the below scheduling request. Now that Ms. Clarke has completed her Senate Judiciary Committee hearing, we would like to offer up additional times for a meeting. Ms. Clarke will be available anytime between 4/19-4/30. Please let me know if the Senator would like to arrange a call.

Best Wishes,

Danielle

From: Norgren-Markley, Danielle (OLA)
Sent: Monday, March 22, 2021 2:24 PM
To: (b)(6) Bryer Davis (Manchin)
Subject: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Good Afternoon,

The Department of Justice would like to invite Senator Manchin to meet with Civil Rights Division Nominee Kristen Clarke. Ms. Clarke's availability is flexible; she would like to offer any day between 3/23/2021 - 4/30/2021 (excluding 3/26) that is convenient for the Senator.

We expect the call to last thirty minutes. If the Senator is available and would like to meet, please propose a time in this window. Please also include the Senator's preferred communication method. We are happy to accommodate both video and phone calls. If your office prefers Zoom, please send a Zoom link as we are unable to do so on our end.

Best Wishes,

Danielle Norgren
Paralegal Specialist
Office of Legislative Affairs
U.S. Department of Justice
(b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: thank you for an uneventful hearing
To: Gaeta, Joseph (OLA); Charlet, Joseph (Judiciary-Dem); Hopkins, Maggie (Judiciary-Dem)
Sent: April 14, 2021 1:32 PM (UTC-04:00)

[Great job prepping the nominee](#)

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, April 14, 2021 1:12 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Charlet, Joseph (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)
Subject: thank you for an uneventful hearing

Members were well prepared and on their game. I appreciate your efforts.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Brest, Phillip (Judiciary-Dem)
Subject: Clarke/Kim QFRs and Post-Hearing Timeline
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA); Payton, Rayshon J. (OLA); Prasanna, Sandeep A. (OLA)
Cc: Swanson, Daniel (Judiciary-Dem); Charlet, Joseph (Judiciary-Dem); Yeldandi, Vaishalee (Judiciary-Dem); Hopkins, Maggie (Judiciary-Dem)
Sent: April 13, 2021 6:07 PM (UTC-04:00)

Hi all,

We will be following the standard post-hearing schedule for Clarke and Kim. QFRs will be submitted to the nominees via OLA on 4/21 shortly after 5 pm, and we'll ask that you submit responses no later than 5 pm on Monday, 4/26. Kristen and Todd will be listed for the first time on a markup on Thursday, 4/29; held over; and will receive a vote in Committee on 5/13. (Note that the one week delay relative to the typical post-hearing schedule is because of a recess week starting 5/3.)

Thanks.

Phil

From: Lehman, Ted (Tillis)
Subject: RE: courtesy notification of North Carolinian to be Assistant Attorney General
To: Gaeta, Joseph (OLA)
Cc: Watts, Brad (Tillis); Williford, Seth (Tillis); Tomlinson, Elliott (Tillis)
Sent: April 13, 2021 1:35 PM (UTC-04:00)

Thanks for the heads up, Joe.

Ted

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, April 13, 2021 11:53 AM
To: Lehman, Ted (Tillis) (b) (6)
Subject: courtesy notification of North Carolinian to be Assistant Attorney General

Hello Ted–

We wanted to make the Senator’s office aware that the President has announced his intention to nominate Christopher Schroeder to be Assistant Attorney General for the Department of Justice Office of Legal Counsel. This Office provides legal advice to the President and all executive branch agencies, drafts legal opinions for the Attorney General, and provides written advice and opinions to the Counsel for the President. Christopher is a resident of North Carolina, where he is the Charles S. Murphy Professor Emeritus of Law and Professor Emeritus of Public Policy at Duke University Law School, and Maine where he has also lived for the past 16 years.

We are available to answer any questions or provide further information as the process moves forward.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Connery_Dawe, Kathleen (King)
Subject: Re: courtesy notification of Mainer to be nominated as Assistant Attorney General
To: Gaeta, Joseph (OLA)
Sent: April 13, 2021 12:04 PM (UTC-04:00)

Thank you for passing this along.

Best,
Kathleen

Sent from my iPhone

On Apr 13, 2021, at 11:57 AM, Gaeta, Joseph (OLA) (b) (6) wrote:

Hello Kathleen –

We wanted to make the Senator's office aware that the President has announced his intention to nominate Christopher Schroeder to be Assistant Attorney General for the Department of Justice Office of Legal Counsel. This Office provides legal advice to the President and all executive branch agencies, drafts legal opinions for the Attorney General, and provides written advice and opinions to the Counsel for the President. Christopher is a resident of North Carolina, where he is the Charles S. Murphy Professor Emeritus of Law and Professor Emeritus of Public Policy at Duke University Law School, and Maine where he has also lived for the past 16 years.

We are available to answer any questions or provide further information as the process moves forward.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: courtesy notification of Mainer to be nominated as Assistant Attorney General
To: (b)(6) Steve Abbott (Collins)
Sent: April 13, 2021 11:57 AM (UTC-04:00)

Hello Steve –

We wanted to make the Senator's office aware that the President has announced his intention to nominate Christopher Schroeder to be Assistant Attorney General for the Department of Justice Office of Legal Counsel. This Office provides legal advice to the President and all executive branch agencies, drafts legal opinions for the Attorney General, and provides written advice and opinions to the Counsel for the President. Christopher is a resident of North Carolina, where he is the Charles S. Murphy Professor Emeritus of Law and Professor Emeritus of Public Policy at Duke University Law School, and Maine where he has also lived for the past 16 years.

We are available to answer any questions or provide further information as the process moves forward.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Hickman, Natasha (Burr)
Subject: RE: courtesy notification of North Carolinian to be Assistant Attorney General
To: Gaeta, Joseph (OLA)
Sent: April 13, 2021 11:55 AM (UTC-04:00)

Thank you for the heads up!



Natasha Moore Hickman

Chief of Staff

OFFICE OF U.S. SENATOR RICHARD BURR

217 RUSSELL SENATE OFFICE BUILDING

MAIN: 202-224-3154 | ASST: (b) (6)

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, April 13, 2021 11:53 AM
To: Hickman, Natasha (Burr) (b) (6)
Subject: courtesy notification of North Carolinian to be Assistant Attorney General

Hello Natasha—

We wanted to make the Senator's office aware that the President has announced his intention to nominate Christopher Schroeder to be Assistant Attorney General for the Department of Justice Office of Legal Counsel. This Office provides legal advice to the President and all executive branch agencies, drafts legal opinions for the Attorney General, and provides written advice and opinions to the Counsel for the President. Christopher is a resident of North Carolina, where he is the Charles S. Murphy Professor Emeritus of Law and Professor Emeritus of Public Policy at Duke University Law School, and Maine where he has also lived for the past 16 years.

We are available to answer any questions or provide further information as the process moves forward.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: Seema Nanda request
To: (b)(6) Evan Schatz (HELP Committee) (b)(6) John Righter (HELP Committee)
Sent: April 13, 2021 9:51 AM (UTC-04:00)
Attached: Burr to Garland re Nanda 4-12.pdf

Evan and John,

Could you direct me to the person on your staff handling the Seema Nanda nomination so we can discuss this request from Ranking Member Burr? Thank you.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

PATTY MURRAY, WASHINGTON, CHAIR

BERNARD SANDERS (I), VERMONT
ROBERT P. CASEY, JR., PENNSYLVANIA
TAMMY BALDWIN, WISCONSIN
CHRISTOPHER S. MURPHY, CONNECTICUT
TIM KAINE, VIRGINIA
MARGARET WOOD HASSAN, NEW HAMPSHIRE
TINA SMITH, MINNESOTA
JACKY ROSEN, NEVADA
BEN RAY LUJÁN, NEW MEXICO
JOHN HICKENLOOPER, COLORADO

RICHARD BURR, NORTH CAROLINA
RAND PAUL, KENTUCKY
SUSAN M. COLLINS, MAINE
BILL CASSIDY, LOUISIANA
LISA MURKOWSKI, ALASKA
MIKE BRAUN, INDIANA
ROGER MARSHALL, KANSAS
TIM SCOTT, SOUTH CAROLINA
MITT ROMNEY, UTAH
TOMMY TUBERVILLE, ALABAMA
JERRY MORAN, KANSAS

United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

EVAN T. SCHATZ, STAFF DIRECTOR
DAVID P. CLEARY, REPUBLICAN STAFF DIRECTOR

<http://help.senate.gov>

April 12, 2021

Delivered via Email

The Honorable Merrick B. Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

President Biden has announced his intent to nominate Seema Nanda to be the Solicitor of Labor. Ms. Nanda previously served in the Civil Rights Division of the Department of Justice (DOJ). In order to fulfill the Senate's responsibility to fully vet all nominees, I write to request copies of the following:

- Any and all memoranda related to Ms. Nanda's intergovernmental work with the Department of Labor.
- All documents and communications between Ms. Nanda and the Department of Labor during her tenure at DOJ.
- Copies of any presentations or speeches made relating to the over 180 statutes within the Department of Labor's purview.
- A list of court cases in which Ms. Nanda represented the Department of Labor.

I ask that you expedite this request in order for the Senate to have adequate time to evaluate the material and provide a response by April 19, 2021. Thank you for your attention to this matter.

Sincerely,



Richard Burr
Ranking Member
Committee on Health, Education, Labor and Pensions

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: More on Hearing Logistics - 4/14
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA); Payton, Rayshon J. (OLA); Prasanna, Sandeep A. (OLA)
Cc: Charlet, Joseph (Judiciary-Dem); Yeldandi, Vaishalee (Judiciary-Dem); Hopkins, Maggie (Judiciary-Dem); Palmer, Bryan (Judiciary)
Sent: April 12, 2021 9:58 PM (UTC-04:00)

When you have a chance, can you also send the names of the nominees' guests and their connection to the nominees?
Thanks.

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Monday, April 12, 2021 10:45 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Gaeta, Joseph (OLA)
(b) (6); Payton, Rayshon J. (OLA) (b) (6); Prasanna, Sandeep A. (OLA)
(b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Yeldandi, Vaishalee (Judiciary-Dem)
(b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)
Palmer, Bryan (Judiciary) (b) (6)
Subject: RE: More on Hearing Logistics - 4/14

Thank you, Phil. We will get back to, hopefully with one email on all the logistics. We will handle getting the nominees into the building.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Monday, April 12, 2021 10:26 AM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6);
Payton, Rayshon J. (OLA) (b) (6); Prasanna, Sandeep A. (OLA) (b) (6) >
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Yeldandi, Vaishalee (Judiciary-Dem)
(b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)
Palmer, Bryan (Judiciary) (b) (6)
Subject: More on Hearing Logistics - 4/14

Good morning all,

A few things.

- Now that we have SD-G50, it shouldn't be a problem for each nominee to bring multiple guests.
 - Can you confirm that both Clarke and Kim would like to bring three guests?
 - And can you let us know how many from DOJ to expect?
- I'm copying Bryan Palmer, our Committee hearings clerk, so that he can work with you all on logistics for securing guest parking passes. Bryan – can you let the DOJ team here know what information you need to process the guest passes?
- Although there is no outer security perimeter, we do still need to let you into the building, unless you have a Senate badge (as at least one of you does).
 - Please let me know if you can handle letting the nominees/nominee guests into the building, or if you will need one of us to do so.

And just a reminder:

- Chair and RM openings (roughly 5 minutes, but untimed)
- Gillibrand intro of Clarke (up to 5 minutes)
- Booker intro of Kim (up to 5 minutes)
- Nominee intros (up to 5 minutes; fine if it's shorter)

- Five minute question rounds (with five-minute second rounds if requested)
- No plans for a break

Still figuring out the post-hearing schedule.

Phil

From: Gaeta, Joseph (OLA)
Subject: QFRs
To: Charlet, Joseph (Judiciary-Dem)
Sent: April 12, 2021 12:41 PM (UTC-04:00)

Confirming that we'll expect QFRs Friday evening and will need to return them by Wednesday at 5:00 to keep the process moving.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: 4/14 Hearing
To: Gaeta, Joseph (OLA); Greenfeld, Helaine A. (OLA); Payton, Rayshon J. (OLA); Prasanna, Sandeep A. (OLA)
Cc: Charlet, Joseph (Judiciary-Dem); Yeldandi, Vaishalee (Judiciary-Dem); Hopkins, Maggie (Judiciary-Dem)
Sent: April 8, 2021 5:07 PM (UTC-04:00)

We have now cleared both the Clarke and Kim BIs. Please feel free to tell the nominees.

We will send an updated hearing notice out – hopefully this evening.

From: Brest, Phillip (Judiciary-Dem)
Sent: Thursday, April 8, 2021 1:03 PM
To: 'Gaeta, Joseph (OLA)'; (b) (6); Greenfeld, Helaine A. (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Prasanna, Sandeep A. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Yeldandi, Vaishalee (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)
Subject: RE: 4/14 Hearing

I think we can make that work

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, April 8, 2021 1:00 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Brest, Phillip (Judiciary-Dem) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Prasanna, Sandeep A. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Yeldandi, Vaishalee (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)
Subject: RE: 4/14 Hearing

Can Kristen rotate out one of her three guests after openings so a DOJ staffer can be present?

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Thursday, April 8, 2021 11:50 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Prasanna, Sandeep A. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Yeldandi, Vaishalee (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)
Subject: RE: 4/14 Hearing

Office space is fine. Thanks.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Thursday, April 8, 2021 11:31 AM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Prasanna, Sandeep A. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Yeldandi, Vaishalee (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)

Subject: RE: 4/14 Hearing

We can find office space for others, but probably not an actual holding room

From: Greenfeld, Helaine A. (OLA) (b) (6) >
Sent: Thursday, April 8, 2021 11:23 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Prasanna, Sandeep A. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Yeldandi, Vaishalee (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)
Subject: RE: 4/14 Hearing

Thanks, Phil. We will deal with just one DOJ person – their families are most important to them. Is there another room where some others of us could sit?

We'll get back to you on the opening statement question as soon as we can.

From: Brest, Phillip (Judiciary-Dem) (b) (6) >
Sent: Thursday, April 8, 2021 11:15 AM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Prasanna, Sandeep A. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Yeldandi, Vaishalee (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)
Subject: 4/14 Hearing

Some logistics.

- As of now, the hearing is still proceeding in Dirksen 226. As such, there is very limited space for members, staff, and guests.
- With two witnesses, the room can only fit 16 Senators at any given time, so we will not actively push our members who typically appear remotely (Leahy and Hirono) to appear in person.
- The room is not fully set up yet, but it's unlikely we can budget for more than 6 total outside guest seats – including DOJ. We might be able to try to fit a seventh seat, but I can't guarantee it. Of course, if we move to a bigger hearing room, then we'll have more flexibility. I understand Kristen has two guests and Todd has three; so are you all comfortable with just one DOJ official being in the hearing room? We can have others set up in different office space, if needed.
- Here's how the hearing will run:
 - Chair and RM opening remarks – likely no more than 5 minutes each.
 - Intros – Gillibrand for Clarke (up to 5 minutes), TBD for Kim
 - Five minute opening remarks (max) for each nominee. Do you intend to circulate written testimony in advance?
 - Five minute question rounds, with the potential for a second round.
 - No breaks.

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: 4/14 Hearing
To: Gaeta, Joseph (OLA); Greenfeld, Helaine A. (OLA); Payton, Rayshon J. (OLA); Prasanna, Sandeep A. (OLA)
Cc: Charlet, Joseph (Judiciary-Dem); Yeldandi, Vaishalee (Judiciary-Dem); Hopkins, Maggie (Judiciary-Dem)
Sent: April 8, 2021 11:22 AM (UTC-04:00)

I won't be able to tell you until Monday, probably, whether there is room for 8 guests in SD-226, but I think it's highly unlikely.

Re: written statements – nominees typically submit written statements in advance when they are substantive. When nominees simply introduce family and thank the President for the opportunity, they don't.

In the 115th Cong., to my knowledge, the only Exec nominees who submitted advance written statements were Sessions and Rosenstein.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, April 8, 2021 11:20 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Prasanna, Sandeep A. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Yeldandi, Vaishalee (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)
Subject: RE: 4/14 Hearing

Kristen would like three guests too which makes Todd having three awkward. One option is they both get two and DOJ has two people staffing.

On written statements, I am inclined not to provide if that is consistent with practice. Just don't think it adds much but I don't feel strongly.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Thursday, April 8, 2021 11:15 AM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Prasanna, Sandeep A. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Yeldandi, Vaishalee (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6)
Subject: 4/14 Hearing

Duplicative Material, Document ID: 0.7.854.36796, Bates Number 22cv2850-21-01790-000292

From: Gaeta, Joseph (OLA)
Subject: RE: Domestic Terrorism Prevention Act
To: Greenfeld, Helaine A. (OLA); Zogby, Joseph (Judiciary-Dem)
Cc: Trifone, Stephanie (Judiciary-Dem)
Sent: April 8, 2021 10:54 AM (UTC-04:00)

Assuming this is confirmed at 1130, will you all send either a call in or video link? Thanks.

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Thursday, April 8, 2021 10:21 AM
To: Zogby, Joseph (Judiciary-Dem) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6)
Subject: Re: Domestic Terrorism Prevention Act

I'm clear at 11:30 now.

Sent from my iPhone

On Apr 8, 2021, at 9:13 AM, Zogby, Joseph (Judiciary-Dem) (b) (6) wrote:

Actually I have a call at 11 – can we do 1130?

From: Zogby, Joseph (Judiciary-Dem)
Sent: Thursday, April 8, 2021 9:10 AM
To: 'Gaeta, Joseph (OLA)' (b) (6); Greenfeld, Helaine A. (OLA) (b) (6)
Cc: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Subject: RE: Domestic Terrorism Prevention Act

I can do 11

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, April 8, 2021 6:32 AM
To: Zogby, Joseph (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6)
Cc: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Subject: RE: Domestic Terrorism Prevention Act

11-12 is open for me.

From: Zogby, Joseph (Judiciary-Dem) (b) (6)
Sent: Wednesday, April 7, 2021 11:36 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Trifone, Stephanie (Judiciary-Dem) (b) (6)
Subject: Domestic Terrorism Prevention Act

Hi - Can we please find a time to follow up on this on Thursday? It is time sensitive. I'm flexible except 12-1pm. Thanks, Joe

From: Gaeta, Joseph (OLA)
Subject: RE: Clarke update
To: Fragoso, Michael (Judiciary-Rep); Charlet, Joseph (Judiciary-Dem); Greenfeld, Helaine A. (OLA)
Cc: Brest, Phillip (Judiciary-Dem); Mehler, Lauren (Judiciary-Rep)
Sent: April 8, 2021 9:45 AM (UTC-04:00)
Attached: Clarke - SJC supplemental response - 4.8.21 final.pdf

Attached is a supplement to Kristen Clarke's SJC questionnaire. Please confirm receipt. Thanks.

Joe

From: Fragoso, Michael (Judiciary-Rep) (b) (6)
Sent: Wednesday, April 7, 2021 4:15 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Mehler, Lauren (Judiciary-Rep)
(b) (6)
Subject: Clarke update

Hi Joe,

I think Kristen Clarke might need to update Question 16 on her SJQ. It seems she has been listed as a lobbyist for the NAACP in its disclosures. See, e.g., <https://lda.senate.gov/filings/public/filing/20213b51-bb28-4342-bfca-0c7d48e25f9a/print/>

Thanks,
Mike

Michael A. Fragoso
Chief Counsel for Nominations and the Constitution
Senate Judiciary Committee
Ranking Member Chuck Grassley (R-Iowa)

From: Gaeta, Joseph (OLA)
Subject: Clarke supplement
To: Charlet, Joseph (Judiciary-Dem)
Cc: Brest, Phillip (Judiciary-Dem)
Sent: April 8, 2021 6:22 AM (UTC-04:00)

Will send it over this morning. We've got her post college employment (paid and unpaid) set. On the lobbying point, this is how we intend to supplement. Give me a call if we should discuss.

I am listed as a lobbyist on public lobbying disclosure reports filed by the NAACP Legal and Education Defense Fund at various times during my employment there between 2006 and 2010. The forms indicated that topics on which NAACP LDF lobbied included voting rights, criminal justice reform, immigration reform, fair pay, and nominations. To the best of my recollection, any lobbying I may have done during that period was a de minimis part of my job.

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Clarke SJQ Update
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Sent: April 7, 2021 2:19 PM (UTC-04:00)

Thanks. Sorry for not making the ask earlier – I know you all are in a moot

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Wednesday, April 7, 2021 2:16 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Gaeta, Joseph (OLA)
(b) (6)
Subject: RE: Clarke SJQ Update

We'll do it asap.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Wednesday, April 7, 2021 2:14 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Clarke SJQ Update

I should also note – the Rs won't clear her BI until this is done. Though they are also being obnoxious about the issue we discussed in her BI.

From: Brest, Phillip (Judiciary-Dem)
Sent: Wednesday, April 7, 2021 2:13 PM
To: 'Greenfeld, Helaine A. (OLA)' (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: Clarke SJQ Update

Kristen's SJQ does not include any of her law school employment, even though the SJQ directs nominees to include any employment post-college graduation (whether paid or not). Can you update the SJQ to reflect any employment she had post-college?

Thanks.

From: Brest, Phillip (Judiciary-Dem)
Subject: Hearing notice
To: Greenfeld, Helaine A. (OLA); Prasanna, Sandeep A. (OLA); Gaeta, Joseph (OLA)
Sent: April 7, 2021 6:21 AM (UTC-04:00)
Good morning.

By the end of the day, we will be noticing a hearing for 10 am next Wednesday (4/14). Because neither nominee has had their BI cleared yet, the notice will simply say "Nominations" and list the date, time, and room. The notice will be updated with the agenda (the two nominees) once both BIs are cleared.

As of now we will have to notice the hearing for SD-226, the Committee's normal hearing room. We've been unable to secure a larger room but are still hoping to do so. If we can't, then we'll unfortunately have to rethink having all Democrats on hand at the same time during the hearing.

Thanks.

From: Gaeta, Joseph (OLA)
Subject: RE: Kristen Clarke introduction to SJC
To: Jamison, Brooke (Gillibrand); Lowe-Server, Alexandra (Gillibrand)
Cc: Annino, Angelica (Gillibrand); Pierz, Sarah (Gillibrand); Payton, Rayshon J. (OLA)
Sent: April 6, 2021 8:59 PM (UTC-04:00)
Attached: KC topline messages 3.31.21.docx, Kristen Clarke Senate Judiciary Questionnaire.pdf

Adding by colleague Rayshon, who has a better handle on the materials we have. For starters, here are our top line message points and her Judiciary Committee questionnaire. We can go deeper on topic areas of particular interest, or get you more biographical information.

From: Jamison, Brooke (Gillibrand) (b) (6)
Sent: Tuesday, April 6, 2021 5:23 PM
To: Gaeta, Joseph (OLA) (b) (6) Lowe-Server, Alexandra (Gillibrand) (b) (6)
Cc: Annino, Angelica (Gillibrand) (b) (6) Pierz, Sarah (Gillibrand)
(b) (6)
Subject: RE: Kristen Clarke introduction to SJC

Duplicative Material, Document ID: 0.7.854.71345, Bates Number 22cv2850-21-01790-000176

Kristen Clarke – Topline Messages

Clarke Is Eminently Qualified to serve as Assistant Attorney General for Civil Rights

- If confirmed, Clarke will be returning to the Civil Rights Division, where she began her career in the DOJ Honors Program and served for nearly six years as a trial attorney during the Bush Administration.
- Clarke led the New York Attorney General's Civil Rights Bureau, serving as the top civil rights law enforcement officer for the state.
- Clarke has served at two of the nation's oldest civil rights legal organizations: as President and Executive Director of the Lawyers' Committee for Civil Rights Under Law and earlier in her career, at the NAACP Legal Defense Fund.
- She has personally prosecuted crimes based on hatred and bigotry, human trafficking, domestic violence, and sexual assault.
- Her work has touched virtually every area of civil rights, including voting rights, equal educational opportunity, fair housing and lending, equal employment, environmental justice, disability rights, LGBTQ rights, hate crimes and criminal justice.

Clarke is a career civil rights lawyer who has spent her entire professional life in public service. She is the best person to lead the Civil Rights Division at this time.

- **STANDING UP TO HATE:** Under Clarke's leadership, the Lawyers' Committee for Civil Rights Under Law won a \$700,000 verdict against the white nationalist, neo-Nazi website Daily Stormer in 2017 for its campaign of harassment against Taylor Dumpson, the first Black female student body president of American University. It was the first time a federal court found that online trolling activity constitutes activity that could violate someone's civil rights. She has worked closely with survivors and families impacted by hate including the families of Emmett Till, Matthew Shepard, James Byrd, Heather Heyer, and more. She recently sued the Proud Boys for an alleged attack on a historically Black church in Washington, D.C.
- **PROTECTING RELIGIOUS MINORITIES:** As chief of the Civil Rights Bureau in NY, Clarke led a Religious Rights Unit that fought religious discrimination and defended Jewish employees' right to observe their faith.
- **SECURING THE RIGHT TO VOTE:** She is the one of the nation's leading voting rights lawyers. She represented voters in *Shelby County, Alabama v. Holder* and presented argument in the case before it reached the Supreme Court. She was involved in Congress's 2006 bi-partisan reauthorization of the Voting Rights Act. Her work has been guided by one simple principle: All eligible Americans deserve to have voice in our democracy.
- **PROTECTING THE RIGHTS OF PEOPLE WITH DISABILITIES.** During her time at the New York Attorney General's Office, she worked to ensure compliance with the Americans with Disabilities Act, securing agreements that helped ensure access to

polling sites, retail establishments, theatres, parking lots, transportation service providers, and housing complexes.

- **PROMOTING ACCESS TO FAIR HOUSING OPPORTUNITY.** Clarke has worked on numerous cases to ensure that families and vulnerable communities have access to fair housing opportunity. She has handled matters involving discrimination on the basis of race, familial status and lawful source of income. A recent case against Garden City, New York found that officials engaged in intentional racial discrimination through its zoning decisions.
- **COLLABORATING WITH LAW ENFORCEMENT AND FIERCELY ADVOCATING FOR CRIME VICTIMS.** Clarke recently partnered with the International Association of Chiefs of Police to develop best practices for strengthening law enforcement's response to hate crimes. She has fiercely advocated for crime victims, including domestic violence survivors and hate crimes survivors.
- **OBTAINING JUSTICE FOR WOMEN IN THE WORKPLACE.** At the New York State Attorney General's Civil Rights Bureau, Clarke won a \$3.8 million settlement for about 300 women in a gender discrimination and sexual harassment case against Con Edison, negotiating protocols, management trainings, and employee education efforts to prevent future discrimination.

Clarke Has Spent Her Career **Building Bridges**

- Clarke has worked with hundreds of the nation's leading law firms and thousands of lawyers across the country who provide pro bono support for the Lawyers' Committee's work to promote equal justice under law.
- At the Lawyers' Committee she brought together victims of hate crimes and members of law enforcement community to help identify strategies to strengthen law enforcement's response to hate crimes.
- She leads Election Protection, the nation's largest and longest running, non-partisan voter protection program that is fueled by the support of law firms and corporations across the country. In the 2020 election alone, the program deployed 13,000 volunteers and 200 state and local partner organizations, staffing 46,000 voter protection shifts.

