

From: Benishek, Trent (Collins)
Subject: Constituent Concern
To: Gaeta, Joseph (OLA)
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Attached: ppb_findings_9-12-12.pdf, appi.ps.202000572.pdf, nejmms2035710.pdf, Open Letter in Response to Exec Order.pdf

Joe,

Below and attached please find information from one of Senator Collins' constituents, who requested that we forward the information to DOJ. If you have any information or materials relating to their concern, it would be greatly appreciated.

Please let me know if you have any questions and/or if it would be helpful to discuss this by phone.

Best,
Trent

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As the nation calls for less police engagement in non-public safety issues, the recently released DOJ/COPS RFP provides funding to embed clinicians into police departments. While the idea of clinicians being employed by or co-responding with officers might sound positive, it is not. We oppose this type of response because officers are still responding to calls that do not need police engagement. CIT International strongly opposes efforts that increase police responses by funding mental health service-connected to police departments rather than increasing funding for non-LE community-based mental health crisis responses. Officers uniformly feel that they should not play a role in providing care to individuals with mental illness or in a mental health crisis. Our membership is predominately police officers, and united, we support non-law enforcement responses to mental health-related calls.

As an entity started by law enforcement, advocates, and mental health providers in 1988 after police shot a Black man with mental illness, we firmly believe investments must be made in community-based mental health services. The released RFP modifies a well-established community-policing model into nothing more than another police training. The ironic thing is that the attached DOJ Civil Right finding (ppb_finding) states that the very kind of fragmented approach proposed in the RFP does not sufficiently prepare officers or protect departments from legal action.

An investment of resources to support communities implementing the entire best practice CIT program would be welcomed, but that is not what the COPS office has done with the released RFP.

In addition to the bullets below, attached to this email are some documents that provide additional information.

- 1) A recent request for proposals released by the COPS grant (O-COPS-2021-75007) provides funding for local police departments to utilize the CIT program model in their community. However, the RFP requires deliverables that violate the fidelity principles related to the implementation of Crisis Intervention Team Programs. The COPS Office plans to provide funding for a 40-hour online CIT training – CIT is not training; it is a community policing multidisciplinary team diversion model. A significant aspect of CIT is connecting community mental health providers with local law enforcement during the 40-hour training. The COPS RFP attempts to redefine CIT as just training.
- 2) The Civil Rights Department of the US Department of Justice has found that providing officers with training similar in content to CIT but not adhering to CIT's PROGRAM best-practice standards is not sufficient to prepare officers to respond to people with mental illness or in a mental health crisis. Such an approach also does not meet the fidelity standards of CIT. The finding is attached to this email.
DOJ Finding Against Portland Oregon's Police Department (ppb-findings above) use of CIT highlighted the

lack of Officers Specially Trained in and Proficient at Responding to Mental Health Crisis (pg. 19)

- Portland provided CIT to all officers but treated CIT as training, not a program, and there was not a CIT team.
- Page 20 -22 outlines that offering CIT as a training and not as a specialized team approach does not meet the standards of CIT and is not sufficient to prepare officers.

Police Reform From the Perspective of Mental Health Services and Professionals: Our Role in Social Change

Amy C. Watson, Ph.D., Leah G. Pope, Ph.D., Michael T. Compton, M.D., M.P.H.

Calls to defund and reform police agencies have been emphasized in recent public discourse. Demands range from shuttering police agencies to shifting resources and responsibility for responding to noncriminal social and behavioral health vulnerabilities to the health and social services sector. This Open Forum discusses how police officers became primary responders to behavioral health concerns, how this arrangement disproportionately and

negatively affects communities of color, and several solutions to these circumstances. The mental health field must advocate for the policies and resources needed to address urgent mental health needs and crisis response. Several conditions for successful outcomes that do not further compound racial inequities are discussed.

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The need to reduce the role of law enforcement in responding to mental, behavioral, and social vulnerabilities, particularly in communities of color, is highlighted with tragic frequency. As a result, the United States is grappling with a growing movement to reform or defund the police and a mental health system that may not have the capacity to take on crisis response. In this Open Forum, we argue for the development of responses to mental health crises that do not involve law enforcement.

Police as Primary Responders to Mental Health Crises

How did we as a society come to rely so heavily on police to address mental health and social vulnerabilities? Shortly after the advent of early psychotropics, the Community Mental Health Act of 1963, an emerging civil rights movement, and other social advances, deinstitutionalization began, moving hundreds of thousands of people with serious mental illnesses back into communities. However, the transition occurred without adequate investment in community-based supports, leaving many people without access to treatment and at risk for a variety of social vulnerabilities associated with criminal legal system involvement. Additionally, court rulings in this era resulted in more stringent civil commitment criteria, with an emphasis on dangerousness, further defining a role for police in the apprehension of people in need of psychiatric emergency services. In the decades that followed, shrinking mental health budgets left few or no other crisis response options in many communities. Bonfine

et al. (1) have rightly pointed out that criminal legal system involvement among persons with mental illnesses is also prominently driven by social and economic forces as well as by the complex clinical, behavioral health, criminogenic, and social needs of those with such illnesses.

People in need of urgent mental health care are now regularly directed to call 911. Call takers often have limited options: send police, emergency medical services, or both. Often, once the call is identified as related to mental health, police are dispatched regardless of whether there is a safety or criminal issue. Although some communities have mobile crisis teams (composed of clinicians) that can be deployed, these teams may not be accessible via calling 911. Additionally, limited hours of operation and limited capacity of mobile crisis teams often mean lengthy wait times or no immediate availability, leaving police as the only option during a crisis.

As responsibility for crisis response has shifted to law enforcement, significant changes in policing practices have also ensued. Backlash against the civil rights movement led to a tough-on-crime political ideology and the declaration of the War on Drugs. In the Reagan era, increased federal funds flowed to local law enforcement, as did tanks and military-style equipment to fight the “war,” in what many refer to as the militarization of law enforcement (2). The role of police concurrently became more warrior-like. The result has most negatively affected communities of color, whose members are disproportionately represented in all stages of the criminal legal system, from police patrol, to jails and prisons, to probation and parole.

One of the consequences of these shifts is that police are involved in the pathway to care for almost one-third of people with mental illnesses in the United States (3). Tragically, such shifts may also have contributed to the overrepresentation of people with mental illnesses among those shot and killed by police (4). Additionally, although most individuals experiencing a mental health crisis are not involved in criminal behavior, relying on police responses may increase their likelihood of arrest and thus of becoming involved in the legal system. In the context of structural racism, the burden of these negative outcomes is disproportionately experienced by people of color (5, 6), who are more likely to enter mental health care through coercive channels, more reliant on emergency care, more likely to have police involved in a mental health crisis, and more likely to be killed by police.

Those of us working in the mental health field and advocating for persons with serious mental illnesses have been more successful to date in expanding capacity to address mental health needs within the criminal legal system than we have been in improving the community mental health system. This circumstance may be in part because, in the United States, individuals do not have a constitutional right to mental health care unless they are in the custody of the state. It may also be because shrinking mental health budgets during a period of growing law enforcement budgets has allowed for law enforcement agencies to build responses that fill gaps.

Crisis Intervention Team and Co-Responder Models

The crisis intervention team (CIT) is a collaborative model that has received much attention. The model is based on strong partnerships among law enforcement, the mental health system, and advocates and is best known for including 40 hours of training on mental health issues and de-escalation strategies for select officers who then become CIT officers. Policy makers have proposed CIT training for all officers as a means of improving police responses and even as an approach to broadly addressing race-based disparities in policing. Providing CIT training to all officers may not be effective, however. The most effective CIT response is likely to be from an officer situated within a strong CIT program who is CIT-trained and who wants to be a CIT officer. The latter element is critical, and universal CIT training cannot be expected to result in all officers being equally talented, compassionate, or effective in responding to individuals in crisis. Certainly, all officers need de-escalation and basic mental health response training (which is not the same as CIT training or implementing a CIT program). But CIT training is a specialist training. Furthermore, CITs are unlikely to be a solution for addressing broader race inequities, because it was not designed for this purpose (even though many CIT training sessions include some content on cultural competence).

Recently, the co-responder model has gained attention. While there are many variations on this model, typically, clinician-officer teams respond to crisis situations in response to 911 calls or requests from other officers; they may also conduct follow-up outreach and linkage. Although it may seem sensible to elevate co-responder models as a promising practice, these models do not go far enough. Certainly, police are needed in some crisis situations because of safety concerns or criminal activity, and, in many states at present, only law enforcement can take a person into custody for involuntary transport for psychiatric assessment. However, in many situations, police presence is not necessary and in fact may escalate the situation and increase trauma, stigma, and criminalization.

At the national level, ongoing efforts to improve law enforcement response to mental health crises are exemplified by the Bureau of Justice Assistance's Police-Mental Health Collaboration Toolkit project and the International Association of Chiefs of Police's One Mind campaign. Writing about disaggregating the police function, Friedman (7) suggests that efforts to reduce the harms of police intervention are unlikely to be effective: "The deeper difficulty with a harm reduction strategy . . . is that much of policing is not proactive, but reactive, and we won't ameliorate policing's harms until we address the underlying social issues that cause people to call the police in the first place." Thus, initiatives are needed at intercept 0 (mental health and crisis services that do not require engaging police) to reform the mental health system so that it has the capacity to truly take up crisis response (8). Police will continue to have a role in a subset of mental health crisis events, and they must be prepared to safely partner with mental health responders (for example, as part of a strong CIT program). However, expanded options at intercept 0 can reduce the law enforcement footprint in crisis response.

Shifting Responsibility Away From Law Enforcement

Shifting responsibility for mental health crisis response away from police requires an adequately funded and functional community mental health system with a workforce ready to embrace its role in crisis response (8). Such a system would include accessible and timely crisis response options that do not automatically send law enforcement. It would have an expanded workforce capacity including a robust peer workforce and the ability to hire, train, and retain experienced clinicians. We suggest that there may be a need to create an entirely new professional role—for an emergency psychiatric technician—filled by individuals who are interested in and dedicated to responding to behavioral health crises and are adequately trained to do so. This role would be structured to support meaningful partnerships with law enforcement when needed and collaborations with acute and longer-term care providers who accept handoffs from crisis workers.

Although the current political moment calls for a sense of urgency, this shift will not happen overnight. It will

require communities to dramatically change how they receive, triage, and dispatch responses to 911 calls. Some communities have developed protocols for transferring 911 calls to crisis lines and/or mobile crisis teams, whereas others are experimenting with embedding clinicians within 911 call centers (9). The Federal Communications Commission's plan for the 988 mental health emergency number may also provide an avenue for accessing a non-law-enforcement response. Examples of non-law-enforcement responses to draw upon for inspiration include CAHOOTS (Crisis Assistance Helping Out On The Streets), in Eugene, Oregon, which pairs a medic with a crisis worker, and the Psychiatric Emergency Response (PAM) team in Stockholm, Sweden (10), which pairs mental health nurses with paramedics.

A Note of Caution

As we encourage accountability in the mental health system for reducing the role of law enforcement in responding to individuals in crisis, the field must ensure that the path forward does not increase racial inequities in the criminal legal or health systems, but rather that solutions proactively seek to reduce such disparities. As Meares et al. (11) wrote in a recent editorial, "It is essential to recall that the crisis of policing is not simply about policing. It is about the state. A critical worry is that some narrow conversations about 'defunding' assume that the other parts of the system are operating the way they should be, and we know they are not." Fully scoping how to build a racially equitable crisis response system will require utilizing racial equity impact assessments in making policy decisions, critically examining how risk is assessed in crisis calls, and reducing possibilities for racial bias in deciding on the appropriate response. Furthermore, the mental health profession's workforce capacity must be expanded to better support entry for people of color. Finally, communities of color must be fully engaged in the planning and implementation of local crisis response systems and of the structures that hold them accountable.

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MEDICINE AND SOCIETY

Debra Malina, Ph.D., *Editor*

Decoupling Crisis Response from Policing — A Step Toward Equitable Psychiatric Emergency Services

Eric Rafla-Yuan, M.D., Divya K. Chhabra, M.D., and Michael O. Mensah, M.D., M.P.H.

As young psychiatrists of color, we bear witness to the failings of the U.S. mental health emergency response system. We reluctantly counsel our patients to trust this system, though we're fully aware that it may harm them rather than ensure their safety. Our fears intensify when we undertake emergency planning with Black patients, whose ensnarement in systems of social control has been reinforced by centuries of racism in policing in particular and White supremacy more broadly. Obtaining care in a mental health crisis should be as routine and assistive as calling an ambulance for other health crises. Yet for too long, calling 911 for psychiatric aid has been fraught with the possibility of lethal consequences.

Though sirens announcing the arrival of professional help are commonplace today, emergency medical services providing prehospital care were atypical before the late 1960s. Instead, police officers and morticians responded to most medical emergencies in the United States by transporting patients to the hospital in a police car or hearse, with minimal or no equipment on board for treatment.^{1,2} In 1966, the National Academy of Sciences outlined the morbidity and mortality stemming from undeveloped infrastructure and training for emergency response and implored policymakers to enact legislation providing for national emergency services.³ Although inadequate prehospital care led to avoidable deaths for all populations, Black and other minority communities had disproportionately worse outcomes. Racist policies and practices contributed to this disparity.

In Pittsburgh, for example, city ordinance required police to transport patients to the nearest hospital. However, calls for help from Pittsburgh's Hill District and other predominantly Black neighborhoods were often ignored.¹ Police

negligence and racist hostility toward Black residents prompted Black community leaders, including James McCoy, Jr., president of Freedom House Enterprise Corporation, an offshoot of the Pittsburgh branch of the National Association for the Advancement of Colored People (NAACP), to partner with physicians and city officials to develop the Freedom House Ambulance Service in 1967.¹

With physician guidance from Nancy Caroline — appropriately dubbed the “mother of paramedics” — and cardiopulmonary resuscitation (CPR) pioneer Peter Safar, Freedom House provided state-of-the-art first-responder training to young, purportedly “unemployable,” Black community members, who were not only successfully hired, trained, and paid, but often performed at higher levels than their professional peers. They were among the first to provide 24-hour service, deploy electrocardiography machines and medications on scene, and treat cardiac arrest in the field with CPR and intubation. Law enforcement, recognizing these paramedics' expertise, eventually requested Freedom House response for emergency cases in predominantly White neighborhoods as well.¹ Ultimately, Freedom House Ambulance Service pioneered a new standard of care: emergency medical response provided by professionals specifically trained to handle medical emergencies outside the hospital.^{1,4,5} Tragically, more than 50 years later, this standard of care is still not applied to emergency mental health response in the United States.

THE CRIMINALIZATION OF RACE AND MENTAL ILLNESS

Police responses to psychiatric crises harm patients far too often, especially in minority communities, where a long history of institutional

racism informs warranted distrust of law enforcement.^{6,7} Structural violence — including discrimination and criminalization — disproportionately harms marginalized minorities, particularly targeting many immigrant, LGBTQIA+, and Black people.⁸⁻¹⁰ Recurring incidents corroborate studies demonstrating that police-based interventions not only fail to meet the psychiatric needs of vulnerable patients, but also dramatically increase the risks of arrests and fatal encounters.^{11,12}

Basic training for U.S. police officers takes 21 weeks, on average,¹³ and rarely includes training on bias, de-escalation of tense situations, recognition of psychiatric symptoms, or mental health first aid techniques. But even when officers undergo training in these areas, research demonstrates that it is not effective.^{14,15} In the United States, a police encounter with a civilian is 16 times as likely to result in that person's death if they have an untreated mental illness as if they do not.¹² Structural racism exacerbates this risk, placing Black men with mental illness at significant risk for dying from U.S. police violence.¹² And each killing reinforces the link between Black racial identity and violent fates, worsening the mental health of Black Americans.^{16,17}

Continued reliance on police as mental health first responders in Black and other minority communities leads directly to unnecessary injuries and deaths and increases the stigma against seeking treatment by fostering distrust of health care institutions, thereby limiting access to necessary mental health services.⁶ Black patients receive poorer care than White patients throughout medicine,¹⁸ and policing Black patients directly worsens psychiatric outcomes.^{18,19} Policing of mental illness and substance use disorders, especially in Black communities, perpetrates structural violence manifesting as police brutality and incarceration under the guise of aid. Prioritizing policing over investment in Black and minority communities perpetuates this violence and contributes to racialized residential segregation, zero-tolerance policies criminalizing Black schoolchildren,²⁰ and underresourced community health programs.^{6,7,21} Furthermore, extrajudicial killings of unarmed Black children and adults by police traumatize Black Americans, inflicting lasting generational damage.⁷

These long-standing systems of racialized power and control eventually led to the demise

of the Freedom House Ambulance Service, despite its celebrated successes. Both physician and city leadership refused to durably and fairly partner with the Freedom House Enterprise organization and the communities they served, which resulted in promotion of less-skilled White medics to leadership positions over their Black colleagues. In addition, predominantly White unions in fire and police departments lobbied against Freedom House's contracting for city services while simultaneously usurping Freedom House protocols and responsibilities — actions that eventually led to a complete loss of funding and to dissolution of the service.¹

HUMANITY IN CRISIS

Every day, we bear witness to the pain and suffering that systemic racism inflicts on our patients and our communities, the outcome all too often being social or physical death.^{9,22} These systemic injustices demand that we as physicians examine our complicit role in systems of care that put our patients in harm's way.²³ Knowing that we might suffer the same fate, how can we ask our patients to reach out to police for psychiatric aid that may lead to inappropriate treatment, restraint, humiliation, injury, and death?

In October 2020, 27-year-old Walter Wallace, Jr., was killed in Philadelphia after his mother had initially called for an ambulance. But police responded first, shooting him more than a dozen times. Wallace had bipolar disorder and was being treated with lithium by a psychiatrist. He and his wife were about to celebrate the birth of a baby girl. Videos can be seen of his mother screaming and rushing to his body as he falls to the ground.²⁴

Police in Rochester, New York, responded to a January 29, 2021, call from a family concerned about the suicidality of their 9-year-old daughter. Body-camera footage shows her crying for her father as she is pushed to the ground and handcuffed, then screaming as police pepper-spray her in the face. One officer says, "You're acting like a child." "I am a child!" the girl responds. The police union said no rules were broken.²⁵

In 2019, Daniel Prude, an unarmed, 41-year-old Black man with mental illness, died after officers in Rochester placed a hood over his head, pinned his naked body to the frozen ground, and pressed his chest into the pavement. They were responding to a 911 call from Prude's brother seeking help because Prude had voiced thoughts of suicide and hyperreligiosity and was wandering naked in

the snow. After videos of his death circulated online, several police officers involved were suspended or fired after initially reporting that Prude died of an overdose while in police custody. Government officials have announced that the involved officers did not violate policing guidelines or ethical standards and will not be charged.²⁶

In 2016, in San Diego, Alfred Olango, a 38-year-old refugee from Uganda, was in distress after his best friend's death by suicide a few days earlier. Olango's sister called for a psychiatric response team, but since it was unavailable, police responded instead and shot him several times, killing him. Olango was holding a vaping device.²⁷

There are publicly available video and audio recordings of Stacy Kenny, a 33-year-old, White, trans woman, calling 911 in Springfield, Missouri, and begging an emergency operator to explain why she had been pulled over. Police officers proceed to smash the windows of her red Nissan, Taser her twice, punch her in the face more than a dozen times, and try to pull her out by her hair. After fatally shooting her, an officer is heard saying: "We are all okay. Bad guy down." Kenny was unarmed and had previously been diagnosed with schizophrenia. After her death, her family received a \$4.55 million settlement from the city.²⁸

Mauris DeSilva, originally from Sri Lanka, emigrated to the United States, where he obtained his doctorate in biomedical engineering, held professorships at multiple universities, and eventually became a principal investigator as a neuroscientist with the U.S. Navy. In 2019, he was shot and killed by police in Austin, Texas, who responded to a 911 call by a bystander reporting a man having a mental breakdown and holding a knife to his own neck. A few months later, the same officer shot and killed Michael Brent Ramos, an unarmed Black and Latinx man.²⁹

MOVING TOWARD EQUITABLE
EMERGENCY SERVICES

We believe that unarmed clinicians must lead crisis response teams, since no amount of training for police in de-escalation and bias can reverse a history of racism. Moreover, involving lethally armed agents in all psychiatric emergencies criminalizes crisis encounters and deviates from the clinical standard of care.^{30,31} Shifting the obligation of mental health emergency response from law enforcement to clinical teams would advance parity and outcomes for all patients, and particularly for Black patients.³² Assigning this responsibility to clinical teams aligns with standards set by the Substance Abuse and

Mental Health Services Administration (SAMHSA), which recommends that crisis models use licensed clinicians dispatched by a call center capable of triaging acuteness and severity, with a focus on linkage to treatment.^{30,31,33} The recent federal mandate for a 988 nationwide hotline for mental health crisis assistance by July 2022 offers a timely opportunity to turn crisis response into a community health initiative — one that prioritizes rendering of aid and treatment over provision of transportation and threat control.

Elected officials, regulatory agencies, professional medical societies, mental health specialty organizations, and community advocates must collaborate to develop the funding mechanisms and infrastructure necessary for a viable and integrated mental health emergency response system. One example that has garnered national attention is Crisis Assistance Helping Out On The Streets (CAHOOTS), which has been implemented in Eugene, Oregon. CAHOOTS not only provides 24/7 mobile crisis intervention and first aid, but it also assists with conflict resolution and mediation, grief and loss, substance use disorders (including acute intoxication and linkage to ongoing treatment), housing crises, connection to social services and treatment referrals, and transportation to services. CAHOOTS teams consist of a licensed mental health clinician paired with a nurse or emergency medical technician. In 2019, these teams responded to nearly 24,000 calls — about 17% of all 911-dispatch calls — and requested police backup in less than 1% of cases. The local community and police department have welcomed CAHOOTS, which saves Oregon taxpayers an average of \$8.5 million in police and emergency department expenditures every year by effectively triaging emergency care needs to clinical response teams.³⁴

To replicate these successful outcomes, Pittsburgh,³⁵ New York City,³⁶ San Francisco,³⁷ and other U.S. cities have modeled pilot programs on CAHOOTS, using clinician teams as primary responders and reserving police for backup in the uncommon event that their assistance is indicated. Some state legislatures, as well as the U.S. House and Senate, have introduced bipartisan legislation to expand these efforts.^{36,38} Though these advances are promising, elected representatives can also prioritize evidence-based mechanisms for sustainable financing of model implementation.^{31,39} Without such financing, many

underresourced districts will not have the political or financial capital to develop the requisite infrastructure. To make crisis services available to all communities, physicians must collaborate with social workers, psychologists, nurses, public health officials, and other stakeholders, since this endeavor will require our collective efforts.

More than 50 years later, many of the same forces that drove the formation and demise of the Freedom House Ambulance Service persist,⁶ as racist systems of social control rooted in White supremacy continue to result in poor health outcomes for Black and other marginalized groups. Broad discrimination against patients with mental health conditions leads to a constant struggle for equality with other areas of medicine. These two inequities coalesce to chronically imperil Black patients with mental illness, whose intersection of identities and conditions places them at great risk from police and other structural violence. Decoupling mental health treatment from policing will advance equity in both domains for these patients, for Black communities seeking services, and broadly for patients with mental illness, regardless of their race.

Galvanized by the ineffective and often hostile and harmful police responses to both marginalized communities and mental health crises, we call on the medical profession to uphold our duty to our most vulnerable patients. The failures of the current mental health emergency response system reverberate as a clarion call for a national effort to bring this pursuit to fruition. The lives of our patients, communities, families, and friends — and even our own lives — may depend on it.

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AN OPEN LETTER IN RESPONSE TO THE PRESIDENT’S EXECUTIVE ORDER ON SAFE POLICING FOR SAFE COMMUNITIES
SECTION 4. MENTAL HEALTH, HOMELESSNESS, AND ADDICTION

We are encouraged by the focus of the President’s June 16th Executive Order on shifting responsibility to address the needs of individuals with mental illnesses and substance use disorders, and those experiencing homelessness, away from law enforcement to appropriate social service providers. However, increasing the capacity of social workers and other mental health professionals to work alongside law enforcement to co-respond to address situations does not go far enough in reducing the role of law enforcement. We encourage the Administration, the Bureau of Justice Assistance (BJA), the Substance Abuse and Mental Health Services Administration (SAMHSA) and other federal agencies to provide leadership and funding to communities across the country working to develop crisis system capacity so that behavioral health system providers are available to address urgent and emergent behavioral health needs independently of law enforcement services and only engage law enforcement assistance when indicated by safety or criminal concerns. Crisis Intervention Team (CIT) programs; International Association of Chiefs of Police (IACP) One Mind Campaign; Police, Treatment and Community Collaborative (PTACC); Law Enforcement Assisted Diversion (LEAD); and other models of law enforcement/behavioral health partnerships support collaborations that transform crisis response systems to minimize law enforcement involvement while ensuring that police and behavioral health providers are prepared to co-respond to situations only when necessary.

As we build capacity of the behavioral health system to take primary responsibility for responding to urgent and emergent behavioral health crises, we must ensure that communities of color benefit equally from the expansion of behavioral health system capacity and reduction in the role of law enforcement in behavioral health crises. While current attention is focused on law enforcement, the disparities and discrimination present in the health and behavioral health care systems are well documented. This must be addressed as we move forward in reimagining the role of law enforcement and support the capacity of behavioral health and social services to take on the role that is more appropriately theirs. Engaging and supporting the involvement of members of the most impacted communities will be critical to service planning and provision and holding systems accountable. We must all take an advocacy role to address inadequacies and stigma.

The need for change is immediate and it will be necessary to allocate funding and expand the capacity of behavioral health and social services independent of law enforcement funding. We encourage the Administration and all federal, state, county and municipal agencies to take a thoughtful, incremental and data-driven approach to expand the availability of evidence-based services. This will ensure individuals experiencing behavioral health crises receive optimal responses while minimizing law enforcement involvement whenever possible. We, the undersigned organizations, stand ready to assist.





U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 12 2012

The Honorable Sam Adams
Mayor
City of Portland
1221 SW 4th Ave # 340
Portland, OR 97204-1900

RE: Investigation of the Portland Police Bureau

Dear Mayor Adams:

This letter reports the findings of the United States Department of Justice Civil Rights Division's and United States Attorney's Office for the District of Oregon's (collectively "DOJ") joint investigation of the Portland (Oregon) Police Bureau ("PPB"). We opened our investigation to consider whether PPB officers engage in a pattern or practice of using excessive force, with a particular focus on the use of force against people with mental illness or in mental health crisis. Our investigation was brought pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 ("Section 14141"). Section 14141 authorizes the United States to file a legal action when it has reasonable cause to believe that a law enforcement agency is engaging in activities that amount to a pattern or practice of violating the Constitution or laws of the United States.

While most uses of force we reviewed were constitutional, we find reasonable cause to believe that PPB engages in a pattern or practice of unnecessary or unreasonable force during interactions with people who have or are perceived to have mental illness. In this letter, we discuss the need for revised policies, training, supervision, and timely, thorough internal review of use of force in this context.

In making these findings, we recognize the challenges that police officers in Portland and elsewhere confront in addressing the needs of people with mental illness. Our findings take place against a backdrop of a mental health infrastructure that has a number of key deficiencies.

The absence of a comprehensive community mental health infrastructure often shifts to law enforcement agencies throughout Oregon the burden of being first responders to individuals in mental health crisis. Despite the critical gaps in the mental health system, police agencies must be equipped to interact with people in mental health crisis without resulting to unnecessary or excessive force. As Oregon's main population center, Portland police officers encounter people with actual or perceived mental illness with increasing frequency. We are working separately with State officials in a constructive, collaborative manner to address the gaps in the mental health infrastructure. We are confident that the state-wide implementation of an improved holistic, effective community-based mental health infrastructure will be of enormous benefit to law enforcement agencies across the State, as well as to people with mental illness. Implementing these reforms will enhance public safety and officer safety.

We thank the City and PPB, in particular you, Mayor Adams, and Police Chief Michael Reese, for their cooperation throughout our investigation, and for initially inviting us into Portland to conduct this investigation. We acknowledge the professionalism of all of the City officials and counsel involved. In particular, we appreciate the openness and flexibility of the City and PPB personnel during our two site visits, as well as their diligence in providing requested information, including voluminous responsive documents in a timely fashion. Further, we are encouraged by PPB's eagerness to improve its processes, as evident by the steps that PPB has already taken to address concerns raised during our investigation. PPB has not waited for our formal findings to begin the process of addressing the deficiencies that are outlined in this letter. We also commend PPB's willingness to seek outside evaluation and consultation in numerous instances before our investigation. This leaves us optimistic that we will continue our collaborative relationship to craft sustainable remedies that address the deficiencies identified in this letter.

I. SUMMARY OF FINDINGS

The use of force is an essential part of law enforcement; however, it must be guided by policy and limited by the protections of the United States Constitution. While most force used by officers in Portland is appropriate, we find reasonable cause to believe that PPB is engaging in a pattern or practice of using excessive force in encounters involving people with actual or perceived mental illness. The pattern or practice is manifested in the following ways:

- (1) Encounters between PPB officers and persons with mental illness too frequently result in a use of force when force is unnecessary or in the use of a higher level of force than necessary or appropriate, up to and including deadly force. We found instances that support a pattern of dangerous uses of force against persons who posed little or no threat and who could not, as a result of their mental illness, comply with officers' commands. We also found that PPB employs practices that escalate the use of force where there were clear earlier junctures when the force could have been avoided or minimized. As described in greater detail below, examples of this use of excessive force include a December 2010 incident when

multiple officers resorted to repeated closed-fist punches and repeated shocking of a subject who was to be placed on a mental health hold.

- (2) In particular, we found that PPB officers use electronic control weapons (“ECWs” (commonly referred to as “Tasers”)) in circumstances when ECW use is not justified or use ECWs multiple times when only a single use is justified in encounters with people with actual or perceived mental illness. We found instances that support a pattern of officers using multiple cycles of shock without waiting between cycles to allow the suspect to comply, or officers failing to utilize control tactics during ECW cycles to properly affect handcuffing without having to resort to repeated ECW shocks. Examples detailed below include an August 2010 incident when an officer repeatedly shocked an unarmed, naked subject who, as it turned out, was experiencing a diabetic emergency.
- (3) In effectuating an arrest, officers are permitted to use only the level of force reasonably necessary to accomplish a legitimate government objective; however, we found that PPB officers use more force than necessary in effectuating arrests for low level offenses involving people who are or appear to be in mental health crisis. As detailed below, this includes, for instance, a May 2011 incident in which an officer punched an unarmed subject at least seven times in the face when responding to a call to check on the man’s well-being.

We conclude that this pattern or practice results from deficiencies in policy, training, and supervision. We recognize that many of the systemic deficiencies discussed in this letter originated prior to the current PPB administration, which has been aggressive in pursuing reform. Notably, throughout the course of this investigation, Chief Reese and his command staff have been proactive in instituting policy reforms to address our concerns and have already begun the process of correcting many of the issues raised in this report. By building on that initiative, and through strengthening of training, reducing the complexity and duration of the review and discipline processes and other measures, PPB can prevent unnecessary or unreasonable uses of force or self-identify incidents or patterns and undertake self-correcting action. We believe strongly that in addition to protecting constitutional rights, addressing this problem will increase officer safety. Officers need to be as prepared as possible for the situations that they face.

Our formal findings address use of force against people with actual or perceived mental illness. In addition, we also examined allegations that there is a failure to provide adequate and timely access to medical care in the aftermath of certain uses of force, and looked carefully at concerns flowing from apparent tensions between PPB and certain communities in Portland. We do not make any formal findings in these areas; however, our examination identified concerns regarding the failure to provide adequate and timely access to medical care and the need to strengthen community policing. These concerns, including issues of significance involving the relationship between PPB and the African American community, are discussed in Section VII of this letter.

Constitutional policing leads to increased public confidence, which in turns leads to greater public safety. Addressing the deficiencies identified in this letter will help ensure that PPB provides police services in a constitutional manner and increases its efficacy in protecting the community.

II. DOJ INVESTIGATION

On June 6, 2011, we notified you by letter that we were opening an investigation of PPB, pursuant to Section 14141, to determine whether PPB was engaged in a pattern or practice of unconstitutionally using excessive force, particularly against people with mental illness. Our investigation was prompted in part by the high number of officer involved shootings that involved people with mental illness.¹

Our investigation has been exhaustive. We reviewed a large volume of documents from PPB, interviewed police and City of Portland officials, and met with diverse members of the Portland community. We also met with mental health services providers and officials from Multnomah County regarding the public mental health system's role in PPB interventions for people in mental health crisis.

In reaching our findings, we relied on highly respected consultants who have extensive experience in the delivery of police services, including expertise in officer accountability measures and police interactions with people with mental illness. Accompanied by a veteran police chief, a psychiatrist who was instrumental in developing the Crisis Intervention Team ("CIT") model, and an expert in police internal affairs, DOJ conducted two tours of PPB, as well as in-person and telephonic interviews of witnesses and organizations that work with PPB. The combined experience and knowledge of these nationally recognized law enforcement professionals have helped inform our findings. These professionals conducted independent analyses of certain PPB policies, uses of force, and other data.

During our tours, we met with PPB command staff, representatives from both of the officers' unions, leadership from Internal Affairs, the Professional Standards Division, and the Training Department, among others. In addition to meeting with you, we met with several agencies and organizations outside of PPB that are critical to PPB's mission, including the Bureau of Emergency Communications ("BOEC"), various local mental health providers, the City Auditor, representatives from the Independent Police Review ("IPR"), the Citizens Review Committee ("CRC"), and representatives from Multnomah County. Additionally, we heard from hundreds of community members through a multitude of platforms including in-person interviews, our toll free hotline and dedicated email address, and at an open-invitation town hall meeting.

¹ In the last three years, PPB officers have used deadly force 12 times, nine of which involved people affected by mental illness. We do not reach a separate finding regarding PPB uses of deadly force, specifically. We note, however, that our review of these uses of force contributed to our findings.

The City and PPB have provided full and open cooperation in the investigation. They provided us with prompt and complete access to documents, information, and personnel. Consistent with our commitment to conduct the investigation in a transparent manner, we have provided technical assistance and advice to PPB during our investigation. We were gratified that PPB immediately undertook steps to address many of the concerns raised during those meetings. While we recommend additional reform, the efforts of PPB and its Chief thus far provide a solid foundation for sustainable measures that address our findings.

III. BACKGROUND

A. Portland, Oregon

According to recent Census data, Portland has an estimated population of 583,776, making it the 29th most populous city in the United States.² Portland is Oregon's most populous city and the second most populous city in the Pacific Northwest region, after Seattle, Washington. Approximately 9.4% of Portland's population is Hispanic or Latino (of any race), 7.1% is Asian, and 6.3% is African-American.³

Oregon has one of the highest rates of homelessness in the United States, with a large percentage of the homeless population concentrated in Portland.⁴ According to the U.S. Department of Housing and Urban Development, 34.7% of sheltered homeless adults nationwide have substance abuse disorders, and 26.2 % have serious mental illness.⁵

B. Portland Police Bureau

Currently, PPB is a police force of approximately 1,200 employees, with approximately 980 sworn officers and 240 non-sworn staff.⁶ PPB currently divides Portland into three precincts (North, East, and Central), with each precinct led by a commander and divided into as many as 20 districts.⁷

For over a decade, the City of Portland has periodically faced accusations that PPB uses excessive force against civilians. Portland has paid out approximately \$6 million in the last twenty years to settle lawsuits related to alleged police misconduct. On multiple occasions, the

² Profile of General Population and Housing Characteristics: 2010, U.S. CENSUS BUREAU, available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (follow "Geographies" hyperlink; then follow "Places within State" and "Portland city, Oregon") (last visited Sep. 7, 2012).

³ *Id.*

⁴ Housing and Urban Development, *The 2010 Annual Homeless Assessment Report* at 22, www.hudhre.info/documents/2010HomelessAssessmentReport.pdf (last visited Apr. 2, 2012).

⁵ *Id.* at 18.

⁶ CITY OF PORTLAND, OREGON, FY 2011-2012 Budget in Brief, available at <http://www.portlandonline.com/omf/index.cfm?c=55389&a=358662>.

⁷ See Portland Police Bureau Precinct Map, <http://www.portlandonline.com/police/index.cfm?c=43598&> (last visited Apr. 2, 2012).

City has attempted to study and address these issues. For instance, in 2003, Portland commissioned the Police Assessment Resource Center (“PARC”) to conduct an annual review of officer-involved shootings and deaths in police custody. PARC provided recommendations on measures PPB should take to reduce the occurrence of these events, issued an initial report in August 2003, with follow-up reports in December 2006 and February 2009.⁸ Portland also convened a Use of Force Task Force (“Task Force”) to analyze statistics and trends in the use of force and deadly force, and retained the OIR Group to conduct an analysis of PPB’s officer-involved shootings.

PPB has sought partnerships with various entities to improve its response to individuals with mental illness. For example, PPB has a relationship with Cascadia Behavioral Healthcare and can access their mobile mental health crisis response team, Project Respond, to provide PPB officers with assistance in certain mental health crisis situations. Due to resource limitations, Project Respond is unable to respond to many crises in a timely fashion, particularly after regular business hours, when such crises are more likely to occur. PPB also has developed a Mobile Crisis Unit, which helps connect individuals with mental illness with available mental health services. This unit is comprised of one police officer and a Project Respond worker. The program’s benefits are limited, however, because the Mobile Crisis Unit is not intended to be called in an actual crisis situation and only works during regular business hours. Despite PPB’s efforts to address concerns regarding officers’ use of force, the overall record and prevalence of troubling incidents indicate that a problem persists.

C. Serious Deficiencies in the Mental Health System

On November 11, 2010, DOJ began a separate but related investigation to examine the State’s compliance with Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12132, as interpreted in *Olmstead v. L.C.*, 527 U.S. 581 (1999), with respect to the services the State provides to individuals with mental illness.⁹ Our state-wide investigation focuses on the needs of individuals with serious mental illness who enter high levels of care in acute in-patient psychiatric facilities, emergency rooms, jails, and prisons, largely because there are insufficient options for adequate community-based mental health services. Through our investigation, we assessed gaps in the State’s mental health system, which lead to an increase in police encounters with people with mental illness, including people who are in crisis. As one high-level officer told us, over his career, encounters with people in crisis have gone from a couple of times a

⁸ *The Portland Police Bureau: Officer-Involved Shootings and In-Custody Deaths*, from the 2003 PARC Report, available at www.vera.org/download?file=667/363.209795pa_2.pdf.

⁹ During this investigation, DOJ met with more than 50 mental health stakeholders across Oregon, including consumers, advocacy groups, providers, and law enforcement. DOJ also met with State mental health leadership, including Governor John Kitzhaber, Oregon Health Authority Director Bruce Goldberg, and former Addictions and Mental Health Director Richard Harris. In addition, DOJ reviewed numerous reports, studies, and documents pertaining to Oregon’s mental health system, many of them provided by the State. While we have not made formal findings in our ADA investigation, the State has undertaken a close collaboration with the Civil Rights Division to leverage health care reform to address gaps in services.

month to a couple of times a day. This is an especially significant problem in Portland, the urban center for the State, with its large homeless population.

The State is engaged in a health care transformation process that will be designed to address many of these gaps. In the meantime, the current system places a large and increasing burden on law enforcement. Among the most significant issues are:

- A lack of an adequate support system to help people avoid a mental health crisis, including adequate community-based intensive services, supported housing, and early intervention. Many individuals receive services through only an emergency room or a jail.
- A lack of an adequate crisis response system to provide services to and help stabilize people in crisis. People in crisis are more likely to encounter the criminal justice system than the mental health system.

The Addictions & Mental Health Division (“AMH”) has a longstanding practice of delegating service delivery and decision making. Consequently, Oregon lacks a coordinated, statewide community mental health system. Individuals enrolled in the Oregon Health Plan are served through one of nine regional Mental Health Organizations, while non-Medicaid individuals are served through one of Oregon’s 36 county mental health programs. Services vary somewhat across Mental Health Organizations and vary drastically across counties. Generally, non-Medicaid individuals receive no intensive community-based services at all and, although Medicaid individuals receive some community-based services, the services that they receive fall far short of the necessary array. A very high number of these individuals live in Portland.

While some crisis services exist in Portland, due to the lack of a comprehensive state-wide crisis system, there is an overreliance on local law enforcement, jails, and emergency rooms. Accordingly, when individuals experience a mental health crisis, there is inadequate capacity of mobile crisis teams, crisis walk-in/drop-off centers, and crisis apartments to help people remain in integrated, community-based settings. Instead, law enforcement often is the first responder to a crisis, and the officers have few if any options other than to take the individual in crisis to a jail, emergency room or institution, causing a rotating door in and out of the criminal justice system.

The State also lacks adequate capacity of community-based supports and services to keep individuals out of crisis. Adequate resources, such as sufficient numbers of Assertive Community Treatment teams, Intensive Case Management, peer support, and supported employment, are limited,¹⁰ while Intensive Case Management is being piloted only in Multnomah County.¹¹ Consequently, individuals unnecessarily enter into, are at risk of entering

¹⁰ DHS Community Services Workgroup Report at 15, 18, 27 (March 2007).

¹¹ Team listening tour meeting with Karl Brimner, Mental Health Director for Multnomah County (Dec. 16, 2010).

into, and cycle through jails, emergency rooms, hospitals, and institutions to receive treatment for their mental illness.

For a number of months, DOJ has been working collaboratively with State officials to resolve many of these outstanding issues. The gaps in the mental health system increase the encounters between PPB and persons with mental illness. PPB is often the first and sometimes the only responder to a crisis. This places both a burden and a responsibility on the Police Bureau to require that PPB policy, training, and supervision ensure that force be used against persons with mental illness only to the extent permitted by the Constitution.

IV. APPLICABLE LEGAL STANDARD

A. Pattern or Practice

Pursuant to Section 14141, the Attorney General, acting on behalf of the United States, is authorized to initiate a civil action against a state or local government for equitable and declaratory relief when there is reasonable cause to believe that law enforcement officers are engaged in a pattern or practice of conduct that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or federal law. A pattern or practice may be found by examples representing typical conduct, as opposed to isolated instances. *Int'l Bhd. of Teamsters v. United States*, 431 U.S. 324, 336 n.16 (1977) (noting that the phrase “pattern or practice” “was not intended as a term of art,” but should be interpreted according to its usual meaning “consistent with the understanding of the identical words” used in other federal civil rights statutes); *United States v. Big D. Enters.*, 184 F.3d 924, 930 (8th Cir. 1999) (applying Title VII definition of pattern or practice to Fair Housing Act claim). This understanding is consistent with the usual meaning of the words “pattern or practice.” *See Webster’s Third New Int’l Dictionary* 1657, 1780 (Philip Babcock Grove, ed., 2002) (defining “pattern” as “a representative instance: a typical example” and “practice” as “performance or application habitually engaged in”).

Consistent with this definition, courts interpreting the term in similar statutes have established that anecdotal evidence is sufficient; statistical evidence is not required. *Catlett v. Mo. Highway & Transp. Comm’n*, 828 F.2d 1260, 1265 (8th Cir. 1987) (interpreting “pattern or practice” in the Title VII context and citing *Hazelwood Sch. Dist. v. United States*, 433 U.S. 299, 307-08, 97 S. Ct. 2736, 2741 (1977) (for statistical evidence) and *Briggs v. Anderson*, 796 F.2d 1009, 1019 (8th Cir. 1986) (noting that “statistical evidence is not essential in proving” pattern or practice Title VII claim,” and anecdotal evidence may be relied upon)). For a court to find a pattern or practice, it does not need to find a set number of incidents or acts. *See United States v. W. Peachtree Tenth Corp.*, 437 F.2d 221, 227 (5th Cir. 1971) (“The number of [violations] . . . is not determinative In any event, no mathematical formula is workable, nor was any intended. Each case must turn on its own facts”).

B. Excessive Force

Excessive force claims in the context of an investigatory stop, arrest, or other “seizure” of a free individual are analyzed under the Fourth Amendment’s objective reasonableness standard. *Graham v. Connor*, 490 U.S. 386, 394-95 (1989); *see also Davis v. City of Las Vegas*, 478 F.3d 1048, 1054 (9th Cir. 2007) (considering the “quantum of force” used relative to the availability of less severe alternatives). To determine whether the force used is reasonable, the nature and quality of the intrusion on the individual’s Fourth Amendment interests are balanced against the legitimate governmental interests at stake. *Graham*, 490 U.S. at 396; *see also Blankenhorn v. City of Orange*, 485 F.3d 463, 477 (9th Cir. 2007) (same).

In making this determination, courts consider the totality of the circumstances, including: (a) the severity of the crime at issue; (b) whether the subject poses an immediate threat to the safety of the officers or others; (c) whether the subject is actively resisting or attempting to evade arrest; and (d) whether law enforcement could have used other methods to accomplish its purpose.¹² *Graham*, 490 U.S. at 396; *Davis*, 478 F.3d at 1054-56. The “most important” factor under *Graham* is whether the suspect posed an “immediate threat to the safety of the officers or others.” *Smith v. City of Hemet*, 394 F.3d 689, 702 (9th Cir. 2005). “A simple statement by an officer that he fears for his safety or the safety others is not enough; there must be objective factors to justify such a concern.” *Deorle v. Rutherford*, 272 F.3d 1272, 1281 (9th Cir. 2001). These factors, however, are not exclusive. Courts also consider whatever specific factors may be appropriate in a particular case, whether or not listed in *Graham*, including “the availability of less intrusive alternatives to the force employed, whether proper warnings were given and whether it should have been apparent to officers that the person they used force against was emotionally disturbed.” *Glenn v. Washington County*, 673 F.3d 864, 872 (9th Cir. 2011). Notably, “[e]ven when an emotionally disturbed individual is ‘acting out and inviting officers to use deadly force,’ the governmental interest in using such force is diminished by the fact that the officers are confronted, not with a person who has committed a serious crime against others, but with a mentally ill individual.” *Id.* at 876.

¹² PPB’s policy on physical force requires that officers “use only the force reasonably necessary under the totality of the circumstances to perform their duties and resolve confrontations effectively and safely.” PPB Manual of Policy and Procedure (“PPB Manual”) § 1010.20 (Jan. 2009). When determining if a member has used only the force reasonably necessary to perform their duties, PPB states that it will consider the totality of circumstances, including: the severity of the crime; the impact of the persons behavior on the public; the immediate threat to the safety of officers, self, or others; the extent to which the person actively resisted efforts at control; whether the person attempted to avoid control by flight; and the time, tactics, and resources available. *Id.* According to the PPB Manual, force is only permissible to prevent or terminate the commission or attempted commission of an offense; lawfully take a person into custody, make an arrest, or prevent an escape; prevent a suicide or serious self-inflicted injury; defend the officer or another person from the use of physical force; and accomplish some official purpose or duty that is authorized by law or judicial decree. *Id.* Officers are expected to display, over the course of their career, the ability to regularly resolve confrontations without resorting to the higher levels of allowable force. *Id.*

Using a focused “decision-point” approach (also known as segmentation) to analyze each use of force incident, we considered each point when an officer made a decision that may have an effect on subsequent events, as opposed to focusing solely on the final decision to use force. The decision-point process allows the police supervisor to conduct more intensive and comprehensive reviews of the reasonableness of a particular use of force incident and to identify and address any flawed tactical decisions and training opportunities. According to the Ninth Circuit, “police tactic[s] that needlessly or unreasonably create a dangerous situation necessitating an escalation in the use of force” are “a course of action this circuit has expressly refused to endorse.” *Deorle*, 272 F.3d at 1282 n. 20 (citing *Cunningham v. Gates*, 229 F.3d 1271, 1291 n.23 (9th Cir. 2000)). Other courts have similarly denounced unnecessary escalation of force and have held that each individual use of force should be evaluated independently for reasonableness. *See, e.g., Plakas v. Drinski*, 19 F.3d 1143, 1150 (7th Cir. 1994) (“[W]e carve up the incident into segments and judge each on its own terms to see if the officer was reasonable at each stage”); *Livermore v. Lubelan*, 476 F.3d 397, 406 (6th Cir. 2007) (noting that “the proper approach under Sixth Circuit precedent is to view excessive force claims in segments”); *Wiegel v. Broad*, 544 F.3d 1143, 1153 (10th Cir. 2008) (“There is evidence that for three minutes the troopers subjected [the subject] to force that they knew was unnecessary to restrain him . . .”).

V. FINDINGS

We conducted an exhaustive investigation, in which we reviewed over 700 incident reports over an 18-month period, including Force Data Collection Reports (“FDCRs”) and supervisory After Action Reports (“AARs”),¹³ PPB’s policies and procedures, training materials, internal affairs files, and various other documents related to PPB’s use of force, as well as numerous interviews with current and former PPB officers and community members across the range of race, age and socio-economic status. As noted above, most uses of force we reviewed during this investigation were constitutional; however, we find reasonable cause to believe that PPB is engaged in a pattern or practice of unnecessary or unreasonable force against people with actual or perceived mental illness. This pattern or practice is manifest through the excessive and inappropriate use of ECWs and by using more force than necessary to effectuate arrests for low-level offenses. Below, we describe specific incidents which have been culled from a larger group of problematic cases, to illustrate this pattern.

A. **Excessive Force against People Experiencing a Mental Health Crisis Generally**

A significant percentage of encounters between individuals and police involve persons with mental illness. These encounters emerge in a range of contexts from responses to calls to

¹³ PPB Policy requires officers to fill out a FDCR anytime that they cause a physical injury or take a person to the ground by applying force and requires supervisors to fill out an AAR whenever officers use certain types of force, e.g., ECW deployment and canine use. PPB Manual §§ 940.00, 1010.20. Notably, the documents we reviewed largely reflect only the officer’s account of what happened, but nevertheless reveal concerning patterns of excessive force.

check on a person's well-being to arrests for criminal behavior. We recognize the challenges that people with mental illness, especially people in a mental health crisis, pose to the delivery of police services. It is critical that PPB's practices adequately take into account the populations that PPB encounters and serves. PPB must also take into account behaviors that are the product of mental illness in all encounters.

Police encounters with individuals who are mentally ill can quickly escalate. Practices and strategies to de-escalate these incidents to protect the safety of both the individual and the officer are required. There are systems law enforcement agencies can put in place to ensure that its officers can effectively de-escalate such encounters; minimize the risk of danger; and reduce the level of force needed to handle interactions with people in mental health crisis. It is critical that officers are adept at using these non-force policing tools, not only to protect themselves and others, but because individuals who suffer from mental illness are among the most vulnerable in our society, and neither they, nor their families, should be afraid to turn to the police for help. Properly applied, de-escalation begins long before the officer is faced with the choice of using force and will often make that decision unnecessary.

The law recognizes that police response to persons in mental health crisis requires special consideration. When dealing with someone with a mental illness, officers must take into account the subject's mental and emotional state before using force. *Deorle*, 272 F.3d at 1282; *Glenn*, 673 F.3d at 871-80 (reversing a grant of summary judgment for the defendant police department when the police responded to a welfare call and within four minutes of their arrival shot with a beanbag gun a suicidal teenager armed with a pocketknife and then fatally shot him with a rifle). This is because “[t]he problems posed by, and thus the tactics to be employed against, an unarmed, emotionally distraught individual who is creating a disturbance or resisting arrest are ordinarily different from those involved in law enforcement efforts to subdue an armed and dangerous criminal who has recently committed a serious offense.” *Deorle*, 272 F.3d at 1282-83.

Even “when an emotionally disturbed individual is ‘acting out’ and inviting officers to use deadly force to subdue him, the governmental interest in using such force is diminished by the fact that the officers are confronted . . . with a mentally ill individual.” *Id.* at 1283. The same reasoning applies to intermediate levels of force. *Bryan v. MacPherson*, 630 F.3d 805, 829 (9th Cir. 2010). As the Ninth Circuit poignantly stated:

A mentally ill individual is in need of a doctor, not a jail cell, and in the usual case – where such an individual is neither a threat to himself nor to anyone else – the government's interest in deploying force to detain him is not as substantial as its interest in deploying that force to apprehend a dangerous criminal. Moreover, the purpose of detaining a mentally ill individual is not to punish him, but to help him. The government has an important interest in providing assistance to a person in need of psychiatric care; thus, the use of force that may be justified by that interest necessarily differs both in degree and in kind from the use of force

that would be justified against a person who has committed a crime or who poses a threat to the community.

Id.

We found that PPB officers often do not adequately consider a person's mental state before using force and that there is instead a pattern of responding inappropriately to persons in mental health crisis, resulting in a practice of excessive use of force, including deadly force, against them. Further, our review of incident reports and interviews with officers and community members shows little or no indication that the officers considered, or were even aware of, the many tools available to them to resolve interactions with individuals in mental health crisis using less force. We recognize that such tools cannot guarantee a positive outcome with minimal use of force in every instance. Moreover, not every encounter we reviewed was mishandled. Many officers handled difficult interactions with mentally ill persons in an exemplary manner. Nevertheless, we found that in many other instances officers escalate conflict despite the opportunity to de-escalate; rush in when they have the option of holding back; and continue to use force once the need for force has dissipated. The following examples illustrate the pattern or practice:

- In May 2011, officers were called to the home of a subject with a history of mental illness who had allegedly assaulted his mother and was reportedly in possession of a sword. When the officers arrived, the subject was in his bedroom and ignored the officers' orders to come downstairs. Several officers approached the subject's bedroom, opened the door, and commanded the subject to stand up and place his hands above his head. The subject stood up, but refused to place his hands on his head and walked towards the door. An officer shot the subject with a beanbag shotgun round to his leg. Another officer deployed his ECW on the subject's back. This occurred despite the fact that the subject's hands were visible, and the officers never observed a sword, or any other weapon, in the subject's possession.

The intrusion on the individual's Fourth Amendment rights is substantial, i.e., being shot with a bean bag gun and shocked with an ECW in the back. The government interest in using this level of force to execute this arrest is, at best, moderate: (1) The subject had allegedly assaulted his mother, which is a serious offense. (2) While the subject reportedly had a sword, the officers did not report seeing a sword, or any other weapon, nor being threatened with one. The officers did not report any aggressive behavior from the subject. Accordingly, any perceived threat to the officer based on the initial report of a sword was mitigated by the lack of any present threat at the time they applied force. (3) The suspect was neither evading arrest nor actively resisting arrest. Other relevant factors include that the officers were aware the person had a history of mental illness, but did not appear to take that into account. Also, there were less intrusive alternatives available than shooting the suspect with a bean bag gun and using an ECW on him, including keeping him confined to his room while waiting for a crisis intervention specialist to help communicate with him. The

totality of the circumstances indicates that the intrusion into the subject's Fourth Amendment rights outweighed the legitimate government interest.

- In December 2010, two officers responded to a call to help Project Respond contact a subject that they wanted to evaluate for mental health purposes. The subject complied with the officers' requests to come out of his room, place his hands on top of his head, and take a seat in the hallway. The officers searched him for weapons and did not find anything dangerous in his possession. Once seated, the subject began making incoherent statements, prompting the Project Respond workers to request that officers detain the subject on a mental health hold. When the officers went to grab the subject by his arms, he tensed up and began to pull away. The officers attempted to take the subject to the ground, but the subject rolled forward onto his back. The officers turned the subject onto his stomach, at which point the subject trapped his arms underneath his body. One officer drew his ECW and told the subject to "give us your hands or you'll be tased," and then applied it in drive stun mode to the subject's back.¹⁴ The subject continued to pull away, and the officer applied his ECW "several" more times. Then one officer hit the subject up to six times with closed fist punches to the rib area. Another officer delivered a focused blow with his closed fist to the back of the subject's neck/shoulder area. The officers remained unable to handcuff the subject and deployed another six ECW cycles in probe mode. The officers then handcuffed and transported the subject to a mental health hospital for evaluation.

The intrusion on the individual's Fourth Amendment rights – being shocked with an ECW multiple times, in both probe and drive stun mode, and hit multiple times – is substantial. The government interest in using force to detain this individual pursuant to a mental health hold is moderate, at best: (1) the person was unarmed and did not engage in threatening conduct towards the officers or others at the time of arrest; (2) the officers were there to perform a welfare check, not to arrest someone for committing a crime; and (3) the subject offered passive resistance by pulling away from officers and not allowing himself to be handcuffed. Also relevant is the fact that the officers knew they were responding to a call to assist Project Respond make contact with a mentally ill subject, and thus should have been aware of the increased likelihood that the subject's ability to understand or follow the officers' commands is impaired. On balance, the intrusion into the subject's Fourth Amendment rights outweighed the legitimate government interest.