Clarke's **Lived Experience** Complements Her Unparalleled Legal Credentials

- Clarke would be the first woman confirmed to lead the Civil Rights Division.
- She would be only the Division's fourth confirmed Black leader in its 64-year history.
- Clarke's personal story exemplifies achievement when offered opportunity.
 - She is the daughter of Jamaican immigrants who lived in public housing in Brooklyn.
 - Her hard work in public schools opened the door to Choate Rosemary Hall which she attended for high school, followed by Harvard and Columbia Law School.
 - She was inspired to a career in civil rights law after watching arguments in *Sheff v. O'Neill*, a Connecticut school desegregation case, on a high school field trip.
 - She is a single mother to a teenage son who managed motherhood with professional life over the years. Colleagues knew she was offline between 6-8:30 for dinner and bedtime before going back to the grind.

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: BI Follow-Up Call with Kristen Clarke
To: Gaeta, Joseph (OLA); Greenfeld, Helaine A. (OLA)
Sent: April 6, 2021 12:04 PM (UTC-04:00)

I can call you this afternoon to chat about tomorrow's call. But the way these BI follow-ups work is that we (Dem and R staff) call the nominee directly. So if you can provide me the best # to reach Kristen, I'll call her at 1 pm tomorrow.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, April 6, 2021 12:02 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: BI Follow-Up Call with Kristen Clarke

Done. 1:00.

Call me?

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Tuesday, April 6, 2021 12:01 PM
To: Gaeta, Joseph (OLA) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: BI Follow-Up Call with Kristen Clarke

The Rs aren't in the office today so can't do it today. If you could delay even 15 minutes then we can do this at 1 pm tomorrow.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, April 6, 2021 12:00 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: BI Follow-Up Call with Kristen Clarke

Or this afternoon after 230. But we could delay tomorrow to get this out of the way.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Tuesday, April 6, 2021 11:53 AM
To: Gaeta, Joseph (OLA) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: BI Follow-Up Call with Kristen Clarke

Rs aren't available earlier in the day, and sadly neither am I.

Will circle back re: Thursday.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, April 6, 2021 11:52 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: BI Follow-Up Call with Kristen Clarke

OK. We start at 1. We could delay that or do any time earlier in the day.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Tuesday, April 6, 2021 11:50 AM

To: Gaeta, Joseph (OLA) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: BI Follow-Up Call with Kristen Clarke

The Republicans want to ask about (b) (6).

What about 1 pm? I'd rather get this done tomorrow in an effort to move forward in clearing the BI.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, April 6, 2021 11:47 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6)
Subject: RE: BI Follow-Up Call with Kristen Clarke

Just got off the phone with Kristen. That block is during our moot and (b) (6). Thursday she is free until 4:00.

She has authorized me to be briefed on the issue.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Tuesday, April 6, 2021 11:28 AM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: BI Follow-Up Call with Kristen Clarke

Helaine and Joe,

At the Republicans' request, we will need to do a follow-up call to discuss one issue raised in Kristen Clarke's BI. Is the nominee available for a brief (5-10 minute) call tomorrow between 2 and 4 pm EST?

I can provide you information on the one issue in advance of the call.

Phil

From: Gaeta, Joseph (OLA)
Subject: RE: Kristen Clarke Endorsements
To: Babin, Reginald (Schumer)
Cc: Contes, Helena (Schumer)
Sent: April 5, 2021 4:40 PM (UTC-04:00)
Attached: Kristen Clarke Support Letter.pdf, AFL-CIO ULA on Clarke Nomination.pdf

Some others in the works.

From: Babin, Reginald (Schumer) (b) (6)

Sent: Monday, April 5, 2021 1:27 PM

To: Gaeta, Joseph (OLA) (b) (6)

Cc: Contes, Helena (Schumer) (b) (6)

Subject: Kristen Clarke Endorsements

Does she have backing from labor unions?

Reginald Babin

Chief Counsel

Senate Majority Leader Chuck Schumer

February 24, 2021

The Honorable Senator Richard Durbin, Chair
Committee on the Judiciary
711 Hart Senate Building
Washington, DC 20510

The Honorable Charles E. Grassley, Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chair Durbin and Ranking Member Grassley:

The AFL-CIO Union Lawyers Alliance, which represents labor lawyers across the country who fight for the rights of working people, writes to voice our strong support for the nomination of Kristen M. Clarke as the Assistant Attorney General for the United States Department of Justice Civil Rights Division. Ms. Clarke has engaged in civil rights advocacy from varying levels of authority, both inside and outside the government; her deep commitment to the purpose of the Civil Rights Division and broad experience make her an exceptional candidate for this position. We commend President Biden for making such a strong selection and encourage you to support her confirmation.

Ms. Clarke is eminently suited to lead the Civil Rights Division. She began her career with impressive academic credentials, including an undergraduate degree from Harvard University and a Juris Doctor from Columbia University. From there, she became a prosecutor for the Department of Justice Civil Rights Division, Co-Director of the NAACP Legal Defense and Education Fund's Political Participation Group, Chief of the Civil Rights Bureau at the New York Attorney General's office, and President and Executive Director of the Lawyers' Committee for Civil Rights Under Law. In these positions, she has personally handled or overseen cases on voting rights, human trafficking, hate crimes, police misconduct, housing discrimination, racial profiling, equal access for people with disabilities, and religious accommodation, among others. She has worked on the ground, in the middle, and at the top of management structures and understands the dynamics of running a large organization that must contend with countervailing pressures while standing in the public eye.

At a time when so many in this country are desperate for national leadership that shows true commitment to fighting for the rights of historically oppressed groups, Ms. Clarke's confirmation will assuage that desperation and give hope to the millions working for change. She has devoted her entire professional life to pursuing the aims that the Civil Rights Division embodies. She has demonstrated that she has the legal, administrative, and leadership skills that are required for this role. We hope that you will act quickly to confirm Ms. Clarke to the position so that she can apply her formidable talents to this vital work.

Thank you for considering the collective voice of our 2,000 attorney members.

Sincerely,

AFL-CIO Union Lawyers Alliance

UTILITY WORKERS UNION OF AMERICA

JAMES SLEVIN
PRESIDENT

PATRICK M. DILLON
EXECUTIVE VICE PRESIDENT

MICHAEL COLEMAN
SECRETARY-TREASURER

JOHN DUFFY
VICE PRESIDENT



1300 L STREET, N.W.
SUITE 1200
WASHINGTON, D.C. 20005
202-899-2851
202-899-2852 FAX
www.uwua.net



March 9, 2021

The Honorable Charles E. Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

UTILITY WORKERS UNION OF AMERICA SUPPORT FOR THE CONFIRMATION OF KRISTEN CLARKE TO
BE ASSISTANT ATTORNEY GENERAL FOR CIVIL RIGHTS

Dear Senators:

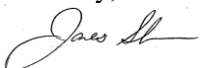
The Utility Workers Union of America, AFL-CIO (UWUA) is proud today to offer our endorsement for Kristen Clarke to be confirmed as the next Assistant Attorney General for Civil Rights within the U.S. Department of Justice. We write to express our strong support for her confirmation based on a lifelong track record of service in advancing and defending the civil and constitutional rights of all Americans to be free from discrimination.

As the leader of the Lawyers' Committee for Civil Rights Under Law, Ms. Clarke has been a champion of civil rights, just as she has throughout her career. Her lifetime of service and extensive civil rights record demonstrates why we are confident that the nation needs her skills and experience. Further, as the first woman in history to be confirmed by the Senate as Assistant Attorney General for Civil Rights at the Justice Department, Ms. Clarke would break new, and long overdue, ground for civil rights simply through the act of her confirmation.

With her guidance, the Lawyers' Committee has defended civil rights even when the Justice Department would not, fighting hate, protecting voting rights and fighting for both racial and economic justice. The breadth and scope of Ms. Clarke's civil rights record speaks for itself. Her accomplishments span both civil rights organizations and federal and state government service. Her litigation experience and leadership skills will be critical components for her ability to lead the Civil Rights Division.

President Biden's choice in nominating Kristen Clarke to be the Assistant Attorney General for Civil Rights is a historic opportunity that embodies the ideals for which the Civil Rights Division was created. As such, the UWUA urges Ms. Clarke's confirmation as quickly as possible. The nation's need, and her lifetime of service to civil rights, are perfectly aligned and we have every confidence in her ability to lead the Division with humility, dignity, and a spirit of service.

Sincerely,



James T. Slevin
National President
Utility Workers Union of America, AFL-CIO

From: Smirniotopoulos, Amalea (Judiciary-Dem)
Subject: QFRs/Letters
To: Gaeta, Joseph (OLA)
Sent: April 5, 2021 1:11 PM (UTC-04:00)

Hi Joe—

Hope you were able to get out and enjoy the spring weather this weekend. I wanted to check in to see if you had any other updates on the outstanding letters and QFRs. Happy to do a joint call with Victoria if that would be the easiest way to get everyone on the same page.

Best,
Amalea

From: Gaeta, Joseph (OLA)
Subject: meeting with Kristen tomorrow
To: Brest, Phillip (Judiciary-Dem); Charlet, Joseph (Judiciary-Dem); Hopkins, Maggie (Judiciary-Dem); Payton, Rayshon (OLA); Seidman, Ricki (OASG); Greenfeld, Helaine A. (OLA)
Sent: March 31, 2021 8:52 PM (UTC-04:00)
Attached: KC topline messages 3.31.21.docx

Hi everyone,

Here's a final version of the top lines document for Kristen. We can spend the time tomorrow as you see fit. Kristen's ready to answer your questions—how she will present herself and how she'll defend herself.

To the extent you want to focus on some of the attacks, reupping these two recent pieces

<https://nymag.com/intelligencer/2021/03/the-smear-campaign-against-bidens-civil-rights-nominee.html>

<https://www.washingtonpost.com/opinions/2021/03/17/republicans-racist-smear-campaign-focuses-kristen-clarke/>

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: RE: DOJ 2nd response to Durbin letters of 1/23 and 2/12 (3 of 3)
To: Zdeb, Sara (Judiciary-Dem); Gaeta, Joseph (OLA)
Cc: Antell, Kira M. (OLA)
Sent: March 31, 2021 8:28 PM (UTC-04:00)

Confirming receipt thx

From: Zdeb, Sara (Judiciary-Dem)
Sent: Wednesday, March 31, 2021 7:52 PM
To: Gaeta, Joseph (OLA) (b) (6) Flynn-Brown, Josh (Judiciary-Rep) (b) (6)
Cc: Antell, Kira M. (OLA) (b) (6)
Subject: RE: DOJ 2nd response to Durbin letters of 1/23 and 2/12 (3 of 3)

Thanks, Joe – all three emails came through.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, March 31, 2021 7:47 PM
To: Zdeb, Sara (Judiciary-Dem) (b) (6) Flynn-Brown, Josh (Judiciary-Rep)
Cc: Antell, Kira M. (OLA) (b) (6)
Subject: DOJ 2nd response to Durbin letters of 1/23 and 2/12 (3 of 3)

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: 2021-03-31 CEG RHJ to ODNI DOJ (Biden China)
To: (b)(3), (b)(6) per ODNI; Gaeta, Joseph (OLA)
Cc: CEG (Judiciary-Rep); Downey, Brian (HSGAC); Wittmann, Scott (HSGAC)
Sent: March 31, 2021 11:22 AM (UTC-04:00)
Attached: 2021-03-31 CEG RHJ to ODNI DOJ (Biden China).pdf

(b)(3), (b)(6) per ODNI and Joe, please see the attached letter from Sens. Grassley and Johnson. Please confirm receipt. Thank you.

Respectfully,

Joshua Flynn-Brown
Deputy Chief Investigative Counsel
Ranking Member Charles E. Grassley
Committee on the Judiciary
202-224-5225

United States Senate
WASHINGTON, DC 20510

March 31, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Avril Haines
Director of National Intelligence

The Honorable Merrick Garland
Attorney General
Department of Justice

Dear Director Haines and Attorney General Garland:

As you know, we have been reviewing financial transactions and connections between and among members of the Biden family and foreign nationals connected to the communist Chinese government, including its military and intelligence services.¹ In particular, Hunter Biden had a close and personal relationship with Ye Jianming, who reportedly had links to the communist regime's People's Liberation Army.² According to an October 2017 text message, Hunter Biden spoke to Ye on a "regular basis," was the "first guest in his new apartment," "[Ye] cooked [Hunter Biden] lunch himself and [they] ate in the kitchen together," they had a "standing once a week call," and he helped Ye "on a number of his personal issues (staff visas and some more sensitive things)."³ In addition, Hunter Biden had a close association with Gongwen Dong and Chi Ping "Patrick" Ho, who were also business associates of Ye's.

In December 2017, Patrick Ho was charged and in December 2018 was convicted of international bribery and money laundering offenses stemming from his work for Ye's China Energy Fund Committee, a subsidiary of Ye's CEFC China Energy, a company with extensive links to the communist regime.⁴ After his arrest, his first call was reportedly to James Biden,

¹ S. Rep., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns, S. Comm. on Homeland Sec. and Governmental Aff. and S. Comm. on Fin. (2020).

² Ye Jianming is a Chinese national, chairman of CEFC China Energy, a company linked to the communist regime, and a frequent figure in Hunter Biden's financial dealings in China. Based on public reports that were available in 2015, when his contact with Hunter Biden began to ramp up, Ye was a founder of CEFC and chairman of the board for its subsidiary, the China Energy Fund Committee. Although CEFC reportedly remained a private company until state-owned enterprises assumed control of it in 2018, reporting in 2017 indicated that it received financing from the China Development Bank, "hired a number of former top officials from state-owned energy companies," and had "layers of Communist Party committees across its subsidiaries — more than at many private Chinese companies." Our recent report also showed that Ye had connections not just to the communist party in China, but also China's People's Liberation Army, the armed forces of the Chinese communist party. S. Rep., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns, S. Comm. on Homeland Sec. and Governmental Aff. and S. Comm. on Fin. (2020).

³ S. Supplemental Rep., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns, S. Comm. on Homeland Sec. and Governmental Aff. and S. Comm. on Fin. at 24 (2020).

<https://www.finance.senate.gov/imo/media/doc/2020-11-18%20HSGAC%20-%20Finance%20Joint%20Report%20Supplemental.pdf>

⁴ Andrew C. McCarthy, *A Collusion Tale: China and the Bidens*, National Review (Oct. 31, 2020), <https://www.nationalreview.com/2020/10/a-collusion-tale-the-bidens-and-china/>; Press Release, U.S. Attn'y Geoffrey S. Berman, Patrick Ho, Former Head Of Organization Backed By Chinese Energy Conglomerate, Convicted Of International Bribery, Money Laundering Offenses, (Dec. 5, 2018), <https://www.justice.gov/usao-sdny/pr/patrick-ho-former-head-organization-backed-chinese-energy-conglomerate-convicted>.

President Biden's brother.⁵ Hunter Biden reportedly represented Patrick Ho for a period of time and received at least \$1 million in payment.⁶ According to recent reporting and a federal government filing, the federal government obtained at least one Foreign Intelligence Surveillance Act (FISA) warrant relating to Patrick Ho, indicating his potential counterintelligence threat to the United States.⁷ Indeed, Hunter Biden was well aware of Patrick Ho's links to the communist Chinese government, specifically its intelligence services. According to records reportedly released from Hunter Biden's laptop, Hunter Biden allegedly said the following:

I have another New York Times reporter calling about my representation of Patrick Ho – the f***ing spy chief of China who started the company that my partner, who is worth \$323 billion, founded and is now missing.⁸

Moreover, news reports made publicly available a September 21, 2017, email from Hunter Biden to an office manager that asked for keys to be made available to then-former Vice President Biden, James Biden, and "Gongwen Dong (Chairman Ye CEFC emissary)" and referred to them as "office mates."⁹ Hunter Biden also requested that the office sign reflect "The Biden Foundation" and "Hudson West (CEFC US)."¹⁰ If accurate, the sharing of office space with Chinese nationals and entities linked to the communist regime and its military demands additional explanation.

It's imperative that Congress better understand the relationship Ye Jianming, Gongwen Dong, and Patrick Ho had between and among themselves, with the communist Chinese government, CEFC China Energy, and their activities in the United States, including those relating to the Biden family. Accordingly, please produce all intelligence records, including but not limited to, all FISA-derived information relating to these three individuals no later than April 14, 2021.

Please send all unclassified material directly to the Committees. In keeping with the requirements of Executive Order 13526, if any of the responsive documents do contain classified information, please segregate all unclassified material within the classified documents, provide all unclassified information directly to the Committees, and provide a classified addendum to the Office of Senate Security. Although the Committees comply with all laws and regulations governing the handling of classified information, they are not bound, absent their prior agreement, by any handling restrictions.

⁵ Alexandra Stevenson, David Barboza, Matthew Goldstein, and Paul Mozur, *A Chinese Tycoon Sought Power and Influence. Washington Responded.*, The New York Times (Dec. 12, 2018), <https://www.nytimes.com/2018/12/12/business/cefc-biden-china-washington-ye-jianming.html>.

⁶ S. Rep., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns, S. Comm. on Homeland Sec. and Governmental Aff. and S. Comm. on Fin., 116th Cong., Hunter Biden, Burisma, and Corruption: The Impact on U.S. Government Policy and Related Concerns at 79 (2020).

⁷ Chuck Ross, *Feds Obtained FISA Warrant Against Hunter Biden's Chinese Business Associate, Documents Show*, Daily Caller (Oct. 27, 2020), <https://dailycaller.com/2020/10/27/hunter-biden-patrick-ho-cefc-fara/>; <https://www.courtlistener.com/recap/gov.uscourts.nysd.485530/gov.uscourts.nysd.485530.45.0.pdf>.

⁸ *Id.*

⁹ Brooke Singman and Adam Shaw, *Hunter Biden request keys for new 'office mates' Joe Biden, Chinese 'emissary' to CEFC chairman, emails show*, FoxNews (Dec. 12, 2020), <https://www.foxnews.com/politics/hunter-biden-requested-keys-new-office-mates-joe-biden-chinese-emissary-cefc-chairman>.

¹⁰ *Id.*

Should you have questions, please contact Joshua Flynn-Brown of Senator Grassley's Committee staff at 202-224-5225 and Brian Downey and Scott Wittmann of Senator Johnson's Subcommittee staff at 202-224-3721. Thank you for your attention to this matter.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



Ron Johnson
Ranking Member
Permanent Subcommittee
on Investigations

From: Gaeta, Joseph (OLA)
Subject: RE: Kristen meeting
To: Brest, Phillip (Judiciary-Dem); Charlet, Joseph (Judiciary-Dem)
Cc: Payton, Rayshon J. (OLA)
Sent: March 31, 2021 9:04 AM (UTC-04:00)

Returning to this. We feel good about it. Helaine said she was going to connect with you later today but we should confirm 11 tomorrow.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, March 26, 2021 5:54 PM
To: Gaeta, Joseph (OLA) (b) (6) Charlet, Joseph (Judiciary-Dem) (b) (6)
Cc: Payton, Rayshon J. (OLA) (b) (6)
Subject: RE: Kristen meeting

Thursday at 11 works for us. I'll send a calendar invite and zoom link

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, March 26, 2021 5:53 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6) Charlet, Joseph (Judiciary-Dem) (b) (6)
Cc: Payton, Rayshon J. (OLA) (b) (6)
Subject: RE: Kristen meeting

How about 11?

Or we could do something before 10.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, March 26, 2021 11:26 AM
To: Gaeta, Joseph (OLA) (b) (6) Charlet, Joseph (Judiciary-Dem) (b) (6)
Cc: Payton, Rayshon J. (OLA) (b) (6)
Subject: RE: Kristen meeting

Thursday is best for us. Can you suggest a few times that might work for you all and Kristen?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, March 26, 2021 10:43 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6) Charlet, Joseph (Judiciary-Dem) (b) (6)
Cc: Payton, Rayshon J. (OLA) (b) (6)
Subject: Kristen meeting

You guys want to set something up next week?

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: RE: Clarke supplemental production
To: Brest, Phillip (Judiciary-Dem); Charlet, Joseph (Judiciary-Dem); Fragoso, Michael (Judiciary-Rep)
Cc: Payton, Rayshon J. (OLA); Greenfeld, Helaine A. (OLA); Cress, Brian (OLA)
Sent: March 29, 2021 4:20 PM (UTC-04:00)

Trying a second time, as I just got a bounce back that the email I sent with attachments was too large.

The zip and pdf files referenced below are being upload to the JEFs dropbox shortly. Please confirm you have been able to access them.

From: Gaeta, Joseph (OLA)
Sent: Monday, March 29, 2021 4:03 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6) Charlet, Joseph (Judiciary-Dem)
(b) (6) Fragoso, Michael (Judiciary-Rep) (b) (6)
Cc: Payton, Rayshon J. (OLA) (b) (6) Greenfeld, Helaine A. (OLA) (b) (6)
Subject: Clarke supplemental production

It has been brought to my attention that copies of eight of the articles identified in the appendices for Q12(a) and Q12(e) of Kristen Clarke's SJC questionnaire were either not provided or were provided in corrupted pdf files. I am providing those eight documents in the attached zip file and two pdfs. Thank you.

Joe

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Missing/Broken Clarke attachments
To: Gaeta, Joseph (OLA); Charlet, Joseph (Judiciary-Dem)
Cc: Hopkins, Maggie (Judiciary-Dem)
Sent: March 29, 2021 12:31 PM (UTC-04:00)

Can you just send the SJQ to reporters who have asked for it? It's a public document.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, March 29, 2021 12:28 PM
To: Charlet, Joseph (Judiciary-Dem) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem)
(b) (6)
Subject: RE: Missing/Broken Clarke attachments

OK, working on it.

Also, can you put Kristen's questionnaire online soon? We've gotten media inquiries looking for it.

From: Charlet, Joseph (Judiciary-Dem) (b) (6)
Sent: Monday, March 29, 2021 12:24 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem)
(b) (6)
Subject: Missing/Broken Clarke attachments

Hi Joe,

There are six items listed as responsive to SJQ 12(a) that do not appear to be included in the attachments we received (we found one online, though). There are also two attachments that were provided, but the files we received are broken. Can we get copies of the following?

From 12(a):

- Item #33, "[In Trump's court pick, who won?](#)" (co-author), CNN.com, 7/9/18
- Item #77, "General Essay: The Obama Factor: The Impact of the 2008 Presidential Election in Future Voting Rights Act Litigation," Harvard Law and Policy Review (3 Harv. L. & Pol'y Rev. 59), 12/02/09
- Item #80, Chapter of America Votes! A Guide to Modern Election Law and Voting Rights "Reports of My Demise Have Been Overstated: Assessing the Constitutionality of the Recently Renewed Section 5 Preclearance Provision of the Voting Rights Act," American Bar Association, June 25, 2008
- Item #82, Seeking Higher Ground: Chapter 3 – Raceing the Post-Katrina Political Landscape: An Analysis of the 2006 New Orleans Election," Palgrave Macmillan, 2008
- Item #86, "Burdening the right to vote: assessing the impact of mandatory photo identification requirements on minority voting strength." Harvard Journal of African American Public Policy (Vol. 13), 2007
- Item #91, "Voting Rights Challenges in Post-Katrina World: With Constituents Dispersed, and Voting Rights Districts Underpopulated, How Should New Orleans Hold Elections?" FindLawWrit, 10/11/05

Broken files from 12(e):

- 2018.07.15 – Politics Nation with Al Sharpton – MSNBC_Politics Nation
- 2018.07.10 – PBS NewsHour

Thanks,

Joe

Joe Charlet

Counsel

U.S. Senate Committee on the Judiciary

Chair Richard J. Durbin

(b) (6)

(b) (6)

Pronouns: He/Him/His

From: Gaeta, Joseph (OLA)
Subject: RE: Kristen Clarke's twitter account
To: Brest, Phillip (Judiciary-Dem); Fragoso, Michael (Judiciary-Rep)
Cc: Greenfeld, Helaine A. (OLA); Rodriguez, Tim (Judiciary-Rep); Charlet, Joseph (Judiciary-Dem); Shepard, Anna (Judiciary-Dem)
Sent: March 26, 2021 10:37 AM (UTC-04:00)

Circling back on this. Kristen has not seen any requests to follow her from the people listed here. Can you confirm either that you have tried, or will be trying, to get access to her twitter feed?

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Wednesday, March 24, 2021 12:07 PM
To: Fragoso, Michael (Judiciary-Rep) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Rodriguez, Tim (Judiciary-Rep) (b) (6); Charlet, Joseph (Judiciary-Dem) (b) (6); Shepard, Anna (Judiciary-Dem) (b) (6)
Subject: RE: Kristen Clarke's twitter account

(b) (6)

Copying Joe Charlet and Anna Shepard here, who should both be granted access.

(b) (6)

(b) (6)

From: Fragoso, Michael (Judiciary-Rep) (b) (6)
Sent: Wednesday, March 24, 2021 12:06 PM
To: Gaeta, Joseph (OLA) (b) (6); Brest, Phillip (Judiciary-Dem) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Rodriguez, Tim (Judiciary-Rep) (b) (6)
Subject: RE: Kristen Clarke's twitter account

Thanks, Joe. That makes sense. (b) (6)

If Tim Rodriguez could have access, that would be great (b) (6).

Best,
Mike

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, March 24, 2021 12:01 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Fragoso, Michael (Judiciary-Rep) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6)
Subject: Kristen Clarke's twitter account

Phil and Mike,

You may have seen the story below about Kristen Clarke's Twitter account. Kristen locked her account after (b) (6)

While Kristen is concerned by (b) (6), she does not want to impede the Committee's review of her social media activity. If committee staff would like access to her account while it is locked, please send me their names and email addresses and Kristen will let them have access. (As someone with barely any social media presence, I am told this is possible.)

<https://dailycaller.com/2021/03/23/kristen-clarke-twitter-account-doj-biden/>

Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Gaeta, Joseph (OLA)
Subject: RE: Kristen Clarke's twitter account
To: Brest, Phillip (Judiciary-Dem); Fragoso, Michael (Judiciary-Rep)
Cc: Greenfeld, Helaine A. (OLA); Rodriguez, Tim (Judiciary-Rep); Charlet, Joseph (Judiciary-Dem); Shepard, Anna (Judiciary-Dem)
Sent: March 24, 2021 12:23 PM (UTC-04:00)

Thank you all. I will circle back when they should have been granted access to confirm they in fact do.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Wednesday, March 24, 2021 12:07 PM
To: Fragoso, Michael (Judiciary-Rep) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Rodriguez, Tim (Judiciary-Rep) (b) (6); Charlet, Joseph (Judiciary-Dem) (b) (6); Shepard, Anna (Judiciary-Dem) (b) (6)
Subject: RE: Kristen Clarke's twitter account

Duplicative Material, Document ID: 0.7.854.43974, Bates Number 22cv2850-21-01790-000318

From: Brest, Phillip (Judiciary-Dem)
Subject: FW: Flagging: Biden DOJ Nominee Criticized Senators On Twitter. Now She's Locked Down Her Account
To: Gaeta, Joseph (OLA)
Cc: Charlet, Joseph (Judiciary-Dem)
Sent: March 24, 2021 9:31 AM (UTC-04:00)

From: Valle-Riestra, Jenna (Judiciary-Dem) (b) (6)
Sent: Wednesday, March 24, 2021 9:26 AM
To: Charlet, Joseph (Judiciary-Dem) (b) (6); Brest, Phillip (Judiciary-Dem)
(b) (6)
Subject: Flagging: Biden DOJ Nominee Criticized Senators On Twitter. Now She's Locked Down Her Account

<https://dailycaller.com/2021/03/23/kristen-clarke-twitter-account-doj-biden/>

From: Parker, Daniel (Judiciary-Rep)
Subject: 2021-03-23 CEG to DOJ FBI (Kavanaugh Investigation Referrals)
To: (b)(6), (b)(7)(C) per FBI (OCA) (FBI); Gaeta, Joseph (OLA)
Cc: CEG (Judiciary-Rep); Ragsdale, DeLisa (Judiciary-Rep); Flynn-Brown, Josh (Judiciary-Rep); Foy, Taylor (Grassley)
Sent: March 23, 2021 3:26 PM (UTC-04:00)
Attached: 2021-03-23 CEG to DOJ FBI (Kavanaugh Investigation Referrals).pdf

(b)(6), (b)(7)(C) per FBI and Joseph,

Please find attached a letter from Ranking Member Grassley to Attorney General Garland and Director Wray. Please confirm receipt.

Regards,

Daniel Parker
Investigator
Ranking Member Charles E. Grassley
U.S. Senate Judiciary Committee
(b) (6)

United States Senate

WASHINGTON, DC 20510

March 23, 2021

VIA ELECTRONIC TRANSMISSION

The Honorable Merrick Garland
Attorney General
Department of Justice

The Honorable Christopher Wray
Director
Federal Bureau of Investigation

Dear Attorney General Garland and Director Wray:

On October 8, 2019, several colleagues and I wrote a letter to Attorney General Barr and Director Wray requesting an update concerning their handling of criminal referrals made by the Committee following its investigation into allegations of decades-old misconduct by then-Judge Brett Kavanaugh.¹ To date, the Justice Department and FBI have failed to respond to our letter and have failed to apprise the Committee whether, and to what extent, any steps have been taken to investigate and hold accountable those individuals who criminally interfered with the Committee's investigation.

These failures are entirely unacceptable. As my colleagues and I stressed in our previous letter, the Committee's four criminal referrals, dated September 29, 2018, October 25, 2018, October 26, 2018, and November 2, 2018, were not made lightly. Those referrals highlighted serious cases in which individuals made materially false, fictitious, and fraudulent statements to Committee investigators.

For example, one of the referrals related to an individual from Rhode Island who falsely alleged to Congress that Judge Kavanaugh had assaulted a friend on a boat, only to later admit on social media that he lied about the event.² Two referrals related to allegations made by Mr. Michael Avenatti and his client, Ms. Julie Swetnick, who accused Judge Kavanaugh of being involved in gang rape activities. The Committee identified no verifiable evidence to support the allegations. The Committee found that Mr. Avenatti, who has since been convicted on felony extortion charges, and his client, Ms. Swetnick, had a long history of credibility issues and may have criminally conspired to mislead the Committee regarding those allegations and obstruct its investigation.³ A final referral related to Ms. Judy Munro-Leighton, a woman who claimed to be

¹ Letter from Senators Grassley, Graham, Cornyn, Crapo, Tillis, Blackburn, Lee, Kennedy and Cruz to Hon. William P. Barr, Attorney General, U.S. Department of Justice, and Hon. Christopher Wray, Director, Federal Bureau of Investigation (October 8, 2019).

² Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (September 29, 2018). Available at: <https://www.judiciary.senate.gov/imo/media/doc/2018-09-29%20Grassley%20to%20DOJ,%20FBI%20-%20Referral%20for%20Criminal%20Investigation.pdf>.

³ Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (October 25, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/2018-10-25%20CEG%20to%20DOJ%20FBI%20\(Swetnick%20and%20Avenatti%20Referral\)_Redacted.pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-10-25%20CEG%20to%20DOJ%20FBI%20(Swetnick%20and%20Avenatti%20Referral)_Redacted.pdf); Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (October 26, 2018). Available at:

the author of an anonymous letter stating that Judge Kavanaugh and a friend raped her “several times each” in the back seat of a car. Ms. Munro-Leighton later admitted that she falsely claimed that she was the author of the letter and its allegations and only claimed authorship of the letter “as a way to grab attention.”⁴ These false allegations materially impeded the Committee’s work and diverted important Committee resources during its time-sensitive investigation.

As Chairman, I rigorously performed my constitutional oversight role to vet Judge Kavanaugh, instructing my Committee investigators to investigate each and every serious allegation. My office later released a 414 page report of those investigative findings which did not include so much as a shred of evidence to support any of the allegations made against Judge Kavanaugh.

The FBI background checks – two of them – didn’t uncover any such evidence, either. Both of those investigations followed the normal process for FBI background checks of judicial nominees. As then-Chairman of the Senate Judiciary Committee Joe Biden remarked in 1991, in a background investigation the FBI “do[es] not reach conclusions” and “do[es] not make recommendations.”⁵ It is the Senate’s responsibility to weigh the information that it collects from the background investigations and from its own investigative work and make a fully informed decision. That’s what happened here. In the end, the Senate weighed evidence assembled by the FBI and by veteran congressional investigators and fulfilled its Constitutional responsibility by confirming Judge Kavanaugh to the Supreme Court.

It is, however, the responsibility of the Justice Department and FBI to hold those who mislead and obstruct Congress accountable for their criminal behavior. Accordingly, I ask that you provide a response to the questions posed in the October 8, 2019, letter no later than April 6, 2021. Your response should include a full explanation of the steps the Justice Department and FBI have taken to investigate the Committee’s four criminal referrals for investigation of potential violations of 18 U.S.C. §§ 1001 (materially false statements), 1505 (obstruction), and 371 (conspiracy). If no actions have been taken in response to those referrals, please explain why not.

Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley
Ranking Member
Senate Judiciary Committee

[https://www.judiciary.senate.gov/imo/media/doc/2018-10-26%20CEG%20to%20DOJ%20FBI%20\(Second%20Avenatti%20Referral\)%20-%20with%20enclosures_Redacted.pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-10-26%20CEG%20to%20DOJ%20FBI%20(Second%20Avenatti%20Referral)%20-%20with%20enclosures_Redacted.pdf).

⁴ Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (November 2, 2018). Available at: https://www.judiciary.senate.gov/download/grassley-to-justice-dept-fbi_-munro-leighton-referral-.

⁵ Hearings before the Committee on the Judiciary U.S. Senate One Hundred Second Congress First Session on The Nomination of Clarence Thomas to be Associate Justice of the Supreme Court of the United States (October 11, 12, and 13, 1991), Part 4 of 4 Parts at 268.

Enclosures:

- (1) Letter from U.S. Senators to Attorney General William Barr and FBI Director Christopher Wray (October 8, 2019)
- (2) First Criminal Referral Letter (September 29, 2018)
- (3) Second Criminal Referral Letter (October 25, 2018)
- (4) Third Criminal Referral Letter (October 26, 2018)
- (5) Fourth Criminal Referral Letter (November 2, 2018)

Attachment 1

United States Senate

WASHINGTON, DC 20510

October 8, 2019

VIA ELECTRONIC TRANSMISSION

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Attorney General Barr and Director Wray:

A full year has passed since the Judiciary Committee completed its investigation into allegations of decades-old misconduct by Brett Kavanaugh in the course of its consideration of his nomination to the U.S. Supreme Court. During its investigation, the Committee interviewed numerous individuals claiming to have relevant information. While most of those individuals appear to have contacted the Committee in good faith, some did not. The Committee referred four individuals to the DOJ and FBI for investigation of potential violations of 18 U.S.C. §§ 1001 (materially false statements) and 1505 (obstruction), for false statements made to the Committee during the course of its investigation. It also referred two of those same individuals for potential violations of 18 U.S.C. § 371 (conspiracy). We seek information about what actions DOJ and FBI are taking in response to these referrals.

These criminal referrals were not made lightly. In each of the aforementioned cases, the referred individual(s) made false allegations against then-Judge Kavanaugh. These allegations were taken seriously and carefully investigated by Committee staff, resulting in the diversion of significant resources.

1. The first referral, dated September 29, 2018, relates to a false allegation made by an individual who told the Committee that he had direct knowledge that Judge Kavanaugh assaulted a close friend on a boat in the harbor at Newport, Rhode Island in 1985.¹ After the Committee extensively questioned Judge Kavanaugh about the allegation, the individual recanted and apologized on social media for making the false allegation.
2. The second referral, dated October 25, 2018, relates to false allegations made by Mr. Michael Avenatti and his client, Ms. Julie Swetnick.² In a September 23, 2018, email to Committee staff, Mr. Avenatti stated that he and Ms. Swetnick were aware of evidence that during the 1980s, Judge Kavanaugh participated in the “targeting of women with

¹ Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (September 29, 2018). Available at: <https://www.judiciary.senate.gov/imo/media/doc/2018-09-29%20Grassley%20to%20DOJ,%20FBI%20-%20Referral%20for%20Criminal%20Investigation.pdf>.

² Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (October 25, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/2018-10-25%20CEG%20to%20DOJ%20FBI%20\(Swetnick%20and%20Avenatti%20Referral\)_Redacted.pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-10-25%20CEG%20to%20DOJ%20FBI%20(Swetnick%20and%20Avenatti%20Referral)_Redacted.pdf).

alcohol/drugs in order to allow a ‘train’ of men to subsequently gang rape them.”³ Committee staff interviewed Judge Kavanaugh and ten other individuals in connection with these allegations, which were outlined in graphic detail in a sworn statement to the Committee purportedly written and signed by Ms. Swetnick. After a thorough investigation, the Committee found no verifiable evidence to support any of the allegations made in the declaration. The Committee also found that both Mr. Avenatti and Ms. Swetnick had a long history of credibility issues and may have criminally conspired to mislead the Committee and obstruct its investigation.

3. The third referral, dated October 26, 2018, relates to evidence that Mr. Avenatti falsified a sworn statement to the Committee in order to provide support for Ms. Swetnick’s unfounded allegations.⁴ The sworn statement by an unknown declarant claimed that Judge Kavanaugh had spiked the punch at house parties with Quaaludes and/or grain alcohol in order to make “girls more likely to engage in sexual acts and less likely to say ‘No.’”⁵ NBC News later reported on a series of contacts with the purported declarant, who stated that she had denied the key allegations in the declaration both before and after the statement was publicly released and that Mr. Avenatti had “twisted [her] words.”⁶
4. The fourth referral, dated November 2, 2018, relates to allegations made by Ms. Judy Munro-Leighton.⁷ On October 3, 2018, Committee staff received an email from Ms. Munro-Leighton stating that she was the author of an unsigned letter containing highly graphic sexual-assault accusations against Judge Kavanaugh previously received by the office of Senator Kamala Harris. Ms. Munro-Leighton included the text of the letter in her e-mail to the Committee, claiming that Judge Kavanaugh and a friend had raped her “several times each” in the back seat of a car.⁸ When Committee staff interviewed Ms. Munro-Leighton, she admitted that she falsely identified herself as the author of the letter and its allegations and had only claimed authorship “as a way to grab attention.”⁹ When asked by Committee investigators if she had ever met Judge Kavanaugh, she said: “Oh Lord, no.”¹⁰

³ *Id.* at 2.

⁴ Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (October 26, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/2018-10-26%20CEG%20to%20DOJ%20FBI%20\(Second%20Avenatti%20Referral\)%20-%20with%20enclosures_Redacted.pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-10-26%20CEG%20to%20DOJ%20FBI%20(Second%20Avenatti%20Referral)%20-%20with%20enclosures_Redacted.pdf).

⁵ *Id.* at 2.

⁶ Kate Snow and Anna Schecter, *New Questions Raised About Avenatti Claims Regarding Kavanaugh*, NBC NEWS (Oct. 25, 2018), available at <https://www.nbcnews.com/politics/justicedepartment/newquestions-raised-about-avenatti-claims-regarding-kavanaugh-n924596>.

⁷ Letter from Sen. Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Hon. Jeff Sessions, Attorney General, U.S. Department of Justice, and Hon. Christopher A. Wray, Director, Federal Bureau of Investigation (November 2, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/2018-11-02%20CEG%20to%20DOJ%20FBI%20\(Munro-Leighton%20Referral\)%20with%20redacted%20enclosures.pdf](https://www.judiciary.senate.gov/imo/media/doc/2018-11-02%20CEG%20to%20DOJ%20FBI%20(Munro-Leighton%20Referral)%20with%20redacted%20enclosures.pdf).

⁸ *Id.* at 9.

⁹ *Id.* at 2.

¹⁰ *Id.* at 3.

As the Committee stressed in each of the referrals issued during and after the investigation into allegations against then-Judge Kavanaugh, investigations in support of the judicial nomination process are an essential part of the constitutional role in confirming judges. As Committee members, we are grateful to citizens who come forward with relevant information in good faith, even if they are not entirely sure about the accuracy of that information. But, when individuals intentionally mislead the Committee, they divert important Committee resources during time-sensitive investigations and materially impede its work. Such acts are not only unfair; they are potentially illegal. It is illegal to make materially false, fictitious, or fraudulent statements to Congressional investigators. It is illegal to obstruct Committee investigations.

It is important to protect the constitutional process from being hijacked by bad actors involved in insidious partisan operations. The Committee can bring bad actors to the attention of law enforcement and the American people by being as transparent as possible about its investigative findings. However, it is up to the FBI and the Justice Department to hold those who mislead Congress accountable for the criminal aspects of their behavior. The DOJ has not shied away from selectively filing charges against individuals for alleged violations of 18 U.S.C. §§ 1001 in the past. Martha Stewart, former Illinois governor Rod Blagojevich, and ex-Presidential aide Scooter Libby are just a few individuals who have been charged with lying to federal investigators.¹¹ Lying to Congress is and should be treated as an equally serious offense.

The next Supreme Court nominee should not have to defend himself or herself against baseless and fabricated allegations, and Committee staff should not have to spend valuable time investigating them.

Accordingly, please respond to the following no later than October 21, 2019:

1. For each criminal referral made by the Committee to the FBI, did the FBI open a criminal investigation? If so, which investigation(s) resulted in a referral to the Justice Department for prosecution? If not, why not?
2. For each case that was referred to the Justice Department for prosecution, which cases were rejected and which were accepted for prosecution?

Thank you for your prompt attention to this matter. If you have any questions, please contact a professional staff investigator in Senator Grassley's Oversight and Investigations Unit at (202) 224-4515.

¹¹ Josh Saul, What Do Michael Flynn and Martha Stewart Have in Common? A List of the People Charged With Lying to the FBI, NEWSWEEK (December 1, 2017), available at <https://www.newsweek.com/michael-flynn-martha-stewart-charged-lying-fbi-728874>.

Sincerely,

Chuck Grassley Tom Harkin

John Cornyn Mike Crapo

Tom Tillis Marsha Blackburn

Jeff Flake John Kennedy

JD

cc: The Honorable Dianne Feinstein
Ranking Member
Senate Judiciary Committee

Attachment 2

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JEFF FLAKE, ARIZONA
MIKE CRAPO, IDAHO
THOM TILLIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA

DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
KAMALA D. HARRIS, CALIFORNIA

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Chief Counsel and Staff Director*

September 29, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Attorney General Sessions and Director Wray:

As you know, the Senate Judiciary Committee recently processed the nomination of Judge Brett M. Kavanaugh to serve as an Associate Justice on the Supreme Court. As part of that process, the Committee has been investigating various allegations made against Judge Kavanaugh. The Committee's investigation has involved communicating with numerous individuals claiming to have relevant information. While many of those individuals have acted in good faith in providing the Committee information during the investigation, unfortunately it appears some have not. As explained below, I write today respectfully referring Mr. ██████████ for investigation of potential violations of 18 U.S.C. §§ 1001 and 1505, for materially false statements Mr. ██████████ made to the Committee as part of its investigation of allegations against Judge Kavanaugh.

According to Senator Whitehouse and his Committee staff, on the morning of September 24, 2018, Mr. ██████████ contacted the Senator's office to report an allegation of sexual misconduct by Judge Kavanaugh. Mr. ██████████ claimed that in August of 1985, Judge Kavanaugh sexually assaulted a close acquaintance of Mr. ██████████ on a boat in the harbor at Newport, Rhode Island. Committee staff took Mr. ██████████'s allegation seriously, and asked Judge Kavanaugh numerous questions about it under penalty of felony during an interview on September 25, 2018. He categorically denied the allegation. On September 26, 2018, the Committee publicly released a redacted transcript of that interview, with Mr. ██████████'s name redacted. Afterwards, at 7:51 pm that same evening, Mr. ██████████ "recanted" and apologized for his allegation via social media. I have enclosed the relevant materials documenting these facts.

Committee investigations in support of the judicial nomination process are an essential part of the Committee's constitutional role. The Committee is grateful to citizens who come forward with relevant information in good faith, even if they are not one hundred percent sure about what they know. But when individuals provide fabricated allegations to the Committee, diverting Committee resources

during time-sensitive investigations, it materially impedes our work. Such acts are not only unfair; they are potentially illegal. It is illegal to make materially false, fictitious, or fraudulent statements to Congressional investigators. It is illegal to obstruct Committee investigations.

Accordingly, in light of the seriousness of these facts, and the threat these types of actions pose to the Committee's ability to perform its constitutional duties, I hope you will give this referral the utmost consideration.

Thank you for your prompt attention to this matter. If you have any questions, please contact a professional staff investigator in the Committee's Oversight and Investigations Unit at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Enclosures:

Letter from Senator Whitehouse to Chairman Grassley and Ranking Member Feinstein
Email from Senator Whitehouse' Staff
Transcript of Kavanaugh Interview
Tweet by Mr. [REDACTED]

cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

The Honorable Sheldon Whitehouse
Ranking Member
Subcommittee on Crime and Terrorism
Committee on the Judiciary

SHELDON WHITEHOUSE
RHODE ISLAND

COMMITTEES:
BUDGET
ENVIRONMENT AND PUBLIC WORKS
FINANCE
JUDICIARY

United States Senate

WASHINGTON, DC 20510-3905

<http://whitehouse.senate.gov>

(202) 224-2921
TTY (202) 224-7746

170 WESTMINSTER STREET, SUITE 200
PROVIDENCE, RI 02903
(401) 453-5294

September 24, 2018

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
331 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Feinstein:

This morning, a constituent contacted my office to report another allegation of sexual misconduct by Judge Brett Kavanaugh, nominee to be Associate Justice of the Supreme Court of the United States. At the constituent's request, I provided the constituent with the contact information of a reporter who might investigate the allegation. I have also alerted the Federal Bureau of Investigation.

I look forward to hearing what further action you would like to take.

Sincerely,



Sheldon Whitehouse
United States Senator

From: [REDACTED] (Judiciary-Dem)
Sent: Monday, September 24, 2018 6:25 PM
To: [REDACTED] (Judiciary-Rep) [REDACTED] (Judiciary-Rep)
[REDACTED] (Judiciary-Dem)
[REDACTED] (Judiciary-Dem)
Cc: [REDACTED] (Judiciary-Dem)
Subject:

All—

Please find attached a letter from Senator Whitehouse to Chairman Grassley and Ranking Member Feinstein. I believe he handed your bosses hard copies at the vote. Below is a summary of the substance of the allegations referenced in the letter:

Our office received a call this morning from a Rhode Island constituent, [REDACTED], who made allegations regarding U.S. Supreme Court nominee Brett Kavanaugh. [REDACTED] reported that early on a Sunday morning in August of 1985, a close acquaintance of the constituent was sexually assaulted by two heavily inebriated men she referred to at the time as "Brett and Mark." The event took place on a 36' maroon and white boat in the harbor at Newport, Rhode Island, after the three had met at a local bar. According to [REDACTED], when he learned of the assault at approximately 5:00 a.m. that same morning, he and another individual went to the harbor, located the boat the victim had described, and physically confronted the two men, leaving them with significant injuries. [REDACTED] recently realized that one of the men was Brett Kavanaugh when he saw Kavanaugh's high school yearbook photo on television over the weekend. He promptly reported the incident to our office on Monday morning, September 24, 2018.

If your office wishes to pursue this matter, we can provide contact information for Mr. [REDACTED]. It is not clear that the victim is aware that Mr. [REDACTED] has brought these allegations forward or that she wishes to come forward herself.

Thanks,

[REDACTED]

[REDACTED]

Senator Sheldon Whitehouse
Subcommittee on Crime & Terrorism
Senate Committee on the Judiciary

[REDACTED]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

SENATE JUDICIARY COMMITTEE
U.S. SENATE
WASHINGTON, D.C

INTERVIEW: [REDACTED]

TUESDAY, SEPTEMBER 25, 2018

The interview convened at 12:34 p.m.

1 [Telephone ringing.]

2 [REDACTED] Hello?

3 [REDACTED] Hi, this is [REDACTED] from the Senate
4 Judiciary Committee.

5 [REDACTED] Oh, hi, [REDACTED] How are you?

6 [REDACTED] Great.

7 [REDACTED] This is [REDACTED] I'll put you on
8 speaker with the judge. I'm with Alex Walsh, his counsel,
9 and then the rest of us will head out of the room.

10 [REDACTED] Okay. Thank you.

11 [REDACTED] Can you hear us?

12 [REDACTED] Yes.

13 [REDACTED] [REDACTED]

14 [REDACTED] Yes. Can you hear us?

15 [REDACTED] Yes, it's a little quiet.

16 [REDACTED] Is this any better?

17 Judge Kavanaugh. I can hear you. This is Brett
18 Kavanaugh. And Alex Walsh is here. It sounds like you're
19 in kind of a wind tunnel, but --

20 [REDACTED] Okay. I'm not sure how to fix that.

21 [REDACTED] Why don't we try calling them back?

22 [REDACTED] We're happy to try one more time. We'll
23 just dial the number one more time and see if it's a better
24 connection.

25 Judge Kavanaugh. Okay. Great.

1 [Pause.]

2 [Telephone ringing.]

3 Judge Kavanaugh. Hello?

4 [REDACTED] Hi, it's [REDACTED] Is this any better?

5 Judge Kavanaugh. It sounds like it. Let me put you
6 on speaker.

7 You there?

8 [REDACTED] Yes, how is it?

9 Judge Kavanaugh. We'll make do.

10 Female Speaker. Yeah, it's fine. We can hear you.

11 [REDACTED] All right. Well, we apologize. If
12 there's any question you need us to repeat because you
13 didn't hear it very well, please just let me know.

14 Okay. Well, again, thank you very much for jumping on
15 the phone with us today.

16 I am here with several colleagues. I'll let them
17 introduce themselves, and then we will get started.

18 [REDACTED] I'm [REDACTED] I'm [REDACTED]
19 [REDACTED] for Chairman Grassley.

20 [REDACTED]
21 for Chairman Grassley.

22 [REDACTED] Hi, Judge. [REDACTED] with the
23 minority. We've spoken in the past.

24 Judge Kavanaugh. Yes.

25 [REDACTED] [REDACTED] Hi, Judge. We've also

1 spoken. I'm with the ranking member.

2 Judge Kavanaugh. Yeah, thanks, [REDACTED]

3 [REDACTED] Hi, Judge. It's [REDACTED] I'm a

4 [REDACTED] for the ranking member.

5 Judge Kavanaugh. Okay. Thank you.

6 [REDACTED] Before we begin, I just want to make clear

7 that the Democratic members have asked the FBI to

8 investigate these allegations, and they believe that's

9 necessary to a fair process and fairness more generally.

10 The Democratic members do not believe that it's appropriate

11 for staff to be discussing allegations with you that have

12 not yet been investigated.

13 Also want to make clear that we just learned about the

14 possibility of this phone call today at 11:15 a.m. and

15 weren't advised that it would be happening at 12:30 p.m.

16 until about 11:50 a.m. today. So it's likely that we will

17 primarily be listening during this call.

18 And again, I just want to reiterate that the

19 Democratic members do not believe that this is a fair or

20 sufficient process, and this is not how the committee

21 usually handles allegations of this sort.

22 [REDACTED] I would just say -- this is [REDACTED] I

23 would just say that we can have these political discussions

24 offline. Our job today is to gather evidence in the form

25 of Judge Kavanaugh's testimony, and that's how we're going

1 to proceed. And we can have the political discussions
2 offline.

3 [REDACTED] Judge, for your knowledge, this is being
4 transcribed as well.

5 Okay. So we are here because we have received in
6 various forms, but not through the normal BI process,
7 various allegations. And when we receive allegations, we
8 typically go to the nominee to get their take on it. So
9 I'm going to run through some questions, and if anyone has
10 follow-up or clarifications, feel free to jump in.

11 Judge Kavanaugh, by now we assume that you've heard
12 about the New Yorker article published on Sunday. Have you
13 reviewed the article?

14 Judge Kavanaugh. Yes.

15 [REDACTED] The article alleges that during your
16 freshman year at Yale, you attended a -- and I quote -- "a
17 drunken dormitory party at which you exposed yourself,
18 thrust your penis in Deborah Ramirez's face, and caused her
19 to touch it without her consent as she pushed you away."

20 Did that happen?

21 Judge Kavanaugh. That did not happen.

22 [REDACTED] Do you know Deborah Ramirez?

23 Judge Kavanaugh. I do.

24 [REDACTED] When did you meet her?

25 Judge Kavanaugh. I knew her in college.

1 ██████████ And when did you last talk to her?

2 Judge Kavanaugh. Many, many years ago.

3 ██████████ Would you say that was post college?

4 Judge Kavanaugh. I'm pretty sure we were at a wedding
5 together. ██████████ ██████████ and ██████████ wedding,
6 which I believe was in 1997 in the Baltimore area. And I
7 don't think I've seen her since then.

8 ██████████ Okay. Will you describe your
9 relationship with her?

10 Judge Kavanaugh. I knew her. Friendly. Friendly,
11 but not friends.

12 ██████████ Okay. So we're on the same page, I'm
13 going to define "sexual or romantic behavior" as kissing,
14 touching, or penetrating her genitals, anus, or breasts;
15 touching or penetrating your -- her touching or penetrating
16 your genitals or anus; seeing her genitals, anus, or
17 breasts; or her seeing your genitals or anus.

18 With that definition in mind, did you have any sexual
19 or romantic encounters with Deborah Ramirez?

20 Judge Kavanaugh. No.

21 ██████████ Are you aware of any reason Deborah
22 Ramirez would lie about you?

23 [Pause.]

24 Judge Kavanaugh. I don't want to speculate.

25 ██████████ Okay. Ms. Ramirez says that she was

1 invited by a friend on the women's soccer team to a dorm
2 room party that occurred at Lawrence Hall. And again, she
3 says this occurred when you were both freshmen.

4 Did you attend any such party?

5 Judge Kavanaugh. I lived in Lawrence Hall freshman
6 year in the basement, and I have no recollection at all of
7 the party she's describing. And of course, I've said the
8 incident, the specific incident didn't happen.

9 [REDACTED] So did you attend any such party with
10 Ms. Ramirez?

11 Judge Kavanaugh. I -- I don't know all the parties in
12 Lawrence Hall or get-togethers in Lawrence Hall that might
13 have occurred. What I do know is this incident, this
14 specific incident alleged did not happen, and I don't
15 recall the general party that she's describing in
16 particular.

17 [REDACTED] Okay.

18 Judge Kavanaugh. But people got together, of course,
19 in the dorm rooms, if that's the question. So I don't want
20 to imply that people weren't in the dorm rooms.

21 And the dorms had common rooms, just so you know. So
22 there were not my -- not the room I lived in, but some of
23 the other rooms in Lawrence Hall were six rooms off a
24 common room in a what was called a suite. So in the common
25 rooms, there would often be people just hanging out.

1 ██████████ Okay. Ms. Ramirez says at the party she
2 identified, a small group of students decided to play a
3 drinking game together at which students were sitting in a
4 circle, and people would pick who drank. She says that she
5 was chosen repeatedly to the point that she later was on
6 the floor, foggy and slurring her words.

7 Did you attend any such party?

8 Judge Kavanaugh. I have no recollection of that.

9 ██████████ Ms. Ramirez says that at one point during
10 the drinking game at the party she identified, a male
11 student pointed a gag plastic penis in her direction.