¹⁴ A drive stun is the use of an ECW by direct contact to a subject, rather than by deploying wire probes common to Taser models of ECWs, like those used by PPB. Use of the wire probes creates a circuit intended to cause neuromuscular incapacitation. While a subject is incapacitated, an officer can handcuff the subject. In contrast, drive stun when not used with probes spread across the subject's body, is not intended to cause incapacitation. It only causes pain to compel compliance. Drive stun, therefore, is a pain compliance method without the benefit of intended incapacitation.

PPB's current policies do not require officers to take into account the effect that a person's mental illness may have on their ability to understand commands or the consequences of their actions. PPB policies also fall short in specifying how to de-escalate situations involving people in mental health crisis. For example, PPB policy 870.20 currently requires all individuals to be handcuffed prior to entering a custodial, detoxification, or hospital facility. PPB policy provides officers leeway to use alternative means of securing an individual if the individual has "an injury or other condition that would be further exacerbated by handcuffing." PPB Policy 870.20. In practice, though, PPB does not treat mental illness as a condition that would further exacerbate the individual's condition. The PPB officers we interviewed provided a uniform consensus that it is standard PPB policy to handcuff a suicidal individual for transport to the crisis center. As discussed with mental health professionals, this practice may indeed escalate a suicidal individual's mental state, causing a physical and emotional reaction from the individual. *See Deorle*, 272 F.3d at 1282 (finding that when dealing with a disturbed individual escalating force may "exacerbate the situation."). When officer safety is not implicated, officers should have the discretion to consider mental health as a condition permitting alternative means of securing the individual.

B. Excessive Use of ECWs Against Persons in, or Perceived to Be in a Mental Health Crisis¹⁵

Through our review of use of force reports and interviews with the public, we encountered numerous incidents where PPB officers deployed ECWs in a manner that was contrary to PPB policy and generally acceptable ECW practices. For instance, PPB officers are engaged in a pattern of using ECWs without warning, using multiple ECW discharges on a single subject (sometimes by multiple officers), and failing to reevaluate the appropriateness of the ECW between cycles. These practices engender fear and distrust in the Portland community, which ultimately impacts PPB's ability to police effectively.

Courts recognize that use of an ECW constitutes an "intermediate or medium, though not insignificant, quantum of force," as the pain is intense, is felt throughout the body, and is administered by effectively commandeering the victim's muscles and nerves. *Bryan*, 630 F.3d at 824-25. Beyond the experience of pain, ECWs can result in "immobilization, disorientation, loss of balance, and weakness," even after the electrical current has ended. *Matta-Ballesteros v. Henman*, 896 F.2d 255, 256 n.2 (7th Cir.1990); *see also Beaver v. City of Federal Way*, 507 F.Supp.2d 1137, 1144 (W.D. Wash. 2007) ("[A]fter being tased, a suspect may be dazed, disoriented, and experience vertigo"). The use of an ECW on a person could result in serious injuries when intense pain and loss of muscle control cause a sudden and uncontrolled fall. *Bryan*, 630 F.3d at 824-25. And, ECW use can result in death.¹⁶

¹⁵ While we make a finding that the inappropriate use of ECWs is part of a pattern or practice of excessive force against persons with mental illness, we do have concerns about ECW use generally and identified incidents when they were used inappropriately against persons who were not in apparent crisis.

¹⁶ NATIONAL INSTITUTE OF JUSTICE UNITED STATES, NIJ SPECIAL REPORT: STUDY OF DEATHS FOLLOWING ELECTRO MUSCULAR DISRUPTION (2011), *available at* <https://www.ncjrs.gov/pdffiles1/nij/233432.pdf>.

Pursuant to the PPB Manual, an officer is authorized to use an ECW when “a person engages in or displays the intent to engage in” physical or aggressive physical resistance to a lawful police action or suicidal behavior. PPB Manual § 1051.00. PPB officers are required to provide a warning to the subject, if feasible, before using the ECW. *Id.* By policy, PPB officers are also prohibited from using ECWs on people who are engaged in passive resistance, rather than active resistance, and on people who are in handcuffs, except for in limited circumstances, and only after seeking supervisory approval.¹⁷ *Id.* The following example, in addition to those above, is illustrative of PPB’s inappropriate ECW usage, all of which were approved by the chain of command, despite describing ECW usage that is against policy.

- In August 2010, three officers responded to a complaint about a person screaming inside their apartment. The officers obtained a key from the front desk and entered the apartment after announcing their entry. They encountered an unarmed, naked man laying on the floor of his apartment screaming for help. The person leapt up when he saw the officers and ran towards them. The officer immediately, without warning, deployed his ECW at the subject’s chest. The subject fell to the ground, but when he attempted to get back up, the officer deployed his ECW for three additional five-second cycles. It turned out the suspect was diabetic and experiencing a medical emergency.

The intrusion on the individual’s Fourth Amendment rights, being shocked with an ECW four times without warning while experiencing a medical crisis, is substantial. The government interest in using force to execute this arrest is slight: (1) though the officers may have felt threatened when the individual ran towards them, this threat is mitigated, at least in part, by the presence of three PPB officers facing a naked, unarmed individual; (2) the officers were present to conduct a check on the man’s well-being; there was no suspicion of criminality; and (3) the subject was not under arrest and neither evaded nor resisted arrest. On balance, the intrusion into the individual’s Fourth Amendment rights outweighs the legitimate government interest. If any ECW usage was necessary, the officers should have approached the subject and attempted to effectuate the arrest using their hands during the first ECW cycle.

Ambiguities within PPB’s ECW policy contribute to an excessive use of force with ECWs. For instance, the directive that officers may use an ECW when a subject “displays the intent to engage in” aggressive or physical resistance, places the officer in the difficult position

¹⁷ Similarly, the joint Police Executive Research Forum’s (“PERF”) and Community Oriented Policing Services (“COPS”) 2011 Electronic Control Weapon Guidelines, states that: “ECWs should be used only against subjects who are exhibiting active aggression or who are actively resisting in a manner that, in the officer’s judgment, is likely to result in injuries to themselves or others. ECWs should not be used against a passive subject.” 2011 ELECTRONIC CONTROL WEAPON GUIDELINES, *available at* www.policeforum.org/library/use-of-force/ECWguidelines2011.pdf.

of determining when such an intent is manifested. Also, PPB defines “physical resistance” as “actions that prevent or attempt to prevent an officer’s attempt to control a subject, but do not involve attempts to harm the officer.” PPB Manual § 635.10. This definition could easily include incidents where the subject is passively resisting arrest and poses no harm to the officer. Further, PPB’s policy does not provide any guidance regarding the maximum number of ECW cycles an officer may deploy or limit how many officers can deploy their ECW at a single subject, absent exigent circumstances.

The lack of clarity with respect to PPB’s ECW policy was apparent at a January 2012 Use of Force Peer Review meeting, where we observed general confusion amongst the officers in attendance regarding the appropriateness of ECW usage in several of the cases up for discussion. For instance, officers questioned whether PPB’s ECW policy permitted the deployment of an ECW against an individual who failed to comply with an officer’s relatively simple command, i.e., to stop walking away from the scene of a traffic stop or open a car door, but otherwise did not act in a threatening manner. Further, the group struggled to reconcile PPB’s ECW policy, which allows ECW usage even when the subject is not engaging in threatening conduct, with recent Ninth Circuit case law. In several instances, the officers noted that the officer in question resorted to the use of an ECW, which is known to “escalate” situations, before attempting any “de-escalation techniques.” It is not surprising to us, then, that officers are using ECWs excessively and inappropriately, given the state of confusion amongst those responsible for reviewing uses of force.

C. Unnecessary Escalation of Force Against Persons in Actual or Perceived Mental Health Crisis

Our review of PPB’s use of force reports reveals circumstances in which officers use unnecessary or unreasonable amounts force against persons who are or appear to be in mental health crisis when encounters escalate as a result of behavior that are the product of mental illness. These encounters are often unrelated to a criminal violation or are for low level violations. Sometimes these encounters begin as “mere conversations,”¹⁸ but escalate to unnecessary power struggles between the subject and the police officer. The pattern we observed sometimes includes the unnecessary use of ECWs and beanbag guns, as well as instances where an officer hit a subject with multiple fist strikes to the head, after any threat had abated. In each case, it appears that a lesser use of force was appropriate, or force could have been avoided altogether, had de-escalation techniques been employed at an earlier stage. De-escalation techniques are an important tool for officers to employ in order to avoid unnecessary and potentially excessive uses of force.

¹⁸ Oregon courts define “mere conversation” as “noncoercive encounters that are not ‘seizures,’” recognizing that the primary distinction between the two is that the latter involves “the imposition, either by physical force or through some ‘show of authority,’ of some restraint on the individual’s liberty.” *State v. Ashbaugh*, 244 P.3d 360, 366 (Or. 2010).

The Ninth Circuit identifies uses of force as excessive when the underlying offense is low level and/or the subject posed little threat of harm. *See, e.g., Davis*, 478 F.3d at 1055 (holding that repeatedly throwing a handcuffed plaintiff up against a wall and on the ground, ultimately breaking his neck, was unreasonable when the plaintiff was detained for loitering in a nonpublic area of a casino and posed no threat to officers); *Winterrowd v. Nelson*, 480 F.3d 1181, 1186 (9th Cir. 2007) (holding that officer's manual manipulation of plaintiff's injured shoulder during pat down was objectively unreasonable for non-threatening suspect detained during ordinary traffic stop); *Blankenhorn*, 485 F.3d at 478 (misdemeanor trespass not sufficiently severe to warrant gang tackling plaintiff); *Drummond v. City of Anaheim*, 343 F.3d 1052, 1057 (9th Cir. 2003) (recognizing that force was excessive, particularly considering that police were there to perform a public safety check and medical transport; noting there was no underlying crime at issue); *Santos v. Gates*, 287 F.3d 846, 853 (9th Cir. 2002) (use of force was excessive where evidence of an underlying crime was "minimal and purely speculative" and plaintiff posed no threat).

Both ECWs and beanbag guns are less-lethal weapons that officers are permitted to use *only* when there is a strong government interest at stake. *Glenn*, 673 F.3d at 871-72. Similarly, fist strikes to the face are considered to be a severe degree of force that also require a strong government interest to justify use. *Benas v. Baca*, 2005 WL 3397401, at *1 (9th Cir. Dec. 12, 2005) (holding that officer's "use of force in the form of a closed-fist punch to [subject's] face was so severe that it precludes summary judgment" on citizen's 42 U.S.C. § 1983 claim). Our review of FDCRs revealed numerous examples in which officers used ECWs, beanbag guns, and multiple fists strikes beyond what was necessary to effectuate the arrest and a failure to consider less intrusive alternatives.¹⁹ The following examples are illustrative of the pattern:

- In May 2011, an officer was called to check on an unarmed man who had been standing in the rain for over an hour. The officer was unable to speak to the subject because of a language barrier and returned to his car to call for assistance from a Spanish speaking officer. When the officer stepped out of his car, the subject approached the officer and kicked at the officer, but did not make contact. The officer caught the subject by the leg and threw the subject to the ground. The subject rolled onto his back and the officer proceeded to punch him 7-10 times in the face, while the subject grabbed at the officer's hands to try and stop the blows.

The intrusion on the individual's Fourth Amendment rights is substantial, i.e., being punched 7-10 times in face. The government interest in using this level of force to

¹⁹ While attending a training session on less-lethal weapons, the Department observed the Training Department showcase as exemplary an FDCR that resulted from the controversial use of a beanbag gun on an unarmed, 12-year-old girl based on the charge of trespassing and resisting arrest. Whether or not the officers' conduct in that situation was ultimately deemed appropriate, few would argue that that the use of a beanbag gun in that circumstance was ideal and worthy of emulation. We informed PPB of our observations at the training and our belief that the Training Department was conveying a callous attitude toward officer violence in using that incident as a positive example. Thereafter, Chief Reese forbade training officers from using that incident as a model of the appropriate use of a less-lethal weapon. We applaud this corrective action.

execute this arrest is moderate: (1) the subject did not display a weapon, but he did unsuccessfully attempt to kick at the officer before being taken to the ground. Whatever threat the officer perceived was largely mitigated once he forced the subject to the ground, before he repeatedly punched the subject in the face. (2) While there was no initial offense – standing in the rain is not a crime – assaulting an officer is a serious offense. (3) The subject did not evade or resist arrest, but attempted to grab the officer’s hands in self-defense, while being punched in the face. Other relevant factors include whether the officer considered if the subject had an emotional or mental illness, given that he had been standing in the rain for over an hour and behaved erratically. Also, there were less intrusive alternatives available than punching the subject in the face 7-10 times. The officer made no attempt to explain in his FDCR why so many punches to the head were necessary to control the subject. On balance, considering the totality of the circumstances, the intrusion into the subject’s Fourth Amendment rights outweighed the legitimate government interest.

- In May 2010, officers were called to investigate a complaint that someone was spitting on cars. Noting that the subject appeared to be suffering from a mental breakdown, the officer reported that the subject raised his fists to the officer’s face in an effort to show the officer his hospital identification bracelet. That officer ordered the subject to back up, but he did not and instead took what the officer described as a “fighting stance.” The officer pepper sprayed the subject, who then reacted by walking backwards towards the street. The officer warned the subject that if he did not sit down, the officer would deploy his ECW on him. The subject did not sit down, and the officer deployed his ECW four times in succession before placing the subject in handcuffs. The officer claimed that he deployed his ECW multiple times because the subject had curled into a “turtle position” and would not extend his arms, as ordered, to be handcuffed. Two other officers were on the scene during this incident.

The intrusion on the individual’s Fourth Amendment rights, which includes being pepper sprayed in the face and then shocked with an ECW four times, is substantial. The government interest in using force to execute this arrest is slight: (1) the subject neither displayed a weapon nor made any aggressive movements towards the officer, and thus it is unlikely a reasonable officer would believe that the subject posed an immediate threat to the safety of the officers or others. The only threatening conduct the officer identified was that the subject raised his fist to the officer’s face and took a “fighting stance,” but the officer had previously attributed the raising of the fist as the subject’s attempt to show the officer his hospital bracelet. (2) Spitting on passing cars is a low-level offense, if an offense at all and does not warrant this degree of force. (3) The suspect made no attempt to evade arrest by flight nor did he actively resist arrest. Also relevant is the officer’s initial observation that the person appeared to be experiencing a mental breakdown, but no efforts were made to account for this. On balance, we find that the intrusion on the individual’s Fourth Amendment rights outweighs the legitimate governmental interests at stake. Nonetheless, the supervisor who completed the AAR on this incident found the

use of force to be within policy and no attempt to even counsel the officer on better tactics was even offered.

This pattern or practice of excessive force is the result of deficient policy and training, as well as inadequate supervision. Officers are required to consider the severity of the crime, the threat posed, whether there are less intrusive alternatives available, as well as a subject's mental state, before using force, but these examples reflect a failure to properly take these factors into account. *Glenn*, 2011 WL 6760348, at *6. Further, PPB's failure to identify these excessive uses of force as being out of policy, results in a missed opportunity to take corrective action. These incidents, among others we reviewed, raise concerns about PPB's ability to manage uses of force to ensure they are proportionate to the threat posed and the severity of the crime at issue.

VI. SYSTEMIC CONTRIBUTING DEFICIENCIES

Systemic deficiencies contribute to PPB's pattern or practice of excessive force, including: (1) deficiencies in responding to persons with mental illness or in mental health crisis; (2) inadequate reviews of officers' use of force; and (3) inadequate investigations of officer misconduct.

1. Deficiencies in Responding to Persons with Mental Illness or in Mental Health Crisis

Our investigation revealed two systemic deficiencies contributing to unconstitutional uses of force against people in mental health crisis: (1) the absence of officers specially trained in and proficient at responding to mental health crisis; and (2) the lack of strategic disengagement protocols involving mental health providers.²⁰ As Chief Reese has expressed, police officers are often the first responders to an incident involving a person in mental health crisis. There is no doubt that the City suffers from the significant gaps in the statewide mental health system. While DOJ is working with the State in a related statewide investigation to address the gaps in the system for persons in mental health crisis, police involvement will continue to be tethered to the State's mental health service delivery system. PPB therefore needs tools to handle these incidents in a constitutional and safe manner, though we appreciate that no process is an absolute guarantee against all poor outcomes.

a. Lack of Officers Specially Trained in and Proficient at Responding to Mental Health Crisis

PPB provides all of its officers with an initial 40 hours of crisis intervention training and dedicates a portion of its annual in-service training to this topic. PPB does not, however, have a specialized CIT team that consists of officers who have expressed a desire to specialize in crisis

²⁰ Two other recommendations address agencies outside the scope of our investigation: (1) assist the BOEC to allow referrals of Mental Health Crisis calls within Project Respond's limited infrastructure; and (2) coordinate with State and County on Revision of the Civil Commitment Process.

intervention and have demonstrated a proficiency at responding to individuals in mental health crisis.²¹ While we commend PPB for training all officers on crisis matters, this approach assumes incorrectly that all PPB officers are equally capable of safely handling crisis situations and fails to build greater capacity among qualified officers. Certainly circumstances will arise when a specialized crisis intervention officer is not immediately available, or when despite the training and experience, a specialized crisis intervention officer is unable to de-escalate a situation sufficiently to prevent the need of a significant use of force. However, there is growing evidence that a crisis team response is likely to result in a better outcome and reinforce public confidence in policing.

First, not every officer is well suited to effectively deal with people with mental illness. For example, during our investigation a patrol officer stated that his job was “to put people in jail, not to provide social services.” This officer would not be the appropriate officer to conduct a welfare check on person with mental illness. A team of crisis intervention officers reduces the likelihood of encounters of such officers with people in mental illness crisis. Crisis intervention training done with experienced patrol officers and the leadership of a dedicated police-based crisis intervention coordinator also creates a culture change among officers, which often then permeates an agency.

Second, departments cannot rely on academy crisis intervention training to develop officer expertise in working with individuals with mental illness. New recruits in a basic police academy are not generally ready to receive, absorb and implement critical information about how mental illness calls need a different response than the more common police calls. Trainees at that level are overwhelmed with information and generally lack the maturity that experience brings them on the street. Although basic mental health training should be provided to all officers as part of the academy, it is not the optimal time to provide extensive crisis intervention training.

In addition, the 40-hour crisis intervention training curriculum is not what makes a specialized crisis intervention officer an expert in handling mental illness calls. Expertise requires vast field experience developed by CIT officers as they are dispatched to mental illness crisis calls. If 25% of patrol officers are ultimately trained as CIT officers and those officers are dispatched to as many of the mental illness calls as possible, that translates to those officers handling four times as many calls as would be the case if the calls were evenly distributed across the patrol force.

Although PPB previously had a specialized crisis intervention unit, it was not successful because PPB personnel generally perceived it as low in professional status. It was staffed only by volunteers; many officers in the weeklong training course did not view the curriculum as relevant; and the officers generally viewed membership negatively. Crisis intervention officers

²¹ PPB does have a dedicated “Crisis Response Unit,” which PPB call their “Mobile Crisis Unit,” but it consists of only a single Central Precinct patrol car in which one PPB officer is paired with a Cascadia mental health worker four days a week between the hours of noon and 10 PM.

did not receive a special status like PPB's SERT trained officers. Instead, PPB officers viewed the original crisis intervention officers as just providing transport to people in crisis without extra pay or prestige. PPB has many officers and leaders who are committed to providing care to people with mental illness and will assure good outcomes in their encounters with people with mental illness. Just like an officer trained to negotiate a hostage situation or a SERT officer specially trained for tactical situation, officers with skills to negotiate with a person in a mental health crisis are essential for PPB's success in protecting the public.

Crisis intervention training as currently delivered by PPB is a police based training lacking important community collaboration. It appears that the curriculum is developed by PPB and that the training is opaque to the community at large.²² This is problematic for PPB's ability to understand the community it must serve and protect. There does not appear to be good reason to deny reasonable access to a crisis intervention course to consumers, family members, advocates, or mental health workers. Also absent from the current PPB crisis intervention training is live exposure to consumers and family members. One of the most effective ways to address the stigma of mental illness is to increase direct exposure to people with mental illness. The opportunity for officers to now see people, who may have been violent offenders when ill, as stable contributors in a crisis intervention class is a powerful game changer in crisis intervention training programs. Indeed, our investigation revealed that officers harbor fear around the dangerousness of persons experiencing mental health crisis, or those with mental illness. While DOJ does not minimize the potential danger involved, the level of concern generally within PPB is higher than our expert has seen within other agencies. By including persons in recovery in a crisis intervention class, PPB will not only involve the community, but it may also lower the level of fear, and lead to less fear-based unintended consequences.

Furthermore, the current training in the basic and advanced academies involves training modules scattered over multiple days. The impact of a weeklong crisis intervention training experience is lost. Our investigation also found that PPB abandoned live role playing, replacing role plays with discussions of scenarios. Discussions of given scenarios cannot replace role-playing realistic scenarios in front of peers. Role-playing is generally viewed as a key element to a successful police training in general and a crisis intervention program in particular.

In the training PPB currently provides its officers, there is a clear acceptance of the "crisis cycle," the need to identify people in crisis, and application of the skills, including interpersonal communication skills, to help people through a crisis. However, many PPB officers fail to recognize that persons with mental illness need to be dealt with *differently*, and may react very differently to police assistance, than an average citizen. Officers must have the tools to identify when a person in crisis has a mental illness in order to appropriately adjust their approach and response. The usual command and control approach does not work effectively with people in a mental illness crisis. For example, a paranoid person may act in a threatening

²² During our investigation, we spoke with advocates who desired greater inclusion, but were refused access to the curriculum and were not allowed to attend training sessions.

manner because he/she is frightened. If the response is to reassure the individual of safety, there may be a de-escalation. But, if the response is “command and control,” it may increase the level of fear and result in an escalation. Additionally, not all police contacts with people with mental illness are with people in “crisis.” Often times, individuals with mental illness may not be in a crisis, but instead will demonstrate signs and symptoms of their illness, which can be perceived as criminal behavior. Accordingly, training must include police interactions with people who are symptomatic, but not in crisis, to avoid criminalizing mental illness.

b. Lack of Strategic Disengagement Protocols Involving Mental Health Providers

PPB informed us that they have begun employing strategic disengagement – a practice of withdrawing from a situation to avoid use of force when a subject does not appear in imminent danger of harm to self or others and has not committed an arrestable offense. We also observed strategic disengagement in practice while on-site. However, for individuals who are perceived as not being dangerous to others, but are at risk of harm to self, officers should only practice strategic disengagement in consultation with a mental health professional and should attempt to develop a plan for when and how to hand off responsibility. Due to the existence of Project Respond, Portland, unlike many communities, can make informed decisions based on collaboration between law enforcement and mental health experts in these very challenging and potentially dangerous situations. Unfortunately, Project Respond’s limited availability reduces the opportunity for this type of collaboration to happen consistently and successfully.

Furthermore, PPB and the City should give careful consideration to Project Respond’s capacity to handle non-law-enforcement emergency calls diverted from BOEC. We received comments from the advocacy community for people with mental illness that people with mental illness or in mental health crisis may fear interactions with PPB.²³ Advocates informed us that people with mental illness and their families would often prefer interactions with mental health professionals, rather than law enforcement, for welfare checks. Likewise, PPB officers informed us that they spend an inordinate amount of their law enforcement time on calls that are principally related to mental health needs. The City should consider where resources are best dedicated to address the need for welfare checks. Although services are limited, the City could better inform mental health care consumers and their families about available resources, including the crisis hotline and Project Respond. While Project Respond is not currently staffed to handle the large number of calls received by PPB regarding persons with mental health issues, Project Respond could be utilized to address mental health crisis calls that do not involve a risk to community safety.

The City should consider encouraging direct calls to Project Respond and permitting Project Respond to decide which calls to take and which to refer to the police. Currently, the

²³ We also received comment from the advocacy community that they were offended by PPB’s pejorative reference to people with mental illness as “mentals.” In fact, we observed the term “mentals” used as a descriptor during a roll call presentation. We recommend that PPB immediately stop using this term.

community does not appear to have broad awareness of the use of Project Respond as a resource. Most calls for service appear to originate through BOEC or the crisis line. At this point, BOEC is not equipped in time or expertise to triage mental healthcare calls to make a determination about public safety and which calls should go to Project Respond. While the public should not hesitate to call 911 – i.e., BOEC – in emergent situations, Project Respond may be better equipped to triage mental healthcare calls that go directly to it in non-emergent situations.

Before implementing direct calls to Project Respond and an increased role for Project Respond in welfare checks, the City should carefully consider appropriate protocol and staffing. The City should also have an evaluation plan to test the efficacy of Project Respond’s responses to service calls. Lastly, the City should have a backup plan should calls come in that Project Respond does not have the capacity to address.

PPB officers also frequently commented on the lack of a 24/7 drop-off facility for persons in mental health crisis, in lieu of taking the individual to jail or the emergency room. The City previously operated a facility at which PPB officers could drop off individuals placed on temporary mental health holds for assessment and temporary treatment. During the investigation, officers and mental health providers explained that the Crisis Assessment and Treatment Center (“CATC”), a 15-bed, sub-acute, secure facility, does not fill the void of a temporary, accessible acute care facility. At CATC, a nurse practitioner or doctor is only available from 12 PM to 5 PM. Also, CATC does not permit PPB to drop off people unless authorized by Multnomah County. Significantly, while Multnomah County reported that it established a separate phone line for PPB to seek authorized use of CATC, PPB officers reported that they cannot get authorization from Multnomah to use CATC. Accordingly, officers reported that in most instances they do not try to get authorization. Ironically – and tragically – a number of officers told us that they were not even aware of the separate telephone line for CATC authorization.

Additionally, the Cascadia Urgent Walk-in clinic does not fill the gap for a crisis triage center because individuals who are not enrolled in the State’s Medicaid plan are not eligible for service unless they have a life threatening condition. Cascadia and others reported to us that the lack of enrollment or eligibility to enroll is a frequent barrier to the provision of mental health services to these individuals. The absence of an accessible crisis triage center make PPBs need for specialized crisis intervention officers more acute. A secure 24/7 crisis triage center within the City would allow officers the ability to hand over an individual in crisis to a mental health professional quickly and without authorization from the county or otherwise.

2. Inadequate Supervisory Review of Officers’ Use of Force

PPB’s current practice concerning supervisory review of incidents in which officers used force is insufficient to identify and correct patterns of excessive force in a timely fashion. We recognize that Portland has a unique Commission-based governing style, which removes certain elements of the police accountability apparatus from PPB’s direct control. While acknowledging deficiencies in the existing system of officer accountability, PPB needs to do more to effectively

supervise officers and reduce instances of officer misconduct.

Following a use of force, supervisors should be on the scene to ensure that a full inquiry of the circumstances of the force used by officers is conducted, including:

- Ensuring medical attention is provided;
- Identifying, separating, and interviewing all involved and witness officers;
- Interviewing those subjected to force;
- Canvassing for witnesses and taking statements from all witnesses;
- Collecting evidence (e.g., hospital reports, photos of all injuries to all involved persons, physical evidence, Taser downloads consistent with the incident, diagrams);
- Conducting a documented review of officers' reports of the incident for completeness, accuracy, and quality; and
- Assessing whether further investigation is needed to determine the appropriateness of the use of force and whether the incident creates a need for retraining.

This was not occurring at PPB until recently, when Chief Reese changed the policy.²⁴ Supervisors are now required to go to the scene of use of force incidents and conduct an investigation. It is essential that supervisors be required to gather evidence necessary to resolve material discrepancies and consider whether the description of the force used is consistent with the sustained injuries or hospital reports. PPB should further revise its policy to require the AAR process to include collecting forensic evidence, taking photographs, or audio and electronic reception of evidence. PPB should also consider whether its current AAR policy, which suggests that a short one or two paragraph narrative is sufficient to describe the significant facts of the event, should be revised to require supervisors to provide more details.

PPB should revise its AAR policy to include a strong and effective monitoring system to ensure AARs are being timely completed and contain sufficient data for supervisors to adequately analyze uses of force. This analysis should include:

- Was the original stop, detention or subsequent arrest lawful?
- Was the type and amount of force used objectively reasonable and proportional to the resistance encountered?
- Was the type and amount of force related to a legitimate law enforcement objective the officer or the department was trying to achieve?
- Were efforts made to deescalate the situation without using force?
- Was the force reasonably decreased as resistance subsided?
- Was the force used consistent with generally accepted police tactics?

²⁴ Executive Order RE: DIR 940.00 After Action Reports and Operation Orders, *available at* www.portlandonline.com/police/index.cfm?a=380055&c=29867.

- Was the force used consistent with PPB training programs?

Even if the current AAR policy were sufficient, PPB's practice regarding AARs is not. Many of the cases that we reviewed where officers engaged in a substantial amount of force did not have a corresponding AAR. For the cases that did have AARs, these reports did not contain sufficient investigative findings to constitute an adequate review. PPB supervisors nonetheless sign off on FDCRs without ensuring that thorough AARs are completed according to policy. By tolerating supervisors' failures to investigate and complete uses of force investigation and reviews, PPB misses a crucial opportunity to correct officer behavior. Instead, PPB sends the message that there is little institutional oversight or concern about officers' use of force.

Our analysis and review of hundreds of police reports revealed that rarely was the use of force found to be out of policy, even when the force used was clearly excessive. When PPB officers cause physical injury or take someone to the ground using force, they are required to fill out a FDCR, which includes a description of the totality of the circumstances that existed, including the subject's behavior and a justification for why the force used. PPB Manual § 1010.20. Supervisors are required to fill out an AAR, which includes a narrative that describes the police action and an assessment of its effectiveness through critique and evaluation using required criteria, when officers use certain types of force. PPB Manual § 940.00. In addition to force reports, uses of deadly force require direct on-scene investigation, PPB Manual § 1010.10, and a subsequent review by a Force Review Board, PPB Manual § 335.00.

Throughout our investigation, numerous cases that we reviewed lacked even the fundamental elements to collect even basic acceptable force investigative data to allow management to adequately critique force incidents. Some examples of persistent deficiencies in the reports include:

- Use of pattern or conclusive language, such as stating that the subject was "combative," "confrontational," "struggling," "got off the floor aggressively;"
- No statements taken from on-scene independent witnesses;
- Not all officers on scene who used force wrote reports;
- No statement taken from the person against whom force was used;
- A subordinate officer investigates the force used by a supervisor;
- A supervising officer approves his own use of force;
- A sergeant orders force to be used and neither writes a force report of his actions nor an AAR;
- No pictures of injuries taken;
- Force report written weeks after the incident;
- Discrepancies between involved officers' statements and reports not addressed or resolved; and
- No analysis for whether there was reasonable suspicion or probable cause for original stop and detention.

Force investigations and reviews are designed to audit and ensure that those practices are

being followed. Further, they should instill public confidence and faith in those sworn to protect the law and also serve to protect the officers and their agency from frivolous complaints. Supervisors' failure to intercede and actively manage incidents results in a weak and ineffective force management system. PPB's current policy does not require supervisors to investigate all uses of force on scene. In practice, supervisors' review of FDCRs has failed to identify uses of force as excessive, as we describe in the examples above. Further, PPB has not ensured that supervisors always complete AARs when required. Nor have supervisors rejected the AARs we reviewed that failed to provide sufficient detail to enable supervisors to adequately assess uses of force. These policy deficiencies and practice failures have a profound impact on PPB and community they serve. Significantly, these gaps present lost opportunities to ensure accountability and rectify behavior, thereby failing to prevent further unconstitutional uses of force.

PPB also has failed to timely identify use of force trends. Prior to this investigation, PPB reviewed officers' overall use-of-force trends on six-month intervals during Force Review Board meetings consisting of supervisors at each precinct reviewing force events. Six months is far too long for PPB to wait before becoming aware of systemic problems related to officers' use of force. Based on our technical assistance, PPB recently created a new "use of force auditor" position. This person will be responsible for evaluating FDCRs and other documents on a regular basis to identify trends. Critical to the use of force auditor's effectiveness will be PPB's ability to develop a responsive training regime that is targeted to address systemic patterns of undesirable conduct. If this auditor is the day-to-day monitor of individual officers' use-of-force trends, PPB can reduce unacceptably long delays in identifying use of force trends.

3. Failure to Implement Timely Corrective Action following Investigations of Officer Misconduct

PPB, along with the City, should streamline its investigation and adjudication of complaints of officer misconduct to give greater effect to and faith in the process. Currently, PPB has a number of fragmented processes for review of uses of force, none of which result in timely individual or systemic corrective action.

An open, fair, and impartial process of receiving and investigating citizen complaints serves several important purposes. An appropriate citizen complaint procedure ensures officer accountability and supervision, deters misconduct, and helps maintain good community relations by increasing public confidence in and respect for PPB. Improving the current procedure for handling citizen complaints at PPB would maximize these goals.

PPB and Portland have admirably sought to include civilian and public participation in the complaint intake and review process. PPB apparently has implemented this participatory process to encourage public faith in PPB's complaint investigation and disciplinary systems. The participatory systems are the outgrowth of responses to high profile incidents and frequent revisions to PPB's accountability systems. The apparent goal of transparent and "fair" systems has added layers of review, appeal, and re-reviews. However, the established systems have

become so complex and so time consuming that the objectives – officer accountability and public confidence – have been lost. The efficacy of the system is undercut by the unreasonable delay in reaching an outcome from a complaint. Additionally, the layers of review have provided escape valves inappropriately eviscerating full administrative investigation and corrective action for some complaints.

a. Self Defeating Accountability System

We met with many citizens who were concerned about their ability to effectively raise concerns regarding PPB officers’ uses of force. As with other cities, there is a close association between the administrative complaint review processes and the force review processes in PPB. PPB’s force review process, however, is so complex that the progress of any given complaint through the stages of review is both difficult to follow and needlessly lengthy. Like the complaint process, as described below, the force review interactions with the complaint system are so byzantine as to undercut the efficacy of the system. In this case, PPB’s own force review chart speaks volumes about this problem. See Figure 1, PPB’s force review flow chart.

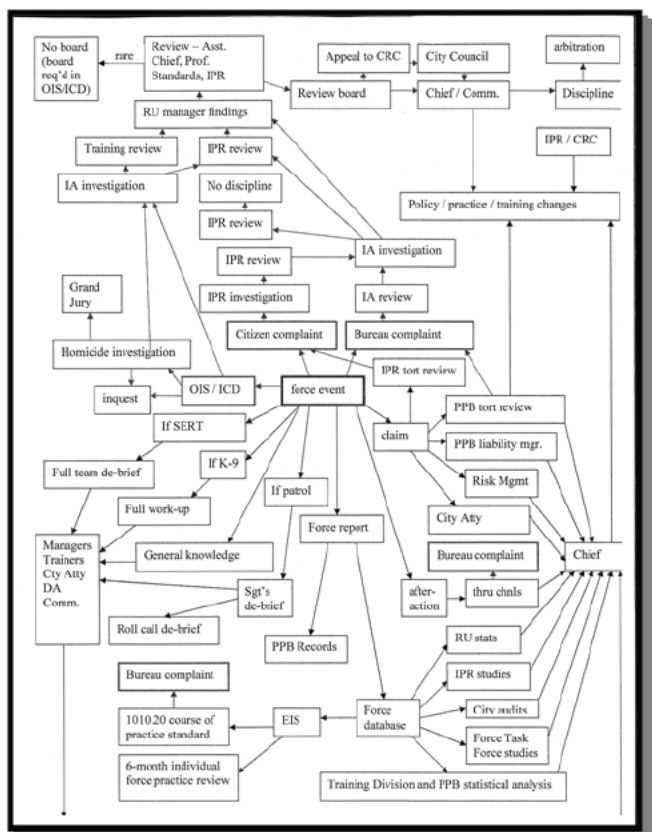


Figure 1. PPB's force review flow chart

b. Complaint Intake

Complaints originate either internally within PPB or from the community. PPB does not receive the initial community complaints. Rather, complainants submit their complaints to an entity within the City's government. Portland separately elects a City Auditor. Within the City Auditor's Office, is the Office of the Independent Police Review ("IPR"), which receives citizen complaints. IPR performs an initial investigation of the complaints.²⁵ IPR then determines which complaints merit a full Internal Affairs ("I.A.") investigation. IPR may decline to have a complaint fully investigated for multiple reasons, including a determination that: "it is more likely than not that no misconduct occurred and additional investigation would not reach a different conclusion." See IPR Annual Report 2010, May 11, 2012. This is a qualitative determination often based on incomplete information. All allegations which, if true, would amount to a violation of policy should be investigated. However, the IPR is asked to opine of the merit of complaint before a full investigation yields determination on the credibility of the complaint. Accordingly, by design, the intake process becomes a qualitative analysis without the benefit of the information necessary to make a valid determination about which complaints deserve a full IA investigation.

IPR's intake process permits the diversion of complaints of officer misconduct without the benefit of full investigation. IPR declined 66% of the complaints it received in 2010. *Id.* IPR may refer some of these declined complaints to the subject officer's chain of command for informal resolution -- avoiding a full IA investigation -- if IPR determines that the complaint does not merit a full IA investigation. IPR refers to IA only those complaints that survive IPR's vetting process.

Currently, IPR has a backlog of complaints awaiting an initial investigation. We recommend that PPB, the City Attorney, and IPR work collaboratively to expedite the handling of this backlog. We also recommend clearer criteria for IPR declination that does not permit judgments based on incomplete information, particularly when IPR does not refer the complaint to any other entity for investigation.

c. IA Investigations

After IA receives complaints of officer misconduct, either internally from within PPB or through IPR, IA codes those complaints and makes determinations of whether they believe the complaint merits a full investigation. PPB policy permits IA to decline to investigate complaints where the complaint alleges no misconduct; the complaint involves a minor or de minimis allegations in IA's determination; IA determines it has no jurisdiction; the complaint involves a claim currently under judicial review; IA is unable to identify the subject employee; the complaint previously has been adjudicated; IA determines the complaint lacks merit; or IA's commander determines IA does not have sufficient resources. IA's ability to decline complaints for this broad swath of reasons presents another potential escape valve for meritorious

²⁵ IPR is comprised of a handful of civilian employees, some of whom are attorneys.

complaints. In the past five years, IA has declined between 15% and 26% of the complaints IPR has referred to it, i.e., complaints from civilians. *See* IPR Annual Report 2011, at p. 8, June 27, 2012. By contrast, IPR reports that with “few exceptions” PPB has completed full administrative investigations of all complaints initiated internally by PPB. *Ibid.* at p. 10.

If IA does not decline the complaint, a full investigation does not necessarily follow. IA determines some complaints are minor complaints of poor service. PPB refers to these complaints as “service improvement opportunities” or “SIOs.” IA assigns to each subject officer’s chain of command his or her SIOs for resolution. PPB considers SIOs non-disciplinary, and they are not subject to a full investigation. PPB Manual § 330.00. PPB has resolved between 51% and 60% of its IA complaints through SIOs in each of the past five years. *See* IPR Annual Report 2011, at p. 8, June 27, 2012. The large number of complaints resolved through SIOs diverts meritorious complaints from receiving more extensive review.

Significantly, as each SIO goes out to each chain of command, that SIO stops at the email inbox or hard copy mail box at each level of the chains from top down on the way to the subject officer’s Sergeant. After resolution, the record of the SIO reverses course and stops at each level of the chain of command on the way back up to IA. This is a taxing use of managerial time that PPB could more efficiently use by simultaneous broadcast of the SIOs from IA down the chain of command to the Sergeant, and the Sergeant’s concomitant response directly to IA, with copy to the chain of command.

Also, instead of a full complaint, IA may permit some complaints to be resolved by mediation. PPB policy does not contain objective criteria to determine which complaints are appropriate for mediation. Rather, policy requires only that IA make a subjective determination that mediation would “meet the needs of” PPB and the community. If IA so determines, the subject officer and complainant agree, and the officer’s chain of command does not object, then the complaint can be resolved through mediation. Significantly, mediation does not reach a finding nor can discipline be imposed from mediation. As a general proposition, mediation can be an effective tool for a police department to efficiently resolve minor complaints and engender a sense of participatory justice among aggrieved community members. However, we note two issues with PPB’s current mediation policy and practice.

First, PPB’s mediation policy should contain objective criteria to determine which matters are appropriate for mediation. Complaints of excessive force should always be subject to investigation and a finding. PPB has an interest in making sure its officers comply with use of force policies and training. Permitting mediation in those cases would fail to result in a finding to correct any improper uses of force, if any, and compromise Department-wide statistics regarding uses of excessive force.

Second, we note that mediation, as the name suggests, should be used to reach mutual agreement. PPB, IPR, and others report that mediation is not frequently used.²⁶ Not surprisingly, then, we received few accounts concerning mediation in practice. One community member with whom we spoke, however, recollected that officers threatened to charge her with a crime in the course of mediation if she would not agree to their resolution of her complaint. She reported having been arrested and released without charge. The gravamen of her complaint was an allegation of false arrest and forced handcuffing. She reported that, during the course of mediation, the officers involved threatened to re-arrest her for the same charge if she would not drop her complaint. This account, which appeared credible, speaks to the potential abuse of mediation rather than its use as an effective conciliatory tool. PPB should ensure that mediation is only used based on objective criteria and that the parties fully understand how mediation will be conducted and the potential outcomes.

For those complaints that result in full IA investigations, we found the investigations to be thorough. IA investigations, however, currently span an inordinately long period of time, e.g., several months. Both PPB and IPR are often unable ensure that IA investigations are completed within ten weeks, PPB's goal for a deadline to complete IA investigations.

There is also a conflict in the information Portland provides the public about the possible outcomes of IA complaints. PPB's IA Policy provides for five possible findings: unproven; unproven with a debriefing – i.e., a critique of the complaint with the subject officer; exonerated; exonerated with a debriefing; and sustained. PPB's standard operating procedure ("SOP") contains additional possible findings. The City Auditor's public website lists only two possible findings: not sustained and sustained. We recommend that PPB and IPR adopt uniform standards on the possible outcomes for IA complaints. We also recommend that PPB add one additional finding: unfounded. Unfounded requires an affirmative proof that the allegation presented is false. This is a significantly different finding than unproven or exonerated. When evidence from investigation of an IA complaint proves that the complainant was untruthful, an unfounded finding completely clears the officer of any alleged violation.

d. Criminal Investigation of PPB Officers

PPB refers allegations of potentially criminal conduct by PPB officers from IA to PPB's criminal investigations section. *See* PPB Manual §§ 330.00, 344.00. We have been informed that the Multnomah County District Attorney previously requested that PPB not conduct IA investigations of officer-involved shootings until after the completion of the DA's investigation and/or criminal prosecution. This request was based, among other things, on the concern that an officer's compelled statement in an administrative investigation could potentially taint evidence planned to be used in a criminal indictment. *See, e.g., Garrity v. New Jersey*, 385 U.S. 493 (1967); *Kalkines v. United States*, 473 F.2d 1391 (1973). The DA has presented certain

²⁶ In the past five years, PPB has resolved 1% to 4% of community complaints through mediation. IPR Annual Report 2011, at p. 5, June 27, 2012.

allegations of officer misconduct in the use of force to grand jury for consideration, but the grand jury has endorsed a charge on only one such occasion.

IA has informed us that they are now conducting concurrent administrative and criminal investigations. We commend this effort. PPB has an interest in preserving administrative accountability and public safety expeditiously through its IA process. This should not be delayed by a parallel, bifurcated criminal investigation. We note that PPB's policy still permits IA to decline an investigation if the claim is in judicial review, PPB Manual § 330.00, and this policy runs counter to the announced practice of concurrent investigations. PPB should make clear in its policy that administrative and criminal investigation shall run concurrently. PPB should consult with the DA, FBI, and/or United States Attorney's Office at the outset and throughout this bifurcated process and prior to compelling statements.²⁷ PPB should also clearly set forth in policy that though IA may use criminal investigation material in appropriate circumstances, all administrative interviews compelling statements, if any, of the subject officer and all information flowing from those interviews must be bifurcated from the criminal investigation in order to avoid contamination of the evidentiary record in the criminal case.

PPB informs us that, by contract, officers involved in shootings or in-custody deaths are permitted to wait 48 hours before they are subject to questioning. This delay in questioning the subject officer is a function of PPB's contract with the officers' union. Portland's City Attorney has also informed us that the DA, or his or her designee, is in command of the scene at an officer-involved shooting or in-custody death, pursuant to State law. The DA is a county employee. Provided the DA is not bound by the City's contract and its 48-hour waiting provision, the DA may consider questioning the officer, subject to his or her ability to exercise rights to counsel and remain silent, as soon as the DA sees fit. This should expedite the accurate resolution of the criminal investigation. If a civilian is involved at the scene of a potential crime, it is difficult to conceive of PPB officers permitting that civilian 48 hours before asking him or her questions about the incident. PPB should not hinder investigation of a potentially criminal action with this officer-specific delay.

Additionally, this 48-hour waiting period has enabled officers to refuse to timely provide complete use of force reports, i.e., FDCRs and public safety statements. In a recent PPB officer-involved shooting, not only did the shooting officer decline to give a statement at the scene, but so did two other officers who used less lethal force. Also, like the shooting officer, the other officers did not provide a narrative on the incident reporting forms, as required, but instead referred to interviews they would later give to detectives. As this incident demonstrates, PPB's waiting period for officers' statements concerning uses of force defeats the purposes of contemporary, accurate data collection through FDCRs. In many jurisdictions, standard use of force reports are not considered *Garrity* and officers are expected to fill them out immediately after an incident.

²⁷ These policy changes should make clear that only compelled statements made in the face of the reasonable prospect of criminal prosecution are entitled to *Garrity* protection.

Separately, we also note that PPB does not have an established policy for handing over to criminal defendants potentially exculpatory evidence contained in IA files. *See Brady v. Maryland*, 373 U.S. 83 (Ct. Cl. 1963). Whether a criminal defendant is an involved officer or a civilian, PPB should have a policy in place to transmit potentially exculpatory material to criminal defendants. We recommend that PPB, the City Attorney and the DA work collaboratively to establish a methodology for the handling of exculpatory material, mindful of the bifurcated administrative and criminal investigations in cases involving officers as defendants. PPB should memorialize in policy or procedures this agreed-upon methodology.

e. The Police Review Board

In addition to the internal affairs complaint investigation process, PPB has developed a Police Review Board (“PRB”). *See* PORTLAND CITY CODE § 3.20.140. PRB reviews certain PPB incidents with the stated goal of making recommendations to the Chief regarding findings on those incidents and proposed discipline. *Id.* It has no ultimate decision making authority.

PRB reviews only certain incidents. Notably, an aggrieved civilian involved in an incident cannot force a PRB review. There are only three routes to a PRB review. (1) PRB presumptively reviews all incidents of a certain severity – i.e., in-custody death, officer involved shootings, and uses of force that result in hospitalization. (2) PRB reviews all incidents that result in recommended discipline of a day or more.²⁸ (3) PRB receives internal referrals from PPB chain of command or the IPR director. PPB calls some of these referrals a “controverted” finding or “controverted” recommended disciplinary action. In other words, if an investigation of an officer’s conduct yields a finding with which the IPR Director or the subject officer’s chain of command disagrees, they have the power to force a PRB review. If an aggrieved civilian disagrees with the investigative finding or recommended discipline – or disagrees with the declination to investigate his or her complaint at all – the civilian cannot compel a PRB review.

PRB is comprised of five members in non-use-of-force incident reviews: a citizen,²⁹ a peer of the subject officer,³⁰ the PPB Assistant Chief over the subject officer, the PPB Captain or Commander over the subject officer, and the IPR Director (or his/her designee). A paid civilian facilitator presides over PRB proceedings. The subject officer and a representative from his or her bargaining unit may attend PPB’s presentation of an incident to PRB. In certain use of force

²⁸ An alternative disciplinary route exists for certain violations of the City’s Human Resources Administrative Rules regarding complaints of discrimination. For the sake of this letter, however, those are inapposite.

²⁹ There is an additional system established for the appointment of these volunteers. City codes tasks PPB and IPR with developing criteria for selection of the citizen volunteers. The City Auditor vets the volunteers and submits their names to City Council for approval or disapproval. City Council appoints the volunteers for three-year terms. Code limits these volunteers to one full term and one partial term, if they are filling a vacancy. Code also permits the City Auditor or Chief to recommend that the City Council act to remove of a citizen from the available pool of volunteers.

³⁰ Here, too, there is an additional system in place for selection of the potential PRB members. Peers are of the same rank and classification as the subject officer. The Chief must have a pool of pre-approved “peer” officers at the ready.

cases, PRB's also includes one more citizen volunteer and one more peer. Accordingly, the composition of PRB aims to include evaluators both internal and external to PPB. However, PRB has a host of non-voting advisory members, taken mainly from PPB, that further complicate the composition of PRB. Curiously, a complaining civilian, if one is involved in the incident being reviewed, is not permitted to attend PPB's presentation.

The PRB process is long. PPB is required to give an involved officer 14 days' notice prior to the presentation of his or her case at a PRB meeting. PRB meets only twice a month and usually can consider only two cases each meeting. PRB's civilian facilitator has 14 days after the completion of PRB's review of a case to produce written proposed findings. At the completion of its process, PRB presents a public proposed finding, but not its record. The subject officer or the aggrieved civilian may appeal PRB's recommendation to Portland's Citizen Review Committee ("CRC"), the next step on the long journey to resolve an officer-accountability incident.

Despite the good intentions of using PRB as an accountability tool, the current process is not comprehensive and, when conducted, has significant delays in the ultimate resolution of an officer accountability incident.

f. Citizen Review Committee

CRC is comprised of nine civilian volunteer members.³¹ See PORTLAND CITY CODE § 3.21.080. CRC has multiple, broadly defined missions that can be distilled to three categories: (1) hearing appeals of officer accountability complaints; (2) community outreach; and (3) recommending policy changes. CRC members with whom we spoke advised us that they spent the majority of their time in community outreach.

CRC meets just once a month, resulting in additional delays. In order for CRC to consider an appeal, the record of appeal must be completed and CRC members must have an opportunity to review the record prior to the appeal. CRC members reported to us that each appeal usually involves two CRC meetings, each a month apart. At the first meeting, CRC conducts a case file review to certify that the matter is ready for appeal. At the second meeting, CRC conducts an open, public appeal hearing. If the record is incomplete, this two-meeting process is further delayed.

At the appeal, CRC considers only the recommended finding on the officer accountability incident. CRC does not consider and does not receive information on the recommended disciplinary action, if any. CRC has limited authority to reach findings. CRC representatives have informed us that they have been counseled that they may only send a complaint back to PPB for further information or to determine whether a prior finding is "irrational." In fact, the

³¹ Like PRB, CRC has another layer of involved processes for soliciting volunteers, screening candidates, nomination by the City Auditor, and appointment by City Council.

City Code permits CRC to find that the prior finding is either supported or unsupported by the evidence in the record. *Id.* This support-or-unsupported standard is a lower threshold than a requirement that CRC affirmatively declare the prior finding “irrational.” To the extent that Portland retains this current system, Portland should ensure that CRC applies only the proper standard for findings.

CRC can accept testimony and written statements, and consider the record. Paradoxically, even though CRC may consider any new evidence that develops in its hearing, it is prohibited from using this new evidence to find that the prior record does not support the finding from below. *See* PORTLAND CITY CODE § 3.21.160. This policy appears to be an effort to require CRC’s remand of those complaints to IA for further development of the evidentiary record for an incident.³² However, the policy’s direction to CRC asks them to opine on the propriety of a prior finding without consideration of all the evidence before them. This is untenable. Evidence developed by CRC – inculpatory or exculpatory – should be included in the record of the incident, even if remand to IA is then required to fully develop the evidence.

There exists no apparent prohibition on CRC’s consideration of officer accountability incidents involving in-custody deaths or officer-related deaths. CRC members inform us that, as a practical matter, though, parties pursue those matters through formal judicial means rather than appeal to CRC.

If CRC reaches a finding that the record of the officer accountability incident does not support the prior recommended finding, CRC may present that incident to the City Council for appeal. *Id.* This is yet another step on the long process toward final resolution of an officer accountability incident. At the Council level, too, there may be a hearing with witnesses. The Council, then, will decide the ultimate administrative finding on the complaint. It does not appear that this step has been utilized before.

g. Administrative Determination

After the subject officer or complainant exhausts administrative appeals to CRC, if any, and if CRC does not call upon the City Council to make a final finding, the authority to reach an administrative finding returns to PPB. The Chief makes a finding and recommends discipline. However, the Police Commissioner, i.e., usually the Mayor, has the ultimate authority to make the final determination on serious levels of disciplinary action.

h. Appeal of Discipline

If PPB and the Police Commissioner determine that the subject officer’s actions require disciplinary action, the officer’s collective bargaining agreement then starts the next phase on the

³² We note that IA has not been required to provide information to CRC by further supplementing IA’s investigation of a complaint. In a recent use-of-force investigation, IA refused CRC’s request that IA interview a witness to the use of force. Thus, Portland’s methodology of requiring CRC to only rely upon an IA record is frustrated by PPB’s refusal to fill gaps CRC identifies in that record.

long road to the imposition of corrective action. The subject officer may initiate a union grievance. If an officer's union will not accept a grievance – which reportedly occurred only once – the officer may appeal a disciplinary action to a state labor board. In most cases, the subject officer's union will grieve the imposition of discipline on his or her behalf. After the subject officer meets certain procedural requirements, a state employee relations board will name potential arbitrators to arbitrate the grievance. Counsel for the City and the subject officer may strike proposed arbitrators from the list leaving a selected arbitrator to hear the arbitration of the aggrieved disciplinary action. As the City Attorney's Office has characterized this process to us, there are no set rules in arbitration and Portland bears the burden of proof to justify its actions. This cumbersome process – which reportedly cost Portland \$500,000.00 for a single recent arbitration – usually results in an arbitration finding 60 to 90 days after the proceeding.

As happened in that recent costly arbitration, the arbitrator may overrule the imposition of discipline. Portland can refuse to implement an arbitrator's finding if Portland determines the finding is a violation of public policy. This refusal would force the subject officer's union to file an unfair labor practices complaint. If this is resolved favorably for PPB or the arbitrator has upheld PPB's action, the imposed discipline stands.

At long last, if a civilian's initial complaint is meritorious, proven, and survives this grueling process without being overturned, then PPB can impose corrective action. This process is so lengthy and attenuated, however, that the efficacy of corrective action is invariably undermined.

i. Lack of Clarity and Timeliness in PPB's Early Intervention System

PPB recently brought on line its Early Intervention System ("EIS"). PPB had a paper-based EIS previously. PPB began building the current system in 2004-05. The prototype went on line in July 2011. EIS became fully operational in December 2011. Because PPB's EIS has only recently become operational, there is little data on which to assess the efficacy of the system.

PPB's stated goal for its EIS is to keep officers productive by offering officers interventions when PPB identifies behavior, medical issues, or psychological problems that adversely affect PPB's goals. *See* PPB Manual § 345.00. An effective EIS is a powerful tool that should enable PPB to identify officers whose at-risk behaviors exceed department guidelines, even if direct supervision of use of force incidents fail or are found to be within policy.

PPB demonstrated its EIS for us and our consultant. The EIS is a database that records various domains of officer behavior, e.g., uses of force, complaints, tort claims, allegations of domestic violence, etc. PPB has established various thresholds at which the EIS will identify an officer. When the EIS identifies an officer, PPB intervenes by referring the triggered information to the subject officer's chain of command. PPB policy memorializes some EIS triggers. *Id.* For example, EIS is triggered by any three IA complaints against an officer within

six months, or two IA complaints of the same category within six months. *Id.* Some triggers about which PPB informed us, however, are not contained in the policy. The EIS reportedly currently triggers with an officer who has used force in 20% of his or her arrests in the past six months, or who uses force three times more than the average number of uses of force compared with other officers on the same shift. Since these triggers are not specifically enumerated in the policy, we recommend that PPB memorialize in its policy the Professional Standards Division's discretion to develop additional EIS triggers. Additionally, while these proportional-use-of-force triggers are helpful, we recommend that PPB add definitive triggers to its EIS for uses of force, e.g., three uses of force in a month. In order to be effective as an early intervention, the EIS needs to be able to identify officers with more sudden changes than a six-month look back would indicate. Accordingly, a sudden uptick in uses of force within a shorter period of time should trigger the EIS.

As reported to us, PPB currently waits for IA to review a complaint against an officer before referring the triggered officer to his chain of command for an EIS intervention. PPB has informed us that this is their practice because they are concerned that the subject officer would argue an issue cannot be handled by IA since it was already addressed through EIS. This defeats the purpose of the EIS. By policy, EIS is non-disciplinary. Accordingly, no officer should reasonably rely on EIS intervention to avoid IA investigation and the imposition of discipline for sustained wrongdoing. If there is any doubt on this point, we recommend that PPB immediately clarify by issuing an informative directive. Given the inordinately long IA process, as described in this letter, waiting for an internal affairs complaint to reach resolution before utilizing an EIS trigger defeats the point of an "early" intervention system.

Currently the EIS tracks individual officers' data. We recommend that as the system matures, PPB revise its EIS to trigger supervisors whose units collectively use force disproportionately more than other units. These are data present in the system but not synthesized for use on the unit level or supervisory level.

We also note that there is a single individual within PPB who runs EIS and is vested with the discretion to decline to send EIS triggered notifications to chains of command. Unless the triggers are redundant, i.e., the EIS returns the same triggered information for the same officer repeatedly, the declination to send the information to the chain of command is a potential escape valve that undermines the effectiveness and credibility of the EIS. We recommend that triggered information, unless redundant, automatically go to the chains of command.

Because there is only one PPB member fully conversant in the use of the EIS, we also recommend that PPB train other members to be proficient in the use of EIS. If the one person now charged with operational responsibility leaves, institutional memory invariably will leave with him.

j. Performance Evaluations

It is our understanding that PPB plans to implement quarterly performance reviews. We support this effort and encourage PPB to conduct assessments of employee performance at every level of the organization. Direct supervisors should evaluate their subordinates at least annually. Prior to the evaluations, supervisors should explain the evaluation process and the expectations to their subordinates. Supervisors should also utilize EIS data in preparation for evaluations. In conducting evaluations, supervisors should meet with their subordinates to discuss positive aspects of their police work, their complaint history, if any, and to discuss any problems or concerns officers may have concerning the department. The direct supervisors should memorialize evaluations, including any discussions in face-to-face meetings. Supervisor should then pass written evaluations through the chain of command, affording the opportunity for superiors to add comments. The written evaluations should be stored in the employee's training or personnel file. PPB should tie these evaluations into its promotion process, to the extent permitted by law and PPB's collective bargaining agreements.

VII. ADDITIONAL COMMUNITY CONCERNS

During the course of our investigation, we heard consistent concerns from members of the community. While we do not make a finding that there is a pattern or practice violation in connection with these issues, they implicate community confidence in PPB and warrant further consideration by City officials. First, there is a deep-seated concern that PPB does not provide timely access to medical care following the use of deadly force. Second, segments of the community harbor distrust towards PPB and desire more community policing and outreach.

1. Access to Medical Care

There have been numerous incidents over the years that have prompted community outrage regarding whether PPB officers procured medical attention in a timely fashion following a use of force. PARC identified this as a problem in its study of PPB's uses of force. The Due Process Clause of the Fourteenth Amendment guarantees a pretrial detainee the right to receive adequate medical care, and that right is violated if officials are deliberately indifferent to the detainee's serious medical needs. *Clouthier v. County of Contra Costa*, 591 F.3d 1232, 1242-43 (9th Cir. 2010). According to PPB policy, officers "will immediately call EMS if they have any concerns or questions regarding a subject's medical status during an incident or custody situation. EMS will respond and evaluate and assess the subject's medical condition." PPB Manual § 630.45. Although we do not currently find reasonable cause to believe that PPB is engaged in a pattern or practice of deliberate indifference to detainees' serious medical needs, we are concerned that PPB's policy leaves too much discretion to officers to determine when medical attention is needed. Instead, there should be a bright line rule that whenever an injury occurs or whenever a subject complains of an injury, EMS is summoned. PPB should review its data to determine if officers are routinely procuring medical care at the earliest opportunity and, if not, revise its policies and training accordingly.

2. Community Policing

Throughout our investigation, we had the opportunity to speak with members of PPB and the community who raised issues that affect the community's confidence in PPB and, in turn, public safety. We heard concerns from community members in a number of areas, including PPB's response to organized protests and perceived tensions between PPB and communities of color. Following numerous exchanges with a multitude of community members through various forums, including discussions with retired PPB officers, it became apparent that a trust divide exists between PPB and certain segments of the Portland community that should be bridged. We do not make any finding of a pattern or practice violation in this area. However, it is important to discuss the most prevalent concern identified in the course of our investigation – the often tense relationship between PPB and the African American community.

In the beginning of our investigation, Mayor Adams made clear that one of his reasons to call for our investigation of PPB was PPB's relationships with communities of color. At the conclusion of our investigation, it was clear that PPB could benefit from building additional bridges with minority communities, including but not limited to the African American community. While the scope of this investigation did not include an analysis of whether PPB engages in a pattern or practice of bias-based policing, we found that some community members perceive this practice. We are aware that Chief Reese regularly engages community representatives in meetings to discuss their concerns. We recommend that PPB continue to address this issue directly with the community and seek to expand opportunities for community engagement. One community activist succinctly stated that “the problem in not addressing the racial profiling is that it's creating an atmosphere of youths distrusting the cops.” Both African American leaders of the community and average citizens told us that they believed they had been victims of racial profiling during traffic stops. One citizen stated in his community interview that he got his windows tinted, so that officers would no longer know that he was black, in an effort not to be pulled over. And he exclaimed to us: “It works!” Another community member told us his belief that “they protect the white folk and police the black folk.”

Unfortunately, these comments provided during our investigation are similar to comments that were provided to the City during a series of five community listening sessions in 2006 with community-based organizations and PPB. PPB should consider reviewing the implementation of its 2009 PPB Plan to Address Racial Profiling. One of the recommendations that came out of the listening sessions included more stringent collection of stop data, but PPB had concerns regarding public release of officer names. Data provided to us by a local watch group indicated that PPB disproportionately stops African Americans. The data indicate that 12-24% of PPB's traffic and pedestrian stops are of African Americans. However, only 6.4% of the City's overall percentage is African American. Continuing to collect and track stop data would give PPB a better sense of whether a perception of biased policing might be a problem that PPB needs to address. Engaging with the public concerning such data would help assure the public that PPB is committed to ongoing analysis and remedial efforts to address allegations of biased policing.

Portland's own workgroup on biased policing noted in 2010 that disparate treatment complaints are difficult to prove and that among the complaints that they reviewed, the same officers were repeatedly named.³³ PPB should consider utilizing its EIS system to track complaints that officers and/or units engage in racially discriminatory policing. Many of the recommendations in this letter focus on actions that PPB and the City of Portland should take. In addition, for those people who believe they were victims of racial profiling, it is incumbent upon them to file a formal complaint on every occasion and include as much specific information about the interaction as possible. The data created by these complaints and resulting investigations will better enable PPB to make informed judgments about these serious allegations of biased policing. Armed with accurate data and comprehensive investigations of complaints, PPB and the City should be able to better address allegations of biased policing.

As noted above, a number of community members expressed their belief that racism exists within the police force, recounting incidents over a 20-year time span which informed their perception. A respected local civil rights leader recently publicly stated that there are good officers in PPB. At the same time, however, he questioned whether officers were held to the same standards as citizens, and whether there is an "us against them" mentality among PPB officers. It is incumbent on PPB officers, not just the executives, to appreciate the far reaching implications of the actions individual officers can have on the organization and the perceived us-against-them mentality.³⁴ One precinct commander relayed that part of the problem with the community's lack of trust is PPB's failure to reach out to the general public enough. PPB has positive stories to share about its individual officers. And, while PPB has some regular meetings with community groups, we recommend that PPB provide a broader and more frequent opportunity to listen and respond to the community's concerns.

We received comments that community members feel they are "under siege" because officers who frequently do not live in the community are doing the policing. PPB can cultivate community trust by providing incentives for its officers to maintain residency in the city they police. Having more officers live in the community they police may help develop trust and rapport with the community, which will strengthen community policing ideals. Ensuring that PPB reflects the diversity of the communities being served would also help to improve the effectiveness of PPB. Under Chief Reese's leadership, PPB has undertaken a comprehensive recruiting program designed to ensure that PPB attracts a diverse pool of qualified applicants.

Based on concerns we heard regarding difficulties that a number of people of color face in integrating into PPB at the recruitment and promotion stages, PPB may also consider conducting a department-wide intensive cultural sensitivity and competency training, including members of the community. We recognize that PPB has established a Community Partner

³³ "Disparate Treatment Complaints, A Complaint Handling and Case File Review Conducted by the Bias-Based Policing Workgroup of the Citizen Review Committee," March 2010, at 6.

³⁴ Following a controversial beanbag shooting of an unarmed 12-year old African American girl, many PPB officers donned t-shirts in support of the officer who shot the girl. To the community, this was a divisive action that affected their perception of the entire PPB police force.

Program for recruits PPB has hired, but who have not yet attended academy training. It is our understanding that the recruits volunteer at local service juvenile assistance organizations. Perhaps this can be expanded beyond juvenile assistance organizations.

Another persistent perception among many community members is that “mere conversations” frequently transition into unlawful pretext stops, and this perception breeds distrust.³⁵ While it appears PPB has policies prohibiting discrimination (§ 344.00) and bias based policing (§344.05), a policy on how and when an officer initiates contacts with citizens is missing. Based on our investigation, including talking with citizens as well as patrol officers, we found that officers tend to blend the distinction between initiating a “mere conversation” and a *Terry* stop.³⁶ As PPB is aware, a “mere conversation” is contingent upon an individual’s consent. A person may refuse to converse voluntarily with PPB, but this refusal does not, in and of itself, create a basis for performing a *Terry* stop. In order for a mere conversation to turn into a *Terry* stop, an officer must have “reasonable suspicion” based upon “objective, articulable facts” that the person is involved in a crime. *Terry*, 392 U.S. 1 (1968). A *Terry* stop must be based on an officer’s analysis for multiple factors which he or she must be able to objectively articulate. *Id.* And, even if the officer does determine there are objective, articulable facts that a person is involved in a crime, there is no right to frisk an individual for weapons unless and until the officer has reasons to believe that the individual has weapons upon his or her person, or poses a threat to the safety of the officer. *Id.* Revising this practice will go a long way towards increasing rapport and trust with the community and reducing perceptions of bias-based policing.

The aforementioned concerns and tensions expressed by community members appear to date back many years and will require persistent continuing commitment to inclusion and transparency, as well as effective structures to facilitate continuing dialogue.

VIII. REMEDIAL MEASURES

Our investigation reveals reasonable cause to believe that PPB engages in a pattern or practice of using excessive force in violation of the Fourteenth Amendment to the United States Constitution and in violation of federal law. PPB should implement the following remedial measures to correct the constitutional and statutory deficiencies identified above.

1. In addition to exposing all officers to crisis intervention training, have a specialized unit of crisis intervention officers who are selected based on their temperament, experience and desire to interact with individuals with mental illness or in mental health crisis

³⁵ *See supra*, n.18.

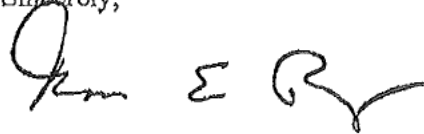
³⁶ A *Terry* stop refers to the common police practice of briefly detain a person who police reasonably suspect is involved in criminal activity, but not requiring a showing of probable cause. *Terry v. Ohio*, 392 U.S. 1 (1968).

2. Revise policies to place greater emphasis on de-escalation techniques and require officers to consider less intrusive alternatives before employing force.
3. Implement scenario-based training to ensure officers do not use excessive force and only use force justified to meet the government interest.
4. Train officers to go hands on following the first application of less-lethal force, when feasible, to effectuate the arrest, and to use as few cycles of the ECW as possible.
5. Train and require officers to avoid using more intrusive forms of force, such as beanbag guns and ECWs, on individuals who do not pose a threat to the safety of officers and others or who are suspected of committing minor offenses.
6. Train and require officers to give warnings, where feasible, before using force.
7. Monitor all uses of force to ensure practice consistent with these standards and affirmatively enforce these standards when force is used in an inconsistent manner.
8. Conduct on-site supervisory investigations of all uses of force, including contemporaneous public safety and investigatory statements subject to constitutional protections against self incrimination.
9. Require that PPB officers document each citizen contact, including the reason they stopped the subject, whether the subject consented to the conversation, whether the officer informed the subject that he/she had the right to decline consent, whether the mere conversation escalated further, and demographical information about the subject. Require that supervisors conduct timely reviews of this data.
10. Adopt policies and practices to streamline the investigation of all allegations of officer misconduct to increase efficacy of corrective action. This should include a mandate to address investigative inadequacies identified by CRC. PPB should also keep complainants actively informed and involved of the process.
11. Require PPB to develop a community engagement and outreach plan, with the goal of creating robust community relationships and sustainable dialogue with Portland's diverse communities.

IX. CONCLUSION

We hope to continue working with PPB in an amicable and cooperative fashion to resolve our outstanding concerns, as set forth in this letter. Please note that this findings letter is a public document and will be posted on the Civil Rights Division's website. The DOJ attorneys assigned to this investigation will be contacting the City's attorneys to discuss this matter in further detail. If you have any questions regarding this letter, please contact Jonathan Smith, Chief of the Civil Rights Division's Special Litigation Section, at (202) 514-5393.

Sincerely,



Thomas E. Perez
Assistant Attorney General
Civil Rights Division



Amanda Marshall
United States Attorney
District of Oregon

cc: Chief Michael Reese
Portland Police Bureau

Jim Van Dyke
Portland City Attorney

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: CEG Oversight List
To: Gaeta, Joseph (OLA)
Cc: Ragsdale, DeLisa (Judiciary-Rep); Zdeb, Sara (Judiciary-Dem)
Sent: June 21, 2021 5:45 PM (UTC-04:00)
Attached: 2021-06-21 CEG Oversight List_final.pdf

Joe, it's our understanding that Sen. Durbin will be arranging a call with Attorney General Garland relating to outstanding oversight requests from committee members. Please see the attached for Sen. Grassley and confirm receipt. Thank you.

Josh

June 21, 2021
Senator Grassley Outstanding Oversight Requests¹

1. Crossfire Hurricane records (2021-02-25 email): What records were declassified according to Trump's January 2021 declassification directive?
2. 2021-05-03 CEG RHJ to FBI and ODNI (August 2020 Briefing): FBI provided a briefing to both senators in August 2020, the contents were eventually leaked to damage their investigation into the Biden family's financial dealings with questionable foreign nationals. The letter requested records and a meeting with Director Wray and Haines. FBI sent a non-responsive letter; FBI has refused a meeting.
3. 2021-02-03 CEG RHJ to DOJ (McQuaid); 2021-03-09 CEG RHJ to DOJ (McQuaid Follow-Up): Letter requesting records and answers relating to McQuaid's potential recusal from the Hunter Biden case. Received a non-responsive letter; no records, including a recusal memo.
4. 2021-03-31 CEG RHJ to DOJ (Biden China): Letter requesting intelligence and FISA records relating to three individuals connected to the Chinese government that did business with the Biden family. No response.
5. 2021-03-25 CEG RHJ to ATF (Hunter Biden Weapon): Letter requesting answers and records relating to the ATF's reported involvement in the October 2018 Hunter Biden firearm incident. ATF refused to provide any records, incorrectly cited FOIA as a shield.
6. 2021-06-17 CEG to DOJ (Congressional Oversight): Letter mentions several items, including a classified letter relating to the Clinton Investigation and specifically references Question 12 in that letter.
7. 2021-01-22 CEG to DOJ (Flynn Leak Case): Letter requests information relating to a news article about the closure of the leak case. DOJ sent an unresponsive letter.
8. 2020-09-11 CEG to DOJ (Special Counsel Records): Letter requests answers and records relating to Special Counsel Mueller's team deleting records from their phones. DOJ sent a letter and copied a letter from the DOJ OIG. Not fully responsive.
9. 2021-06-02 CEG to DOJ (Deferred Resolution): Letter requesting data on arrests and prosecutions for the summer 2020 riots and January 6. No response.
10. 2021-05-07 CEG to DOJ FBI (Anarchist Investigations): Letter requests information and data on what the Department is doing to investigate anarchist extremist attacks on law enforcement. No response.
11. 2021-03-23 CEG to DOJ FBI (Kavanaugh Investigation Referrals): Letter requesting an update on the committee's criminal referrals relating to false witness statements about Judge Kavanaugh. DOJ's letter was unresponsive.
12. 2020-09-10 CEG to USMS (whistleblower retaliation)
 - USMS allegedly retaliated against a Deputy Marshal with a prior history of whistleblowing to our office. They replied to our letter in December with a non-responsive paragraph stating that since the WB in question had retired they considered the matter closed.
13. 2021-04-14 CEG to DOJ (USMS private prisons)
 - Letter asking USMS how they plan to deal with the challenges created by the Biden EO that ordered the gov't to not renew private prison contracts.

¹ The first five include the priority list we've discussed with DOJ for months. Items 1-22 consist of a fraction of the outstanding oversight requests from Senator Grassley; the rest have not been sent due to the fact a committee-wide call with the Attorney General will not be enough time to discuss all the listed requests let alone the full list of unanswered letters. Additional items have been communicated to DOJ separately. Senator Grassley has repeatedly requested a one-on-one call with the Attorney General, which the Attorney General's office has refused to schedule.

14. 2021-05-26 Wicker + CEG to USMS (Commerce Committee Special Deputation)
 - Letter requesting more information regarding the special deputation program at the Commerce Dep't.
15. Durbin + CEG briefing request from USMS re: Special Deputation program at Commerce – requested on 5-26-2021 with no response yet.
16. ATF (Illicit Tobacco) - We have a request to ATF regarding the statistics that were promised to CEG in person regarding training and tobacco related cases.
POC: (b)(6), (b)(7)(C) per ATF – Confirmed receipt 6/2/2021
17. IG TSA (S. 1794) – We requested TA from DOJ regarding our IG TSA bill that we recently introduced with Hassan. We have received no response since April.
POC: Kenneth Kellner – Orig. Confirmed receipt: 2/25/2021
18. 2021-06-09 CEG to FBI (ITMS): Letter requesting information relating to the relationship between FBI and a Department of Commerce Intelligence Unit. No response.
19. 2021-06-04 CEG to DOJ (Violent Crime Reduction): Letter requesting information relating to DOJ's new violent crime policies. No response.
20. 2021-03-12 CEG to DOJ (COVID Nursing Homes): Letter calling on DOJ to continue its probe into whether state officials failed to comply with federal guidelines or requirements for participation in federal programs in their response to coronavirus infections. No response.
21. 2018-04-09 CEG to FBI (Nassar Investigation): Letter asking for information relating to the FBI's investigation into sexual abuse allegations against Larry Nassar. Insufficient response.
22. 2019-06-18 CEG LG to DOJ FBI (Planned Parenthood): Letter to DOJ and FBI following up on Senator Grassley's 2016 referral of eight organizations for investigation and potential prosecution for the alleged sale of human fetal tissue following a 2016 Grassley-led committee investigation. No response.

From: Kundaria, Ajay (Judiciary-Dem)
Subject: Re: 6/23 Nominations Hearing
To: Appleton, Rachel E. (OLA)
Cc: Gaeta, Joseph (OLA); Schwartz, Leah F. (OLA)
Sent: June 19, 2021 4:47 PM (UTC-04:00)

5 tomorrow works for me. What's the best number? I'm at (b) (6).

On Jun 19, 2021, at 4:15 PM, Appleton, Rachel E. (OLA) (b) (6) wrote:

That would be great! Would 10:30-12 or after 5 work?

On Jun 19, 2021, at 3:31 PM, Kundaria, Ajay (Judiciary-Dem) (b) (6) wrote:

Rachel,

Thanks for reaching out. Let me know if there's a good time to hop on the phone tomorrow?

Best,

Ajay

Ajay B. Kundaria
Chief Counsel, U.S. Senator Amy Klobuchar
U.S. Senate Committee on the Judiciary
(b) (6)

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

Hi Ajay,

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: Xenakis, Nicholas (Judiciary-Dem)
Subject: Re: 6/23 Nominations Hearing
To: Appleton, Rachel E. (OLA)
Cc: Gaeta, Joseph (OLA); Schwartz, Leah F. (OLA)
Sent: June 19, 2021 1:39 PM (UTC-04:00)

Hope you're having a good weekend as well! She's unlikely to attend because she'll be chairing an E&W hearing at the same time.

On Jun 19, 2021, at 1:37 PM, Appleton, Rachel E. (OLA) (b) (6) wrote:

Hi Nick,

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: Boxenbaum, Shelby (Menendez)
Subject: RE: Did you file your judicial security bill?
To: Gaeta, Joseph (OLA)
Cc: Linares, Elva E. (OLA); Lugo, Alice (Menendez)
Sent: June 17, 2021 11:53 AM (UTC-04:00)
Attached: SIL21719.pdf
Plus Elva and Alice.

Attached is a draft of the judicial security legislation. We added in your recommendation (the third rec) from Part II of your comments narrowing the exception in Section 5.

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

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, June 17, 2021 11:26 AM
To: Boxenbaum, Shelby (Menendez) (b) (6)
Subject: RE: Did you file your judicial security bill?

You making any of the changes we suggested?

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

From: Boxenbaum, Shelby (Menendez) (b) (6)
Sent: Thursday, June 17, 2021 9:18 AM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: Re: Did you file your judicial security bill?

No, hopefully next week.

Sent from my iPhone

> On Jun 17, 2021, at 9:18 AM, Gaeta, Joseph (OLA) (b) (6) wrote:
>
>
>
> Sent from my iPhone

117TH CONGRESS
1ST SESSION

S. _____

To improve the safety and security of the Federal judiciary.

IN THE SENATE OF THE UNITED STATES

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve the safety and security of the Federal judiciary.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Daniel Anderl Judicial
5 Security and Privacy Act of 2021”.

6 **SEC. 2. PURPOSE; RULES OF CONSTRUCTION.**

7 (a) PURPOSE.—The purpose of this Act is to improve
8 the safety and security of Federal judges, including senior,
9 recalled, or retired Federal judges, and their immediate
10 family, to ensure Federal judges are able to administer
11 justice fairly without fear of personal reprisal from indi-

1 viduals affected by the decisions they make in the course
2 of carrying out their public duties.

3 (b) RULES OF CONSTRUCTION.—

4 (1) IN GENERAL.—Nothing in this Act shall be
5 construed—

6 (A) to prohibit, restrain, or limit—

7 (i) the lawful investigation or report-
8 ing by the press of any unlawful activity or
9 misconduct alleged to have been committed
10 by an at-risk individual or their immediate
11 family; or

12 (ii) the reporting on an at-risk indi-
13 vidual or their immediate family regarding
14 matters of public concern;

15 (B) to impair access to decisions and opin-
16 ions from a Federal judge in the course of car-
17 rying out their public functions; or

18 (C) to limit the publication or transfer of
19 personally identifiable information that the at-
20 risk individual or their immediate family mem-
21 ber voluntarily publishes on the internet after
22 the date of enactment of this Act.

23 (2) PROTECTION OF PERSONALLY IDENTIFI-
24 ABLE INFORMATION.—This Act shall be broadly con-
25 strued to favor the protection of the personally iden-

1 tifiable information of at-risk individuals and their
2 immediate family.

3 **SEC. 3. FINDINGS.**

4 Congress finds the following:

5 (1) Members of the Federal judiciary perform
6 the important function of interpreting our Constitu-
7 tion and administering justice in a fair and impartial
8 manner.

9 (2) In recent years, partially as a result of the
10 rise in the use of social media and online access to
11 information, members of the Federal judiciary have
12 been exposed to an increased number of personal
13 threats in connection to their role. The ease of ac-
14 cess to free or inexpensive sources of personally
15 identifiable information has considerably lowered the
16 effort required for malicious actors to discover where
17 individuals live, where they spend leisure hours, and
18 to find information about their family members.
19 Such threats have included calling a judge a traitor
20 with references to mass shootings and serial killings,
21 calling for an “angry mob” to gather outside a
22 judge’s home and, in reference to a United States
23 courts of appeals judge, stating how easy it would be
24 to “get them.”

1 (3) Between 2015 and 2019, threats and other
2 inappropriate communications against Federal
3 judges and other judiciary personnel increased from
4 926 in 2015 to approximately 4,449 in 2019.

5 (4) Over the past decade, several members of
6 the Federal judiciary have experienced acts of vio-
7 lence against themselves or a family member in con-
8 nection to their Federal judiciary role, including the
9 murder of the family of United States District
10 Judge for the Northern District of Illinois Joan
11 Lefkow in 2005.

12 (5) On Sunday July 19, 2020, an assailant
13 went to the home of Esther Salas, a judge for the
14 United States District Court for the District of New
15 Jersey, impersonating a package delivery driver,
16 opening fire upon arrival, and killing Daniel Anderl,
17 the 20-year-old only son of Judge Salas, and seri-
18 ously wounding Mark Anderl, her husband.

19 (6) In the aftermath of the recent tragedy that
20 occurred to Judge Salas and in response to the con-
21 tinuous rise of threats against members of the Fed-
22 eral judiciary, there is an immediate need for en-
23 hanced security procedures and increased availability
24 of tools to protect Federal judges and their families.

1 **SEC. 4. DEFINITIONS.**

2 In this Act:

3 (1) **AT-RISK INDIVIDUAL.**—The term “at-risk
4 individual” means—

5 (A) a Federal judge; or

6 (B) a senior, recalled, or retired Federal
7 judge

8 (2) **DATA BROKER.**—

9 (A) **IN GENERAL.**—The term “data
10 broker” means a business or commercial entity
11 when it is engaged in collecting, assembling, or
12 maintaining personal information concerning an
13 individual who is not a customer, client, or an
14 employee of that entity in order to sell the in-
15 formation or otherwise profit from providing
16 third party access to the information.

17 (B) **EXCLUSION.**—The following activities
18 conducted by a business or commercial entity,
19 and the collection and sale or licensing of per-
20 sonally identifiable information incidental to
21 conducting these activities do not qualify the
22 entity as a data broker:

23 (i) Engaging in reporting,
24 newsgathering, speaking, or other activities
25 intended to inform the public on matters of
26 public interest or public concern.

1 (ii) Providing 411 directory assistance
2 or directory information services, including
3 name, address, and telephone number, on
4 behalf of or as a function of a tele-
5 communications carrier.

6 (iii) Utilizing personal information in-
7 ternally, providing access to businesses
8 under common ownership or affiliated by
9 corporate control, or selling or providing
10 data for a transaction or service requested
11 by or concerning the individual whose per-
12 sonal information is being transferred.

13 (iv) Providing publicly available infor-
14 mation via real-time or near-real-time alert
15 services for health or safety purposes.

16 (v) A consumer reporting agency to
17 the extent that it is covered by the Federal
18 Fair Credit Reporting Act (15 U.S.C.
19 1681 et seq.).

20 (vi) A financial institution to the ex-
21 tent that it is covered by the Gramm-
22 Leach-Bliley Act (Public Law 106–102)
23 and implementing regulations.

24 (vii) An entity to the extent that it is
25 covered by the Health Insurance Port-

1 ability and Accountability Act (Public Law
2 104–191).

3 (3) FEDERAL JUDGE.—The term “Federal
4 judge” means—

5 (A) a justice or judge of the United States,
6 as those terms are defined in section 451 of
7 title 28, United States Code;

8 (B) a bankruptcy judge appointed under
9 section 152 of title 28, United States Code;

10 (C) a United States magistrate judge ap-
11 pointed under section 631 of title 28, United
12 States Code;

13 (D) a judge confirmed by the United
14 States Senate and empowered by statute in any
15 commonwealth, territory, or possession to per-
16 form the duties of a Federal judge; and

17 (E) a judge of the United States Court of
18 Federal Claims appointed under section 171 of
19 title 28, United States Code.

20 (4) GOVERNMENT AGENCY.—The term “Gov-
21 ernment agency” means any department enumerated
22 in section 1 of title 5 of the United States Code,
23 independent establishment, commission, administra-
24 tion, authority, board or bureau of the United States
25 or any corporation in which the United States has

1 a proprietary interest. The term includes all such in-
2 stitutions, offices, and any other bodies politic and
3 corporate of the United States Government created
4 by the constitution or statute, whether in the execu-
5 tive, judicial, or legislative branch; all units and cor-
6 porate outgrowths created by Executive order of the
7 President or any constitutional officer, by the Su-
8 preme Court of the United States, or by resolution
9 of the United States Congress.

10 (5) IMMEDIATE FAMILY.—The term “immediate
11 family” means a spouse, child, parent, or any other
12 familial relative of an at-risk individual whose per-
13 manent residence is the same as the at-risk indi-
14 vidual.

15 (6) PERSONALLY IDENTIFIABLE INFORMA-
16 TION.—The term “personally identifiable informa-
17 tion” means—

18 (A) a home address, including primary res-
19 idence or secondary residences;

20 (B) a home or personal mobile telephone
21 number, or the direct telephone number of a
22 government-issued cell phone or private exten-
23 sion in the chambers of an at-risk individual;

24 (C) a personal email address;

1 (D) the social security number, driver's li-
2 cense number, or home address displayed on
3 voter registration information;

4 (E) a bank account or credit or debit card
5 information;

6 (F) home or other address displayed on
7 property tax records or held by a Federal,
8 State, or local government agency of an at-risk
9 individual, including a secondary residence and
10 any investment property at which an at-risk in-
11 dividual resides for part of a year;

12 (G) license plate number or home address
13 displayed on vehicle registration information;

14 (H) identification of children of an at-risk
15 individual under the age of 18;

16 (I) full date of birth;

17 (J) a photograph of any vehicle that legibly
18 displays the license plate or a photograph of a
19 residence that legibly displays the residence ad-
20 dress;

21 (K) the name and address of a school or
22 day care facility attended by immediate family;
23 or

24 (L) the name and address of an employer
25 of immediate family.

1 (7) SOCIAL MEDIA.—The term “social media”
2 means any online electronic medium, a live-chat sys-
3 tem, or an electronic dating service—

4 (A) that primarily serves as a medium for
5 users to interact with content generated by
6 other third-party users of the medium;

7 (B) that enables users to create accounts
8 or profiles specific to the medium or to import
9 profiles from another medium; and

10 (C) that enables one or more users to gen-
11 erate content that can be viewed by other third-
12 party users of the medium.

13 (8) TRANSFER.—The term “transfer” means to
14 sell, license, trade, or exchange for consideration the
15 personally identifiable information of an at-risk indi-
16 vidual or immediate family.

17 **SEC. 5. PROTECTING PERSONALLY IDENTIFIABLE INFOR-**
18 **MATION IN PUBLIC RECORDS.**

19 (a) GOVERNMENT AGENCIES.—

20 (1) IN GENERAL.—Each at-risk individual
21 may—

22 (A) file written notice of the status of the
23 individual as an at-risk individual, for them-
24 selves and immediate family, to each Govern-
25 ment agency; and

1 (B) ask each Government agency described
2 in subparagraph (A) to mark as private their
3 personally identifiable information and that of
4 their immediate family.

5 (2) NO PUBLIC POSTING.—Government agen-
6 cies shall not publicly post or display publicly avail-
7 able content that includes personally identifiable in-
8 formation of an at-risk individual or immediate fam-
9 ily. Government agencies, upon receipt of a written
10 request in accordance with subsection (a)(1)(A) of
11 this section, shall remove the personally identifiable
12 information of the at-risk individual or immediate
13 family from publicly available content within 72
14 hours.

15 (3) EXCEPTIONS.—Nothing in this section shall
16 prohibit a government agency from providing access
17 to records containing judges' personally identifiable
18 information to a third party if the third party pos-
19 sesses a signed release from the judge or a court
20 order, the entity is already subject to the require-
21 ments of title V of the Gramm-Leach-Bliley Act (15
22 U.S.C. 6801 et seq.), or the third party executes a
23 confidentiality agreement with the government agen-
24 cy.

25 (b) STATE AND LOCAL GOVERNMENTS.—

1 (1) GRANT PROGRAM TO PREVENT DISCLOSURE
 2 OF PERSONAL INFORMATION OF AT-RISK INDIVID-
 3 UALS OR IMMEDIATE FAMILY.—

4 (A) AUTHORIZATION.—The Attorney Gen-
 5 eral shall make grants to prevent the release of
 6 personally identifiable information of at-risk in-
 7 dividuals and immediate family (in this sub-
 8 section referred to as “judges’ personally identi-
 9 fiable information”) to the detriment of such
 10 individuals or their families to an entity that—

11 (i) is—

12 (I) a State or unit of local gov-
 13 ernment (as such terms are defined in
 14 section 901 of the Omnibus Crime
 15 Control and Safe Streets Act of 1968
 16 (34 U.S.C. 10251)); or

17 (II) an agency of a State or unit
 18 of local government; and

19 (ii) operates a State or local database
 20 or registry that contains personally identi-
 21 fiable information.

22 (B) APPLICATION.—An eligible entity seek-
 23 ing a grant under this section shall submit to
 24 the Attorney General an application at such
 25 time, in such manner, and containing such in-

1 formation as the Attorney General may reason-
2 ably require.

3 (2) AUTHORIZATION OF APPROPRIATIONS.—

4 There is authorized to be appropriated such sums as
5 may be necessary to provide grants to entities de-
6 scribed in paragraph (1) to create or expand pro-
7 grams designed to protect judges' personally identifi-
8 able information, including through—

9 (A) the creation of programs to redact or
10 remove judges' personally identifiable informa-
11 tion, upon the request of an at-risk individual,
12 from public records in state agencies; these ef-
13 forts may include but are not limited to hiring
14 a third party to redact or remove judges' per-
15 sonally identifiable information from public
16 records;

17 (B) the expansion of existing programs
18 that the State may have enacted in an effort to
19 protect judges' personally identifiable informa-
20 tion;

21 (C) the development or improvement of
22 protocols, procedures, and policies to prevent
23 the release of judges' personally identifiable in-
24 formation;

1 (D) the defrayment of costs of modifying
2 or improving existing databases and registries
3 to ensure that judges' personally identifiable in-
4 formation is protected from release; and

5 (E) the development of confidential opt out
6 systems that will enable at-risk individuals to
7 make a single request to keep judges' personally
8 identifiable information out of multiple data-
9 bases or registries.

10 (3) REPORT.—

11 (A) IN GENERAL.—Not later than 1 year
12 after the date of enactment of this Act, and bi-
13 ennially thereafter, the Comptroller General of
14 the United States, shall submit to the Com-
15 mittee on the Judiciary of the Senate and the
16 Committee on the Judiciary of the House of
17 Representatives an annual report that in-
18 cludes—

19 (i) a detailed amount spent by States
20 and local governments on protection of
21 judges' personally identifiable information;
22 and

23 (ii) where the judges' personally iden-
24 tifiable information was found.

1 (B) STATES AND LOCAL GOVERNMENTS.—
2 States and local governments that receive funds
3 under this section shall submit to the Comp-
4 troller General a report on data described in
5 clauses (i) and (ii) of subparagraph (A) to be
6 included in the report required under that sub-
7 paragraph.

8 (c) DATA BROKERS AND OTHER BUSINESSES.—

9 (1) PROHIBITION.—

10 (A) DATA BROKERS.—It shall be unlawful
11 for a data broker to knowingly sell, license,
12 trade for consideration, or purchase personally
13 identifiable information of an at-risk individual
14 or immediate family.

15 (B) OTHER BUSINESSES.—No person,
16 business, or association shall publicly post or
17 publicly display on the internet personally iden-
18 tifiable information of an at-risk individual or
19 immediate family if the at-risk individual has
20 made a written request of that person, business,
21 or association to not disclose the personally
22 identifiable information of the at-risk individual
23 or immediate family.

24 (C) EXCEPTIONS.—The restriction in sub-
25 paragraph (B) shall not apply to—

1 (i) the display on the internet of the
2 personally identifiable information of an
3 at-risk individual or immediate family if
4 the information is relevant to and dis-
5 played as part of a news story, com-
6 mentary, editorial, or other speech on a
7 matter of public concern;

8 (ii) personally identifiable information
9 that the at-risk individual voluntarily pub-
10 lishes on the internet after the date of en-
11 actment of this Act; or

12 (iii) personally identifiable information
13 received from a Federal Government
14 source (or from an employee or agent of
15 the Federal Government).

16 (2) REQUIRED CONDUCT.—

17 (A) IN GENERAL.—After a person, busi-
18 ness, or association has received a written re-
19 quest from an at-risk individual to protect per-
20 sonally identifiable information of the at-risk in-
21 dividual or immediate family, that person, busi-
22 ness, or association shall—

23 (i) remove within 72 hours the per-
24 sonally identifiable information from the
25 internet and ensure that the information is

1 not made available on any website or sub-
2 subsidiary website controlled by that person,
3 business, or association; and

4 (ii) ensure that the personally identifi-
5 able information of the at-risk individual
6 or immediate family is not made available
7 on any website or subsidiary website con-
8 trolled by that person, business, or associa-
9 tion.

10 (B) TRANSFER.—After receiving an at-risk
11 individual’s written request, no person, busi-
12 ness, or association shall transfer the personally
13 identifiable information of the at-risk individual
14 or immediate family to any other person, busi-
15 ness, or association through any medium, ex-
16 cept where the at-risk individual’s or immediate
17 family member’s personally identifiable informa-
18 tion is relevant to and displayed as part of a
19 news story, commentary, editorial, or other
20 speech on a matter of public concern. The re-
21 striction on transfer shall also not apply to per-
22 sonally identifiable information that the at-risk
23 individual or immediate family voluntarily pub-
24 lishes on the internet after the date of enact-
25 ment of this Act.

1 (d) DELEGATION OF AUTHORITY.—

2 (1) IN GENERAL.—Upon written request of the
3 at-risk individual, the Director of the Administrative
4 Office of the United States Courts is authorized to
5 make any notice or request required or authorized
6 by this section on behalf of the at-risk individual.
7 The Director may delegate this authority under sec-
8 tion 602(d) of title 28, United States Code. Any no-
9 tice or request made under this subsection shall be
10 deemed to have been made by the at-risk individual
11 and compliant with the notice and request require-
12 ments of this section.

13 (2) LIST.—In lieu of individual notices or re-
14 quests, the Director may provide government agen-
15 cies, State and local governments, data brokers, per-
16 sons, businesses, or associations with a list of at-risk
17 individuals and their immediate family for the pur-
18 pose of maintaining compliance with this section.
19 Such list shall be deemed to comply with individual
20 notice and request requirements of this section.

21 (e) REDRESS AND PENALTIES.—

22 (1) IN GENERAL.—An at-risk individual or im-
23 mediate family member whose personally identifiable
24 information is made public as a result of a violation
25 of this Act may bring an action seeking injunctive

1 or declaratory relief in any court of competent juris-
2 diction. If the court grants injunctive or declaratory
3 relief, the person, business, or association respon-
4 sible for the violation shall be required to pay the at-
5 risk individual's or immediate family member's costs
6 and reasonable attorney's fees.

7 (2) PENALTIES AND DAMAGES.—Upon a know-
8 ing and willful violation of any order granting in-
9 junctive or declarative relief obtained pursuant to
10 this subsection, the court issuing such order may—

11 (A) if the violator is a public entity, impose
12 a fine not exceeding \$4,000 and require the
13 payment of court costs and reasonable attor-
14 ney's fees;

15 (B) if the violator is a person, business, as-
16 sociation, or private agency, award damages to
17 the affected at-risk individual or immediate
18 family in an amount up to a maximum of 3
19 times the actual damages, but not less than
20 \$10,000, and require the payment of court
21 costs and reasonable attorney's fees.

22 **SEC. 6. TRAINING AND EDUCATION.**

23 There is authorized to be appropriated to the Federal
24 judiciary such sums as may be necessary for biannual judi-

1 cial security training for active, senior, or recalled Federal
2 judges and their immediate family, including—

3 (1) best practices for using social media and
4 other forms of online engagement and for maintain-
5 ing online privacy;

6 (2) home security program and maintenance;

7 (3) understanding removal programs and re-
8 quirements for personally identifiable information;

9 (4) any other judicial security training that the
10 United States Marshals Services and the Adminis-
11 trative Office of the United States Courts deter-
12 mines is relevant.

13 **SEC. 7. VULNERABILITY MANAGEMENT CAPABILITY.**

14 (a) AUTHORIZATION.—

15 (1) VULNERABILITY MANAGEMENT CAPA-
16 BILITY.—The Federal judiciary is authorized to per-
17 form all necessary functions consistent with the pro-
18 visions of this Act, and to support existing threat
19 management capabilities within the United States
20 Marshals Service and other relevant Federal law en-
21 forcement and security agencies. Such functions may
22 include—

23 (A) monitor the protection of at-risk indi-
24 viduals and judiciary assets;

1 (B) manage the monitoring of websites for
2 personally identifiable information of at-risk in-
3 dividuals or immediate family and remove or
4 limit the publication of such information; and

5 (C) receive, review, and analyze complaints
6 by at-risk individuals of threats, whether direct
7 or indirect, and report to law enforcement part-
8 ners.

9 (2) TECHNICAL AND CONFORMING AMEND-
10 MENT.—Section 604(a) of title 28, United States
11 Code is amended—

12 (A) in paragraph (23), by striking “and”
13 at the end;

14 (B) by redesignating paragraph (24) as
15 paragraph (25);

16 (C) by inserting after paragraph 23 the
17 following:

18 “(24) Establish and administer a vulnerability
19 management program in the judicial branch; and”.

20 (b) EXPANSION OF CAPABILITIES OF OFFICE OF
21 PROTECTIVE INTELLIGENCE.—There is authorized to be
22 appropriated such sums as may be necessary to the United
23 States Marshals Service to expand the current capabilities
24 of the Office of Protective Intelligence of the Judicial Se-
25 curity Division to increase the workforce of the Office of

1 Protective Intelligence to include additional intelligence
2 analysts, United States deputy marshals, and any other
3 relevant personnel to ensure that the Office of Protective
4 Intelligence is ready and able to perform all necessary
5 functions, consistent with the provisions of this Act, in
6 order to anticipate and deter threats to the judiciary, in-
7 cluding—

8 (1) assigning personnel to State and major
9 urban area fusion and intelligence centers for the
10 specific purpose of identifying potential threats
11 against the judiciary, and coordination of responses
12 to potential threats.

13 (2) expanding the use of investigative analysts,
14 physical security specialists, and intelligence analysts
15 at the 94 judicial districts and territories to enhance
16 the management of local and distant threats and in-
17 vestigations; and

18 (3) increasing the number of United States
19 Marshal Service personnel for the protection of the
20 judicial function and assigned to protective oper-
21 ations and details for the judiciary.

22 (c) REPORT.—

23 (1) IN GENERAL.—Not later than one year
24 after the date of enactment of this Act, the Depart-
25 ment of Justice, in consultation with the Adminis-

1 trative Office of the United States Courts, shall sub-
2 mit to the Committee on the Judiciary of the Senate
3 and the Committee on the Judiciary of the House of
4 Representatives a report on the security of Federal
5 judges arising from the Federal prosecutions and
6 civil litigation.

7 (2) DESCRIPTION.—The report required under
8 paragraph (1) shall describe—

9 (A) the number and nature of threats and
10 assaults against at-risk individuals handling
11 prosecutions and other matters described in
12 paragraph (1) and the reporting requirements
13 and methods;

14 (B) the security measures that are in place
15 to protect the at-risk individuals handling pros-
16 ecutions described in paragraph (1), including
17 threat assessments, response procedures, avail-
18 ability of security systems and other devices,
19 firearms licensing such as deputations, and
20 other measures designed to protect the at-risk
21 individuals and immediate family of an at-risk
22 individual; and

23 (C) for each requirement, measure, or pol-
24 icy described in subparagraphs (A) and (B),
25 when the requirement, measure, or policy was

1 developed and who was responsible for devel-
2 oping and implementing the requirement, meas-
3 ure, or policy.

4 **SEC. 8. SEVERABILITY.**

5 If any provision of this Act or the application of such
6 provision to any person or circumstance is held to be un-
7 constitutional, the remainder of this Act and the applica-
8 tion of such provision to any person or circumstance shall
9 not be affected thereby.

10 **SEC. 9. EFFECTIVE DATE.**

11 This Act shall take effect upon the date of enactment
12 of this Act, except for subsections (b)(1), (c), and (e) of
13 section 5, which shall take effect on the date that is 120
14 days after the date of enactment of this Act.

From: Gaeta, Joseph (OLA)
Subject: Schroeder SJC supplemental information
To: Brest, Phillip (Judiciary-Dem); Fragoso, Michael (Judiciary-Rep)
Cc: Greenfeld, Helaine A. (OLA)
Sent: June 16, 2021 3:01 PM (UTC-04:00)
Attached: SJC Supplement - Schroeder - 6.16.21.pdf

Phil and Mike,

Attached please find supplemental information from Chris Schroeder for his Senate Judiciary Questionnaire. Thank you.

Joe

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

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: DOJ Binder
To: Gaeta, Joseph (OLA)
Cc: Ragsdale, DeLisa (Judiciary-Rep); CEG (Judiciary-Rep)
Sent: April 30, 2021 4:58 PM (UTC-04:00)

Joe, we received a binder from DOJ that purported to include responsive letters to the binder of unresponsive letters that Senator Grassley gave AG Garland at his nomination hearing. We'd like to note the following:

1. The DOJ binder failed to include responses to all the letters CEG gave AG Garland (notably the Hunter Biden FARA letter);
2. The response letters fall into two categories: (1) non-responsive letters that we've had for years, DOJ reissued the same letters; (2) new response letters that fail to fully answer the questions posed;
3. The binder also does not include any requested records.

At the meeting between Senator Grassley and AG Garland on Wednesday, Senator Grassley stressed the importance of providing full and complete responses to his oversight letters. Senator Grassley also stressed the need to provide not just letters but records in response to his requests. Their discussion was productive and, based on my interpretation, they had a meeting of the minds. This binder does not match the spirit of Wednesday's meeting.

Josh

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Clarke TPs
To: Gaeta, Joseph (OLA)
Cc: Greenfeld, Helaine A. (OLA); Payton, Rayshon J. (OLA); Charlet, Joseph (Judiciary-Dem); Seidman, Ricki (OASG)
Sent: April 13, 2021 2:00 PM (UTC-04:00)
Attached: TPs - Clarke Kim - Qualified Immunity - 4.13.21 - to Chiefs.docx

Here's a qualified immunity set of TPs that we're using for both Clarke and Kim. We don't anticipate circulating any additional TPs for Kristen before tomorrow.

From: Brest, Phillip (Judiciary-Dem)
Sent: Monday, April 12, 2021 10:56 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Charlet, Joseph (Judiciary-Dem) (b) (6); Seidman, Ricki (OASG) (b) (6)
Subject: RE: Clarke TPs

Three more sets of TPs, attached.

From: Brest, Phillip (Judiciary-Dem)
Sent: Monday, April 12, 2021 5:51 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Charlet, Joseph (Judiciary-Dem) (b) (6); Seidman, Ricki (OASG) (b) (6)
Subject: RE: Clarke TPs

Two more sets of TPs for your awareness, with more to come.

From: Brest, Phillip (Judiciary-Dem)
Sent: Friday, April 9, 2021 10:18 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Charlet, Joseph (Judiciary-Dem) (b) (6); Seidman, Ricki (OASG) (b) (6)
Subject: RE: Clarke TPs

Here are two more sets of TPs that we have now sent to Chiefs. We have a number of additional sets in the works.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, April 9, 2021 7:38 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6); Charlet, Joseph (Judiciary-Dem) (b) (6); Seidman, Ricki (OASG) (b) (6)
Subject: Re: Clarke TPs

Ok

On Apr 9, 2021, at 7:14 PM, Gaeta, Joseph (OLA) (b) (6) wrote:

These claims have already been [debunked](#). This story is the work of the same disinformation group, talking about the same conference Kristen helped with logistical support as a student assistant to a professor over 20 years ago. She didn't speak at the conference, and her involvement does not convey her views on any of these cases.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, April 9, 2021 2:20 PM
To: Gaeta, Joseph (OLA) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: Clarke TPs

What's your response? Please send TPs if you have.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, April 9, 2021 2:18 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: Clarke TPs

<https://www.foxnews.com/politics/biden-doj-kristen-clarke-conference-cop-killers>

fyi

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, April 9, 2021 1:59 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon J. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: Clarke TPs

Helaine, Joe, and Rayshon,

Sharing for your awareness two sets of TPs for Kristen Clarke that we have put together and circulated to Chiefs. Just to keep you informed, we'll send you additional sets of TPs as we finalize and circulate those.

Phil

KRISTEN CLARKE AND TODD KIM: QUALIFIED IMMUNITY

- Republicans may try to use Kim’s defense of qualified immunity while D.C. Solicitor General to create a wedge between him and Clarke.
- As Solicitor General, Kim represented the District’s interests—whether or not those interests aligned with his personal views—and that at times included asserting that Metropolitan Police Officers (MPD) were entitled to qualified immunity.
 - Kim represented the District and MPD in several cases in which he invoked a qualified immunity defense, including *District of Columbia v. Wesby*, where the Supreme Court unanimously sided with the District that police officers who made arrests at a house party were entitled to qualified immunity.
 - There is no evidence that Kim’s invocation of qualified immunity on behalf of MPD was an assertion of his own beliefs.
- Ultimately, Kim’s views on qualified immunity are irrelevant to his nomination, as the Assistant Attorney General for the Environment and Natural Resources Division has no jurisdiction over law enforcement misconduct.
- Clarke has previously called to end qualified immunity, citing its role in deteriorating community trust in law enforcement.
- However, as Assistant Attorney General for the Civil Rights Division, Clarke will not be a policy maker. She will advance the rule of law as determined by statute, the Constitution, and judicial precedent.

KRISTEN CLARKE HAS NO BIAS TOWARD ANYONE

- Republicans may try to use accusations from conservative commentators to paint Clarke as a Black supremacist, an anti-Semite, or as someone who generally does not care about the civil rights of white people.
- These accusations are part and parcel of a tired tactic of generating controversy by distorting events or outright lying about a nominee's record and letting those fictions grow in a disinformation echo chamber.
- The accusations that Clarke harbors Black supremacist views stem from a willful misreading of satirical hyperbole she used as a college student in a letter to the *Harvard Crimson* to highlight the absurdity of *The Bell Curve*'s racist arguments about connections between race and intelligence.
- The accusations that Clarke is anti-Semitic stem from the same fracas. Wellesley Professor Tony Martin came to Harvard to lead a teach-in on racism on behalf of the Harvard Black Student Association ("BSA").
 - The Harvard Hillel organization objected to Martin's selection due to his recent authorship of an anti-Semitic book.
 - As BSA president, Clarke initially defended Martin as "an intelligent, well-versed Black intellectual who bases his information on indisputable fact," but in that same college interview she also immediately recognized the immediate need for "serious dialogue" to take place between the BSA and Hillel in order to move past this incident.
- Contemporaneously, the Harvard Hillel tried to set the record straight on accusations of anti-Semitism against BSA and Clarke:
 - Immediately after the *Harvard Crimson* reported that the incident "tests Hillel-BSA relationship," the Hillel Steering Committee wrote to the paper to explain that while Hillel was "shocked and saddened by the choice of this divisive and hurtful speaker," they were "encouraged that the BSA and Hillel have a commitment to continue intergroup programming" and "[w]e strongly support the BSA's continued effort to expose the flaws in the *The Bell Curve* theory."

- Clarke has said it “was a mistake to accept [Martin’s] offer to come and to defend him,” noting that “[g]iving someone like him a platform, it’s not something I would do again.”
- Many prominent Jewish commentators and organizations have defended Clarke against these accusations.
 - Jennifer Rubin recently wrote in her column: “What is outrageous is that [Clarke’s] actions and words are being taken out of context and distorted, that her work with the Jewish community is ignored, and that false charges of anti-Semitism are used to bring down an eminently qualified woman.”
 - The Jewish Council for Public Affairs also recently wrote to the Committee to say the organization “considers attempts to focus on purported antisemitism during [Clarke’s] nomination process to be inappropriate, pretextual, and baseless.”
- In fact, Clarke enjoys the endorsement of the National Council of Jewish Women, the Anti-Defamation League, and the Union for Reform Judaism, among other prominent groups.
- Attorney General Garland also defended Clarke during his own confirmation hearing, telling the Committee that “I do not believe that she is an anti-Semite, and I do not believe she is discriminatory in any sense.”
- The facts are clear. The depth and breadth of Clarke’s civil rights experience overwhelmingly demonstrate that Clarke has no bias toward anyone and will fight to defend the civil rights of all Americans.
- Clarke herself is the daughter of immigrants who would be the first woman of color confirmed as Assistant Attorney General for the Civil Rights Division, and the first Black woman to oversee civil rights at the Justice Department.
- Clarke has repeatedly and successfully defended employees’ right to observe their faith. For example, while Chief of the New York Attorney General’s Civil Rights Bureau, Clarke oversaw the investigation and successful settlement of complaints by:

- a Jewish new hire at an engineering consulting firm who had his employment offer rescinded when the firm discovered he observed a Saturday Sabbath; and
- Jewish and Seventh Day Adventist nurses whose hospital repeatedly denied their requests to modify their work schedules so they could observe the Sabbath.
- Clarke has been at the forefront of confronting the growth of online anti-Semitic and other hate-based promotion and harassment, which has led to the shutdown of several white supremacist sites, including *Stormfront*, a central site in the organization of the 2017 “Unite the Right” rally in Charlottesville.
- Even in her voting rights work, Clarke has been clear that, while many voting restrictions “have racialized impacts...there are poor white people, []there are students, []there are elderly, []there are former military people who are impacted by these laws as well.”
 - In the course of litigation in *Veasey v. Abbott*—challenging against a discriminatory Voter ID law in Texas—Clarke noted that she and the Lawyers’ Committee successfully used testimony from white citizens, elderly citizens, and veterans to show the District Court the full extent of the law’s harms.

Kristen Clarke’s record is clear—she harbors no bias towards anyone. As the Assistant Attorney General for the Civil Rights Division, Clarke will continue to champion the civil rights of *all* Americans.

UNFOUNDED ACCUSATIONS AGAINST KRISTEN CLARKE REGARDING THE NEW BLACK PANTHER PARTY

- Conservative news commentators have reported that Clarke, while at the NAACP Legal Defense and Education Fund (“LDF”), pressured the Obama administration’s Justice Department to drop a voter intimidation case against two members of the New Black Panther Party.
 - The case concerned allegations that two New Black Panther Party members—both wearing military style gear and one carrying a nightstick—discouraged some people from voting at a Philadelphia precinct in November 2008.
 - The two men were escorted from the polling location by police and no voters reported having been intimidated by these men.
- These accusations misstate reality; in fact, the Obama administration did not drop the case at all:
 - Under President Bush, the Justice Department initiated an investigation into the allegations of voter intimidation. After initially considering criminal charges against the two men, the Department instead opted to pursue a civil suit.
 - Under President Obama, the Justice Department continued the civil suit initiated under Bush, ultimately obtaining a permanent injunction against the man carrying the nightstick from displaying any weapon near a polling place on election days.
- The U.S. Commission on Civil Rights (“USCCR”) opened an investigation into this case after former Department attorney J. Christian Adams wrote on the conservative site *Pajamas Media* that “The Department has repeatedly claimed the ‘facts and law’ did not support the case.”
 - The Justice Department maintains that criminal charges were not brought because “the standards for proof are high” for prosecutions under the Voting Rights Act. At the time there had been only three successful prosecutions since the VRA was enacted in 1965.

- During the course of the USCCR investigation, conservative media reports surfaced that Clarke pressured the Obama administration into dropping the case. These accusations appear to have originated from unsubstantiated claims made by a Department attorney who had no firsthand knowledge of any purported interactions between Clarke and other Department attorneys, but told the USCCR that this interaction was reported to him.
- In response to interrogatories from the USCCR, the Justice Department consistently maintained that it had “identified no communication, oral or otherwise, with Kristen Clarke of the NAACP Legal Defense Fund relating to this litigation.”
- Clarke also provided sworn testimony in a deposition to the USCCR that, with respect to this case, she did not contact anyone at the Department or initiate contact with the Department through third parties.
- Clarke did have minimal contact with two Department attorneys, who were former colleagues from her time in the Civil Rights Division. This contact was limited and non-substantive, and it was the Department attorneys, not Clarke, who initiated this contact.