12 Did you attend any party at which a male student
13 pointed a gag plastic penis at Ms. Ramirez?

14 Judge Kavanaugh. I have no recollection of that.

15 ██████████ Ms. Ramirez says that after she was on
16 the floor, foggy and slurring her words, a male student
17 exposed herself -- himself to her. She says, "I remember a
18 penis being in front of my face. I knew that's not what I
19 wanted, even in that state of mind."

20 According to the article, she recalled remarking,
21 "That's not a real penis," and the other students laughing
22 at her confusion and taunting her, one encouraging her to
23 kiss it. She said that she pushed that person away,
24 touching it in the process.

25 Did you attend a party at which any of this happened,

1 whoever that student was?

2 Judge Kavanaugh. I know that -- I couldn't hear all
3 of the question.

4 [REDACTED] Repeat it.

5 Judge Kavanaugh. I guess, I have no recollection of
6 what you're describing generally, and of course, no -- did
7 not -- the specific incident you're describing didn't
8 happen. I never saw anything like that.

9 [REDACTED] Judge, we're going to repeat the question.

10 Judge Kavanaugh. Okay.

11 [REDACTED] Ms. Ramirez says that after Ms. Ramirez
12 was on the floor, foggy and slurring her words, a male
13 student exposed herself -- himself to her. She says, "I
14 remember a penis being in front of my face. I knew that's
15 not what I wanted, even in that state of mind."

16 According to the article, she recalled remarking,
17 "That's not a real penis," and the other students laughing
18 at her confusion and taunting her, one encouraging her to
19 kiss it. She said that she pushed that person away,
20 touching it in the process.

21 Did you hear all of that?

22 Judge Kavanaugh. Yes. And the question is?

23 [REDACTED] Did you attend a party at which any of
24 this happened, whoever that student was?

25 Judge Kavanaugh. Never -- I never saw anything like

1 that.

2 [REDACTED] Ms. Ramirez says that after this event
3 occurred, she remembers you standing to her right and
4 laughing, pulling up your pants. According to her, you
5 were laughing, and she can still see your face and your
6 hips coming forward like when you pull up your pants.

7 She states that another student shouted about the
8 event, "Somebody yelled down the hall, 'Brett Kavanaugh
9 just put his penis in Debbie's face.' It was his full
10 name. I don't think it was just 'Brett,' and I remember
11 hearing and being mortified that this was out there."

12 Did this ever happen?

13 Judge Kavanaugh. That did not happen.

14 [REDACTED] The article reports that an anonymous
15 classmate is 100 percent sure that he was told at the time
16 that Kavanaugh was the student who exposed himself to
17 Ramirez and that he independently recalled many of the same
18 details offered by Ramirez, including the party's location.
19 The article also suggests that some of your classmates have
20 discussed this alleged event.

21 At any point, have you ever heard a rumor that you
22 exposed yourself to Ms. Ramirez?

23 Judge Kavanaugh. No, and I would have, because it
24 would have been the talk of campus.

25 [REDACTED] Okay. The article identifies Mr. James

1 Roche as your roommate. Is that his -- how do you
2 pronounce his name?

3 Judge Kavanaugh. Roche. Jamie.

4 [REDACTED] Roche. Okay.

5 Judge Kavanaugh. Jamie is what he went by then.

6 [REDACTED] Okay. Generally speaking, he supports
7 Ms. Ramirez's account of the story. When did you first
8 meet Mr. Roche?

9 Judge Kavanaugh. Can you hold on one second?

10 [REDACTED] Yes.

11 [Pause.]

12 Judge Kavanaugh. Okay. I'm here.

13 [REDACTED] Great. When did you first meet
14 Mr. Roche?

15 Judge Kavanaugh. I would have met him when we moved
16 in to Lawrence Hall in September of 1983 when I was 18.

17 [REDACTED] And when did you last communicate with
18 him?

19 Judge Kavanaugh. I saw him probably at our 25th
20 reunion, which would have been 2000 and -- 2012. It might
21 have been our 20th reunion, but I saw him briefly at one of
22 those reunions.

23 [REDACTED] And will you describe your relationship
24 with him?

25 Judge Kavanaugh. So there were three guys who lived,

1 in essence, in a room together -- Dave White, Jamie Roche,
2 and myself. Jamie and Dave White hated each other. They
3 got in fights, fist fights during the year. One time Dave
4 White was away for the weekend. Jamie -- when he came
5 back, Jamie had moved all Dave White's furniture,
6 everything, like into some other area of Lawrence Hall in a
7 hallway.

8 So he came back, and Dave White's room was entirely
9 empty. They had a very contentious -- they had a
10 contentious relationship, didn't like each other, at least
11 as I recall it.

12 I got -- I was friends with Dave White more than
13 Jamie. I tried to be civil. Jamie wasn't around a lot. I
14 don't know, I think his parents lived nearby, and so he was
15 elsewhere or with a girl, I don't know, a woman at Yale.
16 [REDACTED] He didn't hang out with us very
17 much, wasn't a great situation.

18 [REDACTED] Are you aware of any reason Mr. Roche
19 would lie about you?

20 Judge Kavanaugh. I'm not going to speculate beyond --
21 I'm not going to speculate beyond what I've said. My
22 understanding, of course, is that he does not corroborate
23 the incident.

24 [REDACTED] [REDACTED]
25 [REDACTED] [REDACTED] [REDACTED]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] O [REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] What is your knowledge about the relationship between Mr. Roche and Ms. Ramirez while at Yale?

Judge Kavanaugh. I don't think I have much knowledge of that, or at least not much -- I don't have much recollection of that.

[REDACTED] Do you have any recollection about their relationship after their time at Yale?

Judge Kavanaugh. I don't.

[REDACTED] So Mr. Roche says, "Debbie and I became close friends shortly after we both arrived at Yale. She stood out as being exceptionally honest and gentle. I cannot imagine her making this up."

Do you have any other understanding about the nature

1 of their relationship, either then or now?

2 Judge Kavanaugh. I don't.

3 [REDACTED] According to the article, Mr. Roche never
4 saw you engage in any sexual misconduct, but did recall you
5 being frequently incoherently drunk.

6 Were you frequently incoherently drunk in college?

7 Judge Kavanaugh. No. Like -- like most people in
8 college, I went to parties and had beers, but that's --
9 that's not an accurate description, in my view.

10 [REDACTED] Do you have any understanding of why
11 Mr. Roche would characterize you as frequently incoherently
12 drunk in college?

13 Judge Kavanaugh. I'm not going to speculate on what's
14 going on right now. We're in the twilight zone.

15 [REDACTED] In a recent interview --

16 [REDACTED] Can I ask a question?

17 [REDACTED] Of course.

18 [REDACTED] Let me jump in here, Judge. Talk about
19 your academic performance at Yale.

20 Judge Kavanaugh. Yeah. So two things I was doing the
21 most at Yale College were studying and going to class and
22 working very hard on my academics, doing well enough to get
23 into Yale Law School, which was not obvious when I arrived
24 in September of 1983. I worked my ass off.

25 And the second thing was basketball. Throughout the

1 freshman year when I lived there, I was playing basketball
2 every day. I tried out for the varsity basketball team.
3 As soon as we got there, literally the first day, the
4 workouts started. Not -- not with coaches present because
5 they weren't allowed by NCAA rules to be present, but the -
6 - the play, the captain-led workouts started immediately.
7 Butch Graves was the captain of the Yale basketball team.
8 Chris Dudley was my classmate.

9 So we had basketball every day. Those were intense,
10 really intense afternoons, early evenings of basketball.
11 And then I played JV basketball that year, practice every
12 day, lots of games, and then in the spring, basketball
13 again for the same kind of captain-led workouts, which were
14 every weekday, a lot of running, a lot of lifting.

15 So the two primary focuses of my life were academics
16 and basketball. And of course, we all lived on Old Campus.
17 So, of course, it was also social. I had friends. Louisa
18 Garry, who testified at the hearing for me, who I met on
19 the first day of Yale College, the other college women
20 friends who have written, who joined that letter, talked
21 about what I was like from the beginning in college.

22 So thank you for the question. Happy to answer any
23 follow-up, but I was very focused on doing as well as I
24 could in school, and I was very focused on trying to be the
25 best basketball player I could be.

1 ██████████ So, in a recent interview, you denied
2 ever getting blackout drunk. Would anything about your
3 college drinking in any way impair your ability to remember
4 whether you engaged in the conduct Ms. Ramirez identifies?

5 Judge Kavanaugh. No.

6 ██████████ All right. The article reports Mr. Roche
7 as saying, "Is it believable that she was alone with a
8 wolfy group of guys who thought it was funny to sexually
9 torment a girl like Debbie? Yeah, definitely. Is it
10 believable that Kavanaugh was one of them? Yes."

11 So did you ever, either alone or with other men,
12 sexually torment any student at Yale?

13 Judge Kavanaugh. No.

14 ██████████ And do you -- do have any understanding
15 of why your college roommate would make such an accusation?

16 Judge Kavanaugh. Well, I'm not going to speculate.
17 I've described the contentious relationship in that room
18 generally and his issues generally.

19 ██████████ And his issues you testified being ██████████
20 ██████████?

21 Judge Kavanaugh. That's my understanding.

22 ██████████ According to the New Yorker article,
23 Ms. Ramirez continued to socialize with one of the male
24 classmates who had egged Kavanaugh on during the party
25 during college. She even invited the classmate to her

1 house for Thanksgiving one year after he told her that he
2 had nowhere to go. She also attended his wedding years
3 later as a guest of his wife, and she said that she posed
4 for photographs with Kavanaugh, smiling.

5 You mentioned that you believed you were probably at a
6 wedding with her. So have you interacted with Ms. Ramirez
7 since you graduated college, including potentially that
8 wedding or any other time?

9 Judge Kavanaugh. Yeah, so her best friend was Karen
10 Yarasavage. Karen Yarasavage said she never heard about
11 any such incident like this and that she would have heard
12 about it. That's what she said, as I understand it, in the
13 story -- or some story.

14 [REDACTED] would have been the person who had
15 the wedding, marrying [REDACTED], who also lived -- who
16 was also a student at Yale College at that time. And so,
17 anyway, I would have been at [REDACTED] and -- I was at [REDACTED]
18 and [REDACTED] wedding. And like I said, [REDACTED] said she
19 never heard about any such thing as this incident.

20 [REDACTED] Did you interact with Ms. Ramirez at the
21 wedding?

22 Judge Kavanaugh. I'm sure -- I'm sure I saw her
23 because it wasn't a huge wedding. And at any wedding, you
24 would see the people that you went to school with. But I
25 don't have a specific recollection.

1 ██████████ Other than the wedding, have you had
2 postgraduation interactions with Ms. Ramirez?

3 Judge Kavanaugh. Not that I'm remembering right now.

4 ██████████ The incident that she alleges in the
5 article, was that discussed at the wedding?

6 Judge Kavanaugh. No, because it didn't happen. With
7 me, or with anyone as far as I know, but not with me.

8 ██████████ All right. My last question on this
9 subject is since you graduated from college, but before the
10 New Yorker article publication on September 23rd, have you
11 ever discussed or heard discussion about the incident
12 matching the description given by Ms. Ramirez to the New
13 Yorker?

14 Judge Kavanaugh. No.

15 ██████████ Judge, I want to get your general reaction
16 to this New Yorker story, including the allegations made in
17 this story.

18 Judge Kavanaugh. This didn't happen. I've never done
19 anything like that. The story, as described -- back up.
20 Karen Yarasavage, her best friend, says she never heard
21 anything like this. If something like this had happened,
22 it would have been the talk of campus.

23 The New York Times says as recently as last week, she
24 was calling around to other classmates saying she wasn't
25 sure I had done this. And you know, I think -- I think

1 we're -- this is an outrage for this kind of thin,
2 uncorroborated, 35-year-old accusation to be leveled in
3 this fashion at this time. I've been in the public eye for
4 24 years, since I started with the independent counsel in
5 the fall of 1994, very public at various points in my life.

6 I've been through six background checks. I worked in
7 the White House at the highest levels, senior staff,
8 traveling with the President all over the world, seeing the
9 most highly sensitive secrets of our Nation for years. I
10 went through a difficult confirmation process for the D.C.
11 Circuit that was public with two separate confirmation
12 hearings in 2004 and 2006.

13 I've been a judge for 12 years in a very public way.
14 I've been identified repeatedly as a potential Supreme
15 Court nominee. Whether that was accurate or not, I've been
16 publicly identified. My decisions have been publicly
17 discussed.

18 I've been very much a presence at the Yale College
19 reunions. I've been on multiple panels there. So I've
20 been active in the class. The class newsletter has talked
21 about me. The people in my class have been at those
22 reunions and those events.

23 In all that time, not a word. And then 4 days, you
24 know, when just right before a vote for the Supreme Court,
25 after the nomination itself has been pending for months,

1 and I've been through the hearings and 65 Senate meetings
2 and all the written questions, and then -- and then, after
3 all these years, with all this time, and all these
4 descriptions with no corroboration and with her best friend
5 saying she never heard about it, you know, I'm -- I'm
6 really just, you know, stunned. And outraged.

7 It's the twilight zone. I guess we're going to get to
8 a few more of these twilight zone things, but --

9 [REDACTED] Well, actually, are you aware that the New
10 York Times passed up on this story before the New Yorker
11 ran the story?

12 Judge Kavanaugh. That's what I read in the New York
13 Times.

14 [REDACTED] What's your reaction to that?

15 Judge Kavanaugh. They couldn't -- the New York Times
16 couldn't corroborate this story and found that she was
17 calling around to classmates trying to see if they
18 remembered it. And I, at least -- and I, myself, heard
19 about that, that she was doing that. And you know, that
20 just strikes me as, you know, what is going on here? When
21 someone is calling around to try to refresh other people,
22 is that what's going on? What's going on with that?

23 That doesn't sound -- that doesn't sound good to me.
24 It doesn't sound fair. It doesn't sound proper. It sounds
25 like an orchestrated hit to take me out. That's what it

1 sounds like.

2 [REDACTED] The New Yorker story discussed how
3 Ms. Ramirez had a lapse of memory related to this incident
4 until she had several days of conversations with her
5 attorney. Did you read that?

6 Judge Kavanaugh. I did. Six days of --

7 [REDACTED] What's your -- what's your reaction to
8 that, Judge?

9 Judge Kavanaugh. I mean, what is that all about?
10 What are we talking about here? This is serious stuff, and
11 they're -- you know, they're calling around to other people
12 either to refresh them, or I don't know what's going on in
13 those conversations, but it takes 6 days to kind of dredge
14 up something with a lawyer, as I understand it.

15 And in the context of a highly contentious Supreme
16 Court nomination where people understandably, and that is
17 understandably, feel strongly about the Supreme Court. I
18 don't -- I don't want to say anything -- that's appropriate
19 in America. It's appropriate in America for people to feel
20 strongly about the Supreme Court.

21 It's not appropriate for people to be dredging up
22 uncorroborated stories and trying to refresh other people's
23 recollections and then stoke the media and create a feeding
24 frenzy and destroy my family and destroy my reputation and
25 take me down. This is not right. It's an outrage.

1 ██████████ Judge, your wife, Ashley, and you recently
2 did an interview on Fox News with Martha MacCallum. Is
3 that correct?

4 Judge Kavanaugh. That is correct.

5 ██████████ Everything that you said on that
6 interview, do you -- do you affirm that today? Do you
7 adopt that as your testimony today?

8 Judge Kavanaugh. Yes.

9 ██████████ And do you understand that what you tell a
10 reporter is not subject to felony prosecution if you're
11 lying? Do you understand that?

12 Judge Kavanaugh. Yes.

13 ██████████ Do you understand that what you tell
14 congressional investigators is subject to felony
15 prosecution for lying? Correct?

16 Judge Kavanaugh. Correct.

17 ██████████ So are you saying that you're -- again,
18 with that in mind, are you adopting today that what you --
19 as your testimony what you told Martha MacCallum on Fox
20 News?

21 Judge Kavanaugh. Yes.

22 ██████████ Hey, Judge. So we have a few more
23 questions, as we've had a few more allegations. So I just
24 want to start walking through those with you now.

25 Michael Avenatti has conveyed to the committee and the

1 press allegations about your alleged involvement in gang
2 rape parties while in high school.

3 Have you had the opportunity to review those
4 allegations?

5 Judge Kavanaugh. I've heard about them generally.

6 [REDACTED] Well --

7 Judge Kavanaugh. Happy to -- happy to answer
8 questions.

9 [REDACTED] So tell us what you've heard about these
10 allegations, Judge.

11 Judge Kavanaugh. Well, can you just give me an
12 allegation? I think I saw generally described in an email
13 the allegations. So if you can ask me --

14 [REDACTED] So the committee investigators --
15 Mr. Avenatti made allegations that he had secret evidence
16 against you. Committee investigators reached out to him
17 immediately via email and asked him for his allegations and
18 his evidence. The allegations that he made are, to
19 summarize, he alleged a drug- and alcohol-induced gang rape
20 that you participated in.

21 Judge Kavanaugh. That is false. I've never
22 participated in a gang rape. I've never participated in
23 sexual activity with more than one woman present and me. I
24 think -- yeah. Just making sure I accurately described
25 that. In other words, I've never had a threesome or more

1 than a threesome.

2 [REDACTED] So, specifically, Mr. Avenatti said, "We are
3 aware of significant evidence of multiple house parties in
4 the Washington, D.C., area during the early 1980s during
5 which Brett Kavanaugh, Mark Judge, and others would
6 participate in the targeting of women with alcohol/drugs in
7 order to allow a 'train of men' to subsequently gang rape
8 them."

9 Were you involved in any way in such parties?

10 Judge Kavanaugh. No. And I've never heard of such a
11 thing. It's an outrageous accusation. Ridiculous.

12 [REDACTED] Okay. So we have some more specific
13 questions. These are -- these are Mr. --

14 Judge Kavanaugh. Good.

15 [REDACTED] Mr. Avenatti's questions. The first one,
16 did you ever target one or more women for sex or rape at a
17 house party?

18 Judge Kavanaugh. No.

19 [REDACTED] Did you ever assist Mark Judge or others in
20 doing so?

21 Judge Kavanaugh. No.

22 [REDACTED] Did you ever attend any house party during
23 which a woman was gang raped or used for sex by multiple
24 men?

25 Judge Kavanaugh. No.

1 ██████████ Did you ever witness a line of men outside a
2 bedroom at any house party where you understood a woman was
3 in the bedroom being raped or taken advantage of?

4 Judge Kavanaugh. No.

5 ██████████ Did you ever participate in any sexual
6 conduct with a woman at a house party with whom you
7 understood to be intoxicated or under the influence of
8 drugs?

9 Judge Kavanaugh. No.

10 ██████████ Did you ever communicate with Mark Judge or
11 anyone else about your participation in a "train" involving
12 an intoxicated woman?

13 Judge Kavanaugh. No.

14 ██████████ Did you ever object or attempt to prevent
15 one or more men from participating in the rape or taking
16 advantage of a woman at any house party?

17 Judge Kavanaugh. I never saw such a thing. So the
18 premise, the question is off.

19 ██████████ Mr. Avenatti has also conveyed certain
20 allegations about your yearbook and calendar. First, he
21 says your yearbook and calendar refer to "FFFFFFFourth of
22 July," that is "Fourth of July" with a total of seven Fs.
23 For clarity, I'll just refer to that as the "FFFFFFFourth
24 of July entry."

25 Does your yearbook contain the "FFFFFFFourth of July

1 entry" described by Mr. Avenatti?

2 Judge Kavanaugh. Can you -- sorry, you were breaking
3 out. Can you just speak a little closer to the phone and
4 speak up?

5 [REDACTED] Sure

6 [REDACTED] Reread the question, please.

7 [REDACTED] Right. Sorry. It's kind of a long one.

8 Mr. Avenatti says that your yearbook and calendar
9 refer to "FFFFFFFFourth of July," that is "Fourth of July"
10 with a total of seven Fs. For clarity, I'll just refer to
11 that as the "FFFFFFFFourth of July entry."

12 Does your yearbook contain the "FFFFFFFFourth of July
13 entry" described by Mr. Avenatti?

14 Judge Kavanaugh. So "FFF," all that refers to is a
15 friend of ours in the class, when he would say "fuck you,"
16 he would often say it with a wind-up like "fffuck you."
17 And for reasons that are not clear to me today, at age 15
18 and 16, the whole group of guys thought that was a funny,
19 inside thing, and it got shortened to the sound I just made
20 was a number of Fs rolling together.

21 And that guy would sometimes get in fights, either on
22 the football field or otherwise, where he would say "fuck
23 you" and then, you know, be in a fight. And that was the
24 reference.

25 [REDACTED] Okay. But what does "FFFFFFFFourth of July"

1 specifically refer to?

2 Judge Kavanaugh. That must refer to a specific
3 incident where that guy -- hold on one second.

4 [Pause.]

5 Judge Kavanaugh. Best recollection would be that it's
6 a specific party where he got in a fight.

7 [REDACTED] But you don't recall that party or that
8 fight?

9 Judge Kavanaugh. I don't recall the specifics, no. I
10 think it's referring to Rehoboth Beach.

11 [REDACTED] Okay. Mr. Avenatti says he has reason -- he
12 has reason to believe that the "FFFFFFFourth of July entry"
13 stands for "find them, French them, feel them, finger them,
14 fuck them, and forget them."

15 Have you ever used such a reference?

16 Judge Kavanaugh. That's wrong. It refers to this one
17 guy and his -- and a joke that everyone had about him and
18 how he said "fuck you."

19 [REDACTED] Have you ever heard of such a reference as
20 Mr. Avenatti described it being used?

21 Judge Kavanaugh. I have never heard that as a
22 reference, and I know for a fact that that was not the
23 reference with respect to the yearbook.

24 [REDACTED] Why did you include the "FFFFFFFourth of
25 July entry" in your yearbook and your calendar?

1 Judge Kavanaugh. I can't remember. The yearbook is a
2 lot of humor, a lot of farce, a little bit of serious where
3 you list your activities. But it's a lot of humor and a
4 lot of farce at a time when the editors of the yearbook
5 were probably following a model -- model of -- hold on one
6 second.

7 [Pause.]

8 Judge Kavanaugh. Yeah, the yearbook editors, I think,
9 had a mindset of like "Caddyshack," "Fast Times at
10 Ridgemont High," "Animal House," or something and made the
11 yearbook into kind of a farce in that respect. And that's
12 -- you know, that explains some of the yearbook.

13 [REDACTED] Judge, I just want to get some clarity on
14 the first question that [REDACTED] asked you on this line of
15 questioning. I just want to make sure that your answer is
16 what we suspect it is.

17 So let me repeat the question, and then I'm going to
18 ask you the first question again to get a clear answer.

19 Mr. Avenatti says he has reason to believe that the
20 "FFFFFFFourth of July entry" stands for "find them, French
21 them, feel them, finger them, fuck them, and forget them."

22 And here's the question. Have you ever used such a
23 reference?

24 Judge Kavanaugh. No, never. Nor has anyone else, to
25 my understanding. And I know for a fact that that is not

1 the reference in the yearbook or the reference related to
2 the person in question talking about his use of it and how
3 that became a joke among some of the classmates.

4 [REDACTED] Thank you, Judge, for the clarification on
5 our part, and [REDACTED] will continue the questioning.

6 [REDACTED] So do you have any understanding of why
7 Mr. Avenatti would interpret the "FFFFFFFourth of July
8 entry" as he has?

9 Judge Kavanaugh. No. We all know about -- no, I'm
10 not going to speculate further.

11 [REDACTED] Well, Judge, tell us about your general
12 reaction to Mr. Avenatti and his allegations.

13 Judge Kavanaugh. I think it's absurd, outrageous, a
14 joke, a farce, the twilight zone.

15 [REDACTED] Have you ever met Mr. Avenatti?

16 Judge Kavanaugh. No.

17 [REDACTED] We have not received any evidence from
18 Mr. Avenatti, despite Senate investigators requesting his
19 evidence for his allegations. We don't even know who his
20 client is, or clients, he's apparently representing in this
21 matter.

22 Are you aware of any client or clients of Mr. Avenatti
23 related to this matter?

24 Judge Kavanaugh. I am not.

25 [REDACTED] Are you aware of any evidence that

1 Mr. Avenatti may have that he says that he's going to
2 present to us at some indeterminate time in the near
3 future?

4 Judge Kavanaugh. I am not.

5 [REDACTED] Okay. So we have a few more questions about
6 some of these yearbook entries. Mr. Avenatti also says
7 that your yearbook and calendar include the phrase "devil's
8 triangle." For clarity, I'll refer to that as the "devil's
9 triangle entry."

10 Does your yearbook contain the devil's triangle entry
11 described by Mr. Avenatti?

12 Judge Kavanaugh. Hold on one second.

13 [Pause.]

14 Judge Kavanaugh. Yes. I should just clarify, too,
15 you've referred to my calendars a couple of times. He has
16 no -- he's never seen my calendars.

17 [REDACTED] You say "he," you mean Mr. Avenatti?

18 Judge Kavanaugh. Yes, Mr. Avenatti, of course, has
19 never seen my calendars.

20 [REDACTED] And you say that -- you've referred to
21 your calendars, are you -- you mean -- are you looking at
22 your calendars today?

23 Judge Kavanaugh. No. I'm just saying your question,
24 or at least the lead-up to the question, the last two
25 questions referred to calendar and yearbook, and I'm just

1 pointing out that Mr. Avenatti has never seen my calendars.
2 So we're talking about the yearbook entry.

3 On the yearbook entry, yes, there is a reference to
4 devil's triangle.

5 [REDACTED] What does the devil's triangle entry refer
6 to?

7 Judge Kavanaugh. It refers to a drinking game where
8 there were three glasses in a triangle. Beer drinking.

9 [REDACTED] Mr. Avenatti says he has -- he has reason to
10 believe the devil's triangle entry refers to a situation
11 where two men engage in sex with one woman at the same
12 time.

13 Have you ever used the term "devil's triangle" to
14 refer to sexual behavior?

15 Judge Kavanaugh. No.

16 [REDACTED] Have you ever heard "devil's triangle" being
17 used to refer to sexual behavior?

18 Judge Kavanaugh. No.

19 [REDACTED] Why did you include the devil's triangle
20 entry in your yearbook?

21 Judge Kavanaugh. I don't know. We were 17.

22 [REDACTED] Do you have any understanding of why
23 Mr. Avenatti would interpret the devil's triangle entry as
24 he has?

25 Judge Kavanaugh. I think I'll refer back to my prior

1 answer about my reaction to his allegations.

2 [REDACTED] Thank you, Judge.

3 [REDACTED] This is [REDACTED] again. I'm going to jump
4 to the next set of questions unless you have anything else
5 to add on that past topic?

6 Judge Kavanaugh. That's fine by me. Thank you.

7 [REDACTED] Okay. Judge Kavanaugh, on September 22nd
8 of this year, Senator Gardner received an anonymous letter,
9 apparently sent from Denver, alleging that you engaged in
10 certain conduct in 1998.

11 Have you had an opportunity to review that letter?

12 Judge Kavanaugh. I did look at that, I believe, yeah.

13 [REDACTED] Okay. I'm going to read -- read from it.
14 The letter states, "I will remain anonymous, but I feel
15 obligated to inform you of this 1998 incident involving
16 Brett Kavanaugh." When you were the author of the Starr
17 Report, the author's daughter from Boulder, Colorado,
18 occasionally socialized with Brett Kavanaugh. She and a
19 group of four, including Kavanaugh, met in a Washington,
20 D.C., bar.

21 "Her friend was dating him, and they left the bar
22 under the influence of alcohol. They were all shocked when
23 Brett Kavanaugh shoved her friend up against the wall very
24 aggressively and sexually. There were at least four
25 witnesses, including my daughter. Her friend, still

1 traumatized, called my daughter yesterday, September 21,
2 2018, wondering what to do about it. They decided to
3 remain anonymous."

4 Did the events described in the letter occur?

5 Judge Kavanaugh. No, and we're dealing with an
6 anonymous letter about an anonymous person and an anonymous
7 friend. It's ridiculous. Total twilight zone. And no,
8 I've never done anything like that.

9 [REDACTED] Just a few more specific questions. At
10 any point while you were involved in the Starr
11 investigation, did you ever shove a woman up against a wall
12 very aggressively or sexually as you left a bar?

13 Judge Kavanaugh. No.

14 [REDACTED] At any point while you were involved in
15 the Starr investigation, did you ever behave violently
16 toward a woman?

17 Judge Kavanaugh. No.

18 [REDACTED] All right. Just one moment, please.

19 [Pause.]

20 [REDACTED] When you were involved in the Starr
21 investigation, do you recall ever socializing with a woman
22 from Boulder, Colorado?

23 Judge Kavanaugh. No.

24 [REDACTED] While you were involved in the Starr
25 investigation, do you recall ever dating a woman who would

1 fairly fit the description in the letter provided to
2 Senator Gardner?

3 [REDACTED] The anonymous letter.

4 Judge Kavanaugh. What's the description?

5 [REDACTED] Just based on what I --

6 Judge Kavanaugh. Describe her appearance.

7 [REDACTED] No, it's -- all we have is what I read.

8 Judge Kavanaugh. Well, then I don't know what I'm
9 responding to then.

10 [REDACTED] Judge, I want to give you the opportunity
11 again to respond more generally to these series of
12 allegations that are made against you either by
13 Mr. Avenatti or anonymous sources or others. I just want
14 to get your general reaction to this.

15 Judge Kavanaugh. I think this is -- this is crazy
16 town. It's a smear campaign. I've been in the public eye
17 for 24 years, really public at various points. Certainly
18 1998, when I was in the Starr investigation, that was a
19 very public year. In the Bush White House, very public,
20 especially in 2003 to 2006. Two notable confirmation
21 hearings in '04 and '06. As a judge for 12 years. Named,
22 whether correctly or not, a few times as a possible Supreme
23 Court nominee, very public around those times.

24 You know, go through this whole process, and the FBI
25 background, six FBI backgrounds, intense scrutiny, and then

1 for something like this and the Avenatti thing are just
2 absurd and outrageous, coordinated perhaps. I don't know.
3 Twilight zone. And I don't -- you know, it's just
4 outrageous. It's trying to take me down, trying to take
5 down my family.

6 It's bad -- it's doing damage to the Supreme Court.
7 It's doing damage to the country. It's doing damage to
8 this process. It's become a total feeding frenzy, you
9 know? Every -- just unbelievable.

10 [REDACTED] The committee has received four separate
11 allegations related to you and sexual misconduct. Is there
12 a kernel of truth in any of these allegations?

13 Judge Kavanaugh. No. Are we going to talk Rhode
14 Island?

15 [REDACTED] We are.

16 Judge Kavanaugh. Okay. Let's get that one out of the
17 way, too.

18 [REDACTED] Okay, Judge.

19 Judge Kavanaugh. I don't mean to cut off questions
20 about the other one.

21 [REDACTED] Oh, no, I think we were finished. Judge
22 Kavanaugh, a Rhode Island man named [REDACTED]
23 recently called Senator Whitehouse's office making
24 allegations concerning a rape on a boat in August of 1985.
25 Have you had the opportunity to review those allegations?

1 Judge Kavanaugh. Yes.

2 [REDACTED] So, for the record, the report from Senator
3 Whitehouse states, "Senator Whitehouse received a call this
4 morning from a Rhode Island constituent, [REDACTED],
5 who made allegations regarding U.S. Supreme Court nominee
6 Brett Kavanaugh. [REDACTED] reported that early on a Sunday
7 morning in August of 1985, a close acquaintance of the
8 constituent was sexually assaulted by two heavily
9 inebriated men she referred to at the time as Brett and
10 Mark.

11 "The event took place on a 36-foot maroon and white
12 boat in the harbor at Newport, Rhode Island, after the
13 three had met at a local bar. According to [REDACTED], when
14 he learned of the assault at approximately 5:00 a.m. that
15 same morning, he and another individual went to the harbor,
16 located the boat the victim had described and physically
17 confronted the two men, leaving them with significant
18 injuries.

19 "[REDACTED] recently realized that one of the men was
20 Brett Kavanaugh when he saw Kavanaugh's high school
21 yearbook photo on television over the weekend. He promptly
22 reported the incident to our office on Monday morning,
23 September 24, 2018."

24 Judge, did this event happen?

25 Judge Kavanaugh. No. I was not in Newport, haven't

1 been on a boat in Newport. Not with Mark Judge on a boat,
2 nor all those three things combined. This is just
3 completely made up, or at least not me. I don't know what
4 they're referring to.

5 [REDACTED] Did you ever sexually assault a woman or
6 women in Rhode Island?

7 Judge Kavanaugh. No.

8 [REDACTED] Were you ever in a situation where two men
9 injured you and someone named Mark?

10 Judge Kavanaugh. No.

11 [REDACTED] Do you have any knowledge of such a boat?

12 Judge Kavanaugh. No.

13 [REDACTED] Do you know [REDACTED]?

14 Judge Kavanaugh. No.

15 [REDACTED] [REDACTED] appears to have a Twitter
16 account with the handle [REDACTED]. Among other
17 things, the information identifies the account holder as a
18 "hippie" from "[REDACTED], Rhode Island."

19 Are you aware that on June 27th of this year, the
20 account tweeted, "A question, when will the United States
21 military decided to do what they have vowed and remove the
22 domestic threat to the Constitution that lives in the White
23 House?"

24 Judge Kavanaugh. Can you repeat -- you broke out. So
25 I just want to make sure I got it. I think I got it, but

1 can you repeat it?

2 [REDACTED] Sure. So [REDACTED] has a Twitter account
3 with the handle [REDACTED]. Among other things, the
4 information identifies the account holder as a "hippie"
5 from "[REDACTED], Rhode Island."

6 Are you aware that on June 27 of this year, this
7 account tweeted, "A question, when will the United States
8 military decided to do what they have vowed and remove the
9 domestic threat to the Constitution that lives in the White
10 House?"

11 Judge Kavanaugh. I'm not aware of his Twitter account
12 or what might be on his Twitter account, if that's the
13 question.

14 [REDACTED] So you are not aware that on July 8th of
15 this year, this account tweeted, "Dear Pentagon, please
16 save my country from the parasite that occupies the White
17 House. Our you waiting until Russians parachute in like in
18 Red Dawn? Please help!"

19 Judge Kavanaugh. I'm not aware of that.

20 [REDACTED] So you are also not aware that on August 18
21 of this year, this account tweeted, "I am making for the
22 military to do their constitutional duty --"

23 [REDACTED] I am asking.

24 [REDACTED] "I am asking" -- excuse me. "-- for the
25 military to do their constitutional duty and protect us

1 from the domestic terrorist in the Oval Office. Please,
2 please, please."

3 Judge Kavanaugh. I'm not aware of that.

4 [REDACTED] Having heard this information, do you know
5 or remember, [REDACTED]?

6 Judge Kavanaugh. I don't.

7 [REDACTED] What are your general reactions to this
8 allegation, Judge?

9 Judge Kavanaugh. It's just totally made up.
10 Ridiculous.

11 [REDACTED] Okay. So, Judge Kavanaugh, we've asked you
12 now about a number of very recently made allegations of
13 sexual misconduct, and I want to make sure that we fully
14 understand your testimony.

15 Again, you understand that falsely answering my
16 questions -- our questions can carry criminal penalties.
17 Correct?

18 Judge Kavanaugh. I understand that, yes.

19 [REDACTED] Committee investigators previously asked you
20 about Dr. Ford's allegations. You categorically and
21 unequivocally denied them.

22 Do you stand by that testimony?

23 Judge Kavanaugh. I do.

24 [REDACTED] Today, we've ask you about some other
25 allegations that became public after Dr. Ford's allegations

1 became public. You have denied all of them.

2 Do you stand by that testimony?

3 Judge Kavanaugh. I do.

4 [REDACTED] Have you ever sexually assaulted anyone?

5 Judge Kavanaugh. I have not.

6 [REDACTED] Have you ever committed any kind of sexual
7 misconduct?

8 Judge Kavanaugh. No.

9 [REDACTED] Are you looking forward to testifying at
10 Thursday's hearing?

11 Judge Kavanaugh. I am looking forward to it. And to
12 reiterate what I said last Monday, now 8 days ago, I wanted
13 to testify last Tuesday so that I can clear my name, defend
14 my integrity, defend a lifetime of good work that I have
15 done and the record I've built as a judge for 12 years,
16 worked in the White House for 5 1/2, working in public
17 service, working for Justice Kennedy. I look forward to
18 defending my name, defending my integrity.

19 And to reiterate also, listen to all the people who
20 knew me best. The women I went to high school with who've
21 spoken. You know, Julie and Suzanne and Meghan and Maura,
22 and Maura, and I'll go on, who were my friends and are
23 still my friends, and who knew me then and have known me
24 since age 13 or 14. And the college friends like Louisa
25 and Carolyn and Karen, and the people I -- the women I

1 worked with in the Bush White House who have repeatedly
2 spoken on my behalf and signed a letter on my behalf and
3 talked about how I've always treated women with dignity and
4 respect throughout my life.

5 The law clerks that I've hired, and I've been the
6 leading judge in the United States, Federal judge in the
7 United States in my time on the bench in promoting women
8 law clerks to Supreme Court clerkships and hired more women
9 than men, and they've all spoken out in support of me and
10 how I've been an advocate for women's equality throughout
11 my life.

12 As a coach for the last 7 years of girls basketball
13 teams, and training and encouraging and inspiring girls to
14 do -- to have confidence and do better at basketball and
15 prepare them for life and listen to their moms and dads.

16 And all this inspired by my mom, who taught me at a
17 young age to break barriers and who, herself, was a
18 trailblazer and overcame sexual harassment and barriers
19 that were omnipresent at that time for women trying to
20 break into the legal profession. And I watched her do that
21 and learned from her and was inspired by her.

22 And one facet of my life that has been important to me
23 in all aspects is I've always been friends with lots of
24 people, and I'm blessed by my friends, and I've talked
25 about that in my opening statement last time. And one of

1 the things that's been true throughout my life is how many
2 women I've been friends with. Not talking about dating
3 now, talking about friends.

4 From an early age, Julie Hurson DeVol on TV the other
5 night talking about how I always helped her with her
6 homework in high school. Suzanne Hohman Matan and Amy
7 O'Neill and Kristin Blomquist Treacy and Maura Fitzgerald
8 and Maura Molloy Kane and Meghan Molloy McCaleb, all
9 friends from high school who were with me all the time and
10 were my friends and are still my friends. And I can go on
11 and on on the names and the people in college.

12 I've been -- I've been a supporter and promoter of
13 women's equality, and then the women -- women I've dated
14 have talked about that as well and how I treated them. And
15 some of the women on those letters are people I went out
16 with. Most of them, of course, are friends and never had
17 that kind -- but they've all talked about how I treated
18 them with dignity and respect throughout my life.

19 And you know, who would want to go through this? Who
20 is ever going to want to go through this in the future?
21 What is this doing to the Court when -- and the country and
22 the process when these kind of -- this kind of process
23 happens where an allegation is held for this long, an
24 allegation during the process that was known. And then I
25 have -- known during the process, I mean, by a Senator.

1 And then I go through the hearing and the prompt
2 background check and the individuals meetings, and then
3 it's sprung in the way it was sprung. And you know, just
4 to go back to that, that's the summer of 1982. Well, I
5 wasn't at such thing in the summer of 1982. And the people
6 who were there say it didn't happen.

7 And since we last talked, the other -- the woman who
8 was there says she doesn't know me and has never seen me,
9 as far as she can remember, at a party. It's just -- it's
10 a disgrace. It is a total -- what this process has become.

11 I'll end with that, unless you have further questions.

12 ██████████ Just one more.

13 ██████████ Two more. Go ahead.

14 ██████████ Two more. Excuse me. Do you object to the
15 public release of the transcript of this interview?

16 Judge Kavanaugh. I do not object.

17 ██████████ And Judge, we had a transcribed interview
18 with you on Monday, September 17, 2018. Correct?

19 Judge Kavanaugh. Yes.

20 ██████████ And in that interview, we discussed the
21 then-allegations by Dr. Ford contained in the July 30,
22 2018, letter sent to Senator Feinstein's office. Correct?

23 Judge Kavanaugh. Correct.

24 ██████████ Do you -- for purposes of your testimony
25 today, do you adopt your testimony from September 17th?

1 Judge Kavanaugh. Yes.

2 [REDACTED] And do you object to the public release of
3 that testimony from September 17th?

4 Judge Kavanaugh. I do not object to that.

5 [REDACTED] So that was during -- that testimony was
6 during a background investigation call with you between the
7 ranking member's staff and the chairman's staff. Do you
8 understand that?

9 Judge Kavanaugh. I thought it was just the chairman's
10 staff, that call. Am I wrong about that?

11 [REDACTED] Excuse me. The chairman's staff. The
12 ranking member's staff was invited, but did not
13 participate. I stand corrected. But you understand that
14 that's --

15 Judge Kavanaugh. Right. That --

16 [REDACTED] -- part of the BI process?

17 Judge Kavanaugh. That's correct.

18 [REDACTED] So I just want to make sure that this is
19 crystal clear. You do not object to having that testimony,
20 that transcript of that testimony attached, because you're
21 adopting it for purposes of today's testimony, to your
22 testimony today, and so we can publicly release both
23 transcripts. Is that correct?

24 Judge Kavanaugh. That is correct.

25 [REDACTED] Do you have anything further to add,

1 Judge?

2 Judge Kavanaugh. Thank you all for your time.

3 [REDACTED] Thank you.

4 [Whereupon, at 1:36 p.m., the interview was
5 concluded.]

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



Follow



Do everyone who is going crazy about what I had said I have recanted because I have made a mistake and apologize for such mistake

7:51 PM - 26 Sep 2018

140 Retweets 121 Likes



293 140 121

Attachment 3

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH	DIANNE FEINSTEIN, CALIFORNIA
LINDSEY O. GRAHAM, SOUTH CAROLINA	PATRICK J. LEAHY, VERMONT
JOHN CORNYN, TEXAS	RICHARD J. DURBIN, ILLINOIS
MICHAEL S. LEE, UTAH	SHELDON WHITEHOUSE, RHODE ISLAND
TED CRUZ, TEXAS	AMY KLOBUCHAR, MINNESOTA
BEN SASSE, NEBRASKA	CHRISTOPHER A. COONS, DELAWARE
JEFF FLAKE, ARIZONA	RICHARD BLUMENTHAL, CONNECTICUT
MIKE CRAPO, IDAHO	MAZIE HIRONO, HAWAII
THOM TILLIS, NORTH CAROLINA	CORY A. BOOKER, NEW JERSEY
JOHN KENNEDY, LOUISIANA	KAMALA D. HARRIS, CALIFORNIA

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
JENNIFER DUCK, *Democratic Chief Counsel and Staff Director*

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

October 25, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Attorney General Sessions and Director Wray:

As you know, the Senate Judiciary Committee recently processed the nomination of Judge Brett M. Kavanaugh to serve as an Associate Justice on the Supreme Court of the United States, leading to his eventual confirmation on October 6, 2018. As part of that process, the Committee has investigated various allegations made against Judge Kavanaugh. The Committee's investigation has involved communicating with numerous individuals claiming to have relevant information. While many of those individuals have provided the Committee information in good faith, it unfortunately appears some have not. As explained below, I am writing to refer Mr. Michael Avenatti and Ms. Julie Swetnick for investigation of potential violations of 18 U.S.C. §§ 371, 1001, and 1505, for materially false statements they made to the Committee during the course of the Committee's investigation.

ALLEGATIONS BY MR. AVENATTI AND MS. SWETNICK

On September 23, 2018, Mr. Avenatti posted a message on social media claiming that he was "represent[ing] a woman with credible information regarding Judge Kavanaugh and Mark Judge."¹ Minutes later, Committee staff contacted Mr. Avenatti acknowledging his claim and asking that he "advise [them] of this information immediately so that Senate investigators may promptly begin an inquiry."² Mr. Avenatti responded, failing to disclose the identity of his client but representing to Committee staff:

We are aware of significant evidence of multiple house parties in the Washington, D.C. area during the early 1980s during which Brett Kavanaugh, Mark Judge, and others would participate in the targeting of

¹ <https://twitter.com/MichaelAvenatti/status/1044006928416825344>.

² Email exchange between the Chief Counsel for Nominations Mike Davis and Michael Avenatti on Sept. 23, 2018, enclosed below.

women with alcohol/drugs in order to allow a ‘train’ of men to subsequently gang rape them.³

Noting Mr. Avenatti’s use of “we,” Committee staff asked Mr. Avenatti if he did in fact have a client making these claims or was solely doing so himself.⁴ He responded that he did have a client, but again did not identify her.⁵ On September 24, 2018, Mr. Avenatti posted an additional message on social media “[w]arning ... [t]he GOP and others” to “be very careful in trying to suggest that she [Mr. Avenatti’s unnamed client] is not credible.”⁶ Then, on September 26, 2018, Mr. Avenatti publicly revealed that his client was Ms. Julie Swetnick.⁷ Ms. Swetnick is a former client of the law firm of Ms. Debra Katz, the attorney for Dr. Christine Blasey Ford.⁸

That same day, September 26, 2018, Mr. Avenatti submitted a sworn statement to the Committee purportedly written and signed by Ms. Swetnick, in which she accused Judge Kavanaugh of repeatedly drugging women and/or spiking their punch with alcohol in order to render them inebriated and disoriented so that groups of boys, including Judge Kavanaugh, could gang rape them.⁹ Specifically, she alleged in her sworn statement that she met Brett Kavanaugh “in approximately 1980-1981,” and that she “attended well over ten house parties in the Washington, D.C. area during the years 1981-1983,” some of which she claimed Brett Kavanaugh also attended. “During the years 1981-82,” Ms. Swetnick declared, “I became aware of efforts by Mark Judge, Brett Kavanaugh and others to ‘spike’ the ‘punch’ at house parties I attended with drugs and/or grain alcohol so as to cause girls to lose their inhibitions and their ability to say ‘No.’” She said that at these parties, which “were a common occurrence in the area and occurred nearly every weekend during the school year,” she witnessed Brett Kavanaugh participate in what she believed to be systematic sexual assaults of incapacitated women. “I ... witnessed efforts by Mark Judge, Brett Kavanaugh and others to cause girls to become inebriated so they could then be ‘gang raped’ in a side room or bedroom by a ‘train’ of numerous boys. I have a firm recollection of seeing boys lined up outside rooms at many of these parties waiting for their ‘turn’ with a girl inside the room,” Ms. Swetnick declared, and “[t]hese boys included Mark Judge and Brett Kavanaugh.”

Ms. Swetnick’s sworn statement, which the Committee received on September 26, 2018, also mentioned for the first time the “Beach Week” parties in Ocean City, Maryland. Ms. Swetnick said that she was “told by other women this conduct also occurred during the Summer months in Ocean City, Maryland,” and she “witnessed such conduct on one occasion in Ocean City, Maryland during ‘Beach Week.’” However, Mr. Avenatti did not reference “Beach Week” in his September 23, 2018 email to the Committee. Mr. Avenatti’s original email only alleged conduct at house parties in the Washington, D.C. area. Notably, Ms. Swetnick submitted her statement broadening the area of the alleged incidents from Washington, D.C.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ <https://twitter.com/MichaelAvenatti/status/1044233074609811456>.

⁷ <https://twitter.com/MichaelAvenatti/status/1044960940884709378>.

⁸ Ariane de Vogue and Eli Watkins, *New Kavanaugh Accuser Has Tie to Firm of Christine Blasey Ford’s Attorney*, CNN (Sept. 26, 2018). Available at: <https://www.cnn.com/2018/09/26/politics/julie-swetnick-debra-katz-settlement/index.html>. Moreover, according to Dr. Ford’s testimony, Ranking Member Feinstein’s own staff facilitated Ms. Katz’ representation of Dr. Ford. See Mikhael Smits, *Christine Blasey Ford: Feinstein Recommended Attorney Debra Katz to Me*, THE WASHINGTON FREE BEACON (Sept. 27, 2018). Available at: <https://freebeacon.com/politics/ford-feinstein-recommended-attorney-debra-katz/>.

⁹ Swetnick Sworn Statement, dated Sept. 25, 2018 and received on Sept. 26, 2018, enclosed below.

to Ocean City, Maryland, only after the Committee publicly released Judge Kavanaugh's 1982 calendar - which included a notation for Beach Week during the week of June 6-12.¹⁰

**DIVERSION OF COMMITTEE RESOURCES TO
INVESTIGATE MR. AVENATTI'S AND MS. SWETNICK'S ALLEGATIONS**

The sworn statement Mr. Avenatti submitted on behalf of Ms. Swetnick materially affected the Committee's investigation of allegations against Judge Kavanaugh. Within hours of the submission, all the Democrats on the Senate Judiciary Committee sent a letter to me stating:

In light of shocking new allegations detailed by Julie Swetnick in a sworn affidavit, we write to request that the Committee vote on Brett Kavanaugh be immediately canceled and that you support the reopening of the FBI investigation to examine all of the allegations against Kavanaugh or withdrawal of his nomination.¹¹

The Democrats' letter specifically referenced the fact that Ms. Swetnick's sworn statement was submitted to the Committee "[u]nder penalty of perjury, which would cause Ms. Swetnick to be subject to criminal prosecution" if her allegations are knowingly, willfully, and materially false.¹²

After receiving the allegations from Mr. Avenatti and Ms. Swetnick, Committee staff immediately began investigating the claims, diverting significant resources to the effort. This included questioning Judge Kavanaugh in a transcribed interview on September 25, 2018, about the allegations Mr. Avenatti made to the Committee via his September 23, 2018 email.¹³ It also included questioning Judge Kavanaugh in another transcribed interview on September 26, 2018, about the specifics of Ms. Swetnick's allegations after the Committee received her statement.¹⁴ Under penalty of felony, Judge Kavanaugh categorically denied the allegations and stated he did not know Ms. Swetnick. Committee staff also interviewed ten associates of Ms. Swetnick, working late nights and weekends to gather information to determine the veracity of Ms. Swetnick's claims and evaluate her credibility. Committee staff sought to interview Ms. Swetnick, but Mr. Avenatti refused.

**MS. SWETNICK'S AND MR. AVENATTI'S
SUBSEQUENT CONTRADICTIONS OF THEIR ALLEGATIONS**

In short, Mr. Avenatti and Ms. Swetnick made grave allegations against Judge Kavanaugh, and the Committee diverted significant resources to investigate the claims. However, in light of Ms. Swetnick's and Mr. Avenatti's own statements to the media, information obtained from Committee interviews of her

¹⁰ Judge Kavanaugh's Summer 1982 Calendar, provided to Senate Judiciary Committee. Available at: <https://www.judiciary.senate.gov/imo/media/doc/Kavanaugh%20Summer%201982%20Calendar%20Pages1.pdf>.

¹¹ Letter from Judiciary Committee Democrats to Chairman Grassley (Sept. 26, 2018). Available at: https://www.feinstein.senate.gov/public/_cache/files/f/d/fd184cdb-c9fa-49bc-93b8-972f63557de6/6E8DC1425692A07770016AB11DB35F1A.2018.09.26-jud-d-ltr-to-ceg-re-swetnick-withdrawl-or-investigate.pdf

¹² *Id.*

¹³ Senate Judiciary Committee Interview with Judge Kavanaugh 22-25 (Sept. 25, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/09.25.18%20BMK%20Interview%20Transcript%20\(Redacted\).pdf](https://www.judiciary.senate.gov/imo/media/doc/09.25.18%20BMK%20Interview%20Transcript%20(Redacted).pdf).

¹⁴ Senate Judiciary Committee Interview with Judge Kavanaugh 5-10 (Sept. 26, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/09.26.18%20BMK%20Interview%20Transcript%20\(Redacted\).pdf](https://www.judiciary.senate.gov/imo/media/doc/09.26.18%20BMK%20Interview%20Transcript%20(Redacted).pdf).

associates, and publicly reported information about her and Mr. Avenatti, it has become apparent that the statements Mr. Avenatti and Ms. Swetnick submitted to the Committee likely contained materially false claims.

On October 1, 2018, NBC News aired an interview of Ms. Swetnick by Ms. Kate Snow, in which Ms. Swetnick contradicted key claims she had made to the Committee via Mr. Avenatti.¹⁵ When asked about the claim in her sworn statement that she was aware of Brett Kavanaugh spiking punch at parties with drugs and/or grain alcohol, Ms. Swetnick demurred, stating instead that “I saw [Kavanaugh] giving red Solo cups to quite a few girls” but that “I don’t know what he did” as far as spiking punch. In this revised account to NBC, she merely claimed she “saw him by” punch containers. This materially contradicted her statement in her sworn statement that she was “aware of efforts by ... Brett Kavanaugh ... to ‘spike’ the ‘punch’ at house parties ... to cause girls to become inebriated and disoriented so they could then be ‘gang raped.’”¹⁶ Ms. Swetnick’s sworn statement to the Committee claimed she had “personal knowledge of the information” stated in it. Yet, when CNN later questioned Mr. Avenatti about the clear contradictions between Ms. Swetnick’s statements in her sworn declaration and those to NBC about Judge Kavanaugh spiking punch, he conceded: “One of her friends informed her of what she just put in the declaration or what was attested to in the declaration.”¹⁷

When the NBC interview with Ms. Swetnick addressed claims in her sworn statement that she had “a firm recollection of seeing boys,” including Brett Kavanaugh, “lined up outside rooms at many of these parties” to gang rape incapacitated women, Ms. Swetnick again contradicted her statement to the Committee. She denied both that there were lines of boys outside rooms and that she had any actual knowledge at the time of any gang rapes in those rooms by these boys.

Ms. Snow and Ms. Swetnick had the following exchange in which Ms. Swetnick contradicted her claim of seeing boys lined up outside rooms at these parties she supposedly attended:

Ms. Swetnick: I would see boys standing outside of rooms, congregated together.... I would see them laughing, a lot of laughing.

Ms. Snow: Standing in line outside a room?

Ms. Swetnick: Not a line, but definitely huddled by doors.¹⁸

So, contradicting her sworn statement claim that she had “a firm recollection” of seeing boys lined up outside bedrooms at parties to systematically rape women, her revised account to NBC merely claimed that she saw groups of boys standing together and laughing in the general vicinity of doors at house parties.

Similarly, although Ms. Swetnick claimed in her sworn statement that, based on “personal knowledge,” it was her “firm recollection” that these boys were lined up for the purpose of “waiting for

¹⁵ Kate Snow, *Kavanaugh Accuser Julie Swetnick Speaks Out on Sexual Abuse Allegations*, NBC News (Oct. 1, 2018). Available at <https://www.nbcnews.com/politics/supreme-court/kavanaugh-accuser-julie-swetnick-speaks-out-sexual-abuse-allegations-n915641>.

¹⁶ See Swetnick Sworn Statement.