**KRISTEN CLARKE: THE RIGHT NOMINEE TO RESTORE
THE CIVIL RIGHTS DIVISION**

- Under Attorneys General Sessions and Barr, the Civil Rights Division became a shell of its former self. During the Trump Administration, the Division:
 - Prohibited the use of consent decrees with local police departments, abandoning a critical tool in efforts to reform police-community relationships.
 - Abandoned longstanding litigating positions in key voting rights cases, lodging support for a suppressive voter ID law in Texas and a harmful voter purge law in Ohio, among other restrictive measures.
 - Rescinded guidance aimed at strengthening protections for transgender students and abandoned its opposition to an anti-transgender law in North Carolina.
- In short, the Trump Administration used the Civil Rights Division to effectuate a widespread rollback of core civil rights.
- With Kristen Clarke's nomination, the Civil Rights Division is poised to regain its stature and revitalize its role.
 - As a veteran of two of the Division's sections, Clarke knows the key role played by the Division's line attorneys. She will restore the independence that these line attorneys need to carry out their mission—the defense of *all* Americans' civil rights.
 - As a former prosecutor, Clarke is ideally positioned to prosecute those who perpetrate hate crimes and deliver justice to hate crime survivors and their families.
 - As a voting rights expert, Clarke is ready to hit the ground running in defense of this most fundamental of rights—one that is under assault nationwide, as states move to curb early voting hours and close polling locations in communities of color.
 - As the President and Executive Director of the Lawyers' Committee—one of the nation's preeminent civil rights organizations—Clarke has the

- depth and breadth of experience and the management skills needed to lead the Division's attorneys as they protect the rights of religious minorities, combat human trafficking, and root out employment discrimination.
- And having forged relationships with federal, state, and local law enforcement throughout her career, Clarke is uniquely positioned to both use the Division's traditional tools for police accountability and to build on her relationships to help law enforcement agencies proactively develop and implement policies that will help them build more trust with the communities they serve.
 - Clarke's experience and her commitment to faithfully executing the law have won her the support of multiple former Justice Department officials from both political parties—including senior Republican appointees Stuart M. Gerson, Donald Ayer, Kenneth Wainstein, and J. Stanley Pottinger.
 - As a number of these officials noted in a bipartisan letter: “This is a critical time in our nation's history, when violent extremism is on the rise, hate crimes against vulnerable communities are more commonplace, and our institutions have been undermined by disinformation and chaos. The Civil Rights Division will play a key role in addressing these pressing issues and protecting the rights of vulnerable populations. Ms. Clarke's experience, in addition to her high character, make her a superior choice to lead that important Division.”
 - In short, Kristen Clarke is the right nominee to restore integrity, independence, and a renewed sense of purpose to the Civil Rights Division.

KRISTEN CLARKE AND THE FRATERNAL ORDER OF POLICE

- The Fraternal Order of Police (FOP) has not sent the Committee a letter on Clarke’s nomination, and they do not intend to do so.
- In early March, the FOP took the unusual step of issuing a press statement explaining their neutrality regarding Clarke’s nomination. The FOP explained that they were issuing the statement because they had “received multiple inquiries” about their position on Clarke’s nomination.
- The FOP’s press release stated, “the FOP cannot support [Clarke’s] nomination for this post because we are too far apart on important—critically important—matters of policy.”
- The FOP’s statement also noted that they had engaged in “two lengthy conversations” with Clarke. The FOP added: “We appreciate her communicativeness and cooperative spirit.”
- The FOP thanked Clarke “for her candor and for generously giving us so much of her time.”
- Republicans are likely to mischaracterize the FOP’s press statement as a letter of opposition to the Committee.

KRISTEN CLARKE AND MUMIA ABU-JAMAL ACCUSATIONS

- *Fox News* [alleged](#) that Clarke “organized [a] conference championing cop-killers”—specifically citing Mumia Abu-Jamal. Tucker Carlson said that Clarke “worked very hard to get Abu-Jamal free. Clarke even referred to him as a ‘political prisoner.’”
- Mumia Abu-Jamal was convicted in 1982 of the murder of Philadelphia police officer Daniel Faulkner. Faulkner’s murder occurred in 1981, when Clarke would have been 7 years old.
- Maureen Faulkner, the widow of Officer Faulkner, went on *Tucker Carlson Tonight* and said of Clarke: “She hates white people, that’s my honest to God true feeling. And she wants to defund the police. She’s a vile woman. And she’s dangerous.”
- Clarke never worked on Abu-Jamal’s case, nor did she refer to him as a political prisoner. It’s true that LDF represented Abu-Jamal on one of his appeals—successfully. But Clarke worked on voting rights at LDF, not criminal defense matters.
- The conference that *Fox News* mentioned took place in 1999 when Clarke was a law student at Columbia University. Clarke helped organize the event, but she was not a panelist.
- The conference had five panel discussions about racism in the criminal justice system. Two of the five were titled: “Black Political Prisoners Inside the United States,” and “Plenary Session ‘In Defense of Mumia:’ The Political Economy of Race, Class, Gender & Social Death.”
- The panelists included a range of academics, prominent criminal defense lawyers, and clergy. One of the panelists was Harvard Law Professor Charles Ogletree.

KRISTEN CLARKE: A RECORD OF COOPERATION WITH AND SUPPORT FROM LAW ENFORCEMENT

- Republicans may use Clarke’s hearing to level baseless claims that she is anti-police. But Clarke’s record is clear — she has worked productively and cooperatively with law enforcement for decades, both as a prosecutor and at the Lawyers’ Committee, and she enjoys support from a broad coalition of law enforcement groups.
- Republicans are likely to argue that Clarke supports defunding the police. They may cite a 2020 *Newsweek* op-ed that Clarke authored, *I Prosecuted Police Killings. Defund the Police—But Be Strategic*.
 - Importantly, Clarke did not choose the title of this piece; rather, editors at *Newsweek* chose the title, which oversimplifies Clarke’s central premise and distracts from the nuanced position she actually advances.
 - As the piece makes clear, Clarke “advocate[s] for defunding policing operations that have made African Americans more vulnerable to police violence and contributed to mass incarceration, while investing more in programs and policies that address critical community needs.”
 - Clarke goes on to push for more investment in social workers, school support professionals such as counselors and nurses, and mental health aid. Driving this proposal is a well-reasoned, thoughtful conclusion with which many in law enforcement agree: “Police departments today have too much contact with communities on issues they were never equipped to address.”
 - Clarke does advocate the outright elimination of certain elements of police budgets, including the use of surplus military “tanks, riot gear and tactical vehicles” provided to state and local police forces under the federal 1033 program. But there is considerable support even among Republicans for ending 1033. Senators Paul and Murkowski co-sponsored an amendment to the FY2021 National Defense Authorization Act (NDAA) that would have put an end to the 1033 program, and Senators Daines and Gardner joined them in supporting the amendment.
- Regardless of Republican claims, the truth is that Clarke has worked closely with—and commanded the respect of—law enforcement:

- As a **federal prosecutor** in the **Civil Rights Division**, Clarke worked closely with federal law enforcement agents from the FBI, ICE, and other agencies in the investigation and prosecution of hate crimes and human trafficking cases.
- As a **Special Assistant United States Attorney (SAUSA)** in the **D.C. U.S. Attorney’s Office**, Clarke worked closely with law enforcement in the investigation and prosecution of domestic violence and sex offense cases.
- As President and Executive Director of the Lawyers’, Clarke served on an Advisory Committee, “Enhancing the Response to Hate Crimes,” established by the Lawyers’ Committee and the **International Association of Chiefs of Police (IACP)**.
- It’s no surprise, then, that Clarke enjoys strong support from multiple law enforcement groups, including the Major Cities Chiefs Association (MCCA), National Organization of Black Law Enforcement Executives (NOBLE), a bipartisan group of over 70 former state Attorneys General, and more than 40 police chiefs and sheriffs throughout the nation. These groups have said the following:
 - **MCCA:** Clarke “neither support[s] defunding the police nor believe[s] that doing so will bring about the change our communities are calling for.” Clarke “pledged to work closely with the MCCA to support and amplify” local law enforcement efforts in developing equitable practices and policies.
 - **NOBLE:** Clarke “has displayed the qualities of leadership, empathy, excellence, and persistence in supporting and defending the U.S. Constitution while ensuring equal protection and justice for all Americans.”
 - **Bipartisan Former Attorneys General:** “We are former State Attorneys General in each of our respective states, who belonged to both Republican and Democratic parties. . . Kristen Clarke is someone with immense credibility among community leaders in each of our states—she has handled cases of hate crimes, constitutional policing, human

trafficking, and voting rights, and, most recently, has done effective work on violent extremism and the threat that it poses to our citizens.”

- **Police Chiefs and Sheriffs:** Led by Charles Ramsey—the former Commissioner of the Philadelphia and Washington, D.C. Police Departments and Past President of the Major Cities Chiefs Association—a group of more than 40 police chiefs, sheriffs, police commissioners, and others wrote of Clarke: “While many issues contribute to the deterioration of trust between law enforcement and communities (such as unconstitutional policing and misconduct), there are also many solutions. . . . Kristen Clarke, the President’s Civil Rights Division nominee, is someone who is undoubtedly a part of the solution. First and foremost, she is a listener. Throughout her career, first as a federal prosecutor prosecuting sensitive human trafficking cases, domestic violence cases, and litigating voting rights cases, she demonstrated an uncanny ability to work closely with federal and state and local law enforcement officials, and worked closely with domestic violence survivors and crime victims to ensure they obtained justice.”

KRISTEN CLARKE: DEFENDER OF RELIGIOUS RIGHTS AND LEADER IN THE FIGHT AGAINST ANTI-SEMITISM

- At both the New York Attorney General’s Office and at the Lawyer’s Committee, Clarke has defended religious freedom and has been an innovative leader in the fight against anti-Semitism.
- Within months of being named Chief of the New York Attorney General’s Civil Rights Bureau in 2011, Clarke played a key role in launching a religious rights initiative to address faith-based discrimination and violations of religious rights through public education, outreach, and law enforcement.
- While Chief of the Civil Rights Bureau, Clarke repeatedly defended Jewish employees’ right to observe their faith.
 - From 2011 to 2012, Clarke oversaw the investigation into a complaint filed by a new hire at an engineering consulting firm who had his employment offer rescinded when the firm discovered he observed a Saturday Sabbath and would need an occasional accommodation to be home before sundown on Fridays. The Bureau reached a settlement with the firm, requiring it to implement policies consistent with New York State law concerning religious accommodations.
 - Clarke oversaw another investigation and settlement from 2011 to 2012 on behalf of Jewish and Seventh Day Adventist nurses who filed a complaint that they were repeatedly denied requests to modify their work schedules so they could observe the Sabbath.
- Under Clarke’s leadership, the Lawyers’ Committee has been at the forefront of confronting the growth of online anti-Semitic and other hate-based promotion and harassment.
 - The Lawyers’ Committee has taken a series of actions that have led to the shutdown of virulent white supremacist sites, including *Stormfront.org*, *AltRight.com*, and *VDARE*, for violating their domain hosts’ use policies against.
 - *Stormfront*, in particular, had been home to over 300,000 registered users and was a central site in the organization of the 2017 “Unite the Right”

rally in Charlottesville. Over 100 murders in a five year period can be tracked back to some of the site's most prolific users.

- Additionally, Clarke has pushed Congress to take seriously the threat of online hateful threats and harassment from white nationalists towards Jews, African Americans, and other marginalized communities, testifying at House of Representatives hearings on hate crimes that “instead of hiding behind masks, [white supremacists] hide behind computer screens...but the actions of online white supremacists are new in form but not in substance.”
- Clarke's record of leadership and real results in promoting religious liberty and fighting against anti-Semitism has earned her the robust support of several major Jewish organizations:
 - **National Council of Jewish Women:** “A central tenet of NCJW is tzedek, tzedek tirdof, or the pursuit of justice....Given her life's work, Kristen Clarke will support our mission and restore integrity, independence, and the pursuit of justice to this critical federal agency.”
 - **Anti-Defamation League:** “As a partner in the anti-hate and voting rights work..., ADL is directly aware of [Clarke's] deep and unambiguous personal commitment to justice for all, including her steadfast support in the fight against antisemitism.”
 - **Union for Reform Judaism:** “At every turn, Ms. Clarke has been a steadfast ally to the Jewish community and a trusted partner in the fight against white supremacy and antisemitism.”

KRISTEN CLARKE AND VOTING RIGHTS

- Republican lawmakers and conservative advocacy groups are working to implement an anti-voting rights agenda.
 - So far, post-2020 election, [more than 250](#) voter suppression bills have been introduced in 45 states. Georgia recently enacted SB 202, which limits absentee ballot access, restricts use of ballot drop boxes, reduces early voting opportunities, and makes it a crime for any organization or person to provide food or water to people in line to vote.
- A strong Civil Rights Division is necessary to ensure ballot access for people of color, those with limited English proficiency, individuals with disabilities, elderly individuals, and others who have historically faced voter disenfranchisement.
 - Throughout the Trump Administration, Justice Department enforcement of the Voting Rights Act was virtually nonexistent. The Administration did not file a single new case under Section 2 of the VRA until May 2020.
- Kristen Clarke has a long record of protecting voting rights for all and is the right person to restore the Civil Rights Division.
 - Clarke was a strong advocate for the 2006 reauthorization of the VRA. Former Republican National Committee Chairman Michael Steele submitted a letter of support for her nomination in which he stated that she assembled an “impressive bipartisan coalition that ultimately resulted in overwhelming passage” of the reauthorization, including a 98-0 vote in the Senate. [Grassley, Graham, Cornyn are the current Committee Republicans who voted for reauthorization]

- During the George W. Bush Administration, Clarke served as a Trial Attorney in the Civil Rights Division's Voting Section. In this capacity, she enforced the VRA, helped coordinate election monitoring efforts, and addressed issues faced by language minority voters.
- As President of the National Lawyers' Committee for Civil Rights Under Law, Clarke fought back against President Trump's attempts to undermine our elections. She helped devise a lawsuit challenging Trump's Presidential Advisory Commission on Election Integrity, which advanced false claims about voter fraud.
- As co-director of the NAACP LDF's voting rights docket, Clarke argued against restrictive voter ID requirements (*Crawford v. Marion County Election Board*) and defended the VRA's coverage and preclearance formulas before the Roberts Court gutted the law in 2013 (*Shelby County v. Holder*).

**KRISTEN CLARKE: A RECORD OF COMBATING HATE AND
DELIVERING JUSTICE TO HATE CRIME SURVIVORS**

- From her time in the Justice Department’s Civil Rights Division to her tenure in the New York Attorney General’s Office to her work at the Lawyers’ Committee, Kristen Clarke has fought tirelessly to prosecute those who perpetrate hate crimes and deliver justice to hate crime survivors and their families.
- **Civil Rights Division:** As a lawyer in the Civil Rights Division, Clarke investigated and prosecuted hate crimes, human trafficking, and police misconduct.
 - Among other cases, in 2005, Clarke helped prosecute a Kentucky man who set fire to the apartment of three Black football players who attended a local university in an effort to intimidate the men into leaving the all-white neighborhood in which they lived.
- **New York Attorney General’s Office:** As the Chief of the Civil Rights Bureau in the New York Attorney General’s Office, Clarke helped to direct investigations and prosecute discrimination cases on the basis of race, color, national origins, sex, marital status, sexual orientation, gender identity, religion, source of income and disability status.”
- **Lawyers’ Committee:** As President and Executive Director of the Lawyers’ Committee, Clarke has been a leader in efforts to end hate crimes.
 - She oversaw creation of the Stop Hate Project, which has grown into the James Byrd Jr. Center to Stop Hate, providing critical community resources, training, and support for law enforcement to investigate and root out hate crimes.
 - From 2017 to 2019, Clarke served on an Advisory Committee, “Enhancing the Response to Hate Crimes,” established by the Lawyers’ Committee and the **International Association of Chiefs of Police (IACP)**.
 - In part because of this effort, Vincent Talucci, the Executive Director and Chief Executive Officer of IACP, wrote to Clarke: “Our partnership personifies the impact the policing and civil

rights communities can have when working together to address complex issues—as our joint efforts have spanned from addressing challenges within a local police organization to building a national effort to enhance the response to hate crimes.”

- In 2019, Clarke and the Lawyers’ Committee represented Taylor Dumpson, the first African-American female student body president of American University, in a harassment suit against the *Daily Stormer*, a neo-Nazi website. Thanks to Clarke and her tireless advocacy on Dumpson’s behalf, Dumpson won a \$725,000 judgment against the *Daily Stormer* for inciting a racist “troll storm” targeting her.
- In January 2021, Clarke and the Lawyers’ Committee filed a lawsuit on behalf of Washington, D.C.’s Metropolitan African Methodist Episcopal Church, an historic Black church targeted and vandalized by members of the Proud Boys in December 2020.
- Given Clarke’s tireless work against hate crimes and on behalf of hate crime survivors, it’s no surprise that survivors, their families, and victims’ rights advocates strongly endorse her nomination.
 - **Hate Crime Survivors:** The families of James Byrd Jr., Matthew Shepard, Emmett Till, Heather Heyer, and others, including 2nd Lt. Richard Collins III—a young Black man murdered by a white supremacist—strongly support Clarke’s nomination. As they wrote, Clarke “has fought tirelessly on behalf of those, like ourselves, who have had their lives devastated by hateful activity and she has done so with a fierce dedication to raising up the stories of victims of racist and bigoted violence.”
 - **Victims’ Rights Groups:** Leading victim/survivor advocates, crime survivors, and allied criminal justice professionals wrote that Clarke “has been a strong proponent for standing up for those who suffer from online harassment, online solicitation of violence, and accountability for social media platforms that do not adequately safeguard their platforms according to their terms of service.”
- When confirmed to lead the Civil Rights Division, Clarke will continue to work tirelessly to combat hate crimes, root out white supremacy, and bring justice to crime survivors and their families.

From: Gaeta, Joseph (OLA)
Subject: working document - KC topline points
To: Brest, Phillip (Judiciary-Dem); Charlet, Joseph (Judiciary-Dem)
Cc: Payton, Rayshon (OLA); Seidman, Ricki (OASG)
Sent: March 23, 2021 3:22 PM (UTC-04:00)

This is a work in progress, with details to be filled in. Happy for your comments during our call.

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 served for 6 (?) years as a line attorney during the Bush Administration.
- Clarke led the New York Attorney General's civil rights bureau.
- 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 and earlier in her career, as a litigator 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, online hate speech, and criminal justice reform.

Clarke is a **career civil rights lawyer** who has spent most of her life in **public service**. She is the best person to lead the Civil Rights Division at this time.

- **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.
- **PROTECTING RELIGIOUS MINORITIES:** As chief of the Civil Rights Bureau in NY, Clarke defended Jewish employees' right to observe their faith (NUMBER OF CASES TO DRAW FROM)
- **USING THE LAW TO STAND UP TO HATE:** Under Clarke's leadership, the Lawyers' Committee for Civil Rights 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 African American female student body president of American University. It was the first use of public accommodations law to stop racist, online trolling. The legal effort [successfully shutdown the internet's longest-running white supremacist website, Stormfront](#), using violations to its webhosts' terms of service violations. "[Stormfront was unique in that it was considered the "murder capital of the Internet" by the Southern Poverty Law Center and, as of 2014, over 100 murders were attributed to Stormfront users.](#)"
- **SECURING THE RIGHT TO VOTING:**

Clarke Has Spent Her Career **Building Bridges**

- [give context for history of LCCR as established bar's efforts to support equal justice...At LCCR she forged partnerships with the private bar and the private sector in pursuit of civil rights for all.
- At LCCR she brought together victims of hate crimes and members of public safety community to...
- Bipartisan voter access work
- [more TK]

Clarke's **Lived Experience** is an excellent complement to her unparalleled legal credentials

- Would Be the First Woman Confirmed To Lead The Civil Rights Division
- Would be only the 4th Black person confirmed to lead the Division in its 64 year history
- Personal story exemplifies achievement when offered opportunity
 - Lawyer origin story, which involved a high school field trip to a Connecticut courtroom for the

Sheff v. O'Neill school segregation case

- Daughter of Jamaican immigrants who lived in public housing in Brooklyn
- obtained scholarship to high school and attended Harvard and Columbia Law School
- single mother to a teenage son who managed motherhood with professional life by over the years colleagues knowing she was offline between 6-8:30 for dinner and bedtime before going back to the grind.

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

From: Hudson, Drew (Cotton)
Subject: Cotton Supplemental QFRs to Gupta
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Cc: Colas, Brian (Cotton)
Sent: March 21, 2021 11:19 PM (UTC-04:00)
Attached: COTTON SUPPLEMENTAL QFRS FOR GUPTA (210321).pdf

Hi, Helaine and Joe,

Please find attached several supplemental QFRs from Senator Cotton to Vanita Gupta, nominee to be Associate Attorney General of the United States.

Thank you,

Drew Hudson
Chief Counsel
Office of Sen. Tom Cotton
Senate Judiciary Committee

(b) (6)

From: Davis, Andrew (Judiciary-Rep)
Subject: Cruz Supplemental QFRs for Gupta
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Cc: Long, Jeff (Judiciary-Rep)
Sent: March 20, 2021 7:51 PM (UTC-04:00)
Attached: 2021.03.20 -- Cruz Supplemental QFRs for Gupta (final).pdf

Helaine and Joe:

Please find attached supplemental QFRs from Senator Cruz to Ms. Gupta.

Regards,

Andrew Davis

Chief Counsel, U.S. Senator Ted Cruz (R-Texas)

U.S. Senate Committee on the Judiciary

(b) (6)

From: Fragoso, Michael (Judiciary-Rep)
Subject: Grassley Follow Up QFRs for Gupta
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Cc: Rodriguez, Tim (Judiciary-Rep); Michalak, Gabrielle (Judiciary-Rep); Rajasekar, Akhil (Judiciary-Rep)
Sent: March 20, 2021 2:57 PM (UTC-04:00)
Attached: Grassley Follow Up QFRs for Gupta.docx

Hi Helaine and Joe,

I have some follow-up questions from Sen. Grassley for Ms. Gupta.

Have a good weekend,

Mike

Michael A. Fragoso

Chief Counsel for Nominations and the Constitution

Senate Judiciary Committee

Ranking Member Chuck Grassley (R-Iowa)

(b) (6)

From: Aronson, Alex (Judiciary-Dem)
Subject: FW: QFRs
To: Gaeta, Joseph (OLA)
Sent: March 18, 2021 3:16 PM (UTC-04:00)

(b) (6)

From: Goodstein, Sam (Whitehouse) (b) (6)
Sent: Thursday, March 18, 2021 1:29 PM
To: Aronson, Alex (Judiciary-Dem) (b) (6)
Cc: Karetny, Josh (Whitehouse) (b) (6); Jackson, Matthew (Whitehouse)
(b) (6)
Subject: Re: QFRs

That's not an invitation I want to accept. I'd drop the question about plaintiff recruitment as well.

From: Alex Aronson (b) (6)
Date: Thursday, March 18, 2021 at 1:27 PM
To: Sam Goodstein (b) (6)
Cc: Josh Karetny (b) (6), "Jackson, Matthew (Whitehouse)"
(b) (6)
Subject: Re: QFRs

Ok, but I thought he invited me to make a pitch to convince him. (Maybe I made that pitch on the call and did not, however.) If we remove all the funding questions, are you comfortable with the question about his work on King and potential recruitment of plaintiffs?

On Mar 18, 2021, at 1:18 PM, Goodstein, Sam (Whitehouse) (b) (6) wrote:

Sheldon was pretty clear that he doesn't want these questions directed at Adler, so let's remove them.

From: Alex Aronson (b) (6)
Date: Thursday, March 18, 2021 at 12:11 PM
To: Sam Goodstein (b) (6), Josh Karetny
(b) (6)
Cc: "Jackson, Matthew (Whitehouse)" (b) (6)
Subject: QFRs

Here's a proposed email to SW. I've revised the Adler QFRs. As I explain below, I've left some of the funding requests in that are more narrowly tailored to specific work he's done.

--
Senator,

Please find attached draft questions for the record for last week's hearing witnesses.

We've cut most of the Adler funding questions (about his surely lucrative work with Cato, FedSoc, GMU's center for study on admin state, etc.), but as you'll see have left a few that are more narrowly tailored to specific work he has done. The more personal questions to Adler, about his work on *King v. Burwell* and his Koch anti-climate ties, begin at question 12.

Here's my pitch on pressing Adler for some of this more personal information notwithstanding his not running a group: An important aspect of our court capture thesis is that the Koch/Leo network lavishly funds people like Adler, to serve as totems, add institutional credibility, and develop the doctrinal frameworks for right-wing judicial activism (as Adler did in the *King* ACA challenge). Adler is one of the most high-profile and publicly combative of Leo's academic influencers (and he certainly likes to criticize you for calling attention to the scheme). My concern is that if we go too easy on him simply by virtue of his being a professor, it only validates this aspect of their scheme, insulating fundamentally bad-faith political actors from accountability and lending implicit credibility to their arguments.

From: Charlet, Joseph (Judiciary-Dem)
Subject: Clarke call
To: Gaeta, Joseph (OLA); Payton, Rayshon (OLA)
Cc: Brest, Phillip (Judiciary-Dem)
Sent: March 18, 2021 10:27 AM (UTC-04:00)

Hi Joe and Rayshon,

Now that we have the Clarke SJQ in hand, Phil and I are hoping to set up another call in order to follow-up on the discussion we had last week. Would you both be available next week, either sometime Tuesday afternoon or Wednesday?

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: Miller, Derek (Casey)
Subject: Vanita Gupta
To: Gaeta, Joseph (OLA)
Cc: Fountaine, Adam (Casey); Butherus, Jessica (Casey)
Sent: March 15, 2021 5:09 PM (UTC-04:00)

Joe:

Senator Casey would like to request a courtesy meeting with Vanita Gupta prior to confirmation to her post at DOJ. As I mentioned to you today, we have a particular interest in some litigation pertaining to SNAP benefits and USDA that we would like to discuss, among other things. I'm cc:ing our scheduler, Jessica Butherus, and our judiciary LA, Adam Fountaine, whom I believe you've had the privilege of working with before.

Thanks. Please call with questions or let me know if you need more information. Once we get the meeting scheduled we'll be sure to give you more detailed over any topics that Senator Casey would like to discuss.

Thanks,

Derek

Derek Miller
Legislative Director
Senator Bob Casey
(b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Clarke/Initial Check-In
To: Gaeta, Joseph (OLA); Payton, Rayshon (OLA)
Cc: Charlet, Joseph (Judiciary-Dem); Hopkins, Maggie (Judiciary-Dem); Shepard, Anna (Judiciary-Dem)
Sent: March 12, 2021 12:39 PM (UTC-05:00)

Quick agenda for our 1 pm call. I have a hard stop at 1:30.

1. SJQ update (OLA)
2. Items to Flag (SJC)

From: Brest, Phillip (Judiciary-Dem)
Sent: Wednesday, March 10, 2021 3:17 PM
To: Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6); Shepard, Anna (Judiciary-Dem) (b) (6)
Subject: RE: Clarke/Initial Check-In

We can just do by phone – I'll circulate a dial-in

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, March 10, 2021 1:01 PM
To: Payton, Rayshon (OLA) (b) (6); Brest, Phillip (Judiciary-Dem) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6); Shepard, Anna (Judiciary-Dem) (b) (6)
Subject: RE: Clarke/Initial Check-In

I'm actually planning to be in the car then but not driving. I guess I could do zoom by phone.

From: Payton, Rayshon (OLA) (b) (6)
Sent: Wednesday, March 10, 2021 11:50 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6); Shepard, Anna (Judiciary-Dem) (b) (6)
Subject: RE: Clarke/Initial Check-In

Zoom works on my end.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Wednesday, March 10, 2021 11:46 AM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6); Shepard, Anna (Judiciary-Dem) (b) (6); Payton, Rayshon (OLA) (b) (6)
Subject: RE: Clarke/Initial Check-In

Yes re: wet signature. See Vanita's, attached.

Let's do 1 pm on Friday. Joe and Rayshon – zoom okay with you?

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Wednesday, March 10, 2021 11:41 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6); Shepard, Anna (Judiciary-Dem) (b) (6)
Payton, Rayshon (OLA) (b) (6)
Subject: RE: Clarke/Initial Check-In

Looping Rayshon, who should join.

How about sometime in the 1-2 window on Friday? I'm wide open Tuesday morning too, but if we hope to submit the SJQ on Monday might be good to talk before then.

Also, question for Phil: does the notarized affidavit for the SJQ need a wet signature?

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Wednesday, March 10, 2021 9:43 AM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6); Shepard, Anna (Judiciary-Dem) (b) (6)
Subject: Clarke/Initial Check-In

Good morning Joe,

Now that we're nearing the transmittal date on Kristen Clarke's SJQ and attachments, we thought it would be helpful to have an initial check-in to discuss strategy and messaging. Although we are more than a month out from the hearing date, we think having this conversation soon will set us up best to prime our members and achieve message discipline.

I'd like to suggest either this Friday (3/12) or next Tuesday (3/16). Can you let us know a few times those days that work for you?

Thanks,

Phil

From: Gaeta, Joseph (OLA)
Subject: more on Kristen Clarke
To: Hekhuis, Jeremy (Brown); Sarubbi, Vincent (Brown)
Sent: March 11, 2021 9:42 PM (UTC-05:00)
Attached: Kristen Clarke Has Long Partnered With Law Enforcement and is Looking For a Productive Respectful Relationship Working With Law Enforcement Leaders as the Assistant.pdf

Jeremy and Vince,

Thanks for the meeting with Senator Brown last week. Following up, I understand (but haven't seen) the FOP has issued a letter saying it cannot support Clarke, though stopping short of opposing her. The letter also expresses appreciation of her willingness to hear out their concerns. While we would have liked FOP's support, Kristen does have support from other law enforcement orgs, see the attached and this story:

[AP News re: Kristen Clarke Support from Law Enforcement](#)

I raise this to you because I'm also told that the FOP in Ohio (maybe the eastern part of the state) is particularly worked up about Clarke so you may be hearing from them. If I need to address any new concerns as a result of this let me know.

Joe

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

Kristen Clarke Has Long Partnered With Law Enforcement, and is Looking For a Productive, Respectful Relationship Working With Law Enforcement Leaders as the Assistant Attorney General of the Civil Rights Division

- Having started her career as a staff attorney and then federal prosecutor enforcing laws and civil rights laws in the administration of President George W. Bush, a return to the Department of Justice will be a homecoming for Clarke.
- **Clarke worked closely and productively with the FBI, ATF and state law enforcement on federal investigations early in her career.**
 - Clarke served as a federal prosecutor at the U.S. Department of Justice in the Criminal Section of the Civil Rights Division. During this time, she worked closely with federal and state and local law enforcement officials to conduct investigations into issues such as human trafficking, hate crimes and official misconduct.
- **Clarke worked with law enforcement to investigate and prosecute domestic violence cases, including intimate partner violence, family violence, assaults, and stalking. [See below the support from crime victims and domestic violence survivors].**
 - Clarke served as a Special Assistant Attorney General in the U.S. Attorney's Office in the District of Columbia. In this role, she worked closely with local law enforcement to conduct investigations, secure civil protection orders and carry out prosecutions into domestic violence matters.
- **Clarke worked hand-in-hand with New York State Police at the N.Y. Attorney General's Office, and partnered with sheriffs across the state of New York on best practices for working with communities with limited English proficiency.** As Chief of the Civil Rights Bureau in the New York State Attorney General's Office, Clarke worked with sheriffs' offices to institute best practices on language access to build trust and improve policing of communities with limited English proficiency. This collaborative work led to comprehensive language policies for forces across the state. Clarke further worked closely with New York State Police while serving the N.Y. Attorney General's office.
- **Clarke conducted training for the National Sheriffs' Association in 2017 on 21st Century Community Policing.** As head of the Lawyers' Committee for Civil Rights Under Law, Clarke helped lead a conversation about rebuilding trust between law

enforcement and the community, and all the stakeholders that interact with the criminal justice system.

- **Clarke partnered with the International Association of Chiefs of Police to Enhance the Response to Hate Crimes.** Over a series of months with law enforcement leaders across the country, Clarke and the IACP developed strategies in 2019 to enhance officers' response to hate crimes and hate incidents. These [model policies](#) have since been adopted by police forces across the globe. IACP President Paul Cell said of the joint project: "I believe the IACP and Lawyers' Committee have provided unique expertise to establish an achievable action agenda that will help stakeholders respond effectively to these crimes, improve the well-being of targeted communities, and enhance the quality of overall community-police relations."
- **Clarke has the complete and fulsome support of crime victims -- including hate crime victims -- who have observed her work throughout her career to seek justice on behalf of the most vulnerable.**
 - Domestic violence survivors and survivors of violent crime resoundingly support Clarke's nomination to give voice to those afflicted by violent crime. [See letters below].
 - Clarke has worked with law enforcement supporting these crime victims to seek justice and accountability for those who commit violent crimes against the most vulnerable.
- **Clarke is committed to working together with the FOP, police unions, and other law enforcement leaders to promote public safety and public trust and accountability.**
 - Clarke had extremely productive and mutually beneficial discussions with the FOP board and major law enforcement organizations, and looks forward to future discussions on how to build more trust and enhance public safety together.
 - Clarke is pleased that the FOP will look forward to working with her collaboratively in a way that benefits communities all over the country.

Endorsements/Statements

[\(AP News re: Kristen Clarke Support from Law Enforcement\)](#)

- **Major Cities Chiefs Association** (police executives representing the largest cities in the United States and Canada). [[Link to Letter](#)]
- **National Association of Police Organizations (NAPO) Executive Director Bill Johnson to Bloomberg on Feb. 2021:**
 - “The National Association of Police Organizations (“NAPO”) looks forward to working with **Kristen Clarke as she heads the U.S. Department of Justice’s Civil Rights Division. Ms. Clarke and I have already spoken several times since her nomination and are both deeply committed to strengthening and maintaining open lines of communication and honest and timely dialogue.** The tasks with which the Civil Rights Division is entrusted are of both great importance and great sensitivity. It is vital that the **Division and American law enforcement officers strive to maintain an effective and mutually respectful working relationship. NAPO has committed to always providing the most accurate sense of the challenges and conditions faced by our brother and sister officers, and Ms. Clarke has already been open and welcoming to our views. We both realize that we may not always agree with each other on every issue, but at the same time I believe we share a common goal of fair, effective, ethical and safe law enforcement.”**
- **International Association of Chiefs of Police (IACP) Executive Director Vince Talucci** personal letter. [[Link to Letter](#)]
- **National Organization of Black Law Enforcement Executives (NOBLE)** (founded in 1976; 60 chapters and 3,000+ members nationwide). [[Link to Letter](#)]
- **National Association of Women Law Enforcement Executives (NAWLEE)** [[Link to Letter](#)]
- **Hispanic American Police Command Officers Association (HAPCOA)** (oldest and largest association of Hispanic police officers). [[Link to Letter](#)]
- **71 Bipartisan Former State Attorneys General** (led by former Republican State Attorney General Grant Woods). [[Link to Letter](#)]
- **Crime Victim/Survivor Services -- 100+** [[Link to Letter](#)]
- **Domestic Violence Survivors** [[Link to Letter](#)][[Link to Letter](#)]

###

International Association of Chiefs of Police Executive Director Vincent Talucci

“While the International Association of Chiefs of Police (IACP) has peripheral engagement with the Civil Rights Division, my experience suggests that successful candidates selected to lead the Division are **communicative, fair, and transparent**. Given our direct working relationship in our respective roles, **you have demonstrated those qualities** in our collective Lawyers’ Committee and IACP efforts. Our partnership personifies the impact the policing and civil rights communities can have when working together to address complex issues -- as our joint efforts have spanned from addressing challenges within a local police organization to building a national effort to enhance the response to hate crimes.

I wish you well in the confirmation process and offer my appreciation for your willingness to serve. If confirmed, **I look forward to continuing our solid working relationship as you bring your professional hallmarks -- communicativeness, fairness, and championing of transparency – to your new role.**

- Vincent Talucci
IACP Executive Director / Chief Executive Officer
[Link to Letter](#)

Major Cities Chiefs Association (MCCA)

“The MCCA believes these nominees will be **effective leaders and valuable partners for local law enforcement agencies**. On behalf of the MCCA membership, I respectfully request the Committee act swiftly and support the nominations of Ms. Monaco, Ms. Gupta, and Ms. Clarke.”

- Major Cities Chiefs Association | [Link to Letter](#)

The National Organization of Black Law Enforcement Executives (NOBLE)

“The National Organization of Black Law Enforcement Executives (NOBLE) formally acknowledges the work and commitment to service that has been exhibited by Ms. Kristen Clarke. She is a long-time partner of NOBLE and the recipient of our 2016 Civil Rights Justice by Action Award. **Ms. Clarke has displayed the qualities of leadership, empathy, excellence, and persistence in supporting and defending the U.S. Constitution while ensuring equal protection and justice for all Americans.** This has been exhibited countless

times in roles such as President of the Lawyers' Committee for Civil Rights Under Law and Manager of the Civil Rights Bureau of the New York Department of Law.”

- The National Organization of Black Law Enforcement Executives (NOBLE)
[Link to Letter](#)

Hispanic American Police Command Officers Association (HAPCOA)

“HAPCOA is the oldest and largest association of Hispanic American command officers from law enforcement and criminal justice agencies at the municipal, county, state, school, university and federal levels. HAPCOA acknowledges the **work ethic and commitment** of Ms. Clarke and believes that she will be an **effective leader** as the next Head of the DOJ Civil Rights Division.

- Hispanic American Police Command Officers Association (HAPCOA)
[Link to Letter](#)

National Association of Women Law Enforcement Executives (NAWLEE)

“Please allow this letter to act a **formal endorsement of Kristen Clarke** as the next Assistant Attorney General of the Civil Rights Division from the National Association of Women Law Enforcement Executives.

The work of Ms. Clarke in areas of civil rights enforcement including matters related to criminal justice, education and housing discrimination, fair lending, barriers to reentry, voting rights, immigrants’ rights, gender inequality, disability rights, reproductive access and LGBTQ+ issues has shown she is committed to ensure equal protection for all community members.

As Ms. Clarke is someone that has broken the “glass ceiling”, NAWLEE believes she will do much to support the need for more women in ranking positions within law enforcement agencies from across the county.”

- National Association of Women Law Enforcement Executives (NAWLEE)
[Link to Letter](#)

National Association of Police Organizations (NAPO) Executive Director Bill Johnson

“The National Association of Police Organizations (“NAPO”) looks forward to working with **Kristen Clarke as she heads the U.S. Department of Justice’s Civil Rights Division. Ms. Clarke and I have already spoken several times since her nomination and are both deeply committed to strengthening and maintaining open lines of communication and honest and timely dialogue.** The tasks with which the Civil Rights Division is entrusted are of both great importance and great sensitivity. It is vital that the **Division and American law enforcement officers strive to maintain an effective and mutually respectful working relationship. NAPO has committed to always providing the most accurate sense of the challenges and conditions faced by our brother and sister officers, and Ms. Clarke has already been open and welcoming to our views. We both realize that we may not always agree with each other on every issue, but at the same time I believe we share a common goal of fair, effective, ethical and safe law enforcement.**”

- NAPO Executive Director Bill Johnson, Provided to Bloomberg on February 10, 2021

Bipartisan Former State Attorneys General (71 signatories; led by former Arizona State Attorney General Grant Woods (R))

“We are former State Attorneys General in each of our respective states, who belong to both Republican and Democratic parties. We often worked with the U.S. Department of Justice and senior officials...under both Republican and Democratic Administrations, and believe that the slate of Justice Department nominees announced by President Biden represent outstanding selections of individuals who have sterling reputations and leadership qualities that will meet the mission of the Justice Department.

Kristen Clarke is someone with **immense credibility among community leaders** in each of our states -- she has handled cases of hate crimes, constitutional policing, human trafficking, and voting rights, and, most recently, has done effective work on violent extremism and the threat that it poses to our citizens. Clarke further worked in a leadership position within the New York State Attorney General’s office, leading the Civil Rights Bureau there -- where she led a religious rights initiative as well as other civil rights initiatives on behalf of the State. We are further proud that she is an alumnus of a State Attorney General’s office.

- Bipartisan Former State Attorneys General
[Link to Letter](#)

Crime Victim/Survivor Services

“We, the undersigned, include crime survivors, victim/survivor advocates, and allied criminal and

juvenile justice professionals. Individually and collectively, we whole-heartedly support the appointment of Kristen Clarke to serve this Administration as its Assistant Attorney General for the Civil Rights Division, within the U.S. Department of Justice.

Ms. Clarke is well acquainted with the importance of crime survivors' rights and services, through her previous work in the Justice Department's Civil Rights Division, where she personally led critical cases involving hate crimes and human trafficking. We appreciate her understanding of the often-devastating impact of crime on victims, particularly those who are marginalized and/or under-served.

Her career-long commitment to marginalized crime survivors and communities is evidenced by her leadership of the James Byrd, Jr. Center to Stop Hate at the Lawyers' Committee for Civil Rights Under law. **She has been a strong proponent for standing up for those who suffer from online harassment, online solicitation of violence, and accountability for social media platforms that do not adequately safeguard their platforms according to their terms of service.**

We are confident that **Kristen Clarke, if confirmed as the USDOJ Assistant Attorney General for the Civil Rights Division, understands the important needs and rights of crime survivors; and will respect and reflect the interests of crime survivors – and those who serve them – in her important leadership role.**

- Crime survivors, victim/survivor advocates, and allied criminal and juvenile justice professionals
[Link to Letter](#)

National Coalition to End Domestic Violence

“As an attorney with DOJ's Civil Rights Division, Clarke dealt with cases related to systemic racism such as police misconduct and hate crimes. The racism and misogyny built into the criminal and civil justice systems create barriers for those survivors who want to engage with such systems. **Clarke's demonstrated success in addressing issues related to systemic barriers to justice indicate that she will be the champion survivors need.**

Kristin Clarke's documented expertise in promoting civil rights and holding those who violate it accountable clearly demonstrates her qualifications for the position of Assistant Attorney General for Civil Rights at the Department of Justice. Her personal commitment to equal justice for all means she will be a champion for equal justice for all survivors.

- National Coalition to End Domestic Violence
[Link to Letter](#)

From: Gonzalez, Patricio (Finance)
Subject: Letter from Senator Wyden to Attorney General Garland
To: Gaeta, Joseph (OLA)
Sent: March 11, 2021 9:27 AM (UTC-05:00)
Attached: Senator Wyden to AG Garland 3-11-21.pdf

Joe,

Hope this message finds you well. Attached is a letter from Senator Wyden to Attorney General Garland on issues related to Halkbank.

Please confirm receipt and don't hesitate to reach out if you or any of your colleagues have any questions.

Best,

Patricio

Patricio Gonzalez
Senior Investigator
Senate Finance Committee

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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

JOSHUA SHEINKMAN, STAFF DIRECTOR
GREGG RICHARD, REPUBLICAN STAFF DIRECTOR

March 11, 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 regarding my ongoing investigation into the integrity of correspondent banking services and the application of U.S. economic sanctions, and whether political interference influenced the Department of Justice's prosecution of Turkish state-owned bank Halkbank.¹ Halkbank has been indicted in the United States as part of the largest ever scheme utilizing correspondent bank accounts to aid Iran in circumventing U.S. sanctions. Halkbank officials have admitted to conspiring to evade sanctions, and funnel Iranian oil profits back to the country through complex gold purchases disguised as money transfers.² As part of that scheme, at least \$1 billion in funds from Iranian oil proceeds were transferred through correspondent banking services at U.S. financial institutions.³

On February 3, 2020, I wrote to then-Attorney General William Barr requesting his assistance with my investigation. My request included specific questions about the troubling actions the Trump administration took with respect to Halkbank. On February 7, Attorney General Barr's Chief of Staff assured me that the Department of Justice would "work to respond to [my] letter in a timely manner."⁴ I did not receive any response to the specific requests for assistance in my

¹ *Wyden Launches Investigation Into Halkbank Scandal*, Press Release, Oct. 24, 2019;

<https://www.finance.senate.gov/ranking-members-news/wyden-launches-investigation-into-halkbank-scandal>.

² *Gold dealer turned star witness details alleged bribes to senior Turkish official*, Washington Post, Nov. 29, 2017;

https://www.washingtonpost.com/world/national-security/gold-dealer-turned-star-witness-details-alleged-bribes-to-senior-turkish-official/2017/11/29/271ebcf2-d52e-11e7-b62d-d9345ced896d_story.html.

³ *Turkey's Halkbank Urges Dismissal of Iran Sanctions Criminal Case in U.S.*, Reuters, Sep. 18, 2010;

<https://www.reuters.com/article/us-usa-turkey-halkbank/turkeys-halkbank-urges-dismissal-of-iran-sanctions-criminal-case-in-u-s-idUSKBN2692FF>.

⁴ Letter from Mary Blanche Hankey to Hon. Ron Wyden (Feb. 7, 2020).

letter or any update on the Department's work to respond to my requests. I also did not receive a substantive response to a second renewed request I sent on August 24, 2020. While the Department has failed to cooperate with my investigation, I will continue to seek answers as to why former Treasury Secretary Steven Mnuchin was directed by former President Trump to improperly intervene in a criminal investigation into the evasion of sanctions in response to a pressure campaign by the Turkish government, and whether Secretary Mnuchin sought to halt the investigation and prosecution of Halkbank or reduce any fines imposed by the Department of Justice.⁵

As noted in my August 24, 2020 letter to Attorney General Barr, former National Security Adviser John R. Bolton detailed concerns that President Trump granted personal favors to Turkish President Recep Tayyip Erdogan, and Bolton reports that Attorney General Barr shared his concerns about the appearance that the President's actions created.⁶ In particular, Bolton asserts that Trump promised to halt any further enforcement actions against the bank, and that Trump then instructed Treasury Secretary Mnuchin to interfere in the matter.⁷ Further, Bolton asserts that on more than one occasion the Department of Justice was aware of Secretary Mnuchin's efforts to intervene in the investigation and prosecution of Halkbank.⁸

A spokeswoman for Attorney General Barr refuted early reports of these Administration interactions⁹ as "gross mischaracterizations," noting in particular that Attorney General Barr never stated that he felt the "President's conversations with foreign leaders (were) improper."¹⁰ However, reports of interference by President Trump are corroborated by the facts uncovered in my own investigation. In a November 20, 2019 letter to me, Treasury Department officials confirmed the following:

As was publicly reported, when Prime Minister Erdogan [*sic*] raised concerns directly with President Trump in April 2019, the President referred the issue to the Executive Branch departments responsible by law for the investigation and enforcement of economic sanctions—the Treasury and DOJ.

⁵ *Wyden Launches Investigation Into Halkbank Scandal*, Press Release, Oct. 24, 2019;

<https://www.finance.senate.gov/ranking-members-news/wyden-launches-investigation-into-halkbank-scandal>

⁶ JOHN BOLTON, *THE ROOM WHERE IT HAPPENED* 412 (2020) ("Barr said he was very worried about the appearances Trump was creating, especially his remarks on Halkbank to Erdogan in Buenos Aires at the G20 meeting, what he said to Xi Jinping on ZTE, and other exchanges").

⁷ *Id.* at 177 ("Trump started by saying we were getting very close to a resolution on Halkbank. He had just spoken to Mnuchin and Pompeo, and said we would be dealing with Erdogan's great son-in-law (Turkey's Finance Minister) to get it off his shoulders. Erdogan was very grateful, speaking in English no less.").

⁸ *Id.* at 170 ("Several times, Mnuchin was exuberant he had reached a deal with Turkey's Finance Minister. [. . .] In each case, the deal fell apart when Justice tanked it, which was why trying this route to get Brunson's release was never going to work.").

⁹ *Bolton Was Concerned That Trump Did Favors for Autocratic Leaders, Book Says*, New York Times, Jan. 27, 2020; <https://www.nytimes.com/2020/01/27/us/politics/john-bolton-trump-book-barr.html>.

¹⁰ *Justice Department says Bolton 'grossly mischaracterizes' Barr's take on Trump's talks with Xi, Erdogan*, USA Today, Jan. 28, 2020; <https://www.usatoday.com/story/news/politics/2020/01/28/john-bolton-book-william-barr-denies-he-shared-concerns-trump/4595133002/>.

Treasury officials identified seven meetings held between Secretary Mnuchin and senior Turkish officials, despite the Secretary's admitted "integral" role in the enforcement of U.S. sanctions generally, and the prosecution of Halkbank specifically. Most concerning was an April 15, 2019 Oval Office meeting between President Trump, Secretary Mnuchin, Trump's son-in-law Jared Kushner and President Erdogan's son-in-law and Finance Minister, Berat Albayrak. This was the second meeting Mnuchin held with Albayrak in three days, and appears to coincide with the Trump administration's admitted intervention in the Halkbank prosecution. Even more troubling, Trump, Mnuchin, and Kushner held the April 15, 2019 White House meeting despite the fact that Albayrak and Erdogan had been personally implicated in the Halkbank scheme by federal prosecutors.¹¹

These reports are part of a larger story highlighting former President Trump's efforts to accommodate the intense pressure campaign by the Turkish government to get investigations into Halkbank dropped, including a high-priced lobbying effort by Ballard Partners on Turkey's behalf.¹² In 2017, President Trump reportedly asked Secretary of State Tillerson to pressure the Justice Department to drop the case against a co-conspirator in the Halkbank-assisted sanctions evasion schemes, Reza Zarrab, who was reported to have an office in Trump Tower Istanbul and was a client at the time of the former President's attorney, Rudy Giuliani.¹³ In a 2015 interview, then-candidate Trump stated about Turkey, "I have a little conflict of interest because I have a major, major building in Istanbul."¹⁴ According to public financial disclosure forms, Trump personally earned between \$1.2 million and \$7 million in royalties from entities affiliated with Trump Towers Istanbul-Sisli during his Presidency.¹⁵

According to Treasury officials in a November 20, 2019 letter to me, President Trump assigned Attorney General Barr to assist with President Erdogan's requests involving Halkbank, and that

¹¹ Federal prosecutors alleged the following in their indictment, "Though some at HALKBANK, the defendant, supported continuing the scheme, Halkbank General Manager-1 initially was reluctant to do so because of concern that Zarrab's arrest and notoriety would draw unnecessary attention to the scheme. At Zarrab's request, however, the then-Prime Minister of Turkey and his associates, including a relative of the then-Prime Minister who later held multiple Turkish cabinet positions, instructed HALKBANK to resume the scheme, and HALKBANK agreed." Erdogan was prime minister during the Halkbank scheme, and Albayrak then had been the Turkish Minister of Energy. *Turkish Bank Charged in Manhattan Federal Court for Its Participation in a Multibillion-dollar Iranian Sanctions Evasion Scheme*, Department of Justice Press Release, Oct. 15, 2019; <https://www.justice.gov/opa/pr/turkish-bank-charged-manhattan-federal-court-its-participation-multibillion-dollar-iranian>.

¹² *Trump-Erdogan Call Led to Lengthy Quest to Avoid Halkbank Trial*, Bloomberg, Oct. 16, 2019; <https://www.bloomberg.com/news/articles/2019-10-16/trump-erdogan-call-led-to-lengthy-push-to-avoid-halkbank-trial>.

¹³ *Trump Urged Top Aide to Help Giuliani Client Facing DOJ Charges*, Bloomberg, Oct. 9, 2019; <https://www.bloomberg.com/amp/news/articles/2019-10-09/trump-urged-top-aide-to-help-giuliani-client-facing-doj-charges>; *Trump Tower: Dictators' Home Away From Home*, Daily Best, Sep. 30, 2015 Updated April, 14, 2017; <https://www.thedailybeast.com/trump-tower-dictators-home-away-from-home>.

¹⁴ *Trump's decision on Syria crystallizes questions about his business — and his presidency*, Washington Post, Oct. 7, 2019, <https://www.washingtonpost.com/politics/2019/10/07/trumps-decision-syria-crystallizes-questions-about-his-business-his-presidency/>.

¹⁵ *Donald Trump's Longtime Business Connections in Turkey Back in the Spotlight*; NBC News, Oct. 9, 2019; <https://www.nbcnews.com/politics/trump-impeachment-inquiry/donald-trump-s-longtime-business-connections-turkey-back-spotlight-n1064011>.

Trump relayed this to Erdogan during an April 2019 phone call. Around June of 2019, Attorney General Barr also reportedly had a phone call with his Turkish counterpart, Abdulhamit Gul, where Attorney General Barr discussed Turkey accepting a deferred prosecution agreement, and that a deal would need to be made with the U.S. attorney in Manhattan.¹⁶

Although Halkbank was eventually charged in the Southern District of New York in a six-count indictment related to the bank's participation in a multibillion-dollar scheme to evade U.S. sanction on Iran on October 15, 2019,¹⁷ these charges came just days after the Turkish invasion of northern Syria and the resulting political backlash.¹⁸ I am concerned that absent these unrelated actions by the Turkish government, the Trump Administration's interference in favor of Turkey's Halkbank requests could have undermined years of effort by U.S. law enforcement.

In order to better understand how improper political interference and conflicts of interest may have undermined the enforcement of U.S. sanctions and related trade and banking laws, please provide answers to the following questions and requests for information no later than March 31, 2021:

1. Please identify any meetings or conversations Attorney General Barr or any other senior Trump Administration Justice Department officials held with President Erdogan, Finance Minister Berat Albayrak, or any other senior Turkish officials during Attorney General Barr's tenure. For the meetings identified, please provide a detailed list of the participants in those conversations and meetings, and the nature of those discussions including whether or not they included discussion of Halkbank.
2. Please identify any meetings or conversations Attorney General Barr or any other senior Justice Department officials held with Ballard Partners or any other lobbyists on behalf of the Turkish government during Attorney General Barr's tenure, identify the participants in those conversations and meetings, and the nature of those discussions including whether or not they included discussion of Halkbank.
3. Please provide all Department of Justice records relating to communications between Attorney General Barr or senior political appointees at the Department of Justice with officials at the Treasury Department regarding the U.S. government's investigations of Halkbank. This includes a list of all meetings, telephone call logs, calendar invitations, calendar entries, meeting notices, meeting agendas, informational materials, memos to file, any handwritten or electric notes taken during any oral communications, summaries of any oral communications, or other materials.

¹⁶ *Trump-Erdogan Call Led to Lengthy Quest to Avoid Halkbank Trial*, Bloomberg, Oct. 16, 2019; <https://www.bloomberg.com/news/articles/2019-10-16/trump-erdogan-call-led-to-lengthy-push-to-avoid-halkbank-trial>.

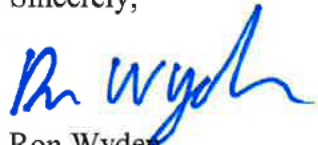
¹⁷ *Turkish Bank Charged in Manhattan Federal Court for Its Participation in a Multibillion-dollar Iranian Sanctions Evasion Scheme*, Department of Justice Press Release, Oct. 15, 2019; <https://www.justice.gov/opa/pr/turkish-bank-charged-manhattan-federal-court-its-participation-multibillion-dollar-iranian>.

¹⁸ *Trump Defends Syria Decision Amid Republican Backlash*, CNN, Oct. 8, 2019; <https://www.cnn.com/2019/10/07/politics/mitch-mcconnell-republican-response-syria-kurds/index.html>.

4. Please provide a detailed description and accounting of Treasury Secretary Steven Mnuchin's interactions with officials at the Department of Justice regarding the U.S. government's investigation of Halkbank and whether Secretary Mnuchin at any point sought to influence the prosecution of Halkbank, including any fines or penalties on Halkbank resulting from the investigation.
5. Please provide all Department of Justice records relating to communications regarding Halkbank between individuals in the employ of the Executive Office of the President and Attorney General Barr or other senior political appointees or employees at the Department of Justice. This includes a list of all meetings, telephone call logs, calendar invitations, calendar entries, meeting notices, meeting agendas, informational materials, memos to file, any handwritten or electric notes taken during any oral communications, summaries of any oral communications, or other materials.

Thank you for your attention to this important matter.

Sincerely,



Ron Wyden
Chairman
Committee on Finance

From: Flynn-Brown, Josh (Judiciary-Rep)
Subject: RE: Scan for: Prior Acting AAG for CRM - Nicholas McQuaid - Grassley-Johnson #4471810
To: Downey, Brian (HSGAC); Cress, Brian (OLA); McKay, Shirley A (OLA); Gaeta, Joseph (OLA); Pings, Anne (OLA); CEG (Judiciary-Rep); Wittmann, Scott (HSGAC)
Cc: Williams, Kim (OLA)
Sent: March 9, 2021 12:05 PM (UTC-05:00)
Attached: 2021-03-09 CEG RHJ to DOJ (McQuaid Follow Up).pdf

Please see the attached letter from Sens. Grassley and Johnson. Please confirm receipt. Thank you.