¹⁷ See Daniel Chaitin, *Michael Avenatti: One of Julie Swetnick's Friends Told Her Kavanaugh Was Spiking the Punch*, THE WASHINGTON EXAMINER (Oct. 1, 2018) (quoting CNN interview). Available at: <https://www.washingtonexaminer.com/news/michael-avenatti-one-of-julie-swetnicks-friends-told-her-kavanaugh-was-spiking-the-punch>; Cuomo Prime Time, *Cuomo Pushes Back on Credibility of Swetnick*, CNN (Oct. 1, 2018). Available at: <https://www.cnn.com/videos/politics/2018/10/02/michael-avenatti-julie-swetnick-credibility-bts-cpt-vpx.cnn>.

¹⁸ Kate Snow, *Kavanaugh Accuser Julie Swetnick Speaks Out on Sexual Abuse Allegations*, NBC News (Oct. 1, 2018).

their ‘turn’ with a girl inside the room,” *i.e.*, for their turn to rape a victim incapacitated by punch spiked with drugs or alcohol, she contradicted this as well in her NBC interview, instead admitting that she did not have any knowledge at the time that any such activity was actually happening, but only assumed as much after the fact, stating: “I didn’t know what was occurring ... and I didn’t understand what it could possibly be.” Ms. Snow attempted to clarify, asking: “So you’re suggesting that, **in hindsight**, you **think** he [Kavanaugh] was involved in this behavior [gang rapes]?” Ms. Swetnick responded: “I would say [pause] yes. It’s just too coincidental.”¹⁹

Ms. Swetnick also contradicted the timeline she provided in her sworn statement, in which she stated: “I attended well over ten house parties in the Washington D.C. area during the years 1981-83 where Mark Judge and Brett Kavanaugh were present.” In the NBC interview, Ms. Swetnick stated that she was sexually assaulted at one of these house parties when she was 19 and stopped going to them afterwards. According to public records, Ms. Swetnick would have turned 20 toward the end of 1982. So, her claim that she attended these parties through 1983 is contradicted by her claim she stopped attending when she was 19.²⁰

In sum, the sworn statement Mr. Avenatti submitted to the Committee on behalf of Ms. Swetnick claimed she had “personal knowledge” that Judge Kavanaugh spiked punch with drugs and alcohol at house parties in 1981-83 in order to cause girls to become incapacitated so that lines of boys would systematically sexually assault them. She later contradicted each of those claims in her interview with NBC.

Those contradictions did not go unnoticed. When NBC introduced her interview segment, Ms. Snow explicitly stated: “There are things that she told us on camera that differ from her written statement last week.”²¹ When later asked by an MSNBC anchor whether Ms. Swetnick has credibility issues, Ms. Snow stated: “I would say yes because there are – just to be clear there are things that she said to me that differ from her initial statement, which was a sworn statement last week, submitted to the Judiciary Committee.”²² A CNN host similarly noted the contradictions and quizzed Mr. Avenatti about them.²³ While differences between a media report and a statement to the Committee would not necessarily rise to the level of warranting a referral, when the source of the contradictory media reports is the declarant herself, as is the case here, it does.

LACK OF CREDIBLE EVIDENCE MS. SWETNICK EVER KNEW JUDGE KAVANAUGH

Not only did Ms. Swetnick materially contradict the allegations of sexual misconduct she and Mr. Avenatti made to the Committee about Judge Kavanaugh, there is simply no credible evidence that Ms. Swetnick ever even met or socialized with Judge Kavanaugh. On the contrary, there is substantial evidence they did not know each other. Ms. Swetnick was older and attended a different high school in a different town – one whose students were reportedly not known to regularly socialize with students from Judge Kavanaugh’s high school. The only apparent commonality between Ms. Swetnick and Judge Kavanaugh is that they both lived in Montgomery County, Maryland in the early 1980s. That is not particularly

¹⁹ *Id.*

²⁰ In addition to contradicting her statement to the Judiciary Committee, Ms. Swetnick’s NBC interview was also internally inconsistent and contradictory, such as her baffling explanations of how and when she decided to come forward with her allegation.

²¹ Kate Snow, *Kavanaugh Accuser Julie Swetnick Speaks Out on Sexual Abuse Allegations*, NBC News (Oct. 1, 2018).

²² MSNBC Live with Craig Melvin (Oct. 2, 2018).

²³ Cuomo Prime Time, *Cuomo Pushes Back on Credibility of Swetnick*, CNN (Oct. 1, 2018).

meaningful for determining whether they knew each other; according to information from the U.S. Census Bureau, Montgomery County had a population of over 600,000 in 1982.

In addition to denying her allegations, Judge Kavanaugh told the Committee under penalty of felony that he did not know Ms. Swetnick.²⁴ Mark Judge similarly denied the allegations and stated to the Committee, also under penalty of felony, “I do not know Julie Swetnick.”²⁵ Michael Fegan, a friend of Judge Kavanaugh’s in high school who “attended most of the same social events” as Judge Kavanaugh, stated the following to the Committee under penalty of felony:

I have never heard of Ms. Swetnick. My understanding is that she graduated from Gaithersburg High School three years before we graduated from Georgetown Prep. During my high school years, I did not know any girls from Gaithersburg High School. We did not socialize with girls from Gaithersburg High School.²⁶

Indeed, a letter to the Committee under penalty of felony signed by 64 “men and women who knew Brett Kavanaugh well in high school” called Ms. Swetnick’s allegations “[n]onsense” and noted: “In the extensive amount of time we collectively spent with Brett, we do not recall having ever met someone named Julie Swetnick.”²⁷

For their part, it appears the media similarly could not find any evidence that Ms. Swetnick actually knew Judge Kavanaugh. As Ms. Snow from NBC News reported:

We’ve been trying independently to reach out to anyone who remembers attending parties with Julie Swetnick and Brett Kavanaugh, and we’ve been asking her attorney for names. So far, we’ve not found anyone who remembers that.... We asked him [Mr. Avenatti], I asked him at that point can you provide us with any names of people who went to the parties with her. Just because we couldn’t place her, NBC News has not since last week been able to place her in that time period at those house parties in that group of friends. There aren’t other people coming forward as happens in many other stories we cover, who say ‘yes I was there too.’ ... We’re just trying to do our reporting.... To date, as of today, we haven’t been able to find anyone who says ‘yes, I saw her in the same room with Brett Kavanaugh,’ and of course Judge Kavanaugh says he was not in the same room with her, he doesn’t even know who she is.²⁸

Ms. Swetnick did eventually provide NBC News the names of four people she said attended these alleged parties with her, but according to NBC: “One of them said he does not recall a Julie Swetnick.

²⁴ Senate Judiciary Committee Interview with Judge Kavanaugh 5-10 (Sept. 26, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/09.26.18%20BMK%20Interview%20Transcript%20\(Redacted\).pdf](https://www.judiciary.senate.gov/imo/media/doc/09.26.18%20BMK%20Interview%20Transcript%20(Redacted).pdf).

²⁵ Letter from Mark Judge to Chairman Grassley and Ranking Member Feinstein (Sept. 28, 2018), enclosed below.

²⁶ Letter from Michael C. Fegan to Chairman Grassley (Oct. 1, 2018), enclosed below.

²⁷ Letter from Kavanaugh high school friends to Chairman Grassley and Ranking Member Feinstein (Sept. 26, 2018), enclosed below.

²⁸ Kate Snow, *Kavanaugh Accuser Julie Swetnick Speaks out on Sexual Abuse Allegations*, NBC News (Oct. 1, 2018).

Another of the friends she named is deceased. We've reached out to the other two, and haven't heard back."²⁹

After the media hubbub about Ms. Swetnick's contradictory interview and the lack of any corroboration for her claims, Mr. Avenatti belatedly produced a vague and anonymous declaration he claimed supported her allegations.³⁰ Mr. Avenatti did not provide the identity of this supposed declarant to the Committee, nor did he make him or her available for an interview with Committee staff. It does not appear any media outlet has been able report any interview with the purported declarant or validate anything in the anonymous declaration. Indeed, it is unclear who actually wrote the anonymous declaration. Mr. Avenatti also apparently has a history of claiming to have anonymous clients who never materialize in any verifiable form.³¹

ISSUES WITH MS. SWETNICK'S CREDIBILITY

During the course of the Committee's investigation of allegations against Judge Kavanaugh, Committee investigators spoke with 45 individuals, obtained 25 written statements, and reviewed numerous other materials. This included speaking with ten associates of Ms. Swetnick who knew her at various times in her life ranging from junior high to the present day. In doing so, Committee investigators did not find any information to corroborate Ms. Swetnick's claims. On the contrary, they received substantial information calling into question her credibility. Based on this and public reports, it appears Ms. Swetnick has a history of making false legal claims and false accusations of sexual misconduct.

Through his attorney, Richard Vinneccy provided the Committee a signed statement regarding Ms. Swetnick.³² According to his statement, Mr. Vinneccy was in a romantic relationship with Ms. Swetnick for seven years, and he said he submitted his statement to the Committee "to exercise [his] civic duty and attest to the credibility or lack thereof of Ms. Swetnick." Among other odd behavior by Ms. Swetnick that Mr. Vinneccy noted, he described how she "harassed and stalked" him after he ended their relationship. When he told her to stop calling because he had entered a relationship with a woman (who he later married) and that he and his new girlfriend were expecting a child, Mr. Vinneccy says Ms. Swetnick: 1) threatened to murder him, his girlfriend, and their unborn child; 2) threatened to falsely tell the police he had raped her; 3) threatened to have him deported; 4) stated she would not grant him a divorce; and 5) claimed she was pregnant with twins. As Mr. Vinneccy told the Committee, he and Ms. Swetnick were never married, so he found her reference to not granting him a divorce bizarre. Mr. Vinneccy is an American citizen, so he also found her threats of deportation bizarre. He also stated that he confirmed that Ms. Swetnick's claim of being pregnant with twins "was a complete fabrication and that there was no pregnancy."

Because he was afraid that she would harm him and his family, as she had threatened, Mr. Vinneccy filed a restraining order against her. He stated that a temporary injunction was granted, but he understood that for a permanent injunction to be issued in Florida, there would first need to be a hearing which Ms. Swetnick would attend. Fearing for his and his family's safety if Ms. Swetnick confronted him at the

²⁹ *Id.*

³⁰ <https://twitter.com/MichaelAvenatti/status/1047447758993547265>. Mr. Avenatti emailed the same redacted declaration to the Committee on October 2, 2018.

³¹ See, e.g., Avery Anapol, *Avenatti Claims He Represents Three More Women That Were Paid Hush Money*, THE HILL (July 27, 2018). Available at: <https://thehill.com/homenews/administration/399133-avenatti-claims-three-more-women-were-paid-hush-money-by-trump-cohen>.

³² Statement of Richard Vinneccy for Senate Judiciary Committee Investigation (Oct. 4, 2018).

hearing, he did not go through with the hearing. Instead, he moved to a new residence and changed his phone numbers to avoid further contact from Ms. Swetnick.

In addition to describing those actions by Ms. Swetnick, Mr. Vinneccy also stated that during their seven-year relationship, Ms. Swetnick was often financially unstable and was “always seeking financial gain from frivolous law suits.” He also described other odd behavior relevant to her mental stability.³³ Mr. Vinneccy closed his letter by stating:

Based on my history with Ms. Swetnick, I do not believe her allegations against Judge Kavanaugh and it is my opinion that she is perpetuating a fraud against him. Her motives may be for financial gain or notoriety but they are certainly not to expose the truth.³⁴

Furthermore, in a defamation lawsuit filed against Ms. Swetnick by one of her former employers, Webtrends, the company reportedly indicated that Ms. Swetnick engaged in a pattern of lies and made multiple false accusations of sexual misconduct.³⁵ The company stated Ms. Swetnick lied in her employment application, falsely claiming she had earned an undergraduate degree from Johns Hopkins University, but the company subsequently learned the University had no record of her attendance.³⁶ The company also stated that Ms. Swetnick misrepresented the length of time she had worked for a previous employer, and took medical leave while simultaneously claiming unemployment benefits in the District of Columbia.³⁷ Webtrends stated that a few weeks after Ms. Swetnick started working for the company, its human resources department received a complaint that she had engaged in unwelcome and inappropriate sexual conduct towards two male coworkers at a business lunch.³⁸ The company stated that, in response to the complaint received against her, Ms. Swetnick falsely accused multiple male coworkers of sexually harassing her and threatened to sue the company.³⁹ The company later found that Ms. Swetnick had engaged in misconduct but found no evidence to support her sexual harassment claims.⁴⁰

The Committee was also contacted by multiple employees of a different company where Ms. Swetnick previously worked, who stated it was their understanding that when Ms. Swetnick was confronted there about possible misconduct on her part, she responded by making a false sexual harassment or assault claim against that company as well, which it settled in order to avoid negative publicity. The employees

³³ *Id.* Many other associates of Ms. Swetnick also described to the Committee issues with her mental health, substance abuse, and/or credibility issues, but requested confidential treatment from the Committee, which we are honoring. One former associate of Ms. Swetnick, Dennis Ketterer, did provide a signed public statement under penalty of felony in which he told the Committee that Ms. Swetnick’s own father had told him “she had psychological and other problems.” Statement by Dennis Ketterer to Senate Judiciary Committee (Oct. 2, 2018), enclosed below.

³⁴ Statement of Richard Vinneccy for Senate Judiciary Committee Investigation (Oct. 4, 2018), enclosed below.

³⁵ Mike Rogoway, *Julie Swetnick, a Brett Kavanaugh Accuser, Faced Misconduct Allegations at Portland Company*, THE OREGONIAN (Sept. 28, 2018) available at https://www.oregonlive.com/silicon-forest/index.ssf/2018/09/julie_swetnick_one_of_kavanaugh.html; Michael Kunzelman, Michael Biesecker, and Martha Medoza, *3rd Kavanaugh Accuser Has History of Legal Disputes*, THE ASSOCIATED PRESS (Sept. 30, 2018). Available at <https://www.yahoo.com/news/3rd-kavanaugh-accuser-history-legal-disputes-100137653.html>.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

requested confidentiality from the Committee regarding their names and the name of the company, which we are honoring.

Ms. Swetnick also reportedly made false claims in a personal injury lawsuit against the Washington Metropolitan Area Transit Authority.⁴¹ According to the *Associated Press*, in the lawsuit Ms. Swetnick “claimed she lost more than \$420,000 in earnings after she hurt her nose in a fall on a train.”⁴² Ms. Swetnick reportedly claimed she was a model and actor with numerous modeling commitments with companies at the time of the accident, but lost them because of her purported injuries.⁴³ To justify these claims, she reportedly named “Konam Studios” as one of the companies promising to employ her, and identified Nam Ko of “Kunam Studios” as a potential witness for her case.⁴⁴ But, reporters from the *AP* spoke with Mr. Ko and discovered the following:

Ko, however, told AP on Friday that he was just a friend of Swetnick’s and that he had never owned a company with a name spelled either way and had never agreed to pay her money for any work before she injured her nose. He said he first met Swetnick at a bar more than a year after her alleged accident. “I didn’t have any money back then. I (was) broke as can be,” Ko said. Ko said he has a hazy memory of Swetnick asking to use him as a “character reference” but doesn’t recall hearing about her lawsuit. “I thought it was for a job application,” he said.⁴⁵

In short, it appears Ms. Swetnick has a substantial history of credibility issues. When viewed in light of the fact there is no credible evidence she ever knew Judge Kavanaugh, and the fact she has contradicted key aspects of her allegations against him, this lends credence to the likelihood that she made materially false statements to the Committee in violation of 18 U.S.C. § 1001. Those statements obstructed the Judiciary Committee’s efforts to investigate allegations against Judge Kavanaugh and the processing of his nomination, potentially in violation of 18 U.S.C. § 1505. Given Mr. Avenatti’s role in this with Ms. Swetnick, along with Mr. Avenatti’s own substantial credibility issues (discussed next), there may have been a conspiracy to violate these laws, in potential violation of 18 U.S.C. § 371.

ISSUES WITH MR. AVENATTI’S CREDIBILITY

In addition to the credibility issues Committee investigators uncovered surrounding Ms. Swetnick, Mr. Avenatti has substantial credibility issues of his own. For example, Mr. Avenatti appears to have several issues stemming from his involvement with Global Baristas, a company he reportedly formed with actor Patrick Dempsey in 2012, which purchased the Tully’s Coffee chain out of bankruptcy.⁴⁶ Mr.

⁴¹ *3rd Kavanaugh Accuser Has History of Legal Disputes*, THE ASSOCIATED PRESS (Sept. 30, 2018). Available at: <https://www.yahoo.com/news/3rd-kavanaugh-accuser-history-legal-disputes-100137653.html>.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ See Kate Briquetelet, *Michael Avenatti Lived the High Life While Owing Millions to IRS*, THE DAILY BEAST (Oct. 21, 2018). Available at: <https://www.thedailybeast.com/michael-avenatti-lived-the-high-life-while-owing-millions-to-irs?ref=scroll>.

Dempsey sued Mr. Avenatti in 2013, stating that Mr. Avenatti had lied to him about serious financial matters.⁴⁷ According to the *Seattle Times*:

“My decision to become a member and manager of Global Baristas was based, in part, on Michael Avenatti’s representation that he would provide both the capital to fund the entire Tully’s acquisition and sufficient working capital to allow Global Baristas to operate the Tully’s Coffee stores once the acquisition was completed,” Dempsey said in the suit.

Instead, he alleged, Avenatti used Global Baristas to borrow \$2 million for working capital without telling him. The loan carries an “exorbitant” interest rate of 15 percent annually, the lawsuit says.⁴⁸

Mr. Avenatti’s company was also reportedly involved in additional litigation implicating his credibility, including one case in which a judge sanctioned his company for misconduct, “an acrimonious landlord-tenant dispute that led to court sanctions, fines and judgments against Avenatti’s coffee firm, in part for failing to comply with court orders to produce evidence.”⁴⁹

Earlier this year, Mr. Avenatti was also reportedly under investigation by the State Bar of California as a result of a complaint regarding “what Mr. Avenatti has done in connection with Global Baristas,” namely a claim that “he bought a company out of bankruptcy and then used it for a ‘pump and dump’ scheme to deprive federal and state taxing authorities out of millions of dollars.”⁵⁰

Mr. Dempsey’s lawsuit against Mr. Avenatti was not the only time a business partner accused him of deception.⁵¹ Jason Frank, a former partner at Mr. Avenatti’s law firm Eagan Avenatti, “resigned in May 2016 after alleging that the firm didn’t pay him millions of dollars that he was owed, misstated the firm’s profits, and wouldn’t provide copies of tax returns and other financial documents.”⁵² Mr. Frank filed for arbitration and “a three-judge panel found that Avenatti’s former firm Eagan Avenatti ‘acted with malice, fraud and oppression,’” by withholding relevant information from Mr. Frank.⁵³ On October 22, 2018, the

⁴⁷ See Melissa Allison, *Dempsey Walks Away From Tully’s After Suing Partner*, THE SEATTLE TIMES (Aug. 23, 2013). Available at: <https://www.seattletimes.com/business/dempsey-walks-away-from-tullysquos-after-suing-partner/>.

⁴⁸ *Id.*

⁴⁹ See Lewis Kamb, *California Bar Investigating Attorney Avenatti’s Dealings Involving Tully’s, Letter Says*, THE SEATTLE TIMES (May 18, 2018). Available at: <https://www.seattletimes.com/seattle-news/california-state-bar-investigating-avenattis-tully-dealings-according-to-letter/>.

⁵⁰ Avenatti Bar Complaint, available at <https://www.documentcloud.org/documents/4433390-Avenatti-Bar-Complaint.html>; see Lewis Kamb, *California Bar Investigating Attorney Avenatti’s Dealings Involving Tully’s, Letter Says*, THE SEATTLE TIMES (May 18, 2018); see also California State Bar Letter, available at <https://www.documentcloud.org/documents/4469101-California-State-Bar-letter-to-Nold.html>; Kate Briquetlet, *Michael Avenatti Lived the High Life While Owing Millions to IRS*, THE DAILY BEAST (Oct. 21, 2018).

⁵¹ See Michael Balsamo, *Judge Orders Law Firm of Stormy Daniel’s Lawyer to Pay \$10M*, THE ASSOCIATED PRESS (May 22, 2018). Available at: <https://www.apnews.com/f12a3b63b2964cf79f09315f8a1ad059>; see also Kate Briquetlet, *Michael Avenatti Lived the High Life While Owing Millions to IRS*, THE DAILY BEAST (Oct. 21, 2018).

⁵² Michael Balsamo, *Judge Orders Law Firm of Stormy Daniel’s Lawyer to Pay \$10M*, THE ASSOCIATED PRESS (May 22, 2018).

⁵³ Kate Briquetlet, *Michael Avenatti Lived the High Life While Owing Millions to IRS*, THE DAILY BEAST (Oct. 21, 2018); see Michael Balsamo, *Judge Orders Law Firm of Stormy Daniel’s Lawyer to Pay \$10M*, THE ASSOCIATED PRESS (May 22, 2018).

California judge hearing the case on this issue ruled that Mr. Avenatti was personally liable and ordered him to pay \$4.85 million in back pay to Mr. Frank.⁵⁴

Moreover, Mr. Avenatti reportedly has credibility issues relating to the IRS. According to a report by the *Los Angeles Times*, “Eagan Avenatti, [Mr. Avenatti’s] Newport Beach firm, has defaulted on millions of dollars in debt and fallen years behind in paying its payroll taxes.... The firm has also defaulted on more than \$800,000 in federal payroll taxes, penalties and interest that Avenatti had promised that it would pay.”⁵⁵ In response, federal prosecutors asked that the court hold Mr. Avenatti’s firm in contempt, stating: “In this case, the Debtor and its responsible officer Michael Avenatti made misrepresentations to the detriment of the United States.”⁵⁶ Instead, the parties reached an agreement that Mr. Avenatti’s firm will be allowed to make monthly payments of \$75,000 towards paying back the owed taxes.⁵⁷

In divorce proceedings from his second wife, Lisa Storie-Avenatti, she also referenced potential dishonesty by Mr. Avenatti regarding his earnings.⁵⁸

Storie-Avenatti said in court papers that in November 2016, Avenatti told her he earned \$3.7 million, but that she suspected his actual take-home was “substantially higher” based on his self-publicized verdicts, the couple’s 2016 expenses and his “secreting from me of his tax returns and bank records.”⁵⁹

There seem to be numerous additional press reports that cast doubt on Mr. Avenatti’s credibility. However, having reviewed several already, Committee investigators determined that delving into additional ones would be beating a dead horse.

Mr. Avenatti made allegations against Judge Kavanaugh in his email to Committee staff, and he submitted allegations to the Committee on behalf Ms. Swetnick. He reportedly told the *Associated Press* that he “fully vetted” Ms. Swetnick before taking her claims public,⁶⁰ and he told CNN: “When I – when we made the allegations, guess what, I had done significant due diligence in connection with this before we made the allegations.”⁶¹ However, given that he and Ms. Swetnick have contradicted key parts of the claims; that there is no credible evidence that Ms. Swetnick ever even knew Judge Kavanaugh and substantial evidence she did not; and the substantial credibility issues surrounding both Mr. Avenatti and Ms. Swetnick, I ask that the FBI investigate whether Mr. Avenatti criminally conspired with Ms. Swetnick to make materially false statements to the Committee and obstruct the Committee’s investigation.

⁵⁴ Amanda Lee Myers and Michael Malsamo, *Judge: Michael Avenatti Must Pay \$4.85M in Ex-Lawyer Suit*, THE ASSOCIATED PRESS (Oct. 22, 2018). Available at: <https://www.apnews.com/53f6f2f316844b14bdb24a7b80dcc7c>.

⁵⁵ Michael Finnegan, *Michael Avenatti Gets Judge to Bar Media from his Testimony on Newport Beach Law Firm’s Bankruptcy*, THE LOS ANGELES TIMES (July 25, 2018). Available at <http://www.latimes.com/politics/la-na-pol-avenatti-bankruptcy-20180725-story.html>.

⁵⁶ Kate Briquet, *Michael Avenatti Lived the High Life While Owing Millions to IRS*, THE DAILY BEAST (Oct. 21, 2018).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *3rd Kavanaugh Accuser Has History of Legal Disputes*, THE ASSOCIATED PRESS (Sept. 30, 2018). Available at: <https://www.yahoo.com/news/3rd-kavanaugh-accuser-history-legal-disputes-100137653.html>.

⁶¹ Cuomo Prime Time, *Cuomo Pushes Back on Credibility of Swetnick*, CNN (Oct. 1, 2018). Available at: <https://www.cnn.com/videos/politics/2018/10/02/michael-avenatti-julie-swetnick-credibility-bts-cpt-vpx.cnn>.

CONCLUSION

Committee investigations in support of the judicial nomination process are an essential part of the Committee's constitutional role. The Committee is grateful to citizens who come forward with relevant information in good faith, even if they are not one hundred percent sure about what they know. But when individuals intentionally mislead the Committee, they divert Committee resources during time-sensitive investigations and materially impede our work. Such acts are not only unfair; they are potentially illegal. It is illegal to knowingly and willfully make materially false, fictitious, or fraudulent statements to Congressional investigators. It is illegal to obstruct Committee investigations. It is illegal to conspire to do either of those things. When charlatans make false claims to the Committee – claims that may earn them short-term media exposure and financial gain, but which hinder the Committee's ability to do its job – there should be consequences. These laws exist to ensure there are.

Accordingly, in light of the seriousness of these facts, and the threat these types of actions pose to the Committee's ability to perform its constitutional duties, I hope you will give this referral the utmost consideration. Thank you for your prompt attention to this matter. If you have any questions, please contact a professional investigative counsel in the Committee's Oversight and Investigations Unit at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Enclosures:

1. Email exchange between the Chief Counsel for Nominations Mike Davis and Michael Avenatti on Sept. 23, 2018
2. Swetnick Sworn Statement
3. Letter from Mark Judge to Chairman Grassley and Ranking Member Feinstein
4. Letter from Michael C. Fegan to Chairman Grassley
5. Letter from Kavanaugh High School Friends to Chairman Grassley and Ranking Member Feinstein
6. Statement of Richard Vinneccy for Senate Judiciary Committee Investigation
7. Statement by Dennis Ketterer to Senate Judiciary Committee

cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

From: [Michael J. Avenatti](#)
To: [Davis, Mike \(Judiciary-Rep\)](#)
Subject: Re: SCOTUS -- Avenatti claim of evidence
Date: Sunday, September 23, 2018 10:16:43 PM

Mike: I represent a client. And seeing as we are talking about an appointment to the SCOTUS, there is nothing wrong with this process being public.

What is the status of Mark Judge's testimony?

I look forward to receiving the answers to the questions.

Michael

Michael J. Avenatti, Esq.

The preceding email message (including any attachments) contains information that may be confidential, protected by the attorney-client or other applicable privileges, or constitutes non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, or reproduction of this message by unintended recipients is not authorized and may be unlawful.

On Sep 23, 2018, at 6:26 PM, Davis, Mike (Judiciary-Rep) <[REDACTED]> > wrote:

Mr. Avenatti,

Thank you for reaching out to me. I noticed that you just publicly Tweeted our email conversation below.

In your email below, you mentioned "we" several times. To clarify, are you representing a client? Or are you making these allegations yourself? On behalf of anyone else?

I look forward to receiving your evidence.

Thank you,
Mike Davis

Mike Davis, Chief Counsel for Nominations
United States Senate Committee on the Judiciary
Senator Chuck Grassley (R-IA), Chairman
224 Dirksen Senate Office Building
Washington, DC 20510

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

From: Michael J. Avenatti [REDACTED]
Sent: Sunday, September 23, 2018 9:07 PM
To: Davis, Mike (Judiciary-Rep) <[REDACTED]>
Subject: RE: SCOTUS -- Avenatti claim of evidence

Dear Mr. Davis:

Thank you for your email. We are aware of significant evidence of multiple house parties in the Washington, D.C. area during the early 1980s during which Brett Kavanaugh, Mark Judge and others would participate in the targeting of women with alcohol/drugs in order to allow a "train" of men to subsequently gang rape them. There are multiple witnesses that will corroborate these facts and each of them must be called to testify publicly. As a starting point, Senate investigators should pose the following questions to Judge Kavanaugh without delay and provide the answers to the American people:

1. Did you ever target one or more women for sex or rape at a house party? Did you ever assist Mark Judge or others in doing so?
2. Did you ever attend any house party during which a woman was gang raped or used for sex by multiple men?
3. Did you ever witness a line of men outside a bedroom at any house party where you understood a woman was in the bedroom being raped or taken advantage of?
4. Did you ever participate in any sexual conduct with a woman at a house party whom you understood to be intoxicated or under the influence of drugs?
5. Did you ever communicate with Mark Judge or anyone else about your participation in a "train" involving an intoxicated woman?
6. Did you ever object or attempt to prevent one or more men from participating in the rape, or taking advantage, of a woman at any house party?

Please note that we will provide additional evidence relating to the above conduct

both to the Committee and the American public in the coming days.

Regards,

Michael Avenatti

From: Davis, Mike (Judiciary-Rep) [REDACTED]
Sent: Sunday, September 23, 2018 4:42 PM
To: Michael J. Avenatti
Subject: SCOTUS -- Avenatti claim of evidence

Dear Mr. Avenatti,

According to your Tweet from 7:33 p.m. E.T. this evening, you claim to have information you consider credible regarding Judge Kavanaugh and Mark Judge. Please advise of this information immediately so that Senate investigators may promptly begin an inquiry.

Thank you,
Mike Davis

Mike Davis, Chief Counsel for Nominations
United States Senate Committee on the Judiciary
Senator Chuck Grassley (R-IA), Chairman
224 Dirksen Senate Office Building
Washington, DC 20510

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

1 of Brett Kavanaugh during the 1980s, especially as it relates to his actions toward
2 women.

3 7. Following that first introduction, I attended well over ten house parties in the
4 Washington, D.C. area during the years 1981-1983 where Mark Judge and Brett
5 Kavanaugh were present. These parties were a common occurrence in the area and
6 occurred nearly every weekend during the school year. On numerous occasions at these
7 parties, I witnessed Mark Judge and Brett Kavanaugh drink excessively and engage in
8 highly inappropriate conduct, including being overly aggressive with girls and not taking
9 "No" for an answer. This conduct included the fondling and grabbing of girls without
10 their consent.

11 8. I observed Brett Kavanaugh drink excessively at many of these parties and
12 engage in abusive and physically aggressive behavior toward girls, including pressing
13 girls against him without their consent, "grinding" against girls, and attempting to remove
14 or shift girls' clothing to expose private body parts. I likewise observed him be verbally
15 abusive towards girls by making crude sexual comments to them that were designed to
16 demean, humiliate and embarrass them. I often witnessed Brett Kavanaugh speak in a
17 demeaning manner about girls in general as well as specific girls by name. I also
18 witnessed Brett Kavanaugh behave as a "mean drunk" on many occasions at these
19 parties.

20 9. I have been told by other women that this conduct also occurred during the
21 Summer months in Ocean City, Maryland on numerous occasions. I also witnessed such
22 conduct on one occasion in Ocean City, Maryland during "Beach Week."

23 10. I have reviewed Brett Kavanaugh's recent claim on Fox News regarding his
24 alleged "innocence" during his high school years and lack of sexual activity. This claim
25 is absolutely false and a lie. I witnessed Brett Kavanaugh consistently engage in
26 excessive drinking and inappropriate contact of a sexual nature with women during the
27 early 1980s.

1 11. During the years 1981-82, I became aware of efforts by Mark Judge, Brett
2 Kavanaugh and others to “spike” the “punch” at house parties I attended with drugs
3 and/or grain alcohol so as to cause girls to lose their inhibitions and their ability to say
4 “No.” This caused me to make an effort to purposely avoid the “punch” at these parties.
5 I witnessed efforts by Mark Judge, Brett Kavanaugh and others to “target” particular girls
6 so they could be taken advantage of; it was usually a girl that was especially vulnerable
7 because she was alone at the party or shy.

8 12. I also witnessed efforts by Mark Judge, Brett Kavanaugh and others to cause
9 girls to become inebriated and disoriented so they could then be “gang raped” in a side
10 room or bedroom by a “train” of numerous boys. I have a firm recollection of seeing
11 boys lined up outside rooms at many of these parties waiting for their “turn” with a girl
12 inside the room. These boys included Mark Judge and Brett Kavanaugh.

13 13. In approximately 1982, I became the victim of one of these “gang” or “train”
14 rapes where Mark Judge and Brett Kavanaugh were present. Shortly after the incident, I
15 shared what had transpired with at least two other people. During the incident, I was
16 incapacitated without my consent and unable to fight off the boys raping me. I believe I
17 was drugged using Quaaludes or something similar placed in what I was drinking.

18 14. I am aware of other witnesses that can attest to the truthfulness of each of the
19 statements above.

20 I declare, under penalty of perjury and under the laws of the United States of
21 America, that the foregoing is true and correct. I have executed this declaration on
22 September 25, 2018.

23
24
25 
26 Julie Swetnick
27
28

September 28, 2018

VIA E-MAIL

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Feinstein:

In response to the Committee's request for information, I, MARK JUDGE, declare:

1. The allegations in the Swetnick affidavit are so bizarre that, even while suffering from my addiction, I would remember actions so outlandish. I categorically deny them.
2. I do not know Julie Swetnick.
3. I do not recall attending parties during 1981-1983 when I fondled or grabbed women in an aggressive or unwanted manner.
4. I have never spiked punch to get anyone drunk or disoriented. Nor have I witnessed Brett Kavanaugh spike punch.
5. I have never engaged in gang rape of any woman, including Ms. Swetnick.
6. I will cooperate with any law enforcement agency that is assigned to confidentially investigate these allegations.

I am submitting this letter under penalty of felony.

Sincerely,



Mark Judge

October 1, 2018

Michael C. Fegan
[REDACTED]
[REDACTED]

Chairman Grassley
Senate Judiciary Committee
Room SD-224
Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Grassley,

I am writing to you regarding the character of Judge Brett Kavanaugh. Brett and I attended Georgetown Prep High School together from 1979 to 1983. We were classmates, teammates and friends. I attended most of the same social events that Brett attended in high school, and many after high school as well. I also attended "Beach Week" with him in June 1982. I have never seen Brett out of control from drinking alcohol. I have never seen Brett out of control in any situation, whether it be in the classroom, on the football field, on the basketball court or in any social setting.

Regarding the allegation by Christine Blasey Ford, I never heard of such a gathering. We were a tight knit group, and I believe that if anything happened like Professor Ford described, I would have known about it. I never met Christine Blasey, and had never heard her name until mid-September 2018.

I cannot speak for the allegation from the Yale student, Deborah Ramirez, because I did not attend Yale. I can tell you that what Ms. Ramirez described would be completely out of character of the man I have known for almost 40 years.

As to the allegation made by Julie Swetnick, I have never heard of Ms. Swetnick. My understanding is that she graduated from Gaithersburg High School three years before we graduated from Georgetown Prep. During my high school years, I did not know any girls from Gaithersburg High School. We did not socialize with girls from Gaithersburg High School. We did not have any kind of punch drinks, hard liquor or drugs at our parties. I never witnessed any kind of sexual situation at any of our parties. If there was any kind of mistreatment of girls at any of our parties, I assure you that my friends and I, including Brett Kavanaugh, would have put a stop to it immediately and would have reported it to the Montgomery County, MD Police Department.

I know that last week was tough on you, as it was for many people throughout our country, and I appreciate the way that you have conducted the confirmation hearings. I urge all senators to vote to confirm Judge Brett Kavanaugh. He is one of the most ethical and moral men I know, and has been for the almost 40 years that I have known him.

I appreciate your time in this matter and for your service to our country.

Sincerely,


Michael C. Fegan

September 26, 2018

The Honorable Charles Grassley
Chairman
Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

We are men and women who knew Brett Kavanaugh well in high school. We have seen reports today that Julie Swetnick, who says she graduated from Gaithersburg High School, submitted a declaration to the Committee alleging that Brett participated in horrific conduct during high school, including targeting girls for gang rape. Nonsense. We never witnessed any behavior that even approaches what is described in this allegation. It is reprehensible.

In the extensive amount of time we collectively spent with Brett, we do not recall having ever met someone named Julie Swetnick. Nor did we ever observe Brett engaging in any conduct resembling that described in Ms. Swetnick's declaration.

Brett Kavanaugh is a good man. He has always treated women with respect and decency. He is a man of honor, integrity, and compassion. These shameful attacks must end. This process is a disgrace and is harming good people.

Russell Aaronson
Daniel Anastasi
Steve Barnes
Patrick Beranek
Michael Bidwill
Michael Boland
David Brigati
Missy Bigelow Carr
Sharon Crouch Clark
Steve Combs
Citsi Conway
Mark Daly
DeLancey Davis
Julie DeVol
Meg Williams Dietrick
Paula Duke Ebel
Michael Fegan
Maura Fitzgerald
Susan Fitzgerald
Jim Foley

Timothy Gaudette
James Gavin
William Geimer
Mary Beth Greene
Mary Ellen Greene
Daniel Hanley
Melissa Hennessy
Beccy Moran Jackson
Brian H. Johnston
Maura Kane
Kevin Kane
Thomas Kane
Amarie Kappaz
George M. Kappaz
Timothy Kirlin
Kelly Leonard
Maura M. Lindsay
John F. Loome, IV
Suzanne Matan
Meghan McCaleb

Scott McCaleb
Bernard McCarthy, Jr.
Michael R. McCarthy
Stephanie McGill
Stephanie McGrail
Byron J. Mitchell
Sean Murphy
Paul G. Murray
Douglas D. Olson
John F. Ostronic
Elizabeth (Betsy) Manfuso Pothier
Matthew Quinn

Mark A. Quinn
Mae Joyce Rhoten
Mark Richardson
L. Maurice Rowe, IV
Stephen Royston
Alice Kelley Scanlon
James Sullivan
Cynthia Urgo
Donald Urgo, Jr
Patrick T. Waters
Megan Williams
Jodi Yeager



October 4th, 2018

STATEMENT OF RICHARD VINNECCY
For the Senate Judiciary Committee Investigation

I, Richard Vinneccy, do hereby swear and affirm that all of the statements made herein are true and accurate to the best of my knowledge.

First and foremost, I never wanted to come out publicly on this issue. However, numerous media outlets bombarded me with phone calls and questions when someone discovered the history of the restraining order I had sought against Ms. Swetnick in Miami, Florida. Unfamiliar in this arena, I mistakenly spoke to Politico, made a short two phrase statement to them which was then transmitted nationwide without my authority. Thereafter, I was thrown into the national spotlight and, consequently, I felt compelled to set the record straight against false accusations made by Ms. Swetnick's lawyer and, more importantly, to exercise my civic duty and attest to the credibility or lack thereof of Ms. Swetnick.

I was involved in a romantic relationship for 7 years with Julie Swetnick. For 2 out of those 7 years we lived together in Bethesda, Maryland. Thereafter, my work transferred me internationally to Panama and ultimately to Miami. Thus, due to geographics much of the relationship was long distance.

Despite the distance, we remained close and not once did Ms. Swetnick ever mention that she had been raped or sexually assaulted. Not once did Ms. Swetnick ever mention that she had attended any parties where she witnessed, train rapes, gang rapes, or other sordid sexual activity. Not once did she ever mention Brett Kavanaugh.

As to her mental stability, or lack thereof, throughout the relationship, I noticed odd behaviors exhibited by Ms. Swetnick. For the most part she was financially unstable and always seeking financial gain from frivolous law suits. She was abnormally possessive and jealous of me. She always wanted to be the center of attention and exaggerated everything in her life. When we would have disagreements she would try to provoke me to hit her. As to why she did that, I can only believe it was to instigate me to do something physically violent to her so that she could play the victim, contact the police and have me arrested. At times she threatened me not to mistreat her because she could do to me what she had done with her ex-boyfriend. While I do not know the entire story, I recall her telling me that her ex-boyfriend was in jail. Perhaps one of the most bizarre things about her was a closet that she kept in our Bethesda home. The closet was

4000 Ponce De Leon Blvd., Suite 470
Coral Gables, Fl. 33146
TEL. (305) 777-0474
mgh@thehansenlawfirm.com



“off limits” to me, however, one day I opened it and found three large boxes filled with years and years of receipts from grocery stores.

Looking back, I am not sure why I stayed in this relationship for so long. As a 60 year old wiser and more experienced man now, I can only blame inexperience, immaturity and whatever else it is that causes one to stay in an unhealthy relationship for too long. Ultimately, once I was transferred to Miami, I finally decided it would be best to end the relationship. I did and thereafter, Ms. Swetnick harassed and stalked me for almost 2 months via telephone and appeared at a trade show conference in Seattle that I was attending, unannounced and uninvited.

For obvious reasons this was difficult and uncomfortable for me, but even more so since I began a new relationship with the woman who would ultimately become my wife of 12 years and with whom I had two children. Finally, I told her to stop the calls, that I had moved on, that I had met someone and that we were expecting a baby.

Ms. Swetnick’s reaction was scary, frightening and bizarre causing me to fear for my life and that of my new girlfriend and our unborn child. In a nutshell she: 1) told me that she was going to kill me, my girlfriend and our unborn child; 2) she was going to report me to the FBI and have me deported; 3) she was going to tell the police that I raped her in Seattle; 4) she was not going to grant me a divorce and; 5) that she was pregnant with twins.

- I have been a citizen of this country since the 80’s so as far as deporting me, this did not make sense.
- I have never raped Ms. Swetnick.
- Ms. Swetnick and I were never married however in her opinion we were due to a Maryland statute, which she claimed, qualified us as a married couple since we co-habitated in that state for 2 years.
- I asked Ms. Swetnick for the medical records proving that she was pregnant with twins and after consulting with her “doctor”, I confirmed the story was a complete fabrication and that there was no pregnancy.

I decided to file a restraining order in Miami, Florida because that is where I was residing and I was afraid she was going to come to Miami to do harm to my family and I as she had threatened. The temporary injunction was granted. (In Florida, the legal process to obtain a restraining order consists of a two phase process. First, one applies for a temporary injunction via a petition. A judge then reviews the petition and if that is granted, a temporary injunction is put in place until a hearing for a permanent injunction is held.)

Ultimately, I did not go through with the hearing on the permanent injunction for several reasons. First, not being a lawyer and never having done this before, I did not know that the final step to obtain the permanent injunction would entail confronting Ms. Swetnick personally in court at the hearing. When I found out about this, I thought it over with my girlfriend at the time

4000 Ponce De Leon Blvd., Suite 470
Coral Gables, Fl. 33146
TEL. (305) 777-0474
mgh@thehansenlawfirm.com



who was fearful for her own life, and together we determined not to perpetuate my connection with Ms. Swetnick or instigate her any further. I was not sure how Ms. Swetnick was going to retaliate if she was forced to fly down to Miami and confront me in court in front of a judge. So, instead we moved to a new residence and changed our telephone numbers in hopes that we would never have to see Ms. Swetnick again.

Thankfully, we never did see or hear from her again.

Based on my history with Ms. Swetnick, I do not believe her allegations against Judge Kavanaugh and it is my opinion that she is perpetuating a fraud against him. Her motives may be for financial gain or notoriety but they are certainly not to expose the truth.

A handwritten signature in black ink, appearing to read 'R. Vinneccy', is written above a horizontal line.

Richard Vinneccy

Date: Oct 4, 2018

4000 Ponce De Leon Blvd., Suite 470
Coral Gables, Fl. 33146
TEL. (305) 777-0474
mgh@thehansenlawfirm.com

October 2, 2018

My name is Dennis Ketterer.

I am a former weeknight meteorologist for Channel 7 (WJLA) in Washington, D.C., and won an EMMY in 1995.

I want to preface this by saying, I am neither proud of nor guiltless in the actions about to be mentioned in this letter. I hope my family, friends, and church members can forgive me.

I first met Julie Swetnick in 1993 at a Washington, D.C. bar near Wisconsin Circle. I was at a going-away party for channel 7 anchor Dale Solly. I left the party to go to the bar to buy a soda. I haven't drunk alcohol since my 18th birthday.

As I sat alone at the end of the bar, Julie approached me. She was alone, quite beautiful, well-dressed and no drink in hand. Consequently, my initial thought was that she might be a high end call girl because at the time I weighed 350lbs so what would someone like her want with me?

But, there was no conversation about exchanging sex for money so I decided to talk with her a few minutes. I had never been hit on in a bar before.

I didn't leave with her that night, although we talked about getting together. Over the next couple of weeks we met at what I believed and still believe was Julie's place. From the beginning Julie knew I was married and that I was having marital issues.

As we shared conversations, my lasting impression of Julie was that she was smart, fun and funny. But she was also an opportunist. I felt she only had interest in my 350lb self because I was on television and well known.

Although we were not emotionally involved there was physical contact. We never had sex despite the fact she was very sexually aggressive with me. I'm not implying I didn't like her advances, I just wasn't ready to make the jump. It came to a head so we talked about sex.

During a conversation about our sexual preferences, things got derailed when Julie told me that she liked to have sex with more than one guy at a time. In fact sometimes with several at one time. She wanted to know if that would be ok in our relationship.

I asked her if this was just a fantasy of hers. She responded that she first tried sex with multiple guys while in high school and still liked it from time-to-time. She brought it up because she wanted to know if I would be interested in that.

A.I.D.S. was a huge issue at the time. And I had children. Due to her having a directly stated penchant for group sex, I decided not to see her anymore. It put my head back on straight. That was the last conversation we had.

Julie never said anything about being sexually assaulted, raped, gang-raped or having sex against her will. She never mentioned Brett Kavanaugh in any capacity.

In 1996 I decided to run again for Congress in Maryland's 8th district as a Democrat. I thought Julie could help my primary campaign in some way because of her personality, great smile

and good looks. Also, in the course of our past conversations, she told me that she too was a Democrat.

Because I had lost Julie's number I called her father to get it. When I talked to him about possibly bringing her on to help with my campaign, he told me that she had psychological and other problems at the time. When I asked he would not go into detail and said that I wouldn't want her to work on my campaign. His response was rather abrupt. He hung up on me.

That was the end of my Julie saga...or so I thought.

On Wednesday, September 26th, I heard that Mr. Kavanaugh had a third accuser. When Julie's name was mentioned as the accuser, and due to the type of accusation, I was deeply troubled and felt a moral dilemma. Do I reach out and tell the truth of what I knew and risk family relationships, or remain silent.

The whole Kavanaugh confirmation process over the last few days brought out very deep issues within me. I know what it's like to be sexually assaulted and not be believed. I was 9 years old when it happened at the hands of my grandfather's best friend.

I also know what it's like to be accused of something significant that I didn't do and not be believed. Because of this and eternal considerations, the pressure on me built throughout the afternoon and early evening.

That evening was very difficult for me as I had to explain to my wife of three years what had happened 25 years ago, before we met and long before we were married. I explained my situation and she said she knew that if I didn't do the right thing, I couldn't live with myself.

Because of my less than perfect past, and having repented of this, I felt the need for spiritual guidance. I reached out to a church leader. We talked for a while. I explained that I felt horribly about this more-than-indiscretion. I knew if I came forward that in addition to me, it would affect my children, my grandchildren, my ex-wife, my wife, Julie, the Kavanaughs.

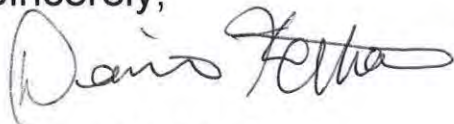
Finally, after much thought and frankly tears of remorse, I decided to be forth-coming with what I knew first-hand. I had to take the advice I'd always given my children. That is; Doing the right thing is almost never the easy thing, but it's always the right thing.

My heart felt very heavy because of the possible familial risks. But I knew I had to do the right thing. At my request, he put me in touch with another church leader we knew, who then reached out to Senator Hatch's Salt Lake office in my behalf.

As I watched part of the afternoon confirmation hearing the next day, and saw Mrs. Kavanaugh looking so sad I felt that she needed to know that in this instance, her husband was being mischaracterized.

My heart still feels heavy, for me as well as Julie and the Kavanaughs. That said, based on my direct experience with Julie, I do not believe her allegations against Mr. Kavanaugh.

Sincerely,

A handwritten signature in cursive script that reads "Dennis Ketterer". The signature is written in dark ink and is positioned below the word "Sincerely,".

Dennis Ketterer

Attachment 4

CHARLES E. GRASSLEY, IOWA, CHAIRMAN
ORRIN G. HATCH, UTAH
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
BEN SASSE, NEBRASKA
JEFF FLAKE, ARIZONA
MIKE CRAPO, IDAHO
THOM TILLIS, NORTH CAROLINA
JOHN KENNEDY, LOUISIANA
DIANNE FEINSTEIN, CALIFORNIA
PATRICK J. LEAHY, VERMONT
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT
MAZIE HIRONO, HAWAII
CORY A. BOOKER, NEW JERSEY
KAMALA D. HARRIS, CALIFORNIA

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, Chief Counsel and Staff Director
JENNIFER DUCK, Democratic Chief Counsel and Staff Director

October 26, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Attorney General Sessions and Director Wray:

Yesterday, I wrote to you referring Mr. Michael Avenatti and Ms. Julie Swetnick for investigation of potential violations of 18 U.S.C. §§ 371, 1001, and 1505, for materially false statements they made to the Senate Judiciary Committee during the course of the Committee's investigation into allegations against Judge Brett M. Kavanaugh. I write today because of important additional information regarding Mr. Avenatti that has since come to the Committee's attention. In light of this new information, I am now referring Mr. Avenatti for investigation of additional potential violations of those same laws, stemming from a second declaration he submitted to the Committee that also appears to contain materially false statements. As explained below, according to NBC News, the purported declarant of that sworn statement has disavowed its key allegations and claimed that Mr. Avenatti "twisted [her] words."¹

On October 2, 2018, Mr. Avenatti emailed Committee staff, stating:

[A]ttached please find another declaration from another witness who supports a number of allegations of Ms. Swetnick. She knows both Ms. Swetnick and Dr. Ford. The identify [sic] of this witness will be released to the FBI once they contact me to arrange an interview as she does not want her name publicly disclosed at this time.²

The anonymous sworn statement attached to that email contained two key allegations against Judge Kavanaugh, ostensibly based on the "personal knowledge" of the declarant and made "under

¹ Kate Snow and Anna Schecter, *New Questions Raised About Avenatti Claims Regarding Kavanaugh*, NBC NEWS (Oct. 25, 2018), enclosed below and available at <https://www.nbcnews.com/politics/justice-department/new-questions-raised-about-avenatti-claims-regarding-kavanaugh-n924596>.

² Email exchange between the Chief Counsel for Nominations Mike Davis and Michael Avenatti on Oct. 2, 2018, enclosed below.

penalty of perjury.”³ According to the sworn statement, the declarant, whose name was redacted, claimed knowledge of Judge Kavanaugh being “overly aggressive and verbally abusive towards girls ... includ[ing] inappropriate physical contact with girls of a sexual nature” while at house parties in the early 1980s.⁴ The sworn statement also said:

During the years 1981-82, I witnessed firsthand Brett Kavanaugh, together with others, “spike” the “punch” at house parties I attended with Quaaludes and/or grain alcohol. I understood this was being done for the purpose of making girls more likely to engage in sexual acts and less likely to say “No.”⁵

In my previous referral, I noted the existence of this anonymous declaration and that Mr. Avenatti neither provided the identity of the declarant to the Committee nor made her available for an interview with Committee staff. I also noted that, as of then, it did not appear that any media outlet had been able to report any interview with the purported declarant or validate anything in the anonymous declaration.

However, after I sent you my referral, NBC News revealed yesterday evening that its reporters in fact had a series of contacts with the purported declarant between September 30, 2018, and October 5, 2018.⁶ According to that report, the declarant denied the key allegations contained in the sworn statement, both before and after the statement was publicly released. Despite the fact the sworn statement Mr. Avenatti sent to the Committee stated she “witnessed firsthand” Judge Kavanaugh spiking punch, she expressly denied this. As noted in the report:

[L]ess than 48 hours before Avenatti released her sworn statement on Twitter, the same woman told NBC News a different story. Referring to Kavanaugh spiking the punch, “I didn’t ever think it was Brett,” the woman said to reporters in a phone interview arranged by Avenatti on Sept. 30 after repeated requests to speak with other witnesses who might corroborate Swetnick’s claims.⁷

According to the NBC News report, after Mr. Avenatti tweeted the sworn statement on October 2 with the name of the declarant redacted, “Avenatti confirmed to NBC News that it was the same woman interviewed by phone on Sept. 30.”⁸ The woman reportedly denied the allegation yet again after the release of the sworn statement:

[R]eached by phone independently from Avenatti on Oct. 3, the woman said she only “skimmed” the declaration. After reviewing the statement, she wrote in a text on Oct. 4 to NBC News: “It is

³ Anonymous Sworn Statement dated Oct. 2, 2018, enclosed below.

⁴ *Id.*

⁵ *Id.*

⁶ Kate Snow and Anna Schecter, *New Questions Raised About Avenatti Claims Regarding Kavanaugh*, NBC NEWS (Oct. 25, 2018)

⁷ *Id.*

⁸ *Id.*

incorrect that I saw Brett spike the punch. I didn't see anyone spike the punch...**I was very clear with Michael Avenatti from day one.**"⁹

The declarant similarly disavowed the other allegation that Judge Kavanaugh was aggressive and abusive towards girls, once again both before and after the statement attributed to her was released. As reported by NBC News, "[w]hen asked in the [September 30] phone interview if she ever witnessed Kavanaugh act inappropriately towards girls, the woman replied 'no.'"¹⁰ After the sworn statement was released, "[w]hen pressed about abusive behavior towards girls, she wrote in a text: 'I would not ever allow anyone to be abusive in my presence. Male or female.'"¹¹

Despite the fact Mr. Avenatti had already confirmed to NBC News that the woman they spoke to on September 30 was the declarant:

[W]hen questioned on Oct. 3 about the discrepancies between what she said in the phone interview and the serious allegations in the sworn declaration, Avenatti said he was "disgusted" with NBC News. At one point, in an apparent effort to thwart the reporting process, he added in the phone call, "How about this, on background, it's not the same woman. What are you going to do with that?"¹²

Mr. Avenatti then reportedly backtracked on this attempted tactic, instead claiming to NBC that he confirmed with her again that the allegations were true, and she must have been "confused" by the reporter's question.¹³ The report says that five minutes later, the reporters received a "formally-worded text" from the woman's phone number backing Mr. Avenatti.¹⁴

But when reached by phone minutes later, the woman again insisted that she never saw Kavanaugh spike punch or act inappropriately toward women. She said she's "been consistent in what [she's] told Michael." In a subsequent text on Oct. 5, she wrote, "I will definitely talk to you again and no longer Avenatti. I do not like that **he twisted my words.**"¹⁵

Simply put, the sworn statement Mr. Avenatti provided the Committee on October 2 appears to be an outright fraud. According to NBC News, the purported declarant denied - both before and after the sworn statement was released - the key allegations Mr. Avenatti attributed to her. She stated she was clear and consistent "from day one" with Mr. Avenatti that those claims

⁹ *Id.* (emphasis added).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* (emphasis added).

were not true. And she said Mr. Avenatti “twisted [her] words.” When reporters pressed him on these discrepancies, Mr. Avenatti attempted to deceive them in an apparent effort to thwart the truth coming out.