From: Flynn-Brown, Josh (Judiciary-Rep)
Sent: Wednesday, March 3, 2021 12:23 PM
To: Downey, Brian (HSGAC) (b) (6); 'Cress, Brian (OLA)' (b) (6); 'McKay, Shirley A (OLA)' (b) (6); 'Gaeta, Joseph (OLA)' (b) (6); 'Pings, Anne (OLA)' (b) (6); CEG (Judiciary-Rep) (b) (6); Wittmann, Scott (HSGAC) (b) (6)
Cc: 'Williams, Kim (OLA)' (b) (6)
Subject: RE: Scan for: Prior Acting AAG for CRM - Nicholas McQuaid - Grassley-Johnson #4471810

Well?

From: Flynn-Brown, Josh (Judiciary-Rep)
Sent: Thursday, February 25, 2021 8:56 AM
To: Downey, Brian (HSGAC) (b) (6); 'Cress, Brian (OLA)' (b) (6); 'McKay, Shirley A (OLA)' (b) (6); 'Gaeta, Joseph (OLA)' (b) (6); 'Pings, Anne (OLA)' (b) (6); CEG (Judiciary-Rep) (b) (6); Wittmann, Scott (HSGAC) (b) (6)
Cc: 'Williams, Kim (OLA)' (b) (6)
Subject: RE: Scan for: Prior Acting AAG for CRM - Nicholas McQuaid - Grassley-Johnson #4471810

Flagging this again.

From: Flynn-Brown, Josh (Judiciary-Rep)
Sent: Monday, February 22, 2021 12:10 PM
To: Downey, Brian (HSGAC) (b) (6); 'Cress, Brian (OLA)' (b) (6); McKay, Shirley A (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6); Pings, Anne (OLA) (b) (6); CEG (Judiciary-Rep) (b) (6); Wittmann, Scott (HSGAC) (b) (6)
Cc: Williams, Kim (OLA) (b) (6)
Subject: RE: Scan for: Prior Acting AAG for CRM - Nicholas McQuaid - Grassley-Johnson #4471810

Any update? Thank you.

From: Downey, Brian (HSGAC) (b) (6)
Sent: Friday, February 19, 2021 3:41 PM
To: 'Cress, Brian (OLA)' (b) (6); McKay, Shirley A (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6); Pings, Anne (OLA) (b) (6); Flynn-Brown, Josh (Judiciary-Rep) (b) (6); CEG (Judiciary-Rep) (b) (6); Wittmann, Scott (HSGAC) (b) (6)
Cc: Williams, Kim (OLA) (b) (6)
Subject: RE: Scan for: Prior Acting AAG for CRM - Nicholas McQuaid - Grassley-Johnson #4471810

Thank you, confirming receipt of the letter. So is Mr. McQuaid recused from the department's investigation of Hunter Biden? Also, when will the department produce the records requested by Sens. Johnson and

Grassley? Please let us know.

Brian M. Downey
Senior Investigator
Permanent Subcommittee on Investigations
U.S. Senate Committee on Homeland Security and Governmental Affairs

From: Cress, Brian (OLA) (b) (6)
Sent: Friday, February 19, 2021 3:31 PM
To: McKay, Shirley A (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6); Pings, Anne (OLA) (b) (6); Flynn-Brown, Josh (Judiciary-Rep) (b) (6); CEG (Judiciary-Rep) (b) (6); Downey, Brian (HSGAC) (b) (6); Wittmann, Scott (HSGAC) (b) (6)
Cc: Williams, Kim (OLA) (b) (6)
Subject: Scan for: Prior Acting AAG for CRM - Nicholas McQuaid - Grassley-Johnson #4471810

All,

Due to teleworking circumstances, we are providing your office an electronic version of the response to Senator Grassley and Johnson's February 3, 2021, letter to the Department of Justice.

Best,

Brian Cress
Office of Legislative Affairs
U.S. Department of Justice
Office: (b) (6) | Cell: (b) (6)

United States Senate

WASHINGTON, DC 20510

March 9, 2021

VIA ELECTRONIC TRANSMISSION

Monty Wilkinson
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Acting Attorney General Wilkinson:

On February 3, 2021, we sent you a letter regarding the Biden administration's hiring of Nicholas McQuaid as Acting Assistant Attorney General for the Criminal Division. In that letter, we raised concerns about potential conflicts of interest in light of the fact that Mr. 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.

On February 19, 2021, the Department responded to our letter but failed to address any of our questions and failed to produce any requested records relating to this matter. The Department's response stated, in part, "Acting Assistant Attorney General [McQuaid] is screened and recused from matters in which he has a financial interest or a personal business relationship, including matters involving his former law firm."¹ To fully and transparently account for this statement, we expect the Department to produce records corroborating the claim, which our initial letter requested, as well as the other requested information and documents relating to Mr. McQuaid no later than March 15, 2021.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



Ron Johnson
Ranking Member
Permanent Subcommittee
on Investigations

¹ Letter from Helaine Greenfeld, Acting Assistant Attorney General, U.S. Dep't of Justice, to Sen. Charles E. Grassley and Sen. Ron Johnson, Feb. 19, 2021.



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

FEB 19 2021

The Honorable Charles E. Grassley
United States Senate
Washington, DC 20510

The Honorable Ron Johnson
United States Senate
Washington, DC 20510

Dear Senator Grassley and Senator Johnson:

This responds to your letter to the Acting Attorney General dated February 3, 2021, inquiring about potential issues related to the prior employment of Acting Assistant Attorney General of the Criminal Division Nicholas McQuaid. We appreciate having the benefit of your views on this matter.

To ensure compliance with applicable statutes and standards, career ethics officials make all recusal and screening determinations based on the specific facts and circumstances surrounding each matter. Whether a matter raises a conflict or appearance of concern is specific to that particular matter and the Acting Assistant Attorney General's prior or current connection to the matter.

We have confirmed that the Acting Assistant Attorney General recently received ethics and professional responsibility training as appropriate for incoming attorneys. In addition, we have confirmed that the Acting Assistant Attorney General has signed the Ethics Pledge as required under the Executive Order on Ethics Commitments by Executive Branch Personnel (Executive Order 13989). Pursuant to this pledge and applicable standards set forth in statutes, regulations, as well as longstanding Department policies and procedures, the Acting Assistant Attorney General is screened and recused from matters in which he has a financial interest or a personal business relationship, including matters involving his former law firm.

The Honorable Charles E. Grassley
The Honorable Ron Johnson
Page Two

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Helaine Greenfeld". The signature is written in a cursive style with a large, looping initial "H".

Helaine Greenfeld
Acting Assistant Attorney General

From: Zdeb, Sara (Judiciary-Dem)
Subject: RE: Reading room field trip
To: Gaeta, Joseph (OLA); Antell, Kira M. (OLA)
Cc: Charlet, Joseph (Judiciary-Dem)
Sent: March 5, 2021 3:56 PM (UTC-05:00)

Thanks. Should we set a time now, or do you prefer to wait until early next week to confirm? Joe C and I are flexible on Wednesday, and happy to come by at whatever time would work best for you (or whomever will be handling escort duties that day).

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, March 5, 2021 12:01 PM
To: Zdeb, Sara (Judiciary-Dem) (b) (6); Antell, Kira M. (OLA)
(b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: Reading room field trip

I think that is do-able.

From: Zdeb, Sara (Judiciary-Dem) (b) (6)
Sent: Friday, March 5, 2021 10:49 AM
To: Gaeta, Joseph (OLA) (b) (6); Antell, Kira M. (OLA) (b) (6)
Cc: Charlet, Joseph (Judiciary-Dem) (b) (6)
Subject: Reading room field trip

Hi Joe and Kira:

I'm circling back on our call last week to see when you expect to make the materials we discussed available in the reading room. We'll be fairly tied up with vote-a-rama and the DAG/AAG hearing for the next few days, and would like to come by sometime next Wednesday – would that work for you?

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 tomorrow
To: Sarubbi, Vincent (Brown)
Cc: Payton, Rayshon J. (OLA)
Sent: March 4, 2021 1:09 PM (UTC-05:00)
Attached: Kristen Clarke Should be Confirmed - Response to Attacks.docx, Kristen Clarke Should Be Confirmed Law enforcement experience and support.docx

Hello again, Vince.

Thanks for arranging a courtesy meeting for Kristen Clarke with Senator Brown tomorrow. Below are some high level points about her background, and attached are backgrounders on her law enforcement experience and attacks on her record. Happy to provide additional information if useful.

It would be helpful on our end if you could flag any particular issues Senator Brown may want to discuss. Thanks.

Joe

A RECORD OF PROTECTING CIVIL RIGHTS UNRIVALED IN ITS BREADTH AND DEPTH AS A NOMINEE FOR THIS POSITION

Kristen Clarke is President Biden's nominee for Assistant Attorney General for the Civil Rights Division of the U.S. Department of Justice. Clarke is the current President and Executive Director of the Lawyers' Committee for Civil Rights Under Law.

If approved by the Senate, Clarke would become the first woman confirmed to lead the Division since it was created in 1957, and the first Black woman to hold the post in any capacity.

Having started her career in DOJ's prestigious Honors Program over two decades ago, a return to DOJ will be a homecoming for Clarke. She enforced civil rights laws for six years in the administration of President George W. Bush, including as Special Assistant U.S. Attorney.

Clarke directed the voting rights project at the NAACP Legal Defense Fund, which was founded by Thurgood Marshall. As Chief of the Civil Rights Bureau in the New York Office of the Attorney General, she was the state's top civil rights enforcement officer. Since 2015, she has led the Lawyers' Committee, one of the nation's premier civil rights litigating organizations which was founded at the request of President Kennedy in 1963 to engage the legal profession in the protection of civil rights. Clarke will bring an unprecedented breadth of civil rights litigation experience and civil rights leadership to the division.

The daughter of Jamaican immigrants, Clarke grew up in Brooklyn and earned a Prep for Prep scholarship that changed the trajectory of her life, eventually taking her to Harvard and then Columbia Law School.

Having recognized the power of the law and civil rights law in particular to expand access to opportunity, Clarke has dedicated her 20-plus year career to protecting and expanding civil rights protections for marginalized communities.

A tireless champion of equal justice, Clarke has done groundbreaking and courageous work encompassing virtually every area of civil rights, including **voting rights, equal educational opportunity, fair housing and lending, equal employment, environmental justice, online hate speech, and criminal justice reform**. She has prosecuted crimes based on **hatred and bigotry, human trafficking, domestic violence, and sexual assault**. In both her government and private capacities, she has represented many diverse communities protected by our nation's civil rights laws, including people of color, women, people of faith, people with disabilities, and members of the LGBTQ community. There is no civil rights law on the books with which Kristen Clarke is not familiar.

Clarke's extraordinary record is unparalleled, making her the right person at the right time for this critically important role.

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

KRISTEN CLARKE SHOULD BE CONFIRMED
She Has Law Enforcement Experience and Support

Clarke has the support of several law enforcement organizations, given the breadth and depth of her previous work.

- The Major Cities Chiefs Association [[Link](#)]
- The National Organization of Black Law Enforcement (NOBLE) [[Link](#)]
- The National Association of Women Law Enforcement Executives (NAWLEE) [[Link](#)]
- Hispanic American Police Command Officers Association (HAPCOA) [[Link](#)]
- International Association of Chiefs of Police Executive Director Vincent Talucci

Clarke worked closely with the FBI, ATF and state law enforcement on federal investigations while she was a federal prosecutor at DOJ.

- Clarke served as a federal prosecutor at the U.S. Department of Justice in the Criminal Section of the Civil Rights Division. During this time, she worked closely with federal and state and local law enforcement officials to conduct investigations into issues such as human trafficking, hate crimes and official misconduct.
- Clarke worked with law enforcement to investigate and prosecute domestic violence cases, including intimate partner violence, family violence, assaults, and stalking.
- Clarke served as a Special Assistant Attorney General in the U.S. Attorney's Office in the District of Columbia. In this role, she worked closely with local law enforcement to conduct investigations, secure civil protection orders and carry out prosecutions into domestic violence matters.

Clarke partnered with sheriffs across the state of New York on best practices for working with communities with limited English proficiency.

- As Chief of the Civil Rights Bureau in the New York State Attorney General's Office, Clarke worked with sheriffs' offices to institute best practices on language access to build trust and improve policing of communities with limited English proficiency. This collaborative work led to comprehensive language policies for forces across the state.

Clarke conducted training for the National Sheriffs' Association in 2017 on 21st Century Community Policing.

- As head of the Lawyers' Committee for Civil Rights Under Law, Clarke helped lead a conversation about rebuilding trust between law enforcement and the community, and all the stakeholders that interact with the criminal justice system.

Clarke partnered with the International Association of Chiefs of Police to Enhance the Response to Hate Crimes.

- Over a series of months with law enforcement leaders across the country, Clarke and the IACP developed strategies in 2019 to enhance officers' response to hate crimes and hate incidents. These [model policies](#) have since been adopted by police forces across the globe. IACP President Paul Cell said of the joint project: "I believe the IACP and Lawyers' Committee have provided unique expertise to establish an achievable action agenda that will help stakeholders respond effectively to these crimes, improve the well-being of targeted communities, and enhance the quality of overall community-police relations."

KRISTEN CLARKE SHOULD BE CONFIRMED
She Has No Bias Against Anyone – She Works for Civil Rights

**ATTACKS ON CLARKE’S RECORD DISTORT THE FACTS AND ARE UNFAIR; CLARKE’S
RESPONSE IS UNEQUIVOCAL**

Clarke’s Student Response to *The Bell Curve*

Since her nomination to lead the Civil Rights Division was first announced, Kristen Clarke has been subject to attacks on her statements and actions as a Harvard student in 1994 in response to the publication of *The Bell Curve*.

FACTS: In 1994, as president of the Harvard Black Student Association (BSA), Clarke accepted an offer from Wellesley Professor of Africana Studies Tony Martin to speak against the racism of *The Bell Curve*. Martin had recently self-published a book called *The Jewish Onslaught*, and during his speech at Harvard, he made references to conspiracy theories about a Jewish “tradition” of persecuting Blacks, and accused the Jewish community of having a “monopoly” on the notion of African inferiority. Following the event and amid criticism from other students, Kristen Clarke issued a statement defending the choice of Martin as a speaker: **“Professor Martin is an intelligent, well-versed Black intellectual who bases his information on indisputable fact.”**

Clarke also co-authored with a fellow student a letter to the editor of the *Harvard Crimson*, entitled “Blacks Seek An End to Abuse.” Intended to expose the racist flaws of *The Bell Curve*, the letter opens with **“theories and observations to assist you in your search for truth regarding the genetic differences between Blacks and whites,”** and includes one such theory as **“melanin endows Blacks with greater mental, physical and spiritual abilities.”** Clarke’s letter then switches tone to discuss how theories of racial superiority can be abusive—signaling to readers the opening was facetious to make a point. She wrote: **“Imagine the message that misguided information like *The Bell Curve* would send to a Black child who is trying to find her place in school. It’s degrading, belittling and outrageously false.”**

RESPONSE: On January 13, 2021, Kristen Clarke strongly and unequivocally denounced antisemitism in all forms and responded to the attacks in an interview with the Jewish news outlet, The Forward.

Clarke emphatically stated that it **“was a mistake to accept [Tony Martin’s] offer to come and to defend him.”** She said: **“Giving someone like him a platform, it’s not something I would do again.”** Asked if she denounced Martin and his views, Clarke stated: **“I do, 100%. I unequivocally denounce antisemitism.”**

She clarified that her writing on racial superiority in the *Harvard Crimson* was a facetious comparison to point out the absurdity of *The Bell Curve* theory. She explained that the book was questioning the intellectual ability and moral right of Black students to be an institution of higher learning.

The Anti-Defamation League, the Reform Action Council, [National Council of Jewish Women](#) and Bend the Arc have issued statements of support for Kristen Clarke.

Clarke Signed Letter Supporting Tamika Mallory

Clarke signed a [letter of support](#) in 2019 for Tamika Mallory, one of the founders of the Women's March. Mallory was [forced to resign](#) over accusations of antisemitism and her association with Nation of Islam leader Louis Farrakhan.

FACTS: The statement supporting Tamika Mallory was from “Black Women Leaders and Allies,” including other national Black women leaders such as Donna Brazile, Minyon Moore, Leah Daughtry, and Melanie Campbell. Allies such as Derrick Johnson, President and CEO of the NAACP, and Marc Morial, President and CEO of the National Urban League, were signatories.

The leaders' statement denounced antisemitism, and encouraged the Women's March to “guard against judgments based on association.” It expressed support for Mallory and her lifelong work for civil rights, human rights, and women's rights.

RESPONSE: In the Forward piece in January, Clarke explained why she signed the Mallory statement: “**The marginalization of women of color is a threat to disrupt democracy, and what led me to join that letter was a grave concern about seeing another woman of color marginalized and silenced. Let me be clear, I denounce antisemitism wherever and whenever it shows up.**”

Clarke Advocated Resources For Community Support for Police Functions

Clarke has been attacked for wanting to “defund the police.”

FACTS: In June 2020, Clarke authored the provocatively titled, but thoughtfully worded piece in Newsweek: [I Prosecuted Police Killings. Defund the Police—But Be Strategic](#). She discussed the meaning of the phrase, writing that “[e]xactly what that motto means in practice, though, is a critical question.” She wrote that she “advocate[s] for defunding policing operations that have made African Americans more vulnerable to police violence and contributed to mass incarceration, while investing more in programs and policies that address critical community needs.” She stated, “Police departments today have too much contact with communities on issues they were never equipped to address,” and identified additional supports that should be funded to remove the burden placed on police. She called specifically for re-allocating money -- from military equipment for local police and from 1994 crime bill prison-building funds which incentivized mandatory minimum sentences -- to investments in social workers, social supports in schools, and mental health aid.

Clarke Says Police Unions Inhibit Police Accountability

FACTS: In June 2020, Clarke authored a piece titled [Police unions stand in the way of lasting reform](#) and [testified](#) before the House Committee on the Judiciary. In both, she argues that we cannot have police reform without police accountability and that too often, police contracts are loaded with requirements that make it nearly impossible to hold officers accountable when they have broken the law, and that police unions advocate against transparency.

RESPONSE: Police unions have taken positions over time that restrict the ability of civil rights agencies to hold them accountable for civil rights violations.

Opponents Claim Clarke Believes Voting Rights Enforcement Should Not Be Extended to White Voters

Extremists opposed to civil rights are [dredging up](#) ancient, failed attacks against Kristen Clarke, accusing her of objecting to the George W. Bush administration's enforcement of the Voting Rights Act against African Americans.

FACTS: In 2006, the Bush DOJ [prosecuted](#) Ike Brown, a Black election official in Noxubee County, Mississippi for intimidating white voters and treating absentee ballot of Black voters differently from those of white voters. A federal judge found that, while trying to demonstrate Brown's actions resulted in disenfranchising white voters was "an awkward fit," his intentions were proven. This case has been revived by right-wing former FEC Commissioner and Heritage Foundation staffer Hans von Spakovsky, a promoter of the myth that there is widespread election fraud, and Clarke is supposed to have strongly objected to it while a lawyer with the NAACP Legal Defense Fund.

Clarke is also accused of trying to improperly influence DOJ's case against the New Black Panther Party and three of its members for voter intimidation in Philadelphia, Mississippi. DOJ filed the case in January 2009, in the waning days of the George W. Bush administration.

These allegations were baseless then, and they are baseless now. At the time, Ms. Clarke was co-director of the NAACP Legal Defense and Educational Fund's (LDF) Political Participation Project. As LDF noted in a [letter](#) to the U.S. Civil Rights Commission about the Black Panther matter, "LDF played no role in, and conducted no advocacy around, DOJ's Black Panther Party litigation. Statements that LDF, or any of its staff, sought to influence the manner or limit the scope of the litigation in any respect are false."

On its own accord and based on the law and evidence, DOJ made the [decision](#) to dismiss most of the Black Panther case later in 2009, during the Obama administration. DOJ's Office of Professional Responsibility subsequently [concluded](#) that Department attorneys had "acted appropriately" in handling the matter.

Clarke shares precisely the same views [articulated](#) at the time by Thomas E. Perez, Assistant Attorney General for Civil Rights under President Obama, that the Civil Rights Division is "firmly committed to the evenhanded application of the law, without regard to the race of the victims or perpetrators."

Support For Harvard Race-Conscious Admissions

Civil rights opponents throw Clarke's legal defense of long-standing race-conscious higher education admissions policies into their absurd claims that she favors Black Americans. In the case of *SFFA v. Harvard*, Clarke made the case for the Lawyers Committee that "affirmative action has proven to be a critical and effective tool for advancing equal access to educational opportunity on campuses across our country." In November, 2020, the U.S. Circuit Court for the First Circuit in Massachusetts agreed, and [ruled](#) in a 2-0 decision that Harvard's policy is consistent with Supreme-Court precedent for diversity requirements, and concluded that the race-neutral alternatives presented were illogical.

From: Gaeta, Joseph (OLA)
Subject: RE: Kristen Clarke meeting
To: Angel, Stephanie (Warren)
Sent: March 1, 2021 6:00 PM (UTC-05:00)
Attached: Kristen Clarke Should be Confirmed - Response to Attacks.docx

We agree more information is more. Attached is a document we circulated to SJC Dems before today's markup in case Republicans used it as an opportunity to talk about other nominees. The point that has been picked up most so far has been Kristen's decision at Harvard in 1994 to invite a speaker to campus who used the opportunity make anti-Semitic comments. Regrettable for sure, but it doesn't make Kristen anti-Semitic. Some of the other attacks have been more expected—defund the police, police unions—though also not based on facts.

Let me know if you need anything else.

From: Angel, Stephanie (Warren) (b) (6)

Sent: Monday, March 1, 2021 4:33 PM

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

Subject: RE: Kristen Clarke meeting

I'm glad it was helpful. After having a little more time to think things through, the Senator may also raise her concerns relating to hate crimes against the Asian-American community since the start of the pandemic.

Also, I appreciate the offer. I think the more information we have the better. Would you be comfortable sharing over email ahead of the conversation tomorrow?

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

Sent: Monday, March 1, 2021 1:41 PM

To: Angel, Stephanie (Warren) (b) (6)

Subject: RE: Kristen Clarke meeting

Thanks, this is helpful. Glad to see the tradition of Stephanie As continues strong in the Warren office!

Would it be of interest for me to share, or for us to discuss on the phone, some of the attacks we expect on Kristen?

Not that I expect Senator Warren would be concerned on the merits, but if we do get into a contentious battle over her nomination it will be good for people to know the facts. Let me know.

From: Angel, Stephanie (Warren) (b) (6)

Sent: Monday, March 1, 2021 11:41 AM

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

Cc: Pearson, Beth (Warren) (b) (6)

Subject: RE: Kristen Clarke meeting

Hi Joe,

It's great to connect with you. I'll be staffing the Senator on the call with Kristen Clarke tomorrow morning. The Senator is likely to discuss the [Enhancing Oversight to End Discrimination in Policing Act](#), that she introduced last summer to strengthen the federal and state governments' ability to investigate police departments with a pattern or practice of unconstitutional and discriminatory behavior. She might also touch on the [Andrew Kearsse Act](#), and related civil rights concerns that she has for people who are incarcerated that may not be getting adequate and timely medical care during the pandemic.

Best,

Stephanie

From: Pearson, Beth (Warren) (b) (6)
Sent: Friday, February 26, 2021 2:49 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Angel, Stephanie (Warren) (b) (6)
Subject: RE: Kristen Clarke meeting

Joe,

I'm connecting you here with Stephanie Angel on our team who is handling the meeting and can give you a sense of topics we expect Senator Warren to raise.

Beth

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, February 26, 2021 12:05 PM
To: Pearson, Beth (Warren) (b) (6)
Subject: Kristen Clarke meeting

Hi Beth,

Greetings from the other side. Hope you are well. I'm Kristen Clarke's DOJ navigator. I see she's got a courtesy meeting with your boss next week. Can you connect me with the right person in your office now that Stephanie is gone? Much thanks.

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

From: Fragoso, Michael (Judiciary-Rep)
Subject: RE: Follow-up QFRs
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Cc: Brest, Phillip (Judiciary-Dem); Rodriguez, Tim (Judiciary-Rep)
Sent: March 1, 2021 2:39 PM (UTC-05:00)

Thanks, Helaine. And thanks to the Judge for the quick turnaround.

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Monday, March 1, 2021 2:05 PM
To: Fragoso, Michael (Judiciary-Rep) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Rodriguez, Tim (Judiciary-Rep) (b) (6)
Subject: RE: Follow-up QFRs

Thanks to your bosses for their votes. Attached please find Judge Garland's responses to the additional questions from the Ranking Member.

From: Fragoso, Michael (Judiciary-Rep) (b) (6)
Sent: Monday, March 1, 2021 12:02 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Rodriguez, Tim (Judiciary-Rep) (b) (6)
Subject: RE: Follow-up QFRs

Thank you, Helaine. I think Sen. Grassley would just like a commitment that the Judge will respond reasonably promptly. He doesn't intend it to be a fire drill because he's supportive, otherwise.

Mike

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Monday, March 1, 2021 11:42 AM
To: Fragoso, Michael (Judiciary-Rep) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Rodriguez, Tim (Judiciary-Rep) (b) (6)
Subject: RE: Follow-up QFRs

Thanks, Mike. Received. I'm checking with the Judge on his schedule for the morning and sending him these. He may just offer to have a quick phone call with the Senator to clear up these points, although I'm not sure about his availability. I'll get back to you.

From: Fragoso, Michael (Judiciary-Rep) (b) (6)
Sent: Monday, March 1, 2021 11:23 AM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Rodriguez, Tim (Judiciary-Rep) (b) (6)
Subject: Follow-up QFRs

Hi Helaine and Joe,

Sen. Grassley has two follow-up questions for Judge Garland.

Thank you,
Mike

Michael A. Fragoso

Chief Counsel for Nominations and the Constitution

Senate Judiciary Committee

Ranking Member Chuck Grassley (R-Iowa)

From: Downey, Brian (HSGAC)
Subject: A Letter from Senator Johnson
To: Gaeta, Joseph (OLA); Cress, Brian (OLA); Pings, Anne (OLA); McKay, Shirley A (OLA); (b)(6), (b)(7)(C) per FBI (OCA) (FBI)
Cc: Wittmann, Scott (HSGAC)
Sent: February 26, 2021 2:34 PM (UTC-05:00)
Attached: 2021-02-26 RHJ to FBI (Norfolk document) - Final.pdf

Hello,

Please find attached a letter from Senator Ron Johnson addressed to Acting Attorney General Wilkinson and FBI Director Wray. Please confirm receipt of the attached letter. Thank you.

Sincerely,

Brian M. Downey
Senior Investigator
Permanent Subcommittee on Investigations
U.S. Senate Committee on Homeland Security and Governmental Affairs

(b) (6)

United States Senate
WASHINGTON, DC 20510

February 26, 2021

Mr. Monty Wilkinson
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

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

Dear Acting Attorney General Wilkinson and Director Wray:

On January 12, 2021, the *Washington Post* reported on an internal Federal Bureau of Investigation (FBI) document warning of potential violence in Washington, D.C. around January 6, 2021.¹ This document reportedly stated in part, “As of 5 January 2021, FBI Norfolk received information indicating calls for violence in response to ‘unlawful lockdowns’ to begin on 6 January 2021 in Washington, D.C.”² My staff requested this document from the FBI but has not received it.

On March 3, 2021, a representative from the FBI is scheduled to testify in front of the Senate Committee on Homeland Security and Governmental Affairs and the Committee on Rules and Administration regarding the Capitol breach. In preparation for this upcoming hearing, I request that you produce this document as soon as possible but no later than March 1, 2021.

Thank you for your attention to this matter.

Sincerely,



Ron Johnson
U.S. Senator

¹ Devlin Barrett and Matt Zapotosky, *FBI report warned of ‘war’ at Capitol, contradicting claims there was no indication of looming violence*, Jan. 12, 2021, https://www.washingtonpost.com/national-security/capitol-riot-fbi-intelligence/2021/01/12/30d12748-546b-11eb-a817-e5e7f8a406d6_story.html.

² *Id.*

From: Borg, Gabrielle (DPCC)
Subject: RE: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke
To: Gaeta, Joseph (OLA)
Sent: February 25, 2021 5:21 PM (UTC-05:00)

Thanks Joe!!

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, February 25, 2021 4:04 PM
To: Borg, Gabrielle (DPCC) (b) (6)
Subject: FW: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Here's the invitation we sent over. If you can make it work, I'd be happy to give you a pre-brief and answer all your questions.

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Thursday, February 25, 2021 3:38 PM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: FW: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

From: Norgren-Markley, Danielle (OLA)
Sent: Thursday, February 25, 2021 9:46 AM
To: (b)(6) Sen. Stabenow Office Email Address
Subject: Invitation to Meet with DOJ Civil Rights Division Nominee Kristen Clarke

Good Afternoon,

The Department of Justice would like to invite Senator Stabenow to meet with Civil Rights Division Nominee Kristen Clarke. Ms. Clarke has the following times available:

3/1: All day
3/2: 11-2
3/3: All day
3/5: 11am onwards
3/8: All day
3/9: All day
3/11: 9am-2pm; 3:30pm-5pm

We expect the call to last thirty minutes. If the Senator is available and would like to meet, please propose a time in the above 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: FW: Senate Judiciary Questionnaire
To: Gaeta, Joseph (OLA)
Sent: February 25, 2021 5:06 PM (UTC-05:00)
Attached: Senate Judiciary Questionnaire - to Clarke - 1.11.2021.docx, Confidential Questionnaire - to Clarke - 1.11.2021.rtf, Affidavit Accompanying Questionnaire - to Clarke - 1.11.2021.rtf

From: Fragoso, Michael (Judiciary-Rep) (b) (6)
Sent: Monday, January 11, 2021 5:19 PM
To: (b)(6) Reginald Babin (Biden Transition Team Email)
Cc: Davis, Kolan (Finance) (b) (6); Holmes, Lee (Judiciary-Rep) (b) (6); Mehler, Lauren (Judiciary-Rep) (b) (6); Brest, Phillip (Judiciary-Dem) (b) (6); Zogby, Joseph (Judiciary-Dem) (b) (6); Swanson, Daniel (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6); (b)(6) Reema Dodin (Biden Transition Team Email)
Subject: Senate Judiciary Questionnaire

Dear Ms. Clarke,

Congratulations on your impending nomination to be Assistant Attorney General of the United States for the Civil Rights Division.

Attached is your Senate Judiciary Questionnaire. There is a public component, a confidential component, and an affidavit to accompany it.

Best regards,

Michael A. Fragoso

Chief Counsel for Nominations and the Constitution
Senate Judiciary Committee
Chairman Lindsey Graham (R-South Carolina)

(b) (6)



AFFIDAVIT

I, _____, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

(DATE)

(NAME)

(NOTARY)

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

CONFIDENTIAL

NAME:

HOME ADDRESS:

TELEPHONE NUMBER (both home and office):

EMAIL ADDRESS:

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.

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. Have you ever made any back tax payments? If so, indicate if you have made any back tax payments, and provide full details.
 - 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.
 - 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.
 - e. Have you or your spouse ever declared bankruptcy? If so, provide full details.

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. 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.

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.
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.
6. **Health:**
 - a. What is the present state of your health?
 - b. List the date of your last physical examination.
 - 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.
7. **Disclosure:** Describe any unfavorable information that may affect your nomination.

FINANCIAL STATEMENT: NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.)

ASSETS				LIABILITIES			
Cash on hand and in banks				Notes payable to banks-secured			
U.S. Government securities-add schedule				Notes payable to banks-unsecured			
Listed securities-add schedule*				Notes payable to relatives			
Unlisted securities--add schedule				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable-add schedule			
Real estate owned-add schedule**				Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property							
Cash value-life insurance							
Other assets itemize:							
				Total liabilities			
				Net Worth			
Total Assets				Total liabilities and net worth			
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)			
On leases or contracts				Are you defendant in any suits or legal actions?			
Legal Claims				Have you ever taken bankruptcy?			
Provision for Federal Income Tax							
Other special debt							

From: Fragoso, Michael (Judiciary-Rep)
Subject: Potential Omissions - V. Gupta
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Cc: Michalak, Gabrielle (Judiciary-Rep); Akhil Rajasekar; Brest, Phillip (Judiciary-Dem)
Sent: February 25, 2021 4:00 PM (UTC-05:00)

Hi Helaine and Joe,

It was good seeing you on Monday.

Thanks for getting us back responses from my email last week. During the course of our review of Ms. Gupta's record, we believe we've identified additional potential omissions from Ms. Gupta's SJQ that we would like to flag. We think the below list of items is responsive to Question 12. If they are, can you please provide a copy of each and update Ms. Gupta's SJQ? If they're not, please explain why.

Thanks,

Mike

Robert Perkinson, "The Gutted Writ: On Habeas Corpus," The Nation, Dec. 22, 2010

Ritu Pati, "Student Activists Protest New Laws," Yale Daily News, May 22, 1995

Kalpana Srinivasan, "The assault on academia," Yale Daily News, Apr. 19, 1995

Troy Flint, "SCRAP holds a debate on 187," Yale Daily News, Feb. 3, 1995

Ritu Pati, "SCRAP 187 rallies 200 at Woodbridge," Yale Daily News, Feb. 8, 1995

Sandra Park, "SCRAP 187 tries to block proposition," Yale Daily News, Jan. 18, 1995

Danielle Neves, "AASA calls Yale racist," Yale Daily News, Nov. 2, 1994

Vanita Gupta, "Letters: Differing Interpretations," Yale Daily News, Sep. 7, 1994

Kalpana Srinivasan, "Yale struggles with the question: academic diversity or cultural elitism?" May 23, 1994

Rebecca Howland & Ethan MacAdam, "Brodhead receives praise for style, but some find fault with slowness," Yale Daily News, Apr. 28, 1994

Kalpana Srinivasan, "Police see anti-Asian crime trend," Yale Daily News, Feb. 16, 1994

Suerie Moon, "Many vegetarians say dining halls lack appetizing options," Yale Daily News, April 6, 1994

Ethan MacAdam, "Asian-American scholar will join faculty," Yale Daily News, March 25, 1994

Sandra Park, "Police Kick students off Div School slope," Yale Daily News, Feb. 14, 1994

Alison LaCroix, "ASA aims at inclusiveness," Yale Daily News, Jan 12, 1994

Rebecca Howland, "Students Unite to Ask for New Deans," Yale Daily News, Oct. 26, 1993

Noah Bookbinder, "Women's Studies Searches for Scholar," Yale Daily News, Sep. 22, 1993

From: Gaeta, Joseph (OLA)
Subject: Kristen Clarke courtesy meeting
To: (b)(6) Bill Vanhorne (Cardin); (b)(6) Gray Maxwell (Cardin)
Sent: February 25, 2021 3:41 PM (UTC-05:00)

Gray and Bill,

Greetings from the other side. I hope you are both well. I have the fortunate task of being Kristen Clarke's confirmation navigator, and I see she has a courtesy meeting with Senator Cardin next week. Could I get on the phone with one or both of you over the next couple of days for a brief discussion about this meeting? I would appreciate it.

Joe

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

From: Brest, Phillip (Judiciary-Dem)
Subject: FW: AUSA hiring
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Sent: February 25, 2021 12:28 PM (UTC-05:00)

Sorry to bother you in the thick of QFR responses, but I've gotten similar inquiries as the below from a number of folks. Happy to chat when you have a few minutes.

From: Goddard, Jaron (Murray) (b) (6)
Sent: Thursday, February 25, 2021 12:27 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6)
Subject: AUSA hiring

Hey Phil –

Not sure if there is a better person to ask, but curious if you have heard if DOJ plans to freeze AUSA hiring until the new US Attorneys are in place. One of our candidates asked and I definitely don't know.

Thanks so much!

Jaron Goddard (she/her)
Senior Counsel
U.S. Senator Patty Murray (D-WA) | Assistant Democratic Leader
154 Russell Senate Office Building
Washington, D.C. 20002
O: (b) (6) | C: (b) (6)

From: Mahoney, Meghan (Murray)
Subject: RE: Contact for Nominee Garland
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA); Klapper, Matthew B. (OAG)
Cc: Vazquez, Maru (Murray)
Sent: February 25, 2021 10:40 AM (UTC-05:00)

Tuesday is hard for us, could we do 11 on Wednesday?

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Thursday, February 25, 2021 9:58 AM
To: Mahoney, Meghan (Murray) (b) (6); Gaeta, Joseph (OLA) (b) (6); Klapper, Matthew B. (OAG) (b) (6)
Cc: Vazquez, Maru (Murray) (b) (6)
Subject: RE: Contact for Nominee Garland

Meghan,
What does Tuesday look like for Sen. Murray?
Helaine

From: Mahoney, Meghan (Murray) (b) (6)
Sent: Wednesday, February 17, 2021 11:53 AM
To: Gaeta, Joseph (OLA) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6); Klapper, Matthew B. (OAG) (b) (6)
Cc: Vazquez, Maru (Murray) (b) (6)
Subject: RE: Contact for Nominee Garland

Thanks so much! Senator Murray is hoping to set this call in the coming weeks. Are there best windows next week or the week after on your end?

Thanks and let us know,

Meghan Mahoney
Director of Scheduling
Executive Assistant to the Senator
US Senator Patty Murray
154 Russell Senate Office Building
(b) (6)
(b) (6)

In response to COVID-19, we are no longer hosting in person meetings and are shifting to call-ins. The Capitol and Capitol Visitors Center are closed for tours and public access. Senate Office Buildings are open to credentialed staff. Our front office is not open but staff can be reached at 202-224-2621. Due to high call volumes, a response may be delayed. Thank you for your patience and don't hesitate to reach out with questions.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, February 16, 2021 4:37 PM
To: Mahoney, Meghan (Murray) (b) (6); Greenfeld, Helaine A. (OLA) (b) (6); Klapper, Matthew B. (OAG) (b) (6)
Cc: Vazquez, Maru (Murray) (b) (6)
Subject: RE: Contact for Nominee Garland

Reema to BCC and adding Matt and Helaine.

From: Dodin, Reema EOP/WHO (b) (6)
Sent: Tuesday, February 16, 2021 4:10 PM
To: Mahoney, Meghan (Murray) (b) (6)
Cc: Vazquez, Maru (Murray) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Contact for Nominee Garland

Hello! Yes adding

From: Mahoney, Meghan (Murray) (b) (6)
Sent: Tuesday, February 16, 2021 3:34 PM
To: Dodin, Reema EOP/WHO (b) (6)
Cc: Vazquez, Maru (Murray) (b) (6)
Subject: Contact for Nominee Garland

Hi Reema!

Do you have the contact to get a call set up between Senator Murray and Merrick Garland?

Thanks!

Meghan Mahoney
Director of Scheduling
Executive Assistant to the Senator
US Senator Patty Murray
154 Russell Senate Office Building

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

In response to COVID-19, **we are no longer hosting in person meetings and are shifting to call-ins. The Capitol and Capitol Visitors Center are closed for tours and public access. Senate Office Buildings are open to credentialed staff. Our front office is not open but staff can be reached at 202-224-2621. Due to high call volumes, a response may be delayed. Thank you for your patience and don't hesitate to reach out with questions.**

From: Aronson, Alex (Judiciary-Dem)
Subject: Re: Availability for DOJ Call on Gupta Nom
To: Appleton, Rachel E. (OLA)
Cc: Wintta Woldemariam; Rossi, Rachel (OASG); Gaeta, Joseph (OLA)
Sent: February 24, 2021 9:24 PM (UTC-05:00)

Hi Rachel, great to hear from you and apologies for the delay. Any chance tomorrow between 12:30 and 2 might work? Or Friday at 10?

Best,
Alex

On Feb 23, 2021, at 12:08 PM, Appleton, Rachel E. (OLA) (b) (6) wrote:

Hi Alex,

I hope you're well! Would you have time on Thursday or Friday to speak with our team about Vanita Gupta's nomination to Associate Attorney General? We don't anticipate needing more than 15 or 20 minutes of your time.

Best,
Rachel

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

From: Palmer, Bryan (Judiciary)
Subject: RE: 2-22-21 Attorney General Nomination Hearing - Written Questions (Garland)
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Cc: Brest, Phillip (Judiciary-Dem); Fragoso, Michael (Judiciary-Rep); Hopkins, Maggie (Judiciary-Dem); Swanson, Daniel (Judiciary-Dem); Zogby, Joseph (Judiciary-Dem)
Sent: February 24, 2021 7:04 PM (UTC-05:00)
Attached: Graham Garland QFRs.docx

Attached please find written questions for the record for the Honorable Merrick Garland from Senator Graham.

Bryan

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Wednesday, February 24, 2021 5:21 PM
To: Palmer, Bryan (Judiciary) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Fragoso, Michael (Judiciary-Rep) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6); Swanson, Daniel (Judiciary-Dem) (b) (6); Zogby, Joseph (Judiciary-Dem) (b) (6)
Subject: RE: 2-22-21 Attorney General Nomination Hearing - Written Questions (Garland)

Thank you, Bryan. Received.

From: Palmer, Bryan (Judiciary) (b) (6)
Sent: Wednesday, February 24, 2021 5:18 PM
To: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Fragoso, Michael (Judiciary-Rep) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6); Swanson, Daniel (Judiciary-Dem) (b) (6); Zogby, Joseph (Judiciary-Dem) (b) (6)
Subject: 2-22-21 Attorney General Nomination Hearing - Written Questions (Garland)

Attached please find written questions for the record for the Honorable Merrick Garland from Chair Durbin, Ranking Member Grassley, and Senator's Ossoff, Cornyn, Lee, Cruz, Sasse, Cotton, Hawley, Kennedy, Tillis, and Blackburn.

Thank you.

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

From: Gaeta, Joseph (OLA)
Subject: Clark follow up
To: Stoopler, David (Judiciary-Dem)
Sent: February 24, 2021 3:55 PM (UTC-05:00)

David,

Appreciated your call yesterday. About AIPAC, I am told it is very unlikely to weigh in on an AAG nomination. Just not something they do. Our team has reached out to AJCommittee and will do so again, but so far it has not taken a position. Hope this helps.

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

From: Zdeb, Sara (Judiciary-Dem)
Subject: Letter from Chair Durbin to Director Wray
To: Gaeta, Joseph (OLA); (b)(6), (b)(7)(C) per FBI (OCA) (FBI)
Sent: February 24, 2021 1:01 PM (UTC-05:00)
Attached: 2021-02-24 Letter to Director Wray.pdf

Joe and (b)(6), (b)(7)(C) per FBI

Please see attached for a letter from Chair Durbin to Director Wray. If you could confirm receipt I'd appreciate it.

Thanks,

Sara

Sara Zdeb
Senior Counsel
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
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TOM COTTON, ARKANSAS
JOHN KENNEDY, LOUISIANA
THOM TILLIS, NORTH CAROLINA
MARSHA BLACKBURN, TENNESSEE

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

February 24, 2021

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

Dear Director Wray:

On January 6, 2021, a violent, insurrectionist mob, provoked by then-President Donald Trump, attacked the Capitol while Congress was fulfilling its constitutional duty to count the electoral votes and confirm the results of the 2020 Presidential election. The attack endangered the Vice President, members of Congress, and congressional staff; injured more than 140 police officers; and caused the death of at least seven individuals, including two United States Capitol Police officers and a D.C. Metropolitan Police Department officer. Beyond its immediate effects, the January 6 attack will likely exacerbate the preexisting threat of domestic terrorism, as the Federal Bureau of Investigation (FBI) warned in an intelligence bulletin issued last month.¹

Although the investigation into the attack continues, charging decisions to date make clear that the Capitol insurrectionists included and were in some cases organized by adherents of violent right-wing extremist groups. For example, a federal grand jury indicted three members of the right-wing Oath Keepers militia for conspiring to stop Congress's certification of the Electoral College vote, alleging that they coordinated in advance and acted "in an organized and practiced fashion" once they arrived at the Capitol.² Grand juries have also indicted several members of the extremist Proud Boys organization for conspiring to stop the electoral certification.³

The Capitol attack was not an isolated incident. In recent years, Domestic Violent Extremists (DVEs) have committed numerous hate crimes and acts of political violence, including mass shootings targeting Charleston's Emanuel African Methodist Episcopal Church, Pittsburgh's Tree of Life Synagogue, and several other houses of worship; the 2019 mass shooting at a Walmart in El Paso, Texas; the mass shooting at the 2017 congressional baseball game; the murder of Heather Heyer in Charlottesville, Virginia; shootings by Kyle Rittenhouse

¹ [I Urges Police Chiefs across U.S. to Be on High Alert for Threats](#), N.Y. Times, Jan. 13, 2021.

² Indictment, *United States v. Caldwell et al.* (D.D.C. Jan. 27, 2021).

³ [Did the Proud Boys Help Coordinate the Capitol Rioters, U.S. Suggests](#), N.Y. Times, Feb. 5, 2021.

and Michael Reinhoehl last summer; and the recently disrupted plots to kidnap Governors Gretchen Whitmer and Ralph Northam.

Although these attacks involved D E s across the ideological spectrum, both the FBI and the Department of Homeland Security (DHS) have assessed that violent white supremacists represent the most significant domestic terrorism threat.⁴ Nonpartisan experts likewise warn that violent white supremacists, and right-wing extremists more broadly, pose a particularly acute domestic terrorism threat. For example, the Institute for Economics Peace, using data collected by the National Consortium for the Study of Terrorism and Responses to Terrorism, documented a “surge in far-right political terrorism” from 2014 through 2019, noting that “[i]n North America, Western Europe, and Oceania, far-right attacks have increased by 250 percent since 2014, with deaths increasing by 709 percent over the same period.”⁵ The Center for Strategic International Studies attributed more than two-thirds of domestic terrorist plots and attacks in 2020 to white supremacists and other like-minded extremists, notwithstanding an increase in anarchist, anti-fascist, and other like-minded attacks during the same time.⁶

Unfortunately, the FBI appears to have taken steps in recent years that minimize the threat of white supremacist and far-right violence, a grave concern that some of us have raised with you on numerous occasions in recent years. Under the Trump administration, the FBI adopted a new approach to tracking domestic terrorism incidents that substituted a catch-all category of “Racially or Ethnically Motivated iolent Extremists” (RM E s) for a category specific to white supremacist extremists.⁷ This change obfuscates the threat posed by violent white supremacists by conflating them with so-called “Black identity extremists,” a fabricated term criticized by law enforcement experts. While some of us have repeatedly asked you to justify this change, we have never received a satisfactory response.

Additional reporting suggests that the FBI, at the behest of Trump appointees, diverted resources to investigate left-wing movements at the expense of adequately addressing the threat of violence by white supremacists and other right-wing extremists.⁸ These reports raise serious concerns about whether the FBI is allocating law enforcement and intelligence resources in a manner that reflects the scale of the threat posed by violent white supremacists, whom DHS has called “the most persistent and lethal threat in the Homeland.”⁹

⁴ [Dep’t of Homeland Sec., Homeland Threat Assessment](#) at 18 (Oct. 2020); [Experts Pose a iolent hreat. I and D S fficials Say](#), Wall St. J., Sept. 24, 2020.

⁵ Institute for Economics Peace, [Global Terroris Inde easuring the I pact of Terroris](#) at 3, 40, 62 (Nov. 2020).

⁶ CSIS, [The War Co es o e the Evolution of Do estic Terroris in the United States](#) at 2 (Oct. 2020).

⁷ Dep’t of Homeland Sec. and Fed. Bureau of Investigation, [Do estic Terroris Definitions, er inology, and ethodology](#) (Nov. 2020).

⁸ [Coru p’s ocus on ntifa Distracted tention fro the ar Right hreat](#), N.Y. Times, Jan. 31, 2021.

⁹ Dep’t of Homeland Security, [Homeland Threat Assessment](#) at 18 (Oct. 2020).

The Senate Judiciary Committee is conducting oversight of the federal government's response to the ongoing threat of domestic terrorism. To inform that oversight, please provide responses to the following questions by March 15, 2021:

1. For each year from 2016 through present, please provide the following information about terrorism assessments, preliminary investigations, and full investigations (collectively, "investigations"):
 - a. How many investigations did you initiate concerning D^Es, foreign or international terrorists, and Homegrown Violent Extremists (H^Es) Please report separate totals for each category of terrorism and each type of investigation. Please also specify how many preliminary investigations resulted from assessments, and how many full investigations resulted from preliminary investigations and assessments.
 - b. How many of the investigations into D^Es were focused on RM^Es, Anti-Government Anti-Authority Violent Extremists, and Other Domestic Terrorism Threats Please report separate totals for each category of D^E and each type of investigation. Please also specify how many preliminary investigations resulted from assessments, and how many full investigations resulted from preliminary investigations and assessments.
 - c. Of the investigations you initiated concerning RM^Es, how many were focused on White Supremacist Extremists Please report separate totals for each type of investigation. Please also specify how many preliminary investigations resulted from assessments, and how many full investigations resulted from preliminary investigations and assessments.
 - d. Of the investigations you initiated concerning Anti-Government Anti-Authority Violent Extremists, how many were focused on groups or individuals aligned with the Boogaloo movement or other right-wing ideologies How many were focused on groups or individuals aligned with Antifa or similar ideologies Please report separate totals for each type of investigation. Please also specify how many preliminary investigations resulted from assessments, and how many full investigations resulted from preliminary investigations and assessments.
2. For each year from 2016 through present, please provide the following information about terrorism arrests:
 - a. How many suspected D^Es, foreign or international terrorists, and H^Es were arrested by or in coordination with the FBI Please report separate totals for each category of terrorism.

- b. How many of the arrests of D EEs involved RM Es, Anti-Government Anti-Authority Violent Extremists, and Other Domestic Terrorist Threats Please report separate totals for each category of D E.
 - c. Of the arrests involving RM Es, how many involved White Supremacist Extremists
 - d. Of the arrests involving Anti-Government Anti-Authority Violent Extremists, how many involved groups or individuals aligned with the Boogaloo movement or other right-wing ideologies How many involved groups or individuals aligned with Antifa or similar ideologies
3. For each year from 2016 through present, please provide the number of federal domestic terrorism-related weapons recoveries, including the number of each type of weapon and the number of weapons from each category and sub-category of D E.
4. For each year from 2016 through present, and reporting separate totals for the performance of investigative and analytic job functions, please provide the following information concerning FBI full-time equivalents (FTEs):
 - a. How many FTEs worked exclusively on D E investigations or analysis How many worked primarily on D E investigations or analysis How many worked to some extent on D E investigations or analysis For each of these responses:
 - i. How many of these FTEs worked on investigations or analysis concerning RM Es Of these FTEs, how many worked on investigations or analysis concerning White Supremacist Extremists
 - ii. How many worked on investigations or analysis concerning Anti-Government Anti-Authority Violent Extremists Of these FTEs, how many were focused on groups or individuals associated or aligned with the Boogaloo movement or other right-wing ideologies, and how many were focused on groups or individuals associated or aligned with Antifa or similar ideologies
 - iii. How many worked on investigations or analysis concerning Other Domestic Terrorism Threats Of these FTEs, how many were focused on groups or individuals associated or aligned with the Boogaloo movement or other right-wing ideologies, and how many were focused on groups or individuals associated or aligned with Antifa or similar ideologies
 - b. How many FTEs worked exclusively on investigations or analysis concerning foreign or international terrorists How many worked primarily on investigations or analysis

concerning foreign or international terrorists How many worked to some extent on investigations or analysis concerning foreign or international terrorists

- c. How many FTEs worked exclusively on H E investigations or analysis How many worked primarily on H E investigations or analysis How many worked to some extent on H E investigations or analysis

5. For each year from 2016 through present, please provide the following information about investigative methods:

- a. The number of investigations concerning D Es, foreign or international terrorists, and H Es in which you authorized the use of a Confidential Human Source (CHS) or an undercover operation. Please report separate totals for each category of investigation and each investigative method.
- b. Of the investigations concerning D Es, the number of investigations focused on RM Es, Anti-Government Anti-Authority iolent Extremists, and Other Domestic Terrorism Threats in which you authorized the use of a CHS or undercover operation. Please report separate totals for each category of D E and each investigative method.
- c. Of the investigations concerning RM Es, the number of investigations focused on White Supremacist Extremists in which you authorized the use of a CHS or an undercover operation. Please report separate totals for each investigative method.
- d. Of the investigations concerning Anti-Government Anti-Authority iolent Extremists, the number focused on groups or individuals aligned with the Boogaloo movement or other right-wing ideologies in which you authorized the use of a CHS or an undercover operation. Please report separate totals for each investigative method.
- e. Of the investigations concerning Anti-Government Anti-Authority iolent Extremists, the number focused on groups or individuals aligned with Antifa or similar ideologies in which you authorized the use of a CHS or an undercover operation. Please report separate totals for each investigative method.

6. For each year from 2016 through present, please provide the number of domestic terrorism incidents that occurred in the United States. Please also specify:

- a. The number of incidents that involved RM Es, Anti-Government Anti-Authority iolent Extremists, and Other Domestic Terrorism Threats, respectively.
- b. Of incidents involving RM Es, the number that involved White Supremacist Extremists.

- c. Of incidents involving Anti-Government Anti-Authority Violent Extremists, the number that involved groups or individuals aligned with the Boogaloo movement or other right-wing ideologies, and the number that involved groups or individuals aligned with Antifa or similar ideologies.
7. In the wake of the January 6 attack, what is the FBI doing to reallocate resources to appropriately address the significance of the threat posed by RM Es and Anti-Government Anti-Authority Violent Extremists Why weren't these steps taken prior to the attack
8. Please provide a detailed explanation of the training that you provide to federal, state, local, and tribal law enforcement concerning domestic terrorism. Specifically:
 - a. Over the past five years, how has the FBI adapted its training programs to better prepare agents to address domestic terrorism
 - b. Please produce all domestic terrorism-related training materials, whether internal or external, that the FBI has produced from 2016 through present.
9. Emerging reports indicate that off-duty and retired law enforcement personnel participated in the Capitol attack. Please address the policies, protocols, procedures, or standards (collectively, "policies and procedures") the FBI uses to ensure that its prospective, current, and former employees and contractors do not support domestic terrorism. Specifically:
 - a. What policies and procedures does the FBI follow to ensure that current and prospective FBI employees and contractors are vetted to ensure they are not members or associates of D E movements, groups, or individuals, and are not otherwise engaged in or supporting domestic terrorism Please provide copies of any written materials documenting these policies and procedures.
 - b. What policies and procedures including any training, employment assistance, or insider threat programs does the FBI follow to ensure that current FBI employees and contractors are not recruited to participate in or associate with D E movements, groups, or individuals, or otherwise radicalized to engage in domestic violent extremism Please provide copies of any written materials documenting these policies and procedures.
 - c. Do any such policies and procedures exist with respect to former FBI employees or contractors Please provide copies of any written materials documenting these policies and procedures.
 - d. What steps has the FBI taken to address the potential insider threat posed by D Es within other federal, state, and local law enforcement agencies Please be specific.

10. Please produce all “finished” intelligence and information products and reports addressing domestic violent extremism or D E movements, groups, or individuals, whether classified or unclassified, that the FBI issued from 2016 through present, including, but not limited to, joint-sealed or jointly issued products and reports such as Joint Intelligence Bulletins as well as all “raw” products and reports cited or relied on as sources for these finished products and reports.

11. Please address the manner in which you categorize and track domestic terrorism threats. Specifically:

- a. Why did you change the way you track domestic terrorism incidents by subordinating white supremacist violence as a subcategory of RM E incidents
- b. Will you rescind this change and return to the longstanding practice of tracking white supremacist violence as a separate category
- c. For each year from 2016 through present, please produce documents describing or explaining the FBI’s classification of violent extremist threats, including the joint FBI-DHS analytic lexicon of violent extremist threats.

Please provide an unclassified non-law-enforcement sensitive response to all of these questions to the greatest extent possible, with any classified or law-enforcement sensitive material under separate cover.

We appreciate your prompt attention to this important request.

Sincerely,



RICHARD J. DURBIN
Chair



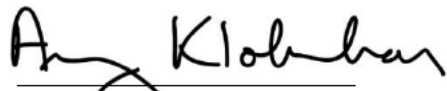
PATRICK LEAHY
United States Senator




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

cc: The Honorable Charles E. Grassley
Ranking Member

From: Gaeta, Joseph (OLA)
Subject: RE: Hi!
To: Borg, Gabrielle (DPCC)
Sent: February 24, 2021 12:43 PM (UTC-05:00)

That's what happened! I guessed your email @stabenow not @dpcc. Rookie move.