Accordingly, in light of the seriousness of these facts, and the threat these types of actions pose to the Committee’s ability to perform its constitutional duties, I hope you will give this referral, as well as my prior one related to Mr. Avenatti, the utmost consideration. Thank you for your prompt attention to this matter. If you have any questions, please contact a professional investigative counsel in the Committee’s Oversight and Investigations Unit at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Enclosures:

1. Email exchange between the Chief Counsel for Nominations Mike Davis and Michael Avenatti on Oct. 2, 2018
2. Anonymous Sworn Statement dated Oct. 2, 2018
3. Kate Snow and Anna Schecter, *New Questions Raised About Avenatti Claims Regarding Kavanaugh*, NBC NEWS (Oct. 25, 2018).

cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

[REDACTED]

From: Michael J. Avenatti [Email Redacted]
Sent: Tuesday, October 02, 2018 4:39 PM
To: Davis, Mike (Judiciary-Rep)
Cc: Duck, Jennifer (Judiciary-Dem); Sawyer, Heather (Judiciary-Dem)
Subject: RE: Kavanaugh Nomination - Allegations of Julie Swetnick
Attachments: Declaration.pdf

Importance: High

Mr. Davis:

On repeated occasions, you have failed to respond to my correspondence relating to the nomination of Brett Kavanaugh and the ability of my client Ms. Swetnick to sit down with the FBI and share facts and witnesses regarding what she witnessed. This is entirely unprofessional and demonstrates a complete lack of good faith on your part and those that you report to. I once again ask that you immediately respond and take all steps to arrange an FBI interview.

Further, attached please find another declaration from another witness who supports a number of allegations of Ms. Swetnick. She knows both Ms. Swetnick and Dr. Ford. The identify of this witness will be released to the FBI once they contact me to arrange an interview as she does not want her name publicly disclosed at this time.

Time is of the essence. Please respond.

Michael

From: Michael J. Avenatti
Sent: Friday, September 28, 2018 2:13 PM
To: Davis, Mike (Judiciary-Rep)
Cc: Duck, Jennifer (Judiciary-Dem); Sawyer, Heather (Judiciary-Dem)
Subject: RE: Kavanaugh Nomination - Allegations of Julie Swetnick

Mr. Davis:

Please respond. Time is of the essence.

Regards,

Michael

From: Michael J. Avenatti
Sent: Friday, September 28, 2018 11:03 AM
To: Davis, Mike (Judiciary-Rep)
Cc: Duck, Jennifer (Judiciary-Dem); Sawyer, Heather (Judiciary-Dem)
Subject: RE: Kavanaugh Nomination - Allegations of Julie Swetnick

Mr. Davis:

We are STILL awaiting a response to my email. It has now been over 30 hours and you have failed to respond. We have heard nothing from the Committee.

In light of Senator Flake's comments moments ago, please let us know when we can meet with the FBI and provide the facts and evidence supporting my client's sworn declaration. Time is of the essence.

Regards,

Michael

From: Michael J. Avenatti
Sent: Thursday, September 27, 2018 3:05 PM
To: Davis, Mike (Judiciary-Rep)
Cc: Duck, Jennifer (Judiciary-Dem); Sawyer, Heather (Judiciary-Dem)
Subject: RE: Kavanaugh Nomination - Allegations of Julie Swetnick

Mr. Davis:

I sent the below e-mail nine (9) hours ago and have yet to receive any response. As you know, time is of the essence.

As stated below, my client Julie Swetnick is prepared to come to Washington, D.C. to testify under oath before the Committee. I also believe that at least one, if not two, other witness(es) are likewise prepared to come to Washington, D.C. to testify as to the accuracy of the statements in my client's declaration.

Please confirm that my client and the supporting witness(es) will be permitted to testify under oath before the Committee ASAP. Under no circumstances should a vote be taken on the nominee without first hearing from my client and the supporting witness(es).

Please get back to me as soon as possible.

Thank you.

Michael

From: Michael J. Avenatti
Sent: Thursday, September 27, 2018 5:58 AM
To: Davis, Mike (Judiciary-Rep)
Cc: Duck, Jennifer (Judiciary-Dem); Sawyer, Heather (Judiciary-Dem)
Subject: Kavanaugh Nomination - Allegations of Julie Swetnick

Mr. Davis:

As you know, I represent Ms. Julie Swetnick, a woman that has provided a detailed declaration under **penalty of perjury** relating to the claimed abhorrent conduct of Brett Kavanaugh, including sexual assault.

You and the Committee leadership first learned of these allegations on Sunday and yet have done basically nothing to investigate them. In fact, after I emailed you in detail on Monday morning, you failed to even respond for days. Simply put, you blew us off all day Monday and Tuesday. It was not until yesterday that you finally responded and you only did so then because the press started contacting you for comment.

Your conduct does not evidence any desire to get to the truth or to fulfill your duties to the American people (who pay your salary). To the contrary, you and the leadership seem intent on

confirming Brett Kavanaugh as quickly as possible so as to avoid any real investigation into the facts and circumstances surrounding the allegations made by my client and many other women. To be clear, my client Ms. Swetnick demands the following:

FBI Investigation. The Committee and Senator Grassley must immediately refer this matter to the FBI for a complete and fair investigation. My client is prepared to meet with the FBI today to disclose how she was victimized and what she observed. She is also prepared to disclose multiple additional corroborating witnesses with knowledge of the conduct of Brett Kavanaugh and Mark Judge, as well as additional evidence.

In my experience, women that are fabricating stories do not offer to immediately meet with FBI agents to discuss their allegations. The FBI is used to investigate the many of the most serious allegations and crimes in America every day (i.e. 9/11 and the Oklahoma City bombing). *Why are you and Senator Grassley refusing to refer this matter to the FBI for investigation or request that they intervene?*

Sworn Testimony Before the Committee. Ms. Swetnick demands the opportunity to present sworn testimony before the Committee as to what she witnessed and how she was victimized. She is prepared to be questioned as to her allegations for as long as it takes to get to the truth. Please confirm that she will be allowed to testify and contact me so that we may agree on the logistics.

Polygraph Examination. My client is prepared to undergo a polygraph examination in further substantiation of her claims provided that Mr. Kavanaugh likewise agrees to undergo an examination. As you know, while the results of such an examination are generally not admissible in a court of law, they are routinely used in the federal government for the granting of security clearances and the like at the highest levels, including at our intelligence agencies. There is no reason why they cannot be used in this circumstance. Please confirm that both polygraph examinations will proceed.

Mark Judge. I am still awaiting an answer as to if the Committee has requested that Mark Judge appear to testify and if not, why not. As detailed in my client's sworn declaration, Mr. Judge has detailed knowledge of the conduct of Mr. Kavanaugh and witnessed it firsthand. This is likewise true as it relates to other allegations from other women. Thus, there is no excuse for the Committee refusing to make a demand that he testify. Indeed, seeing as Mr. Judge is one of Mr. Kavanaugh's closest friends from the time period at issue, one would think that Mr. Kavanaugh would want him to testify unless he is hiding something. Please confirm that Mr. Judge is being asked to provide sworn testimony.

Knowledge by the Committee. Press reports have stated that certain members of the Committee were aware of allegations similar to those set forth in my client's declaration well before Sunday. Is this accurate? If so, please provide the details of this knowledge and explain why it was not investigated sooner.

Please respond to the above as quickly as possible as time is of the essence. Once again, this process must be a search for the truth as opposed to a partisan attempt to ram a Supreme Court nominee through at all costs, including at the expense of women who claim to be victims of sexual assault.

Regards,

Michael

1 6. During the years 1981-82, I witnessed firsthand Brett Kavanaugh,
2 together with others, "spike" the "punch" at house parties I attended with
3 Quaaludes and/or grain alcohol. I understood this was being done for the
4 purpose of making girls more likely to engage in sexual acts and less likely to say
5 "No."

6 7. I am aware of other witnesses that can attest to the truthfulness of
7 each of the statements above.

8 8. I am aware of other inappropriate conduct by Brett Kavanaugh but do
9 not feel comfortable stating it at this time in this declaration. I am fully, willing,
10 and able to speak with the FBI and tell them everything I know about Brett
11 Kavanaugh and his misconduct if I am contacted.

12 I declare, under penalty of perjury and under the laws of the United States
13 of America, that the foregoing is true and correct. I have executed this
14 declaration on October 2, 2018.



New questions raised about Avenatti claims regarding Kavanaugh

Kate Snow Kate Snow is a national correspondent for NBC News.

6-7 minutes

Breaking News Emails

Get breaking news alerts and special reports. The news and stories that matter, delivered weekday mornings.

Oct. 25, 2018 / 6:53 PM EDT

By Kate Snow and Anna Schechter

When Sen. Chuck Grassley referred attorney Michael Avenatti and his client Julie Swetnick to the Justice Department for [criminal investigation](#) Thursday, he cited Swetnick's interview with NBC News as evidence the two were trying to mislead the Senate Judiciary Committee.

In the NBC News interview that aired on Oct. 1, [Swetnick](#) backtracked on or contradicted parts of her sworn statement where she alleged she witnessed then-Supreme Court nominee Brett Kavanaugh "cause girls to become inebriated and disoriented so they could then be 'gang raped' in a side room or bedroom by a 'train' of boys."

NBC News also found other apparent inconsistencies in a second

sworn statement from another woman whose statement Avenatti provided to the Senate Judiciary Committee in a bid to bolster Swetnick's claims.

In the second statement, the unidentified woman said she witnessed Kavanaugh "spike" the punch at high school parties in order to sexually take advantage of girls. But less than 48 hours before Avenatti released her sworn statement on Twitter, the same woman told NBC News a different story.

Referring to Kavanaugh spiking the punch, "I didn't ever think it was Brett," the woman said to reporters in a phone interview arranged by Avenatti on Sept. 30 after repeated requests to speak with other witnesses who might corroborate Swetnick's claims. As soon as the call began, the woman said she never met Swetnick in high school and never saw her at parties and had only become friends with her when they were both in their 30s.

When asked in the phone interview if she ever witnessed Kavanaugh act inappropriately towards girls, the woman replied, "no." She did describe a culture of heavy drinking in high school that she took part in, and said Kavanaugh and his friend Mark Judge were part of that group.

In a statement Thursday about his referral of Swetnick and Avenatti for a criminal investigation, Grassley said, "When a well-meaning citizen comes forward with information relevant to the committee's work, I take it seriously....But in the heat of partisan moments, some do try to knowingly mislead the committee. That's unfair to my colleagues, the nominees and others providing information who are seeking the truth."

Avenatti responded in a statement to NBC News saying, "Senator

Grassley has just made a major mistake. Let the investigation into Kavanaugh and his lies begin."

Kavanaugh and Judge denied the allegations leveled by Swetnick and other women. Avenatti, asked about the inconsistencies within the second woman's account, said: "It is a sworn declaration that she read and signed and repeatedly stood behind."



Senate Judiciary Committee Chairman Chuck Grassley, R-Iowa, speaks to reporters as he leaves the chamber following a procedural vote to advance the confirmation of Supreme Court nominee Brett Kavanaugh, at the Capitol in Washington on Oct. 5, 2018. J. Scott Applewhite / AP

According to the second woman's declaration that Avenatti provided to the Senate Judiciary Committee, she said: "During the years 1981-82, I witnessed firsthand Brett Kavanaugh, together with others, 'spike' the 'punch' at house parties I attended with Quaaludes and/or grain alcohol. I understood this was being done

for the purpose of making girls more likely to engage in sexual acts and less likely to say 'No.'"

The statement also said that Kavanaugh was "overly aggressive and verbally abusive to girls. This conduct included inappropriate physical contact with girls of a sexual nature."

But reached by phone independently from Avenatti on Oct. 3, the woman said she only "skimmed" the declaration. After reviewing the statement, she wrote in a text on Oct. 4 to NBC News: "It is incorrect that I saw Brett spike the punch. I didn't see anyone spike the punch...I was very clear with Michael Avenatti from day one."

When pressed about abusive behavior towards girls, she wrote in a text: "I would not ever allow anyone to be abusive in my presence. Male or female."



Julie SwetnickMichael Avenatti / via AP

Shortly after tweeting out the woman's allegations on Oct. 2, Avenatti confirmed to NBC News that it was the same woman interviewed by phone on Sept. 30. But when questioned on Oct. 3 about the discrepancies between what she said in the phone interview and the serious allegations in the sworn declaration, Avenatti said he was "disgusted" with NBC News. At one point, in an apparent effort to thwart the reporting process, he added in the phone call, "How about this, on background, it's not the same woman. What are you going to do with that?"

After NBC News received text messages from the woman refuting some of the claims in the declaration, NBC reached out again to Avenatti, who defended the declaration.

"I have no idea what you are talking about," he said in a text. "I have a signed declaration that states otherwise together with multiple audio recordings where she stated exactly what is in the declaration. There were also multiple witnesses to our discussions."

He sent a follow-up message moments later: "I just confirmed with her yet again that everything in the declaration is true and correct," Avenatti said. "She must have been confused by your question."

Roughly five minutes later, the woman sent a formally-worded text backing Avenatti. "Please understand that everything in the declaration is true and you should not contact me anymore regarding this issue," the text read.

But when reached by phone minutes later, the woman again insisted that she never saw Kavanaugh spike punch or act inappropriately toward women. She said she's "been consistent in what she's told Michael."

In a subsequent text on Oct. 5, she wrote, "I will definitely talk to

you again and no longer Avenatti. I do not like that he twisted my words."



Anna Schechter

Anna Schechter is a producer for the investigations unit of NBC News.

Rich Schapiro contributed.

Attachment 5

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH	DIANNE FEINSTEIN, CALIFORNIA
LINDSEY O. GRAHAM, SOUTH CAROLINA	PATRICK J. LEAHY, VERMONT
JOHN CORNYN, TEXAS	RICHARD J. DURBIN, ILLINOIS
MICHAEL S. LEE, UTAH	SHELDON WHITEHOUSE, RHODE ISLAND
TED CRUZ, TEXAS	AMY KLOBUCHAR, MINNESOTA
BEN SASSE, NEBRASKA	CHRISTOPHER A. COONS, DELAWARE
JEFF FLAKE, ARIZONA	RICHARD BLUMENTHAL, CONNECTICUT
MIKE CRAPO, IDAHO	MAZIE HIRONO, HAWAII
THOM TILLIS, NORTH CAROLINA	CORY A. BOOKER, NEW JERSEY
JOHN KENNEDY, LOUISIANA	KAMALA D. HARRIS, CALIFORNIA

KOLAN L. DAVIS, Chief Counsel and Staff Director
JENNIFER DUCK, Democratic Chief Counsel and Staff Director

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

November 2, 2018

VIA ELECTRONIC TRANSMISSION

The Honorable Jeff Sessions
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535

Dear Attorney General Sessions and Director Wray:

I am once again writing regarding fabricated allegations the United States Senate Committee on the Judiciary recently received. As you know, the Senate Judiciary Committee processed the nomination of Judge Brett M. Kavanaugh to serve as an Associate Justice on the Supreme Court of the United States, leading to his eventual confirmation on October 6, 2018. As part of that process, the Committee has investigated various allegations made against Judge Kavanaugh. The Committee's investigation has involved communicating with numerous individuals claiming to have relevant information. While many of those individuals have provided the Committee information in good faith, it unfortunately appears some have not. As explained below, I am writing to refer Ms. Judy Munro-Leighton for investigation of potential violations of 18 U.S.C. §§ 1001 (materially false statements) and 1505 (obstruction), for materially false statements she made to the Committee during the course of the Committee's investigation.

On September 25, 2018, staffers for Senator Harris, a Committee member, referred an undated handwritten letter to Committee investigators that her California office had received signed under the alias "Jane Doe" from Oceanside, California.¹ The letter contained highly graphic sexual-assault accusations against Judge Kavanaugh. The anonymous accuser alleged that Justice Kavanaugh and a friend had raped her "several times each" in the backseat of a car. In addition to being from an anonymous accuser, the letter listed no return address, failed to provide any timeframe, and failed to provide any location -- beyond an automobile -- in which these alleged incidents took place.

Regardless, Committee staff quickly began investigating the claims as part of the broader investigation, hindered by the limited information provided. On September 26, 2018, Committee staff questioned Judge Kavanaugh about these allegations in a transcribed interview conducted

¹ See Undated Letter from "Jane Doe" to Senator Harris, enclosed below.

under penalty of felony.² They read him the letter in full as part of the questioning.³ In response to the anonymous allegations, Judge Kavanaugh unequivocally stated: “[T]he whole thing is ridiculous. Nothing ever -- anything like that, nothing . . . [T]he whole thing is just a crock, farce, wrong, didn’t happen, not anything close.”⁴ Later that day, September 26th, the Committee publicly released the transcript of that interview with Judge Kavanaugh, which included the full text of the Jane Doe letter.⁵

Then, on October 3, 2018, Committee staff received an email from a Ms. Judy Munro-Leighton with a subject line claiming: “I am Jane Doe from Oceanside CA -- Kavanaugh raped me.”⁶ Ms. Munro-Leighton wrote that she was “sharing with you the story of the night that Brett Kavanaugh and his friend sexually assaulted and raped me in his car” and referred to “the letter that I sent to Sen. Kamala Harris on Sept. 19 with details of this vicious assault.” She continued: “I know that [‘]Jane Doe[’] will get no media attention, but I am deathly afraid of revealing any information about myself or my family.” She then included a typed version of the Jane Doe letter.

Committee investigators began investigating Ms. Munro-Leighton’s allegations. Given her relatively unique name, Committee investigators were able to use open-source research to locate Ms. Munro-Leighton and determine that she: (1) is a left-wing activist; (2) is decades older than Judge Kavanaugh; and (3) lives in neither the Washington DC area nor California, but in Kentucky. In order to investigate her sexual-assault claims, Committee investigators first attempted to reach her by phone on October 3, 2018, but were unsuccessful. On October 29, Committee investigators again attempted contact, leaving a voicemail. In response, Ms. Munro-Leighton left Committee investigators a voicemail on November 1, 2018.

Eventually, on November 1, 2018, Committee investigators connected with Ms. Munro-Leighton by phone and spoke with her about the sexual-assault allegations against Judge Kavanaugh she had made to the Committee. Under questioning by Committee investigators, Ms. Munro-Leighton admitted, contrary to her prior claims, that she had not been sexually assaulted by Judge Kavanaugh and was not the author of the original “Jane Doe” letter. When directly asked by Committee investigators if she was, as she had claimed, the “Jane Doe” from Oceanside California who had sent the letter to Senator Harris, she admitted: “No, no, no. I did that as a way to grab attention. I am not Jane Doe . . . but I did read Jane Doe’s letter. I read the transcript of the call to your Committee. . . . I saw it online. It was news.”

She further confessed to Committee investigators that (1) she “just wanted to get attention”; (2) “it was a tactic”; and (3) “that was just a ploy.” She told Committee investigators that she had called Congress multiple times during the Kavanaugh hearing process – including prior to the time Dr. Ford’s allegations surfaced – to oppose his nomination. Regarding the false sexual-assault

² Senate Judiciary Committee Interview with Judge Kavanaugh 5-10 (Sept, 26, 2018). Available at: [https://www.judiciary.senate.gov/imo/media/doc/09.26.18%20BMK%20Interview%20Transcript%20\(Redacted\).pdf](https://www.judiciary.senate.gov/imo/media/doc/09.26.18%20BMK%20Interview%20Transcript%20(Redacted).pdf).

³ *Id.*

⁴ *Id.*

⁵ <https://www.judiciary.senate.gov/press/rep/releases/judiciary-committee-releases-transcripts-of-kavanaugh-interviews>

⁶ Email from Judy Munro-Leighton to Senate Judiciary Committee (Oct. 3, 2018), enclosed below.

allegation she made via her email to the Committee, she said: "I was angry, and I sent it out." When asked by Committee investigators whether she had ever met Judge Kavanaugh, she said: "Oh Lord, no."

In short, during the Committee's time-sensitive investigation of allegations against Judge Kavanaugh, Ms. Munro-Leighton submitted a fabricated allegation, which diverted Committee resources. When questioned by Committee investigators she admitted it was false, a "ploy," and a "tactic." She was opposed to Judge Kavanaugh's confirmation.

As I have repeatedly stated, Committee investigations in support of the judicial nomination process are an essential part of the Committee's constitutional role. The Committee is grateful to citizens who come forward with relevant information in good faith, even if they are not one hundred percent sure about what they know. But when individuals intentionally mislead the Committee, they divert Committee resources during time-sensitive investigations and materially impede our work. Such acts are not only unfair; they are potentially illegal. It is illegal to make materially false, fictitious, or fraudulent statements to Congressional investigators. It is illegal to obstruct Committee investigations.

Accordingly, in light of the seriousness of these facts, and the threat these types of actions pose to the Committee's ability to perform its constitutional duties, I hope you will give this referral the utmost consideration. Thank you for your prompt attention to this matter. If you have any questions, please contact a professional investigative counsel in the Committee's Oversight and Investigations Unit at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary

Enclosures:

Undated Letter from "Jane Doe" to Senator Harris
Email from Judy Munro-Leighton to Senate Judiciary Committee (Oct. 3, 2018)

cc: The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary

WGEAR

SAN DIEGO CA 920

19 SEP 2018 PM 5 1



Kamala Harris
Service Judiciary Committee
600 B St Suite 2040
San Diego CA 92101

DEAR SENATOR GRASSLEY, ET AL

THE CURRENT SITUATION REGARDING THE ACCUSATIONS MADE BY DR FORD AGAINST BRETT KAVANAUGH HAVE PROMPTED ME TO WRITE YOU TODAY.

I HAVE MOVED ON WITH MY LIFE SINCE HE FORCED HIMSELF ON ME AS WELL. THE TIMES WERE SO DIFFERENT AND I DIDN'T EXPECT TO BE TAKEN SERIOUSLY, EMBARRASS MY FAMILY BE BELIEVED AT ALL.

I WAS AT A PARTY WITH A FRIEND. I HAD BEEN DRINKING. SHE LEFT WITH ANOTHER BOY LEAVING ME TO FIND MY OWN WAY HOME.

KAVANAUGH AND A FRIEND OFFERED ME A RIDE HOME. I DON'T KNOW THE OTHER BOYS NAME. I WAS IN HIS CAR TO GO HOME. HIS FRIEND WAS BEHIND ME IN THE BACK SEAT.

KAVANAUGH KISSED ME FORCEFULLY

I TOLD HIM I ONLY WANTED A RIDE HOME. KAVANAUGH CONTINUED TO GROPE ME OVER MY CLOTHES, FORCING HIS KISSES ON ME AND PUTTING HIS HAND UNDER MY SWEATER.

"NO!" I YELLED AT HIM.

THE BOY IN THE BACK SEAT REACHED AROUND PUTTING HIS HAND OVER MY MOUTH AND

AND Holding my ARM TO KEEP ME IN THE CAR. I SCREAMED INTO HIS HAND.

KAVANAUGH CONTINUED HIS FORCING HIMSELF ON ME. HE PULLED UP MY SWEATER AND BRA EXPOSING MY BREASTS AND REACHED INTO MY PANTIES INSERTING HIS FINGERS INTO MY VAGINA

MY SCREAMS WERE SILENCED BY THE BOY IN THE BACK SEAT COVERING MY MOUTH AND GROPPING ME AS WELL.

KAVANAUGH SLAPPED ME AND TOLD ME TO BE QUIET AND FORCED ME TO PERFORM ORAL SEX ON HIM. HE CLIMAXED IN MY MOUTH.

THEY FORCED ME INTO THE BACKSEAT AND TOOK TURNS RAPING ME SEVERAL TIMES EACH.

THEY DROPPED ME OFF TWO BLOCKS FROM MY HOME. "NO ONE WILL BELIEVE YOU IF YOU TELL. BE A GOOD GIRL." HE TOLD ME

WATCHING WHAT HAS HAPPENED TO ANITA HILL AND DR FORD HAS ME IDENTIFIED TO COME FORWARD IN PERSON OR EVEN PROVIDE MY NAME. A GROUP OF WHITE MEN POWERFUL SENATORS WHO WON'T BELIEVE ME WILL COME AFTER ME

Like Dr FORD. IM A TEACHER,
I HAVE AN EDUCATION. A FAMILY. A CHILD
A HOME.

I HAVE CREDIBILITY. JUST BECAUSE
SOMETHING HAPPENS A LONG TIME AGO
BECAUSE A RAPE VICTIM DOESN'T WANT
TO PERSONALLY COME FORWARD DOES NOT
MEAN SOMETHING CAN'T BE TRUE!

June Doe
OCEANSIDE CA

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: Fwd: I am Jane Doe from Oceanside CA -- Kavanaugh raped me
Date: Wednesday, October 03, 2018 7:27:42 AM

Begin forwarded message:

From: Judy Munro-Leighton <[REDACTED]>
Date: October 3, 2018 at 6:42:35 AM EDT
To: [REDACTED]
Subject: I am Jane Doe from Oceanside CA -- Kavanaugh raped me
Reply-To: [REDACTED]

To all Republican Senators, 10/3/18

My name is Jane Doe, from Oceanside CA. I am sharing with you the story of the night that Brett Kavanaugh and his friend sexually assaulted and raped me in his car. Here is the letter that I sent to Sen. Kamala Harris on Sept. 19 with details of this vicious assault. The Senate Judiciary Comm had a phone interview on Sept. 26 with Kavanaugh to ask him about my letter.

I refuse to allow Donald J. Trump to use me or my story as an ugly chant at one of his Republican rallies. I know that Jane Doe will get no media attention, but I am deathly afraid of revealing any information about myself or my family. I watched in horror as Trump vilified Dr. Blasey-Ford. I will not allow this abuse to be directed toward me.

Dear, Senator Grassley, et al.

The current situation regarding the accusations made by Dr. Ford against Brett Kavanaugh have prompted me to write you today. I have moved on with my life since he forced himself on me as well. The times were so different, and I didn't expect to be taken seriously, embarrass my family, be believed at all. I was at a party with a friend. I had been drinking. She left with another boy, leaving me to find my own way home. Kavanaugh and a friend offered me a ride home. I don't know the other boy's name. I was in his car to go home. His friend was behind me in the backseat. Kavanaugh kissed me forcefully.

I told him I only wanted a ride home. Kavanaugh continued to grope me over my clothes, forcing his kisses on me and putting his hand under my sweater. 'No,' I yelled at him. The boy in the backseat reached around, putting his hand over my mouth and holding my arm

to keep me in the car. I screamed into his hand. Kavanaugh continued his forcing himself on me. He pulled up my sweater and bra exposing my breasts, and reached into my panties, inserting his fingers into my vagina. My screams were silenced by the boy in the backseat covering my mouth and groping me as well. Kavanaugh slapped me and told me to be quiet and forced me to perform oral sex on him. He climaxed in my mouth. They forced me to go into the backseat and took turns raping me several times each.

They dropped me off two blocks from my home. 'No one will believe if you tell. Be a good girl,' he told me. Watching what has happened to Anita Hill and Dr. Ford has me petrified to come forward in person or even provide my name. A group of white men, powerful senators who won't believe me, will come after me. Like Dr. Ford, I'm a teacher, I have an education, a family, a child, a home. I have credibility. Just because something happens a long time ago, because a rape victim doesn't want to personally come forward, does not mean something can't be true.

Jane Doe, Oceanside, California.