We're trying to set up courtesy meetings with off-SJC members and AAG nominee Kristen Clarke. The person who is scheduling couldn't figure out who the right person in your office is. And I'd like to make a pitch that you recommend the meeting, as her nomination "navigator." Happy to discuss further

From: Borg, Gabrielle (DPCC) (b) (6)
Sent: Wednesday, February 24, 2021 11:54 AM
To: Gaeta, Joseph (OLA) (b) (6)
Subject: Hi!

Gabrielle Borg
Legislative Assistant
Senator Debbie Stabenow
202-224-4822

From: Burgess, Jami (Cantwell)
Subject: RE: Garland
To: Gaeta, Joseph (OLA); Greenfeld, Helaine A. (OLA)
Cc: Hale, Jonathan (Cantwell); Dwyer, Sheila (Cantwell)
Sent: February 23, 2021 10:03 AM (UTC-05:00)

Helaine –

Senator Cantwell would like to speak with AG nominee Merrick Garland before the full Senate confirmation vote. I've cc'd Sheila Dwyer on our staff who can help set up a time. Also including our Senior Counsel, Jonathan Hale.

Thanks for your help with this.

Jami Burgess
Chief of Staff
Office of Senator Maria Cantwell

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, February 22, 2021 6:28 PM
To: Burgess, Jami (Cantwell) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6)
Subject: RE: Garland

Jami,

Looping you with Helaine who can help you out.

Zephranie to bcc.

From: Sanghvi, Saurabh (Judiciary-Dem)
Subject: RE: Kristen Clarke follow-up
To: Gaeta, Joseph (OLA)
Sent: February 22, 2021 9:08 AM (UTC-05:00)

Thanks! Will do. Am I reading between the lines right that this means that Cornyn, Tillis, Graham, and Cruz all declined courtesy meetings? Just wanted to confirm because I think Sen. Coons might have been likely to want to talk to Cornyn and Tillis about her, so that'd be disappointing from those two.

--Saurabh

From: Gaeta, Joseph (OLA) (b) (6) >
Sent: Saturday, February 20, 2021 3:43 PM
To: Sanghvi, Saurabh (Judiciary-Dem) (b) (6)
Subject: RE: Kristen Clarke follow-up

Hi Saurabh,

Flagging as I said I would that Kristen has two SJC Republican member meetings currently set up: Senator Blackburn on 2/24 and Grassley on 3/2. We've had a few hard "no"s but Cotton, Lee, Sasse, Hawley, and Kennedy are still possible. Would appreciate it if your boss suggested a pre-hearing courtesy meeting to anyone in this group.

Still no progress on a hearing date, fyi.

Thanks for your interest in KC's nomination. Slow going but we'll get there.

Joe

From: Sanghvi, Saurabh (Judiciary-Dem) (b) (6)
Sent: Tuesday, February 9, 2021 6:59 PM
To: Gaeta, Joseph (OLA) (b) (6); Norgren-Markley, Danielle (OLA)
(b) (6)
Subject: RE: Kristen Clarke follow-up

Sounds great – thanks for that color. And I'm sure this offer goes just as well for the other nominees. So needless to say, please don't hesitate to let us know how we (and really, he) can be helpful on Clarke as things develop or on any of the others as well.

Another thing I am wondering is whether Gupta or Clarke might get opposition from law enforcement groups, and whether Sen. Coons can be useful from that perspective given his relationships with the law enforcement community. Again, something we will defer to you on – don't want to get in your way but also happy to help as useful.

Thanks,
Saurabh

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, February 9, 2021 6:37 PM
To: Sanghvi, Saurabh (Judiciary-Dem) (b) (6); Norgren-Markley, Danielle (OLA)
(b) (6)
Subject: RE: Kristen Clarke follow-up

Saurabh,

I actually was just thinking about that offer today and I appreciate you following up. We've got requests out to

Republican Senators but nothing scheduled yet. We still don't have a good idea for Kristen's hearing date, and without that the sense I'm getting is that Rs and Ds off committee haven't started to focus on her yet. In that respect, Kristen is in a different position than the other three.

There will come a time for Senator Coons to work his magic...b/t/w Kristen and I both thoroughly enjoyed that call...but right now it feels a little early.

From: Sanghvi, Saurabh (Judiciary-Dem) (b) (6)
Sent: Tuesday, February 9, 2021 6:30 PM
To: Gaeta, Joseph (OLA) (b) (6); Norgren-Markley, Danielle (OLA)
(b) (6)
Subject: Kristen Clarke follow-up

Hi—

Just following up on Sen. Coons' meeting with Kristen Clarke, please do feel free to keep us posted about her meetings with Republican offices and we are happy to provide the Senator notes to remind him to approach key Republicans and encourage them to support Ms. Clarke in this process. I'm also happy to discuss if there's any further background you want to share on the strategy here that would bear on how Sen. Coons can be most useful. One question I have been thinking about is whether it is better for him to approach the Republicans about the DOJ nominees in general, or to single out specific ones. Also, although Sen. Coons mentioned a couple names of who he thought it might make sense to reach out to, we'd also welcome your thoughts on the members that you'd hope for outreach to.

As you can tell, Sen. Coons is very supportive and we just want to make sure we are doing what we can to best help in coordination with your overall approach/strategy.

Thanks,
Saurabh

Saurabh H. Sanghvi | Counsel
U.S. Senator Chris Coons | Committee on the Judiciary

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

From: Stoopler, David (Judiciary-Dem)
Subject: Letters from Sen. Blumenthal
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Sent: February 20, 2021 10:41 AM (UTC-05:00)
Attached: 2021.02.19 - Letter re Nassar IG Report - Final.pdf, 2021.02.20 - Letter from Sens. Blumenthal and Menendez to DOJ re Review State Secrets Invocation in 9-11 Families Case - Final.pdf

Helaine and Joe,

Apologies for the Saturday morning email (though I suspect you're both working this weekend). Please find attached a couple of letters to Acting AG Wilkinson, copying Judge Garland and, in one case, the IG (if there is a separate leg affairs contact for the IG's office, please let me know).

The first letter is from Sens. Blumenthal and Menendez, and requests that Acting AG Wilkinson review the propriety and scope of the Department's invocation of the state secrets privilege in connection with a subpoena that 9/11 survivors and victims' families served on the FBI in the course of their JASTA-based litigation. The second is from Sen. Blumenthal and requests that the Department review and promptly address any outstanding issues preventing the release of the DOJ IG report into the FBI's investigation of Larry Nassar.

My boss plans to reference these letters at the hearing on Monday and ask Judge Garland to agree to review these situations once confirmed.

Happy to chat if you have any questions. I'm reachable all weekend at the number below.

David

David Stoopler

Chief Counsel

U.S. Senator Richard Blumenthal

(b) (6)

(b) (6)

RICHARD BLUMENTHAL
CONNECTICUT

COMMITTEES:

AGING

ARMED SERVICES

COMMERCE, SCIENCE, AND TRANSPORTATION

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BRIDGEPORT, CT 06604

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FAX: (203) 330-0608

<http://blumenthal.senate.gov>

February 19, 2020

Monty Wilkinson
Acting Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Acting Attorney General Wilkinson:

The Inspector General of the Department of Justice reportedly opened an investigation of the FBI's potential mishandling of reports of Larry Nassar's sexual abuse on or about September 2018, but has yet to release a final report over two years later.¹ The substance of the investigation is serious: seventeen months elapsed between when USA Gymnastics reported Nassar to the FBI and his arrest in December of 2016.² It has been reported that during that extended period, Nassar abused forty additional girls.³ In June 2020, nearly eight months ago, public reporting indicated that the lead investigator had characterized the matter as a "criminal investigation."⁴ That reporting also noted that the investigation was likely essentially finished, as "[t]ypically . . . a referral to the Public Integrity Section [of the Department of Justice] would be made at the end of an administrative inquiry when a report was complete."⁵ This suggests that at least one pending criminal referral may be impeding the release of the Inspector General's report.

I urge you to ensure the prompt resolution of any outstanding issues and the timely release of this report. The survivors of Larry Nassar have stressed the need for this work to be concluded quickly to avoid the expiration of statutes of limitations, and to ensure that those who are guilty

¹ Michael Balsamo, *Inspector General Reviews FBI Handling of Nassar Allegations*, AP (Sep. 5, 2018), <https://apnews.com/article/877530b4fc5442ae907f7113bf008cd7>.

² Nancy Armour, *U.S. Senator Asks Justice Department to Release Investigation into FBI Delays in Larry Nassar Report*, USA Today (June 3, 2020), <https://www.usatoday.com/story/sports/olympics/2020/06/03/senator-wants-justice-department-report-fbi-delays-larry-nassar-case/3138840001/>.

³ *Id.*

⁴ Sarah Fitzpatrick & Lisa Cavazuti, *More Than 120 Larry Nassar Victims Call for DOJ to Release Report on FBI's Handling of Case*, NBC News (June 17, 2020), <https://www.nbcnews.com/news/sports/more-120-larry-nassar-victims-call-doj-release-report-fbi-n1231211>.

⁵ *Id.*

RICHARD BLUMENTHAL
CONNECTICUT

COMMITTEES:

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ARMED SERVICES

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JUDICIARY

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BRIDGEPORT, CT 06604

(203) 330-0598
FAX: (203) 330-0608

<http://blumenthal.senate.gov>

are brought to justice.⁶ They have also noted that—independent of any prosecutions—simply having the facts come out is important for their healing.⁷

I hope that you will make this matter a priority.

Sincerely,



Richard Blumenthal
United States Senate

cc:

Judge Merrick B. Garland, nominee – Attorney General, Department of Justice

Michael E. Horowitz, Inspector General, Office of the Inspector General, Department of Justice

⁶ Survivors of Larry Nassar, Letter RE: Public Release of OIG Report on FBI Actions in the Larry Nassar Case (June 17, 2020), <https://assets.documentcloud.org/documents/6949719/Nassar-5-Year-Anniversary-OIG-Letter-5-27-20.pdf>.

⁷ *Id.*

February 20, 2021

The Honorable Monty Wilkinson
Acting Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Acting Attorney General Wilkinson:

We write today to bring to your attention an issue of justice for the survivors and those who lost loved ones on September 11, 2001. For years, these survivors and family members have sought information from the Federal Bureau of Investigation (FBI) in connection with their lawsuit filed pursuant to the Justice Against Sponsors of Terrorism Act (JASTA). That information has been withheld by Department of Justice (DOJ) and the FBI, purportedly for national security reasons. On September 11, 2019, President Trump made a promise to the survivors and families that DOJ would disclose documents relevant to the case. Yet, the next day, then-Attorney General William Barr invoked the state secrets privilege to, by and large, prevent the release of the very information that President Trump had vowed to disclose.¹

We urge you to review this decision and subsequent decisions by Attorney General Barr to invoke the state secrets privilege in this critical matter. We also request that, following your review, DOJ declassify and disclose—when and where appropriate—as much of the relevant documents and information sought by the 9/11 families as possible. These families deserve not only their day in court, but to be able to go to court with all the evidence they need to make their case.

In their case, the 9/11 families have requested information from the FBI, as part of civil discovery, that could illuminate the role Saudi government officials may have played in providing substantial assistance to two of the terrorists who attacked the United States on September 11, 2001. That request, with one limited exception,² was blocked by Attorney General Barr notwithstanding the promise President Trump made to the 9/11 families that DOJ would disclose the information they had requested.

The state secrets privilege was—and remains—intended to prevent disclosure of government information “when genuine and significant harm to national defense or foreign relations is at stake and only to the extent necessary to safeguard those interests.”³ The Obama administration adopted guidelines making clear that it should be invoked only upon a “sufficient showing that [it] is necessary to protect information the unauthorized disclosure of which

¹ See Tim Golden and Sebastian Rotella, *The Saudi Connection: Inside the 9/11 Case That Divided the F.B.I.*, N.Y. TIMES (Jan. 23, 2020), <https://www.nytimes.com/2020/01/23/magazine/9-11-saudi-arabia-fbi.html>.

² See *id.* DOJ disclosed the name of a Saudi diplomat who had been connected to 9/11 in a report prepared by the FBI in 2012 in a protected court filing only available to counsel for the 9/11 families.

³ Memorandum from Attorney General Eric Holder on Policies and Procedures Governing Invocation of the State Secrets Privilege to Heads of Executive Departments and Agencies and Heads of Departments Components (Sept. 23, 2009), <https://www.justice.gov/archive/opa/documents/state-secret-privileges.pdf>.

reasonably could be expected to cause significant harm” to the U.S. national security and be narrowly tailored for that specific purpose.⁴ Critically, though, the privilege cannot be used to “prevent embarrassment to a person, organization, or agency of the United States government” or to “prevent or delay the release of information . . . which would not reasonably be expected to cause significant harm to national security.”⁵

There are reasons to question whether Attorney General Barr’s decision to invoke the state secrets privilege in this case met these exacting standards.⁶ For instance, when Attorney General Barr invoked the privilege in April 2020, he claimed that even the Trump administration’s “justification for secrecy needed to remain secret” and that “public discussion of the issue ‘would reveal information that could cause the very harms my assertion of the state secrets privilege is intended to prevent.’”⁷ Such blanket assertions and vague justifications undermine both public confidence that our government will only invoke the state secrets privilege when necessary to prevent significant harm to our national security and the pursuit of justice.

Moreover, based on information provided by the families, as well as related reporting by the *New York Times*, there may have been significant abnormalities in the FBI’s handling of the 9/11 families’ subpoena. To that end, in April 2020, Senators Schumer, Grassley, and Blumenthal requested that the Department’s Inspector General conduct an investigation into how the FBI handled the subpoena.

It is fundamental to our civil justice system that those who seek justice be given a fair day in court. For these brave 9/11 families, that necessarily means access to evidence. Their case and this cause is about truth, justice, and accountability—DOJ must not stand in their way unnecessarily.

Thank you for your consideration and prompt attention to this matter.

Sincerely,

/s/ *Richard Blumenthal*

RICHARD BLUMENTHAL
United States Senate

/s/ *Robert Menendez*

ROBERT MENENDEZ
United States Senate

CC: The Honorable Merrick B. Garland
Nominee to be Attorney General of the United States

⁴ *Id.*

⁵ *Id.*

⁶ *See id.*

⁷ Tim Golden and Sebastian Rotella, *Attorney General Barr Refuses to Release 9/11 Documents to Families of the Victims*, PROPUBLICA (Apr. 15, 2020), <https://www.propublica.org/article/attorney-general-barr-refuses-to-release-9-11-documents-to-families-of-the-victims>.

From: Fragoso, Michael (Judiciary-Rep)
Subject: RE: Potential Omissions - V. Gupta
To: Brest, Phillip (Judiciary-Dem); Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Cc: Michalak, Gabrielle (Judiciary-Rep); Rajasekar, Akhil (Judiciary-Rep)
Sent: February 19, 2021 8:57 PM (UTC-05:00)

Yes. I'm asking that the SJQs be supplemented with responsive items, which include press releases that quote the nominees—unless the quoted language is contained elsewhere in responsive material, such as 12(e) news items.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, February 19, 2021 7:21 PM
To: Fragoso, Michael (Judiciary-Rep) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Michalak, Gabrielle (Judiciary-Rep) (b) (6); Rajasekar, Akhil (Judiciary-Rep)
(b) (6)
Subject: RE: Potential Omissions - V. Gupta

Just so I'm totally clear on the ask – you're looking for press releases from Lisa Monaco's and Vanita Gupta's time at the Department of Justice in which they were quoted, to the extent that the quoted language is not otherwise reflected in 12(e) materials that have already been provided (like news articles)?

From: Fragoso, Michael (Judiciary-Rep) (b) (6)
Sent: Friday, February 19, 2021 7:06 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Michalak, Gabrielle (Judiciary-Rep) (b) (6); Rajasekar, Akhil (Judiciary-Rep)
(b) (6)
Subject: RE: Potential Omissions - V. Gupta

Phil,

The standard practice has been to include press releases where the nominee is quoted. Sorry, I should have specified that but I assumed we were all on the same page. Of course, many of these can be duplicative of 12(e) entries given how many news reports quote from press releases, in which case one news report with the quote in the release has typically been deemed sufficient—rather than the release and then the wire article and then the 20 papers running the wire article.

Good examples of this being the practice are John Cronan for SDNY and Maureen Ohlhausen for Fed Claims.

As to Barr, as I recall, it was a function of what DOJ could and couldn't find from 30 years ago. The online archives are so limited (mostly out of ATR for whatever reason) that I believe DOJ even checked the OPA hard-copy archives for releases where AG Barr was quoted. I don't think there were any and so DOJ didn't provide any.

Mike

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, February 19, 2021 6:11 PM
To: Fragoso, Michael (Judiciary-Rep) (b) (6); Greenfeld, Helaine A. (OLA)
(b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Michalak, Gabrielle (Judiciary-Rep) (b) (6); Rajasekar, Akhil (Judiciary-Rep)
(b) (6)
Subject: RE: Potential Omissions - V. Gupta

Mike – when Barr was nominated to be Attorney General, he didn't provide any press releases from his time at DOJ.

Why should we establish a different standard here?

From: Fragoso, Michael (Judiciary-Rep) (b) (6)

Sent: Friday, February 19, 2021 6:09 PM

To: Greenfeld, Helaine A. (OLA) (b) (6)

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

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

Michalak, Gabrielle (Judiciary-Rep)

(b) (6)

; Rajasekar, Akhil (Judiciary-Rep) (b) (6)

Subject: Potential Omissions - V. Gupta

Hi Helaine and Joe,

We believe we've also identified potential omissions from Ms. Gupta SJQ that we would like to flag. We think the below list of items is responsive to Question 12. If they are, can you please provide a copy of each and update Ms. Gupta's SJQ? If they're not, please explain why.

In addition her answer to 12(d) does not seem to include any DOJ press releases from her time at CRT. Just going by previous nominees with leadership experience in DOJ, it seems likely that she has many of those. If she does, can you provide those as well—to the extent they're not duplicative of other entries?

Thanks guys, and have a good weekend,

Mike

Sean Sullivan, Jenna Johnson and Colby Itkowitz, "In George Floyd killing, Joe Biden seeks to project empathy as activists and party leaders demand details," Washington Post, May 29, 2020

Emily Cochrane and Michael Crowley, "Republicans Signal Narrow Policing Overhaul as Trump Signs Limited Order," New York Times, June 16, 2020

Emily Bazelon, "The message is clear: Policing in America is broken and must change. But how?," New York Times Magazine, June 21, 2020

Frederick Kunkle and Tara Bahrapour, T., "Census Bureau says counting will end a month earlier than planned," Washington Post, August 1, 2020

Luke Broadwater and Hailey Fuchs, "Schumer Accuses Postal Service of Trying to Inflate the Cost of Mail-In Voting," New York Times, August 12, 2020

Ben Smith, "Will Fox News's Chief Nerd Call It Straight on Nov. 3?," New York Times, September 28, 2020

Vantia Gupta, "Stop the Over-Policing of Communities of Color," in Ending Mass Incarceration: Ideas from Today's Leaders (Inimai Chettiar & Priya Raghavan, eds.) (2019)

Bill Ruthhart, "Rahm Emanuel's Legacy; A Polarizing Mayor who took on the city's tough issues with mixed results," Chicago Tribune, May 19, 2019

Lauren Victoria Burke, "After Memo becomes public, focus of Trump Citizenship question is revealed," LA Sentinel, June 27, 2019

Ronald Brownstein, "Schools, corporations and local governments are listening to Trump's 'go back' language. Silence is a dangerous retort," CNN, July 22, 2019

"All things Considered," NPR, November 14, 2019

Jamie Self, "SC Gov. McMaster Wants to Require some Medicaid Recipients to Work," The State, January 11, 2018

Sunita Sohrabji, "Trump Administration Has Launched 'Assault on Civil Rights'", India – West, April 14, 2017

Devlin Barrett and Abby Phillip, "Trump Pardons Ex-Sheriff Arpaio," Washington Post, August 26, 2017

Tom Jackman, "Trump to Restore Program Sending Surplus Military Gear to Local Police," Washington Post, August 29, 2017

Matt Zapatosky, "Illinois Files Suit to Force Police to Reform in Chicago," Washington Post, August 30, 2017

Matt Zapatosky and Sarah Pulliam Bailey, "Sessions Issues Federal Guidance on Religious Freedom," Washington Post, October 7, 2017

Emma Brown, "New federal guidelines highlight civil rights of English language learners," Washington Post, January 7, 2015

Andrew Grossman, "DOJ Won't charge Zimmerman in Trayvon Martin's Shooting," WSJ, February 24, 2015

Ruth Marcus, "Policing by Fleecing, in Ferguson and Beyond," Washington Post, March 7, 2015

Campbell Robertson, Shaila Dewan and Matt Apuzzo, "Ferguson Became Symbol of an Ill Plaguing the US," New York Times, March 8, 2015

"The Problem is Bigger than Ferguson," New York Times, March 13, 2015

"Women in the DOJ are no longer MIA," Marie Claire, April 2015

Matt Apuzzo, "Transgender Inmate's Hormone Treatment Lawsuit Gets Justice Dept. Backing," New York Times, April 3, 2015

"Deputies under new rules," LA Times, April 30, 2015

"GA Settles case alleging assembly-line justice for children," NPR, May 2, 2015

"Cleveland reaches settlement with DOJ over Police Conduct," NPR, May 25, 2015

"Probe of Baltimore Police outlined: DOJ officials vows 'thorough and fair review' of conduct," Baltimore Sun, June 26, 2015

"Federal Report Finds Bias Against Black Youths in Missouri County Court," New York Times, August 1, 2015

"Mass Incarceration in America; Permanent Lockdown," The American Prospect, January 2, 2011

"ABA Journal: The Battle on the Home Front: Special Courts turn to those who served to help troubled vets regain discipline, camaraderie," ABA Journal, November 2011

From: Gaeta, Joseph (OLA)
Subject: courtesy meeting with Kristen Clarke
To: (b)(6) Emily Carwell (Stabenow) (b)(6) Gabrielle Borg (Stabenow)
Cc: Norgren-Markley, Danielle (OLA)
Sent: February 19, 2021 3:45 PM (UTC-05:00)

Emily and Gabby,

(b) (6)

I'm am navigating (Sherpa-ing for the old timers) Kristen Clarke's (AAG Civil Rights) nomination through the Senate. We are scheduling courtesy meetings with off-committee Democrats, and my colleague Danielle is having a hard time tracking down your scheduler. Could I encourage you to recommend your boss take this meeting? We don't have a hearing date from SJC yet, so we can schedule into March.

We'd love some early support from Senator Stabenow. Happy to discuss further.

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

From: Fragoso, Michael (Judiciary-Rep)
Subject: Potential Omissions - L Monaco
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Cc: Brest, Phillip (Judiciary-Dem); Munk, Raija Churchill (Judiciary-Rep)
Sent: February 19, 2021 2:24 PM (UTC-05:00)

Hi Helaine and Joe,

We believe we've identified potential omissions from Ms. Monaco's SJQ that we would like to flag. We think the below list of items is responsive to Question 12. If they are, can you please provide a copy of each and appropriately update Ms. Monaco's SJQ? If they're not, please explain why.

Thank you,

Mike

"Sulaiman Abu Ghayth, Associate Of Usama Bin Laden, Arrested For Conspiring To Kill Americans," Department of Justice, USAO SDNY, March 7, 2013

"New York Man Pleads Guilty To Attempting To Bomb New York Federal Reserve Bank In Lower Manhattan," Department of Justice, USAO EDNY, February 7, 2013

"David Coleman Headley Sentenced To 35 Years In Prison For Role In India And Denmark Terror Plots," Department of Justice, USAO ND Ill, January 24, 2013

"Washington Man Sentenced to 32 Years for Attempted Bombing of Martin Luther King Unity March," Department of Justice, USAO ED Wash, May 15, 2015

"United States Intervenes in Two False Claims Act Whistleblower Complaints Against Monaco Enterprises Inc.," Department of Justice, March 21, 2012

"Alleged Al-qaeda Operative Extradited To United States For Role In International Terrorism Plot Targeting New York City, United Kingdom, And Scandinavia," Department of Justice, USAO EDNY, January 3, 2013

"Noted Scientist Sentenced to 13-Year Prison Term for Attempted Espionage, Fraud and Tax Charges," Department of Justice, March 21, 2012

"Maryland Man Pleads Guilty to Conspiracy to Provide Material Support to Terrorists," Department of Justice, March 4, 2012

"Al Qaeda Operative Convicted by Jury in One of the Most Serious Terrorist Plots Against America since 9/11," Department of Justice, May 1, 2012

"Pakistani Citizen Sentenced To 50 Months In Prison For Conspiracy To Provide Material Support To The Pakistani Taliban- Two Co-Defendants Previously Sentenced To 40 And 36 Months In Prison," Department of Justice, USAO DDC, May 8, 2013

"Former U.S. Consulate Guard Sentenced To Nine Years In Prison For Attempting To Communicate National Defense Information To China," Department of Justice, USAO DDC, March 5, 2013

"Former Iraqi Terrorists, Living In Kentucky, Sentenced For Terrorist Activities," Department of Justice, USAO WD Ky, January 29, 2013

"Texas Resident Convicted on Charge of Attempted Use of Weapon of Mass Destruction," Department of Justice, June 27, 2012

"Chinese National Sentenced to 87 Months in Prison for Economic Espionage and Theft of Trade Secrets, Department of Justice, December 21, 2011

"Al-Qaeda Operative Sentenced to Life in Prison in One of the Most Serious Terrorist Plots Against the United States since 9/11," Department of Justice, November 16, 2012

"Saudi Student Sentenced to Life in Prison for Attempted Use of Weapon of Mass Destruction," Department of Justice, November 13, 2012

"Chinese National Pleads Guilty to Economic Espionage and Theft of Trade Secrets," Department of Justice, October 18, 2011

"Former U.S. Consulate Guard Pleads Guilty to Attempting to Communicate National Defense Information to China," Department of Justice, August 30, 2012

"Tahawwur Rana Sentenced To 14 Years In Prison For Supporting Pakistani Terror Group And Terror Plot In Denmark," Department of Justice, USAO ND III, January 17, 2013

"ING Bank N.V. Agrees to Forfeit \$619 Million for Illegal Transactions with Cuban and Iranian Entities," Department of Justice June 12, 2012

"U.S. and Chinese Defendants Charged with Economic Espionage and Theft of Trade Secrets in Connection with Conspiracy to Sell Trade Secrets to Chinese Companies," Department of Justice, February 8, 2012

"Oregon Resident Convicted in Plot to Bomb Christmas Tree Lighting Ceremony in Portland," Department of Justice, USAO D Ore, January 31, 2013

"Iraqi National Pleads Guilty to 12-count Terrorism Indictment in Kentucky," Department of Justice, August 21, 2012

"Pennsylvania Man Pleads Guilty to Terrorist Solicitation and Firearms Offense," Department of Justice, August 9, 2011

"Pennsylvania Man Indicted for Soliciting Jihadists to Kill Americans," Department of Justice, July 14, 2011

"Former Guard Charged with Attempting to Communicate National Defense Information to People's Republic of China," Department of Justice, September 28, 2011

"Former Los Angeles Resident Pleads Guilty in Plot to Attack Seattle Military Processing Center," Department of Justice, December 8, 2011

"Virginia Man Sentenced to 18 Months in Prison for Acting as Unregistered Agent for Syrian Government," Department of Justice, July 20, 2012

"Bonus: The New Threat Matrix," The Insider Podcast with Lisa Monaco & Ken Wainstein

"Interview with Courtney Elwood," United Security with Lisa Monaco & Ken Wainstein, 2/5/2021

"Interview with James Clapper," Part I, United Security with Lisa Monaco & Ken Wainstein, 1/8/2021

"Interview with James Clapper," Part II, United Security with Lisa Monaco & Ken Wainstein, 1/22/2021

"Interview with Matt Olsen," United Security with Lisa Monaco & Ken Wainstein, 12/11/2020

"United Security Sample: Interview with Matt Olsen," United Security with Lisa Monaco & Ken Wainstein, 12/11/2020

"Interview with John Brennan," United Security with Lisa Monaco & Ken Wainstein, 11/13/2020

"United Security Bonus: Interview with John Brennan," United Security with Lisa Monaco & Ken Wainstein, 11/13/2020

"Mueller defends Stone prosecution and says 'his conviction stands' in Washington Post op-ed," CNN, 7/11/2020

"Ex-homeland security adviser: Our playbook was 'ignored'," CNN, 5/12/2020

"Pandemic Preparedness & Response," Intelligence Matters with Michael Morell, 4/14/2020 (transcript from April 15, 2020)

"Before Virus Outbreak, a Cascade of Warnings Went Unheeded," New York Times, 3/19/2020

"The Coronavirus Has Dangerously Inverted the Long-Standing White House Theme," The Atlantic, 3/10/2020

"Senate report faults Obama administration's paralysis on Russian election interference," Politico, 2/6/2020

"US Fighter Jets Destroy Compound Where Al-Baghdadi Died," CNN, 10/27/2019

"From the Executive Branch to Congress: National Security Leaders Who Crossed the Divide," NYU Law School, 10/21/2019

"The pandemic potential," Axios, 6/1/2019

"In Push for 2020 Election Security, Top Official Was Warned: Don't Tell Trump," New York Times, 4/24/2019

"The Daily 202: How the nature of cyberwar is changing," Washington Post, 4/15/2019

"Employers Doubt Pay Equity Goals Outweigh Data Security Risks," Bloomberg Law, 3/18/2019

"Former Prosecutors break down Mueller endgame," CNN, 2/24/2019

"The shutdown's cybersecurity costs," Axios, 1/8/2019

"Terror threat is 'getting worse' says former homeland security adviser," CBS News, 1/2/2019

"Lisa Monaco, Former Homeland Security Advisor, on Today's Threat Landscape," CBS News, 1/1/2019

"Trump's Intervention in Huawei Case Would Be Legal, but Bad Precedent, Experts Say," New York Times, 12/12/2018

"Marriott Data Breach Is Traced to Chinese Hackers as U.S. Readies Crackdown on Beijing," New York Times, 12/11/2018

"Aid Group For Hostages' Families Seeks To Help Through 'Lonely Experience'," NPR, 11/23/2018

"Inside the Trump administration's rudderless fight to counter election propaganda," Politico, 10/31/2018

"Crown prince under scrutiny in journalist's disappearance even as Saudis search for exculpatory explanation," Washington Post, 10/18/2018

"Cybersecurity Summit 2018: David Petraeus and Lisa Monaco on America's cybersecurity posture," Washington Post, 10/2/2018

“Pandemics and the Existential Threat to Global Security,” Aspen Institute, 2017

Aspen Security Forum, 7/30/2016 <https://www.mprnews.org/story/2016/08/02/lisa-monaco-on-combatting-terrorism-and-cyber-attacks>

Charlie Rose Show, 9/30/2015 <https://charlierose.com/videos/23527>

From: Gaeta, Joseph (OLA)
Subject: OMB
To: Aronson, Alex (Judiciary-Dem); Smirniotopoulos, Amalea (Judiciary-Dem)
Sent: February 19, 2021 11:00 AM (UTC-05:00)

Hola amigos.

Just was on the phone with (b) (6) who mentioned your question about OMB's QFR policy. As it turns out, Robert Etter who through today is on the Budget Committee, starts Monday as OMB's Leg Affairs person. You probably could reach out to him today on Budget to get the conversation started about the OMB policy. Or he could tell you who the best person is.

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

From: Gaeta, Joseph (OLA)
Subject: RE: greetings from DOJ
To: Revana, Arun (Schatz)
Cc: Morse, Mika (Schatz); Einhorn, Eric (Schatz)
Sent: February 18, 2021 12:41 PM (UTC-05:00)

New job congratulations (b) (6). Hope it is going well.

Mika/Eric, the two things I'd like to talk with you about are your bill about extending the census deadline and the AAG for Civil Rights nominee Kristen Clarke. If you have time for a quick call I'd appreciate it. Let me know some times that work.

From: Revana, Arun (Schatz) (b) (6)
Sent: Thursday, February 18, 2021 12:35 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Morse, Mika (Schatz) (b) (6); Einhorn, Eric (Schatz) (b) (6)
Subject: Re: greetings from DOJ

Hi Joe,

Congratulations on the new position! I did not realize you had left!

Since I am out of the office (b) (6), I am adding in Mika who is covering for me, but feel free to let me know if I can help.

Thanks,
Arun

On Feb 18, 2021, at 10:23 AM, Gaeta, Joseph (OLA) (b) (6) wrote:

Hi Arun,

There are a couple of matters of interest to DOJ that I'd like to talk with you about. Do you have some time for a quick call today? Thanks.

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

From: Gaeta, Joseph (OLA)
Subject: RE: 4:30 call
To: Zdeb, Sara (Judiciary-Dem); Antell, Kira M. (OLA)
Sent: February 18, 2021 12:14 PM (UTC-05:00)

Let us delay this call until mid next week. Internal conversations and reviews continue but I'm not going to be able to break new ground in a call today so don't want to waste your time.

People here are aware that this may come up at Judge Garland's confirmation hearing.

From: Zdeb, Sara (Judiciary-Dem) (b) (6)
Sent: Thursday, February 18, 2021 11:59 AM
To: Gaeta, Joseph (OLA) (b) (6); Antell, Kira M. (OLA) (b) (6)
Subject: 4:30 call

Just a heads up that Dan and I are likely to be joined by our colleague Joe Charlet on our call later today. Look forward to talking at 4:30.

From: Gaeta, Joseph (OLA)
Subject: Kristen Clarke
To: (b)(6) Stephanie Akpa (Warren)
Sent: February 16, 2021 10:48 AM (UTC-05:00)

Hi Stephanie,

Hope you are well. I'm writing to flag that we are starting to offer off-SJC courtesy meetings with Kristen Clarke, the nominee to be Assistant Attorney General for the Civil Rights Division. Because SJC has taken some time to get its nomination hearings scheduled, we've got some time to fit in more calls/Zoom meetings. We would love to get Kristen on Senator Warren's schedule over the upcoming weeks. Our scheduler will be reaching out to yours. I'm happy to discuss by phone if you'd like. (b) (6). Thanks.

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

From: Zdeb, Sara (Judiciary-Dem)
Subject: RE: (b)(7)(E) per FBI review
To: Thorley, Charles A. (OLA)
Cc: Gaeta, Joseph (OLA)
Sent: February 10, 2021 2:47 PM (UTC-05:00)

Thanks, Chad – I appreciate the heads up. Let me confer with colleagues and circle back with some proposed times that would work for us to swing by and review. Could you remind me if these materials are classified and, if so, at what level?

Also, could you confirm whether these are the same materials that were previously made available to Grassley's Finance Committee staff (as well as to Senate Judiciary staff) during the course of then-Chair Johnson's HSGAC investigation last fall? Or are they documents that you plan to make newly available?

From: Thorley, Charles A. (OLA) (b) (6)
Sent: Wednesday, February 10, 2021 1:56 PM
To: Zdeb, Sara (Judiciary-Dem) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6)
Subject: (b)(7)(E) per FBI review

Sara –

Hope you are doing well. I wanted to make you aware that Senator Grassley's staff has requested to review the (b)(7)(E) per FBI (which contains (b)(7)(E) per FBI) in the DOJ reading room. We will be making (b)(7)(E) per FBI available for their review and wanted to make sure you and your colleagues also had a chance to see it. If you'd like to schedule a time, please let me know and we will have ready for you.

Thanks,
Chad

From: Gaeta, Joseph (OLA)
Subject: Kristen Clarke nomination
To: Hekhuis, Jeremy (Brown); Sarubbi, Vincent (Brown)
Sent: February 10, 2021 1:52 PM (UTC-05:00)

Gentlemen,

If you start getting lobbied on the Kristen Clarke nomination, for or against, would you mind flagging for me. Trying to keep my ear to the ground about what Senate offices are hearing.

Thanks.

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

From: Gaeta, Joseph (OLA)
Subject: Fwd: Letter of Support
To: Phillip Brest
Sent: February 8, 2021 6:58 PM (UTC-05:00)
Attached: FINAL Letter from LCCR EC and Former Chairs (1).pdf

For the hub if you don't have it

Sent from my iPhone

Begin forwarded message:

From: "Mann, Myles H. EOP/WHO" (b) (6)
Date: February 8, 2021 at 6:41:01 PM EST
To: "Greenfeld, Helaine A. (OLA)" (b) (6) "Gaeta, Joseph (OLA)"
(b) (6)
Cc: "Shubat, Dana I. EOP/WHO" (b) (6)
Subject: FW: Letter of Support

Attached, please find a letter of support from the The Executive Committee of the Board of the Lawyers' Committee for Civil Rights Under Law, and other members of their Board, in support of Kristen Clarke.

February 8, 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

Re: Nomination of Kristen Clarke for Assistant Attorney General of the Civil Rights
Division of the United States Department of Justice

Dear Majority Leader Schumer, Minority Leader McConnell, Chairman Durbin and Ranking
Member Grassley:

We write in strong support of the nomination of Kristen Clarke for the position of Assistant
Attorney General of the Civil Rights Division of the United States Department of Justice. This
letter is written on behalf of the Executive Committee of the Board of the Lawyers' Committee for
Civil Rights Under Law, and other members of our Board who are former Chairs of the Board.

The Lawyers' Committee is an organization whose principal mission is to secure equal justice for all
through the rule of law. The Lawyers' Committee was created at the request of President John F.
Kennedy in the summer of 1963 in the midst of a struggle to end racial segregation and
institutionalized racial discrimination. President Kennedy presciently recognized that lawyers could
use their training and influence to move the struggle for the protection of civil rights from the
streets to the courts.

Though we have achieved much in the way of advancing civil rights since the 1960s, through both
litigation and statutory changes, we recognize that much work remains to be done before all
Americans obtain the benefits and privileges of full equality under the law. The work of Kristen
Clarke, our President and Executive Director for the past five years, reminds us that in representing
those who have suffered discrimination, we move our country a step closer to achieving our
overarching goal of full equality for all Americans.

We know Kristen well and we know that she has fought throughout her career to achieve this goal.
We know her as a daughter of immigrants, and a life-long leader in the struggle to achieve equal
rights for all. We know her as a tireless advocate who became a civil rights lawyer because she saw
the law as the best vehicle to address systemic racism and other barriers preventing all Americans
from enjoying the opportunities available to the more privileged members of our society. We have
observed her toil -- on a day to day basis under challenging circumstances -- over legal strategy,

directing and leading staff, and serving clients with zeal, compassion, and integrity. She is unapologetic in her quest for both equity and equality and is fearless in her willingness to identify those areas where our democracy is falling short.

Now, following a twenty-year career devoted exclusively to advancing the civil rights of all Americans, and after President Biden nominated Kristen to serve as the Assistant Attorney General of the Civil Rights Division at the United States Department of Justice, there are people who have leveled attacks, describing her as “hateful” and “racist.” These assertions are belied not only by Kristen’s distinguished career fighting against hate and injustice, but also by the daily example that she has shown to those of us who know her personally and have closely observed her professionalism, her compassion, and her integrity.

All of us are attorneys who have interacted with many attorneys and public officials throughout our professional careers. We are a diverse group of attorneys, representing all sectors of our society, and reflect the make-up of our country. All of us, without hesitation, know Kristen to be an attorney with the utmost integrity, with a deep and abiding commitment to fight against bigotry in all forms, including racism and antisemitism. Our support is based upon our close working relationship with Kristen in her professional capacity, and our personal relationship with her over the years. During those years Kristen has always been at the forefront of the fight against all forms of discrimination and hate-mongering, both explicit and implicit.

We therefore take great pride in submitting this letter on behalf of Kristen Clarke’s nomination. And we can think of no better words to describe Kristen than the ones the President used to describe her and her fellow nominees: “eminently qualified, embody[ing] character and judgment that is beyond reproach, and hav[ing] devoted their careers to serving the American people with honor and integrity.”

Yours truly,

Hon. Shira A. Scheindlin

United States District Judge (Ret.)¹

Stanley J. Brown

Hogan Lovells US LLP

Nicholas Christakos

Eversheds Sutherland (US) LLP

¹ Listed affiliations for all signatories are for identification purposes only.

Marc L. Fleischaker

Arent Fox LLP

Robert E. Harrington

Robinson Bradshaw

Danielle Holley-Walker

Dean, Howard University School of Law

Gary T. Johnson

Chicago History Museum

Michael D. Jones, P.C.

Kirkland & Ellis LLP

James P. Joseph

Arnold & Porter LLP

John S. Kiernan

Debevoise & Plimpton

Adam Klein

Outten & Golden LLP

Daniel F. Kolb

Davis Polk & Wardwell LLP

Charles T. Lester, Jr.

Eversheds Sutherland (US) LLP

Marjorie Press Lindblom

Kirkland & Ellis LLP

Jack Londen

Morrison & Foerster LLP

John M. Nonna

Westchester County Attorney

Bettina B. Plevan

Proskauer Rose LLP

Bradley Phillips

Munger, Tolles & Olson LLP

Donald J. Rosenberg

Qualcomm Inc.

Paul Saunders (Ret.)

Cravath, Swaine & Moore LLP

Thomas Sager

Ballard Spahr LLP

Jane Sherburne

Sherburne PLLC

Marsha E. Simms

Weil, Gotshal & Manges LLP

John Skilton

Perkins Coie LLP

David Smith

Schnader

Eleanor Smith

Zuckerman Spaeder LLP

Edward Soto

Weil, Gotshal & Manges LLP

Michael E. Swartz

Schulte Roth & Zabel LLP

Joseph K. West

Duane Morris LLP

Teresa Wynn Roseborough

Former Co-chair, Lawyers' Committee for Civil Rights Under Law

From: Gaeta, Joseph (OLA)
Subject: Clarke outreach
To: Brest, Phillip (Judiciary-Dem)
Cc: Greenfeld, Helaine A. (OLA)
Sent: February 8, 2021 1:20 PM (UTC-05:00)

Phil,

It was flagged for Helaine that we should check in with Casey, Manchin, and Sinema on Kristen's nomination. Can you be sure include those three offices on your D outreach and let us know whether we should get meetings on the books? I know Derek Miller well enough that I can have a frank conversation with him, and will ping him shortly.

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

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: clarke nom
To: Gaeta, Joseph (OLA)
Sent: February 5, 2021 5:59 PM (UTC-05:00)

Emailed Chiefs re: letters.

Will get hubs set up on DPCC on Monday and start gathering info we discussed.

Have a good weekend

From: Brest, Phillip (Judiciary-Dem)
Sent: Friday, February 5, 2021 2:43 PM
To: 'Gaeta, Joseph (OLA)' <Joseph.Gaeta@usdoj.gov>
Subject: RE: clarke nom

Not counsels yet – they don't have.

Padilla – Josh Esquivel (LD) (b) (6)
Ossoff – Miryam Lipper (seems to be the only staffer?) (b) (6)

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, February 5, 2021 2:38 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6)
Subject: RE: clarke nom

Could you send me the names/emails of their counsel?

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, February 5, 2021 2:36 PM
To: Gaeta, Joseph (OLA) (b) (6); Peter Hyun (b)(6) (Biden-Harris Transition Team Email)
Subject: RE: clarke nom

I don't know other than they were pinged on Monaco. But they raised it when we were just chatting about Clarke on Chiefs.

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, February 5, 2021 2:34 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Peter Hyun (b)(6) (Biden-Harris Transition Team Email)
Subject: RE: clarke nom

Have Padilla and Ossoff meet with the other three? Was just waiting for those to get scheduled first.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, February 5, 2021 2:32 PM
To: Peter Hyun (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: clarke nom

A few things I'd like to address, in addition to whatever you have:

- Courtesy meetings (Padilla and Ossoff haven't gotten requests yet);
- Caucus courtesy meetings;
- Republican meetings;

- Strategy generally

From: Peter Hyun (b)(6) (Biden-Harris Transition Team Email)
Sent: Friday, February 5, 2021 2:27 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6)
Subject: Re: clarke nom

Me too.

On Fri, Feb 5, 2021 at 2:21 PM Gaeta, Joseph (OLA) (b) (6) wrote:

Would love to see you.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, February 5, 2021 2:20 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Peter Hyun (b)(6) (Biden-Harris Transition Team Email)
Subject: RE: clarke nom

Zoom okay? It keeps me focused better

From: Brest, Phillip (Judiciary-Dem)
Sent: Friday, February 5, 2021 2:19 PM
To: 'Gaeta, Joseph (OLA)' (b) (6)
Cc: Peter Hyun (b)(6) (Biden-Harris Transition Team Email)
Subject: RE: clarke nom

Yup will do

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Friday, February 5, 2021 2:16 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6)
Cc: Peter Hyun (b)(6) (Biden-Harris Transition Team Email)
Subject: RE: clarke nom

Great can you send a call in?

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Friday, February 5, 2021 12:36 PM
To: Gaeta, Joseph (OLA) (b) (6)
Cc: Peter Hyun (b)(6) (Biden-Harris Transition Team Email)
Subject: Re: clarke nom

4:30 works

On Feb 5, 2021, at 12:29 PM, Gaeta, Joseph (OLA) (b) (6) wrote:

Phil,

Could we three get on the phone for a quick call this afternoon? I'm free 1:45-3, and then 4:30-5:30.

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

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Do you know new Rs on committee?
To: Gaeta, Joseph (OLA)
Sent: February 4, 2021 9:26 AM (UTC-05:00)

Yeah. We'll have our work cut out for us to get R support for some of our nominees. Will need to leverage in-state connections, law enforcement, other Republicans, etc.

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

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Thursday, February 4, 2021 9:24 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6)
Subject: Re: Do you know new Rs on committee?

Oof.

Sent from my iPhone

> On Feb 4, 2021, at 9:19 AM, Brest, Phillip (Judiciary-Dem) (b) (6) wrote:

>

> Crapo and Ernst

>

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

> From: Gaeta, Joseph (OLA) (b) (6)
> Sent: Thursday, February 4, 2021 9:07 AM
> To: Brest, Phillip (Judiciary-Dem) (b) (6)
> Subject: Do you know new Rs on committee?

>

> Cotton on? Who off?

>

> Sent from my iPhone

From: Brest, Phillip (Judiciary-Dem)
Subject: Clarke
To: Gaeta, Joseph (OLA); Payton, Rayshon (OLA)
Cc: Swanson, Daniel (Judiciary-Dem); Hopkins, Maggie (Judiciary-Dem)
Sent: February 3, 2021 1:52 PM (UTC-05:00)
Attached: Nomination of Kristin Clarke to be the Assistant Attorney General for the Civil Rights Division of the Justice Department.eml, Opposition to Kristin Clarke.eml

Hey Joe and Rayshon,

Flagging that we're getting an increasing number of these form opposition emails to Clarke's nomination, presumably all pushed by ZOA. They are also starting to come in a bit more rapidly.

Just letting you know for your own internal tracking purposes. Attaching two here, which came in within an hour of one another.

Thanks,

Phil

From: (b) (6)
Subject: Nomination of Kristin Clarke to be the Assistant Attorney General for the Civil Rights Division of the Justice Department
To: Brest, Phillip (Judiciary-Dem); Holmes, Lee (Judiciary-Rep); Zogby, Joseph (Judiciary-Dem); Foy, Taylor (Grassley); Watts, John (Feinstein); Chabot, Erica (Leahy); Aronson, Alex (Judiciary-Dem); Kundaria, Ajay (Judiciary-Dem); Brill, Sophia (Coons); Budish, Jack (Blumenthal); Berger, Christine (Hirono); Smith, Daniel (Booker); John Cornyn Chief Counsel; Baig, Wendy (Lee); Davis, Andrew (Cruz); Payne, William (Sasse); Teetsel, Eric (Hawley); Watts, Brad (Tillis); Becker, Corey (Ernst); Alcorn, Rebecca (Crapo); Gesser, Herman (Kennedy); Vu, Jessica (Blackburn)
Sent: February 3, 2021 12:46 PM (UTC-05:00)

Dear Honorable Members and Staff of the Senate Judiciary Committee:

I strongly oppose the nomination of Kristin Clarke to be the Assistant Attorney General for the Civil Rights Division of the Justice Department. She has a consistent record of racism and Jew-hatred going back to her days at Harvard. Recently, she has opposed taking any action against antisemites Linda Sarsour and Tamika Mallory when the Women's March was finally on the verge of removing them because of their Jew-hatred and support for Farrakhan. She has a long record of being hostile to Zionism, the national liberation movement of the Jewish People, and has stood on the side of terrorists and BDS supporters against Israel.

Particularly galling is her admitted bad judgment, while chairman of Harvard's Black Student Union, in inviting well-known antisemite Tony Martin to speak at Harvard. The Harvard Crimson reported that during his speech, Martin "denounce[d] the Jewish tradition and the Jewish people for holding a 'monopoly' on centuries-worth of the notion of divinely ordained African inferiority"; repeated "his belief that the 'so-called Sages' of the Babylonian Talmud were the earliest racists of recorded history"; and praised Kristen Clarke for "courageously invit[ing] him 'in the face of enormous pressure from the forces of reaction.'"

Ms. Clarke then defended her actions in the *The Harvard Crimson*, Harvard's newspaper. "Professor Martin is an intelligent, well-versed Black intellectual who bases his information on indisputable fact." Only recently, after this issue was revealed publicly, has Ms. Clarke finally said that she now denounces Martin and his views. Of course, renunciations of antisemitism are welcome at any time. Unfortunately, this appears to be an extremely belated "confirmation conversion." Ms. Clarke, moreover, has not renounced her recent support for other Israel-bashing antisemites.

The statement below from the Zionist Organization of America catalogs many other reasons she is unfit to hold this position. She has espoused bizarre theories of Black racial superiority, supported the right of Yale University to discriminate against Asian Americans, attempted to keep the Anti-Defamation League (ADL) from participating in joint efforts with other liberal groups, opposed reforming UN agencies when they have discriminated against Israel, and opposed freedom of speech for people who do not share her views in our own country. We urge you and the entire Judiciary Committee to disapprove this nomination. <https://zoa.org/2021/01/10442018-nominee-for-asst-attorney-general-for-civil-rights-division-kristin-clarke-is-a-racist-jew-hater-israel-hater-withdraw-this-horrific-nomination/>

Thank you very much.

(b) (6)

From: (b) (6)
Subject: Opposition to Kristin Clarke
To: Brest, Phillip (Judiciary-Dem); Holmes, Lee (Judiciary-Rep); Zogby, Joseph (Judiciary-Dem); Foy, Taylor (Grassley); Watts, John (Feinstein); Chabot, Erica (Leahy); Aronson, Alex (Judiciary-Dem); Kundaria, Ajay (Judiciary-Dem); Brill, Sophia (Coons); Budish, Jack (Blumenthal); Berger, Christine (Hirono); Smith, Daniel (Booker); John Cornyn Chief Counsel; Baig, Wendy (Lee); Davis, Andrew (Cruz); Payne, William (Sasse); Teetsel, Eric (Hawley); Watts, Brad (Tillis); Becker, Corey (Ernst); Alcorn, Rebecca (Crapo); Gesser, Herman (Kennedy); Vu, Jessica (Blackburn)
Sent: February 3, 2021 1:22 PM (UTC-05:00)

Dear Honorable Members and Staff of the Senate Judiciary Committee:

I strongly oppose the nomination of Kristin Clarke to be the Assistant Attorney General for the Civil Rights Division of the Justice Department. She has a consistent record of racism and Jew-hatred going back to her days at Harvard. Recently, she has opposed taking any action against antisemites Linda Sarsour and Tamika Mallory when the Women's March was finally on the verge of removing them because of their Jew-hatred and support for Farrakhan. She has a long record of being hostile to Zionism, the national liberation movement of the Jewish People, and has stood on the side of terrorists and BDS supporters against Israel.

Particularly galling is her admitted bad judgment, while chairman of Harvard's Black Student Union, in inviting well-known antisemite Tony Martin to speak at Harvard. The Harvard Crimson reported that during his speech, Martin "denounce[d] the Jewish tradition and the Jewish people for holding a 'monopoly' on centuries-worth of the notion of divinely ordained African inferiority"; repeated "his belief that the 'so-called Sages' of the Babylonian Talmud were the earliest racists of recorded history"; and praised Kristen Clarke for "courageously invit[ing] him 'in the face of enormous pressure from the forces of reaction.'"

Ms. Clarke then defended her actions in the *The Harvard Crimson*, Harvard's newspaper. "Professor Martin is an intelligent, well-versed Black intellectual who bases his information on indisputable fact." Only recently, after this issue was revealed publicly, has Ms. Clarke finally said that she now denounces Martin and his views. Of course, renunciations of antisemitism are welcome at any time. Unfortunately, this appears to be an extremely belated "confirmation conversion." Ms. Clarke, moreover, has not renounced her recent support for other Israel-bashing antisemites.

The statement below from the Zionist Organization of America catalogs many other reasons she is unfit to hold this position. She has espoused bizarre theories of Black racial superiority, supported the right of Yale University to discriminate against Asian Americans, attempted to keep the Anti-Defamation League (ADL) from participating in joint efforts with other liberal groups, opposed reforming UN agencies when they have discriminated against Israel, and opposed freedom of speech for people who do not share her views in our own country. We urge you and the entire Judiciary Committee to disapprove this nomination. <https://zoa.org/2021/01/10442018-nominee-for-asst-attorney-general-for-civil-rights-division-kristin-clarke-is-a-racist-jew-hater-israel-hater-withdraw-this-horrific-nomination/>

Thank you very much

(b) (6)

Sent from my iPhone

From: Flynn-Brown, Joshua (Finance)
Subject: 2021-02-03 CEG RHJ to DOJ (McQuaid)
To: Gaeta, Joseph (OLA)
Cc: CEG; Downey, Brian (HSGAC); Wittmann, Scott (HSGAC)
Sent: February 3, 2021 11:14 AM (UTC-05:00)
Attached: 2021-02-03 CEG RHJ to DOJ (McQuaid).pdf

Joe, please see the attached letter from incoming Ranking Members Grassley and Johnson. Please confirm receipt. Thanks.

Very Respectfully,

Joshua Flynn-Brown
Deputy Chief Investigative Counsel
Charles E. Grassley
(b) (6)

United States Senate

WASHINGTON, DC 20510

February 3, 2021

Monty Wilkinson
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Acting Attorney General Wilkinson:

According to recent news reports, the Biden administration hired Nicholas McQuaid as Acting Assistant Attorney General for the Criminal Division on January 20, 2021.¹ Mr. 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 a month before President Biden's inauguration.²

It is unclear what role, if any, Mr. McQuaid has in the Hunter Biden case or whether he has any access to the case. 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.³ Moreover, the Justice Department ethics guide cites 28 C.F.R § 45.2 which states, in part:

no employee shall participate in a criminal investigation if he has a personal or political relationship with [...] [a]ny person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or [a]ny person or organization which he knows has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.⁴

President Biden's recently issued executive order on ethics imposes similar requirements.⁵ In complying with this rule, the employee must report the matter to his supervisor. If the supervisor determines that a personal or political relationship exists the employee shall be relieved unless the supervisor determines, in writing, the relationship will not "render[] the employee's service less than fully impartial and professional" and the employee's participation "would not create an appearance of a conflict of interest likely to affect the public perception of the integrity of the investigation or prosecution."⁶

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).

² Lachlan Markay, *Ex-colleague of Hunter Biden's lawyer gets top DOJ post*, Axios (Feb. 1, 2021).

³ 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.

⁴ 28 C.F.R § 45.2

⁵ Executive Order on Ethics Commitments by Executive Branch Personnel (Jan. 20, 2021).

⁶ 28 C.F.R § 45.2

In order to better understand what role, if any, Mr. McQuaid has played in the Hunter Biden investigation and what steps, if any, the Department and Mr. McQuaid have taken to mitigate all conflicts, please answer the following no later than February 17, 2021:

1. What steps has the Department taken to ensure that Mr. McQuaid's reported connection to Hunter Biden's attorney does not cause conflicts of interest with the Department's ongoing criminal investigation involving Hunter Biden? Please explain.
2. Please describe what role, if any, Mr. McQuaid has or had in the Hunter Biden investigation, either as a government employee or prior to departing Latham & Watkins.
3. Does Mr. McQuaid have access to the Department's Hunter Biden case file? If so, please explain why and whether Mr. McQuaid has accessed the file.
4. Please provide all records of communications between and among Department officials relating to access to the Hunter Biden case.
5. Has Mr. McQuaid communicated with the U.S. Attorney for the District of Delaware? If so, when and what was discussed?
6. Has Mr. McQuaid communicated with Christopher Clark since he became Acting Assistant Attorney General for the Criminal Division? If so, when and what was discussed?
7. Has Mr. McQuaid communicated with any Department ethics officials with respect to the Hunter Biden case? If so, when and what was discussed?

If you have any questions about this request, please contact Joshua Flynn-Brown of Senator Grassley's staff at (202) 224-5225 and Brian Downey and Scott Wittmann of Senator Johnson's staff at (202) 224-4751. Thank you for your attention to this matter.

Sincerely,



Charles E. Grassley
United States Senator



Ron Johnson
United States Senator

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: BIs - Garland Monaco Gupta
To: Greenfeld, Helaine A. (OLA)
Cc: Gaeta, Joseph (OLA)
Sent: February 3, 2021 8:54 AM (UTC-05:00)

Who in the White House is handling BIs for DOJ nominees? If I can't get a good sense of timing on BIs, then I can't figure out when to schedule hearings.

From: Greenfeld, Helaine A. (OLA) (b) (6)

Sent: Wednesday, February 3, 2021 8:49 AM

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

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

Subject: Re: BIs - Garland Monaco Gupta

No. This is in the hands of the WH.

Sent from my iPhone

On Feb 3, 2021, at 8:48 AM, Brest, Phillip (Judiciary-Dem) (b) (6)

wrote:

Good morning,

Do you have any updates on when we might expect to receive BIs for Garland, Monaco, and Gupta?

Thanks.

Phil

From: Foti, Riley (Durbin)
Subject: RE: Senator Durbin's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Norgren-Markley, Danielle (OLA)
Cc: Reginald Babin; Gaeta, Joseph (OLA); Payton, Rayshon (OLA); Howard Ou; Morgan Mohr
Sent: February 3, 2021 8:35 AM (UTC-05:00)

Great, thank you so much!

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Tuesday, February 2, 2021 7:46 PM
To: Foti, Riley (Durbin) (b) (6)
Cc: Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon (OLA) (b) (6); Howard Ou (b)(6) (Biden-Harris Transition Team Email); Morgan Mohr (b)(6) (Biden-Harris Transition Team Email)
Subject: Re: Senator Durbin's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Riley,

Just heard from Ms. Clarke and we are good to go for a 12:05 start time. Just let us know if there are any delays on the floor and we can adjust as needed!

Best,

Danielle

On Feb 2, 2021, at 7:18 PM, Foti, Riley (Durbin) (b) (6) wrote:

Hi Danielle,

The Senate floor schedule has shifted just a bit tomorrow and Senator Durbin is needed on the floor until 12pm. Can we push the call back to a 12:05pm start?

Thank you,
Riley

From: Foti, Riley (Durbin)
Sent: Thursday, January 28, 2021 10:18 AM
To: 'Norgren-Markley, Danielle (OLA)' (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Howard Ou (b)(6) (Biden-Harris Transition Team Email); Morgan Mohr (b)(6) (Biden-Harris Transition Team Email)
Subject: RE: Senator Durbin's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Great, thanks all!

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Thursday, January 28, 2021 10:14 AM
To: Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Foti, Riley (Durbin) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Howard Ou (b)(6) (Biden-Harris Transition Team Email); Morgan Mohr (b)(6) (Biden-Harris Transition Team Email)
Subject: RE: Senator Durbin's Availability Request: Meeting with Incoming DOJ Civil Rights Division

Nominee Kristen Clarke

Hi Riley,

We have received official confirmation that Ms. Clarke will be available Wednesday 2/3 from 12:00pm-12:30pm for a call with Senator Durbin.

Best,

Danielle

From: Norgren-Markley, Danielle (OLA)
Sent: Wednesday, January 27, 2021 1:01 PM
To: Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Foti, Riley (Durbin) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Howard Ou (b)(6) (Biden-Harris Transition Team Email); Morgan Mohr (b)(6) (Biden-Harris Transition Team Email)
Subject: RE: Senator Durbin's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Riley,

Wednesday (2/3) from 12:00pm-12:30pm would work perfectly. Let's go ahead and tentatively schedule this, and I will send you an official confirmation once the schedule is approved by leadership.

Best,

Danielle

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Sent: Wednesday, January 27, 2021 12:52 PM
To: Foti, Riley (Durbin) (b) (6); Norgren-Markley, Danielle (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Howard Ou (b)(6) (Biden-Harris Transition Team Email); Morgan Mohr (b)(6) (Biden-Harris Transition Team Email)
Subject: Re: Senator Durbin's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hey Riley,

I'm looping Danielle (scheduling) and Joe (Navigator) who will be taking over things on behalf of OLA. I'm also looping Howard and Morgan who can assist with setting up a Zoom link once a date/time is locked in.

On Wed, Jan 27, 2021 at 10:56 AM Foti, Riley (Durbin) (b) (6) wrote:

Hi Reginald,

Below is Senator Durbin's availability next week. Please let me know what might work.

Tuesday (2/2): 3:00pm, 3:30pm, 4pm, or 4:30pm
Wednesday (2/3): 11:30, 12pm, 2:30pm, 3pm, 3:30pm, 4pm
Thursday (2/4): 12pm

Thank you,

Riley Foti
Scheduling Department
U.S. Senator Richard Durbin
Democratic Whip
202.224.9447

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.

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)

Sent: Sunday, January 24, 2021 11:49 AM

To: Foti, Riley (Durbin) (b) (6)

Cc: (b)(6) Rayshon Payton (OLA)

Subject: Senator Durbin's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Riley,

I am reaching out on behalf of the Biden-Harris transition team to set up a meeting via video or phone between Senator Durbin and Kristen Clarke, nominee for Assistant Attorney General for Civil Rights.

Please let me know what time(s) would work for your boss this week or next week.

Thank you,

Reggie

From: Gaeta, Joseph (OLA)
Subject: RE: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Moser, Chelsea (Coons)
Cc: Norgren-Markley, Danielle (OLA)
Sent: February 2, 2021 5:05 PM (UTC-05:00)

OK, back on track. Thank you.

From: Gaeta, Joseph (OLA)
Sent: Tuesday, February 2, 2021 5:02 PM
To: Moser, Chelsea (Coons) (b) (6)
Cc: Norgren-Markley, Danielle (OLA) (b) (6)
Subject: RE: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Chelsea,

I believe there was a scheduling mix up on our end. Kristen and I are on hold for Zoom, but was this moved to tomorrow at 2:00?

From: Moser, Chelsea (Coons) (b) (6)
Sent: Thursday, January 28, 2021 9:35 AM
To: Norgren-Markley, Danielle (OLA) (b) (6); Reginald Babin (b) (6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6)
Subject: RE: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi!

Would it be possible to move this call up to 2:00PM?

Thank you,
Chelsea

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Wednesday, January 27, 2021 10:43 AM
To: Reginald Babin (b) (6) (Biden-Harris Transition Team Email); Moser, Chelsea (Coons) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6)
Subject: RE: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Chelsea,

I have you tentatively booked for 2/3 at 2:30pm. Once I confirm the schedule with leadership, I will loop back with a confirmation.

Best,

Danielle

From: Reginald Babin (b) (6) (Biden-Harris Transition Team Email)

Sent: Tuesday, January 26, 2021 10:45 PM

To: Moser, Chelsea (Coons) (b) (6); Norgren-Markley, Danielle (OLA)

(b) (6); Gaeta, Joseph (OLA) (b) (6) >

Cc: Payton, Rayshon (OLA) (b) (6)

Subject: Re: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hey Chelsea,

Apologies for the delay. I'm looping Danielle (scheduling) and Joe (Navigator) who will be taking over things on behalf of OLA. Please keep me looped in, but Danielle and Joe can finalize details.

On Mon, Jan 25, 2021 at 5:38 PM Moser, Chelsea (Coons) (b) (6) wrote:

Hi Reggie!

Will 2:30PM on 2/3 work?

Thank you,
Chelsea

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)

Sent: Sunday, January 24, 2021 11:56 AM

To: Moser, Chelsea (Coons) (b) (6)

Cc: (b)(6) Rayshon Payton (OLA)

Subject: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Chelsea,

I am reaching out on behalf of the Biden-Harris transition team to set up a meeting via video or phone between Senator Coons and Kristen Clarke, nominee for Assistant Attorney General for Civil Rights.

Please let me know what time(s) would work for your boss this week or next week.

Thank you,

Reggie

From: Moser, Chelsea (Coons)
Subject: RE: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Gaeta, Joseph (OLA)
Cc: Norgren-Markley, Danielle (OLA)
Sent: February 2, 2021 5:04 PM (UTC-05:00)

Hi!

The call is scheduled for today – the Senator should join shortly!

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Tuesday, February 2, 2021 5:02 PM
To: Moser, Chelsea (Coons) (b) (6)
Cc: Norgren-Markley, Danielle (OLA) (b) (6)
Subject: RE: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Duplicative Material, Document ID: 0.7.854.12658, Bates Number 22cv2850-21-01790-000654

From: Flynn-Brown, Joshua (Finance)
Subject: 2021-02-02 CEG to DOJ (DT Events)
To: Gaeta, Joseph (OLA); (b)(6), (b)(7)(C) per FBI (OCA) (FBI)
Cc: CEG; Creegan, Erin (Judiciary-Rep)
Sent: February 2, 2021 3:44 PM (UTC-05:00)
Attached: 2021-02-02 CEG to DOJ (DT Events).pdf

Joe and (b)(6), (b)(7)(C) per FBI, please see the attached letter from incoming SJC Ranking Member Grassley. Please confirm receipt. Thanks.

Very Respectfully,

Joshua Flynn-Brown
Deputy Chief Investigative Counsel
Charles E. Grassley
(b) (6)

United States Senate
WASHINGTON, DC 20510

February 2, 2021

Monty Wilkinson
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

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

Dear Acting Attorney General Wilkinson and Director Wray:

Today, Senator Durbin and I sent a letter to you regarding the January 6 Capitol Complex attack. I am writing this follow-on letter to gather additional information regarding the security posture and planning provided in advance of and during the events of summer 2020 and recent events in Oregon and Washington. Like many Americans, I have been deeply troubled by the rioting, looting, anti-police attacks, and deaths which have occurred this summer. While many legitimately protested in a peaceful manner consistent with their rights under the First Amendment, thousands of others did not.

One of the most upsetting aspects of the violence this summer has been how it has targeted innocent law enforcement officers. Over 700 officers were injured between May 27 and June 8, 2020 alone.¹ This number is likely underreported, as nearly 300 of those injuries occurred only in New York City. Then-acting Deputy Homeland Security Secretary Ken Cuccinelli testified at a hearing in front of this committee's Subcommittee on the Constitution that there had been 277 federal officer injuries at the federal courthouse in Portland, adding further to that total. Officers were assaulted nightly there for months—slashed, hard objects thrown at them, struck with objects like hammers and baseball bats, and blinded with lasers. In another offensive, 60 secret service officers were injured during a sustained attack on the White House, which caused then-President Trump to be brought into a secure bunker. The church across the street from the White House was lit on fire as a part of that continued assault.

Over 300 people were charged federally for their roles in these weeks and months of violence. Eighty of those charges related to the use of arson and explosives.² Others involved assaults on officers and destruction of government property. However, the nationwide riots, which broke out in nearly every major city in the country, were predominantly state offenses. At least 14,000 people were arrested in 49 cities. At least 25 people died in violence related to the riots. Property Claim Services, a company that tracks insurance claims relating to riots and civil disorders, estimated that the insurance losses from the summer's civil unrest "far outstrip" all

¹ Ebony Bowden, *More than 700 officers injured in George Floyd protests across US*, N.Y. Post, June 8, 2020, <https://nypost.com/2020/06/08/more-than-700-officers-injured-in-george-floyd-protests-across-us/>.

² *Over 300 People Facing Federal Charges For Crimes Committed During Nationwide Demonstrations*, DOJ Press Release, Sept. 24, 2020, <https://www.justice.gov/opa/pr/over-300-people-facing-federal-charges-crimes-committed-during-nationwide-demonstrations>.

previous records to possibly exceed \$2 billion.³ And, unfortunately, such civil unrest has continued in Oregon and Washington in recent weeks by left wing groups.⁴

It is essential to obtain a complete accounting of your preparation for and response to these events. To that end, please answer the following questions no later than February 16, 2021:

1. How did DOJ and FBI coordinate planning for the events that took place in summer of 2020 and recent events in Oregon and Washington with other intelligence and law enforcement agencies and departments?
2. Did the FBI have adequate intelligence about antigovernment extremist movements before the civil unrest to foresee these events?
3. Does the FBI have sufficient visibility into the anarchist extremist movement in order to anticipate future violence by members of that movement?
4. Does the FBI have sufficient undercover, confidential human source, and open source media review assets to uncover anarchist extremist threats before they occur? How many undercover agents and confidential sources are assigned to anarchist extremism compared with militia extremism and white supremacy?
5. What information did you possess about threats or threat actors related to those events in question 1, including individuals listed on the Terrorist Screening Database (or any other federal watch list available to the FBI) or otherwise affiliated with domestic violent extremist movements?
 - a. Please produce all documents and communications that refer or relate to such threats, including intelligence bulletins, threat assessments, situational information reports, briefing materials, and requests for assistance.
 - b. Did you prepare an intelligence bulletin or threat assessment about the risk of violence for external or internal consumption? Why or why not?
 - c. What information about these threats did you share with federal, state, or local departments and agencies, and with which departments and agencies did you share it and when?
 - d. What communications did you have with technology companies about posts on their platforms concerning plans for violence before the events?
6. With respect to the civil unrest during the summer of 2020 and in recent weeks in Oregon and Washington, please answer the following:
 - a. How many criminal investigations and cases have been opened?
 - b. How many of those investigations and cases have been classified as domestic terrorism cases?
 - c. How many of those investigations and cases qualify as “antigovernment extremism”?
 - d. How many of those investigations and cases qualify as “anarchist extremism”?
 - e. How many of those investigations and cases involved defendants who admit they are Antifa?

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

⁴ Caroline Radnofsky, Janhvi Bhojwani and Kimberly Flores Gaynor, Oregon Democratic Party offices vandalized amid post-inauguration protests, *NBC News* (Jan. 21, 2021).

- f. How many of those investigations and cases have been classified as rioting and/or civil disorder offenses?
7. How many officers were injured during the civil unrest in summer of 2020 and in recent weeks in Oregon and Washington? How many people were killed?
8. What portion of the FBI's active domestic terrorism cases relate to civil unrest?
9. Was May and June of 2020 the first time that every FBI field office activated a command post at the same time?
10. In light of the recent events, does the FBI consider antigovernment extremism, including anarchist extremism and Antifa adherents, a serious domestic terrorism threat?

Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley
United States Senator

From: Zdeb, Sara (Judiciary-Dem)
Subject: Letter to Acting AG Wilkinson & Director Wray
To: Gaeta, Joseph (OLA); (b)(6), (b)(7)(C) per FBI (OCA) (FBI)
Cc: DOJ Correspondence (SMO); Flynn-Brown, Joshua (Finance)
Sent: February 2, 2021 3:26 PM (UTC-05:00)
Attached: 2-2-2021 Letter to Acting AG Wilkinson and Director Wray.pdf

Joe and (b)(6), (b)(7)(C) per FBI

Attached is a letter to Acting AG Wilkinson and Director Wray from incoming Chairman Durbin and Ranking Member Grassley. If you could confirm receipt I'd appreciate it.

Thanks,

Sara

Sara Zdeb
Senior Counsel
U.S. Senate Committee on the Judiciary

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

United States Senate

February 2, 2021

Monty Wilkinson
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

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

Dear Acting Attorney General Wilkinson and Director Wray:

We are writing to gather additional information regarding the security posture and planning provided in advance of and during the January 6, 2021, Joint Session of Congress (“Joint Session”). The security failures that enabled the January 6 attack span multiple agencies, and emerging reports raise serious concerns about the adequacy of preparations by the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI).

It is essential that we obtain a complete accounting of your preparation for and response to the events of January 6. To that end, we request responses to the following questions:

1. What actions did DOJ and FBI take to address concerns about a violent attack at the Capitol in the days leading up to January 6? For example, did you establish a command post at FBI headquarters or the FBI’s Washington Field Office before the attack on the Capitol began? What actions did you take to ensure additional law enforcement resources from the FBI or other DOJ components were available to address a mass attack?
2. How did DOJ and FBI coordinate planning for the events of January 6 with other intelligence and law enforcement agencies and departments, including the United States Capitol Police, District of Columbia Metropolitan Police Department, United States Park Police, Department of Homeland Security, and Department of Defense?
3. What information did you possess about threats or threat actors related to the events that ultimately transpired on January 6, including individuals listed on the Terrorist Screening Database (or any other federal watch list available to the FBI) or otherwise affiliated with domestic violent extremist movements?
 - a. Please produce all documents and communications that refer or relate to such threats, including intelligence bulletins, threat assessments, situational information reports, briefing materials, and requests for assistance.
 - b. Did you prepare an intelligence bulletin or threat assessment about the risk of violence on January 6 for external or internal consumption? Why or why not?

- c. What information about these threats did you share with federal, state, or local departments and agencies, and with which departments and agencies did you share it and when
 - d. What communications did you have with technology companies about posts on their platforms concerning plans for violence on January 6
 4. What role did DOJ and FBI play in the immediate law enforcement response to the attack on the Capitol on January 6 Please describe the role you played, what requests for assistance you received, and how you responded to those requests.
 5. Please describe the organization and scope of the law enforcement and prosecutorial response to the events of January 6.
 - a. What FBI and DOJ components are involved in the response, and who is coordinating it
 - b. What guidance have prosecutors been given about charging decisions in connection with the events of January 6
 - c. Has anyone been tasked with reviewing the role of domestic violent extremist movements in enabling the attack on the Capitol If so, who If not, why not
 6. What steps are you taking to disrupt threats of future violence by domestic violent extremist movements

Please provide responses to these questions as soon as possible, and no later than February 16, 2021. We appreciate your prompt attention to this matter.

Sincerely,



RICHARD J. DURBIN
United States Senator



CHARLES E. GRASSLEY
United States Senator

From: Gaeta, Joseph (OLA)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Seigle, Leah (Whitehouse); Norgren-Markley, Danielle (OLA); Reginald Babin
Cc: Payton, Rayshon (OLA); Aronson, Alex (Judiciary-Dem); Smirniotopoulos, Amalea (Judiciary-Dem)
Sent: February 2, 2021 9:24 AM (UTC-05:00)

I think it will just be us.

From: Seigle, Leah (Whitehouse) (b) (6)
Sent: Tuesday, February 2, 2021 9:19 AM
To: Norgren-Markley, Danielle (OLA) (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

This same link will work, thanks. if there will be anyone else joining besides Ms. Clarke and Joe, can you please share their names as well?

Thanks again for your flexibility!

From: Seigle, Leah (Whitehouse)
Sent: Monday, February 1, 2021 6:16 PM
To: 'Norgren-Markley, Danielle (OLA)' (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Ok perfect. I think the same link will work, but if that's not right, I will follow up.
Confirmed for Weds at 4pm.

Zoom link: (b) (6)
Meeting ID: (b) (6)
Passcode: (b) (6)

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Monday, February 1, 2021 5:58 PM
To: Seigle, Leah (Whitehouse) (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Leah,

I just received a confirmation from Ms. Clarke that she is available from 4:00pm-4:30pm on 2/3. Will the previous Zoom link work, or are you able to send an updated?

Best,

Danielle

From: Seigle, Leah (Whitehouse) (b) (6)
Sent: Monday, February 1, 2021 5:52 PM
To: Norgren-Markley, Danielle (OLA) (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Perfect, thanks so much!

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Monday, February 1, 2021 5:49 PM
To: Seigle, Leah (Whitehouse) (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Leah,

Yes – apologies! Let's hold 4pm on 2/3. I will confirm with leadership then loop back.

Best,

Danielle Norgren

From: Seigle, Leah (Whitehouse) (b) (6)
Sent: Monday, February 1, 2021 5:45 PM
To: Norgren-Markley, Danielle (OLA) (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Danielle,

I just wanted to make sure you saw this email from earlier today about needing to reschedule the meeting with Senator Whitehouse.

Thank you!

From: Seigle, Leah (Whitehouse)
Sent: Monday, February 1, 2021 2:34 PM
To: 'Norgren-Markley, Danielle (OLA)' (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Danielle,

We just found out about a caucus meeting on Weds at 1:30pm, so I need to reschedule this meeting, unfortunately. Here are some times when Senator Whitehouse is free this week – by any chance do any of these work for Ms. Clarke? Thanks for checking!

Weds 2/3

10:30am

12:30pm

4pm

5:45pm

Thurs 2/4

Anytime between 10am – 12:00pm

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Wednesday, January 27, 2021 10:48 AM
To: Reginald Babin (b) (6) (Biden-Harris Transition Team Email); Seigle, Leah (Whitehouse) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Leah,

Thank you for your flexibility! How does 1:30-2:00pm on February 3rd sound?

Best,

Danielle Norgren

From: Reginald Babin (b) (6) (Biden-Harris Transition Team Email)
Sent: Tuesday, January 26, 2021 10:48 PM
To: Seigle, Leah (Whitehouse) (b) (6); Gaeta, Joseph (OLA) (b) (6); Norgren-Markley, Danielle (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: Re: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hey Leah,

Apologies for the delay. I'm looping Danielle (scheduling) and Joe (Navigator) who will be taking over things on behalf of OLA. Please keep me looped in, but Danielle and Joe can finalize details.

On Mon, Jan 25, 2021 at 4:36 PM Seigle, Leah (Whitehouse) (b) (6) wrote:

Hi Reggie,

Thanks for getting in touch! Does Ms. Clarke have any availability on Weds 2/3? As of now, Senator Whitehouse is available on 2/3 anytime between 1:30pm – 5:30pm.

Thanks,
Best,

Leah

Leah Seigle
Director of Scheduling
Office of Senator Sheldon Whitehouse
530 Hart Senate Office Building
Washington, DC 20510
Direct: (b) (6)
Fax: (b) (6)

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Sent: Sunday, January 24, 2021 11:55 AM
To: Seigle, Leah (Whitehouse) (b) (6)
Cc: (b)(6) Rayshon Payton (OLA)
Subject: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Leah,

I am reaching out on behalf of the Biden-Harris transition team to set up a meeting via video or phone between Senator Whitehouse and Kristen Clarke, nominee for Assistant Attorney General for Civil Rights.

Please let me know what time(s) would work for your boss this week or next week.

Thank you,

Reggie

From: Seigle, Leah (Whitehouse)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Gaeta, Joseph (OLA)
Sent: February 1, 2021 6:02 PM (UTC-05:00)

■ (b) (6)

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Monday, February 1, 2021 6:00 PM
To: Seigle, Leah (Whitehouse) (b) (6); Norgren-Markley, Danielle (OLA)
(b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6)
(b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

BEST SCHEDULER IN THE SENATE

From: Seigle, Leah (Whitehouse) (b) (6)
Sent: Monday, February 1, 2021 5:52 PM
To: Norgren-Markley, Danielle (OLA) (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6)
(b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Duplicative Material, Document ID: 0.7.854.12532, Bates Number 22cv2850-21-01790-000665

From: Moser, Chelsea (Coons)
Subject: RE: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Norgren-Markley, Danielle (OLA); Reginald Babin; Gaeta, Joseph (OLA)
Cc: Payton, Rayshon (OLA)
Sent: January 28, 2021 10:04 AM (UTC-05:00)

Got it – the Senator’s schedule has shifted slightly – would 12:15PM work?

Thank you,
Chelsea

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Thursday, January 28, 2021 10:02 AM
To: Moser, Chelsea (Coons) (b) (6); Reginald Babin (b) (6) (Biden-Harris Transition Team Email) Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6)
Subject: RE: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Chelsea,

Unfortunately, the earliest we could do is 2:15pm... alternatively, Ms. Clarke is free any time after 3pm.

Best,

Danielle

From: Moser, Chelsea (Coons) (b) (6)
Sent: Thursday, January 28, 2021 9:35 AM
To: Norgren-Markley, Danielle (OLA) (b) (6); Reginald Babin (b) (6) (Biden-Harris Transition Team Email) Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6)
Subject: RE: Senator Coons' Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Duplicative Material, Document ID: 0.7.854.12658, 22cv2850-21-01790-000654

From: Gaeta, Joseph (OLA)
Subject: Clarke outreach/response
To: Brest, Phillip (Judiciary-Dem); Swanson, Daniel (Judiciary-Dem)
Cc: Peter Hyun; Reginald Babin; Payton, Rayshon (OLA)
Sent: February 1, 2021 12:52 PM (UTC-05:00)

Phil and Dan,

Following up on our conversation Friday about the Clarke nomination. Could you propose some times that work for you to meet with Kristen's outreach team? Peter will get the right people on the phone from the outside. We'll be able to give you an update on outreach efforts to date and a proposed plan going forward for discussion.

I can say my morning tomorrow is wide open, afternoon less so. Before 11 on Wednesday also clear, afternoon filled with many Senator meetings (including Durbin).

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

From: Zdeb, Sara (Judiciary-Dem)
Subject: RE: Wray SJC testimony
To: (b)(6), (b)(7)(C) per FBI (OCA) (FBI)
Cc: Thorley, Charles A. (OLA); Gaeta, Joseph (OLA); Johnson, Joanne E. (OLA)
Sent: February 1, 2021 9:52 AM (UTC-05:00)

Hi (b)(6), (b)(7)(C) per FBI

Hope you had a nice weekend. Just circling back on our conversation last Thursday to see whether you've confirmed that 10:00am on Tuesday, March 2 will work for Director Wray? Given all the moving pieces with the Committee's scheduled we'd like to lock in the specific date/time as soon as we can. (Also, adding Joanne this time so we're all on the same chain.)

Thanks,
Sara

From: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Sent: Thursday, January 28, 2021 11:54 AM
To: Zdeb, Sara (Judiciary-Dem) (b) (6)
Cc: Thorley, Charles A. (OLA) (JMD) (b) (6); Gaeta, Joseph (OLA) (JMD)
(b) (6)
Subject: RE: Wray SJC testimony

Hi Sara,

I just left you a voicemail. Looks like we are good to go for the week of March 1st. Just give me a call whenever you can. I really appreciate your patience and flexibility as we worked through all the moving pieces on our end.

Thank you,

(b)(6), (b)(7)(C) per FBI

(b)(6), (b)(7)(C) per FBI

Acting Unit Chief

Office of Congressional Affairs

Desk: (b)(6), (b)(7)(C), (b)(7)(E) per FBI

Mobile: (b)(6), (b)(7)(C), (b)(7)(E) per FBI

From: Zdeb, Sara (Judiciary-Dem) (b) (6)
Sent: Wednesday, January 27, 2021 1:14 PM
To: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Cc: Thorley, Charles A. (OLA) (JMD) (b) (6); Gaeta, Joseph (OLA) (JMD)
(b) (6)
Subject: [EXTERNAL EMAIL] - Wray SJC testimony

Hi (b)(6), (b)(7)(C) per FBI

When we talked yesterday evening, you mentioned all of the ongoing briefings that the FBI is participating in with a range of House and Senate committees, including yesterday's House Appropriations briefing. Given the understandably wide interest in issues related to January 6, I wanted to follow up on our scheduling discussion to emphasize our expectation that the Director's first appearance on the Hill post-January 6 be in Senate Judiciary. In addition to the significant priority Senator Durbin has placed on this hearing, I'd note that the Director's last appearance before our committee was in 2019, well before he subsequently appeared before HSGAC, House Judiciary, and House Homeland Security. With that said, I'll continue to stand by as you run the scheduling traps on your end. (Also, looping Chad and Joe for awareness.)

Thanks again,

Sara

From: Zdeb, Sara (Judiciary-Dem)

Sent: Tuesday, January 26, 2021 4:31 PM

To: (b)(6), (b)(7)(C), (b)(7)(E) per FBI

Subject: quick call?

Hi (b)(6), (b)(7)(C) per – Just tried your cell but got your voicemail. Now that we're past Inauguration, I wanted to reconnect about dates for a hearing with Director Wray. As we discussed the other week, it's a priority for the incoming Chairman to hear from him as soon as possible. Given the difficulties you expressed about an early February date, this means we'd be looking at the post-Presidents' Day recess work period – which starts February 22. Could you let me know how the weeks of February 22 and March 1 look? Feel free to call if easier. Thanks!

Sara Zdeb

Senior Counsel

U.S. Senate Committee on the Judiciary

(b) (6) (Direct)

(b) (6) (Mobile)

(b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: RE:
To: Gaeta, Joseph (OLA)
Sent: January 31, 2021 5:21 PM (UTC-05:00)
Attached: Francisco Bar & Court Admissions Pages from SJQ.pdf

From: Gaeta, Joseph (OLA) (b) (6)
Sent: Sunday, January 31, 2021 5:16 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6)
Subject:

1.	"Civil Rights Groups Sue to Reopen Voter Registration for 6th District Runoff" (Mentioned as author of a letter sent to Georgia Secretary of State Brian Kemp on 3/30/2017)	The Daily Report (Fulton County GA)	4/24/2017
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Joe Gaeta
Deputy Assistant Attorney General
Office of Legislative Affairs (OLA)
U.S. Department of Justice

From: Brest, Phillip (Judiciary-Dem)
Subject: Clarke Opposition
To: Gaeta, Joseph (OLA)
Cc: Swanson, Daniel (Judiciary-Dem); Greenfeld, Helaine A. (OLA)
Sent: January 30, 2021 7:28 PM (UTC-05:00)
Attached: Reject Nomination of Racist Antisemite Kristin Clarke.eml, Objection to Nomination and Confirmation of Kristin Clark to be Assistant Attorney General.eml

Just FYI – attaching a couple of emails we got in today opposing Kristen Clarke’s nomination. I assume both individuals are members of the Zionist Organization of America and I assume we’ll get more opposition of this nature.

From: HARVEY I LEVIN
Subject: Objection to Nomination and Confirmation of Kristin Clark to be Assistant Attorney General
To: Brest, Phillip (Judiciary-Dem); Holmes, Lee (Judiciary-Rep); Zogby, Joseph (Judiciary-Dem); Foy, Taylor (Grassley); Watts, John (Feinstein); Chabot, Erica (Leahy); Aronson, Alex (Judiciary-Dem); Kundaria, Ajay (Judiciary-Dem); Brill, Sophia (Coons); Budish, Jack (Blumenthal); Berger, Christine (Hirono); Smith, Daniel (Booker); John Cornyn Chief Counsel; Baig, Wendy (Lee); Davis, Andrew (Cruz); Payne, William (Sasse); Teetsel, Eric (Hawley); Watts, Brad (Tillis); Becker, Corey (Ernst); Alcorn, Rebecca (Crapo); Gesser, Herman (Kennedy); Vu, Jessica (Blackburn)
Sent: January 30, 2021 7:05 PM (UTC-05:00)

Dear Honorable Senators, Members of the Judiciary Committee, and Staffs:

Although, I am and have been a strong supporter of, and minor contributor to, President Biden and Vice President Harris, I strongly oppose, the ill-advised, nomination of Kristin Clarke to be the Assistant Attorney General for the Civil Rights Division of the Justice Department. She has a consistent record of racism and Anti-Semitism going back to her days at Harvard. Recently, she has written of the superiority of Blacks and has opposed taking any action against anti-Semites Linda Sarsour and Tamika Mallory even when the Women's March was finally on the verge of removing them because of their anti-Semitism and support for Louis Farrakhan. Ms. Clarke, has a long record of being hostile to Zionism, the national liberation movement of the Jewish People, and has stood on the side of terrorists and BDS supporters against Israel.

I understand the importance of appointing a diverse group of leaders. But an educated bigot and racist, such as Ms. Clarke, regardless of the color of her skin, is even more dangerous than an ignorant bigot and racist, such as many of those who recently stormed our Nation's Capitol. I do not believe our President should nominate, or the Senate should confirm, anyone who has written of the superiority of any race, except, perhaps, the human race. To paraphrase Dr. Martin Luther King, Jr. the Senate and the nation would be well served by judging nominees by the content of a nominee's character and not the color of his or her skin. Using this standard, Ms. Clarke would have never been nominated.

Particularly galling is Ms Clarke's admitted bad judgment, while chairman of Harvard's Black Student Union, in supporting the position of well-known anti-Semite Tony Martin, who she invited speak at Harvard. He most certainly had the right to speak. But no unbiased person should cheer on his anti-Semitic propaganda as being true. *The Harvard Crimson* reported that during his speech, Martin "denounce[d] the Jewish tradition and the Jewish people for holding a 'monopoly' on centuries-worth of the notion of divinely ordained African inferiority"; repeated "his belief that the 'so-called Sages' of the Babylonian Talmud were the earliest racists of recorded history"; and praised Kristen Clarke for "courageously invit[ing] him 'in the face of enormous pressure from the forces of reaction.'"

Ms. Clarke then defended her actions in the *The Harvard Crimson*, Harvard's newspaper. She stated, "Professor Martin is an intelligent, well-versed Black intellectual who bases his information on indisputable fact." Only recently, after this issue was revealed publicly, has Ms. Clarke finally said that she now denounces Martin and his views. Of course, renunciations of antisemitism are welcome at any time. Unfortunately, this appears to be an extremely belated "confirmation conversion." Ms. Clarke, moreover, has not renounced her recent support for other Israel-bashing anti-Semites.

The statements in the link below from the Zionist Organization of America catalog many other reasons Ms. Clarke is unfit to hold this position. Again, she has espoused bizarre theories of Black racial superiority, supported the right of Yale University to discriminate against Asian Americans, attempted to keep the Anti-Defamation League (ADL) from participating in joint efforts with other liberal groups, opposed reforming UN agencies when they have discriminated against Israel, and opposed freedom of speech for people who do not share her views in our own country. I urge you, the entire Judiciary Committee and the Senate to disapprove this nomination.

<https://zoa.org/2021/01/10442018-nominee-for-asst-attorney-general-for-civil-rights-division-kristin-clarke-is-a-racist-jew-hater-israel-hater-withdraw-this-horrific-nomination/>

Respectfully submitted, Harvey I. Levin

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**Law Offices of Harvey I. Levin - Encino Family
Law Attorneys | Californi...**

Encino Family Law Attorneys of Law Offices of Harvey I. Levin
pursue cases of Family Law, Child Custody, and Div...

From: (b) (6)
Subject: Reject Nomination of Racist Antisemite Kristin Clarke
To: Brest, Phillip (Judiciary-Dem); Holmes, Lee (Judiciary-Rep)
Sent: January 30, 2021 2:19 PM (UTC-05:00)

Dear Honorable Senators, Members of the Judiciary Committee, and Staffs:

I strongly oppose the nomination of Kristin Clarke to be the Assistant Attorney General for the Civil Rights Division of the Justice Department. She has a consistent record of racism and Jew-hatred going back to her days at Harvard. Recently, she has opposed taking any action against antisemites Linda Sarsour and Tamika Mallory when the Women's March was finally on the verge of removing them because of their Jew-hatred and support for Farrakhan. She has a long record of being hostile to Zionism, the national liberation movement of the Jewish People, and has stood on the side of terrorists and BDS supporters against Israel.

Particularly galling is her admitted bad judgment, while chairman of Harvard's Black Student Union, in inviting well-known antisemite Tony Martin to speak at Harvard. The Harvard Crimson reported that during his speech, Martin "denounce[d] the Jewish tradition and the Jewish people for holding a 'monopoly' on centuries-worth of the notion of divinely ordained African inferiority"; repeated "his belief that the 'so-called Sages' of the Babylonian Talmud were the earliest racists of recorded history"; and praised Kristen Clarke for "courageously invit[ing] him 'in the face of enormous pressure from the forces of reaction.'"

Ms. Clarke then defended her actions in the *The Harvard Crimson*, Harvard's newspaper. "Professor Martin is an intelligent, well-versed Black intellectual who bases his information on indisputable fact." Only recently, after this issue was revealed publicly, has Ms. Clarke finally said that she now denounces Martin and his views. Of course, renunciations of antisemitism are welcome at any time. Unfortunately, this appears to be an extremely belated "confirmation conversion." Ms. Clarke, moreover, has not renounced her recent support for other Israel-bashing antisemites.

The statement below from the Zionist Organization of America catalogs many other reasons she is unfit to hold this position. She has espoused bizarre theories of Black racial superiority, supported the right of Yale University to discriminate against Asian Americans, attempted to keep the Anti-Defamation League (ADL) from participating in joint efforts with other liberal groups, opposed reforming UN agencies when they have discriminated against Israel, and opposed freedom of speech for people who do not share her views in our own country. We urge you and the entire Judiciary Committee to disapprove this nomination.

<https://zoa.org/2021/01/10442018-nominee-for-asst-attorney-general-for-civil-rights-division-kristin-clarke-is-a-racist-jew-hater-israel-hater-withdraw-this-horrific-nomination/>

Thank you very much.

(b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: Agenda for 4 pm
To: Gaeta, Joseph (OLA)
Cc: Swanson, Daniel (Judiciary-Dem)
Sent: January 29, 2021 3:47 PM (UTC-05:00)

1. SJQ and hearing update
2. DOJ/nominee public response to existing claims and criticism
3. Letters

Talk to you in 15.

From: Foord, Chesna (Feinstein)
Subject: RE: Senator Feinstein's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Norgren-Markley, Danielle (OLA); Reginald Babin; Gaeta, Joseph (OLA)
Cc: Payton, Rayshon (OLA); Pachter, Freda (Feinstein); Xenakis, Nicholas (Judiciary-Dem)
Sent: January 29, 2021 12:50 PM (UTC-05:00)

Danielle and all – Thanks so much, we appreciate you looking into this for us. I've spoken with the Senator and we do not need to set up a phone call at this time. If you have any questions, please feel free to let me or the Senator's Chief Counsel Nick Xenakis (copied) know.

Very much appreciate your patience with us.

Best,
Chesna

Chesna Foord | Director of Scheduling
U.S. Senator Dianne Feinstein

(b) (6)

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Wednesday, January 27, 2021 12:13 PM
To: Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Foord, Chesna (Feinstein) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Pachter, Freda (Feinstein) (b) (6)
Subject: RE: Senator Feinstein's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Chesna,

We are unfortunately unable to coordinate in-person meetings at this time. I apologize for the inconvenience. Would Senator Feinstein be available for a call next week? We have the following times available:

(2/1) 2:45 onwards,
(2/2) Noon onwards, and
(2/3) 3:15 onwards

Best wishes,

Danielle Norgren

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Sent: Tuesday, January 26, 2021 10:43 PM
To: Foord, Chesna (Feinstein) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Norgren-Markley, Danielle (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Pachter, Freda (Feinstein) (b) (6)
Subject: Re: Senator Feinstein's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Actually looping Joe and Danielle this time.

On Tue, Jan 26, 2021 at 10:39 PM Reginald Babin (b)(6) (Biden-Harris Transition Team Email) wrote:

Hey Chesna,

Apologies for the delay. I'm looping Danielle (scheduling) and Joe (Navigator) who will be taking over things on behalf of OLA. Please keep me looped in, but Danielle and Joe can finalize details. We'll check with Kristen on an in-person meeting and circle back.

On Tue, Jan 26, 2021 at 3:55 PM Foord, Chesna (Feinstein) (b) (6) wrote:

Reggie — Before we set this, Senator Feinstein has a strong preference for an in person meeting. Understanding not everyone is comfortable with this given COVID, would it be possible to reschedule our call for an in person meeting?

Thank you,
Chesna

—
Chesna Foord
U.S. Senator Dianne Feinstein
(b) (6)

On Jan 26, 2021, at 2:53 PM, Foord, Chesna (Feinstein) (b) (6) wrote:

Good afternoon, Reggie. Just checking back in on this time tomorrow – if it doesn't work happy to offer some alternatives.

Thank you!
Chesna

Chesna Foord | Director of Scheduling
U.S. Senator Dianne Feinstein
(b) (6)

From: Foord, Chesna (Feinstein) (b) (6)
Sent: Monday, January 25, 2021 6:42 PM
To: Reginald Babin (b) (6) (Biden-Harris Transition Team Email)
Cc: (b) (6) Rayshon Payton (OLA); Pachter, Freda (Feinstein) (b) (6)
Subject: RE: Senator Feinstein's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Reggie – Senator Feinstein would be happy to speak with Ms. Clarke. Would Wednesday, January 27, at 11:00am work for a phone call?

Thank you,
Chesna

Chesna Foord | Director of Scheduling
U.S. Senator Dianne Feinstein
(b) (6)

From: Reginald Babin (b) (6) (Biden-Harris Transition Team Email)
Sent: Sunday, January 24, 2021 11:53 AM

To: Foord, Chesna (Feinstein) (b) (6)

Cc: (b)(6) Rayshon Payton (OLA)

Subject: Senator Feinstein's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Chesna,

I am reaching out on behalf of the Biden-Harris transition team to set up a meeting via video or phone between Senator Feinstein and Kristen Clarke, nominee for Assistant Attorney General for Civil Rights.

Please let me know what time(s) would work for your boss this week or next week.

Thank you,

Reggie

From: Nolan, Blaine (Hirono)
Subject: RE: Meeting With Assistant Attorney General for the Civil Rights Division Nominee Kristen Clarke
To: Isabella Kres-Nash; Norgren-Markley, Danielle (OLA)
Cc: Gaeta, Joseph (OLA); Reginald Babin
Sent: January 28, 2021 6:09 PM (UTC-05:00)

Great, Zoom link here:

Topic: Senator Hirono Meeting with Assistant Attorney General for the Civil Rights Division Nominee Kristen Clarke
Time: Feb 3, 2021 03:00 PM Eastern Time (US and Canada)

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)

Best,
Blaine

BLAINE NOLAN

Director of Scheduling

OFFICE OF SENATOR MAZIE K. HIRONO

730 Hart Senate Office Building

Washington, DC 20510 | (202) 224-6361

From: Isabella Kres-Nash (b) (6)

Sent: Thursday, January 28, 2021 6:01 PM

To: Nolan, Blaine (Hirono) (b) (6); Norgren-Markley, Danielle (OLA) (b) (6)

Cc: Gaeta, Joseph (OLA) (b) (6); Reginald Babin (b) (6) (Biden-Harris Transition Team Email)

Subject: RE: Meeting With Assistant Attorney General for the Civil Rights Division Nominee Kristen Clarke

Hi Blaine and Danielle,

February 3rd at 3pm also works well for Ms. Clarke.

Many thanks,
Isabella

Isabella Kres-Nash (She/Her)

Executive Assistant to:

Kristen Clarke, President and Executive Director

[Lawyers' Committee for Civil Rights Under Law](#)

1500 K Street, N.W., Suite 900

Washington, D.C. 20005

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

From: Nolan, Blaine (Hirono) (b) (6)
Sent: Thursday, January 28, 2021 5:47 PM
To: Norgren-Markley, Danielle (OLA) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6); Isabella Kres-Nash (b) (6)
Reginald Babin (b) (6) (Biden-Harris Transition Team Email)
Subject: RE: Meeting With Assistant Attorney General for the Civil Rights Division Nominee Kristen Clarke

[EXTERNAL EMAIL] This email originated outside the organization. Do not click any links or open any attachments unless you can verify the legitimacy.

Hi Danielle,

Senator Hirono is happy to Zoom with the Nominee. Monday and Tuesday are packed for the Senator. Would Wednesday, Feb 3rd at 3PM be possible? Or we have some times on Thursday and Friday as well. Please let me know

Best,
Blaine

BLAINE NOLAN
Director of Scheduling
OFFICE OF SENATOR MAZIE K. HIRONO
730 Hart Senate Office Building
Washington, DC 20510 | (202) 224-6361

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Thursday, January 28, 2021 12:22 PM
To: Nolan, Blaine (Hirono) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6); Isabella Kres-Nash (b) (6)
Reginald Babin (b) (6) (Biden-Harris Transition Team Email)
Subject: Meeting With Assistant Attorney General for the Civil Rights Division Nominee Kristen Clarke

Good Afternoon,

[The Department of Justice would like to invite Senator Hirono to meet with Assistant Attorney General for the Civil Rights Division Nominee Kristen Clarke.](#)

Ms. Clarke will be available Monday (2/1) from 2:45 pm onwards and Tuesday (2/2) from 12:00 pm onwards. We expect the call to last thirty minutes. If the Senator is available and would like to meet, please propose a time that works for the Senator in these windows. If none of these times work, please let me know and I will propose additional dates. If your office prefers Zoom, please send a Zoom link to initiate the meeting. Alternatively, we are happy to send along details for a conference call.

Danielle Norgren
Paralegal Specialist
Office of Legislative Affairs
U.S. Department of Justice
(b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Garland SJQ Attachments
To: Greenfeld, Helaine A. (OLA); Appleton, Rachel E. (OLA); Bauer, Sarah (Judiciary-Dem)
Cc: Gaeta, Joseph (OLA)
Sent: January 28, 2021 6:06 PM (UTC-05:00)

I generally agree. You might even just note in an email to me and Mike that one case was inadvertently left out, in the hopes that forestalls an ask for a supplemental letter. Thanks again

From: Greenfeld, Helaine A. (OLA) (b) (6)
Sent: Thursday, January 28, 2021 6:02 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Appleton, Rachel E. (OLA) (b) (6); Bauer, Sarah (Judiciary-Dem) (b) (6)
Cc: Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Garland SJQ Attachments

Thank you! I think we will transmit the 12e items to you and Mike now, and then send the others tomorrow. They seem so straggly as not to require a supplement.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Thursday, January 28, 2021 5:59 PM
To: Appleton, Rachel E. (OLA) (b) (6); Bauer, Sarah (Judiciary-Dem) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Garland SJQ Attachments

Hey Rachel,

Here's what we've identified thus far:

- The 12(e) items in the PDF that Helaine sent to me yesterday afternoon. (You should still formally transmit the items in that PDF to Mike Fragoso.)
- P. 4 is missing from the 1/25/2018 speech at the District of Columbia Circuit Oral Arguments at American University (12(d))
- There are several pages missing from the 8/8/2016 remarks at the memorial service for Judge Abner Mikva (12(d))
- The four missing 12(d) attachments we flagged yesterday have been located in 12(b) Part 2, though it may still make sense to label those as 12(d) attachments and provide them to the Committee again
- We noticed one case is missing from Judge Garland's list of published opinions – *ABC Aerolineas, S.A. de C.V. v. DOT*

We'll let you know of course if we encounter any other missing items.

Thanks!

Phil

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Thursday, January 28, 2021 5:01 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Bauer, Sarah (Judiciary-Dem) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Garland SJQ Attachments

Hi SJC Team,

Circling back to see if there is an ETA on the outstanding Garland items.

We don't have an update on the status of Judge Garland's BI and financial disclosures, but we will let you know as soon we do!

Rachel

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Thursday, January 28, 2021 9:42 AM
To: Appleton, Rachel E. (OLA) (b) (6); Bauer, Sarah (Judiciary-Dem) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Garland SJQ Attachments

Hey Rachel,

We're aiming to have a comprehensive list of missing items to you this evening. Ordinarily we'd require a formal letter to accompany the supplement, but in this instance I think it's best just to send the items and only send a formal supplement letter if one is requested.

Separately, as this question keeps coming up, can you let us know the following:

- When can we expect the 278 and other OGE paperwork?
- When can we expect the BI?

Thanks!

Phil

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Thursday, January 28, 2021 9:39 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Bauer, Sarah (Judiciary-Dem) (b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: Garland SJQ Attachments

Phil, Sarah,

Hope you're doing well! We are working to promptly produce the Question 12 items you identified yesterday as missing from Judge Garland's SJQ attachments. As we do so, we wanted to see if the Committee has identified other missing items from Judge Garland's SJQ and attachments that should be brought to our attention.

Thank you!
Rachel

Rachel Appleton
Office of Legislative Affairs
Department of Justice

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Garland SJQ Attachments
To: Appleton, Rachel E. (OLA); Bauer, Sarah (Judiciary-Dem)
Cc: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Sent: January 28, 2021 5:14 PM (UTC-05:00)

Hey Rachel,

We're still completing our review of the SJQ attachments. We expect to be done with that this evening, at which point we'll be in a good position to let you know of any outstanding items. And thanks for checking on the BI and 278.

Phil

From: Appleton, Rachel E. (OLA) (b) (6)
Sent: Thursday, January 28, 2021 5:01 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Bauer, Sarah (Judiciary-Dem)
(b) (6)
Cc: Greenfeld, Helaine A. (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: RE: Garland SJQ Attachments

Duplicative Material, Document ID: 0.7.853.5008, Bates Number 22cv2850-21-01790-000685

From: Brest, Phillip (Judiciary-Dem)
Subject: Clarke
To: Gaeta, Joseph (OLA)
Cc: Swanson, Daniel (Judiciary-Dem)
Sent: January 28, 2021 11:03 AM (UTC-05:00)

Hey Joe,

Do you have a few minutes tomorrow or Monday to chat about Kristen Clarke's nomination?

We have availability tomorrow between 9 and 10 and after 4 pm. If you'd prefer to wait until Monday, we can get back to you with some times that might work.

Phil

From: Brest, Phillip (Judiciary-Dem)
Subject: FW: Reject Nomination of Racist Antisemite Kristin Clarke
To: Gaeta, Joseph (OLA)
Sent: January 28, 2021 9:01 AM (UTC-05:00)

From: (b) (6)
Sent: Thursday, January 28, 2021 8:59 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Holmes, Lee (Judiciary-Rep)
(b) (6); Zogby, Joseph (Judiciary-Dem) (b) (6);
Foy, Taylor (Grassley) (b) (6); Watts, John (Feinstein)
(b) (6); Chabot, Erica (Leahy) (b) (6); Aronson, Alex
(Judiciary-Dem) (b) (6); Kundaria, Ajay (Judiciary-Dem)
(b) (6); Brill, Sophia (Coons) (b) (6); Budish, Jack
(Blumenthal) (b) (6); Berger, Christine (Hirono)
(b) (6); Smith, Daniel (Booker) (b) (6); John Cornyn Chief
Counsel; (b) (6); Baig, Wendy (Lee) (b) (6); Davis, Andrew
(Cruz) (b) (6); Payne, William (Sasse) (b) (6); Teetsel, Eric
(Hawley) (b) (6); Watts, Brad (Tillis) (b) (6); Becker, Corey (Ernst)
(b) (6); Alcorn, Rebecca (Crapo) (b) (6); Gesser, Herman
(Kennedy) (b) (6); Vu, Jessica (Blackburn) (b) (6)
Subject: Reject Nomination of Racist Antisemite Kristin Clarke

Dear Honorable Senators, Members of the Judiciary Committee, and Staffs:

I strongly oppose the nomination of Kristin Clarke to be the Assistant Attorney General for the Civil Rights Division of the Justice Department. She has a consistent record of racism and Jew-hatred going back to her days at Harvard. Recently, she has opposed taking any action against antisemites Linda Sarsour and Tamika Mallory when the Women's March was finally on the verge of removing them because of their Jew-hatred and support for Farrakhan. She has a long record of being hostile to Zionism, the national liberation movement of the Jewish People, and has stood on the side of terrorists and BDS supporters against Israel.

Particularly galling is her admitted bad judgment, while chairman of Harvard's Black Student Union, in inviting well-known antisemite Tony Martin to speak at Harvard. The Harvard Crimson reported that during his speech, Martin "denounce[d] the Jewish tradition and the Jewish people for holding a 'monopoly' on centuries-worth of the notion of divinely ordained African inferiority"; repeated "his belief that the 'so-called Sages' of the Babylonian Talmud were the earliest racists of recorded history"; and praised Kristen Clarke for "courageously invit[ing] him 'in the face of enormous pressure from the forces of reaction.'"

Ms. Clarke then defended her actions in the *The Harvard Crimson*, Harvard's newspaper. "Professor Martin is an intelligent, well-versed Black intellectual who bases his information on indisputable fact." Only recently, after this issue was revealed publicly, has Ms. Clarke finally said that she now denounces Martin and his views. Of course, renunciations of antisemitism are welcome at any time. Unfortunately, this appears to be an extremely belated "confirmation conversion." Ms. Clarke, moreover, has not renounced her recent support for other Israel-bashing antisemites.

The statement below from the Zionist Organization of America catalogs many other reasons she is unfit to hold this position. She has espoused bizarre theories of Black racial superiority, supported the right of Yale University to discriminate against Asian Americans, attempted to keep the Anti-Defamation League (ADL) from participating in joint efforts with other liberal groups, opposed reforming UN agencies when

they have discriminated against Israel, and opposed freedom of speech for people who do not share her views in our own country. We urge you and the entire Judiciary Committee to disapprove this nomination.

<https://zoa.org/2021/01/10442018-nominee-for-asst-attorney-general-for-civil-rights-division-kristin-clarke-is-a-racist-jew-hater-israel-hater-withdraw-this-horrific-nomination/>

Thank you very much.

(b) (6)

From: Lawson, Michael (Blumenthal)
Subject: RE: Senator Blumenthal's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Norgren-Markley, Danielle (OLA); Reginald Babin
Cc: Payton, Rayshon (OLA); Gaeta, Joseph (OLA)
Sent: January 27, 2021 5:15 PM (UTC-05:00)

Here's the link for tomorrow:

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)

Join by SIP

(b) (6)

Join by H.323

(b) (6) (US West)
(b) (6) (US East)

Meeting ID: (b) (6)

Passcode: (b) (6)

Thanks!

Michael

Michael Lawson

Director of Scheduling & Executive Assistant

U.S. Senator Richard Blumenthal

Phone: (202) 224-2823

Fax: (202) 224-9673

<http://blumenthal.senate.gov>



From: Norgren-Markley, Danielle (OLA) (b) (6)

Sent: Wednesday, January 27, 2021 10:09 AM

To: Lawson, Michael (Blumenthal) (b) (6); Reginald Babin (b) (6) (Biden-Harris Transition Team Email)

Cc: Payton, Rayshon (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)

Subject: RE: Senator Blumenthal's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Michael,

We are happy to accommodate Zoom and would very much appreciate a link!

Best,

Danielle Norgren

From: Lawson, Michael (Blumenthal) (b) (6)
Sent: Tuesday, January 26, 2021 10:47 PM
To: Reginald Babin (b) (6) (Biden-Harris Transition Team Email)
Cc: Norgren-Markley, Danielle (OLA) (b) (6); Payton, Rayshon (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Subject: Re: Senator Blumenthal's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

No worries, that's great. Let's lock in 10:30am. Can we make it a zoom meeting? I'm happy to send around a link.

Thanks,
Michael

Michael Lawson
Director of Scheduling & Executive Assistant
Office of Senator Richard Blumenthal
Sent from my iPhone

On Jan 26, 2021, at 10:39 PM, Reginald Babin (b) (6) (Biden-Harris Transition Team Email) wrote:

Hey Michael,

Apologies for the delay. 10 am and 10:30 work for Kristen. I'm also looping Danielle (scheduling) and Joe (Navigator) who will be taking over things on behalf of OLA. Please keep me looped in, but Danielle and Joe can finalize details.

On Tue, Jan 26, 2021 at 12:18 PM Lawson, Michael (Blumenthal) (b) (6) wrote:

Hi Reggie,

Just following up on this. Does Thursday work on your end?

Thanks,
Michael

Michael Lawson

Director of Scheduling & Executive Assistant

U.S. Senator Richard Blumenthal
Phone: (202) 224-2823
Fax: (202) 224-9673
<http://blumenthal.senate.gov>

[<image001.png>](#)

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[<image004.png>](#)

[<image005.jpg>](#)

[<image006.png>](#)

From: Lawson, Michael (Blumenthal)

Sent: Monday, January 25, 2021 10:28 AM

To: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)

Cc: (b)(6) Rayshon Payton (OLA)

Subject: RE: Senator Blumenthal's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Reggie,

Thanks for reaching out. Senator Blumenthal would very much like to meet with Ms. Clarke this week. Does either 10am or 10:30am work on Thursday?

Thanks,
Michael

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)

Sent: Sunday, January 24, 2021 11:57 AM

To: Lawson, Michael (Blumenthal) (b) (6)

Cc: (b)(6) Rayshon Payton (OLA)

Subject: Senator Blumenthal's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Michael,

I am reaching out on behalf of the Biden-Harris transition team to set up a meeting via video or phone between Senator Blumenthal and Kristen Clarke, nominee for Assistant Attorney General for Civil Rights.

Please let me know what time(s) would work for your boss this week or next week.

Thank you,

Reggie

From: Mittler, Michelle (Schumer)
Subject: RE: Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Reginald Babin; Gaeta, Joseph (OLA); Norgren-Markley, Danielle (OLA)
Cc: Payton, Rayshon (OLA); Mittler, Michelle (Schumer)
Sent: January 27, 2021 12:25 PM (UTC-05:00)

Yes. We are doing the big group initially offered. I will keep you posted.

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Sent: Tuesday, January 26, 2021 10:46 PM
To: Mittler, Michelle (Schumer) (b) (6); Gaeta, Joseph (OLA)
(b) (6); (b)(6) Danielle Norgren-Markley (OLA)
Cc: (b)(6) Rayshon Payton (OLA)
Subject: Re: Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hey Michelle,

I'm looping Danielle (scheduling) and Joe (Navigator) who will be taking over things on behalf of OLA. My understanding is a joint meeting with CES is in the works for 2/3 at 11. Please keep me looped in, but Danielle and Joe can finalize details.

On Mon, Jan 25, 2021 at 5:16 PM Mittler, Michelle (Schumer) (b) (6) wrote:

Received. I will circle back.

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Sent: Sunday, January 24, 2021 11:50 AM
To: Mittler, Michelle (Schumer) (b) (6)
Cc: (b)(6) Rayshon Payton (OLA)
Subject: Senator Schumer's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Michelle,

I am reaching out on behalf of the Biden-Harris transition team to set up a meeting via video or phone between Senator Schumer and Kristen Clarke, nominee for Assistant Attorney General for Civil Rights.

Please let me know what time(s) would work for your boss this week or next week.

Thank you,

Reggie

From: Ming, Catherine (Gillibrand)
Subject: RE: Senator Gillibrand's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Annino, Angelica (Gillibrand); Norgren-Markley, Danielle (OLA); Reginald Babin
Cc: Gaeta, Joseph (OLA); Payton, Rayshon (OLA); Lowe-Server, Alexandra (Gillibrand)
Sent: January 27, 2021 11:57 AM (UTC-05:00)

Danielle,

Here is the link for the Friday zoom:

(b) (6)
Meeting ID: (b) (6)
Passcode: (b) (6)

Kindly,
Catherine

From: Annino, Angelica (Gillibrand) (b) (6)
Sent: Wednesday, January 27, 2021 11:34 AM
To: Norgren-Markley, Danielle (OLA) (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Cc: Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon (OLA) (b) (6); Ming, Catherine (Gillibrand) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)
Subject: RE: Senator Gillibrand's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

[Not a problem – Catherine will share one with you shortly!](#)

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Wednesday, January 27, 2021 11:26 AM
To: Annino, Angelica (Gillibrand) (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Cc: Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon (OLA) (b) (6); Ming, Catherine (Gillibrand) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)
Subject: RE: Senator Gillibrand's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

[If you are able to provide, that would be much appreciated! Unfortunately, DOJ computers have not yet adopted the Zoom software...](#)

From: Annino, Angelica (Gillibrand) (b) (6)
Sent: Wednesday, January 27, 2021 11:20 AM
To: Norgren-Markley, Danielle (OLA) (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Cc: Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon (OLA) (b) (6); Ming, Catherine (Gillibrand) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)
Subject: RE: Senator Gillibrand's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

[That's fantastic! A zoom would be great. Do you have a link or would you like us to provide one?](#)

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Wednesday, January 27, 2021 11:01 AM
To: Annino, Angelica (Gillibrand) (b) (6); Reginald Babin (b)(6) (Biden-Harris Transition Team Email)

Cc: Gaeta, Joseph (OLA) (b) (6); Payton, Rayshon (OLA) (b) (6); Ming, Catherine (Gillibrand) (b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)

Subject: RE: Senator Gillibrand's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Angelica,

I have confirmed with Ms. Clarke that she is available Friday, January 29th at 11:30am. Is your office able to provide a Zoom link, or would the Senator prefer a conference call?

Best,

Danielle Norgren

From: Annino, Angelica (Gillibrand) (b) (6)

Sent: Wednesday, January 27, 2021 10:49 AM

To: Reginald Babin (b) (6) (Biden-Harris Transition Team Email)

Cc: Gaeta, Joseph (OLA) (b) (6); Norgren-Markley, Danielle (OLA)

(b) (6); Payton, Rayshon (OLA) (b) (6); Ming, Catherine (Gillibrand)

(b) (6); Lowe-Server, Alexandra (Gillibrand) (b) (6)

Subject: Re: Senator Gillibrand's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Fantastic - thanks so much!

Danielle,

Would Friday, January 29th at 11:30am EST be possible? If so I'm happy to hold the time. If not, would you mind sharing Ms. Clarke's availability later that day or next week?

Thank you in advance for your consideration and I look forward to hearing back.

Best,
AZA

Angelica Zen Annino | Director of Scheduling
Office of U.S. Senator Kirsten Gillibrand

[478 Russell Senate Office Building](#)

[Washington, DC 20510](#)

(b) (6)

<http://gillibrand.senate.gov>

****PLEASE NOTE****

In consultation with the Capitol's Office of the Attending Physician and in coordination with the DC Health Department, along with the House and Senate Sergeants at Arms, **our office will be taking meetings via phone and teleconference only.** Please be aware that this measure is purely precautionary, as the health of our constituents, staff, and their loved ones is currently our highest priority as we work to treat and protect those affected by or at risk for COVID-19. Please do not hesitate to reach out with any questions or concerns.

On Jan 26, 2021, at 10:43 PM, Reginald Babin (b) (6) (Biden-Harris Transition Team Email) wrote:

Hey Angelica,

Apologies for the delay. I'm looping Danielle (scheduling) and Joe (Navigator) who will be taking over things on behalf of OLA. Please keep me looped in, but Danielle and Joe can finalize details.

On Tue, Jan 26, 2021 at 5:47 PM Annino, Angelica (Gillibrand)

(b) (6) wrote:

Hey Reggie,

I hope this finds you well. I'm going to go ahead and take down the calendar holds I have for this week. Please let me know what next week's availability looks like on Ms. Clarke's side and I'll be happy to offer up some new dates and times.

Thanks so much,
AZA

From: Annino, Angelica (Gillibrand) (b) (6)

Sent: Tuesday, January 26, 2021 10:20 AM

To: Reginald Babin

(b)(6) (Biden-Harris Transition Team Email)

Cc: (b)(6) Rayshon Payton (OLA); Ming, Catherine (Gillibrand) (b) (6)

Lowe-Server, Alexandra (Gillibrand) (b) (6)

Subject: Re: Senator Gilibrand's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Reginald!

Just circling back to see if any of these times work on your end.

Thanks so much,
AZA

Angelica Zen Annino | Director of Scheduling
Office of U.S. Senator Kirsten Gillibrand
478 Russell Senate Office Building
Washington, DC 20510

(b) (6)

<http://gillibrand.senate.gov>

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On Jan 24, 2021, at 4:32 PM, Annino, Angelica (Gillibrand)

(b) (6) wrote:

Hi Reginald,

Thanks so much for reaching out. Senator Gillibrand would be happy to meet. Would any of the following times work on your end?

Wednesday, January 27 at 4:15, 4:30 or 4:45pm

Thursday, January 28 at 11:45am, 1:30, or 1:45pm

Thank you in advance for your consideration and I look forward to hearing back.

Best,
Angelica

Angelica Zen Annino | Director of Scheduling
Office of U.S. Senator Kirsten Gillibrand
478 Russell Senate Office Building
Washington, DC 20510

(b) (6)

<http://gillibrand.senate.gov>

****PLEASE NOTE****

In consultation with the Capitol's Office of the Attending Physician and in coordination with the DC Health Department, along with the House and Senate Sergeants at Arms, **our office will be taking meetings via phone and teleconference only.** Please be aware that this measure is purely precautionary, as the health of our constituents, staff, and their loved ones is currently our highest priority as we work to treat and protect those affected by or at risk for COVID-19. Please do not hesitate to reach out with any questions or concerns.

On Jan 24, 2021, at 11:52 AM, Reginald Babin (b)(6) (Biden-Harris Transition Team Email) wrote:

Hi Angelica,

I am reaching out on behalf of the Biden-Harris transition team to set up a meeting via video or phone between Senator Gillibrand and Kristen Clarke, nominee for Assistant Attorney General for Civil Rights.

Please let me know what time(s) would work for your boss this week or next week.

Thank you,

Reggie

From: Serrano, Andrew (Booker)
Subject: Re: Senator Booker's Availability Request: Incoming Nominees Meeting(s)
To: Howard Ou
Cc: Norgren-Markley, Danielle (OLA); Reginald Babin; Gaeta, Joseph (OLA); Morgan Mohr; Greenfeld, Helaine A. (OLA)
Sent: January 27, 2021 11:52 AM (UTC-05:00)

Thank you all!

From: Howard Ou (b)(6) (Biden-Harris Transition Team Email)
Date: Wednesday, January 27, 2021 at 11:48 AM
To: "Serrano, Andrew (Booker)" (b) (6)
Cc: "Norgren-Markley, Danielle (OLA)" (b) (6), Reginald Babin (b)(6) (Biden-Harris Transition Team Email), "Gaeta, Joseph (OLA)" (b) (6), Morgan Mohr (b)(6) (Biden-Harris Transition Team Email), "Greenfeld, Helaine A. (OLA)" (b) (6)
Subject: Re: Senator Booker's Availability Request: Incoming Nominees Meeting(s)

Hi! Definitely. Here it is:

Topic: Kristen Clarke Meeting w/ Sen. Booker
Time: Jan 27, 2021 03:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

(b) (6)

Meeting ID: (b) (6)

Passcode: (b) (6)

One tap mobile

(b) (6)

US (Washington DC)

(b) (6)

US (Chicago)

Dial by your location

(b) (6)

US (Washington DC)

(b) (6)

US (Chicago)

(b) (6)

US (New York)

(b) (6)

US (Tacoma)

(b) (6)

US (Houston)

(b) (6)

US (San Jose)

(b) (6)

US Toll-free

(b) (6)

US Toll-free

(b) (6)

US Toll-free

(b) (6)

US Toll-free

Meeting ID: (b) (6)

Passcode: (b) (6)

Find your local number: (b) (6)

On Wed, Jan 27, 2021 at 11:45 AM Serrano, Andrew (Booker) (b) (6) wrote:

Thanks, Danielle! Howard if you want to send the zoom link, I'll get it to Senator Booker.

From: "Norgren-Markley, Danielle (OLA)" (b) (6)
Date: Wednesday, January 27, 2021 at 11:44 AM
To: "Serrano, Andrew (Booker)" (b) (6), Howard Ou (b)(6) (Biden-Harris Transition Team Email)
Cc: Reginald Babin (b)(6) (Biden-Harris Transition Team Email), "Gaeta, Joseph (OLA)" (b) (6), Morgan Mohr

(b)(6) (Biden-Harris Transition Team Email), "Greenfeld, Helaine A. (OLA)" (b) (6)

Subject: RE: Senator Booker's Availability Request: Incoming Nominees Meeting(s)

Just received confirmation that Kristen is available for the 3pm meeting.

Danielle

From: Serrano, Andrew (Booker) (b) (6)
Sent: Wednesday, January 27, 2021 11:26 AM
To: Howard Ou (b)(6) (Biden-Harris Transition Team Email)
Cc: Reginald Babin (b)(6) (Biden-Harris Transition Team Email); Norgren-Markley, Danielle (OLA) (b) (6)
Gaeta, Joseph (OLA) (b) (6); Morgan Mohr (b)(6) (Biden-Harris Transition Team Email); Greenfeld, Helaine A. (OLA) (b) (6)
Subject: Re: Senator Booker's Availability Request: Incoming Nominees Meeting(s)

Thanks. Danielle – Waiting for your confirmation.

From: Howard Ou (b)(6) (Biden-Harris Transition Team Email)
Date: Wednesday, January 27, 2021 at 10:58 AM
To: "Serrano, Andrew (Booker)" (b) (6)
Cc: Reginald Babin (b)(6) (Biden-Harris Transition Team Email), (b)(6) Danielle Norgren-Markley (OLA)
(b)(6) "Gaeta, Joseph (OLA)" (b) (6), Morgan Mohr (b)(6) (Biden-Harris Transition Team Email), "Greenfeld, Helaine A. (OLA)" (b) (6)
Subject: Re: Senator Booker's Availability Request: Incoming Nominees Meeting(s)

Morgan and I are standing by if a zoom meeting link is needed!

On Wed, Jan 27, 2021 at 9:52 AM Serrano, Andrew (Booker) (b) (6) > wrote:

Thanks Reginald.

Hey everyone – most importantly, just want to make sure we are all set for 3pm today with Kristen Clarke. I have a confirmation for Judge Garland at 4pm today. We are happy to send over the zoom login. Just confirming the time today with Kristen.

Thanks!

-Andrew

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Date: Wednesday, January 27, 2021 at 9:50 AM
To: "Serrano, Andrew (Booker)" (b) (6) (b)(6) Danielle Norgren-Markley (OLA)
(b) (6), "Gaeta, Joseph (OLA)" (b)(6) (Biden-Harris Transition Team Email), Howard Ou (b)(6) (Biden-Harris Transition Team Email), Morgan Mohr (b)(6) (Biden-Harris Transition Team Email)
Cc: "Greenfeld, Helaine A. (OLA)" (b) (6)
Subject: Re: Senator Booker's Availability Request: Incoming Nominees Meeting(s)

Andrew,

Apologies for the delay. Not sure what happened with the follow-up email. I'm looping Danielle (scheduling) and Joe (Navigator) who will be taking over things on behalf of OLA. I'm also looping Howard and Morgan who can assist with setting up a Zoom link.

On Wed, Jan 27, 2021 at 9:44 AM Serrano, Andrew (Booker) (b) (6) wrote:

Bumping this up top of inbox.

From: "Serrano, Andrew (Booker)" (b) (6)
Date: Tuesday, January 26, 2021 at 11:55 PM
To: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Subject: Re: Senator Booker's Availability Request: Incoming Nominees Meeting(s)

Reginald – Never got the separate email. Just want to confirm we are good to go with Senator Booker and Kristen Clarke tomorrow at 3pm EST?

From: "Serrano, Andrew (Booker)" (b) (6)
Date: Sunday, January 24, 2021 at 12:25 PM
To: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Subject: Re: Senator Booker's Availability Request: Incoming Nominees Meeting(s)

Thanks, Reginald. I'll hold for your separate email.

-Andrew

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)
Date: Sunday, January 24, 2021 at 11:46 AM
To: "Serrano, Andrew (Booker)" (b) (6)
Subject: Re: Senator Booker's Availability Request: Incoming Nominees Meeting(s)

Also, I'm going to send a separate email which will be redundant. Apologies in advance. As an amateur scheduler I just need everything to be streamlined/uniform.

On Sun, Jan 24, 2021 at 11:24 AM Reginald Babin (b)(6) (Biden-Harris Transition Team Email) wrote:

Checking with Kristen to make sure this time works.

On Fri, Jan 22, 2021 at 6:11 PM Serrano, Andrew (Booker) (b) (6) wrote:

Thanks so much, Wintta.

Reginald and Emily let me know if the original times I sent over work:

Lisa Monaco – Tuesday, January 26 @ 3pm EST

Kristen Clarke – Wednesday, January 27 @ 3pm EST

Sent from my iPhone

On Jan 22, 2021, at 6:07 PM, Wintta Woldemariam (b)(6) (Biden-Harris Transition Team Email) wrote:

Hi Andrew,
Looping those contacts here. Reginald Babin is working with Clarke and Emily Loeb is working with Monaco.

Thank you,
Wintta

On Fri, Jan 22, 2021 at 1:37 PM Serrano, Andrew (Booker)

(b) (6) wrote:

Wintta – Do you know if other contacts will be reaching out about Monaco and Clarke?
Trying to get those nailed down for next week as well.

From: Mallin, Blair (Klobuchar)
Subject: Re: Senator Klobuchar's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Norgren-Markley, Danielle (OLA)
Cc: Reginald Babin; Gaeta, Joseph (OLA); Payton, Rayshon (OLA)
Sent: January 27, 2021 11:40 AM (UTC-05:00)

Could you set up a conference call? I think that be our preference.

On Jan 27, 2021, at 11:25 AM, Norgren-Markley, Danielle (OLA) (b) (6) wrote:

I have held 2/1 from 2:00pm-2:30pm for Senator Klobuchar. Once I receive confirmation from leadership, I will loop back to confirm with you. Is your office able to send over a Zoom link, or would you prefer us to set up a conference call?

Best,

Danielle

From: Mallin, Blair (Klobuchar) (b) (6)
Sent: Wednesday, January 27, 2021 11:03 AM
To: Norgren-Markley, Danielle (OLA) (b) (6); Reginald Babin (b) (6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6)
Subject: RE: Senator Klobuchar's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

That works! Can we hold 2p on 2/1?

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Wednesday, January 27, 2021 10:40 AM
To: Reginald Babin (b) (6) (Biden-Harris Transition Team Email); Mallin, Blair (Klobuchar) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6)
Subject: RE: Senator Klobuchar's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Blair,

We are now hoping to schedule these meetings for next week (2/1-2/5). Would the Senator have any availability during these days?

Best,

Danielle Norgren

From: Reginald Babin (b) (6) (Biden-Harris Transition Team Email)
Sent: Tuesday, January 26, 2021 10:44 PM
To: Mallin, Blair (Klobuchar) (b) (6); Norgren-Markley, Danielle (OLA) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6)

Subject: Re: Senator Klobuchar's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hey Blair,

Apologies for the delay. I'm looping Danielle (scheduling) and Joe (Navigator) who will be taking over things on behalf of OLA. Please keep me looped in, but Danielle and Joe can finalize details.

On Tue, Jan 26, 2021 at 6:43 PM Mallin, Blair (Klobuchar) (b) (6) wrote:

Can you let me know if you have any availability this Friday?

From: Reginald Babin (b)(6) (Biden-Harris Transition Team Email)

Sent: Sunday, January 24, 2021 11:55 AM

To: Mallin, Blair (Klobuchar) (b) (6)

Cc: (b)(6) Rayshon Payton (OLA)

Subject: Senator Klobuchar's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Blair,

I am reaching out on behalf of the Biden-Harris transition team to set up a meeting via video or phone between Senator Klobuchar and Kristen Clarke, nominee for Assistant Attorney General for Civil Rights.

Please let me know what time(s) would work for your boss this week or next week.

Thank you,

Reggie

From: Gaeta, Joseph (OLA)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke
To: Seigle, Leah (Whitehouse); Norgren-Markley, Danielle (OLA); Reginald Babin
Cc: Payton, Rayshon (OLA); Aronson, Alex (Judiciary-Dem); Smirniotopoulos, Amalea (Judiciary-Dem)
Sent: January 27, 2021 11:36 AM (UTC-05:00)

I will be on the call. 🙏

From: Seigle, Leah (Whitehouse) (b) (6)
Sent: Wednesday, January 27, 2021 11:29 AM
To: Norgren-Markley, Danielle (OLA) (b) (6); Reginald Babin (b) (6) (Biden-Harris Transition Team Email); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Hi Danielle,
Thanks so much – 1:30pm on 2/3 works perfectly.
Do you want me to send you a Zoom link?
On our side, Alex and Amalea will staff.
As we get closer, please share staff on your end, thanks!

From: Norgren-Markley, Danielle (OLA) (b) (6)
Sent: Wednesday, January 27, 2021 10:48 AM
To: Reginald Babin (b) (6) (Biden-Harris Transition Team Email); Seigle, Leah (Whitehouse) (b) (6); Gaeta, Joseph (OLA) (b) (6)
Cc: Payton, Rayshon (OLA) (b) (6); Aronson, Alex (Judiciary-Dem) (b) (6); Smirniotopoulos, Amalea (Judiciary-Dem) (b) (6)
Subject: RE: Senator Whitehouse's Availability Request: Meeting with Incoming DOJ Civil Rights Division Nominee Kristen Clarke

Duplicative Material, Document ID: 0.7.854.12532, 22cv2850-21-01790-000666

From: Gaeta, Joseph (OLA)
Subject: Monaco and Gupta
To: Holmes, Lee (Judiciary-Rep)
Sent: January 26, 2021 3:42 PM (UTC-05:00)

Greetings from the other side.

Might you have some time over the next few days for a call to discuss particular issues Senator Graham may want to discuss with these nominees? I would appreciate it.

Joe

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

From: Gaeta, Joseph (OLA)
Subject: Monaco and Gupta
To: Stoopler, David (Judiciary-Dem)
Sent: January 26, 2021 2:55 PM (UTC-05:00)

Hey David,

Got time over the next day or two to discuss what RB may want to ask these nominees about during courtesy meetings? Thanks.

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

From: Gaeta, Joseph (OLA)
Subject: Monaco and Gupta
To: (b)(6) Alex Aronson (Judiciary-Dem)
Sent: January 26, 2021 2:53 PM (UTC-05:00)

Got time for a quick call to discuss what SW may ask these nominees? At your convenience during the next day or so.

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

From: Zdeb, Sara (Judiciary-Dem)
Subject: Letter from Senator Durbin to Acting AG Wilkinson
To: Gaeta, Joseph (OLA); (b) (6)
Cc: Swanson, Daniel (Judiciary-Dem); Holmes, Lee (Judiciary-Rep)
Sent: January 23, 2021 10:03 PM (UTC-05:00)
Attached: January 23, 2021 Letter to Acting AG Wilkinson.pdf

Hi Joe:

Hope you're settling into OLA. Attached is a letter to Acting Attorney General Wilkinson from incoming Chairman Durbin and other Judiciary Committee members. If you could confirm receipt I'd appreciate it.

Thanks,

Sara

Sara Zdeb
Senior Counsel
U.S. Senate Committee on the Judiciary

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

United States Senate

January 23, 2021

Monty Wilkinson
Acting Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Acting Attorney General Wilkinson:

On January 22, *he e or i es* reported astonishing details about an alleged plot between then-President Donald Trump and then-Acting Assistant Attorney General of the Civil Division Jeffrey Bossert Clark to use the Department of Justice to further Trump's efforts to subvert the results of the 2020 presidential election.¹ These efforts culminated on January 6, when Trump incited a violent mob that attacked Congress as it counted the electoral votes and prepared to affirm President Biden's victory. The information revealed by this story raises deeply troubling questions regarding the Justice Department's role in Trump's scheme to overturn the election.

The Senate Judiciary Committee will conduct vigorous oversight of these matters. As a first step, we seek your immediate assurance that the Department will preserve all relevant materials in its possession, custody, or control. Please also produce the following materials as soon as possible, but no later than February 8, 2021:

- All documents and communications, including emails, text messages, and calendar entries, referring or related to the reported December 15 meeting between then-President Trump and then-Acting Attorney General Jeffrey Rosen and reported follow-up calls and meetings between President Trump and Mr. Rosen;
- All documents and communications, including emails, text messages, and calendar entries, referring or related to reported complaints President Trump made to Justice Department leaders regarding then-U.S. Attorney Byung J. Pak prior to Pak's resignation;
- All documents and communications, including emails, text messages, and calendar entries, referring or related to a reported draft letter that Mr. Clark prepared and requested be sent to Georgia state legislators; and

¹ Katie Benner, *ru p and Justice Dept. a yer Said to ave Plotted to ust cting ttorney eneral*, N.Y. Times, Jan. 22, 2021.

- All documents and communications, including emails, text messages, and calendar entries, referring or related to the reported January 3 White House meeting involving Mr. Clark and Mr. Rosen.

Thank you for your attention to this request.

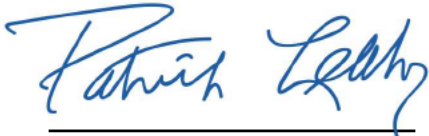
Sincerely,



RICHARD J. DURBIN
United States Senator



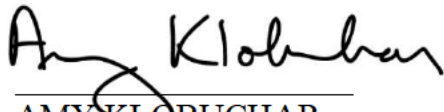
DIANNE FEINSTEIN
Ranking Member



PATRICK LEAHY
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

cc: The Honorable Lindsey O. Graham
Chairman, Committee on the Judiciary

From: Brest, Phillip (Judiciary-Dem)
Subject: Monaco + Gupta
To: Greenfeld, Helaine A. (OLA); Gaeta, Joseph (OLA)
Cc: Swanson, Daniel (Judiciary-Dem)
Sent: January 21, 2021 3:19 PM (UTC-05:00)

Helaine and Joe,

First, congratulations on your new roles at OLA. The Justice Department is lucky to have you and we're lucky to keep working with you.

Second, while we know the focus right now is on Judge Garland, we wanted to inquire on the status of the SJQs and BIs for Lisa Monaco and Vanita Gupta.

- We're starting to sketch out what hearings might look like in the next few months and we're eyeing **Wednesday, Feb. 24** as a possible hearing date for Monaco and Gupta.
- To make that happen, we'd need SJQs transmitted to the Committee by this coming **Wednesday (1/27)**, and attachments would need to follow no later than **1/28**. (During COVID, SJQs and attachments have been transmitted together, but before that, attachments were frequently sent by DOJ the day after SJQs were emailed.)
- There is no hard and fast rule on how far in advance of a hearing BIs need to be received, but the sooner the better for staff resources and any follow-up that might be needed.

Can you let us know if the timeline laid out above is possible? Happy to hop on the phone as well if that's easier. Thanks very much.

Phil

From: Aronson, Alex (Judiciary-Dem)
Subject: Letter to Director Wray
To: (b)(7)(E) per FBI; OCA Email
Cc: Gaeta, Joseph (OLA); Smirniotopoulos, Amalea (Judiciary-Dem); Fields, Cassie (Judiciary-Dem); Stanislawski, Aaron (Judiciary-Dem); Zdeb, Sara (Judiciary-Dem)
Sent: July 21, 2021 3:47 PM (UTC-04:00)
Attached: 210721_FBI Kavanaugh Follow-up Letter.pdf

Dear Office of Congressional Affairs,

Please find attached correspondence from Senator Whitehouse, Senator Coons, Chair Durbin, and colleagues, responding to your letter of June 30, 2021. Thank you for your prompt attention to this matter.

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

United States Senate
WASHINGTON, DC 20510

July 21, 2021

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Ave, NW
Washington, DC 20535

Dear Director Wray:

Thank you for the FBI's June 30, 2021 response to our August 1, 2019 letter regarding the supplemental background investigation of then-Judge Brett M. Kavanaugh. Your letter confirms that the FBI's tip line was a departure from past practice and that the FBI was politically constrained by the Trump White House. It also belies the former president's insistence that his administration did not limit the Bureau's investigation of Justice Kavanaugh, and his claim that he "want[ed] the FBI to interview whoever [sic] they deem appropriate, at their discretion."¹

According to your letter, Justice Kavanaugh's nomination "was the first time that the FBI set-up a tip line for a nominee undergoing Senate confirmation," and that tip line received "over 4,500 tips, including phone calls and electronic submissions." Your letter fails to explain how the FBI reviewed and assessed these tips or whether the Bureau conducted any interviews related to information received through the tip line or otherwise pursued the tips. Indeed, your letter does not describe any FBI investigation of the tips, and only states that the FBI "provided all relevant tips to the Office of White House Counsel," the very office that appears to have constrained the FBI from conducting a thorough investigation. The admissions in your letter corroborate and explain numerous credible accounts by individuals and firms that they had contacted the FBI with information "highly relevant to . . . allegations" of sexual misconduct by Justice Kavanaugh, only to be ignored.² If the FBI was not authorized to or did not follow up on any of the tips that it received from the tip line, it is difficult to understand the point of having a tip line at all.

There remain questions unanswered from our August 2019 letter, and your June 2021 response raises significant additional questions:

1. Your letter notes that "the FBI follows the standard process established pursuant to a March 10 memorandum of understanding (MOU) between the Department of Justice and the White House." Please provide a copy of that MOU.
2. Your letter notes that "Justice Kavanaugh's nomination was the first time that the FBI

¹ See Ken Dilanian, Geoff Bennett, Kristen Walker, *Justice's Kavanaugh investigation have not changed, despite Trump's comment*, NBC NEWS (Sept. 29, 2018).

² Oct. 4, 2018 letter from Katz, Marshall, and Banks, LLP to Director Wray; see also Seung Min Kim, *Senator told I last fall of new information about Kavanaugh*, WASH. POST (Sept. 16, 2019).

set-up a tip line for a nominee undergoing Senate Confirmation,” and states that “it was established at the direction of the FBI’s Security Division.” However, your letter does not identify or describe the policies or procedures that applied to the tip line. Therefore, please identify: (a) when the decision was made to use a tip line for Judge Kavanaugh’s investigation; (b) who the senior-most official authorizing the tip line was; (c) whether the tip line was set up through an already existing standard FBI open line or established as a dedicated independent tip line; (d) how the tip line was staffed (how many individuals and what level of training and experience was required); (e) how the “over 4,500 tips, including phone calls and electronic submissions” were recorded or preserved; (f) what policies or procedures governed or applied to the creation, operation, and documentation of the tip line; and (g) whether the White House Counsel’s instruction for any additional limited inquiry required or requested the use of a tip line.

3. Your letter notes that “[t]he FBI received over 4,500 tips, including phone calls and electronic submissions” and that the FBI “provided all relevant tips to the Office of White House Counsel,”³ but fails to explain how any individual tip was evaluated or categorized as “relevant” and how those tips were delivered to the White House. Therefore, please explain: (a) what criteria or standard applied to tips to determine relevancy; (b) how many tips the FBI deemed “relevant,” and how many tips the FBI “provided . . . to the Office of White House Counsel”; (c) whether FBI Security Division personnel or any other FBI personnel sorted, vetted, verified, or investigated the tips to determine whether they were relevant; (d) what policies or procedures governed the FBI process of investigating or vetting the tips; (e) the nature and extent of review or investigation per tip before they were made available to the White House Counsel; (f) how tips were formatted and delivered to the White House Counsel; and (g) whether the FBI maintained a copy or record of each tip after provision to the Office of White House Counsel.
4. Your letter indicated that the FBI interviewed ten individuals as part of several limited inquiries, but failed to explain whether these ten interviews were conducted as a result of tips received on the tip line. Therefore, please explain: (a) whether any potential witnesses were identified as having “relevant” information on the basis of tips received but not interviewed by the FBI; (b) if relevant witnesses were identified by the FBI through the tip line but not interviewed, explain the policy, procedure, or instruction, from the FBI, White House Counsel, or otherwise, that directed that witnesses with “relevant” information not be interviewed; (c) if the failure to interview was a matter of discretion, identify the individual responsible for making that determination.
5. Was the FBI directed by the White House not to interview either Dr. Blasey Ford or then-Judge Kavanaugh as part of its limited inquiries? If yes, please describe the directive and produce any relevant communications. If no, why did the FBI fail to interview Dr. Ford and then-Judge Kavanaugh?⁴

³ See FBI Letter to Sens. Whitehouse and Coons (June 30, 2021) (“The Security Division section handling the BI and supplemental background investigations provided all relevant tips to the Office of White House Counsel[.]”).

⁴ See Supplemental FBI Investigation Executive Summary (Oct. 4, 2018), <https://www.judiciary.senate.gov/press-rep-releases-supplemental-fbi-investigation-executive-summary>.

We ask that you answer these questions no later than August 31, 2021, and to the extent not already requested above, promptly produce all records and communications related to the tip line investigation, including but not limited to: the White House-DOJ MOU referenced in your letter; all communications regarding the establishment and parameters of the tip line; all documents related to the selection and parameters of the ten interviews conducted as part of the supplemental background investigations; and “all relevant tips” described in your letter that the FBI “provided . . . to the Office of White House Counsel.” In order to minimize the discovery burden of this request and advance our comprehension of the process, we ask that someone familiar with the Kavanaugh investigations provide a briefing to explain what took place and the existence and nature of documents responsive to our requests. We ask further that the Department of Justice identify someone tasked with overseeing and facilitating the responses to these requests, given the long delay we have already experienced.

Thank you for your prompt attention to this matter. If you have any questions, please do not hesitate to reach out to Alex Aronson ([Alex Aronson judiciary-dem.senate.gov](mailto:Alex.Aronson@judiciary-dem.senate.gov)) and Amalea Smirniotopoulos ([Amalea Smirniotopoulos judiciary-dem.senate.gov](mailto:Amalea.Smirniotopoulos@judiciary-dem.senate.gov)) of Senator Whitehouse’s staff, and Cassie Fields ([Cassie Fields judiciary-dem.senate.gov](mailto:Cassie.Fields@judiciary-dem.senate.gov)) and Aaron Stanislawski ([Aaron Stanislawski judiciary-dem.senate.gov](mailto:Aaron.Stanislawski@judiciary-dem.senate.gov)) of Senator Coons’s staff.

Sincerely,



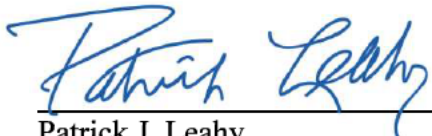
Sheldon Whitehouse
United States Senator



Christopher A. Coons
United States Senator



Richard J. Durbin
Chair, Senate Committee on
the Judiciary



Patrick J. Leahy
United States Senator



Richard Blumenthal
United States Senator



Mazie K. Hirono
United States Senator



Cory A. Booker
United States Senator

CC: Hon. Merrick Garland, Attorney General of the United States

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) [REDACTED] (Direct)
(b) (6) [REDACTED] (Mobile)
(b) (6) [REDACTED]

RICHARD J. DURBIN, ILLINOIS, CHAIR

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
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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



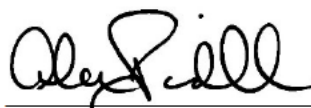
RICHARD BLUMENTHAL
United States Senator



MAZIE K. HIRONO
United States Senator



CORY A. BOOKER
United States Senator



ALEX PADILLA
United States Senator



JON OSSOFF
United States Senator

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: BI Follow-Up for Sung (9th OR) and Lerner (CFC)
To: Kingo, Lola A. (OLP)
Sent: July 29, 2021 6:11 PM (UTC-04:00)

I got the R flags on Lerner.

They did not actually have any of the flags that I noted as “likely Republican flags,” but did have the following:

- A phone call to discuss (b) (6).
- Does the nominee recall (b) (6) ? If so, (b) (6). (Per Raija, (b) (6))
- (b) (6).

Happy to chat about the above tomorrow morning.

From: Brest, Phillip (Judiciary-Dem)
Sent: Thursday, July 22, 2021 11:04 AM
To: 'Kingo, Lola A. (OLP)' (b) (6)
Subject: RE: BI Follow-Up for Sung (9th OR) and Lerner (CFC)

Here’s what I had. Lerner is of course the priority among the two of them, given the potential for the 8/11 hearing.

Lerner

- Records Checks
 - (b) (6)
 - SJQ Updates
 - The nominee’s membership on the AFL-CIO Lawyers Coordinating Committee is missing
 - Page 2 of the Confidential SJQ is missing
 - Likely Republican flags
 - I assume the Rs will flag the following:
 - (b) (6)
 - (b) (6)
 - (b) (6)
- I assume the Rs will want a call on this.

Sung

- Records check
 - (b) (6)
 - (b) (6)
 - (b) (6)
 - (b) (6)
- SJQ Update
 - SJQ lists the RA/TA position for Prof. Schultz as 2002; (b) (6), so just need an amendment letter.
- Likely Republican flags
 - I assume the Rs will ask (b) (6)

Thanks!

-

From: Brest, Phillip (Judiciary-Dem)
Sent: Wednesday, July 21, 2021 7:46 PM
To: 'Kingo, Lola A. (OLP)' (b) (6)
Subject: BI Follow-Up for Sung (9th OR) and Lerner (CFC)

I'll email you tomorrow with details on follow-up for Sung and Lerner. I know that Sung isn't on the table for 8/11, but seems worth it to get the requests in, anyway.

Sarah took the lead on the two MI nominees and should be sending her follow-up items, if she hasn't already done so. Gabe took the lead on Bonilla and likewise should be sending follow-up your way. Let me know if that's not the case.

Phil

From: Bauer, Sarah (Judiciary-Dem)
Subject: RE: Beckering and Kumar BI Follow Up
To: Kingo, Lola A. (OLP)
Sent: July 29, 2021 1:10 PM (UTC-04:00)

Hi Lola,

In addition to my items from last week, here is what the Rs requested (along with some of my own commentary):

Beckering

- (b) (6)
 - (b) (6)
- (b) (6)
- (b) (6)
- They indicated that the Biden/Harris questionnaire supplement cuts off in the middle of question eleven and is missing a page.
 - (b) (6)

Kumar

- (b) (6)
 - (b) (6)
 - (b) (6)
 - (b) (6)
 - (b) (6)
 - (b) (6)
 - Rs said they did not see (b) (6) [(b)(6), (b)(7)(C) per FBI
 - (b) (6)
 - (b) (6)
- . Neither Phil nor I know what the precedent is for this.

The FBI interview indicates (b)(6), (b)(7)(C) per FBI

Thanks!

From: Bauer, Sarah (Judiciary-Dem)
Sent: Thursday, July 22, 2021 11:38 AM
To: Kingo, Lola A. (OLP) (b) (6)
Subject: Beckering and Kumar BI Follow Up

Hi Lola!

I reviewed Jane Beckering and Shalina Kumar's BIs this week and have some follow up items:

Beckering

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

Kumar

- (b) (6)

Thanks!

Sarah

Sarah Bauer

Counsel

Chair Richard J. Durbin

U.S. Senate Judiciary Committee

(b) (6)

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: September Nominations Hearing
To: Herwig, Paige L. EOP/WHO; Dodin, Reema B. EOP/WHO; Secreto, James V. EOP/WHO; Boyd, Tona M. EOP/WHO; Zubrensky, Michael A (OLP); Kingo, Lola A. (OLP); Songer, Erica K. EOP/WHO
Cc: Zogby, Joseph (Judiciary-Dem); Swanson, Daniel (Judiciary-Dem); Trifone, Stephanie (Judiciary-Dem); Zdeb, Sara (Judiciary-Dem)
Sent: July 29, 2021 11:00 AM (UTC-04:00)

Thanks, and thanks for the quick response.

From: Herwig, Paige L. EOP/WHO (b) (6)
Sent: Thursday, July 29, 2021 10:59 AM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Dodin, Reema B. EOP/WHO (b) (6); Secreto, James V. EOP/WHO (b) (6); Boyd, Tona M. EOP/WHO (b) (6); Zubrensky, Michael A (OLP) (b) (6); Kingo, Lola A. (OLP) (b) (6); Songer, Erica K. EOP/WHO (b) (6)
Cc: Zogby, Joseph (Judiciary-Dem) (b) (6); Swanson, Daniel (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Zdeb, Sara (Judiciary-Dem) (b) (6)
Subject: RE: September Nominations Hearing

Phil – no issues on our end moving the noms hearing to 9/14. We’ll be good to go with the judicial nominees and the ONDCP nominee.

From: Brest, Phillip (Judiciary-Dem) (b) (6)
Sent: Thursday, July 29, 2021 10:38 AM
To: Dodin, Reema B. EOP/WHO (b) (6); Secreto, James V. EOP/WHO (b) (6); Herwig, Paige L. EOP/WHO (b) (6); Boyd, Tona M. EOP/WHO (b) (6); Zubrensky, Michael A (OLP) (b) (6); Kingo, Lola A. (OLP) (b) (6); Songer, Erica K. EOP/WHO (b) (6)
Cc: Zogby, Joseph (Judiciary-Dem) (b) (6); Swanson, Daniel (Judiciary-Dem) (b) (6); Trifone, Stephanie (Judiciary-Dem) (b) (6); Zdeb, Sara (Judiciary-Dem) (b) (6)
Subject: September Nominations Hearing

Good morning,

The Committee needs Director Wray to appear for an oversight hearing related to the FBI’s handling of the Nasser investigation. Director Wray is only available to appear on 9/15. We currently have a nominations hearing slated for that day, but would like to move the hearing to 9/14.

Do you think it would be a problem from a 28-day rule, nominee prep, and BI standpoint to move the hearing up one day? We need to confirm with the FBI today that 9/15 works on our ends, so please let us know as soon as possible if the 9/14 nominations hearing is feasible.

Thanks,

Phil

From: Brest, Phillip (Judiciary-Dem)
Subject: RE: Senate Questionnaire Updates - Financial Disclosure Reports
To: Kingo, Lola A. (OLP); Kader, Gabe (Judiciary-Dem); Bauer, Sarah (Judiciary-Dem); Hopkins, Maggie (Judiciary-Dem); Giardina, Lane (Judiciary-Dem); Fragoso, Michael (Judiciary-Rep); Mehler, Lauren (Judiciary-Rep); Rodriguez, Tim (Judiciary-Rep)
Cc: Zubrensky, Michael A (OLP); Blau, Zachary (OLP); McCabe, Shannon (OLP)
Sent: July 27, 2021 4:32 PM (UTC-04:00)

Thanks very much, Lola.

From: Kingo, Lola A. (OLP) (b) (6)
Sent: Tuesday, July 27, 2021 3:42 PM
To: Brest, Phillip (Judiciary-Dem) (b) (6); Kader, Gabe (Judiciary-Dem) (b) (6); Bauer, Sarah (Judiciary-Dem) (b) (6); Hopkins, Maggie (Judiciary-Dem) (b) (6); Giardina, Lane (Judiciary-Dem) (b) (6); Fragoso, Michael (Judiciary-Rep) (b) (6); Mehler, Lauren (Judiciary-Rep) (b) (6); Rodriguez, Tim (Judiciary-Rep) (b) (6)
Cc: Zubrensky, Michael A (OLP) (b) (6); Blau, Zachary (OLP) (b) (6); McCabe, Shannon (OLP) (b) (6)
Subject: Senate Questionnaire Updates - Financial Disclosure Reports

Good afternoon,

Attached are copies of the filed Financial Disclosure Reports for the following nominees:

- Jane M. Beckering, of Michigan, to be United States District Judge for the Western District of Michigan, vice Janet T. Neff, retired.
- Armando O. Bonilla, of Virginia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years, vice Edward J. Damich, term expired.
- Patricia Tolliver Giles, of Virginia, to be United States District Judge for the Eastern District of Virginia, vice Liam O'Grady, retired.
- Toby J. Heytens, of Virginia, to be United States Circuit Judge for the Fourth Circuit, vice Barbara Milano Keenan, retiring.
- Shalina D. Kumar, of Michigan, to be United States District Judge for the Eastern District of Michigan, vice Victoria A. Roberts, retired.
- Carolyn N. Lerner, of Maryland, to be a Judge of the United States Court of Federal Claims for a term of fifteen years, vice Margaret Mary Sweeney, term expired.
- Michael S. Nachmanoff, of Virginia, to be United States District Judge for the Eastern District of Virginia, vice Anthony John Trenga, retired.
- Jennifer Sung, of Oregon, to be United States Circuit Judge for the Ninth Circuit, vice Susan Graber, retiring.

Thank you.

Lola A. Kingo
Chief Nominations Counsel
Office of Legal Policy (OLP)
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 4239
Washington, D.C. 20530
(b) (6)

From: Palmer, Bryan (Judiciary)
Subject: Witness List for Senate Judiciary Committee Hearing entitled "Nominations" - July 28, 2021
To: Judic-Dem; JudicBlackburn; JudicCornyn; JudicCotton; JudicCruz; JudicGraham; JudicGrassley; JudicHawley; JudicKennedy; JudicLee; JudicSasse; JudicTillis; JudRep Other; Adams, Stan (Ossoff); Ahmed, Danniyal (Blumenthal); Allen, Susan (Judiciary-Rep); Anderson, Collin (Blumenthal); Berger, Christine (Hirono); Bradlow, Adam (Blumenthal); Cayea, Devan (Padilla); Cha, Jefferson (Blackburn); Cooksey, Sean (Hawley); Costello, Colleen (Whitehouse); Divine, Josh (Hawley); Ehrett, John (Hawley); Farrar, Elizabeth (Klobuchar); Fraher, Hannah (Kennedy); Hantson, Jeff (Hirono); Harding, Andrew (Kennedy); Lawrence, Noah (Blumenthal); Pang, Jasmine (Hirono); Patrie, Aparna (Blumenthal); Ruben, Elizabeth (Blumenthal); Schwartz, Leah (Padilla); Smith, Symonne (Padilla); Steitz, John (Kennedy); Stokes, David (Kennedy); Vu, Jessica (Blackburn); Watts, Brad (Tillis); Alderson Reporting Info; (b)(6) Amy Wise (OLP); Loughlin, Ann (OLP); Babcock, Christine (Cruz); Babcock, Christine (Cruz); Babin, Reginald (Schumer); Becker, Bob (SAA); Wilson, Benjamin (OLP); Borba, Andre (Feinstein); Bowes, David (Coons); Burch, Grace (Blackburn); Busse, Carolyn (Cruz); Cannon, Kate (Lee); Carle, David (Leahy); Chabot, Erica (Leahy); Chris Gaskill (Contact); Colmore, Wendy (SAA); D'Ercole, Jed (Hirono); Douglas, Danielle E. (OLA) ((b) (6)); Dowd, John (Leahy); Escalona, Prim (USAALN); Ferguson, Andrew (McConnell); Fincher, Sydney (Tillis); Flaherty, Rachel (Whitehouse); Foord, Chesna (Feinstein); Ford, Natalie (Hawley); Foti, Riley (Durbin); Gagliardone, Lucia (Leahy); Garcia, Casey (Whitehouse); Ge, Tiffany (McConnell); Gilsdorf, Andrea (Sasse); Heins, Jennifer (Grassley); Hill, Audra (Coons); Ho, Andy (Lee); Jackson, Karl (SAA); James, Alice (L. Graham); James, Ellen (Hawley); Johnston, Joseph (Secretary); Josh Fanning (Contact); Kelsey, Joel (Blumenthal); Kimura, Christie (Hirono); Kirchner, Mary (Kennedy); Kuskowski, Jennifer (McConnell); Lawson, Michael (Blumenthal); Kingo, Lola A. (OLP); Long, Sydnie (Cruz); Lovell, Paige (Cornyn); Mallin, Blair (Klobuchar); Downer, Matthew (OLP); McDonald, Kevin (Leahy); Mead, Scott (SAA); Mentzer, Tom (Feinstein); Moser, Chelsea (Coons); Nolan, Blaine (Hirono); OGrady, Mimi (Cruz); Ott, Andrew (Secretary); Packer, Megan (Cruz); Mehta, Hemen (DPCC); Peer, Sarah (Sasse); Photo (SAA); SAA Police Ops; Pollard, Beatrice (Schumer); Reema Dodin; Reeves, Nikki (Hawley); Reuschel, Claire (Durbin); Rice, Kelicia (Sasse); Roterling, Charles (Durbin); Russell, Adam (Feinstein); SAA SRS Hearings; Sanchez, Jeff (Coons); Saunders, Chris (Leahy); Scheduler (Booker); Scheduler (Booker); Schulze, Angela (Tillis); Schwartz, Charlotte (Blumenthal); Seigle, Leah (Whitehouse); Serrano, Andrew (Booker); Shirley, Raven (Sasse); Slevin, Chris (Booker); Suric, Stefan (Booker); Swanner, Bob (SAA); Teetsel, Eric (Hawley); Temple, Courtney (Tillis); Tomlinson, Elliott (Tillis); Toomajian, Kathryn (Leahy); Tratos, Elizabeth (Secretary); Wait, Mark (Lee); Wiesenberg, Jane (Booker); Williford, Seth (Tillis); Blau, Zachary (OLP); Ziegler, Emily (Cornyn)

Sent: July 27, 2021 10:30 AM (UTC-04:00)

Witness List
Hearing before the
Senate Committee on the Judiciary

On

"Nominations"

Wednesday, July 28, 2021
Dirksen Senate Office Building, Room 226
10:00 a.m.

Panel I

Toby J. Heytens, to be United States Circuit Judge for the Fourth Circuit

Panel II

Patricia Tolliver Giles, to be United States District Judge for the Eastern District of Virginia

Michael S. Nachmanoff, to be United States District Judge for the Eastern District of Virginia

Sarala Vidya Nagala, to be United States District Judge for the District of Connecticut

Omar Antonio Williams, to be United States District Judge for the District of Connecticut

Hampton Y. Dellinger, to be an Assistant Attorney General, Office of Legal Policy

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

From: Palmer, Bryan (Judiciary)
Subject: RE: 7-14-21 Senate Judiciary Nominations Hearing - Written Questions
To: Zubrensky, Michael A (OLP); Kingo, Lola A. (OLP); Blau, Zachary (OLP); McCabe, Shannon (OLP)
Cc: Brest, Phillip (Judiciary-Dem); Fragoso, Michael (Judiciary-Rep)
Sent: July 26, 2021 4:54 PM (UTC-04:00)

Thank you Michael

Bryan

From: Zubrensky, Michael A (OLP) (b) (6)
Sent: Monday, July 26, 2021 4:44 PM
To: Palmer, Bryan (Judiciary) (b) (6); Kingo, Lola A. (OLP)
(b) (6); Blau, Zachary (OLP) (b) (6); McCabe, Shannon (OLP)
(b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Fragoso, Michael (Judiciary-Rep)
(b) (6)
Subject: RE: 7-14-21 Senate Judiciary Nominations Hearing - Written Questions

Attached please find QFR responses from the following judicial nominees:

Myrna Perez
Jia Cobb
Sarah Merriam
Florence Pan
Karen Williams

We would request that the attachment with responses about gun ownership/use be kept committee confidential and not be made public, due to potential security concerns.

Many thanks,
Mike Z.

From: Palmer, Bryan (Judiciary) (b) (6)
Sent: Wednesday, July 21, 2021 5:14 PM
To: Zubrensky, Michael A (OLP) (b) (6); Kingo, Lola A. (OLP) (b) (6);
Blau, Zachary (OLP) (b) (6); McCabe, Shannon (OLP) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Fragoso, Michael (Judiciary-Rep)
(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.

Myrna Perez – Chair Durbin, Ranking Member Grassley and Senators Hirono, Tillis, Cruz, Cotton, Sasse and Lee

Jia Cobb – Ranking Member Grassley and Senators Hirono, Tillis, Cruz, Cotton, Sasse and Lee

Sarah Merriam – Ranking Member Grassley and Senators Hirono, Tillis, Cruz, Cotton, Sasse and Lee

Florence Pan – Ranking Member Grassley and Senators Hirono, Tillis, Cruz, Cotton, Sasse and Lee

Karen Williams – Ranking Member Grassley and Senators Hirono, Tillis, Cruz, Cotton, Sasse and Lee

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

From: Zubrensky, Michael A (OLP)
Subject: RE: 7-14-21 Senate Judiciary Nominations Hearing - Written Questions
To: Palmer, Bryan (Judiciary)
Sent: July 21, 2021 5:18 PM (UTC-04:00)

thanks

From: Palmer, Bryan (Judiciary) (b) (6)
Sent: Wednesday, July 21, 2021 5:14 PM
To: Zubrensky, Michael A (OLP) (b) (6); Kingo, Lola A. (OLP) (b) (6);
Blau, Zachary (OLP) (b) (6); McCabe, Shannon (OLP) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6); Fragoso, Michael (Judiciary-Rep)
(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.

Myrna Perez – Chair Durbin, Ranking Member Grassley and Senators Hirono, Tillis, Cruz, Cotton, Sasse and Lee

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Sarah Merriam – Ranking Member Grassley and Senators Hirono, Tillis, Cruz, Cotton, Sasse and Lee

Florence Pan – Ranking Member Grassley and Senators Hirono, Tillis, Cruz, Cotton, Sasse and Lee

Karen Williams – Ranking Member Grassley and Senators Hirono, Tillis, Cruz, Cotton, Sasse and Lee

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

From: Bauer, Sarah (Judiciary-Dem)
Subject: RE: Beckering Nomination
To: Blau, Zachary (OLP)
Sent: July 26, 2021 1:18 PM (UTC-04:00)

No problem, and will do!

From: Blau, Zachary (OLP) (b) (6)
Sent: Monday, July 26, 2021 1:06 PM
To: Bauer, Sarah (Judiciary-Dem) (b) (6)
Subject: RE: Beckering Nomination

Shoot, sorry I didn't answer. 3 and after works fine, so just give me a call whenever is convenient. Thanks!

From: Bauer, Sarah (Judiciary-Dem) (b) (6)
Sent: Monday, July 26, 2021 12:33 PM
To: Blau, Zachary (OLP) (b) (6)
Subject: RE: Beckering Nomination

Hi! I gave you a call a bit ago (I'm the (b) (6) number). Let me know if you have time to chat later this afternoon! I should be free starting around 3:00. I'm also pretty wide open tomorrow. Thanks!

From: Blau, Zachary (OLP) (b) (6)
Sent: Friday, July 23, 2021 11:32 AM
To: Bauer, Sarah (Judiciary-Dem) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6)
Subject: RE: Beckering Nomination

Sure – let's go with 12

From: Bauer, Sarah (Judiciary-Dem) (b) (6)
Sent: Friday, July 23, 2021 11:22 AM
To: Blau, Zachary (OLP) (b) (6)
Cc: Brest, Phillip (Judiciary-Dem) (b) (6)
Subject: Beckering Nomination

Hi Zach,

Do you have time to touch base on Jane Beckering on Monday? I'll be free from 12:00-12:30 or any time from 1:00-2:00. I should also have some flexibility that morning if those times don't work for you. Thanks!

Sarah

Sarah Bauer
Counsel
Chair Richard J. Durbin
U.S. Senate Judiciary Committee
(b) (6)

From: Kingo, Lola A. (OLP)
Subject: [encrypt] Nagala Follow-Up
To: Brest, Phillip (Judiciary-Dem); Bauer, Sarah (Judiciary-Dem); Munk, Raija Churchill (Judiciary-Rep);
Kenny, Gabrielle (Judiciary-Rep)
Sent: July 23, 2021 6:03 PM (UTC-04:00)
Attached: Nagala, Sarala - LIMITED Supplemental.pdf

CONFIDENTIAL

Good afternoon,

Attached are additional serials in connection with Sarala Nagala's BI. Please note, (b) (6)

I would note, however, that (b)(6); (b)(7)(E) per FBI

(b) (6). If you have any questions, please don't hesitate to reach out.

Thank you.

Lola A. Kingo

Chief Nominations Counsel
Office of Legal Policy (OLP)
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 4239
Washington, D.C. 20530

(b) (6)

From: Kingo, Lola A. (OLP)
Subject: [encrypt] Williams Follow-Up
To: Brest, Phillip (Judiciary-Dem); Bauer, Sarah (Judiciary-Dem); Munk, Raija Churchill (Judiciary-Rep);
Kenny, Gabrielle (Judiciary-Rep)
Sent: July 23, 2021 5:14 PM (UTC-04:00)
Attached: Williams, Omar - LIMITED Supplemental.pdf

CONFIDENTIAL

Good afternoon,

Attached is an additional serial in connection with Omar William's BI. Thank you.

Lola A. Kingo

Chief Nominations Counsel
Office of Legal Policy (OLP)
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 4239
Washington, D.C. 20530

(b) (6)

From: Kingo, Lola A. (OLP)
Subject: [encrypt] Williams Update
To: Brest, Phillip (Judiciary-Dem); Bauer, Sarah (Judiciary-Dem); Munk, Raija Churchill (Judiciary-Rep);
Kenny, Gabrielle (Judiciary-Rep)
Sent: July 27, 2021 7:32 AM (UTC-04:00)

CONFIDENTIAL

Good morning,

Per the FBI, (b) (6)

Thank you,
Lola

Lola A. Kingo

Chief Nominations Counsel
Office of Legal Policy (OLP)
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 4239
Washington, D.C. 20530

(b) (6)

From: Kingo, Lola A. (OLP)
Sent: Friday, July 23, 2021 5:14 PM
To: 'Brest, Phillip (Judiciary-Dem)'; (b) (6); 'Bauer, Sarah (Judiciary-Dem)'
(b) (6); 'Munk, Raija Churchill (Judiciary-Rep)'; (b) (6)
'Kenny, Gabrielle (Judiciary-Rep)'; (b) (6)
Subject: [encrypt] Williams Follow-Up

Duplicative Material, Document ID: 0.7.853.102292, Bates Number 22cv2850-21-01790-000807

From: Kingo, Lola A. (OLP)
Subject: [encrypt] Williams Follow-Up
To: Brest, Phillip (Judiciary-Dem); Bauer, Sarah (Judiciary-Dem); Munk, Raija Churchill (Judiciary-Rep);
Kenny, Gabrielle (Judiciary-Rep)
Sent: July 22, 2021 1:00 PM (UTC-04:00)
Attached: WilliamsOmar77N.LIMITED.pdf

CONFIDENTIAL

Good afternoon,

Attached are additional serials in connection with Omar William's BI. Thank you.

Lola A. Kingo

Chief Nominations Counsel
Office of Legal Policy (OLP)
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950 Pennsylvania Avenue, NW
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Washington, D.C. 20530

(b) (6)